CITY COUNCIL
AGENDA
TUESDAY, DECEMBER 20, 2016

Work Session Agenda

4:00 PM – City Hall - 10th Floor Conference Room

KPMG Audit Report

Cheryl Xystros, KPMG

Documents:

1 12-20-16 KPMG AUDIT REPORT.PDF

Dinner

4:30 PM

Closed Session

- Real Estate Matters

Agenda Overview

Douglas L. Smith, Interim City Manager

Council Interests

Documents:

12-20-16 COUNCIL INTERESTS.PDF

Fly Norfolk

Wynter C. Benda, Deputy City Manager
Dr. Joel English, Vice President, Centura College

Documents:

12-20-16 FLY NORFOLK COUNCIL W EQUIP PHOTOS.PDF

Major Projects

David Ricks, Director of Public Works

Additional Documents

Documents:

12-20-16 MINUTES OF CITY COUNCIL MEETING OF DECEMBER 13.PDF
12-20-16 NONSTANDARD LOT CERTIFICATE - 1018 AVENUE H.PDF
12-20-16 NONSTANDARD LOT CERTIFICATE - 2700 MYRTLE AVE.PDF
12-20-16 NONSTANDARD LOT CERTIFICATE - 4825 KENNEBECK AVE.PDF
12-20-16 UPCOMING DOCKET ITEM - SPECIAL EXCEPTION FOR 2700-2716 HAMPON BOULEVARD.PDF
12-20-16 UPCOMING DOCKET ITEM - SPECIAL EXCEPTION FOR 3607 NORTH MILITARY HIGHWAY.PDF
12-20-16 PENDING LAND USE ACTIONS.PDF
12-20-16 MINUTES OF CITY COUNCIL MEETING WTIH NORFOLK SCHOOL BOARD ON DECEMBER 7.PDF

Announcement Of Meeting

Documents:

12-20-16 ANNOUNCEMENT OF MEETING.PDF

Formal Session

7:00 PM - Council Chambers, City Hall, 11th Floor

Prayer

Prayer to be offered by Pastor Shelton Murphy, Mount Gilead Baptist Missionary Church, followed by the Pledge of Allegiance.

Invitation To Bid

IB-1

INVITATION TO BID scheduled this day pursuant under State Law, public notice having been inserted in the local press by the City Clerk to accept bids for a **Long-Term Garage Parking Agreement**, with a term of fifteen years, for 120 parking spaces, a valet parking area, and the option to lease certain office space in the **Boush Street Garage** located at 1**12 W. City Hall Avenue**.

Documents:

IB-1 ACCEPTANCE OF BID FOR LONG TERM PARKING AGREEMENT - 120 SPACES IN BOUSH ST GARAGE.PDF

Public Hearings

PH-1

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance to the City of Norfolk by **Jesse Riley** on property located adjacent to **6100 Bromley Court**.

Documents:

PH-1 EXCHANGE OF PROPERTY LOCATED AT 6100 BROMLEY CT.PDF

PH-2

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City**

Planning Commission, to a) amend the **City's General Plan**, *plaNorfolk2030*, to incorporate the new FIRM map, b) for a Text Amendment to Section 11-3, "Floodplain/Coastal Hazard Overlay Districts (FPCHO)," of the City's *Zoning Ordinance*, to update the City's floodplain regulations in order to adopt the new FIS and c) for a change of zoning in order to amend the district boundaries of the FPCHO zoning district, as well as to adopt new district boundaries for the Coastal A FPCHO zoning district.

Documents:

PH-2 AMEND PLANORFOLK2030 AND ZONING ORDINANCE - FLOOD ZONE BOUNDARIES.PDF

PH-3

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Monument Development Four, LLC**, **a)** for a change of zoning to modify conditions attached to the property; zoned conditional C-2 (Corridor Commercial), **b)** to designate the existing structure as a **Norfolk Historic Landmark** and **c)** for a **Special Exception** to permit more than six dwelling units, on property located at **2219 Colonial Avenue**.

Documents:

PH-3 REZONING, SPECIAL EXCEPTION AND DESIGNATION AS HISTORIC LANDMARK - 2219 COLONIAL AVE - MONUMENT DEVELOPMENT FOUR.PDF

PH-4

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance to **Jay Investment Corporation** of a certain parcel of property located at **985 Parish Road**.

Documents:

PH-4 CONVEYANCE OF GEM LOT TO JAY INVESTMENT CORP - 985 PARISH RD.PDF

PH-5

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance to **Jay Investment Corporation** of a certain parcel of property located at **1400 Marsh Street**.

Documents:

PH-5 CONVEYANCE OF GEM LOT TO JAY INVESTMENT CORP - 1400 MARSH ST.PDF

Regular Agenda

R-1

Letter from the City Manager and an Ordinance entitled, "An Ordinance allowing a late filing and relieving the assessment resulting from the late filing for exemption

from Real Estate Taxes for three parcels of real property of **Norfolk Masonic Home Association** retroactive to July 1, 2013" will be introduced in writing and read by its title.

Documents:

R-1 EXEMPTION FROM REAL ESTATE TAXES - NORFOLK MASONIC HOME ASSOCIATION.PDF

R-2

Letter from the City Manager and an Ordinance entitled, "An Ordinance requesting the **Virginia Department of Transportation** to establish two **Urban Construction Projects** in accordance with the **Programmatic Project Administration Agreements** between the City of Norfolk and the Virginia Department of Transportation; authorizing the City Manager to execute the Agreements; and appropriating and authorizing the expenditure of the total sum of $11,300,000.00 for these projects, subject to and in accordance with the terms of the Agreements," will be introduced in writing and read by its title.

Documents:

R-2 VDOT FY 2017 URBAN ALLOCATION PROGRAM.PDF

R-3

Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain **Subsection (1) of Section 42-201** of the **Code of the City of Norfolk, 1979, SO AS TO** authorize the change of the numbering of the property currently addressed as **One Commercial Place** and to correct and more accurately describe the property addressed as **Two Commerical Place** and **Three Commercial Place**," will be introduced in writing and read by its title.

Documents:

R-3 AMEND NORFOLK CITY CODE TO CHANGE NUMBERING OF PROPERTY AT ONE COMMERCIAL PL.PDF

R-4

Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain **Section 2.1-6(b)** of the **Norfolk City Code, 1979, SO AS TO** authorize the **Civil Service Commission** to delegate limited authority to the **Director of Human Resources**," will be introduced in writing and read by its title.

Documents:

R-4 DELEGATION OF AUTHORITY BY CIVIL SERVICE COMMISSION.PDF

R-5

Letter from the City Manager and a Resolution entitled, "A Resolution approving the exercise by the **Norfolk Airport Authority (the "Authority")** of powers conferred by Chapter 463 of the Acts of Assembly of 1948, as amended, in conjunction with the issuance for **Old Dominion University Real Estate Foundation (the "Applicant")**, of the Authority's Revenue Bond in an amount not to exceed $10,000,000, to assist the applicant to finance **(a)** the construction and equipping of a two-story building of approximately 24,396 square feet to house an

art museum **(the "Project")** to be located at **4200 Hampton Boulevard** which is on the northwest corner of **43rd Street and Hampton Boulevard** in Norfolk, Virginia and **(b)** paying the costs associated with the bond's issuance, necessitating approval by this Council in order to comply with state and federal law and paying certain costs incurred in connection with the issuance of such bond," will be introduced in writing and read by its title.

Documents:

R-5 NORFOLK AIRPORT AUTHORITY - ISSUANCE OF REVENUE BONDS.PDF

R-6

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Memorandum of Understanding** with **Employment Services, Inc. d/b/a Centura College**, for the use of certain City owned property known as **Barraud Park** for and educational program instructing the use of unmanned aircraft systems," will be introduced in writing and read by its title.

Documents:

R-6 MEMORANDUM OF UNDERSTANDING WITH EMPLOYMENT SERVICES, INC..PDF

City of Norfolk, Virginia

Presentation of audit results
Year ended June 30, 2016

December 20, 2016

Agenda

- Summary of audit results
- Review of required communications
- Review of internal control and single audit results

This presentation to the City of Norfolk, Virginia City Council is intended solely for the information and use of the City of Norfolk, Virginia, the City Council and management and is not intended to be and should not be used by anyone other than these specified parties. This presentation is not intended for general use, circulation or publication and should not be published, circulated, reproduced or used for any purpose without our prior written permission in each specific instance.

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Audit of the financial statements for the year ended June 30, 2016

— Audit of June 30, 2016 financial statements is complete

- "Clean" opinion issued on the financial statements
- Issued required government auditing standards report
- Single audit of Federal programs and certain state requirements completed – to be discussed further below

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Required communications related to the audit

- Our responsibility and responsibility of management
- Required communications regarding the conduct of the audit
  - We have read the other information included in the financial statements for consistency. We have not performed any audit procedures over the information.
  - Accounting policies and alternative treatments
    - Significant accounting policies – City adopted GASB 72, 76 and 79
    - Qualitative aspects of accounting practices
  - Management judgments and accounting estimates
    - Accrual for self-insurance liabilities
    - Pension and other postemployment benefits
  - Adjustments recorded as a result of the audit are attached to the letter documenting the required communications
  - No disagreements with management on financial accounting and reporting matters
  - To the best of our knowledge, there have been no consultations with other accountants
  - No significant difficulties in dealing with management in performing our audits
  - We confirm our independence in accordance with professional standards

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Discussion of internal control and single audit

— There were no material weaknesses in internal control at the financial statement level (City, EDA or ERS)

— Certain suggestions for improvement were discussed with management

— Single audit was completed

- The City expended $99.0 million in Federal assistance during FY 2016
- 6 programs were audited – 1 at Norfolk Public Schools, 5 at the City
- All programs that receive Federal assistance in excess of approximately $2.9 million are subject to audit at least once every three years. Certain smaller programs are audited each year based on their individual and collective risk profiles
- Scoping changed in FY 2016 with implementation of the Uniform Guidance

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Single audit findings

- Certain reportable findings were noted during the Single Audit and are described in the Compliance Section of the CAFR
  - TANF – Eligibility (2016-001)
  - TANF – Special Tests: Penalty for Refusal to Work (2016-002)
  - Medicaid – Eligibility (2016-003)
  - SNAP – Special Tests: ADAPT System (2016-004)
- Four APA findings were noted

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THE CITY OF NORFOLK

December 16, 2016

City Council;

Today's memo provides you with information from the November 22th Council meeting.

Highlights include:

- Complete Streets Update
- Harbor Park Environmental Testing Results

I am pleased to share with you the Public Technology Institute (PTI) recognized Norfolk as one of the 2016-2018 Citizen-Engaged Communities. Norfolk is one of eight local governments nationwide to receive this honor for our efforts in citizen participation, data collection and seamless service delivery.

PTI recognized the Norfolk Cares Call Center efforts to define and resolve community concerns. The data our call takers collect is shared with the appropriate departments to help citizens. In addition, the same data is provided to our citizens to correct misinformation and to our partners to strengthen relationships with Norfolk citizens.

Norfolk Cares Call Center Team

THE CITY OF NORFOLK

MEMORANDUM

TO:	City Council
FROM:	Lori A. Crouch, Corporate Communications Director
COPIES TO:	City Clerk, City Attorney
SUBJECT:	Council Interests
DATE:	December 16, 2016

Today's memo includes information from your November 22nd Council meeting.

Citywide Pedestrian Safety Improvements: Public Works has conducted a comprehensive review of pedestrian safety citywide. Virginia Department of Transportation provided $7.5 million for improvements. Highest priority locations will be improved with crosswalks, sidewalk improvements, ADA ramps, pedestrian refuges, traffic calming, signal enhancements, and education. The VDOT funds will come forward for your approval in January. Once approved, staff will move forward with study, program development and provide regular updates to you prior to construction on various projects.

Complete Streets: Tidewater Drive Corridor Pedestrian Safety Improvements: Staff will conduct a comprehensive review of the pedestrian crossings between Cromwell and Norview Ave along Tidewater Drive. This review will address the existing signalized pedestrian crossing at the Lakewood Tower, a recent new signal request, and safety enhancements including crosswalks, sidewalk improvements, ADA ramps, pedestrian median refuges, pedestrian signal, lane reduction on Tidewater Drive in this section and education. Public outreach will begin after the first of the year and construction is scheduled to start in the summer.

Complete Streets: Military Hwy at Poplar Hall Drive Pedestrian Safety Improvements: Staff created a conceptual plan for a pedestrian crossing at Military Highway and Poplar Hall Drive. A review of the concept will need to address the existing signalized intersection and needed pedestrian signals, lane reduction on North and South bound Military Highway, to include crosswalks, sidewalk improvements, ADA ramps, pedestrian refuges, pedestrian signals, and education. Staff will formalize the plan and conduct public outreach through the winter and spring. An update will come to you prior to construction tentatively scheduled for the summer.

Complete Streets: Additional Improvements: Other projects planned include:

- Granby/Bayview Signal Replacement
- Virginia Beach Blvd/Newtown Rd. Signal & Roadway Improvements
- Citywide Countdown Pedestrian Signal Upgrades
- Chesapeake Blvd/Cromwell Rd Signal Replacement

THE CITY OF NORFOLK

Harbor Park Revitalization Update: The effort to revitalize the area surrounding Harbor Park took a step forward with the completion of environmental testing. The testing, valued at approximately $100,000, was provided to Norfolk at no charge by the US Environmental Protection Agency under the agency's "Making a Visible Difference in Communities" program.

Based on soil and water test results, no remediation of soil or groundwater is warranted for use of the site for development as a shopping and restaurant district and associated parking. Limited soil remediation would be needed for residential development or for recreation and public spaces.

Revitalization of the area is part of the City's larger Coastal Adaptation and Community Transformation Plan, which includes a Harbor Park Promenade and Nature Trail, and restoration of the historic Newton's Creek bed to help prevent flooding in the area and to provide a new open space corridor for residents in the area.

Have a good weekend.

Fly Norfolk: Piloting a Partnership

Dr. Joel A. English,
Vice President of Operations
Centura College, Aviation Institute of Maintenance, and Tidewater Tech

Norfolk City Council Meeting
December 20, 2016

History

- Founded in 1969 in downtown Norfolk as an employment and career training agency.
- Computer and electronics training for military through the 1980's.
- First aviation maintenance training in 1994.
- Currently the largest trainer of FAA-certified aviation mechanics in the world.

Affiliated Campuses

Centura College

- 4 Locations in Hampton Roads
- Nursing, Business, Allied Health

Tidewater Tech

- 1 Location in Norfolk
- Welding, Automotive, HVAC, Building Maintenance

Aviation Institute of Maintenance

- 11 Locations Nationwide

Careers

Aviation Industries

General: Small Aircraft
Corporate: Private Jets
Commercial: Airliners
Rotary: Helicopters
Airships: Blimps
Manufacturing: Large Aircraft
Unmanned Aerial Vehicles: Drones

Health of Industry

"The global demand for technicians remains significant. The combination of global fleet growth and the outsourcing of third-party MROs will drive the need for the number of qualified technicians to increase. **The projected need for maintenance personnel will reach over a half million (584,000) worldwide.**"

Citation: Boeing Company. "Long Term Market Outlook 2015-2034: Pilot and Technician Outlook." Pilot and Technician Outlook. Web. 18 June 2015. http://www.boeing.com/commercial/market/long-term-market/pilot-and-technician-outlook/#/need-for-technicians

All rights reserved by Aviation Institute of Maintenance 2015

Unmanned Aerial Vehicle Program

Unmanned Aerial Vehicle Program

- Two-part 48-hour certificate training program
  - Part 1: Didactic training for FAA certification preparation.
  - Part 2: Hands-on pilot training, emphasizing safety, ethics, and piloting skills.

AVIATION INSTITUTE OF MAINTENANCE

AM
AVIONICS
AM
FIRE
EXTINGUISHER

Unmanned Aerial Vehicle Program

"The widespread commercial use of drones is predicted to inject $13.6 billion in the U.S. economy over the next three years and create 70,000 jobs in both drone manufacturing and flight operations."

1. Cinematographers and Photographers
2. Package Delivery Professionals
3. Police Officers and Investigators
4. Wildlife and Forestry Professionals
5. Energy Inspectors
6. Emergency Search and Rescue Team Members
7. Investigative Journalists
8. Farmers and Agriculture Professionals
9. Property Managers
10. Areal Internet Service Providers

Dave Roos "10 UAV Jobs of the Future" 17 April 2015. HowStuffWorks.com.

Fly Norfolk

Short-term Goals for Pilot Program

- Four-month pilot program offering focused aviation education to Norfolk constituents.
- Offer certified UAS training to high school students and adults.
- Offer exposure to aviation education to students and adults.
- Deploy Barraud Park for education and career training.

UAS Drone Course

- Conducted at Barraud Park facilities.
- Tuesday and Thursday afternoons, 3:00-5:00 pm.
- January 17-February 23.
- Target STEM-savvy high school students.
- Potentially include Norfolk emergency and safety/rescue professionals.

Youth Jet Camp

- Conducted at Barraud Park and AIM campus.
- During Spring Break, April 10-16, 2016.
- 10:00 am-2:00 pm.
- Target high school students interested in a career in aviation or mechanical careers.

Aviation Career Bootcamp

- Conducted at Barraud Park and AIM campus.
- Through the Month of March 2017.
- Daytime and Nighttime schedule.
- Target adults beyond high school age (working with Norfolk Redevelopment and Housing Authority) interested in financial and career mobility.

Fly Norfolk

Possible Long-term Goals

- Ongoing drone certification training for constituents, making Norfolk a center for UAS training and business.
- Ongoing programming at Barraud Park for aviation career and hobbyist training.
- Aviation-themed playground equipment and hands-on experimentation.
- Drone Race events and activities for experienced pilots.
- Academic agreement with Norfolk Public Schools, bringing aviation maintenance technology and an FAA certification into the curriculum.

HAMILTON
STANDARD

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42
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Chicago Pneumatic

N40IRS
A&B PROPANE

City of Norfolk

Inter Department Correspondence Sheet

TO: Members of City Council

FROM: Breck Daughtrey, City Clerk

COPIES TO:

SUBJECT: Minutes of City Council Meeting

December 16, 2016

Attached are the minutes of the City Council meeting held on Tuesday, December 13, 2016.

Breck

Breck

NORFOLK, VIRGINIA

BUSINESS MEETING OF COUNCIL

TUESDAY, DECEMBER 13, 2016

Mayor Alexander called the meeting to order at 5:05 p.m. with the following members present: Mrs. Graves, Ms. Johnson, Ms. McClellan, Mr. Riddick, Mr. Smigiel, Mr. Thomas and Dr. Whibley.

He thereupon called for the council to convene in closed session.

A. CLOSED SESSION

Motion for closed session was approved for purposes which are set out in **Clause 1, 3, 5 and 7 of subsection (A) of Section 2.2-3711** of **the Virginia Freedom of Information Act**, as amended:

(1) Discussion of candidates for appointment to city boards, commissions and authorities.

(3) Discussion of the sale of publicly owned real property in the Huntersville and Park Place areas of the city.

(5) Discussion of the expansion of an existing business where no announcement has been made of its interest in doing so.

(7) Consultation with legal counsel regarding a legal matter with a business on Plume Street and to discuss a legal matter involving a constitutional officer.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley and Alexander.

No: None.

B. AGENDA REVIEW

The Manager reviewed the implementation of the consent agenda.

C. LEGISLATIVE PROPERTIES

Michelle Washington, Public and Government Relations Manager, reported as follows:

Priorities have been added for the federal level: trying to regain funding for the Urban Area Security Initiative; pursuing water infrastructure projects as well as funding for various transportation projects.

VML Day in the Capital is scheduled for January 25th. A note from VML and registration information will be distributed. If any Council member wants to meet with Norfolk representatives, appointments can be arranged.

There will be a meeting for the short term rental group sometime this week. On Friday, Governor McAuliffe will present his budget proposal. He plans to announce a 1.5 percent one-time bonus for teachers and state employees that will be distributed in December 2017.

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

CITY COUNCIL MEETING

TUESDAY, DECEMBER 13, 2016 – 7:00 P.M.

Mayor Alexander called the meeting to order at 7:00 p.m.

The opening prayer was offered by Senior Pastor Aaron Dininny, [OV] Church, followed by the Pledge of Allegiance.

The following members were present: Ms. Graves, Ms. Johnson, Ms. McClellan, Mr. Riddick, Mr. Smigiel, Mr. Thomas, Dr. Whibley, and Mr. Alexander.

President Alexander moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley and Alexander

No: None.

CERTIFICATION OF CLOSED MEETING

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley and Alexander.

No: None.

CEREMONIAL MATTER

Mayor Alexander read a Proclamation congratulating Diana Branch on her historic achievement of being appointed the first woman postmaster in the City of Norfolk.

CONSENT AGENDA

C-1 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a consignment shop named 'Urban Castaways' on property located at **114 West 20th Street**.

Ann Corletto, 1604 Holland Avenue, the applicant, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

C-2 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a micro-distillery named 'Dead Reckoning Distillery' on property located at **310 and 312 West 24th Street**.

Dereck Ungerecht, 1000 Columbus Avenue, Virginia Beach, the applicant, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

C-3 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a tattoo parlor named 'Independence Tattoo III' on property located at **952 West 21st Street**.

Donald Rockwell, 1511 Bowling Avenue, the applicant, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

C-4 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an entertainment establishment with alcoholic beverages known as 'Jhane's Sweet Lounge' on property located at **731 Granby Street**.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

C-5 Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the sale of alcoholic beverages for off-premises consumption at an establishment known as 'Dorothy's BBQ Smokehouse' on property located at **4110 Colley Avenue**.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Whibley, and Alexander.

No: None.

Abstain: Thomas

C-5A An Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named 'Dorothy's BBQ Smokehouse' on property located at **4110 Colley Avenue**.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Whibley, and Alexander.

No: None.

Abstain: Thomas

C-6 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting a $31,327 **Commonwealth of Virginia Department of Environmental Quality Grant** for Litter Prevention, Recycling and Environmental Educational Programs, and appropriating and authorizing the expenditure of the grant funds for the programs.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

REGULAR AGENDA

R-1 Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **Wave Church** to encroach into the right-of-way of College Place with an emergency (egress only) door," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

R-2 Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **244 Granby, LLC** to encroach into the rights-of-way of **Granby Street and Tazewell Street** with cornices, awning and a sign," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

R-3 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **Baker Real Properties, Inc.** permission to encroach into the right-of-way at **760 W. 22nd Street** approximately 244 square feet for the purpose of outdoor dining and approving the terms and conditions of the Encroachment Agreement," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

R-4 Letter from the City Manager and an Ordinance entitled, "An Ordinance to repeal two subsections of Section 25-653 and to amend and reordain 25-646 and 654 of the ***Norfolk City Code, 1979***, **SO AS TO** add one new speed limit and eight new stop intersections," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

R-5 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving the conveyance by **Poplar Halls Civic League** to the City of Norfolk of any interest the civic league may have in and to that certain lake known as **Silver Lake** located in the City of Norfolk; and authorizing the City Manager to accept the Deed of Quitclaim on behalf of the City," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

R-6 Letter from the City Manager and a Resolution entitled, "A Resolution supporting the **2017 Legislative Priorities** for the City of Norfolk," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

R-7 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a Right of Entry permitting Colston Jones to go upon and use certain city owned property numbered and designated as **1351 and 1371 Hanson Avenue** for the Rustbucket Races Cyclocross Event," was introduced in writing and read by its title.

Colston Jones, 105 Conway Avenue, the applicant, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

R-8 A Resolution entitled, "A Resolution requesting that the City Treasurer tender his resignation for certain acts committed," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective December 13, 2016.

Yes: Graves, Johnson, McClellan, Riddick, Smigiel, Thomas, Whibley, and Alexander.

No: None.

NEW BUSINESS

1. Aaron Primes, 10 Keswick Circle, Virginia Beach, presented his idea regarding a non-profit organization - Mothers and Fathers of Tidewater which will have programs that further education and other classes that help parents who have been incarcerated become better role models.

2. Alton Robinson, 628 West 27th Street, commented he was glad council took a stand and voted on a Resolution requesting the resignation of City Treasurer Anthony Burfoot.

3. Yvette Alexander, 1359 East Tanner Creek Drive, spoke on a legal situation with St. Andrews Homeowners Association in the Circuit Court and that the association would now bring it to a federal level.

4. Robert Brown, 8507 Troy Street, spoke on the City Treasurer's legal issue and asked council to write a letter to the Judge presiding over the recall case to have Mr. Burfoot removed from office.

5. Scott Bakran, 255 College Cross, commented on the City Treasurer's legal issue, stating that the Treasurer should consider the city's interest instead of his own and thanked the Council for unanimously voting on the Resolution requesting Mr. Burfoot's resignation.

6. John Wesley Hill, 2906 Mapleton Avenue, commented that old tobacco building on Princess Anne Road was unsafe; that the committee to recall Treasurer Burfoot would move forward and that the city attorney was told about Mr. Burfoot's corruption but did not listen.

7. Danny Lee Ginn, 3844 Dare Circle stated that the council acted in a transparent matter by voting on the Resolution to ask for Anthony Burfoot's resignation; asked to have the council take a vote of no confidence of Mr. Riddick; requested the cameras be turned on for new business speakers and that the conduct rules of the speakers voted on by council be withdrawn.

THE CITY OF NORFOLK
CITY PLANNING

Inter Departmental Memorandum

TO: City Council

FROM: George Homewood, FAICP, Director of City Planning

COPIES TO: City Manager

SUBJECT: Non Standard Lot Certificate – 1018 Avenue H

DATE: December 20, 2016

Attached is a Certificate for a Nonstandard Lot authorizing development of a nonstandard lot consistent with the process authorized by Council in 2009. The approved design has been determined to be consistent with the character of the neighborhood in which it will be located.

Council requested this information be provided whenever development of a nonstandard lot has been authorized at the time the new ordinance was adopted.

Property Information

Location:	1018 Avenue H	**Neighborhood:**	Oakwood
Zoning:	R-8	**Standard Lot Size:**	50 Ft. x 100 Ft.
House Type:	2 Story Single Family	**Proposed Lot Size:**	30 Ft. x 125 Ft.
House Size: (Width x Depth)	23 Ft. x 50 Ft.	**Square Footage:**	1936 Sq. Ft.

A copy of the Survey and the Front Elevation is included for your review.

For more information, please contact George Homewood, City Planning Director at 664-4747 or Ronald Moore, Sr. Design & Rehabilitation Consultant at 664-6778.

THE CITY OF NORFOLK
CITY PLANNING

Office of Housing
Department of Planning and Community Development
Development Certification for Non-Standard Lots

Applicant Information

Applicant Name:	Landover Builders	**Date of Application:**	September 1, 2016
Mailing Address:	1208 Balladeer Court		
City, State, Zip Code:	Chesapeake, VA 23322		
Phone Number:	757.572.7056	**E-Mail:**	

Property Information

Location:	1018 Avenue H	**Neighborhood:**	Oakwood
Zoning:	R-8	**Standard Lot Size:**	50 Feet x 100 Feet
House Type:	2 Story Single Family	**Proposed Lot Size:**	30 Feet X 125 Feet
Proposed House Size:	23 Feet x 50 Feet	**Square Footage:**	1936 SF

The proposed building plans and elevations for development of the site at 1018 Avenue H and located in the Oakwood neighborhood in Norfolk, Virginia has been determined to be in keeping with the character of the neighborhood using the standards established by City Council in Section 4-0.15 of the Zoning Ordinance, which include but are not limited to location and placement of windows, doors, roof(s), porch (es), columns, driveways, garage(s), and building height.

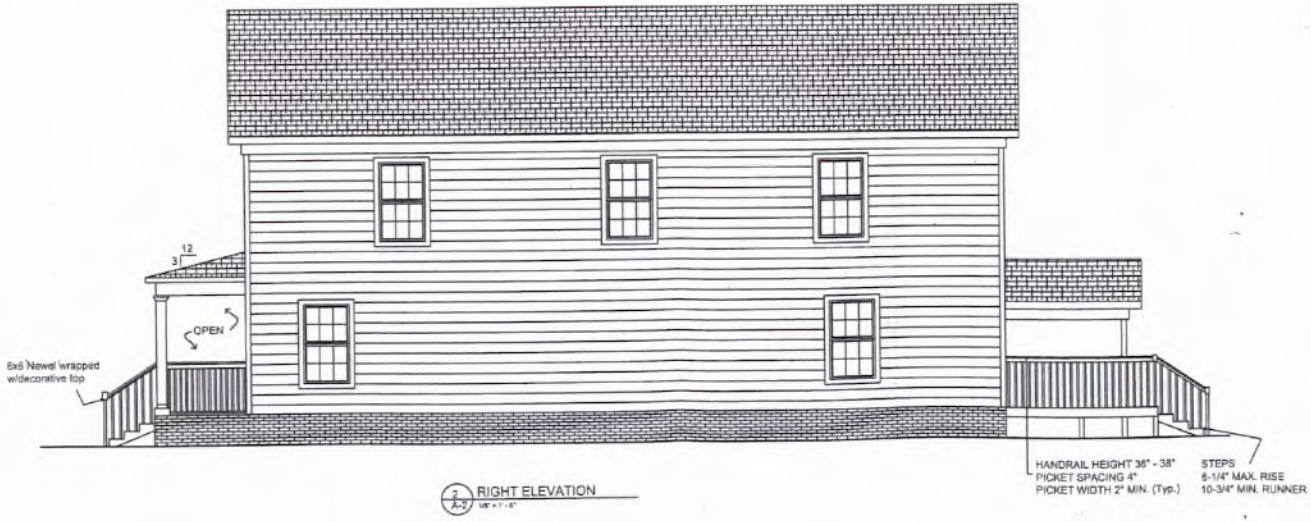
Please submit three sets of final plans and elevations to the Department of Planning and Community Development to be stamped "approved". After plans have been stamped, two sets of the approved plans will need to be presented to the Building Safety Division for consistency with Building Code requirements and for issuance of the required building permits.

Leonard M. Newcomb
for George Homewood, AICP, Director
City Planning

December 15, 2016
Date

BC: City Manager's Office
City Planning Director
Program Manager
Building Official

2 A-2 FRONT ELEVATION
1/8" = 1'-0"



2 A-2 RIGHT ELEVATION
1/8" = 1'-0"

Landover Builders, Inc
1208 Balladeer Court
Chesapeake, VA 23322
Ph. (757) 572-7056

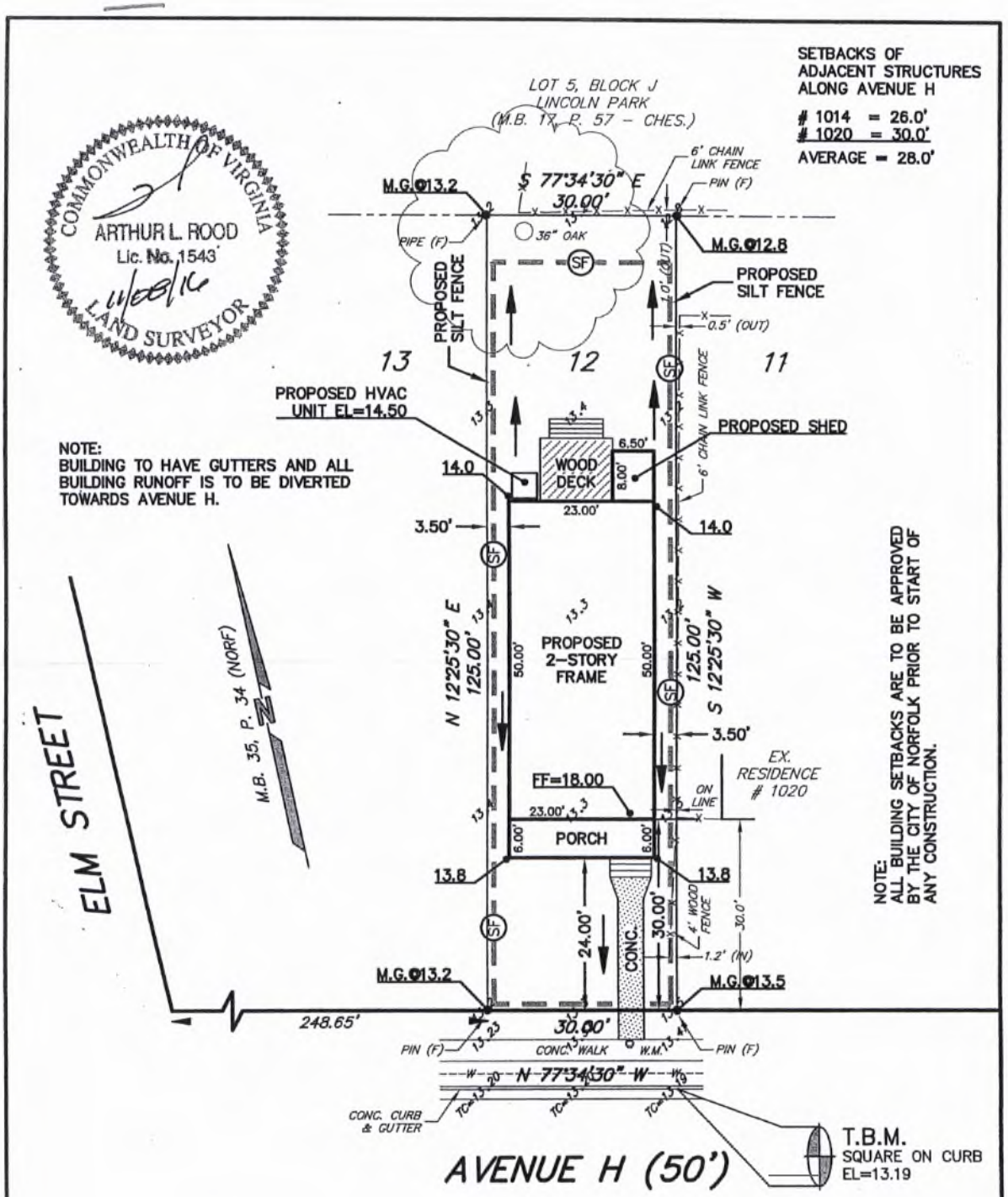
Drawn By: Michael Mannix

Date: 10/03/2016

Project:
1018 Avenue H
Norfolk, VA 23513

Drawings:
RIGHT & FRONT ELEVATIONS

Sheet
A-2.2



LEGEND:

- 10.0 EXIST. SPOT ELEVATION
- 12.5 PROPOSED ELEVATION
- PROP. DIRECTION OF FLOW
- BENCH MARK
- EXISTING FENCE
- EXISTING TREE

SITE PLAN
OF
LOT 12, BLOCK 8
WASHINGTON PARK
NORFOLK, VIRGINIA
FOR
LANDOVER BUILDERS

REVISED: 11/08/2016

ROOD
LAND SURVEYING, P.C.
5737 BARTEE STREET
NORFOLK, VA. 23502
TEL: (757) 466-1111
FAX: (757) 466-9384

GRAPHIC SCALE
0 10 20 40 60

SCALE:	1"=20'	DRAWN BY:	W.W.L.
DATE:	08/18/2016	SHEET 1 OF 5	

PLAT/DEED REFERENCE: M.B. 4, P. 68 (Ches.) F.B.T-125 PG. 47-48

63,406

THE CITY OF NORFOLK
CITY PLANNING

Inter Departmental Memorandum

TO: City Council

FROM: George Homewood, FAICP, Director of City Planning

COPIES TO: City Manager

SUBJECT: Non Standard Lot Certificate – 2700 Myrtle Avenue

DATE: December 20, 2016

Attached is a Certificate for a Nonstandard Lot authorizing development of a nonstandard lot consistent with the process authorized by Council in 2009. The approved design has been determined to be consistent with the character of the neighborhood in which it will be located.

Council requested this information be provided whenever development of a nonstandard lot has been authorized at the time the new ordinance was adopted.

Property Information

Location:	2700 Myrtle Avenue	**Neighborhood:**	Broad Creek
Zoning:	R-8	**Standard Lot Size:**	50 Ft. x 100 Ft.
House Type:	2 Story Single Family	**Proposed Lot Size:**	23 Ft. x 117.6 Ft.
House Size: (Width x Depth)	16.5 Ft. x 54 Ft.	**Square Footage:**	1826 Sq. Ft.

A copy of the Survey and the Front Elevation is included for your review.

For more information, please contact George Homewood, City Planning Director at 664-4747 or Ronald Moore, Sr. Design & Rehabilitation Consultant at 664-6778.

THE CITY OF NORFOLK
CITY PLANNING

Office of Housing
Department of Planning and Community Development
Development Certification for Non-Standard Lots

Applicant Information

Applicant Name:	Va. Coastal Builders, LLC.	**Date of Application:**	October 12, 2016
Mailing Address:	401 Clemon Ave.		
City, State, Zip Code:	Chesapeake, VA 23324		
Phone Number:	757.846.3590	**E-Mail:**	

Property Information

Location:	2700 Myrtle Avenue	**Neighborhood:**	Broad Creek
Zoning:	R-8	**Standard Lot Size:**	50 Feet x 100 Feet
House Type:	2 Story Single Family	**Proposed Lot Size:**	23 Feet X 117.6 Feet
Proposed House Size:	16.5 Feet x 54 Feet	**Square Footage:**	1826 SF

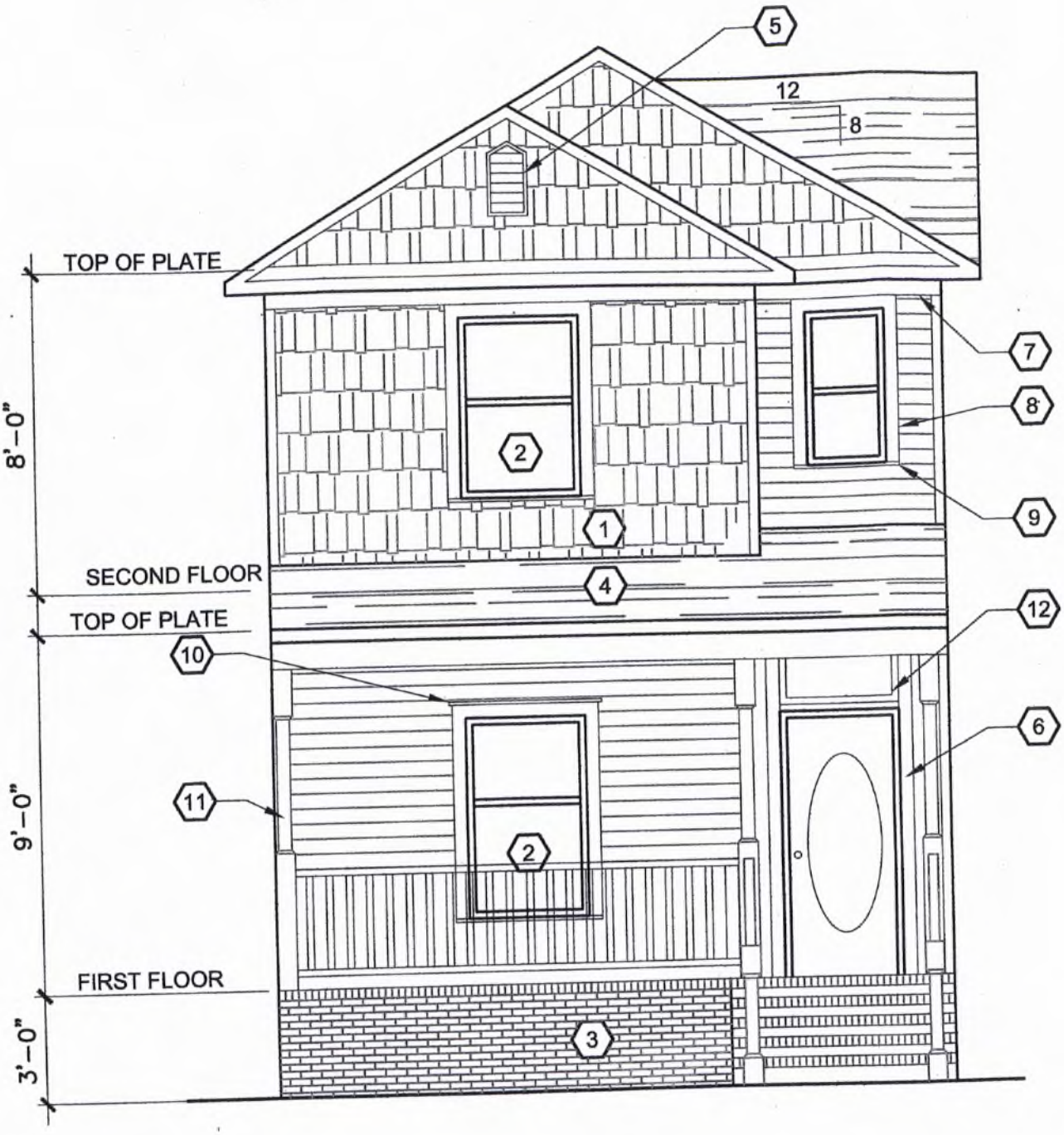
The proposed building plans and elevations for development of the site at 2700 Myrtle Avenue and located in the Broad Creek neighborhood in Norfolk, Virginia has been determined to be in keeping with the character of the neighborhood using the standards established by City Council in Section 4-0.15 of the Zoning Ordinance, which include but are not limited to location and placement of windows, doors, roof(s), porch (es), columns, driveways, garage(s), and building height.

Please submit three sets of final plans and elevations to the Department of Planning and Community Development to be stamped "approved". After plans have been stamped, two sets of the approved plans will need to be presented to the Building Safety Division for consistency with Building Code requirements and for issuance of the required building permits.

Leonard M. Newcomb III
for George Homewood, FAICP, Director
City Planning

December 15, 2016
Date

BC: City Manager's Office
City Planning Director
Program Manager
Building Official



1
A2 A3

SOUTH NEW WORK ELEVATION

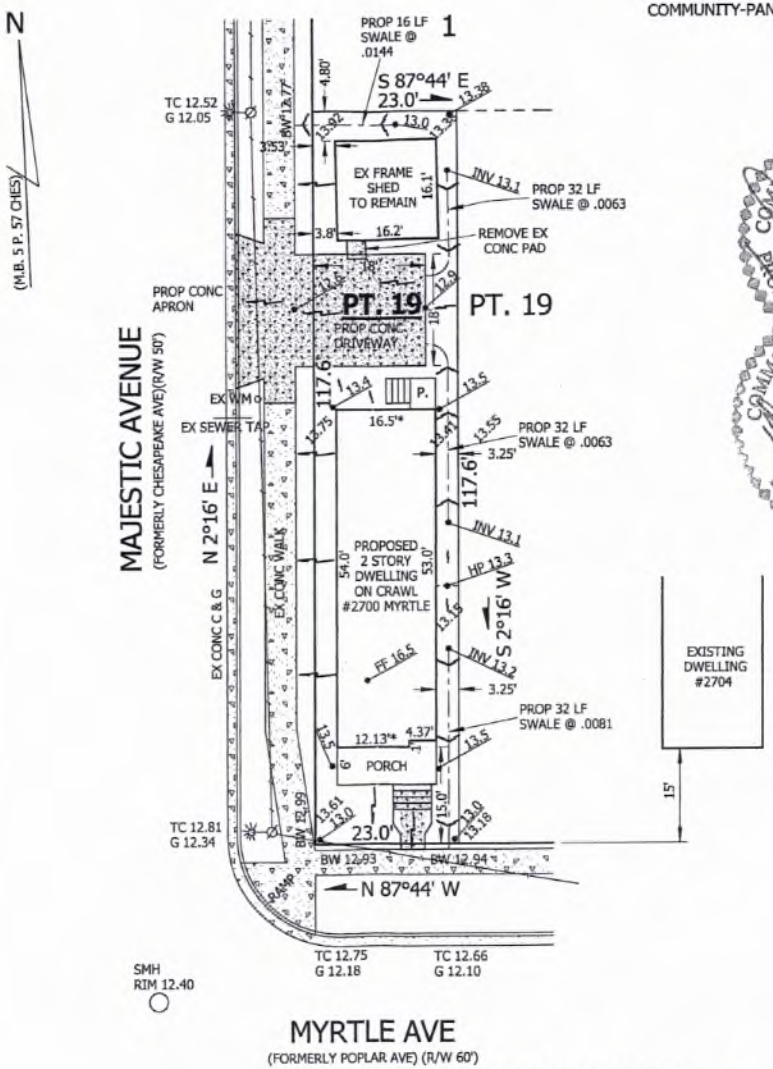
SCALE: 1/4" = 1'-0"

GENERAL NOTES:

1. ALL LOCAL, STATE AND FEDERAL CODES AND/OR ORDINANCES MUST BE ADHERED TO.
2. DIMENSIONS SHOWN SHALL BE VERIFIED IN THE FIELD BY THE CONTRACTOR.
3. THE CONTRACTOR WILL INDEMNIFY AND SAVE HARMLESS THE OWNER, THE ARCHITECT, THE ENGINEER AND ANY OF THEIR RESPECTIVE AGENTS OR EMPLOYEES AGAINST ANY LIABILITY, LOSS OR EXPENSE (INCLUDING ATTORNEY'S FEES) INCURRED OR SUFFERED IN CONSEQUENCE EITHER OF BODILY INJURY (INCLUDING DEATH AT ANY TIME RESULTING THEREFROM) TO ANY PERSON OR DAMAGES TO ANY PROPERTY (INCLUDING LOSS OF USE THEREOF) DUE TO ANY ACT OR OMISSION OF THE CONTRACTOR OR ANY OF HIS SUBCONTRACTORS OR ANY OF THEIR RESPECTIVE EMPLOYEES IN CONNECTION WITH THE WORK OF THE CONTRACTOR HEREUNDER.
4. ELEVATIONS ARE IN FEET AND REFER TO NAVD '88(92) DATUM.
5. THIS PLAN DOES NOT GUARANTEE THE LOCATION OR THE EXISTENCE OR NON-EXISTENCE OF UNDERGROUND OR OVERHEAD UTILITIES. PRIOR TO CONSTRUCTION OR EXCAVATION, THE CONTRACTOR SHALL ASSUME THE RESPONSIBILITY OF LOCATING ANY UNDERGROUND OR OVERHEAD UTILITIES (PUBLIC OR PRIVATE) THAT MAY EXIST AND CROSS THROUGH THE AREA OF CONSTRUCTION, WHETHER OR NOT SHOWN ON THESE PLANS. BEFORE YOU DIG, CALL "MISS UTILITY" OF TIDEWATER AT 1-800-552-7001. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING AT HIS EXPENSE ANY EXISTING UTILITIES DAMAGED DURING CONSTRUCTION.
6. ALL CONCRETE SHALL BE 3000 P.S.I. (CLASS A-3 AIR ENTRAINED).
7. BEFORE CONSTRUCTION BEGINS, THE CONTRACTOR OR THE OWNER (AS APPLICABLE) MUST:
   - A. OBTAIN ALL INFORMATION CONCERNING THE EXISTENCE OF EASEMENTS, OTHER IMPEDIMENTS, BURIED TANKS, HAZARDOUS MATERIALS, ETC. WHICH AFFECT THE BUILDING SITE AND ASSUME RESPONSIBILITY FOR ANY CONFLICTS ARISING FROM THESE ITEMS. THE OWNERS TITLE REPORT/LETTER MAY SHOW SOME OF THE ABOVE.
   - B. VERIFY ZONING RESTRICTIONS AND SETBACK LINES ON THE DATE THAT THE CITY PERMIT AUTHORIZING CONSTRUCTION IS ISSUED.
8. ANY ERRORS, OMISSIONS, DISCREPANCIES, ETC. SHOULD BE BROUGHT TO THE ATTENTION OF THIS OFFICE IMMEDIATELY. WORK SHOULD NOT CONTINUE UNTIL THIS OFFICE HAS ISSUED WRITTEN INSTRUCTIONS.
9. HOUSE PLANS WERE PROVIDED TO THIS OFFICE, ENTITLED "NEW RESIDENCE AT 2700 MYRTLE AVE" DATED 8/1/16, REVISED BUT WITH NO REVISION DATE. IT IS THE RESPONSIBILITY OF THE CLIENT TO STUDY THIS SITE PLAN AND ASSURE THAT ALL OF THE DIMENSIONS AND DETAILS OF THE PROPOSED HOUSE ARE SHOWN AS DESIRED BY THE CLIENT AND THAT ALL FEATURES OF THE HOUSE, INCLUDING NUMBER OF STORIES, LOCATION OF PORCHES, WALKS AND DRIVEWAYS, AND ANY HORIZONTAL PROJECTIONS SUCH AS BAY WINDOWS OR CANTILEVERED ROOMS ARE SHOWN HEREON AS DESIRED BY THE CLIENT BEFORE THIS PLAN IS SUBMITTED TO THE CITY FOR REVIEW.

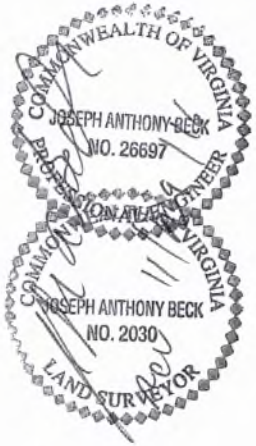
*9A. *THE HOUSE HAS BEEN NARROWED 6" FROM THAT SHOWN ON THE HOUSE PLAN IN ORDER TO FIT COMFORTABLY WITHIN THE SETBACKS. *IT IS THE RESPONSIBILITYOF THE CLIENT TO HAVE THE HOUSE PLANS REVISED BY THE ARCHITECT TO REFLECT THE DEEPER PORCH BEFORE APPLYING FOR A BUILDING PERMIT.

10. IT IS THE UNDERSTANDING OF THIS OFFICE THAT THIS HOUSE WILL NOT HAVE A BRICK VENEER. THE HOUSE DIMENSIONS AND HOUSE LOCATION DISTANCES SHOWN HEREON ARE MEASURED TO THE OUTSIDE OF THE WOOD FRAME WALLS.
11. NO DEED, TITLE REPORT, CONTRACT OF SALE OR OTHER INFORMATION INDICATING WHICH PIECE OF LAND THE CLIENT OWNS, INTENDS TO BUY OR INTENDS TO BUILD ON WAS SUPPLIED TO THIS OFFICE. IT IS THE RESPONSIBILITY OF THE CLIENT TO STUDY THIS PLAN AND ASSURE THAT THE LAND PARCEL DEPICTED HEREON IS THE ONE INTENDED FOR CONSTRUCTION BEFORE BEGINNING CONSTRUCTION.
12. NO BOUNDARY MONUMENTS WERE MARKED AND NO LAYOUT WAS PERFORMED AS A PART OF THE PREPARATION OF THIS PLAN. THIS OFFICE WILL SET LAYOUT MARKERS IF CONTRACTED TO DO SO.
13. THIS SITE PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE POLICY AND, CONSEQUENTLY, MAY NOT SHOW ALL EASEMENTS AND MATTERS OF TITLE THAT AFFECT THE SITE. THE CLIENT IS HEREBY DIRECTED TO DO THE FOLLOWING BEFORE CONSTRUCTION:
    1. OBTAIN TITLE INSURANCE.
    2. OBTAIN ASSURANCE FROM A TITLE ATTORNEY THAT THE TITLE POLICY COVERS ALL OF THE LAND SHOWN ON THIS PLAN.
    3. OBTAIN ASSURANCE FROM A TITLE ATTORNEY THAT THE EXCEPTIONS TO COVERAGE LISTED IN THE TITLE POLICY DO NOT ADVERSELY AFFECT THE PROJECT.



FLOOD NOTE:

BY GRAPHIC PLOTTING AND SCALING FROM FEMA MAPS ONLY AND NOT REFLECTING ANY LETTERS OF MAP CHANGE THAT MAY HAVE BEEN ISSUED BY FEMA, THIS SITE WAS DETERMINED TO BE IN ZONE X (UNSHADED) AS SHOWN ON FEMA MAP, COMMUNITY-PANEL NUMBER 510104 0135 F, EFFECTIVE: 9/2/09.



LEGEND:

CONC	CONCRETE
PROP	PROPOSED
O/H	OVERHEAD
EX	EXISTING
FF	FINISHED FLOOR
LP	LIGHT POLE
BW	BACK OF WALK
TC	TOP OF CURB
C&G	CURB AND GUTTER
G	GUTTER
M.G.	MATCH GRADE
9.8	EXISTING ELEVATIONS
9.9	PROPOSED ELEVATIONS
	PROPOSED DIRECTION OF FLOW
INV	INVERT
MG	MATCH GRADE
HP	HIGH POINT

SITE PLAN OF WEST 23' OF LOT 19, BLOCK 2 HAYNES TRACT (M.B. 5 P. 57 CHES.) NORFOLK, VIRGINIA

FOR

C.J. UPTON

REVISED: NOVEMBER 29, 2016 (HO PLANS)
REVISED: OCTOBER 26, 2016 (HO PLANS)
SEPTEMBER 15, 2016 SCALE: 1" = 20'

BECK ASSOCIATES, PC
CIVIL ENGINEERS AND LAND SURVEYORS
7442 TIDEWATER DRIVE
NORFOLK, VA 23505

CONSULTING ENGINEERS
BECK ASSOCIATES
NORFOLK, VIRGINIA pc

THE CITY OF NORFOLK
CITY PLANNING

Inter Departmental Memorandum

TO:	City Council
FROM:	George Homewood, FAICP, Director of City Planning
COPIES TO:	City Manager
SUBJECT:	Non Standard Lot Certificate – 4825 Kennebeck Avenue
DATE:	December 20, 2016

Attached is a Certificate for a Nonstandard Lot authorizing development of a nonstandard lot consistent with the process authorized by Council in 2009. The approved design has been determined to be consistent with the character of the neighborhood in which it will be located.

Council requested this information be provided whenever development of a nonstandard lot has been authorized at the time the new ordinance was adopted.

Property Information

Location:	4825 Kennebeck Avenue	**Neighborhood:**	Greenwood/Elmhurst/Norview Heights
Zoning:	R-7	**Standard Lot Size:**	60 Ft. x 100 Ft.
House Type:	2 Story Single Family	**Proposed Lot Size:**	50 Ft. x 99.5 Ft.
House Size: (Width x Depth)	33 Ft. x 37 Ft.	**Square Footage:**	1958 Sq. Ft.

A copy of the Survey and the Front Elevation is included for your review.

For more information, please contact George Homewood, City Planning Director at 664-4747 or Ronald Moore, Sr. Design & Rehabilitation Consultant at 664-6778.

FRONT ELEVATION

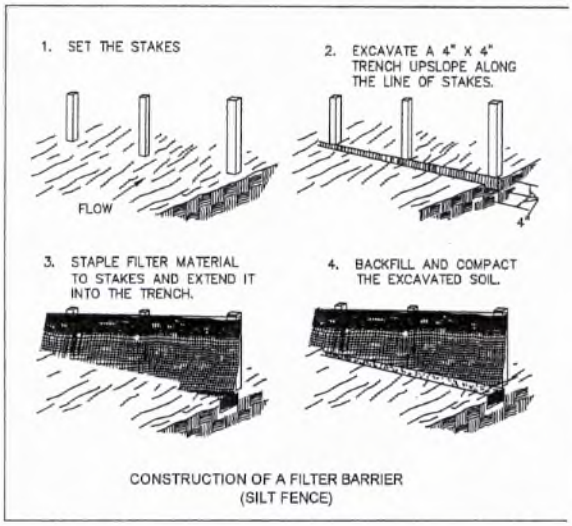
SCALE : 1/4" = 1'-0"

THIS TOPOGRAPHIC SURVEY OF LOT J, LANGE SUBDIVISION OF PART OF MALBON TRACT WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF JEFFREY D. WILLIAMS, JOHN E. SIRINE AND ASSOCIATES, LTD. FROM AN ACTUAL GROUND SURVEY MADE UNDER MY SUPERVISION: THAT THE IMAGERY AND/OR ORIGINAL DATA WAS OBTAINED ON AUGUST 14, 2015; AND THAT THIS PLAT, MAP OR DIGITAL GEOSPATIAL DATA INCLUDING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.

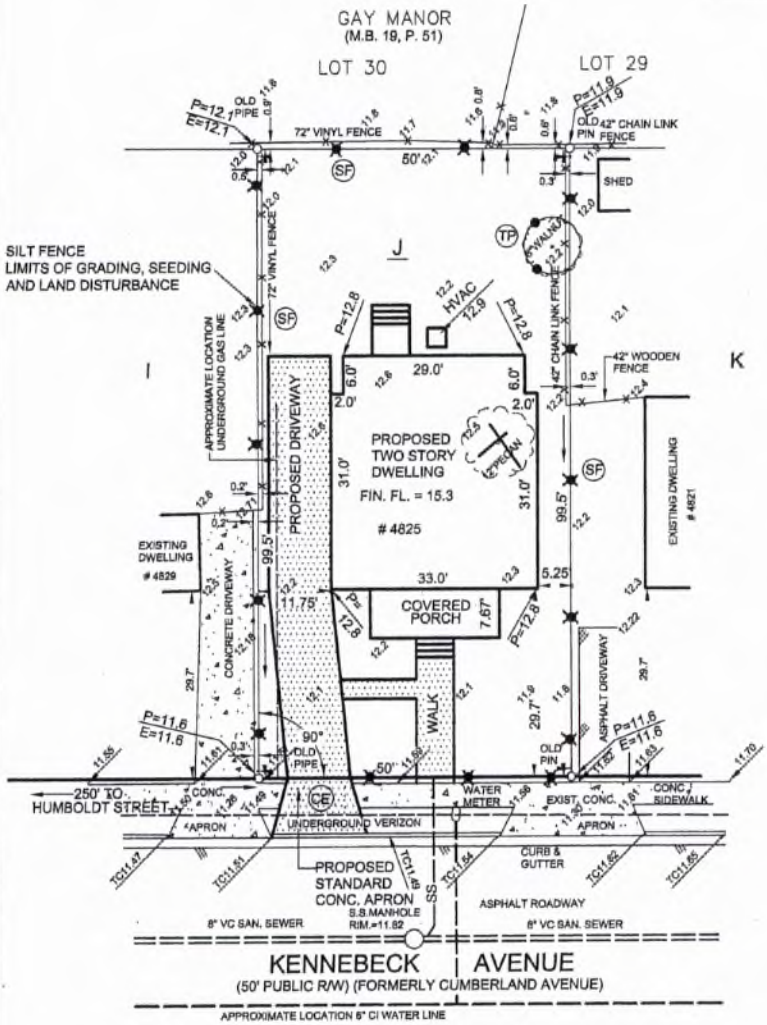
SIGNED: JEFFREY D. WILLIAMS

JEFFREY D. WILLIAMS, L.S. 2045

COMMONWEALTH OF VIRGINIA
11·11·2016
8·14·2015
JEFFREY D. WILLIAMS
Lic. No. 2045
JEFFREY D. WILLIAMS
LAND SURVEYOR



CONSTRUCTION OF A FILTER BARRIER
(SILT FENCE)



NOTES

1. IT SHALL BE THE RESPONSIBILITY OF THE CLIENT\BUILDER TO VERIFY THAT THE BUILDING PLAN DIMENSIONS ARE IN AGREEMENT WITH THIS SITE PLAN. IT SHALL ALSO BE THE CLIENT\BUILDER RESPONSIBILITY TO NOTIFY THE SURVEYOR OF ANY EASEMENT NOT SHOWN ON THE RECORDED PLAT.
2. THE BUILDER SHALL VERIFY LOCATION OF CATCH BASIN, STREET LIGHT AND OTHER EXISTING UTILITIES PRIOR TO BEGINNING CONSTRUCTION.
3. CITY SEWER AND WATER AVAILABLE.
4. ELEV. BASED ON NORFOLK CITY DATUM NAVD '88(92) (CITY OF NORFOLK 2000) GPS 158 (ELEV.=11.61) UTILIZED
5. PROPERTY IS ZONED R 7
6. THIS SITE PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY OR MAY NOT SHOW ALL MATTERS OF TITLE AFFECTING PROPERTY SHOWN HEREON.
7. LOT AREA = 4975 SQ. FT. / 0.114 ACRE
   TOTAL PROPOSED IMPERVIOUS SURFACE AREA = 2200 SQ. FT.
   PERCENT PROPOSED IMPERVIOUS SURFACE AREA = 44.2%
8. UNDERGROUND UTILITY LINES SHOWN ON THIS DRAWINGS ARE BASED UPON THE BEST INFORMATION AVAILABLE TO THE ENGINEER. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR LOCATION, EITHER HORIZONTALLY OR VERTICALLY, OF ANY EXISTING UTILITY (PUBLIC OR PRIVATE) IN THE CONSTRUCTION AREA WHETHER SHOWN OR NOT SHOWN ON THIS DRAWING. CONTACT "MISS UTILITY" AT (811), 48 HOURS IN ADVANCE OF EXCAVATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING, AT HIS/HER EXPENSE, ANY EXISTING UTILITIES DAMAGED DURING CONSTRUCTION.
9. ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE IN ACCORDANCE WITH THE VIRGINIA EROSION AND SEDIMENT CONTROL.
10. ANY AND ALL MATERIAL OR DEBRIS TRACKED ONTO A PRIVATE OR PUBLIC ROAD SURFACE WILL BE REMOVED AT THE END OF EACH DAY. SEDIMENT WILL REMOVED FROM ROADS BY SHOVELING OR SWEEPING AND BE TRANSPORTED TO A SEDIMENT CONTROLLED DISPOSAL AREA.
11. ALL EXCAVATION MATERIAL FROM CONSTRUCTION SHALL BE DISPOSED OF IN A LAWFUL MANNER.
12. MINIMIZE LAND DISTURBANCE.
13. GPIN 1448680413
    ADDRESS: 4825 KENNEBECK AVENUE
14. PROPERTY APPEARS TO FALL WITHIN ZONE X (UNSHADED) (AREA DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN), AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM MAP FOR THE CITY OF NORFOLK
    DATED SEPT. 2, 2009 MAP NUMBER 5101040105F

LEGEND:

1. E = EXISTING GRADE
   P = PROPOSED GRADE

(CE) = CONSTRUCTION ENTRANCE

(TP) = TREE PROTECTION

(SF) = SILT FENCE

= REMOVE TREE

CONSTRUCTION SEQUENCE

1. OBTAIN ALL NECESSARY PERMITS.
2. INSTALL CONSTRUCTION ENTRANCE.
3. INSTALL SILT FENCE
4. BEGIN HOUSE CONSTRUCTION AND INSTALLATION OF SEWER AND WATER.
5. CONSTRUCT DRIVEWAY.
6. GRADE YARD, CUT SWALES, AREA TO BE TOPSOIL, SEED AND MULCHED IMMEDIATELY AFTER ACHIEVING FINAL GRADE.
7. STABILIZE ALL DENUDED AREAS AND PLANT GRASS. (IN ACCORDANCE WITH SEEDING MIXTURES, RATES AND DATES)
8. REMOVE REMAINING TEMPORARY SEDIMENT AND EROSION CONTROL MEASURES WITHIN THIRTY DAYS AFTER FINAL SITE STABILIZATION.
9. REMOVE ALL TEMPORARY EQUIPMENT, CONSTRUCTION MATERIALS AND DEBRIS FROM SITE.

SITE PLAN
OF
LOT J, LANGE SUBDIVISION OF PART OF MALBON TRACT
FOR (M. B. 31, P. 38 - CHESAPEAKE, VA.)
PARAGONN INC.
NORFOLK, VIRGINIA

SCALE: 1"=20' NOVEMBER 11, 2016

JOHN E. SIRINE AND ASSOCIATES, LTD.
SURVEYORS· ENGINEERS· PLANNERS
4317 BONNEY ROAD
VIRGINIA BEACH, VIRGINIA 23452

REVISED: NOVEMBER 18, 2016-HOUSE MOVED

J.O. 86. 938 3860 - 00 P.S. 675, P. 27

THE CITY OF NORFOLK

MEMORANDUM

TO: The Honorable City Council

CC TO: Wynter C. Benda, Deputy City Manager
Leonard M. Newcomb III, CFM, Assistant Director, City Planning
Matthew Simons, AICP, CZA, CFM, City Planning

FROM: George M. Homewood, FAICP, CFM, Director, City Planning

SUBJECT: Amend a previously granted special exception for an entertainment establishment with alcoholic beverages and for a special exception to permit the sale of alcoholic beverages for off-premises consumption at 2700-2716 Hampton Boulevard – Small's Restaurant & Catering Co.

DATE: December 16, 2016

At the November 10, 2016 Planning Commission public hearing an application was presented to amend a previously granted special exception for an entertainment establishment with alcoholic beverages and for a new special exception to permit the sale of alcoholic beverages for off-premises consumption at 2700-2716 Hampton Boulevard – Small's Restaurant & Catering Co.

History

In 2012, the City Council approved a special exception to allow the applicant, John Small, to operate an eating and drinking establishment at this location. The applicant has since had three additional amendments approved by City Council in order to increase the capacity (2013), increase the hours of operation (2014) and add entertainment options (2015).

At the November 10 Planning Commission meeting, comments were presented from three neighbors residing within the Lamberts Point neighborhood directly to the west, on the opposite side of Hampton Boulevard from this establishment. Concerns were presented regarding the use of the adjacent overflow parking lot at the ODU Credit Union, citing noise concerns with customers of the establishment. Additionally, claims were made about the establishment hosting live entertainment outside, within the rear outdoor seating area, which is not permitted under the approved conditions of the establishment's currently adopted special exception. These claims were subsequently verified by Planning Staff, finding photos of the outdoor entertainment posted on the establishment's Facebook page.

Request

The applicant is requesting to modify the location of the entertainment within the interior of the establishment and add the ability to offer alcohol sales for off-premises consumption.

Recommendation

Staff recommends **approval** of both special exception requests, since the proposal is not inconsistent with the operational aspects of several other similar establishments, both within the general vicinity of the Hampton Boulevard and Colley Avenue corridors, as well as throughout the City as a whole. Furthermore, the proposed operational changes do not present a greater risk of perpetuating any of the identified concerns (e.g. the hours of operation and the capacity will remain the same). From time to time, restaurants with similar hours of operation and entertainment have noise complaints reported to the City, which are generally addressed by the City's Zoning Enforcement Staff or Police Department, and usually complaints are mitigated quickly.

A report of the emergency calls for service was reviewed and no noise complaints were officially reported to the police department through either 9-1-1 or the police non-emergency number. Other than traffic-related incidents, seven calls for emergency service were reported which include suspicious activity on the site, vandalism, larceny, a request for general advice and an assault event that occurred in the parking lot from a situation that spilled over to this site from the adjacent 7-Eleven site. Planning Staff's review of the calls for emergency service found that the number and range of calls are relatively low and common compared to similar establishments of this size which are also located along active commercial corridors.

By a vote of **7 to 0**, the Planning Commission recommended to **approve** the special exception to amend the interior location of the entertainment area within the restaurant.

By a vote of **4 to 3**, the Planning Commission recommended to **approve** the special exception for the sale of alcoholic beverages for off-premises consumption.

The Planning Commissioners agreed that the request to modify the interior location of the entertainment represented no material change to the existing operation. However, some of the Planning Commissioners had reservations about allowing the establishment to be permitted to sell alcohol for off-premises consumption since there appeared to be an unresolved conflict with the neighbors who spoke at the meeting and other locations nearby that provide off-premise alcohol sales.

Staff contact: Matthew Simons at (757) 664-4750, matthew.simons@norfolk.gov

THE CITY OF NORFOLK

MEMORANDUM

TO: The Honorable City Council

Wynter C. Benda, Deputy City Manager
Leonard M. Newcomb III, CFM, Assistant Director, City Planning
CC TO: Matthew Simons, AICP, CZA, CFM, City Planning

FROM: George M. Homewood, FAICP, CFM, Director, City Planning

SUBJECT: Special Exception to operate a payday loan/auto title loan establishment at 3607 North Military Highway – Loan Max

DATE: December 16, 2016

At the November 10, 2016 Planning Commission public hearing an application was presented to allow Loan Max to operate a payday loan/auto title loan establishment on the site.

History

In 2006, the City Council approved a zoning text amendment to create definitions for Payday Loan/Auto Title Loan and Check Cashing Establishment. Since 2006, both uses have required a special exception and have been limited to the C-2 district. One of the main reasons cited in 2006 for requiring a special exception was a concern regarding the potential impacts of concentrating payday loan/auto title loan establishments and check cashing establishments within close proximity. Loan Max operated on this site starting in 2004 and was a legally-established nonconforming use. In February of 2016, the building was destroyed by a fire and the site is currently vacant.

Section 12-9 "Discontinuation of nonconforming uses," of the *Zoning Ordinance* states "If a nonconforming use is discontinued for a period of two (2) years or more or if any building or structure involved in the nonconforming use is structurally altered, reconstructed, or moved, then the use shall not be resumed...". In order for Loan Max to resume operations in a new building on the site, a special exception would have to be approved.

Although there may be negative impacts associated with a concentration of payday loan/auto title loan and/or check cashing establishments within close proximity to each other, this proposed re-establishment does not concentrate this land use with similar establishments.

Additionally, this location has had a payday loan/auto title loan establishment since 2004 until the fire this past February, and from a land use perspective there have been no negative impacts that resulted from the previous establishment.

The property owner of the adjacent residential home to the rear of the site spoke at the Planning Commission public hearing about previous noise issues that have occurred as customers would drop off payments after hours in the nightly payment drop box, previously located behind the building, adjacent to the property owner's home. A condition has been added to the special exception ordinance that will require the drop box to be located at the front of the building which will allow the building to serve as a buffer from any associated noise that may occur from customers dropping off payments after hours.

Request

Special exception by Loan Max to re-establish a payday loan/auto title loan establishment on the site to replace a legally-established nonconforming use.

Recommendation

Staff recommends **approval** of the special exception request. Although Staff traditionally opposes payday loan/auto title loan establishments for a myriad of reasons, including impact on surrounding land uses, given that this payday loan/auto title loan establishment has previously operated on this site from 2004 to February of 2016, and since there is not a concentration of payday loan/auto title loan establishments within the vicinity of this location and given that the proposed location is not within a fragile community, staff recommends that the special exception request be approved.

By a vote of **4 to 3**, the Planning Commission recommended **approval** of the special exception to operate a payday loan/auto title loan establishment.

The Planning Commissioners who recommended that the request be denied did not provide comment concerning their recommendation.

Staff contact: Matthew Simons at (757) 664-4750, matthew.simons@norfolk.gov

THE CITY OF NORFOLK
CITY PLANNING

MEMORANDUM

TO:	City Council
FROM:	George M. Homewood, FAICP, CFM, Planning Director
COPIES TO:	Douglas L. Smith, Interim City Manager, City Attorney, City Clerk
SUBJECT:	Pending Land Use Actions
DATE:	December 16, 2016

Attached for your review is the Pending Land Use Report, identifying applications received and site plans approved from December 7, 2016 through December 13, 2016. The report reflects items that are tentatively scheduled to be heard at the January 26, 2017 City Planning Commission meeting. In an effort to provide advance notice, this report is prepared prior to City Council meetings. No action is required on this report.

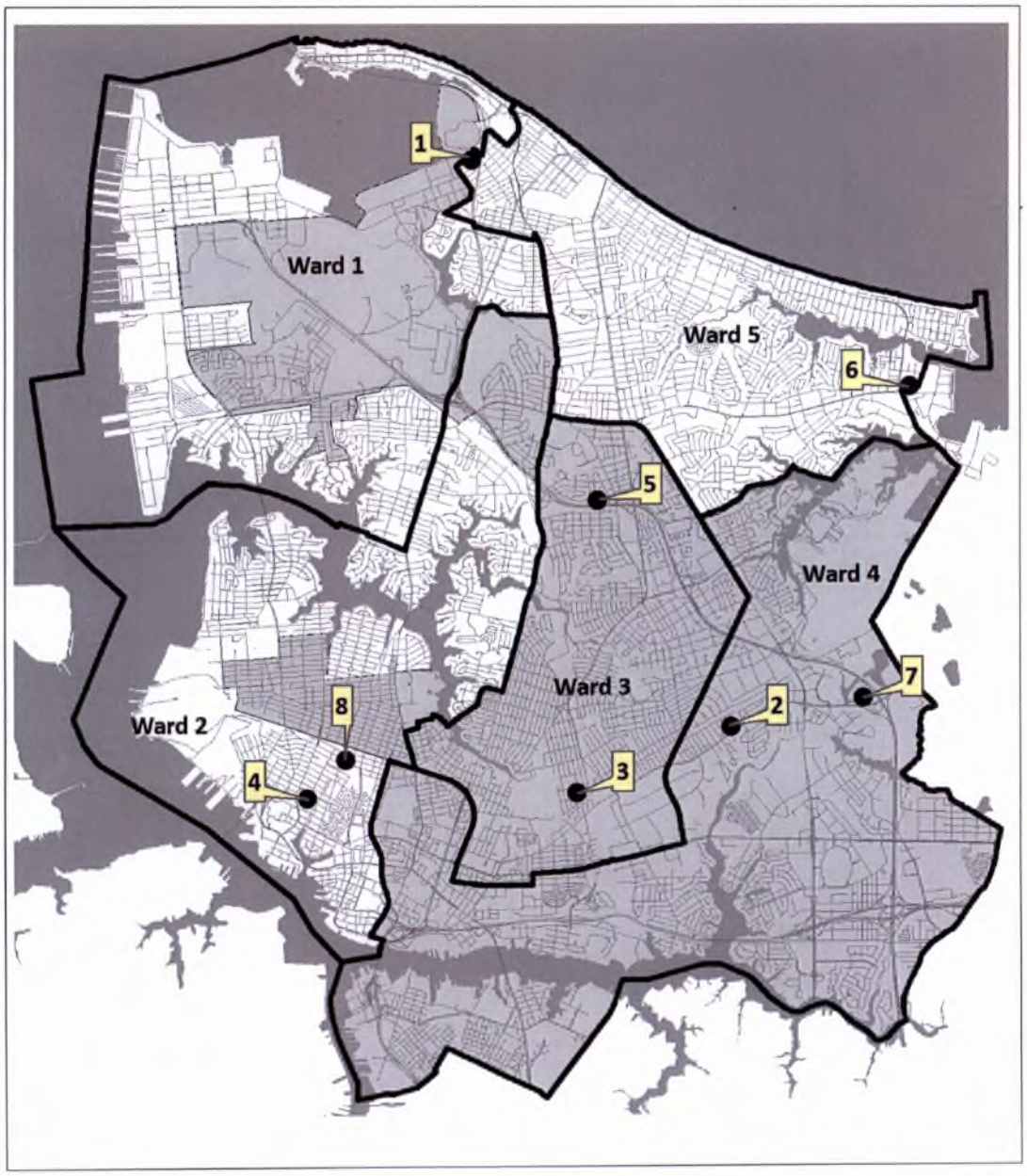
If you have any questions about these items, please contact me.

City Planning Commission – January 26, 2017

Number	Applicant	Location	Request	Ward	SW	Neighborhood
1	Equity Development Corporation Inc.	9274 Rippard Avenue	Special exception to construct a single-family home on a nonstandard-width lot.	5	6	Ocean View
2	Norfolk Building Corporation	1514 Nelms Avenue	Change of zoning from R-8 to R-9 to construct a single family residence on 40 ft. lot.	4	7	Fox Hall
3	Baker's Home, Inc.	2333 Ballentine Boulevard	Special exception to operate a public community recreation center/adult day support facility.	3	7	Ballentine Place
4	Richard J. Serpe	631 Westover Avenue	Change of zoning from HC-G2 (Ghent Historic and Cultural Conservation District) to conditional HC-G3 (Ghent Historic and Cultural Conservation District).	2	6	Ghent
5	Xclusive Designs LLC	1003 Tifton Street	Special exception for a single-family residence on a nonstandard-width lot.	3	7	Lamberts Point
6	Sphinx Builders LLC	4334- 4350 E. Little Creek Road and 7905-7925 Turner Road	Special exception for multi-family (7 or more units).	5	6	East Ocean View
7	Ikea	6000 Northampton Boulevard	Special exception to permit alternative signage.	4	7	N/A

Approved Site Plans

Number	Site Plan #	Project	Ward	SW	Neighborhood
8	16-0063	2000 Colonial Ave - Starbuck's Coffee	2	6	Ghent



Pending Land Use Actions
DECEMBER 6 - DECEMBER 13

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Superwards
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This map is for graphic purposes only.

Map compiled, designed and produced by the Department of City Planning.

City of Norfolk

Inter Department Correspondence Sheet

TO: Members of City Council

FROM: Breck Daughtrey, City Clerk

COPIES TO:

SUBJECT: Minutes of Council and Norfolk Public School Board Meeting

December 20, 2016

Attached are the minutes of the Council and Norfolk Public School Board meeting held on Wednesday, December 7, 2016.

Breck

Breck

NORFOLK, VIRGINIA

JOINT MEETING OF COUNCIL AND NORFOLK PUBLIC SCHOOL BOARD

NORVIEW MIDDLE SCHOOL

WEDNESDAY, DECEMBER 7, 2016

President Alexander called the meeting to order at 5:00 p.m. with the following members present: Mrs. Graves, Ms. Johnson, Ms. McClellan, Mr. Smigiel, Mr. Thomas and Dr. Whibley. Mr. Riddick was absent.

School Board Chairman Rodney Jordan opened the meeting with welcoming remarks and acknowledged Superintendent Dr. Melinda Boone, Mayor Alexander and City Manager Doug Smith, asking him to introduce the presentations.

Mr. Doug Smith, Interim City Manager, thanked members of the school board for the opportunity to share some initiatives related to neighborhood work and how the school system and the city can work together. He stated that military families are an important part of the community and they want to be sure that the school board understood some of the things that they are doing with the military.

Presentation of City initiatives:

Ready to Thrive Initiative Pilot Program Update – James Rogers, Director of Neighborhood Development

Mr. Rogers reported that this initiative of the Mayor and Council works with the school system to identify and remove barriers to learning for Norfolk Public Schools students by providing wraparound services; utilizing an interdisciplinary approach to identify the diverse needs of Thrive students and families; and providing comprehensive wrap-around services to promote healthy growth, development and success of children. The current Ready to Thrive Structure includes:

Steering Committee:

- Guides the implementation of the initiate, assesses progress and modifies the framework as needed.

R3T (Ready to Thrive 3 Team):

- Comprised of Recreation, Parks and Open Space; Community Services Board; Human Services; and Norfolk Public Schools staff.
- Evaluate specific needs on a child-by-child basis and develop a Thrive Plan for the family.
- Connecting children and families to services and resource providers.

Resource Providers:

- City departments, i.e. Libraries; Recreation, Parks and Open Space; Poverty Commission and other partner agencies to help meet those needs.

Mr. Rogers stated that when this work began staff needed to do some things quickly with the families such as offering haircuts and eyeglasses. There were also basic needs to be met such as food, shelter and employment. He provided the following program update:

Program Participants:

- Completed assessments for six families for a total of 23 children.
- Scheduled assessments for 12 more children.

Services provided to date:

- Eyeglasses, tutoring, Thanksgiving meals, housing assistance, rec center passes, employment assistance, winter clothing drive, mentorship, enrollment in youth sports and Christmas for each family in the program.

Military Affairs Initiative

Ms. Bonnie Baker, Special Assistant to the City Manager & Military Affairs Liaison, provided an overview on the broad vision and objectives that the city has to work with the military community as well as families and to explore the initiatives they've been working on and future opportunities.

Objectives:

- Share Norfolk's vision of becoming the premier home for military, veterans and their families.

- Continue conversations from military and education convening
- Discuss future opportunities

Strategic Plan:

- Provide positive, enduring relationships with stakeholders across the city, military commands, veterans groups, families and local community.
- Focused on supporting military commands that are in Norfolk and collaborate with them so that they will be mission effective.
- Veterans are valued members of the community with appropriate employment, education, benefits and recognition.
- Families of military and veterans choose to reside and recreate in Norfolk.
- Norfolk is postured to grow defense capabilities and related businesses and partnerships.

Highlight of initiatives:

- Military collaboration initiative working with leadership of each command to strengthen relationships and understand issues.
- City Council passed a resolution to establish a commission to focus on and celebrate Naval Station Norfolk's Centennial in 2017, and Norfolk Public Schools is a part of that.
- Moving forward to identify best practices for collaborating with NATO on land use and sea level rise with the military.
- Launch of Mission United to connect military and veterans with wraparound services.
- Provide veterans with a one stop transition center that will encourage veterans to find employment and stay in Norfolk after they transition out of military service.
- Key factors influence where military families live, i.e. education, safe neighborhoods and employment.

Future Opportunities:

- Expand the volunteer program to include military support through Norfolk's schools and neighborhoods.

- Sponsor single service members and international families.
- Expand sponsorship for schools and children in the schools.
- Enhance outreach with military families and improve marketing before their arrival.

Neighborhood Development Initiative

City Manager Smith noted that poverty reduction is the most significant initiative being worked on and will have the most transformational impact on the community and on the school system. He introduced Dr. Susan Perry to present an overview of the city's comprehensive approach to poverty reduction.

Dr. Susan Perry, Special Assistant to the City Manager, reported on the city's poverty reduction efforts, the neighborhood initiative called "purpose built communities." She provided a brief history of the Poverty Commission and how it came to be and the work that was done to develop the strategic approach that they are now implementing. In July 2013, 34 citizens embarked on a one year process to provide the Mayor and members of City Council with recommendations to improve the lives of Norfolk's citizens living in poverty. During that time, they worked to organize into work groups and went out to town hall meetings and met with over 200 residents. Subject matter experts were retained and policy recommendations developed, which were presented to City Council in July 2014, establishing the Norfolk plan to reduce poverty.

Comprehensive Approach to Poverty Reduction:

- Cross-sector participation
- Comprehensive solutions
- Strong resident engagement
- Innovative financing

Four-pronged strategy:

- Early childhood education
- Youth education and career pathways
- Adult Workforce Development
- Neighborhood Revitalization

Dr. Perry noted that over the last two years, City Council has invested over $4 million in the recommendations and that investment is already making a difference. The biggest initiative they are working on is the partnership with purpose built

communities. In the poverty commission report, commissioners presented promising examples of neighborhood revitalization one of which was purpose built communities.

Purpose Built Communities:

- National movement and proven model
- Place-based and people centered
- Breaking the cycle of intergenerational poverty through a holistic approach based on quality and focused on sustainability
- Insists on best in class partners that deliver high quality services

Next Steps:

- Working to secure funding for the establishment of the Community Quarterback organization.
- Sign MOU with Purpose Built Communities to become part of the network.

Dr. Boone remarked this has been a worthwhile conversation about the community and schools as part of the community, and communities can be improved through discussions challenging the city, including the schools and families. She is hopeful this is the beginning of a deeper dialogue on how to address systemically changes in the city that will drive success. She thanked everyone for the opportunity to be a part of the conversation.

Chairman Jordan stated in the coming weeks, there will be an opportunity to reconvene and talk about identifying funds for all the great ideas that were discussed and that the board looks forward to that conversation.

Meeting adjourned at 6:35 p.m.

CITY OF NORFOLK
OFFICE OF THE MAYOR

KENNETH COOPER ALEXANDER
MAYOR

December 16, 2016

The Honorable Angelia Williams Graves
The Honorable Mamie B. Johnson
The Honorable Andria P. McClellan
The Honorable Paul R. Riddick
The Honorable Thomas R. Smigiel, Jr.
The Honorable Martin A. Thomas, Jr.
The Honorable Theresa W. Whibley

Ladies and Gentlemen:

Pursuant to Section 12 of the City Charter, I hereby call a special meeting of the Council to meet at 4:00 P.M., December 20, 2016, in the 10th floor conference room at City Hall for a Business Meeting.

Thank you,

Kenneth C. Alexander
Mayor

cc: Mr. Douglas L. Smith, Interim City Manager
Mr. Bernard A. Pishko, City Attorney
Mr. R. Breckenridge Daughtrey, City Clerk

810 Union Street • Suite 1001 • Norfolk, Virginia 23510 • (757) 664-4679 • (757) 441-2909 • kenneth.alexander@norfolk.gov

CITY OF NORFOLK
OFFICE OF THE MAYOR

KENNETH COOPER ALEXANDER
MAYOR

December 16, 2016

The following meetings will take place on Tuesday, December 20, 2016:

1. 4:00 P.M. Council to assemble in the 10th floor conference room at City Hall for a Business Meeting.

2. 7:00 P.M. Regular Council Meeting, 11th Floor, Council Chamber.

810 Union Street • Suite 1001 • Norfolk, Virginia 23510 • (757) 664-4679 • (757) 441-2909 • kenneth.alexander@norfolk.gov

NORFOLK, VIRGINIA

DOCKET FOR THE COUNCIL

TUESDAY, DECEMBER 20, 2016 – 7:00 P.M.

Prayer to be offered by Pastor Shelton Murphy, Mount Gilead Baptist Missionary Church, followed by the Pledge of Allegiance.

INVITATION TO BID

IB-1 **INVITATION TO BID** scheduled this day pursuant under State Law, public notice having been inserted in the local press by the City Clerk to accept bids for a **Long-Term Garage Parking Agreement**, with a term of fifteen years, for 120 parking spaces, a valet parking area, and the option to lease certain office space in the **Boush Street Garage** located at **112 W. City Hall Avenue**.

PUBLIC HEARINGS

PH-1 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance to the City of Norfolk by **Jesse Riley** on property located adjacent to **6100 Bromley Court**.

PH-2 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission,** to **a)** amend the **City's General Plan,** *plaNorfolk2030,* to incorporate the new FIRM map, **b)** for a Text Amendment to Section 11-3, "Floodplain/Coastal Hazard Overlay Districts (FPCHO)," of the City's *Zoning Ordinance,* to update the City's floodplain regulations in order to adopt the new FIS and **c)** for a change of zoning in order to amend the district boundaries of the FPCHO zoning district, as well as to adopt new district boundaries for the Coastal A FPCHO zoning district.

PH-3 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Monument Development Four, LLC, a)** for a change of zoning to modify conditions attached to the property; zoned conditional C-2 (Corridor Commercial), **b)** to designate the existing structure as a **Norfolk Historic Landmark** and **c)** for a **Special Exception** to permit more than six dwelling units, on property located at **2219 Colonial Avenue**.

PH-4 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance to **Jay Investment Corporation** of a certain parcel of property located at **985 Parish Road**.

PH-5 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance to **Jay Investment Corporation** of a certain parcel of property located at **1400 Marsh Street**.

REGULAR AGENDA

R-1 Letter from the City Manager and an Ordinance entitled, "An Ordinance allowing a late filing and relieving the assessment resulting from the late filing for exemption from Real Estate Taxes for three parcels of real property of **Norfolk Masonic Home Association** retroactive to July 1, 2013" will be introduced in writing and read by its title.

R-2 Letter from the City Manager and an Ordinance entitled, "An Ordinance requesting the **Virginia Department of Transportation** to establish two **Urban Construction Projects** in accordance with the **Programmatic Project Administration Agreements** between the City of Norfolk and the Virginia Department of Transportation; authorizing the City Manager to execute the Agreements; and appropriating and authorizing the expenditure of the total sum of $11,300,000.00 for these projects, subject to and in accordance with the terms of the Agreements," will be introduced in writing and read by its title.

R-3 Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain **Subsection (1) of Section 42-201** of the **Code of the City of Norfolk, 1979, SO AS TO** authorize the change of the numbering of the property currently addressed as **One Commercial Place** and to correct and more accurately describe the property addressed as **Two Commerical Place** and **Three Commercial Place**," will be introduced in writing and read by its title.

R-4 Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain **Section 2.1-6(b)** of the **Norfolk City Code, 1979, SO AS TO** authorize the **Civil Service Commission** to delegate limited authority to the **Director of Human Resources**," will be introduced in writing and read by its title.

R-5 Letter from the City Manager and a Resolution entitled, "A Resolution approving the exercise by the **Norfolk Airport Authority (the "Authority")** of powers conferred by Chapter 463 of the Acts of Assembly of 1948, as amended, in conjunction with the issuance for **Old Dominion University Real Estate Foundation (the "Applicant")**, of the Authority's Revenue Bond in an amount not to exceed $10,000,000, to assist the applicant to finance (a) the construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum **(the "Project")** to be located at **4200 Hampton Boulevard** which is on the northwest corner of **43rd Street and Hampton Boulevard** in Norfolk, Virginia and (b) paying the costs associated with the bond's issuance, necessitating approval by this Council in order to comply with state and federal law and paying certain costs incurred in connection with the issuance of such bond," will be introduced in writing and read by its title.

R-6 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Memorandum of Understanding** with **Employment Services, Inc. d/b/a Centura College**, for the use of certain City owned property known as **Barraud Park** for and educational program instructing the use of unmanned aircraft systems," will be introduced in writing and read by its title.

City of NORFOLK

C: Dir., General Services

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: David S. Freeman, AICP, Director, Department of General Services

Subject: Acceptance of Bid for a Long-Term Garage Parking Agreement with a term of 15 years for the lease of 120 parking spaces and a valet parking area in the Boush Street Garage located at 112 W. City Hall Avenue

Reviewed: Sabrina Joy-Hogg, Chief Deputy City Manager

Ward/Superward: 2/6

Approved: Douglas L. Smith, Interim City Manager

Item Number: **IB-1**

I. **Recommendation:** Accept Highest Bid from a Responsible Bidder and Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance accepting a Long-Term Garage Parking Agreement with a term of 15 years for the lease of 120 parking spaces, a valet area in the Boush Street Garage and an option to lease office space located at 112 W. City Hall Avenue. The parking garage has sufficient available capacity to accommodate the 120 parking spaces required by this agreement.

IV. **Analysis**
As stated above, sufficient capacity is available in the parking garage noted above to accommodate the potential demand of up to 120 total spaces. The term of the parking agreement would be 15 years. Because the term is in excess of five (5) years, the proposed lease must be bid in accordance with the requirements of sections 15.2-2100, 15.2-2101 and 15.2-2102 of the Code of Virginia.

V. **Financial Impact**
Revenues from this agreement will partially support debt service and operations of the parking system.

VI. **Environmental**
N/A

810 Union Street #1101 ▪ Norfolk, Virginia 23510
Phone: 757-664-4242 ▪ Fax: 757-664-4239

VII. Community Outreach/Notification

In accordance with the *Norfolk City Charter* and the *Code of Virginia*, legal notice was posted in *The Virginian-Pilot*. In addition, public notification for the agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of General Services, the Department of Development and the City Attorney's Office.

Supporting Material from the Department of General Services:

- Ordinance
- Exhibit A

November 30, 2016

Invitation to Bid and Notice of Public Hearing

INVITATION TO BID AND NOTICE OF PUBLIC HEARING FOR A LONG-TERM GARAGE PARKING AGREEMENT, WITH A TERM OF FIFTEEN YEARS, FOR 120 PARKING SPACES, A VALET PARKING AREA, AND AN OPTION TO LEASE CERTAIN OFFICE SPACE IN THE BOUSH STREET GARAGE, SUBJECT TO CERTAIN TERMS AND CONDITIONS

Pursuant to Section 15.2-2101 of the Code of Virginia, 1950, as amended, the City of Norfolk invites bids for a long-term garage parking agreement, with a term of fifteen years, for one hundred twenty (120) parking spaces, a valet parking area, and the option to lease certain office space in the Boush Street Garage in accordance with the ordinance entitled "An Ordinance Accepting the Bid Submitted by _____ For a Long-Term Garage Parking Agreement, with a Term of Fifteen Years, for 120 Parking Spaces, a Valet Parking Area, and the Option to Lease Certain Office Space in the Boush Street Garage Located at 112 W. City Hall Avenue," a copy of the full text of the ordinance, including all terms and conditions, being on file in the Office of the Clerk of the City of Norfolk, 10th Floor, City Hall Building.

All bids shall be subject to the terms and conditions set forth in Exhibit A to the Ordinance.

A $10,000 bond will be required of the successful bidder.

Minimum acceptable bid: $92.00 per space per month for unreserved spaces, $131.00 per month for reserved spaces, and $5,000.00 per year for the valet area, subject to a 3% escalation.

All bids must be in writing and will be received and opened at the regular meeting of the Norfolk City Council on **TUESDAY, DECEMBER 20, 2016**.

Pursuant to Section 15.2-1800 of the Code of Virginia, 1950, as amended, the Norfolk City Council will hold a public hearing on **Tuesday, December 20, 2016 at 7:00 p.m.** in the Council Chambers, 11th Floor, City Hall Building, Norfolk, Virginia, at the regular meeting of the City Council, on the adoption of the above described ordinance.

The cost of this advertisement shall be reimbursed to the City of Norfolk by the person whose bid is accepted.

The City of Norfolk specifically reserves the right to reject any and all bids.

R. Breckenridge Daughtrey
City Clerk

Virginian Pilot – Tuesday, December 6, 2016
Virginian Pilot – Tuesday, December 13, 2016

11/7/2016MR

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
Dept. of General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING THE BID SUBMITTED BY _____ FOR A LONG TERM GARAGE PARKING AGREEMENT, WITH A TERM OF FIFTEEN YEARS, FOR 120 PARKING SPACES, A VALET PARKING AREA, AND THE OPTION TO LEASE CERTAIN OFFICE SPACE IN THE BOUSH STREET GARAGE LOCATED AT 112 W. CITY HALL AVENUE.

- - -

WHEREAS, pursuant to the provisions of Section 15.2-2100, et seq., of the Code of Virginia, 1950, as amended, the City of Norfolk has invited bids for a long term garage parking agreement, with a term of fifteen (15) years, for one hundred twenty (120) parking spaces, a valet parking area, and the option to lease certain office space in the Boush Street Garage located at 112 W. City Hall Avenue, subject to the terms and conditions set forth in Exhibit A attached hereto; and

WHEREAS, the requirements of Sections 15.2-2101 and 15.2-2102 of the Code of Virginia, 1950, as amended, have been met and the Council has carefully considered all bids submitted; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That _____, being the highest responsible bidder, its bid for a long term garage parking agreement, with a term of fifteen (15) years, for one hundred twenty (120) parking spaces, a valet parking area, and the option to lease certain

office space in the Boush Street Garage located at 112 W. City Hall Avenue, in accordance with the terms and conditions set forth in Exhibit A attached hereto, is hereby accepted.

Section 2:- That pursuant to Section 15.2-2104 of the Code of Virginia, 1950, as amended, the Council has determined that a bond in the sum of Ten Thousand and 00/100 Dollars ($10,000.00) shall be executed in favor of the City of Norfolk by the person or entity to whom this parking agreement is awarded.

Section 3:- That the City Manager is authorized to correct, amend, or revise the Garage Parking Agreement, containing the terms and conditions set forth in Exhibit A, as he may deem necessary in order to carry out the intent of the Council and to execute the Garage Parking Agreement, as corrected, amended, or revised in accordance herewith, for and on behalf of the City, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 4:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

Exhibit A

GARAGE PARKING AGREEMENT

THIS GARAGE PARKING AGREEMENT ("Agreement") is made as of the ____ day of January, 2017, by and between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia (the "City"), and **TENANT**, a _____ ("Tenant").

RECITALS:

A. Tenant owns the property located at 201 Granby Street and 205 Granby Street in the City of Norfolk (together, the "Property").

B. It is the intention of Tenant to redevelop the Property as an approximately 120 room, four or five star, boutique hotel with the Marriott Autograph Collection franchise, with associated amenities including a lobby restaurant and bar, rooftop lounge, and a permanent glass art gallery that is open to the public (the "Project").

C. The City is agreeable to providing Tenant with parking and a valet area and with an option to lease office space in the Boush Street Garage (the "Garage"), located at 112 West City Hall Avenue in the City of Norfolk, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **PARKING SPACES; VALET AREA**.

(a) The City hereby leases to Tenant and Tenant hereby leases from the City (i) one hundred twenty (120) parking spaces in the Garage (the "Maximum Allocated Amount") solely to provide parking for guests and employees of the Project pursuant to the terms of this Agreement and (ii) that area of the Garage known as the former drive through area, shown on Exhibit A attached hereto and made a part hereof as "Valet Area" and containing 5,000 square feet, more or less (the "Valet Area").

(b) The parking spaces leased by Tenant pursuant to this Agreement shall include forty (40) reserved spaces on the second, third, or fourth level of the Garage, at the discretion of the City's Director of Parking but with consideration of the Tenant's preference to have such reserved spaces on the second level, and shall be available twenty-four (24) hours per day seven days per week, and the remaining eighty (80) parking spaces leased pursuant to this Agreement shall be unreserved and available twenty-four (24) hours per day seven (7) days per week. From and after the first anniversary of the Commencement Date, as hereinafter defined, Tenant may request up to twenty (20) additional reserved parking spaces, and if such spaces are available, in the sole discretion of the City's Director of Parking, the number of reserved spaces leased pursuant to this Agreement shall be increased by the approved amount and the number of unreserved spaces leased pursuant to this Agreement shall be reduced by the same number. In no event shall the number of reserved spaces leased pursuant to this Agreement be greater than sixty (60).

2. **TERM.** City's obligation to provide parking under this Agreement shall commence on the date which is approximately thirty (30) days prior to the anticipated date the Certificate of Occupancy will be issued for the hotel use of the Property as reasonably determined by Tenant by written notice to the City (the "Parking Commencement Date") and shall continue until the expiration or sooner termination of the Term, as hereinafter defined. The Term of this Agreement and Tenant's occupancy of the Valet Space shall commence on the later of the Tenant's closing on the purchase of the Property or the execution of this Agreement (the "Commencement Date") and shall terminate on that date which is fifteen (15) Lease Years after the Parking Commencement Date (the "Term"). In the event a Certificate of Occupancy for the hotel use of the Property is not issued prior to August 31, 2019, City may terminate this Agreement upon written notice to Tenant and the parties shall have no further obligations hereunder except with respect to those provisions which, by their terms, survive the termination of this Agreement, including, without limitation, the obligations set forth in Section 8 and in Section 13(d).

3. **RENT.** Except as otherwise set forth herein, Tenant shall pay rent (a) from and after the Parking Commencement Date for the reserved parking spaces leased hereunder (the "Reserved Parking Fee") at a rate of One Hundred Thirty-one and 00/100 Dollars ($131.00) per month and for the unreserved parking spaces at a rate of Ninety-Two and 00/100 Dollars ($92.00) per month (the "Unreserved Parking Fee") for each of the parking spaces included in the Maximum Allocated Amount and (b) from and after the Commencement Date for the Valet Area at the monthly rate of Four Hundred Sixteen and 67/100 Dollars ($416.67) for the first Lease Year, as hereinafter defined, and thereafter the Valet Area Rent shall increase by three percent (3%) per Lease Year for the remainder of the Term. As used herein, "Rent" shall include the Reserved Parking Fee, the Unreserved Parking Fee, the Valet Area Rent, and, if Tenant exercises the option set forth in Section 7 below, the Option Space Rent, as hereinafter defined. The first "Lease Year" shall be the period commencing on the Commencement Date and running through the end of the twelfth (12th) full calendar month following the Commencement Date. Each succeeding Lease Year shall be the twelve (12) month period thereafter.

The parties hereto acknowledge and agree that the Reserved Parking Rate and the Unreserved Parking Rate may be increased from time to time by written notice from City to Tenant. The amount of any rate increases shall be in the same percentage as the amount of any rate increases for comparable parking enacted by the City Council of the City of Norfolk. However, City agrees that the Reserved Parking Rate and the Unreserved Parking Rate shall not exceed the standard reserved and standard unreserved rates charged to other non-residential parkers utilizing the Garage.

Rent shall be paid by Tenant in advance on the first day of each calendar month during the Term to the City of Norfolk, Division of Parking, 232 East Main Street, Norfolk, Virginia 23510 or to such other address as directed by the City. Rent for any partial calendar month shall be prorated and paid in advance.

4. **USE; REDUCTION OF NUMBER OF SPACES; EARLY TERMINATION.**

(a) Tenant shall not permit any of the parking spaces leased hereunder to be used for any purpose other than for guests and employees of the Project without the express consent

of City. In the event such consent is given, Tenant shall obtain the necessary parking permit and shall pay the standard, applicable market parking rate for any such parking space.

(b) Tenant specifically understands that maximum utilization of all parking spaces is extremely important to City and Tenant covenants to do all things reasonably necessary to permit City to obtain such maximum utilization.

(c) Tenant may terminate this Agreement at any time by giving City not less than thirty (30) days prior written notice.

(d) Tenant may, at any time, lower the number of reserved and/or unreserved parking spaces leased pursuant to this Agreement with thirty (30) days' notice to City and, thereafter, the Maximum Allocated Amount shall be decreased to the number of reserved and unreserved parking spaces then being leased, the Parking Fee shall be reduced to reflect the reduced Maximum Allocated Amount, and the Maximum Allocated Amount pursuant to this Agreement shall not then be increased without the prior written consent of the City Manager and the City's Director of Parking. City shall have no obligation to make available to Tenant or the Project tenants any parking in excess of the then current Maximum Allocated Amount.

(e) Tenant agrees to cooperate in all reasonable respects with City and use such systems as City may reasonably adopt from time to time in order to track actual use of parking spaces and the number of vehicles parked in the Garage, so long as such systems are generally consistent with those used in other comparable City owned garages to track similar uses of parking. Tenant agrees to, and agrees to cause its guests, agents, employees and contractors to, use good faith in the use and administration of any such tracking systems in order to insure that each vehicle parked in the Garage is accounted for pursuant to the terms of this Agreement. Tenant acknowledges and agrees that attempts by Tenant, its agents, employees or contractors to circumvent such tracking systems and park additional vehicles without payment therefor may constitute grounds for termination of this Agreement.

(f) City shall cause its equipment at the entrance to the Garage to be upgraded to permit the guests and employees of the Project to enter and exit the Garage by using their room key card or similar card, and Tenant shall reimburse City for the cost of such equipment upgrade within thirty (30) days after receipt of an invoice therefor.

5. **OPERATION AND USE BY CITY**.

(a) City or its designated operator shall continue to operate the Garage with all services and facilities normally associated with comparable enclosed public parking garages in the City of Norfolk.

(b) Except as otherwise set forth herein, City shall allow unimpeded and open access to and from the Garage at all times, i.e., twenty-four (24) hours per day, seven (7) days per week, including holidays.

(c) Upon giving reasonable notice to Tenant, City or its designated operator may temporarily restrict access to the Garage for the performance of necessary repairs or maintenance and such repairs or maintenance shall be completed as quickly as reasonably possible.

If requested by Tenant, City will provide temporary replacement parking during such maintenance and repairs at other parking facilities owned by City, and such facilities will be located as conveniently to the Project as reasonably possible.

(d) Use of the Garage by guests and employees of the Project shall be subject to such reasonable rules and regulations as City may adopt from time to time, which are applicable to all similar parking garages operated by City. City shall reasonably and equitably enforce such rules and regulations.

6. **MAINTENANCE AND REPAIR**.

(a) City shall maintain the Garage, or contract for the maintenance thereof, at all times in good order and condition, clean and free of rodents, in accordance with maintenance standards employed at comparable public parking areas in the City of Norfolk, so that the Garage shall comply with all building codes, ordinances, regulations, and laws of any governmental authority having jurisdiction thereof. City shall be responsible for maintenance and repair of the Garage. The term "maintenance" shall include, but not be limited to, painting, operation, inspection, testing, repair and replacement of mechanical, electrical or similar components and/or cleaning the Garage, including any of its elevators and appurtenant facilities.

(b) In the event of any damage or destruction of all or any portion of the Garage, City, at its option, shall undertake to repair or rebuild the Garage to provide as promptly as reasonably possible after the date of such damage or destruction, the then current Maximum Allocated Amount of parking. During the period of any such repair or rebuilding, City shall provide temporary replacement parking during such repair or rebuilding at other parking facilities owned by City, and such facilities will be located as conveniently to the Project as reasonably possible. If City, in its sole and absolute discretion, chooses not to repair or rebuild the Garage, City shall use commercially reasonable efforts to provide replacement parking as conveniently located to the Project as possible.

(c) City shall provide and maintain interior and exterior illumination sufficient to illuminate the Garage and all means of pedestrian and vehicular access and egress thereto and therefrom between twilight and one hour after dawn.

(d) City shall provide suitable and sufficient signs in and around the Garage as required for the safe and orderly flow of pedestrian and vehicular traffic, including signage directing garage users to the Project's entrances on any general directories provided by City in and around the Garage.

(e) City shall have the right to make such replacements, repairs, alterations and improvements to the Garage as it deems necessary or desirable in connection with the aforementioned usage consistent with applicable zoning laws. During the period of such replacements, repairs, alterations and improvements, City will provide temporary replacement parking during such replacements, repairs, alterations and improvements at other parking facilities owned by City, and such facilities will be located as conveniently to the Project as reasonably possible.

(f) In performing maintenance, City shall use reasonable efforts to interfere as little as possible with the use, occupation and enjoyment of the Garage by Tenant, its guests and employees.

7. **OPTION TO LEASE OFFICE SPACE**. Beginning on the date of this Agreement and continuing until that date which is the two (2) year anniversary of the Commencement Date (the "Option Period"), Tenant shall have the option to lease office space located in the Garage, consisting of 1,700 square feet, more or less, and shown as the "Option Space" on Exhibit A attached hereto and made a part hereof (the "Option Space"). However, if City shall notify Tenant in writing that City has agreed to non-binding terms with a prospective tenant for the Option Space, Tenant shall have twenty (20) days from the date such notice is given to exercise by written notice to City its option to lease the Option Space upon the terms and conditions set forth herein. Failure to provide such notice shall result in a termination of the Option granted herein.

Tenant may exercise its option to lease the Option Space by giving not less than sixty (60) days' prior written notice to City of its desired commencement date. Rent for the Option Space shall be at a monthly rate of One Thousand Six Hundred Twenty-Five and 00/100 Dollars ($1,625.00) for the first Option Space Lease Year, as hereinafter defined, and shall thereafter be increased at the rate of three percent (3%) per Option Space Lease Year for the remainder of the Term. Rent for the Option Space shall be payable in equal monthly installments on the first day of each month throughout the Term. Rent for any partial month shall be prorated. The first "Option Space Lease Year" shall be the period commencing on the commencement date of Tenant's lease of the Option Space and running through the end of the twelfth (12th) full calendar month thereafter. Each succeeding Option Space Lease Year shall be the twelve (12) month period thereafter. In the event Tenant exercises the option to lease the Option Space, Tenant shall be bound by the terms and conditions set forth in Exhibit B attached hereto and made a part hereof as to the Option Space.

8. **HAZARDOUS SUBSTANCES**. The term "Hazardous Substances" shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use or storage of which is restricted, prohibited, regulated or penalized by any Law relating to pollution or protection of the environment (collectively "Environmental Laws"). Tenant agrees not to use, store, release or dispose of any Hazardous Substance in the Garage. Tenant shall promptly remediate any violation of this Section 8 as may be required by the agencies charged with the enforcement of the applicable Environmental Laws at Tenant's sole expense. Nothing in this Section 8 shall prohibit Tenant's incidental storage and use of office supplies and cleaning products in incidental quantities as customarily found in office space so long as the same is in strict accordance with all Environmental Laws.

9. **SIGNS.**

(a) All exterior signs and signs in the Valet Area shall be subject to the prior approval by City of Norfolk's Department of Planning and in accordance with the sign criteria established by the Department of Planning. Tenant shall keep and maintain all signs in good condition, in proper operating order and in compliance with all applicable laws. City may subsequently amend such sign criteria, which shall then apply to any alteration to or replacement

of the sign on the Option Space. If Tenant exercises its option to lease the Option Space, Tenant shall not, without City's prior written consent: (a) make any changes to or paint the store front; (b) install any exterior lighting, decorations or paintings; or (c) erect or install any signs, banners, canopy, placards, decorations or advertising media of any type which can be viewed from the exterior of the Option Space, excepting only window or door lettering that directs hotel guests to the Garage.

Subject to Tenant's compliance with the foregoing requirements for City's approval, conformance to any sign criteria and compliance with all applicable laws, Tenant shall provide and install, at Tenant's own expense, one (1) sign on the exterior of the Option Space, if Tenant exercises its option to lease the Option Space, or in the Valet Area and may provide and install one (1) sign on the exterior of the Garage to direct guests of the Project to the Garage and the Valet Area.

(b) Tenant shall be responsible for the removal of its signs and the repair, painting, and/or replacement of the building fascia surface where signs are attached prior to the expiration or earlier termination of this Agreement.

(c) City shall have the right to erect signs on the Garage in its sole and absolute discretion, including, without limitation, signs on the Option Space indicating that the Option Space is available for lease; provided, however, if Tenant exercises its option to lease the Option Space, the City may only erect signs on the Option Space indicating that the Option Space is available for lease during the last six (6) months of the Term and at any time Tenant is in default.

(d) Tenant specifically acknowledges that Tenant shall not be permitted to install any free-standing exterior signage in or about the property on which the Garage is located, except as permitted herein, or without the consent of City's Director of Parking.

10. **TAX LIABILITY**.

The provisions of this Agreement shall not be deemed to require Tenant to pay, by whatever name called, income or receipts or excess profits taxes assessed against City, or any capital levy, rent, gift or transfer taxes incurred by City, pertaining to the ownership or operation of the Garage. Tenant shall be responsible for any leasehold taxes applicable to the Option Space, payable as a result of this Agreement.

11. **TITLE TO PROPERTY**.

City covenants that it has full right to enter into this Agreement as of the date hereof and City is or will be seized in fee simple of and have good and marketable title to the Property and any improvements thereon, subject to any recorded liens, leases, encumbrances, easements, covenants, conditions and restrictions and existing zoning and other state and local requirements, none of which shall prevent City from performing its obligations hereunder. Subject to Tenant's compliance with the terms of this Agreement, City covenants that Tenant shall have and enjoy quiet and peaceable possession of the Maximum Allocated Amount of parking, the Valet Area and the Option Space during the Term hereof.

12. **INTEREST; ATTORNEYS' FEES**.

If Tenant fails to pay City any amounts payable under this Agreement when due, following receipt by Tenant of notice thereof from City and the expiration of any cure periods, such past-due payments shall bear interest from the date due until paid at the rate of six percent (6%) per annum. In addition, Tenant shall pay all reasonable out-of-pocket costs and expenses of collection (including court costs and reasonable attorneys' fees) incurred by City in collecting sums due under this Agreement.

13. **INSURANCE; LIABILITY**.

(a) Tenant, at its own expense, shall maintain during the Term (1) worker's compensation and commercial general liability insurance (with contractual liability endorsement), including personal injury and property damage, in the amount of Five Hundred Thousand Dollars ($500,000.00) per occurrence of property damage and One Million Dollars ($1,000,000.00) per occurrence for personal injury or death in or about the Garage, including the Option Space (if Tenant exercises its option to lease the Option Space) (the "Leased Premises"); (2) excess liability coverage in an amount not less than Two Million Dollars ($2,000,000.00) per occurrence; (3) fire and extended coverage insurance covering the replacement cost of all work installed or placed on the Leased Premises and all inventory, equipment, trade fixtures and other personal property located within the Leased Premises, and providing business interruption coverage and (4) garage-keepers and automobile liability insurance with a limit of not less than $2,000,000 combined single limit (or bodily injury $1,000,000 each person, $2,000,000 each accident, and property damage $100,000 each accident), covering liability arising from any motor vehicle, including coverage for owned, hired and non-owned motor vehicles as well as uninsured and underinsured motorists. The policies issued to comply with items (1) and (2) in this Section shall (i) name City as an additional insured, (ii) be issued by an insurance company which is acceptable to City with a Bests or similar rating of A/X or better that is licensed to do business in Virginia, (iii) provide that such insurance shall not be canceled unless thirty (30) days prior written notice is given to City, and (iv) be delivered to City by Tenant upon commencement of the Term of this Agreement and upon each renewal of such insurance.

(b) City shall have the right, not more often than once annually, to increase the policy limits for all insurance which Tenant is required to obtain under this Section 13 to such amounts as City reasonably determines are consistent with the policy limits of other parking garages owned or operated by City.

(c) City shall maintain such insurance as City determines is commercially prudent and appropriate and City shall have the right to self-insure.

(d) Tenant shall indemnify, defend and hold City harmless from and against all liabilities, obligations, claims, damages, costs and expenses (including reasonable attorney's fees and expenses) imposed upon or incurred by or asserted against City by reason of any loss of life, personal injury or property damage that results from Tenant's negligence or failure to comply with its obligations under this Agreement.

(e) City shall not be liable to Tenant or Tenant's tenants, employees, agents or contractors for any injury, damage, compensation or claim directly or indirectly relating to or arising out of any use of the Garage, the Valet Space, or the Option Space by Tenant's guests, tenants, employees, agents or contractors unless such injury, damage, compensation or claim results from City's gross negligence or willful misconduct.

14. **ASSIGNMENT AND LEASING**.

(a) Tenant may not assign this Agreement, in whole or in part, or lease all or any part of the Maximum Allocated Amount of parking provided in the Garage, except to (i) a purchaser of the Project in the event of a sale thereof, (ii) an Affiliate of Tenant, (iii) any lender as collateral for financing of the Project or (iv) any purchaser of the Project at a foreclosure sale, transferee pursuant to a deed in lieu of foreclosure, or any receiver appointed for the Property; provided, however, it shall be a condition of any such assignment that the assignee either retains the Marriott Autograph Collection brand or affiliates with a franchise designated by Smith Travel Research as "Luxury" or "Upper Upscale" or a comparable brand approved by City (the "Permitted Use"). In the event the Project ceases to be used for the Permitted Use for a period of ninety (90) days, City may terminate this Agreement at any time thereafter, upon thirty (30) days' written notice. For purposes hereof, "Affiliate" shall mean as to any person, any other person that, directly or indirectly, controls, is controlled by or is under common control with such person. For purposes of this definition, the term "control" (including the terms "controlling", "controlled by" and "under common control with") of a person means the possession, directly or indirectly, of the power to vote more than 50% of the voting stock or membership interests of such person or to direct or cause the direction of the management and policies of such person, whether through the ownership of voting stock or membership interests, or by contract or otherwise. City agrees to enter into any agreement reasonably requested by any lender or prospective lender to confirm that the assignment of this Agreement to the lender is permitted and to agree to give such lender notice of Tenant's default and a reasonable opportunity to cure such default.

Subsequent to any permitted transfer in accordance with Section 14(a) above, the transferee or assignee of Tenant's interest under this Agreement shall be fully and primarily responsible and liable for the payment of all Rent and for the compliance with and performance of all of Tenant's obligations under this Agreement.

Each transferee or assignee shall be required to assume Tenant's obligations under this Agreement pursuant to a written assignment and assumption agreement satisfactory to City and of which City is a beneficiary.

(b) In the event City assigns this Agreement or its rights hereunder, the assignee shall be bound by the terms, covenants and conditions set forth herein which are binding on City.

15. **NOTICES**.

All notices or other communications required or desired to be given with respect to this Agreement shall be in writing and shall be addressed as follows:

To City:

City Manager
City of Norfolk
Office of the City Manager
1100 City Hall Building
810 Union Street
Norfolk, Virginia 23510

with copies to:

Director of General Services
232 East Main Street, Suite 250
Norfolk, Virginia 23510

City Attorney
City of Norfolk
Office of the City Attorney
900 City Hall Bldg.
810 Union Street
Norfolk, Virginia 23510

To Tenant:

_____
_____
_____
_____

with a copy to:

_____
_____
_____
_____

Any communication so addressed shall be deemed duly served when received or three (3) business days of being mailed by certified mail, postage prepaid, return receipt requested, or one (1) business day after delivery to a reliable overnight delivery service, charges prepaid.

16. **DEFAULT; TERMINATION**.

(a) The occurrence of any one or more of the following events ("Defaults" or "Events of Default") shall constitute a default and breach of this Agreement by Tenant:

(i) Tenant fails to pay any Rent or any amount due under this Agreement within thirty (30) days after written notice of non-payment is given to Tenant;

(ii) Tenant violates the provisions of Section 14 on transfers;

(iii) Tenant is adjudicated as bankrupt or insolvent under any state bankruptcy or insolvency law or an order for relief is entered against Tenant under the United States Bankruptcy Code ("Code") and such adjudication or order is not vacated within ninety (90) days;

(iv) A case is commenced by or against Tenant under any chapter of the Code (unless the case is commenced by a third party and is withdrawn or dismissed within ninety (90) days after the date of its filing).

(v) Tenant fails to observe and perform any other terms, covenants and/or conditions of this Agreement (in addition to those set forth in clauses (a)(i) and (ii) above), and such default continues for thirty (30) days after written notice is delivered to Tenant; however, if a default under this clause (v) cannot reasonably be cured within thirty (30) days, then so long as Tenant has promptly commenced the cure within such time and is diligently proceeding to complete the cure, Tenant shall have reasonable additional time (not to exceed ninety (90) additional days) to complete the cure.

(b) Upon the occurrence of a Default, City, upon notice to Tenant (except where expressly provided for below), may do any one or more of the following: (i) elect to terminate this Agreement upon written notice to Tenant, at which time the Term of this Agreement shall expire, but with Tenant's liability under this Agreement to continue; or (ii) exercise any other legal or equitable rights or remedies available to City, including those additional rights set forth in this Agreement.

(c) Tenant agrees that City may re-let, in one or more leases, all or part of the parking spaces leased hereunder, the Valet Area or the Option Space (or a premises that includes space in addition to the parking spaces leased hereunder, the Valet Area, or the Option Space), either in City's own right or as agent for Tenant, accepting any rents then obtainable, for a term or terms that may be greater or less than the balance of the term of this Agreement, and City may grant concessions or free rent in City's business discretion without affecting Tenant's liability for the Rent payable under this Agreement. However, City shall be under no duty to re-let the parking spaces leased hereunder, the Valet Area or the Option Space, and Tenant's liability under this Agreement shall not be affected or diminished in any way for City's failure to re-let, or if the the parking spaces leased hereunder, the Valet Area or the Option Space are re-let, for City's failure to collect the rentals under such re-letting (absent bad faith). In anticipation of or in connection with any re-letting, City may make or perform any alterations, repairs, painting and decorations ("Re-letting Preparations") to the Option Space, if Tenant exercises the option to lease the Option Space, that City considers advisable or necessary in its business discretion, and such Re-letting Preparations shall not release Tenant from any liability under this Agreement.

(d) If a Default occurs, Tenant shall remain liable for (i) all Rent and damages that may be due or sustained by City up to the date of the Default and the performance of all other

obligations of Tenant accruing under this Agreement through such date (collectively "Accrued Damages").

(e) All remedies of City shall be cumulative. Acceptance by City of delinquent Rent after a Default shall not cure such Default or entitle Tenant to repossess the Leased Premises or the parking spaces leased hereunder.

(f) Tenant shall reimburse City for all out-of-pocket expenses incurred by City in connection with any Default.

(g) If City fails to perform any obligation under this Agreement, Tenant shall give City written notice specifying such failure with particularity and City shall have thirty (30) days (or such longer period as may be required in the exercise of due diligence) in which to cure any such default. Tenant shall not have any remedy or cause of action by reason of City's breach unless City fails to diligently pursue the cure of and cures such default within the specified grace period.

17. **TENANT LIENS**.

Except as permitted in Section 14(a)(iii), Tenant shall have no authority, express or implied, to create, place or suffer the creation or placement of any lien or encumbrance of any kind or nature upon the Garage and/or the Option Space, or to bind the interest of City or Tenant in the Garage, for any claim in favor of persons and/or entities dealing with Tenant, including laborers and materialmen. Tenant agrees to pay when due all amounts legally due and payable on account of any labor performed or materials furnished in connection with any work performed on the Garage. Tenant shall discharge any such lien by payment or bonding within thirty (30) days after the same has been filed. If Tenant fails to do so, City may, in addition to all other remedies, discharge such lien at Tenant's expense, and Tenant shall pay as additional rent City's cost thereof. City and Tenant further agree that any repairs or improvements made by Tenant to the Leased Premises shall be deemed ordered solely by Tenant.

18. **SUBORDINATION AND ATTORNMENT**.

(a) This Agreement shall, without further action by any party, be subject and subordinate to any mortgage, deed of trust or other lien ("Mortgage") presently existing or hereafter created upon the Garage, and to any renewal and extensions thereof. However, any such mortgagee may instead elect at any time to make this Agreement superior to such Mortgage. Tenant agrees upon demand to execute such further instruments subordinating this Agreement (and containing customary and reasonable nondisturbance provisions for the benefit of Tenant and attornment provisions) as City or its lender may request and to execute and return all requested documents within ten (10) business days after receipt.

(b) In the event of any foreclosure sale pursuant to the terms of any Mortgages now or hereafter constituting a lien upon or affecting the Garage, that as long as Tenant performs its obligations under this Agreement, Tenant's occupancy of the Garage will not be disturbed and this Agreement shall continue in full force and effect. Tenant shall, upon request, attorn to and acknowledge the foreclosure purchaser or purchasers at such sale as its landlord under this Agreement.

19. **ENTIRE AGREEMENT**.

This Agreement constitutes the entire agreement between the parties hereto with respect to the Garage and supersedes all prior understandings and writings, and this Agreement may be amended or modified only by a writing signed by City and Tenant.

20. **COMPLIANCE WITH FEDERAL IMMIGRATION LAW**.

At all times during which any term of this Agreement is in effect, Tenant shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed by either Title 8, section 1324a of the United States Code or the U.S. Attorney General.

21. **AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH**.

Tenant hereby represents that it is organized as a limited liability company and is authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

22. **MISCELLANEOUS**.

(a) The obligations of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns who shall be only those persons to whom this Agreement is permitted to be assigned in accordance with the terms and conditions of such agreement. Any such successors and assigns shall be deemed to have assumed and agreed to perform all obligations under this Agreement arising from and after such assignment.

(b) In the event that any provisions of this Agreement shall be held invalid, the same shall not affect in any respect whatsoever the validity of the remaining provisions of this Agreement.

(c) This Agreement and the rights of the parties hereunder shall be interpreted in accordance with the laws of the Commonwealth of Virginia. Venue shall be in the Circuit Court of the City of Norfolk, Virginia.

(d) A memorandum of this Agreement may be recorded in the land records of the City of Norfolk, Virginia, and City agrees to execute and deliver to Tenant any such memorandum that accurately reflects the terms of this Agreement.

(e) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.

(f) Except as permitted in Section 14(a)(iii), Tenant shall not mortgage, pledge or otherwise encumber its interest in this Agreement or in the Garage, and any such mortgage, pledge or encumbrance shall be void and of no force and effect.

(g) If City assigns its interest under this Agreement to a third party, and such third party assumes City's obligations under this Agreement accruing from and after the date of such transfer, then City shall then be released from any further obligations under this Agreement. Tenant shall look solely to such successor for performance of City's obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

Signature Pages to Follow

CITY OF NORFOLK

By:_____
Name:_____
Title: _____

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the Commonwealth of Virginia, whose term of office expires on the ____ day of _____, 20__, do hereby certify that _____, _____, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Parking Agreement, have acknowledged the same before me in the City of Norfolk, Virginia.

Given under my hand this _____ day of _____, 2017.

_____
Notary Public

Registration No._____

APPROVED FOR CONTENTS:

_____
Director of General Services

APPROVED FOR FORM & CORRECTNESS:

_____
Assistant City Attorney

TENANT

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

I, _____, a Notary Public in and for the Commonwealth of Virginia, whose term of office expires on the ____ day of _____, 20__, do hereby certify that _____, the _____ of _____, whose name is signed to the foregoing Parking Agreement, has acknowledged the same before me in City/County of _____, Virginia. Given under my hand this _____ day of _____, 2017.

_____
Notary Public

Registration No._____

EXHIBIT A
Valet Area and Option Space

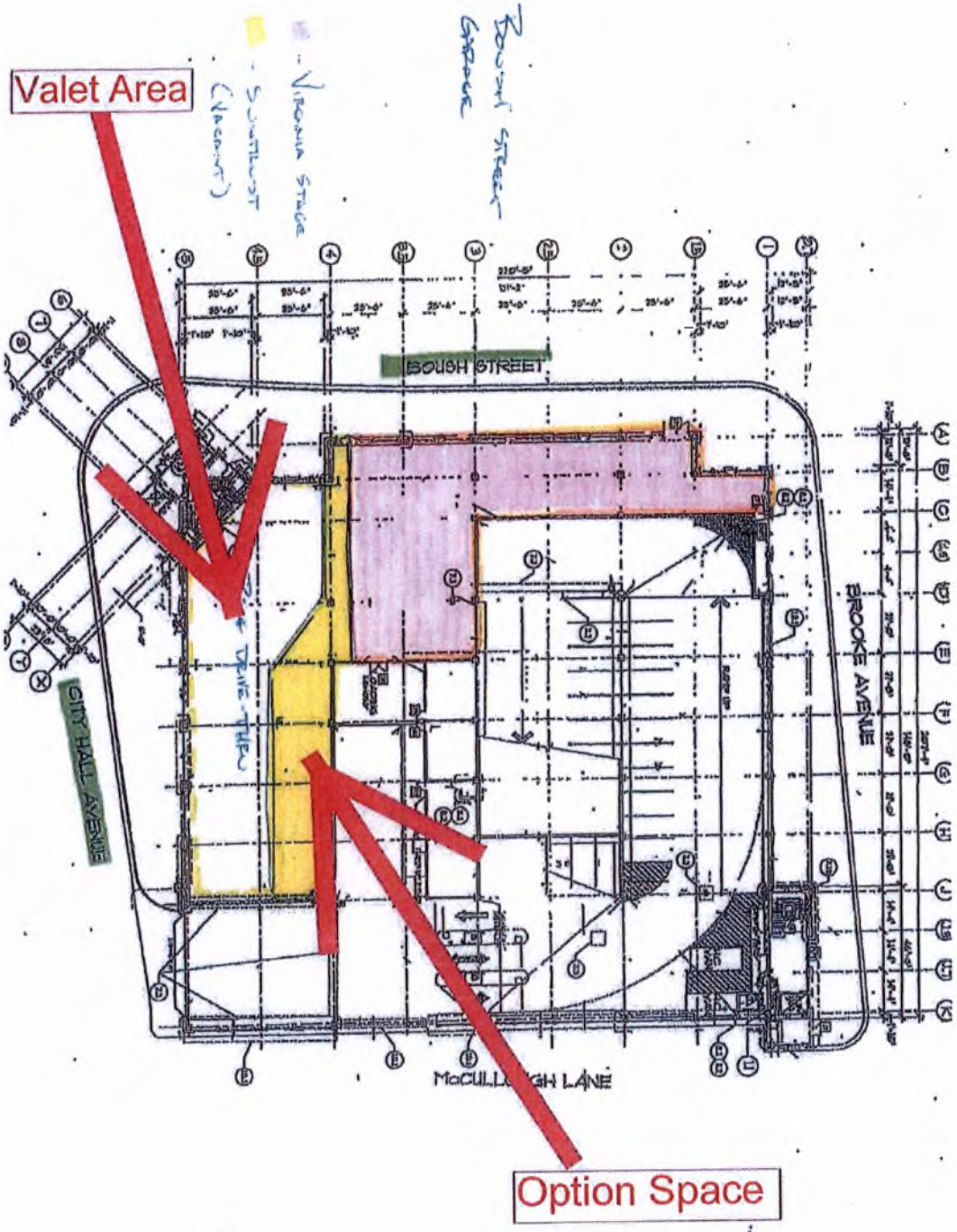


EXHIBIT B
Additional Terms for Lease of Option Space

ARTICLE I.

1.1. General. Each of the foregoing definitions and basic provisions shall be construed in conjunction with the other provisions of this Agreement.

ARTICLE II. PREMISES; TERM.

2.1. Premises. In the event Tenant exercises its option to lease the Option Space, City leases to Tenant and Tenant leases from City, the Option Space, subject to the terms and conditions of this Agreement.

ARTICLE III. ACCEPTANCE OF PREMISES.

3.1. Possession of Premises. Tenant accepts the Premises, in its "AS IS" condition as of the date it exercises its option to lease the Option Space.

ARTICLE IV. USE OF PREMISES.

4.1. Limitations on Use.

Tenant agrees that the Option Space shall be used solely for activities related to valet parking of guests of the Project and for no other purpose without the prior written consent of City (the "Option Space Permitted Use").

4.2. Limitations on Operations. Tenant shall not (a) permit any objectionable or unpleasant odors to emanate from the Option Space; (b) place or permit any radio, television, loudspeaker or amplifier outside of the Option Space or where the same can be seen or heard from outside the Garage; (c) place an antenna, awning or other projection on the exterior of the Option Space without the prior written consent of City; (d) solicit business or distribute leaflets or other advertising material outside of the Option Space; or (e) take any other action which in the business judgment of City is a nuisance or may disturb or endanger other tenants or unreasonably interfere with their business. Tenant shall not use the Option Space in violation of the prohibited uses of other tenants and occupants of the commercial space located in the Garage (nothing in this provision implies that Tenant has any right to change the use of the Option Space from the Option Space Permitted Use). City will furnish Tenant with a list of any such prohibited uses upon the execution of this Agreement.

4.3. Rules and Regulations. Tenant shall comply with the reasonable Rules and Regulations in its use of the Option Space as City may promulgate for similar facilities for the safety, care or cleanliness of the Garage and for preservation of good order.

ARTICLE V. MAINTENANCE AND REPAIR OF PREMISES.

5.1. Maintenance and Repair by City. City shall keep the exterior of the Option Space, including the foundation and the exterior walls of the Option Space in good repair, ordinary wear and tear excepted, and subject to Tenant's obligations under Section 5.2 below. Any repairs required to be made by City which are occasioned by the act or negligence of Tenant, its agents, employees, subtenants, licensees, concessionaires and/or invitees, shall be paid for by Tenant within thirty (30) days of demand. If the Option Space requires repairs that are City's responsibility under this provision, Tenant shall give written notice to City, and City shall not be responsible in any way for failure to make any such repairs until a reasonable time shall have elapsed after delivery of such written notice.

5.2. Maintenance and Repair by Tenant.

Tenant shall keep and maintain the interior of the Option Space (including, without limitation, store fronts, plate glass, windows, doors, door closure devices, window and door frames, molding, locks and hardware and painting or other treatment of interior walls) in good, clean and safe condition and shall, at its sole cost and expense, make all needed repairs, maintenance and replacements, unless such repairs and replacements are expressly required to be made by City under Section 5.1 above. This obligation shall include all utility systems exclusively servicing the Option Space. Tenant shall keep all plumbing units, pipes and connections free from obstruction and protected against ice and freezing.

Tenant shall keep the Option Space neat, clean and free from dirt, rubbish, insects and pests and shall keep the sidewalks, serviceway and loading areas adjacent to the Option Space free from obstruction and rubbish created by Tenant or related to Tenant's use of the Option Space. Tenant shall store all trash and garbage within the area designated by City, in receptacles of the size, design and color prescribed by City, and Tenant shall be responsible for arranging for trash pickup service and for paying the cost thereof. Tenant shall be responsible for any custodial services provided to the Option Space.

If any replacements or maintenance are not completed within thirty (30) days after Tenant's receipt of written notice (or, in the event of emergency, after such notice, if any, as is reasonable under the circumstances), City may make such replacements or maintenance and Tenant shall pay City, as additional rent, all costs so incurred, plus an administrative fee of fifteen percent (15%) of such costs.

ARTICLE VI. ALTERATIONS.

6.1. City Consent. Tenant shall not make any alterations, additions or improvements (collectively "Alterations") to the Option Space without the prior written consent of City, except for the installation of unattached, movable trade fixtures which can be installed without drilling, cutting or otherwise defacing the Option Space ("Exempt Trade Fixtures"). However, City's consent for interior alterations shall not be unreasonably withheld or delayed and shall not be required at all for any interior, non-structural alterations costing less than $15,000 so long as such alterations will be removed at the expiration or earlier termination of the Term. All

Alterations and fixtures (other than Exempt Trade Fixtures) shall remain upon and be surrendered with the Option Space and become the property of City upon the expiration or earlier termination of this Agreement, unless City requests their removal, in which event Tenant shall remove the same and restore the Option Space to substantially the same condition as it was in when delivered to Tenant, ordinary wear and tear excepted, at Tenant's expense. Any linoleum, carpeting or other floor covering that is affixed to the floor of the Premises is deemed a permanent fixture and shall become the property of City.

6.2. Requirements for Construction of Alterations. Tenant's construction shall be performed in a good and workmanlike manner, in compliance with all applicable laws and the provisions of this Agreement, and in such manner as to cause a minimum of interference with use of the Garage and the transaction of business in the commercial space located in the Garage.

ARTICLE VII. CITY'S RIGHT OF ACCESS; TENANT'S USE OF ROOF.

7.1. City's Right of Access. City shall have the right to enter the Option Space at any reasonable time upon advance notice to Tenant (which may be oral) for the purpose of inspecting the Option Space, making repairs to the Option Space or adjoining spaces in the Garage or showing the Option Space to current or prospective purchasers, lessees or lenders. Notwithstanding the foregoing, City may enter the Option Space at any time without any notice in an event of emergency. City shall have a key to the Option Space at all times and if the locks to the Option Space are changed, City shall be provided with a copy thereof immediately.

ARTICLE VIII. UTILITIES.

8.1. City's Responsibilities. City agrees to provide the necessary mains, conduits and other facilities to supply water, electricity, gas (if applicable), and sewage service to the Option Space. City shall not be responsible for providing any meters or other devices for the measurement of utilities supplied to the Option Space or for ensuring the continuation of utility service provided by third parties. Tenant shall, at Tenant's sole cost and expense, make application and arrange for utility providers to furnish services to the Option Space, including the installation of all such meters or other devices.

8.2. Tenant's Responsibilities.

Tenant shall be solely responsible and promptly pay all charges for electricity, water, gas, telephone service, sewage service and other utilities furnished to the Option Space from and after the date Tenant takes occupancy (including all tap fees and similar charges for connecting the Option Space to such utilities). Tenant shall pay the utility company directly for all separately metered utilities. Tenant shall reimburse City, within thirty (30) days, after receipt of an invoice therefor, for its Proportionate Share, as hereinafter defined, of any utilities that are not separately metered. Tenant's Proportionate Share shall be a fraction the numerator of which is the square foot area of the Option Space and the denominator of which is the square foot area of the commercial space located in the Garage. City may elect to furnish one or more utility services to the Option Space, and in such event Tenant shall pay as additional rent the rates established by City (which will not exceed the rates charged for the same services if furnished directly by the local public utility companies). City may at any time discontinue furnishing any such services.

Tenant shall pay City, as additional rent, its proportionate share of all governmental storm water charges and similar fees in connection with the operation of the garage. For purposes of storm water charges and similar fees in connection with operation of the Garage, Tenant's proportionate share shall be a fraction the numerator of which is the square foot area of the Option Space and the denominator of which is the square foot area of the Garage.

Tenant shall use only the necessary amount of water and sewer to carry on business in the accustomed manner. Tenant will take reasonable precautions to prevent leakage and to repair such leakage if it occurs. If City receives any increase or additional expenses for water and/or sewer usage, as a result of Tenant's use, Tenant shall pay City, as Additional Rent, the amount of said additional cost and expenses, within thirty (30) days of receipt of an invoice therefor.

8.3. Interruption of Service. City shall not be liable to Tenant for any loss or damage occurring in connection with any interruption or failure in utility services. However, City will use reasonable efforts to facilitate the resumption of utility services.

ARTICLE IX. DAMAGE AND CASUALTY.

9.1. Notice to City. Tenant shall give immediate written notice to City of any damage caused to the Option Space by fire or other casualty.

9.2. City's Obligation to Repair and Rebuild. If the Option Space is damaged or destroyed by fire or other casualty, then City may elect to either terminate this Agreement with respect to the Option Space as provided below or proceed to rebuild and repair the Option Space (if damaged). Such termination notice shall be given to Tenant within thirty (30) days after the occurrence of such casualty. Otherwise, City shall proceed with reasonable diligence to rebuild and repair the Premises. If this Agreement is terminated as to the Option Space, City, at the request of Tenant and subject to approval by the City Council of the City of Norfolk, will provide a replacement for the Option Space in other facilities owned by City and located as conveniently to the Option Space as reasonably possible.

9.3. Requirements of Mortgagee. Notwithstanding any provision of this Agreement to the contrary, if City's lender notifies City that the insurance proceeds will be applied to pay City's indebtedness, then City may either (i) terminate this Agreement by delivering written notice to Tenant within fifteen (15) days after receipt of the lender's notice, in which event the expiration date of this Agreement shall be advanced to the date set forth in City's notice, or (ii) delay restoration until such time as City is able to procure financing therefor, in which event this Agreement shall remain in full force and effect subject to City's obtaining such financing.

9.4. Release and Waiver of Subrogation. City and Tenant each release the other party from any and all liability or responsibility to the other or anyone claiming through or under them, by way of subrogation or otherwise, from any loss or damage to all property (real or personal) caused by fire, casualty or other cause that is insured against (or is required to be insured against in accordance with this Agreement), even if such loss or damage is attributable to the fault or negligence of the other party, or anyone for whom such party may be responsible, including any other tenants or occupants of the Garage.

ARTICLE X. PERSONAL PROPERTY TAXES.

Tenant shall be liable for all taxes levied against its personal property and trade fixtures located in the Garage.

ARTICLE XI. SURRENDER; HOLDING OVER.

11.1. Surrender. Tenant shall (i) surrender possession of the Option Space to City upon the expiration of the Term, or its earlier termination for any reason, broom clean and otherwise in as good condition and repair as the same shall be at the commencement of the Term (ordinary wear and tear excepted) and (ii) deliver the keys to the Director of Parking of the City of Norfolk. Upon such surrender, if the Option Space requires any repairs which are the responsibility of Tenant under this Agreement, City shall have the right to make such repairs at Tenant's sole cost and charge Tenant interest at the at the rate of six percent (6%) per annum, if Tenant fails to reimburse the actual out-of-pocket costs incurred by City within thirty (30) days of receipt of an invoice therefor.

11.2. Holdover. If Tenant remains in possession of the Option Space after the expiration of this Agreement without City's consent, no tenancy or interest in the Option Space will result, and such party shall be subject to immediate eviction and removal. Tenant shall pay to City all damages sustained by City resulting from such retention of possession, including, without limitation, amounts payable to any subsequent tenant for the Option Space and lost rent.

C: Dir., Department of General Services

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: David S. Freeman, AICP
Director of General Services

Subject: Exchange of property located adjacent to 6100 Bromley Court

Reviewed: Sabrina Joy-Hogg, Chief Deputy City Manager

Ward/Superward: 5/6

Approved: Douglas L. Smith, Interim City Manager

Item Number: **PH-1**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Jesse Riley
6100 Bromley Court
Norfolk, VA

III. **Description:**
This agenda item is an ordinance to approve the conveyance to the City of Norfolk (the "city") by Jesse Riley ("Riley") of a certain parcel of property owned by Riley, which is adjacent to 6100 Bromley Court, in exchange for the conveyance to Riley by the city of any interest it has in a certain parcel of property, which is also located adjacent to 6100 Bromley Court.

IV. **Analysis**
Riley is the owner of the property located at 6100 Bromley Court, which abuts the shoreline of Lake Whitehurst. A small part of Riley's house encroaches into the adjacent .038 acres of land in which the city may have an interest. An exchange of property will permit the city to convey any interest it has in that .038 acres of land in exchange for Riley's conveyance of .011 acres of land abutting Lake Whitehurst. This will allow clear title for Riley's property and will provide the city a protective buffer in this area for Lake Whitehurst. The city's conveyance to Riley will be by quitclaim and will not obligate the city to any assurances of title to the property it would be conveying. The parcels to be exchanged will convey AS-IS.

V. **Financial Impact**
This is an even exchange of comparably valued property (based on the proportional tax-assessed value of the property) near 6100 Bromley Court; there will be no funds exchanged.

810 Union Street #1101 ▪ Norfolk, Virginia 23510
Phone: 757-664-4242 ▪ Fax: 757-664-4239

VI. Environmental

The Department of Utilities has determined that the proposed parcel exchange will create no adverse environmental impact. It will allow the city, by its acquisition of the Riley parcel, to increase its needed protective buffer for the city-owned Lake Whitehurst property that had been deteriorating due to erosion.

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the city's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of General Services – Office of Real Estate, the Department of Utilities, and the City Attorney's Office. The Department of Utilities initiated and reviewed the proposed exchange.

Supporting Material from the City Attorney's Office:

- Ordinance
- Real Property Exchange Agreement

9/1/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING THE CONVEYANCE TO THE CITY OF NORFOLK BY JESSE RILEY OF A CERTAIN PARCEL OF PROPERTY LOCATED ADJACENT TO 6100 BROMLEY COURT CONTAINING APPROXIMATELY 0.011 ACRE OF LAND, IN EXCHANGE FOR THE CONVEYANCE TO JESSE RILEY BY THE CITY OF NORFOLK OF A CERTAIN PARCEL OF PROPERTY ADJACENT TO 6100 BROMLEY COURT CONTAINING APPROXIMATELY 0.038 ACRE OF LAND.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the conveyance to the City of Norfolk ("City") by Jesse Riley ("Riley") of a certain parcel of property located adjacent to 6100 Bromley Court ("Riley Property"), containing approximately 0.011 acre of land, in exchange for the conveyance to Riley by the City of a certain parcel of property located adjacent to 6100 Bromley Court ("City Property"), containing approximately 0.038 acre of land, all parcels being more particularly described in Exhibit A and shown on Exhibit B attached hereto, is hereby approved.

Section 2:- That the Riley Property and City Property are of comparable value, therefore no additional compensation is required by either party.

Section 3:- That the terms and conditions of the Property Exchange Agreement ("Agreement") between the City and Riley, a copy of which is attached hereto as Exhibit C, are hereby approved.

Section 4:- That the City Manager and other proper officers of the City are hereby authorized to execute the Agreement and do all things necessary for its implementation.

Section 5:- That the City Manager is further authorized to correct, amend or revise the Agreement as he may deem advisable consistent with the intent of the Council as expressed therein.

Section 6:- That this ordinance shall be in effect from and after 30 days from the date of its adoption.

EXHIBIT A TO ORDINANCE

Legal Description for
Vacated Lot Lines of Lot 21, Bromley Court
Bromley Incorp., Section 3

Parcel Added To Lot 21

An irregular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows: COMMENCING at a point that is the northeastern corner of Lot 21, being shown on that certain plat entitled, "Subdivision of Bromley Incorp., Section-3"; said plat being dated July, 1955, and being duly recorded in the Clerk's Office of the Circuit Court of Princess Anne County, Virginia in Map Book 39, Page 12, thence, running in a southeasterly direction along a bearing of S29°25'22"E, 93.35 feet to a point; said point being the southeastern corner of Lot 21 and the Point of Beginning; thence, along a bearing of S58°54'07"W, 105.27 feet to a point; thence, along a bearing of N11°41'22"E, 22.00 feet to a point; thence, along a bearing of N44°48'22"E, 43.59 feet to a point; thence, along a bearing of N88°01'03"E, 55.00 feet to the Point of Beginning, all as shown on that certain plat entitled "Resubdivision Of Lot 21, Block F, Sectoin-3, Bromley Incorp. And City Of Norfolk-Norview Cove (Branch Of Little Creek)" dated June 8, 2016, and indexed as Sheet 2 of 2.

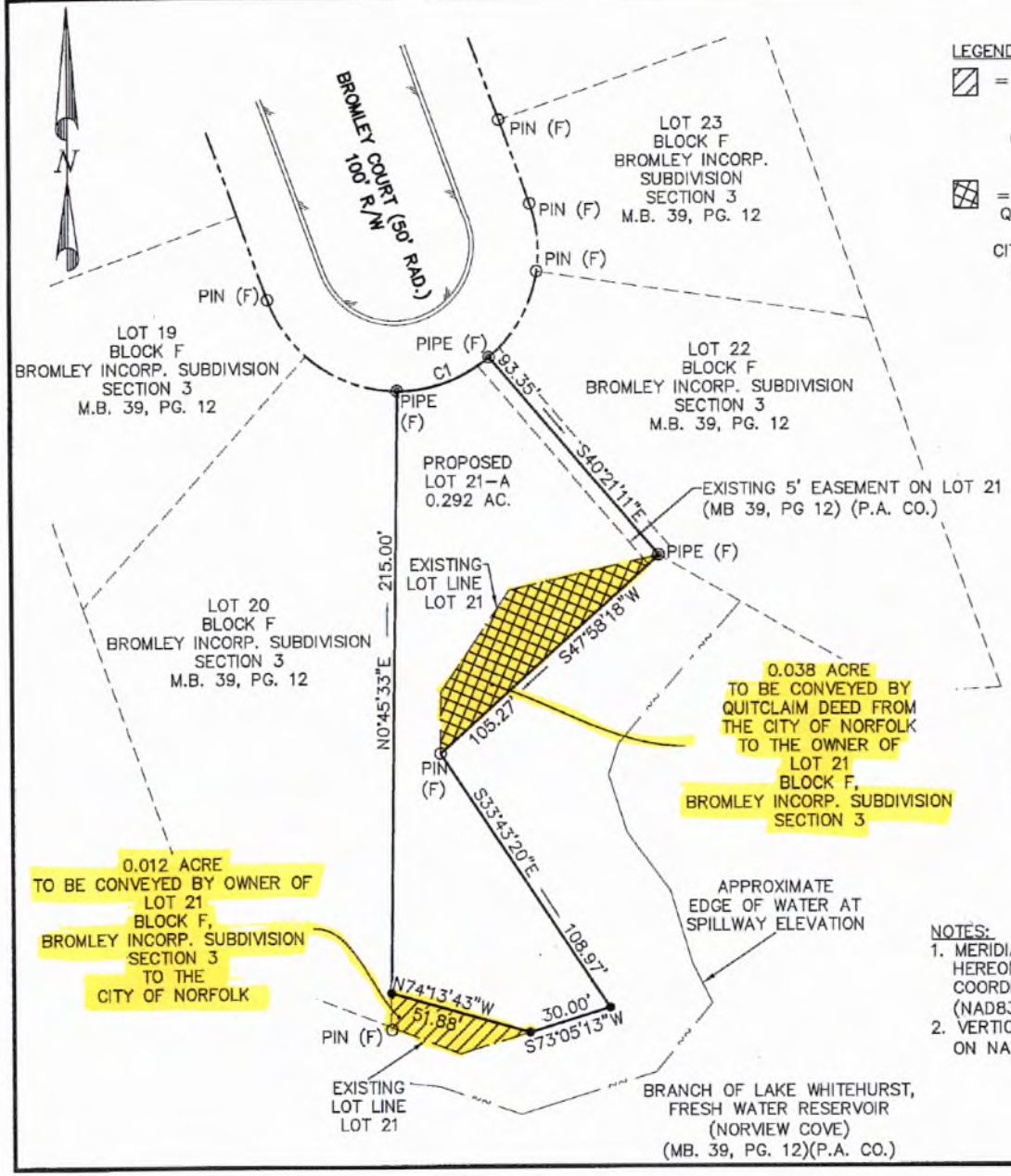
The above-described parcel contains 0.038 acre of land, more or less.

Parcel To City From Lot 21

An irregular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows: COMMENCING at a point that is the northwestern corner of Lot 21, being shown on that certain plat entitled, "Subdivision of Bromley Incorp., Section-3"; said plat being dated July, 1955, and being duly recorded in the Clerk's Office of the Circuit Court of Princess Anne County, Virginia in Map Book 39, Page 12, thence, running in a southwesterly direction along a bearing of S11°41'22"W, 215.00 feet to a point; said point being the Point of Beginning; thence, along a bearing of S63°17'54"E, 51.88 feet to a point; thence, along a bearing of S84°01'02"W, 26.00 feet to a point; thence, along a bearing of N58°05'15"W, 27.00 feet to a point; thence, along a bearing of N11°41'22"E, 12.00 feet to the Point of Beginning, all as shown on that certain plat entitled "Resubdivision Of Lot 21, Block F, Sectoin-3, Bromley Incorp. And City Of Norfolk-Norview Cove (Branch Of Little Creek)" dated June 8, 2016, and indexed as Sheet 2 of 2.

The above-described parcel contains 0.011 acre of land, more or less.

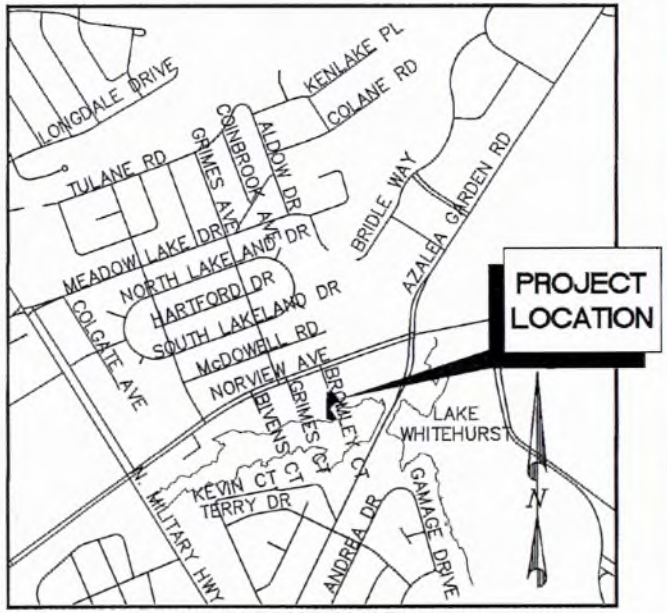
June 8, 2016



LEGEND

= CONVEYED BY OWNER OF LOT 21 (0.012 ACRE)

= CONVEYED BY QUITCLAIM DEED FROM THE CITY OF NORFOLK (0.038 ACRE)



VICINITY MAP
1" = 1000'

CURVE TABLE						
CURVE #	LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING	DELTA	TANGENT
C1	35.88'	50.00'	35.12'	N70°11'55"E	041°06'59"	18.75'

NOTES:
1. MERIDIAN SOURCE AND COORDINATES SHOWN HEREON ARE BASED ON THE VIRGINIA COORDINATE SYSTEM OF 1983, SOUTH ZONE (NAD83)(1993-HARN).
2. VERTICAL CONTROL ELEVATIONS ARE BASED ON NAVD 88 (GEOID 12).

EXHIBIT SHOWING
TRANSFER OF LAND
BROMLEY INCORPORATION SUBDIVISION
BLOCK F, SECTION 3
NORFOLK, VIRGINIA

40 0 40 80
DRAWING SCALE 1"=40' #160201

DATE	SCALE	DRAWN BY	CHECKED BY
11-14-2016	1" = 40'	QMW	JTW

DIVISION OF SURVEYS
DEPARTMENT OF PUBLIC WORKS
NORFOLK, VIRGINIA

EXHIBIT B TO ORDINANCE

EXHIBIT C TO ORDINANCE

REAL PROPERTY EXCHANGE AGREEMENT

THIS REAL PROPERTY EXCHANGE AGREEMENT, ("Agreement"), dated the ____ day of _____, 2016, by and between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), and **JESSE E. RILEY**, whose address is 4805 Peachcreek Lane, Virginia Beach, Virginia 23455, ("Riley").

WITNESSETH:

WHEREAS, the City maintains an interest in a certain parcel of real property located in the City of Norfolk, Virginia, adjacent to 6100 Bromley Court and approximately 0.038 acres in size, and more particularly described on Exhibit A attached hereto and made a part hereof ("Adjacent Property"); and

WHEREAS, Riley is the fee simple interest owner of a certain parcel of real property, with improvements thereon, known as 6100 Bromley Court and approximately 0.011 acres in size, more particularly described on Exhibit B attached hereto and made a part hereof ("Riley Property"); and

WHEREAS, the Riley Property abuts the shoreline of Lake Whitehurst and it is of important environmental value to the City for the protection and maintenance of the said lake and surrounding lands; and

WHEREAS, Riley desires to obtain from the City its interest in the Adjacent Property; and

WHEREAS, in consideration for the acquisition of the City's interest in the Adjacent Property by Riley, the City is prepared to accept the Riley Property for its own purposes; and

NOW, THEREFORE, for and in consideration of the above recitals and premises, and the mutual covenants and agreements hereinafter set forth, the sum of Ten Dollars ($10.00) cash in hand paid by each party to the other, and for other good and valuable consideration, the receipt and sufficiency of which the parties respectively hereby acknowledge, the parties hereby covenant and agree as follows:

1. CONVEYANCES.

a. **CONVEYANCE TO CITY BY RILEY.** Prior to closing, Riley agrees to remove all improvements, if any, located or constructed on the Riley Property. At Closing, (defined in Section 3(a)) Riley shall convey the Riley Property in fee simple to the City, by General Warranty Deed, in form satisfactory to the Norfolk City Attorney, and the City shall accept the conveyance of the Riley Property, which property is more particularly described on Exhibit B attached hereto. Nothing contained herein shall be construed as limiting the use of the property by the City. The Riley Property, less the improvements, shall be conveyed "AS IS", subject to all encumbrances, easements, matters of survey and restrictions of record.

b. **CONVEYANCE BY THE CITY TO RILEY.** At Closing, the City shall convey its interest in the Adjacent Property to Riley, by Quit Claim Deed, in form satisfactory to the Norfolk City Attorney, together with the improvements thereon, which property is more particularly described on Exhibit A attached hereto. The City Property shall be conveyed "AS IS", subject to all encumbrances, easements, matters of survey and restrictions of record.

2. SUBDIVISION. At or before closing, City and Riley will execute all necessary documentation to formally effectuate the proper subdivision of the property, including the Subdivision Plat that shall be recorded simultaneously with, but immediately prior to, the aforesaid deeds.

3. CLOSING AND CONDITIONS.

a. City and Riley shall each have ninety (90) days from the date this Agreement is fully executed by all parties in which to complete its assessment of the Adjacent Property and Riley Property, including title examination and environmental assessment, if desired ("Feasibility Period").

b. Closing shall be held at the offices of the title company providing the City its Title Commitment (defined in Section 3(d)) within thirty (30) days of the expiration date of the Feasibility Period, or at such other time and place as the parties hereto may mutually agree, all the legal documents can be prepared, and any title problems can be resolved, subject to and in accordance with the provisions of this Agreement ("Closing").

c. This Agreement is subject to acceptance by an ordinance adopted by the Norfolk City Council and the City shall not be bound by the terms of this Agreement until the Effective Date of said ordinance. The City shall provide Riley with a copy of the authorizing ordinance on or before Closing.

d. At Closing, possession of the Riley Property will be delivered to the City, and the possession of the Adjacent Property will be delivered to Riley. The obligations of each party under this Agreement are conditioned upon all covenants, warranties, representations and agreements contained in this Agreement, which shall remain true and correct in all material respects, and shall survive the Closing.

e. City shall have the option to obtain a commitment ("City Title Commitment") for issuance of an ALTA Owner's Policy of Title Insurance ("City Title Policy"). In the event that the City Title Commitment discloses defects of title or other matters unsatisfactory to the City, the City shall notify Riley in writing ("Objection Notice"), no fewer than sixty (60) days prior to the Effective Date, of such title defects or other matters to which City objects. Riley covenants that he shall cure all monetary encumbrances and all title objections which may be cured by execution of a document requiring the signature of no party other than Riley (including any affidavits which may reasonably be required by the title insurer). Riley may notify the City in writing ("Objection Response"), within ten (10) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect or other matter that Riley cannot or elects not to cure. Upon receipt of an Objection Response from Riley, City shall have

the option either to terminate this Agreement by written notice to Riley or accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing hereunder. Riley shall have the period until the Closing within which to correct all defects, exceptions or other matters that he is required or elects to cure.

f. Riley shall have the option to obtain a commitment ("Riley Title Commitment") for issuance of an ALTA Owner's Policy of Title Insurance ("Riley Title Policy"). In the event that the Riley Title Commitment discloses defects of title or other matters unsatisfactory to Riley, then Riley shall notify the City with an Objection Notice, no fewer than sixty (60) days prior to the Effective Date, of such title defects or other matters to which Riley objects. The City covenants that it shall cure all monetary encumbrances and all title objections which may be cured by execution of a document requiring the signature of no party other than the City (including any affidavits which may reasonably be required by the title insurer). City may notify Riley with an Objection Response, within ten (10) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect or other matter that City cannot or elects not to cure. Upon receipt of an Objection Response from City, Riley shall have the option either to terminate this Agreement by written notice to City or accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. City shall have the period until the Closing date within which to correct all defects, exceptions or other matters that it is required or elects to cure.

4. CLOSING COSTS.

a. Each party shall pay all costs associated with any fees or expenses to the extent attributable to its property for the period prior to Closing, and shall pay all its own closing costs unless specifically provided otherwise herein.

b. Each party shall pay all recordation taxes and related fees to record the deed for the property it receives, in addition to all costs of title insurance, survey, due diligence reports, attorney's fees, inspections, and similar costs.

c. Riley shall be responsible for the payment of all real estate taxes and assessments attributable to the Adjacent Property, coming due subsequent to the date of Closing. The provisions of this Paragraph 4 shall survive Closing.

5. ITEMS TO BE DELIVERED AT CLOSING. At Closing, each party shall assign and/or deliver to the other any and all of the following: the deeds provided for in Paragraphs 1 and 2; a non-foreign status affidavit and other usual and customary documents required of a seller of real estate; form 1099S real estate reporting information (provided by Riley only), and any other papers or related affidavits, if any, that may be necessary to close the transaction; a customary owner's mechanics' lien affidavit to the title insurance company to issue its policy free of exceptions for rights of parties in possession, and for unfiled mechanics' and materialmen's liens; all other rights, contracts, leases, easements and rights-of-way relating to the Adjacent Property and the City Property.

6. REPRESENTATIONS AND WARRANTIES. Each party's representations and warranties shall be true and correct (with respect to representations) and unbreached (with respect to warranties) in all material respects as of the date of Closing. In the event any of the conditions in this Agreement are unsatisfied at Closing, and are not waived in writing, the damaged party may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, no party having any further right or obligation hereunder.

Each party hereby makes the following warranties, representations and covenants with respect to the property it is conveying:

a. Litigation: There is no claim, action, suit, investigation or proceeding, administrative or at law, in equity or otherwise, now pending or, to the best of the party's knowledge, threatened against it, or with respect to the subject property, or to which the new owner might become a party. Each party is not subject to the terms of any decree, judgment or other action of any court, administrative agency or arbitrator, which has or could result in a material adverse effect on the property it is to convey or the operation and use thereof.

b. Governmental Requirements: Each party represents that it has not received any notice of violation of any federal, state, local, or other governmental order or requirement issued by any governmental body or by any action in any court, against or affecting property it is to convey that has not been fully complied with in all respects to the satisfaction of the governmental authority having jurisdiction.

c. Assessments: Each party represents that there are no special assessments unpaid for its property.

d. No Conflict: Neither the execution nor the delivery of this Agreement, or the documents contemplated hereby, nor the consummation of the conveyance of the properties, will conflict with or cause a breach of any of the terms and conditions of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond license, permit or other instrument or obligation by which the transferring party is bound.

e. Condemnation: Each party represents that it has no notice or knowledge of any pending or threatened condemnation or eminent domain proceedings that would affect its property.

f. Seller's Authority: Each party represents that it has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

g. Brokerage or Agent's Fees: Each party represents that it does not have any obligation whatsoever to pay any brokerage fee or agent's fees in respect to this Agreement or either of the properties described in this Agreement.

h. Environmental Matters: Each party represents, to the best of its knowledge, that there are no "hazardous substances" (as defined in Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 D.S.C. §§9601 et seq., as amended) at its respective property; there has been no release or threat of release of any such hazardous substance; its

respective property is not subject to regulation by any governmental entity as a result of the presence of (a) stored, leaked or spilled petroleum products, (b) underground storage tanks, (c) an accumulation of rubbish, debris or other solid waste, or because of the presence, release, threat of release, discharge, storage, treatment, generation or disposal of any "hazardous waste" (as defined in the Resource Conservation and Recovery Act, 42 D.S.C. §§6901 et seq., as amended), or "toxic substance" (as defined in the Toxic Substance Control Act, 15 D.S.C. §§2601 et seq., as amended), including without limitation asbestos and items or equipment containing polychlorinated biphenyls (PCBs) in excess of 50 parts per million; no environmental condition exists on its respective property that either (a) requires the owner of the property to report such condition to any authority or agency of the State of Virginia or (b) requires the owner of the property to make a notation of such condition in any public records or conveyance instrument upon the conveyance of the property; and each party represents that it has not received any written notice that any condition exists on its respective property that is characterized by any governmental authority as an actual or potential danger to the environment or public health.

7. **NOTICES.** All notices to the parties hereto will be delivered by hand, via certified mail return receipt requested, or via facsimile and all notices shall be deemed effective upon delivery if by hand and upon confirmation of receipt if by other means, to the following address until the address is changed by notice in writing to the other party:

City: Marcus D. Jones, City Manager
810 Union Street, Suite 1101
Norfolk, Virginia 23510

with a copy to:
Bernard A. Pishko, City Attorney
810 Union Street, Suite 900
Norfolk, Virginia 23510

Riley: Jesse E. Riley
4805 Peachcreek Lane
Virginia Beach, Virginia 23455

8. **RISK OF LOSS.** In the event of a fire or other casualty to either property, or any portion thereof, the intended recipient of such property shall not have the right to terminate this Agreement unless a casualty is of such a nature to make the property no longer functional or usable to the recipient, in the sole and absolute discretion and opinion of such recipient. Any such termination notice shall be given within ten (10) days after the intended recipient receives written notice of the casualty. If the intended recipient does not terminate this Agreement pursuant to the preceding sentence, the parties shall proceed to Closing on all of the terms and conditions of this Agreement.

9. **SURVIVAL.** The provisions contained in this Agreement, including Sellers' obligations, warranties and representations included in Paragraph 9, will be true as of the date of this Agreement and as of the date of Closing and will survive the Closing.

10. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and may not be modified or changed except by written instrument executed by both parties.

11. DEFAULT AND REMEDIES. If the conveyance contemplated by this Agreement is not consummated because of City's or Riley's default, the non-defaulting party may elect to (a) terminate this Agreement or (b) seek and obtain specific performance of this Agreement. If either City or Riley defaults under this Agreement, the defaulting party will be liable for any expenses incurred by the non-defaulting party in connection with the enforcement of its rights under this Agreement to the extent permitted by law. These rights are cumulative and non-exclusive and may be pursued at the option of the non-defaulting party without a requirement of election of remedies.

12. SEVERABILITY. This Agreement will be construed in its entirety and will not be divisible, except that the invalidity or unenforceability of any provision hereof will in no way affect the validity or enforceability of any other provision.

13. CAPTIONS. Captions are used in this Agreement for convenience only and will not be used to interpret this Agreement or any part of it.

14. GOVERNING LAW. This Agreement is to be construed in accordance with the laws of the Commonwealth of Virginia.

15. CHOICE OF FORUM/JURISDICTION. The parties hereby consent to the jurisdiction and venue of the courts of the Commonwealth of Virginia, specifically to the courts of the City of Norfolk, Virginia, and to the jurisdiction and venue of the United States District Court for the Eastern District of Virginia in connection with any action, suit, or proceeding arising out of or relating to this Agreement and further waive and agree not to assert in any action, suit, or proceeding brought in the City of Norfolk, Virginia, or the Eastern District of Virginia that the parties are not personally subject to the jurisdiction of these courts, that the action, suit, or proceeding is brought in an inconvenient forum or that venue is improper.

16. WAIVER OF TRIAL BY JURY. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR ANY RELATED AGREEMENTS OR INSTRUMENTS AND THE ENFORCEMENT THEREOF, INCLUDING ANY CLAIM OF INJURY OR DAMAGE TO ANY PARTY OR THE PROPERTY OF ANY PARTY.

17. SUCCESSOR/ASSIGNMENT. This Agreement will be binding upon and the obligations and benefits hereof will accrue to the parties hereto, their heirs, personal representatives, successors, and assigns.

18. IRS REPORTING REQUIREMENTS. For the purpose of complying with any information reporting requirements or other rules and regulations of the Internal Revenue Service ("IRS") that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement including, but not limited to, any requirements set forth in

proposed Income Tax Regulation Section 1.6045-4 and any final or successor version thereof (collectively the "IRS Reporting Requirements"), City and Riley hereby designate and appoint the City's attorney or Title Company to act as the "Reporting Person" (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. The attorney or Title Company hereby acknowledges and accepts such designation and appointment and agrees to fully comply with any IRS Reporting Requirements that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement. Without limiting the responsibility and obligations of the attorney or Title Company as the Reporting Person, Sellers and Purchaser hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the responsibility of the Reporting Person, including but not limited to, the requirement that Sellers and Purchaser each retain an original counterpart of this Agreement for at least four (4) years following the calendar year of the Closing.

WITNESS the following duly authorized signatures and seals:

_____
JESSE E. RILEY

COMMONWEALTH OF VIRGINIA
CITY OF _____, to-wit:

I, _____, a Notary Public in and for the City of _____, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that Jesse E. Riley, whose name is signed to the foregoing Property Exchange Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this ___day of _____, 2016.

_____
Notary Public
Registration No. _____

CITY OF NORFOLK

By: _____
City Manager

Attest:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that Marcus D. Jones, City Manager and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Property Exchange Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2016.

_____
Notary Public
Registration No._____

Contents Approved:

_____
Director, Department of General Services

_____
Director, Department of Utilities

Approved as to Form and Correctness:

_____
Deputy City Attorney

EXHIBIT A

Legal Description for
Vacated Lot Lines of Lot 21, Bromley Court
Bromley Incorp., Section 3

Parcel Added To Lot 21

An irregular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows: COMMENCING at a point that is the northeastern corner of Lot 21, being shown on that certain plat entitled, "Subdivision of Bromley Incorp., Section-3"; said plat being dated July, 1955, and being duly recorded in the Clerk's Office of the Circuit Court of Princess Anne County, Virginia in Map Book 39, Page 12, thence, running in a southeasterly direction along a bearing of S29°25'22"E, 93.35 feet to a point; said point being the southeastern corner of Lot 21 and the Point of Beginning; thence, along a bearing of S58°54'07"W, 105.27 feet to a point; thence, along a bearing of N11°41'22"E, 22.00 feet to a point; thence, along a bearing of N44°48'22"E, 43.59 feet to a point; thence, along a bearing of N88°01'03"E, 55.00 feet to the Point of Beginning, all as shown on that certain plat entitled "Resubdivision Of Lot 21, Block F, Sectoin-3, Bromley Incorp. And City Of Norfolk-Norview Cove (Branch Of Little Creek)" dated June 8, 2016, and indexed as Sheet 2 of 2.

The above-described parcel contains 0.038 acre of land, more or less.

Parcel To City From Lot 21

An irregular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows: COMMENCING at a point that is the northwestern corner of Lot 21, being shown on that certain plat entitled, "Subdivision of Bromley Incorp., Section-3"; said plat being dated July, 1955, and being duly recorded in the Clerk's Office of the Circuit Court of Princess Anne County, Virginia in Map Book 39, Page 12, thence, running in a southwesterly direction along a bearing of S11°41'22"W, 215.00 feet to a point; said point being the Point of Beginning; thence, along a bearing of S63°17'54"E, 51.88 feet to a point; thence, along a bearing of S84°01'02"W, 26.00 feet to a point; thence, along a bearing of N58°05'15"W, 27.00 feet to a point; thence, along a bearing of N11°41'22"E, 12.00 feet to the Point of Beginning, all as shown on that certain plat entitled "Resubdivision Of Lot 21, Block F, Sectoin-3, Bromley Incorp. And City Of Norfolk-Norview Cove (Branch Of Little Creek)" dated June 8, 2016, and indexed as Sheet 2 of 2.

The above-described parcel contains 0.011 acre of land, more or less.

June 8, 2016

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: George M. Homewood, FAICP, CFM, Planning Director

Subject: **Amendment to *plaNorfolk2030* and the *Zoning Ordinance* to adopt the new Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) and to adopt the new flood zone boundaries effective February 17, 2017**

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: _____
Douglas L. Smith, Interim City Manager

Item Number: **PH-2**

I. **Staff Recommendation:** **Approval**

II. **Commission Action:** By a vote of **7 to 0** the Planning Commission recommends **Approval**

III. **Requests:**
- The proposal is to adopt the new Federal Emergency Management Agency ("FEMA") Flood Insurance Rate Maps ("FIRM") and Flood Insurance Study ("FIS") in the *Zoning Ordinance* and *plaNorfolk2030*.
- The effective date of the FIRM and FIS is February 17, 2017.

IV. **Applicant:** **City Planning Commission**

V. **Description:**
- The City received the Preliminary FIRM from FEMA in August 2014
- City staff and the City's engineering consultant Moffat & Nichol found discrepancies in the FIRM during the initial review and provided additional information to assure the maps' correctness
- The FIRM introduces the AO and Coastal A flood zones into the City's Special Flood Hazard Areas
- A zoning map amendment is required due to the FIRM being a zoning overlay on the official Zoning Map
- Adoption of the new FIS and FIRM is required by FEMA to remain within the National Flood Insurance Program (NFIP)
    - FEMA established an effective date for this FIRM of February 17, 2017 by which time the City must enforce
    - Early adoption with a delayed effective date will reduce potential surprises for new development proposals

Structures located within Special Flood Hazard Area (City GIS)		
Flood Zone	**2014**	**2017**
VE	30	85
AE	8238	7580
AH	14	14
AO	N/A	25
LiMWA (Coastal A)	N/A	133

VI. Historic Resources Impacts

Any structures now located within the Special Flood Hazard Areas will be required to comply with the applicable floodplain regulations.

VII. Public Schools Impacts

N/A

Staff point of contact: Robert Tajan at 664-4756, Robert.Tajan@norfolk.gov

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated November 10, 2016 with attachments
- Ordinances

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: November 10, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Robert J. Tajan, AICP, CFM

Staff Report	**Item Number: 1**	
Address	**City Wide**	
Applicant	**City Planning Commission**	
Requests	**General Plan Amendment**	**Amend *plaNorfolk2030*, to incorporate the Flood Insurance Rate Map (FIRM) dated February 17, 2017**
	Rezoning	**Amend district boundaries of the Floodplain/Coastal Hazard Overlay (FPCHO) District as well as to adopt new district boundaries for the Coastal A FPCHO zoning district; effective date February 17, 2017**
	Text Amendment	**Amend section 11-3, "Floodplain/Coastal Hazard Overlay Districts (FPCHO)," of the City's *Zoning Ordinance,* to update the City's floodplain regulations in order to adopt the new Flood Insurance Study (FIS), effective date February 17, 2017 and make technical corrections**

A. Summary of Request

- The proposal is to adopt the new FEMA Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) in the *Zoning Ordinance* and *plaNorfolk2030*.
- The effective date of the FIRM and FIS is February 17, 2017.

B. Plan Consistency

Plan Amendment

- The Promoting Environmental Sustainability chapter of *plaNorfolk2030* incorporates the current FIRM.
- This amendment will replace the current FIRM in *plaNorfolk2030* to the new FIRM dated February 17, 2017.

Change of Zoning and Text Amendment

- The Promoting Environmental Sustainability chapter of *plaNorfolk2030* includes an action calling for the City to improve its Community Rating System (CRS) score.
  - Adopting the updated flood insurance map will assist in improving the City's score, making the proposed text amendment consistent with *plaNorfolk2030*.

C. Zoning Analysis

- The City received the Preliminary FIRM from FEMA in August 2014.

- City staff and the City's engineering consultant Moffat & Nichol found discrepancies in the FIRM during the initial review and provided additional information to assure the maps' correctness.
    - Discrepancies relayed to FEMA included the location of corporate boundaries of the City and improperly named streets.
- The City also identified several discrepancies in the technical data concerning how certain flood zone boundaries were identified on the FIRM.
- FEMA reviewed and accepted the proposed changes on May 11, 2016; the resulting FIRM is the most detailed and accurate flood map possible for the City.
- The FIRM introduces the AO and Coastal A flood zones into the City's Special Flood Hazard Areas.
    - The new Coastal A zone identifies areas within the AE zone where moderate wave action, defined as having waves of one and a half (1.5) to three (3) feet, can be expected during 1% annual probability flooding events; this is designated by a new map component, the Limit of Moderate Wave Action (LiMWA) depicted as a line on the FIRM.
    - Section 11-3 of the *Zoning Ordinance* already contains development regulations regarding the Coastal A flood zone.
    - Development regulations regarding the AO flood zone are proposed to clarify the zoning and construction standards that apply to structures located within this area.
        - The AO zones deal with depths of flooding due to ponding rather than giving an elevation, where flood levels are anticipated during a 1% annual chance storm event.
- The proposed FIRM now contains Base Flood Elevations and Flood Depths in whole numbers.
- The number of structures affected by the Special Flood Hazard Areas has decreased.

Structures located within Special Flood Hazard Area (City GIS)		
Flood Zone	**2014**	**2017**
VE	30	85
AE	8238	7580
AH	14	14
AO	N/A	25
LiMWA (Coastal A)	N/A	133

- A zoning map amendment is required due to the FIRM being a zoning overlay on the official Zoning Map.
- Adoption of the new FIS and FIRM is required by FEMA to remain within the National Flood Insurance Program (NFIP)
    - FEMA established an effective date for this FIRM of February 17, 2017 by which time the City must enforce.
    - Early adoption with a delayed effective date will reduce potential surprises for new development proposals.

D. Transportation Impacts

N/A

E. Historic Resources Impacts

Any structures now located within the Special Flood Hazard Areas will be required to comply with the applicable floodplain regulations.

F. Economic Impacts

- The City currently participates in the CRS program which provides a 5% discount on flood insurance premiums based on measures the City takes in reducing flood risk.
    - Higher development standards, including adopting the Coastal A zone, help to increase this discount.
- Staff has applied to increase the discount to 15% for flood insurance policies in the Special Flood Hazard Areas.
    - Application will be made to increase the discount to 20% due to the adoption of the Coastal A zone within the Special Flood Hazard Areas.

G. Public Schools Impacts

N/A

H. Environmental Impacts

- The new maps more accurately reflect the historical and future flood potential within the City.
- Under the new FIRM new construction in the Special Flood Hazard Areas will be built to be more resilient to flooding once the maps become effective.

I. AICUZ Impacts

N/A

J. Surrounding Area/Site Impacts

N/A

K. Payment of Taxes

N/A

L. Civic League

- Postcards were mailed to all property owners affected by the changes in September 2014 and October 2016.
- Meetings have been scheduled with multiple civic leagues to explain the map adoption process as well as concerns about appealing the maps on an individual parcel basis.

M. Communication Outreach/Notification

- Postcards notifying property owners of the proposed changes as well as the date and time of the City Planning Commission public hearing were mailed on October 2016.
- Eight public meetings were held between September 2014 and October 2016.
- Public meetings involving representatives from FEMA and the State were held at the SCOPE on November 19, 2014 and at Crossroads Elementary School on October 17, 2016.
- Legal notification was placed in *The Virginian-Pilot* on October 27 and November 3.

N. Recommendation

Staff recommends **approval** of the General Plan Amendment, Rezoning and, Text Amendment to adopt the Flood Insurance Rate Map and Flood Insurance Study with the effective date of February 17, 2017.

Attachments

Proposed Text
General Plan FIRM Amendment
Letter from FEMA

Proponents and Opponents

Proponents
Robert Brown
304 Meadow Creek Drive
Chesapeake, VA 23323

Opponents
None

11/09/2016 lds

Form and Correctness Approved: RAP

By _____
Office of the City Attorney

Contents Approved: RM

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO AMEND THE CITY'S GENERAL PLAN, PLANORFOLK2030, SO AS TO UPDATE THE "FEMA FLOOD INSURANCE RATE MAP."

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

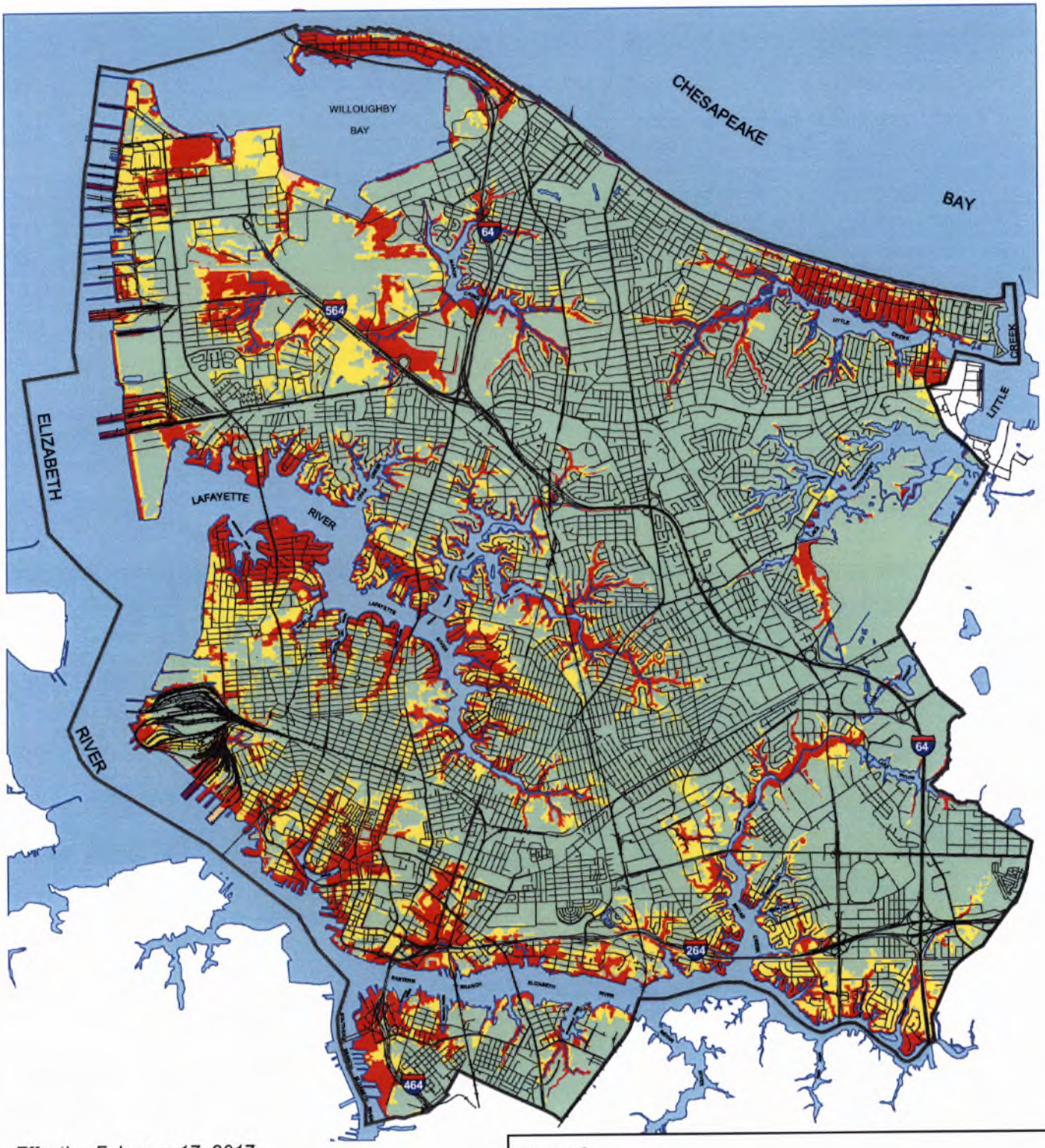
Section 1: That the general plan of Norfolk, plaNorfolk2030, shall be amended so as to update the "FEMA Flood Insurance Rate Map," identified as Map ES-1 in the plan, by amending and replacing the map with the new map shown in "Exhibit A," attached hereto.

Section 2:- The Council hereby finds that this amendment to the general plan is required by public necessity, convenience, general welfare, or good zoning practice.

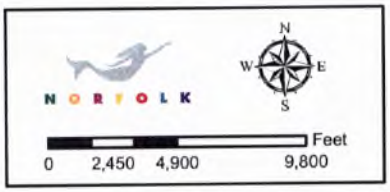
Section 3:- That this ordinance shall be effective on and after February 17, 2017.

ATTACHMENT:
Exhibit A (1 page)

Exhibit A



Effective February 17, 2017



Legend

- VE (wave action)
- AE (1% annual chance flood hazard)
- AH (1% annual chance shallow flooding - ponding)
- AO (1% annual chance shallow flooding - sheet flow on sloping terrain)
- 0.2% annual chance flood hazard
- X (outside of 0.2% annual change hazard)
- Area not mapped

11/09/2016 lds

Form and Correctness Approved:

By
Office of the City Attorney

Contents Approved:

By
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO APPLY THE FLOODPLAIN/COASTAL HAZARD OVERLAY DISTRICTS (FPCHO) TO PROPERTIES SHOWN ON THE FLOOD INSURANCE RATE MAP (FIRM) PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DATED FEBRUARY 17, 2017.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That all those properties and portions of properties shown on the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA) dated February 17, 2017, which has been provided to the City in digital format, a printed copy of which is attached marked as "Exhibit A" attached hereto, are hereby included in each of the floodplain and coastal hazard areas and zones as set forth on said FIRM.

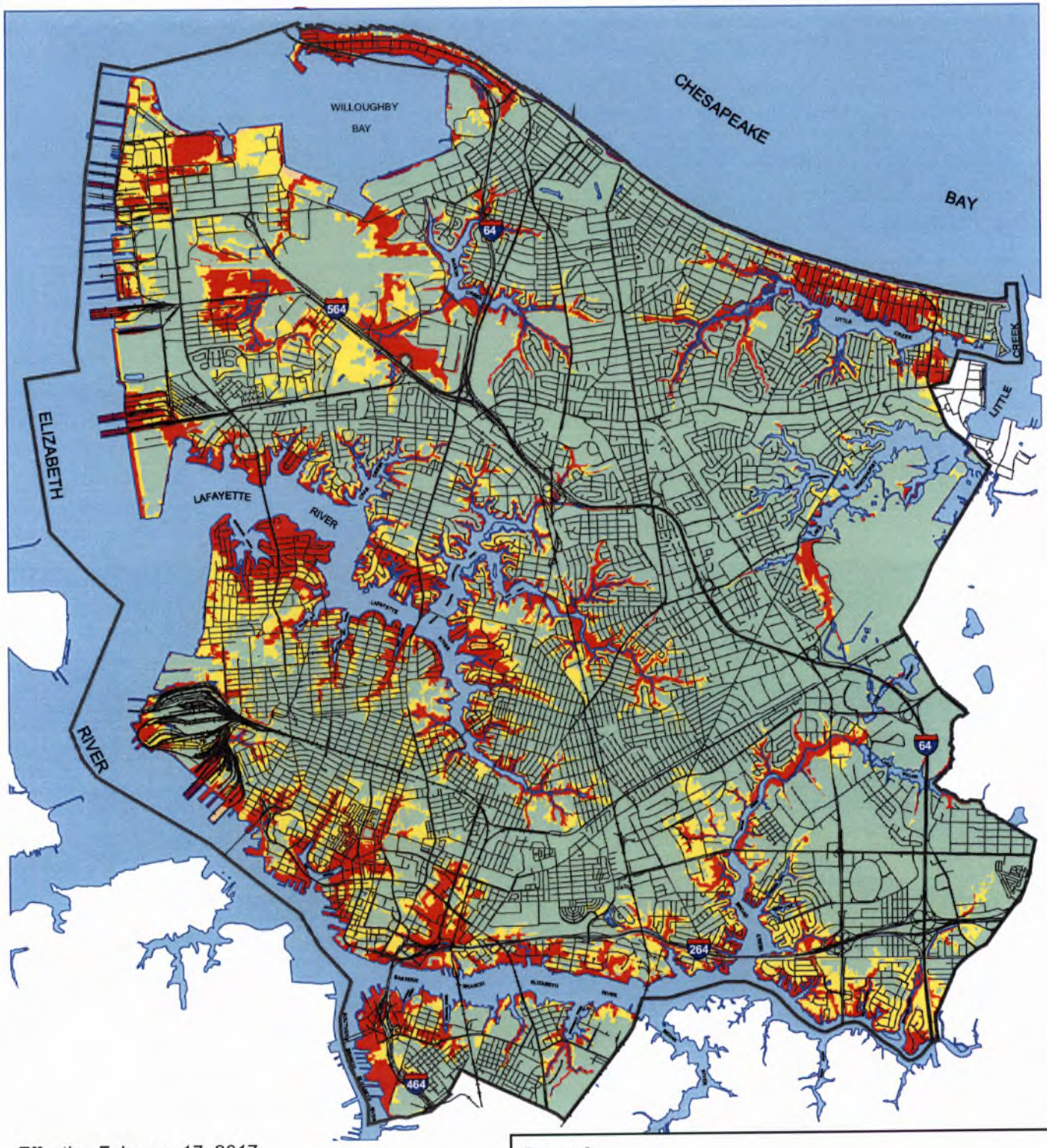
Section 2:- That the official Zoning Map for the City of Norfolk is hereby amended and reordained so as to reflect this zoning.

Section 3:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 4:- That this ordinance shall be effective on and after February 17, 2017.

ATTACHMENT:
Exhibit A (1 page)

Exhibit A



Effective February 17, 2017

NORFOLK

N W E S

0 2,450 4,900 9,800 Feet

Legend

- VE (wave action)
- AE (1% annual chance flood hazard)
- AH (1% annual chance shallow flooding - ponding)
- AO (1% annual chance shallow flooding - sheet flow on sloping terrain)
- 0.2% annual chance flood hazard
- X (outside of 0.2% annual change hazard)
- Area not mapped

11/09/2016 lds

Form and Correctness Approved: BAP

By _____
Office of the City Attorney

Contents Approved: RDT

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO AMEND AND REORDAIN SECTION 11-3 THE ZONING ORDINANCE OF THE CITY OF NORFOLK, 1992, SO AS TO UPDATE THE FLOODPLAIN/COASTAL HAZARD OVERLAY DISTRICTS (FPCHO) AND ADOPT A FLOOD INSURANCE RATE MAP CITYWIDE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That section 11-3 of the Code the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Floodplain/Coastal Hazard Overlay Districts (FPCHO)", is hereby amended and reordained to update the Floodplain/Coastal Hazard Overlay Districts (FPCHO) so as to incorporate a revised Flood Insurance Rate Map (FIRM) for the city and to make technical adjustments to maintain consistency with zones shown on the updated FIRM. The text shall read as forth in "Exhibit A," attached hereto.

Section 2:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 3:- That this ordinance shall be effective on and after February 17, 2017.

ATTACHMENT:
Exhibit A (13 pages)

EXHIBIT A

11-3 - Floodplain/Coastal Hazard Overlay Districts FPCHO.

11-3.1 *Purpose.*

(a) *Intent.* It is the intent of these regulations to permit the creation of Floodplain, Coastal Floodplain and Coastal High Hazard Districts in areas designated by the Federal Emergency Management Agency (FEMA) as "special flood hazard areas" and other areas identified as likely to benefit from floodplain management. Regulations within such districts are intended to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are attributed to the cumulative effect of obstructions located in areas of special flood hazard, and the occupancy of areas of special flood hazard by uses and structures vulnerable to flood damage or structures inadequately elevated, anchored or flood-proofed.

(b) *Scope of regulations.* To accomplish these purposes, it is necessary to:

(1) Regulate uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.

(2) Restrict or prohibit certain uses, activities and development from locating within certain areas of special flood hazards.

(3) Require all those uses, activities and development that do occur in areas of special flood hazards to be protected and/or flood-proofed against flooding, flood damage and wind damage.

(4) Protect individuals from buying lands and structures which are unsuited for certain purposes because of flood hazards.

(5) To ensure that adequate drainage is provided to reduce exposure to flood hazards.

(c) *Findings.* The degree of flood protection sought by the provisions of this overlay district is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes. This overlay district does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

11-3.2 *Applicability.* The boundaries of the "special flood hazard areas" and "other flood areas" shall be designated by the "Flood Insurance Study" (FIS) issued by FEMA and shown on the city's Flood Insurance Rate Map (FIRM) dated February 17, 2017, as amended. This map, as amended, is declared to be part of this ordinance and shall be kept on file in the offices of the building official and of the zoning administrator. The components of the "special flood hazard areas" and "other flood areas" shall be:

(a) Coastal High Hazard District (VE).

(b) Coastal Floodplain District (Coastal A).

(c) Floodplain District (AE, AH and AO).

(d) Other Flood Areas (X 0.2% annual chance of flood).

11-3.3 *Compliance and Liability.*

(a) *General.* No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, structurally altered or structurally improved nor any manufacture home placed on a lot or approved for utility service except in full compliance with the terms and provisions of this section and any other applicable ordinances and regulations.

Any development which alters or relocates a watercourse shall not diminish the flood-carrying capacity within the altered or relocated portion of the watercourse. Prior notification of any proposed development which would alter or relocate a watercourse in the City of Norfolk shall be provided to all affected, adjacent municipalities, the Federal Insurance Administration, and the Virginia Department of Conservation and Recreation or other state coordinating agency designated to assist with the National Flood Insurance Program.

No new construction or development shall cause an increase in the elevation of the water level of a one-hundred-year flood. It shall be the responsibility of the design professional and developer to demonstrate that a proposed development will not increase flood levels.

(b) *Administration.* For purposes of this overlay district, any powers, duties, and responsibilities of the zoning administrator that are described herein may also be exercised or discharged by any employee of the department of planning who is designated as the floodplain manager and is certified under the standards established by the Association of State Floodplain Managers.

(c) *Recordkeeping.* Records of actions associated with administering this overlay district shall be kept on file and maintained by the zoning administrator or his designee. This shall specifically include maintaining copies of elevation certificates.

(d) *No liability created.* This section shall not create liability on the part of the City of Norfolk or any officer or employee thereof for any flood damages that result from reliance on this overlay district or any administrative decision lawfully made there under.

(e) *Notification.* No later than six (6) months after the receipt of information that may alter flood elevations, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data to allow FEMA to properly assess risk premium rates and floodplain management requirements.

11-3.4 *Abrogation and greater restrictions.* The special flood hazard areas and other flood areas as described above shall be overlays to the existing underlying districts as shown on the official zoning map, and as such, the provisions set forth in these floodplain regulations shall operate in conjunction with the underlying district provisions, as set forth in section 11-0. If there is any conflict between the provisions or requirements of this overlay district and those of any underlying district, the more restrictive provisions shall apply.

11-3.5 *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this overlay district shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this overlay district. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this overlay district are hereby declared to be severable.

11-3.6 *Penalty for violations.* Any person who fails to comply with any of the requirements or provisions of this article or directions of the zoning administrator or his designee shall be guilty of a misdemeanor and subject to the penalties therefore.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Flood insurance may be withheld from structures constructed in violation of this article.

11-3.7 *Definitions.* For the purpose of these floodplain regulations, the following definitions shall apply:

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation in feet of the one percent (1%) annual chance flood level, as shown in the FIS and FIRM.

Basement: Any area of a building having its floor sub-grade (below ground level) on all sides.

Breakaway wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal Floodplain District: Those areas identified as Coastal A Zones that have been delineated as being subject to wave heights between one and one-half (1.5) feet and three (3) feet and identified on the FIRM as areas of Limits of Moderate Wave Action (LiMWA).

Coastal High Hazard District: Those areas identified as VE Zones on the FIRM extending from offshore to the inland limit of the Coastal Primary Sand Dune, as defined by state law (Code of Virginia Title 28.2), and subject to wave heights of three (3) feet or more.

Damage, severe repetitive loss: Flood related damages to a structure sustained on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the most recent damage occurred.

Damage, substantial. Damage, of any origin, sustained by a structure for which the cost of restoring the structure to its condition before the damage occurred would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Design flood elevation (DFE): The BFE plus the freeboard required by this ordinance in the VE, Coastal A, AE and AH zones.

Design flood elevation AO (DFE-AO): The flood depth plus the freeboard required by this ordinance in the AO zone.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation certificate: A document, prepared by a professional land surveyor, engineer, or architect, on a form approved by FEMA that verifies elevation and floodplain data of a structure relative to the ground level.

Encroachment: The advance or infringements of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Flood or *flooding:*

(a) A general or temporary condition of partial or complete inundation of normally dry land areas from either of the following:

(1) The overflow of inland or tidal waters; or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subparagraph (a)(1) of this definition.

(c) Mudflows which are proximately caused by flooding as defined in subparagraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and disposed along the path of the current.

Flood depth: The depth in feet of the one percent (1%) annual chance flood level, as shown in the FIS and FIRM. Applicable only to the AO zone.

Floodplain or *flood-prone area:* Any land area susceptible to being inundated by water from any source

Floodplain District: Those areas designated as AE, AH, and AO Zones on the FIRM for which a one percent (1%) annual chance of flood elevations have been identified.

Flood Insurance Rate Map (FIRM): The official map on which FEMA has delineated both the special flood hazard areas and other flood areas within the city. The FIRM may be available digitally.

Freeboard: The vertical distance between the BFE or depth number and the local minimum required lowest elevation in the AE, AH, AO, VE, and Coastal A Zones that provides additional protection for the unknown or unquantified factors that could contribute to greater flood heights.

Historic structure: Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(c) Individually listed on the Virginia Landmarks Register.

(d) Designated individually as a landmark or as a contributing structure within a locally designated historic district, to the extent such designation is permitted under and done in accordance with provisions of Chapter 9 or this ordinance.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's lowest floor; provided , that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR § 60.3.

Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed one a site for greater than one hundred eighty (180) consecutive days.

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction: Structures for which the "start of construction" commenced on or after August 1, 1979.

Other flood areas: Those areas identified as X on the FIRM for which there is a one-fifth percent (0.2%) annual chance of flooding.

Recreational vehicle: A vehicle which is:

(a) Built on a single chassis;

(b) Measures four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towed by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Repetitive loss damage: See "Damage, repetitive loss."

Shallow flooding area: A special flood hazard area with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist. Such flooding is characterized by ponding or sheet flow.

Special flood hazard areas: The land in the floodplain subject to a one percent (1%) or greater annual chance of being flooded. These are designated as AE, AH, AO, VE, and Coastal A on the FIRM.

Start of construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial damage: See "Damage, substantial."

Substantial improvement: All reconstructions, rehabilitations, additions, or other improvements of a structure the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement.

Notwithstanding the above, the term does not include any of the following:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

(b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or

(c) Any improvements associated solely with elevating a structure above the DFE or DFE-AO.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

11-3.8 *District boundary changes.* The delineation of any of the special flood hazard areas and other flood hazard areas may be revised by the City of Norfolk where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA.

11-3.9 *Permit and application requirements.* All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance, the Virginia Uniform Statewide Building Code, and all other applicable codes and ordinances. Prior to the issuance of any such permit, the zoning administrator or his designee shall review permits to assure sites are reasonably safe from flooding and require all applicants to demonstrate compliance with all applicable state and federal laws. It shall be the responsibility of a property owner to demonstrate that work proposed on existing structures does or does not constitute substantial improvement or repair of substantial damage. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

All applications for development within any special flood hazard area and all building permits issued for the floodplain shall incorporate the following information.

(a) For any rehabilitation, installation of new electrical or mechanical systems, or any structural repair with an estimated cost that is less than fifty percent (50%) of the market value of the structure, a current elevation certificate sealed by a licensed design professional is required.

(b) For any addition, any conversion of any non-habitable space to habitable space, or the construction or installation of a new accessory structure that requires a building permit:

(1) A current elevation certificate sealed by a licensed design professional, and

(2) A physical survey, performed after the effective date of the FIRM that,

(i) Accurately depicts current improvements on the property,

(ii) Provides a flood zone determination and the BFE or flood depth at the site, and

(iii) Delineates the location of the flood zones on the property.

(c) For new construction and any substantial improvement of a principal structure:

(1) A proposed site plan sealed by a design professional that provides:

(i) Topographic data;

(ii) Proposed grades, grading and stormwater management;

(iii) All proposed structures and improvements;

(iv) Proposed finished floor elevations of structures in AE, AH, and AO zones;

(v) The elevation of the bottom of the lowest horizontal structural member of the lowest floor in VE and Coastal A zones;

(vi) Flood zone determination and BFE or flood depth with the FIRM reference, and

(vii) All other information as required by any applicable provision of Chapter 26, "Site Plan Review" or Section 11-2, "Chesapeake Bay Preservation Area Overlay District."

(2) An elevation certificate based on the proposed development showing compliance with these floodplain regulations.

(3) For non-residential structures proposed to be flood-proofed, a flood-proofing certificate based on the proposed development showing compliance with these floodplain regulations.

(d) Any additional information deemed by the zoning administrator to be necessary to perform the required review.

11-3.10 *General Standards.* In the Floodplain, Coastal Floodplain and Coastal High Hazard districts the following provisions shall apply:

(a) The Freeboard shall be three (3) feet.

(b) Any new construction or substantial improvement to principal residential structures shall be a set back a minimum of twenty (20) feet from mean high water.

(c) For residential construction, the lowest floor shall not be below grade on all sides.

(d) New construction and substantial improvements shall be built in accordance with the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure and all portions at or below the DFE or DFE-AO shall be constructed of materials resistant to flood damage.

(e) Manufactured homes and accessory structures shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with the Virginia Uniform Statewide Building Code.

(f) New construction or substantial improvements shall be constructed using methods and practices that minimize flood damage.

(g) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, including ductwork, shall be:

(1) Elevated and installed at or above the DFE or DFE-AO; or

(2) Designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding or as allowed by the Virginia Uniform Statewide Building Code and ductwork shall be installed a minimum of one (1) foot above the BFE or flood depth.

(h) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(i) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(j) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(k) For any structure that is non-conforming, any alteration, repair, or improvement shall be undertaken only if said nonconformity is not furthered, extended, or replaced.

(l) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the City of Norfolk a permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission.

Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation, Division of Dam Safety and Floodplain Management, and the Federal Insurance and Mitigation Administration.

(m) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(n) Drainage shall be designed to guide water away from structures in a manner consistent with the applicable requirements of the city code.

(o) An elevation certificate and, if applicable, a flood-proofing certificate shall be provided prior to any foundation inspection, final inspections, and the issuance of any certificates of occupancy, in order to assure compliance with these floodplain regulations.

11-3.11 *Specific standards for the Coastal High Hazard and Coastal Floodplain Districts.* In VE and Coastal A Zones, the following provisions shall apply:

(a) All new construction and substantial improvements shall be elevated on pilings or columns such that:

(1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at or above the DFE; and

(2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components, where the wind and water loading values are those that each have a one percent (1%) chance of being equaled or exceeded in any given year (one-percent annual chance).

(b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the proposed design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of subsection (a), above using the Coastal Zone Design Certificate as provided by the City of Norfolk.

(c) The zoning administrator or his designee shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) and shall maintain a record of such information.

(d) All new construction shall be located landward of the reach of mean high tide.

(e) For new construction and substantial improvements, the space below the lowest floor shall be maintained free of obstruction and the usage of breakaway walls at or below the DFE is prohibited.

(f) The space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

(g) The use of fill for structural support of a building or structure is prohibited. When fill is proposed, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of any development permit.

(h) The intentional alteration of a Coastal Primary Sand Dune, as defined by state law (Code of Virginia Title 28.2), which causes an increase in the likelihood of flood damage is prohibited.

(i) All manufactured homes and recreational vehicles to be placed or substantially improved within VE and Coastal A Zones on the FIRM must meet the standards of subsections (a) though (h), above, and section 11-3.10.

11-3.12 *Specific standards in the Floodplain District.*

11-3.12.1 In AE and AH Zones, the following provisions shall apply:

(a) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor (including basement) elevated at or above the DFE or the elevation required by the Virginia Uniform Statewide Building Code, whichever is higher.

(b) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building, other than an accessory building, shall have the lowest floor (including basement) elevated at or above the DFE or the elevation required by the Virginia Uniform Statewide Building Code, whichever is greater. Such non-residential buildings located in AE and AH Zones may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the DFE are watertight, with walls substantially impermeable to the passage of water, and use structural components capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that all applicable engineering standards are satisfied.

(c) *Buildings with enclosed spaces below DFE.* For all new construction or substantial improvements to an existing building, other than an accessory building, any enclosed space below the DFE shall:

(1) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage (standard exterior door or access panel) or entry to the building access (stairway or elevator).

(2) Be constructed entirely of flood resistant materials below the DFE.

(3) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings either must be certified by a professional engineer or architect as meeting these hydrostatic standards or must meet the following minimum design criteria:

(i) Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.

(ii) All openings must either:

(A) Have a net area not less than one (1) square inch for each one (1) square foot of enclosed area subject to flooding; or

(B) Be certified by a professional engineer or architect as providing adequate water flow capacity given the extent of the enclosed area subject to flooding.

(iii) If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

(iv) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

(v) Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

(vi) A foundation enclosure made of flexible skirting is not considered an enclosure for purposes of these floodplain regulations, and, therefore, does not require openings. A foundation made of masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires the openings described above.

(d) *Accessory buildings:* For any new construction or substantial improvement of any accessory building, the building shall be constructed entirely of flood resistant materials below the DFE and:

(1) When no space below the BFE is enclosed, the lowest floor shall be elevated at or above the BFE.

(2) When any space below the BFE is enclosed, the building shall only be used for parking of vehicles or limited storage, and shall comply with the requirements set forth in subsection (c)(3), above.

(e) *Manufactured homes and recreational vehicles.* The following requirements shall apply to all manufactured homes and recreational vehicles located in any AE or AH Zone:

(1) Any newly placed or substantially improved manufactured home shall be elevated so that the lowest floor is at or above the DFE and shall meet all other general standards set forth in section 11-3.10 that apply to new construction.

(2) All recreational vehicles must either:

(i) Be removed after being located on a site for one hundred eighty (180) consecutive days and be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions); or

(ii) Meet all the requirements for manufactured homes set forth above.

11-3.12.2 In the AO zone, the following provisions shall apply:

(a) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor (including basement) elevated at or above the highest adjacent finished grade an amount not less than the DFE-AO or the elevation required by the Virginia Uniform Statewide Building Code, whichever is higher.

(b) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building, other than an accessory building, shall have the lowest floor (including basement) elevated at or above the highest adjacent finished grade an amount not less than the DFE-AO or the elevation required by the Virginia Uniform Statewide Building Code, whichever is greater. Such non-residential buildings located in AO Zones may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the DFE-AO are watertight, with walls substantially impermeable to the passage of water, and use structural components capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that all applicable engineering standards are satisfied.

(c) *Buildings with enclosed spaces below DFE-AO.* For all new construction or substantial improvements to an existing building, other than an accessory building, any enclosed space below the DFE-AO shall:

(1) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage (standard exterior door or access panel) or entry to the building access (stairway or elevator).

(2) Be constructed entirely of flood resistant materials below the DFE-AO.

(3) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings either must be certified by a professional engineer or architect as meeting these hydrostatic standards or must meet the following minimum design criteria:

(i) Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.

(ii) All openings must either:

(A) Have a net area not less than one (1) square inch for each one (1) square foot of enclosed area subject to flooding; or

(B) Be certified by a professional engineer or architect as providing adequate water flow capacity given the extent of the enclosed area subject to flooding.

(iii) If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

(iv) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

(v) Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

(vi) A foundation enclosure made of flexible skirting is not considered an enclosure for purposes of these floodplain regulations, and, therefore, does not require openings. A foundation made of masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires the openings described above.

(d) *Accessory buildings:* For any new construction or substantial improvement of any accessory building, the building shall be constructed entirely of flood resistant materials below the DFE-AO and:

(1) When no space below the flood depth is enclosed, the lowest floor shall be elevated at or above the flood depth.

(2) When any space below the flood depth is enclosed, the building shall only be used for parking of vehicles or limited storage, and shall comply with the requirements set forth in subsection (c)(3), above.

(e) *Manufactured homes and recreational vehicles.* The following requirements shall apply to all manufactured homes and recreational vehicles located in any AO Zone:

(1) Any newly placed or substantially improved manufactured home shall be elevated so that the lowest floor is at or above the DFE-AO and shall meet all other general standards set forth in section 11-3.10 that apply to new construction.

(2) All recreational vehicles must either:

(i) Be removed after being located on a site for one hundred eighty (180) consecutive days and be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions); or

(ii) Meet all the requirements for manufactured homes set forth above.

11-3.13 *Specific standards for other flood areas.* In X (0.2% annual chance of flood) Zones, the following requirements shall apply:

(a) All new construction shall have the lowest floor, including basement, elevated or flood-proofed to one and one-half (1.5) feet above the highest finished grade immediately adjacent to the structure or one-half (1.5) above the 0.2% annual chance flood elevation as determined in the FIS.

(b) For purposes of applying the limitations set forth in Chapter 12, "Nonconformities," any structure lawfully constructed prior to January 1, 2014, which does not meet this requirement shall not be considered nonconforming with respect to these floodplain regulations.

11-3.14 *Standards for subdivision proposals.*

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(d) Flood zone, BFE and flood depth data delineating the location of the flood zones on the property shall be provided for all subdivision proposals and other development proposals (including manufactured home parks and subdivisions).

11-3.15 *Existing structures in special flood hazard areas.* A structure lawfully constructed prior to January 1, 2014, but which is not in conformity with these floodplain regulations must comply with all of the following limitations that apply:

(a) *Severe repetitive loss damage.* An existing structure that has suffered severe repetitive loss damage may be reconstructed as follows:

(1) If the reconstruction is limited to repairs only and does not involve the replacement or alteration of any structural element, then the reconstruction may be allowed provided that all requirements of the Virginia Uniform Statewide Building Code are met.

(2) If the reconstruction involves the replacement or alteration of any structural element, then the reconstruction shall only be permitted if, after the work is completed, the entire structure complies with these floodplain regulations.

(b) *Substantial damage or substantial improvement.* The reconstruction of an existing structure that has suffered substantial damage or for which a substantial improvement is proposed shall only be permitted if, after the work is completed, the entire structure complies with all requirements of the Virginia Uniform Statewide Building Code and this zoning ordinance, including these floodplain regulations and the applicable limitations of Chapter 12.

(c) *Improvement other than substantial improvement.* Any improvement, other than a substantial improvement, proposed to an existing structure may be permitted when the following requirements are met:

(1) The improvement proposed for the existing portion of the structure complies with all requirements of the Virginia Uniform Statewide Building Code; and

(2) Any proposed addition, conversion of a non-habitable area to a habitable area, or structural alteration shall only be permitted if the proposed work complies with all requirements of the Virginia Uniform Statewide Building Code and this zoning ordinance, including these floodplain regulations.

11-3.16 *Variances.* The board of zoning appeals has the power to authorize, upon application, variances from the regulations of this overlay district.

(a) *Factors to be considered.* The board of zoning appeals shall consider the following factors, in addition to the requirements of Chapter 22, "Variances," prior to granting any variance from the regulations of this overlay district:

(1) The showing of good and sufficient cause.

(2) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity that will cause any increase in the BFE or flood depth.

(3) The danger that materials may be swept on to other lands or downstream to the injury of others.

(4) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(5) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(6) The importance of the services provided by the proposed facility to the community.

(7) The requirements of the facility for a waterfront location.

(8) The availability of alternative locations not subject to flooding for the proposed use.

(9) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(10) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(11) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(12) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

(13) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(14) Such other factors which are relevant to the purposes of this overlay district.

The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights or velocities and the adequacy of the plans for flood protection and other related matters.

(b) *Required findings.* Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief and that the granting of such will not result in any of the following:

(1) Unacceptable or prohibited increases in flood heights;

(2) Additional threats to public safety;

(3) Extraordinary public expense;

(4) Any nuisance;

(5) Fraud or victimization of the public; or

(6) Conflict with local laws or ordinances.

(c) *Notification.* The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the BFE or flood depth:

(1) Will increase the risks to life and property; and

(2) Will result in increased premium rates for flood insurance or the inability to obtain flood insurance through the NFIP.

A record shall be maintained of the above notification as well as all approved variances from the provisions of this overlay district, including justification for the issuance of each variance. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

11-3 - Floodplain/Coastal Hazard Overlay Districts FPCHO.

11-3.1 *Purpose.*

(a) *Intent.* It is the intent of these regulations to permit the creation of Floodplain, Coastal Floodplain and Coastal High Hazard Districts in areas designated by the Federal Emergency Management Agency (FEMA) as "special flood hazard areas" and other areas identified as likely to benefit from floodplain management. Regulations within such districts are intended to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are attributed to the cumulative effect of obstructions located in areas of special flood hazard, and the occupancy of areas of special flood hazard by uses and structures vulnerable to flood damage or structures inadequately elevated, anchored or flood-proofed.

(b) *Scope of regulations.* To accomplish these purposes, it is necessary to:

(1) Regulate uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.

(2) Restrict or prohibit certain uses, activities and development from locating within certain areas of special flood hazards.

(3) Require all those uses, activities and development that do occur in areas of special flood hazards to be protected and/or flood-proofed against flooding, flood damage and wind damage.

(4) Protect individuals from buying lands and structures which are unsuited for certain purposes because of flood hazards.

(5) To ensure that adequate drainage is provided to reduce exposure to flood hazards.

(c) *Findings.* The degree of flood protection sought by the provisions of this overlay district is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes. This overlay district does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

11-3.2 *Applicability.* The boundaries of the "special flood hazard areas" and "other flood areas" shall be designated by the "Flood Insurance Study" (FIS) issued by FEMA and shown on the city's Flood Insurance Rate Map (FIRM) dated ~~December 16, 2014~~February 17, 2017, as amended. This map, as amended, is declared to be part of this ordinance and shall be kept on file in the offices of the building official and of the zoning administrator. The components of the "special flood hazard areas" and "other flood areas" shall be:

(a) Coastal High Hazard District (VE).

(b) Coastal Floodplain District (Coastal A).

(c) Floodplain District (AE, ~~and~~ AH and AO).

(d) Other Flood Areas (X ~~Shaded~~0.2% annual chance of flood).

11-3.3 *Compliance and Liability.*

(a) *General.* No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, structurally altered or structurally improved nor any manufacture home placed on a lot or approved for utility service except in full compliance

with the terms and provisions of this section and any other applicable ordinances and regulations.

Any development which alters or relocates a watercourse shall not diminish the flood-carrying capacity within the altered or relocated portion of the watercourse. Prior notification of any proposed development which would alter or relocate a watercourse in the City of Norfolk shall be provided to all affected, adjacent municipalities, the Federal Insurance Administration, and the Virginia Department of Conservation and Recreation or other state coordinating agency designated to assist with the National Flood Insurance Program.

No new construction or development shall cause an increase in the elevation of the water level of a one-hundred-year flood. It shall be the responsibility of the design professional and developer to demonstrate that a proposed development will not increase flood levels.

(b) *Administration.* For purposes of this overlay district, any powers, duties, and responsibilities of the zoning administrator that are described herein may also be exercised or discharged by any employee of the department of planning who is designated as the floodplain manager and is certified under the standards established by the Association of State Floodplain Managers.

(c) *Recordkeeping.* Records of actions associated with administering this overlay district shall be kept on file and maintained by the zoning administrator or his designee. This shall specifically include maintaining copies of elevation certificates.

(d) *No liability created.* This section shall not create liability on the part of the City of Norfolk or any officer or employee thereof for any flood damages that result from reliance on this overlay district or any administrative decision lawfully made there under.

(e) *Notification.* No later than six (6) months after the receipt of information that may alter flood elevations, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data to allow FEMA to properly assess risk premium rates and floodplain management requirements.

11-3.4 *Abrogation and greater restrictions.* The special flood hazard areas and other flood areas as described above shall be overlays to the existing underlying districts as shown on the official zoning map, and as such, the provisions set forth in these floodplain regulations shall operate in conjunction with the underlying district provisions, as set forth in section 11-0. If there is any conflict between the provisions or requirements of this overlay district and those of any underlying district, the more restrictive provisions shall apply.

11-3.5 *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this overlay district shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this overlay district. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this overlay district are hereby declared to be severable.

11-3.6 *Penalty for violations.* Any person who fails to comply with any of the requirements or provisions of this article or directions of the zoning administrator or his designee shall be guilty of a misdemeanor and subject to the penalties therefore.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Flood insurance may be withheld from structures constructed in violation of this article.

11-3.7 *Definitions.* For the purpose of these floodplain regulations, the following definitions shall apply:

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation in feet of the one percent (1%) annual chance flood level, as shown in the FIS and FIRM.

Basement: Any area of a building having its floor sub-grade (below ground level) on all sides.

Breakaway wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal Floodplain District: Those areas identified as Coastal A Zones that have been delineated as being subject to wave heights between one and one-half (1.5) feet and three (3) feet and identified on the FIRM as areas of Limits of Moderate Wave Action (LiMWA).

Coastal High Hazard District: Those areas identified as VE Zones on the FIRM extending from offshore to the inland limit of the Coastal Primary Sand Dune, as defined by state law (Code of Virginia Title 28.2), and subject to wave heights of three (3) feet or more.

Damage, severe repetitive loss: Flood related damages to a structure sustained on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the most recent damage occurred.

Damage, substantial. Damage, of any origin, sustained by a structure for which the cost of restoring the structure to its condition before the damage occurred would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Design flood elevation (DFE): ~~T~~The BFE plus the freeboard required by this ordinance in the VE, Coastal A, AE and AH zones.

Design flood elevation AO (DFE-AO): The flood depth plus the freeboard required by this ordinance in the AO zone.

Form

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation certificate: A document, prepared by a professional land surveyor, engineer, or architect, on a form approved by FEMA that verifies elevation and floodplain data of a structure relative to the ground level.

Encroachment: The advance or infringements of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Flood or *flooding:*

(a) A general or temporary condition of partial or complete inundation of normally dry land areas from either of the following:

   (1) The overflow of inland or tidal waters; or

   (2) The unusual and rapid accumulation or runoff of surface waters from any source.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water,

accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subparagraph (a)(1) of this definition.

(c) Mudflows which are proximately caused by flooding as defined in subparagraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and disposed along the path of the current.

Flood depth: The depth in feet of the one percent (1%) annual chance flood level, as shown in the FIS and FIRM. Applicable only to the AO zone.

Form

Floodplain or *flood-prone area:* Any land area susceptible to being inundated by water from any source

Floodplain District: Those areas designated as AE, ~~and~~ AH, and AO Zones on the FIRM for which a one percent (1%) annual chance of flood elevations have been identified.

Flood Insurance Rate Map (FIRM): The official map on which FEMA has delineated both the special flood hazard areas and other flood areas within the city. The FIRM may be available digitally.

Freeboard: The vertical distance between the BFE or depth number and the local minimum required lowest elevation in the AE, AH, AO, VE, and Coastal A Zones that provides additional protection for the unknown or unquantified factors that could contribute to greater flood heights.

Historic structure: Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(c) Individually listed on the Virginia Landmarks Register.

(d) Designated individually as a landmark or as a contributing structure within a locally designated historic district, to the extent such designation is permitted under and done in accordance with provisions of Chapter 9 or this ordinance.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's lowest floor; provided , that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR § 60.3.

Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed one a site for greater than one hundred eighty (180) consecutive days.

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction: Structures for which the "start of construction" commenced on or after August 1, 1979.

Other flood areas: Those areas identified as X ~~(Shaded)~~ on the FIRM for which there is a one-fifth percent (0.2%) annual chance of flooding.

Recreational vehicle: A vehicle which is:

(a) Built on a single chassis;

(b) Measures four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towed by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Repetitive loss damage: See "Damage, repetitive loss."

Shallow flooding area: A special flood hazard area with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist. Such flooding is characterized by ponding or sheet flow.

Special flood hazard areas: The land in the floodplain subject to a one percent (1%) or greater annual chance of being flooded. These are designated as AE, AH, AO, VE, and Coastal A on the FIRM.

Start of construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial damage: See "Damage, substantial."

Substantial improvement: All reconstructions, rehabilitations, additions, or other improvements of a structure the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement.

Notwithstanding the above, the term does not include any of the following:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

(b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or

(c) Any improvements associated solely with elevating a structure above the DFE or DFE-AO.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

11-3.8 *District boundary changes.* The delineation of any of the special flood hazard areas and other flood hazard areas may be revised by the City of Norfolk where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA.

11-3.9 *Permit and application requirements.* All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance, the Virginia Uniform Statewide Building Code, and all other applicable codes and ordinances. Prior to the issuance of any such permit, the zoning administrator or his designee shall review permits to assure sites are reasonably safe from flooding and require all applicants to demonstrate compliance with all applicable state and federal laws. It shall be the responsibility of a property owner to demonstrate that work proposed on existing structures does or does not constitute substantial improvement or repair of substantial damage. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

All applications for development within any special flood hazard area and all building permits issued for the floodplain shall incorporate the following information.

(a) For any rehabilitation, installation of new electrical or mechanical systems, or any structural repair with an estimated cost that is less than fifty percent (50%) of the market value of the structure, a current elevation certificate sealed by a licensed design professional is required.

(b) For any addition, any conversion of any non-habitable space to habitable space, or the construction or installation of a new accessory structure that requires a building permit:

(1) A current elevation certificate sealed by a licensed design professional, and

(2) A physical survey, performed after the effective date of the FIRM that,

(i) Accurately depicts current improvements on the property,

(ii) Provides a flood zone determination and the BFE or flood depth at the site, and

(iii) Delineates the location of the flood zones on the property.

(c) For new construction and any substantial improvement of a principal structure:

(1) A proposed site plan sealed by a design professional that provides:

(i) Topographic data;

(ii) Proposed grades, grading and stormwater management;

(iii) All proposed structures and improvements;

(iv) Proposed finished floor elevations of structures in AE, ~~and~~ AH, and AO zones;

(v) The elevation of the bottom of the lowest horizontal structural member of the lowest floor in VE and Coastal A zones;

(vi) Flood zone determination and BFE or flood depth with the FIRM reference, and

(vii) All other information as required by any applicable provision of Chapter 26, "Site Plan Review" or Section 11-2, "Chesapeake Bay Preservation Area Overlay District."

(2) An elevation certificate based on the proposed development showing compliance with these floodplain regulations.

(3) For non-residential structures proposed to be flood-proofed, a flood-proofing certificate based on the proposed development showing compliance with these floodplain regulations.

(d) Any additional information deemed by the zoning administrator to be necessary to perform the required review.

11-3.10 *General Standards.* In the Floodplain, Coastal Floodplain and Coastal High Hazard districts the following provisions shall apply:

(a) The Freeboard shall be three (3) feet.

(b) Any new construction or substantial improvement to principal residential structures shall be a set back a minimum of twenty (20) feet from mean high water.

(c) For residential construction, the lowest floor shall not be below grade on all sides.

(d) New construction and substantial improvements shall be built in accordance with the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure and all portions at or below the DFE or DFE-AO shall be constructed of materials resistant to flood damage.

(e) Manufactured homes and accessory structures shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with the Virginia Uniform Statewide Building Code.

(f) New construction or substantial improvements shall be constructed using methods and practices that minimize flood damage.

(g) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, including ductwork, shall be:

(1) Elevated and installed at or above the DFE or DFE-AO; or

(2) Designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding or as allowed by the Virginia Uniform Statewide Building Code and ductwork shall be installed a minimum of one (1) foot above the BFE or flood depth.

(h) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(i) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(j) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(k) For any structure that is non-conforming, any alteration, repair, or improvement shall be undertaken only if said nonconformity is not furthered, extended, or replaced.

(l) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the City of Norfolk a permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission.

Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation, Division of Dam Safety and Floodplain Management, and the Federal Insurance and Mitigation Administration.

(m) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(n) Drainage shall be designed to guide water away from structures in a manner consistent with the applicable requirements of the city code.

(o) An elevation certificate and, if applicable, a flood-proofing certificate shall be provided prior to any foundation inspection, final inspections, and the issuance of any certificates of occupancy, in order to assure compliance with these floodplain regulations.

11-3.11 *Specific standards for the Coastal High Hazard and Coastal Floodplain Districts.* In VE and Coastal A Zones, the following provisions shall apply:

(a) All new construction and substantial improvements shall be elevated on pilings or columns such that:

(1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at or above the DFE; and

(2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components, where the wind and water loading values are those that each have a one percent (1%) chance of being equaled or exceeded in any given year (one-percent annual chance).

(b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the proposed design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of subsection (a), above using the Coastal Zone Design Certificate as provided by the City of Norfolk.

(c) The zoning administrator or his designee shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) and shall maintain a record of such information.

(d) All new construction shall be located landward of the reach of mean high tide.

(e) For new construction and substantial improvements, the space below the lowest floor shall be maintained free of obstruction and the usage of breakaway walls at or below the DFE is prohibited.

(f) The space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

(g) The use of fill for structural support of a building or structure is prohibited. When fill is proposed, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of any development permit.

(h) The intentional alteration of a Coastal Primary Sand Dune, as defined by state law (Code of Virginia Title 28.2), which causes an increase in the likelihood of flood damage is prohibited.

(i) All manufactured homes and recreational vehicles to be placed or substantially improved within VE and Coastal A Zones on the FIRM must meet the standards of subsections (a) though (h), above, and section 11-3.10.

11-3.12 *Specific standards in the Floodplain District.*

11-3.12.1 In AE and AH Zones, the following provisions shall apply:

(a) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor (including basement) elevated at or above the DFE or the elevation required by the Virginia Uniform Statewide Building Code, whichever is higher.

(b) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building, other than an accessory building, shall

have the lowest floor (including basement) elevated at or above the DFE or the elevation required by the Virginia Uniform Statewide Building Code, whichever is greater. Such non-residential buildings located in AE and AH Zones may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the DFE are watertight, with walls substantially impermeable to the passage of water, and use structural components capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that all applicable engineering standards are satisfied.

(c) *Buildings with enclosed spaces below DFE.* For all new construction or substantial improvements to an existing building, other than an accessory building, any enclosed space below the DFE shall:

(1) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage (standard exterior door or access panel) or entry to the building access (stairway or elevator).

(2) Be constructed entirely of flood resistant materials below the DFE.

(3) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings either must be certified by a professional engineer or architect as meeting these hydrostatic standards or must meet the following minimum design criteria:

(i) Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.

(ii) All openings must either:

(A) Have a net area not less than one (1) square inch for each one (1) square foot of enclosed area subject to flooding; or

(B) Be certified by a professional engineer or architect as providing adequate water flow capacity given the extent of the enclosed area subject to flooding.

(iii) If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

(iv) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

(v) Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

(vi) A foundation enclosure made of flexible skirting is not considered an enclosure for purposes of these floodplain regulations, and, therefore, does not require openings. A foundation made of masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires the openings described above.

(d) *Accessory buildings:* For any new construction or substantial improvement of any accessory building, the building shall be constructed entirely of flood resistant materials below the DFE and:

(1) When no space below the BFE is enclosed, the lowest floor shall be elevated at or above the BFE.

(2) When any space below the BFE is enclosed, the building shall only be used for parking of vehicles or limited storage, and shall comply with the requirements set forth in subsection (c)(3), above.

(e) *Manufactured homes and recreational vehicles.* The following requirements shall apply to all manufactured homes and recreational vehicles located in any AE or AH Zone:

(1) Any newly placed or substantially improved manufactured home shall be elevated so that the lowest floor is at or above the DFE and shall meet all other general standards set forth in section 11-3.10 that apply to new construction.

(2) All recreational vehicles must either:

(i) Be removed after being located on a site for one hundred eighty (180) consecutive days and be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions); or

(ii) Meet all the requirements for manufactured homes set forth above.

11-3.12.2 In the AO zone, the following provisions shall apply:

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(a) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor (including basement) elevated at or above the highest adjacent finished grade an amount not less than the DFE-AO or the elevation required by the Virginia Uniform Statewide Building Code, whichever is higher.

(b) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building, other than an accessory building, shall have the lowest floor (including basement) elevated at or above the highest adjacent finished grade an amount not less than the DFE-AO or the elevation required by the Virginia Uniform Statewide Building Code, whichever is greater. Such non-residential buildings located in AO Zones may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the DFE-AO are watertight, with walls substantially impermeable to the passage of water, and use structural components capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that all applicable engineering standards are satisfied.

(c) *Buildings with enclosed spaces below DFE-AO.* For all new construction or substantial improvements to an existing building, other than an accessory building, any enclosed space below the DFE-AO shall:

(1) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage (standard exterior door or access panel) or entry to the building access (stairway or elevator).

(2) Be constructed entirely of flood resistant materials below the DFE-AO.

(3) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings either must be certified by a professional engineer or architect as meeting these hydrostatic standards or must meet the following minimum design criteria:

(i) Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.

(ii) All openings must either:

(A) Have a net area not less than one (1) square inch for each one (1) square foot of enclosed area subject to flooding; or

(B) Be certified by a professional engineer or architect as providing adequate water flow capacity given the extent of the enclosed area subject to flooding.

(iii) If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

(iv) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

(v) Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

(vi) A foundation enclosure made of flexible skirting is not considered an enclosure for purposes of these floodplain regulations, and, therefore, does not require openings. A foundation made of masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires the openings described above.

(d) *Accessory buildings:* For any new construction or substantial improvement of any accessory building, the building shall be constructed entirely of flood resistant materials below the DFE-AO and:

(1) When no space below the flood depth is enclosed, the lowest floor shall be elevated at or above the flood depth.

(2) When any space below the flood depth is enclosed, the building shall only be used for parking of vehicles or limited storage, and shall comply with the requirements set forth in subsection (c)(3), above.

(e) *Manufactured homes and recreational vehicles.* The following requirements shall apply to all manufactured homes and recreational vehicles located in any AO Zone:

(1) Any newly placed or substantially improved manufactured home shall be elevated so that the lowest floor is at or above the DFE-AO and shall meet all other general standards set forth in section 11-3.10 that apply to new construction.

(2) All recreational vehicles must either:

(i) Be removed after being located on a site for one hundred eighty (180) consecutive days and be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions); or

(ii) Meet all the requirements for manufactured homes set forth above.

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11-3.13 *Specific standards for other flood areas.* In X (~~Shaded~~0.2% annual chance of flood) Zones, the following requirements shall apply:

(a) All new construction shall have the lowest floor, including basement, elevated or flood-proofed to one and one-half (1.5) feet above the highest finished grade immediately adjacent to the structure or one-half (1.5) above the 0.2% annual chance flood elevation as determined in the FIS.

(b) For purposes of applying the limitations set forth in Chapter 12, "Nonconformities," any structure lawfully constructed prior to January 1, 2014, which does not meet this requirement shall not be considered nonconforming with respect to these floodplain regulations.

11-3.14 *Standards for subdivision proposals.*

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(d) Flood zone ~~and~~, BFE and flood depth data delineating the location of the flood zones on the property shall be provided for all subdivision proposals and other development proposals (including manufactured home parks and subdivisions).

11-3.15 *Existing structures in special flood hazard areas.* A structure lawfully constructed prior to January 1, 2014, but which is not in conformity with these floodplain regulations must comply with all of the following limitations that apply:

(a) *Severe repetitive loss damage.* An existing structure that has suffered severe repetitive loss damage may be reconstructed as follows:

(1) If the reconstruction is limited to repairs only and does not involve the replacement or alteration of any structural element, then the reconstruction may be allowed provided that all requirements of the Virginia Uniform Statewide Building Code are met.

(2) If the reconstruction involves the replacement or alteration of any structural element, then the reconstruction shall only be permitted if, after the work is completed, the entire structure complies with these floodplain regulations.

(b) *Substantial damage or substantial improvement.* The reconstruction of an existing structure that has suffered substantial damage or for which a substantial improvement is proposed shall only be permitted if, after the work is completed, the entire structure complies with all requirements of the Virginia Uniform Statewide Building Code and this zoning ordinance, including these floodplain regulations and the applicable limitations of Chapter 12.

(c) *Improvement other than substantial improvement.* Any improvement, other than a substantial improvement, proposed to an existing structure may be permitted when the following requirements are met:

(1) The improvement proposed for the existing portion of the structure complies with all requirements of the Virginia Uniform Statewide Building Code; and

(2) Any proposed addition, conversion of a non-habitable area to a habitable area, or structural alteration shall only be permitted if the proposed work complies with all requirements of the Virginia Uniform Statewide Building Code and this zoning ordinance, including these floodplain regulations.

11-3.16 *Variances.* The board of zoning appeals has the power to authorize, upon application, variances from the regulations of this overlay district.

(a) *Factors to be considered.* The board of zoning appeals shall consider the following factors, in addition to the requirements of Chapter 22, "Variances," prior to granting any variance from the regulations of this overlay district:

(1) The showing of good and sufficient cause.

(2) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity that will cause any increase in the BFE or flood depth.

(3) The danger that materials may be swept on to other lands or downstream to the injury of others.

(4) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(5) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(6) The importance of the services provided by the proposed facility to the community.

(7) The requirements of the facility for a waterfront location.

(8) The availability of alternative locations not subject to flooding for the proposed use.

(9) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(10) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(11) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(12) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

(13) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(14) Such other factors which are relevant to the purposes of this overlay district.

The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights or velocities and the adequacy of the plans for flood protection and other related matters.

(b) *Required findings.* Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief and that the granting of such will not result in any of the following:

(1) Unacceptable or prohibited increases in flood heights;

(2) Additional threats to public safety;

(3) Extraordinary public expense;

(4) Any nuisance;

(5) Fraud or victimization of the public; or

(6) Conflict with local laws or ordinances.

(c) *Notification.* The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the BFE or flood depth:

(1) Will increase the risks to life and property; and

(2) Will result in increased premium rates for flood insurance or the inability to obtain flood insurance through the NFIP.

A record shall be maintained of the above notification as well as all approved variances from the provisions of this overlay district, including justification for the issuance of each variance. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(Ord. No. 37,048, § 1, 11-10-92; Ord. No. 40,665, § 2(Exh. B), 4-9-02; Ord. No. 42,322, § 1(Exhs. A—C), 6-27-06; Ord. No. 43,530, § 1(Exh. A), 8-18-09; Ord. No. 45,305, § 2(Exh. B), 11-26-13 ; Ord. No. 45,767, § 1(Exh. A), 11-25-14)

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

FEMA

NOV 0 4 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Kenneth Cooper Alexander
Mayor, City of Norfolk
810 Union Street, Suite 1001
Norfolk, Virginia 23510

Dear Mayor Alexander:

I commend you for the efforts that have been put forth in implementing the floodplain management measures for the City of Norfolk, Virginia, to participate in the National Flood Insurance Program (NFIP). As you implement these measures, I want to emphasize the following:

- Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been completed for your community;
- the FIS and FIRM will become effective on February 17, 2017; and
- by the FIS and FIRM effective date, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office is required to approve the legally enforceable floodplain management measures your community adopts in accordance with Title 44 Code of Federal Regulations Section 60.3(e).

As noted in FEMA's letter dated August 17, 2016, no significant changes have been made to the flood hazard data on the Preliminary and/or revised Preliminary copies of the FIRM for City of Norfolk. Therefore, the City of Norfolk should use the Preliminary and/or revised Preliminary copies of the FIRM as the basis for adopting the required floodplain management measures. Final printed copies of the FIRM for the City of Norfolk will be sent to you within the next few months.

If you encounter difficulties in enacting the measures, I recommend you contact the Virginia Department of Conservation and Recreation, Division of Dam Safety and Floodplain Management. You may contact Charley Banks, CFM, the NFIP State Coordinator, by telephone at (804) 371-6135, in writing at 600 East Main Street, 24th Floor, Richmond, Virginia 23219, or by electronic mail at charley.banks@dcr.virginia.gov.

The FEMA Regional staff in Philadelphia, Pennsylvania, is also available to provide technical assistance and guidance in the development of floodplain management measures. The adoption of compliant floodplain management measures will provide protection for the City of Norfolk and will ensure its participation in the NFIP. The Regional Office may be contacted by telephone at (215) 931-5500 or in writing. Please send your written inquiries to the Director, Federal Insurance

and Mitigation Division, FEMA Region III, at 615 Chestnut Street, One Independence Mall, Sixth Floor, Philadelphia, Pennsylvania 19106-4404.

You may have already contacted the NFIP State Coordinator and/or the FEMA Regional Office, and may be in the final adoption process or recently adopted the appropriate measures. However, in the event your community has not adopted the appropriate measures, this letter is FEMA's official notification that you only have until February 17, 2017, to adopt and/or submit a floodplain management ordinance that meets or exceeds the minimum NFIP requirements, and request approval from the FEMA Regional Office by the effective date. Your community's adopted measures will be reviewed upon receipt and the FEMA Regional Office will notify you when the measures are approved.

I appreciate your cooperation to ensure that your community's floodplain management measures are approved by the FEMA Regional Office by February 17, 2017. Your compliance with these mandatory program requirements will enable your community to avoid suspension from the NFIP.

Sincerely,

Rachel Sears

Rachel Sears, Director
Floodplain Management Division
Mitigation Directorate | FEMA

cc: MaryAnn Tierney, Regional Administrator, FEMA Region III
Charley Banks, CFM, NFIP State Coordinator, Virginia Department of Conservation and Recreation, Division of Dam Safety and Floodplain Management
Robert Tajan, AICP, CFM, Floodplain Administrator, City of Norfolk

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: George M. Homewood, FAICP, CFM, Planning Director

Subject: **Rezoning to Eliminate Conditions of a Previous Conditional Rezoning, Designation as a Norfolk Historic Landmark, and Special Exception to Allow Multi-Family (more than six units) by Monument Development Four, LLC at 2219 Colonial Avenue**

Reviewed: _____ **Ward/Superward: 2/6**
Wynter C. Benda, Deputy City Manager

Approved: _____ **Item Number:** **PH-3**
Douglas L. Smith, Interim City Manager

I. **Staff Recommendation: Approval**

II. **Commission Action:**
- By a vote of **7 to 0**, on the rezoning, designation and special exception, the Planning Commission recommends **Approval**.
- The Commission agreed with the recommendation of the Architectural Review Board to designate this site as a Historic Landmark and did not oppose its adaptive reuse for residential units to support the growing commercial along this corridor.

III. **Requests:** Rezoning, Norfolk Historic Landmark designation and special exception for multi-family.

IV. **Applicant: Monument Development Four, LLC**

V. **Description:**

i. Conditional Rezoning
- In December 2015, the property was conditionally rezoned limiting the use of the site to the following uses:
  - Office
  - Retail Sales and services
  - Eating and Drinking and Entertainment Establishments
  - Microbrewery
- The applicant proposes to eliminate this condition.

ii. Historic Landmark Designation and Multi-Family Special Exception
- In 2014, the Historic and Cultural Conservation and Historic Landmarks Chapter of the *Zoning Ordinance of the City of Norfolk,* 1992, as amended, was amended to allow for the designation of building as Norfolk Historic Landmark through the public hearing process.

- After review of the application submitted by the applicant, the Architectural Review Board recommended approval of site as a Norfolk Historic Landmark.

- In February of 2016, the Norfolk Historic Landmark provision was modified to allow for additional uses for structures designated as such.
  - Potential uses include any use permitted in the Commercial or Residential Table of Land Uses and require a special exception.
    - The applicant proposes to convert the existing building to 15 residential units which requires a special exception.

VI. Historic Resources Impacts

- In May of 2016, the Virginia Department of Historic Resources (VDHR) approved the Norfolk & Western Railroad Historic District and designated this site as contributing to the district.
- Upon consideration, the ARB recommended to the Planning Commission the designation of this structure as a Norfolk Historic Landmark.

VII. Public Schools Impacts

- School attendance zones include Taylor Elementary School (82% utilization), Blair Middle School (77% utilization) and Maury High School (95% utilization).
- Approximately 2 school aged children could be generated by the proposed development (0.1 school aged children per unit).
- Given the low number of potential students and the existing school capacity, no significant school impacts are anticipated (note that full utilization is typically calculated at 120%).

Staff point of contact: Susan Pollock at 664-4765, susan.pollock@norfolk.gov

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated November 10, 2016 with attachments
- Letters of support from Ghent Neighborhood League, Ghent Business Association, Park Place Business Association and other neighboring businesses
- Ordinances

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: November 10, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Susan Pollock Hart, CFM

Staff Report	**Item No. 4**	
Address	**2219 Colonial Avenue**	
Applicant	**Monument Development Four, LLC**	
Request	**Rezone**	**Eliminate conditions from prior conditional rezoning**
	Designation	**Norfolk Historic Landmark**
	Special Exception	**To permit multi-family (more than 6 units)**
Property Owner	L&L 22nd Street	
Site Characteristics	Site Area/Building	36,542/16,282 sq. ft.
	Future Land Use Map	Commercial
	Zoning	C-2 (Corridor Commercial), 21st Street PCO (Pedestrian Commercial Overlay)
	Neighborhood	Ghent business district
	Character District	Traditional
Surrounding Area	North	Norfolk and Western Railway; I-2 (Light Industrial District): AAAA Self Storage & Moving
	East	C-2/PCO 21st Street: Ghent Market Shops
	South	C-2/PCO 21st Street: DaVita Midtowne Norfolk Dialysis; Yorgos Bageldashery; Muay Tai Kickboxing; Belmont House of Smoke; The Strip Joint; Dumbell Personal Training
	West	I-3 (General Industrial District): Yukon Lumber Co.

A. Summary of Request

- The property is located at the on the west side of Colonial Avenue just south of the railroad tracks.
- This request would eliminate conditions on the site resulting from a previous conditional rezoning (by Maker's Craft Brewery, which never commenced), designate the existing buildings as Norfolk Historic Landmarks, thereby allowing its use for multi-family.

B. Plan Analysis

- *plaNorfolk2030* identifies this site as residential mixed.
  - The Identifying Land Use Strategies chapter identifies the residential mixed category as a location for a greater variety of housing types than generally found, developed as walkable neighborhoods with interconnected streets and sidewalks and buildings of a similar scale, no matter the use.

- **Zoning Analysis**

  i. *Conditional Rezoning*

  - In December 2015, the property was conditionally rezoned.
    - The only condition limited the site to the following uses:
      - Office
      - Retail Sales and services
      - Eating, Eating and Drinking and Entertainment Establishments
      - Microbrewery
  - The applicant proposes to eliminate this condition.

  ii. *Historic Landmark Designation and Multi-Family Special Exception*

  - The structure was built for the Linde Air Products Co. and features many of the elements found throughout the Norfolk & Western Railroad Historic District (NPS/NRHP Registration Form DHR No. 122-5799).
    - The original "Linde" name remains visibly bricked-in to the tall, square chimney rising up from the roof.
  - In 2014, the Historic and Cultural Conservation and Historic Landmarks Chapter of the *Zoning Ordinance of the City of Norfolk,* 1992, as amended, was amended to allow for the creation of a Norfolk Historic Landmark designation.
  - Designation as a Norfolk Historic Landmark requires the following:
    - Submission of an application to the Architectural Review Board (ARB) to request that a structure or structures be designated as a Norfolk Historic Landmark.
    - Upon review of a staff report and the application, ARB provides a recommendation to the Planning Commission regarding the designation of the structure(s) as a Norfolk Historic Landmark.
    - A public hearing is held by both the Planning Commission and City Council.
    - Approval of the designation by City Council deems the structure(s) a Norfolk Historic Landmark.

- The result is that the structure is deemed historic and any modifications, additions or changes to the exterior will be required to be reviewed and approved by the Architectural Review Board.

- In February of 2016, the Norfolk Historic Landmark provision was modified to allow for additional uses for structures designated as such.
  - Uses now include any use permitted in the Commercial or Residential Table of Land Uses and require a special exception.
- The applicant proposes to convert the existing building to 15 residential units.

ii. Parking

- Chapter 15, Parking, requires that an adaptive reuse of a building for residential to provide one parking space per dwelling unit and the proposed development complies.
- There are 31 parking spaces on site, 23 of which can be used by either the adjacent medical office or the proposed residential.
  - The remaining eight spaces on site are for the sole use of the residential.
  - The applicant proposes to lease an additional 15 spaces directly across Colonial Avenue behind the Ghent Market Shops along the railway.

iii. Flood Zone

The property is in the X (Low to Moderate) Flood Zone which is a low-risk flood zone.

iv. Historic Analysis

- In May of 2016, the Virginia Department of Historic Resources (VDHR) approved the Norfolk & Western Railroad Historic District and designated this site as contributing to the district.
- Upon consideration, the ARB recommended to the Planning Commission the designation of these structures as a Norfolk Historic Landmark.

D. Transportation Impacts

- W. 21st Street just south of this location is identified as a severely congested corridor in the PM peak in the most recent update to regional Hampton Roads Congestion Management System (CMS) analysis; however, peak loading times for the proposed use will generally be after the peak afternoon commuting times experienced along the corridor.
- Colonial Avenue adjacent to the site is not listed at a congested corridor in the regional CMS report.
- The site is near transit service with Hampton Roads Transit bus route 11 (Colonial) operating adjacent to the site and route 4 (Church Street) serving W. 21st Street just to the south.
- Colonial Avenue adjacent to the site is not an identified priority corridor in the City of *Norfolk Bicycle and Pedestrian Strategic Plan.*

E. Historic Resource Impacts

- The site is a contributing structure to the Norfolk and Western Railroad federal and state historic district

F. Public School Impacts

- School attendance zones include Taylor Elementary School (82% utilization), Blair Middle School (77% utilization) and Maury High School (95% utilization).
- Approximately 2 school aged children could be generated by the proposed development (0.1 school aged children per unit).
- Given the low number of potential students and the existing school capacity, no significant school impacts are anticipated (note that full utilization is typically calculated at 120%).

G. Environmental Impacts

The applicant is not proposing any improvements to the site.

H. Surrounding Area/Site Impacts

Designation of this structure as a Norfolk Historic Landmark will allow for the preservation of this historic structure and require any modifications to be reviewed and approved by the ARB.

I. Payment of Taxes

The property owner is current on real estate taxes.

J. Civic League

Notice was sent to the Ghent Neighborhood League and the Ghent Business Association on September 28.

K. Communication Outreach/Notification

- Legal notice was posted on the property on October 4.
- Letters were mailed to all property owners within 300 feet of the property on October 25.
- Legal notification was placed in *The Virginian-Pilot* on October 27 and November 3.

L. Recommendations

Staff

- In concurrence with the Architectural Review Board, staff recommends that the structure be designated as a Norfolk Historic Landmark.
- Staff supports the rezoning to allow the removal of the existing condition.
- However, staff cannot support the special exception to permit multi-family exclusively.
- Over the past few years the commercial aspect of the 21st Street Pedestrian Commercial Overlay has extended up Colonial Avenue.
    - Multiple new businesses including Toast, Corner Spot, Christina Angelo mixed use rezoning, Handsome Biscuit, and the Coffee Tree have opened along this corridor.

- Staff has been working to create a commercial overlay which would extend north along this portion of Colonial Avenue to encourage commercial and mixed use development of this corridor.
- This use of this site for a commercial or mixed uses would allow the extension of commercial north, bridging the 35th Street business district with the 21st Street commercial district.
- Multi-Family, as a ground floor use, is not a use that is envisioned along the corridor.

ARB

Based on the criteria set forth below (as contained in the *Zoning Ordinance)*, ARB recommends that this structure be designated as a Norfolk Historic Landmark:

(1) The area exemplifies the architectural cultural, economic, social, political, artistic, or religious history of the city.

(2) The area exemplifies the architectural character of a particular era in the history of the city.

(3) The area is the site of an historic event which had a significant impact on the history of the city.

(4) The area contains open space, street configurations, topographical features, bodies of water, or landscaped grounds of significance with regard to urban planning or landscape architecture.

(5) Design Elements:

1. Architectural Style
2. Form—plan configuration, roofline
3. Massing—number of stories, ells, wings
4. Façade Organization—symmetrical, asymmetrical, number of bays
5. Fenestration—types of doors and windows and their organization
6. Materials—visible materials including foundations, walls, roofs
7. Character Defining Details—cornices, woodwork, iron work, elements specific to a certain style
8. Other elements—porches, chimneys, unique features
9. Additions
10. Site Context
11. Outbuildings, secondary resources

However, should council decide to approve the special exception, the following condition should be considered:

(a) No parking shall be allowed or permitted in front of the building.

Attachments

Location Map
Zoning Map
Application

Notification list to property owners within 300 feet
Notice to the Ghent Business Association and the Ghent Neighborhood League
Letter of support from the Ghent Business Association

Proponents and Opponents

Proponents

Chris Johnson
1425 E. Cary Street
Richmond, VA 23219

Richard Levin
610 Pembroke Avenue
Norfolk, VA 23517

Simon Hounslow
2106 Llewellyn Avenue
Norfolk, VA 23517

Allan Sullivan
429 York Street
Norfolk, VA 23510

Alice Allen-Grimes
1322 Mallory Court
Norfolk, VA 23507

Opponents

None

11/09/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO REZONE PROPERTY LOCATED AT 2219 COLONIAL AVENUE IN ORDER TO REMOVE CONDITIONS ON PROPERTY ZONED CONDITIONAL C-2 (CORRIDOR COMMERCIAL) DISTRICT.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the property located at 2219 Colonial Avenue is hereby rezoned from Conditional C-2 (Corridor Commercial) District to C-2 (Corridor Commercial) in order to remove conditions. The property is more fully described as follows:

> Property fronts 169 feet, more or less, along the western line of Colonial Avenue beginning 130 feet, more or less, from northern line of West 22nd Street and extending northwardly; premises numbered 2219 Colonial Avenue.

Section 2:- That the official Zoning Map for the City of Norfolk is hereby amended and reordained so as to reflect this rezoning.

Section 3:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

11/09/2016 lds

Form and Correctness Approved

By
Office of the City Attorney

Contents Approved:

By
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO DESIGNATE THE PROPERTY LOCATED AT 2219 COLONIAL AVENUE AS A NORFOLK HISTORIC LANDMARK AND TO AMEND THE ZONING MAP TO SHOW THE DESIGNATION.

- - -

WHEREAS, the property located at 2219 Colonial Avenue in the City of Norfolk is of such age and significance historically, architecturally and culturally that it is eligible to be designate as a Norfolk Historic Landmark;

WHEREAS, the owner of the property has applied to seek the designation as a Norfolk Historic Landmark and said application has been reviewed and recommended for approval by both the Norfolk Architectural Review Board and the Norfolk City Planning Commission; and

WHEREAS, the buildings on this property are designated as contributing structures to the Norfolk & Western Railroad Historic District defined by the United States Department of the Interior, National Park Service in its National Register of Historic Places; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the property located at 2219 Colonial Avenue is hereby designated as a Norfolk Historic Landmark and shall be both subject to the regulations and entitled to the benefits set forth in the applicable provisions of Chapter 9 of the Zoning

Ordinance of the City of Norfolk, 1992 (as amended), entitled "Historic and Cultural Conservation Districts (HC) and Historic Landmarks." The property which is the subject of this designation is more fully described as follows:

> Property fronting 169 feet, more or less, along the western line of Colonial Avenue beginning 130 feet, more or less, from northern line of West 22nd Street and extending northwardly; premises numbered 2219 Colonial Avenue.

Section 2:- That the City Council hereby determines that the designation accomplished herein is based on consideration of all of the following criteria § 9-2.3(b) of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely:

(1) The historic, architectural, or cultural significance, if any, of the building, structure, or site considered on its own merits and which distinguish it from other similar or common buildings, structures or sites in the same vicinity;

(2) Whether the building, structure, or site is located in an area that is not appropriate or eligible for designation as a local historic district when considered in its entirety;

(3) The association of the building, structure or site with an historic person or event of national, state, or regional significance or with a renowned architect or master craftsman;

(4) The age and condition of the building or structure and whether significant portions are at least fifty (50) years old;

(5) The degree to which the original or distinguishing character, qualities, or materials of a building or structure on the property have been retained and have not undergone changes such that the historical integrity of the property is no longer significantly evident; and

(6) Whether the property has been listed on the U.S. Department of the Interior's National Register of Historic Places or the Virginia Landmarks Register.

Section 3:- That, as a reference for consideration of any application for a certificate of appropriateness, the following distinguishing characteristics and historic significance that are specifically relevant to this property include all of the following:

(a) The "U"-shaped design of the building.

(b) The unique "LINDE" emblazoned on the smokestack, identifying the Linde Air Products Co. that had the structure built in 1918 to house an oxygen plant.

Section 4:- That the official Zoning Map for the City of Norfolk is hereby amended and reordained so as to reflect this rezoning.

Section 5:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 6:- That this ordinance shall be in effect from the date of its adoption.

11/09/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT SIX OR MORE DWELLING UNITS ON PROPERTY LOCATED 2219 COLONIAL AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted authorizing the construction of six (6) or more dwelling units on property located at 2219 Colonial Avenue. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 169 feet, more or less, along the western line of Colonial Avenue, beginning 130 feet, more or less, from northern line of West 22nd Street and extending northwardly; premises numbered 2219 Colonial Avenue.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) No more than 15 dwelling units shall be constructed on the property.

(b) No parking in front of the building shall be permitted, and the property owner shall post signage noting the prohibition in a conspicuous location.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

(a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was

enacted and for which the regulations of the district in question were established;

(b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;

(c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in § 25-8 below, to mitigate potential adverse impacts;

(d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;

(e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;

(f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;

(g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;

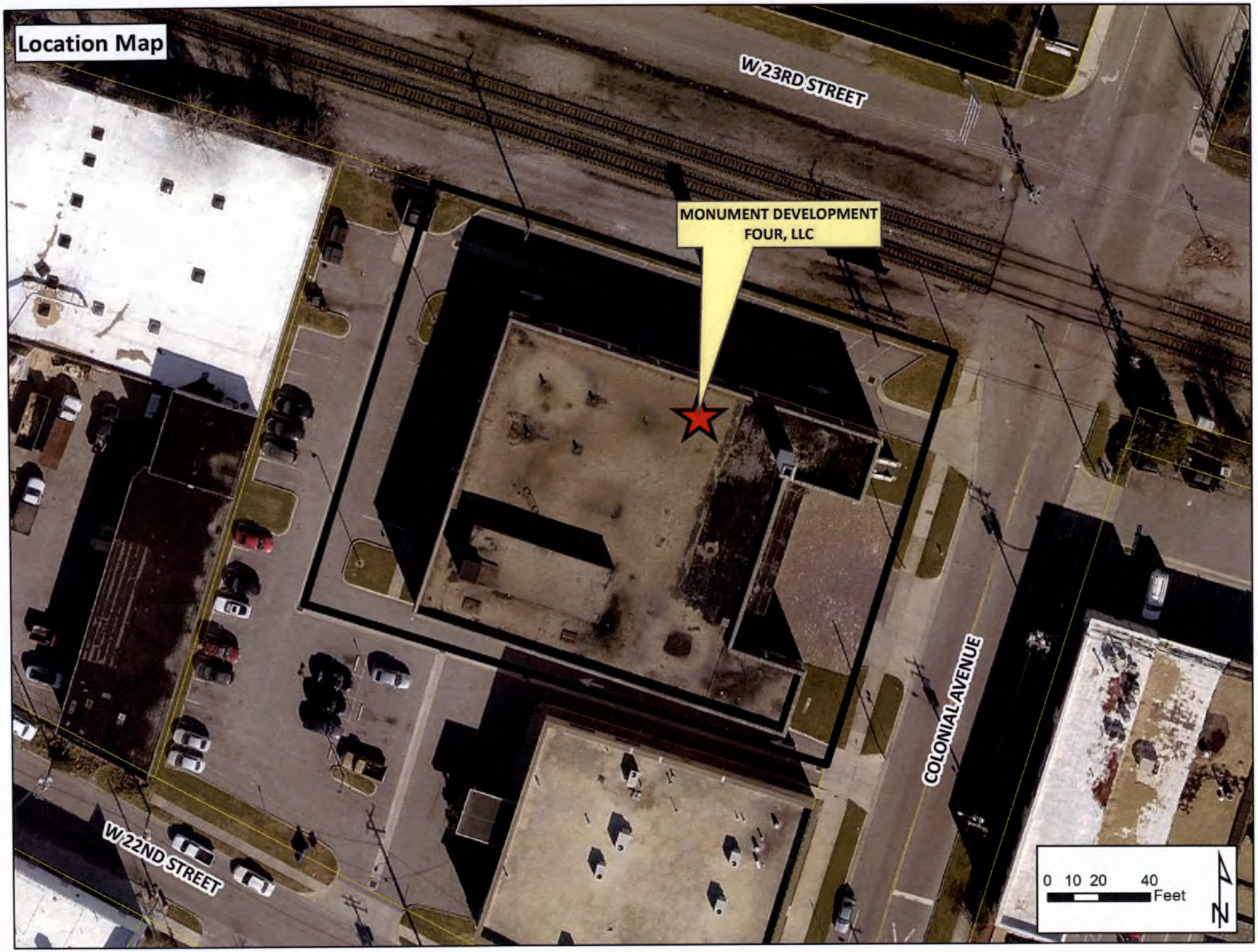
(h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;

(i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

(j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and

(k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.


Location Map
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MONUMENT DEVELOPMENT
FOUR, LLC
COLONIAL AVENUE
W 22ND STREET
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Feet
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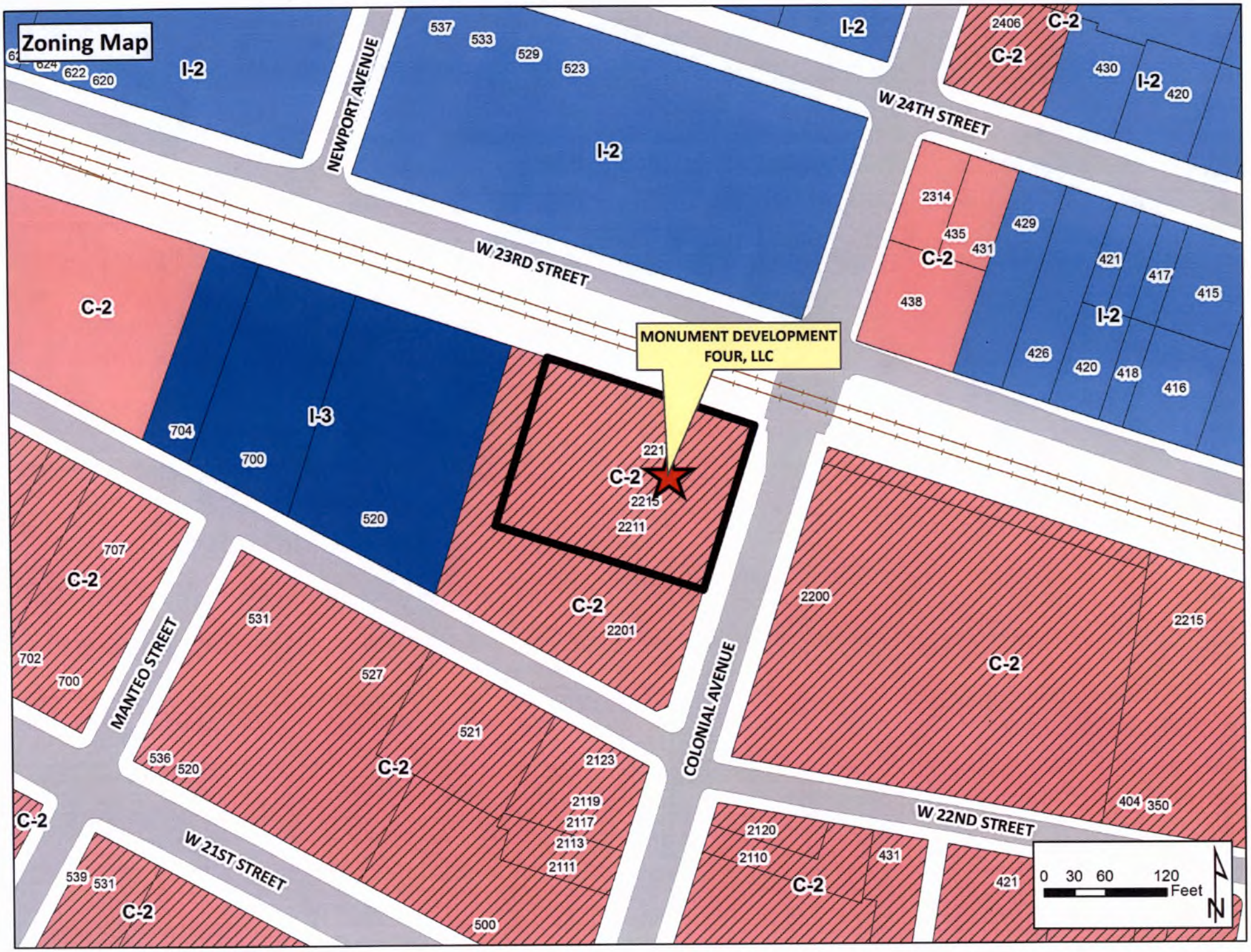
Zoning Map
MONUMENT DEVELOPMENT FOUR, LLC
W 23RD STREET
W 24TH STREET
W 22ND STREET
W 21ST STREET
NEWPORT AVENUE
MANTEO STREET
COLONIAL AVENUE
I-2
I-3
C-2
537
533
529
523
624
622
620
2406
430
420
2314
435
431
429
421
417
415
438
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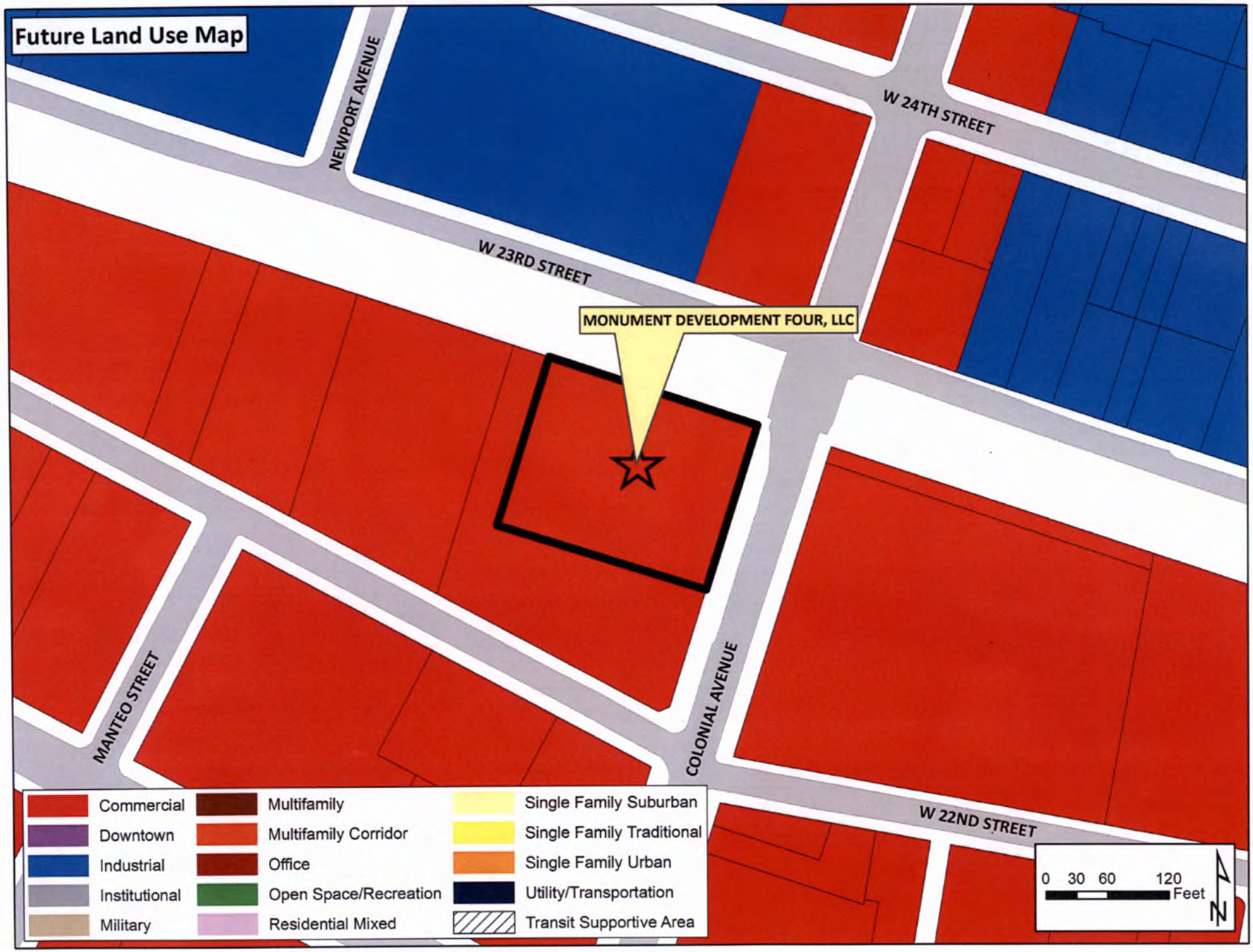

Future Land Use Map
NEWPORT AVENUE
W 24TH STREET
W 23RD STREET
MONUMENT DEVELOPMENT FOUR, LLC
MANTEO STREET
COLONIAL AVENUE
W 22ND STREET
Commercial
Downtown
Industrial
Institutional
Military
Multifamily
Multifamily Corridor
Office
Open Space/Recreation
Residential Mixed
Single Family Suburban
Single Family Traditional
Single Family Urban
Utility/Transportation
Transit Supportive Area
0 30 60 120
Feet
N

APPLICATION
CONDITIONAL CHANGE OF ZONING

Date of application: 9-26-2016

Conditional Change of Zoning

From: C2C2 **Zoning** **To: Conditional** C2C2 **Zoning**

DESCRIPTION OF PROPERTY

Property location: (Street Number) 2219 (Street Name) Colonial Ave.

Existing Use of Property: VACANT

Current Building Square Footage 16,282

Proposed Use Multi Family (more than 6 units)

Proposed Building Square Footage 16,282

Trade Name of Business (If applicable) Not Determined

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

Monument Development Four, LLC

1. Name of applicant: (Last) Johnson (First) Chris (MI) ____

Mailing address of applicant (Street/P.O. Box): 1425 E. Cary Street

(City) Richmond (State) VA (Zip Code) 23219

Daytime telephone number of applicant (804) 303-7347 Fax (804) 303-7348

E-mail address of applicant: CJohnson@themonumentcompanies.com

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

REQUIRED ATTACHMENTS

- ✓ Required application fee, **$705.00** (if check, make payable to the City of Norfolk).
  - Application fee includes a non-refundable $5 technology surcharge.
  - If accompanied with a necessary map amendment to the City's adopted general plan, *plaNorfolk2030*, an additional technology surcharge of **$5** will be required.
- ✓ One 8½ x 14 inch or 11 x 17 inch copy of a physical survey, drawn to scale and showing site conditions and improvements (including portions of the right-of-way to the curb line):
  - Existing and proposed building structures
  - Driveways
  - Parking
  - Landscaping
  - Property lines (see attached example)
- ✓ One 8 ½ x 14 inch or 11 x 17 inch copy of a conceptual site plan drawn to scale and showing all proposed site improvements, landscaping, drive aisles and parking with dimensions, and proposed changes to parcel/property lines (including lease lines) if applicable.
- ✓ Proffered conditions.
- ✓ Written description and details of the operation of the business (i.e., # of employees, # of bays, reason for rezoning, etc...)

CERTIFICATION:

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

L & L of Norfolk, LLC
Richard G. Levin

Print name: _____ **Sign:** _____ 9 / 26 / 2016
(Property Owner) (Date)

Monument Development Four, LLC

Print name: Chris Johnson **Sign:** _____ 9 / 26 / 2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Allan W. Sullivan **Sign:** _____ 9 / 26 / 2016
(Authorized Agent Signature) (Date)

APPLICATION
SPECIAL EXCEPTION

AWS

Special Exception for: Multi-family (more than 6 units)

Date of application: 9-26-2016

DESCRIPTION OF PROPERTY

Property location: (Street Number) 2219 (Street Name) COLONIAL

Existing Use of Property VACANT

Current Building Square Footage 16,282

Proposed Use

MULTI FAMILY APARTMENTS

Proposed Square Footage 16,282

Proposed Hours of Operation: APARTMENTS 24/7

Weekday	From		To	
Friday	From		To	
Saturday	From		To	
Sunday	From		To	

Trade Name of Business (If applicable) NOT DETERMINED.

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

APPLICANT
(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

~~THE MONUMENT COMPANIES~~
MONUMENT DEVELOPMENT FOUR, LLC

1. Name of applicant: (Last) JOHNSON (First) CHRIS (MI)

Mailing address of applicant (Street/P.O. Box): 1425 E. CARY STREET

(City) RICHMOND (State) VA (Zip Code) 23219

Daytime telephone number of applicant (804) 303 7347 Fax (804) 303-7348

E-mail address of applicant: CJOHNSON@THEMONUMENTCOMPANIES.COM

AUTHORIZED AGENT (if applicable)
(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) SULLIVAN (First) ALLAN (MI) W.

Mailing address of applicant (Street/P.O. Box): 2106 LLEWELLYN AVE

(City) NORFOLK (State) VA (Zip Code) 23517

Daytime telephone number of applicant (757) 434-3316 Fax (757) 625-5411

E-mail address of applicant: ALSULLIV @VT.EDU

PROPERTY OWNER
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

L & L OF NORFOLK, LLC

3. Name of property owner: (Last) LEVIN (First) RICHARD (MI) G

Mailing address of property owner (Street/P.O. box): 2106 LLEWELLYN AVE

(City) NORFOLK (State) VA (Zip Code) 23517

Daytime telephone number of owner (757) 630-2342 email: RICHARDGLEVIN@GMAIL.COM.

CIVIC LEAGUE INFORMATION

Civic League contact: TED ENRIGHT

Date(s) contacted: SEPT 20, 2016

Ward/Super Ward information: WARD 2 / SUPERWARD 6

CERTIFICATION:
I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

L&L OF NORFOLK, LLC

Print name: RICHARD G. LEVIN **Sign:** _____ 9, 26, 2016
(Property Owner or Authorized Agent of Signature) (Date)

~~THE MONUMENT COMPANIES~~ Monument Development Four, LLC

Print name: CHRIS JOHNSON **Sign:** _____ 9, 26, 2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: ALLAN W. SULLIVAN **Sign:** _____ 9, 26, 2016
(Authorized Agent Signature) (Date)

DENOTES PROPOSED INGRESS/EGRESS & DRAINAGE EASEMENT HEREBY ESTABLISHED

NORFOLK & WESTERN RAILROAD
M.B. 2 P. 39

PROPOSED 20' INGRESS/EGRESS & DRAINAGE EASEMENT HEREBY ESTABLISHED

N: 3484027.2004
E: 12128948.5339

S 71°28'34" E 250.07'(TOTAL)

PROPOSED PROPERTY LINE

NOW OR FORMERLY
YUKON CORPORATION
D.B. 1459 P. 148

PROPOSED 22' INGRESS/EGRESS & DRAINAGE EASEMENT HEREBY ESTABLISHED

PROPOSED PROPERTY LINE

PARCEL A-1
36541.9 SQ. FT.
0.84 ACRES

1 STORY BRICK BUILDING

2219
PARCEL A

PARCEL A-2
32750.7 SQ. FT.
0.75 ACRES

1 STORY BLOCK & CONCRETE BUILDING (2201)

N 72°30'04" W 213.55'

N 17°29'56" E 235.61'

N 17°29'56" E 174.03'

S 17°29'56" W 286.75'(field)

COLONIAL AVENUE (80' R/W)
(M.B. 2 P. 39)

W. 22nd STREET (VAR. R/W)
(M.B. 4 P. 22)

N 61°39'46" W 245.31'

S 67°55'05" W 11.80'

N: 3483750.8858
E: 12128861.4113

THE VERIFIED SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM SOUTH ZONE NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN ARE EXPRESSED IN U.S. SURVEY FEET.

LINE	BEARING	DISTANCE
L1	N 61°39'46" W	137.41'
L2	N 28°20'14" E	28.84'
L3	S 17°31'52" W	62.89'
L4	N 72°30'04" W	138.59'
L5	N 17°29'56" E	109.54'
L6	N 17°29'56" E	22.00'
L7	S 17°29'56" W	122.20'
L8	S 17°29'56" W	20.00'
L9	S 71°28'34" E	224.58'
L10	N 17°29'56" E	168.22'
L11	N 72°30'04" W	63.95'
L12	N 17°31'52" E	60.80'
L13	N 28°20'14" E	26.78'
L14	S 61°39'46" E	22.00'
L15	S 72°30'04" E	202.55'
L16	S 17°29'56" W	125.82'
L17	N 71°28'34" W	202.58'

C:\07\07-53-1ps.dwg

0' 30' 60' 90'

LEGEND

-o- IRON PIN (SET) -O- CONCRETE MONUMENT (SET)
-•- IRON PIN (FOUND) -■- CONCRETE MONUMENT (FOUND)

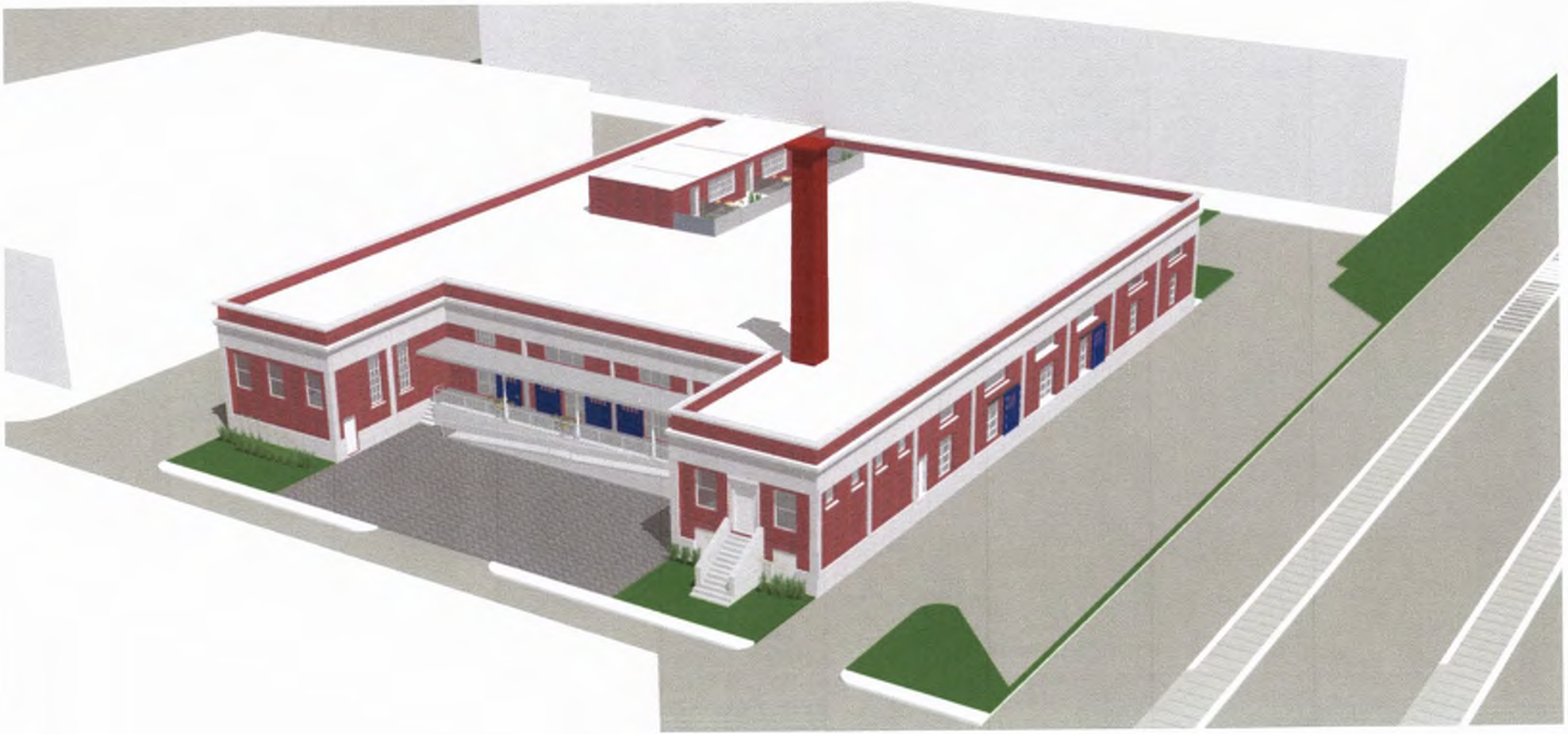
COMMONWEALTH OF VIRGINIA
BRUCE L. GALLUP
No. 1484
2-6-13
LAND SURVEYOR

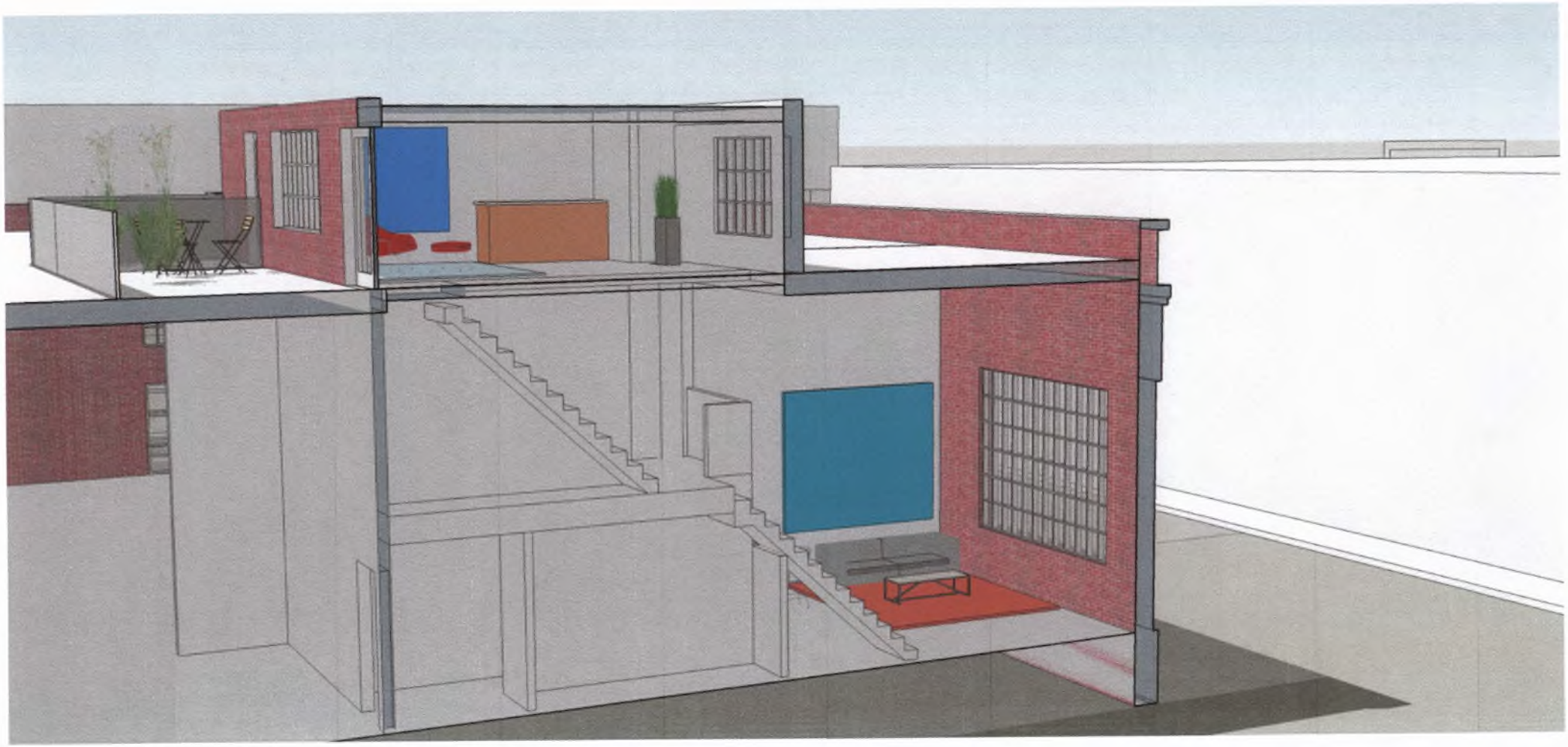
PRELIMINARY
RESUBDIVISION
OF
PARCEL A
OF
PARCELS DESCRIBED IN
INSTRUMENT NUMBER 060041275
M.B. 66 P. 54
NORFOLK, VIRGINIA
SCALE: 1" = 30' FEBRUARY 6, 2013

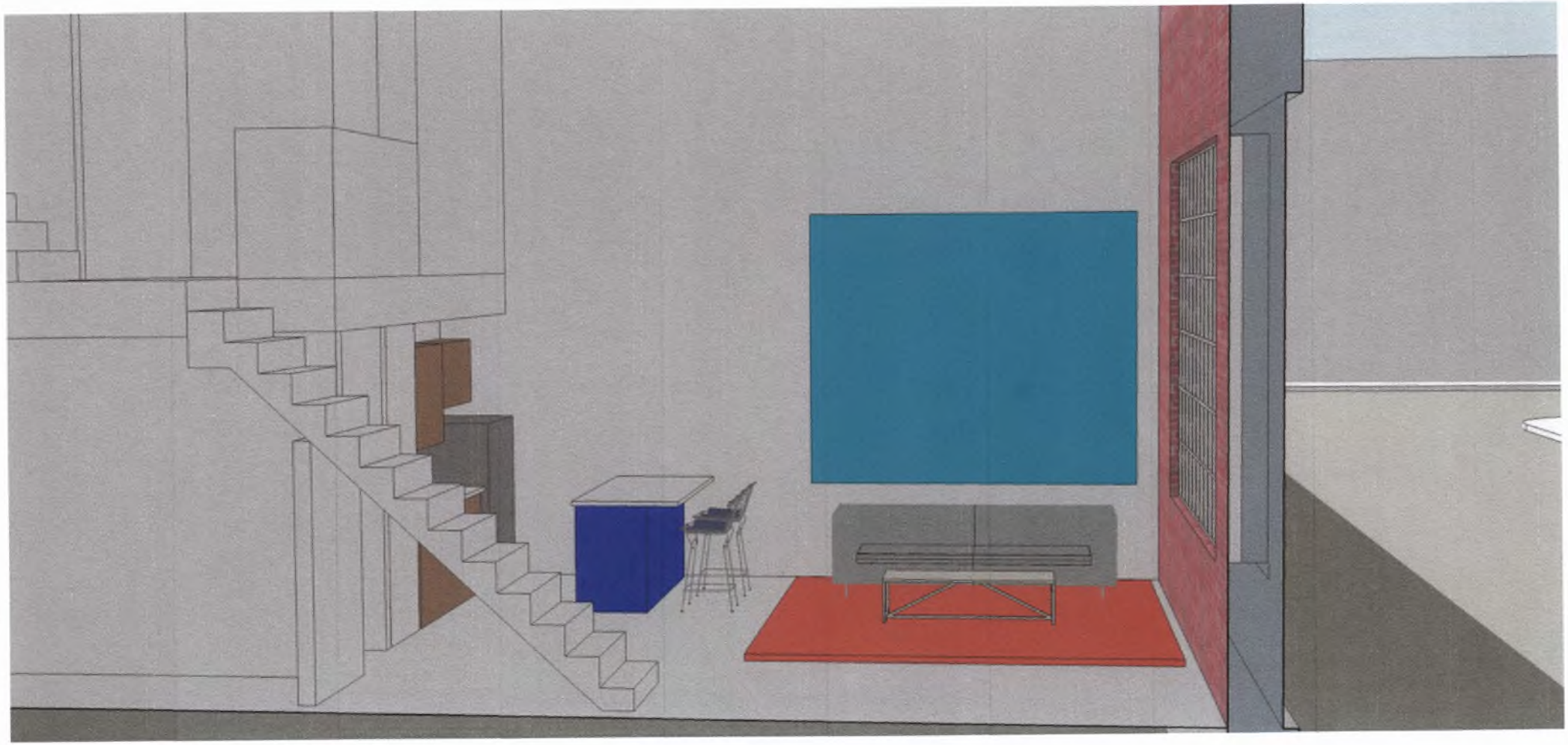
GALLUP
SURVEYORS & ENGINEERS, LTD.
323 FIRST COLONIAL ROAD
VIRGINIA BEACH, VIRGINIA 23454
(757)428-8132

SHEET 1 OF 1

F.B. 482 P. 18-22







Monument Development Four, LLC - Notification sent to all Property Owners within 300 feet

Property Owner	Property Address	Mailing Address		
Levin, Richard G & Judith A	2117 Colonial Av	2106 Llewellyn Ave	Norfolk	VA
L & L Of Norfolk, Llc	700 W 21st St	2106 Llewellyn Ave	Norfolk	VA
L & L Of Norfolk, Llc	700 W 21st St	2106 Llewellyn Ave	Norfolk	VA
L & L Of Norfolk, Llc	706 W 22nd St	2106 Llewellyn Ave	Norfolk	VA
Campbell, Charles M & Ann R	2111 Colonial Av	1200 Glenside Dr	Va Beach	VA
Downing Family Llc	2110 Colonial Av	Po Box 6284	Norfolk	VA
Downing Family Llc	2120 Colonial Av	Po Box 6284	Norfolk	VA
Rdr Enterprises Llc	420 W 23rd St	835 Philpotts Rd	Norfolk	VA
520 W 22nd, Llc	700 W 22nd St	305 Brooke Ave Unit 404	Norfolk	VA
Anderson, Gregory K	438 W 23rd St	921 Muller Ln	Virginia Beach	VA
Ghent Development Group Llc	2200 Colonial Av	2106 Llewellyn Ave	Norfolk	VA
426west23rd, Llc	426 W 23rd St	426 W 23rd St	Norfolk	VA
Anderson, Gregory K	435 W 24th St	921 Muller Ln	Virginia Beach	VA
Anderson, Gregory K	2314 Colonial Av	921 Muller Ln	Virginia Beach	VA
Venture 24, Llc	529 W 24th St	819 W Little Creek Rd	Norfolk	VA
Venture 24, Llc	529 W 24th St	819 W Little Creek Rd	Norfolk	VA
Stewart, Matthew W	431 W 22nd St	422 W 21st St	Norfolk	VA
Trevilian Landmark, Llc	429 W 24th St	2349 Haversham Close	Virginia Beach	VA
520 W 22nd, Llc	520 W 22nd St	305 Brooke Ave Unit 404	Norfolk	VA
The Rosemyr Corp	432 W 21st St	Po Box 108	Henderson	NC
The Rosemyr Corp	432 W 21st St	Po Box 108	Henderson	NC
Twenty-One West Llc	520 W 21st St	315 Edwin Dr Ste 103	Virginia Beach	VA
Monarch Bank Et Al	500 W 21st St	6001 Harbour View Blvd	Suffolk	VA
Monarch Bank Et Al	521 W 22nd St	1435 Crossways Blvd	Chesapeake	VA
L & L Of Norfolk, Llc	2219 Colonial Av	315 Edwin Dr Ste 103	Virginia Beach	VA
2201 Colonial Avenue, Llc	2201 Colonial Av	16 Court St Ste 800	Brooklyn	NY

Pollock, Susan

From: McDonald, Colette
Sent: Wednesday, September 28, 2016 11:44 AM
To: 'info@ghentva.org'; Douglas Knack; Ted Enright
Cc: Whibley, Terry; McClellan, Andria; Pollock, Susan; Wilson, Denise
Subject: New Planning Commission Application - 2219 Colonial Avenue
Attachments: Application.pdf

Ms. Birknes, Mr. Knack, and Mr. Enright,

Attached please find an application for **MONUMENT DEVELOPMENT FOUR, LLC**, for the following applications at 2219 Colonial Avenue:

a. Change of zoning to modify conditions attached to the property; zoned conditional C-2 (Corridor Commercial).
b. To designate the existing structure as a Norfolk Historic Landmark.
c. Special exception for a multi-family development with more than six dwelling units.

Staff contact: Susan Pollock Hart at (757) 664-4765, susan.pollock@norfolk.gov

The item is tentatively scheduled for the November 10, 2016 Planning Commission public hearing.

Thank you,

Colette McDonald
City of Norfolk Planning Technician

THE CITY OF NORFOLK
Planning Department
810 Union Street | Suite 508
Norfolk, VA 23510
Email | Colette.McDonald@Norfolk.gov
Phone | (757) 664-6771

Ghent Business Association

October 21, 2016

City Council
Planning Commission
City of Norfolk
City Hall
Norfolk, VA 23510

To whom it may concern,

The GBA would like to express its support for the project proposed for the address 2219 Colonial Ave by Monument Construction (Monument Companies Four). This project presents a much needed redevelopment for our district. It is a good use for the building, and we are confident that the owner will do a great job. We recommend that the Planning Commission approve the project as proposed.

Sincerely,

Ted Enright
Corresponding Secretary
Development Committee Chairman
Ghent Business Association

P.O. Box 11571 • Norfolk, VA 23517

7525, LLC
M&L Realty, LLC

November 7, 2016

Mrs. Susan Pollock, City Planning Administrator
810 Union Street
Norfolk, Virginia 23510

RE: 2219 Colonial Avenue, Norfolk, VA 23517

Dear Mrs. Pollock:

As a property owner in the Ghent/Park Place Corridor, I would like to ask that planning **approve** the rezoning application by Monument Builders for the above referenced property.

This property has been vacant and in need of revitalization for a number of years. The property is a beautiful historic building and the only feasible way to preserve the historic integrity is to allow for the development of residential units. Monument Builders of Richmond has made application which would assure a beautiful renovation, which I fully support and encourage.

Sincerely,

Diane Fentress Matheson

Diane Fentress Matheson, 757 773-2338

November 7, 2016

Susan Pollock,
Planning Administrator
City of Norfolk
8100 Union Street
Norfolk, VA 23510

2219 Colonial Avenue, Norfolk VA 23517

Dear Mrs. Pollock,

I am writing to inform you that I support the application of MONUMENT DEVELOPMENT to preserve the Dagenhart Building and convert to residential housing.

This will also allow us to find a use for a Building that has been vacant for many years.

Thank you for your consideration. I am excited that this Company is willing to spend the funds needed to save the building as opposed to tearing it down.

Yours truly,

Bill Anderson

November 7, 2016

Susan Pollock,
Planning Administrator
City of Norfolk
8100 Union Street
Norfolk, VA 23510

2219 Colonial Avenue, Norfolk VA 23517

Dear Mrs. Pollock,

As a long time multiple property owner along Monticello Avenue, I support the Application of MONUMENT DEVELOPMENT to preserve the Dagenhart Building and convert to residential housing.

This Building has been vacant for many many years and is in poor condition. Preserving this building is very important and converting to residential housing would be a perfect use.

Thank you for your consideration. I fully support the project.

Yours truly,

Charles [Joe] Laframboise

November 7, 2016

Susan Pollock,
Planning Administrator
City of Norfolk
8100 Union Street
Norfolk, VA 23510

2219 Colonial Avenue, Norfolk VA 23517

Dear Mrs. Pollock,

I was very excited to hear that there has been an application submitted by MONUMENT DEVOLOPMENT for the renovation and conversion of the Historic Dagenhart Building to Apartments.

As a long time multiple property owner in this area, I am excited and I fully support the Application.

Finding a use that will allow for the preservation of this great building is paramount and eliminating a long time vacant building from the area is exactly what I want to see. Bringing residential to this area will also help and support all the existing businesses and properties in the area.

Thank you for your consideration,

Yours truly,

Ben Mahgerefteh

Michael Millard-Lowe Antiques
242 W 21st Street
Norfolk, Virginia 23517
757.776.9046
www.Millard-Lowe.com
Email: Shop@Millard-Lowe.com

07 November 2016

To Whome it may concern:

I am writing to express my support for the Dagenhart building project. I am a local business owner in close proximity to the proposed site. I think that the restoration of the building will add interest and complete the streetscape that is badly in need of renewal.

In, fact I had invisioned something along the same lines when I was looking at the property myself.

Sincerely

Michael Millard-Lowe

RADIN & RADIN, P.C.

ATTORNEYS AND COUNSELORS AT LAW

Melvin J. Radin
Romy L. Radin

Suite 6
2200 Colonial Avenue
Norfolk, VA 23517

Telephone: (757) 623-1216
Facsimile: (757) 624-1718

November 7, 2016

Susan Pollack Hart, Principal Planner
Department of City Planning
City Hall Building
810 Union Street, Suite 508
Norfolk, VA 23510

Re: 2219 Colonial Avenue
Norfolk, Virginia 23517

Dear Ms. Hart:

I ask that you present this letter to the City Planning Commission as an indication of support for the proposed apartment development for the property located at 2219 Colonial Avenue, Norfolk, Virginia.

As a tenant in the Ghent Market Shoppes and Offices located across Colonial Avenue, I know the proposed apartment building would benefit the surrounding businesses, and the neighborhood as a whole. The building has been vacant for some time. Such a renovation is needed to create new activity for the area.

With kind regards, I remain

Very truly yours,

Romy L. Radin

RLR/mw

November 7, 2016

Susan Pollock,
Planning Administrator
City of Norfolk
8100 Union Street
Norfolk, VA 23510

2219 Colonial Avenue, Norfolk VA 23517

Dear Mrs. Pollock,

I very much hope that the Application of MONUMENT DEVELOPMENT to preserve the Dagenhart Building and convert to residential housing is approved.

It appears that no other use has been feasible and I certainly encourage converting to residential.

I am also excited that this is a way to preserve the Building and to finally eliminate having an old vacant building in the neighborhood.

Thank you for your consideration and again, I fully support the project.

Yours truly,

Emilio Sousa
Sousa Builders
241 W 22nd Street

11/8/16

To whom it may concern,

I am the owner of Café Stella located at 1907 Colonial Avenue in the Ghent section of Norfolk. On Thursday November 10th an application to renovate the building located at 2219 Colonial Avenue is scheduled to be heard by the City Planning Commission. This project proposes 15 apartments as an all residential use. As a business owner, I fully support this project as proposed that will bring greater foot traffic to the local merchants. We all compete for the existing customer base and bringing more density to the corridor represents more dollars that can/will be spent in our establishment. I applaud the developers for having the vision and confidence in our great neighborhood as a place to make an investment. Please add this correspondence to the official record to be presented to the commission and note that I support this proposal without reservation.

Stella Pomianek
Owner
Café Stella

11/7/16

Susan Pollock
8100 Union Street
Norfolk, VA 23510

Dear Mrs. Pollock,

I have recently become aware of the proposed residential project located at 2219 Colonial Ave. I am the owner of Plaza Del Sol at 2200 Colonial Ave directly across the street from the proposed development. Currently the building has been sitting vacant for 10+ years and attracts many vagrants that deter customers from patronizing my business. I believe that this project will increase foot traffic and be a tremendous boost to the business community in this corridor. I wish to offer my full support of this project as proposed and hope the commissioners will see to it that we can revitalize this historic structure.

Sincerely,

Laticia Alonso

Laticia Alonso

Pollock, Susan

From: jgrimesiv@cox.net
Sent: Saturday, November 05, 2016 2:15 PM
To: Homewood, George
Cc: Pollock, Susan; perreault3@cox.net; joanne; CBSFURR

Mr. Homewood:

The Norfolk Preservation Alliance has become aware of two preservation issues in Ghent of extreme importance. We request your attention and efforts to avoid potential losses of two important historic buildings:

1. The former Dangenhart Building is located on Colonial Ave adjacent to the RR tracks. It has been vacant for at least 15 years. It is a large warehouse size building of very appealing architecture. The owner, Richard Levin, has a potential buyer, Monument Construction, that wants to convert the building into 15 luxury apartments using historic tax credits. Monument has an excellent record of completing such projects, most prominently in Richmond. This is a case where we have a willing seller and buyer with a goal of a quality historic renovation.

It is our understanding that the ARB is favorable to the project, as is Planning Staff. However, we understand that you have indicated that the project will not be approved unless it is mixed use, with a commercial component. It is scheduled to go to Planning Comm meeting this Thurs.

Our understanding is that Monument has no interest in a commercial component. The area is heavily commercial, with little residential in the immediate area. This project would add residents who could take advantage of the surrounding businesses.

We are at a loss to understand why the project cannot be approved as proposed.

The owner had an offer to buy the building about 5 years ago, but he didn't sell because that potential buyer wanted to tear down the building. Mr. Levin has a great appreciation for historic buildings, particularly attractive ones like the Dagenhart, and he didn't sell it.

If the City doesn't approve this fine proposal for adaptive reuse of this historic building, the owner will essentially be in a position where his only option is to sell it to someone for demolition.

We believe you would agree that retention and renovation of this fine building using historic tax credits would be an asset for the community and the City.

Can you explain why you believe the project cannot be approved as requested? We understand the zoning is C2, but rezonings are pretty commonplace should not be an issue in this case.

We ask that you approve the proposal to convert the building to apartments, as proposed.

We see this potential project as a reason for great celebration, and we hope for a successful historic renovation project.

2. The owner of a brick apartment building located at 616 Graydon Ave has been working on a renovation project using historic tax credits. It is our understanding that because the cost is greater than he anticipated, he now wishes to demolish the building. Apparently, it will be discussed at this Monday's meeting of the Architecture Review Board. By ordinance, the ARB shall consider objective information showing whether preservation of a building would generate a reasonable economic return and not the current property owner's particular financial resources or preference for use of the structure. If the owner believes the cost is too much for HIM to renovate the building, then by the Ordinance he can put it up for sale and if he doesn't sell it within a year then he can propose to demolish it. The Code at 9-4.3 describes how such an offer for sale is to be managed.

We have found the ARB to be less than consistent in applying the requirements of the code with regard to demolition. We request that you contact encourage the ARB to abide by and enforce the code regarding demolition of historic structures. It is virtually impossible that this building meets the standard for demolition, given that it is in good enough state that the owner had already undertaken a renovation project. As you know, the Code says:

"Economic infeasibility. The burden to adequately demonstrate economic infeasibility shall be on the applicant for the certificate of appropriateness. In considering economic infeasibility, the ARB shall consider objective information showing whether preservation of the building would generate a reasonable economic return and not the current property owner's particular financial resources or particular preference for use of the structure. No portion of the costs associated with preservation that is related to neglect or lack of maintenance of the property by the current owner shall be considered for purposes of determining economic infeasibility.

(1) All of the following documents shall be provided by the applicant in order to facilitate a determination of economic infeasibility, unless any of them are deemed unnecessary by the zoning administrator:
(i) An appraisal of the property where the demolition is proposed;
(ii) A report completed by a person with demonstrated expertise in historic structures detailing the estimated cost to perform an historic rehabilitation of the property; and
(iii) A structural report completed by a licensed engineer with demonstrated expertise in historic structures.
(iv) Any other document or information that might be requested by the ARB during its consideration of the application for a certificate of appropriateness.

We have only just become aware of these two important historic preservation issues, an both are urgent. We look forward to hearing from you, and are hopeful for a positive pro-historic property outcome for both projects.

Alice Allen-Grimes
Norfolk Preservation Alliance

Pollock, Susan

From: Ted Enright <ted@nusbauminsurance.com>
Sent: Wednesday, November 09, 2016 12:26 PM
To: Homewood, George
Cc: Pollock, Susan
Subject: Dagenhart Building

Hi George / Susan,

I hope this email finds you well. George, you probably don't know me, but I am the chairman for the Ghent Business Association's Development Committee, as well as the Corresponding Secretary for the GBA. The Planning Commission will be receiving, or already has received, a letter from the GBA Board in strong support for the project proposed by Monument Construction at the location of the old Dagenhart Sprinkler building. This email, however, is from me personally, and echoes the sentiment felt by everyone on my committee that has knowledge of this proposed project. Approving this project as proposed is without question the appropriate action. As somebody who works with many businesses in and around Ghent, I know that there is a surplus of commercial retail, restaurants, and services. Many other commercial spaces are and have been sitting unoccupied for some time, which indicates a saturation point. In contrast, the area can really benefit from additional residential density. The applicants going before council for approval to build this project have the creativity, financial backing and the capabilities to convert a very old, dilapidated building that attracts a negative element to Ghent, into a beautiful, thriving residential building at the gateway to our commercial district. This is something that the Monument Companies have done successfully in other old cities, as you already know. To ask them to force some kind of odd commercial feature into what is already a relatively small building, with little parking, and a unique street facing elevation does a disservice to everyone involved, including the neighbors to this property. I, and many others, want to see this move forward, and I ask that you strongly support our neighborhood's positive development. Please let me know if you have any questions.

Thanks,

Ted Enright
Vice President
Phone: 757-622-4653
Mobile: 757-404-0476
Fax: 757-624-1573
S.L. Nusbaum Insurance Agency, Inc.
500 W. 21st Street, Suite 300
Norfolk, VA 23517
http://www.nusbauminsurance.com/

Your Satisfaction is very important to us. If you feel my service has been less than excellent, or if this correspondence was not clear to you, please let me know immediately so I can correct any

Sam Segar & Associates
REALTORS®

Commercial, Industrial and Investment Real Estate
315 Edwin Drive, Suite 103, Virginia Beach, VA 23462
(757) 497-4446 Office (757) 497-8904 Fax

November 9, 2016

Norfolk Planning Commissioners
Norfolk City Council

RE: 2219 Colonial Avenue (prior Dagenhart Sprinlker facility) Norfolk, VA: rezoning for residential development component.

Dear Norfolk City Council and Norfolk Planning Commissioners,

It has come to my attention, as Sam Segar & Associates Inc., Commercial Realtors is and has been very active in this submarket for the last 15 + years, that the above referenced property is being considered by the Norfolk Planning Commissioners and Norfolk City Council for a rezoning venue to Residential product.

In my humble opinion, this is an 'excellent' usage. There is, and there has been, a strong current of interest, by business owners and property owners, as well as developers, to establish a growing residential base in this corridor, as well as North across the Railroad into the 23rd to 26th Streets area, which is also starting to transform from older industrial product to an area where living and working are close/nearby.

The development and establishment of a strong residential component will benefit the entire area, and will enhance all of the pertinent parties increased interest and facilitate their contributions to building a stronger Community.

As a Commercial Realtor being very active in this submarket, I would and will really support this residential growth dynamic as a "win" for our City.

Thank you for your consideration.

Frank P. Thomas, III

CCIM
Individual Members

SIOR
Individual Membership

Pollock, Susan

From: Michael Khandelwal at The Muse Writers Center <michael@the-muse.org>
Sent: Monday, November 07, 2016 2:31 PM
To: Pollock, Susan
Subject: letter in support

Importance: High

Hi Susan,

I was asked to write you about the proposed project to bring housing to that building (with the smoke stack) across the street from the new Muse location (Colonial and about 22nd).

It sounds like a great idea to me. Having apartments or condos there would be great!

Please put me down in the local-business-owner-who-likes-the-idea category!

Best,
Michael

Michael Khandelwal, Executive Director
The Muse Writers Center
www.the-muse.org
michael@the-muse.org
The Muse on Facebook: www.facebook.com/TheMuseWritersCenter
Muse Phone: 757-818-9880
Home Office: 757-625-0001
Cell: 757-793-7857

Cc: "emilybirknes@gmail.com" <emilybirknes@gmail.com>, "Karen Reynes (kreynes@aol.com)" <kreynes@aol.com>, "Paige Rose (pjuretic@yahoo.com)" <pjuretic@yahoo.com>, 'Robyn Thomas' <rthomas@robynthomasarchitect.com>, "cjohnson@themonumentcompanies.com" <cjohnson@themonumentcompanies.com>, "MOJO BONES (mojobonesov@gmail.com)" <mojobonesov@gmail.com>, "urbancastaways@gmail.com" <urbancastaways@gmail.com>
Subject: Ghent Neighborhood League Comments for Planning Commission

Dear Mr. Homewood:

This email is to forward comments from the Ghent Neighborhood League (GNL) in regard to projects scheduled for discussion at the November 10 Planning Commission Public Hearing. The GNL Project Review Committee met on November 2 and we offer the following comments on these four projects on the agenda:

- Item 3 – Palace Shops South – Ms. Robyn Thomas presented the proposed alternative signage to the Committee at our October meeting on behalf of the owner and showed examples of what electronic signage might look like. At the time, we understand that Planning Commission was still considering various signage details such as size, location, hours, brightness, etc. The GNL Committee recognized that electronic signage is attractive to the business community and likely a growing trend and had no objections to the proposed signage in Ghent, within the parameters defined by the Planning Commission. This topic was also addressed at the October 20 general Civic League meeting without opposition.

- Item 4 – Monument Development Four – Mr. Chris Johnson of the Monument Companies attended GNL's November 2 meeting to present the proposed project. There was some discussion about potential commercial use, but the Committee supported the residential re-use as proposed with the recognition of the value of additional residents to existing commercial businesses and the activation of this area in general.

- Item 6 – Independence Tattoo III – Owner Mr. Don Rockwell attended GNL's October meeting to present the proposed project. While individuals still have varied opinions of the tattoo industry in general, the Committee recognized that Mr. Rockwell had carefully selected his site to be in compliance with current zoning regulations and supported the proposed project. Mr. Rockwell subsequently attended GNL's general meeting in October and no opposition was registered.

- Item 7 – Urban Castaways – Owner Ms. Ann Corletto attended GNL's November meeting to present the proposed move of her existing business. The Committee supported the application as presented.

Thank you for your consideration of these comments.

Sincerely,

Nat McCormick
Ghent Neighborhood League
Project Review Committee Chairman

Pollock, Susan

From: Claus Ihlemann <claus@decorumfurniture.com>
Sent: Tuesday, November 08, 2016 11:35 AM
To: Pollock, Susan; CP - Planning
Cc: Robert Roman
Subject: Planning Commission Meeting on November 10, Proposed residential Development at 2219 Colonial Avenue

Dear Susan Pollock,

I kindly ask that you share below email with Members of Planning Commission:

Dear Members of Planning Commission,

Subject: 2119 Colonial Avenue, aka The Dagenhart Building

The Property owner has proposed converting this building to 15 Luxury Residential Apartments, and we support this concept for the following reasons:

The first floor, or ground floor, of this building is elevated off street level by approximately 3' to 4'. This elevation would be a challenge for commercial store front re-development, and lack in connectivity to street activity. The existing structure is intended to be operated as a dock level warehouse building, but the would not be the highest and best use of the building.

Adding residential units to the neighborhood would be a benefit as the residents would have easy access to a broad variety of local restaurants, retailers and services.

It would benefit the pedestrian character of the neighborhood and connect well with the Bike lanes on Llewellyn Avenue just a couple of blocks from this location.

As parking is limited at the property, residential would not have a negative impact through peak business hours whereas a commercial development would further increase the stress on available parking.

Residential units would bring disposable income into our neighborhood, and enhance the tax base.

It is our hope that you will support the application for residential units as it will enhance the mixed use character of our neighborhood.

Sincerely yours

ClausIhlemann & Robert Roman

The Palace Shops & Station
Norfolk, VA 23517
757.438.2435

C: Dir., Department of General Services

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: David S. Freeman, AICP
Director of General Services

Subject: Jay Investment Corporation – Conveyance of the GEM lot located at 985 Parish Road

Reviewed: Sabrina Joy-Hogg, Chief Deputy City Manager

Ward/Superward: 4/7

Approved: Douglas L. Smith, Interim City Manager

Item Number: **PH-4**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Jay Investment Corporation
ATTN: Lloyd Vaughn
1504 Pine Grove Lane
Chesapeake, VA 23321

III. **Description:**
This agenda item is an ordinance for the conveyance of a vacant parcel of land owned by the City of Norfolk (the "city") to Jay Investment Corporation ("Jay"). This parcel is a GEM Lot and was acquired by the City under Section 58.1-3970.1 of the *Code of Virginia*, 1950, as amended.

IV. **Analysis**
Jay seeks to purchase and develop the property located at 985 Parish Road. It is a buildable corner lot in an established residential area located near E. Virginia Beach Blvd. This ordinance repeals *Ordinance 46,340* that was adopted on April 26, 2016. *Ordinance 46,340* authorized the sale of the property for the *assessed* value ($52,500). However, since that time, per the requirements of Jay's lender (Towne Bank), financing available for this purchase must be in line with the *appraised* value or the necessary funds for this transaction will not be provided. The total *appraised* value (and recommended purchase price) for this property is $30,000. Due to the change in the proposed price for the property, reconsideration of this sale is required by Norfolk City Council. If approved, this conveyance will still benefit the city by providing real estate tax revenue from Jay and any subsequent private owners. No specific city use has been identified otherwise for this property.

V. Financial Impact.

Cost for Conveyance	$30,000
Typical Costs of Closing	Each party to this transaction shall pay its own legal fees.
Appraised Value of Parcel	$30,000
Annual Tax Revenue of Parcel	$345 annually (will increase upon development of property)

VI. Environmental

There are no known environmental issues associated with this property.

VII. Community Outreach/Notification

In accordance with the *Norfolk City Charter* and *Code of Virginia*, a legal notice will be posted in *The Virginian-Pilot*. In addition, public notification for this agenda item was conducted through the city's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of General Services – Office of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Conveyance Agreement
- Exhibits
- Letter from Lender (Towne Bank)

12/2/2016-wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE AUTHORIZING THE CONVEYANCE TO JAY INVESTMENT CORPORATION OF A CERTAIN PARCEL OF PROPERTY LOCATED AT 985 PARISH ROAD FOR THE TOTAL SUM OF $30,000.00 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONVEYANCE AGREEMENT; AUTHORIZING THE RELEASE OF THE CITY'S RIGHT OF REVERTER UPON A CERTAIN CONDITION; AND REPEALING ORDINANCE NUMBER 46,340, ADOPTED ON APRIL 26, 2016.

- - -

WHEREAS, Section 58.1-3970.1 of the Code of Virginia, 1950, as amended, authorizes the appointment of a Special Commissioner for the purpose of conveying to localities, in lieu of public auction, certain real property with delinquent taxes and liens that meet certain criteria set forth therein; and

WHEREAS, the parcel of real property located at 985 Parish Road and more particularly described in Exhibit A, attached hereto and made a part hereof ("Property"), was conveyed to the City of Norfolk ("City") by a Special Commissioner's deed executed and delivered pursuant to a decree entered by the Circuit Court of the City of Norfolk in accordance with the provisions of Section 58.1-3970.1 of the Code of Virginia, 1950, as amended; and

WHEREAS, upon acquisition of the Property, the City recorded a Declaration of Protective and Restrictive Covenants

("Restrictive Covenants") in the Clerk's Office of the Circuit Court of the City of Norfolk, as Instrument No. 060011356, which document provides, inter alia, that a violation of any protective or restrictive covenant contained therein shall, in the sole discretion of the City, cause the title to the Property to revert to the City; and

WHEREAS, Council has determined that the Property is not needed for any of the uses or purposes of the City and is a continuing financial burden on the City; and

WHEREAS, Section 2(5) of the Norfolk City Charter provides the City with broad authority for the disposition of its real property; and

WHEREAS, Council has determined that the public interest is best served by the conveyance of the Property to Jay Investment Corporation ("Jay") for the sum of $30,000.00 upon the terms and conditions set forth in the Conveyance Agreement attached hereto as Exhibit B; and

WHEREAS, in order for the purchaser of the Property to be able to obtain appropriate financing, it may be necessary that the City's right of reverter be released as to the Property; now therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the conveyance of the Property, located at 985 Parish Road and further described in Exhibit A, to Jay for the total sum of $30,000.00 upon

the terms and conditions set forth in the Conveyance Agreement attached as Exhibit B, is hereby authorized and approved.

Section 2:- That the City Manager, and the other proper officers of the City, are authorized to execute the Conveyance Agreement on behalf of the City of Norfolk and, upon receipt of the sum of $30,000.00, to be disbursed in accordance with the requirements of Section 58.1-3970.1 of the Code of Virginia, to deliver to Jay a Special Warranty Deed in form satisfactory to the City Attorney, and to do all other things necessary and proper to effect the conveyance of the said Property to Jay.

Section 3:- That the City Manager is authorized to release the City's right of reverter as to this Property upon receipt by the City of written certification by Jay that financing cannot be obtained for the purchase of the Property unless the City's right of reverter is released. In all other respects, the Declaration of Protective and Restrictive Covenants recorded in the Clerk's Office of the Circuit Court of the City of Norfolk as Instrument No. 060011356 shall remain in full force and effect.

Section 4:- That the City Manager is further authorized to correct, amend or revise the Conveyance Agreement as he may deem advisable to carry out the intent of the Council as expressed herein.

Section 5:- That Ordinance number 46,340, adopted on April 26, 2016, is hereby repealed and shall be of no further force and effect.

Section 6:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

EXHIBIT "A"
Tax Account Number 4789-5157

ALL that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the City of Norfolk, Virginia and being known, numbered and designated as Lot AA as shown on the certain plat entitled Subdivision Plat of Lots 10,11,12 and Part of Lot "XX", Block 4, "Semi-Subdivision of the Haynes Tract", which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Map Book 49, page 58.

EXHIBIT B TO ORDINANCE

CONVEYANCE AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2016, between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), and **JAY INVESTMENT CORPORATION**, a Virginia corporation ("Jay").

RECITALS:

A. City is the owner in fee simple absolute of a certain parcel of real property, together with all rights and appurtenances thereunto pertaining, located in the City of Norfolk, Virginia, known as 985 Parish Road, more particularly described in Exhibit A, attached to and made a part of this Agreement (the "Property"), the City having acquired the same pursuant to the provisions of Section 58.1-3970.1 of the Code of Virginia, 1950, as amended.

B. Upon acquisition of the Property, the City recorded a Declaration of Protective and Restrictive Covenants ("Restrictive Covenants") in the Clerk's Office of the Circuit Court of the City of Norfolk, as Instrument No. 060011356, a copy of which is attached hereto as Exhibit B, which provides, inter alia, that a violation of any protective or restrictive covenant contained therein shall, in the sole discretion of the City, cause the title to the Property to revert to the City.

C. Jay desires to purchase the property from City and City desires to sell the property to Jay in accordance with the terms and conditions of this Agreement.

D. These recitals are incorporated by this reference into this Agreement.

E. The conveyance of the Property to Jay will enable Jay to construct attractive and affordable housing that will enhance the Property, as well as the neighborhood generally, and will return the Property to the real estate tax rolls.

NOW, THEREFORE, in consideration of the purchase price and the mutual promises contained in this Agreement, the City and Jay agree as follows:

1. SALE. City agrees to sell and Jay agrees to purchase the Property, together with all easements, rights, and appurtenances thereto.

2. PURCHASE PRICE. The purchase price ("Purchase Price") for the Property is **Thirty Thousand Dollars and 0/100 ($30,000.00)**. The Purchase Price will be paid in the form of a certified check or by wire transfer of funds at closing.

3. CONVEYANCE.

a. The City agrees to convey the property to Jay by Special Warranty Deed, subject to applicable easements and restrictive covenants of record, and specifically the Restrictive Covenants attached hereto as Exhibit B.

b. No building permit shall be issued for the development of a single-family dwelling on the parcels until a zoning certificate has been granted by the Department of City Planning, which verifies that the proposed single-family dwelling to be built on the parcels is consistent with the prevailing pattern in the neighborhood with respect to the footing, massing, scale, appearance, fenestration, roof lines and other exterior elements.

c. The deed shall contain a restrictive covenant limiting construction upon the property to single-family, owner occupied dwellings and structures appurtenant thereto for a period of five (5) years.

d. Possession of the Property will be given to Jay at Closing.

e. City agrees to pay the expenses of preparing the deed. Jay will pay all other fees and costs charged in connection with the transfer of the Property and the recordation of the deed.

f. City and Jay agree that the attorney or title insurance company ("Title Company") selected by Jay shall act as the settlement agent ("Settlement Agent") at Jay's expense. The Settlement Agent shall prepare the settlement statement, update and record the deed, collect and disburse settlement funds in accordance with this Agreement and the settlement statement, and file any required state and federal tax forms or other certifications in accordance with Paragraph 15.

4. FEASIBILITY PERIOD. Purchaser shall have ninety (90) days from the date this Agreement is executed by all parties in which to complete its assessment of the Property, including title examination and environmental assessment.

5. CLOSING. The Closing will be made at the offices of the Norfolk City Attorney, in Norfolk, Virginia 23510, or such other location as the parties may agree, within 30 days after expiration of the Feasibility Period, or as soon thereafter as settlement documents can be prepared and any title issues can be resolved.

6. CONDITIONS. Jay's obligations are expressly conditioned upon the satisfaction of each of the following conditions in the sole determination of Jay, it being understood that the City is under no obligation whatsoever to expend any funds to satisfy any of these conditions. If any one of the following conditions cannot be met during the Feasibility Period, Jay may unilaterally terminate this Agreement:

a. Receipt of a satisfactory title commitment.

b. Receipt of a Phase I Environmental Assessment and Report (Phase I Report) conducted and prepared by an environmental engineering and inspection company selected by Jay at Jay's expense, and such other testing and reports as may be reasonably required by Jay or recommended in the Phase I Report, any such additional testing and reports to be at Jay's expense.

c. Satisfaction by the City of all obligations under this Agreement.

7. SOLD "AS IS"; NO REPRESENTATIONS AND WARRANTIES BY CITY. Jay acknowledges that the City has made no representations or warranties whatsoever in regard to the Property, except for Special Warranty of Title. Jay agrees that they have inspected and are thoroughly familiar with the Property and is acquiring the Property in its "as is" condition. Jay understands and agrees that the City has not made and makes no representations or warranties of any kind with respect to the condition of the Property or its fitness, suitability or acceptability for any particular use or purpose, and the City shall not be liable for any latent or patent defects therein.

8. NOTICES. All notices to the parties hereto will be delivered by hand, via certified mail return receipt requested, or via facsimile and all be deemed effective upon delivery if by hand and upon confirmation of receipt if by other means, to the following address until the address is changed by notice in writing to the other party:

Jay: Jay Investment Corporation
Attn: Lloyd Vaughn
1504 Pine Grove Lane
Chesapeake, Virginia 23321

City: Director, Department of General Services
Office of Real Estate
City of Norfolk
232 East Main Street, Suite 250
Norfolk, Virginia 23510

With a copy to: Bernard A. Pishko
City Attorney
810 Union Street, Suite 900
Norfolk, Virginia 23510

9. SURVIVAL. The provisions contained in this Agreement will be true as of the date of this Agreement and as of the date of Closing and will survive the Closing.

10. BROKERAGE OR AGENT'S FEES. Neither the City nor Jay are represented by a real estate broker, agent or finder in this transaction. No fees or commissions are or will be due from or payable by the City as a result of this transaction. The City shall not have any obligation whatsoever to pay any brokerage or agent's fees or commissions, nor shall the City have any obligation whatsoever to see that any such fees or commissions are paid.

11. DEFAULT AND REMEDIES.

a. If the conveyance contemplated by this Agreement is not consummated because of City's or Jay's default, the non-defaulting party may elect to:

(i) Terminate this Agreement; or

(ii) Seek and obtain specific performance of this Agreement.

12. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and will supersede the terms and conditions of all prior written and oral agreements, if any, concerning the matters it covers. The parties acknowledge there are no oral agreements, understandings, representations, or warranties that supplement or explain the terms and conditions contained in this Agreement. This Agreement may not be modified except by an agreement in writing signed by the parties.

13. GOVERNING LAW. This Agreement is to be construed in accordance with the laws of the Commonwealth of Virginia.

14. SUCCESSOR/ASSIGNMENT. This Agreement will be binding upon and the obligations and benefits hereof will accrue to the parties hereto, their heirs, personal representatives, successors, and assigns.

15. IRS REPORTING REQUIREMENTS. For the purpose of complying with any information reporting requirements or other rules and regulations of the Internal Revenue Service ("IRS") that are or may become applicable as a result of or in connection with the transaction contemplated by this Conveyance Agreement including, but not limited to, any requirements set forth in proposed Income Tax Regulation Section 1.6045-4 and any final or successor version thereof (collectively the "IRS Reporting Requirements"), City and Jay hereby designate and appoint the Jay's attorney or Title Company to act as the "Reporting Person" (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. The attorney or Title Company hereby acknowledges and accepts such designation and appointment and agrees to fully comply with any IRS Reporting Requirements that are or may become applicable as a result of or in connection with the transaction contemplated by this Conveyance Agreement. Without limiting the responsibility and obligations of the attorney or Title Company as the Reporting Person, City and Jay hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the responsibility of the Reporting Person, including but not limited to, the requirement that City and Jay each retain an original counterpart of this Conveyance Agreement for at least four (4) years following the calendar year of the Closing.

(SIGNATURE PAGES FOLLOW)

WITNESS the following duly authorized signatures and seals:

CITY OF NORFOLK

By: _____
City Manager

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that _____, City Manager and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Conveyance Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2016.

_____
Notary Public
Registration No._____

Contents Approved:

_____
Director, Department of General Services

Approved as to Form and Correctness:

_____
Deputy City Attorney

JAY INVESTMENT CORPORATION

By:_____

Title:_____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City/County of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that _____, as _____ (Title), on behalf of Jay Investment Corporation whose name is signed to the foregoing Conveyance Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this ____ day of _____, 2016.

_____
Notary Public
Registration No._____

EXHIBIT "A"
Tax Account Number 4789-5157

ALL that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the City of Norfolk, Virginia and being known, numbered and designated as Lot AA as shown on the certain plat entitled Subdivision Plat of Lots 10,11,12 and Part of Lot "XX", Block 4, "Semi-Subdivision of the Haynes Tract", which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Map Book 49, page 58.

EXHIBIT B

Instrument Control Number

2006 MAR -9 A 11:52 000174

Commonwealth of Virginia
Land Record Instruments
Cover Sheet - Form A

MAR09 060011356

[ILS VLR Cover Sheet Agent 1.0.66]

TAX EXEMPT	CORP		
		Date of Instrument:	[3/8/2006]
		Instrument Type:	[DEC]
		Number of Parcels	[1]
		Number of Pages	[6]
		City [x] **County** [ ]	[City Of Norfolk]

(Box for Deed Stamp Only)

First and Second Grantors

TAX EXEMPT	CORP	Last Name	First Name	Middle Name or Initial	Suffix
x	x	[City of Norfolk]	[ ]	[ ]	[ ]
☐	☐	[Trapani]	[Philip]	[R.]	[Jr.]

First and Second Grantees

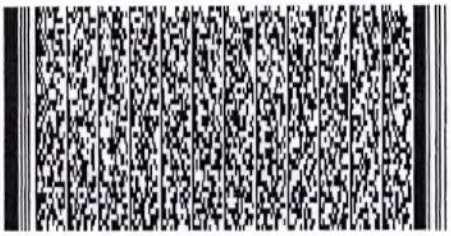
TAX EXEMPT	CORP	Last Name	First Name	Middle Name or Initial	Suffix
x	x	[City of Norfolk]	[ ]	[ ]	[ ]
☐	☐	[ ]	[ ]	[ ]	[ ]

Grantee Address (Name) [City of Norfolk]
(Address 1) [Norfolk City Attorney's Office]
(Address 2) [810 Union Street, Room 900]
(City, State, Zip) [Norfolk] [VA] [23510]

Consideration [0.00] **Existing Debt** [0.00] **Assumption Balance** [0.00]

Prior Instr. Recorded at: City ☐ **County** ☐ [ ] **Percent. In this Juris.** [100]
Book [ ] **Page** [ ] **Instr. No** [060008023]
Parcel Identification No (PIN) [4789-5157]
Tax Map Num. (if different than PIN) [n/a]
Short Property Description [Lot AA, Block 4, Semi-Subdivision of the Haynes Tract]
[ ]
Current Property Address (Address 1) [W S Parish Road]
(Address 2) [ ]
(City, State, Zip) [Norfolk] [VA] [ ]

Instrument Prepared by [Charles Stanley Prentace]
Recording Paid for by [N/A]
Return Recording to (Name) [Charles Stanley Prentace, Deputy City Attorney]
(Address 1) [Norfolk City Attorney's Office]
(Address 2) [810 Union Street, 900 City Hall Building]
(City, State, Zip) [Norfolk] [VA] [23510]
Customer Case ID [N/A] [ ] [ ]



anne brothers
C. milon

Instrument Control Number

Commonwealth of Virginia
Land Record Instruments
Continuation Cover Sheet
Form B

[ILS VLR Cover Sheet Agent 1.0.66]

Date of Instrument: [3/8/2006]
Instrument Type: [DEC]

Number of Parcels [1]
Number of Pages [6]

City [x] County [ ] [City Of Norfolk]

(Box for Deed Stamp Only)

Grantors/Grantees/Parcel Continuation Form B

TAX EXEMPT	GRANTOR	GRANTEE	CORP	Last Name	First Name	Middle Name or Initial	Suffix
[ ]	[x]	[ ]	[ ]	[Milon	] [Clairnette	] [	] [ ]
[ ]	[x]	[ ]	[ ]	[Milon	] [Olivia	] [	] [ ]
[ ]	[x]	[ ]	[ ]	[Milon	] [Contina	] [	] [ ]
[ ]	[x]	[ ]	[ ]	[Milon	] [Preston	] [	] [ ]
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[ ]	[ ]	[ ]	[ ]	[	] [	] [	] [ ]

Prior Instr. Recorded at: City [ ] County [ ] [ ] Percent. in this Juris. [ ]
Book [ ] Page [ ] Instr. No [ ]
Parcel Identification No (PIN) [ ]
Tax Map Num. (if different than PIN) [ ]
Short Property Description [ ]
[ ]
Current Property Address (Address 1) [ ]
(Address 2) [ ]
(City, State, Zip) [ ][ ][ ]

DECLARATION OF
PROTECTIVE AND RESTRICTIVE COVENANTS
RELATIVE TO PROPERTY LOCATED AT
LOT AA (TAX ACCOUNT #4789-5157)

THIS DECLARATION, made this 1st day of March, 2006, by the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("Declarant"), whose address is City Hall, 810 Union Street, Norfolk, Virginia, 23510.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property described in Exhibit A, attached hereto and made a part hereof ("Property"); and

WHEREAS, Declarant, in order to provide for orderly development, improvement and maintenance of the Property, and the surrounding neighborhood, deems it suitable and appropriate to establish and publish certain standards and restrictions and to impose the same upon the Property;

NOW, THEREFORE, for and in consideration of the premises, the mutual benefits accruing to Declarant, to the surrounding neighborhood, and to subsequent purchasers of the Property, Declarant does hereby declare said Property to be subject to the following covenants, which covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in and to the Property or any part thereof.

A. PERMITTED AND PROHIBITED USES.

1. Any construction on or development of the Property shall be in keeping with the City of Norfolk's General Plan, as well as the City's neighborhood plans, as such plans may be approved from time to time by the City Council.

2. No building or structure of any kind shall be constructed, altered or permitted on the Property without the prior written approval of the design of such building or structure by the Director of City Planning for the City of Norfolk ("Director"). A set of plans shall be submitted to the Director for approval as set forth herein.

3. All buildings and structures located on the Property shall be kept in good repair and the Property shall be kept in compliance with all City codes and ordinances.

4. If the Property is located on a street or in a district that is designated as an underground street or district under the provisions of the Norfolk City Code, 1979, as amended ("City Code"), then any building or structure located on the Property shall be served by underground utilities, and no above ground poles and wires shall be permitted, unless otherwise provided in the City Code.

B. REVIEW AND APPROVAL OF PLANS

1. All plans for any new buildings or structures to be located on the Property, including any additions to existing buildings or structures, must be presented to and approved by the Director in writing prior to the commencement of any construction.

2. The Director shall approve or disapprove plans submitted to him within forty-five (45) days after an application has been made to him. If the Director fails to act within the said 45 days, the application shall be deemed to have been approved. In the event the plans are disapproved by the Director, the party submitting the plans shall have 45 days from the date of such disapproval to submit revised plans, such revised plans to contain any revisions required by the Director.

3. The plans required to be submitted to the Director for approval shall include a full set of construction plans and site plans.

4. The construction of any building or structure on the Property must commence within ninety (90) days of the receipt of approval by the Director. Work thereon shall be prosecuted diligently and must be completed within a reasonable time not to exceed twelve (12) months from the date construction commences.

C. GRANTEE'S ACCEPTANCE

The Grantee of the Property subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of the Property, shall accept such deed or contract upon and subject to each and all of these protective and restrictive covenants and the agreements herein contained, and also the jurisdiction, rights, and powers of Declarant, and by such acceptance shall, for himself, his heirs, personal representatives, successors and assigns, consent, and agree to and with Declarant to keep, observe, comply with, and perform said protective and restrictive covenants.

D. EFFECTS OF PROTECTIVE AND RESTRICTIVE COVENANTS.

1. These protective and restrictive covenants shall run with the Property and shall be binding upon all parties and all persons claiming under them.

2. These protective and restrictive covenants may be changed, modified, or amended by a duly recorded instrument signed by the Declarant and the then current owner of the Property.

3. Each and every protective and restrictive covenant contained herein shall be considered to be an independent and separate covenant and agreement, and in the event that any one or more of said protective or restrictive covenants shall, for any reason, be held to be invalid or unenforceable, all remaining protective and restrictive covenants shall nevertheless remain in full force and effect.

4. The failure of any party or person to enforce a protective or restrictive covenant contained herein in any instance or against any person shall not constitute a waiver or abrogation of said protective or restrictive covenant.

E. REMEDIES.

The Declarant or any party to whose benefit these protective and restrictive covenants inure may proceed at law or in equity to prevent the occurrence, continuation, or violation of any of these protective and restrictive covenants, and the court in any such action may award reasonable expenses in prosecuting such action, including attorney's fees. In addition to any other remedy available at law or in equity, a violation of any protective or restrictive covenant contained herein shall, in the sole

discretion of the Declarant and upon the giving of written notice to the then current owner of the Property, cause the title to the Property to revert to the Declarant.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.

CITY OF NORFOLK

By: _____ [SEAL]
City Manager

Attest:

_____
City Clerk

Approved as to form and correctness:

_____ 2.23.06
Deputy City Attorney

STATE OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Susan R. Leonard a Notary Public in and for the City of Norfolk, in the State of Virginia, whose term of office expires on the 31st day of August, 2008, do hereby certify that Regina V.K. Williams, City Manager and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing instrument dated March 1, 2006 have acknowledged the same before me in my City and State aforesaid.

Given under my hand this 1st day of March, 2006.

Susan R. Leonard [SEAL]
Notary Public

EXHIBIT "A"
Tax Account Number 4789-5157

ALL that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the City of Norfolk, Virginia and being known, numbered and designated as Lot AA as shown on the certain plat entitled Subdivision Plat of Lots 10,11,12 and Part of Lot "XX", Block 4, "Semi-Subdivision of the Haynes Tract", which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Map Book 49, page 58.

INSTRUMENT #060011356
RECORDED IN THE CLERK'S OFFICE OF
NORFOLK ON
MARCH 9, 2006 AT 11:52AM
GEORGE E. SCHAEFER, CLERK

RECORDED BY: MXY

TOWNE BANK

November 28, 2016

Lloyd J. Vaughn, Jr.
Jay Investment Corp.
1504 Pine Grove Lane
Chesapeake, VA 23321

Re: Acquisition request for the properties known as WS Parish Road, Norfolk, VA 23502 and 1400 Marsh St, Norfolk, VA 23523.

Dear Mr. Vaughn:

This letter will summarize our recent discussions concerning the above referenced loan request to purchase the SF Lots located at WS Parish Road and 1400 Marsh St, Norfolk VA.

After review of the Desktop Valuations performed by Pfeiffer Appraisal Group, Robert Shannon, the bank is no longer comfortable with providing the financing on this transaction. The appraisal does not support the current sales price of the aforementioned properties therefore, at this time, the bank will have to deny your loan request to purchase the properties at WS Parish Road, Norfolk, VA 23502 and 1400 Marsh St, Norfolk, VA 23523.

If conditions change and/or the terms of the transaction come in line with the appraisal and our underwriting guidelines we would be willing to consider another loan request.

Please let me know if you have any questions or concerns. I can be reached on my office number, 757-955-8602 or by cell phone, 757-692-0816.

Sincerely,

Catherine R. Lockwood
Vice President
Towne Bank
757-955-8602

City of NORFOLK

C: Dir., Department of General Services

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: David S. Freeman, AICP
Director of General Services

Subject: Jay Investment Corporation – Conveyance of the GEM lot located at 1400 Marsh Street

Reviewed: Sabrina Joy-Hogg, Chief Deputy City Manager

Ward/Superward: 4/7

Approved: Douglas L. Smith, Interim City Manager

Item Number: **PH-5**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Jay Investment Corporation
Attn: Lloyd Vaughn
1504 Pine Grove Lane
Chesapeake, VA 23321

III. **Description:**
This agenda item is an ordinance for the conveyance of a vacant parcel of land owned by the City of Norfolk (the "city") to Jay Investment Corporation ("Jay"). This parcel is a GEM Lot and was acquired by the City under Section 58.1-3970.1 of the *Code of Virginia*, 1950, as amended.

IV. **Analysis**
Jay seeks to purchase and develop the property located at 1400 Marsh Street. It is a buildable lot in an established residential area located near E. Berkley Avenue. This ordinance repeals *Ordinance 46,310* that was adopted on April 12, 2016. *Ordinance 46,310* authorized the sale of the property for the *assessed* value ($36,600). However, since that time, per the requirements of Jay's lender (Towne Bank), financing available for this purchase must be in line with the *appraised* value or the necessary funds for this transaction will not be provided. The total *appraised* value (and recommended purchase price) for this property is $33,000. Due to the change in the proposed price for the property, reconsideration of this sale is required by Norfolk City Council. If approved, this conveyance will still benefit the city by providing real estate tax revenue from Jay and any subsequent private owners. No specific city use has been identified otherwise for this property.

V. Financial Impact

Cost for Conveyance	$33,000
Typical Costs of Closing	Each party to this transaction shall pay its own legal fees
Appraised Value of Parcel	$33,000
Annual Tax Revenue of Parcel	$379.50 annually (will increase upon development of property)

VI. Environmental

There are no known environmental issues associated with this property.

VII. Community Outreach/Notification

In accordance with the *Norfolk City Charter* and the *Code of Virginia*, a legal notice will be posted in *The Virginian-Pilot*. In addition, public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of General Services – Office of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Conveyance Agreement
- Exhibits
- Letter from Lender (Towne Bank)

12/2/2016-wld

Form and Correctness Approved:

By Nathaniel Beaman
Office of the City Attorney

Contents Approved:

By
DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE AUTHORIZING THE CONVEYANCE TO JAY INVESTMENT CORPORATION OF A CERTAIN PARCEL OF PROPERTY LOCATED AT 1400 MARSH STREET FOR THE TOTAL SUM OF $33,000.00 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONVEYANCE AGREEMENT; AUTHORIZING THE RELEASE OF THE CITY'S RIGHT OF REVERTER UPON A CERTAIN CONDITION; AND REPEALING ORDINANCE NUMBER 46,310, ADOPTED ON APRIL 12, 2016.

- - -

WHEREAS, Section 58.1-3970.1 of the Code of Virginia, 1950, as amended, authorizes the appointment of a Special Commissioner for the purpose of conveying to localities, in lieu of public auction, certain real property with delinquent taxes and liens that meet certain criteria set forth therein; and

WHEREAS, the parcel of real property located at 1400 Marsh Street and more particularly described in Exhibit A, attached hereto and made a part hereof ("Property"), was conveyed to the City of Norfolk ("City") by a Special Commissioner's deed executed and delivered pursuant to a decree entered by the Circuit Court of the City of Norfolk in accordance with the provisions of Section 58.1-3970.1 of the Code of Virginia, 1950, as amended; and

WHEREAS, upon acquisition of the Property, the City recorded a Declaration of Protective and Restrictive Covenants

("Restrictive Covenants") in the Clerk's Office of the Circuit Court of the City of Norfolk, as Instrument No. 050051287, which document provides, inter alia, that a violation of any protective or restrictive covenant contained therein shall, in the sole discretion of the City, cause the title to the Property to revert to the City; and

WHEREAS, Council has determined that the Property is not needed for any of the uses or purposes of the City and is a continuing financial burden on the City; and

WHEREAS, Section 2(5) of the Norfolk City Charter provides the City with broad authority for the disposition of its real property; and

WHEREAS, Council has determined that the public interest is best served by the conveyance of the Property to Jay Investment Corporation ("Jay") for the sum of $33,000.00 upon the terms and conditions set forth in the Conveyance Agreement attached hereto as Exhibit B; and

WHEREAS, in order for the purchaser of the Property to be able to obtain appropriate financing, it may be necessary that the City's right of reverter be released as to the Property; now therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the conveyance of the Property, located at 1400 Marsh Street and further described in Exhibit A, to Jay for the total sum of $33,000.00 upon

the terms and conditions set forth in the Conveyance Agreement attached as Exhibit B, is hereby authorized and approved.

Section 2:- That the City Manager, and the other proper officers of the City, are authorized to execute the Conveyance Agreement on behalf of the City of Norfolk and, upon receipt of the sum of $33,000.00, to be disbursed in accordance with the requirements of Section 58.1-3970.1 of the Code of Virginia, to deliver to Jay a Special Warranty Deed in form satisfactory to the City Attorney, and to do all other things necessary and proper to effect the conveyance of the said Property to Jay.

Section 3:- That the City Manager is authorized to release the City's right of reverter as to this Property upon receipt by the City of written certification by Jay that financing cannot be obtained for the purchase of the Property unless the City's right of reverter is released. In all other respects, the Declaration of Protective and Restrictive Covenants recorded in the Clerk's Office of the Circuit Court of the City of Norfolk as Instrument No. 050051287 shall remain in full force and effect.

Section 4:- That the City Manager is further authorized to correct, amend or revise the Conveyance Agreement as he may deem advisable to carry out the intent of the Council as expressed herein.

Section 5:- That Ordinance number 46,310, adopted on April 12, 2016, is hereby repealed and shall be of no further force and effect.

Section 6:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

EXHIBIT "A"
Tax Account Number 3335-5700

All those two (2) certain lots, pieces or parcels of land with the buildings and improvements thereon, lying and being and situate in the City of Norfolk, Virginia, known, numbered and designated as Lots numbered Twenty-nine (29) and Thirty-one (31), in Block Numbered Three (3), as shown on the Plat of William Pannill's property, which plat is duly of record in the Clerk's Office of the Circuit Court of the City of Norfolk, formerly Norfolk County, Virginia, in Map Book 2, at page 48; said lots being situate at the southeast intersection of Marsh and Roseclair Street and being of the dimensions as shown on said plat.

It being the same property conveyed to Bettie Parker, by Deed from George W. Parker and Mary Parker, his wife, dated November 22, 1952, recorded November 25, 1952, in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Deed Book 634, Page 391.

EXHIBIT B TO ORDINANCE

CONVEYANCE AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2016, between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), and **JAY INVESTMENT CORPORATION**, a Virginia corporation ("Jay").

RECITALS:

A. City is the owner in fee simple absolute of a certain parcel of real property, together with all rights and appurtenances thereunto pertaining, located in the City of Norfolk, Virginia, known as 1400 Marsh Street, more particularly described in Exhibit A, attached to and made a part of this Agreement (the "Property"), the City having acquired the same pursuant to the provisions of Section 58.1-3970.1 of the Code of Virginia, 1950, as amended.

B. Upon acquisition of the Property, the City recorded a Declaration of Protective and Restrictive Covenants ("Restrictive Covenants") in the Clerk's Office of the Circuit Court of the City of Norfolk, as Instrument No. 050051287, a copy of which is attached hereto as Exhibit B, which provides, inter alia, that a violation of any protective or restrictive covenant contained therein shall, in the sole discretion of the City, cause the title to the Property to revert to the City.

C. Jay desires to purchase the property from City and City desires to sell the property to Jay in accordance with the terms and conditions of this Agreement.

D. These recitals are incorporated by this reference into this Agreement.

E. The conveyance of the Property to Jay will enable Jay to construct attractive and affordable housing that will enhance the Property, as well as the neighborhood generally, and will return the Property to the real estate tax rolls.

NOW, THEREFORE, in consideration of the purchase price and the mutual promises contained in this Agreement, the City and Jay agree as follows:

1. SALE. City agrees to sell and Jay agrees to purchase the Property, together with all easements, rights, and appurtenances thereto.

2. PURCHASE PRICE. The purchase price ("Purchase Price") for the Property is **Thirty-Three Thousand Dollars and 0/100 ($33,000.00)**. The Purchase Price will be paid in the form of a certified check or by wire transfer of funds at closing.

3. CONVEYANCE.

a. The City agrees to convey the property to Jay by Special Warranty Deed, subject to applicable easements and restrictive covenants of record, and specifically the Restrictive Covenants attached hereto as Exhibit B.

b. No building permit shall be issued for the development of a single-family dwelling on the parcels until a zoning certificate has been granted by the Department of City Planning, which verifies that the proposed single-family dwelling to be built on the parcels is consistent with the prevailing pattern in the neighborhood with respect to the footing, massing, scale, appearance, fenestration, roof lines and other exterior elements.

c. The deed shall contain a restrictive covenant limiting construction upon the property to single-family, owner occupied dwellings and structures appurtenant thereto for a period of five (5) years.

d. Possession of the Property will be given to Jay at Closing.

e. City agrees to pay the expenses of preparing the deed. Jay will pay all other fees and costs charged in connection with the transfer of the Property and the recordation of the deed.

f. City and Jay agree that the attorney or title insurance company ("Title Company") selected by Jay shall act as the settlement agent ("Settlement Agent") at Jay's expense. The Settlement Agent shall prepare the settlement statement, update and record the deed, collect and disburse settlement funds in accordance with this Agreement and the settlement statement, and file any required state and federal tax forms or other certifications in accordance with Paragraph 15.

4. FEASIBILITY PERIOD. Purchaser shall have ninety (90) days from the date this Agreement is executed by all parties in which to complete its assessment of the Property, including title examination and environmental assessment.

5. CLOSING. The Closing will be made at the offices of the Norfolk City Attorney, in Norfolk, Virginia 23510, or such other location as the parties may agree, within 30 days after expiration of the Feasibility Period, or as soon thereafter as settlement documents can be prepared and any title issues can be resolved.

6. CONDITIONS. Jay's obligations are expressly conditioned upon the satisfaction of each of the following conditions in the sole determination of Jay, it being understood that the City is under no obligation whatsoever to expend any funds to satisfy any of these conditions. If any one of the following conditions cannot be met during the Feasibility Period, Jay may unilaterally terminate this Agreement:

a. Receipt of a satisfactory title commitment.

b. Receipt of a Phase I Environmental Assessment and Report (Phase I Report) conducted and prepared by an environmental engineering and inspection company selected by Jay at Jay's expense, and such other testing and reports as may be reasonably required by Jay or recommended in the Phase I Report, any such additional testing and reports to be at Jay's expense.

c. Satisfaction by the City of all obligations under this Agreement.

7. SOLD "AS IS"; NO REPRESENTATIONS AND WARRANTIES BY CITY. Jay acknowledges that the City has made no representations or warranties whatsoever in regard to the Property, except for Special Warranty of Title. Jay agrees that they have inspected and are thoroughly familiar with the Property and is acquiring the Property in its "as is" condition. Jay understands and agrees that the City has not made and makes no representations or warranties of any kind with respect to the condition of the Property or its fitness, suitability or acceptability for any particular use or purpose, and the City shall not be liable for any latent or patent defects therein.

8. NOTICES. All notices to the parties hereto will be delivered by hand, via certified mail return receipt requested, or via facsimile and all be deemed effective upon delivery if by hand and upon confirmation of receipt if by other means, to the following address until the address is changed by notice in writing to the other party:

Jay: Jay Investment Corporation
Attn: Lloyd Vaughn
1504 Pine Grove Lane
Chesapeake, Virginia 23321

City: Director, Department of General Services
Office of Real Estate
City of Norfolk
232 East Main Street, Suite 250
Norfolk, Virginia 23510

With a copy to: Bernard A. Pishko
City Attorney
810 Union Street, Suite 900
Norfolk, Virginia 23510

9. SURVIVAL. The provisions contained in this Agreement will be true as of the date of this Agreement and as of the date of Closing and will survive the Closing.

10. BROKERAGE OR AGENT'S FEES. Neither the City nor Jay are represented by a real estate broker, agent or finder in this transaction. No fees or commissions are or will be due from or payable by the City as a result of this transaction. The City shall not have any obligation whatsoever to pay any brokerage or agent's fees or commissions, nor shall the City have any obligation whatsoever to see that any such fees or commissions are paid.

11. DEFAULT AND REMEDIES.

a. If the conveyance contemplated by this Agreement is not consummated because of City's or Jay's default, the non-defaulting party may elect to:

(i) Terminate this Agreement; or

(ii) Seek and obtain specific performance of this Agreement.

12. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and will supersede the terms and conditions of all prior written and oral agreements, if any, concerning the matters it covers. The parties acknowledge there are no oral agreements, understandings, representations, or warranties that supplement or explain the terms and conditions contained in this Agreement. This Agreement may not be modified except by an agreement in writing signed by the parties.

13. GOVERNING LAW. This Agreement is to be construed in accordance with the laws of the Commonwealth of Virginia.

14. SUCCESSOR/ASSIGNMENT. This Agreement will be binding upon and the obligations and benefits hereof will accrue to the parties hereto, their heirs, personal representatives, successors, and assigns.

15. IRS REPORTING REQUIREMENTS. For the purpose of complying with any information reporting requirements or other rules and regulations of the Internal Revenue Service ("IRS") that are or may become applicable as a result of or in connection with the transaction contemplated by this Conveyance Agreement including, but not limited to, any requirements set forth in proposed Income Tax Regulation Section 1.6045-4 and any final or successor version thereof (collectively the "IRS Reporting Requirements"), City and Jay hereby designate and appoint the Jay's attorney or Title Company to act as the "Reporting Person" (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. The attorney or Title Company hereby acknowledges and accepts such designation and appointment and agrees to fully comply with any IRS Reporting Requirements that are or may become applicable as a result of or in connection with the transaction contemplated by this Conveyance Agreement. Without limiting the responsibility and obligations of the attorney or Title Company as the Reporting Person, City and Jay hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the responsibility of the Reporting Person, including but not limited to, the requirement that City and Jay each retain an original counterpart of this Conveyance Agreement for at least four (4) years following the calendar year of the Closing.

(SIGNATURE PAGES FOLLOW)

WITNESS the following duly authorized signatures and seals:

CITY OF NORFOLK

By: _____
City Manager

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that _____, City Manager and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Conveyance Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2016.

_____
Notary Public
Registration No._____

Contents Approved:

_____
Director, Department of General Services

Approved as to Form and Correctness:

_____
Deputy City Attorney

JAY INVESTMENT CORPORATION

By:_____

Title:_____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City/County of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that _____, as _____(Title), on behalf of Jay Investment Corporation whose name is signed to the foregoing Conveyance Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this ___day of _____, 2016.

_____
Notary Public
Registration No._____

EXHIBIT "A"
Tax Account Number 3335-5700

All those two (2) certain lots, pieces or parcels of land with the buildings and improvements thereon, lying and being and situate in the City of Norfolk, Virginia, known, numbered and designated as Lots numbered Twenty-nine (29) and Thirty-one (31), in Block Numbered Three (3), as shown on the Plat of William Pannill's property, which plat is duly of record in the Clerk's Office of the Circuit Court of the City of Norfolk, formerly Norfolk County, Virginia, in Map Book 2, at page 48; said lots being situate at the southeast intersection of Marsh and Roseclair Street and being of the dimensions as shown on said plat.

It being the same property conveyed to Bettie Parker, by Deed from George W. Parker and Mary Parker, his wife, dated November 22, 1952, recorded November 25, 1952, in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Deed Book 634, Page 391.

EXHIBIT B

Instrument Control Number

2005 DEC -2 A 10:39

000114

Commonwealth of Virginia
Land Record Instruments
Cover Sheet - Form A

DEC.02 050051287

[ILS VLR Cover Sheet Agent 1.0.66]

TAX EXEMPT	CORP		
		Date of Instrument:	[12/1/2005]
		Instrument Type:	[RI]
		Number of Parcels	[1]
		Number of Pages	[7]
		City [x] County [ ]	[City Of Norfolk] (Box for Deed Stamp Only)

First and Second Grantors

Tax Exempt	Corp	Last Name	First Name	Middle Name or Initial	Suffix
x		[City of Norfolk	] [N/A	] [N/A	] [N/A]
		[Bernard	] [Alfred	] [	] [III]

First and Second Grantees

Tax Exempt	Corp	Last Name	First Name	Middle Name or Initial	Suffix
x		[City of Norfolk	] [a Municipal Corporation	] [	] [ ]
		[	] [	] [	] [ ]

Grantee Address (Name) [City of Norfolk]
(Address 1) [Norfolk City Atorney's Office]
(Address 2) [810 Union Street, Room 900]
(City, State, Zip) [Norfolk] [VA] [23510]

Consideration [0.00] Existing Debt [0.00] Assumption Balance [0.00]

Prior Instr. Recorded at: City [x] County [ ] [N/A] Percent. in this Juris. [0]
Book [N/A] Page [N/A] Instr. No [050022081]
Parcel Identification No (PIN) [3335-5700]
Tax Map Num. (if different than PIN) [n/a]
Short Property Description [Lots 29 & 31, Blk 3, William Pannill's Property]
[ ]
Current Property Address (Address 1) [1400 Marsh Street]
(Address 2) [ ]
(City, State, Zip) [ ] [ ] [ ]

Instrument Prepared by [Charles Stanley Prentace]
Recording Paid for by [N/A]
Return Recording to (Name) [Charles Stanley Prentace, Deputy City Attorney]
(Address 1) [Norfolk City Attorney's Office]
(Address 2) [810 Union Street, 900 City Hall Building]
(City, State, Zip) [Norfolk] [VA] [23510]
Customer Case ID [N/A] [ ] [ ]

Bettie Parker

Instrument Control Number

Commonwealth of Virginia
Land Record Instruments
Continuation Cover Sheet
Form B

[ILS VLR Cover Sheet Agent 1.0.66]

Date of Instrument: [12/1/2005]
Instrument Type: [RI]

Number of Parcels [1]
Number of Pages [7]

City [x] County [ ] [City Of Norfolk]

(Box for Deed Stamp Only)

Grantors/Grantees/Parcel Continuation Form B

TAX EXEMPT	GRANTOR	GRANTEE	CORP	Last Name	First Name	Middle Name or Initial	Suffix
	x			[Parker	][Bettie	][	][ ]
				[	][	][	][ ]
				[	][	][	][ ]
				[	][	][	][ ]
				[	][	][	][ ]
				[	][	][	][ ]
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				[	][	][	][ ]
				[	][	][	][ ]

Prior Instr. Recorded at: City [ ] County [ ] [ ] Percent. in this Juris. [ ]
Book [ ] Page [ ] Instr. No [ ]
Parcel Identification No (PIN) [ ]
Tax Map Num. (if different than PIN) [ ]
Short Property Description [ ]
[ ]
Current Property Address (Address 1) [ ]
(Address 2) [ ]
(City, State, Zip) [ ][ ][ ]

2005 JUN 27 A 11:10 001008

Instrument Control Number

Commonwealth of Virginia
Land Record Instruments
Cover Sheet - Form A

JUN.27 050025121

[ILS VLR Cover Sheet Agent 1.0.66]

TAX EXEMPT | CORP

Date of Instrument: [6/27/2005]
Instrument Type: [DEC]

Number of Parcels [1]
Number of Pages [6]

City [x] County [ ] [City Of Norfolk]

(Box for Deed Stamp Only)

First and Second Grantors

Tax Exempt	Corp	Last Name	First Name	Middle Name or Initial	Suffix
		[Parker	] [Bettie	] [ ]	[ ]
		[	] [	] [ ]	[ ]

First and Second Grantees

Tax Exempt	Corp	Last Name	First Name	Middle Name or Initial	Suffix
x	x	[City of Norfolk	] [A municipal corporation	] [ ]	[ ]
		[	] [	] [ ]	[ ]

Grantee Address (Name) [City of Norfolk]
(Address 1) [Norfolk City Attorney's Office]
(Address 2) [810 Union Street, Room 900]
(City, State, Zip) [Norfolk] [VA] [23510]

Consideration [0.00] Existing Debt [0.00] Assumption Balance [0.00]

Prior Instr. Recorded at: City [ ] County [ ] [ ] Percent. in this Juris. [100]
Book [ ] Page [ ] Instr. No [ ]
Parcel Identification No (PIN) [N/A]
Tax Map Num. (if different than PIN) [N/A]
Short Property Description [1400 Marsh Street (r.e. #3335-5700)]
[ ]
Current Property Address (Address 1) [1400 Marsh Street]
(Address 2) [ ]
(City, State, Zip) [NORFOLK] [VA] [ ]

Instrument Prepared by [City of Norfolk]
Recording Paid for by [N/A]
Return Recording to (Name) [Charles Stanley Prentace, Deputy City Attorney]
(Address 1) [Department of Law]
(Address 2) [810 Union Street, Room 900]
(City, State, Zip) [Norfolk] [VA] [23510]
Customer Case ID [N/A] [N/A] [N/A]

DECLARATION OF PROTECTIVE AND RESTRICTIVE COVENANTS RELATIVE TO PROPERTY LOCATED AT 1400 MARSH STREET (TAX ACCOUNT #3335-5700)

THIS DECLARATION, made this 9th day of June, 2005, by the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("Declarant"), whose address is City Hall, 810 Union Street, Norfolk, Virginia, 23510.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located at 1400 Marsh Street City of Norfolk, Virginia, Tax Account #3335-5700, and more particularly described in Exhibit A, attached hereto and made a part hereof ("Property"); and

WHEREAS, Declarant, in order to provide for orderly development, improvement and maintenance of the Property, and the surrounding neighborhood, deems it suitable and appropriate to establish and publish certain standards and restrictions and to impose the same upon the Property;

NOW, THEREFORE, for and in consideration of the premises, the mutual benefits accruing to Declarant, to the surrounding neighborhood, and to subsequent purchasers of the Property, Declarant does hereby declare said Property to be subject to the following covenants, which covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in and to the Property or any part thereof.

A. PERMITTED AND PROHIBITED USES.

1. Any construction on or development of the Property shall be in keeping with the City of Norfolk's General Plan, as well as the City's neighborhood plans, as such plans may be approved from time to time by the City Council.

2. No building or structure of any kind shall be constructed, altered or permitted on the Property without the prior written approval of the design of such building or structure by the Director of City Planning for the City of Norfolk ("Director"). A set of plans shall be submitted to the Director for approval as set forth herein.

3. All buildings and structures located on the Property shall be kept in good repair and the Property shall be kept in compliance with all City codes and ordinances.

4. If the Property is located on a street or in a district that is designated as an underground street or district under the provisions of the Norfolk City Code, 1979, as amended ("City Code"), then any building or structure located on the Property shall be served by underground utilities, and no above ground poles and wires shall be permitted, unless otherwise provided in the City Code.

B. REVIEW AND APPROVAL OF PLANS

1. All plans for any new buildings or structures to be located on the Property, including any additions to existing buildings or structures, must be presented to and approved by the Director in writing prior to the commencement of any construction.

2. The Director shall approve or disapprove plans submitted to him within forty-five (45) days after an application has been made to him. If the Director fails to act within the said 45 days, the application shall be deemed to have been approved. In the event the plans are disapproved by the Director, the party submitting the plans shall have 45 days from the date of such disapproval to submit revised plans, such revised plans to contain any revisions required by the Director.

3. The plans required to be submitted to the Director for approval shall include a full set of construction plans and site plans.

4. The construction of any building or structure on the Property must commence within ninety (90) days of the receipt of approval by the Director. Work thereon shall be prosecuted diligently and must be completed within a reasonable time not to exceed twelve (12) months from the date construction commences.

C. GRANTEE'S ACCEPTANCE

The Grantee of the Property subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of the Property, shall accept such deed or contract upon and subject to each and all of these protective and restrictive covenants and the agreements herein contained, and also the jurisdiction, rights, and powers of Declarant, and by such acceptance shall, for himself, his heirs, personal representatives, successors and assigns, consent, and agree to and with Declarant to keep, observe, comply with, and perform said protective and restrictive covenants.

D. EFFECTS OF PROTECTIVE AND RESTRICTIVE COVENANTS.

1. These protective and restrictive covenants shall run with the Property and shall be binding upon all parties and all persons claiming under them.

2. These protective and restrictive covenants may be changed, modified, or amended by a duly recorded instrument signed by the Declarant and the then current owner of the Property.

3. Each and every protective and restrictive covenant contained herein shall be considered to be an independent and separate covenant and agreement, and in the event that any one or more of said protective or restrictive covenants shall, for any reason, be held to be invalid or unenforceable, all remaining protective and restrictive covenants shall nevertheless remain in full force and effect.

4. The failure of any party or person to enforce a protective or restrictive covenant contained herein in any instance or against any person shall not constitute a waiver or abrogation of said protective or restrictive covenant.

E. REMEDIES.

The Declarant or any party to whose benefit these protective and restrictive covenants inure may proceed at law or in equity to prevent the occurrence, continuation, or violation of any of these protective and restrictive covenants, and the court in any such action may award reasonable expenses in prosecuting such action, including attorney's fees. In addition to any other remedy available at law or in equity, a violation of any protective or restrictive covenant contained herein shall, in the sole

discretion of the Declarant and upon the giving of written notice to the then current owner of the Property, cause the title to the Property to revert to the Declarant.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.

CITY OF NORFOLK

By: Regina V.K. Williams [SEAL]
City Manager

Attest:

Sheila W. Wilder
City Clerk 06-08-08

Approved as to form and correctness:

Deputy City Attorney

STATE OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Marietta B Cowart, a Notary Public in and for the City of Norfolk, in the State of Virginia, whose term of office expires on the 31st day of August, 2008, do hereby certify that Regina V.K. Williams, City Manager and ~~R. Breckenridge Daughtrey~~ Shelia W. Wilder, Deputy, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing instrument dated 9th June, 2005 have acknowledged the same before me in my City and State aforesaid.

Given under my hand this 9th day of June, 2005.

Marietta B Cowart [SEAL]
Notary Public

2005 JUN 27 A 11:10 001014

EXHIBIT "A"
Tax Account Number 3335-5700

All those two (2) certain lots, pieces or parcels of land with the buildings and improvements thereon, lying and being and situate in the City of Norfolk, Virginia, known, numbered and designated as Lots numbered Twenty-nine (29) and Thirty-one (31), in Block Numbered Three (3), as shown on the Plat of William Pannill's property, which plat is duly of record in the Clerk's Office of the Circuit Court of the City of Norfolk, formerly Norfolk County, Virginia, in Map Book 2, at page 48; said lots being situate at the southeast intersection of Marsh and Roseclair Street and being of the dimensions as shown on said plat.

It being the same property conveyed to Bettie Parker, by Deed from George W. Parker and Mary Parker, his wife, dated November 22, 1952, recorded November 25, 1952, in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Deed Book 634, Page 391.

INSTRUMENT #050025121
RECORDED IN THE CLERK'S OFFICE OF
NORFOLK ON
JUNE 27, 2005 AT 11:10AM
GEORGE E. SCHAEFER, CLERK

RECORDED BY: DXJ

INSTRUMENT #050051287
RECORDED IN THE CLERK'S OFFICE OF
NORFOLK ON
DECEMBER 2, 2005 AT 10:39AM
GEORGE E. SCHAEFER, CLERK

RECORDED BY: DXJ

TOWNE BANK

November 28, 2016

Lloyd J. Vaughn, Jr.
Jay Investment Corp.
1504 Pine Grove Lane
Chesapeake, VA 23321

Re: Acquisition request for the properties known as WS Parish Road, Norfolk, VA 23502 and 1400 Marsh St, Norfolk, VA 23523.

Dear Mr. Vaughn:

This letter will summarize our recent discussions concerning the above referenced loan request to purchase the SF Lots located at WS Parish Road and 1400 Marsh St, Norfolk VA.

After review of the Desktop Valuations performed by Pfeiffer Appraisal Group, Robert Shannon, the bank is no longer comfortable with providing the financing on this transaction. The appraisal does not support the current sales price of the aforementioned properties therefore, at this time, the bank will have to deny your loan request to purchase the properties at WS Parish Road, Norfolk, VA 23502 and 1400 Marsh St, Norfolk, VA 23523.

If conditions change and/or the terms of the transaction come in line with the appraisal and our underwriting guidelines we would be willing to consider another loan request.

Please let me know if you have any questions or concerns. I can be reached on my office number, 757-955-8602 or by cell phone, 757-692-0816.

Sincerely,

Catherine R. Lockwood
Vice President
Towne Bank
757-955-8602

NORFOLK

Office of the City Attorney

BERNARD A. PISHKO
City Attorney
ADAM D. MELITA
HEATHER A. MULLEN
MARY L. NEXSEN
NATHANIEL BEAMAN IV
MARTHA P. McGANN
CYNTHIA B. HALL
JACK E. CLOUD
DEREK A. MUNGO
TAMELE Y. HOBSON
NADA N. KAWWASS
MICHELLE G. FOY
MATTHEW P. MORKEN
HEATHER L. KELLEY
ERIKKA M. MASSIE
ZACHARY A. SIMMONS
KARLA J. SOLORIA
ALEX H. PINCUS
MICHAEL A. BEVERLY

December 20, 2016

To the Honorable Council
City of Norfolk, Virginia

R-1

Re: Ordinance Allowing a Late Filing and Relieving the Assessment Resulting from the Late Filing for Exemption from Real Estate Taxes for Real Property of Norfolk Masonic Home Association Retroactive to July 1, 2013

Dear Ladies and Gentlemen:

This agenda item is an application for tax relief from Norfolk Masonic Home Association ("NMHA"), which failed to properly maintain its exemption by failing to complete the required forms. The Assessor is satisfied that the properties qualify for the exemption with reason for assessment being NMHA's failure to complete the required paperwork. The application requests that it be relieved of the consequences of failing to maintain the exemption to which it was entitled. The ordinance allows a late filing and relieves the assessment resulting from the late filing for exemption retroactive to July 1, 2013 in the amount of $17,319.50.

Respectfully submitted,

Bernard A. Pishko
City Attorney

Recommendation: Adopt Ordinance

810 Union Street, Suite 900 · Norfolk, VA 23510
(757) 664-4529 · Fax: (757) 664-4201

12/15/16 sb
Form and Correctness Approved:
By Martha P. McBaum
Office of the City Attorney

Form CCO-003

Contents Approved:
By Bill Pall
DEPT. REAL ESTATE ASSESSOR

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ALLOWING A LATE FILING AND RELIEVING THE ASSESSMENT RESULTING FROM THE LATE FILING FOR EXEMPTION FROM REAL ESTATE TAXES FOR THREE PARCELS OF REAL PROPERTY OF NORFOLK MASONIC HOME ASSOCIATION RETROACTIVE TO JULY 1, 2013.

- - -

WHEREAS, Norfolk Masonic Home Association ("NMHA") has filed an application for exemption from real estate taxes for three parcels of real property; and

WHEREAS, such application was filed pursuant to the provisions of §24-212.5 of the Norfolk City Code, 1979, as amended; and

WHEREAS, three parcels qualify for exemption pursuant to Article X, § (6)(a)(6) of the Virginia Constitution as of July 1, 2013; and

WHEREAS, the parcels were removed from tax exempt status as of June 30, 2013, because NMHA failed to file triennial recertification application for the parcels; and

WHEREAS, NMHA submitted such application on December 14, 2016; and

WHEREAS, the revenue impact to the City and its taxpayers for granting retroactive exemption is $17,319.50; and

WHEREAS, the Council has considered other criteria, facts and circumstances deemed pertinent to the adoption of this ordinance; and

WHEREAS, it is the desire of this Council that NMHA be allowed a late filing and relieved from the assessment resulting from the late filing for exemption from real estate taxes for the three parcels retroactive to July 1, 2013; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Norfolk Masonic Home Association is hereby allowed a late filing and is relieved from the assessment resulting from the late filing for exemption from real estate taxes for Parcel No. 1778-8850, 1778-8854 and 1778-8900 retroactive to July 1, 2013.

Section 2:- That the tax exemptions are based on the Council's finding that Norfolk Masonic Home Association uses the property for religious, charitable, patriotic, historical, benevolent, cultural or public park and playground purposes within the meaning of Article X, Section 6, Subsection (a)(6) of the Constitution of Virginia, 1971, and §24-212.5 of the Norfolk City Code, 1979, as amended.

Section 3:- That this ordinance shall be in effect from and after the date of its adoption.

City of NORFOLK

C: Dir., Department of Public Works

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: David L. Ricks, Director of Public Works

Subject: VDOT FY 2017 Urban Allocation Program – Granby Street Bridge Rehabilitation and Citywide Pedestrian Safety Improvements Projects

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: Douglas L. Smith, Interim City Manager

Item Number: **R-2**

I. **Recommendation:** Adopt Resolution

II. **Applicant:** City of Norfolk

III. **Description:**

This agenda item is a resolution to allow VDOT to program the following two projects into its Six Year Improvement Plan ("SYIP"): 1) the Granby Street Bridge Rehabilitation Project, and 2) the Citywide Pedestrian Safety Improvements Project. If adopted, the City of Norfolk (the "City") would be the sub-recipient of $11,300,000 in state and federal Urban Allocation funds. It would be responsible for paying a 2% match of $226,000 into the projects.

IV. **Analysis:**

- VDOT requires an adopted resolution in support of the two Urban projects on or before May 31, 2017 for its FY 2017 SYIP.
- FY 2017 Urban Allocation funds are being requested to fund the design and construction of two, high priority transportation projects.
- If Urban funding is programmed, these two transportation projects will be significant in fulfilling the City's vision and priorities for accessibility, mobility and connectivity, fostering safe, healthy and inclusive communities.

V. **Financial Impact:**

The Urban Allocation Program requires a 2% local match. Funding participation of the City's share of the Granby Bridge Rehabilitation and the Citywide Pedestrian Safety Improvements Projects will come from the FY 2017 Capital Improvement Program. The construction of both projects will improve the City's infrastructure and improve quality of life, while increasing the safety of pedestrians and bicyclists within the City.

Cost Breakdown

Project	Federal Allocation Requested (98%)	Required City Match (2%)	Total Project Cost
1. Granby Street Bridge Rehabilitation	$3,430,000	$70,000	$3,500,000
2. Citywide Pedestrian Safety Improvements	$7,350,000	$150,000	$7,500,000
Total	$10,780,000	$226,000	$11,300,000

VI. Environmental:

N/A

VII. Community Outreach/Notification:

Coordination with Civic Leagues, the Bicycle/Pedestrian Commission, Elizabeth River Trail Committee and adjacent businesses will be made prior to construction of these improvements. Public notification for this agenda item was conducted through the City's agenda notification process.

VIII. Board/Commission Action:

N/A

IX. Coordination/Outreach:

This letter has been coordinated with the Department of Public Works and the City Attorney's office.

Supporting Material from the Department of Public Works:

- Resolution
- Project Executive Summaries

VIRGINIA DEPARTMENT OF TRANSPORTATION
PROJECT ADMINISTRATION AGREEMENT:

FY17 Urban Allocation Projects

I hereby certify that the money required for this Agreement is in the City Treasury to the Credit of the fund from which it is to be drawn, and not appropriated for any other purpose.

Citywide Pedestrian Safety Improvements, Project No. U000-122-379, UPC 109565

CP Account (City Share):	**Amount:**	**Contract:**
4000-10-4194 (FY17)	$ 156,000	N/A
Total CIP Account	**$ 156,000**	

SR Account (VDOT Share):	**Amount:**	**Contract:**
2275-10-9216-9216 (FY17)	$7,644,000	N/A
Total SR Account (VDOT to reimburse City)	**$7,644,000**	

Granby St. Bridge Rehabilitation, Project No. 0460-122-380, UPC 109568

CP Account (City Share):	**Amount:**	**Contract:**
4000-10-3020 (FY17)	$ 70,000	N/A
Total CIP Account	**$ 70,000**	

SR Account (VDOT Share):	**Amount:**	**Contract:**
2275-10-9217-9217 (FY17)	$ 3,430,000	N/A
Total SR Account (VDOT to reimburse City)	**$ 3,430,000**	

Director of Finance

12/1/16
Date

THE CITY OF NORFOLK
PUBLIC WORKS

FY17 Urban Allocation Project: Citywide Pedestrian Safety

Executive Summary

Project Location: Citywide. Known potential locations for action include:

1. Princess Anne Road pedestrian crossings and sidewalks
2. Virginia Beach Boulevard senior center crossing locations
3. Tidewater Drive pedestrian crossing locations
    a. Princess Anne Road
    b. Virginia Beach Boulevard
    c. Brambleton Avenue
    d. Biltmore Road and Easy Street
4. Tidewater Drive Corridor pedestrian improvements – Cromwell to Norview
5. Granby Street – Riverview Hawk Signal
6. Ocean View Avenue pedestrian crossing (entire corridor at various locations)
7. Ballentine Boulevard and Princess Anne Road pedestrian improvements (to support the Kroc Center)

Project Overview: This proposed project will take a comprehensive look at pedestrian safety citywide, and will determine the highest priority locations for safety improvements based on crash data, consultant studies, and prior knowledge. The project will fund design, right-of-way acquisition, and construction to address locations in order of priority, up to the budgeted amount. Methods of addressing safety issues may include crosswalks, sidewalk improvements, ADA-compliant ramps, pedestrian refuges, traffic calming measures, signal enhancements, educational programs, and other means.

Total Project Costs: $7,800,000

11/22/16 - wld

4000 10 4194 FY17 $156,000
4000 10 3020 FY17 $ 70,000

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By Richard Brooks For DR
DEPT. Public Works

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

$ 3,430,000 - 2275 10 9217 FY17
$ 7,644,000 - 2275 10 9216 FY17

Account

Director of Finance

10/1/16
Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE REQUESTING THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO ESTABLISH TWO URBAN CONSTRUCTION PROJECTS IN ACCORDANCE WITH THE PROGRAMMATIC PROJECT ADMINISTRATION AGREEMENTS BETWEEN THE CITY OF NORFOLK AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS; AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF THE TOTAL SUM OF $11,300,000.00 FOR THESE PROJECTS, SUBJECT TO AND IN ACCORDANCE WITH THE TERMS OF THE AGREEMENTS.

- - -

WHEREAS, the City of Norfolk ("City") desires that the Virginia Department of Transportation ("VDOT") establish the following projects: (1) Citywide Pedestrian Safety Improvements; and (2) the Granby Street Bridge Rehabilitation ("Projects"), in accordance with the Programmatic Project Administration Agreements ("Agreements") to be executed between the City and VDOT, copies of which, with appendices, are attached hereto as Exhibit A and Exhibit B; and

WHEREAS, in accordance with VDOT procedures, in order for VDOT to program Urban Allocation projects in the City of Norfolk, it is necessary that a request for the establishment of such projects be made by the City; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1: - That the Council hereby requests that VDOT establish the Projects in accordance with the terms and conditions of the Agreements attached as Exhibit A and Exhibit B.

Section 2: - That the City Manager and the other proper officers of the City are authorized to execute the Agreements and any and all documents related to the Projects and to do all things necessary and proper to implement the Agreements.

Section 3: - That the sum of $11,300,000.00 is hereby appropriated and authorized to be expended for the Projects, subject to and in accordance with the terms and conditions of the Agreements.

Section 4: - That the City Manager, with the advice and counsel of the City Attorney, is further authorized to correct, amend or revise the Agreements as may be necessary to carry out the intent of the Council as expressed herein.

Section 5: - That this ordinance shall be in effect from and after its adoption.

THE CITY OF NORFOLK
PUBLIC WORKS

Urban Allocation Project: Granby Street Bridge Rehabilitation

Executive Summary

Project Location: Rehabilitation will take place on the Granby Street Bridge, between Willow Wood Drive and Llewellyn Avenue.

Project Overview: The proposed project will include design and construction of repairs to the Granby Street Bridge, to incorporate a new concrete deck overlay, bearing repair/replacement, beam repairs, substructure repairs, parapet repairs, and expansion joint replacement. These repairs are necessary to extend the usable life of the structure and maintain its load carrying capacity. The bridge is a critical connector, carrying pedestrian sidewalks and six lanes of vehicular traffic, with an estimated annual average daily traffic (AADT) volume of 29,000. Built in 1979, all major elements (Deck, Superstructure, and Substructure) were rated a "5" or "Fair" as of the latest inspection performed in September 2014. A rating of "4" or lower for any single element results in a "Structurally Deficient" designation.

.

Total Project Costs: $3,500,000

STANDARD PROJECT ADMINISTRATION AGREEMENT
Federal-aid Projects

EXHIBIT
A

Project Number	UPC	Local Government
U000-122-379	109565	City of Norfolk

THIS AGREEMENT, made and executed in triplicate this ____ day of _____, 20__, by and between the City of Norfolk, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LOCALITY is committed to the development and delivery of each Project described in Appendix A in an expeditious manner; and;

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The LOCALITY shall:

   a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the DEPARTMENT

   b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, and Commonwealth Transportation Board and DEPARTMENT policies and as identified in Appendix A to this Agreement. Noncompliance with this requirement can result in deallocation of the funding, rescinding of state funding match, termination of this Agreement, or DEPARTMENT denial of future requests to administer projects by the LOCALITY.

c. Receive prior written authorization from the DEPARTMENT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.

d. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.

e. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.

f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the Locality. For federally funded projects and pursuant to 2 CFR 200.338, Remedies for Noncompliance, violations of the provision may result in the imposition of sanctions including but not limited to possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.

g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.2-348 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.

h. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.

i. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements

j. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, and local laws and regulations. If the locality expends over

$750,000 annually in federal funding, such certification shall include a copy of the LOCALITY's single program audit in accordance with 2 CFR 200.501, Audit Requirements.

k. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.

l. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.

m. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination.

2. The DEPARTMENT shall:

a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal and state laws and regulations or as otherwise agreed to, in writing, between the parties and provide necessary coordination with the FHWA as determined to be necessary by the DEPARTMENT.

b. Upon receipt of the LOCALITY's invoices pursuant to paragraph1.f., reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.

c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.

d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.

e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.

3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements

agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.

4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.

5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.

6. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.

7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.

8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

9 This Agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be

reimbursed in accordance with paragraphs 1.f, 1.g., and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.

10. Prior to any action pursuant to paragraphs 1.b or 1.g of this Agreement, the DEPARTMENT shall provide notice to the LOCALITY with a specific description of the breach of agreement provisions. Upon receipt of a notice of breach, the LOCALITY will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the DEPARTMENT. If, within sixty (60) days after receipt of the written notice of breach, the LOCALITY has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the DEPARTMENT, then upon receipt by the LOCALITY of a written notice from the DEPARTMENT stating that the breach has neither been cured, nor is the LOCALITY diligently pursuing a cure, the DEPARTMENT may exercise any remedies it may have under this Agreement.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

CITY OF NORFOLK, VIRGINIA:

_____

ATTEST:

_____

City Clerk
City of Norfolk

_____

Assistant City Manager
City of Norfolk

CONTENTS APPROVED:

By: _____

Director of Public Works
City of Norfolk

_____

Date

APPROVED AS TO FORM AND CORRECTNESS:

By: _____

Deputy City Attorney
City of Norfolk

_____

Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this Agreement.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

_____

Chief of Policy
Commonwealth of Virginia
Department of Transportation

Date

_____

Signature of Witness

Date

Attachments
Appendix A (UPCs 109565)

Appendix A **Date:** 10/24/2016

Project Number: U000-122-379 UPC: 109565 CFDA # 20.205 Locality: City of Norfolk

Project Location ZIP+4: 23510-2717	Locality DUNS# 074740069	Locality Address (incl ZIP+4): 810 Union Street Norfolk, VA. 23510-2717

Project Narrative

Scope:	Citywide Pedestrian Improvements
From:	Citywide
To:	Citywide

Locality Project Manager Contact info: Christine Armstrong, P.E.; Phone 757-664-7459 email: christine.armstrong@norfolk.gov

Department Project Coordinator Contact Info: Derrick Williams; Phone 757-925-2582 email: derrick.williams.Vdot.virginia.ovu

Project Estimates

	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	$1,008,000	$385,000	$6,363,000	$7,756,000
Estimated VDOT Project Expenses	$6,000	$5,000	$33,000	$44,000
Estimated Total Project Costs	$1,014,000	$390,000	$6,396,000	$7,800,000

Project Cost and Reimbursement

Phase	Estimated Project Costs	Funds type *(Choose from drop down box)*	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	$1,014,000	Urban	2%	$20,280	$993,720	
				$0	$0	
				$0	$0	
				$0	$0	
Total PE	$1,014,000			$20,280	$993,720	$987,720
Right of Way & Utilities	$390,000	Urban	2%	$7,800	$382,200	
				$0	$0	
				$0	$0	
				$0	$0	
				$0	$0	
Total RW	$390,000			$7,800	$382,200	$377,200
Construction	$6,396,000	Urban	2%	$127,920	$6,268,080	
				$0	$0	
				$0	$0	
				$0	$0	
				$0	$0	
Total CN	$6,396,000			$127,920	$6,268,080	$6,235,080
Total Estimated Cost	$7,800,000			$156,000	$7,644,000	$7,600,000

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	$7,644,000
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	$7,600,000

Project Financing

Urban	Local Match					**Aggregate Allocations**
$7,644,000	$156,000					$7,800,000

Program and Project Specific Funding Requirements

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual
- The Locality will continue to operate and maintain the facility as constructed. Should the design features of the project be altered by the Locality subsequent to project completion without approval of the Department, the locality inherently agrees, by execution of this agreement, to make restitution, either physically or monetarily, as required by the Department.
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality shall complete project scoping on or before 6/26/2017
- The Locality will continue to operate and maintain the facility as constructed. Should the design features of the project be altered by the Locality subsequent to project completion without approval of the Department, the locality inherently agrees, by execution of this agreement, to make restitution, either physically or monetarily, as required by the Department.
- This is a limited funds project. The Locality shall be responsible for any additional funding in excess of **$7,644,000** (if applicable)
- This appendix A is generated to authorize PE

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Revised: June 15, 2016

Typed or printed name of person signing

STANDARD PROJECT ADMINISTRATION AGREEMENT
Federal-aid Projects

EXHIBIT B

Project Number	UPC	Local Government
0460-122-380	109568	City of Norfolk

THIS AGREEMENT, made and executed in triplicate this ____ day of _____, 20__, by and between the City of Norfolk, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LOCALITY is committed to the development and delivery of each Project described in Appendix A in an expeditious manner; and;

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The LOCALITY shall:

   a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the DEPARTMENT

   b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, and Commonwealth Transportation Board and DEPARTMENT policies and as identified in Appendix A to this Agreement. Noncompliance with this requirement can result in deallocation of the funding, rescinding of state funding match, termination of this Agreement, or DEPARTMENT denial of future requests to administer projects by the LOCALITY.

c. Receive prior written authorization from the DEPARTMENT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.

d. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.

e. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.

f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the Locality. For federally funded projects and pursuant to 2 CFR 200.338, Remedies for Noncompliance, violations of the provision may result in the imposition of sanctions including but not limited to possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.

g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.2-348 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.

h. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.

i. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements

j. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, and local laws and regulations. If the locality expends over

$750,000 annually in federal funding, such certification shall include a copy of the LOCALITY's single program audit in accordance with 2 CFR 200.501, Audit Requirements.

k. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.

l. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.

m. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination.

2. The DEPARTMENT shall:

a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal and state laws and regulations or as otherwise agreed to, in writing, between the parties and provide necessary coordination with the FHWA as determined to be necessary by the DEPARTMENT.

b. Upon receipt of the LOCALITY's invoices pursuant to paragraph1.f., reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.

c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.

d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.

e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.

3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements

agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.

4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.

5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.

6. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.

7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.

8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

9 This Agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be

reimbursed in accordance with paragraphs 1.f, 1.g., and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.

10. Prior to any action pursuant to paragraphs 1.b or 1.g of this Agreement, the DEPARTMENT shall provide notice to the LOCALITY with a specific description of the breach of agreement provisions. Upon receipt of a notice of breach, the LOCALITY will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the DEPARTMENT. If, within sixty (60) days after receipt of the written notice of breach, the LOCALITY has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the DEPARTMENT, then upon receipt by the LOCALITY of a written notice from the DEPARTMENT stating that the breach has neither been cured, nor is the LOCALITY diligently pursuing a cure, the DEPARTMENT may exercise any remedies it may have under this Agreement.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

CITY OF NORFOLK, VIRGINIA:

_____

ATTEST:

_____

City Clerk
City of Norfolk

_____

Assistant City Manager
City of Norfolk

CONTENTS APPROVED:

By: _____

Director of Public Works
City of Norfolk

_____

Date

APPROVED AS TO FORM AND CORRECTNESS:

By: _____

Deputy City Attorney
City of Norfolk

_____

Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this Agreement.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

_____

Chief of Policy
Commonwealth of Virginia
Department of Transportation

Date

_____

Signature of Witness

Date

Attachments
Appendix A (UPC109568)

Appendix A **Date:** 10/24/2016

Project Number: 0460-122-380 UPC: 109568 CFDA # 20.205 Locality: City of Norfolk

Project Location ZIP+4: 23504-1126	Locality DUNS# 074740069	Locality Address (incl ZIP+4): 810 Union Street Norfolk, VA. 23510-2717

Project Narrative

Scope:	Granby Street Bridge Rehab
From:	Llewllyn Avenue
To:	Willow Wood Drive

Locality Project Manager Contact info: Christine Armstrong, P.E.; Phone 757-664-7459 email: christine.armstrong@norfolk.gov

Department Project Coordinator Contact Info: Derrick Williams; Phone 757-925-2582 email: derrick.williams.Vdot.virginia.ovu

Project Estimates

	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	$348,000	$0	$3,110,000	$3,458,000
Estimated VDOT Project Expenses	$6,000	$0	$36,000	$42,000
Estimated Total Project Costs	$354,000	$0	$3,146,000	$3,500,000

Project Cost and Reimbursement

Phase	Estimated Project Costs	Funds type *(Choose from drop down box)*	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	$354,000	Urban	2%	$7,080	$346,920	
				$0	$0	
				$0	$0	
				$0	$0	
Total PE	$354,000			$7,080	$346,920	$340,920
Construction	$3,146,000	Urban	2%	$62,920	$3,083,080	
				$0	$0	
				$0	$0	
				$0	$0	
				$0	$0	
Total CN	$3,146,000			$62,920	$3,083,080	$3,047,080
Total Estimated Cost	$3,500,000			$70,000	$3,430,000	$3,388,000

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	$3,430,000
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	$3,388,000

Project Financing

Urban	Local Match					**Aggregate Allocations**
$3,430,000	$70,000					$3,500,000

Program and Project Specific Funding Requirements

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality shall complete project scoping on or before 6/26/2017
- The Locality will continue to operate and maintain the facility as constructed. Should the design features of the project be altered by the Locality subsequent to project completion without approval of the Department, the locality inherently agrees, by execution of this agreement, to make restitution, either physically or monetarily, as required by the Department.
- This is a limited funds project. The Locality shall be responsible for any additional funding in excess of **$3,430,000** (if applicable)
- The Appendix A is generated to authorize PE

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Typed or printed name of person signing

C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: David Ricks, Director, Public Works

Subject: Amend and reordain subsection (1) of Section 42-201 of the *Norfolk City Code*, 1979, so as to authorize the change of the numbering of the property currently addressed as One Commercial Place and to correct and more accurately describe the properties addressed as Two Commercial Place and Three Commercial Place

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: 2/6

Approved: Douglas L. Smith, Interim City Manager

Item Number: **R-3**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to amend and reordain subsection (1) of Section 42-201 of the *Norfolk City Code*, 1979, so as to authorize the change of the numbering of the property currently addressed as One Commercial Place and to correct and more accurately describe the properties addressed as Two Commercial Place and Three Commercial Place.

IV. **Analysis:**
The referenced properties are located in the 300 to 500 blocks of East Main Street. By Ordinance No. 42,392, the properties were numbered One Commercial Place, Two Commercial Place and Three Commercial Place. The property known as One Commercial Place has been subdivided and is being redeveloped, which requires new address numbering. The proposed address for this property is 321 E. Main Street. It has also been determined that a more accurate description is needed for the properties addressed as Two Commercial Place and Three Commercial Place.

V. **Financial Impact:**
N/A

810 Union Street #1101 ▪ Norfolk, Virginia 23510
Phone: 757-664-4242 ▪ Fax: 757-664-4239

VI. Environmental:

N/A

VII. Community Outreach/Notification:

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action:

N/A

IX. Coordination/Outreach:

This letter and ordinance have been coordinated with Department of Public Works and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance

11/29/2016-wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____ For DR
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO AMEND AND REORDAIN SUBSECTION (1) OF SECTION 42-201 OF THE CODE OF THE CITY OF NORFOLK, 1979, SO AS TO AUTHORIZE THE CHANGE OF THE NUMBERING OF THE PROPERTY CURRENTLY ADDRESSED AS ONE COMMERCIAL PLACE AND TO CORRECT AND MORE ACCURATELY DESCRIBE THE PROPERTY ADDRESSED AS TWO COMMERCIAL PLACE AND THREE COMMERCIAL PLACE.

- - -

WHEREAS by Ordinance No. 42,392, adopted September 19, 2000, the Council amended Section 42-201 of the Code of the City of Norfolk, 1979, so as to provide that the building located on the property south of Main Street and abutting on a portion of the western line of proposed Commercial Place be numbered One Commercial Place; that the building located on the property south of Main Street and abutting on a portion of the southern line of Commercial Placed be numbered Two Commercial Place; and that the building located on property south of Main Street and abutting on a portion of the eastern line of Commercial Place be numbered Three Commercial Place; and

WHEREAS the building currently numbered One Commercial Place is being redeveloped and new address numbering is desired; and

WHEREAS, it has been determined that a more accurate description is needed for the buildings numbered Two Commercial Place and Three Commercial Place; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Subsection (1) of Section 42-201 of the Code of the City of Norfolk, 1979, is hereby amended and reordained to read as follows:

> Sec. 42-201. - Special provisions as to certain buildings.
>
> (1) (a) The numbering of the property, and any building thereon, south of Main Street, East of Atlantic Avenue and north of Waterside Drive, currently known as One Commercial Place, shall be assigned according to Article IV, Sections 42-196 through 200 of the Code.
>
> (b) The numbering of the building located on the property south of Main Street and abutting on portions of the eastern line of Commercial Place and the northern line of Waterside Drive shall be Two Commercial Place.
>
> (c) The numbering of the building located on the property south of Main Street and abutting on portions of the eastern line of Commercial Place and the southern line of Main Street shall be Three Commercial Place.

Section 2:- That this ordinance shall be in effect from and after its adoption.

- ## ARTICLE IV. - STREET NUMBERS FOR BUILDINGS
- ### Sec. 42-196. - Compliance with article; general duties of director of public works under article.

(a) All buildings or any street as defined in section 42.4-2 of this Code whether public or private, now or hereinafter erected or constructed within the boundaries of the city shall be numbered and named as provided in this article.

(b) It shall be the duty of the director of public works to see that all buildings in the city are numbered in accordance with the plans prescribed in this article and he shall adopt, and require to be used, a uniform size and style of numbers for all buildings.

(c) The official name of all streets shall be as maintained in the master street name file. The director of public works shall be responsible for maintaining the master street name file.

(Code 1958, §§ 45-50, 45-45; Ord. No. 40,114, § 1, 9-19-00)

- ### Sec. 42-197. - Division of city into blocks; base lines—Generally.

The entire city, with the exception of that part of the city commonly known as Berkley, shall be divided into blocks, with Granby Street as the base line from which all such blocks on east and west streets north of Main Street are to be computed, and Fayette Street as the base line from which all such blocks on east and west streets south of Main Street are to be computed, and the pier head line of the Elizabeth River shall be the base line from which all such blocks on north and south streets, lying west of the center line of Broad Creek, are to be computed. The numbering of all such blocks on north and south streets located east of the center line of Broad Creek are to be computed north and south from a base line along the Norfolk—Southern Railway's right-of-way to Virginia Beach.

(Code 1958, § 45-41)

- ### Sec. 42-198. - Same—Berkley.

That part of the city commonly known as Berkley shall be numbered in accordance with the following plan: South Main Street in said part of the city the base line from which all such blocks on east and west streets are to be computed, and the port warden's line in the southern branch of the Elizabeth River the base line from which all such blocks on north and south streets are to be computed.

(Code 1958, § 45-42; Ord. No. 40,114, § 2, 9-19-00)

- ### Sec. 42-199. - Blocks and parcels in each block to be numbered consecutively.

For the purposes of this article, all blocks referred to in sections 42-197 and 42-198 shall be deemed to be numbered in regular order from their respective base lines as named in such sections. In each block so computed as block one, parcel numbers beginning with one hundred (100) shall be assigned or reserved for each street. In each block so computed as block two (2), parcel numbers beginning with two hundred (200) shall be assigned or reserved for each street,

and so on for each block, the first parcel number in each block to be one hundred (100) multiplied by the number of such block computed from its base line as aforesaid. Block range numbers shall be noted in the street sign starting with the lowest number.

(Code 1958, § 45-43; Ord. No. 40,114, § 3, 9-19-00)

- **Sec. 42-200. - Odd and even numbers.**

(a)

Every parcel on the north side of any street shall have an even number and every parcel on the south side of any street shall have an odd number.

(b)

Every parcel on the east side of any street shall have an even number and every parcel on the west side of any street shall have an odd number.

(Code 1958, § 45-44; Ord. No. 40,114, § 4, 9-19-00)

C: Director, Department of Human Resources

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: Capri M. Stanley-Smith
Director of Human Resources

Subject: Amend and reordain Section 2.1-6 (b) of the Norfolk City Code

Reviewed: Sabrina Joy-Hogg, Chief Deputy City Manager

Ward/Superward: Citywide

Approved: Douglas L. Smith, Interim City Manager

Item Number: **R-4**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to amend and reordain Section 2.1-6 (b) of the *Norfolk City Code*, 1979, so as to authorize the Civil Service Commission (the "Commission") to delegate limited authority to the Director of Human Resources. The Commission members agree to and are in support of this change.

IV. **Analysis**
The *Norfolk City Charter* sections pertaining to the Commission were established in 1918. When established, it was the responsibility of the Commission to create, amend and enforce rules for the classified service. Other organizations have since established human resources departments responsible for administering these functions. In addition, state and federal laws have been enacted to prohibit discrimination in employment practices, ensure fair and equal compensation and define employee participation in political activities. The City of Norfolk (the "city") is the only locality that has a Civil Service Commission which governs employment and personnel activities to include, but not limited to, classification, recruitment, selection and probation.

The Department of Human Resources staff met with representatives from city departments to discuss ways to streamline current processes. Feedback received indicates some civil service related processes are time consuming due to the Commission approval process. Designating the Director of Human Resources with the authority to approve classification specification creation and revisions, temporary acting assignment extensions, probation extensions, requests for reclassifications, and rehire/reinstatement requests following

approval of the City Manager, will expedite certain processes and assist in providing timely service to city departments.

V. Financial Impact

N/A

VI. Environmental

N/A

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

The Civil Service Commission met on October 5, 2016 and approved the request to designate the Director of Human Resources authority to approve the items listed on the attached memorandum.

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Human Resources, and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance

Additional Supporting Documents:

- Memorandum to the Civil Service Commission dated October 3, 2016 approving delegation to the Director of Human Resources for the items listed.

THE CITY OF NORFOLK

MEMORANDUM

TO: Civil Service Commission

FROM: Capri M. Stanley-Smith, Director of Human Resources

SUBJECT: Civil Service Commission Designation for Approval

DATE: October 3, 2016

The Department of Human Resources has been meeting with client departments to receive input on how we can provide exceptional customer service and/or improve our current processes.

Some of the feedback received indicates that in many areas the process is time consuming because Civil Service Commission (CSC) approval is necessary and meetings are held on a monthly basis. Therefore, in an effort to streamline processes and enhance efficiencies, it's being requested that the CSC designate the Civil Service Commission Secretary, the Director of Human Resources, with the authority to approve the following:

- classification specification creation and revisions, subject to approval by the City Council
- temporary acting assignment extensions
- probation extensions
- requests for reclassifications
- rehire/reinstatement requests following the approval of the City Manager

This will expedite the process and assist us with servicing client departments. This will also limit the amount of meetings the CSC will need to have during the year. Upon approval of the above, the CSC will continue to meet to review and approve any items pertaining to the public safety selection processes, certification of non-permanent employees to the classified service, and revisions to the Civil Service rules.

Your favorable approval is requested.

☑ Approved ☐ Disapproved

Angelica Light, Chairperson

10/5/16
Date

11/29/16 - JEC:ll

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Human Resources

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO AMEND AND REORDAIN SECTION 2.1-6(b) OF THE NORFOLK CITY CODE, 1979, **SO AS TO** AUTHORIZE THE CIVIL SERVICE COMMISSION TO DELEGATE LIMITED AUTHORITY TO THE DIRECTOR OF HUMAN RESOURCES.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Section 2.1-6(b) of the Norfolk City Code, 1979, as amended, regarding civil service commission powers, is hereby amended and reordained to read as follows:

> (b) *Civil service commission powers.* The civil service commission shall classify all the offices and places of employment in the city with reference to the examinations provided for in the Charter, except those offices and places mentioned in section 114 of the Charter. The offices and places so classified by the commission shall constitute the classified civil service of the city, and no appointment to any such offices and places shall be made except according to the commission's rules. The civil service commission may delegate its authority to implement its rules, except as prohibited by subsection 2.1-1(c) of this Code, as amended, to the director of human resources, but the commission shall continue to review and approve any revisions to its rules.

Section 2:- That this ordinance shall be in effect from and after its adoption.

City of NORFOLK

C: Dir. Finance

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: Christine Garczynski, Director of Finance

Subject: Norfolk Airport Authority – Issuance of Revenue Bonds

Reviewed: Sabrina Joy-Hogg, Chief Deputy City Manager

Ward/Superward: N/A

Approved: Douglas L. Smith, Interim City Manager

Item Number: **R-5**

I. **Recommendation:** Adopt Resolution

II. **Applicant:** Norfolk Airport Authority

III. **Description**

This agenda item is a resolution approving the issuance of revenue bonds by the Norfolk Airport Authority (the "Authority") of up to $10,000,000 for the Old Dominion University Real Estate Foundation (the "Foundation") to assist in financing the construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum located at 4200 Hampton Boulevard and to pay the costs associated with the bond's issuance.

IV. **Analysis**

Section 147(f) of the Internal Revenue Code of 1986 requires approval by Norfolk City Council ("City Council") of the issuance of any private activity bond by the Authority after the Authority has held a public hearing to consider the issuance of such bond. The Authority held a public hearing on December 8, 2016 and adopted a resolution to issue its tax-exempt refunding bond, subject to approval by City Council. The City of Norfolk (the "city") is not issuing these bonds and will not be obligated to pay the debt service on these bonds or any other associated costs. There is no impact to the city's debt capacity.

V. **Financial Impact**

There is no direct financial impact to the city.

VI. **Environmental**

There is not environmental impact associated with this matter.

VII. **Community Outreach/Notification**

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

810 Union Street #1101 ▪ Norfolk, Virginia 23510
Phone: 757-664-4242 ▪ Fax: 757-664-4239

VIII. Board/Commission Action

This action is recommended by the Authority's General Counsel, Vandeventer Black LLP.

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Finance and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Resolution
- Opinion of Counsel Letter
- Affidavit of Publication
- Summary of Public Hearing Statements
- Norfolk Airport Authority Inducement Resolution
- Fiscal Impact Statement
- Conflict of Interest Certificate

11/30/2016 [bjl]

Form and Correctness Approved: RAP

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Finance

NORFOLK, VIRGINIA

Resolution

A RESOLUTION APPROVING THE EXERCISE BY THE NORFOLK AIRPORT AUTHORITY (THE "AUTHORITY") OF POWERS CONFERRED BY CHAPTER 463 OF THE ACTS OF ASSEMBLY OF 1948, AS AMENDED, IN CONJUNCTION WITH THE ISSUANCE FOR OLD DOMINION UNIVERSITY REAL ESTATE FOUNDATION (THE "APPLICANT"), OF THE AUTHORITY'S REVENUE BOND IN AN AMOUNT NOT TO EXCEED $10,000,000, TO ASSIST THE APPLICANT TO FINANCE (a) THE CONSTRUCTION AND EQUIPPING OF A TWO-STORY BUILDING OF APPROXIMATELY 24,396 SQUARE FEET TO HOUSE AN ART MUSEUM (THE "PROJECT") TO BE LOCATED AT 4200 HAMPTON BOULEVARD WHICH IS ON THE NORTHWEST CORNER OF 43RD STREET AND HAMPTON BOULEVARD IN NORFOLK, VIRGINIA AND (b) PAYING THE COSTS ASSOCIATED WITH THE BOND'S ISSUANCE, NECESSITATING APPROVAL BY THIS COUNCIL IN ORDER TO COMPLY WITH STATE AND FEDERAL LAW AND PAYING CERTAIN COSTS INCURRED IN CONNECTION WITH THE ISSUANCE OF SUCH BOND.

- - -

WHEREAS, the Chapter 463 of the Acts of Assembly of 1948, as amended (the "Act"), authorizes the creation of the Norfolk Airport Authority (the "Authority") and empowers the Authority to assist Old Dominion University Real Estate Foundation (the "Applicant"), by the issuance of a revenue bond to assist in the: (a) construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum (the "Project") to be located at 4200 Hampton Boulevard

which is on the northwest corner of 43rd Street and Hampton Boulevard in Norfolk, Virginia; and (b) paying the costs associated with the Bond's issuance, necessitating approval by this Council in order to comply with state and federal law (the "Facility"), and to pay all or a portion of the cost of issuing the Bond; and

WHEREAS, the Facility is owned by the Applicant; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires approval by this Council of the issuance of any private activity bond by the Authority after the Authority has held a public hearing to consider the issuance of such bond as one of the acts required in order for the interest on such bond to qualify for exemption from the imposition of federal income tax; and

WHEREAS, the Authority held a public hearing on December 8, 2016, in compliance with the Code and Section 15.2-4906 of the Code of Virginia (1950), as amended (the "Virginia Code"), and after such public hearing did adopt a resolution to issue its tax-exempt refunding revenue bond (the "Bond") in an amount not to exceed $10,000,000, subject to the adoption of this resolution; and

WHEREAS, the Authority has recommended that the Council approve the issuance of the Bond; and

WHEREAS, the Bond, as a "qualified 501(c)(3) bond," will be exempt, under Section 146(g)(2) of the Code, from the limitation on the volume of notes or bonds the interest on which is exempt from the imposition of federal income tax; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bond, a record of the public hearing with respect to the Bond, a copy of this Authority's Resolution and a Fiscal Impact Statement in the form prescribed by Section 15.2-4907 of the Virginia Code, have been filed with the Council; now, therefore,

BE IT RESOLVED by the Council of the City of Norfolk:

Section 1:- That, relying upon the representations of the Authority by its counsel, the recitals in the preambles hereto are found to be true and correct in all respects and are adopted as findings of this Council as if fully rewritten herein.

Section 2:- That the Facility proposed to be financed by the issuance of the Bond and the related costs incurred in connection with the issuance of the Bond are deemed appropriate for such plan of finance and, accordingly, the issuance of the Bond is hereby approved.

Section 3:- That the approval of the issuance of the Bond as required by Section 147(f) of the Code does not constitute an endorsement to a prospective purchaser of the Bond of the proposed use of the proceeds of the Bond or the creditworthiness of the Applicant, and, as required by Virginia law, the Bond shall provide that neither the Commonwealth of Virginia, the City nor the Authority, shall be obligated to pay the principal, or premium, if any, of the Bond or the interest thereon or other costs incident thereto except from the revenues and monies pledged therefor, and neither the faith and credit nor

the taxing power of the Commonwealth of Virginia, the City or the Authority, shall be pledged thereto.

Section 4:- That this resolution shall be in effect from and after its adoption.

Anita O. Poston
757-446- 8606 - direct
757-446-8670 – fax
aposton@vanblk.com
Licensed in Virginia

VANDEVENTER BLACK LLP

101 W. Main Street • 500 World Trade Center • Norfolk, VA 23510 • O: 757.446.8600 • F: 757.446.8670

December 8, 2016

Council of the City of Norfolk
810 Union Street
Norfolk, VA 23510

RE: Not to Exceed $10,000,000.00 Norfolk Airport Authority
Revenue Bond for the benefit of Old Dominion University Real Estate Foundation

Ladies and Gentlemen:

We are general counsel to the Norfolk Airport Authority (the "Authority") and as such are familiar with the records and proceedings of the Authority. You have requested our opinion in connection with the adoption by the Council of the City of Norfolk (the "Council") of the proposed resolution attached hereto, which approves the issuance of the captioned revenue bond (the "Bond") by the Authority pursuant to Chapter 34, Acts of Assembly of 1918, Chapter 463, Acts of the Assembly of 1948, as amended, Section 144 of the Norfolk Charter, as amended, and Section 147(f) of the Internal Revenue Code of 1986, as amended to date, and the regulations outstanding thereunder (the "Code"). The Bond will be issued to assist Old Dominion University Real Estate Foundation (the "Company") to finance: (a) the construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum (the "Project") to be located at 4200 Hampton Boulevard which is on the northwest corner of 43rd Street and Hampton Boulevard in Norfolk, Virginia; and (b) paying the costs associated with the Bond's issuance, necessitating approval by this Council in order to comply with state and federal law.

We have examined the proposed resolution to be adopted by Council and such other information, documents and records as we believe necessary for the purpose of rendering this opinion. Based on the foregoing, we are of the opinion that:

1. All action by the Authority necessary to date to authorize the issuance of the Bond has been taken in accordance with law and all applicable statutes;

2. The public hearing held by the Authority on December 8, 2016, complied with the requirements of Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia, as amended to date;

3. The Council is the "applicable elected representative" within the meaning of Section 147(f) of the Code and the appropriate "governing body" within the meaning of Section 15.2-4906 of the Code of Virginia, as both statutes are amended to date, and the proposed resolution, when adopted, will constitute approval for the Bond, within the meaning of Section 147(f) and Section 15.2-4906;

4. The recitals in the preambles of the resolution proposed for adoption by the Council are true and correct in all respects;

5. The facilities to be financed and described in the attached resolution are eligible for financing by the Authority; and

6. There is no action, suit, proceeding or investigation at law or equity, before or by any court or public board or body, to the best of our knowledge, pending or threatened against the Authority wherein an unfavorable decision, ruling or finding would in any material respect affect adversely the approval contemplated by the proposed resolution.

This opinion of counsel is rendered based upon the understanding that the proposed resolution in this matter will be acted upon by Council at a later date. We recognize an affirmative obligation to bring to the attention of the Council any circumstance which might materially change this opinion of counsel between the date of this opinion and the date of Council action on this matter.

Very truly yours,

VANDEVENTER BLACK LLP

Jennifer L. Eaton
for Anita O. Poston

AOP:cbm

Cc: Robert S. Bowen, A.A.E., Executive Director
Norfolk Airport Authority

4823-4542-5213, v. 1

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NOTICE OF PUBLIC HEARING ON PROPOSED ISSUANCE OF A REVENUE BOND BY THE NORFOLK AIRPORT ...

NOTICE OF PUBLIC HEARING ON PROPOSED ISSUANCE OF A REVENUE BOND BY THE NORFOLK AIRPORT AUTHORITY AS A CONDUIT ISSUER ON BEHALF OF OLD DOMINION UNIVERSITY REAL ESTATE FOUNDATION Notice is hereby given that the Norfolk Airport Authority (the "Authority"), whose address is Norfolk International Airport, 2200 Norview Avenue, Norfolk, Virginia 23518, will hold a public hearing on the plan of finance of the Old Dominion University Real Estate Foundation, a Virginia nonstock corporation (the "Company"), the principal place of business and mailing address of which is 4417 Monarch Way, 4th Floor, Norfolk, Virginia 23529, under which the Authority will issue its revenue bond in an amount not to exceed $10,000,000 to assist the Company in connection with the construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum (the "Project") to be located at 4200 Hampton Boulevard which is on the northwest corner of 43rd Street and Hampton Boulevard. The bond will also finance the costs associated with its issuance. The Project will be owned by the Company. The public hearing, which may be continued or adjourned, will be held at 1:00 p.m. on December 8, 2016, before the Authority at its offices located on the 2nd level of the main terminal of Norfolk International Airport. The bond will not pledge the credit or taxing power of the City of Norfolk, Virginia, or the Authority, and will be a limited obligation of the Authority payable solely from funds provided by or on behalf of the Company. Any person interested in the issuance of the bond or the Project may appear and be heard. A copy of the resolution to be considered by the Authority after the public hearing is on file and is open for inspection at the Authority's office during business hours. NORFOLK AIRPORT AUTHORITY VP 25247505A

Appeared In:
The Virginian-Pilot
Published - The Virginian-Pilot : 11/24/2016

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SUITE 2100
NORFOLK VA 23510

REFERENCE: 99976942
25247505 ISSUANCE OF A REVENU

State of Virginia
City of Norfolk

This day, Jacqueline Whitfield, personally appeared before me; and after being dully sworn, made oath that: (1. she is affidavit clerk of the Virginian-Pilot, a newspaper published by The Virginian-Pilot Media Companies, LLC, in the cities of Norfolk, Portsmouth, Chesapeake, Suffolk, and Virginia Beach, Commonwealth of Virginia and in the state of North Carolina 2.) That the advertisement hereto annexed has been published in said newspaper on the dates stated

FRANCISCO A. KELLY
COMMONWEALTH OF VIRGINIA
Expires 10-31-19
REG # 7145124
NOTARY PUBLIC

PUBLISHED ON: 11/24 12/01

TOTAL COST: 1,124.72 AD SPACE: 68 LINE
FILED ON: 12/02/16

Legal Affiant

Subscribed and sworn to before me in my city and state on the day and year aforesaid ~~this~~ 5 of December in the year of 2016.(NRN:7145124)

Notary: My commission expires October 31, 2019

NOTICE OF PUBLIC HEARING ON PROPOSED ISSUANCE OF A REVENUE BOND BY THE NORFOLK AIRPORT AUTHORITY AS A CONDUIT ISSUER ON BEHALF OF OLD DOMINION UNIVERSITY REAL ESTATE FOUNDATION

Notice is hereby given that the Norfolk Airport Authority (the "Authority"), whose address is Norfolk International Airport, 2200 Norview Avenue, Norfolk, Virginia 23518, will hold a public hearing on the plan of finance of the Old Dominion University Real Estate Foundation, a Virginia nonstock corporation (the "Company"), the principal place of business and mailing address of which is 4417 Monarch Way, 4th Floor, Norfolk, Virginia 23529, under which the Authority will issue its revenue bond in an amount not to exceed $10,000,000 to assist the Company in connection with the construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum (the "Project") to be located at 4200 Hampton Boulevard which is on the northwest corner of 43rd Street and Hampton Boulevard. The bond will also finance the costs associated with its issuance. The Project will be owned by the Company. The public hearing, which may be continued or adjourned, will be held at 1:00 p.m. on December 8, 2016, before the Authority at its offices located on the 2nd level of the main terminal of Norfolk International Airport. The bond will not pledge the credit or taxing power of the City of Norfolk, Virginia, or the Authority, and will be a limited obligation of the Authority payable solely from funds provided by or on behalf of the Company. Any person interested in the issuance of the bond or the Project may appear and be heard. A copy of the resolution to be considered by the Authority after the public hearing is on file and is open for inspection at the Authority's office during business hours.

NORFOLK AIRPORT AUTHORITY

VP 25247505A

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150 WEST MAIN STREET
SUITE 2100
NORFOLK VA 23510

REFERENCE: 99976942
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Commonwealth of Virginia
City of Norfolk

This day, Chuck Beeler personally appeared before me and, after being duly sworn, make oath that:

1.He is affidavit clerk of Interactive Media, asubsidiary of The Virginian-Pilot Media Companies, LLC, publishing in Chesapeake, Suffolk, Norfolk, Portsmouth and Virginia Beach, Commonwealth of Virginia in the state of Virginia

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FILED ON: 12/05/16

Legal Affiant: _____

Subscribed and sworn to before me in my city and state on the day and year aforesaid this 5 day of December 2016. (NRN: 7145124)

Notary: _____ My commission expires October 31, 2019.

SUMMARY OF PUBLIC HEARING

At 1:00 p.m. on December 8, 2016, the Chairman of the Norfolk Airport Authority (the "Authority") announced the commencement of a public hearing at its offices located on the 2nd level of the main terminal of Norfolk International Airport, on the plan of finance of the Old Dominion University Real Estate Foundation, a Virginia nonstock corporation (the "Company"), the principal place of business and mailing address of which is 4417 Monarch Way, 4th Floor, Norfolk, Virginia 23529, under which the Authority will issue its revenue bond in an amount not to exceed $10,000,000 to assist the Company in connection with the construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum (the "Project") to be located at 4200 Hampton Boulevard which is on the northwest corner of 43rd Street and Hampton Boulevard. The bond will also finance the costs associated with its issuance.

George L. Consolvo, Esquire, Bond Counsel, described to the Authority the nature of the plan of finance and the process for its approval. No other member of the public spoke at the public hearing in support of or opposition to the plan of refinance and the Chairman closed the public hearing at 1:15 p.m.

4830-9123-0013, v. 1

APPROVING RESOLUTION OF
NORFOLK AIRPORT AUTHORITY
FOR
OLD DOMINION UNIVERSITY REAL ESTATE FOUNDATION

WHEREAS, there has been described to the Norfolk Airport Authority (the Authority), the plans of the Old Dominion University Real Estate Foundation (the Company) for the issuance of the Authority's revenue bond (the Bond) in an amount not to exceed $10,000,000 to assist the Company in connection with (a) the construction and equipping of a two-story building of approximately 24,396 square feet to house an art museum (the Project) to be located at 4200 Hampton Boulevard which is on the northwest corner of 43rd Street and Hampton Boulevard and (b) paying the costs associated with the Bond's issuance; and

WHEREAS, the Company has elected to proceed with a plan of finance pursuant to which the Bond will be privately placed with TowneBank (the Lender) for its own account and for investment purposes; and

WHEREAS, the Company in its appearance before the Authority has described the debt service cost savings relating to the issuance of the Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the Code) and other financial benefits to be derived from the issuance of the Bond, and has represented that the Company is a corporation described in Section 501(c)(3) of the Code and which is exempt from federal income taxation pursuant to Section 501(a) of the Code; and

WHEREAS, the Company in its appearance before the Authority has described the educational, cultural and other benefits to the City of Norfolk, Virginia (the City), and the Commonwealth of Virginia being derived from the Project and has requested the Authority to agree to issue the Bond under Chapter 463 of the Acts of Assembly of 1948, as amended (the Act), to assist the Company in financing the Project; and

WHEREAS, a public hearing has been held by the Authority as required by Virginia law and Section 147(f) of the Code on the date hereof; and

WHEREAS, there have been presented to this meeting the forms of the following documents and instruments (collectively hereinafter referred to as the Authority Documents) which the Authority proposes to execute to carry out the transactions described above:

(a) Bond Purchase and Sale Agreement (the Bond Purchase Agreement), dated as of December 1, 2016, among the Authority, the Company and the Lender, together with the Company's promissory note in an amount not to exceed $10,000,000 (the Note) payable to the Authority and to be assigned to the Lender; and

(b) The Authority's Revenue Bond (Barry Arts Museum), Series 2016, in registered form, in the principal amount not to exceed $10,000,000, and payable and bearing interest, all as set forth therein.

BE IT RESOLVED BY THE NORFOLK AIRPORT AUTHORITY:

1. The recitals made in the preambles to this resolution are hereby adopted as a part of this resolution.

2. It is hereby found and determined that the issuance of the Bond is in accordance with the purposes of the Act and will benefit the inhabitants of the City and the Commonwealth of Virginia and promote their education and welfare.

3. To assist the Company in the financing of the Project, the Authority hereby agrees to undertake the issuance of the Bond.

4. Concurrently with the issuance of the Bond, the Chairman, Vice Chairman or Executive Director of the Authority is hereby authorized and directed to execute and to deliver the Bond Purchase Agreement to the other parties thereto.

5. The Chairman, Vice Chairman or Executive Director of the Authority is hereby authorized and directed to execute, the Secretary or Assistant Secretary is authorized and directed to affix and attest the seal of the Authority, and either is authorized and directed to execute and deliver the Bond to the Lender upon the terms provided in the Bond and the documents securing the Bond; provided, however, that the delivery of the Bond shall not occur until the Bond has been approved by the City Council of the City. All terms of the Bond are by this reference thereto incorporated herein as a part of this resolution.

6. The Chairman, Vice Chairman or Executive Director of the Authority is hereby authorized and directed to execute and deliver to the Lender an assignment of the Note and of the rights of the Authority under the Bond Purchase Agreement (except for the reserved rights set forth therein).

7. The Authority hereby agrees to the recommendation of the Company that Kaufman & Canoles, a Professional Corporation, Norfolk, Virginia, be appointed as Bond Counsel and hereby appoints such firm to supervise the proceedings and approve the issuance of the Bond.

8. The Authority Documents shall be in substantially the forms presented at this meeting which are hereby approved, with such completions, omissions, insertions and changes as may be approved by Bond Counsel and the Chairman, Vice Chairman or Executive Director of the Authority, his execution to constitute conclusive evidence of his and Bond Counsel's approval of any such omissions, insertions and changes.

9. The officers of the Authority are hereby authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038 and appropriate deeds and bills of sale, and to take all such further action as they may consider necessary or desirable in connection with the issuance and sale of the Bond and the undertaking of the plan of finance described herein.

10. All costs and expenses in connection with the financing, including the Authority's annual administrative fee (which shall be paid to the Economic Development Authority of the

City of Norfolk), the fees and expenses of Bond Counsel, counsel for the Authority, counsel for the Company and counsel for the Lender, shall be paid from the proceeds of the Bond or from funds of the Company. If for any reason the Bond is not issued, it is understood that all such fees and expenses (other than the Authority's administrative fee which is payable only if the Bond is issued) shall be paid by the Company and that the Authority shall have no responsibility therefor.

11. The Authority, including its commissioners, officers, employees, agents and counsel, shall not be liable and hereby disclaims all liability to any person for any damages, direct or consequential, resulting from the Authority's failure to issue the Bond or for any other reason, and the Company shall agree in the financing documents to indemnify and hold harmless the Authority and its commissioners, officers, employees, agents and counsel from and against all liabilities, claims, penalties, losses, costs and expenses in any way connected with the Project or the issuance of the Bond.

12. The Authority hereby designates the Bond a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code for calendar year 2016.

13. This resolution constitutes a declaration of official intent by the Authority to reimburse expenditures related to the plan of finance for the Project, including construction and development expenditures, within the meaning of Section 1.150.2 of the Treasury Regulations issued pursuant to the Code.

14. The Authority's officers shall perform such other acts and adopt such further resolutions as may be required to implement its undertakings as hereinabove set forth.

15. The Authority hereby recommends that the City Council of the City approve the issuance of the Bond and hereby directs the Chairman, Vice Chairman or Executive Director to submit to the Council the statement in the form prescribed by Section 15.2-4907 of the Virginia Code; to provide to the Council a reasonably detailed summary of the comments expressed at the public hearing required by Section 15.2-4906 of the Virginia Code; and to provide to the Council a copy of this resolution.

16. The Authority's assistance in connection with the issuance of the Bond does not constitute an endorsement to a prospective owner of the Bond of the creditworthiness of the Company or any person or entity and the Bond shall provide that the City and the Authority shall not be obligated to pay the Bond or the interest thereon or other costs incident thereto and neither the faith or credit nor the taxing power of the Commonwealth of Virginia or the City shall be pledged thereto. The Authority by the adoption of this resolution does not intend for such action to constitute approval of the Company, its policies or its management.

17. The documentation with respect to the Bond shall contain covenants by the Company to establish procedures to insure that the interest on the Bond retains the exclusion from gross income for Federal income tax purposes, including the maintaining of necessary records of covenant compliance, documentation concerning the application and investment of proceeds of the Bond, records of all rebate amounts paid to the United States, Company elections or other actions made under the Code and applicable Treasury Regulations, documentation

relating to the use of the Project, documentation as to sources of payment and security for the Bond and any other information required by Bond Counsel.

18. This resolution shall take effect immediately upon its adoption but shall expire on the first anniversary of the date of adoption hereof if the Bond has not been issued prior to such date.

The undersigned hereby certifies that the above resolution was duly adopted by the commissioners of the Norfolk Airport Authority at a meeting duly called and held on December 8, 2016, and that such resolution is in full force and effect on the date hereof.

Dated: December 8, 2016

NORFOLK AIRPORT AUTHORITY

By: Robert T. Bowen

Its: Executive Director

15140860v2

CONFLICTS OF INTEREST CERTIFICATE
FOR
OLD DOMINION UNIVERSITY REAL ESTATE FOUNDATION

The undersigned applicant for financing ("Applicant") hereby certifies to the Norfolk Airport Authority ("Authority"), that the persons whose names and addresses are set forth below constitute each person

(a) having a direct or indirect ownership interest in Applicant of three percent (3%) or more of the total equity of the Applicant if such person is also an officer or employee of the Authority or the City of Norfolk (the "City");

(b) having annual income or reasonably anticipating having annual income of $10,000.00 or more from Applicant, if such person is also an officer or employee of the Authority or of the City;

(c) having personal liability on behalf of the Applicant of three percent (3%) or more of the total assets of the Applicant if such person is also an officer or employee of the Authority or the City;

(d) having an ownership interest as described in (a) above or having income or reasonably anticipating having income of $10,000.00 or more from representing the Applicant or any other entity that will benefit or suffer from the Authority's proposed financing of the Facility ("Other Entity") regarding the proposed financing of the Facility, if such person is also an officer or employee of the Authority or the City;

(e) who is an officer or employee of the Authority or of the City and will derive any income, profit or other thing of value from the Facility or the financing or transfer thereof, or otherwise stands to benefit therefrom.

NONE

Attached hereto is a statement describing in detail the relationship of each person named above to the Applicant or Other Entity and to the Authority and/or the City, in order that any member of the Board of Directors of the Authority, any member of City Council and any employee of either the Authority or the City acting on this application shall have full knowledge of all matters requiring disclosure or disqualification under the Comprehensive Conflict of Interests Act, Chapter 40, Title 2.1 of the Code of Virginia.

Signature of Applicant's Representative: Tara F. Saunders
Tara F. Saunders
Date: December 8, 2016

15214704v1

Dated: December 8, 2016

FISCAL IMPACT STATEMENT
SUBMITTED TO THE
NORFOLK AIRPORT AUTHORITY

The undersigned applicant, in order to permit Old Dominion University Real Estate Foundation, to submit the following information in compliance with Section 15.2-4907 of the Code of Virginia of 1950, as amended, states:

Name of applicant: Old Dominion University Real Estate Foundation

Facility: 4200 Hampton Boulevard, Norfolk, Virginia

1.		Maximum amount of financing sought	$10,000,000
2.		Estimated taxable value of facility's real property to be constructed in the locality	$12,000,000
3.		Estimated real property tax per year using present tax rates	$145,000
4.		Estimated personal property tax per year using present tax rates	N/A
5.		Estimated merchant's capital tax per year using present tax rates	N/A
6.	a.	Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	$626,325
	b.	Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	$-0-
	c.	Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	$100,000
	d.	Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	$-0-
7.		Estimated number of regular employees on year round basis (FTE)	2
8.		Average annual salary per employee	$110,000

OLD DOMINION UNIVERSITY REAL
ESTATE FOUNDATION

By: Tara F. Saunders
Executive Director

NORFOLK AIRPORT AUTHORITY

By: Rick G. Bowen
Executive Director

15196395v2

C: Dir., Recreation, Parks and Open Space

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

December 20, 2016

From: Darrell R. Crittendon, Director
Recreation, Parks and Open Space

Subject: Memorandum of Understanding with Employment Services, Inc. d/b/a Centura College

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: 3/7

Approved: _____
Douglas L. Smith, Interim City Manager

Item Number: **R-6**

I. **Recommendation:** Adopt ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to approve a memorandum of understanding ("MOU") between the City of Norfolk (the "City") and Employment Services, Inc. d/b/a Centura College ("Centura") for the use of Barraud Park for a six-week educational pilot program (the "program") instructing the use of unmanned aircraft systems.

IV. **Analysis**
The City and Centura have partnered to serve the community by offering a variety of different aviation and aeronautical programs that are recreational, academic and professional for residents of all ages.

The program will be a six-week Federal Aviation Administration ("FAA") Certification Course in unmanned aircraft systems and drone technology. The program will allow residents to learn how to become drone pilots and maintenance professionals by teaching the skills needed to operate drones and work on commercial drone technology. Upon conclusion of this program, the City and Centura will evaluate its performance and look to provide future instructional courses. Proposed instructional dates are as follows:

Course Name	Instruction Dates	Time
UAS/Drone Course Part 1 and 2 (Senior High Students)	January 17 – February 23, 2017 Tuesday, Thursday afternoons	3:00 pm – 5:00 pm

810 Union Street #1101 ▪ Norfolk, Virginia 23510
Phone: 757-664-4242 ▪ Fax: 757-664-4239

Career in Aviation Maintenance (Adults)	Day Session: March 6 – March 10, 2017 Monday, Tuesday, Friday (Barraud Park) Wednesday, Thursday (Aviation Institute of Maintenance, Chesapeake) Night Session: March 20 – March 24, 2017 Monday, Tuesday, Friday (Barraud Park) Wednesday, Thursday (Aviation Institute of Maintenance, Chesapeake)	2:00 pm – 5:00 pm 6:00 pm – 9:00 pm
Youth Jet Camp (Youth)	April 10 – April 16, 2017 Monday, Tuesday, Friday (Barraud Park) Wednesday, Thursday (Aviation Institute of Maintenance, Chesapeake)	10:00 am – 2:00 pm

V. Financial Impact

There is no financial impact associated with this agenda item during the term of the MOU.

VI. Environmental

N/A

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Recreation, Parks and Open Space and the City Attorney's office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Memorandum of Understanding
- Map of Barraud Park

12/2/2016

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Recreation Parks and Open Spaces

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING WITH EMPLOYMENT SERVICES, INC. D/B/A CENTURA COLLEGE, FOR THE USE OF CERTAIN CITY OWNED PROPERTY KNOWN AS BARRAUD PARK FOR AN EDUCATIONAL PROGRAM INSTRUCTING THE USE OF UNMANNED AIRCRAFT SYSTEMS.

- - -

WHEREAS, the City of Norfolk ("City") and Employment Services, Inc. d/b/a Centura College ("Centura") have negotiated an agreement, in the form of a Memorandum of Understanding ("MOU"), that sets out the terms and conditions upon which Centura will be permitted to use the City-owned property known as Barraud Park ("Property") for the purpose of facilitating the teaching of educational programs instructing the use of unmanned aircraft systems ("Programs"); now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the MOU between the City and Centura permitting Centura to go upon and use the Property for the purpose of teaching the Programs, a copy of which is attached hereto as Exhibit A, is hereby approved.

Section 2:- That the City Manager and other proper officers of the City are authorized to execute the MOU on behalf of the City and to do all other things necessary and proper to effect its terms and conditions.

Section 3:- That the City Manager is further authorized to correct, amend or revise the MOU as he may

deem necessary in order to carry out the purposes as stated therein.

Section 4:- That this ordinance shall be in effect from and after the date of its adoption.

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF NORFOLK RECREATION, PARKS & OPEN SPACE
AND
EMPLOYMENT SERVICES, INC. D/B/A CENTURA COLLEGE

1. **Purpose and Parties**.

The purpose of this Memorandum of Understanding ("**MOU**") is to clearly identify and establish, as described herein, the terms, conditions, roles, duties and responsibilities of The City of Norfolk ("City"), acting by and through the City's Department of Recreation, Parks & Open Space ("RPOS"), and Employment Services, Inc. d/b/a Centura College ("Centura") in relation to Centura's use of the property located at Barraud Park in Norfolk ("Property") for a pilot educational program instructing "Unmanned Aircraft Systems".

2. **Background**.

The City of Norfolk and Centura have entered into a collaborative working arrangement to serve the community by offering of a variety of different aviation and aeronautical programs that are recreational, academic and professional, and may be enjoyed by residents of all ages.

This particular pilot educational program shall be a Federal Aviation Administration ("FAA") Certification Course in unmanned aircraft systems and drone technology for aspiring professionals and hobbyists. The course shall allow students to learn how to become drone pilots and maintenance professionals, teaching skills to operate drones and to work on commercial drone technology.

3. **Term**.

This MOU will be in effect from the date it is fully executed until April 30, 2017, unless sooner terminated by either party, and it may be extended thereafter by written agreement between the parties. Either party may terminate this MOU upon thirty (30) days written notice to the other party. There will be no fees associated with Centura's use of the Facilities during the term of this MOU.

4. **Usage and Purpose**.

Centura shall be permitted to use the Property for the purpose of offering and teaching a FAA Certified Course instructing "Unmanned Aircraft Systems" and drone technology ("UAS Course") and for no other purpose. The portions of the Property to be used shall be comprised of and limited the Main Park Activity Building (containing approx. 3,500 sq. ft.) and certain outside field area(s) (the "Facilities"), as noted on the attached Exhibit A.

5. **Acceptance of the Property**.

Centura acknowledges that it is familiar with the Property and the Facilities, has inspected the Property and the Facilities and accepts the Property and the Facilities in their present condition, along with the access and the parking, as suitable for the anticipated purpose and use.

6. **Conditions/Responsibilities**.

City will:

- Provide the Facilities for offering and teaching the UAS Course.
- Provide adequate access onto the Facilities, as well as adequate parking at or near the Facilities for instructor(s) and patrons of the program.
- Provide for availability of necessary utilities at the Facilities.
- Provide adequate maintenance and repair services for the Facilities.
- Have the right to enter upon the Property and into the Facilities at all reasonable times for inspection, maintenance and repair.

Centura will:

- Comply with all Federal, State and Norfolk laws in any way related to the offering and teaching of the UAS Course, including, but not limited to, the flying of drones.
- Assure that no drone, nor any other unmanned aircraft, will be operated above one hundred (100) vertical feet or outside the boundary of Facilities.
- Assure that each Course Instructor and patron/student maintain a current RPOS facility use pass.
- Assure that each Course Instructor and patron/student abide by all designated and/or posted facility rules and any and all Centura guidelines, rules or requirements.
- Assure and certify that all instructors are qualified and approved by RPOS, and are subject to the following:
    - Background check (All fees associated with background checks will be the responsibility of each instructor);
    - Provide current education & occupation resume;
    - Provide evidence of three years of teaching experience;

- Provide degree and/or certifications reflecting thorough knowledge of the subject matter for the course to be taught;
- All instructors must be CPR/AED and First Aid Certified.

- Assure that all instructors are to be easily identified as instructor during the course lesson periods held at the Facilities.
- Assure that all instructors keep and maintain class and course records.
- Certify that Instructors are not employees or agents of the City for any purpose whatsoever and will not be covered by the City's Workers' Compensation.
- Have use of the Facilities only on dates and at times as shall be set out on a schedule to be established by mutual agreement between RPOS and Centura.
- Provide written notification to RPOS (site managers) for any course lesson cancellations at least twenty-four (24) hours in advance.
- Maintain the Property and Facilities in good and complete condition, and report any and all maintenance, repair and/or damage concerns immediately to the City's Department of General Services, especially as related to the roof of the Main Park Activity Building (particularly any signs of roof leakage) and the baseball field.
- Have use of the baseball field or the football/multi-purpose field, subject to any prior scheduled permitted league game(s) or practice(s). In the event of any scheduling conflict, Centura may use other available outdoor field areas.
- Not use, or permit to be used, the roof of the Main Park Activity Building or the roof of any other buildings.
- Not cut or penetrate the roof of the Main Park Activity Building, nor drive nails into or place any debris on the roof of said building.
- Not make any material improvements, changes, installations, renovations, additions or alterations in, to or about the Facilities and the Property without the prior written consent of the City (especially with regard to electrical service and the roof of the Main Park Activity Building).
- Store all trash, rubbish and garbage in fully closed containers and will be responsible for having it regularly removed from the Property and properly disposed.
- Not assign or sublet the Property or the Facilities, and shall not encumber, nor suffer nor permit to be encumbered, the Property or the Facilities by any lien(s), charge or encumbrance of any kind.

7. **Points of Contact**.

RPOS and Centura shall maintain a close liaison and consult on all matters pertaining to this MOU. The following individuals are designated points of contact under this MOU.

A. **City of Norfolk**
Name: Douglas L. Smith
Title: Interim City Manager
Address: 810 Union Street, Suite 1101, Norfolk, VA 23510
Phone: (757) 664-4242
Email: city.manager@norfolk.gov

B. **City of Norfolk – Recreation, Parks and Open Space**
Name: Ed Matthews
Title: Bureau Manager of Recreation & Human Development
Address: Monticello Avenue, Suite 420, Norfolk, VA 23510
Phone: (757) 823-4291 Ext. 34290
Email: edward.matthews@norfolk.gov

C. **Centura College**
Name: Joel A. English
Title: Vice President
Address: 4455 South Blvd., Virginia Beach, VA 23452
Phone: (757) 456-5065
Email: jenglish@centura.edu

Any changes in these contacts must be submitted in writing.

8. **Rights to Property**.

This MOU is permitting the use of City property and shall in no way be construed as an intent to confer or transfer control, ownership or occupancy rights to any building or field to Centura, nor shall this MOU be construed as a conveyance of an exclusive possessory right therein.

9. **Defense, Waiver and Indemnity**.

Centura agrees to indemnify and save harmless the City of Norfolk, Virginia and its representatives from and against losses and claims, demands, suits, actions, payments and judgments, including any and all expense, legal and otherwise, incurred by the City or its representatives in the defense of any claim or suit brought or recovered against the City as a result of the use of the Property and Facilities by Centura, its agents, servants or employees under this MOU.

10. **Insurance Requirements**.

Centura will maintain insurance during the term of this MOU, providing to the City copies of policies or certificates of said insurance, of the types and in the amounts described and as indicated below. All insurance policies affected by this MOU will be primary and noncontributory to any other insurance or self-insurance maintained by the City, and will be written in an ISO "occurrence-based" form

approved for coverage in the Commonwealth of Virginia. Policy limits may be met via either a singular policy, or in combination with primary and excess, or umbrella, insurance policies. All policies will provide that the Centura and other named insureds, will receive at least thirty (30) days written notice in the event of cancellation of, or material change in, any of the policies. Unless otherwise specifically approved by the City, all public, general liability and automobile/vehicle liability policies will include the City of Norfolk and its employees as "Additional Insured" on each policy. If Centura fails to maintain the insurance as set forth in this MOU, the City has the right, but not the obligation, to purchase such insurance at Centura's expense.

Public liability insurance with a limit of not less than $2,000,000 each occurrence, $2,000,000 general aggregate. The insurance will cover liability, including personal injury and liability assumed under insured contract, arising from Centura's use of the Property and Centura's operations, including the ownership, oversight and use of any aircraft, unmanned aerial vehicles, drones and/or unmanned aerial systems, under this MOU.

Workers' Compensation insurance providing coverage as required by applicable Federal and/or State statutes, and Employer's Liability Insurance. The limits of such polices will be at least $500,000 per accident/disease, and policy limit of $500,000.

Automobile liability insurance for Centura's vehicles used in its performance under this MOU. The insurance limits will be not less than $1,000,000 combined single limit, or bodily injury $500,000 each person, $1,000,000 each accident, and property damage $100,000 each accident. Such insurance must cover liability arising from any motor vehicle as defined by Commonwealth of Virginia laws and must include coverage for owned, hired and non-owned motor vehicles, as well as uninsured and underinsured motorists.

Centura will furnish the City with two (2) copies of the policies, or a certificate(s) of insurance evidencing policies, required in this MOU. The certificate(s) will specifically indicate that the insurance includes any extensions of coverage required in this MOU or any amendment or extension hereto. In the event of cancellation of, or material change in, any of the policies, Centura will notify the City within at least fourteen (14) days after receiving notice of such cancellation or policy change and provide evidence that insurance coverage is in place to meet the requirements of this MOU. If the certificate indicates coverage applicable insurance policies will expire prior to completion of all terms of this MOU, Centura will furnish a certificate of insurance evidencing renewal of such coverage to the City within ten (10) days of the effective date such renewal. All certificates will be executed by a duly authorized representative of each insurer, showing compliance with the requirements of this MOU. Failure of the City, and/or the City's designated agents, to (1) demand such certificates or other evidence of full compliance with these requirements and/or (2) identify a deficiency from evidence that is provided,

will not be construed as a waiver of Centura's obligation to maintain the insurance required in this MOU.

Centura will require each of their subcontractors for work performed in association with this MOU, and not covered under Centura's insurance policies, to take out and maintain during the term of this MOU, insurance coverage of the same type and limits required of Centura for work performed by the subcontractor. Each subcontractor will furnish to Centura two (2) copies of the policies or certificates of insurance evidencing the applicable insurance. The subcontractor will comply with the same requirements regarding indications of coverage, renewal and submission of policies as is required of Centura. Centura will furnish at least one (1) copy the subcontractor's policies/certificate to the City.

11. **Amendment**.

This MOU may be amended in writing by the parties.

12. **Content**.

This MOU contains the entire understanding and present intentions of the parties and supersedes any and all previous agreements or understandings they may have regarding this subject matter, whether orally or in writing.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the day and year written below.

EMPLOYMENT SERVICES, INC.
d/b/a CENTURA COLLEGE

By: _____
Name (Printed): _____
Title: _____

CITY OF NORFOLK

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to Contents:

_____

Director of Recreation, Parks and Open Spaces

Approved as to Form and Correctness

_____

Assistant City Attorney

EXHIBIT SHOWING
BARRAUD PARK
NORFOLK, VIRGINIA

125 0 125 250

DRAWING SCALE 1"=125' #161201

DATE	SCALE	DRAWN BY	CHECKED BY
12-01-2016	1" = 125'	QMW	JTW

DIVISION OF SURVEYS
DEPARTMENT OF PUBLIC WORKS
NORFOLK, VIRGINIA

NOTES:
1. MERIDIAN SOURCE BASED ON THE VIRGINIA COORDINATE SYSTEM OF 1983, SOUTH ZONE (NAD83)(1993-HARN).

EXHIBIT A to motion

tabbies