# CITY COUNCIL AGENDA
# TUESDAY, MARCH 15, 2016

## Work Session Agenda

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

### Closed Session

- Appointments
- Real Estate Matters

### Council Interests

Documents: 03-15-16 COUNCIL INTERESTS.PDF

### Break For Dinner

### Agenda Overview

***Presenter:*** *Marcus D. Jones, City Manager*

### Mid-Year And Five Year Forecast

***Presenter:*** *Marcus D. Jones, City Manager and Sabrina Joy-Hogg, Deputy City Manager*

### Vision 2100

***Presenter:*** *George Homewood, Director of City Planning*

### Small, Woman-Owned, And Minority-Owned Business Program

***Presenter:*** *Peter Chapman, Deputy City Manager*

### Additional Documents

Documents: 03-15-16 ENHANCING THE CURB APPEAL OF NRHA PROPERTIES.PDF, 03-15-16 MINUTES OF CITY COUNCIL MEETING OF FEBRUARY 23.PDF, 03-15-16 MINUTES OF HEALTH, EDUCATION AND FAMILIES COMMITTEE MEETING OF FEBRUARY 23.PDF, 03-15-16 NON STANDARD LOT CERTIFICATE - 934 WORONOCA AVENUE.PDF, 03-15-16 NON STANDARD LOT CERTIFICATE - 5101 HAMPSHIRE AVE.PDF, 03-15-16 PENDING LAND USE ACTIONS.PDF

### Announcement Of Meeting

Documents: ANNOUNCEMENT OF MEETING.PDF

## Formal Session Agenda

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

## Prayer

Prayer to be offered by Vice Mayor Angelia Williams Graves, followed by the Pledge of Allegiance.

## 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 approving the conveyance of a Utility Easement to the City of Norfolk by the Visitors of Old Dominion University, located in the former right-of-way of Bluestone Avenue.

Documents: PH-1 ACQUISITION AND VACATION OF EASEMENTS IN FORMER BLUESTONE AVE.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, to hear comments on the conveyance of property to **Balance Builders, Inc.**, located at **1553 West 41st Street**.

Documents: PH-2 SALE OF 1553 W. 41ST ST TO BALANCE BUILDERS.PDF

## Regular Agenda

R-1

Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an entertainment establishment with alcoholic beverages known as **'The Barrel Room'** on property located at **437 Granby Street**," will be introduced in writing and read by its title.

Documents: R-01 RENEWAL OF SPECIAL EXCEPTION - THE BARREL ROOM.PDF

R-1A

An Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the sale of alcoholic beverages for off-premises consumption at an establishment known as **'The Barrel Room'** on property located at **437 Granby Street**," will be introduced in writing and read by its title.

R-2

Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a microbrewery named **'Bearded Bird Brewing Company'** on property located at **725 Granby Street, Suite 727**," will be introduced in writing and read by its title.

Documents: R-02 SPECIAL EXCEPTION - BEARDED BIRD BREWING CO.PDF

R-2A

An Ordinance entitled, "An Ordinance granting a **Special Exception** to operate an entertainment establishment with alcoholic beverages known as **'Bearded Bird**

**Brewing Company'** on property located at **725 Granby Street, Suite 727**," will be introduced in writing and read by its title.

R-3

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 **'The Cure Coffeehouse and Brasserie'** on property located at **503 Botetourt Street, Suites 503 and 507**," will be introduced in writing and read by its title.

Documents: R-03 SPECIAL EXCEPTION - THE CURE COFFEEHOUSE AND BRASSERIE.PDF

R-4

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to operate a used merchandise sales establishment named **'Lost and Found Treasures'** on property located at **7924 Chesapeake Boulevard, Suite A**," will be introduced in writing and read by its title.

Documents: R-04 SPECIAL EXCEPTION - LOST AND FOUND TREASURES.PDF

R-5

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a **Commercial Drive-Through** for **'Wendy's'** on property located at **1805 Monticello Avenue**," will be introduced in writing and read by its title.

Documents: R-05 SPECIAL EXCEPTION - WENDYS RESTAURANT.PDF

R-6

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $10,000.00 from **Norfolk Southern Foundation** and appropriating and authorizing the expenditure of $10,000.00 for the purchase of training equipment and/or supplies to support the **Norfolk Police Department**," will be introduced in writing and read by its title.

Documents: R-06 DONATION FROM NORFOLK SOUTHERN TO NORFOLK POLICE DEPARTMENT.PDF

R-7

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $10,000.00 from **Norfolk Southern Foundation** and appropriating and authorizing the expenditure of $10,000.00 for the purchase of training equipment and/or supplies to support the **Department of Fire-Rescue**," will be introduced in writing and read by its title.

Documents: R-07 DONATION FROM NORFOLK SOUTHERN TO NORFOLK FIRE-RESCUE.PDF

R-8

Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the **City** as **Administrative and Fiscal Agent** for the **Norfolk Transitional Grant Area (TGA)** under **Title I** of the **Ryan White Comprehensive Aids Resources Emergency (CARE) Act** to accept Part A grant funds in the amount of $6,175,144.00 from the **U.S. Department of Health and Human Services for HIV/AIDS Health and Support Services** and appropriating and authorizing

expenditure of the grant funds," will be introduced in writing and read by its title.

Documents: R-08 ACCEPTING PART A RYAN WHITE TITLE I FUNDS FROM US DEPT OF HEALTH AND HUMAN SERVICES.PDF

R-9

Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund to **Golf Management, Inc.** in the amount of $3,824.64, plus interest, based upon the overpayment of its Admission Tax for the year 2015," will be introduced in writing and read by its title.

Documents: R-09 TAX OVERPAYMENT - GOLF MANAGEMENT INC..PDF

R-10

Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund to **LogistiCare Solutions, LLC** in the amount of $20,314.36, plus interest, based upon the overpayment of its Business License Tax for the Year 2015," will be introduced in writing and read by its title.

Documents: R-10 TAX OVERPAYMENT - LOGISTICARE SOLUTIONS LLC.PDF

R-11

Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the City of Norfolk to enter into a **Performance Agreement** with the **Economic Development Authority** of the City of Norfolk and **ADP, LLC,**" will be introduced in writing and read by its title.

Documents: R-11 PERFORMANCE AGREEMENT TO FACILITATE GRANT FROM COMMONWEALTH OPPORTUNITY FUND - ADP, LLC.PDF

R-12

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $20,000.00 from the Hampton Roads Planning District Commission and appropriating and authorizing the expenditure of $20,000.00 for the construction of the **Lavalette Avenue Canoe/Kayak Launch and Fishing Dock**," will be introduced in writing and read by its title.

Documents: R-12 ACCEPTANCE OF GRANT FROM HAMPTON ROADS PLANNING DISTRICT COMMISSION.PDF

THE CITY OF NORFOLK

March 11, 2016

City Council;

Since we did not have a meeting this week, I updated the Council memo sent on March 4th with additional information.

Highlights include:

- High Speed Internet
- Ocean View Avenue wires
- Middle Avenue house
- Norfolk Animal Care and Adoption Center
- Princess Anne Road speed study

Also, it is tournament time in Norfolk! The Mid-Eastern Basketball tournament is in full swing at the Scope this week. The City hosted the annual College Fair for more than 500 Norfolk public high school students Wednesday. The students interacted with admissions officers from the 13 MEAC schools, several city departments and military branches. Most of the seniors walked away college students!

THE CITY OF NORFOLK

# MEMORANDUM

| | |
|---|---|
| TO: | City Council |
| FROM: | Lori A. Crouch, Public Relations Manager |
| COPIES TO: | City Clerk, City Attorney |
| SUBJECT: | Council Interests |
| DATE: | March 11, 2016 |

**Animal Care and Adoption Center** – The Norfolk Animal Care and Adoption Center (NACC) is located at 5585 Sabre Road, in the heart of an industrial area near Military Highway. 19 people currently staff the facility and there are two vacancies. Recruiting is underway for those vacancies. The building was built in 1964 and according to City records, is 2 stories tall and 13,505 square feet. The City has made significant investments in the building and site over the years to make it functional as an animal shelter. New asphalt was laid about 5 years ago in the rear of the building to ease flooding, provide parking and a driveway for staff and visitors.

The Norfolk SPCA has been a long-term tenant in the front of the building. The City currently leases the space and the property owner is responsible for maintenance to the building's roof and related space. The City's Facility Maintenance Division is responsible for other maintenance activities associated with the daily operation.

**Security Procedures for City Assets in City Vehicles** - General Services' staff reached out to department heads and distributed the City's policy on the appropriate use of City vehicles for official business. The policy states in City vehicles or equipment that may potentially give rise to crimes of opportunity or vandalism.

**High Speed Internet** – City facilities, including police and fire, are connected to the City's high speed network. It's been in place for 10 years and was done in partnership with Cox. Norfolk has fiber throughout the city, both leased and city-owned. The City currently provides free public Wi-Fi at libraries. We are expanding access to free Wi-Fi at MacArthur Square and evaluating access to free Wi-Fi at Town Point Park.

Staff is currently analyzing other city facilities to evaluate the need for high speed access. Over the next year, staff plans to work with the business community to increase the speed, capacity, low cost accessibility to businesses and partner with Norfolk Public Schools and local education institutions for low cost, improved connectivity options.

THE CITY OF NORFOLK

**Drinking Water Reservoirs -** Norfolk's water treatment process and water quality is monitored 24/7, 365 days a year. Several redundancies prevent the possibility of water contamination. Our reservoir samplings test for a range of contaminants, both regulated and unregulated. Further testing is done at the water treatment plant where an even wider range of contaminates are tested for and treated if identified.

**Arts Update –** Staff will provide an update on the Symphony and Opera debt and solutions moving forward at an upcoming Council meeting.

**Dancing Tax People –** The City Attorney's Office continues to research this issue. The information will be included in the March 18th memo.

**Wires Hanging on Utility Poles** - Staff contacted Cox and Verizon regarding the wires along Ocean View Avenue and throughout the city. Staff will provide both companies with a detailed list of locations on Ocean View Avenue this week and a citywide list by the end of March. Staff will ensure compliance with state code and national electrical standards.

**East Beach Shopping Center Access** - Public Works staff is coordinating with the contractors on a solution to improve access to businesses from both directions. Staff will also add more signs.

**Parking Garage Issue –** Staff has thoroughly reviewed the issue which took place following the Science Fair. There was a misunderstanding about the time the Science Fair ended. This resulted in confusion about the parking rate that caused the subsequent back up. The review of the issue found the parking supervisor on duty immediately rectified the situation once she became aware of the backup and all staff conducted themselves in a professional manner.

Parking is working on a proactive approach to resolve delays when exiting city garages. As part of the solution, parking is reviewing an upgrade to the existing cameras which would allow for real-time traffic monitoring. This opportunity would allow the parking staff to act immediately if they see an issue versus waiting on call.

**Handicap Parking –** Staff reviewed parking at the Norfolk Fitness and Wellness Center. The following parking is available: 214 regular parking spaces and an additional 19 handicap parking spaces. The current amount exceeds the ADA requirement. Within the next two weeks, staff will add two more handicap parking spaces and monitor the lot over the next 45 days to determine if more spaces are needed.

**Locker Rooms –** The initial contract came back over the estimated cost to do the work. Another contractor is currently pricing the work and staff believes the cost estimates will come in less which will allow us to move the project forward.

**Huntersville Sign Delays –** Public Works sent several letters to the contractor about the slow progress of the project. The most recent letter was sent on February 26th. Staff has provided all the information the contractor needs to finish the project.

**OV Boat Launch –** Public Works and Recreation, Parks and Open Space staff will review potential locations and develop a list of recommendations by the end of the month.

THE CITY OF NORFOLK

**Storm Water Fees** - The General Assembly is currently reviewing some additional exemptions on the railroad right-of-way. The General Assembly passed an allowance to provide a waiver (full or partial) to properties that contain 100% of their storm water on site.

**Franklin Arms Crosswalks** – Public Works is reviewing the area and will have a plan by the end of the month.

**Princess Anne Speeding** - Public Works is conducting a speed study and expects to have the results in the next two weeks. Staff will provide the results then begin the process to analyze the data to see what solutions are needed to address any issues.

**Middle Avenue House** – Neighborhood Development staff met with the property owner. He was issued nuisance abatement violation due to the amount of debris on the property. A court date is scheduled for March 18th.

Since he has permits to do the work, staff is collaborating with Planning's Building Safety Division to expedite the work process. If the property owner does not indicate a time period when he can get the work done, staff will reissue a repair or demo notice which gives him a specific time period to have the work done or staff will have the property demolished.

**Clean Team Update** - The equipment is on order. You will receive an update during the mid-year presentation on Tuesday.

**Moody's Report** – Moody's recently released a report on the National Disaster Resilience Competition award for Virginia. The report specifically called out Norfolk and cited the HUD funding as a positive for the city and region. Moody's states, "the additional funding for capital investments and planning will help mitigate the negative credit effects from recurring flooding along the coast.

I hope you have a great weekend.

THE CITY OF NORFOLK

# MEMORANDUM

TO: City Council

THROUGH: Marcus Jones, City Manager

FROM: David Ricks, Director of Public Works

CC TO: John Kownack, CEO for NRHA; David Freeman, Director of General Services; Darrell Crittendon; Director of Recreation Parks and Open Space; James Rogers, Director of Neighborhood Development

SUBJECT: Enhancing the Curb Appeal of NRHA Properties

DATE: March 11, 2016

At the September 2015 City Council Retreat, one of the discussion topics was how to enhance the appearance of the communities of Calvert Square, Diggs Town, Grandy Village, Oakleaf Forest, Tidewater Gardens and Young Terrace. A special appropriation of $150,000 was later appropriated to purchase equipment to help remove litter from these communities. Several meetings were conducted by Public Works with NRHA, RPOS and General Services to discuss ways to address the large volumes of litter found in many of the NRHA properties.

Currently, NRHA is paying Public Works Waste Management for the once weekly service of dumping 3,394 standard 95 gallon containers. The fee charged to NRHA does not cover yard waste or bulk items pickup. There currently is no curbside recycling in any of these communities. At the most recent meeting (January 12, 2016), Public Works offered the following suggestions:

- Conversion to dumpster service was discussed. It was noted that NRHA switched from the dumpster service years ago because of the problems associated with their location, vandalism/destruction, rodents, etc. NRHA properties of Eulalie Bobbitt Apartments, Franklin Arms, Hunter Square Apartments, Robert Partrea Apartments and Sykes Apartments (senior midrise properties) currently rent dumpsters through the City's dumpster contract and directly pay the vender.
- Lease additional 95-gallon containers through Public Works Waste Management;
- Begin a curbside recycling program.
- Purchase of a small litter collection vehicle to be used to support NRHA anti-littering efforts.

Public Works and NRHA staff stressed the importance of citizen education and enforcement of city ordinances and NRHA rules.

NRHA has outlined current practices and enhancements being sought that include:

- Increasing Community Days,
- Providing resident incentives, particularly for the youth;
- Revising next year's budget to expand trash pick-up (bulk, waste).
- Review current bulk wastes pick up to see if we can increase pickups in each community daily.
- Employ all site maintenance and grounds staff to increase litter control efforts.

**Next Steps**:

- Present options at the NRHA Tenant Management Councils (TMCs) meeting on Feb 19, 2016, between 9 a.m. and 1 p.m. at Grandy Village. The purpose of the meeting with the TMCs is to discuss the litter problem and to obtain input and support from residents.
- Obtain additional 95 gallon containers through public works, specifically increasing the number for large families.
- A requisition for $150K is underway for purchase of a mini sweeper that will be used to help control litter in the above-listed NRHA communities.

THE CITY OF NORFOLK

Inter Department Correspondence Sheet

**TO:** Members of Council

**FROM:** City Clerk

**COPIES TO:**

**SUBJECT:** Minutes of City Council Meeting

February 27, 2016

Attached are the minutes from the City Council meeting held on February 23, 2016.

R. Breckenridge Daughtrey

# NORFOLK, VIRGINIA

# BUSINESS MEETING OF COUNCIL

# TUESDAY, FEBRUARY 23, 2016

Mayor Fraim called the meeting to order at 4:30 p.m. with the following members present: Ms. Graves, Ms. Johnson, Mr. Protogyrou, Mr. Riddick, Mr. Smigiel, Dr. Whibley and Mr. Winn.

He thereupon called for the first item of business.

## A. COUNCIL INTERESTS

1. Councilman Protogyrou asked: 1) about funding for a women's locker room at the Senior Center and 2) to add more handicap parking spaces and outdoor gym equipment.

2. Councilman Riddick asked: **1)** for a status report on construction at Chapel Street and Tidewater Drive, **2)** what precautions are in place to recognize if our water supply has been contaminated and, if so, how to treat it, and **3)** thanked Chief Wise and the Fire Department on how they responded to the recent fire in Ocean View. In addition, Mayor Fraim suggested that we communicate to our citizens about the working agreement we have with our sister cities.

3. Councilman Winn forwarded an email from Acclaimed Events to the City Manager concerning the use of Norfolk companies for events, and asked: **1)** that appropriate staff communicate to citizens why their HRUBS bills fluctuate and to provide adjustments where appropriate, **2)** where another public boat launch can be located in Ocean View, and **3)** commented that the Animal Care Center facility needs improvements as well as more staffing and he asked to start planning for them in this year's budget and future budgets

4. Councilwoman Whibley: **1)** commented on the recent editorial in the Virginian-Pilot concerning the state funding for Norfolk's storm water needs being removed and asked how to prevent that from happening, and asked **2)** for an update on the arts programs and their rent delinquencies, and **3)** for an update on high-speed internet service.

5. Councilwoman Johnson: **1)** reiterated an earlier request to provide two crosswalks on Princess Anne Road by the Franklin Arms Apartments and asked **2)** for speed enforcement on Princess Anne Road east of Tidewater Drive in the vicinity of the new school, and **3)** that appropriate staff investigate complaints of bed bugs at Braywood Manor Apartments.

6. Vice-Mayor Graves: **1)** commented that renovation work has stopped on a house on Middle Avenue and the neighbors are being impacted. She asked what legal action can be taken against the owner, and asked: **2)** the Administration to caution employees who drive city vehicles not to leave valuables in the car, 3) for a clarification on how bonuses are taxed and if they go towards retirement and social security, and 4) how employees with no access to city computers can access their payroll and compensation information.

7. Councilman Smigiel asked: **1)** that appropriate staff investigate disconnected utility wires hanging from utility poles along Ocean View Avenue, and **2)** reported on a recent parking situation after a Norfolk Public Schools event at Nauticus where attendees were told that parking would be $2.50 but some were charged $12.50. He added that a family was verbally abused by a parking employee and asked **3)** the Administration to investigate the matter, **4)** to create a better traffic pattern at the area of the East Beach Shops where water and sewer lines are being replaced, and **5)** he noted that access to those businesses has been cut off, and **6)** with regard to the landscaping maintained by business owners, he suggested an annual inspection to ensure that landscaping is being maintained and replaced if needed, and **7)** reiterated an earlier request to consider creating a Sign Task Force. Suggested scheduling a joint meeting with the City Planning Commission.

8. Mayor Fraim asked: 1) for update regarding street sweeping and landscaping crews, and 2) regarding the proposed expansion of Sentara Norfolk General, he asked for a report on the assets of the medical center complex and to reactivate the Medical Center Planning Committee

## B. ELEGANT OCCASIONS

George Homewood, Director of City Planning, reported as follows:

In 2004, the City of Norfolk agreed to participate in a Joint Land Use Study along with the Office of Economic Adjustment of the Department of Defense, the City of Virginia Beach, the City of Chesapeake and the Hampton Roads Planning District Commission. The goals of the study were to focus on the safety and welfare of Norfolk citizens and to provide recommendations to ensure compatible development in accident potential (APZ) and high noise

zones. The study was completed in 2005 and the City Council approved the final report by resolution in May 2005. plaNorfolk2030, which was adopted in May 2013, reaffirmed Norfolk's role in the JLUS.

Captain Douglas J. Beaver, Commanding Officer, Naval Station Norfolk, reported as follows:

Captain Beaver provided background information regarding compatible use zones (ACUZ) in the 2005 JLUS. The program was instituted by the Department of Defense in 1970 to address the problem of land development surrounding military air installations. The final Hampton Roads JLUS Report was endorsed in April 2005 and is updated periodically. The ACUZ was incorporated in *plaNorfolk 2030* and the Norfolk Zoning Ordinance.

The Navy does not support the Special Exception application by Elegant Occasions for a banquet hall at 9605 Granby Street because it would be located within the noise zone northeast of Chambers Field and directly underneath a major departure corridor within the accident potential zone 2. The City Planning staff and the City Planning Commission both view the Special Exception request as an increased development at this site and an unnecessary encroachment upon Navy Operations and recommend denial.

In closing, Captain Beaver stressed that the Navy and the City of Norfolk have a great relationship built on respect and trust. The Navy looks forward to continuing that relationship while working through this issue and any others that arise.

Councilman Smigiel commented that there are a lot of inconsistencies and a real disconnect with how some business owners are treated. He cited an example: Four years ago a developer proposed 385 apartments on 2nd Bay Street that was ten stories high and he was given permission by the Navy to develop the project. He added that there are grandfathered businesses that sponsor events where many citizens are in attendance. Another example is the annual St. Patrick's Day Parade where thousands of citizens are present. Mayor Fraim stated that if the Navy starts to discern a pattern of development or "creeping encroachment" towards their installation, they could decide to relocate their entire operation. Councilman Riddick added that this application is not new development and that this building has been in that location for a long period of time.

## C. CLOSED SESSION

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

(3) Discussion of the disposition of publicly owned real property in the area in the downtown area.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

## D. GREATER ST. PAUL'S REVITALIZATION AREA

Peter Chapman, Deputy City Manager, reported as follows:

Mr. Chapman presented a map showing the proposed boundaries of the Greater St. Paul's Revitalization Area. At present there are no housing developments or businesses within the boundaries. There is an existing fire station, HRT transfer center, and a building that will be demolished as part of the St. Paul's Apartments project.

The vision for the area emphasizes the importance of building mixed-income communities replete with market rate and affordable housing options and amenities as well as commercial job generating activities. This process of designating a revitalization area is really driven by state statute and the Virginia Housing and Development Authority policy.

There had been some confusion about what a revitalization area is versus a redevelopment and conservation area. After further study and working closely with Councilman Riddick, they came up with boundaries that would accomplish two things: It would capture the proposed site for the St. Paul's Apartments project and also capture other parcels thereby allowing us to communicate to Virginia Housing and Development Authority that we have a true revitalization area rather than just a site specific plan. The Virginia Housing and Development Authority provides more favorable financing terms for projects that are located in designated revitalization areas.

Mr. Chapman added that they have consulted with individual and institutional stakeholders in the area; particularly faith-based organizations and civic associations. Councilwoman Johnson stressed that as we move forward with future planning for the St. Paul's quadrant to make sure all stakeholders are included.

## E. GREATER ST. PAUL'S REVITALIZATION AREA

Chuck Rigney, Director of Development, reported as follows:

The purchase of the J. C. Penney building represents a longer-term strategy while future development for the entire corridor is contemplated. Negotiations continue for an operations center which will have 650 employees to start and another 250 employees within the next two years. This will reenergize the site, bringing vitality to the Military Circle area while longer-range plans are formulated. This investment is a part of a strategic plan to ensure that the city will be a part of future development in this area. This is also an opportunity to create an asset for the Economic Development Authority and it will generate income and tax revenue.

## F. PH-5 AND PH-6: J. C. PENNEY BUILDING

Chuck Rigney, Director of Development, reported as follows:

The purchase of the J. C. Penney building represents a longer-term strategy while future development for the entire corridor is contemplated. Negotiations continue for an operations center which will have 650 employees to start and another 250 employees within the next two years. This will reenergize the site, bringing vitality to the Military Circle area while longer-range plans are formulated. This investment is a part of a strategic plan to ensure that the city will be a part of future development in this area. This is also an opportunity to create an asset for the Economic Development Authority and it will generate income and tax revenue.

## G. COSTAL CHARACTER DISTRICT

George Homewood, Director of City Planning, reported as follows:

There are three character districts in the city: downtown, traditional and suburban. When developing *plaNorfolk 2030*, East Beach had been originally designated as traditional. Moving through the adoption process they realized that was not appropriate for East Beach; therefore, the City Planning Commission recommends creating a fourth character district along the coast. The coastal character district will be added to *plaNorfolk 2030* and the Zoning Ordinance.

# NORFOLK, VIRGINIA

# ACTION OF THE COUNCIL

# CITY COUNCIL MEETING

# TUESDAY, FEBRUARY 23, 2016 – 7:00 P.M.

President Fraim called the meeting to order at 7:00 p.m.

The opening prayer was offered by Councilman Paul Riddick, followed by the Pledge of Allegiance.

The following members were present: Mrs. Graves, Mrs. Johnson, Mr. Protogyrou, Mr. Riddick, Mr. Smigiel, Dr. Whibley, Mr. Winn and Mr. Fraim.

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

**Motion adopted.**

Yes: Graves, Johnson, Riddick, Protogyrou, Smigiel, Whibley, Winn and Fraim.

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 February 23, 2016.

Yes: Graves, Johnson, Riddick, Protogyrou, Smigiel, Whibley, Winn and Fraim.

No: None.

# 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 approximately eleven years and six months for 1,600 to 2,000 parking spaces in the City of Norfolk in **Fountain Park Garage** located at **130 Bank Street, MacArthur Center North** and **MacArthur Center South Garages** located at **500 E. City Hall Avenue**, **Bank Street Garage** located at **441 Bank Street**, and **Freemason Street Garage** located at **161 Freemason Street**.

One bid was submitted by **City Walk Two, LLC** that was opened, numbered and read.

Thereupon, An Ordinance entitled, "An Ordinance accepting the Bid submitted by **City Walk Two, LLC** for a **Long Term Garage Parking Agreement**, with a term of approximately eleven years and six months for the lease of 1,600 to 2,000 parking spaces in the City of **Norfolk in Fountain Park Garage** located at **130 Bank Street**, **MacArthur Center North** and **MacArthur Center South Garages** located at **500 E. City Hall Avenue**, **Bank Street Garage** located at **441 Bank Street**, and **Freemason Street Garage** located at **161 Freemason Street**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective March 25, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

## 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, on the application of **Brock Ventures, Inc.**, for an amendment to the future land use designation in the General Plan, *plaNorfolk2030*, from Institutional to Multifamily and for a change of zoning from IN-1 (Institutional) District to R-13 (Moderately High Density Multi-Family) District on property located at **435 Virginia Avenue**.

**(The Administration requested this matter be continued.)**

**ACTION: Continued to April 26, 2015.**

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

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 Auto Connection,** for a change of zoning from R-8 (Single-Family) District to Conditional C-2 (Corridor Commercial) District on an approximately 80-foot by 125-foot portion of the property located to the northwest of the site on property located at **6336-6352 E. Virginia Beach Boulevard**.

Sam Baraki, agent for the applicant, 800 Juniper Crescent, was present to answer questions.

Thereupon, An Ordinance entitled, "An Ordinance to rezone a portion of the property located at **6336 to 6352 East Virginia Beach Boulevard** from R-8 (Single-Family Residential) District to Conditional C-2 (Corridor Commercial) District," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-2A Thereupon, An Ordinance entitled, "An Ordinance granting a Special Exception to operate an automobile sales and service establishment named **"Auto Connection"** on property located at **6336 to 6352 East Virginia Beach Boulevard**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

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 the **City Planning Commission**, for a zoning Text Amendment to permit, by special exception, any one use listed in Table 4-A or Table 6-A of the *Zoning Ordinance of the City of Norfolk, 1992*, as amended, in a building which has been designated as a ***Norfolk Historic Landmark*** under Chapter 9 of the *Zoning Ordinance*, even when the use does not appear on the use table for the zoning district in which the building is located.

Thereupon, An Ordinance entitled, "An Ordinance to amend **Section 9-2.3** of the **Zoning Ordinance** to the **City of Norfolk, 1992**, **SO AS TO** permit, by **Special Exception**, any one use listed in **Table 4-A or Table 6-A** of the Zoning Ordinance in a building which has been designated as a **Norfolk Historic Landmark**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-4 **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 amend *plaNorfolk2030* so as to adopt the ***Coastal Character District*** with associated actions and for a zoning Text Amendment to Section 2-3, "Definitions," Table 4-B, "Yard Requirements in Residential Districts," Section 15-4, "Motor vehicle parking design standards," Table 15-A, "Table of Minimum Parking Requirements," and Table 15-B, "Table of Bicycle Parking Requirements," of the *Zoning Ordinance of the City of Norfolk, 1992* as amended, to define **"Character District, Coastal,"** to amend the zoning map to adopt the Coastal Character District boundaries and to amend various development and design standards within the district.

Ellis James, 2021 Kenlake Place, stated that he is supporting the Planning Commission for the amendment to *plaNorfolk2030*. He also mentioned that the plan contains a number of things helpful to the Costal District and was happy to see that bicycles were included. He urged Council to vote for this change.

Thereupon, An Ordinance entitled, "An Ordinance to establish the boundaries of the **Coastal Character District** for purposes of applying provisions of the **Zoning Ordinance of the City of Norfolk, 1992**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-4A Thereupon, An Ordinance entitled, "An Ordinance to amend the **Zoning Ordinance of the City of Norfolk, 1992**, in order to add a definition for **"Coastal Character District"** and to indicate which provisions relating to parking requirements and minimum required yards will apply in that **Character District**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-4B Thereupon, An Ordinance entitled, "An Ordinance to amend the City's General Plan *planorfolk2030*, **SO AS TO** establish a new **Character District** known as the **"Coastal Character District"** in the **Ocean View** area of the City," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

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 an Ordinance to amend and reordain Sections 1 and 2 of the **Capital Improvement Program Budget** and to add a new Section 3 to the Capital Improvement Program Budget for the fiscal year 2016 to finance **Economic Development Authority** costs in the amount of $14,500,000 related to the conversion of the former **J.C. Penney** store at Military Circle to an office building.

Thereupon, An Ordinance entitled, "An Ordinance to amend and reordain Sections 1 and 2 of the **Capital Improvement Program Budget** and to add a new Section 3 to the **Capital Improvement Program Budget** for the fiscal year 2016 to finance **Economic Development Authority** costs in the amount of $14,500,000 related to the conversion of the former **J.C. Penney** store at Military Circle to an office building," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-6 **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 Economic Development Authority of the City of Norfolk's** (the "EDA") issuance of up to $14,500,000 in Notes (the "EDA Notes") to finance, in whole or in part, certain costs of the EDA related to the acquiring, constructing and equipping of the former **J.C. Penney** store at the **Gallery at Military Circle** and the property related thereto and the costs of issuing the EDA Notes.

Thereupon, An Ordinance entitled, "An Ordinance authorizing the City of Norfolk to enter into a **Cooperation Agreement** to provide for the payment of notes issued by the **Economic Development Authority** and to pledge the City's full faith and credit in connection therewith," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-7 **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 City's issuance of up to $8,000,000 in **Wastewater System Revenue Bonds** (the "Wastewater Revenue Bonds") to finance, with respect to the City's wastewater system, certain costs of acquiring, constructing and equipping capital improvements for which bond proceeds have been appropriated pursuant to the City's Capital Improvement Plan.

Ellis James, 2021 Kenlake Place, asked Council if he could also speak for PH-8 as well. He stated that he supports these bonds because they are extremely important and that he urges Council to vote yes.

Thereupon, An Ordinance entitled, "An Ordinance authorizing the issuance and sale by the City of Norfolk, Virginia, **Wastewater System Revenue Bonds**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-8 **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 City's issuance of up to $3,000,000 in **General Obligation Storm Water System Bonds** (the "General Obligation Bonds") to finance, with respect to the City's storm water system, certain costs of acquiring, constructing and equipping capital improvements for which bond proceeds have been appropriated pursuant to the City's Capital Improvement Plan.

Thereupon, An Ordinance entitled, "An Ordinance authorizing the issuance and sale by the City of Norfolk, Virginia, **General Obligation Bonds for Storm Water Improvements**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-9 **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 an Ordinance authorizing the vacation and release by the City of Norfolk to **City Walk Two, LLC**, those certain two pedestrian access easements located on and running through the **Two Commercial Place Building**.

Thereupon, An Ordinance entitled, "An Ordinance authorizing the vacation and release by the City of Norfolk to **City Walk Two, LLC**, those certain two pedestrian access easements located on and running through the **Two Commercial Place Building**; and authorizing the City Manager to execute and deliver **Deeds of Release** on behalf of the City and to do all of the things necessary and proper to effect the vacation and release of said Pedestrian Access Easements," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective March 25, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-10 **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 an Ordinance authorizing an Amendment to the Lease between the City of Norfolk and **The Muddy Paws Grooming and Retail Store, LLC** for that certain property located at **400 Granby Street, Suite North B**.

Thereupon, An Ordinance entitled, "An Ordinance authorizing an Amendment to the Lease between the City of Norfolk and **The Muddy Paws Grooming and Retail Store, LLC** for that certain property located at **400 Granby Street, Suite North B** and authorizing the City Manager to execute the Amendment on behalf of the City of Norfolk," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective March 25, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

## CONSENT AGENDA

C-1 Letter from the City Manager advising, in accordance with Chapter 33.1-41 of the Norfolk City Code, of emergency/sole source procurement during Hurricane Joaquin with the Department of Public Works.

**ACTION:** Received and filed.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

## REGULAR AGENDA

R-1 Matter of a 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 'Elegant Occasions by Krista' on property located at **9605 Granby Street**," was introduced in writing and read by its title.

**(PASSED BY AT THE MEETING OF FEBRUARY 9, 2016)**

Krista Hines, 9605 Granby Street, the applicant, stated that she had met with the Planning Department on three occasions to discuss the process and was never told the building is located in an Accident Potential Zone (APZ). It wasn't until late December that she received an email stating that they needed to withdraw their application and that they would be refunded back their money. She and others met with the Planning Department and Navy, it was stated that due to the lack of education and communications between both parties the ball was dropped on this issue.

Capt Douglas Beaver, Commanding Officer, Naval Station Navy, 1530 Gilbert Street, Bldg., N-26, Ste., 2000, spoke in opposition to this matter, stating that the Banquet Hall is located 1.5 miles from the Chambers Airfield, Accident Potential Zone (APZ) and departure corridor. A study was done called AICUZ in association with Chambers Field, which included a Joint Land Use Study with Norfolk, Chesapeake and Virginia Beach for compatible use in the vicinity of military installations. In 2013 the City's *plaNorfolk2030* was introduced, does not support an increase of intensity of use in incompatible zones. The AICUZ plan was incorporated into the City's *plaNorfolk2030* to minimize intensity of use. He stated that the Navy supports the City's Comprehensive Plan.

**The following persons spoke in support of the applicant:**

Alphonso Albert, 1017 Godfrey Street, Chris Collins, 7526 Merritt Street, Howard Le'Melle, II, 2650 Middle Street, Jen Stringer, 8834 Granby Street, Michael Shipp, 407 Sinclair Street.

**The following proponents were present, but did not speak.**

Priscilla Rogers and Quentin Rogers, 5309 Libertyville Road, Chesapeake, VA, Christina and Annie Collins, 7526 Merritt Street, Donnessia Boone, 2510 Rock Creek Drive, Fannie Harrison, 924 Elm Ct., Isaac Butts, 905 Liberty Street, Portsmouth, Presalee Collins, 1420 Hunningdon Woods Blvd., Chesapeake, VA, Delores and P. J. Collins, 512 Nelson Street, Joseph Romondt and Irma Wiggins, 6600 Chesapeake Blvd., Apt #G5, Monquez Hunter, 144 Kennet Drive, Anita Hicks, 3432 Nansemond Pkwy., both of Suffolk, VA, Zena and Jerome Brown, 5526 Brickell Road, Carol Collins, 4008 River Breeze Circle, Chesapeake, VA, Janet Hairston, 900 County Street Apt #325, Emoline Cooper, 1 Dewy Street, Portsmouth, VA, Vernett Southall, 4005 Spring Meadow Crescent, Amy Clemons, P.O. Box 10756, Delisa Mackey, 2308 Tawnyberry Lane, Chesapeake, VA, Christina Whitfield, 2709 Myrtle Avenue, Keith Collins, 1416 Hunningdon Woods Drive, Chesapeake, VA, Keith Hines, 4008 River Breeze, Chesapeake, VA.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel and Whibley.

No: Winn and Fraim.

R-2 Matter of a letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a Commercial Drive-Through for 'Chartway Federal Credit Union' on property located at **132 Kempsville Road**," was introduced in writing and read by its title.

**(PASSED BY AT THE MEETING OF FEBRUARY 9, 2016)**

John Richardson, the attorney, 2101 Parks Avenue, Virginia Beach, VA, asked Council for their consideration for a positive vote to build the flag ship branch and that he has consulted with the engineers to meet the requirements.

**The following proponents were present to answer questions.**

John Blum, 160 Newtown Road, Norfolk, VA, Scott Chewning, the engineer, 132 Kempsville Road and Eugene Thompson, the architect, 293 Independence Blvd, Virginia Beach, Ste., #308.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Winn and Fraim.

No: Whibley.

R-3 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting an exemption from real estate taxes for real property to **St. Thomas A.M.E. Zion Church** retroactive to July 1, 2013," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-4 Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain Subsection (f) of Sections 24-160, Section 25-219, Section 42-34, and Subsection (a) of Section 42-35 of the *Code of the City of Norfolk, 1979*, **SO AS TO** replace the words Sunday School, Church and Churches with the words Religious Education, Religious Institution and Religious Institutions and **SO AS TO** correct the typographical error in Section 42-34 by replacing the word show with the word snow," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-5 Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain Sections 25-646 and 25-654 of the *Norfolk City Code, 1979* **SO AS TO** add seven new speed limits and one new stop intersection," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-6 Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain Sections 25-652 and 25-654 of the *Norfolk City Code, 1979,* **SO AS TO** add one new one-way street and five new stop intersections," was introduced in writing and read by its title.

Chris Depalma, 314 Burleigh Avenue, spoke about the wrong map being attached, specifically Colonial Avenue, where the sign already exists

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-7 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting a 2015 **State Homeland Security Program Grant Award** of $71,370.00 from the Virginia Department of Emergency Management (VDEM) for the City of Norfolk Office of Emergency Management for Community Sheltering Enhancement equipment," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-8 Letter from the City Manager and a Resolution entitled, "A Resolution to designate the area generally to the east of St. Paul's Boulevard, to the south of East Bute Street, to the west of Fenchurch Street, and to the north of Mariner Street in the City of Norfolk as the **Greater St. Paul's Revitalization** area," was introduced in writing and read by its title.

Reverend John Burton, Pastor, St. John's A.M.E. Church, 690 Red Mill Road, asked Council to approve the Resolution, because he believes the designation will support revitalization and that voting for this project should be a priority.

Rodney Jordan, 2506 Myrtle, stated that he was surprised about the project. He had some concerns so he contacted City Planning Department staff, because he knew that this area did not comply with the Low Income Tax Credit, but they did not want to talk about it. He then showed Council a map of demographics, which outlined race, public housing, Project 8 and Section 8 areas.

Shurl Montgomery, 1323 Windsor Point Road, stated that approval of this Resolution will continue to provide for future funding and meet the redevelopment needs of the City. To designate Greater St. Paul's Revitalization Area will help to create healthy, vibrant, mixed income communities and meet the goals of the City for affordable housing.

James Watson, 703 East Virginia Beach Boulevard, spoke in opposition to this matter. He stated that he sent Council correspondence outlining his reasons why he opposed this project. He noted that as a representative of the stakeholders, notifying them by an agenda was inadequate. He went on to say that he supported some of what Mr. Jordan said, that the project started as a massive revitalization project and at some point it begin to downsize. The stakeholders need to know what happened and why.

Thomas Johnson, 440 Monticello Avenue, was present to answer questions.

**ACTION:** The Resolution as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley and Fraim.

No: None.

Abstained: Winn.

Mr. Winn stated that he is President of Winn Nurseries which contracts with Nusbaum Realty, a developer in this area.

R-9 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund to **Miller Oil Co., Inc.,** in the amount of $624,684.00, plus interest, based upon the **overpayment of its Business Professional and Occupational License Tax for the years 2012 through 2015**," was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-10 Letter from the City Manager and an Ordinance entitled, "An Ordinance amending and reordaining the **Fiscal Year 2016 Compensation Plan** (Ordinance No. 45,954) to add one new section authorizing a bonus for certain employees," was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, stated that this Ordinance is not addressing the retirees and employees, but asked if it includes the police department.

Jane Bethel, 1142 Little Bay Avenue, stated that it was not fair to single out specific groups, that everyone should be included in the increase, whether it be a bonus or a raise.

**ACTION:** The Ordinance as introduced was **adopted**, effective February 23, 2016.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

## NEW BUSINESS

1. Tom Luckman, 3192 Gallahad Drive, Virginia Beach, spoke to Council in regards to those who are participating in the City's Retirement System, stating that retirees are losing purchasing power. He shared statistical data from five other municipalities on what they are doing for their retirees and said that a Cost of Living Adjustment should be automatic.

2. James Powell, 1043 Avenue G, a retired police sergeant, stated that it had been a long time since he has received a COLA.

3. Anne Vanhook, 127 Orleans Circle, a volunteer at the Norfolk Care Adoption Center, spoke to Council about what the center needs in order to maintain staff and recruit staff, and what needs to happen to keep a healthy environment for the care of animals.

4. Eugene Mazurek, 4100 Colonial Avenue, spoke about the JEB Stewart School, stating that the building has not be cared for and that it is in disrepair. He also wanted to know how many apartments are being put on the property.

5. Jane Bethel, 1142 Little Bay, spoke about retirees receiving a COLA, stating that Norfolk should not want to be on the bottom, when it comes to doing the right thing for employees and retirees.

THE CITY OF NORFOLK

Inter Department Correspondence Sheet

**TO:** Members of Council

**FROM:** City Clerk

**COPIES TO:**

**SUBJECT:** Minutes of the Health, Education and Families Committee Meeting

February 27, 2016

Attached are the minutes from the Health, Education and Families Committee meeting held February 23, 2016.

Breck

R. Breckenridge Daughtrey

# NORFOLK, VIRGINIA

# HEALTH, EDUCATION AND FAMILIES COMMITTEE

# TUESDAY, FEBRUARY 23, 2016

Co-chair Theresa Whibley, MD, called the meeting to order at 4:08 p.m. with the following members present: Mr. Tommy Smigiel, co-chair; Mr. Paul Riddick, member. Also present: DCM Wynter Benda, City Attorney Bernard Pishko and City Clerk R. Breckenridge Daughtrey.

## A. SOUTHSIDE AQUATICS CENTER AND RPOS UPDATE

Mr. Darrell Crittendon, Director of Recreation, Parks and Open Space reported that the Southside Aquatics Center operates year round and is staffed with 3 to 4 full-time employees. There are 15 to 25 part-time lifeguards and water safety instructors and 3 to 6 part-time recreation aides responsible for answering phones and class registration. They also deploy the facility manager from the Southside Aquatics Center to supervise and maintain operations at the Berkley outdoor pool in the summer months. Outdoor pools are opened from mid-June through Labor Day.

When the Southside Aquatics Center opened in 2014, the venue offered recreational swimming, swimming lessons and fitness classes. Birthday parties and meetings were held in the community rooms. The SSAC Program has expanded for FY 2016 offering a full spectrum of programming which include: High School swimming practice, safety classes, Southside Splash, diving lessons, swim meets, 50-plus fitness, group swims, special events, special trainings (police, military and harbor patrol) and etcetera. Community rooms were available for bridal showers, wedding receptions, family reunions, Bible study, police and fire training, military training, luncheons and etcetera. Comparison from 2014 to 2015, SSAC patrons increased by 33 percent and room rentals increased by 36 percent.

## B. BAY OAKS PARK UPDATE ON PHASE I & PHASE II

Mr. Darrell Crittendon, Director of Recreation, Parks and Open Space reported that City Council allocated $250,000 in FY 2015 for Phase I. The scope of work included: Light infrastructure work, demolition of 4th Bay Street, installation of utility meters, infrastructure and conduit sleeves for future utilities, installation of an eight-foot-wide concrete sidewalk along E. Ocean View Avenue, earthwork/land grading, concrete plaza with overhead pergolas and benches and park identification signage.

City Council allocated $100,000 in FY 2016 for Phase II. The scope of work for this phase includes: Ongoing light infrastructure work, earthwork/land grading, installation of pedestrian lights around the plaza, demolition of existing sidewalk, installation of utility infrastructure and conduit sleeves for future utilities, traffic mitigation and temporary lane closure. The plan is to begin work the first week in March contingent upon the weather.

Mr. Smigiel asked about the final cost to complete the park. Mr. Crittendon responded $2.85 million.

Dr. Whibley asked what would be a reasonable amount to ask for in the upcoming budget. In response, Mr. Smigiel stated that a million would be good to get the next stage going with the parking lot, basketball court and playgrounds and after that the fountain and workout stations.

Dr. Whibley asked what Phase III would be and when that work will begin. Mr. Crittendon responded that Phase III is the heavy infrastructure for things like parking lot, some of the facilities and it will begin as soon as it is funded. He also stated that the Bay Oaks Park Committee has requested significant funding for the boxing center.

Dr. Whibley asked if something can be done to help landscaping at Suburban Park Elementary School. She also noted in regards to Bay Oaks Park that a lot of cement is going into an area that floods a lot and asked if pervious materials can be used.

THE CITY OF NORFOLK
CITY PLANNING

# Inter Departmental Memorandum

| | |
|---|---|
| TO: | City Council |
| THROUGH: | Marcus D. Jones, City Manager |
| FROM: | for George Homewood, AICP, Director of City Planning |
| COPIES TO: | Ronald G. Moore, Sr. Design & Rehabilitation Consultant |
| SUBJECT: | Non Standard Lot Certificate – 934 Woronoca Avenue |
| DATE: | March 11, 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:** | 934 Woronoca Avenue | **Neighborhood:** | Cottage Line |
| **Zoning:** | R-11 | **Standard Lot Size:** | 37.5 Ft. x 100 Ft. |
| **House Type:** | 2 Story Single Family | **Proposed Lot Size:** | 25 Ft. x 125 Ft. |
| **House Size: (Width x Depth)** | 18.83 Ft. x 53 Ft. | **Square Footage:** | 1946 Sq. Ft. |

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

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

THE CITY OF NORFOLK
CITY PLANNING

# Department of Planning and Community Development
## Zoning Certification for Non-Standard Lots

### Applicant Information

| | | | |
|---|---|---|---|
| **Applicant Name:** | Builders Unique | **Date of Application:** | November 9, 2015 |
| **Mailing Address:** | 6620 Indian River Road, Suite B | | |
| **City, State, Zip Code:** | Virginia Beach, VA 23462 | | |
| **Phone Number:** | 757-343-2043 | **E-Mail:** | |

### Property Information

| | | | |
|---|---|---|---|
| **Location:** | 934 Woronoca Avenue | **Neighborhood:** | Cottage Line |
| **Zoning:** | R-11 | **Standard Lot Size:** | 37.5 Feet x 100 Feet |
| **House Type:** | 2 Story Single Family | **Proposed Lot Size:** | 25 Feet X 125 Feet |
| **Proposed House Size:** | 18.10 Feet x 53 Feet | **Square Footage:** | 1946 SF |

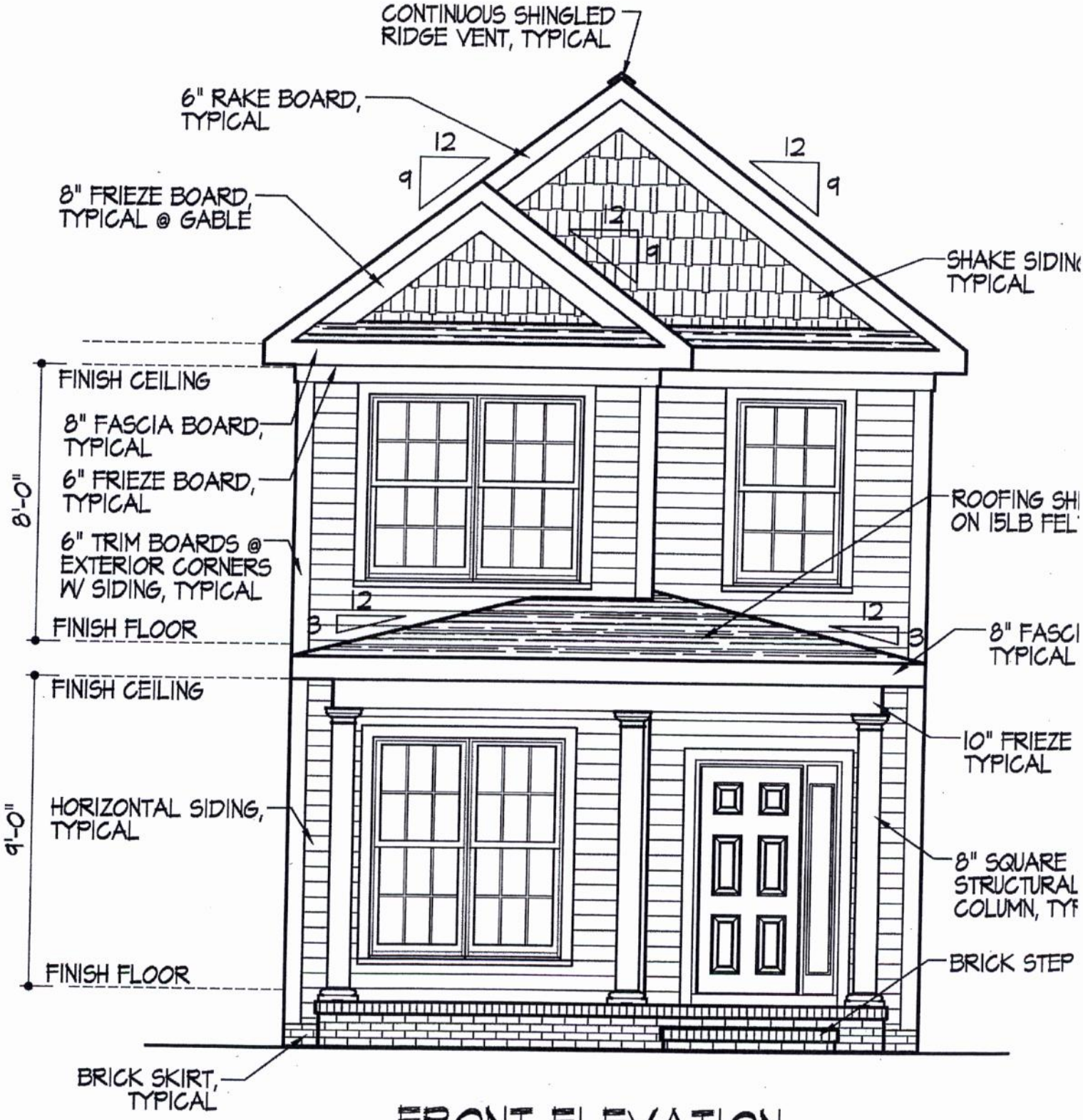
The proposed building plans and elevations for development of the site at 934 Woronoca Avenue and located in the Cottage Line neighborhood in Norfolk, Virginia have been determined to be in keeping with the character of the neighborhood using the standards established by City Council in Section 4-0.15 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.

George Homewood, AICP, Director
City Planning

February 18, 2016
Date

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

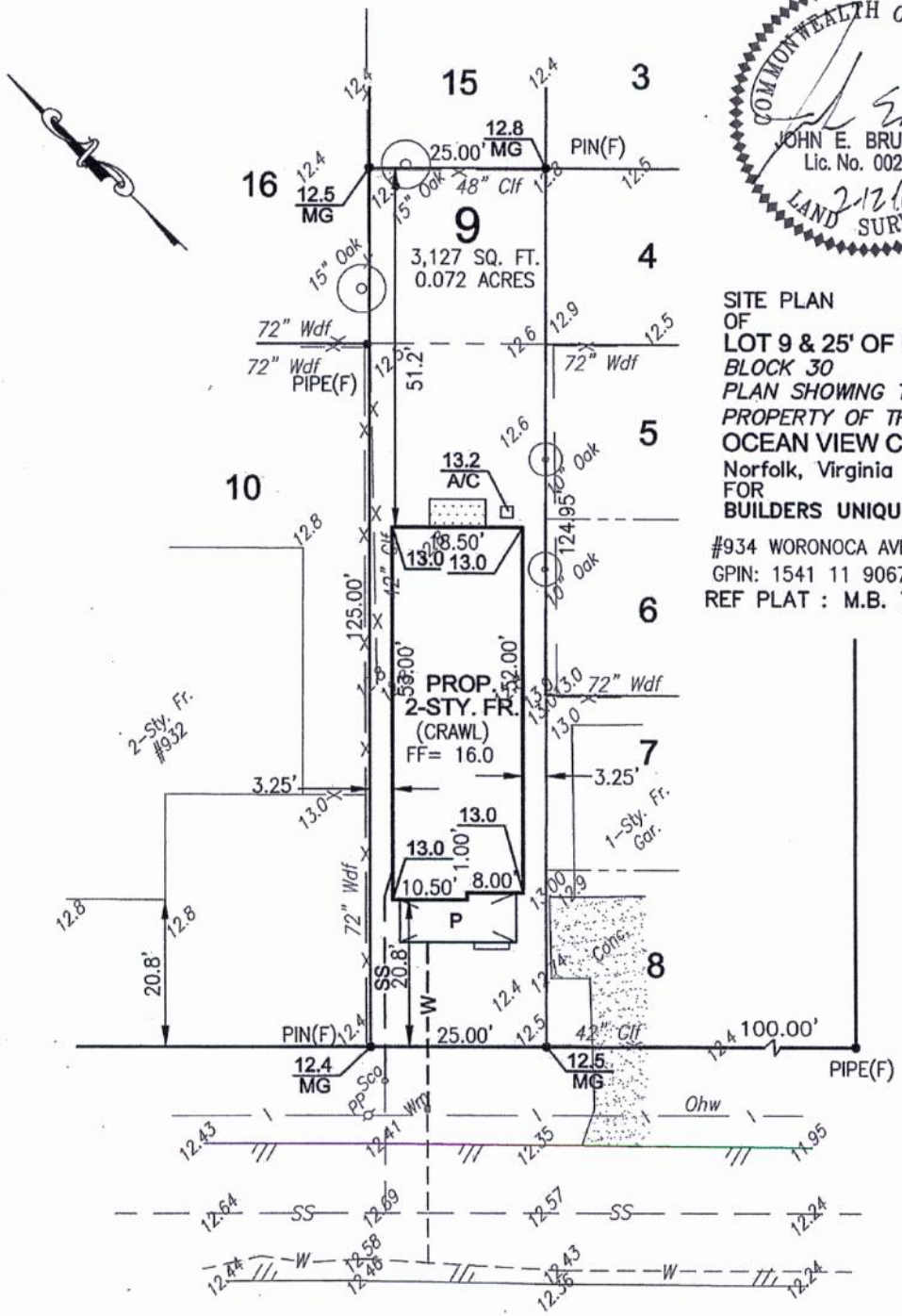



# FRONT ELEVATION

1/4" = 1'-0"

1. ELEVATIONS SHOWN HEREON ARE BASED ON NAVD 88(92)CITY OF NORFOLK DATUM.
2. BUILDING DIMENSIONS SHOWN AND STAKED ARE TO EXTERIOR FRAMING DIMENSIONS.
3. UTILITY, TOPOGRAPHIC AND LOT GRADING INFORMATION TAKEN FROM FIELD SURVEY AND CITY APPROVED PLANS.
4. INSTALL STANDARD CITY OF NORFOLK ENTRANCE, CITY INSPECTOR TO CONFIRM ENTRANCE IS ACCEPTABLE.
5. THIS PLAN DOES NOT GUARANTEE THE EXISTANCE AND/OR LOCATION OF UTILITIES. BEFORE DIGGING CONTACT "MISS UTILITY" AT 811.
6. FOR WORK IN THE PUBLIC RIGHT-OF-WAYS CONTACT CONSTRUCTION SUPERINTENDANT AT LEAST 48 HOURS IN ADVANCE AT 441-2952.
7. DEED RESTRICTIONS, EASEMENTS AND COVENANTS THAT MAY AFFECT THE PROPERTY ARE THE RESPONSIBILITY OF THE OWNER.
8. THIS PROPERTY APPEARS TO FALL INSIDE FLOOD ZONE X AS SHOWN ON F.E.M.A. FLOOD MAP COMMUNITY NUMBER 510104, PANEL NUMBER 0030F, DATED 9-02-09

COMMONWEALTH OF VIRGINIA
JOHN E. BRUNELLE
Lic. No. 002334
2-12-16
LAND SURVEYOR




CHESAPEAKE STREET
(50' R/W)

SITE PLAN
OF
LOT 9 & 25' OF LOT 15
*BLOCK 30*
*PLAN SHOWING THE*
*PROPERTY OF THE*
OCEAN VIEW COTTAGE CO.
Norfolk, Virginia
FOR
BUILDERS UNIQUE, INC.

#934 WORONOCA AVENUE
GPIN: 1541 11 9067
REF PLAT : M.B. 7, PG 72

# WORONOCA AVENUE
(50' R/W)

| SCALE : 1"=20' | DATE : DECEMBER 31, 2015 | DWG. BY : JEB | PROJ. # 0242615 |
|---|---|---|---|

C:\SURV\WORK\SITEPLAN NORF\0242615.dwg

REVISED: FEBRUARY 12, 2016

THE CITY OF NORFOLK
CITY PLANNING

# Inter Departmental Memorandum

| | |
|---|---|
| TO: | City Council |
| THROUGH: | Marcus D. Jones, City Manager |
| FROM: | George Homewood, AICP, Director of City Planning |
| COPIES TO: | Ronald G. Moore, Sr. Design & Rehabilitation Consultant |
| SUBJECT: | Non Standard Lot Certificate – 5101 Hampshire Avenue |
| DATE: | March 11, 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:** | 5101 Hampshire Avenue | **Neighborhood:** | Brandon Place |
| **Zoning:** | R-7 | **Standard Lot Size:** | 60 Ft. x 100 Ft. |
| **House Type:** | 2 Story Single Family | **Proposed Lot Size:** | 55 Ft. x 166.5 Ft. |
| **House Size: (Width x Depth)** | 39.83 Ft. x 42 Ft. | **Square Footage:** | 2256 Sq. Ft. |

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

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

THE CITY OF NORFOLK
CITY PLANNING

# Department of Planning and Community Development
## Zoning Certification for Non-Standard Lots

**Applicant Information**

| | | | |
|---|---|---|---|
| **Applicant Name:** | South East Construction, LLC | **Date of Application:** | October 15, 2015 |
| **Mailing Address:** | 1909 Blue Knob Road | | |
| **City, State, Zip Code:** | Virginia Beach, VA 23464 | | |
| **Phone Number:** | 757-679-0004 | **E-Mail:** | |

**Property Information**

| | | | |
|---|---|---|---|
| **Location:** | 5101 Hampshire Ave. | **Neighborhood:** | Brandon Place |
| **Zoning:** | R-7 | **Standard Lot Size:** | 60 Feet x 100 Feet |
| **House Type:** | 2 Story Single Family | **Proposed Lot Size:** | 55 Feet x 166.5 Feet |
| **Proposed House Size:** | 39.67 Feet x 42 Feet | **Square Footage:** | 2256 SF |

The proposed building plans and elevations for development of the site at 5101 Hampshire Ave. and located in the Brandon Place neighborhood in Norfolk, Virginia have 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.

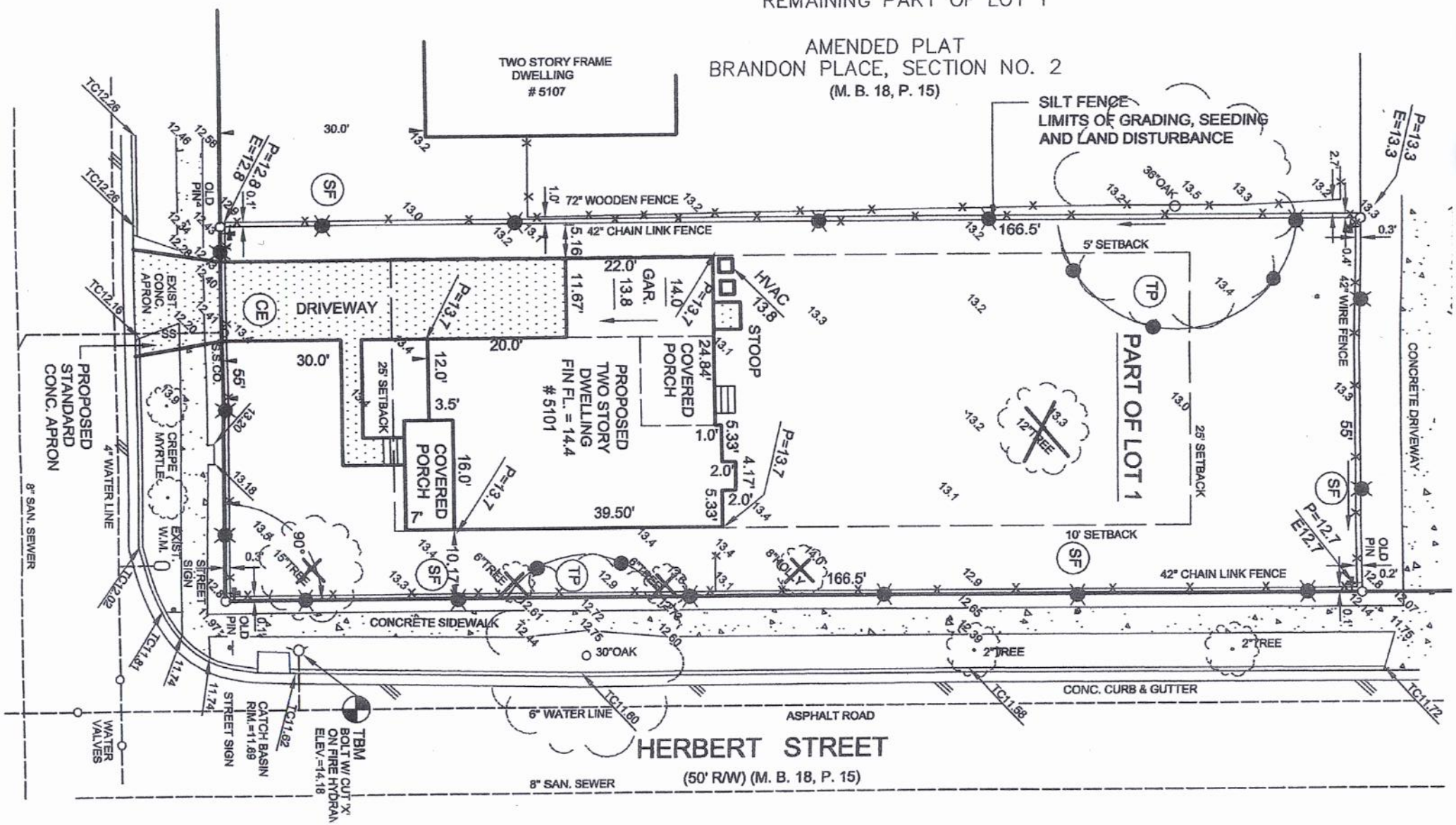
Please submit three sets of final plans and elevations to the Department of Planning and Community Development to be stamped "approved". After plans have been stamped, two sets of the approved plans will need to be presented to the Building Safety Division for consistency with Building Code requirements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

George Homewood, AICP, Director
City Planning

February 16, 2016
Date

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

ASPHALT ROOF SHINGLES
12
9
12
9
TWIN 2852 D.H.
2852 D.H.
2852 D.H.
ASPHALT ROOF SHINGLES
HORZ. VINYL SIDING
12
12
ASPHALT ROOF SHINGLES
TWIN 2862 D.H.
6X6 TRT'D WOOD POSTS, WRAPPED
3068 ENTRY DOOR
2862 D.H.
8-0 x 7-0 O.H. GARAGE DOOR (100 MPH. WIND LOAD)
F.V.
F.V.


REMAINING PART OF LOT 1
AMENDED PLAT
BRANDON PLACE, SECTION NO. 2
(M. B. 18, P. 15)
TWO STORY FRAME DWELLING
# 5107
SILT FENCE
LIMITS OF GRADING, SEEDING AND LAND DISTURBANCE
72" WOODEN FENCE
42" CHAIN LINK FENCE
42" WIRE FENCE
CONCRETE DRIVEWAY
DRIVEWAY
EXIST. CONC. APRON
PROPOSED STANDARD CONC. APRON
PROPOSED TWO STORY DWELLING FIN FL. = 14.4 # 5101
COVERED PORCH
STOOP
HVAC
GAR.
PART OF LOT 1
5' SETBACK
10' SETBACK
25' SETBACK
CONCRETE SIDEWALK
CONC. CURB & GUTTER
ASPHALT ROAD
6" WATER LINE
8" SAN. SEWER
4" WATER LINE
EXIST. W.M.
WATER VALVES
STREET SIGN
CATCH BASIN RIM=11.69
TBM BOLT W/ CUT 'X' ON FIRE HYDRANT ELEV.=14.18
HERBERT STREET
(50' R/W) (M. B. 18, P. 15)
CREPE MYRTLE
30"OAK
36"OAK
12" TREE
6" TREE
15" TREE
8" HOLLY
2" TREE
OLD PIN
166.5'
39.50'

THE CITY OF NORFOLK
CITY PLANNING

# MEMORANDUM

| | |
|---|---|
| TO: | City Council |
| THROUGH: | Marcus D. Jones, City Manager |
| FROM: | George M. Homewood, AICP, CFM, Planning Director |
| COPIES TO: | City Attorney, City Clerk |
| SUBJECT: | Pending Land Use Actions |
| DATE: | March 11, 2016 |

Attached for your review is the Pending Land Use Report, identifying applications received from February 17, 2016 through March 8, 2016. The report reflects items that are tentatively scheduled to be heard at the March 21, 2016 Architectural Review Board and the April 28, 2016 City Planning Commission meetings. In an effort to provide advance notice, this report is prepared prior to City Council meetings. No action is required on this report.

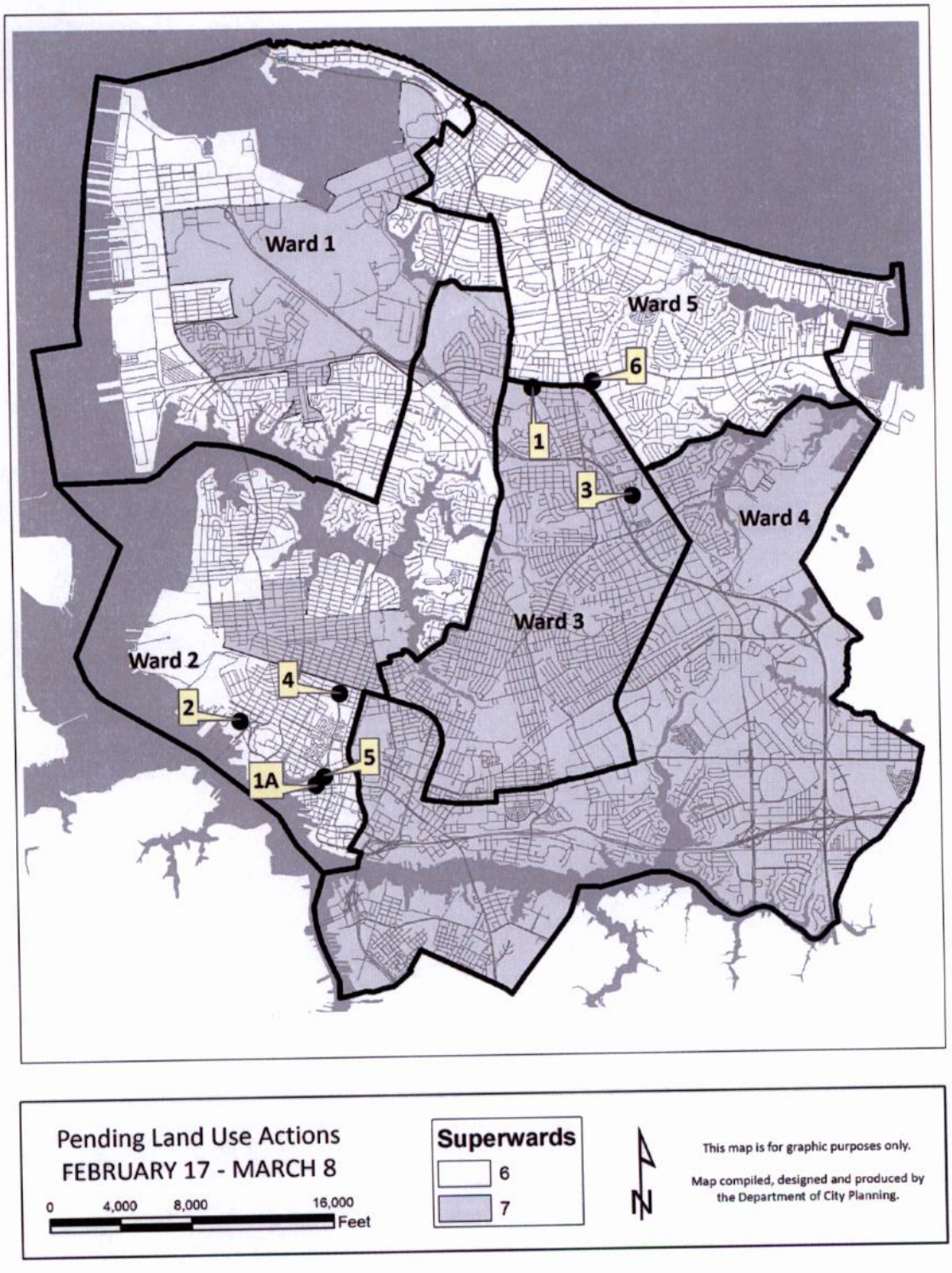
If you have any questions about these items, please contact me.

## Architectural Review Board – March 21, 2016

| Number | Applicant | Location | Request | Ward | SW | Neighborhood |
|---|---|---|---|---|---|---|
| 1A | Richard Calantropo | 717 Yarmouth Street | Change in siding material | 2 | 6 | Ghent |

## City Planning Commission – April 28, 2016

| Number | Applicant | Location | Request | Ward | SW | Neighborhood |
|---|---|---|---|---|---|---|
| 1 | El Ray #2 | 849 E Little Creek Road | Special exception to operate an eating and drinking establishment | 3 | 7 | Oakwood |
| 2 | Benchtop Brewing Company, LLC | 1129 Boissevain Avenue | Special exception to operate a microbrewery | 2 | 6 | Chelsea |
| 3 | Ms. Rose Rosebuds Family Day Home | 1439 Mellwood Court | Special exception to operate a day care home | 3 | 7 | N/A |
| 4 | Pinot's Palette | 240 W 21st Street | Special exception to operate an eating and drinking establishment | 2 | 6 | Ghent |
| 5 | D'Art Center | 740 Duke Street, Suite 100 | Special exception to operate an eating and drinking establishment | 2 | 6 | Downtown |
| 6 | Mi Calavera Latin Store, Inc. | 1301 E Little Creek Road, Suites 4-5 | Special exception for the sale of alcohol for off-premises consumption. | 5 | 6 | Larrymore Lawns |


Ward 1
Ward 5
Ward 4
Ward 3
Ward 2
6
1
3
4
2
5
1A
Pending Land Use Actions
FEBRUARY 17 - MARCH 8
0
4,000
8,000
16,000
Feet
Superwards
6
7
N
This map is for graphic purposes only.
Map compiled, designed and produced by the Department of City Planning.

CITY OF NORFOLK
OFFICE OF THE MAYOR

PAUL D. FRAIM
MAYOR

March 11, 2016

The Honorable Angelia Williams Graves
The Honorable Mamie B. Johnson
The Honorable Andrew A. Protogyrou
The Honorable Paul R. Riddick
The Honorable Thomas R. Smigiel, Jr.
The Honorable Theresa W. Whibley
The Honorable Barclay C. Winn

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., March 15, 2016, in the 10th floor conference room at City Hall for a Business Meeting.

Thank you,

Paul D. Fraim
Mayor

cc: Mr. Marcus Jones, 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 • paul.fraim@norfolk.gov

# CITY OF NORFOLK
# OFFICE OF THE MAYOR

Paul D. Fraim
Mayor

March 11, 2016

The following meetings will take place on Tuesday, March 15, 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.

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

# NORFOLK, VIRGINIA

# DOCKET FOR THE COUNCIL

# TUESDAY, MARCH 15, 2016 – 7:00 P.M.

Prayer to be offered by Vice Mayor Angelia Williams Graves, followed by the Pledge of Allegiance.

## 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 approving the conveyance of a Utility Easement to the City of Norfolk by the Visitors of Old Dominion University, located in the former right-of-way of Bluestone Avenue.

PH-2 **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 of property to **Balance Builders, Inc.**, located at **1553 West 41st Street**.

## REGULAR AGENDA

R-1 Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an entertainment establishment with alcoholic beverages known as **'The Barrel Room'** on property located at **437 Granby Street**," will be introduced in writing and read by its title.

R-1A An Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the sale of alcoholic beverages for off-premises consumption at an establishment known as **'The Barrel Room'** on property located at **437 Granby Street,**" will be introduced in writing and read by its title.

R-2 Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a microbrewery named **'Bearded Bird Brewing Company'** on property located at **725 Granby Street, Suite 727**," will be introduced in writing and read by its title.

R-2A An Ordinance entitled, "An Ordinance granting a **Special Exception** to operate an entertainment establishment with alcoholic beverages known as **'Bearded Bird Brewing Company'** on property located at **725 Granby Street, Suite 727**," will be introduced in writing and read by its title.

R-3 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 **'The Cure Coffeehouse and Brasserie'** on property located at **503 Botetourt Street, Suites 503** and **507**," will be introduced in writing and read by its title.

R-4 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to operate a used merchandise sales establishment named **'Lost and Found Treasures'** on property located at **7924 Chesapeake Boulevard, Suite A**," will be introduced in writing and read by its title.

R-5 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a **Commercial Drive-Through** for **'Wendy's'** on property located at **1805 Monticello Avenue**," will be introduced in writing and read by its title.

R-6 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $10,000.00 from **Norfolk Southern Foundation** and appropriating and authorizing the expenditure of $10,000.00 for the purchase of training equipment and/or supplies to support the **Norfolk Police Department**," will be introduced in writing and read by its title.

R-7 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $10,000.00 from **Norfolk Southern Foundation** and appropriating and authorizing the expenditure of $10,000.00 for the purchase of training equipment and/or supplies to support the **Department of Fire-Rescue**," will be introduced in writing and read by its title.

R-8 Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the **City** as **Administrative and Fiscal Agent** for the **Norfolk Transitional Grant Area (TGA)** under **Title I** of the **Ryan White Comprehensive Aids Resources Emergency (CARE) Act** to accept Part A grant funds in the amount of $6,175,144.00 from **the U.S. Department of Health and Human Services for HIV/AIDS Health and Support Services** and appropriating and authorizing expenditure of the grant funds," will be introduced in writing and read by its title.

R-9 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund to **Golf Management, Inc.** in the amount of $3,824.64, plus interest, based upon the overpayment of its Admission Tax for the year 2015," will be introduced in writing and read by its title.

R-10 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund to **LogistiCare Solutions, LLC** in the amount of $20,314.36, plus interest, based upon the overpayment of its Business License Tax for the Year 2015," will be introduced in writing and read by its title.

R-11 Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the City of Norfolk to enter into a **Performance Agreement** with the **Economic Development Authority** of the City of Norfolk and **ADP, LLC**," will be introduced in writing and read by its title.

R-12 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $20,000.00 from the Hampton Roads Planning District Commission and appropriating and authorizing the expenditure of $20,000.00 for the construction of the **Lavalette Avenue Canoe/Kayak Launch and Fishing Dock**," will be introduced in writing and read by its title.

City of NORFOLK

C: Dir., Departments of Utilities

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

From: Kristen M. Lentz, P.E., Director of Utilities

**Subject**: Acquisition and vacation of utility easements in former Bluestone Avenue right-of-way

Reviewed: _____
Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward**: 2/6

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **PH-1**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk Department of Utilities

III. **Description:**
This agenda item is an ordinance to approve the conveyance of a variable-width utility easement from Old Dominion University ("ODU") to the City of Norfolk (the "city") and to vacate a portion of an existing utility easement in the former Bluestone Avenue right-of-way on the campus of ODU.

IV. **Analysis**
The city and ODU have agreed to make the proposed changes to reflect the alignment of an existing sewer main on campus. The proposed easement will allow the city to continue to own and maintain the public sewer main which traverses ODU property. The vacated easement will release property to ODU. Hampton Roads Sanitation District ("HRSD") no longer requires its easement, having abandoned its line in the location under consideration.

V. **Financial Impact**
None.

VI. **Environmental**
N/A.

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

**VII. Community Outreach/Notification**

Action has been prepared collaboratively between the city, HRSD, and ODU. No other parties, rights or usage are affected. 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 Hampton Roads Sanitation District, Old Dominion University, Department of Utilities, Department of City Planning, and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Plat

1/4/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Utilities

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE APPROVING THE CONVEYANCE OF A UTILITY EASEMENT IN THE FORMER RIGHT-OF-WAY OF BLUESTONE AVENUE TO THE CITY OF NORFOLK BY THE VISITORS OF OLD DOMINION UNIVERSITY; AUTHORIZING THE CITY MANAGER TO ACCEPT THE DEED OF EASEMENT ON BEHALF OF THE CITY; APPROVING THE RELEASE BY THE CITY OF NORFOLK TO THE VISITORS OF OLD DOMINION UNIVERSITY OF A CERTAIN PORTION OF A 1966 UTILITY EASEMENT LOCATED IN THE FORMER RIGHT-OF-WAY OF BLUESTONE AVENUE; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE DEED OF RELEASE ON BEHALF OF THE CITY.

- - -

WHEREAS, the City of Norfolk ("Norfolk"), along with Hampton Roads Sanitation District ("HRSD"), has a utility easement over certain property owned by the Visitors of Old Dominion University ("ODU"), the said easement being located in the former right-of-way of Bluestone Avenue and being described in that certain Deed of Easement dated December 1, 1966, a copy of which is attached as Exhibit A ("1966 easement"), the 1966 easement having been granted to Norfolk and to HRSD for the installation, operation, maintenance, repair, renewal and relocation of and access to underground utilities and appurtenances thereto; and

WHEREAS, Norfolk has requested that ODU grant to Norfolk a new utility easement for water and sewer to be located in the

former right-of-way of Bluestone Avenue as shown on the exhibit sketch and denoted thereon as "Proposed Utility Easement," a copy of which is attached hereto as Exhibit B, the said utility easement being further described in Exhibit C attached hereto; and

WHEREAS, ODU has requested that Norfolk release a certain portion of the 1966 easement, said portion of the 1966 easement being shown on Exhibit B, denoted thereon as "Existing Utility Easement To Be Vacated," and being further described in Exhibit D, attached hereto; now, therefore,

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

Section 1:- That the conveyance to Norfolk by ODU of a utility easement shown on Exhibit B and described in Exhibit C, located in the former right-of-way of Bluestone Avenue, is hereby approved and the City Manager and other proper officers of Norfolk are hereby authorized to accept a Deed of Easement, or other appropriate instrument, in form satisfactory to the City Attorney.

Section 2:- That the vacation and release of that certain portion of the 1966 easement shown on Exhibit B and described in Exhibit D is hereby approved and the City Manager and other proper officers of Norfolk are authorized to deliver a Deed of Release, or other appropriate instrument, in form satisfactory to the City Attorney, to the appropriate official of ODU and to do all things necessary and proper to vacate and release the said portion of the 1966 easement.

Section 3:- That this ordinance shall be in effect from and after 30 days from the date of its adoption.

EXHIBIT A

# 6108

THIS DEED OF EASEMENT, dated this 1st day of December, 1966, by and between the VISITORS OF NORFOLK COLLEGE, now known as Old Dominion College, a corporation organized and existing under the laws of the Commonwealth of Virginia, party of the first part, and the CITY OF NORFOLK, a municipal corporation and HAMPTON ROADS SANITATION DISTRICT, a political subdivision of the Commonwealth of Virginia, parties of the second part.

WITNESSETH THAT:

For and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the said party of the first part does grant, bargain, sell and convey, with General Warranty, unto the parties of the second part an easement for the installation, operation, maintenance, repair, renewal and relocation of and access to their underground utilities and appurtenances thereto situate in the former right of way of Bluestone Avenue between 45th Street and 49th Street, more particularly described as follows:

(1) Beginning at the intersection of the northern line of 47th Street and the prolongation northwardly of a line distant 16 feet eastwardly from and parallel to the western line of Bluestone Avenue, as said streets were established prior to the closing and vacating of portions of 47th Street and Bluestone Avenue by act of council on August 24, 1965, Ordinance No. 23,147; thence southwardly along a line parallel to the former western line of Bluestone Avenue and distant 16 feet eastwardly therefrom, 311 feet to a point; thence eastwardly 26 feet along a line parallel to the southern line of 46th Street and distant 9 feet northwardly therefrom as said street was established prior to the closing and vacating of a portion of 46th Street by the abovementioned ordinance; thence southwardly along a line parallel to the former western line of Bluestone Avenue and distant 42 feet eastwardly therefrom 28.44 feet to a point; thence southwardly along a line parallel to the former eastern line of Bluestone Avenue and distant 76 feet westwardly therefrom, as measured at right angles thereto, 184.53 feet to the northern line of 45th Street; thence eastwardly along the northern line of 45th Street 20.44 feet to a point; thence northwardly along a line parallel to the former eastern line of Bluestone Avenue and distant 56 feet westwardly therefrom, as measured at right angles thereto, 186.65 feet to a point; thence northwardly along a line parallel to the former western line of

77

Bluestone Avenue, and distant 62 feet eastwardly therefrom, as measured at right angles thereto, 337.36 feet to the former northern line of 47th Street; thence westwardly along last mentioned line 46 feet to the point of beginning; said easement being shown on a plat numbered 4252 on file with the Division of Surveys, Department of Public Works, Norfolk, Virginia.

(2) Beginning at a point in the northern line of 47th Street distant 16 feet eastwardly from the intersection of the northern line of 47th Street and the western line of Bluestone Avenue, as said Bluestone Avenue was established between the northern line of 47th Street and the southern line of 49th Street prior to the closing and vacating thereof by act of Council on January 26, 1965, Ordinance No. 22,851; thence northwardly along a line parallel to the aforesaid western line of Bluestone Avenue and distant 16 feet eastwardly therefrom, as measured at right angles thereto, 71.45 feet to a point; thence northeastwardly 19.82 feet to a point distant 30.02 feet eastwardly, as measured at right angles thereto, from the said western line of Bluestone Avenue; thence northwardly along a line parallel to the said western line of Bluestone Avenue and distant 30.02 feet eastwardly therefrom, as measured at right angles thereto, 51.64 feet to a point; thence northwestwardly 19.82 feet to a point distant 16 feet eastwardly, as measured at right angles thereto, from the aforesaid western line of Bluestone Avenue; thence northwardly along a line parallel to the aforementioned western line of Bluestone Avenue, and distant 16 feet eastwardly therefrom, as measured at right angles thereto, 58.96 feet to its intersection with the prolongation eastwardly of the southern line of 48th Street, as established prior to the closing and vacating thereof by act of Council on January 26, 1965, Ordinance No. 22,851; thence westwardly 16 feet along said prolongation to the former southwestern corner of 48th Street and Bluestone Avenue; thence northwardly 60 feet to the former northwestern corner of Bluestone Avenue and 48th Street, thence eastwardly along the prolongation eastwardly of the former northern line of 48th Street, 16 feet to a point; thence northwardly along a line parallel to the former western line of Bluestone Avenue, and distant 16 feet eastwardly therefrom, as measured at right angles thereto, 209.99 feet to the southern line of 49th Street; thence eastwardly along the southern line of 49th Street, 46 feet to a point; thence southwardly along a line parallel to the former eastern line of Bluestone Avenue, and distant 18 feet westwardly therefrom, as measured at right angles thereto, 480.05 feet to the northern line of 47th Street; thence westwardly along last mentioned line 46 feet to the point of beginning; said easement being shown on a plat numbered 4207 on file with the Division of Surveys, Department of Public Works, Norfolk, Virginia.

The grantor, its assigns and successors in title, reserve the right to use the land through which said easement and right of way are granted for its own purposes, provided such use is not inconsistent and does not in any way interfere with the said easement and right of way, and provided further

that no buildings shall be constructed on, over, along and across said right of way.

The said party of the first part covenants that it has the right to convey the aforesaid easement, that it has done no act to encumber the same; that the grantee shall acquire possession thereof in accordance with the terms of this deed, free from all encumbrances, and that it will execute such further assurances of the said land as may be requisite.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its name and on its behalf by Frank Batten its Rector, and its corporate seal to be hereunto affixed and attested by James A. Howard, Secretary

VISITORS OF NORFOLK COLLEGE
now known as Old Dominion College

By Frank Batten

Attest:

James A. Howard
Secretary

79

STATE OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Alice M. Thompson, a Notary Public in and for the City of Norfolk in the State of Virginia, whose commission expires on the 2nd day of January, 1970, do certify that James A. Howard, Secretary of the Visitors of Norfolk College, now known as Old Dominion College, whose name as such is signed to the foregoing writing, bearing date of the 1st day of December, 1966, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this 18th day of July, 1967.

Alice M. Thompson
Notary Public

80

STATE OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Betty S. Williams, a Notary Public in and for the City of Norfolk in the State of Virginia, whose commission expires on the 6th day of June, 1971, do certify that Frank Batten, Rector of the Visitors of Norfolk College, nowknown as Old Dominion College, whose name as such is signed to the foregoing writing bearing date of the 1st day of December, 1966, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this 19th day of July, 1967.

Betty S. Williams
Notary Public

NOTARY PUBLIC CITY OF NORFOLK

FORM APPROVED:
Robert D. Holland
ASST. CITY ATTORNEY

91

*VIRGINIA:*

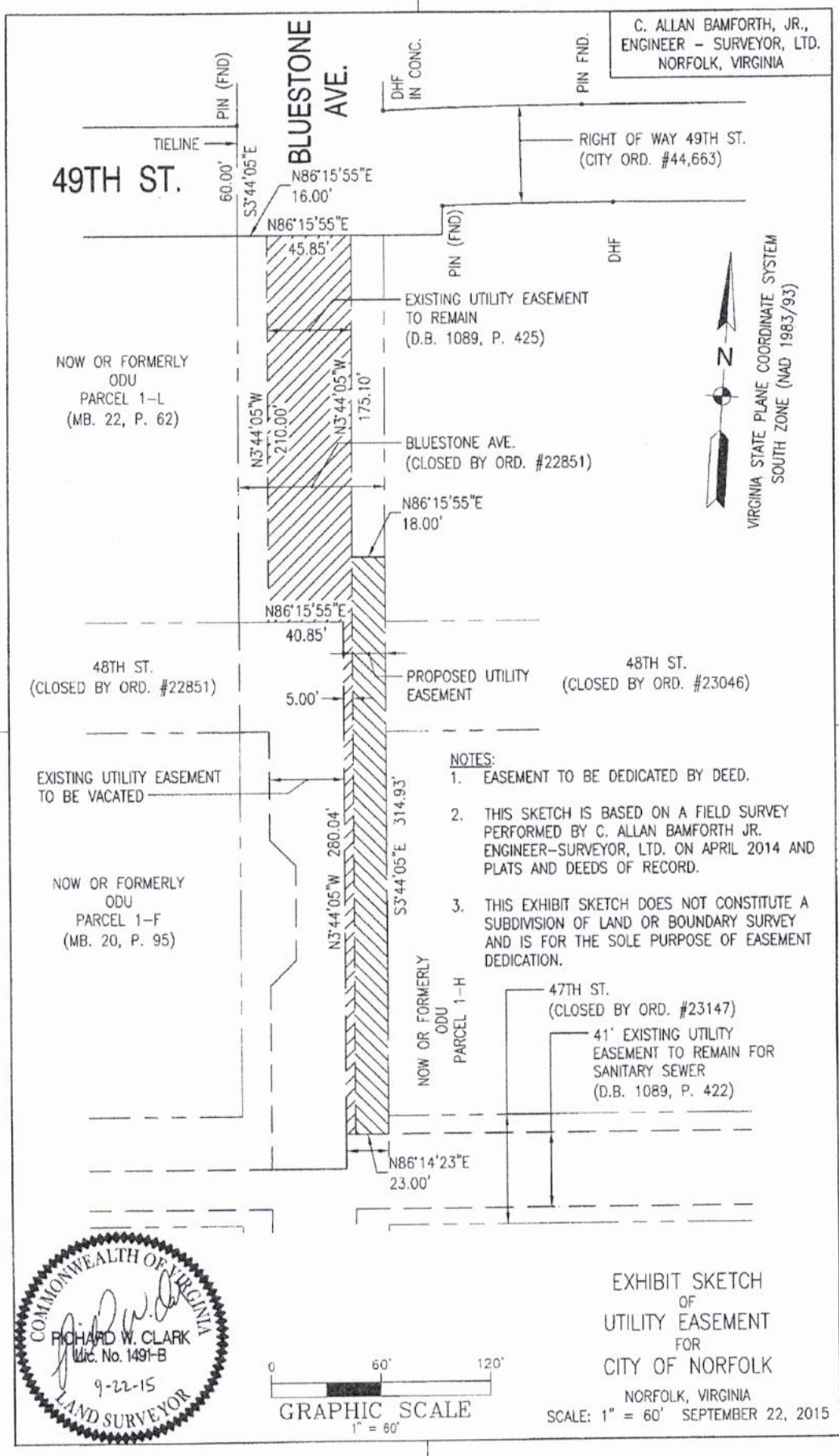
*In the Clerk's Office of the Corporation Court of the City of Norfolk, on the 4th day of August 1967 at 10:05 A M.*

*This Deed was this day received and upon certificate of acknowledgment, thereto annexed, admitted to record.*

*TESTE: W. L. PRIEUR, Jr., Clerk*
*By Gladys Adams D.C.*

82

EXHIBIT B


C. ALLAN BAMFORTH, JR.,
ENGINEER – SURVEYOR, LTD.
NORFOLK, VIRGINIA
BLUESTONE AVE.
49TH ST.
PIN (FND)
TIELINE
60.00'
S3°44'05"E
N86°15'55"E
16.00'
N86°15'55"E
45.85'
DHF
IN CONC.
PIN FND.
RIGHT OF WAY 49TH ST.
(CITY ORD. #44,663)
PIN (FND)
DHF
EXISTING UTILITY EASEMENT
TO REMAIN
(D.B. 1089, P. 425)
NOW OR FORMERLY
ODU
PARCEL 1–L
(MB. 22, P. 62)
N3°44'05"W
210.00'
N3°44'05"W
175.10'
BLUESTONE AVE.
(CLOSED BY ORD. #22851)
N86°15'55"E
18.00'
N
VIRGINIA STATE PLANE COORDINATE SYSTEM
SOUTH ZONE (NAD 1983/93)
N86°15'55"E
40.85'
48TH ST.
(CLOSED BY ORD. #22851)
PROPOSED UTILITY
EASEMENT
5.00'
48TH ST.
(CLOSED BY ORD. #23046)
EXISTING UTILITY EASEMENT
TO BE VACATED
N3°44'05"W 280.04'
S3°44'05"E 314.93'
NOW OR FORMERLY
ODU
PARCEL 1–F
(MB. 20, P. 95)
NOW OR FORMERLY
ODU
PARCEL 1–H
47TH ST.
(CLOSED BY ORD. #23147)
41' EXISTING UTILITY
EASEMENT TO REMAIN FOR
SANITARY SEWER
(D.B. 1089, P. 422)
N86°14'23"E
23.00'
NOTES:
1. EASEMENT TO BE DEDICATED BY DEED.
2. THIS SKETCH IS BASED ON A FIELD SURVEY PERFORMED BY C. ALLAN BAMFORTH JR. ENGINEER–SURVEYOR, LTD. ON APRIL 2014 AND PLATS AND DEEDS OF RECORD.
3. THIS EXHIBIT SKETCH DOES NOT CONSTITUTE A SUBDIVISION OF LAND OR BOUNDARY SURVEY AND IS FOR THE SOLE PURPOSE OF EASEMENT DEDICATION.
COMMONWEALTH OF VIRGINIA
RICHARD W. CLARK
Lic. No. 1491-B
9-22-15
LAND SURVEYOR
0
60'
120'
GRAPHIC SCALE
1" = 60'
EXHIBIT SKETCH
OF
UTILITY EASEMENT
FOR
CITY OF NORFOLK
NORFOLK, VIRGINIA
SCALE: 1" = 60' SEPTEMBER 22, 2015

## EXHIBIT C

**Sanitary Sewer Easement**
**Over a Portion of**
**Bluestone Avenue**

An rectangular shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being a portion of a closed section of Bluestone Avenue and being further described as follows: COMMENCING at a point that is the intersection of the northern right of way line of 49th Street and the western right of way line of Bluestone Avenue, said intersection being shown on a plat entitled, "Plat of Norfolk Waterfront Devel't Co." said plat being duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Map Book 3, Page 11; thence, from said point of commencement thus described running S 3°44'05"E, 60.00 feet, more or less, along the southerly extension of the said western right of way line of Bluestone to the southern right of way line of 49th Street; thence, N 86°15'55"E, 61.85 feet along the said southern right of way line of 49th Street to a point; thence, leaving the said southern right of way line of 49th Street, S 3°44'05"E, 175.10 feet to the point of BEGINNING; thence, from said point of beginning thus described, being shown on an exhibit entitled, "Exhibit Sketch of Utility Easement for City of Norfolk," prepared by C. Allan Bamforth, Jr., dated April 28, 2014, N 86°15'55"E, 18.00 feet to a point; thence, S 3°44'05"E, 314.93 feet, more or less, to the northern line of an existing utility easement 41.00 feet in width, being duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Deed Book 1089, Page 422; thence, S 86°14'23"W, 18.00 feet along said northern line of said existing utility easement to a point; thence, N 3°44'05"W, 314.94 feet, more or less, to the point of beginning, all as shown on said exhibit.

The above-described parcel contains 0.130 acre of land, more or less.

*May 6, 2014*

## EXHIBIT D

### *Portion of Utility Easement to be Vacated*

### *On Bluestone Avenue between 47th and 49th Streets*

Beginning at a point in the northern line of 47th Street distant 16 feet eastwardly from the intersection of the northern line of 47th Street and the western line of Bluestone Avenue, as said Bluestone Avenue was established between the northern line of 47th Street and the southern line of 49th Street prior to the closing and vacating thereof by act of Council on January 26, 1965, Ordinance No. 22,851; thence, northwardly along a line parallel to the aforesaid western line of Bluestone Avenue and distant 16 feet eastwardly therefrom, as measured at right angles thereto, 71.45 feet to a point; thence, northeastwardly 19.82 feet to a point distant 30.02 feet eastwardly, as measured at right angles thereto, from the said western line of Bluestone Avenue; thence, northwardly along a line parallel to the said western line of Bluestone Avenue and distant 30.02 feet eastwardly therefrom; as measured at right angles thereto 51.64 feet to a point; thence, northwestwardly 19.82 feet to a point distant 16 feet eastwardly, as measured at right angles thereto, from the aforesaid western line of Bluestone Avenue; thence, northwardly along a line parallel to the aforementioned western line of Bluestone Avenue, and distant 16 feet eastwardly therefrom, as measured at right angles thereto, 58.96 feet to its intersection with the prolongation eastwardly of the southern line of 48th Street, as established prior to the closing and vacating thereof by act of Council on January 26, 1965, Ordinance No. 22,851; thence, westwardly 16 feet along said prolongation to the former southwestern corner of 48th Street and Bluestone Avenue; thence, northwardly 60 feet to the northwestern corner of Bluestone Avenue and 48th Street; thence, eastwardly along the prolongation eastwardly of the former northern line of 48th Street 62.00 feet to a point; thence, southwardly along a line parallel to the said western line of Bluestone Avenue and distant 62.00 feet eastwardly therefrom; as measured at right angles thereto 270.05 feet to a point on the northern line of 47th Street, being shown on that certain plat dated September, 1965 and on file in the Office of the Division of Surveys, Department of Public Works, Norfolk, Virginia in file number 4207; thence, southwardly along the prolongation of the said line parallel to the said western line of Bluestone Avenue and distant 62.00 feet eastwardly therefrom, and distant 30.00 feet to the centerline of 47th Street; thence, westwardly along said centerline of 47th Street, 46.00 feet distant to a point; thence, northwardly distant of 30.00 feet to the point of beginning, being shown on that certain plat dated February, 1965 and on file in the Office of the Division of Surveys, Department of Public Works, Norfolk, Virginia in file number 4252.

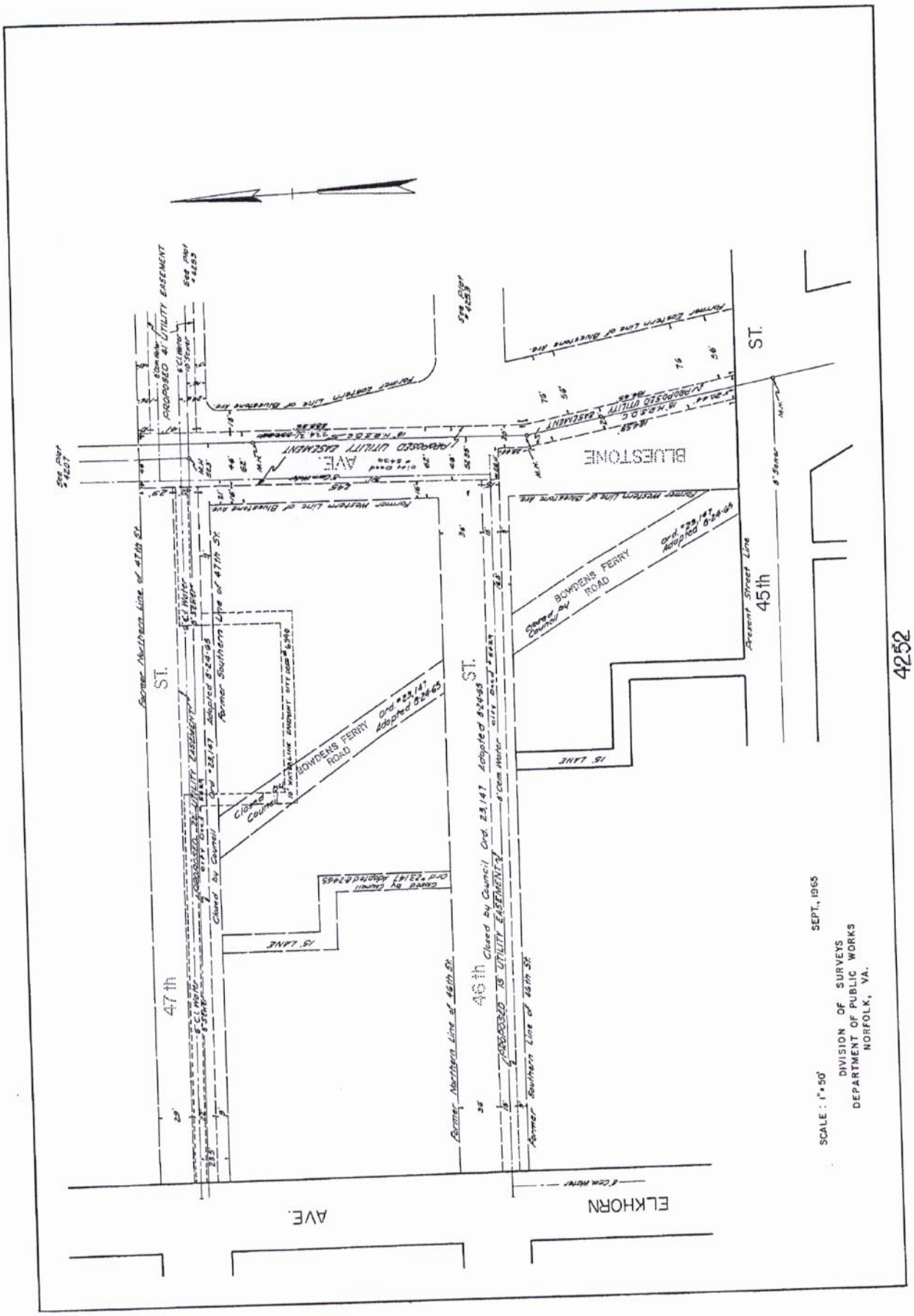
The above described area contains 0.283 acre, more or less.

*August 10, 2015*

*Revised August 24, 2015*

*Revised August 27, 2015*

# EXHIBIT D-1



BLUESTONE
AVE.
ELKHORN
AVE.
47th
ST.
46th
ST.
45th
ST.
BOWDENS FERRY ROAD
Closed by Council
Ord. #23,147 Adopted 8-24-65
PROPOSED 41' UTILITY EASEMENT
PROPOSED UTILITY EASEMENT
PROPOSED 15' UTILITY EASEMENT
Former Eastern Line of Bluestone Ave.
Former Western Line of Bluestone Ave.
Former Northern Line of 47th St.
Former Southern Line of 47th St.
Former Northern Line of 46th St.
Former Southern Line of 46th St.
Present Street Line
15' LANE
8" Sewer
8" Cem. Water
4252
SCALE: 1" = 50'
SEPT., 1965
DIVISION OF SURVEYS
DEPARTMENT OF PUBLIC WORKS
NORFOLK, VA.

C: Dir., Department of General Services

City of NORFOLK

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

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

**Subject**: Sale of city-owned property located at 1553 W. 41st Street to Balance Builders, Inc.

Reviewed: _____
Sabrina Joy-Hogg, Deputy City Manager

**Ward/Superward:** 2/7

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **PH-2**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Balance Builders, Inc.
2525 Oconee Avenue, Suite 101
Virginia Beach, Virginia 23454

III. **Description:**
This agenda item is an ordinance to sell a vacant parcel of land owned by the City of Norfolk (the "city") at 1553 W. 41st Street ("the property") to Balance Builders, Inc. ("Balance Builders").

IV. **Analysis**
Balance Builders seeks to purchase and develop the property located at 1553 W. 41st Street. The city has owned this lot since 2009. The city has agreed to sell the property to Balance Builders for the appraised value of $18,000. As seen here, the appraised value differs from the assessed value as the property is subject to deed restrictions which limit its development to a single-family, owner-occupied home. Also, no building permit shall be issued for the development of a single-family dwelling on the property until a zoning certificate has been granted by the Department of City Planning. This will help to ensure that the proposed single-family home will be consistent with the prevailing patterns of the neighborhood as to exterior elements like scale, appearance, fenestration, and roof lines. Despite this difference in value, development of a quality home built on this property will help to exemplify the continued expansion efforts in the area and will add to local comparable real estate values. This sale will subject the property to real estate taxes, thereby creating on-going revenue for the city.

## V. Financial Impact

| | |
|---|---|
| Purchase Price | $18,000 |
| Costs of Closing | Each party to this transaction shall pay its own legal fees. |
| Appraised Value of Lots | $18,000 |
| FY2016 Assessed Value of Parcel | $36,100 |
| Annual Real Property Tax Revenue | • $415.15 annually (current total revenue for this lot)<br>• Potential $2,070.00 annually (with land and improvements at a proposed value of $180,000) |

## VI. Environmental

There are no known environmental issues associated with this property.

## 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 ordinance and letter 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
- Exhibit A – Legal Description of the Property
- Exhibit B – Proposed Purchase and Sales Agreement
- Aerial View of Property

12/18/2015-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 BALANCE BUILDERS, INC. OF CERTAIN PARCELS OF PROPERTY LOCATED AT 1553 W. 41ST STREET FOR THE TOTAL SUM OF $18,000.00 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE PURCHASE AND SALE AGREEMENT.

- - -

WHEREAS, the City of Norfolk owns certain property known as 1553 W. 41st Street; and

WHEREAS, Balance Builders, Inc. ("BB") has offered to purchase the said property being described in Exhibit A attached hereto, from the City of Norfolk for the sum of $18,000.00; 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 BB for the sum of $18,000.00 upon the terms and conditions set forth in the Purchase and Sale Agreement attached hereto as Exhibit B; now, therefore,

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

Section 1:- That the sale to BB of that certain parcel of property described in Exhibit A, for the sum of $18,000.00, is hereby authorized and the Purchase and

Sale Agreement, a copy of which is attached as Exhibit B, is hereby approved.

Section 2:- That upon receipt of the sum of $18,000.00 and the satisfaction of all terms and conditions set forth in the Purchase and Sale Agreement, the City Manager is authorized to deliver a deed conveying the said property to BB, with Special Warranty of Title, in form satisfactory to the City Attorney, and the City Manager is further authorized to do all things necessary and proper to carry out the terms of the Purchase and Sale Agreement.

Section 3:- That the City Manager, with the advice and counsel of the City Attorney, may correct, revise or amend the Purchase and Sale Agreement as he may deem advisable in order to carry out the intent of the Council as expressed herein.

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

## EXHIBIT A TO ORDINANCE

**1553 West 41st Street**
**Lots 3 and 4 – Block 7 – Lamberts Point**

A rectangular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, and being known, numbered and designated as Lots 3 and 4, in Block 7, as shown on that certain plat entitled, "Town of Lamberts Point," which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 2 at Page 72, less and except a 15' drainage easement along the southern line of said Lots 3 and 4 retained by the City of Norfolk.

The above described parcel contains 6,250 square feet, more or less.

*September28, 2015*

## EXHIBIT B TO ORDINANCE

## PURCHASE AND SALE AGREEMENT

**THIS AGREEMENT** made this ___ day of _____, 2015, by and between the **CITY OF NORFOLK,** a municipal corporation of the Commonwealth of Virginia ("City"), and **BALANCE BUILDERS, INC.**, a Virginia corporation ("BB"), whose address is 2525 Oconee Avenue, #101, Virginia Beach, Virginia 23454.

## RECITALS:

A. City is the owner in fee simple of certain real property known as 1553 W. 41st Street, together with all improvements thereon and all rights and appurtenances thereunto pertaining, located in the City of Norfolk, Virginia, said property being described in Exhibit A, which is attached hereto and made a part hereof ("Property").

B. BB desires to purchase the property from City and City desires to sell the Property to BB in accordance with the terms and conditions of this Agreement.

C. These recitals are incorporated by this reference into this Agreement.

D. The conveyance of the Property to BB will enable BB 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 parties agree as follows:

1. SALE. City agrees to sell and BB agrees to purchase the Property, together with all easements, rights, and appurtenances thereto, and all buildings and improvements now located thereon.

2. PURCHASE PRICE. The purchase price (the "Purchase Price") for the Property is **Eighteen Thousand Dollars and 0/100 ($18,000.00)**, and the Purchase Price will be paid in the form of a certified check or by wire transfer of funds at Closing.

3. DEPOSIT. Within five (5) business days from the date this Agreement is fully executed by City, BB shall deposit with an escrow agent selected by City ("Escrow Agent") the sum of **One Thousand Eight Hundred Dollars and 0/100 ($1,800.00)** in cash as earnest money ("Deposit"). The Deposit shall be deposited by the Escrow Agent in a fully federally insured interest bearing account and all interest accruing on the Deposit shall belong to BB in all events. The Deposit shall be non-refundable except as specifically set forth herein.

4. CONVEYANCE.

a. City agrees to convey the Property "AS IS" to BB by Special Warranty Deed, subject to applicable easements and restrictive covenants of record.

b. Possession of the Property will be given to BB at closing.

c. City agrees to pay the expenses of preparing the deed and to pay any fees or costs that are normally the responsibility of the Grantor. BB will pay all other fees and costs charged in connection with the transfer of the Property and the recordation of the deed.

d. City and BB agree that the attorney or title insurance company ("Title Company") selected by BB shall act as the settlement agent ("Settlement Agent") at BB'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 18.

5. FEASIBILITY PERIOD. BB shall have 120 days from the date the Purchase and Sale Agreement is executed by all parties in which to complete its assessment of the Property, including title examination and environmental assessment.

6. CLOSING. Closing will be made at the offices of the Norfolk City Attorney, 810 Union Street, Suite 900, Norfolk, Virginia 23510, or such other location as the parties may agree, within 120 days of the effective date of the ordinance authorizing the conveyance of the property by City ("Effective Date"), or as soon thereafter as settlement documents can be prepared and any title issues can be resolved.

7. CONDITIONS. BB's obligations are expressly conditioned upon the satisfaction of each of the following conditions in the sole determination of BB, it being understood that 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 within the Feasibility Period, BB may unilaterally terminate this Agreement:

a. Receipt of a satisfactory title commitment.

b. Receipt of a Phase I Environmental Assessment and Report ("Phase 1 Report") conducted and prepared by an environmental engineering and inspection company selected by BB at BB's expense, and such other testing and reports as may be reasonably required by BB or recommended in the Phase I Report, any such additional testing and reports will be at the BB's expense.

c. Satisfaction by City of all obligations under this Agreement.

8. SOLD "AS IS"; NO REPRESENTATIONS AND WARRANTIES BY CITY. BB acknowledges that City has made no representations or warranties whatsoever in regard to the Property, except for Special Warranty of Title. BB agrees that they have inspected and are thoroughly familiar with the Property and are acquiring the Property in its "as is" condition. BB understands and agrees that 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 City shall not be liable for any latent or patent defects therein.

9. DEVELOPMENT. BB understands and agrees that no building permit shall be issued for the development of a single-family dwelling on the parcel 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 parcel is consistent with the prevailing pattern in the neighborhood with respect to the footing, massing, scale, appearance, fenestration, roof lines and other exterior elements.

10. OWNER OCCUPIED. The deed shall contain a restrictive covenant limiting construction upon the property to single-family, owner occupied dwellings and structures appurtenant thereto.

11. 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:

Purchaser: Geoffrey Wallace
Balance Builders, Inc.
2525 Oconee Avenue, #101
Virginia Beach, Virginia 23454

City: City of Norfolk
Attn: Bernard Pishko, City Attorney
810 Union Street, Suite 900
Norfolk, Virginia 23510

12. 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.

13. BROKERAGE OR AGENT'S FEES. Neither City nor BB 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 City as a result of this transaction. City shall not have any obligation whatsoever to pay any brokers or agent's fees or commissions, nor shall City have any obligation whatsoever to see that any such fees or commissions are paid.

14. DEFAULT AND REMEDIES.

a. If the conveyance contemplated by this Agreement is not consummated because of City's or BB's default, the non-defaulting party may elect to:

i. Terminate this Agreement;

ii. Seek and obtain specific performance of this Agreement; or

15. 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.

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

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 Purchase and Sale 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 BB hereby designate and appoint BB'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 Purchase and Sale Agreement. Without limiting the responsibility and obligations of the attorney or Title Company as the Reporting Person, City and BB 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 BB each retain an original counterpart of this Purchase and Sale Agreement for at least four (4) years following the calendar year of the Closing.

**WITNESS** the following duly authorized signatures and seals:

**[SIGNATURES ON FOLLOWING PAGE]**

**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 the _____ day of _____, 20___, 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 Purchase and Sale Agreement dated this _____ day of _____, 20___, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 20___.

_____
Notary Public

Registration No._____

APPROVED AS TO CONTENTS:

_____
Director, Department of General Services

APPROVED AS FORM AND CORRECTNESS:

_____
Deputy City Attorney

**PURCHASER:**

**BALANCE BUILDERS, INC.**

**By:** _____

**Title:** _____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, 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 _____, the _____ of Balance Builders, Inc., whose name is signed to the foregoing Purchase and Sale Agreement dated _____, has acknowledged the same before me in my City and State aforesaid. He is personally known to me or has produced a driver's license as identification.

Given under my hand this___ day of_____, 20___.

_____
Notary Public

Registration No._____

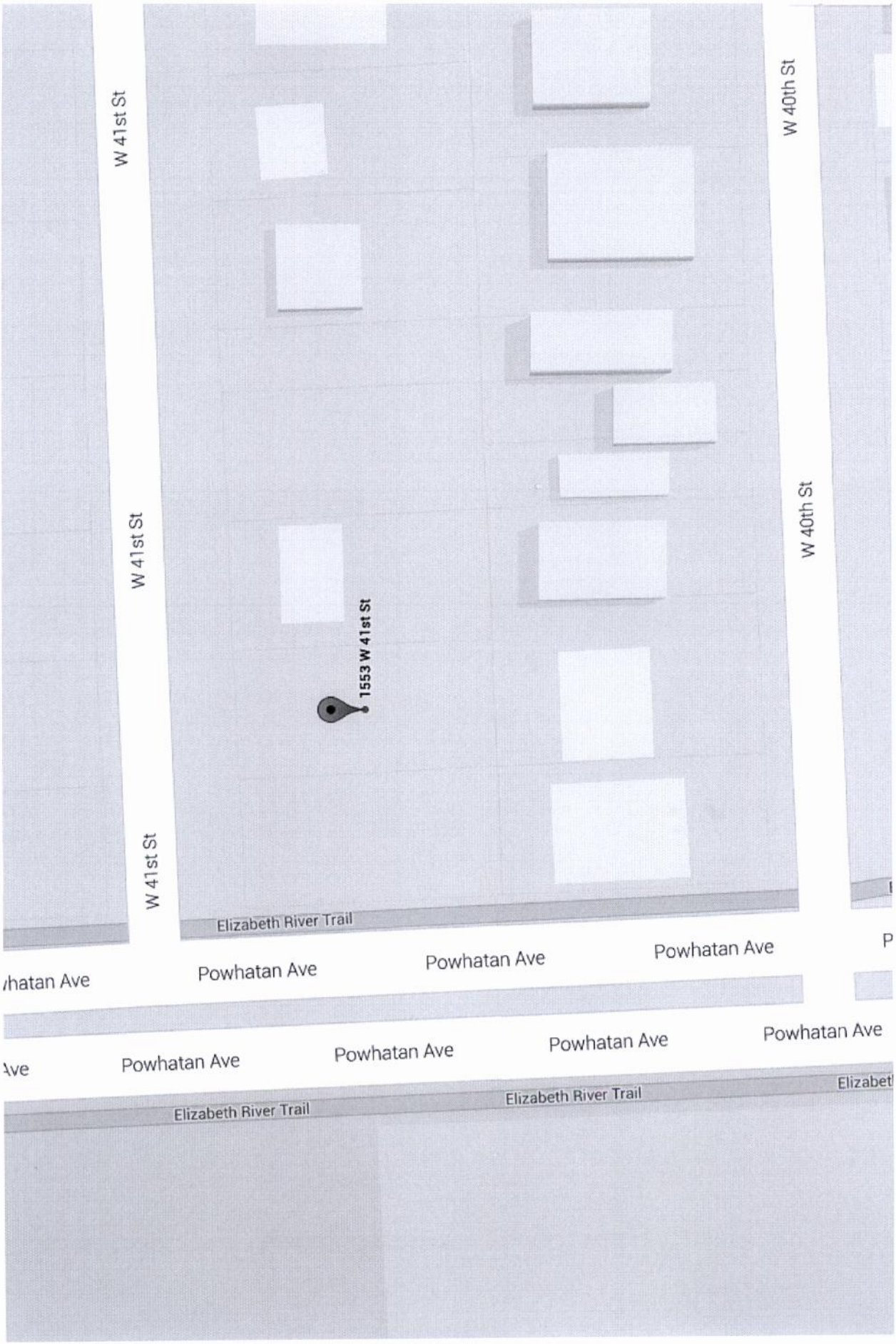
## EXHIBIT A

**1553 West 41st Street**
**Lots 3 and 4 – Block 7 – Lamberts Point**

A rectangular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, and being known, numbered and designated as Lots 3 and 4, in Block 7, as shown on that certain plat entitled, "Town of Lamberts Point," which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 2 at Page 72, less and except a 15' drainage easement along the southern line of said Lots 3 and 4 retained by the City of Norfolk.

The above described parcel contains 6,250 square feet, more or less.

*September28, 2015*


W 41st St
W 41st St
W 41st St
W 40th St
W 40th St
1553 W 41st St
Elizabeth River Trail
Powhatan Ave
Powhatan Ave
Powhatan Ave
Powhatan Ave
Powhatan Ave
Powhatan Ave
Powhatan Ave
Powhatan Ave
Elizabeth River Trail
Elizabeth River Trail

THE CITY OF NORFOLK
CITY PLANNING

C: Dir., Department of City Planning

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

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

Subject: **Request to renew an existing Special Exception for an Entertainment Establishment with alcoholic beverages and request for a Special Exception for the Sale of Alcoholic Beverages for Off-Premises Consumption – 437 Granby Street – The Barrel Room**

Reviewed: _____
Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward**: 2/6

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-1**

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

II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** The following Special Exceptions:
   a. To renew an existing Special Exception for an Entertainment Establishment with alcoholic beverages
   b. Sale of Alcoholic Beverages for Off-Premises Consumption

IV. **Applicant:** **The Barrel Room**

V. **Description:** This request would allow the Barrel Room, an existing establishment, to continue serving alcoholic beverages on-premises with entertainment options, and allow them to serve alcohol for off-premises consumption, increase indoor seating, and allow outdoor seating.

| | Previous | Proposed |
|---|---|---|
| Hours of Operation and for the Sale of Alcoholic Beverages for On-Premises Consumption | 11:00 a.m. until 2:00 a.m., Seven days a week | Same |
| Hours for the Sale of Alcoholic Beverages for Off-Premises Consumption | N/A | 11:00 a.m. until 12:00 midnight, Seven days a week |

| | | |
|---|---|---|
| Capacity | 76 seats indoors<br>0 seats outdoors<br>127 total capacity | 84 seats indoors<br>8 seats outdoors<br>130 total capacity |
| Entertainment | • 5-member live band<br>• Karaoke<br>• Comedian<br>• Poetry reading | Same |
| Off-Premises Alcohol Container Sizes | N/A | • 32 and 64 oz. growlers<br>• 4 pack of beer<br>• 6 pack of beer<br>• 12 pack of beer |

Staff point of contact: Chris Whitney at 823-1253, chris.whitney@norfolk.gov

Attachments:

- Staff Report to CPC dated February 25, 2016 with attachments
- Proponents and Opponents
- Ordinances

THE CITY OF NORFOLK
CITY PLANNING

**Planning Commission Public Hearing: February 25, 2016**
Executive Secretary: George M. Homewood, AICP, CFM
Planner: Chris Whitney, CFM

| **Staff Report** | **Item No.** 9 | |
|---|---|---|
| **Address** | **437 Granby Street** | |
| **Applicant** | **The Barrel Room** | |
| **Request** | **Special Exceptions** | • **Renew a previously granted special exception to operate an entertainment establishment with alcoholic beverages**<br>• **Sale of alcohol for off-premises consumption** |
| **Property Owner** | Montagna Properties, LLC | |
| **Site Characteristics** | Building Area/Space | 3,250 sq. ft./2,625 sq. ft. |
| | Future Land Use Map | Downtown |
| | Zoning | D-3 (Freemason/Granby Conservation and Mixed Use), HO-D (Downtown Historic Overlay) |
| | Neighborhood | Downtown |
| | Character District | Downtown |
| **Surrounding Area** | North | D-3: Rama Garden, Monastery Restaurant |
| | East | D-3: Scotty Quixx, Platinum Salon, Bodega |
| | South | D-3: Vacant space |
| | West | D-3: Parking lot |

## A. Summary of Request

- The property is located Downtown along the west side of Granby Street, south of West Charlotte Street.
- This request would allow the Barrel Room, an existing establishment, to continue serving alcoholic beverages on-premises with entertainment options, allow them to serve alcohol for off-premises consumption, increase indoor seating, and allow outdoor seating.
    - The applicant proposes to sell growlers of up to 64 ounces in size, as well as four, six, and 12 packs of beer.

## B. Plan Consistency

The proposed special exceptions are consistent with *plaNorfolk2030*, which designates this site as downtown.

## C. Zoning Analysis

**i.** General

- The proposed uses are permitted in the D-3 district by special exception.
- In January 2015, the City Council granted a special exception to The Barrel Room for the operation of an entertainment establishment with alcoholic beverages.
    - This approval included a condition that the special exception would expire in 18 months and that the applicant must re-apply for the special exception after 12 months.
    - This request is for a renewal of this special exception and the addition of alcohol sales for off-premises consumption.

| | Previous | Proposed |
|---|---|---|
| Hours of Operation and for the Sale of Alcoholic Beverages for On-Premises Consumption | 11:00 a.m. until 2:00 a.m., Seven days a week | Same |
| Hours for the Sale of Alcoholic Beverages for Off-Premises Consumption | N/A | 11:00 a.m. until 12:00 midnight, Seven days a week |
| Capacity | 76 seats indoors<br>0 seats outdoors<br>127 total capacity | 84 seats indoors<br>8 seats outdoors<br>130 total capacity |
| Entertainment | • 5-member live band<br>• Karaoke<br>• Comedian<br>• Poetry reading | Same |

| | | |
|---|---|---|
| Off-Premises Alcohol Container Sizes | N/A | • 32 and 64 oz. growlers<br>• 4 pack of beer<br>• 6 pack of beer<br>• 12 pack of beer |

- Special exception history:

| City Council Approval | Applicant | Request |
|---|---|---|
| 2015 | The Barrel Room | Entertainment establishment with alcoholic beverages |
| Pending | The Barrel Room | • Entertainment establishment with alcoholic beverages<br>• Sale of alcohol for off-premises consumption |

**ii.** Parking

The site is located within the D-3 zoning district, which does not require off-street parking.

**iii.** Flood Zone

The property is located in the X (Shaded) and X (Low to Moderate) Flood Zones, which are low-risk flood zones.

**D. Transportation Impacts**

- Institute of Transportation Engineers figures estimate that this restaurant will generate 39 additional vehicle trips per day by increasing total indoor seating at this location by 8 seats above currently approved levels.
- Granby Street adjacent to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

**E. Historic Resources Impacts**

- The site is located within the Downtown Historic Overlay District and is a contributing structure.
- Any modifications to the exterior of the building are subject to the City's Design Review Process and/or Architectural Review Board approval for a Certificate of Appropriateness.
- The outdoor dining requires an encroachment from the Architectural Review Board, City Planning Commission, and City Council.

**F. Public Schools Impacts**

This site is located within the Tidewater Park Elementary School, Blair Middle School, and Maury High School Attendance Zones.

**G. Environmental Impacts**

There are currently no opportunities for landscaping site improvements to this existing site.

**H. Surrounding Area/Site Impacts**

Over the past year there have been four calls for police service with no arrests made.

**I. Payment of Taxes**

The owner of the property is current on all real estate taxes.

**J. Civic League**

Notice was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on January 13.

**K. Communication Outreach/Notification**

- Legal notice was posted on the property on January 19.
- Letters were mailed to all property owners within 300 feet of the property on February 11.
- Legal notification was placed in *The Virginian-Pilot* on February 11 and February 18.

**L. Recommendation**

Staff recommends **approval** of the special exception requests subject to the conditions below:

**Entertainment establishment with alcoholic beverages**

(a) The hours of operation for the establishment, for the sale of alcoholic beverages, and for entertainment shall be limited to 11:00 a.m. until 2:00 a.m., seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The seating for the establishment shall not be less than 84 seats indoors, shall not be more than 8 seats outdoors, and the total occupant capacity, including employees, shall not exceed 130 people.

(c) The interior layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B." Any tables, chairs, booths, stools or other movable furniture may be relocated provided that it remains only within the shaded areas, and the unshaded accesses, aisles, and other areas shown on the floor plans shall remain unobstructed. The exterior layout shall adhere to such plans as are approved through the encroachment review process.

(d) No smoking shall be permitted anywhere in the outdoor dining area.

(e) This special exception shall terminate in the event of a change in ownership of the

establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

(f) Entertainment shall be limited to live bands having no more than 5 members, karaoke, comedians, and poetry readings. No other form of entertainment is permitted.

(g) There shall be no dancing and no dance floor provided.

(h) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."

(i) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.

(j) The establishment shall maintain a current, active business license at all times while in operation.

(k) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

(l) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

(m) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

(n) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

(o) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

(p) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(q) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(r) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(s) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

(t) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

(u) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.

(v) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation

relating to the operation of the establishment shall include copies of the following:

(1) This special exception;

(2) Any ABC license(s);

(3) Any occupancy permit(s);

(4) Certifications of all persons who work on the premises as a security guard;

(5) All fire code certifications, including alarm and sprinkler inspection records;

(6) Any health department permit(s);

(7) The emergency action plan required under the Fire Prevention Code;

(8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;

(9) The establishment's designated driver program; and

(10) The establishment's Security Plan.

(w) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 98 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

(x) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

**Sale of alcoholic beverages for off-premises consumption**

(a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 11:00 a.m. until 12:00 a.m., seven days a week.

(b) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the

establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

(c) No alcoholic beverages other than those defined as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," as defined by state law, shall be sold.

(d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.

(e) No beer shall be sold in any package containing fewer than four (4) bottles or cans, with the exception of those bottled beers which are exclusively produced in bottles greater than 12 ounces but less than 64 ounces in size. No wine shall be sold in containers less than 375 ml each. Refillable containers (e.g. growlers) may be both sold and refilled by the establishment in sizes between 32 and 128 ounces.

(f) The facility shall maintain a current, active business license at all times while in operation.

(g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

(j) At all times, all temporary window signage must comply with the applicable

regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Signs."

**Attachments**

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Downtown Norfolk Civic League and Downtown Norfolk Council

**Proponents and Opponents**

**Proponents**
Rick Henn – Representative
1400 Granby Street
Norfolk, VA 23510

**Opponents**
None

02/16/2016 lds

Form and Correctness Approved: BAV

By _____
Office of the City Attorney

Contents Approved: CW

By _____
DEPT.

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "THE BARREL ROOM" ON PROPERTY LOCATED AT 437 GRANBY STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to Fahrenheit of Virginia, LLC authorizing the operation of an entertainment establishment with alcoholic beverages named "The Barrel Room" on property located at 437 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 25 feet, more or less, along the western line of Granby Street and 26 feet, more or less, along the eastern line of Greens Court; premises numbered 437 Granby Street.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The hours of operation for the establishment, for the sale of alcoholic beverages for on-premises consumption, and for entertainment shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The seating for the establishment shall not be less than 68 seats indoors, shall not be more than 8 seats outdoors, and the total occupant capacity, including employees, shall not exceed 130 people.

(c) The interior layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B." Any

tables, chairs, booths, stools or other movable furniture may be relocated provided that it remains only within the shaded areas, and the unshaded accesses, aisles, and other areas shown on the floor plans shall remain unobstructed. The exterior layout shall adhere to such plans as are approved through the encroachment review process.

(d) No smoking shall be permitted anywhere in the outdoor dining area.

(e) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

(f) Entertainment shall be limited to live bands having no more than five (5) members, karaoke, comedians, and poetry readings. No other form of entertainment is permitted.

(g) There shall be no dancing and no dance floor provided.

(h) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."

(i) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.

(j) The establishment shall maintain a current, active business license at all times while in operation.

(k) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

(l) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

(m) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, and both solid and liquid waste.

(n) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

(o) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

(p) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of

this ordinance, the conditions of this ordinance shall govern.

(q) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(r) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(s) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

(t) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

(u) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.

(v) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment

shall include copies of the following:

(1) This special exception;

(2) Any ABC license(s);

(3) Any occupancy permit(s);

(4) Certifications of all persons who work on the premises as a security guard;

(5) All fire code certifications, including alarm and sprinkler inspection records;

(6) Any health department permit(s);

(7) The emergency action plan required under the Fire Prevention Code;

(8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;

(9) The establishment's designated driver program; and

(10) The establishment's Security Plan.

(w) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 98 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p.m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

(x) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while

the establishment is in operation.

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 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 section 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 the Special Exception granted hereby amends the previously granted special exception permitting an entertainment establishment on this property, adopted on January 13, 2015 (Ordinance NO. 45,832). All provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:
Exhibit A (5 pages)
Exhibit B (1 page)

# EXHIBIT "A"
## Description of Operations
## Entertainment Establishment
## (Please Print)

Date 01/06/2016

Trade name of business THE BARREL ROOM

Address of business 437 Granby St, Norfolk, VA 23510

Name(s) of business owner(s)* Angel Velazquez, Fahrenheit of Virginia LLC

Name(s) of property owner(s)* Lucian Montagna, Montagna Properties LLC

Name(s) of business manager(s)/operator(s) Angel Velazquez

Daytime telephone number (757) 621-8009

*If business or property owner is a partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

**1.** Proposed Hours of Operation:

| Facility | | | Alcoholic Beverage Sales and Entertainment | | |
|---|---|---|---|---|---|
| Weekday | From 11am | To 2am | Weekday | From 11am | To 2am |
| Friday | From 11am | To 2am | Friday | From 11am | To 2am |
| Saturday | From 11am | To 2am | Saturday | From 11am | To 2am |
| Sunday | From 11am | To 2am | Sunday | From 11am | To 2am |

**2.** Type of ABC license applied for (check all applicable boxes):
☑ On-Premises ☑ Off-Premises (second application required)

**3.** Type of alcoholic beverage applied for:
☑ Beer ☑ Wine ☑ Mixed Beverage

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**Exhibit A – Page 2**
**Entertainment Establishment**

4. Will video games, pool tables, game boards or other types of games be provided?
☐ Yes (If more than 4, additional application required) ☑ No

4a If yes, please describe type and number of each game to be provided:

_____

_____

5. Will patrons ever be charged to enter the establishment?
☑ Yes ☐ No

5a. If yes, why:

_____

Special Events

_____

5b. Which days of the week will there be a cover charge (circle all applicable days):

☑Monday ☑Tuesday ☑Wednesday☑Thursday ☑Friday
☑Saturday ☑Sunday

6. Will the facility or a portion of the facility be available for private parties?
☑ Yes ☐ No

6a. If yes, explain:

_____

Holiday and Company Functions

_____

7. Will a third party (promoter) be permitted to lease, let or use the establishment?
☐ Yes ☑ No

7a. If yes, explain:

_____

_____

8. Will there ever be a minimum age limit?
☑ Yes ☐ No

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**Exhibit A – Page 3**
**Entertainment Establishment**

**9.** Additional comments/description/operational characteristics or prior experience:

_____

_____

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

**Signature of Applicant**

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

w/ Tables

**Exhibit A – Floor Plan(s) Worksheet**
**Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

**1.** Total capacity

**a. Indoor**
Number of seats (not including bar seats) 60
Number of bar seats 24
Standing room 23

**b. Outdoor**
Number of seats 8

**c. Number of employees** 12

**Total Occupancy**
**(Indoor/Outdoor seats, standing room and employees) =** 127

**2.** Entertainment N/A for this floor plan
List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.
5 MEMBER BAND

**3.** Will a dance floor be provided?
☐ Yes ☒ No

3a. If yes,
Square footage of establishment _____
Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510

w/o Tables

**Exhibit A – Floor Plan(s) Worksheet**
**Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

1. Total capacity

   a. **Indoor**
   Number of seats (not including bar seats) 44
   Number of bar seats 24
   Standing room 42

   b. **Outdoor**
   Number of seats 8

   c. **Number of employees** 12

**Total Occupancy**
**(Indoor/Outdoor seats, standing room and employees) =** 130

2. Entertainment
   List ANY type of ~~entertainment~~ proposed other than a 3 member live band, (karaoke), (comedian), or ~~poetry reading~~).

   5 MEMBER BAND

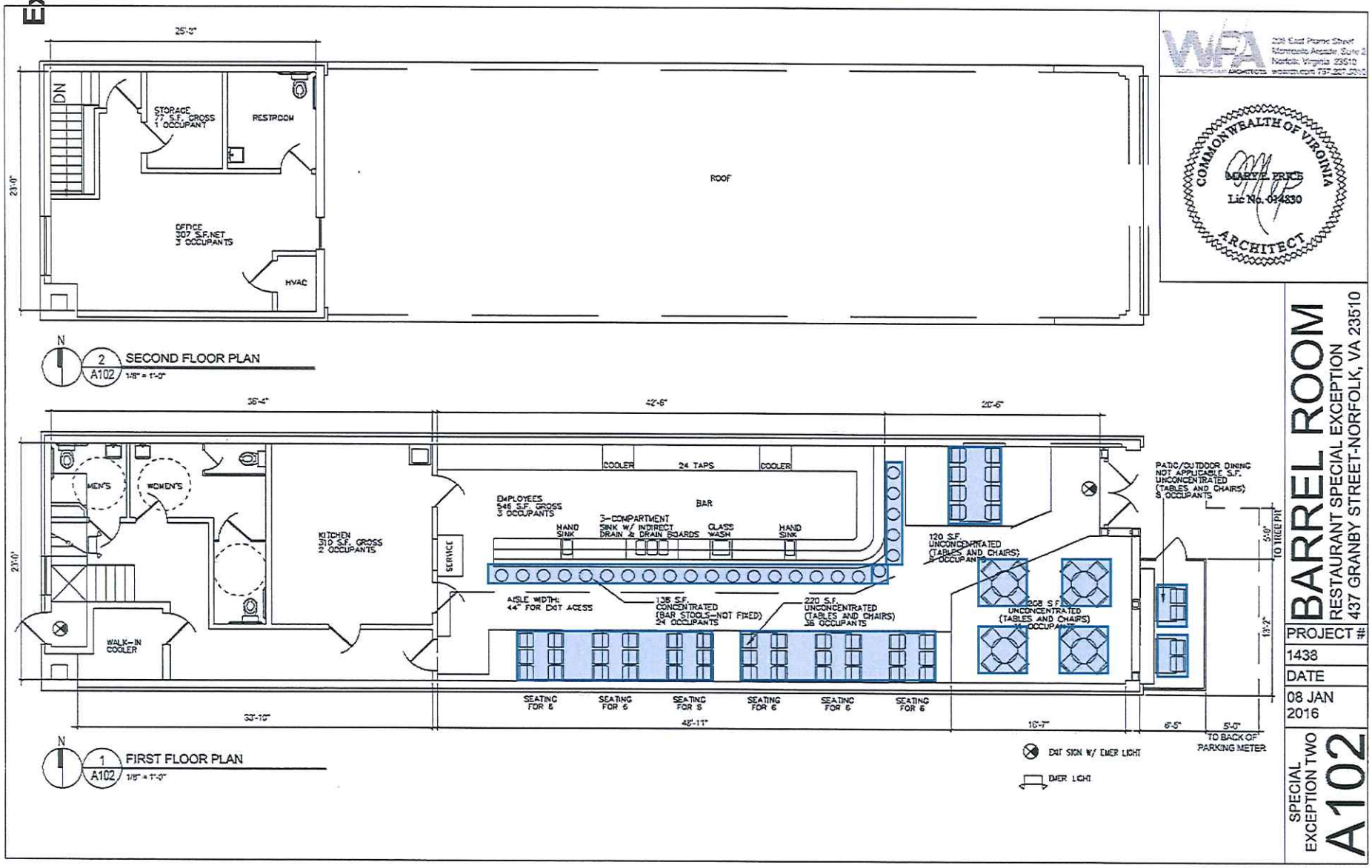
3. Will a dance floor be provided?
   ☐ Yes ☒ No

   3a. If yes,
   Square footage of establishment _____
   Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510

Exhibit B



25'-3"
23'-0"
DN
STORAGE
77 S.F. GROSS
1 OCCUPANT
RESTROOM
OFFICE
307 S.F.NET
3 OCCUPANTS
HVAC
ROOF
N
2
A102
SECOND FLOOR PLAN
1/8" = 1'-0"
36'-4"
42'-6"
20'-6"
MEN'S
WOMEN'S
KITCHEN
310 S.F. GROSS
2 OCCUPANTS
SERVICE
COOLER
24 TAPS
COOLER
EMPLOYEES
546 S.F. GROSS
3 OCCUPANTS
BAR
HAND SINK
3-COMPARTMENT
SINK W/ INDIRECT
DRAIN & DRAIN BOARDS
GLASS WASH
HAND SINK
AISLE WIDTH:
44" FOR EXIT ACESS
135 S.F.
CONCENTRATED
(BAR STOOLS-NOT FIXED)
24 OCCUPANTS
220 S.F.
UNCONCENTRATED
(TABLES AND CHAIRS)
36 OCCUPANTS
120 S.F.
UNCONCENTRATED
(TABLES AND CHAIRS)
PATIO/OUTDOOR DINING
NOT APPLICABLE S.F.
UNCONCENTRATED
(TABLES AND CHAIRS)
8 OCCUPANTS
208 S.F.
UNCONCENTRATED
(TABLES AND CHAIRS)
WALK-IN
COOLER
SEATING FOR 6
SEATING FOR 6
SEATING FOR 6
SEATING FOR 6
SEATING FOR 6
SEATING FOR 6
33'-10"
48'-11"
16'-7"
6'-5"
5'-0"
TO BACK OF PARKING METER
5'-0"
TO TREE PIT
13'-2"
EXIT SIGN W/ EMER LIGHT
EMER LIGHT
N
1
A102
FIRST FLOOR PLAN
1/8" = 1'-0"
WFA
208 East Plume Street
Monticello Arcade, Suite 2
Norfolk, Virginia 23510
COMMONWEALTH OF VIRGINIA
MARY E. PRICE
Lic No. 014830
ARCHITECT
BARREL ROOM
RESTAURANT SPECIAL EXCEPTION
437 GRANBY STREET-NORFOLK, VA 23510
PROJECT #
1438
DATE
08 JAN
2016
SPECIAL
EXCEPTION TWO
A102

02/24/2016 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 AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT AN ESTABLISHMENT KNOWN AS "THE BARREL ROOM" ON PROPERTY LOCATED AT 437 GRANBY STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to Fahrenheit of Virginia, LLC authorizing the sale of beer and wine for off-premises consumption at an establishment known as "The Barrel Room" on property located at 437 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 25 feet, more or less, along the western line of Granby Street and 26 feet, more or less, along the eastern line of Greens Court; premises numbered 437 Granby Street:

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 11:00 a.m. until 12:00 midnight, seven days per week. No sales of alcoholic beverage for off-premises consumption outside of the hours of operation listed herein shall be permitted.

(b) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception

is granted showing the new owner, whichever is earlier.

(c) No alcoholic beverages other than those defined as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," as defined by state law, shall be sold.

(d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.

(e) No beer shall be sold in any package containing fewer than four (4) bottles or cans, with the exception of those bottled beers which are exclusively produced in bottles greater than 12 ounces but less than 64 ounces in size. However, beer may be sold in refillable containers or containers that are filled one time, on site, and which have a minimum capacity of 32 oz. No wine shall be sold in containers less than 375 ml each. No wine shall be sold in containers less than 375 ml each.

(f) The facility shall maintain a current, active business license at all times while in operation.

(g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific

condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

(j) At all times, all temporary window signage must comply with the applicable regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Signs."

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 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 section 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.

ATTACHMENT:
Exhibit A (2 pages)

# EXHIBIT "A"
## Description of Operations
## Off-Premises Sale of Alcoholic Beverage

Date of Application: 01/06/2016

Name of business: THE BARREL ROOM

Address of business: 437 Granby St, Norfolk, VA 23510

Name(s) of business owner(s)*: Angel Velazquez, Fahrenheit of Virginia LLC

Name(s) of property owner(s)*: Lucian Montagna Montagna Properties LLC

Name(s) of business manager(s)/operator(s): Angel Velazquez

Daytime telephone number ( 757 ): 621-8009

*If business or property owner is partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

| Facility | | | Alcoholic Beverage Sales | | |
|---|---|---|---|---|---|
| Weekday | From 11am | To 2am | Weekday | From 11am | To 2am |
| Friday | From 11am | To 2am | Friday | From 11am | To 2am |
| Saturday | From 11am | To 2am | Saturday | From 11am | To 2am |
| Sunday | From 11am | To 2am | Sunday | From 11am | To 2am |

2. Type of alcoholic beverage applied for:
☑ Beer ☑ Wine ☐ Mixed Beverage

3. Alcoholic beverages to be sold:
☑ Room temperature ☑ Refrigerated

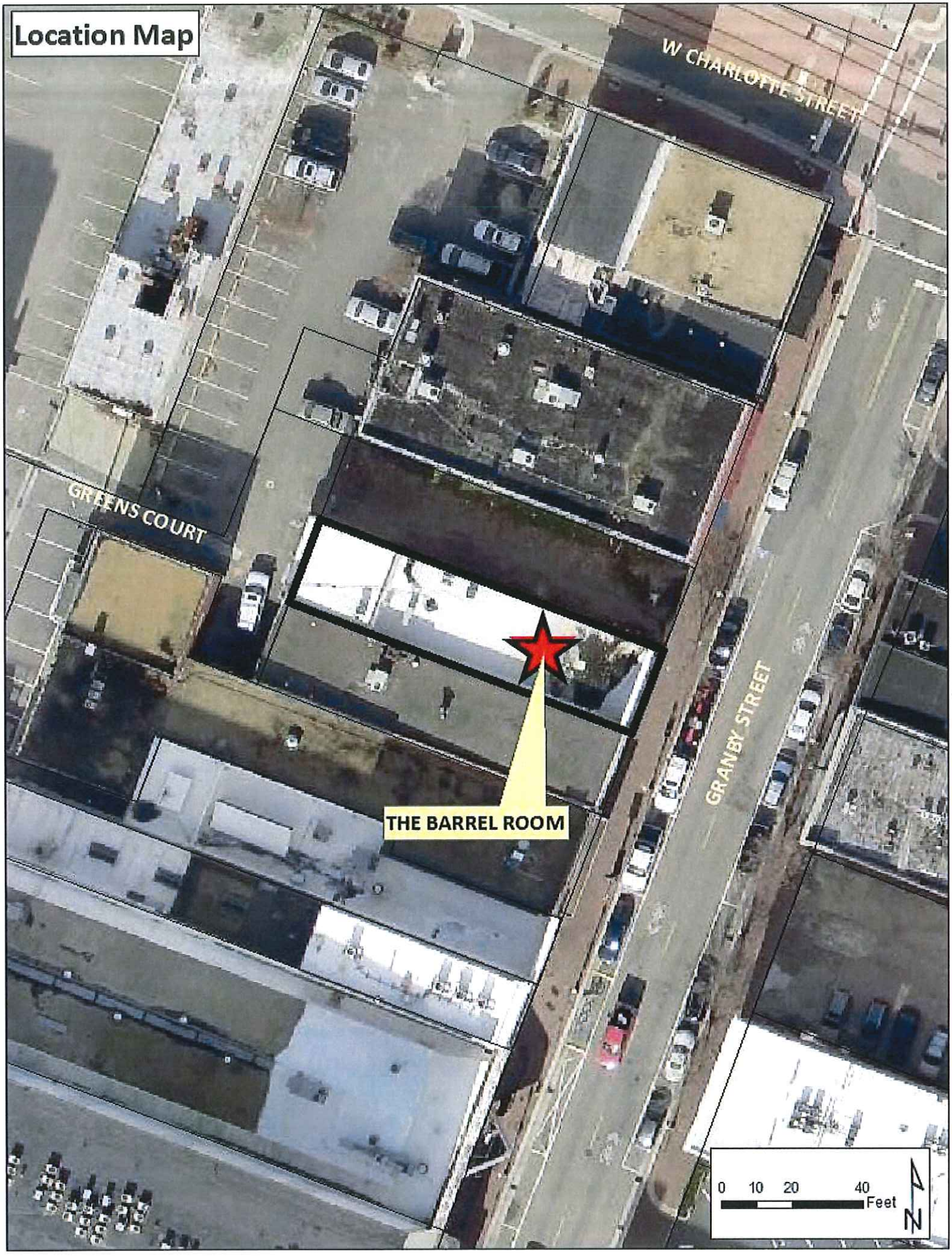
**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

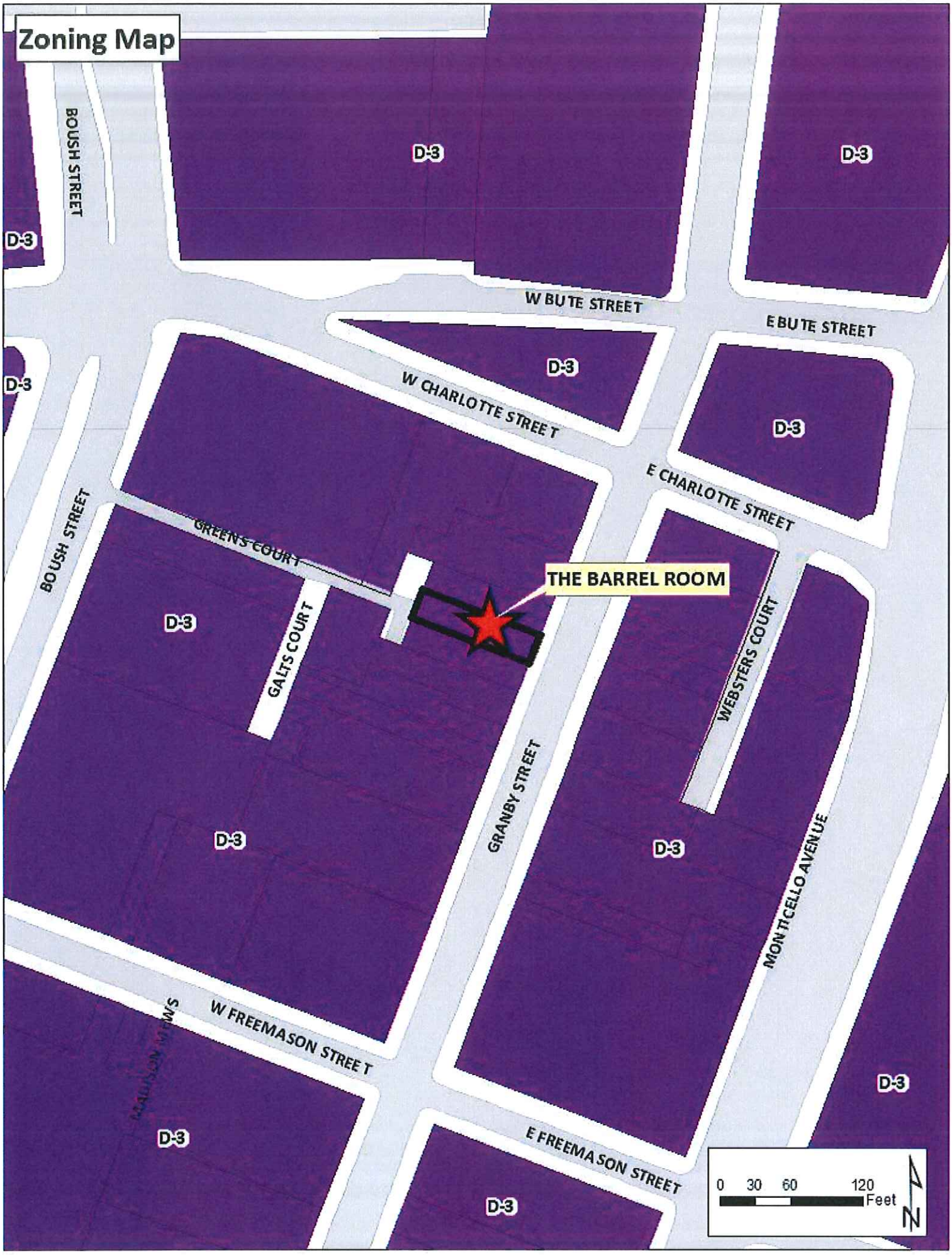
4. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:

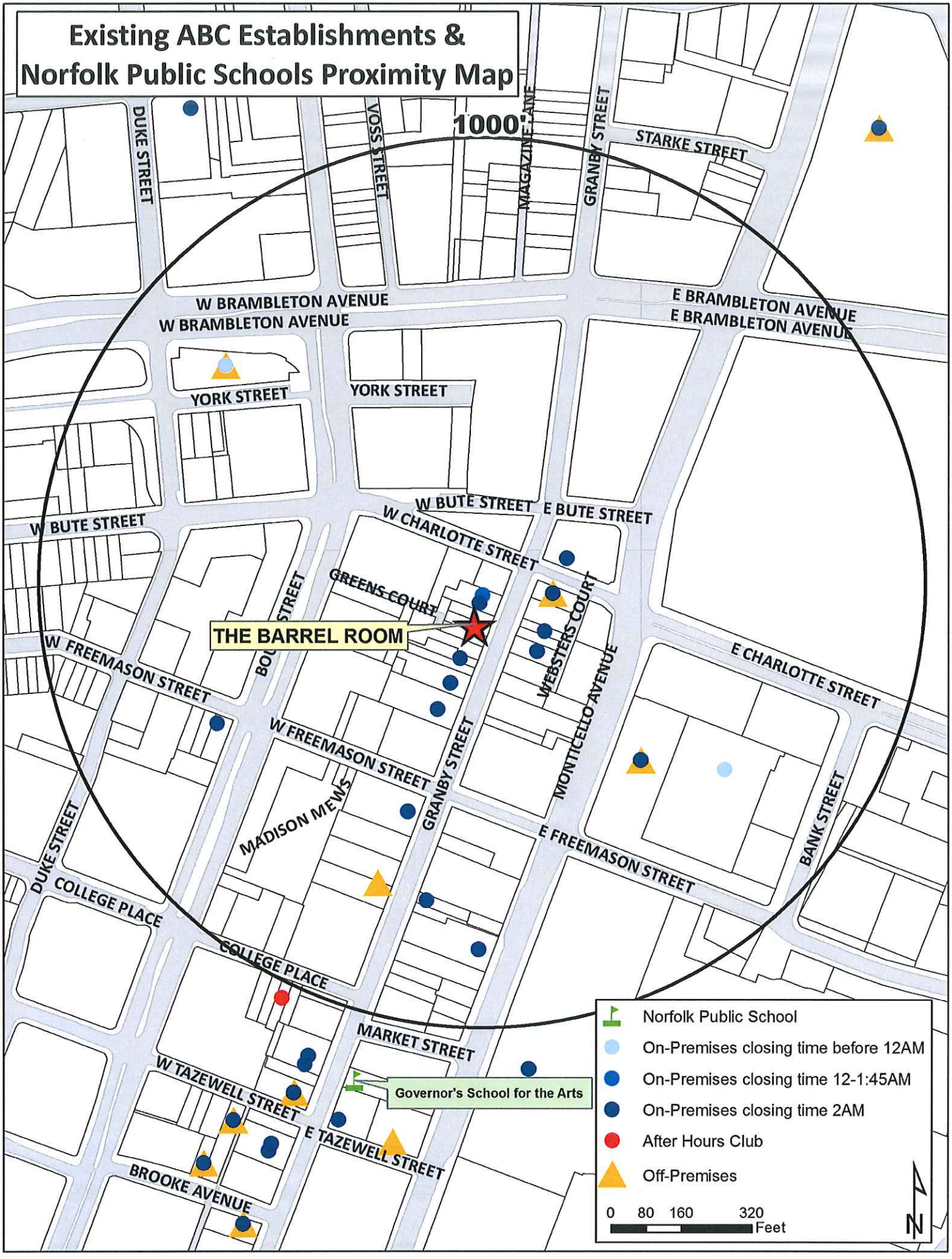
750 ML WINE, 32oz Growlers, 64oz Growlers.
6, 4, 12 Pack BEER

Signature of applicant/owner

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)


Location Map
W CHARLOTTE STREET
GREENS COURT
GRANBY STREET
THE BARREL ROOM
0 10 20 40
Feet
N


Zoning Map
BOUSH STREET
D-3
W BUTE STREET
E BUTE STREET
W CHARLOTTE STREET
E CHARLOTTE STREET
GREENS COURT
GALTS COURT
THE BARREL ROOM
WEBSTERS COURT
GRANBY STREET
MONTICELLO AVENUE
W FREEMASON STREET
E FREEMASON STREET
MADISON MEWS
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
DUKE STREET
VOSS STREET
MAGAZINE LANE
GRANBY STREET
STARKE STREET
W BRAMBLETON AVENUE
W BRAMBLETON AVENUE
E BRAMBLETON AVENUE
E BRAMBLETON AVENUE
YORK STREET
YORK STREET
W BUTE STREET
W BUTE STREET
E BUTE STREET
W CHARLOTTE STREET
GREENS COURT
THE BARREL ROOM
WEBSTERS COURT
MONTICELLO AVENUE
E CHARLOTTE STREET
W FREEMASON STREET
W FREEMASON STREET
GRANBY STREET
MADISON MEWS
E FREEMASON STREET
BANK STREET
DUKE STREET
COLLEGE PLACE
COLLEGE PLACE
MARKET STREET
W TAZEWELL STREET
Governor's School for the Arts
E TAZEWELL STREET
BROOKE AVENUE
Norfolk Public School
On-Premises closing time before 12AM
On-Premises closing time 12-1:45AM
On-Premises closing time 2AM
After Hours Club
Off-Premises
0 80 160 320
Feet
N

**APPLICATION**
**ADULT USE SPECIAL EXCEPTION**
**ENTERTAINMENT ESTABLISHMENT**
**(Please Print)**

Date 01/06/2016

## DESCRIPTION OF PROPERTY

Address 437 Granby Street, Norfolk, VA 23510

Existing Use of Property Entertainment

Proposed Use Entertainment

Current Building Square Footage 2625

Proposed Building Square Footage 2625

Trade Name of Business (If applicable) THE BARREL ROOM

## APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

**1.** Name of applicant: (Last) Velazquez (First) Angel (MI) L

Mailing address of applicant (Street/P.O. Box): 409 Sand Willow Ct

(City) Chesapeake (State) VA (Zip Code) 23320

Daytime telephone number of applicant (757) 621-8009 Fax (757) 625-2338

E-mail address of applicant: avelazquez69@gmail.com

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**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) Henn (First) Rick (MI) J

Mailing address of applicant (Street/P.O. Box): 1400 Granby St, #407

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of applicant (757) 625-6905 Fax ( )

E-mail address of applicant: rickhennconsulting@gmail.com

**PROPERTY OWNER**
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

Montagna Properties LLC

**3.** Name of property owner: (Last) Montagna (First) Lucian (MI)

Mailing address of property owner (Street/P.O. box): 5520 Janet Drive

(City) Norfolk (State) VA (Zip Code) 23513

Daytime telephone number of owner (757) 535-6868 email: lmontagnaj@aol.com

**CIVIC LEAGUE INFORMATION**

Civic League contact: DTN Council, Mary Miller, DT Civic League, Kevin Murphy

Date(s) contacted: 01/06/2016

Ward/Super Ward information: Ward 2, Theresa Whibley, Super Ward 6, Barclay Winn

## REQUIRED ATTACHMENTS

---

**CERTIFICATION:**
**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:**

**Print name:** Lucian F. Montagna JR **Sign:** _____ 1, 7, 2016
(Property Owner or Authorized Agent of Signature) (Date)

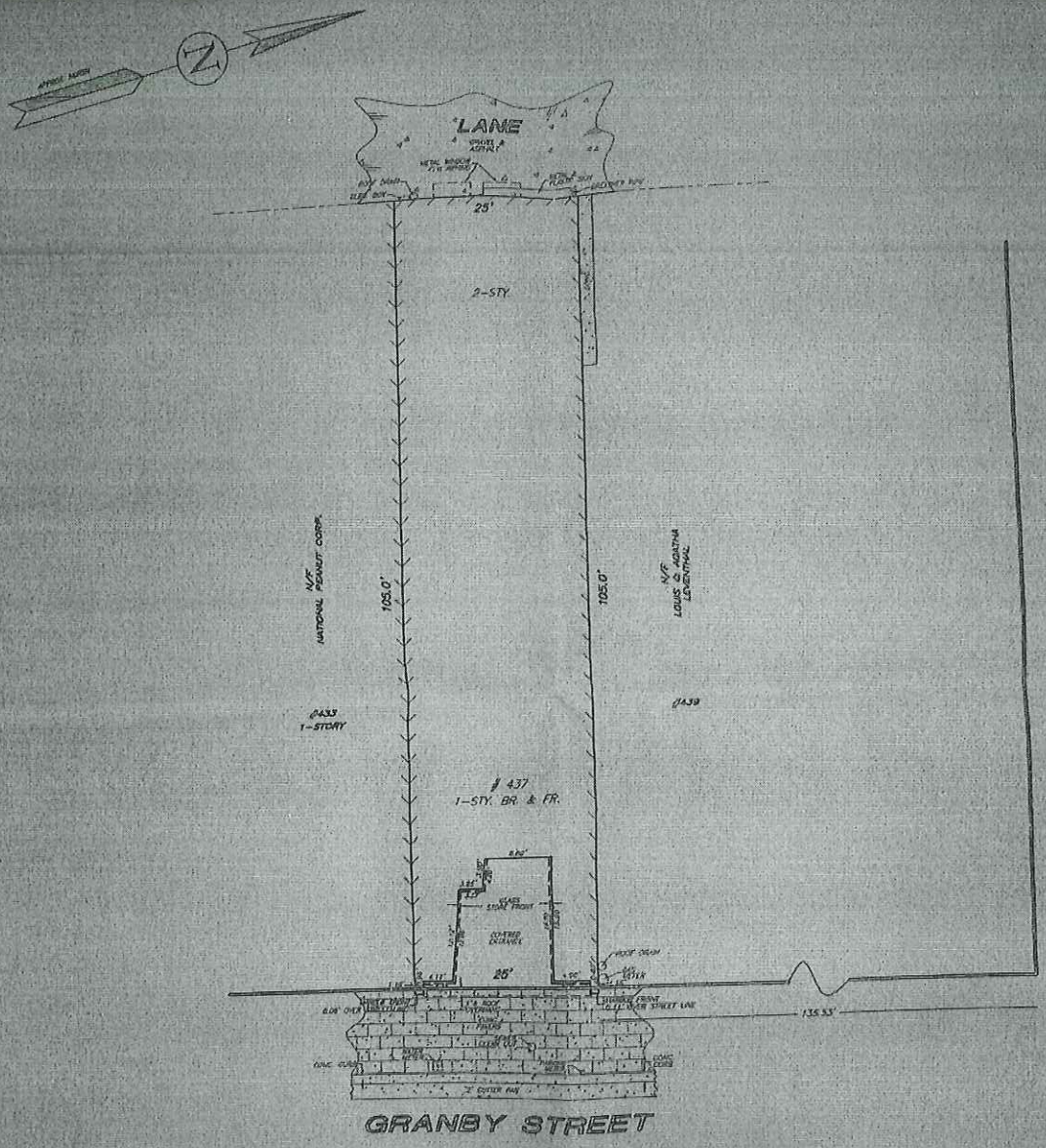
**Print name:** ANGEL VELAZQUEZ **Sign:** _____ 1, 6, 2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

**Print name:** Rick Hess **Sign:** _____ 1, 8, 2016
(Authorized Agent Signature) (Date)

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

REFERENCE PLATS: ON FILE DIVISION OF SURVEYS DEPT. PUBLIC WORKS
ENTITLE "PHYSICAL SURVEY OF NOS. 433-437-439 GRANBY ST. FOR NATIONAL PEANUT CORP., SURVEY OF 429-439 INCLUSIVE GRANBY ST. AND ADDITIONAL PROPERTY ON GREEN CT. AND SURVEY OF NO. 433 GRANBY ST. FOR JNO. JOS. BAECHER."




**FLOOD INFORMATION:** THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN FLOOD ZONE "C" (AREA OF MINIMAL FLOODING) AS SHOWN ON F.E.M.A.'S FLOOD INSURANCE RATE MAP (F.I.R.M.) FOR THE CITY OF NORFOLK, VIRGINIA, COMMUNITY PANEL NO. 510104 0017D DATED APRIL 17,1984.

W.P. LARGE INC. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. THIS SURVEY DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE SUBJECT TO FLOODING. FOR FURTHER INFORMATION, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN. THIS PLAT DOES NOT INTEND TO REPRESENT A SUBDIVISION OF LAND.

THIS IS TO CERTIFY THAT ON NOVEMBER 12, 2004, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

W.P.LARGE,INC. SIGNED BY

COMMONWEALTH OF VIRGINIA
11-17-04
WILLIAM R. PRITCHARD
No. 002206
LAND SURVEYOR

wpl
Civil Engineers 737.431.354
Land Surveyors wplsteco
Land Planners
Landscape Architects
491-1041

tech.: MLF
jn: 204-1320 dwg: DWG
ref.:
fb/p: 666/74

PHYSICAL SURVEY
OF
437 GRANBY STREET
NORFOLK, VIRGINIA
FOR
LUCIAN MONTAGNA

SCALE: 1" = 10'

NOVEMBER 12, 2004

204-1320

# SECURITY PLAN
# OF
# ANGEL VELAZQUEZ
# FOR
# Fahrenheit of Virginia LLC, dba: The Barrel Room
# 437 GRANBY STREET
# NORFOLK, VA 23510

## Definition of "Security"

se·cu·ri·ty – noun
1. freedom from danger, risk, etc.; safety.
2. freedom from worry, anxiety, or doubt; well-founded confidence.
3. something that secures or makes safe; protection; defense.
4. precautions taken to guard against crime, attack, etc.

## Goals:

- To create a safe and secure environment for patrons and employees within Fahrenheit of Virginia LLC.
- To provide organized and controllable safety for all arriving and departing guests of Fahrenheit of Virginia LLC.
- To mitigate any boisterousness or inappropriate behaviors by patrons of Fahrenheit of Virginia LLC entering and/or leaving the facility.
- To effectively and peacefully resolve all dangerous situations before any injury or damage to any person or property occurs.
- To ensure a safe and expeditious evacuation of the facility in case of fire, explosion or any other uncontrolled danger within the building.
- To foster a courteous, inviting and hospitable environment.

## Features of the Plan:

**Security Team:**
Fahrenheit of Virginia LLC will be utilizing a security firm which will follow the directives set forth in this plan.

- Weapons of any kind are prohibited on premises by staff and patrons. Security will not permit anyone in that does not comply with this rule explicitly. Any patron not conforming to this rule will be first be asked to leave the premises and if they do not comply, the authorities will be contacted.

- All patrons consuming alcohol will be monitored for intoxication. Any patron found to be intoxicated will not be served additional alcoholic beverages. Transportation (i.e. taxi) will be setup if required.

**Integration:**
Security staff will fully cooperate with law enforcement should any illegal activities occur in and/or around the vicinity of the establishment. This includes witness testimony and audio/video surveillance that has been recorded.

## Uniform for Security Team

Members of the security team will wear black t-shirts with "STAFF" in bold white letters making them easily distinguishable. The Security Team Leader will be Department of Justice Certified and will have "SECURITY" in bold white on their shirt in lieu of "STAFF".

## Security Team:

**Personnel:** Depending on the event, 1 to 3 security personnel will be provided.

Security Team Leader (Roving)
Door Security (Stationary)
Floor Security* (Roving)

**General Duties and Responsibilities:**
General duty of the security staff is to ensure the safety of all patrons and staff of Fahrenheit of Virginia LLC. They are to control the access to the facility, both inbound and outbound (maintaining capacity limits), check IDs, proper attire and ensure no weapons, illicit drugs or other contraband enter the facility.

**Security Team Leader**
The Security Team Leader will supervise all other security team members and oversee the security of the entire facility.

**Door Security**
Door Security will control the flow of patrons in and out of the establishment, verifying capacity and identification (underage patrons).

**Floor Security**
Roving floor security for large events.

## Communication:

Security staff will be provided 2-way radios for communication.

## Electronic Security:

Security systems (cameras, fire/smoke detectors and burglar alarms) will be utilized for internal establishment security monitoring.

## Emergency Evacuation Plan:

The manager and security team leader will be responsible for evacuation in the event of an emergency. They will ensure everyone has either exited the front or rear exits.

**APPLICATION**
**ADULT USE SPECIAL EXCEPTION**
**ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION**

Date of Application: 01/06/2016

## DESCRIPTION OF PROPERTY

Property location: (Street Number) 437 (Street Name) Granby St

Existing Use of Property Entertainment

Current Building Square Footage 2625

Proposed Use Entertainment

Proposed Building Square Footage 2625

Trade Name of Business (If applicable) THE BARREL ROOM

## APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

**1.** Name of applicant: (Last) Velazquez (First) Angel (MI) L

Mailing address of applicant (Street/P.O. Box): 409 Sand Willow Ct

(City) Chesapeake (State) VA (Zip Code) 23320

Daytime telephone number of applicant (757) 621-8009 Fax (757) 625-2338

E-mail address of applicant: avelazquez69@gmail.com

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**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) Henn (First) Rick (MI) J

Mailing address of applicant (Street/P.O. Box): 1400 Granby St, #407

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of applicant (757) 625-6905 Fax ( )

E-mail address of applicant: rickhennconsulting@gmail.com

**PROPERTY OWNER**
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

Montagna Properties LLC

**3.** Name of property owner: (Last) Montagna (First) Lucian (MI)

Mailing address of property owner (Street/P.O. box): 5520 Janet Drive

(City) Norfolk (State) VA (Zip Code) 23513

Daytime telephone number of owner (757) 535-6868 email: lmontagnaj@aol.com

**CIVIC LEAGUE INFORMATION**

Civic League contact: DTN Council, Mary Miller, DT Civic League, Kevin Murphy

Date(s) contacted: 01/06/2016

Ward/Super Ward information: Ward 2, Theresa Whibley, Super Ward 6, Barclay Winn

**REQUIRED ATTACHMENTS:**

- ✓ Required application fee, **$355.00** (if check, make payable to the City of Norfolk).
  - o Application fee includes a non-refundable $5 technology surcharge.
- ✓ 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.
- ✓ One 8½ inch X 11 inch copy of a floor plan drawn to scale showing where cold and/or room temperature alcoholic beverages will be sold. (see attached example).
- ✓ Completed Exhibit A, Description of Operations (attached).
- ✓ Please provide a brief description of the business (i.e., # of employees, current locations, type of restaurant, etc ).

---

**CERTIFICATION:**

**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:**

**Print name:** Lucian F. Montagna Jr **Sign:** _____ 1/7/2016
(Property Owner or Authorized Agent of Signature) (Date)

**Print name:** Angel Velazquez **Sign:** _____ 1/6/2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

**Print name:** Rick Hesse **Sign:** _____ 1/8/2016
(Authorized Agent Signature) (Date)

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

## Whitney, Chris

**From:** Straley, Matthew
**Sent:** Wednesday, January 13, 2016 12:57 PM
**To:** 'dncl@welovenorfolk.org'; Miller, Mary
**Cc:** Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
**Subject:** new Planning Commission applications - 437 Granby Street
**Attachments:** BarrelRoom_entertainment.pdf; BarrelRoom_offpremises.pdf

Mr. Murphy and Ms. Miller,

Attached please find the following applications at 437 Granby Street:

a. To renew a previously granted special exception to operate an entertainment establishment with alcoholic beverages.
b. Special exception for the sale of alcohol for off-premises consumption.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov*

Thank You.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

THE CITY OF NORFOLK
CITY PLANNING

C: Dir., Department of City Planning

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

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

Subject: **Special Exceptions to operate a Microbrewery and for an Entertainment Establishment with alcoholic beverages – 725 Granby Street, Suite 727 – Bearded Bird Brewing Co.**

Reviewed: _____
Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward: 2/6**

Approved: _____
Marcus D. Jones, City Manager

**Item Number: R-2**

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

II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** The following Special Exceptions:
   a. Microbrewery
   b. Entertainment Establishment with alcoholic beverages

IV. **Applicant:** **Bearded Bird Brewing Co.**

V. **Description:**
- Granting this request will allow a new microbrewery, Bearded Bird Brewing Co., to open and serve alcoholic beverages to its patrons for both on-premises and off-premises consumption.
  - The applicant proposes to operate this microbrewery with entertainment.

| | Proposed |
|---|---|
| Hours of Operation Microbrewery | 6:00 a.m. until 2:00 a.m., Seven days a week |
| Hours for Entertainment and for the Sale of Alcoholic Beverages (on-premises consumption) | 10:00 a.m. until 2:00 a.m., Seven days a week |
| Hours for the Sale of Alcoholic Beverages (off-premises consumption) | 10:00 a.m. until 12:00 midnight, Seven days a week |
| Seating Capacity (5 floor plan options) | • 60 seats indoors<br>• 18 seats outdoors<br>• 103 total capacity |
| Entertainment | • 5 member live band<br>• Karaoke<br>• Comedian |

| | |
|---|---|
| | • Poetry reading<br>• Art shows<br>• Board Games<br>• Trivia Night |
| Off-Premises Alcohol Types | • Six Packs of Specialty and Craft Beers<br>• 12-25 oz bottles of specialty beers<br>• 32 oz crowlers |

Staff point of contact: Chris Whitney at 823-1253, chris.whitney@norfolk.gov

Attachments:

- Staff Report to CPC dated February 25, 2016 with attachments
- Proponents and Opponents
- Ordinances

THE CITY OF NORFOLK
CITY PLANNING

## Planning Commission Public Hearing: February 25, 2016

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Chris Whitney, CFM

| Staff Report | Item No. 11 | |
|---|---|---|
| Address | 725 Granby Street, Suite 727 | |
| Applicant | Bearded Bird Brewing Co. | |
| Requests | Special Exceptions | a. Microbrewery<br>b. Entertainment Establishment |
| Property Owner | Lawrence E & Linda D Bress | |
| Site Characteristics | Site/Building Area | 8,899 sq. ft./3,606 sq. ft. |
| | Future Land Use Map | Downtown |
| | Zoning | D-4 (Downtown Arts and Design District) |
| | Neighborhood | Downtown |
| | Character District | Downtown |
| Surrounding Area | North | D-4: Fuzion Ink Tattoo and Body Piercing |
| | East | D-4: Parking Lot |
| | South | D-4 Bress Pawn Shop |
| | West | D-4: Parking Lot |

## A. Summary of Request

- The site is located in the Arts and Design District between Magazine Lane and Granby Street.
- Granting this request will allow a new microbrewery, Bearded Bird Brewing Co., to open and serve alcoholic beverages to its patrons for both on-premises and off-premises consumption.
    - The applicant proposes to operate this microbrewery with entertainment.
    - Bearded Bird will sell and refill growler containers ranging in size from 32 to 128 ounces, specialty and craft beers in both six-packs and single containers larger than 375 milliliters (12.6 ounces).

## B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as downtown.

## C. Zoning Analysis

i. General

- The site is located in the D-4 district, which permits the proposed use by special exception.

| | Proposed |
|---|---|
| Hours of Operation<br>Microbrewery | 6:00 a.m. until 2:00 a.m.,<br>Seven days a week |
| Hours for Entertainment and for the Sale of Alcoholic Beverages<br>(on-premises consumption) | 10:00 a.m. until 2:00 a.m.,<br>Seven days a week |
| Hours for the Sale of Alcoholic Beverages<br>(off-premises consumption) | 10:00 a.m. until 12:00 midnight,<br>Seven days a week |
| Seating Capacity<br>(5 floor plan options) | • 60 seats indoors<br>• 18 seats outdoors<br>• 103 total capacity |
| Entertainment | • 5 member live band<br>• Karaoke<br>• Comedian<br>• Poetry reading<br>• Art shows<br>• Board Games<br>• Trivia Night |

| | |
|---|---|
| Off-Premises Alcohol Types | • Six Packs of Specialty and Craft Beers<br>• 12-25 oz bottles of specialty beers<br>• 32 oz crowlers |

ii. Parking

- The site is located in the Downtown Character District, which requires one parking space per 250 square feet of enclosed building area for an entertainment establishment.
- This location was previously used as a pawnshop that operated with on-street parking on Starke Street.
    - Parking demand for the proposed microbrewery and entertainment uses can be accommodated by the above on-street parking options as well as by nearby parking at the Harrison Opera House and Cedar Grove (Cruise Norfolk) lots.

iii. Flood Zone

- The property is located in the AE Flood Zone, which is a high-risk flood zone.
- The portion of the property in the AE Flood Zone has a required Base Flood Elevation (BFE); any development of the property will have to be elevated, or flood-proofed, to the BFE plus three feet of freeboard.

**D. Transportation Impacts**

- Institute of Transportation Engineers (ITE) figures estimate that this microbrewery will generate 135 new vehicle trips per day
- Based upon ITE data, the prior retail use of the site would be expected to generate 155 weekday trips while the proposed new microbrewery would be expected to generate 290 trips on weekdays.
- The site is near transit services with Hampton Roads Transit bus routes 1 (Granby) and 3 (Chesapeake) operating near the site.
- Granby Street adjacent to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

**E. Historic Resources Impacts**

The building located on this site is a contributing structure in the Norfolk Auto Row Historic District.

**F. Public Schools Impacts**

The site is located in the Taylor Elementary School, the Blair Middle School and Maury High School districts.

**G. Environmental Impacts**

- There are currently no opportunities for landscaping site improvements to this existing site.
- There was one call for service made for this site over the past year, with no arrests made.

**H. Surrounding Area/Site Impacts**

By requiring this use to conform to the conditions listed below, the proposed microbrewery and entertainment establishment should not have a negative effect on the surrounding neighborhood.

**I. Payment of Taxes**

The owner of the property is current on all real estate taxes.

**J. Civic League**

Notice was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on January 13th.

**K. Communication Outreach/Notification**

- Legal notice was posted on the property on January 19.
- Letters were mailed to all property owners within 300 feet of the property on February 10.
- Legal notification was placed in *The Virginian-Pilot* on February 11 and 18.

**L. Recommendation**

Staff recommends **approval** of the special exception request subject to all of the following conditions:

**Microbrewery Conditions**

a. The hours of operation for the establishment shall be limited to 6:00 a.m. until 2:00 a.m. the following morning, seven days a week. The establishment shall not be open to the public outside of the hours of operation listed herein.

b. The hours for the sale of alcoholic beverages for on-premises and off-premises consumption shall be from 10:00 a.m. until 2:00 a.m. the following morning, seven days a week.

c. The seating for the establishment shall not exceed 60 seats indoors, 18 seats outdoors, and the total occupant capacity, including employees, shall not exceed 103 people. The use authorized by this Special Exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.

d. There shall be no dancing, and no dance floor provided.

e. No smoking shall be permitted anywhere in the outdoor dining area.

f. No portion of any outdoor dining shall be enclosed and any covering must leave the dining space open on at least three sides and no portion of the outdoor dining area shall be heated or cooled.

g. This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

h. The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

i. No alcoholic beverages other than beer, ale, or other fermented malt beverages shall be sold.

j. The only alcoholic beverages that may be sold for off-premises consumption are those produced on site.

k. No alcoholic beverage having more than 21% alcohol by volume shall be sold for off-premises consumption.

l. All beer sold for off premises consumption shall be in a package containing a minimum of four (4) bottles or cans or shall be in a single fillable or refillable container of at least 32 oz. capacity. However, bottled craft beers that are exclusively produced in bottles greater than 12 ounces but less than 32 ounces in size shall not be subject to this limitation.

m. The facility shall maintain a current, active business license at all times while in operation.

n. The establishment shall remain current on all food and beverages taxes and other local taxes which may become due while it is in operation.

o. Dumpsters shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the existing building.

p. During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

q. The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

r. The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

s. A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

t. An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

u. In addition to the ABC manager or supervisor, the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

**Entertainment Establishment Conditions**

a. The hours of operation for the establishment, for the sale of alcoholic beverages, and for entertainment shall be limited to 10:00 a.m. until 2:00 a.m., seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

b. The seating for the establishment shall not exceed 60 seats indoors, 18 seats outdoors, and the total occupant capacity, including employees, shall not exceed 103 people. The use authorized by this special exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.

c. No smoking shall be permitted anywhere in the outdoor [and rooftop] dining area[s].

d. No portion of any outdoor dining shall be enclosed and any covering must leave the dining space open on at least three sides and no portion of the outdoor dining area shall be heated or cooled.

e. This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

f. Entertainment shall be limited to live bands having no more than 5 members, karaoke, comedians, poetry readings, art shows, board games, and trivia night. No other form of entertainment is permitted.

g. There shall be no dancing and no dance floor provided.

h. The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."

i. No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.

j. The establishment shall maintain a current, active business license at all times while in operation.

k. The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

l. No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

m. During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

n. The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

o. A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

p. The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

q. The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by

reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

r. Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

s. An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

t. In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

u. The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.

v. A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:

(1) This special exception;

(2) Any ABC license(s);

(3) Any occupancy permit(s);

(4) Certifications of all persons who work on the premises as a security guard;

(5) All fire code certifications, including alarm and sprinkler inspection records;

(6) Any health department permit(s);

(7) The emergency action plan required under the Fire Prevention Code;

(8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;

(9) The establishment's designated driver program; and

(10) The establishment's Security Plan.

w. The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 77 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

x. The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

**Attachments**

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Downtown Norfolk Civic League and Downtown Norfolk Council

**Proponents and Opponents**

**Proponents**

Joseph Cloonan – Applicant
727 Granby Street
Norfolk, VA 23509

Scott Moran – Applicant
727 Granby Street
Norfolk, VA 23509

**Opponents**

None

02/24/16 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 THE OPERATION OF A MICROBREWERY NAMED "BEARDED BIRD BREWING COMPANY" ON PROPERTY LOCATED AT 725 GRANBY STREET, SUITE 727.

- - -

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

Section 1:- That a Special Exception is hereby granted to Bearded Bird Brewing Co. authorizing the operation of a microbrewery named as "Bearded Bird Brewing Company" on property located at 727 Granby Street, Suite 727. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 43 feet, more or less, along the western line of Granby Street beginning 230 feet, more or less, from the northern line of East Brambleton Avenue and extending northwardly; property also fronts 43 feet, more or less, along the eastern line of Magazine Lane; premises numbered 725 Granby Street, Suite 727.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The hours of operation for the establishment shall be limited to 6:00 a.m. until 2:00 a.m. the following morning, seven days per week. The establishment shall not be open to the public outside of the hours of operation listed herein.

(b) The hours for the sale of alcoholic beverages for off-premises consumption shall be limited to 10:00 a.m. until 2:00 a.m. the following morning, seven days per week.

(c) The seating for the establishment shall not exceed 60 seats indoors, 18 seats outdoors, and the total

occupant capacity, including employees, shall not exceed 103 people. The use authorized by this Special Exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.

(d) There shall be no entertainment, no dancing, and no dance floor provided, except as may be authorized by a special exception permitting the operation of an entertainment establishment granted to the same operator as holds this special exception.

(e) No smoking shall be permitted in any outdoor dining area.

(f) No portion of the outdoor dining area shall be enclosed and any covering must leave the dining space with open ventilation on at least three sides.

(g) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

(h) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(i) No alcoholic beverages other than beer, ale, or other fermented malt beverages shall be sold.

(j) The only alcoholic beverages that may be sold for off-premises consumption are those produced on site.

(k) No alcoholic beverage having more than 21% alcohol by volume shall be sold for off-premises consumption.

(l) All beer sold for off premises consumption shall be in a package containing a minimum of four (4) bottles or cans or shall be in a single fillable or refillable container of at least 32 oz. capacity. However, bottled craft beers that are exclusively produced in bottles greater than 12 ounces but less than 32 ounces in size shall not be subject to this limitation.

(m) The facility shall maintain a current, active business license at all times while in operation.

(n) The establishment shall remain current on all food and beverages taxes and other local taxes which may become due while it is in operation.

(o) All dumpsters shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the existing building.

(p) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, and both liquid and solid waste.

(q) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via

either a printed card placed on each table and on the bar or a description printed on the menu.

(r) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(s) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

(t) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

(u) In addition to the ABC manager or supervisor, the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

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 section 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.

ATTACHMENT:
Exhibit A (2 pages)

# EXHIBIT "A"
## Description of Operations
## Brewery/Microbrewery/Brewpub

Date of Application: 1/8/16

Name of business: BEARDED BIRD BREWING

Address of business: 727 GRANBY STREET

Name(s) of business owner(s)*: JOSEPH CLOONAN

Name(s) of property owner(s)*: LAWRENCE BRESS

Name(s) of business manager(s)/operator(s): JOSEPH CLOONAN

Daytime telephone number (757): 292-6367

*If business or property owner is partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of open to the public:

**ABC Off-Premises Sales**
(Only for alcohol brewed on-site)

Weekday From 10:00Am To 12:00Am

Friday From 10:00Am To 12:00Am

Saturday From 10:00Am To 12:00Am

Sunday From 10:00Am To 12:00Am
(Brewing operations permitted 24-hours)

**On-Premises Alcohol Sales (other than tastings)**
(Only for Microbrewery/Brewpub)

Weekday From 10:00Am To 2:00Am

Friday From 10:00Am To 2:00Am

Saturday From 10:00Am To 2:00Am

Sunday From 10:00Am To 2:00Am

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2016)

3. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:

THE BREWERY WILL OFFER GROWLER FILLS, GROWERS VARY IN SIZE FROM 32 OZ TO 128 OZ. THESE GLASS BOTTLES ARE USED AS A WAY TO SELL FRESH BEER FROM THE TAP RATHER THAN BOTTLES OR CANS

Signature of applicant/owner

WE WILL ALSO OFFER 22OZ BOTTLES, 750ML BOTTLES, 12 OZ BOTTLE & CANS, 32OZ CROWLERS, THESE ARE USED FOR SALE OF SPECIAL BEERS AS WELL AS NORMALLY OFFERED BEERS.

OTHER SIZED CONTAINERS MAY BE OFFERED OR USED IF APPROVED BY THE PROPER AUTHORITIES.

DRAFT BEER WILL BE SOLD IN 16OZ PINTS FOR BEER WITH AN ABV OF 8.5% OR LESS AND IN 10OZ GLASSES FOR BEERS WITH AN ABV OF GREATER THAN 8.5% 2-4OZ SAMPLES WILL BE SERVED AS PART OF TASTING FLIGHTS.

02/24/2016 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 OPERATE AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "BEARDED BIRD BREWING COMPANY" ON PROPERTY LOCATED AT 725 GRANBY STREET, SUITE 727.

- - -

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

Section 1:- That a Special Exception is hereby granted to Bearded Bird Brewing Co. authorizing the operation of an entertainment establishment with alcoholic beverages named "Bearded Bird Brewing Company" on property located at 725 Granby Street, Suite 727. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 43 feet, more or less, along the western line of Granby Street beginning 230 feet, more or less, from the northern line of East Brambleton Avenue and extending northwardly, property also fronts 43 feet, more or less, along the eastern line of Magazine Lane; premises numbered 725 Granby Street, Suite 727.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The hours of operation for the sale of alcoholic beverages for on-premises consumption and for entertainment shall be limited to 10:00 a.m. until 2:00 a.m. the following morning, seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The seating for the establishment shall not exceed 60 seats indoors, 18 seats outdoors, and the total occupant capacity, including employees, shall not exceed 103 people. The use authorized by this special exception shall not commence until a certificate of occupancy reflecting these limits

has been issued by the Department of Planning.

(c) No smoking shall be permitted in any outdoor dining area.

(d) No portion of the outdoor dining area shall be enclosed and any covering must leave the dining space with open ventilation on at least three sides.

(e) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

(f) Entertainment shall be limited to live bands having no more than five (5) members, karaoke, comedians, poetry readings, art shows, board games, and trivia. No other form of entertainment is permitted.

(g) There shall be no dancing and no dance floor provided.

(h) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."

(i) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.

(j) The establishment shall maintain a current, active business license at all times while in operation.

(k) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

(l) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

(m) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, and both solid and liquid waste.

(n) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

(o) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(p) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission

shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(q) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(r) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

(s) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

(t) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.

(u) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:

(1) This special exception;

(2) Any ABC license(s);

(3) Any occupancy permit(s);

(4) Certifications of all persons who work on the premises as a security guard;

(5) All fire code certifications, including alarm and sprinkler inspection records;

(6) Any health department permit(s);

(7) The emergency action plan required under the Fire Prevention Code;

(8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;

(9) The establishment's designated driver program; and

(10) The establishment's Security Plan.

(v) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 77 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

(w) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

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 section 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.

ATTACHMENTS:
Exhibit A (4 pages)
Exhibit B (2 pages)

EXHIBIT "A"
Description of Operations
Entertainment Establishment
(Please Print)

Date 1/8/16

Trade name of business ~~BEARDED~~ BIRD BREWING

Address of business 727 GRANBY STREET

Name(s) of business owner(s)* JOSEPH CLOONAN BEARDED BIRD BREWING CO.

Name(s) of property owner(s)* LAWRENCE BRESS

Name(s) of business manager(s)/operator(s) JOSEPH CLOONAN

Daytime telephone number (757 ) 292 6367

*If business or property owner is a partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

| Facility | | | Alcoholic Beverage Sales and Entertainment | | |
|---|---|---|---|---|---|
| Weekday | From 06:00Am | To 02:00 Am | Weekday | From 10:00Am | To 2:00Am |
| Friday | From 6:00Am | To 2:00Am | Friday | From 10:00 Am | To 2:00 Am |
| Saturday | From 6:00 Am | To 2:00Am | Saturday | From 10:00 Am | To 2:00Am |
| Sunday | From 6:00 Am | To 2:00Am | Sunday | From 10:00Am | To 2:00Am |

2. Type of ABC license applied for (check all applicable boxes):
☒ On-Premises ☒ Off-Premises (second application required)

3. Type of alcoholic beverage applied for:
☒ Beer ☐ Wine ☐ Mixed Beverage

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

**Exhibit A – Page 2**
**Entertainment Establishment**

4. Will video games, pool tables, game boards or other types of games be provided?
☒ Yes (If more than 4, additional application required) ☐ No

4a If yes, please describe type and number of each game to be provided:
BOARD GAMES, FOOSBALL TABLE, PING PONG TABLE, CORNHOLE

5. Will patrons ever be charged to enter the establishment?
☒ Yes ☐ No

5a. If yes, why:
ONLY DURING SPECIAL EVENTS. FOR NORMAL OPERATIONS, NO CHARGE FOR ENTRY

5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
☒ Yes ☐ No

6a. If yes, explain:
PEOPLE CAN RESERVE SPACE FOR PARTIES

7. Will a third party (promoter) be permitted to lease, let or use the establishment?
☐ Yes ☒ No

7a. If yes, explain:

8. Will there ever be a minimum age limit?
☐ Yes ☒ No

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

**Exhibit A – Page 3**
**Entertainment Establishment**

**9.** Additional comments/description/operational characteristics or prior experience:

WE WOULD LIKE TO HOST ART EXHIBITIONS/SHOWS FOR LOCAL ARTISTS OR WITH LOCAL UNIVERSITIES ALONG WITH MUSIC OR MOVIE NIGHTS

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

**Signature of Applicant**

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

**Exhibit A – Floor Plan(s) Worksheet**
**Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

1. Total capacity

   a. **Indoor**
   Number of seats (not including bar seats) 52
   Number of bar seats 8
   Standing room 20

   b. **Outdoor**
   Number of seats 19

   c. **Number of employees** 5

**Total Occupancy**
**(Indoor/Outdoor seats, standing room and employees) =** 103

2. Entertainment
   List ANY type of ~~entertainment~~ proposed other than a ~~3~~ 5 member live band, karaoke, comedian, or poetry reading.

   Art Shows, Music, Board Game or Trivia Night

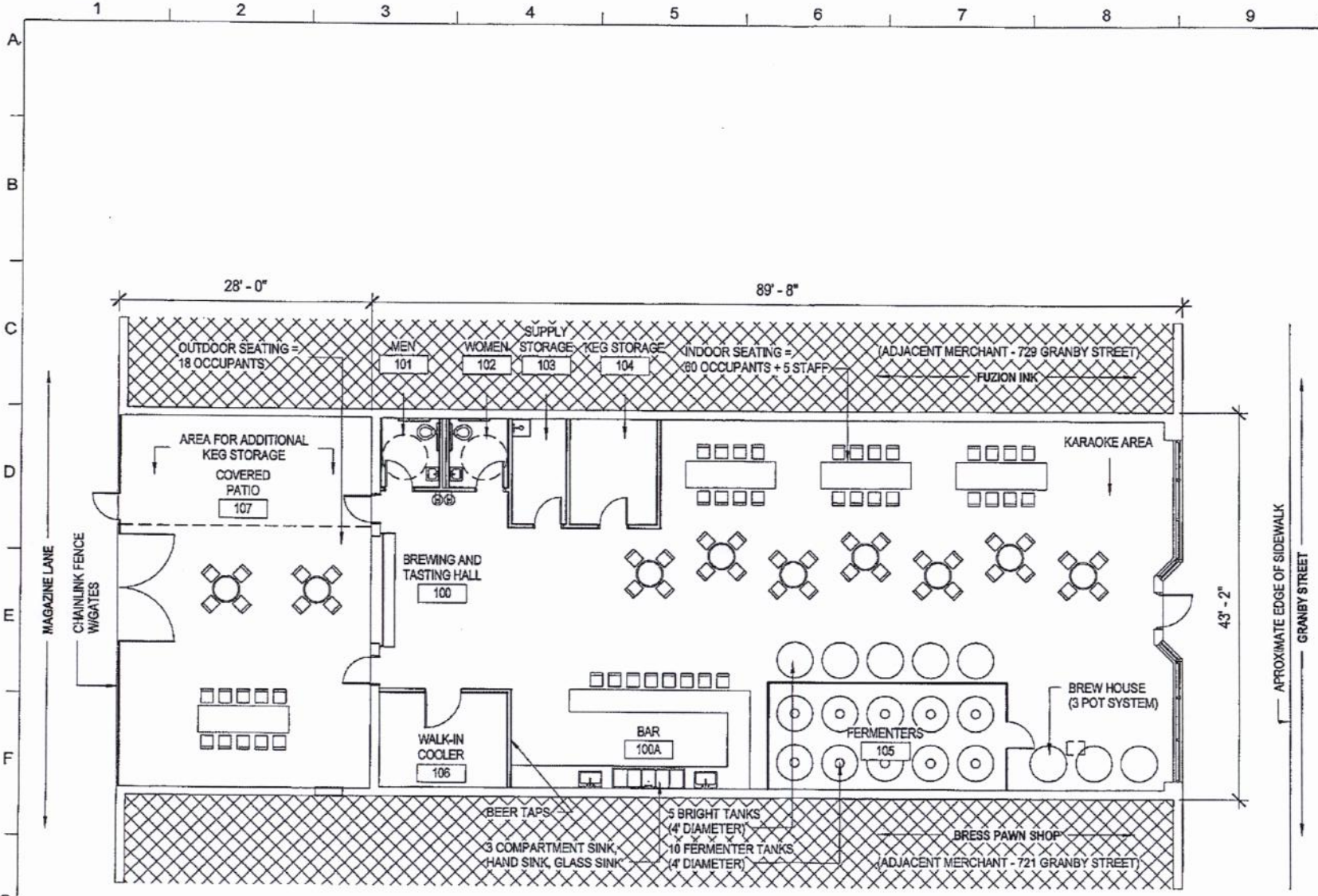
3. Will a dance floor be provided?
   ☐ Yes ☒ No

   3a. If yes,
   Square footage of establishment _____
   Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January 2015)

# Exhibit B



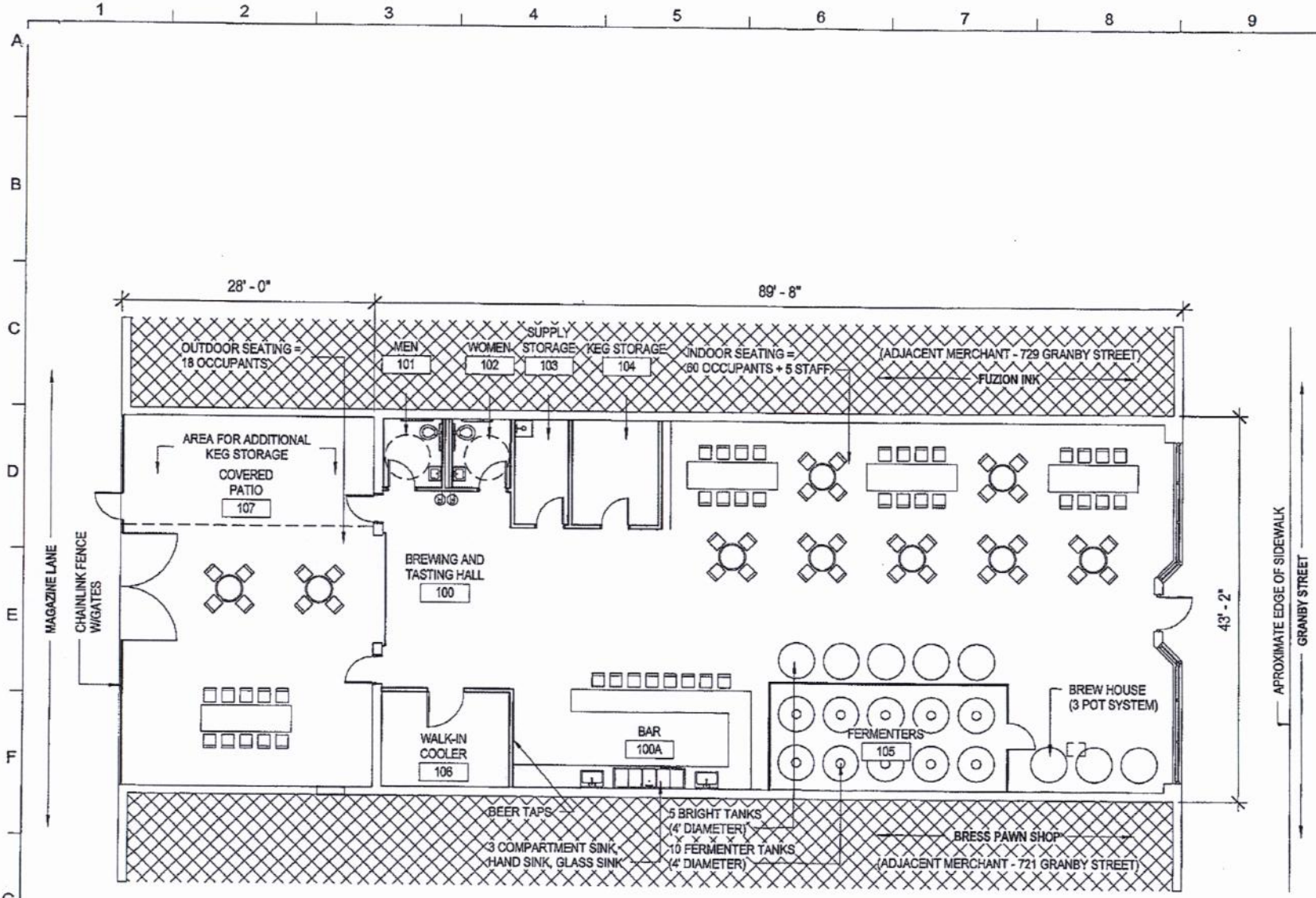

1 / A101 A101 FLOOR PLAN - OPTION TWO
3/32" = 1'-0"

WPA
WORK PROGRAM ARCHITECTS
757.227.5310

**BEARDED BIRD BREWERY**
727 GRANBY STREET
NORFOLK VA, 23510

| Project # |
|---|
| 1603 |
| Date |
| 11 JAN 2015 |

**SPECIAL EXCEPTION**
**A101**




1
A100 | A100 FLOOR PLAN - OPTION ONE
3/32" = 1'-0"

WPA
WORK PROGRAM ARCHITECTS
757.227.5310

COMMONWEALTH OF VIRGINIA
Lic No. 024320
ARCHITECT

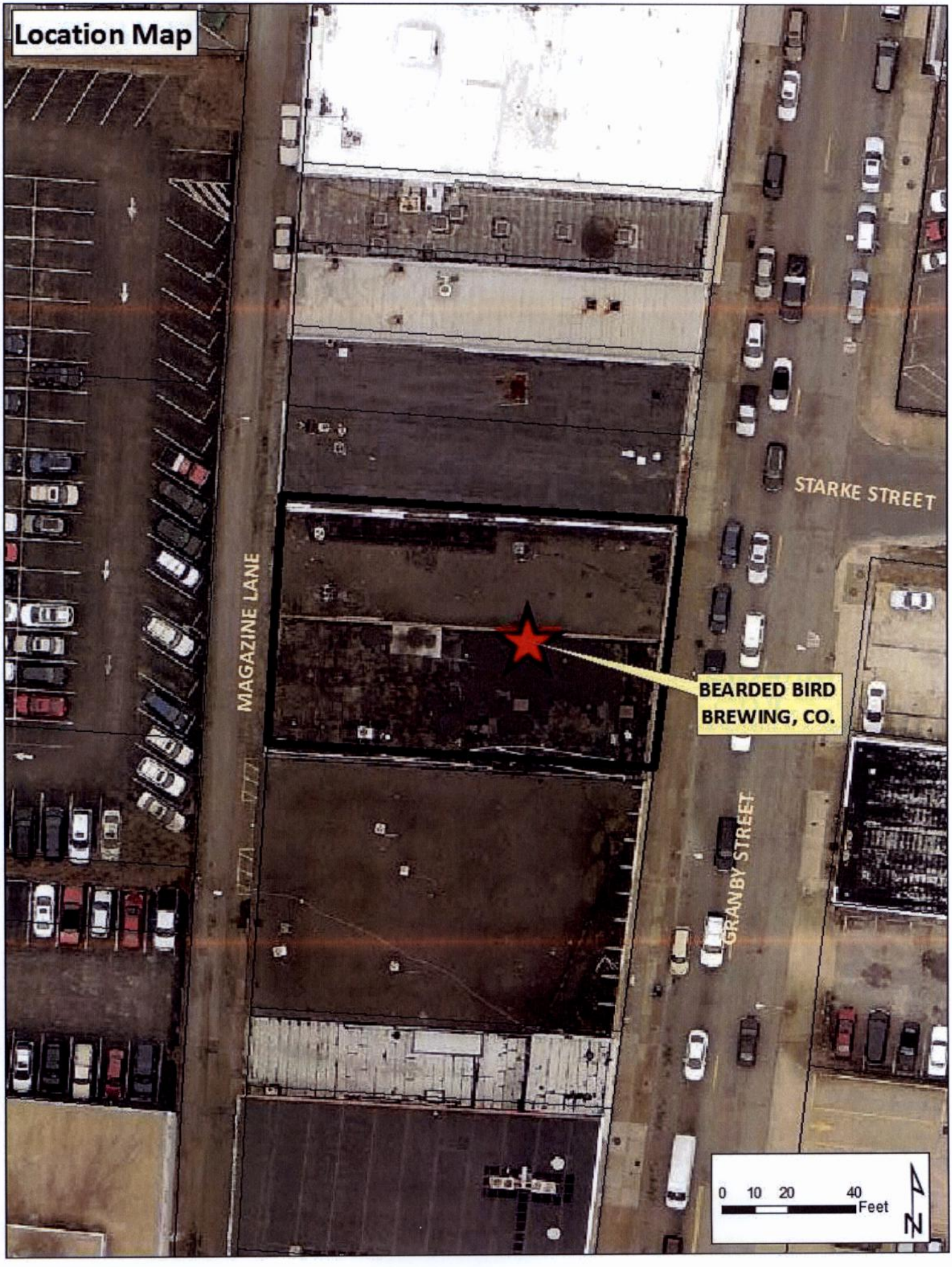
# BEARDED BIRD BREWERY

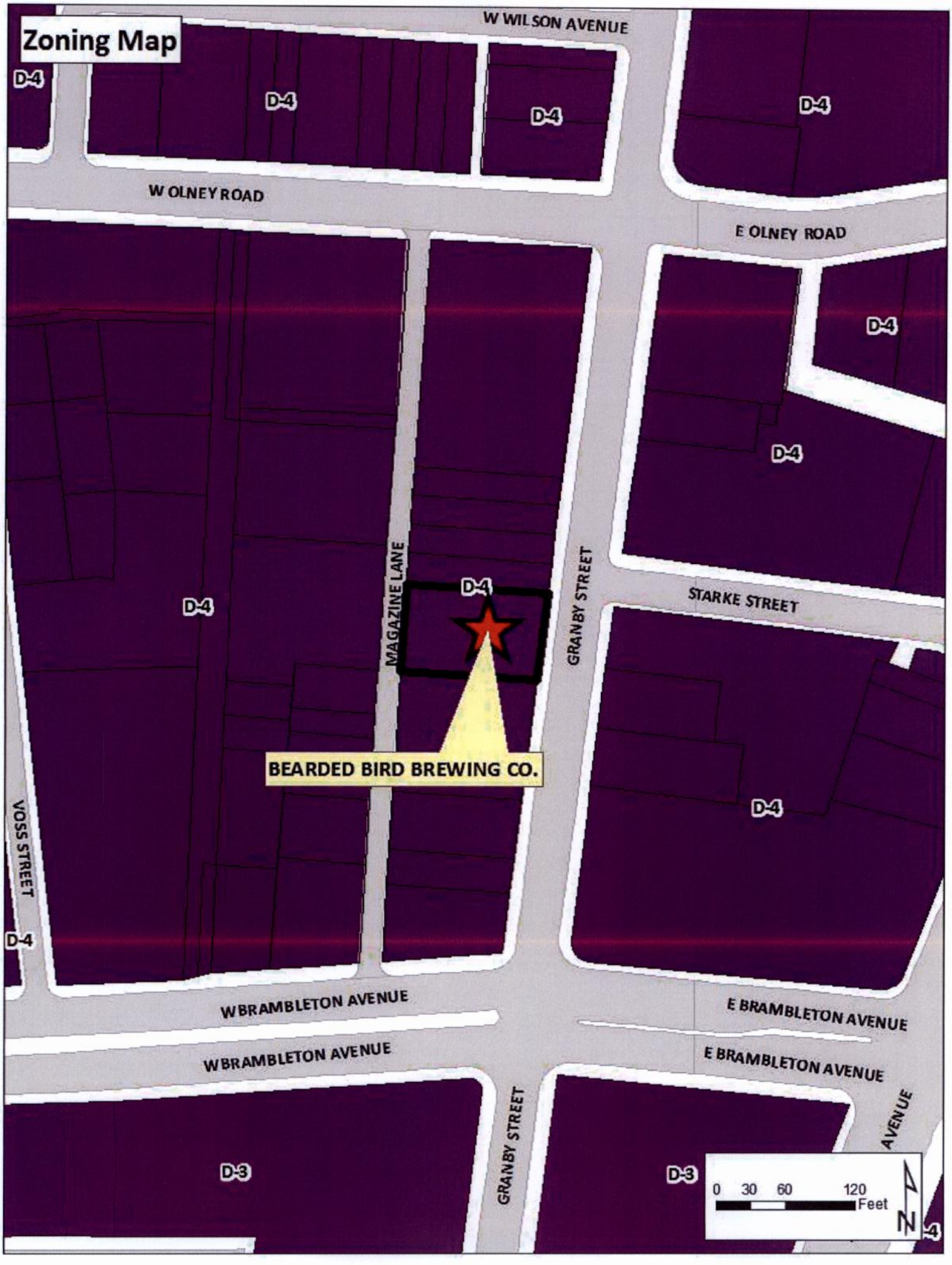
727 GRANBY STREET
NORFOLK VA, 23510

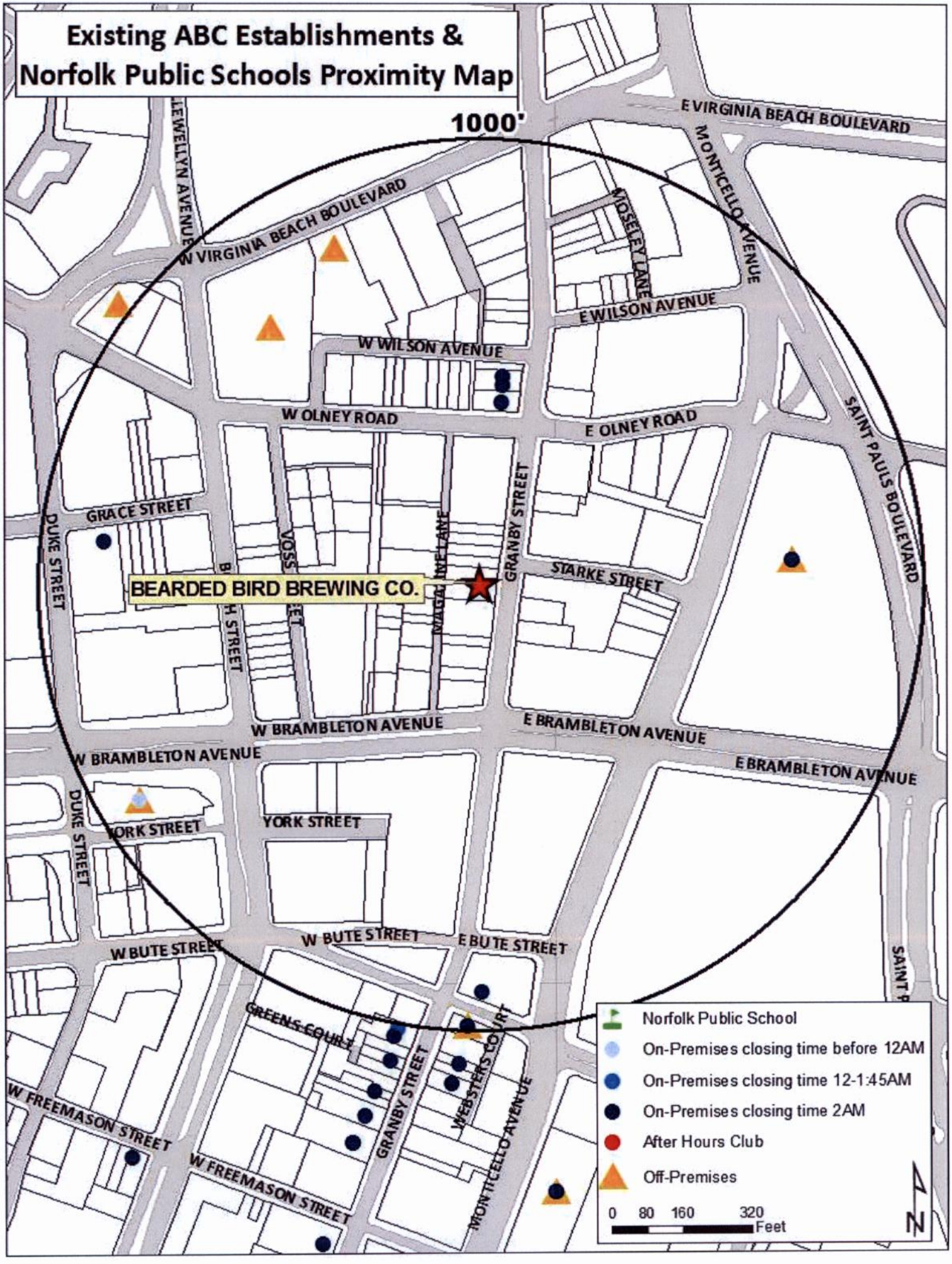
| Project # |
| --- |
| 1603 |
| Date |
| 11 JAN 2015 |

SPECIAL EXCEPTION

A100


Location Map
MAGAZINE LANE
STARKE STREET
GRANBY STREET
BEARDED BIRD
BREWING, CO.
0 10 20 40
Feet
N


Zoning Map
W WILSON AVENUE
W OLNEY ROAD
E OLNEY ROAD
MAGAZINE LANE
GRANBY STREET
STARKE STREET
VOSS STREET
W BRAMBLETON AVENUE
E BRAMBLETON AVENUE
BEARDED BIRD BREWING CO.
D-4
D-3
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
BEARDED BIRD BREWING CO.
E VIRGINIA BEACH BOULEVARD
W VIRGINIA BEACH BOULEVARD
LEWELLYN AVENUE
MONTICELLO AVENUE
MOSELEY LANE
E WILSON AVENUE
W WILSON AVENUE
W OLNEY ROAD
E OLNEY ROAD
SAINT PAULS BOULEVARD
GRACE STREET
DUKE STREET
VOSS STREET
GRANBY STREET
STARKE STREET
W BRAMBLETON AVENUE
E BRAMBLETON AVENUE
YORK STREET
W BUTE STREET
E BUTE STREET
GREENS COURT
WEBSTERS COURT
W FREEMASON STREET
Norfolk Public School
On-Premises closing time before 12AM
On-Premises closing time 12-1:45AM
On-Premises closing time 2AM
After Hours Club
Off-Premises
0 80 160 320
Feet
N

**APPLICATION**
**BREWERY/MICROBREWERY/BREWPUB**

Date of Application: 1/8/16

## DESCRIPTION OF PROPERTY

Property location: (Street Number) 727 (Street Name) GRANBY STREET

Existing Use of Property VACANT

Current Building Square Footage 3608

Proposed Use MICROBREWERY

Proposed Building Square Footage 3608

Trade Name of Business (If applicable) BEARDED BIRD BREWING CO. INC

## APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

**1.** Name of applicant: (Last) CLOONAN (First) JOSEPH (MI) M

Mailing address of applicant (Street/P.O. Box): 122 W. LEICESTER AVE

(City) NORFOLK (State) VA (Zip Code) 23503

Daytime telephone number of applicant (757) 292-6367 Fax ( )

E-mail address of applicant: joe.cloonan@gmail.com

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2016)

**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) Henry (First) Rick (MI) ___

Mailing address of applicant (Street/P.O. Box): 1400 Granby St unit 407

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of applicant ( ) 615-6905 Fax ( ) ___

E-mail address of applicant: RickHenryconsulting@gmail.com

**PROPERTY OWNER**
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

**3.** Name of property owner: (Last) Bress (First) Lawrence (MI) E

Mailing address of property owner (Street/P.O. box): 115 Brandon Ave

(City) Norfolk (State) VA (Zip Code) 23507

Daytime telephone number of owner (757) 5728040 email: LarryBress@Gmail.com

**CIVIC LEAGUE INFORMATION**

Civic League contact: Kevin Murphy

Date(s) contacted: 1/2/16

Ward/Super Ward information: ___

---

**CERTIFICATION:**
**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:**

**Print name:** Lawrence E Bress **Sign:** _____ 11 6 16
(Property Owner) (Date)

**Print name:** Joseph Cloonan **Sign:** _____ 11 5 16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

**Print name:** _____ **Sign:** Rick Hefner 11 6 16
(Authorized Agent Signature) (Date)

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

**APPLICATION**
**ADULT USE SPECIAL EXCEPTION**
**ENTERTAINMENT ESTABLISHMENT**
**(Please Print)**

Date 1/8/16

**DESCRIPTION OF PROPERTY**

Address 727 GRANBY STREET

Existing Use of Property VACANT

Proposed Use MICROBREWERY

Current Building Square Footage 3608

Proposed Building Square Footage 3608

Trade Name of Business (If applicable) BEARDED BIRD BREWING CO.

**APPLICANT**
(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) CLOONAN (First) JOSEPH (MI) M

Mailing address of applicant (Street/P.O. Box): 122 W LEICESTER AVE

(City) NORFOLK (State) VA (Zip Code) 23503

Daytime telephone number of applicant (757) 292 6367 Fax ( )

E-mail address of applicant: joe.cloonan@gmail.com

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

**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) HENN (First) Rick (MI) ____

Mailing address of applicant (Street/P.O. Box): 1400 Granby UNIT 407

(City) NORFOLK (State) VA (Zip Code) 23510

Daytime telephone number of applicant ( ) 615-6905 Fax ( ) ____

E-mail address of applicant: RickHennconsulting@gmail.com

**PROPERTY OWNER**
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

**3.** Name of property owner: (Last) Bress (First) Lawrence (MI) E

Mailing address of property owner (Street/P.O. box): 1215 Brandon Ave

(City) Norfolk (State) Va. (Zip Code) 23507

Daytime telephone number of owner 757 572 0246 email: larrybress@gmail.com

**CIVIC LEAGUE INFORMATION**

Civic League contact: KEVIN MURPHY

Date(s) contacted: 1/2/16

Ward/Super Ward information: 2 TERRY WHIBLEY — 6 - WINN

**REQUIRED ATTACHMENTS**

---

**CERTIFICATION**
**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:**

**Print name:** Lawrence E. Bress **Sign:** _____ 1/7/2016
(Property Owner or Authorized Agent of Signature) (Date)

**Print name:** Joseph Cloonan **Sign:** _____ 1/7/16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

**Print name:** Rick Hevia **Sign:** _____ 1/8/16
(Authorized Agent Signature) (Date)

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

# Security Plan for Bearded Bird Brewing
# 727 Granby Street
# Norfolk VA 23510

## Goals:

- to ensure the safe, sound, and secure experience for all patrons of Bearded Bird Brewing.
- to maintain freely accessible points of ingress and egress at both the front and rear of the facility for both patrons and staff of Bearded Bird Brewing.
- to provide a safe and structured evacuation from Bearded Bird Brewing in case of fire or other uncontrolled danger that may occur.
- to utilize technological and mechanical devices, such as video and sensors, for 24 hour monitoring of Beard Bird Brewing.
- to resolve all dangerous situations with peaceful and effective methods before injury to any person or property has occurred. The Bearded Bird Brewing staff shall provide an assertive yet professional presence to maintain the safety and security of the members of the public.
- to create an open, progressive, and inviting character for the neighborhood in conjunction with the City of Norfolk's NEON District.

## Features of the Plan:

- Security Team
    - The plan is to secure all forms of ingress and egress with personnel posted at these points, along with additional personnel located within the premises for monitoring internally.
- Rules and Regulations
    - There is no age limit to be on the premises as Bearded Bird Brewery is open to all ages. The only restriction is patrons that wish to imbibe alcoholic beverages will need to be a minimum of 21 years of age as per ABC regulations.
    - No weapons, including open carried or concealed guns, will be allowed into the brewery.
    - Patrons that appear to be intoxicated will be handled with care and respect to both the patron and the public.
    - Patrons that become unruly will immediately be prohibited from purchasing any further alcoholic beverages, and requested to leave the premises. If they refuse, law enforcement may be contacted.
    - The facility is a non-smoking. Anyone caught smoking will be requested to stop, given a polite one time warning, and directed to the outside smoking area. If caught a second time, they will be directed to leave Bearded Bird Brewing.
- Access
    - There is on street parking and sidewalk accessibility.

## Uniforms for Security Personnel:

- Security personnel will wear a shirt with the brewery logo prominently placed on it.

## Security Team:

- During large events where occupancy could exceed 100 persons, or the queue of patrons waiting may exceed 25 persons, two people will maintain security at the entrance

door to help ensure a calm orderly entrance of persons and to ensure occupancy of the building is never exceeded at any time. One person will be positioned at the exit door to ensure no unauthorized persons enter through that path.

- General Responsibilities and Duties
    - The security team members will ensure that all patrons of age to consume alcohol receive a band to show that their IDs have been verified. IDs may also be verified at the bar for drink orders.
    - Security team members will be required to keep an accurate count of the number of patrons entering and exiting the facility. During events, patrons will enter through the front or rear entrance and may be asked to exit through the other entrance.
    - Personnel at both doors will maintain communication via a hand held radio or some other hand held communication device if radios are not available

## Communication:

- Communication will be maintained between security personnel, bar staff, and any other personnel on duty via hand held radios or some other hand held communication device if radios are not available. All staff may also communicate via hand signals.

## Electronic Security:

- The brewery will have video surveillance of the tasting area, the bar, and both entrances. This video will be recorded and maintained as necessary. Fire,/smoke/$CO_2$ monitors will be installed in the facility to ensure the safety of all persons on the premises.

## Emergency Evacuation Plan:

- In the event of an emergency requiring evacuation, all persons on the premises will be directed to exit the building in an orderly fashion via any available exit. If time is available, the roll up door in the rear of the building will be opened to help facilitate this orderly evacuation. If any exit is blocked for any reason, then all persons will be directed via signage and staff on the current escape route and the rear roll up door will be maintained open to facilitate this.

## Blough, Christopher

**From:** Straley, Matthew
**Sent:** Wednesday, January 13, 2016 1:03 PM
**To:** 'dncl@welovenorfolk.org'; Miller, Mary
**Cc:** Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Blough, Christopher
**Subject:** new Planning Commission applications - 727 Granby Street
**Attachments:** beardedbird_microbrewery.pdf; beardedbird_entertainment.pdf

Mr. Murphy and Ms. Miller,

Attached please find the following applications at 727 Granby Street:

a. Special exception to operate an entertainment establishment with alcoholic beverages.
b. Special exception to operate a microbrewery.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Chris Blough at (757) 664-6771, christopher.blough@norfolk.gov*

Thank You.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

THE CITY OF NORFOLK
CITY PLANNING

C: Dir., Department of City Planning

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

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

Subject: **Special Exception to expand an existing Entertainment Establishment with alcoholic beverages – 501 Botetourt Street, Suites 503-507 – The Cure Coffeehouse and Brasserie**

Reviewed: _____
Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward**: 2/6

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-3**

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

II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception to expand an existing Entertainment Establishment with alcoholic beverages.

IV. **Applicant:** **The Cure Coffeehouse and Brasserie**

V. **Description:** This request would allow The Cure, an existing entertainment establishment serving alcohol, to expand into two adjacent suites and expand their seating, hours of operation, and entertainment options.

| | Previous | Proposed |
|---|---|---|
| Hours of Operation | 7:00 a.m. until 11:00 p.m., Seven days a week | 7:00 a.m. until 11:00 p.m., Sunday through Thursday<br>7:00 a.m. until 12:00 midnight, Friday and Saturday |
| Hours for the Sale of Alcoholic Beverages | 9:00 a.m. until 11:00 p.m., Seven days a week | 7:00 a.m. until 11:00 p.m., Sunday through Thursday<br>7:00 a.m. until 12:00 midnight, Friday and Saturday |
| Hours for Entertainment | 11:00 a.m. until 10:00 p.m., Sunday through Thursday<br>11:00 a.m. until 11:00 p.m., Friday and Saturday | 9:00 a.m. until 11:00 p.m., Sunday through Thursday<br>9:00 a.m. until 12:00 midnight, Friday and Saturday |
| Capacity | 39 seats indoors<br>2 seats outdoors<br>49 total capacity | 85 seats indoors<br>10 seats outdoors<br>99 total capacity |

| | | |
|---|---|---|
| Entertainment Options | • 3-member live band<br>• Open microphone | • 5-member live band<br>• Karaoke<br>• Comedian<br>• Poetry reading<br>• Open microphone<br>• Trivia |

Staff point of contact: Chris Whitney at 823-1253, chris.whitney@norfolk.gov

Attachments:

- Staff Report to CPC dated February 25, 2016 with attachments
- Letter of Support – Freemason Street Area Association
- Letter of Support – Freemason resident
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

**Planning Commission Public Hearing: February 25, 2016**
Executive Secretary: George M. Homewood, AICP, CFM GS
Planner: Chris Whitney, CFM CW

| **Staff Report** | **Item No. 10** | |
|---|---|---|
| **Address** | **501 Botetourt Street, Suites 503 – 507** | |
| **Applicant** | **The Cure Coffeehouse and Brasserie** | |
| **Request** | **Special Exception** | **Entertainment establishment with alcoholic beverages** |
| **Property Owner** | Bethel I, LLC | |
| **Site Characteristics** | Building Area/Space | 5,186 sq. ft./1,875 sq. ft. |
| | Future Land Use Map | Downtown |
| | Zoning | HC-WF2 (West Freemason Historic and Cultural Conservation) |
| | Neighborhood | Freemason Street Area Association |
| | Character District | Downtown |
| **Surrounding Area** | North | HC-WF2: Voila restaurant |
| | East | HC-WF1, HC-WF2: The Botetourt apartments, Tymoff and Moss Architects |
| | South | HC-WF1: Hummingbird Macarons café |
| | West | HC-WF1: Single-family home |

## A. Summary of Request

- The property is located along Botetourt Street near the corner of Botetourt Street and West Bute Street, within the West Freemason neighborhood.
- This request would allow The Cure, an existing entertainment establishment serving alcohol, to expand into two adjacent suites and expand their seating, hours of operation, and entertainment options.
- The applicant proposes to expand into the adjacent suites to the north, with one being vacant and the other most recently occupied by interior design services and a yoga studio.

## B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as downtown.

## C. Zoning Analysis

**i.** General

- The use is permitted in the HC-WF2 district by special exception.

| | Previous | Proposed |
|---|---|---|
| Hours of Operation | 7:00 a.m. until 11:00 p.m.,<br>Seven days a week | 7:00 a.m. until 11:00 p.m.,<br>Sunday through Thursday<br>7:00 a.m. until 12:00 midnight,<br>Friday and Saturday |
| Hours for the Sale of Alcoholic Beverages | 9:00 a.m. until 11:00 p.m.,<br>Seven days a week | 7:00 a.m. until 11:00 p.m.,<br>Sunday through Thursday<br>7:00 a.m. until 12:00 midnight,<br>Friday and Saturday |
| Hours for Entertainment | 11:00 a.m. until 10:00 p.m.,<br>Sunday through Thursday<br>11:00 a.m. until 11:00 p.m.,<br>Friday and Saturday | 9:00 a.m. until 11:00 p.m.,<br>Sunday through Thursday<br>9:00 a.m. until 12:00 midnight,<br>Friday and Saturday |
| Capacity | 39 seats indoors<br>2 seats outdoors<br>49 total capacity | 85 seats indoors<br>10 seats outdoors<br>99 total capacity |
| Entertainment Options | • 3-member live band<br>• Open microphone | • 5-member live band<br>• Karaoke<br>• Comedian<br>• Poetry reading<br>• Open microphone<br>• Trivia |

- Special exception history:

| City Council Approval | Applicant | Request |
|---|---|---|
| 2014 | The Cure | Entertainment establishment with alcoholic beverages |
| Pending | The Cure | Entertainment establishment with alcoholic beverages |

**ii.** Parking

- For an entertainment establishment of this size located within the Downtown Character District, the *Zoning Ordinance* requires that the site provides a minimum of eight parking spaces and sufficient room to accommodate one bicycle.
- The building was built in 1920, prior to any parking requirements in the City; as such, the structure is grandfathered for eight spaces based on the commercial use for which it was built.

**iii.** Flood Zone

The property is located in the X (Shaded) and X (Low to Moderate) Flood Zones, which are low-risk flood zones.

**D. Transportation Impacts**

- Institute of Transportation Engineers figures estimate that this restaurant will generate 222 additional vehicle trips per day by increasing total indoor seating at this location by 46 seats above currently approved levels.
- Brambleton Avenue near the site is not identified as a severely congested corridor in either the AM or PM peak hours in the current update to the regional Hampton Roads Congestion Management analysis.
- The site is near transit services, with the York Street/Freemason TIDE light rail station located just to the east of this location.
- Botetourt Street adjacent to the site is not an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan but is part of the existing Elizabeth River Trail.

**E. Historic Resources Impacts**

- The site is located within the West Freemason Historic District and is not a contributing structure.
    - However, any modifications to the exterior of the building are subject to the City's Design Review Process and/or Architectural Review Board approval for a Certificate of Appropriateness.

**F. Public Schools Impacts**

This site is located within the Taylor Elementary School, Blair Middle School, and Maury High School Attendance Zones.

**G. Environmental Impacts**

There are currently no opportunities for landscaping site improvements to this existing site.

**H. Surrounding Area/Site Impacts**

- The expansion of this existing establishment should not adversely impact the surrounding uses.
- Over the past year there have been no calls for police service.

**I. Payment of Taxes**

The owner of the property is current on all real estate taxes.

**J. Civic League**

- Notice was sent to the Freemason Street Area Association on January 13.
- A letter of support was received from the Freemason Street Area Association on February 1.

**K. Communication Outreach/Notification**

- Legal notice was posted on the property on January 19.
- Letters were mailed to all property owners within 300 feet of the property on February 11.
- Legal notification was placed in *The Virginian-Pilot* on February 11 and February 18.

**L. Recommendation**

Staff recommends **approval** of the special exception request subject to the conditions below:

(a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be limited to 7:00 a.m. until 11:00 p.m. Sunday through Thursday and 7:00 a.m. until 12:00 a.m. Friday and Saturday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The hours for entertainment shall be limited to 9:00 a.m. until 11:00 p.m. Sunday through Thursday and 9:00 a.m. until 12:00 a.m. Friday and Saturday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(c) The seating for the establishment shall not be less than 85 seats indoors, shall not be more than 10 seats outdoors, and the total occupant capacity, including employees, shall not exceed 99 people.

(d) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B." Any tables, chairs, booths, stools or other movable furniture may be relocated provided that it remains only within the

shaded areas, and the unshaded accesses, aisles, and other areas shown on the floor plans shall remain unobstructed.

(e) No smoking shall be permitted anywhere in the outdoor dining area.

(f) No portion of any outdoor dining shall be enclosed and any covering must leave the dining space open on at least three sides and no portion of the outdoor dining area shall be heated or cooled.

(g) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

(h) Entertainment shall be limited to live bands having no more than 5 members, karaoke, comedian, poetry reading, open microphone, and trivia. No other form of entertainment is permitted.

(i) There shall be no dancing and no dance floor provided.

(j) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."

(k) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.

(l) The establishment shall maintain a current, active business license at all times while in operation.

(m) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

(n) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

(o) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and

portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

(p) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

(q) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

(r) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(s) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(t) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(u) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

(v) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

(w) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(x) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:

(1) This special exception;

(2) Any ABC license(s);

(3) Any occupancy permit(s);

(4) Certifications of all persons who work on the premises as a security guard;

(5) All fire code certifications, including alarm and sprinkler inspection records;

(6) Any health department permit(s);

(7) The emergency action plan required under the Fire Prevention Code;

(8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;

(9) The establishment's designated driver program; and

(10) The establishment's Security Plan.

(y) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 74 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

(z) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

**Attachments**

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Freemason Street Area Association
Letter of Support from the Freemason Street Area Association

**Proponents and Opponents**

**Proponents**

Christopher Shelton – Applicant
103 Hardy Place
Portsmouth, VA 23707

Gene M. Aston – Applicant
503 Botetourt Street
Norfolk, VA 23510

**Opponents**

None

02/24/2016 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 AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "THE CURE COFFEEHOUSE AND BRASSERIE" ON PROPERTY LOCATED AT 503 BOTETOURT STREET, SUITES 503 AND 507.

- - -

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

Section 1:- That a Special Exception is hereby granted to Aston Shelton Enterprises, LLC authorizing the operation of an entertainment establishment with alcoholic beverages named "The Cure Coffeehouse and Brasserie" on property located at 503 Botetourt Street, suites 503 and 507. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 58 feet, more or less, along the western line of Botetourt Street beginning 30 feet, more or less, from the northern line of West Bute Street and extending northwardly; premises numbered 501 Botetourt Street, suites 503 and 507.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be limited to 7:00 a.m. until 11:00 p.m. Sunday through Thursday and 7:00 a.m. until 12:00 midnight on Friday and Saturday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The hours for entertainment shall be limited to 9:00 a.m. until 11:00 p.m. Sunday through Thursday and 9:00 a.m. until 12:00 midnight on Friday and Saturday. No use of the establishment outside of the hours of operation listed herein shall be

permitted.

(c) The seating for the establishment shall not be less than 77 seats indoors, shall not be more than 10 seats outdoors, and the total occupant capacity, including employees, shall not exceed 99 people.

(d) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B." Any tables, chairs, booths, stools or other movable furniture may be relocated provided that it remains only within the shaded areas, and the unshaded accesses, aisles, and other areas shown on the floor plans shall remain unobstructed.

(e) No smoking shall be permitted anywhere in the outdoor dining area.

(f) No portion of the outdoor dining area shall be enclosed and any covering must leave the dining space with open ventilation on at least three sides.

(g) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

(h) Entertainment shall be limited to live bands having no more than five (5) members, karaoke, comedian, poetry reading, open microphone, and trivia. No other form of entertainment is permitted.

(i) There shall be no dancing and no dance floor

provided.

(j) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."

(k) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.

(l) The establishment shall maintain a current, active business license at all times while in operation.

(m) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

(n) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

(o) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, and both solid and liquid waste.

(p) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

(q) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

(r) The business authorized by this special exception

shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(s) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(t) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(u) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

(v) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

(w) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(x) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:

(1) This special exception;

(2) Any ABC license(s);

(3) Any occupancy permit(s);

(4) Certifications of all persons who work on the premises as a security guard;

(5) All fire code certifications, including alarm and sprinkler inspection records;

(6) Any health department permit(s);

(7) The emergency action plan required under the Fire Prevention Code;

(8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;

(9) The establishment's designated driver program; and

(10) The establishment's Security Plan.

(y) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 74 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p.m.

each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

(z) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

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 section 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 the Special Exception granted hereby amends the previously granted special exception permitting an entertainment establishment on this property, adopted on June 10, 2014 (Ordinance NO. 45,575). All provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:
Exhibit A (5 pages)
Exhibit B (1 page)

# EXHIBIT "A"
## Description of Operations
## Entertainment Establishment
## (Please Print)

Date 1/11/2016

Trade name of business Cure Coffeehouse & Brasserie

Address of business 503 Botetourt Street, Suites 503 - 507

Name(s) of business owner(s)* Aston Shelton Enterprises LLC - G.M. Aston, C.G. Shelton

Name(s) of property owner(s)* Bethel 1 LLC - F.T. Stant

Name(s) of business manager(s)/operator(s) G.M. Aston, C.G. Shelton, K. Redman

Daytime telephone number (757) 321-0044

*If business or property owner is a partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

| Facility | | | Alcoholic Beverage Sales and Entertainment | | |
|---|---|---|---|---|---|
| Weekday | From 7am | To 11pm | Weekday | From 7am | To 11pm |
| Friday | From 7am | To 12am | Friday | From 7am | To 12am |
| Saturday | From 7am | To 12am | Saturday | From 7am | To 12am |
| Sunday | From 7am | To 11pm | Sunday | From 7am | To 11pm |

2. Type of ABC license applied for (check all applicable boxes):
☑ On-Premises ☐ Off-Premises (second application required)

3. Type of alcoholic beverage applied for:
☑ Beer ☑ Wine ☑ Mixed Beverage

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**Exhibit A – Page 2**
**Entertainment Establishment**

4. Will video games, pool tables, game boards or other types of games be provided?
   ☐ Yes (If more than 4, additional application required) ☒ No

   4a If yes, please describe type and number of each game to be provided:

5. Will patrons ever be charged to enter the establishment?
   ☐ Yes ☒ No

   5a. If yes, why:

   5b. Which days of the week will there be a cover charge (circle all applicable days):

   ☐Monday ☐Tuesday ☐Wednesday ☐Thursday ☐Friday
   ☐Saturday ☐Sunday

6. Will the facility or a portion of the facility be available for private parties?
   ☒ Yes ☐ No

   6a. If yes, explain:
   Will host occasional parties in new addition to include business meetings, birthdays, bridal/baby showers, etc.

7. Will a third party (promoter) be permitted to lease, let or use the establishment?
   ☐ Yes ☒ No

   7a. If yes, explain:

8. Will there ever be a minimum age limit?
   ☐ Yes ☒ No

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**Exhibit A – Page 3**
**Entertainment Establishment**

**9.** Additional comments/description/operational characteristics or prior experience:

| |
|---|
| Existing cafe concept to remain. Purpose of application is to expand seating capacity. |
| |

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

**Signature of Applicant**

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

Cafe

**Exhibit A – Floor Plan(s) Worksheet**
**Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

1. Total capacity

   a. **Indoor**
   Number of seats (not including bar seats) 78
   Number of bar seats 7
   Standing room 0

   b. **Outdoor**
   Number of seats 10

   c. **Number of employees** 5

**Total Occupancy**
**(Indoor/Outdoor seats, standing room and employees) =** 99

2. Entertainment
   List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

3. Will a dance floor be provided?
   ☐ Yes ☑ No

   3a. If yes,
   Square footage of establishment
   Square footage of dance floor

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

Entertainment

**Exhibit A – Floor Plan(s) Worksheet**
**Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

1. Total capacity

   a. **Indoor**
   Number of seats (not including bar seats) [70]
   Number of bar seats [7]
   Standing room band [2 5]

   b. **Outdoor**
   Number of seats [10]

   c. **Number of employees** [5]

**Total Occupancy**
**(Indoor/Outdoor seats, standing room and employees) =** [99]

2. Entertainment
   List ANY type of entertainment proposed other than a ~~3~~ 5 member live band, karaoke, comedian, or poetry reading.

| |
|---|
| Open mic, Trivia. |
| |

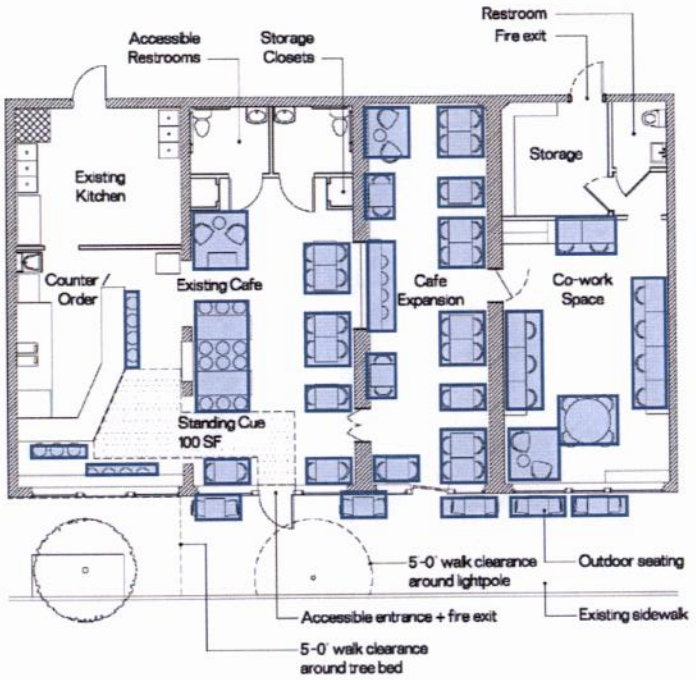
3. Will a dance floor be provided?
   ☐ Yes ☒ No

   3a. If yes,
   Square footage of establishment [ ]
   Square footage of dance floor [ ]

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

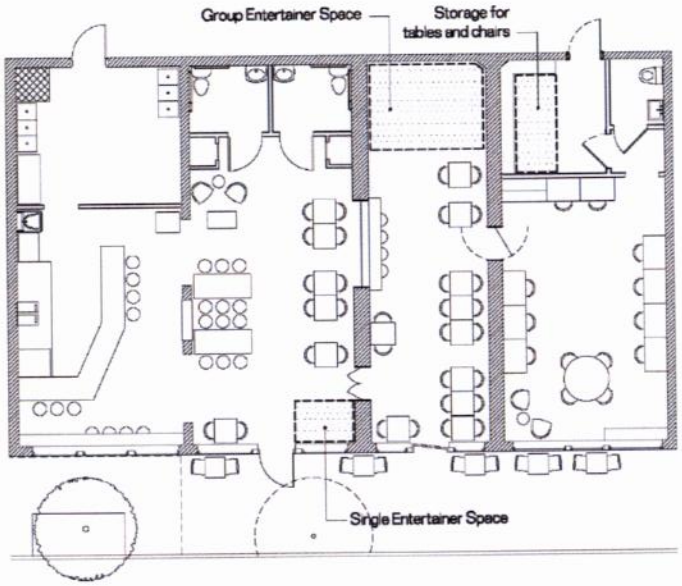
**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

# Exhibit B




1st Floor Plan - Maximum Seating

SCALE: 3/32"=1'-0"




1st Floor Plan - Entertainment Scenario

SCALE: 3/32"=1'-0"

COMMONWEALTH OF VIRGINIA
TODD VENABLE SAVAGE
Certificate No. 9157
01.11.2016
ARCHITECT

TMA
TYMOFF + MOSS ARCHITECTS

CODE COMPLIANCE

Construction Type: IIB
Use Group: Assembly (A-2)
Fire Protection: Non-Sprinklered
Actual Heights + Areas
Co-work Space: 390 SF
Cafe: 1,036 SF
Kitchen: 286 SF
Storage: 116 SF
Total: 1 story, 1,828 SF

OCCUPANCY CALCULATIONS
(Per 2012 IBC)

Cafe: 70
Kitchen: 2
Co-Work Space: 26
Storage: 1
Total: 99

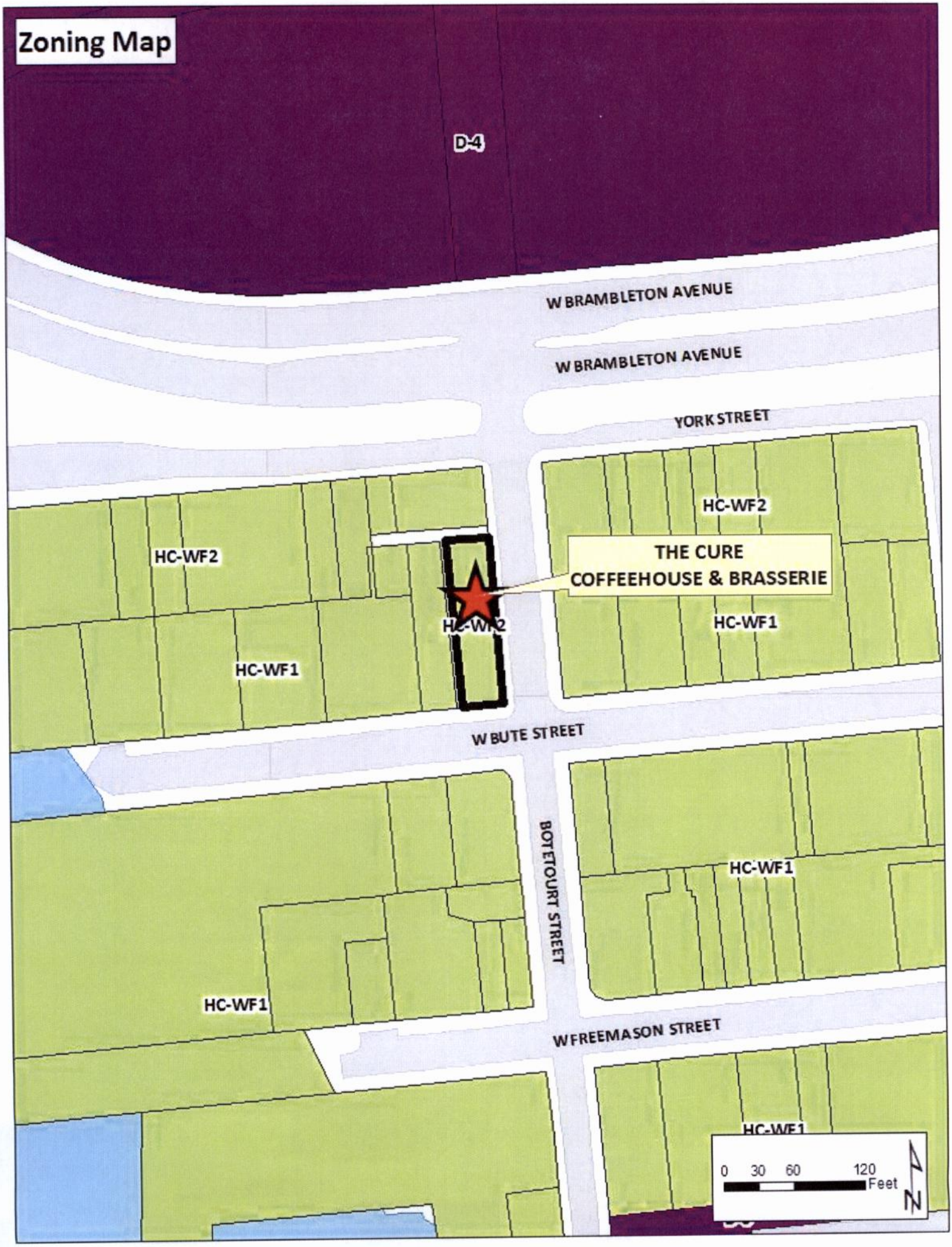
ACTUAL OCCUPANTS

Cafe Seating: 70
Employees: 3 to 5
Co-Work Space: 10 to 15
Maximum Indoor Total: 94

Outdoor Seating: 10

11 January 2016
SPH

Location Map
KSTREET
BOTETOURT STREET
THE CURE
COFFEEHOUSE & BRASSERIE
W BUTE STREET
0 5 10 20
Feet
N


Zoning Map
D-4
W BRAMBLETON AVENUE
W BRAMBLETON AVENUE
YORK STREET
HC-WF2
HC-WF2
THE CURE
COFFEEHOUSE & BRASSERIE
HC-WF2
HC-WF1
HC-WF1
W BUTE STREET
BOTETOURT STREET
HC-WF1
HC-WF1
W FREEMASON STREET
HC-WF1
0 30 60 120
Feet
N

Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
MOWBRAY ARCH
MEMORIAL PLACE
GRACE STREET
YARMOUTH STREET
W BRAMBLETON AVENUE
W BRAMBLETON AVENUE
YORK STREET
YORK STREET
MACHISMO BURRITO BAR
VOILA
THE CURE COFFEEHOUSE
AND BRASSERIE
W BUTE STREET
OMAR'S CARRIAGE HOUSE
NORFOLK BOAT CLUB
BOTETOURT STREET
YARMOUTH STREET
W FREEMASON STREET
FREEMASON MEWS
MISCELLANEOUS STREET
COLLEGE CROSS
COLLEGE PLACE
HARBOUR SQUARE
Norfolk Public School
On-Premises closing time before 12AM
On-Premises closing time 12-1:45AM
On-Premises closing time 2AM
After Hours Club
Off-Premises
0 80 160 320
Feet
N

**APPLICATION**
**ADULT USE SPECIAL EXCEPTION**
**ENTERTAINMENT ESTABLISHMENT**
**(Please Print)**

Date 1/11/2016

## DESCRIPTION OF PROPERTY

Address 503 Botetourt Street, Suites 503 - 507

Existing Use of Property Coffeehouse / Cafe

Proposed Use Coffeehouse / Cafe

Current Building Square Footage 1050

Proposed Building Square Footage 1875

Trade Name of Business (If applicable) Cure Coffeehouse & Brasserie

## APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

Aston Shelton Enterprises LLC Christopher Shelton

1. Name of applicant: (Last) Gene (First) Aston (MI) M

Mailing address of applicant (Street/P.O. Box): 503 Botetourt Street

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of applicant (757) 321-0044 Fax ( )

E-mail address of applicant: astonshelton@gmail.com

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**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) _____ (First) _____ (MI) ____

Mailing address of applicant (Street/P.O. Box): _____

(City) _____ (State) _____ (Zip Code) _____

Daytime telephone number of applicant (___) _____ Fax (___) _____

E-mail address of applicant: _____

**PROPERTY OWNER**
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

Bethel 1 LLC

**3.** Name of property owner: (Last) Stant (First) F. T. (MI) ____

Mailing address of property owner (Street/P.O. box): 222 Central Park Avenue Suite 1700

(City) Virginia Beach (State) VA (Zip Code) 23462

Daytime telephone number of owner (757) 473-5304 email: _____

**CIVIC LEAGUE INFORMATION**

Civic League contact: Jack Kavanaugh

Date(s) contacted: 1/10/2016

Ward/Super Ward information: _____

## REQUIRED ATTACHMENTS

**CERTIFICATION**
**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge.**

**Print name:** Bethel 1 LLC FT Stant **Sign:** _____ 1 / 11 / 2016
(Property Owner or Authorized Agent of Signature) (Date)

**Print name:** Aston Shelton Enterprises LLC G.M. Aston **Sign:** _____ 1 / 11 / 2016
(Applicant) (Date)

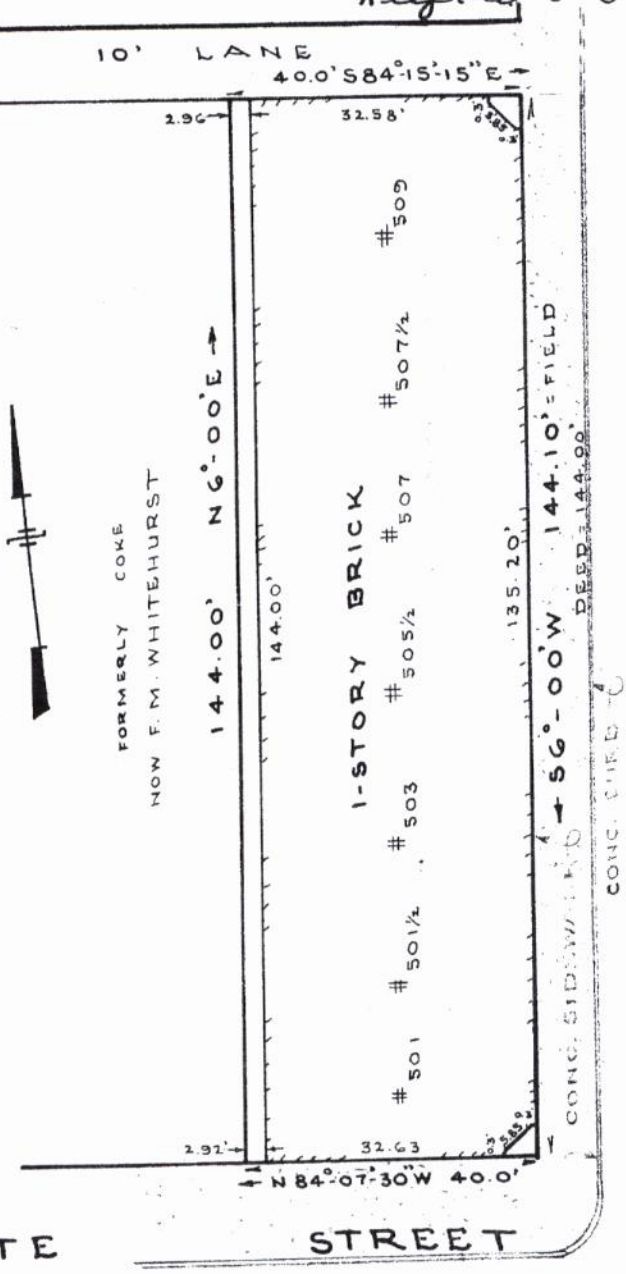
ONLY NEEDED IF APPLICABLE:

**Print name:** _____ **Sign:** _____ / _____ / _____
(Authorized Agent Signature) (Date)

THIS IS TO CERTIFY THAT I, ON FEBRUARY 11TH, 1963 SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE SHOWN ON THIS PLAT.

THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY EXCEPT AS SHOWN.

SIGNED Wilfred P. Large




# PHYSICAL SURVEY

OF

# #501 #501½ #503 #505½ #507 #507½ #509 BOTETOURT STREET

RECORDED IN D.B. 515-P. 379, CLERKS OFFICE OF THE CORP. COURT NORFOLK, VA.

NORFOLK, VIRGINIA

FOR

# ASSOCIATED INVESTORS, INC.

SCALE: 1" = 20' FEB. 11TH, 1963.

WILFRED P. LARGE
Certified Land Surveyor
Norfolk, Virginia

NOTE: CIRCLES DENOTE IRONS SET AT R CORNERS.

F.B. 23 P44
#1141

P.S.-931

**Security Plan**

**Cure Coffeehouse and Brasserie**
**503 Botetourt Street**
**Norfolk, VA 23510**

**Goals:**
To maintain a safe and secure environment for the guests of the establishment.
Mitigate any noise or inappropriate conduct by patrons arriving or leaving the establishment that may impact neighbors.
Ensure a safe evacuation in the event of an emergency situation.

**Event Management:**
Only events that are family friendly in nature will be hosted. During any events where attendance approaches capacity a staff member will maintain an occupant count to ensure compliance with building code. Facility doors will remain closed during music performances to minimize noise impact to neighbors. A clear path to all entrances and exits will be maintained at all times.

**Electronic Security:**
Actions within premises are recorded via video camera. Footage is maintained for 14 days.

**Emergency Response:**
Staff will contact emergency services in the event they are required. Additionally each staff member will receive training on how to evacuate the premises in the event of a building emergency.

## Whitney, Chris

**From:** Straley, Matthew
**Sent:** Wednesday, January 13, 2016 1:01 PM
**To:** 'ocs1062@cox.net'
**Cc:** Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
**Subject:** new Planning Commission applications - 503 Botetourt St, Suites 503-507
**Attachments:** Cure.pdf

Mr. Kavanaugh,

Attached please find the application to amend a previously granted special exception to operate an entertainment establishment with alcoholic beverages at 503 Botetourt Street, Suites 503-507.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov*

Thank You.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

## Whitney, Chris

**From:** John Kavanaugh <ocs1062@cox.net>
**Sent:** Monday, February 01, 2016 10:39 AM
**To:** Whitney, Chris
**Cc:** Howard, Oneiceia
**Subject:** Re: new Planning Commission applications - 503 Botetourt St, Suites 503-507

My bad Chris. I have two from you and wanted to get the on in since I knew it was close. We had to wait for one of the condominium boards to meet. Ironically I am now sitting in Cure! Again we have no problem with their expansion. They have turned into good neighbors

Sent from my iPhone

On Feb 1, 2016, at 10:11 AM, Whitney, Chris <Chris.Whitney@norfolk.gov> wrote:

> Good morning Mr. Kavanaugh,
>
> Thank you for your response. I just wanted to make sure the FSAA has the correct information on this one – this application is for the Cure's expansion into an adjacent suite. I see your reference to a pizza place, and I believe you may be thinking of Humboldt Steel Corp. II, which was an item on January's Planning Commission agenda. Please let me know if there was indeed a mix-up here or if you are fully aware of the Cure's request and there is no issue.
>
> Sincerely,
>
> Chris Whitney, CFM
> Management Analyst I
> Department of City Planning
> 757-823-1253
>
> **From:** Jack Kavanaugh [mailto:ocs1062@cox.net]
> **Sent:** Thursday, January 28, 2016 3:06 PM
> **To:** Straley, Matthew <Matthew.Straley@norfolk.gov>
> **Cc:** Whibley, Terry <Theresa.Whibley@norfolk.gov>; Winn, Barclay <barclay.winn@norfolk.gov>; Howard, Oneiceia <Oneiceia.Howard@norfolk.gov>; Whitney, Chris <Chris.Whitney@norfolk.gov>
> **Subject:** RE: new Planning Commission applications - 503 Botetourt St, Suites 503-507
> **Importance:** High
>
> Mr. Straley, FSAA has no issues with the pizza place
>
> ---
>
> **From:** Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
> **Sent:** Wednesday, January 13, 2016 1:01 PM
> **To:** ocs1062@cox.net
> **Cc:** Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
> **Subject:** new Planning Commission applications - 503 Botetourt St, Suites 503-507
>
> Mr. Kavanaugh,

Attached please find the application to amend a previously granted special exception to operate an entertainment establishment with alcoholic beverages at 503 Botetourt Street, Suites 503-507.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov*

Thank You.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

## Simons, Matthew

**From:** Lucy Stoll <lucyelizabethstoll@gmail.com>
**Sent:** Thursday, February 18, 2016 8:27 AM
**To:** Whitney, Chris
**Subject:** Cure coffeehouse

**Follow Up Flag:** Follow up
**Flag Status:** Flagged

Chris,

Although I cannot attend the Planning Commission meeting regarding the expansion of Cure, I would like to express my support for their application. Cure is a fantastic aspect of our neighborhood, and I look forward to their expansion and being able to grab a seat during their busy hours!

Thank you!

Lucy Stoll
429 W York St 2A

Sent from my iPhone

THE CITY OF NORFOLK
CITY PLANNING

C: Dir., Department of City Planning

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

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

Subject: **Special Exception to operate a Used Merchandise Sales establishment – 7924 Chesapeake Boulevard, Suite A – Lost & Found Treasures**

Reviewed: _____
Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward**: 5/6

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-4**

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

II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception to operate a Used Merchandise Sales establishment.

IV. **Applicant:** **Lost & Found Treasures**

V. **Description:**

- The site is located within the Bayview Plaza shopping center, which is on the northeast corner of Chesapeake Boulevard and East Little Creek Road, within the southeastern section of the South Bayview neighborhood, across from the Crossroads neighborhood.
- This request would allow a new business, Lost & Found Treasures, to operate a used merchandise establishment within a suite of the shopping center.

| | Proposed |
|---|---|
| Hours of Operation | 9:00 a.m. until 6:00 p.m.,<br>Monday through Thursday<br>9:00 a.m. until 9:00 p.m.,<br>Friday and Saturday<br>Closed Sunday |

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated February 25, 2016 with attachments
- Letter of support – South Bayview Civic League
- Proponents and Opponents
- Ordinance

**Proponents and Opponents**

**Proponents**
Dennis Shy – Applicant
7924-A Chesapeake Boulevard
Norfolk, VA 23518

**Opponents**
None

THE CITY OF NORFOLK
CITY PLANNING

**Planning Commission Public Hearing: February 25, 2016**
Executive Secretary: George M. Homewood, AICP, CFM
Planner: Matthew Simons, AICP, CZA, CFM

| **Staff Report** | **Item No. 7** | |
|---|---|---|
| **Address** | **7924 Chesapeake Boulevard, Suite A** | |
| **Applicant** | **Lost & Found Treasures** | |
| **Request** | **Special Exception** | **Used merchandise sales** |
| **Property Owner** | Seventy-Nine Fifty Associates | |
| **Site Characteristics** | Site/Building Area | 2.2 acres/2,246 sq. ft. (proposed) |
| | Future Land Use Map | Commercial |
| | Zoning | C-2 (Corridor Commercial) |
| | Neighborhood | South Bayview/Crossroads |
| | Character District | Suburban |
| **Surrounding Area** | North | R-6 (Single-Family): single-family homes |
| | East | R-7 (Single-Family): single-family homes |
| | South | C-2: NowCare, Dawg Shack, Harbor Inn, El Gavilan Pupuseria, retail shops |
| | West | C-2: Superspray Car Wash, Barber's Home Improvements, CVS Pharmacy |

**A. Summary of Request**

- The site is located within the Bayview Plaza shopping center, which is on the northeast corner of Chesapeake Boulevard and East Little Creek Road, within the southeastern section of the South Bayview neighborhood, across from the Crossroads neighborhood.
- This request would allow a new business, Lost & Found Treasures, to operate a used merchandise establishment within a suite of the shopping center.

**B. Plan Consistency**

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as commercial.

**C. Zoning Analysis**

**i.** General

- The use is permitted in the C-2 district by special exception.
- The site is located along a commercial corridor with limited residential exposure to the north and east.
- The attached conditions ensure compliance with *plaNorfolk2030* and all *Zoning Ordinance* requirements.

| | Proposed |
|---|---|
| Hours of Operation | 9:00 a.m. until 6:00 p.m.,<br>Monday through Thursday<br>9:00 a.m. until 9:00 p.m.,<br>Friday and Saturday<br>Closed Sunday |

**ii.** Parking

- The proposed establishment is located within the Bayview Plaza shopping center, which, given the square footage of the two structures, requires 100 parking spaces to meet current parking standards.
    - The shopping center is developed with 130 parking spaces, which is sufficient to accommodate the nine spaces needed for the proposed use.

**iii.** Flood Zone

The property is located in the X Flood Zone, which is a low-risk flood zone.

**D. Transportation Impacts**

- No new trips are forecast related to the proposed change of retail use at this existing commercial location.
- Chesapeake Boulevard adjacent to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

**E. Historic Resources Impacts**

The site is not located within a federal, state, or local historic district.

**F. Public Schools Impacts**

The site is located in the Crossroads Elementary School, the Azalea Middle School and Norview High School districts.

**G. Environmental Impacts**

- The applicant has agreed to make landscaping improvements to the site to bring the site closer to conformance with the landscaping and buffering requirements in the *Zoning Ordinance*.
  - A landscape island will be installed in the existing parking lot, to include one tree and three shrubs with species, spacing, and height upon installation to be determined by the City's Department of Recreation, Parks and Open Space.
  - The new landscape island will also reduce the imperviousness of the site, which will reduce stormwater runoff.

**H. Surrounding Area/Site Impacts**

- Over the past year there have been one call for police service with no arrest made.
- By requiring this use to conform to the conditions listed below, the proposed establishment should not have a negative effect on the surrounding neighborhood.

**I. Payment of Taxes**

The owner of the property is current on all real estate taxes.

**J. Civic League**

- Notice was sent to the South Bayview, Crossroads and Oakwood Civic Leagues on January 13.
- The applicant contacted the civic leagues on January 6.

**K. Communication Outreach/Notification**

- Legal notice was posted on the property on January 19.
- Letters were mailed to all property owners within 300 feet of the property on February 11.
- Legal notification was placed in *The Virginian-Pilot* on February 11 and 18.

**L. Recommendation**

Staff recommends **approval** of the special exception request, considering compliance with *Zoning Ordinance* requirements, subject to the conditions below:

(a) Prior to the issuance of any business license for the used merchandise sales establishment, landscaping shall be installed and shall conform to the standards in accordance with the landscape plan attached hereto and marked as "Exhibit A," subject to any revisions as may be required by the City's Landscape Architect within the Department of Recreation, Parks and Open Space.

(b) All landscaping installed on the premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(c) No merchandise shall be left, dropped off, stored or displayed outdoors.

(d) There shall be no auctions for the sale of merchandise.

(e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.

(f) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

(g) The property shall be kept in a clean and sanitary condition at all times.

(h) The establishment shall maintain a current, active business license at all times while in operation.

**Attachments**

Location Map
Zoning Map
1000' radii map of similar establishments
Application
Notice to the Civic Leagues

**Proponents and Opponents**

**Proponents**
Dennis Shy – Applicant
7924-A Chesapeake Boulevard
Norfolk, VA 23518

**Opponents**
None

02/24/2016 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 OPERATE A USED MERCHANDISE SALES ESTABLISHMENT NAMED "LOST AND FOUND TREASURES" ON PROPERTY LOCATED AT 7924 CHESAPEAKE BOULEVARD, SUITE A.

- - -

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

Section 1:- That a Special Exception is hereby granted to permit the operation of a used merchandise sales establishment named "Lost and Found Treasures" on property located at 7924 Chesapeake Boulevard, Suite A. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 303 feet, more or less, along the eastern line of Chesapeake Boulevard, 292 feet, more or less, along the southern line of Eagle Avenue, and 327 feet, more or less, along the western line of Lion Avenue; premises numbered 7924 Chesapeake Boulevard, Suite A.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The hours of operation shall be limited to 9:00 a.m. until 6:00 p.m. Monday through Thursday, 9:00 a.m. until 9:00 p.m. on Friday and Saturday, and closed Sunday. No operation of this facility outside of these hours is allowed.

(b) Landscaping shall be installed in conformance with the landscape plan attached hereto and marked as "Exhibit A," subject to any revisions as may be required by the City's Landscape Architect with the Department of Recreation, Parks and Open Space. No business license shall be issued for any use of the property as a used merchandise sales establishment until this condition has been complied with in its entirety.

(c) All landscaping installed on the premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(d) No merchandise shall be left, dropped off, stored or displayed outdoors.

(e) There shall be no auctions for the sale of merchandise.

(f) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.

(g) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, and both solid and liquid waste.

(h) The property shall be kept in a clean and sanitary condition at all times.

(i) The establishment shall maintain a current, active business license at all times while in operation.

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 section 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;

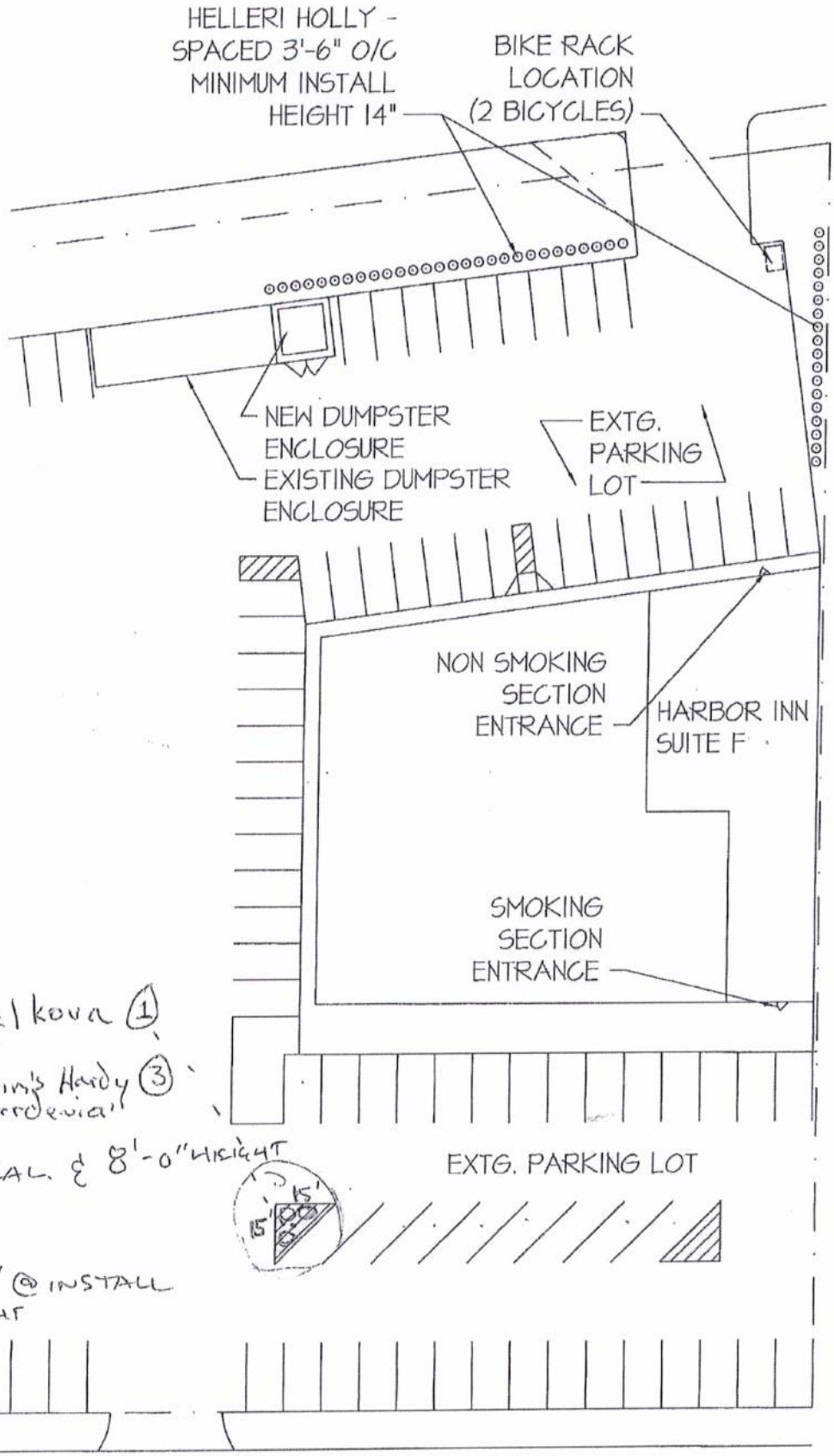
(j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and

(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.

ATTACHMENT:
Exhibit A (1 page)

**Exhibit A**




Tree = Zelkova (1) in middle

Shrubs = Kleim's Hardy (3) "Gardenia"

TREE - 2½" CAL. & 8'-0" HEIGHT

SHRUBS - 18" @ INSTALL HEIGHT

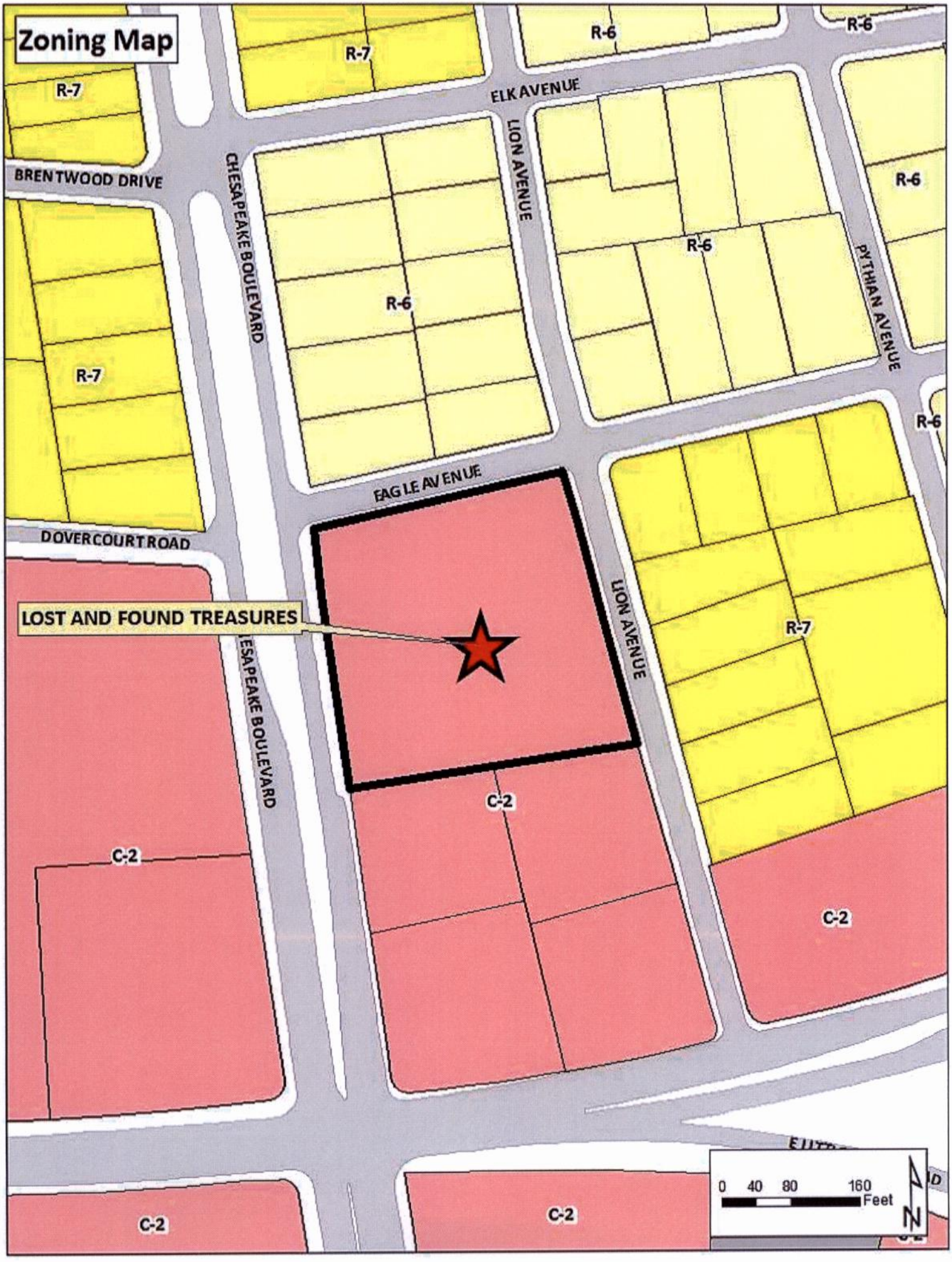
7924 CHESAPEAKE BOULEVARD ARCH. SITE PLAN

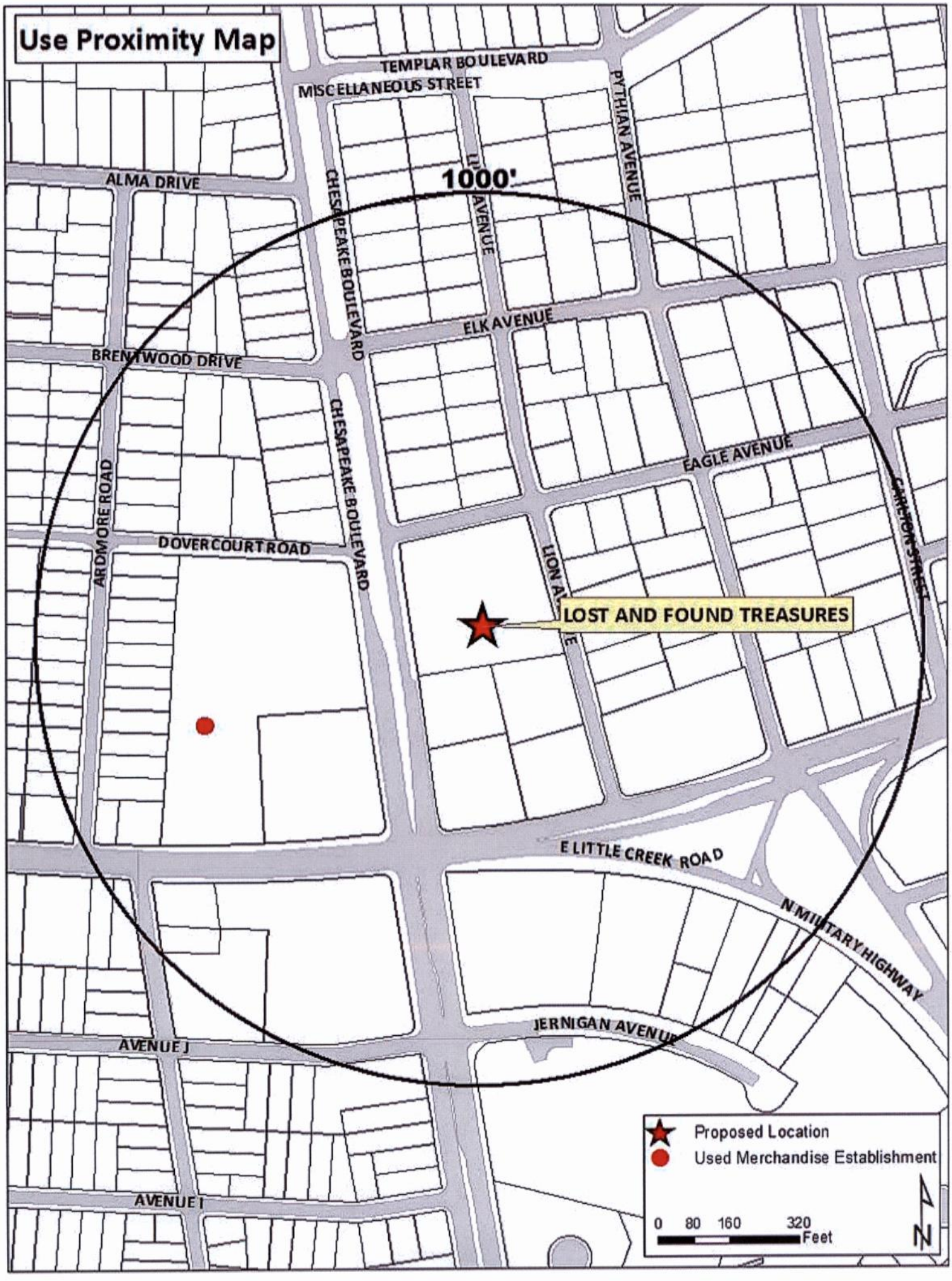
1" = 40'

Tree - Zelkova Green Vase ) Allee Elm

Shrub - Kleim's Hardy ) Helleri Holly ) Daruma = Loropetalum

Location Map
LION AVENUE
EAGLE AVENUE
LION AVENUE
CHESAPEAKE BOULEVARD
CHESAPEAKE BOULEVARD
LOST AND FOUND TREASURES
0 15 30 60
Feet
N


Zoning Map
R-7
R-7
R-6
R-6
ELK AVENUE
BRENTWOOD DRIVE
CHESAPEAKE BOULEVARD
LION AVENUE
R-6
R-6
PYTHIAN AVENUE
R-6
R-7
R-6
EAGLE AVENUE
DOVER COURT ROAD
LOST AND FOUND TREASURES
LION AVENUE
R-7
CHESAPEAKE BOULEVARD
C-2
C-2
C-2
C-2
C-2
0 40 80 160 Feet
N


Use Proximity Map
TEMPLAR BOULEVARD
MISCELLANEOUS STREET
PYTHIAN AVENUE
1000'
ALMA DRIVE
CHESAPEAKE BOULEVARD
ELK AVENUE
BRENTWOOD DRIVE
EAGLE AVENUE
ARDMORE ROAD
DOVERCOURT ROAD
LOST AND FOUND TREASURES
E LITTLE CREEK ROAD
N MILITARY HIGHWAY
JERNIGAN AVENUE
AVENUE J
AVENUE I
Proposed Location
Used Merchandise Establishment
0 80 160 320
Feet
N

# APPLICATION
# SPECIAL EXCEPTION

**Special Exception for:** Used Merchandise Store

Date of application: 1-11-16

## DESCRIPTION OF PROPERTY

Property location: (Street Number) 7924-A (Street Name) Chesapeake Blvd

Existing Use of Property Retail

Current Building Square Footage 2,246

Proposed Use Thrift store/second hand Items. Gently used items, which we will be purchasing all of our items. We will not be accepting any donations.

Proposed Square Footage 2,246

Proposed Hours of Operation:

| | | |
|---|---|---|
| Weekday | From 9:00 | To 6:00 |
| Friday | From 9:00 | To 9:00 |
| Saturday | From 9:00 | To 9:00 |
| Sunday | From N/A | To N/A |

Trade Name of Business (If applicable) Lost & Found Treasures

**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)

1. Name of applicant: (Last) Shy (First) Dennis & Donna (MI) E/C

Mailing address of applicant (Street/P.O. Box): 8230 Carrene DR Apt A

(City) Norfolk (State) Va (Zip Code) 23518

Daytime telephone number of applicant (757) 725-2552 Fax ( )

E-mail address of applicant: dennisshy60@gmail.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) _____ (First) _____ (MI) _____

Mailing address of applicant (Street/P.O. Box): _____

(City) _____ (State) _____ (Zip Code) _____

Daytime telephone number of applicant ( ) _____ Fax ( ) _____

E-mail address of applicant: _____

**PROPERTY OWNER**
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

7950 Associates, LLP

3. Name of property owner: (Last) Kotarides (First) Alex (MI) P.

Mailing address of property owner (Street/P.O. box): 5601 Virginia Beach Blvd.

(City) Virginia Beach (State) VA (Zip Code) 23462

Daytime telephone number of owner (757) 461-1000 email: petea@kotarides.com

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

**CIVIC LEAGUE INFORMATION**

Civic League contact: Henry Brown

Date(s) contacted: 1/6/16

Ward/Super Ward information: ward 5 Tommy Smigiel / Super Ward 6 Barclay Winn

**REQUIRED ATTACHMENTS:**

- ✓ Required application fee, **$355.00** (if check, make payable to the City of Norfolk).
  - Application fee includes a non-refundable $5 technology surcharge.
- ✓ 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.

---

**CERTIFICATION:**

**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:**

**Print name:** _____ **Sign:** _____ / ____ / ____
(Property Owner) (Date)

**Print name:** Dennis E Shy / Donna C. Shy **Sign:** D E Shy / D Shy / ____ / ____ / ____
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

**Print name:** Atty Pete Kotarides **Sign:** Pete Kotarides / Jan 11, 2016
(Authorized Agent Signature) (Date)

## Simons, Matthew

**From:** Straley, Matthew
**Sent:** Wednesday, January 13, 2016 12:43 PM
**To:** 'garland.russell@verizon.net'; 'paul_harrison@verizon.net'; 'hankmech99@cox.net'; 'mjones176@cox.net'
**Cc:** Smigiel, Thomas; Winn, Barclay; Ransom, Carlton; Simons, Matthew
**Subject:** new Planning Commission application - 7924 Chesapeake Blvd, Suite A
**Attachments:** Lost_Found.pdf

Ms. Russell, Mr. Brown, Ms. Simpson-Jones:

Attached please find the application for a special exception to operate a used merchandise sales establishment at 7924 Chesapeake Boulevard, Suite A.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Matt Simons at (757) 664-4750, matthew.simons@norfolk.gov*

Thank you.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

**From:** Peggy & Garland Russell [mailto:garland.russell@verizon.net]
**Sent:** Friday, February 12, 2016 9:21 AM
**To:** Straley, Matthew
**Subject:** Re: new Planning Commission application - 7924 Chesapeake Blvd, Suite A

Matthew,

Mr. and Mrs. Shy have attended our civic meetings on two occasions, talked about their plans and answered questions concerning their business. Several of our members have visited the Lost and Found Treasures and all agreed that we have no objections to their business. Last evening at our regular meeting we voted unanimously in support of their establishment at 7924-A Chesapeake Blvd.

Peggy Russell, President
South Bayview Civic League

On 1/13/2016 12:42 PM, Straley, Matthew wrote:
Ms. Russell, Mr. Brown, Ms. Simpson-Jones:

Attached please find the application for a special exception to operate a used merchandise sales establishment at 7924 Chesapeake Boulevard, Suite A.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Matt Simons at (757) 664-4750, matthew.simons@norfolk.gov*

Thank you.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

City of NORFOLK

C: Dir., Department of City Planning

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

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

Subject: **Special Exception to operate a Commercial Drive-Through – 1805 Monticello Avenue – Wendy's Restaurant**

Reviewed: _____
Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward**: 2/6

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-5**

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

II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception to operate a Commercial Drive-Through.

IV. **Applicant:** **Wendy's Restaurant**

V. **Description:**

- This request would allow the existing restaurant, Wendy's, to demolish the existing building and construct a new building on the site.
  - Since the building and drive-through are being demolished, the site will now have to come into compliance by obtaining a special exception.
- In order to be fully consistent with *plaNorfolk2030*, the proposed building will be pulled to the street along the Monticello Avenue frontage, with at least 50% transparency, and a masonry wall will be installed along the Monticello Avenue frontage adjacent to the proposed parking area.
- The applicant will reduce the number of access driveways on Monticello Avenue from three to one, which will be a right-in/right-out only, thus improving roadway safety in this block.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated February 25, 2016 with attachments
- Letter of concern – Ghent Neighborhood League
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

**Planning Commission Public Hearing: February 25, 2016**

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Matthew Simons, AICP, CZA, CFM

| **Staff Report** | **Item No. 8** | |
|---|---|---|
| **Address** | **1805 Monticello Avenue** | |
| **Applicant** | **Wendy's Restaurant** | |
| **Request** | **Special Exception** | **Commercial drive-through** |
| **Property Owner** | Wendy's Properties, LLC | |
| **Site Characteristics** | Site/Building Area | 0.7 acre/2,599 sq. ft. (proposed) |
| | Future Land Use Map | Commercial |
| | Zoning | C-2 (Corridor Commercial) |
| | Neighborhood | Ghent Square |
| | Character District | Traditional |
| **Surrounding Area** | North | C-2: Doumar's BBQ |
| | East | C-2: Hope House Thrift store, Cook Out |
| | South | G-1 (Granby/Monticello Corridor Mixed Use): The Element apartments |
| | West | C-2: Old Point National Bank, Charlie's Café |

**A. Summary of Request**

- The site is located on the west side of Monticello Avenue, between 18th Street and East 19th Street.
- This request would allow the existing restaurant, Wendy's, to demolish the existing building and construct a new building on the site.
  - Since the building and drive-through are being demolished, the site will now have to come into compliance by obtaining a special exception.

**B. Plan Consistency**

- The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as commercial.
- The healthy and vibrant neighborhoods chapter of *plaNorfolk2030* calls for the city to promote the transition of the Monticello-Granby Corridor to a higher intensity mix of development types.
  - It further calls for the city to ensure that new development projects provide an active streetscape by providing first floor active uses, façades built to the right-of-way line, and at least 50% first floor transparency.
- In order to be fully consistent with *plaNorfolk2030*, the proposed special exception should be conditioned to require the building to be located at the Monticello Avenue frontage, with at least 50% transparency, and a masonry wall along the Monticello Avenue frontage adjacent to the proposed parking area.

**C. Zoning Analysis**

**i.** <u>General</u>

- The use is permitted in the C-2 district by special exception.
  - The existing building was constructed in 1984, before the *Zoning Ordinance* required a special exception for a commercial drive-through.
- The site is located along a commercial corridor with residential exposure to the south.
- The conceptual plan submitted by the applicant demonstrates compliance with *Zoning Ordinance* standards for a commercial drive-through.
- The attached conditions ensure compliance with the adopted general plan and all *Zoning Ordinance* requirements.

**ii.** <u>Parking</u>

- For an eating establishment of this size located within the Traditional Character District, the *Zoning Ordinance* requires that the site provides a minimum of 15 parking spaces and sufficient room to accommodate two bicycles.
  - The applicant proposes to provide 27 parking spaces.
  - The proposed number of parking spaces, based on the proposed square footage of the building, exceeds the parking maximum for commercial uses established in the *Zoning Ordinance*.
    - Prior to obtaining Site Plan approval, the applicant will be required to provide landscaping and stormwater improvements to offset the impervious parking proposed on the site.

iii. Flood Zone

- The majority of the property is located in the X (Shaded) flood zone, with two of the corners of the site located in the AE Flood Zone, which is a high risk flood zone.
  - The proposed redevelopment of the site will be reviewed under the Site Plan Review Process to ensure compliance with the Floodplain/Coastal Hazard Overlay District.

**D. Transportation Impacts**

- Institute of Transportation Engineers figures estimate that demolition and reconstruction of the existing restaurant with a drive-through on this site would be expected to generate 254 fewer trips on weekdays since the new establishment will be slightly more than 500 square feet smaller upon completion.
- Monticello Avenue adjacent to the site is not an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

**E. Historic Resources Impacts**

The site is not located within a federal, state, or local historic district.

**F. Public Schools Impacts**

The site is located in the Taylor Elementary School, Blair Middle School and Maury High School Districts.

**G. Environmental Impacts**

- The construction of a fast food restaurant with a drive-through lane should not adversely impact the surrounding uses.
- The proposed facility will undergo the Site Plan Review process, which will require all site development to adhere to the regulations of the *Zoning Ordinance*, including landscaping, vehicular circulation, and stormwater improvements.

**H. Surrounding Area/Site Impacts**

- Over the past year there have been 38 calls for police service with two arrests made.
  - The two arrests were related to a "man down" and a "person with a weapon."
- By requiring this use to conform to the conditions listed below, the proposed establishment should not have a negative effect on the surrounding neighborhood.

**I. Payment of Taxes**

The owner of the property is current on all real estate taxes.

**J. Civic League**

Notice was sent to the Ghent Neighborhood League, Ghent Square, Downtown Norfolk Civic League, Ghent Business Association and Downtown Norfolk Council on January 13.

**K. Communication Outreach/Notification**

- Legal notice was posted on the property on January 19.
- Letters were mailed to all property owners within 300 feet of the property on February 11.
- Legal notification was placed in *The Virginian-Pilot* on February 11 and 18.

**L. Recommendation**

Staff recommends **approval** of the special exception request, considering compliance with *Zoning Ordinance* requirements, subject to the conditions below:

(a) The site shall be designed generally in accordance with the conceptual site plan prepared by MSA, dated February 25, 2016, entitled, "Conceptual Site Layout Plan Options for Wendy's #895," attached hereto and marked as "Exhibit A," subject to the requirements of condition (b) below, and any revisions required by the city to be made during the Site Plan Review and building permit plan review processes.

(b) The site shall be limited to no more than two points of vehicular ingress and two point of egress. There may be a full ingress and egress driveway along 18th Street and a right-in only ingress and right-out only egress driveway along Monticello Avenue.

(c) The site shall be developed to reflect the general massing, materials, fenestration and design elements for the north, south, east and west side of the building as shown in the elevations entitled "Exterior Elevations," sheet A2.1, attached hereto and marked as "Exhibit B," subject to any revisions required by the City to be made during the Site Plan Review and building permit plan review processes.

(d) All landscaping installed on the premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.

(f) All nonconforming fences and signs on the site shall be removed.

(g) On-site lighting shall be directed and shielded so as not to cast glare onto any adjacent residential properties.

(h) Two bicycle parking spaces shall be provided on the site.

(i) Dumpsters shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the proposed building.

(j) The "I.C.S. Box," as indicated on the "Conceptual Site Layout Plan Options for Wendy's #895," will be covered with a material finish to complement the proposed building.

(k) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, solid waste, snow, ice, and any bodily discharge.

(l) The property shall be kept in a clean and sanitary condition at all times.

(m) The establishment shall maintain a current, active business license at all times while in operation.

(n) No business license shall be issued until conditions (a), (f), (g), (h), and (i) have all been implemented fully on the site.

**Attachments**

Location Map
Zoning Map
Application
Conceptual Site Plan
Elevations
Notice to the Civic Leagues and Business Associations

**Proponents and Opponents**

**Proponents**

Lisa Murphy – Representative, legal counsel
999 Waterside Drive, Suite 2100
Norfolk, VA 23510

Scott Jones – Applicant, Wendy's Restaurant
438 Telegraph Road
Alloway, NJ 08001

Greg Hayes, Representative, consulting engineer
8033 Rouse Drive
Virginia Beach, VA 23462

**Opponents**

None

02/24/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved: M.S.

By _____
DEPT.

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF A COMMERCIAL DRIVE-THROUGH FOR "WENDY'S" ON PROPERTY LOCATED AT 1805 MONTICELLO AVENUE.

- - -

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

Section 1:- That a Special Exception is hereby granted authorizing the operation of a Commercial Drive-Through for "Wendy's" on property located at 1805 Monticello Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 220 feet, more or less, along the western line of Monticello Avenue, 140 feet, more or less, along the northern line of 18th Street, and 140 feet, more or less, along the southern line of East 19th Street; premises numbered 1805 Monticello Avenue.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The site shall be designed generally in accordance with the conceptual site plan prepared by MSA, dated February 25, 2016, entitled "Conceptual Site Layout Plan Options for Wendy's #895," attached hereto and marked as "Exhibit A," subject to any revisions required by the city to be made during the site plan review and building permit plan review processes.

(b) The site shall be limited to no more than two points of vehicular ingress and two points of egress. There may be a full ingress and egress driveway along 18th Street and a right-in only ingress and right-out only egress driveway along Monticello Avenue.

(c) The site shall be developed to reflect the general

massing, materials, fenestration, and design elements for the building as shown in the elevations entitled "Exterior Elevations," sheet A2.1, attached hereto and marked as "Exhibit B," subject to any revisions required by the city to be made during the site plan review and building permit plan review processes.

(d) All landscaping installed on the premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.

(f) All nonconforming fences and signs on the site shall be removed.

(g) On-site lighting shall be directed and shielded so as not to cast glare onto any adjacent residential properties.

(h) Two bicycle parking spaces shall be provided on the site.

(i) All dumpsters shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the proposed building.

(j) The "I.C.S. Box," as identified on the conceptual site plan attached at "Exhibit A" will be covered with a material finish that complements the proposed building.

(k) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, and both solid and liquid waste.

(l) The property shall be kept in a clean and sanitary condition at all times.

(m) The establishment shall maintain a current, active business license at all times while in operation.

(n) No business license shall be issued until conditions (a), (f), (g), (h), and (i) have all been implemented fully on the site.

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 section 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.

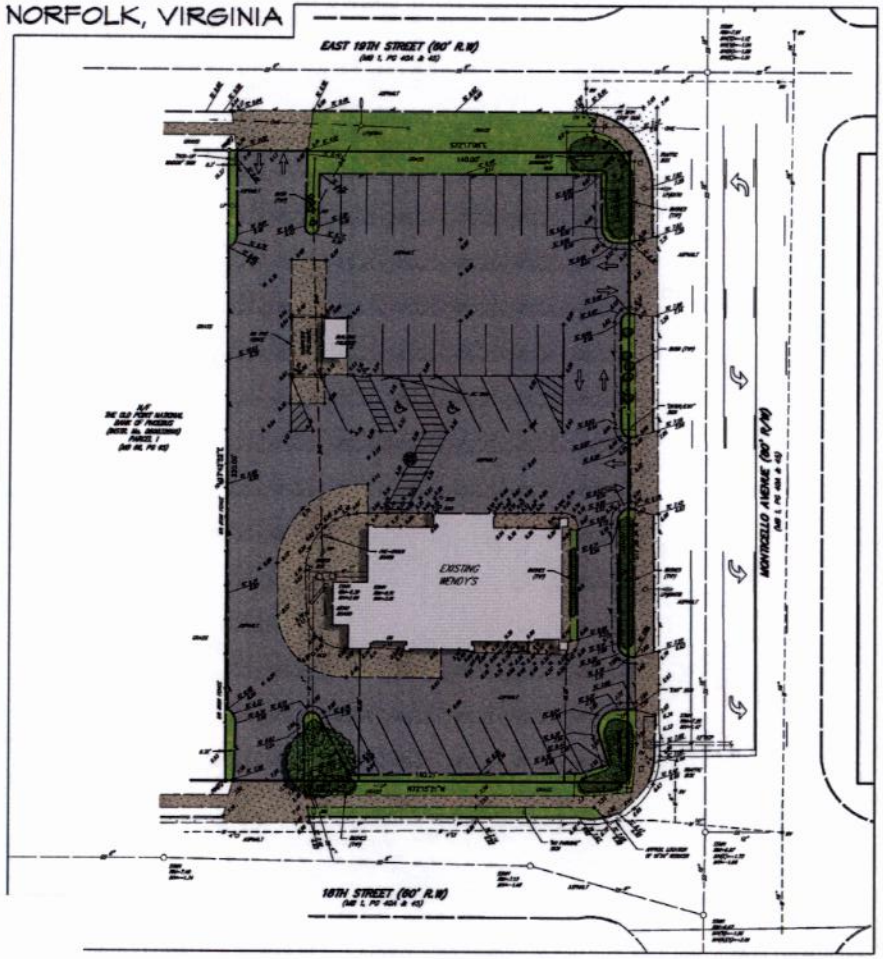
ATTACHMENTS:
Exhibit A (1 page)
Exhibit B (1 page)

CONCEPTUAL SITE LAYOUT PLAN FOR

# WENDY'S #895

1805 MONTICELLO AVENUE

NORFOLK, VIRGINIA




EXISTING

PROPOSED SITE PLAN

| | |
|---|---|
| SITE AREA: | ±30,828 SF OR 0.708 AC |
| ZONING: | C-2 (CORRIDOR COMMERCIAL DISTRICT PER ORDINANCE 45,548) |
| BUILDING SETBACKS: | |
| FRONT: | 10' |
| REAR: | 0' |
| SIDE ADJACENT TO STREET: | 0' |
| SIDE NOT ADJACENT TO STREET: | 0' |
| PARKING REQUIRED: | |
| EXISTING | 36 SPACES |
| REGULAR (1 SP/175 SF): | 15 SPACES MIN |
| MAXIMUM = 125% OF REQUIRED: | 19 SPACES MAX |
| HANDICAP: | 1 SPACE |
| PARKING PROVIDED: | |
| REGULAR: | 25 SPACES |
| HANDICAP: | 2 SPACES |
| | TOTAL: 27 SPACES |
| OPEN SPACE PROVIDED: | 5,807 SF = 18.2% |

20 0 20 40

1 INCH = 20 FT

DATE: 2/25/16

EXHIBIT FOR SPECIAL EXCEPTION

Exhibit A

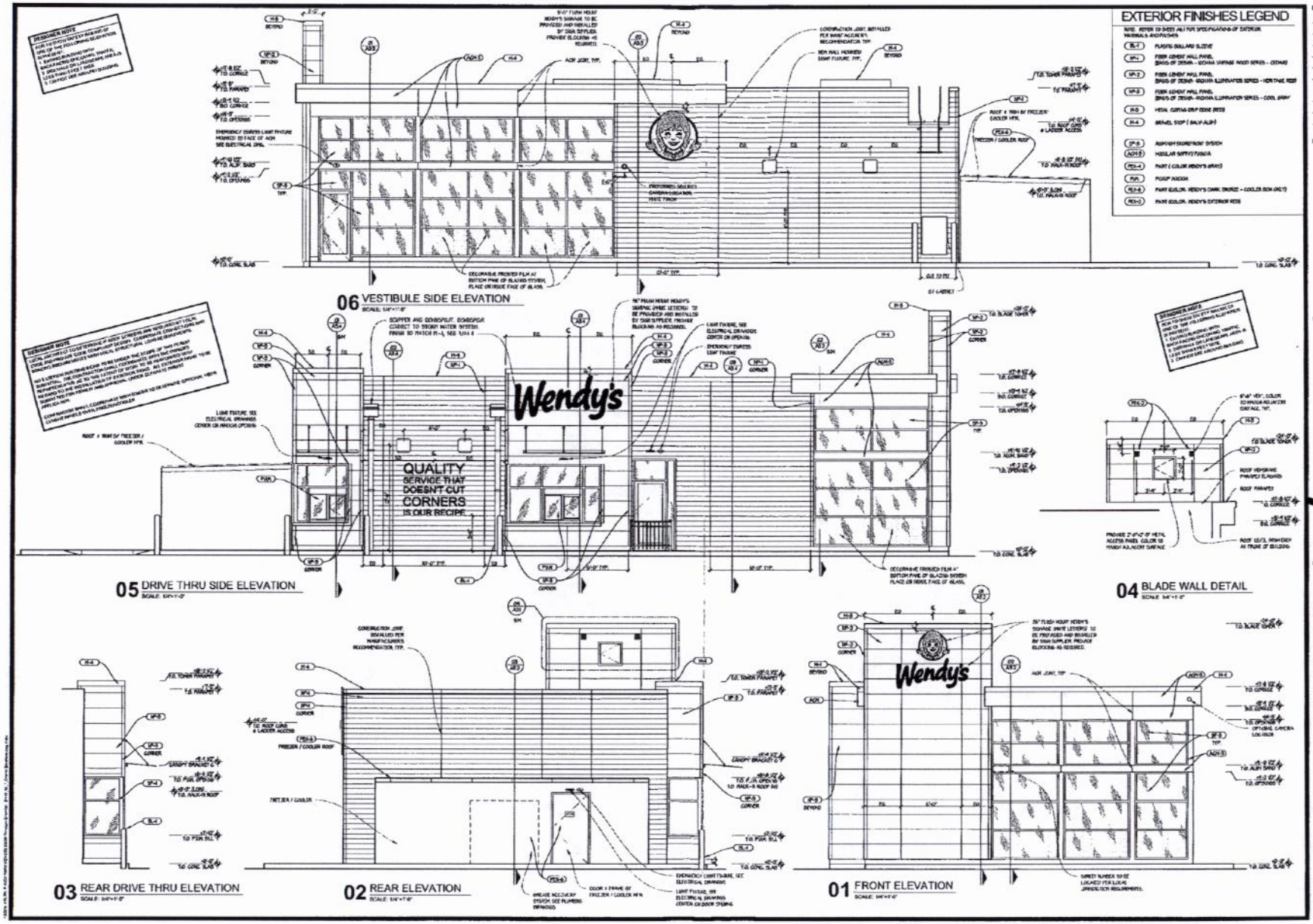

MSA, P.C.

Environmental Sciences • Planning • Surveying
Civil & Environmental Engineering • Landscape Architecture

5033 Rouse Drive, Virginia Beach, VA 23462
757-490-9264 (Ofc) 757-490-0634 (Fax)
www.msaonline.com


MSA PROJ. #13110N

Exhibit B




| | |
|---|---|
| SITE NUMBER: | 00000 |
| BASE MODEL: | USB SQE 55 |
| ASSET TYPE: | CONV/FRAN |
| CLASSIFICATION: | NEW/REMI |
| OWNER: | OWNER NAME |
| BASE VERSION: | XXXXXXXXX |
| UPGRADE CLASSIFICATION: | CONF. NEW BUILD |
| PROJECT YEAR: | 2016 |
| FURNITURE PACKAGE: | 2014 |
| DESIGN BULLETINS: | XXXXX |

PROJECT TYPE: USB SQE 55 NEW

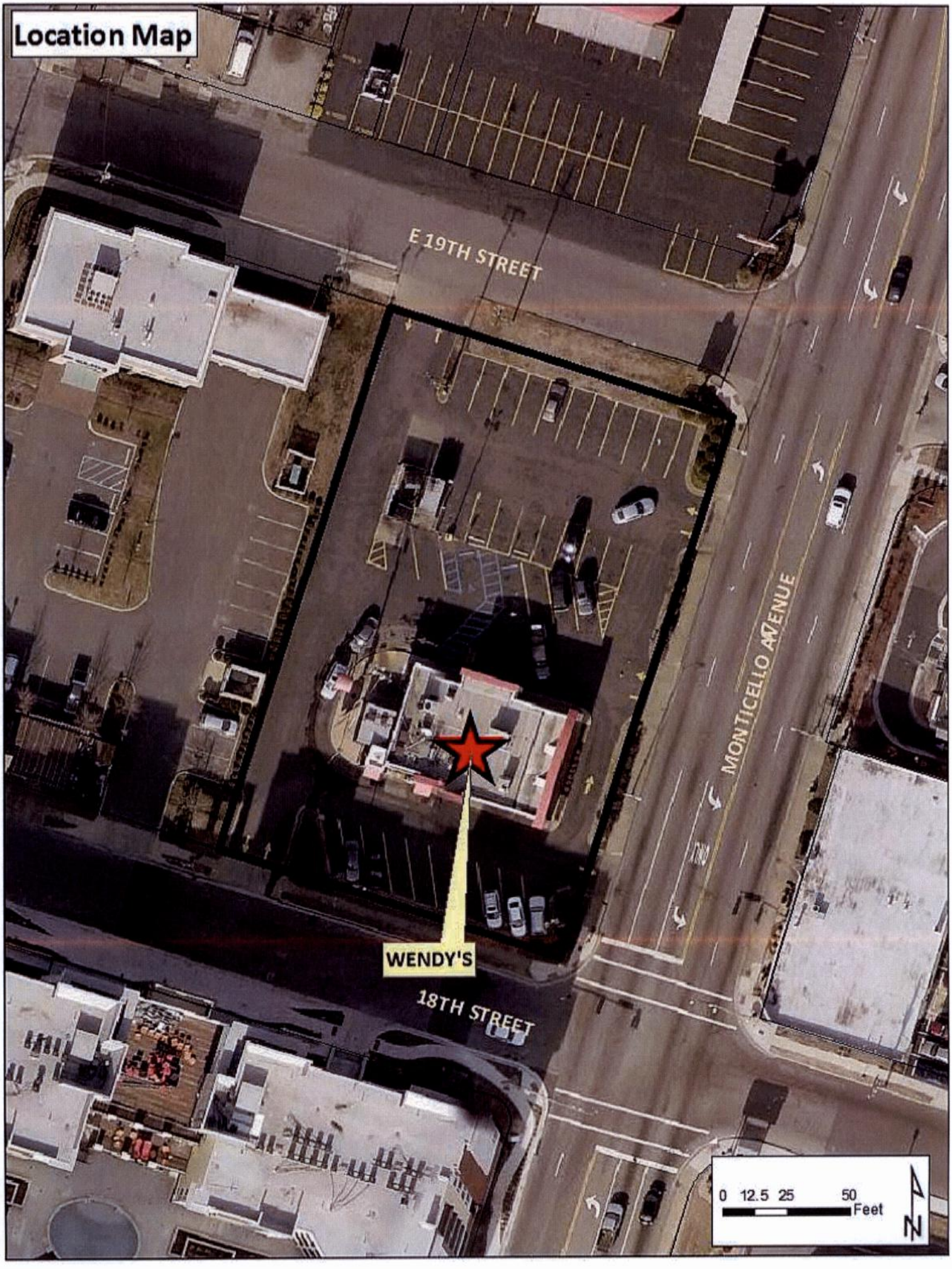
Wendy's

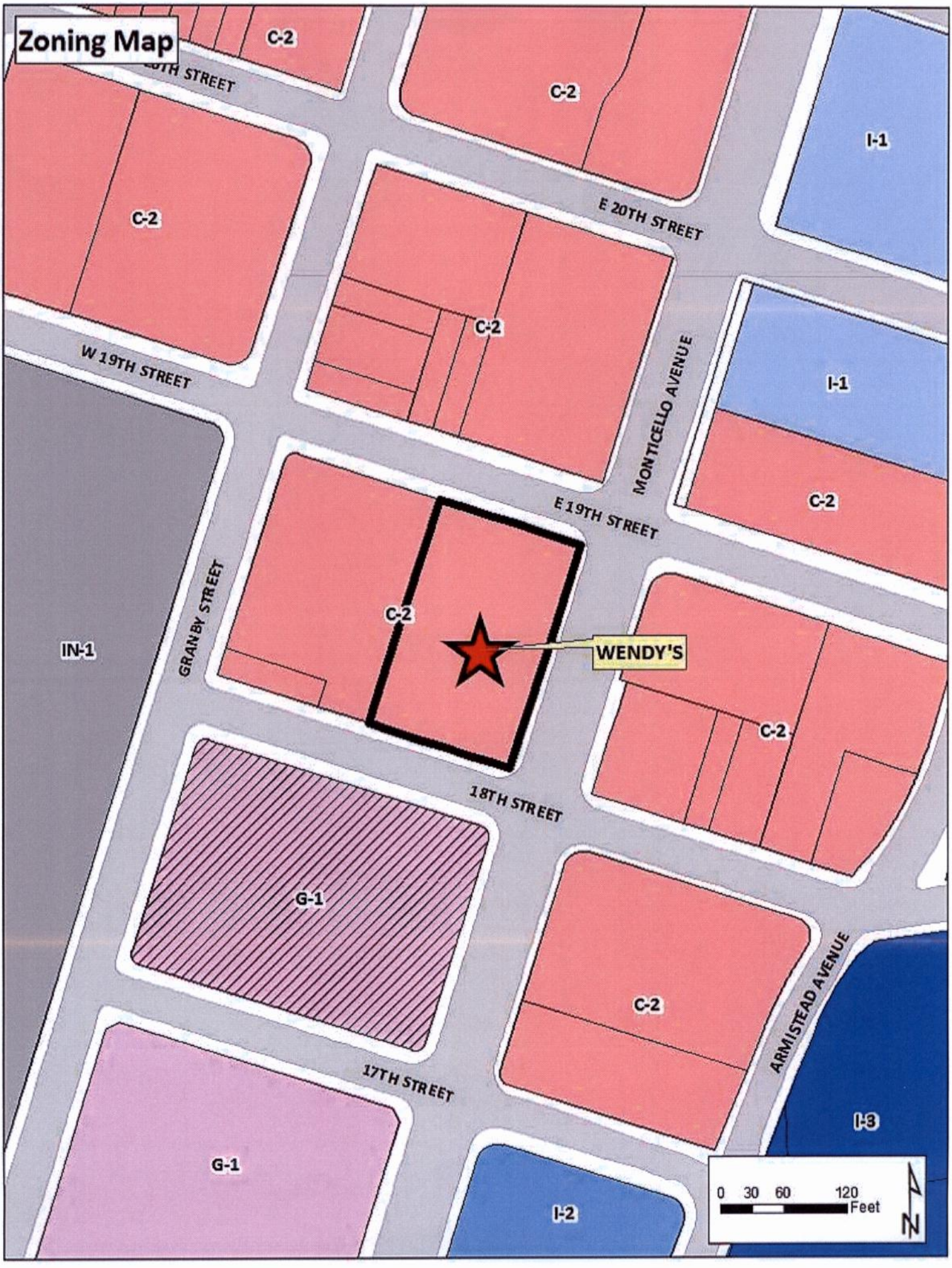
ADDRESS
CITY, STATE, ZIP CODE

DESIGN GUIDELINE ONLY - NOT FOR CONSTRUCTION

EXTERIOR ELEVATIONS

A2.1


Location Map
E 19TH STREET
MONTICELLO AVENUE
WENDY'S
18TH STREET
0 12.5 25 50
Feet
N


Zoning Map
C-2
E 20TH STREET
I-1
W 19TH STREET
MONTICELLO AVENUE
E 19TH STREET
GRANBY STREET
IN-1
WENDY'S
18TH STREET
G-1
17TH STREET
ARMISTEAD AVENUE
I-3
I-2
0 30 60 120
Feet
N

# APPLICATION
# SPECIAL EXCEPTION

**Special Exception for:** Restaurant with a drive-through

Date of application: January 8, 2016

## DESCRIPTION OF PROPERTY

Property location: (Street Number) 1805 (Street Name) Monticello Avenue

Existing Use of Property Wendy's Restaurant

Current Building Square Footage 3,110

Proposed Use

There is currently a 3,110 square foot Wendy's Restaurant with a drive-through. on the site. Wendy's is proposing to remove the existing restaurant and replace it with a 2,599 square foot Wendy's restaurant with a drive-through.

Proposed Square Footage 2,599

Proposed Hours of Operation:

Restaurant

| | | | | |
|---|---|---|---|---|
| Weekday | From | 10 a.m. | To | 10 p.m. |
| Friday | From | | To | |
| Saturday | From | | To | |
| Sunday | From | | To | |

Sunday through Thursday: 10 a.m. - 2 a.m. (Drive-Through)

Friday and Saturday: 10 a.m. to 3 a.m. (Drive-Through)

Trade Name of Business (If applicable) Wendy's Restaurant

**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)

**1.** Name of applicant: (Last) Wendy's Properties, LLC (First) _____ (MI) _____

Mailing address of applicant (Street/P.O. Box): 1 Dave Thomas Blvd.

(City) Dublin (State) OH (Zip Code) 43017-5452

Daytime telephone number of applicant (856) 275-1046 Fax (___) _____

E-mail address of applicant: Scott.Jones@Wendys.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) Murphy (First) Lisa (MI) M.

Mailing address of applicant (Street/P.O. Box): 999 Waterside Drive, Suite 2100

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of applicant (757) 217-4537 Fax (757) 624-3773

E-mail address of applicant: Lisa.Murphy@LeClairRyan.com

## PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

**3.** Name of property owner: (Last) Wendy's Properties, LLC (First) _____ (MI) _____

Mailing address of property owner (Street/P.O. box): 1 Dave Thomas Blvd.

(City) Dublin (State) OH (Zip Code) 43017-5452

Daytime telephone number of owner (856) 275-1046 email: Scott.Jones@Wendys.com

## CIVIC LEAGUE INFORMATION

Civic League contact: _____

Date(s) contacted: _____

Ward/Super Ward information: _____

**CERTIFICATION:**
**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:**

**Print name:** SCOTT H. JONES **Sign:** _____ 11/8/16
(Property Owner or Authorized Agent of Signature) (Date)

**Print name:** _____ **Sign:** _____ / _____ / _____
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

**Print name:** _____ **Sign:** _____ / _____ / _____
(Authorized Agent Signature) (Date)

## CIVIC LEAGUE INFORMATION

Civic League contact: No Civic League

Date(s) contacted: N/A

Ward/Super Ward information: Ward 2: Theresa Whibley / Superward 6: Barclay Winn

**CERTIFICATION:**
**I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:**

**Print name:**_____ **Sign:**_____/_____/_____
(Property Owner or Authorized Agent of Signature) (Date)

**Print name:**_____ **Sign:**_____/_____/_____
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

**Print name:** LISA Murphy **Sign:** Lisa Murphy 1/11/16
(Authorized Agent Signature) (Date)

**DEPARTMENT OF CITY PLANNING**
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

CITY OF NORFOLK
SPECIAL EXCEPTION APPLICATION FOR
A COMMERCIAL DRIVE-THRU
(WENDY'S PROPERTIES, LLC – 1805 MONTICELLO AVENUE)

**PROJECT DESCRIPTION**
**(Special Exception –Commercial Drive-Through)**

The applicant, Wendy's Properties, LLC ("Applicant") currently operates a 3,110 square foot Wendy's restaurant with a commercial drive-through on the subject parcel. The restaurant is permitted by right; however, the drive-through is a legal non-conforming use. As part of a national campaign to renovate and upgrade its existing restaurants, the Applicant submitted a site plan to staff for review in the fall of 2014 that would have involved demolishing the existing restaurant and replacing it with a new modern state of the art facility. At that time, staff advised the Applicant that because the drive-through was a legal non-conforming use, any redevelopment of the site would trigger the requirement that the Applicant obtain a special exception for the commercial drive-through.

The existing eating establishment with a commercial drive-thru has been in operation at this site for over thirty-two (32) years. The hours of operation and use of the site will remain unchanged; however, to conform with the aspirational guidelines of plaNorfolk2030 for the Monticello-Granby Corridor, the Applicant's redeveloped site will consist of a smaller restaurant in the northern corner of the parcel built to the right of way lines of Monticello Avenue and 19th Street with large windows providing over 50% first floor transparency. Of the three (3) existing curb cuts on Monticello Avenue only one (1) will remain, as will the existing curb cuts on 18th and 19th Streets. The new state of the art facility will have a pedestrian friendly patio, a bike rack and enhanced green space. The impact on adjoining parcels will remain the same. If approved, the removal and replacement of the existing Wendy's Restaurant with a commercial drive-through will result in the investment of over $1,750,000 in this property.

## Simons, Matthew

| | |
|---|---|
| **From:** | Straley, Matthew |
| **Sent:** | Wednesday, January 13, 2016 12:48 PM |
| **To:** | 'dncl@welovenorfolk.org'; Miller, Mary; 'info@ghentva.org'; 'Emily Birknes' |
| **Cc:** | Whibley, Terry; Winn, Barclay; Wilson, Denise; Simons, Matthew |
| **Subject:** | new Planning Commission application - 1805 Monticello Avenue |
| **Attachments:** | Wendys.pdf |

Mr. Murphy, Ms. Miller, Ms. Birknes:

Attached please find the application for a special exception to operate a commercial drive-through at 1805 Monticello Avenue.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Matt Simons at (757) 664-4750, matthew.simons@norfolk.gov*

Thank you.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

## Simons, Matthew

**From:** Straley, Matthew
**Sent:** Wednesday, January 13, 2016 1:58 PM
**To:** 'Ian_holder@ml.com'
**Cc:** Simons, Matthew
**Subject:** FW: new Planning Commission application - 1805 Monticello Avenue
**Attachments:** Wendys.pdf

Mr. Holder,

Attached please find the application for a special exception to operate a commercial drive-through at 1805 Monticello Avenue.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Matt Simons at (757) 664-4750, matthew.simons@norfolk.gov*

Thank you.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

## Simons, Matthew

**From:** Simons, Matthew
**Sent:** Wednesday, January 13, 2016 5:58 PM
**To:** 'ghentsquare@verizon.net'
**Cc:** Straley, Matthew (Matthew.Straley@norfolk.gov); 'Lisa.Murphy@LeClairRyan.com'; Whibley, Terry; Winn, Barclay; Wilson, Denise; Emily Birknes (emily@ghentva.org); dncl@welovenorfolk.org; 'Mary E. Miller'
**Subject:** FW: new Planning Commission application - 1805 Monticello Avenue
**Attachments:** Wendys.pdf

Ms., Lamkin,

Attached please find the application for a special exception to operate a commercial drive-through at 1805 Monticello Avenue.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.
Should you have any questions, please feel free to e-mail or call me *at (757) 664-4750, matthew.simons@norfolk.gov*

Thank you.

Matthew Simons, AICP, CZA, CFM
City of Norfolk, Department of City Planning
City Planner II – Land Use Services
757-664-4750

---

**From:** Straley, Matthew
**Sent:** Wednesday, January 13, 2016 12:48 PM
**To:** dncl@welovenorfolk.org; Miller, Mary; info@ghentva.org; Emily Birknes
**Cc:** Whibley, Terry; Winn, Barclay; Wilson, Denise; Simons, Matthew
**Subject:** new Planning Commission application - 1805 Monticello Avenue

Mr. Murphy, Ms. Miller, Ms. Birknes:

Attached please find the application for a special exception to operate a commercial drive-through at 1805 Monticello Avenue.

The item is tentatively scheduled for the February 25, 2016 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Matt Simons at (757) 664-4750, matthew.simons@norfolk.gov*

Thank you.

**Matthew Straley**
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

# Ghent Neighborhood League

Wednesday, February 24, 2016

Dear Norfolk Planning Commissioners:

The Ghent Neighborhood League recently received a copy of an application for Wendy's for a special exception to operate a drive thru upon completion of its proposed new building on its existing site.

The application was reviewed at our February 18, 2016 general membership meeting. Board Members, Members and Ghent residents in attendance were given an opportunity to provide input and to note any opposition to Wendy's pending application. No opposition was heard; however, there was a concern raised as to the impact this plan may have on Doumar's. As such, we would ask the Commission to ensure that the City has outreached to Doumar's about this pending application and has ensured that the planned changes do not result in impeding traffic on 19th Street or detracting from Doumar's, a Ghent and Norfolk institution.

We thank the Commission for the opportunity to provide neighborhood input on this pending application.

Regards,

Joan McEnery
Chairperson, Commercial Review Committee
Ghent Neighborhood League

C: Dir., Michael G. Goldsmith, Chief of Police

City of NORFOLK

**To the Honorable Council**
**City of Norfolk, Virginia**

From: Michael G. Goldsmith, Chief of Police

**Subject**: Donation of funds from Norfolk Southern Foundation to support the Norfolk Police Department

Reviewed: _____
Wynter C. Benda, Deputy City Manager

**Ward/Superward**: Citywide

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-6**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to accept and appropriate the sum of $10,000 from Norfolk Southern Foundation ("Norfolk Southern"). These funds will be used for the purchase of training, equipment and/or supplies to support the Norfolk Police Department ("NPD").

IV. **Analysis**
The donation in the amount of $10,000 is being provided to the NPD in appreciation for the services provided to the employees of Norfolk Southern, as well as, the community. Funds will be used to purchase items needed to provide services to the citizens of the City of Norfolk (the "city").

V. **Financial Impact**
Funds appropriated will not impact the city's general fund budget.

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

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

**IX. Coordination/Outreach**

This letter and ordinance have been coordinated with the Norfolk Police Department, Office of Budget and Strategic Planning and the City Attorney's Office.

Supporting documentation from the City Attorney's Office:

- Ordinance

1/26/16 - bjt

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Norfolk Police Department

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.

$ 10,000.00 2275-19-8103 bz
Account
Director of Finance 2/9/16 AMS
Date

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE ACCEPTING $10,000.00 FROM NORFOLK SOUTHERN FOUNDATION AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF $10,000.00 FOR THE PURCHASE OF TRAINING EQUIPMENT AND/OR SUPPLIES TO SUPPORT THE NORFOLK POLICE DEPARTMENT.

- - -

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

Section 1:- That a $10,000.00 grant award from Norfolk Southern Foundation for the purchase of training equipment and/or supplies to support the Norfolk Police Department is hereby accepted.

Section 2:- That $10,000.00 in grants funds are hereby appropriated and authorized to be expended for the purchase of training equipment and/or supplies to support the Norfolk Police Department, if and when the funds are made available from Norfolk Southern Foundation.

Section 3:- That this ordinance shall be in effect from and after the date of its adoption.

Norfolk Southern Foundation
Post Office Box 3040
Norfolk, Virginia 23514-3040
757/629-2881

**Katheryn Fletcher**
Executive Director

December 16, 2015

Mayor Paul D. Fraim
City of Norfolk
810 Union Street
City Hall Building, Suite 101
Norfolk, VA 23510

Dear Mayor Fraim,

Enclosed are two checks from the Norfolk Southern Foundation in the total amount of $20,000. This grant is to provide a $10,000 contribution for Fire & Rescue, and $10,000 donation for the Police Department. Norfolk Southern appreciates the work both of these groups do to keep our employees and communities safe.

Sincerely,

Katie Fletcher
Director of NS Foundation
Norfolk Southern Corporation

C: Dir., Jeffrey F. Wise, Fire Chief

City of NORFOLK

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

From: Jeffrey F. Wise, Fire Chief

**Subject**: Donation of funds from Norfolk Southern Foundation to support Norfolk Fire-Rescue

Reviewed: _____
Wynter C. Benda, Deputy City Manager

**Ward/Superward**: Citywide

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-7**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to accept and appropriate the sum of $10,000 from Norfolk Southern Foundation ("Norfolk Southern"). These funds will be used for the purchase of training, equipment and/or supplies to support Norfolk Fire-Rescue ("Fire-Rescue").

IV. **Analysis**
The donation in the amount of $10,000 is being provided to Fire-Rescue in appreciation for the services provided to the employees of Norfolk Southern, as well as, the community. Funds will be used to purchase items needed to provide services to the citizens of the City of Norfolk (the "city").

V. **Financial Impact**
Funds appropriated will not impact the city's general fund budget.

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

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

**IX. Coordination/Outreach**

This letter and ordinance have been coordinated with the Department of Norfolk Fire-Rescue, Office of Budget and Strategic Planning and the City Attorney's Office.

Supporting documentation from the City Attorney's Office:

- Ordinance

1/26/16 - bjt

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT: Department of Fire-Rescue

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.

$ 10,000.00 — 225220-8099 (Account)

Director of Finance — 2/9/16 (Date)

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE ACCEPTING $10,000.00 FROM NORFOLK SOUTHERN FOUNDATION AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF $10,000.00 FOR THE PURCHASE OF TRAINING EQUIPMENT AND/OR SUPPLIES TO SUPPORT THE DEPARTMENT OF FIRE-RESCUE.

- - -

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

Section 1:- That a $10,000.00 grant award from Norfolk Southern Foundation for the purchase of training equipment and/or supplies to support the Department of Fire-Rescue is hereby accepted.

Section 2:- That $10,000.00 in grants funds are hereby appropriated and authorized to be expended for the purchase of training equipment and/or supplies to support the Department of Fire-Rescue, if and when the funds are made available from Norfolk Southern Foundation.

Section 3:- That this ordinance shall be in effect from and after the date of its adoption.

Norfolk Southern Foundation
Post Office Box 3040
Norfolk, Virginia 23514-3040
757/629-2881

**Katheryn Fletcher**
Executive Director

December 16, 2015

Mayor Paul D. Fraim
City of Norfolk
810 Union Street
City Hall Building, Suite 101
Norfolk, VA 23510

Dear Mayor Fraim,

Enclosed are two checks from the Norfolk Southern Foundation in the total amount of $20,000. This grant is to provide a $10,000 contribution for Fire & Rescue, and $10,000 donation for the Police Department. Norfolk Southern appreciates the work both of these groups do to keep our employees and communities safe.

Sincerely,

Katie Fletcher
Director of NS Foundation
Norfolk Southern Corporation

C: Dir., Executive-Ryan White Grantee Administration

City of NORFOLK

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

From: Christine M. Carroll, Ryan White Program Manager

**Subject**: An Ordinance Approving and Accepting Part A/Ryan White Title I Funds from the U.S. Department of Health and Human Services

Reviewed: _____
Wynter C. Benda, Deputy City Manager

**Ward/Superward**: Citywide

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-8**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance authorizing the acceptance and appropriation of not less than $6,175,144.00 in federal grant funds for the Federal Fiscal Year 2016, from the U.S. Department of Health and Human Services for HIV/AIDS Health and Support Services in the Norfolk Transitional Grant Area ("TGA") as prioritized and allocated by the Greater Hampton Roads HIV/AIDS Health Services Planning Council.

IV. **Analysis**
Part A/Ryan White Title I funds provide emergency assistance to localities that are most severely impacted by the HIV/AIDS epidemic.

V. **Financial Impact**
The majority of grant funds are contracted out to "providers" who deliver a range of services to individuals living with HIV/AIDS within the Norfolk TGA including, but not limited to, Primary Medical Care, Dental Care, Mental Health Therapy, Substance Abuse Treatment and Medical Case Management. Grant funds are also used to provide administrative oversight to ensure legislative requirements.

VI. **Environmental**
N/A

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

**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 the Executive-Ryan White Grantee Administration and the City Attorney's Office.

Supporting Material from the Office of the City Attorney:

- Ordinance

01/25/16 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

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.

$ 6,175,144.00 2275-32-7020-9141
Account

Director of Finance 2/19/16
Date

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE AUTHORIZING THE CITY AS ADMINISTRATIVE AND FISCAL AGENT FOR THE NORFOLK TRANSITIONAL GRANT AREA (TGA) UNDER TITLE I OF THE RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY (CARE) ACT TO ACCEPT PART A GRANT FUNDS IN THE AMOUNT OF $6,175,144.00 FROM THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR HIV/AIDS HEALTH AND SUPPORT SERVICES AND APPROPRIATING AND AUTHORIZING EXPENDITURE OF THE GRANT FUNDS.

- - -

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

Section 1:- That acceptance of Part A grant funds in the amount of $6,175,144.00 from the U.S. Department of Health and Human Services for HIV/AIDS health and support services within the Norfolk Transitional Grant Area, as prioritized and allocated by the Greater Hampton Roads HIV/AIDS Health Services Planning Council ("Planning Council"), by the City as the administrative and fiscal agent for the TGA under Title I of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, is hereby authorized.

Section 2:- That the sum of $6,175,144.00 in grant funds is hereby appropriated and authorized for expenditure, when made available from the U.S. Department of Health and Human Services for HIV/AIDS health and support services, as prioritized and allocated by the Planning Council.

Section 3:- That this ordinance shall be in effect from and after its adoption.

# NORFOLK

*Office of the City Attorney*

BERNARD A. PISHKO
City Attorney
WAYNE RINGER
MARY L. NEXSEN
NATHANIEL BEAMAN IV
MARTHA P. McGANN
CYNTHIA B. HALL
JACK E. CLOUD
HEATHER A. MULLEN
DEREK A. MUNGO
TAMELE YVETTE HOBSON
NADA N. KAWWASS
ADAM D. MELITA
MICHELLE G. FOY
MATTHEW P. MORKEN
HEATHER L. KELLEY
ERIKKA M. MASSIE
ZACHARY A. SIMMONS
KARLA J. SOLORIA
ALEX H. PINCUS

March 15, 2016

To the Honorable Council
City of Norfolk, Virginia

Re: Tax Overpayment
Golf Management, Inc.

**R-9**

Dear Ladies and Gentlemen:

Attached please find an ordinance directing the City Treasurer to issue a refund to Golf Management, Inc. in the amount of $3,824.64 based upon the overpayment of its Admissions Tax for the year 2015, resulting in a refund due of $3,824.64, plus interest.

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

2/5/2016mr

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Commissioner of the Revenue

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.

$ 3824.64 1000-104-010-9136
Account

_____ 2/24/16
Director of Finance Date

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE DIRECTING THE CITY TREASURER TO ISSUE A REFUND TO GOLF MANAGEMENT, INC. BASED UPON THE OVERPAYMENT OF ADMISSION TAXES FOR THE YEAR 2015.

- - -

WHEREAS the Commissioner of the Revenue has determined that admission taxes were erroneously overpaid by Golf Management, Inc. for the year 2015, and has corrected this assessment in accordance with Virginia Code § 58.1-3981; and

WHEREAS the Commissioner of the Revenue has certified with the consent of the City Attorney that the aforementioned taxpayer paid all taxes due on the erroneous assessment and is entitled to a refund of excess taxes paid based on the corrected assessment in the amount of $3,824.64, plus interest; now, therefore

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

Section 1:- That $3,824.64 is hereby appropriated for a refund to Golf Management, Inc. for the year 2015.

Section 2:- That the Treasurer of the City of Norfolk is hereby directed to issue a refund to Golf Management, Inc. in the amount specified above as soon as practicable upon passage of this ordinance.

Section 3:- That this ordinance shall be in effect from and after its adoption.

**Norfolk Commissioner of the Revenue**
**Certification and Request for the Refund**
**Of Previously Paid Tax to:**

**Golf Management, Inc.**

**Account Number**
**850669/917278**

**January 29, 2016**

**Overview:**

The above taxpayer overpaid the city's admission tax. The taxpayer entered an incorrect total for the gross receipts. The taxpayer entered the entire gross receipts on the tax line of the coupon. The correct amount of the tax is 10% of $4,249.60 equaling $424.96. The balance of the payment, $3,824.64, should be refunded to the taxpayer.

In compliance with ***Norfolk Code § 24-7***, the Commissioner of the Revenue's files pertaining to this request are available for inspection by the City Attorney.

**Fiscal Impact:**

This refund reduces admission tax revenue by **$3,824.64** for the 2016 fiscal year.

**Conclusion:**

It is recommended that the City Attorney consent to the issuance of the refund and call for City Council to direct the City Treasurer to refund the admission tax overpayment of **$3,824.64.**

**Certification**

**I, C. Evans Poston, Jr., Commissioner of the Revenue for the City of Norfolk, certify that the above named company is due a refund in the amount of $3,834.64 as specified by *Virginia Code §58.1-3981* due to the overpayment of Admission *Taxes.***

C. Evans Poston, Jr., Commissioner of the Revenue — Date: 2-3-16

Bernard Pishko, City Attorney — Date: 2/19/16

NORFOLK

*Office of the City Attorney*

BERNARD A. PISHKO
City Attorney
WAYNE RINGER
MARY L. NEXSEN
NATHANIEL BEAMAN IV
MARTHA P. McGANN
CYNTHIA B. HALL
JACK E. CLOUD
HEATHER A. MULLEN
DEREK A. MUNGO
TAMELE YVETTE HOBSON
NADA N. KAWWASS
ADAM D. MELITA
MICHELLE G. FOY
MATTHEW P. MORKEN
HEATHER L. KELLEY
ERIKKA M. MASSIE
ZACHARY A. SIMMONS
KARLA J. SOLORIA
ALEX H. PINCUS

March 15, 2016

To the Honorable Council
City of Norfolk, Virginia

Re: Tax Overpayment
LogistiCare Solutions, LLC

**R-10**

Dear Ladies and Gentlemen:

Attached please find an ordinance directing the City Treasurer to issue a refund to LogistiCare Solutions, LLC in the amount of $20,314.36 based upon the overpayment of its Business License Tax for the year 2015, resulting in a refund due of $20,314.36, plus interest.

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

2/5/2016mr

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Commissioner of the Revenue

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.

$ 20314.36 1000 104 010 4101
Account

Director of Finance 2/24/16
Date

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE DIRECTING THE CITY TREASURER TO ISSUE A REFUND TO LOGISTICARE SOLUTIONS, LLC BASED UPON THE OVERPAYMENT OF ITS BUSINESS LICENSE TAX FOR THE YEAR 2015.

- - -

WHEREAS the Commissioner of the Revenue has determined that the business license tax was erroneously overpaid by LogistiCare Solutions, LLC for the year 2015, and has corrected this assessment in accordance with Virginia Code § 58.1-3981; and

WHEREAS the Commissioner of the Revenue has certified with the consent of the City Attorney that the aforementioned taxpayer paid all taxes due on the erroneous assessment and is entitled to a refund of excess taxes paid based on the corrected assessment in the amount of $20,314.36, plus interest;

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

Section 1:- That $20,314.36 is hereby appropriated for a refund to LogistiCare Solutions, LLC for the year 2015.

Section 2:- That the Treasurer of the City of Norfolk is hereby directed to issue a refund to LogistiCare Solutions, LLC in the amount specified above as soon as practicable upon passage of this

ordinance.

Section 3:- That this ordinance shall be in effect from and after its adoption.

**Norfolk Commissioner of the Revenue**
**Certification and Request for the Refund**
**Of Previously Paid Tax to:**

**LogistiCare Solutions, LLC**
**Account Number**
**70482/037101**

**January 25, 2016**

**Overview:** Logisticare Solutions, LLC ceased business operations on August 31, 2015. The taxpayer is requesting a refund based on Virginia Code § 58.1-3710. The pro-rated refund equals $20,314.36.

In compliance with ***Norfolk Code § 24-7***, the Commissioner of the Revenue's files pertaining to this request are available for inspection by the City Attorney.

**Fiscal Impact:**

This refund reduces business license tax revenue by **$20,314.36** for the 2016 fiscal year.

**Conclusion:**

It is recommended that the City Attorney consent to the issuance of the refund and call for City Council to direct the City Treasurer to refund the business license overpayment of **$20,314.36.**

**Certification**

**I, C. Evans Poston, Jr., Commissioner of the Revenue for the City of Norfolk, certify that the above named company is due a refund in the amount of $20,314.36 as specified by *Virginia Code §58.1-3981* due to the overpayment of Business License Taxes.**

C. Evans Poston, Jr., Commissioner of the Revenue — 2-3-16 Date

Bernard Pishko, City Attorney — 2/19/16 Date

City of NORFOLK

C: Dir., Department of Development

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

From: Jared Chalk, Assistant Director of Development

**Subject**: An ordinance authorizing the City of Norfolk to enter into a performance agreement with the EDA and ADP, LLC in order to facilitate a grant from the Commonwealth Opportunity Fund

Reviewed: _____
Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward**: 2/6

Approved: _____
Marcus D. Jones, City Manager

**Item Number:** **R-11**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** ADP, LLC.

III. **Description:**
This agenda item is an ordinance to authorize the City of Norfolk (the "city") to enter into a performance agreement with the Economic Development Authority (the "EDA") of the City of Norfolk and ADP, LLC ("ADP") in order to facilitate a grant from the Commonwealth Opportunity Fund.

IV. **Analysis**
ADP, a leading global provider of human capital management solutions, is considering the relocation of a significant number of professional service jobs. The City expects to receive $5 million from the Commonwealth Opportunity Fund ("COF Grant") through the Virginia Economic Development Partnership. This grant will be paid to the EDA with the expectation that the EDA will provide the funds to ADP.

V. **Financial Impact**
ADP will provide a capital investment of approximately $32.5 million which will provide for the equipping, improving and operating of an office and operations facility in the city. ADP will also create at least 1,800 new jobs in Downtown Norfolk. This COF Grant will be matched with a local performance based grant from the City. Funds for the performance based grant will be generated by the tax revenues from ADP's operations in Norfolk.

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's agenda notification process.

**VIII. Board/Commission Action**

N/A

**IX. Coordination/Outreach**

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

Supporting Material from the City Attorney's Office:

- Ordinance
- Performance Agreement

3/2/2016mr

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. of Development

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.

$ 5,000,000.00 22152 9149 9149
Account

Director of Finance 3/10/16
Date

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE AUTHORIZING THE CITY OF NORFOLK TO ENTER INTO A PERFORMANCE AGREEMENT WITH THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NORFOLK AND ADP, LLC.

– – –

WHEREAS, the City of Norfolk (the "City") expects to receive $5,000,000.00 from the Commonwealth's Development Opportunity Fund (a "COF Grant") through the Virginia Economic Development Partnership Authority ("VEDP") for the purpose of inducing ADP, LLC (the "Company") to equip, improve and operate an office and operations facility in the City (the "Facility"), thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are defined in the Performance Agreement attached hereto; and

WHEREAS, the City is willing to provide the COF Grant funds to the Economic Development Authority of the City of Norfolk (the "Authority") with the expectation that the Authority will provide the funds to the Company, provided that

the Company promises to meet certain criteria relating to Capital Investment and New Jobs; and

WHEREAS, the City, the Authority, and the Company desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, the obligations of the Company regarding Capital Investment and New Job creation and Maintenance; and

WHEREAS, as a condition to the COF Grant, the City is required to make a local match equal in value to the COF Grant; and

WHEREAS, the City has agreed to make the required local match via a grant from the Authority to the Company pursuant to that certain Cooperation Agreement approved by Council by Ordinance No. 46,219 on February 23, 2016 and reduced parking rates as set forth in that certain Parking Agreement approved by Council by Ordinance No. 46,254 on February 23, 2016; and

WHEREAS, the Company has stated that the capital improvements to the Facility will entail a capital expenditure by or on behalf of the Company of approximately $32,250,000.00; and

WHEREAS, the Company has stated that the capital improvements to the Facility will further entail the creation and Maintenance of 1,800 New Jobs at the Facility; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant; now, therefore

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

Section 1:- That the Performance Agreement between ADP, LLC, the Economic Development Authority of the City of Norfolk, and the City of Norfolk, a copy of which is attached hereto, wherein the City of Norfolk agrees to the terms and conditions of the payout of the COF Grant, the use of the COF Grant proceeds, and the obligations of ADP, LLC, regarding Capital Investment and New Job creation, as such terms are defined in the Performance Agreement, is hereby approved.

Section 2:- That the City Manager is authorized to correct, amend, or revise the Performance Agreement as he may deem necessary in order to carry out the intent of the Council and to execute the Performance 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 3:- That this ordinance shall be in effect as of the date of its adoption.

**COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PERFORMANCE AGREEMENT**

This **PERFORMANCE AGREEMENT** made and entered this ____ day of March, 2016, by and among the **CITY OF NORFOLK, VIRGINIA** (the "Locality") a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), and **ADP, LLC** (the "Company"), a Delaware limited liability company authorized to transact business in the Commonwealth, and the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NORFOLK** (the "Authority"), a political subdivision of the Commonwealth.

WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive $5,000,000 from the Commonwealth's Development Opportunity Fund (a "COF Grant") through the Virginia Economic Development Partnership Authority ("VEDP") for the purpose of inducing the Company to equip, improve and operate an office and operations facility in the Locality (the "Facility"), thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Authority and the Company desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, the obligations of the Company regarding Capital Investment and New Job creation, and the repayment by the Company of all or part of the COF Grant under certain circumstances;

WHEREAS, the Locality has agreed to provide $5,000,000 to the Company as its required matching incentive, pursuant to the terms of that certain Grant Agreement, dated February __, 2016, between the Authority and the Company;

WHEREAS, the Locality has purchased a parking garage in close proximity to the Facility and will provide below market-rate parking to the owner of the Facility so that the savings may be passed through to the Company under the Company's lease for the Facility (the "Lease"), thereby providing the Company with an additional incentive to induce the Company to equip, improve and operate the Facility;

WHEREAS, the equipping, improvement and operation of the Facility will entail a capital expenditure by or on behalf of the Company of approximately $32,250,000, of which approximately $10,320,000 will be invested in furniture, fixtures and equipment, and approximately $21,930,000 will be invested in the renovation and up-fit of the building;

WHEREAS, the equipping, improvement and operation of the Facility will further entail the creation and Maintenance of 1,800 New Jobs at the Facility; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

**Section 1. Definitions.**

For the purposes of this Agreement, the following terms shall have the following definitions:

"Capital Investment" means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility. The Capital Investment must be in addition to the capital improvements at the Facility as of January 1, 2016. A capital expenditure related to a leasehold interest in real property will be considered to be made "on behalf of the Company" if a lease between a developer and the Company is a capital lease, or is an operating lease having a term of at least ten years, and the real property would not have been constructed or improved but for the Company's interest in leasing some or all of the real property. Only the capital expenditures allocated to the portion of the real property to be leased by the Company will count as "Capital Investment." The purchase or lease of furniture, fixtures, machinery and equipment, including under an operating lease, and expected building up-fit and tenant improvements by or on behalf of the Company will qualify as Capital Investment. The Locality and the Authority each hereby acknowledge that although the term of the Lease is at least ten years in length, the Company has an option (the "Termination Option") under the Lease to terminate the Lease after seven years. The Locality and the Authority each hereby represent and agree that neither the existence of the Termination Option nor the Company's exercise of the Termination Option (to the extent it is exercised) prevent the Lease from qualifying as "an operating lease having a term of at least ten years", as such phrase is used herein.

"Maintain" means that the New Jobs will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) standard turnover of the employees occupying said positions, (ii) temporary reductions in the Company's employment levels (so long as there is active recruitment for open positions), (iii) strikes and (iv) other temporary work stoppages.

"New Job" means new permanent full-time employment, provided by the Company or its affiliates or subsidiaries, of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company or its affiliates or subsidiaries for the employee. Each New Job must require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the Company's operations, which "normal year" must consist of at least 48

weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs.

"Performance Date" means December 31, 2021. If the Locality, in consultation with the Authority and VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, the Locality may agree to extend the Performance Date by up to 15 months. If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company and VEDP and the date to which the Performance Date has been extended shall be the "Performance Date" for the purposes of this Agreement.

"Targets" means the Company's obligations, as of the Performance Date, to make Capital Investments at the Facility of at least $32,250,000 and to create and Maintain at least 1,800 New Jobs at the Facility, 50 of which New Jobs will have an average annual wage of at least $50,693 and 1,750 of which will have an average annual wage of at least $36,000.

"Virginia Code" means the Code of Virginia of 1950, as amended.

**Section 2. Targets; Statutory Criteria.**

On or prior to the Performance Date, the Company will equip, improve and operate the Facility in the Locality, make a Capital Investment of at least $32,250,000, and create and Maintain at least 1,800 New Jobs at the Facility, 50 of which New Jobs will have an average annual wage of at least $50,693 and 1,750 of which will have an average annual wage of at least $36,000.

The Locality and the Authority hereby strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to "Residents" of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

For information purposes only, the Locality and the Authority hereby state the following: (i) the average annual wage of at least 50 of the New Jobs of at least $50,963 is equal to the prevailing average annual wage in the Locality of $50,963; (ii) the Locality is a high-unemployment locality, with an unemployment rate for 2014, which is the last year for which such data is available, of 6.4% as compared to the 2014 statewide unemployment rate of 5.2%; (iii) the Locality is a high-poverty locality, with a poverty rate for 2014, which is the last year for which such data is available, of 23.4% as compared to the 2014 statewide poverty rate of 11.8%; and (iv) the Company filed its application for the COF Grant prior to January 1, 2016.

**Section 3. Disbursement of COF Grant.**

By no later than June 1, 2016, the Locality will request the disbursement to it of the COF Grant. The COF Grant in the amount of $5,000,000 will be paid to the Locality, upon its request. Within 30 days of its receipt of the COF Grant proceeds, the Locality will disburse the COF Grant proceeds to the Authority. Within 30 days of its receipt of the COF Grant proceeds, the Authority will disburse the COF Grant proceeds to the Company as an inducement to the Company to achieve the Targets at the Facility. The Company will use the COF Grant proceeds to pay a portion of the costs of the build-out of the Facility and, at the Company's discretion, for training, as permitted by Section 2.2-115(D) of the Virginia Code.

**Section 4. Break-Even Point; State and Local Incentives.**

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its "break-even point" by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth's expenditures on incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide incentives in the following amounts:

| Category of Incentive: | Total Amount |
|---|---|
| COF Grant | $5,000,000 |
| Virginia Jobs Investment Program ("VJIP") (Estimated) | $1,800,000 |

The proceeds of the COF Grant shall be used for the purposes described in Section 3. The VJIP grant proceeds shall be used by the Company to pay or reimburse itself for recruitment and training costs.

(b) *Locality-Level Incentives:* The Locality expects to provide the following incentives, as a matching grant or otherwise, for the Facility:

| Category of Incentive: | Total Amount |
|---|---|
| Locality Performance Grant | $5,000,000 |
| Parking Subsidy | $13,537,368 |

If, by the Performance Date, as extended in accordance with the terms herein, the funds disbursed, or committed to be disbursed, by the Locality to the Company in connection with the Locality Performance Grant, and realized by the Company through the Parking Subsidy (which is being provided by way of giving below market-rate parking to the owner of the Facility so that the savings may be passed through to the Company under the Lease) total less than $5,000,000, thereby falling short of the COF Grant local match requirement, the Locality, subject to appropriation, will make an additional grant to the Company equal to the difference as of the Performance Date, so long as the Company has met its Targets.

The proceeds of the Locality Performance Grant may be used by the Company for any lawful purpose. The Parking Subsidy will be in the form of discounted parking rates and shall reflect cost savings to the Company and its employees.

**Section 5. Repayment Obligation.**

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company make a Capital Investment of at least $1,500,000 in the Facility and create and Maintain at least 15 New Jobs at the Facility having an average annual wage of at least $43,089 in order to be eligible for the COF Grant. Failure by the Company to meet either of these statutory minimum eligibility requirements by the Performance Date shall constitute a breach of this Agreement and the entire COF Grant must be repaid by the Company to the Authority.

(b) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (b) shall become applicable only if the Company has met the statutory minimum eligibility requirements set forth in subsection (a). For purposes of repayment, the COF Grant is to be allocated as $2,500,000 (50%) for the Company's Capital Investment Target and $2,500,000 (50%) for its New Jobs Target. Further, the $2,500,000 allocated to the New Jobs Target shall be allocated as $1,250,000 for the 50 New Jobs required to have an average annual wage of at least $50,693 and $1,250,000 for the additional 1,750 New Jobs required to have an average annual wage of at least $36,000. If the Company has met at least 90% of all of the Targets at the Performance Date (meaning that it has made Capital Investments of at least $29,025,000, has created and Maintained at least 45 New Jobs paying an average annual wage of at least $50,693, and has created and Maintained at least another 1,575 New Jobs paying an average annual wage of at least $36,000), then and thereafter the Company is no longer obligated to repay any portion the COF Grant. If the Company has not met at least 90% of any or all of its Targets at the Performance Date, the Company shall repay to the Authority that part of the COF Grant that is proportional to the Target or Targets for which there is a shortfall. For example, if at the Performance Date, the Capital Investment is only $25,800,000 (reflecting achievement of 80% of the Capital Investment Target), only 30 New Jobs paying an average annual wage of at least $50,693 have been created and Maintained (reflecting achievement of 60% of that portion of the New Jobs Target), and only an additional 1,313 New Jobs paying an average annual wage of at least $36,000 have been created and Maintained (reflecting achievement of 75% of that portion of the New Jobs Target), the Company shall repay to the Authority 20% of the moneys allocated to the Capital Investment Target ($500,000), 40% of the moneys allocated to that portion of the New Jobs Target at the higher wage level ($500,000) and 25% of the moneys allocated to that portion of the New Jobs Target at the lower wage level ($312,500).

(c) *Determination of Inability to Comply:* If the Locality or VEDP shall determine in good faith at any time prior to the Performance Date (a "Determination Date") that the Company is likely to vacate, close, or abandon the Facility and thus fall substantially short of its obligations to meet and Maintain its Targets by and through the Performance Date because of a significant event demonstrating its inability or unwillingness to meet and Maintain its Targets by and through the Performance Date (such as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the

Facility by the Company, or other similar significant event), and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company must repay the entire COF Grant to the Authority, provided however, that the Company shall be entitled to dispute any such determination pursuant to the Dispute process set forth in Section 8(f) of this Agreement.

(d) *Repayment Dates:* ***Any such repayment shall be due from the Company to the Authority within ninety days of the Performance Date or the Determination Date, as applicable.*** Any moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to the Locality and shall be repaid by the Locality promptly to VEDP for redeposit into the Commonwealth's Development Opportunity Fund. The Locality and the Authority shall use their best efforts to recover such funds, including legal action for breach of this Agreement. Neither the Locality nor the Authority shall have any responsibility for the repayment of any sums hereunder unless said sums have been received by the Authority from the Company.

**Section 6. <u>Company Reporting</u>.**

The Company shall provide, at the Company's expense, detailed verification reasonably satisfactory to the Locality, the Authority and VEDP of the Company's progress on the Targets. Such progress reports will be provided annually, starting at April 1, 2017 and covering the period through the prior December 31. Further, the Company shall provide such progress reports at such other times as the Locality, the Authority or VEDP may reasonably require. If the Company wishes to count as Capital Investments the capital expenditures made on its behalf by a lessor or a developer of the Facility, the Company is responsible for assembling and distributing the documentation necessary to verify the capital expenditures made on behalf of the Company.

With each such progress report, the Company shall report to VEDP the amount paid by the Company in the prior calendar year in Virginia corporate income tax or, as applicable, shall provide to VEDP a copy of its Virginia income tax form filed with respect to its status as a pass-through entity. VEDP has represented to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

The Company hereby authorizes the Locality, including the Locality's Commissioner of the Revenue and Treasurer, to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If the Locality, the Office of the Commissioner of the Revenue or the Office of the Treasurer should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the Locality, the Authority or VEDP may request.

If requested by VEDP, the Company shall provide to VEDP copies of the Company's quarterly filings with the Virginia Employment Commission covering the period from the date of this Agreement through the Performance Date.

**Section 7. Notices.**

Formal notices and communications between the Parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, or (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, addressed as noted below. Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective upon receipt. Notices and communications delivered by facsimile or email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

Cassidy Turley, Inc.
d/b/a Cushman & Wakefield
Attention: ADP Lease Administration
721 Emerson Road, Suite 300
St. Louis, MO 63141

with a copy to:

ADP, LLC
One ADP Boulevard, MS 325
Roseland, NJ 07068
Attention: General Counsel

if to the Locality, to:

City of Norfolk, Virginia
Office of the City Manager
810 Union Street, 1001 City Hall Bldg.
Norfolk, Virginia 23510
Facsimile: 757-664-4239
Attention: City Manager

with a copy to:

City of Norfolk, Virginia
City Attorney's Office
810 Union Street, 910 City Hall Bldg.
Norfolk, Virginia 23510
Facsimile: 757-664-4201
Attention: City Attorney

if to the Authority, to:

Economic Development Authority of
the City of Norfolk
500 E. Main Street, Suite 1500
Norfolk, Virginia 23510
Facsimile: 757-441-2910
Email: jared.chalk@norfolk.gov
Attention: Secretary/Treasurer

with a copy to:

Kaufman & Canoles, P. C.
150 W. Main Street, Suite 2100
Norfolk, Virginia 23510
Facsimile: 888-360-9092
Email: glconsolvo@kaufcan.com
Attention: George L. Consolvo, Esq.

if to VEDP, to:

with a copy to:

Virginia Economic Development Partnership
901 East Byrd Street, 19th Floor
Post Office Box 798 (zip: 23218-0798)
Richmond, Virginia 23219
Facsimile: 804.545.5611
Email: mbriley@yesvirginia.org
Attention: President and CEO

Virginia Economic Development Partnership
901 East Byrd Street, 19th Floor
Post Office Box 798 (zip: 23218-0798)
Richmond, Virginia 23219
Facsimile: 804.545.5611
Email: smcninch@yesvirginia.org
Attention: General Counsel

**Section 8. Miscellaneous.**

(a) *Entire Agreement; Amendments*: This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP. Notwithstanding the foregoing, the Company shall have the right to assign its rights and obligations under this Agreement without any such consent provided it assigns its rights and obligations to (i) any affiliate of the Company, (ii) any corporation, joint venture, partnership or other entity which is a successor to the Company resulting from a merger or consolidation, or (iii) a purchaser of all or substantially all of the Company's assets; provided, in any such case, the Company gives notice of such assignment to the Locality, the Authority and VEDP and the assignee assumes all of the obligations of the Company under this Agreement. After such notice is given and such obligations have been assumed, the Locality, the Authority and VEDP may deal exclusively with the assignee.

(b) *Governing Law; Venue*: This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the City of Norfolk, and such litigation shall be brought only in such court.

(c) *Counterparts*: This Agreement may be executed in one or more counterparts (including electronic counterparts such as facsimile or pdf copies), each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability*: If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Attorney's Fees:* Attorney's fees shall be paid by the party incurring such fees.

(f) *Dispute Resolution:* In the event of any dispute, controversy or claim of any kind or nature arising under or in connection with this Agreement (including disputes as to the

creation, validity, or interpretation of this Agreement) (a "Dispute"), then upon the written request of any party, each of the parties will appoint a designated senior executive whose task it will be to meet for the purpose of endeavoring to resolve the Dispute. For purposes of this Section 8(f), the designated senior executive for the City shall be the City Attorney, and the Company shall appoint an executive who is a Director-level executive or above. The designated executives will meet as often as the parties reasonably deem necessary in order to gather and furnish to the others all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. Such executives will discuss the Dispute and will negotiate in good faith in an effort to resolve the Dispute without the necessity of any formal proceeding relating thereto. The specific format for such discussions will be left to the discretion of the executives but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other parties. No formal proceedings for the resolution of the Dispute or demands for repayment of the COF Grant may be commenced until the earlier to occur of (a) a good faith mutual conclusion by the executives that amicable resolution through continued negotiation of the matter in issue does not appear likely or (b) the 90th day after the initial request to negotiate the Dispute. If the resolution of the Dispute requires any party to take, or cause to be taken or to cease taking, some action, such party shall be provided a reasonable period of time, not to exceed ninety (90) days, to take, to cause, or to cease taking, such action. If the parties are unable to resolve the Dispute pursuant to the process set forth above, either party may seek to resolve the Dispute by filing an action in the jurisdiction and venue stipulated in Section 8(b) of this Agreement or by pursuing any other remedy available at law or in equity.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties hereto have executed this Performance Agreement as of the date first written above.

**ADP, LLC**

By _____
Name: _____
Title: _____
Date: _____

**CITY OF NORFOLK, VIRGINIA**

By _____
Name: _____
Title: _____
Date: _____

ATTEST:

_____
City Clerk

**APPROVED AS TO CONTENTS:**

_____
Director, Department of Development

**APPROVED AS TO FORM AND CORRECTNESS:**

_____
Assistant City Attorney

**ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NORFOLK**

By _____
Name: _____
Title: _____
Date: _____

**APPROVED AS TO CONTENTS:**

_____
Executive Director, Economic Development
Authority of the City of Norfolk

**APPROVED AS TO FORM AND CORRECTNESS:**

_____

C: Dir., Recreation, Parks & Open Space

City of NORFOLK

**To the Honorable Council**
**City of Norfolk, Virginia**

March 15, 2016

From: Darrell R. Crittendon, Director
Recreation, Parks & Open Space

**Subject**: Acceptance of a grant award from the Hampton Roads Planning District Commission for the construction of a canoe/kayak launch and fishing dock

Reviewed: _____
Wynter C. Benda, Deputy City Manager

**Ward/Superward**: 2/6

Approved: _____
Marcus D. Jones, City Manager

**Item Number:**
**R-12**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk
Department of Recreation, Parks & Open Space

III. **Description:**
This agenda item is an ordinance to accept a grant in the amount of $20,000.00 from the Hampton Roads Planning District Commission (the "HRPDC") to be used in conjunction with the City of Norfolk (the "city") to match funding for construction of a canoe/kayak launch and fishing dock, removal of a dilapidated dock at the Lavalette Avenue (Lafayette) boat ramp site, and provide upland shoreline planting. Funding is to be utilized by September 31, 2016.

IV. **Analysis**

- Fishing activity from the shoreline has caused significant damage. Construction of the dock will provide a platform for this recreational activity while helping to protect the shoreline.
- The shoreline buffer has been greatly diminished and the project will partially restore the upland plantings to provide additional buffer and shoreline stabilization.
- The existing dock is decaying and should be removed in an effort to improve the shoreline edge and remove a potentially dangerous disintegrating structure from the water.
- The canoe/kayak launch will provide more access to the waterways. This is a high recreational priority as determined by the citizens of the city in the Recreation, Parks & Open Space Master Plan.

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

V. **Financial Impact**

The $20,000 grant received from the HRPDC requires a local cash match. The city has previously appropriated the funds allocated for this project as identified in the Capital Improvement Program Stormwater Fund and Recreation, Parks & Open Space Master Plan CIP account. The total estimated cost of the project is $96,000.

VI. **Environmental**

The project will provide Improvement of our shoreline buffers and water quality.

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 & Open Space, and the City Attorney's Office.

Supporting documentation provided by the City Attorney's Office:

- Ordinance

1/20/16 - bjt

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Recreation, Parks & Open Space

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.

$ 20,000.00 2275-78-8914
Account

Director of Finance 2/6/16
Date

NORFOLK, VIRGINIA

# ORDINANCE No.

AN ORDINANCE ACCEPTING $20,000.00 FROM THE HAMPTON ROADS PLANNING DISTRICT COMMISSION AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF $20,000.00 FOR THE CONSTRUCTION OF THE LAVALETTE AVENUE CANOE/KAYAK LAUNCH AND FISHING DOCK.

- - -

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

Section 1:- That a $20,000.00 grant award from the Hampton Roads Planning District Commission for the construction of the Lavalette Avenue Canoe/Kayak Fishing Dock is hereby accepted.

Section 2:- That $20,000.00 in grants funds are hereby appropriated and authorized to be expended for the construction of the Lavalette Avenue Canoe/Kayak Fishing Dock, if and when the funds are made available from the Hampton Roads Planning District Commission.

Section 3:- That the City Manager is hereby authorized to do all things necessary to receive the funds and implement the project.

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