CITY COUNCIL
AGENDA
TUESDAY, MAY 10, 2016

Work Session Agenda

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

Budget Worksession

Presenter: *Mayor Paul. D. Fraim*

5:00 PM

Council Interests

Documents: 05-10-16 COUNCIL INTERESTS.PDF

Break For Dinner

Agenda Overview

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

Closed Session

- Discussion on Negotiation of Terms of a Contract
- Briefing on Cox Franchise Renewal

Building A Connected City

Presenter: *Steven DeBerry, Chief Information Officer*

Short Term Rentals

Presenter: *Adam Melita, Deputy City Attorney and George Homewood, Director of Planning*

Additional Documents

Documents: 05-10-16 MEMO - CHANGE OF ZONING AND SPECIAL EXCEPTION - ANDALOUSI.PDF, 05-10-16 MINUTES OF CITY COUNCIL MEETING OF APRIL 26.PDF, 05-10-16 NONSTANDARD LOT CERTIFICATE - 525 W 26TH ST.PDF, 05-10-16 PENDING LAND USE ACTIONS.PDF

Announcement Of Meeting

Documents: 05-10-16 ANNOUNCEMENT OF MEETING.PDF

Formal Session

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 a **Land Disposition and Development Contract** with **Ocean View Properties, Inc.** for two parcels of land consisting of a total of 3.7 acres, more or less, on property located at **719 E. Ocean View Avenue**.

(PASSED BY AT THE MEETING OF APRIL 26, 2016)

Documents: PH-1 APPROVAL OF LDDC WITH OCEAN VIEW PROPERTIES, INC..PDF

PH-2

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Pinewell Station** for a) an amendment to the City's Future Land Use Map within the general plan, *plaNorfolk2030*, from Open Space/Recreation and Commercial to Multifamily; b) a text amendment to the City's Zoning Ordinance to create PD-R Pinewell Station (Pinewell Station Residential Planned Development) district and c) for a change of zoning from C-2 (Corridor Commercial) and OSP (Open Space Preservation) Districts to PD-R Pinewell Station (Pinewell Station Residential Planned Development) District on property located at **600 and 719 East Ocean View Avenue**.

(PASSED BY AT THE MEETING OF APRIL 26, 2016)

Documents: PH-2 AMEND PLANORFOLK2030 AND CHANGE OF ZONING - PINEWELL STATION.PDF

PH-3

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on approving a **Land Disposition and Development Contract** between the **City of Norfolk**, as Seller, and Vistacor Advisors, LLC, as purchaser, for four parcels of real property consisting of 1.56 acres, more or less, on property located at **Hampton Boulevard and 26th Street** in the City of Norfolk.

Documents: PH-3 APPROVAL OF LDDC WITH VISTACOR ADVISORS, LLC.PDF

PH-4

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Andalousi** for a change of zoning from R-8 (Single-Family) District to Conditional C-1 (Limited Commercial) District on property located at **2729 Bowdens Ferry Road**.

(PASSED BY AT THE MEETINGS OF MARCH 22 AND APRIL 12, 2016)

Documents: PH-4 CHANGE OF ZONING AND SPECIAL EXCEPTION -

ANDALOUSI.PDF

Regular Agenda

R-1

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the resumption of a nonconforming retail sales establishment named **'The Coffee Tree'** in an historic building on property located at **2815 Colonial Avenue**," will be introduced in writing and read by its title.

Documents: R-1 SPECIAL EXCEPTION - THE COFFEE TREE.PDF

R-2

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 named **'Elixia'** on property located at **257 Granby Street**," will be introduced in writing and read by its title.

Documents: R-2 SPECIAL EXCEPTION - TIFFANY KIDWELL-GAYLORD.PDF

R-3

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a **Day Care Home** known as **'Ms. Rosebuds Family Dayhome'** on property located at **1439 Mellwood Court**," will be introduced in writing and read by its title.

Documents: R-3 SPECIAL EXCEPTION - MS. ROSEBUDS FAMILY DAY CARE HOME.PDF

R-4

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit mixed uses on property located at **8131 Shore Drive**," will be introduced in writing and read by its title.

Documents: R-4 SPECIAL EXCEPTION - HARBOR VILLAS.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 **'Wells Fargo Bank ATM'** on property located at **4231 East Little Creek Road**," will be introduced in writing and read by its title.

Documents: R-5 SPECIAL EXCEPTION - ROBERT LOPEZ.PDF

R-6

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the sale of alcoholic beverages for off-premises consumption at an establishment known as **'Mi Calavera Latin Store'** on property located at **1301 East Little Creek Road, Suites 4 and 5**," will be introduced in writing and read by its title.

Documents: R-6 SPECIAL EXCEPTION - MI CALAVERA LATIN STORE.PDF

R-7

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 **'Holiday Inn'** on property located at **1570 North Military Highway**," will be introduced in writing and read by its title.

Documents: R-7 SPECIAL EXCEPTION - HOLIDAY INN.PDF

R-8

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named **'Saint Germain'** on property located at **255 Granby Street**," will be introduced in writing and read by its title.

Documents: R-8 SPECIAL EXCEPTION - SAINT GERMAIN.PDF

R-9

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 **'D'Art Center'** on property located at **740 Duke Street, Suite 100**," will be introduced in writing and read by its title.

Documents: R-9 SPECIAL EXCEPTION - DART CENTER.PDF

R-10

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named **'Luce'** on property located at **245 Granby Street**," will be introduced in writing and read by its title.

Documents: R-10 SPECIAL EXCEPTION - LUCE.PDF

R-11

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named **'Zeke's Beans and Bowls'** on property located at **800 Granby Street**," will be introduced in writing and read by its title.

Documents: R-11 SPECIAL EXCEPTION - NICHOLAS PETRICCIONE.PDF

R-12

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 **'Mi Hogar Mexican Restaurant'** on properties located at **4201 to 4205 Granby Street**," will be introduced in writing and read by its title.

Documents: R-12 SPECIAL EXCEPTION - MI HOGAR MEXICAN RESTAURANT.PDF

R-13

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a microbrewery named **'Benchtop Brewing Company'** on property located at **1121 to 1129 Boissevain Avenue**," will be introduced in writing and read by its title.

Documents: R-13 SPECIAL EXCEPTION - ERIC TENNANT.PDF

R-14

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a

Special Exception authorizing the operation of an eating and drinking establishment named **'El Rey #2'** on property located at **849 East Little Creek Road**," will be introduced in writing and read by its title.

Documents: R-14 SPECIAL EXCEPTION - EL REY 2.PDF

R-15

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting with appreciation $40,000 from **Marathon Development Group, Inc.** and appropriating and authorizing the expenditure of $40,000.00 for the construction of a dog walk area at **416 Granby Street**," will be introduced in writing and read by its title.

Documents: R-15 DONATION FROM MARATHON DEVELOPMENT GROUP FOR CONSTRUCTION OF A DOG WALK.PDF

R-16

Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting 5**19 Front Street, LLC** to encroach into the right-of-way at **519 Front Street** with the existing building, drain pipes and a concrete pad," will be introduced in writing and read by its title.

Documents: R-16 ENCROACHMENT AT 519 FRONT ST - 519 FRONT STREET, LLC.PDF

R-17

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **Paul Filion** permission to encroach into the right of way at **114 East 25th Street** approximately 155 square feet for the purpose of outdoor dining and approving the terms and conditions of the **Encroachment Agreement**," will be introduced in writing and read by its title.

Documents: R-17 ENCROACHMENT FOR OUTDOOR DINING AT 114 E. 25TH ST - PAUL FILION.PDF

R-18

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Nonexclusive Telecommunications Franchise Agreement** with **Mobilitie, LLC**," will be introduced in writing and read by its title.

Documents: R-18 NONEXCLUSIVE TELECOMMUNICATIONS FRANCHISE AGREEMENT - MOBILITIE LLC.PDF

R-19

Letter from the City Manager and an Ordinance entitled, "An Ordinance establishing certain public areas and streets of the City of Norfolk as the **'Festival Area'** and setting forth the regulations applicable to such festival area for the **Norfolk Harborfest 2016 Celebration**," will be introduced in writing and read by its title.

Documents: R-19 HARBORFEST 2016 - ESTABLISHING FESTIVAL AREA AND SETTING FORTH REGULATIONS.PDF

R-20

Letter from the City Manager and an Ordinance entitled, "An Ordinance closing certain city-owned docks to public use during the **Norfolk Harborfest 2016 Celebration** ," will be introduced in writing and read by its title.

Documents: R-20 HARBORFEST 2016 - CLOSING CITY-OWNED DOCKS TO PUBLIC USE.PDF

R-21

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a right of entry permitting the **New Hope Church of God In Christ** to go upon and use that certain City owned property numbered and designated as **616, 618 and 620 W. 35th Street**," will be introduced in writing and read by its title.

Documents: R-21 RIGHT OF ENTRY AGREEMENT WITH NEW HOPE CHURCH OF GOD IN CHRIST.PDF

R-22

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $40,608.48 from the **Schools and Libraries Division of the Universal Service Fund E-Rate Reimbursement Program** and appropriating and authorizing the expenditure of $40,608.48 for telecommunications and technology services for the **Norfolk Public Library**," will be introduced in writing and read by its title.

Documents: R-22 UNIVERSAL SERVICE FUND E-RATE REIMBURSEMENT PROGRAM AWARD.PDF

R-23

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting with appreciation the donation of $9,170 to the City from the **Hampton Roads Community Foundation** and appropriating and authorizing the expenditure of $9,170 to support library services and programs with a preference for the purchase of additional books, reading or educational materials at the **Pretlow Anchor Branch Library**," will be introduced in writing and read by its title.

Documents: R-23 DONATION FROM HAMPTON ROADS COMMUNITY FOUNDATION.PDF

R-24

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting funds donated to the **City** to support the **Norfolk Neighborhood Expo Event of the City's Department of Neighborhood Development** and appropriating and authorizing the expenditure of the funds for the event," will be introduced in writing and read by its title.

Documents: R-24 DONATION OF FUNDS FOR NORFOLK NEIGHBORHOOD EXPO.PDF

R-25

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting funds donated to the City to support the **Shoot Hoops Not Guns Event** of the **City's Department of the Neighborhood Development** and appropriating and authorizing the expenditure of the funds for the event," will be introduced in writing and read by its title.

Documents: R-25 DONATION OF FUNDS IN SUPPORT OF SHOOT HOOPS NOT GUNS PROGRAM.PDF

R-26

Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the City Manager to execute an **Amendment** to an **Agreement** in substantial

conformity with the terms and conditions of **Amendment No. 3** to the **Comprehensive Agreement** by an between the City of Norfolk, Norfolk Public Schools, and **S. B. Ballard Construction Company** for the design and construction of four schools known as **Campostella K-8 School, Broad Creek PK-5 School, Ocean View PK-5 School** and **Larchmont PK-5 School**, with an option to design and build **Camp Allen PK- 5 School** to restore **security camera systems**, which were removed as part of the Information Technology from each of the schools pursuant to **Amendment No. 2** to the **Comprehensive Agreement**," will be introduced in writing and read by its title.

Documents: R-26 AMENDMENT TO COMPREHENSIVE AGREEMENT FOR DESIGN AND CONSTRUCTION OF NEW SCHOOLS.PDF

R-27

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving the terms and conditions of a certain **Agreement** between the C**ity of Norfolk and the Southeastern Public Service Authority of Virginia** relating to the disposal of Norfolk's solid waste on and after January 25, 2018, and authorizing the City Manager to enter into the Agreement on behalf of the City," will be introduced in writing and read by its title.

Documents: R-27 AGREEMENT FOR USE AND SUPPORT OF SOLID WASTE DISPOSAL WITH SPSA.PDF

R-28

Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain the **Norfolk City Code, 1979, SO AS TO** add one new section concerning interfering with vehicular traffic," will be introduced in writing and read by its title.

Documents: R-28 AMEND NORFOLK CITY CODE SECTION 25-630.1.PDF

R-29

An Ordinance entitled, "An Ordinance to schedule a City Council meeting on **Tuesday, May 17, 2016 at 4:00 P.M.**," will be introduced in writing and read by its title.

Documents: R-29 ORDINANCE TO SCHEDULE A CITY COUNCIL MEETING ON MAY 17.PDF

THE CITY OF NORFOLK

May 6, 2016

City Council;

Today's memo includes information from the April 26th Council meeting. Highlights include:

- Teen Public Safety Campaign
- Alexander Street Code Enforcement
- Pinewell Station Update

Looking ahead, Chief Information Officer Steven Deberry has prepared a comprehensive overview of Norfolk's efforts to build a connected city. This overview includes how we're leading the region in connectivity and innovative technologies.

Norfolk's dog parks received top "barks" from The Trust for Public Land. Norfolk was named among of list of cities including: Portland, Oregon; Las Vegas, Nevada and Madison, Wisconsin as having the most dog parks per resident.

THE CITY OF NORFOLK

MEMORANDUM

TO:	City Council
FROM:	Lori A. Crouch, Corporate Communications Director
COPIES TO:	City Clerk, City Attorney
SUBJECT:	Council Interests
DATE:	May 6, 2016

Today's memo includes information and updates from the April 26, 2016 Informal City Council Session.

Public Safety Teen Programs: Through inter-department collaborations and partnerships in the community, the City continues to embrace the philosophy of the Public Awareness through Community Engagement (PACE) program. In addition, the police in partnership with Commonwealth's Attorney support Virginia Rules. This educational program is designed to help teens, parents and teachers understand the law and how it applies to them.

Alexander Street: Neighborhood Development staff conducted code enforcement sweeps in September and December 2015. On May 4, 2016, staff returned to Alexander Street. The street expands three blocks and during the inspection staff cited seven houses and vacant land for tall weeds/grass and trash/debris. Staff also spoke to several residents and educated them on code violations and how to report violations.

Pinewell Station: The rezoning for Pinewell Station is scheduled for your vote during the May 10th formal session. The developer has revised the project to accommodate the Navy's requirements as laid out in the Joint Use Study and Air Installations Compatible Use Zones (AICUZ). The developer has also accommodated the civic leagues' requests including: maintaining live oaks trees, increasing green space, provide plenty of parking and adding pedestrian-friendly crossing improvements. In addition, the developer is providing funds to upgrade the beach facilities across the street.

Huntersville Community Updates: Chief Goldsmith has implemented additional patrols in the Huntersville community. Neighborhood Development will coordinate with the civic league prior to any code enforcement activities.

Community Cohesion: In their ongoing efforts to build trusting relationships in the community, the police encourage citizens to call if they are concerned about activities taking place in their community. Responding officers generally give a warning for loud, disruptive noise. Any criminal activity is addressed immediately.

THE CITY OF NORFOLK

MEMORANDUM

TO: The Honorable City Council

REVIEWED: Ronald H. Williams, Jr. Deputy City Manager

CC TO: Leonard M. Newcomb III, CFM, Assistant Director, City Planning
Susan Pollock Hart, CFM, Principal Planner, City Planning

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

SUBJECT: Change of zoning from R-8 (Single-Family) district to conditional C-1 (Limited Commercial) district and an Entertainment Establishment Special Exception at 2729 Bowdens Ferry Road – Andalousi

DATE: May 5, 2016

On the May 10, 2016 Regular Agenda, City Council will be reviewing two requests by Andalousi: a change of zoning from R-8 (Single-Family) district to conditional C-1 (Limited Commercial) district and a special exception request to operate an entertainment establishment with alcoholic beverages at 2729 Bowdens Ferry Road. The site is located on the west side of Bowdens Ferry Road, just south of 37th Street, within the Lamberts Point neighborhood. The applicant, Omar Boukhriss, proposes to operate a banquet facility with alcohol and entertainment. Mr. Boukhriss currently operates "Omar's Carriage House," located in the West Freemason neighborhood.

The site is currently developed as a religious institution (most recently the Greater House of Faith Apostolic Church), although it has been vacant for some time. The site is zoned R-8, which allows religious institutions with a special exception. Any new religious institution that proposed to use this building would need to apply for a special exception. The existing building is not located within a federal, state, or local historic district. However, since the original structure on the site was built in 1895 and is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

The City's general plan, *plaNorfolk2030*, identifies this site as single-family traditional; thus the proposed use as a banquet hall is not consistent with *plaNorfolk2030*. However, the Preserving Our Heritage chapter of *plaNorfolk2030* calls for protecting Norfolk's historic resources, in part by encouraging the re-use of nonconforming historic structures. The applicant is proposing an adaptive reuse of the existing church to a banquet facility. As part of the conditional rezoning, the applicant has proffered that the building on the site shall not be demolished and that no modifications will be made to the exterior of the building.

The Planning Department received two letters from the Lamberts Point Civic League. The first, dated December 31, 2015, expressed support for the application to convert the church to a banquet hall with entertainment and alcohol. The second, dated February 20, 2016, reiterated the unanimous support from the civic league for this application. However, at the Planning Commission public hearing, three residents of Lamberts Point voiced their opposition to this application, stating concerns over the use of the property as an entertainment establishment and the noise that may be generated later into the evening hours.

After conducting a duly advertised public hearing on February 25, 2016, at which the applicant and Lamberts Point Civic League provided comments, the City Planning Commission voted **5 to 1** (Mr. Hales was absent for this vote) to recommend **approval** of the application. The dissenting vote was based on concerns raised by residents of the neighborhood who came to the hearing and a desire to consider an 18-month "sunset clause" on the approval in order to address these concerns. However, given that the investment required to convert the existing building is quite substantial, such a sunset clause would negatively impact the ability to finance the project and likely would effectively be a denial. The lack of the 18-month sunset clause does not inhibit City Council's ability to revoke a special exception if the operator fails to run the establishment in compliance with the adopted ordinance.

There is no parking available on the church property so the applicant provided a tentative agreement for use of the parking at the Madison Career Center which is located directly across Lamberts Point Road to the east. Subsequent to the hearing, the applicant was unable to finalize that agreement, however, agreements with two other nearby businesses have been provided; agreements for the parking lot located at 1225 West 26th Street and owned by RG Electric Company, Inc. and parking located at 2701 Hampton Boulevard and owned by ODU Credit Union. A condition of the special exception is that the applicant provide a minimum of 35 parking spaces for his patrons.

Staff contact: Susan Pollock Hart at (757) 664-4765, susan.pollock@norfolk.gov

City of Norfolk

Inter Department Correspondence Sheet

TO: Members of City Council

FROM: Breck Daughtrey, City Clerk

COPIES TO:

SUBJECT: Minutes of City Council Meeting

May 6, 2016

Attached are the minutes of the City Council meeting held on Tuesday, April 26, 2016.

Breck

Breck

NORFOLK, VIRGINIA

BUSINESS MEETING OF COUNCIL

TUESDAY, APRIL 26, 2016

President 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 asked for council discussion in the budget.

A. BUDGET DISCUSSION

Mr. Protogyrou:

- Asked how much the city is spending on acquisition of properties at Wards Corner. The Manager replied that Council approved $2.7 million in the 2016 budget for Southside, Wards Corner, Fairmount Park and Broad Creek. There are no funds allocated for 2017; however, additional funds could be made available on a case-by-case basis.

- Asked if Public Safety is fully funded and if staffing levels are adequate. The Manager answered yes; and the International Association of Chiefs of Police is currently conducting a study on appropriate staffing levels and how staff are deployed. Results are expected within 90 days.

Mr. Riddick:

- Asked the Manager why salary increases no longer occur in July and what it would cost to start paying on July 1st again. The Manager explained that in 2013, after a number of years with no increases, we were able to fund salary increases in January so employees wouldn't have to wait another full year.

- Asked for an update on the acquisition of Spartan Village Apartments in the 2017 budget.

Mr. Winn:

- Asked if Norfolk Public Schools are being fully funded. The Manager answered that he has been working closely with Dr. Boone. NPS is in the process of analyzing: fuel costs, healthcare costs, ADM (Average Daily Membership) numbers, and updates on savings from the current fiscal year. He noted that additional dollars

identified in September during the retreat will go back to the school system in 2017. He added that Council will have updated figures from NPS before the budget is passed. Additionally, Mr. Winn asked the Manager for information on why schools with small enrollments are kept open.

- Asked if there is funding for business districts such as Wards Corner, Riverview, Ghent, Chelsea, et cetera. The Manager answered that he would provide Council with a breakdown of how the $30 million in the Capital Improvement Plan will be allocated.

Dr. Whibley:

- Expressed disappointment at the condition of roads and the amount of money budgeted for paving. The Manager clarified the amount is $20 million in the CIP budget and is reimbursed by the State. He added that a 20-year re-pavement plan is in place. Mr. Winn asked for a copy of the 20-year plan.

- Asked if additional code enforcement staff will be hired; the Manager answered they will.

Ms. Johnson:

- Asked the Manager to look into whether NPS is properly taking attendance.

- Asked for an itemization of funding going to neighborhoods.

- Asked about how employee salary increases will be handled this year for employees at the top of their pay ranges. The Manager said the range will be extended for all but those who exceed the range.

- She noted that the Broad Creek waterways have received a failing grade. She asked what the plan is to address this and if funding can be included in the budget.

Mr. Smigiel:

- Regarding the school's CIP budget, asked why we aren't collaborating with the schools on procurement for supplies and projects such as roof repairs, repaving, et cetera. Dr. Whibley also suggested that landscaping should be included. Ms. Graves asked when the tennis courts at Booker T. Washington High School will be repaired and reopened.

- Asked for a breakdown on funding for dredging and the proposed locations. He noted that Pretty Lake dredging is not finished.

Ms. Graves:

- Asked if there is funding to extend the hours of operation for all recreation centers this summer.

Mr. Fraim:

- Asked for data regarding NPS's request for funding, noting that it's a 9 percent increase. He also asked how we compare with the other cities in the region.

Following discussion on the timing of the vote on the budget, Council decided to schedule a meeting for May 17th.

B. COUNCIL INTERESTS

1. Councilwoman Whibley: Asked for a list of roads scheduled for repaving and for an assessment of the condition of bridges.

2. Councilman Protogyrou: Asked to have broken curbs repaired in the Colley Avenue/21st Street area and north to 35th Street and beyond. In addition, Ms. Johnson stated that many streets and curbs in older neighborhoods need repairs, as well as Princess Anne Road and Tidewater Drive.

C. HEALTH NEEDS SURVEY AND YOUTH ART PROJECT

Dr. Demetria Lindsay, Director of Public Health, reported as follows:

- The goals of the recent health assessment is to improve community health and to become the healthiest city in the healthiest state in the nation.

- 2000 surveys were returned representing all areas and demographics and 45 health agencies responded.

- The final report will be issued in either May or June 2016. It will be used as the basis for a transition to a community health improvement process.

- Youth participation was sought with young people contributing photos of how they experience life in Norfolk.

Dr. Whibley stated the report needs to be used when developing city policy, and noted the issue of childhood obesity as a priority.

D. CHIEF GOLDSMITH REPORT ON CRIME

Police Chief Michael Goldsmith reported as follows:

- Violent crime is up 14%, property crime is up 9%; total crime up 10%.
- Changes have occurred in manpower distribution to achieve higher visibility in high crime areas, and these are making an impact.

Mr. Protogyrou asked for an explanation of the brazenness of some of the homicides. The Chief responded that access to guns, the notion of disrespect among young people and a growing disregard for life are contributing factors.

Mr. Riddick stated some neighborhoods need better code enforcement, some homes need demolishing and traffic enforcement is needed mid-day.

Mayor Fraim suggested trying to identify where gunfire is occurring in an effort to apprehend the offenders.

Ms. Graves commented on a recent forum for "Stop the Violence" that stressed the concept of all inclusive communities. She stated that we need to share this concept with all of our neighborhoods. She added that community policing is an important piece, not just enforcement policing.

Ms. Johnson commented that each Council member represents their individual ward, but they also have a responsibility to all citizens and that what happens in one community impacts all communities throughout the city.

Dr. Whibley commented that other cities have enacted laws that call for mandatory jail time if you have a firearm and are convicted of even a minor offense. She asked if the Dillon Rule prevents us from enacting similar laws.

With regard to gang activity, Mr. Smigiel suggested that the PACE program be reinstated and that all schools receive annual presentations.

E. CLOSED SESSION

Motion for closed session was approved for purposes which are set out in **Clause 29 of subsection (A) of Section 2.2-3711** of **the Virginia Freedom of Information Act,** as amended:

(29) Discussion of the award of two public contracts involving the expenditure of public funds, where discussion in an open session would adversely affect the bargaining position of the city.

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

No: None.

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

CITY COUNCIL MEETING

TUESDAY, APRIL 26, 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 R. 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 April 26, 2016.

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

No: None.

CEREMONIAL MATTERS

President Fraim introduced Dr. Demetria Lindsay, Director of Public Health. Dr. Lindsay introduced the group of students that participated in the PhotoVoice Project in which young people contributed photos of how they experience life in Norfolk. Their photos will be displayed in the lobby of City Hall.

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**.

(Passed by at the meeting of February 23, 2016)
(A request has been made to continue to May 24, 2016)

ACTION: This matter was continued to May 24, 2016.

Yes: Graves, Johnson, Riddick, Protogyrou, 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, to hear comments on a Lease Agreement between the City and the Virginia Opera Association, Inc., for certain premises being the **Harrison Opera House** located at **160 West Virginia Beach Boulevard**, Norfolk, Virginia.

Thereupon, an Ordinance entitled, "An Ordinance approving the terms and conditions of a Lease Agreement between the City and the Virginia Opera Association, Inc., for certain premises being the **Harrison Opera House** located at **160 West Virginia Beach Boulevard**, Norfolk, Virginia and authorizing the execution of the Lease Agreement," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 27, 2016.

Yes: Graves, Johnson, Riddick, Protogyrou, 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, to hear comments on a Lease Agreement with **Grace's Tailor Shop, Inc**. for the lease of city owned property located at **130 Bank Street**.

Thereupon, an Ordinance entitled, "An Ordinance approving a Lease Agreement with **Grace's Tailor Shop, Inc**. for the lease of city owned property located at **130 Bank Street**," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 27, 2016.

Yes: Graves, Johnson, Riddick, Protogyrou, 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, to hear comments on a Lease Agreement with **Corks and Caps, LLC** for the lease of city owned property located at **240 E. Main Street**.

Thereupon, an Ordinance entitled, "An Ordinance approving a Lease Agreement with **Corks and Caps, LLC** for the lease of city owned property located at **240 E. Main Street**," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 27, 2016.

Yes: Graves, Johnson, Riddick, Protogyrou, 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 the conveyance of a **GEM Lot** to **DPT Construction, LLC**, on property located at **1409 Wilson Road Street**.

Thereupon, an Ordinance entitled, "An Ordinance authorizing the conveyance to DPT Construction, LLC of a certain parcel of property at 1409 Wilson Road for the total sum of $19,100.00 in accordance with the terms and conditions of the Conveyance Agreement; and authorizing the release of the city's right of reverter upon certain conditions," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 27, 2016.

Yes: Graves, Johnson, Riddick, Protogyrou, 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 conveyance of a **GEM Lot** to **Trustees of the Gethsemane Community Fellowship Baptist Church**, on property located at **606 Maltby Avenue**.

Alphonso Albert, 1017 Godfrey Avenue, was present to answer questions.

Thereupon, an Ordinance entitled, "An Ordinance authorizing the conveyance to the Trustees of the Gethsemane Community Fellowship Baptist Church of certain parcel of property located at 606 Maltby Avenue for the total sum of $7,500.00 in accordance with the terms and conditions of the Conveyance Agreement; and authorizing the release of the city's right of reverter upon certain conditions.," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 27, 2016.

Yes: Graves, Johnson, Riddick, Protogyrou, 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 conveyance of a **GEM Lot** to **Jay Investment Corporation**, on property located at **985 Parish Road.**

Thereupon, an Ordinance entitled, "An Ordinance authorizing the conveyance to the Jay Investment Corporation of certain parcel of property located at 985 Parish Road for the total sum of $52,500.00 in accordance with the terms and conditions of the Conveyance Agreement; and authorizing the release of the city's right of reverter upon certain conditions," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 27, 2016.

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

No: None.

Abstain: Graves (stating Jay Investment Corporation is her client)

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 a Lease Agreement with **Rover Marine, Inc.** for the lease of city owned property located at **224 E. Main Street**.

Thereupon, an Ordinance entitled, "An Ordinance approving a Lease Agreement with **Rover Marine, Inc.** for the lease of city owned property located at **224 E. Main Street**," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 27, 2016.

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

No: None.

REGULAR AGENDA

R-1 Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **433 Granby Street, LLC** to encroach into the right of way at **433 Granby Street** with signage," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-2 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **JJB Financial, LLC** permission to encroach into the right of way at **345 Granby Street** approximately 109 square feet for the purpose of outdoor dining and approving the terms and conditions of the Encroachment Agreement," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-3 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **Michael, LLC** permission to encroach into the right of way at **1231 W. Olney Road** approximately 162 square feet for the purpose of outdoor dining and approving the terms and conditions of the Encroachment Agreement," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-4 Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the City Manager to enter into a **Right of Entry Agreement** with the owners of certain parcels of property located around Lake Modoc for the purpose of a **Water Quality Retrofit Project**," was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, spoke in favor of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-5 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving the terms and conditions of Safekeeping and Custody Agreement between the City of Norfolk and Virginia Cartographical Society, LC for the custody of a historical map collection and authorizing the City Manager to execute the **Safekeeping and Custody Agreement** on behalf of the City," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-6 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting an additional Grant Award of $294,197.20 from the **Virginia Department of Emergency Management** which includes $220,647.90 from the **Federal Emergency Management Agency**, $58,839.44 from the Commonwealth of Virginia and $14,709.86 as a cash match from the City through the **Hazard Mitigation Grant Program** for the City of Norfolk Floodproofing of Strickland and Jones Project and appropriating and authorizing the expenditure of the additional funds for the project," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-7 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting a Grant Award of up to $282,984.00 from the **Virginia Department of Behavioral Health and Development Services** through the Hampton-Newport News Community Services Board to Norfolk Community Services Board to provide permanent supportive housing to individuals in Eastern State Hospital able and eligible to live independently in the community, and appropriating and authorizing expenditure of grant funds," was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, spoke in favor of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-8 Letter from the City Manager and an Ordinance entitled, "An Ordinance to repeal one subsection each of Sections 25-646, 653, and 654, and to amend and reordain Sections 25-646, 652, 653, 654 and 656 of the *Norfolk City Code, 1979* **SO AS TO** add one new speed limit, one new one-way street, two new yield intersections, fifteen new stop intersections, and three new trucks of one and one-half tons on certain streets prohibitions," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-9 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a Deed of Easement for Pedestrian Access from Norfolk Outlets, LLC to the City of Norfolk, approving a Deed of Easement for Force Main from Norfolk Outlets, LLC to the City of Norfolk, approving a Lighting Maintenance Agreement between the City of Norfolk and Norfolk Outlets, LLC, approving a Lake Bank Maintenance Agreement between the City of Norfolk and Norfolk Outlets, LLC, authorizing the City Manager to accept a Deed of Dedication from the Economic Development Authority of the City of Norfolk for the public roadway to be constructed at Lake Wright, authorizing the City Manager to accept a Special Warranty Deed from the Economic Development Authority of the City of Norfolk for the residual tract of land located West of the public roadway to be constructed at Lake Wright, and authorizing the City Manager to accept any and all easements and to enter into such easements, maintenance and other agreements as are required by the City of Norfolk for the Economic Development Authority of the City of Norfolk to close upon the sale of real property to Norfolk Outlets, LLC and as required by the **Site Development Plans for Norfolk Premium Outlets, Norfolk, Virginia**, dated April 6, 2016," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 26, 2016.

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

No: None.

R-10 Letter from the City Auditor requesting confirmation of the appointment of Jennifer Speight to the position of City Auditor II.

ACTION: Appointment confirmed.

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

No: None.

R-11 A Resolution entitled, "A Resolution appointing 3 persons to two Boards and one Commission for certain terms," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective April 26, 2016.

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

No: None.

NEW BUSINESS

1. John James, 3025 North Lakebridge Drive, commented on the following issues in the Lakebridge neighborhood: landscaping, need for sound barrier, a section of fence needs replacing and maintenance of trees.

2. Bessie Hyman, 4553 Shoshone Court, spoke about wood that was dumped in her front yard and asked for the city to help in removing it.

3. Merle Rutledge, 599 Rivera Arch, stated that since the recent violence in the city, he is in favor of video cameras on the streets to help maintain security.

4. Bea Garvin, 964 Washington Avenue, President, Huntersville Civic League, commented that the civic league is currently discussing, and is in favor of, such programs as The Earn Program, Strategic Plan and Block by Block Grants.

5. Danny Lee Ginn, 3844 Dare Circle, expressed concerns about Councilman Riddick.

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 – 525 W. 26th Street
DATE:	May 6, 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:	525 W. 26th Street	**Neighborhood:**	Park Place
Zoning:	R-11	**Standard Lot Size:**	50 Ft. x 100 Ft.
House Type:	2 Story Single Family	**Proposed Lot Size:**	30 Ft. x 105 Ft.
House Size: (Width x Depth)	20 Ft. x 43 Ft.	**Square Footage:**	1,690 Sq. Ft.

An existing curb cut will be removed to restore an on-street parking space. Due to the narrowness of the lot and the average front set-back it is impossible to provide an off-street parking space.

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

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

THE CITY OF NORFOLK
CITY PLANNING

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

Applicant Information

Applicant Name:	Anton Williams	**Date of Application:**	January 19, 2016
Mailing Address:	6056 Foresttown Drive		
City, State, Zip Code:	Norfolk, VA 23502		
Phone Number:	757.675.6471	**E-Mail:**	

Property Information

Location:	525 W. 26th Street	**Neighborhood:**	Park Place
Zoning:	R-11	**Standard Lot Size:**	50 Feet x 100 Feet
House Type:	2 Story Single Family	**Proposed Lot Size:**	30 Feet X 105 Feet
Proposed House Size:	20 Feet x 43 Feet	**Square Footage:**	1690 SF

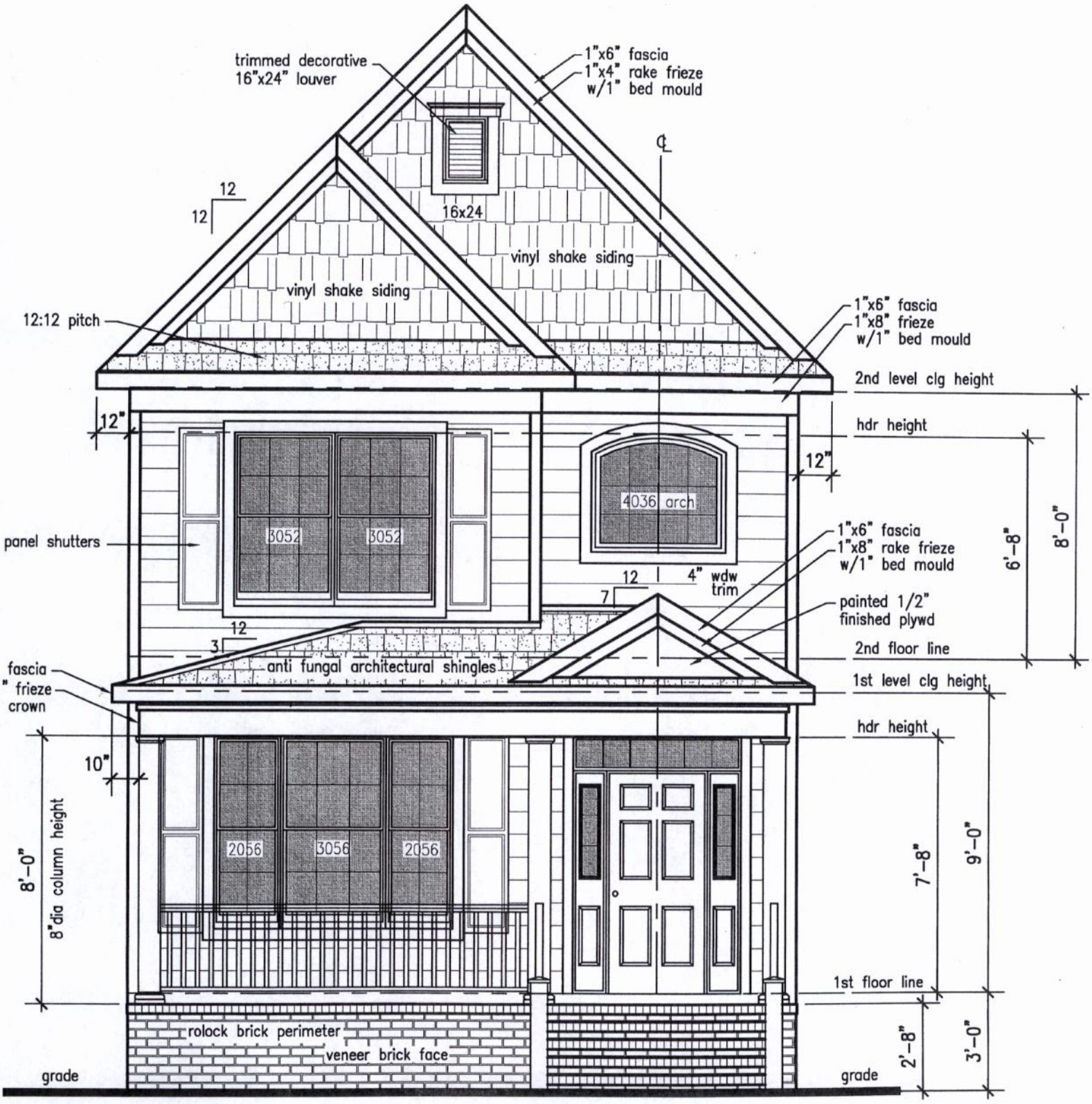
The proposed building plans and elevations for development of the site at 525 W. 26th Street and located in the Park Place neighborhood in Norfolk, Virginia has been determined to be in keeping with the character of the neighborhood using the standards established by City Council in Section 4-0.15 of the Zoning Ordinance, which include but are not limited to location and placement of windows, doors, roof(s), porch (es), columns, driveways, garage(s), and building height.

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

George Homewood, AICP, Director
City Planning

April 29, 2016
Date

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

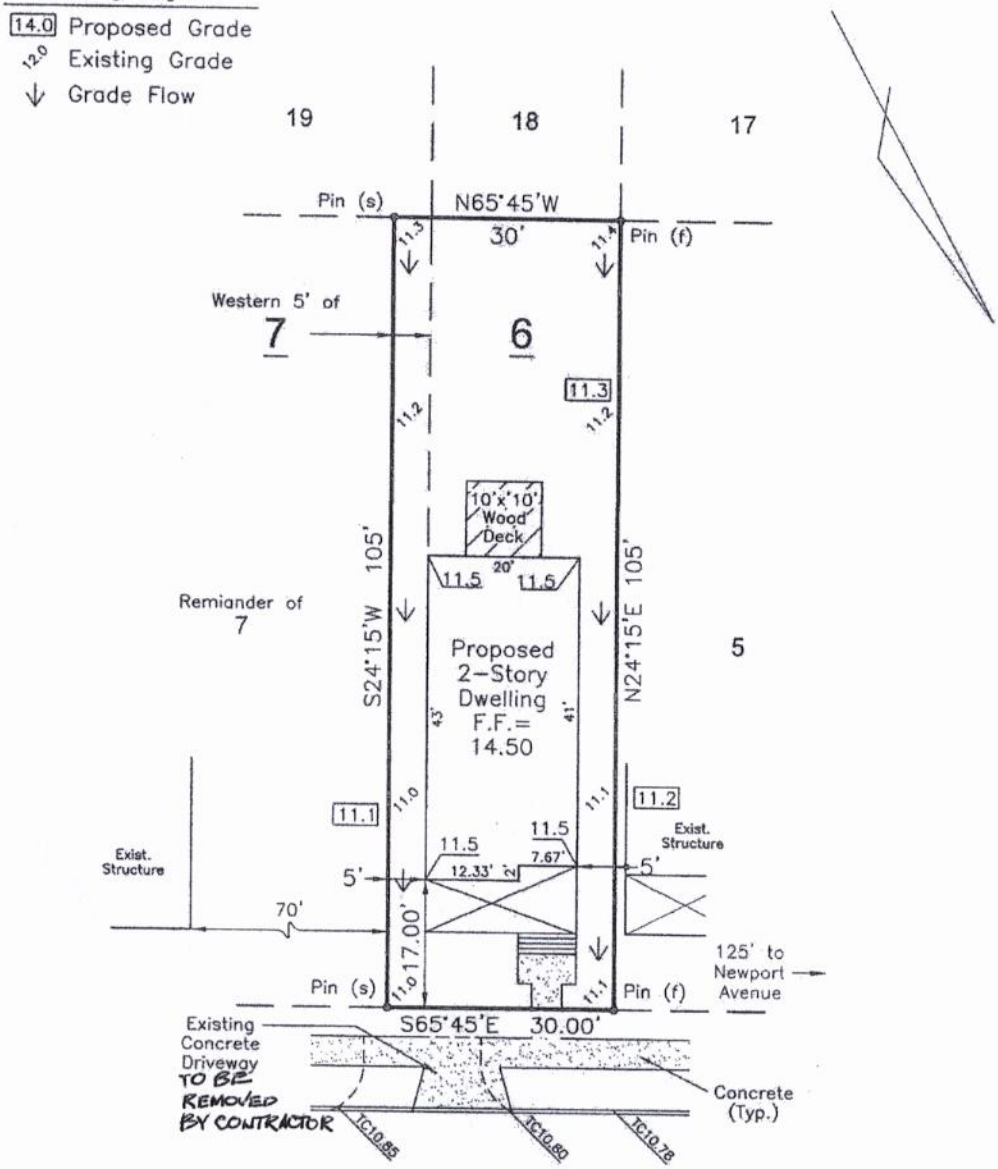


· Front Elevation ·

1/4"=1'-0"

GENERAL NOTES:

1. ELEVATIONS AS SHOWN HEREON ARE IN FEET AND ARE BASED ON THE CITY OF NORFOLK NAVD88 (92).
2. DIMENSIONS SHOWN HEREON ARE TO FRAMING LINE UNLESS OTHERWISE NOTED.
3. THE LOWEST FINISHED FLOOR ELEVATION IS A MINIMUM (1) FOOT ABOVE THE BASE FLOOD ELEVATION FOR THE 100-YEAR FLOOD PLAIN AS SHOWN ON THE F.E.M.A. MAP FOR THE CITY OF NORFOLK, VIRGINIA REVISED SEPTEMBER 2, 2009.
4. THE PRINCIPLE STRUCTURES SHOWN HEREON APPEAR TO FALL WITHIN ZONE X, AS SHOWN ON THE AFORESAID MAPS.
5. THERE ARE APPROVED CONSTRUCTION/LOT GRADING PLANS FOR THIS SITE.
6. NO TITLE REPORT WAS FURNISHED TO THE SURVEYOR PRIOR TO THE EXECUTION OF THIS SURVEY.
7. NEWLY PLANTED TREES TO REPLACE EXIST. TREES REMOVED FOR CONSTRUCTION.



COMMONWEALTH OF VIRGINIA
MICHAEL RHEINHART
Lic. No. 001851
4-14-16
LAND SURVEYOR

Site Plan
of
Lot 6 & and the western 5' of Lot 7,
#525 W. 26th Street
Plat of Old Dominion Place
Norfolk, Virginia
for
Anton D. Williams, Sr.

Michael Rheinhart
5548 Westward Drive
Virginia Beach, Virginia

Rev.: 04-14-16
Rev.: 01-28-16
M.B. 5, Pg. 2 & 3 (Chesapeake)

Date	Project	Scale:	Drawn By	Page:	Drawing Name
12-17-15		1" = 20'	JAH	1 OF 1	W 26th St Lot 6 SP.dwg

525 W 26th Street

Aerial View

525 W 26th Street

View from north

525 W 26th Street

View from south

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:	May 6, 2016

Attached for your review is the Pending Land Use Report, identifying applications received from April 20, 2016 through May 3, 2016. The report reflects items that are tentatively scheduled to be heard at the May 9, 2016 Architectural Review Board and the May 26 and June 23, 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 – May 9, 2016

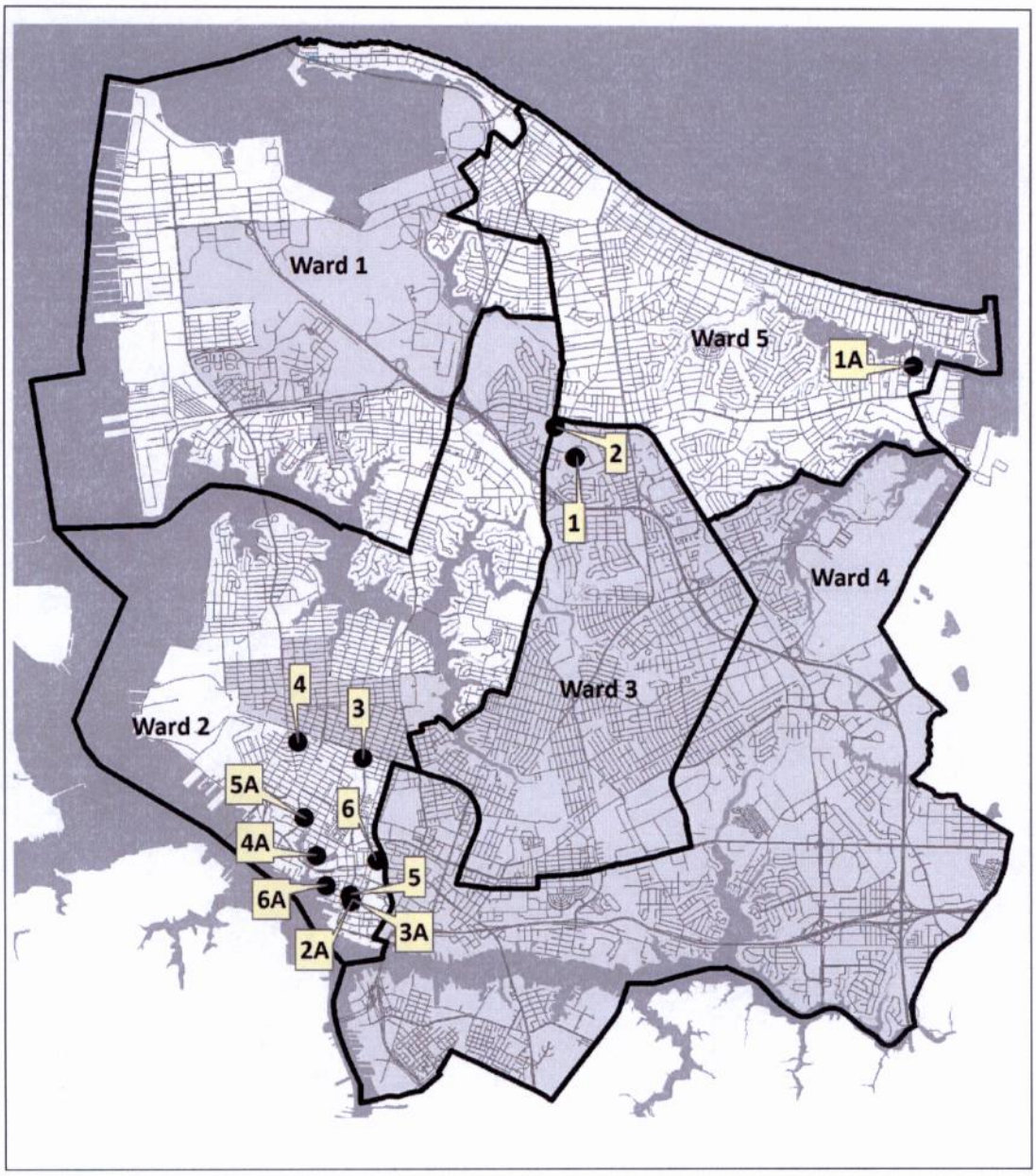
Number	Applicant	Location	Request	Ward	SW	Neighborhood
1A	Villa Marina at Taylor's Landing	8142 - 8158 Shore Drive and 8137 & 8145 Wisteria Place	Multi-family new construction with amenities	5	6	East Ocean View
2A	Tony Caruana	245 Granby Street	Outdoor dining	2	6	Downtown
3A	Tiffany Kidwell-Gaylord	255 Granby Street	Outdoor dining	2	6	Downtown
4A	Robyn Thomas	428 Mowbray Arch	New wood gates	2	6	Ghent
5A	Dawn Collins	627 Boissevain Avenue	Exterior renovations & gates/fencing	2	6	Ghent
6A	Paige Pollard	355 W Freemason Street	Construct a garage, window replacement, stair removal	2	6	West Freemason

City Planning Commission – May 26, 2016

Number	Applicant	Location	Request	Ward	SW	Neighborhood
1	City of Norfolk	900 Ashbury Avenue	• Amendment to the future land use designation in the general plan, *plaNorfolk2030*, from Institutional to Office. • Change of zoning from IN-1 (Institutional) to BC-1 (Business and Commerce Park) district.	3	7	N/A

City Planning Commission – June 23, 2016

Number	Applicant	Location	Request	Ward	SW	Neighborhood
2	Wing Stop	7750 Tidewater Drive, Unit 305, Building 3	Special exception to operate an eating and drinking establishment.	3	7	N/A
3	Claus Ihlemann	2202 Llewellyn Avenue	• Rezoning from I-1 (Limited Industrial) district to conditional C-2 (Corridor Commercial) district and 21st Street pedestrian commercial overlay district. • Special Exception for mixed uses.	2	6	Ghent
4	Henriette M Quenza	925 W 21sst Street	• Rezoning from I-1 (Limited Industrial) district to conditional C-2 (Corridor Commercial) district and 21st Street pedestrian commercial overlay district. • Special Exception for mixed uses.	2	6	Ghent
5	Ya Ya Gourmet House, Inc.	109 College Place, Suite A	Special exception to operate an eating and drinking establishment.	2	6	Downtown
6	The Hertz Corporation	700 Monticello Avenue	Special exception to operate an automobile and truck rental facility	2	6	Downtown



Pending Land Use Actions
APRIL 20 - MAY 3

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

May 6, 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., May 10, 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

May 6, 2016

The following meetings will take place on Tuesday, May 10, 2016:

1.	4:00 P.M.	Council to assemble in the 10th floor conference room at City Hall for a Budget Work Session.
2.	5:00 P.M.	Council to assemble in the 10th floor conference room at City Hall for a Business Meeting.
3.	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, MAY 10, 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 a **Land Disposition and Development Contract** with **Ocean View Properties, Inc.** for two parcels of land consisting of a total of 3.7 acres, more or less, on property located at **719 E. Ocean View Avenue**.

(PASSED BY AT THE MEETING OF APRIL 26, 2016)

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 **Pinewell Station** for a) an amendment to the City's Future Land Use Map within the general plan, *plaNorfolk2030*, from Open Space/Recreation and Commercial to Multifamily; b) a text amendment to the City's *Zoning Ordinance* to create PD-R Pinewell Station (Pinewell Station Residential Planned Development) district and c) for a change of zoning from C-2 (Corridor Commercial) and OSP (Open Space Preservation) Districts to PD-R Pinewell Station (Pinewell Station Residential Planned Development) District on property located at **600 and 719 East Ocean View Avenue.**

(PASSED BY AT THE MEETING OF APRIL 26, 2016)

PH-3 **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 a **Land Disposition and Development Contract** between the **City of Norfolk**, as Seller, and **Vistacor Advisors, LLC**, as purchaser, for four parcels of real property consisting of 1.56 acres, more or less, on property located at **Hampton Boulevard and 26th Street** in the City of Norfolk.

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 **Andalousi** for a change of zoning from R-8 (Single-Family) District to Conditional C-1 (Limited Commercial) District on property located at **2729 Bowdens Ferry Road.**

(PASSED BY AT THE MEETINGS OF MARCH 22 AND APRIL 12, 2016)

REGULAR AGENDA

R-1 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the resumption of a nonconforming retail sales establishment named **'The Coffee Tree'** in an historic building on property located at **2815 Colonial Avenue**," will be introduced in writing and read by its title.

R-2 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 named **'Elixia'** on property located at **257 Granby Street**," 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** to permit the operation of a **Day Care Home** known as **'Ms. Rosebuds Family Dayhome'** on property located at **1439 Mellwood Court**," 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 permit mixed uses on property located at **8131 Shore Drive**," 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 **'Wells Fargo Bank ATM'** on property located at **4231 East Little Creek Road**," will be introduced in writing and read by its title.

R-6 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the sale of alcoholic beverages for off-premises consumption at an establishment known as **'Mi Calavera Latin Store'** on property located at **1301 East Little Creek Road, Suites 4 and 5**," will be introduced in writing and read by its title.

R-7 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 **'Holiday Inn'** on property located at **1570 North Military Highway**," will be introduced in writing and read by its title.

R-8 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named **'Saint Germain'** on property located at **255 Granby Street**," will be introduced in writing and read by its title.

R-9 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 **'D'Art Center'** on property located at **740 Duke Street, Suite 100**," will be introduced in writing and read by its title.

R-10 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named **'Luce'** on property located at **245 Granby Street**," will be introduced in writing and read by its title.

R-11 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named **'Zeke's Beans and Bowls'** on property located at **800 Granby Street**," will be introduced in writing and read by its title.

R-12 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 **'Mi Hogar Mexican Restaurant'** on properties located at **4201 to 4205 Granby Street**," will be introduced in writing and read by its title.

R-13 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of a microbrewery named **'Benchtop Brewing Company'** on property located at **1121 to 1129 Boissevain Avenue**," will be introduced in writing and read by its title.

R-14 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named **'El Rey #2'** on property located at **849 East Little Creek Road**," will be introduced in writing and read by its title.

R-15 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting with appreciation $40,000 from **Marathon Development Group, Inc.** and appropriating and authorizing the expenditure of $40,000.00 for the construction of a dog walk area at **416 Granby Street**," will be introduced in writing and read by its title.

R-16 Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **519 Front Street, LLC** to encroach into the right-of-way at **519 Front Street** with the existing building, drain pipes and a concrete pad," will be introduced in writing and read by its title.

R-17 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **Paul Filion** permission to encroach into the right of way at **114 East 25th Street** approximately 155 square feet for the purpose of outdoor dining and approving the terms and conditions of the **Encroachment Agreement**," will be introduced in writing and read by its title.

R-18 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Nonexclusive Telecommunications Franchise Agreement** with **Mobilitie, LLC**," will be introduced in writing and read by its title.

R-19 Letter from the City Manager and an Ordinance entitled, "An Ordinance establishing certain public areas and streets of the City of Norfolk as the **'Festival Area'** and setting forth the regulations applicable to such festival area for the **Norfolk Harborfest 2016 Celebration**," will be introduced in writing and read by its title.

R-20 Letter from the City Manager and an Ordinance entitled, "An Ordinance closing certain city-owned docks to public use during the **Norfolk Harborfest 2016 Celebration**," will be introduced in writing and read by its title.

R-21 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a right of entry permitting the **New Hope Church of God In Christ** to go upon and use that certain City owned property numbered and designated as **616, 618 and 620 W. 35th Street**," will be introduced in writing and read by its title.

R-22 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $40,608.48 from the **Schools and Libraries Division of the Universal Service Fund E-Rate Reimbursement Program** and appropriating and authorizing the expenditure of $40,608.48 for telecommunications and technology services for the **Norfolk Public Library**," will be introduced in writing and read by its title.

R-23 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting with appreciation the donation of $9,170 to the City from the **Hampton Roads Community Foundation** and appropriating and authorizing the expenditure of $9,170 to support library services and programs with a preference for the purchase of additional books, reading or educational materials at the **Pretlow Anchor Branch Library**," will be introduced in writing and read by its title.

R-24 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting funds donated to the **City** to support the **Norfolk Neighborhood Expo Event of the City's Department of Neighborhood Development** and appropriating and authorizing the expenditure of the funds for the event," will be introduced in writing and read by its title.

R-25 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting funds donated to the City to support the **Shoot Hoops Not Guns Event** of the **City's Department of the Neighborhood Development** and appropriating and authorizing the expenditure of the funds for the event," will be introduced in writing and read by its title.

R-26 Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the City Manager to execute an **Amendment** to an **Agreement** in substantial conformity with the terms and conditions of **Amendment No. 3** to the **Comprehensive Agreement** by an between the City of Norfolk, Norfolk Public Schools, and **S. B. Ballard Construction Company** for the design and construction of four schools known as **Campostella K-8 School, Broad Creek PK-5 School, Ocean View PK-5 School** and **Larchmont PK-5 School,** with an option to design and build **Camp Allen PK-5 School** to restore **security camera systems**, which were removed as part of the Information Technology from each of the schools pursuant to **Amendment No. 2** to the **Comprehensive Agreement**," will be introduced in writing and read by its title.

R-27 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving the terms and conditions of a certain **Agreement** between the City of **Norfolk and the Southeastern Public Service Authority of Virginia** relating to the disposal of Norfolk's solid waste on and after January 25, 2018, and authorizing the City Manager to enter into the Agreement on behalf of the City," will be introduced in writing and read by its title.

R-28 Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain the **Norfolk City Code, 1979, SO AS TO** add one new section concerning interfering with vehicular traffic," will be introduced in writing and read by its title.

R-29 An Ordinance entitled, "An Ordinance to schedule a City Council meeting on **Tuesday, May 17, 2016 at 4:00 P.M.**," will be introduced in writing and read by its title.

City of NORFOLK

C: Dir., Department of Development

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: Charles E. Rigney, Sr., Director of Development

Subject: An ordinance approving a land disposition and development contract with Ocean View Properties, Inc.

Reviewed: _____
Peter Chapman, Deputy City Manager

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: **PH-1**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Ocean View Properties, Inc.

III. **Description:**
This agenda item is an ordinance to approve a land disposition and development contract with Ocean View Properties, Inc. for two parcels of land consisting of a total of 3.7 acres, more or less, and located at 719 E. Ocean View Avenue.

IV. **Analysis**
- Parcels include the former Ramada Inn site and Senior Center in Ocean View.
- Apartment style development – 145 units that will provide quality, affordable housing in Ocean View and additional support for existing and future commercial development in the area.
- Project is consistent with plaNorfolk2030 objectives.

V. **Financial Impact**
The sale of this property would place it back on the tax rolls and provide quality, affordable housing in Ocean View. The sales price is $1.285 million.

VI. **Environmental**
N/A

VII. **Community Outreach/Notification**
Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

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

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter has been coordinated with the Department of Development, City Attorney's Office and the City Manager's office.

Supporting Material from the City Attorney's Office:

- Ordinance
- LDDC
- Exhibits

3/3/2016mr

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
Department of Development

NORFOLK, VIRGINIA

ORDINANCE No.

PH-1

AN ORDINANCE APPROVING A LAND DISPOSITION AND DEVELOPMENT CONTRACT WITH OCEAN VIEW PROPERTIES, INC. FOR TWO PARCELS OF LAND CONSISTING OF A TOTAL OF 3.7 ACRES, MORE OR LESS, AND LOCATED AT 719 E. OCEAN VIEW AVENUE.

- - -

WHEREAS, the City of Norfolk desires to see a project of specific size, high quality design, and quality materials constructed by private developers on those certain parcels of real property owned by the City and consisting of 3.7 acres, more or less, including all buildings, structures and improvements thereon, located at 719 E. Ocean View Avenue in the City of Norfolk (the "Property"); and

WHEREAS, negotiations between the City and Ocean View Properties, Inc. (the "Developer") resulted in that certain Land Disposition and Development Contract for the sale of certain property, which was approved by Council on March 18, 2014, but market and other outside factors have caused the parties to renegotiate the terms and conditions of that agreement; and

WHEREAS, the parties wish to amend and restate their agreement to provide for the Developer to construct, furnish and equip a multi-story, multi-building apartment project on the

Property consisting of 120-150 residential units, with related parking, recreation, and leasing/management office facilities; now, therefore

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

Section 1:- That the terms and provisions of the Land Disposition and Development Contract between the City of Norfolk, as seller, and Ocean View Properties, Inc. ("Developer"), as purchaser, a copy of which is attached hereto, under which the City of Norfolk agrees to sell to Developer those certain parcels of land consisting of 3.7 acres, more or less, and located at 719 E. Ocean View Avenue, and Developer agrees to construct on the property approximately 120-150 residential units, with related parking, recreation, and leasing/management office facilities, upon the terms and conditions set forth therein, are hereby approved.

Section 2:- That the City Manager and other proper officers of the City are authorized to execute the Land Disposition and Development Contract on behalf of the City and do all things necessary and proper to carry out the terms of the Land Disposition and Development Contract.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Land Disposition and Development Contract as he may deem necessary to carry out the intent of the Council subject to the approval for form and correctness by the City Attorney.

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

AMENDED AND RESTATED
LAND DISPOSITION AND DEVELOPMENT CONTRACT

BY AND BETWEEN

THE CITY OF NORFOLK, VIRGINIA

AND

OCEAN VIEW PROPERTIES, INC.

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AMENDED AND RESTATED
LAND DISPOSITION AND DEVELOPMENT CONTRACT

THIS AMENDED AND RESTATED LAND DISPOSITION AND DEVELOPMENT CONTRACT ("Contract"), is made as of the __ day of _____, 2016, by and between the CITY OF NORFOLK, VIRGINIA ("City"), a municipal corporation of the Commonwealth of Virginia, and OCEAN VIEW PROPERTIES INC, a Virginia corporation ("Developer"). The parties to this Contract may be referred to herein collectively as the "Parties" or individually as the "Party".

RECITALS:

A. Under the leadership of the City Council of the City of Norfolk, the City has embarked on a plan to maintain, retain, improve and expand residential developments in the City, to cooperate in projects that increase both temporary construction and permanent jobs in the City, and to provide catalysts for neighborhood stability, which enhances quality of life in the City.

B. The City desires to see a project of specific size, high quality design, and quality materials constructed by private developers on those certain parcels of real property owned by the City, including (i) a portion of the parcel known as the former Ocean View Senior Center property with an address of 600 E. Ocean View Avenue and (ii) the adjacent parcel consisting of approximately 2.403 acres with address of 719 E. Ocean View Avenue, including all buildings, structures and improvements thereon, which parcels include a total acreage of approximately 6.013 acres and are shown as "Parcel B" on the proposed resubdivision plat entitled "Resubdivision of Parcels A and A-1" attached hereto as Exhibit "A" (the "Property"). The Property shall not include the portion of the Senior Center property shown on Exhibit A as "Parcel C."

C. Negotiations by the Parties resulted in that certain Land Disposition and Development Contract for the sale of certain property, which was approved by Council on March

18, 2014, but market and other outside factors have caused the parties to renegotiate the terms and conditions of that agreement.

D. Accordingly, the parties wish to amend and restate their agreement to provide for the Developer to construct, furnish and equip a multi-story, multi-building apartment project on the Property consisting of 120-150 residential units, with related parking, recreation, and leasing/management office facilities (the "Project"). The Project is described in detail in Developer's Proposal, as hereinafter defined, a copy of which is attached hereto as Exhibit "B". In the event of a conflict between the terms of this Agreement and the terms of the Developer's Proposal, the terms of this Agreement shall govern.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants herein contained, the Deposit which has been received by City and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS OF TERMS

When used in this Contract with an initial capital letter or letters, each of the following terms shall have the meaning set forth below.

(a) "Affiliate" of Developer means any legal entity, which controls, is controlled by, or is under common control with another entity with the Developer.

(b) "City" means the City of Norfolk.

(c) "Substantially Complete" or "Substantial Completion" means, with respect to the Project, the date when the construction of the building (s) is sufficiently completed so as to permit use of the building(s) for the purposes for which it was intended and a certificate of occupancy has

been issued for all the component uses, which date may precede the full completion of all punch-list items, landscaping and similar design and development functions.

(d) "Contractors" means the general contractors and subcontractors for construction of the Project.

(e) "Deposit" means the sum of Five Thousand and 00/100 Dollars ($5,000.00) to be paid by Developer to City at the time of execution of this Contract.

(f) "Developer's Proposal" means Developer's unsolicited proposal to the City regarding the Project, such proposal, as amended, having been accepted by the City.

(g) "Development Budget and Timeline" means a budget and timeline, prepared by Developer and approved by the City pursuant to Section 2.10 hereof, for development of the Project on such schedule as is reasonably required to achieve the Construction Completion Deadline, as hereinafter defined, set forth in Section 2.10 hereof.

(h) "Due Diligence Period" means the one hundred twenty (120) day period more fully described in Section 2.1.

(i) "Financing Commitment" means a commitment or commitments reasonably satisfactory to the City, which has or have been accepted by Developer from one or more equity investors or institutional lenders who are approved by the City, to finance the construction of the Project. In order to constitute a Financing Commitment under this definition, a commitment must be duly authorized by the issuer, and must be in substantially the same form and level of detail typically utilized by a prospective lender or investor in similar transactions, including requirements for Closing, as hereinafter defined, and conditions thereof; and, in the case of loan commitments, setting forth the proposed principal amount, interest rate, amortization terms, collateral or guaranty

requirements, maturity date, improvements to be constructed, and the expiration date of the commitment.

(j) "Outside Closing Date" means thirty (30) days after Developer has received all permits and approvals required to start construction but in no event later than March 31, 2017.

(k) "Purchase Price" means the sum of One Million Two Hundred Eighty-Five Thousand and 00/100 Dollars ($1,285,000.00).

(l) "Unavoidable Delay" means a delay due to war, riots, civil commotion, strikes, labor disputes, embargoes, natural disaster, Acts of God or any other cause or contingency similarly beyond the control of the Parties or the Contractors.

ARTICLE II
AGREEMENT TO CONVEY AND DEVELOP PROPERTY

Section 2.1. "As Is", Development, Design and Construction of Project.

The City will convey Property to Developer by special warranty deed which shall be good and marketable and free of any liens, encumbrances, or other title defects which would prohibit or impair the use of the Property for the purposes contemplated by this Contract. Subject to Section 8.3, the Developer shall be granted an easement for ingress and egress over the front portion of the parcel identified as Parcel C in Exhibit A (the "Access Easement"). Within sixty (60) days after the date of this Contract, Developer, at its expense, shall obtain a commitment for title insurance on the Property. Developer shall provide a copy of such title report/commitment to the City along with any objections thereto within fifteen (15) business days after Developer's receipt of such report/commitment. The City shall have a reasonable time to cure any title defects which are not acceptable to Developer and/or its lender. Prior to closing, Developer shall update the title report on the Property to be certain the only exceptions to the title at Closing are the Permitted Encumbrances. The foregoing notwithstanding, the City shall have the option of

declining to cure any defect by providing written notice thereof to Developer within sixty (60) days after receipt of written notice of such defect and a copy of Developer's title commitment, and, if the City does decline to cure any defect or does not cure any defect that it has agreed to cure, the Developer shall have the right to terminate this Contract at any time prior to the expiration of the Due Diligence Period and to receive the return of the Deposit as its exclusive remedy for termination of this Contract and any related claim. Developer will accept the Property from the City, subject to the terms and conditions hereinafter set forth. Except as expressly set forth in this Contract, Developer is accepting the use and conveyance of the Property "as is." Developer shall have one hundred twenty (120) days after the date of execution of this Contract to obtain the necessary information, assessments, studies, and the like which are necessary to determine if Developer wants to proceed with construction of the Project and to exercise its rights of entry under Section 4.1 hereof (the "Due Diligence Period"). In the event Developer determines the Property is unsuitable for constructing the Project, its sole remedy shall be return of its Deposit and termination of this Contract, which termination may be effected by giving written notice thereof to the City in accordance with the terms hereof prior to the end of the Due Diligence Period. Each Party shall be responsible for its costs of closing. Title to the Property will not be conveyed before the Developer closes on the financing for the construction of the Project and the terms and the source of the financing are acceptable to the City. Developer shall be responsible for any demolition.

Section 2.2. Restrictive Covenants.

The restrictive covenants contained in this Section 2.2 ("Restrictive Covenants") are intended and designed to operate as covenants binding upon Developer and its Affiliates and their successors and assigns. The Restrictive Covenants are intended for the benefit of the Property

provided that only the City and any successor or assignee of the City that is a local governmental agency and the United States of America, with respect to Subsection 2.2(d), shall have the right, power and authority to enforce the Restrictive Covenants; and provided, further, that the City shall have the right, power and authority (without the necessity of obtaining the consent of Developer) to waive compliance by Developer with any of the Restrictive Covenants whenever it makes a determination, in its reasonable discretion, that such non-compliance or default does not materially interfere with the objectives of the City with regard to development. In addition to, but not in lieu of, any other right or remedy for breach of any one or more of the Restrictive Covenants, the City shall be entitled to seek injunctive relief, without necessarily showing monetary or special damages and without posting bond or security for a bond for the award of a permanent injunction. The violation of any of the foregoing covenants, and the exercise of any right or remedy for breach of any of such covenants, shall not destroy, impair or otherwise affect the lien of any recorded instrument given by Developer to secure repayment of a loan or loans made for the purpose of providing funds for improving the Property. The Parties recognize that the development and operation of the Property in a manner which is in the best interest of both Parties may from time to time require the confirmation, clarification, amplification or elaboration of the Restrictive Covenants in order to deal adequately with circumstances, which may not now be foreseen or anticipated by the Parties. The Parties, therefore, reserve unto themselves the right to enter into such interpretive, implementing, amendatory or confirmatory agreements from time to time as they may deem necessary or desirable for any such purpose without obtaining the consent or approval of any person not a party to this Contract, except as may be expressly otherwise provided in this Contract.

The City has determined, in the exercise of its legislatively delegated discretion, that in order to carry out the objective of maintaining, retaining, improving and expanding existing development, and to set a prevailing high standard in aesthetics, public policy is best served by the imposition of conditions and restrictions upon the improvement, use, and maintenance of vacant land which is intended for development by private enterprise. To that end, it is hereby specified that, as part of the consideration for this transaction, the use of the Property to be conveyed is expressly subject to the following covenants, restrictions, limitations and conditions, which are to be imposed as covenants running with and binding upon the aforesaid Property and Project:

(a) The Property and Project shall not be used for industrial purposes, with the exception of parking, but shall initially be used for and, for at least a period of forty (40) years from the date of Closing, shall continue to be used for residential, retail or mixed use commercial purposes.

(b) There shall not be effected or executed any agreement, lease, covenant, conveyance or other instrument whereby the sale, lease or occupancy of the Property or Project is restricted upon the basis of race, creed, color, religion, sex, national origin, disability or familial status.

(c) Developer will comply with all state and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, creed, color, religion, sex, national origin, disability or familial status in the leasing or occupancy of the Property, or any improvements thereon, including the Project.

(d) Developer agrees, on its own behalf and on behalf of its successors and assigns, not to discriminate upon the basis of race, creed, color, religion, sex, national origin, disability or familial status in the sale, lease, rental, use or occupancy of the Property or any

improvements thereon, including the Project. This covenant being given for the benefit of the public, the United States of America is expressly recognized as a beneficiary thereof and is entitled to enforce it for its own benefit or that of the public.

(e) Coal shall not be used for heating or developing fuel or for any other operation on the Property.

(f) Any land area within the Property not occupied by structures, hard surfacing, or vehicular driveways shall be kept planted with grass, trees and plants and/or shrubbery and shall be maintained in a healthy condition and neat appearance. In the event of a default by Developer, its successors and/or assigns, in the planting and/or maintenance obligations set forth in this Section 2.2(f), which default continues for a period of ten (10) business days after receipt by Developer of written notice thereof by Developer, the required planting and maintenance work may be completed by the City at the sole cost and expense of Developer, its successors and assigns, from time to time and in keeping with this covenant, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(g) Developer agrees, on its own behalf and on behalf of its successors and assigns, that the Project and its appurtenant premises will be maintained in a first class and sound condition and with a neat and well maintained appearance. Necessary repairs, maintenance and upkeep of the Project will be performed so as to preserve the attractive appearance, physical integrity, and the sanitary and safe condition of the buildings and other improvements. In the event of a default by Developer, its successors and/or assigns, in the repair, maintenance and/or upkeep obligations set forth in this Section 2.2(g), which default continues for a period of thirty (30) days after receipt of written notice thereof by Developer, the required repairs, maintenance and/or upkeep may be completed by the City at the sole cost and

expense of Developer, its successors and assigns, from time to time and in keeping with this covenant, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(h) All exterior walls shall be constructed of permanent materials impervious to deterioration in appearance, such as stone, exposed aggregates, brick, block, pre-cast panels, glass, hardiplank, or EFIS (exterior finishing insulation systems). All roof structures and appurtenances in excess of six (6) inches in diameter and twelve (12) inches in height shall be shielded or screened from observation from the same elevation. Such shielding or screening shall be with materials compatible and in harmony with the roof and/or side walls.

(i) Any service area, facility or equipment located on that side of the Project site which is adjacent to a public right-of-way is to be enclosed or adequately screened. The materials used for the enclosures and screens shall be consistent with the design of the Project.

(j) No landscaping, improvements or structures, whether temporary or permanent in nature, shall be constructed, commenced or erected on the Property unless and until the plans, working drawings, specifications and materials therefor have been approved in writing by the City.

(k) Gas, electric and other utility services shall be underground to the Project from the main distribution. No utility line or connection to any utility line at or above ground level shall be permitted.

(l) The covenants under Subsections (a), (e), (f), (g), (h), (i), (j) and (k) shall expire forty (40) years after the date of this Contract.

It is intended and agreed hereby that the Restrictive Covenants under this Section 2.2 shall be covenants running with the land and that they shall in any event, and without regard

to technical classification or designation, legal or otherwise be binding upon the City and Developer, and its successors and assigns, as the case may be.

Section 2.3. Title Insurance.

At Closing, Developer shall obtain, at its expense, an ALTA Owner's Policy of Title Insurance in the amount of the Purchase Price or such other amount as required by its lender.

Section 2.4. Design of Project.

In accordance with Section 2.7 below, the design and materials of the Project shall be subject to review and approval by the City's Design Review Committee and the City's Planning Commission. The Project will consist of the buildings, facilities and elements described in Developer's Proposal. The design of the apartments to be constructed on the Property and the construction materials used within will be of at least the same or similar quality of other first class residential projects approved by the City on property formerly owned by the City.

Developer shall submit the preliminary plans to the Planning Director (a) when design is approximately 10% complete, (b) when the design is 30% complete, (c) when the design is 90% complete, and (d) when the design is sufficiently complete such that Developer's contractor can proceed with construction (the "Final Plans"). Developer may not proceed with construction until the Final Plans for the Project are approved by the Planning Commission and, in order to enforce this Section 2.4, the City shall be entitled to seek injunctive relief without the necessity of showing monetary or special damages and without posting bond or security for a bond for the award of a permanent injunction. The City's review will include confirmation that the design at the 90% stage and the Final Plans are in substantial conformance with the previous plans provided or properly modified in accordance with this Contract. Notwithstanding the foregoing, upon prior written notice to the City setting forth in detail the changes to be made and the reasons therefor,

Developer shall have the right to make changes in the design and construction of the Project to the extent required to meet applicable codes, rules, regulations, statutes and ordinances. Developer must also obtain all other approvals required by the Norfolk City Code and other applicable laws and regulations. If, prior to Closing, Developer, despite using commercially reasonable efforts, is unable to obtain approval by the City of the plans for the Project and all other governmental approvals and permits required to commence construction of the Project, Developer may terminate this Contract by giving the City written notice thereof prior to the Closing, in which event the City shall refund the Deposit to the Developer.

Section 2.5 Construction and Design of Parking.

Developer shall be responsible for the design, construction, and equipping of the parking areas on the Project in accordance with Developer's Proposal and applicable zoning requirements.

Section 2.6. Relocation and Construction of Utilities.

Developer shall be responsible for the relocation of any utilities which is necessitated by the construction of the Project on the Property and for bringing and connecting utilities to the Project, and all costs thereof shall be paid and borne by Developer. In addition, Developer shall cause all electric, telephone and other utility lines for the Project to be placed underground within public rights of way or utility easements located within the Property lines. City agrees that all utilities are currently at or will be brought to the boundary line of the Property by the City.

Section 2.7. City's Review Procedures.

The City shall review the design submissions within thirty (30) days of its receipt of the same, and shall give written notice to Developer within such thirty (30) day period of its

determination that either (a) the same are approved as complete in accordance with the terms of this Contract, (b) that such submissions are incomplete or otherwise fail to comply with the terms of this Contract, and/or (c) that such submissions must be modified. If the City determines that the Project design documents submitted to it hereunder are incomplete or otherwise fail to comply with this Contract or must be modified in accordance herewith, it shall disapprove them or request such modification and shall, in its notice thereof to Developer, set forth with specificity the reasons for the failure to comply and/or the nature of the modification being requested. After correcting and/or modifying and completing the Project design documents in accordance herewith, Developer shall resubmit the Project design documents to the City within thirty (30) days after such notification from the City. The City shall, within thirty (30) days of the receipt of such revised Project design documents, give notice to Developer whether it approves or disapproves or requires further modification of the Project design documents and, if it disapproves or requests further modifications, it shall set forth the specific reasons for such disapproval or requested modifications in its notice thereof to Developer. Each further revision and resubmission of any of the Project design documents by Developer, and each further review and notice of approval or disapproval or request for modification of any of the Project design documents by the City shall be done or made pursuant to the procedures hereinabove set forth.

Section 2.8. Modifications of Design by Developer.

If Developer wishes to make modifications to the design of the Project, it shall submit such proposed modifications to the City for review and approval. Any such submission shall clearly identify all changes, omissions and additions as compared to the previously approved Project design documents. If the City determines, in its reasonable judgment, that the proposed modifications are acceptable, the City shall so notify Developer, the Project design shall be deemed

to incorporate the modifications that have been approved by the City, and Developer shall perform its obligations under this Contract in accordance with the Project design, as modified. If the City determines, in its reasonable judgment, that the proposed modifications are not acceptable, the City shall so notify Developer, specifying in reasonable detail in what respects such proposed modifications are not acceptable, and Developer shall either (a) withdraw the proposed modifications, in which case construction of the Project shall proceed on the basis of the Project design previously approved by the City, or (b) revise the proposed modifications in response to the City's objections and resubmit such modifications to the City, within thirty (30) days after receipt of such notice of objections, for review and approval.

Section 2.9 Rezoning.

If not previously applied for, within sixty (60) days after the full execution of this Contract by all parties hereto, the Developer shall apply for the rezoning of the Property to a zoning classification that permits the use of the Property as contemplated in the Developer's Proposal. City staff shall assist Developer during the application process.

Section 2.10 Construction Schedule.

Developer shall commence construction of the Project on or before that date which is sixty (60) days after the later of (a) the date of Closing or (b) the date of approval of the Final Plans by the City (the "Construction Commencement Deadline"). Developer shall provide written notice to the City of the date of the commencement of construction within five (5) business days after such commencement. Construction of the Project shall be Substantially Completed in a good and workmanlike manner in accordance with the Final Plans and a Certificate of Occupancy shall have been obtained by Developer no later than that date which is three hundred and sixty-five

(365) days after the date of commencement of construction, subject only to extensions for Permitted Delays, as hereinafter defined (the "Construction Completion Deadline").

Full completion of all punch-list items, landscaping and similar design and development functions for the Project ("Final Completion") by Developer shall occur within two (2) months following Substantial Completion, subject to Unavoidable Delays. Construction shall be completed by Developer on such schedule as is reasonably required to achieve Substantial Completion prior to the Construction Completion Deadline. Accordingly, at or prior to submission of the plans for final approval by the City, a Development Budget and Timeline shall be furnished by Developer to the City's Director of Development for review and approval by the City.

Promptly after the execution and delivery of this Contract, Developer shall commence and diligently prosecute all investigations, studies, applications, architectural and engineering work, negotiations, letting and execution, as the case may be, of construction, demolition, and utility relocations or abandonment, contracts or commitments, necessary or appropriate for the commencement of construction in accordance with the terms hereof.

Section 2.11. Financing Commitment.

Prior to Closing, Developer shall provide a Financing Commitment to the City, in form and substance satisfactory to the City, evidencing Developer's financial ability to design, construct and equip the Project and thereafter to maintain, operate and lease the same.

Section 2.12. Failure to Obtain Financing or to Meet Construction Schedule.

In the event that (a) Developer fails to commence construction of any phase of the Project as specified in Section 2.10, or (b) construction ceases for ninety (90) consecutive days (other than, in either case, because of Permitted Delay), except if such cessation is due to the phased development time periods contemplated in Section 2.10, and if the Developer makes

reasonable effort to recommence construction, then such ninety (90) day period will be extended to one hundred twenty (120) days, the City, shall be entitled, but not obligated, to terminate this Contract upon thirty (30) days written notice to Developer and upon the conclusion of such thirty (30) day period and no cure by Developer, this Contract shall terminate except for the City's remedies as outlined below. In the event a delay in construction of the Project is caused by an Unavoidable Delay, the applicable Construction Commencement Deadline and/or the Construction Completion Deadline shall be extended but only by the number of days of delay caused by such Unavoidable Delay; provided, however, there shall be no extension of the applicable Construction Commencement Deadline and/or the Construction Completion Deadline unless, (x) within five (5) business days after the occurrence of any such Unavoidable Delay, Developer provides written notice to the City of the occurrence of such Unavoidable Delay, (y) within five (5) business days after conclusion of such Unavoidable Delay, Developer provides an additional written notice to the City of the total number of days of such Unavoidable Delay and of the adjusted applicable Construction Commencement Deadline and/or Construction Completion Deadline, and (z) the City agrees to the date(s) of such adjusted Construction Commencement Deadline and/or the Construction Completion Deadline in writing. Any Unavoidable Delay properly documented in accordance with the terms of this Section 2.12 shall be referred to herein as a "Permitted Delay."

In the event this Contract is terminated by the City pursuant to this Section 2.12, the City shall have the right, but not the obligation, to re-enter and take title to the Property, in which event Developer shall immediately execute a deed re-conveying the Property as well as all improvements thereon to the City, subject to any mortgage ("Mortgage") secured by the Project and to which the Property is subject pursuant to the Financing Commitment and further subject to

any tenant leases already in place for premises at the Project; provided the City shall pay for the Property in accordance with Section 9.2 of this Contract. In the event the City has the right to terminate this Contract as provided in this Section 2.12, but does not exercise its right to terminate and the then current phase of the Project is Substantially Completed on a date after the applicable Construction Completion Deadline, then Developer shall pay liquidated damages to the City for such delay for each day between the applicable Construction Completion Deadline and the date the then current phase of the Project is Substantially Completed. The amount of liquidated damages for each day of such delay shall be the difference between real estate taxes that would be payable if the then current phase of the Project had been Substantially Completed on the applicable Construction Completion Deadline and the actual real estate taxes that are assessed for the days between the applicable Construction Completion Deadline and the date the then current phase of the Project is Substantially Completed. Developer agrees this provision is a valid and enforceable liquidated damages provision and the City's Real Estate Assessor's assessment of the amount owed by Developer as liquidated damages shall be accepted by Developer as the proper amount.

Section 2.13. Risk of Loss and Insurance.

After Closing, the Developer shall bear the risk of loss on the Property and all improvements thereon, including the Project. Developer agrees that in the event the Project is partially or fully damaged or destroyed prior to Final Completion of the entire Project and occupancy, Developer shall rebuild the Project at its costs, including the costs of design, construction and equipping same. Failure to commence reconstruction within a reasonable time or failure to complete reconstruction shall entitle City to have the Property reconveyed to City on the terms described in Section 9.2 with respect to a default under Section 2.12(a).

Beginning on the Date of Closing, Developer shall, at its sole expense and cost, keep the Property and all of the improvements, including the Project, on the Property insured, on forms and in companies acceptable to City, for the benefit of Developer and City, in an amount equal to not less than the full insurable value (a) against loss and damage by fire, and (b) against loss or damage from risks covered by standard form of endorsement for use in Norfolk, Virginia. In no event shall the coverage amount be less than the amount it would take to design, construct and equip the Project in the event of partial or complete destruction of the Project. Developer shall maintain such other insurance, including, without limitation, pollution legal liability insurance, as shall be reasonably requested by the City. City shall be named as an additional insured on all policies of insurance until the final certificate of occupancy is issued for the Project.

Prior to Closing, City shall bear the risk of loss of the Property and any existing improvements. However, any improvements thereon are to be demolished by Developer after Closing; therefore loss of all or part of improvements on the Property prior to Closing in no way requires City to rebuild the existing improvements and shall not affect Developer's obligation to close or affect the Purchase Price.

Section 2.14. Sidewalks. The existing sidewalks adjacent to the Property require upgrade and/or construction. Such upgrade and construction shall be the responsibility of Developer at Developer's expense in accordance with the specifications set forth in Exhibit C or, in the absence of such specification in Exhibit C, in accordance with the City's standard specifications for sidewalks.

ARTICLE III
CLOSING AND PURCHASE PRICE

Section 3.1. Time and Place of Closing.

The closing ("Closing") shall take place at Office of the City Attorney, City Hall, 810 Union Street, Suite 900, Norfolk, Virginia 23510, or at any other location in Norfolk agreed to by the Parties, on a date mutually satisfactory to Developer and the City but in no event later than Outside Closing Date. Time is of the essence.

Section 3.2. Consideration.

In consideration for the City's conveyance of the Property to Developer, Developer shall pay to the City the Purchase Price and Developer shall be obligated to design, construct, and equip the Project on the Property at Developer's sole cost and expense pursuant to the terms of this Contract.

Section 3.3. Conditions of Developer's Obligation to Close.

The obligation of Developer to close hereunder is expressly conditioned upon the fulfillment by and as of the date of Closing of each of the conditions listed below; provided, however, that Developer, at its election, evidenced by written notice delivered to the City prior to or at the Closing, may waive any or all of the following conditions:

(a) Developer shall have the Due Diligence Period to have an environmental assessment, identification of utilities in, on or affecting the Property, and preliminary engineering and any other tests, studies or investigations done at Developer's costs (the "Assessments"). In the event the Developer determines, based on the Assessments, that the Property is unsuitable for the Project, the Developer's sole remedy is termination of this Contract and return of its Deposit. In no event will the Developer's right to the Assessments or to terminate this Contract based on the Assessments survive Closing. The City shall provide Developer with

copies of documents pertaining to the Property, such as title reports or environmental assessment reports, if any, which were generated for the City at the time when City purchased the Property.

(b) All representations, warranties, acknowledgments and covenants made by the City in this Contract shall be true and correct in all material respects and shall continue to be true and correct in all material respects as of the date of Closing.

(c) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or shall be in force, that would prevent the use and development of the Project in accordance with this Contract, the zoning, or in accordance with any related agreements to which the City is a party or to which Developer is a party.

(d) The City shall own fee simple title to the Property.

(e) The Property shall have been rezoned to an appropriate classification in accordance with the provisions of Section 2.9.

Section 3.4. Conditions of City's Obligation to Close.

The obligation of the City to close hereunder is expressly conditioned upon the fulfillment by and as of the date of Closing of each of the conditions listed below; provided, however, the City, at its election, evidenced by written notice delivered to Developer prior to or at the Closing, may waive any or all of the following conditions:

(a) All representations, warranties, acknowledgments and covenants made by Developer in this Contract shall be true and correct in all material respects, and shall continue to be true and correct in all material respects as of the date of Closing.

(b) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or

shall be in force, that would prevent the use and development of the Property in accordance with this Contract, the zoning, or in accordance with any related agreements to which the City is a party or to which Developer is a party.

(c) Developer will submit to City in accordance with the City's zoning regulations two copies each of (i) the plan of development for the Project and (ii) the application of the foundation permit for the Project.

(d) Developer shall have obtained a Financing Commitment in a form and on terms satisfactory to the City and in accordance with the terms of Section 2.11 and shall have provided to the City appropriate evidence thereof.

(e) A certificate from the Virginia Board of Contractors or other evidence satisfactory to the City that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing with the Virginia Board of Contractors.

(f) Such other documentation including plans and specifications, schematic drawings and renderings of the Project as may reasonably be requested by City to ensure the orderly development of the Property.

(g) City shall have approved the proposed Development Budget and Timeline in accordance with Section 2.10.

(h) City shall have approved the Final Plans in accordance with Sections 2.4 and 2.7.

(i) City shall have received a copy of the executed construction contract.

(j) City shall have received copies of payment and performance bonds each in the amount of the general construction contract for the Project in form and substance acceptable to the City.

(k) City shall have received proof satisfactory to the City of the insurance required under Section 2.13.

Section 3.5. Failure to Satisfy Conditions.

In the event that any of the conditions of a Party's obligation to close hereunder as set forth in Section 3.3 or Section 3.4 hereof are unsatisfied for any reason, other than as a result of Unavoidable Delay, that Party shall be entitled, but not obligated, to extend the Outside Closing Date by providing written notice to the other Party of such extension and of the duration thereof on or prior to the date of Closing to enable such other Party to satisfy or cause to be satisfied such conditions. If, on the original or any adjourned date of Closing, any condition of the obligation of a Party to close hereunder shall remain unsatisfied and such condition has not been waived by such Party, then such Party shall have the right to terminate this Contract upon thirty (30) days written notice to the other, and unless, during such thirty (30) days written notice to the other, either (a) the Party entitled to terminate shall waive such condition(s) as provided above and agree to proceed to Closing hereunder, or (b) the Party entitled to terminate may, by written notice to the other Party, terminate this Contract in which event neither Party shall have any further rights hereunder or obligations to the other of any nature hereunder or by reason hereof, except that with respect to a failure to satisfy any condition of the Closing that results from a Party's default under this Contract, the provisions of this Contract pertaining to such default, and to the Parties' respective rights, remedies and obligations in connection with such default, shall be applicable in addition to,

or (in the non-defaulting Party's discretion) as an alternative to, the non-defaulting Party's aforesaid right of termination.

Section 3.6. Deliveries at Closing by City.

At the Closing, City will execute and deliver to Developer the following:

(a) A special warranty deed conveying to the Developer good and marketable fee simple title to the Property free and clear of all liens and encumbrances except those permitted by this Contract and subject to the Restrictive Covenants described in Section 2.2;

(b) A certificate to the effect that the City is not a foreign entity subject to the withholding requirements of the Foreign Investment in Real Property Tax Act;

(c) A certified copy of the ordinance adopted by the City authorizing the conveyance of the Property to Developer pursuant to the terms of this Contract;

(d) A deed of easement for the Access Easement described in Section 2.1;

(e) Any other document or instrument required hereunder or reasonably requested by Developer or its title insurance company in order to consummate the transactions contemplated herein; and

(f) Any subordination or intercreditor contract reasonably required by Developer's lender.

Section 3.7. Deliveries at the Closing by Developer.

At the Closing, Developer shall execute and/or deliver the following:

(a) Developer shall deliver to the City the Purchase Price minus the Deposit, by wire transfer, cashiers check, or certified funds.

(b) Developer shall deliver to the City evidence reasonably satisfactory to the City that Developer has been validly formed as a corporation, is in good standing, and is qualified to do business in the Commonwealth of Virginia and City of Norfolk.

(c) Developer shall deliver to the City the written opinion of counsel of Developer, in form reasonably satisfactory to the City (assuming that all signatures are genuine, and further assuming that all documents presented to such counsel as copies conform with the originals), stating (1) that Developer is a corporation, duly organized and validly existing under the laws of the State of Virginia; (2) that Developer has the power to enter into the transactions contemplated by this Contract (including, without limitation, entry into this Contract); (3) that all actions by Developer required to be authorized in the transaction contemplated by this Contract have been duly authorized; (4) that this Contract and all documents required to effectuate the transactions contemplated hereby which are to be executed by Developer (including, without limitation, all agreements and instruments to be executed by Developer at the Closing) have been duly executed and delivered by Developer, and constitute binding obligations of Developer, enforceable in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganizations, moratoriums or similar laws affecting the enforcement of creditors' rights generally and by legal and equitable limitation on the enforceability of specific remedies.

(d) Developer shall deliver to the City resolutions of the Developer's Board of Directors ("Board"), authorizing Developer to consummate the transactions contemplated herein, such resolutions to be in form and substance reasonably satisfactory to the City, executed by the Board's President or Vice-President in their respective capacity and accompanied by a certificate executed by the Board's Secretary.

(e) Developer shall deliver to the City any other document or instrument required hereunder or reasonably requested by the City in order to consummate the transactions contemplated herein, which document or instrument will be in form and substance reasonably acceptable to the City, including, without limitation, proof of insurance required by Section 2.13 hereof.

Section 3.8. Prorations.

Proratable items relating to the Property will be prorated as of the date of Closing.

Section 3.9. Closing Costs.

City is exempt from grantor's tax on the Deed. Developer will pay all other recording taxes and fees in connection with the recordation of the Deed, the cost of its title insurance commitment and policy, the cost of obtaining the survey and any subdivision plat required, and all other costs incurred in connection with its due diligence investigations of the Property. Each Party will pay its respective attorneys' fees.

ARTICLE IV
ADDITIONAL COVENANTS

Section 4.1. Right of Entry.

Prior to Closing, Developer and its agents, representatives and contractors will have the right to enter the Property for the purpose of surveying the Property, conducting soil tests and engineering studies and performing such other examinations as Developer deems necessary to determine the suitability of the Property for its contemplated development. Developer will keep the Property free and clear of all mechanics' liens and will indemnify, defend and hold the City harmless from and against any and all claims, liens, liabilities, damages, losses and costs (including reasonable attorneys' fees) arising from the exercise by Developer of its right of entry under this

Section. If the Closing does not occur, Developer will repair any damage to the Property caused by Developer's exercise of such right of entry at Developer's sole cost and expense.

Section 4.2 Survey.

Developer shall be responsible for securing a survey of the Property. Such survey shall be conducted by a surveyor acceptable to Developer and the City, and shall be certified to Developer, the City, and the title company furnishing the title commitment to Developer. The survey shall carve out a portion of the former Senior Center parcel, generally shown as Parcel C in Exhibit A, from the Property.

Section 4.3. Condemnation.

If before the Closing all or any portion of the Property is taken under the power of eminent domain or is transferred in lieu of such taking and such taking or transfer materially interferes with Developer's contemplated development of the Property, Developer may, at its option, (i) terminate this Contract by notice to the City within thirty (30) days after Developer is notified of such taking or transfer, in which case return of the Deposit shall be the sole and exclusive remedy or (ii) proceed to Closing.

Section 4.4 . Time is of the Essence.

Time is of the essence as to the performance of the terms and conditions of this Contract. To the extent any provisions of this Contract specifically state that time is of the essence, such specific provisions are not intended to mean that time is not of the essence as to the remaining provisions of this Contract.

Section 4.5. Staging Area and Construction Operations.

City does not have any obligation to Developer and/or its contractor to provide a staging area or any particular construction easements for construction of the Project. Developer

shall see that any pile driving and similar construction methods are not started before 7:00 a.m. and cease by 6:00 p.m. on weekdays, and are not started before 9:00 a.m. and cease before 5:00 p.m. on weekends and holidays.

Section 4.6. Improvements to Community Beach Park and City Property.

Developer acknowledges that Community Beach Park, which is a public park located across Ocean View Avenue from the Property (the "Park"), will have a positive impact on the success of the Project. Accordingly, Developer agrees to reimburse the City for up to Seventy-Five Thousand and 00/100 Dollars ($75,000.00) for the costs incurred by the City to make the restroom facilities and entrances to the restroom facilities at the Park compliant with the Americans with Disabilities Act (the "Restroom Facility Improvements"). Developer shall make such reimbursement payments to the city within thirty (30) days after receipt of invoices evidencing expenses incurred by the City in connection with the Restroom Facility Improvements.

Upon the request of the City, Developer shall construct a retaining wall along Norfolk Avenue at Developer's sole cost and expense. The plans and specifications for the retaining wall shall be subject to the prior written approval of the City.

The provisions of this Section 4.6 shall survive the Closing and shall not be merged into the deed conveying the Property to Developer.

ARTICLE V
TERM

Section 5.1. Term of Contract.

The term of this Contract shall commence upon the date first entered on this Contract.

ARTICLE VI
PROGRESS REPORTS

In addition to timely construction of the Project, within ten (10) days after receipt of the City's request therefor, Developer shall provide the City with a written progress report that reflects all work done since the date of the prior progress report, if any; provided, however, Developer shall not be required to provide such progress reports more frequently than monthly.

ARTICLE VII
MODIFICATIONS FOR LENDER

If in connection with obtaining Financing Commitments for this Project, any lender shall request reasonable modifications of this Contract as a condition to such financing, the parties will execute a modification of this Contract, provided that such modification does not increase the financial obligations of the City, or materially and adversely affect any rights of the City created by this Contract.

ARTICLE VIII
ADDITIONAL OBLIGATIONS

Section 8.1. Certificate of Compliance.

Upon Final Completion of the Project, City will furnish Developer an appropriate instrument certifying that Developer has complied with the provisions hereof relating to the construction of the Project. If City shall, for cause, refuse or fail to provide certification, the City shall, within ten (10) days after written request by Developer, provide Developer with a written statement indicating in adequate detail (a) how Developer has failed to complete the construction of the Project in conformity with this Contract or is otherwise in default, and (b) what measures or acts will be reasonably necessary, in the opinion of the City, for Developer to take or to perform in order to obtain certification.

Section 8.2. Maintenance of Senior Center Parcel.

The grass, trees, plants and shrubbery located within the parcel owned by the City and shown as Parcel C on Exhibit A shall be maintained by Developer in a healthy condition and neat appearance consistent with that of the Project. In the event of a default by Developer, its successors and/or assigns, in the planting and/or maintenance obligations set forth in this Section 8.2, which default continues for a period of ten (10) business days after receipt by Developer, or its successor and assigns, of written notice thereof, the required planting and maintenance work may be completed by the City at the sole cost and expense of Developer, its successors and assigns, from time to time and in keeping with this covenant, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor. If requested by the City, the Developer shall enter into a written agreement with the City evidencing its obligations under this Section 8.2 prior to Closing. The obligations of Developer under this Section 8.2 shall expire forty (40) years after the date of this Contract. The City shall have the right to make alterations to and to use Parcel C in its sole and absolute discretion.

Section 8.3. Maintenance of Access Easement.

The Developer shall be solely responsible for the maintenance, upkeep, repair, and replacement of its improvements in the Access Easement. Such obligations shall be set forth in the deed from the City to the Developer for such easement.

ARTICLE IX
EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Default by Developer.

The occurrence of any of the following shall be an event of default by Developer under this Contract:

(a) The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors' rights;

(b) The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights;

(c) The entering of an order for relief against Developer or the appointment of receiver, trustee, or custodian for all or a substantial part of the property or assets of Developer in any involuntary proceeding, and the continuation of such order, judgment or decree unstayed for any period of thirty (30) consecutive days;

(d) The failure of Developer to perform or to observe any covenant, obligation, condition or requirement of this Contract not specifically named as a default in this Section 9.1, and the continuation of such failure for thirty (30) days after written notice from City specifying the nature and extent of any such default, or, if such default cannot reasonably be cured within such thirty (30)-day period, the failure either (i) to commence to cure such default within such thirty (30)-day period and to diligently continue to pursue such effort to cure to completion, or (ii) to cure such default within a reasonable time after the expiration of the first thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default.

Section 9.2. Remedies.

Upon the occurrence and continuance of any event of default described in Section 9.1 or any other breach of this contract, City may elect to terminate this Contract by giving written notice of such termination to Developer, and this Contract shall terminate as of the date specified in such notice (which date shall be on or after the date of the notice of termination). In the event that termination under this Section 9.2 occurs after Closing, in addition to its other remedies, City may elect to reenter and take back title to the Property, in which event Developer shall immediately

execute a deed re-conveying the Property as well as all improvements thereon to the City, subject to any Mortgage and any tenant leases already in place for premises at the Project and provided the City pays for the Property in accordance with the following paragraph of this Section 9.2. In addition to the remedies of termination described above, a non-defaulting Party shall have available to it all other rights and remedies provided in this Contract or at law or in equity. Remedies under this Contract shall be cumulative and not restrictive of other remedies. The prevailing Party in any action or proceeding to enforce the terms of this Contract shall be entitled to recover from the unsuccessful Party all costs and expenses, including reasonable attorneys' fees incurred therein.

In the event the termination is because of a default under Section 2.12 (a), the reconveyance of title of the Property to the City shall be subject to the City paying at the time of such reconveyance the Purchase Price minus the Deposit. In the event the termination is because of a default under Section 2.12 (b), the reconveyance of title of the Property and all improvements thereon to the City shall be subject to the City paying, at the time of such conveyance, the Reverter Payment, as hereinafter defined. The "Reverter Payment" shall be (a) the sum of the Purchase Price and (b) an amount equal to ninety-five percent (95%) of the Fair Market Value, as hereinafter defined, as of the date of such notice of termination of all improvements constructed thereon to date less the outstanding principal balance (and all accrued but unpaid interest thereon) under the Mortgage through the date of such notice of termination. For purposes of this Section 9.2, "Fair Market Value" shall mean the fair market value of the Property and improvements constructed to date of such of termination as determined by mutual agreement reached within twenty (20) days of the date of notice of termination by the City, or, in the absence of such agreement, by appraisal as follows. If the parties are unable to reach agreement on the Fair Market Value within such

twenty (20) day period, then within ten (10) days thereafter Developer shall name one appraiser and the City shall name a second appraiser. The appraisers so chosen will meet within ten (10) days after the second appraiser is appointed and if, within thirty (30) days after the second appraiser is appointed, the two appraisers are not able to agree upon the Fair Market Value, they shall appoint a third appraiser. In the event the two appraisers are unable to agree upon such appointment within ten (10) days after the aforesaid time, then either Party may, as promptly as possible thereafter, request the American Arbitration Association to appoint a third appraiser. The decision of the appraisers so chosen shall be given within a period of thirty (30) days after the appointment of such third appraiser. The decision in which any two appraisers so appointed and acting hereunder concur shall in all cases be binding and conclusive upon the parties. Each Party shall pay the fees and expenses of the original appraiser appointed by such Party and the expenses of the third appraiser, if any, shall be borne equally by the parties. Any appraiser, no matter by whom designated, shall be a member in good standing, with the "MAI" designation, of the Appraisal Institute with at least ten (10) years' experience as a real estate appraiser in the Hampton Roads, Virginia area. The City's right to take back the Property is subject to the lien of any Mortgage held by any lender for the financing of the Project and subject to tenant leases already in place for premises at the Project on the date of the notice, with copies of such leases to be provided to the City at the time of re-conveyance of the Property to the City. In addition to the remedies of termination described above, a non-defaulting Party shall have available to it all other rights and remedies provided in this Contract or at law or in equity. Remedies under this Contract shall be cumulative and not restrictive of other remedies. The prevailing Party in any action or proceeding to enforce the terms of this Contract shall be entitled to recover from the unsuccessful Party all costs and expenses, including reasonable attorneys' fees incurred therein.

ARTICLE X
ASSIGNMENT LIMITATIONS

Except as otherwise expressly provided herein, prior to Final Completion of the Project, Developer, individually or jointly, may not assign this Contract or any right, title or interest hereunder, to anyone or any entity without the prior written consent of the City. Developer shall have the right to collaterally assign all or any portion of its rights in this Contract (a) to any lender or lenders prior to Final Completion of the Project or (b) to anyone after Final Completion of the Project. Developer may assign this Contract to an Affiliate of Developer; provided, however, Developer shall not be relieved of any of its obligations hereunder by any such assignment.

A permitted assignment shall not relieve the assigning party from its obligations under this Contract. Any purported assignment of this Contract or of any right, title or interest hereunder not complying with this Article X shall be void and of no force or effect.

ARTICLE XI
MISCELLANEOUS

Section 11.1. Low and Moderate Income and Resident Job Opportunities.

Developer shall make every reasonable effort to include provisions in the construction contracts for the Project, (i) requiring the contractor to make a good faith effort to see that jobs at the Project are made available to Norfolk residents and to low and moderate income persons; and (ii) prohibiting any contractor or any commercial tenant of the Project from discriminating on the basis of race, color, creed, national origin, age or sex. Developer will cooperate with the City in alerting the contractors and tenants to any training programs or other job opportunity sponsored by the City and will encourage participation in such programs.

Section 11.2. City's Project Representative.

The City hereby appoints Charles E. Rigney, Jr., or his designee as its representative for the Project who will be responsible for coordinating the City's approvals hereunder.

Section 11.3. No Broker.

Developer and City each represent and warrant that no broker to whom a commission, fee or other compensation is payable is or has been involved in or brought about the transactions contemplated by this Contract. Each of said Parties shall indemnify and hold the others harmless from any and all claims, obligations, liabilities, costs or expense (including reasonable attorneys' fees) incurred as a result of any claim for brokerage commissions, fees or other compensation by any person or entity who alleges having acted or dealt with the indemnifying Party in connection with the Project or the transactions contemplated by this Contract. The Parties' obligations under this Section 11.3 shall survive the Closing and any termination of this Contract.

Section 11.4. Relationship of Parties.

This Contract is not to be construed to create a partnership or joint venture between the Parties.

Section 11.5. Negotiated Document.

The Parties acknowledge that the provisions and language of this Contract have been negotiated and agree that no provision of this Contract shall be construed against any Party by reason of such Party having drafted such provision of this Contract.

Section 11.6. Governing Law.

This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

Section 11.7. Successors and Assigns.

The agreements, terms, covenants and conditions of this Contract shall be binding upon and inure to the benefit of the City, Developer, and except as otherwise provided herein, their respective successors and permitted assigns.

Section 11.8. Further Assurances.

Each Party hereto shall do all acts and things and make, execute and deliver such written instruments as shall from time to time be reasonably required to carry out the terms and provisions of this Contract.

Section 11.9. No Amendment.

Neither this Contract nor any provisions hereof may be changed, modified, amended, supplemented, altered, waived, discharged or terminated except by an instrument in writing signed by both Parties and if required by any mortgage document, with the written consent of the applicable lender.

Section 11.10. Survival of Closing.

The provisions of this Contract shall survive the Closing.

Section 11.11. Effectiveness.

This Contract shall not be binding or effective until executed and delivered by the Parties hereto.

Section 11.12. Waiver.

The failure of any Party to insist upon strict performance of any of the terms or provisions of this Contract or to exercise any option, right or remedy contained in this Contract,

shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, of this Contract nor be deemed to have been made unless expressed in writing and signed by such Party.

Section 11.13. Exhibits.

Each Exhibit referred to in this Contract is incorporated by reference and attached to this Contract.

Section 11.14. Consent and Approvals.

(a) All consents and approvals which may be given under this Contract shall be in writing, as a condition of their effectiveness. The granting of any consent or approval by a Party to perform any act requiring consent or approval under the terms of this Contract or the failure on the part of a Party to object to any such action taken without the required consent or approval shall not be deemed a waiver by the Party whose consent was required or its right to require such consent or approval for any further similar act.

(b) If it is provided that a particular consent or approval is not to be unreasonably withheld, such consent or approval also shall not be unreasonably conditioned or delayed and any matter required to be done satisfactorily or to the satisfaction of a Party only be done reasonably satisfactorily or to the reasonable satisfaction of that Party.

Sections 11.15. Interpretation.

For the purpose of construing this Contract, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural number and vice versa, words in one gender shall be deemed to include words in other genders, and the word "person" shall be deemed to include a corporation or partnership. Headings of articles and sections

are inserted only for convenience and are not, and shall not be deemed, a limitation on the scope of the particular articles or sections to which they refer.

Section 11.16. "Including".

In this Contract, whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, the word "including without limitation," and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

Section 11.17. Notices.

All notices or other communications required or desired to be given with respect to this Contract shall be in writing and shall be delivered by hand or by courier service, or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as provided below. Each notice given by mail shall be deemed to be given by the sender when received or refused by the Party intended to receive such notice; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the Party intended to receive such notice or when such Party refuses to accept delivery of such notice. Upon a change of address by either Party, such Party shall give written notice of such change to the other Party in accordance with the foregoing. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent, effective as of the date such notice would otherwise have been received.

To City:	City Manager 810 Union Street, Suite 1101 Norfolk, VA 23510
With a copy to:	Director of Development Department of Development

500 E. Main Street, Suite 1500
Norfolk, VA 23510

With a copy to: City Attorney
Office of the City Attorney
810 Union Street, Suite 900
Norfolk, VA 23510

To Developer: Ocean View Properties, Inc.
Attention: Robert Zirpoli
844 First Colonial Road, Suite 205
Virginia Beach, VA 23451

With a copy to: Bill Bischoff, Esq.
3704 Pacific Avenue, Suite 300
Virginia Beach, Virginia 23451

Section 11.18. Entire Agreement.

This Contract constitutes the entire agreement between the Parties with respect to the Project and supersedes all prior understandings and writings, and this Contract may be amended or modified only by a writing signed by City, and Developer.

Section 11.19. Counterparts.

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

Section 11.20. Recordation.

This Contract may be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.

(signature pages to follow)

WITNESS the following signatures:

CITY OF NORFOLK

_____
Marcus D. Jones, City Manager

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and Commonwealth aforesaid, by _____ _____ of the City of Norfolk, and by _____, Clerk of the City of Norfolk, this _____ day of _____, 2016.

_____
Notary Public

My commission expires:_____

Approved as to contents:

_____
Director, Department of Development

Approved as to form and correctness:

_____
Assistant City Attorney

OCEAN VIEW PROPERTIES, INC.

By:_____
Name:_____
Title:_____

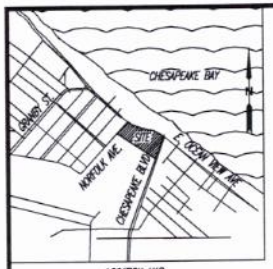
COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and Commonwealth aforesaid, by _____, _____ of Ocean View Properties, Inc., this _____ day of _____, 2016.

_____
Notary Public

My commission expires:_____

EXHIBIT A
Plat of Property



LOCATION MAP
1" = 2000'

GENERAL NOTES

1. NO TITLE REPORT WAS PROVIDED FOR THIS SURVEY. ALL EASEMENTS MAY NOT BE SHOWN.
2. NO WETLAND DELINEATION MARKERS WERE OBSERVED DURING THE FIELD SURVEY.
3. THE REFERENCE MERIDIAN FOR THIS SURVEY IS BASED ON CITY OF NORFOLK CONTROL MONUMENTS GPS042, GPS069, AND GPS155 VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE NAD 1983/1993 (HARN). COORDINATES ARE EXPRESSED IN US SURVEY FEET.
4. FURTHER DEVELOPMENT OF THESE LOTS INCLUDING ANY FILLING OR PHYSICAL ALTERATIONS OF THE LOTS MAY REQUIRE ADDITIONAL PERMITS FROM THE CITY OF NORFOLK OR OTHER GOVERNMENTAL AGENCIES.
5. THE TOTAL AREA ENCOMPASSED WITHIN THIS RESUBDIVISION = 277,895 SQUARE FEET/ 6.380 ACRES.
6. ALL INTERNAL LOT AND DEED LINES ARE HEREBY VACATED.

SOURCE OF TITLE

THE PROPERTY EMBRACED WITHIN THE LIMITS OF THIS RESUBDIVISION WAS CONVEYED TO THE CITY OF NORFOLK, VA FROM ROBERT D. AND LILY K. GARRISON BY DEED DATED FEBRUARY 1, 1938 AND RECORDED BY DEED BOOK 350A, PAGE 223 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA AND PREET, L.L.C. A VIRGINIA LIMITED LIABILITY COMPANY, BY DEED DATED JANUARY 28, 2010, AND RECORDED BY INSTRUMENT # 100002269 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA.

I, BETH ANNE G. CAMPBELL, A LAND SURVEYOR DO HEREBY CERTIFY THAT THIS PLAT WAS MADE BY ME, THE UNDERSIGNED, AT THE DIRECTION OF THE OWNER AND THAT THIS SUBDIVISION IS ENTIRELY WITHIN THE BOUNDARIES OF LAND COVERED BY DEEDS DESCRIBED BELOW, AND THAT CONCRETED, STEEL PINS AS SPECIFIED BY THE SUBDIVISION REGULATIONS OF NORFOLK, VIRGINIA ARE ACTUALLY IN PLACE AT POINTS MARKED THUS, " ○ ", AND THAT THEIR LOCATIONS ARE CORRECTLY SHOWN.

SIGNED: _____ DATE: _____

COMMONWEALTH OF VIRGINIA
BETH ANNE G. CAMPBELL
Lic. No. 003316
05/01/16
LAND SURVEYOR

CLERK'S NOTE

VIRGINIA:

IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA, ON THE_____DAY OF _____20__ AT _____ THIS PLAT WAS THIS DAY RECEIVED AND UPON CERTIFICATE OF ACKNOWLEDGEMENT, THERETO ANNEXED, ADMITTED TO RECORD IN MAP BOOK:_____ PAGE:_____

_____
TESTE: , CLERK

THE PLATTING OR DEDICATION OF THE FOLLOWING DESCRIBED LAND, RESUBDIVISION OF PROPERTY OF "RESUBDIVISION OF PARCELS A AND A-1" IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS.

OWNER: CITY OF NORFOLK, VIRGINIA

APPROVED: _____, DATE:_____
RONALD H. WILLIAMS, JR., DEPUTY CITY MANAGER

APPROVED: _____, DATE:_____
R. BRECKENRIDGE DAUGHTREY, CITY CLERK

CERTIFICATE OF NOTARIZATION

STATE OF VIRGINIA
CITY/COUNTY OF NORFOLK, TO WIT;

I, _____, A NOTARY PUBLIC IN AND FOR THE CITY/COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT RONALD H. WILLIAMS, JR., DEPUTY CITY MANAGER AND R. BRECKENRIDGE DAUGHTREY, CITY CLERK, WHOSE NAMES ARE SIGNED TO THE FOREGOING WRITING BEARING DATE ON THE___DAY OF _____20___, HAVE ACKNOWLEDGED THE SAME BEFORE ME IN THE CITY AND STATE AFORESAID.

GIVEN UNDER MY HAND THIS___DAY OF_____, 20__

MY COMMISSION EXPIRES:_____

_____
SIGNED: NOTARY PUBLIC

_____
REGISTRATION NUMBER AND SEAL

THE UNDERSIGNED CERTIFY THAT THE RESUBDIVISION AS IT APPEARS ON THIS PLAT CONFORMS TO THE APPLICABLE REGULATIONS RELATING TO THE SUBDIVISION OF LAND AND IS ACCORDINGLY APPROVED. BY SUCH APPROVAL, THE UNDERSIGNED DO NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREET OR OTHER LINES SHOWN ON THIS PLAT.

APPROVED:_____DATE:_____
DIRECTOR OF CITY PLANNING AND COMMUNITY DEVELOPMENT
CITY OF NORFOLK, VIRGINIA

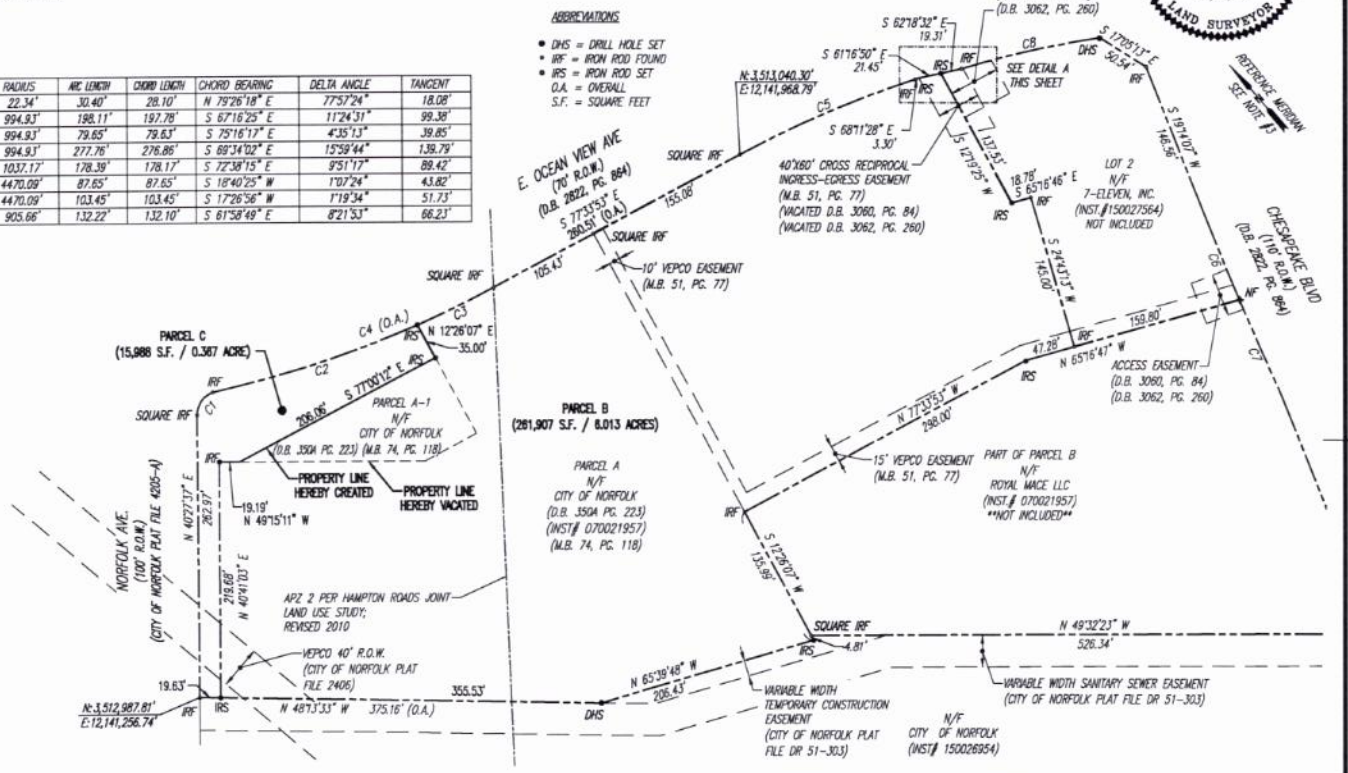
APPROVED:_____DATE:_____
DIRECTOR OF PUBLIC WORKS,
CITY OF NORFOLK, VIRGINIA

APPROVED:_____DATE:_____
DIRECTOR OF UTILITIES,
CITY OF NORFOLK, VIRGINIA

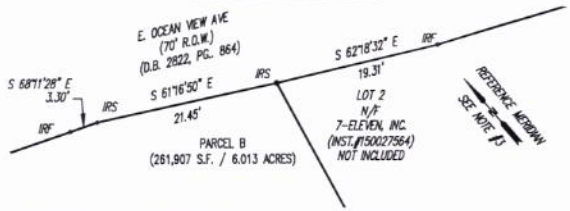
ABBREVIATIONS

- DHS = DRILL HOLE SET
- IRF = IRON ROD FOUND
- IRS = IRON ROD SET
- O.A. = OVERALL
- S.F. = SQUARE FEET

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	22.34'	30.40'	28.10'	N 79°26'18" E	77°57'24"	18.08'
C2	994.93'	198.11'	197.78'	S 67°16'25" E	11°24'31"	99.38'
C3	994.93'	79.65'	79.63'	S 75°16'17" E	4°35'13"	39.85'
C4	994.93'	277.76'	276.86'	S 69°34'02" E	15°59'44"	139.79'
C5	1037.17'	178.39'	178.17'	S 72°38'15" E	9°51'17"	89.42'
C6	4470.09'	87.65'	87.65'	S 18°40'25" W	1°07'24"	43.82'
C7	4470.09'	103.45'	103.45'	S 17°26'56" W	1°19'34"	51.73'
C8	905.66'	132.22'	132.10'	S 61°58'49" E	8°21'53"	66.23'



DETAIL A: 1" = 10'



RESUBDIVISION OF PARCELS A AND A-1

(M.B. 74, PG. 118) (D.B. 350A, PG.. 223) (INST# 070021957)
NORFOLK, VIRGINIA

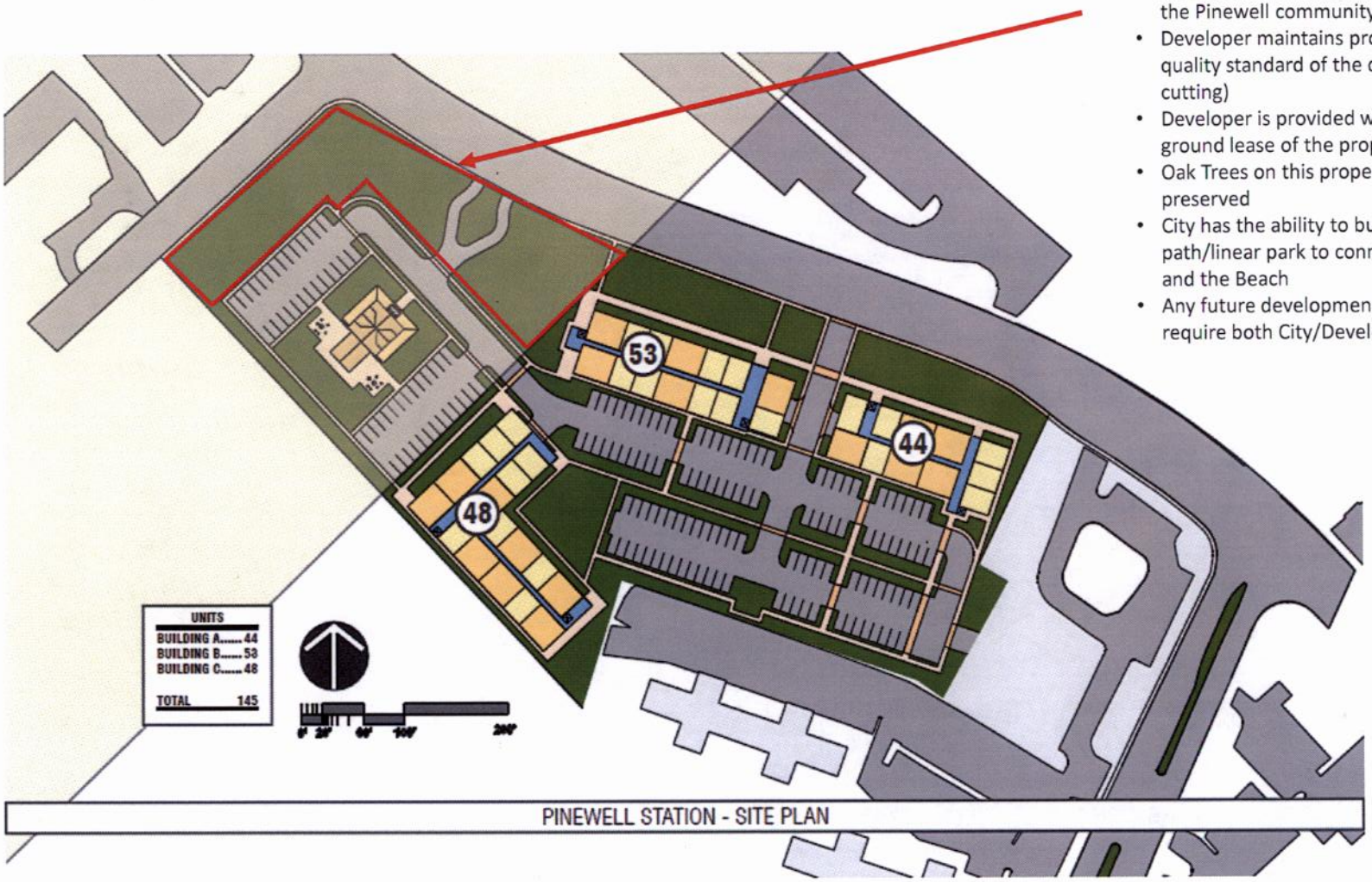
PROJECT #: 15096.1	
SCALE: 1" = 80'	
PRELIM DATE: 12-16-2015 FINAL DATE: 05-1-2016	
DRAWN BY: ANM/BAC	
SHEET 1 OF 1	

MIDATLANTIC
SURVEYING - LAND DESIGN
5305 CLEVELAND STREET SUITE 102
VIRGINIA BEACH, VA 23462
www.mas-ld.com
PHONE: 757-557-0888 / FAX: 757-416-5351

EXHIBIT B
Developer's Proposal

[SEE ATTACHED]

Pinewell Station Proposal



City Retains Ownership of Property

- Provides a buffer between the project and the Pinewell community
- Developer maintains property to the high quality standard of the development (grass cutting)
- Developer is provided with long term ground lease of the property
- Oak Trees on this property are to be preserved
- City has the ability to build a future path/linear park to connect the Golf Course and the Beach
- Any future development of this area would require both City/Developer approval

EXHIBIT C
Sidewalk Specifications

[SEE ATTACHED OR IN THE ABSENCE OF AN ATTACHMENT, THE CITY'S STANDARD SIDEWALK SPECFICATIONS IN THE AREA OF THE PROJECT SHALL GOVERN]

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Amend *plaNorfolk2030,* text amendment to create PD-R Pinewell Station and a change of zoning from C-2 (Corridor Commercial) and OSP (Open Space Preservation) districts to PD-R Pinewell Station (Pinewell Station Residential Planned Development) district at 600 and 719 East Ocean View Avenue – Pinewell Station**

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

Ward/Superward: 5/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: **PH-2**

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

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

III. **Request:** Amend *plaNorfolk2030,* text amendment to create Pinewell Station Residential Planned Development district, and change of zoning for a multi-family development.

IV. **Applicant:** **Pinewell Station**

V. **Description:**

- The applicant proposes to create the Pinewell Station Residential Planned Development (PD-R Pinewell Station). At the request of the applicant, this matter was continued by Council on March 22, 2016 to May 10, 2016.
- The text proposes:
  - 145 dwelling units
  - Height
    - Five-stories, 75 feet, for the residential structures
    - Two-stories, 35 feet, for the rental office building
  - Setbacks
    - Ten feet along E. Ocean View Avenue, Norfolk Avenue and all yards located behind structures.
    - Thirty feet between buildings
  - The design of the entire project will be reviewed through the Design Review process
  - The rental office building, with a fitness room, will be complete prior to the issuance of a Certificate of Occupancy for the residential units
  - At least 1.9 parking spaces per unit shall be provided

Staff point of contact: Susan Pollock at 664-4765, susan.pollock@norfolk.gov

Attachments:

- Staff Report to CPC dated February 25, 2016 with attachments
- 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: Susan Pollock Hart, CFM

Staff Report	**Item No. 1**	
Address	600 and 719 East Ocean View Avenue	
Applicant	**Pinewell Station**	
Requests	**a.** Amendment to the City's Future Land Use Map within the general plan, *plaNorfolk2030*, from Open Space/Recreation and Commercial to Multifamily. **b.** Text amendment to the City's *Zoning Ordinance* to create PD-R Pinewell Station (Pinewell Station Residential Planned Development) district. **c.** Change of zoning from C-2 (Corridor Commercial) and OSP (Open Space Preservation) districts to PD-R Pinewell Station (Pinewell Station Residential Planned Development) district	
Property Owners	City of Norfolk	
Site Characteristics	Site area/Number of units	5.7 acre/145 residential units
	Future Land Use Map	Open Space/Recreation and Commercial
	Zoning	C-2 (Corridor Commercial) and OSP (Open Space Preservation)
	Neighborhood	Pinewell
	Character District	Suburban
Surrounding Area	North	OSP: Public beach
	East	C-2: 7-Eleven
	South	OSP: Ocean View Golf Course
	West	R-12 (Medium Density Multi-Family): Vacant, Multi-Family

A. Summary of Request

Granting this request would allow this 5.7 acre site to be developed with 145 residential units.

B. Plan Consistency

Plan Amendment

- *plaNorfolk2030* designates this site as open space/recreation and commercial, making the proposed use inconsistent with *plaNorfolk2030*.
  - An amendment to multi-family is necessary for the proposed use to be consistent with *plaNorfolk2030*.
- The Identifying Land Use Strategies chapter of *plaNorfolk2030* identifies the multi-family land use category as a location for townhome, apartment, or condominium complexes with designated parking areas and common open space.
  - It recommends supporting amendments to multi-family where the site is located within close proximity to an arterial road or transit corridor, where the site is already developed with multi-family or adjacent to higher intensity development, and where the site can accommodate the required open space, parking, buffering, and stormwater facilities.
  - It further recommends ensuring that new multi-family housing is designed to meet development criteria including building height, placement, and massing that is consistent with surrounding development, and appropriately sized and located open space, parking, landscaping, buffers, access points, and sidewalks.
- The Identifying Land Use Strategies chapter also calls for the city to not support any proposed increase in intensity of uses located in incompatible noise and accident potential zones.
  - The western portion of this property is located in the "APZ2" accident potential zone and the "65-70 DNL" noise zone, where residential uses are considered incompatible.
- The site meets the criteria set forth in *plaNorfolk2030* for new multi-family development by being located along an arterial roadway and by being adjacent to other multi-family developments.
- By limiting the use of the portion of the site designated APZ2 and 65-70 DNL to surface parking and a small rental office, the proposed development also meets the *plaNorfolk2030* goal of keeping incompatible uses out of the Chambers Field accident potential and noise zones.

C. Zoning Analysis

a. Text amendment

- The applicant is proposing to create the Pinewell Station Residential Planned Development (PD-R Pinewell Station).
- The text proposes:
  - 145 dwelling units
  - Height
    - Five-stories, 75 feet, for the residential structures
    - Two-stories, 35 feet, for the rental office building
  - Setbacks

        - Ten feet along E. Ocean View Avenue, Norfolk Avenue and all yards located behind structures.
        - Five feet side yards
        - Thirty feet between buildings.
    - The design of the entire project will be reviewed through the Design Review process.
    - The rental office building, with a fitness room, will be complete prior to the issuance of a Certificate of Occupancy for the residential units.
    - At least 1.9 parking spaces per unit shall be provided.

b. Change of Zoning

- The site consist of two parcels, both owned by the City:
    - One parcel is located on the southeast corner of E. Ocean View Avenue and Norfolk Avenue and is currently developed with the Ocean View Community Center.
        - The western portion of this site is located in the Accident Potential Zone 2 as identified on the Joint Land Use Study/Air Installation Compatibility Zone map which limits the type of uses based on compatibility the proximity to the Chambers Field runways.
        - Although residential was originally proposed, the development proposal was modified to only include a parking and a small rental office building on the western portion of this parcel.
        - This parcel is currently zoned OSP.
    - The second parcel, which is currently vacant, abuts the first parcel to the east and is zoned C-2 (Corridor Commercial).
- The applicant proposes to rezone both parcels to Pinewell Station Residential Planned Development.

i. Parking

- The site is located in the Suburban Character District which requires 1.75 parking spaces per unit.
- The applicant proposes 1.9 parking spaces per unit.

ii. Flood Zone

- The properties are in the X Flood Zone, which is a low risk flood zones.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that proposed construction of 145 apartment units on this site will generate 964 new vehicle trips per day.
- Neither Ocean View Avenue nor Chesapeake Boulevard near the site are identified as a severely congested corridor in either the AM or PM peak hours in the current update to regional Hampton Roads Congestion Management analysis.
- The site is near transit service with Hampton Roads Transit bus routes 1 (Granby) and 3 (Chesapeake) operating near the site.

- Ocean View Avenue adjacent to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

E. Historic Resources Impacts

No buildings on the site are currently, or would be eligible, for listing on the local, state or federal historic districts.

F. Public Schools Impacts

- School attendance zones include Oceanair Elementary School (118% utilization), Northside Middle School (71% utilization) and Granby High School (110% utilization).
- Approximately 14.5 school aged children could be generated by the proposed development (0.10 school aged children per unit).
- Even with the higher utilization rates at Oceanair Elementary School and Granby High School, there is sufficient capacity at these schools and within the Norfolk Public School system to absorb the low number of potential additional students.
- No significant school impacts are anticipated.

G. Impact on the Environment

- The new residential development will be reviewed and approved through the Site Plan Review process, which will ensure compliance with all standards set forth in the *Zoning Ordinance* including landscape buffer areas and stormwater impacts.

H. Impact on Surrounding Area/Site

The construction of a multi-family development in accordance with the attached/proffered site plan and in compliance with the development standards set forth in *plaNorfolk2030* should not have a negative impact on the surrounding area.

I. Payment of Taxes

The owners of the properties are current on all real estate taxes.

J. Civic League

- Notice was sent to the Greater Pinewell, Cottage Line, and Bayview Civic Leagues on January 13, 2016.
- A letter of support was received from the Cottage Line Civic League.

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 that the plan amendment and text amendment and rezoning requests be **approved.**
- The western portion of the site is developed with the Ocean View Community Center building which is obsolete – the Center is relocating to a newer building to the east.
- To redevelop the site this building must be demolished.
- As a result of being located in an Accident Potential Zone, the site's redevelopment is limited.
- The use of that portion of the site for a small rental office with parking for the larger development is an efficient use of the entire property.

Attachments

Location map
Zoning map
Future Land Use map
Application
Notice to the Greater Pinewell, Cottage Line and Bayview Civic Leagues.
E-mail of support from the Cottage Line Civic League
Resolution of opposition from the Greater Pinewell Civic League
E-mails of opposition from residents

Proponents and Opponents

Proponents

Mel Price
208 E. Plume Street
Norfolk, VA 23510

Cate McCoy
2032 E. Ocean View Avenue
Norfolk, VA 23503

Kenneth Paulson
2071 E. Ocean View Avenue
Norfolk, VA 23503

Opponents

Sandra Winfrey
9621 Chesapeake Boulevard
Norfolk, VA 23503

Robert Eure
9411 Wells Parkway
Norfolk, VA 23503

Howard Gordon
999 Waterside Drive
Norfolk, VA 23510

Thomas G. Calgorides
9531 Wells Parkway
Norfolk, VA 23503

John Wood
9640 Hammett Parkway
Norfolk, VA 23503

Pam Cannady
400 Batttersea Road
Norfolk, VA 23503

Susan Molloy
9411 Wells Parkway
Norfolk, VA 23503

JoAnne Kehr
9507 Hammett Parkway
Norfolk, VA 23503

David and Husbands
9704 Ship Watch Road
Norfolk, VA 23503

Sandra Cherry
9636 Hammett Parkway
Norfolk, VA 23503

William Sharek
822 E. Ocean View Avenue
Norfolk, VA 23503

02/25/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

PH-2

AN ORDINANCE TO AMEND THE CITY'S GENERAL PLAN, PLANORFOLK2030, SO AS TO CHANGE THE CITY'S FUTURE LAND USE MAP FOR PROPERTY LOCATED AT 600 AND 719 EAST OCEAN VIEW AVENUE FROM OPEN SPACE/RECREATION AND COMMERICAL TO MULTIFAMILY.

- - -

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

Section 1:- That the land use designation set forth in the City's general plan, plaNorfolk2030, for the properties located at 600 and 719 East Ocean View Avenue are hereby changed from Open Space/Recreation and Commercial to Multifamily. The properties which are the subject of this change in land use designation are more fully described as follow:

Properties fronting 800 feet, more or less, along the southern line of East Ocean View Avenue and 263 feet, more or less, along the eastern line of Norfolk Avenue; premises numbered 600 and 719 East Ocean View Avenue.

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

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

02/25/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

PH-2A

AN ORDINANCE TO REZONE PROPERTY LOCATED AT 600 AND 719 EAST OCEAN VIEW AVENUE FROM C-2 (CORRIDOR COMMERCIAL) AND OSP (OPEN SPACE PRESERVATION) DISTRICTS TO PD-R PINEWELL STATION (PINEWELL STATION RESIDENTIAL PLANNED DEVELOPMENT) DISTRICT.

- - -

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

Section 1:- That the property located at 600 and 719 East Ocean View Avenue is hereby rezoned from C-2 (Corridor Commercial) and OSP (Open Space Preservation) Districts to PD-R Pinewell Station (Pinewell Station Residential Planned Development) District. The properties which are the subject of this rezoning are more fully described as follows:

> Properties fronting 800 feet, more or less, along the southern line of East Ocean View Avenue and 263 feet, more or less, along the eastern line of Norfolk Avenue; premises numbered 600 and 719 East Ocean View Avenue.

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

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

Section 4:- That this ordinance shall be in effect from the date of its adoption.

02/25/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

PH-2B

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NORFOLK, 1992, SO AS TO CREATE THE PINEWELL STATION RESIDENTIAL PLANNED DEVELOPMENT (PD-R PINEWELL STATION) DISTRICT.

- - -

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

Section 1:- That Chapter 27 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended) is hereby amended and reordained by adding thereto a new enumerated section, including subsections, entitled "Pinewell Station Residential Planned Development (PD-R Pinewell Station)" and containing text and a table as set forth in "Exhibit A," attached hereto.

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

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

ATTACHMENT:
Exhibit A (3 pages)

EXHIBIT A

27-40 Pinewell Station Residential Planned Development (PD-R Pinewell Station)

27-40.1 *Purpose statement.* The Pinewell Station Planned Development District is intended to permit the construction of 145 residential dwelling units and related onsite amenities and resident-oriented services. The district consists of approximately 5.8 acres of land.

27-40.2 *Permitted uses.* Land uses permitted in the district shall be permitted by right or by special exception as specified in Table 27-40-A, "Table of Land Uses," and shall be restricted to the uses listed therein. Accessory uses shall be as permitted in chapter 13.

27-40.3 *Development standards.*

(a) *Maximum density.* Not more than 145 total dwelling units shall be constructed within the district.

(b) *Location of buildings.* The general site layout of the buildings shall be substantially consistent with the exhibit titled "The Pinewell Station - Site Plan" dated January 5, 2016, and placed on file with the Department of Planning ("the Development Plan"), subject to such reasonable modifications as may be required by the city during the site plan review or building permit plan review processes.

(c) *Maximum building height.* The maximum height of buildings shall be limited as follows:

(1) For the multifamily buildings identified as buildings A, B, and C on the Development Plan: 75 ft.

(2) For the leasing office amenity building identified as building D on the Development Plan: 35 ft.

(d) *Yard requirements.* The following yards shall be required for each of the following areas within the district:

(1) Along all district boundaries, including East Ocean View Avenue and Norfolk Avenue: Ten (10) ft.

(2) Distance between buildings: 30 ft.

(e) *Design of buildings.*

(1) *Residential buildings.* Prior to the issuance of any building permit, the exterior elevations, the exterior design, elevations, materials and fenestration for each building constructed in the

district must be reviewed and approved in accordance with the city's design review process in order to determine that they are consistent with the design guidelines titled "Architectural Design" developed for this district and placed on file with the Department of Planning ("the District Design Guidelines").

(2) *Amenities*. The layout, design, exterior elevations, and materials of buildings and structures related to recreational amenities must be reviewed and approved in accordance with the city's design review process in order to determine that each is consistent with the location and massing depicted in the Development Plan and the District Design Guidelines.

(3) *Materials*. The materials that can be used for building exteriors are limited to stucco, wood clapboard, brick, cementitious siding, composite materials or pressure-treated wood for all trim, and composite materials for all railings.

(f) *Amenity required*.

(1) *Leasing office and fitness room*. A stand-alone leasing office, with fitness room, shall be constructed as an amenity to the residential units in the district.

(2) *Multifamily Buildings*. The construction of the amenity building shall be complete prior to the issuance of a certificate of occupancy for any of the residential buildings related thereto.

(g) *Usable open space.* Not less than 25% of the total lot area of parcels within the district shall be usable open space.

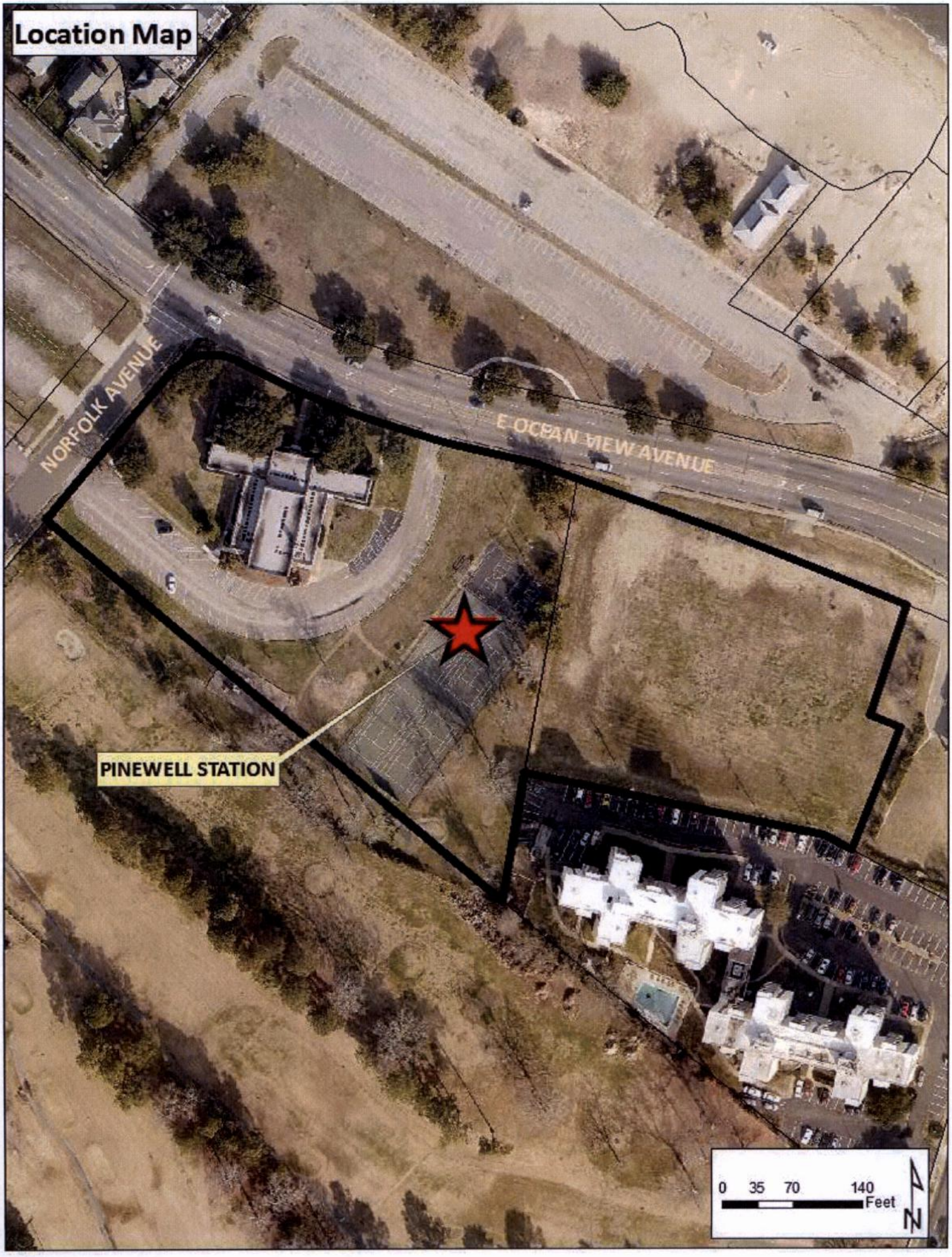
27-40.4 *Parking requirements*. A minimum of 1.9 parking spaces shall be provided for each dwelling unit.

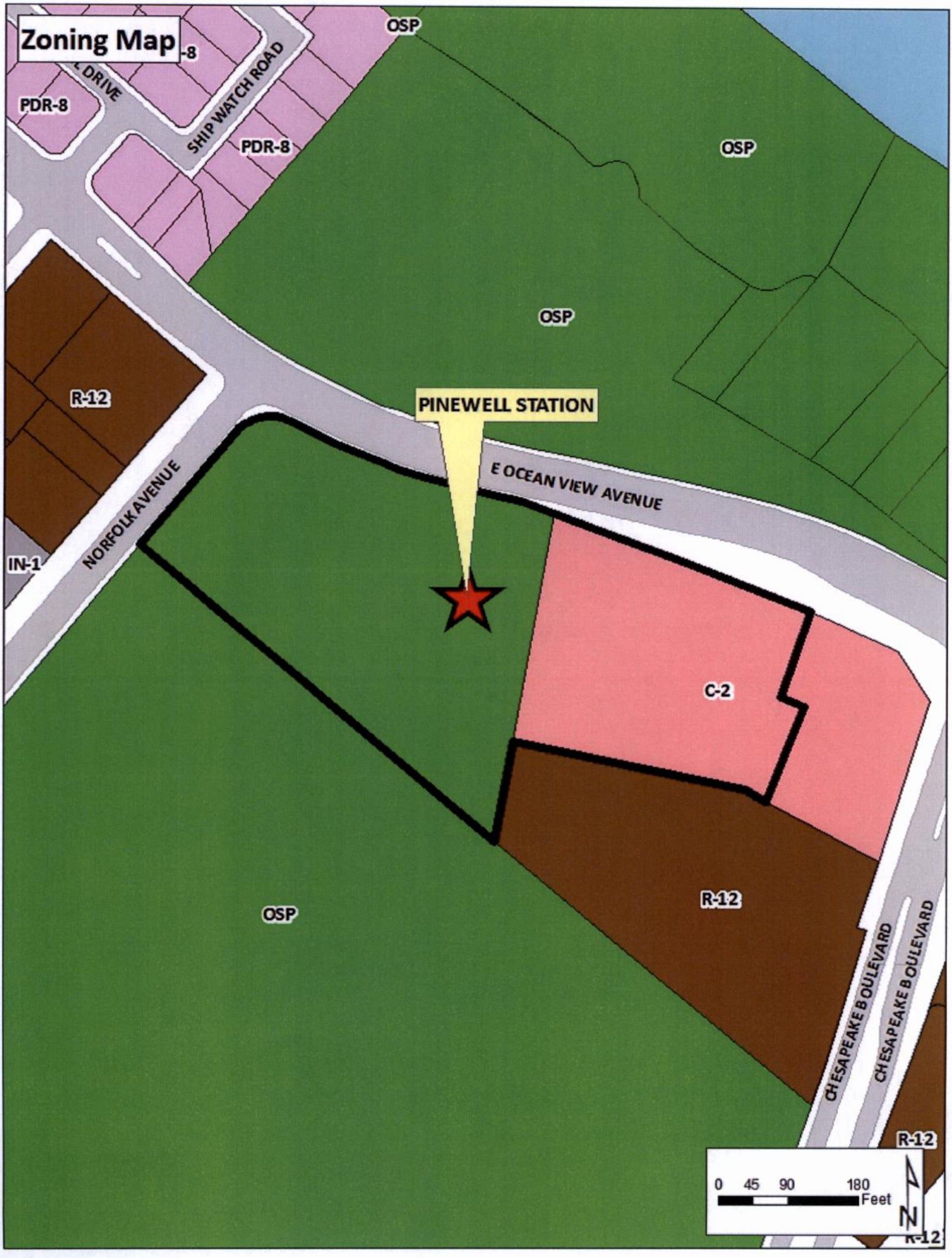
27-40.5 *Signs*. Signs in this district shall comply with the regulations set forth in Chapter 16 of this ordinance and this district shall be treated as a residential district for application of the sign regulations.

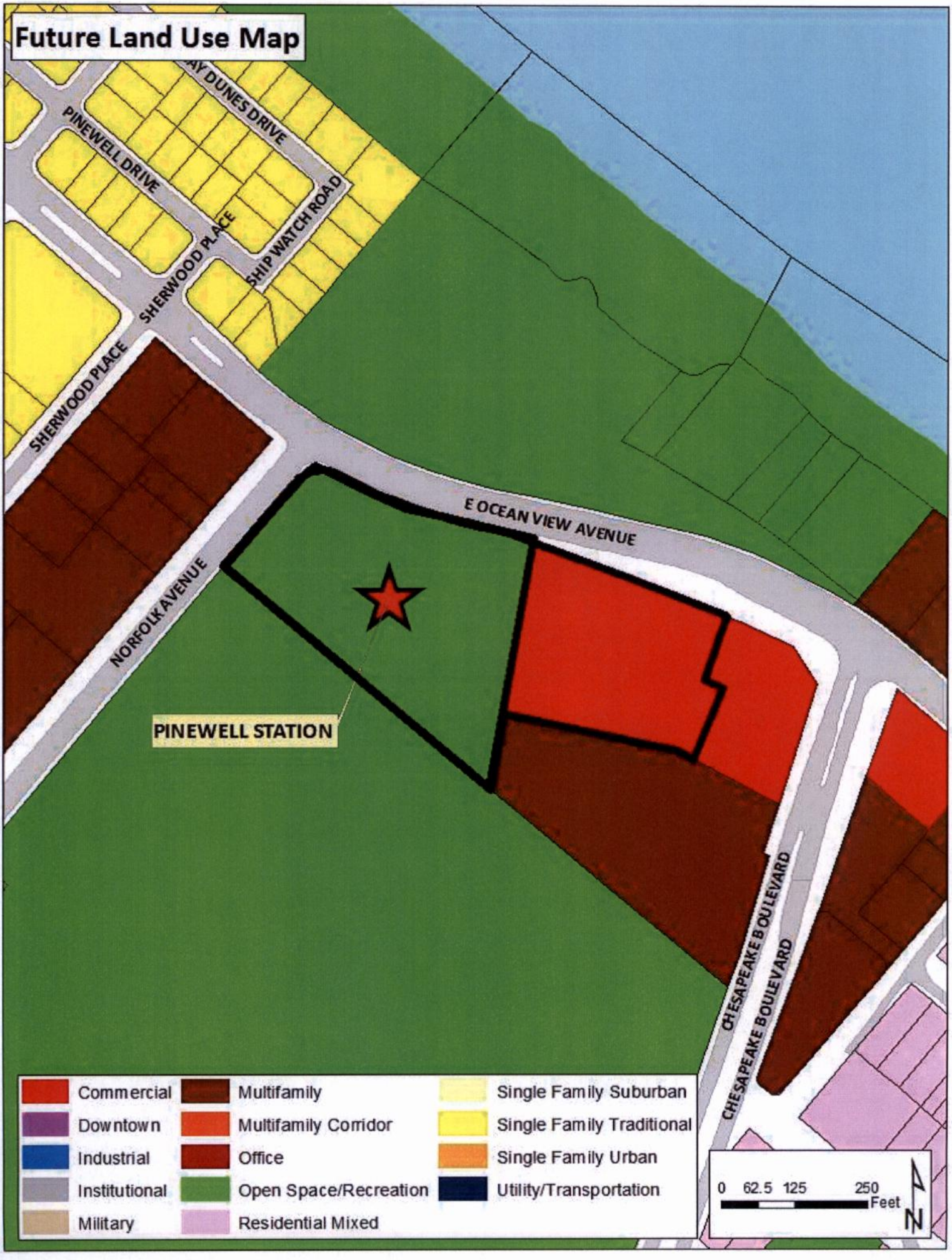
27-40.6 *Landscaping*. All landscaping and buffer yards shall comply with the regulations set forth in Chapter 17 of this ordinance and this district shall be treated as a residential district for application of the landscaping regulations.

PD-R – PINEWELL STATION
TABLE 27-40-A – TABLE OF LAND USES

LAND USES P = Permitted Use S = Special Exception Use	DISTRICT PD-R Pinewell Station	COMMENTS
RESIDENTIAL USES		
Multi-Family (3–6 units)	P	
Multi-Family (7 or more units)	P	
PUBLIC AND CIVIC USES (Sites < 1 Acre)		
Governmental Operations (non-industrial)	P	
Utility Facility	P	


Location Map
NORFOLK AVENUE
E OCEAN VIEW AVENUE
PINEWELL STATION
0 35 70 140
Feet
N


Zoning Map
PDR-8
SHIP WATCH ROAD
PDR-8
OSP
OSP
OSP
R-12
PINEWELL STATION
E OCEAN VIEW AVENUE
NORFOLK AVENUE
IN-1
C-2
R-12
OSP
CHESAPEAKE BOULEVARD
CHESAPEAKE BOULEVARD
R-12
R-12
0 45 90 180
Feet
N


Future Land Use Map
AY DUNES DRIVE
PINEWELL DRIVE
SHERWOOD PLACE
SHIP WATCH ROAD
SHERWOOD PLACE
E OCEAN VIEW AVENUE
NORFOLK AVENUE
PINEWELL STATION
CHESAPEAKE BOULEVARD
CHESAPEAKE BOULEVARD
Commercial
Downtown
Industrial
Institutional
Military
Multifamily
Multifamily Corridor
Office
Open Space/Recreation
Residential Mixed
Single Family Suburban
Single Family Traditional
Single Family Urban
Utility/Transportation
0 62.5 125 250
Feet
N

APPLICATION
CHANGE OF ZONING

Date of application: 03/09/15

Change of Zoning

From: C2 & OSP **Zoning** **To:** Planned Dev. **Zoning**
Pinewell Station

DESCRIPTION OF PROPERTY

Property location: (Street Number) 719 + 600 (Street Name) E. Ocean View Ave.

Existing Use of Property: Vacant

Current Building Square Footage N/A

Proposed Use Mixed Use - Multifamily Residential and Commercial

Proposed Building Square Footage

Trade Name of Business (If applicable) Pinewell Station

APPLICANT

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

Ocean View Properties, Inc.

1. Name of applicant: (Last) Zirpoli and Perrine (First) Robert and Harrison (MI)

Mailing address of applicant (Street/P.O. Box):

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

Daytime telephone number of applicant (757) 286-8377 & 961-6336 Fax ( )

E-mail address of applicant: rzirpoli@erols.com & hp@perrineco.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)

Work Program Architects

2. Name of applicant: (Last) Price (First) Mel (MI)

Mailing address of applicant (Street/P.O. Box): 208 E. Plume Street, Suite 2

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

Daytime telephone number of applicant (757) 472-9342 Fax ( )

E-mail address of applicant: mel@wparch.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: City of Norfolk

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

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

Daytime telephone number of owner (757) 664-4765 email: susan.pollock@norfolk.gov

CIVIC LEAGUE INFORMATION

Civic League contact: Cottage Line Civic League (also working with Greater Pinewell Civic League)

Date(s) contacted: 03/02/15 and 03/04/15

Ward/Super Ward information: Ward 5 / Super Ward 6

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

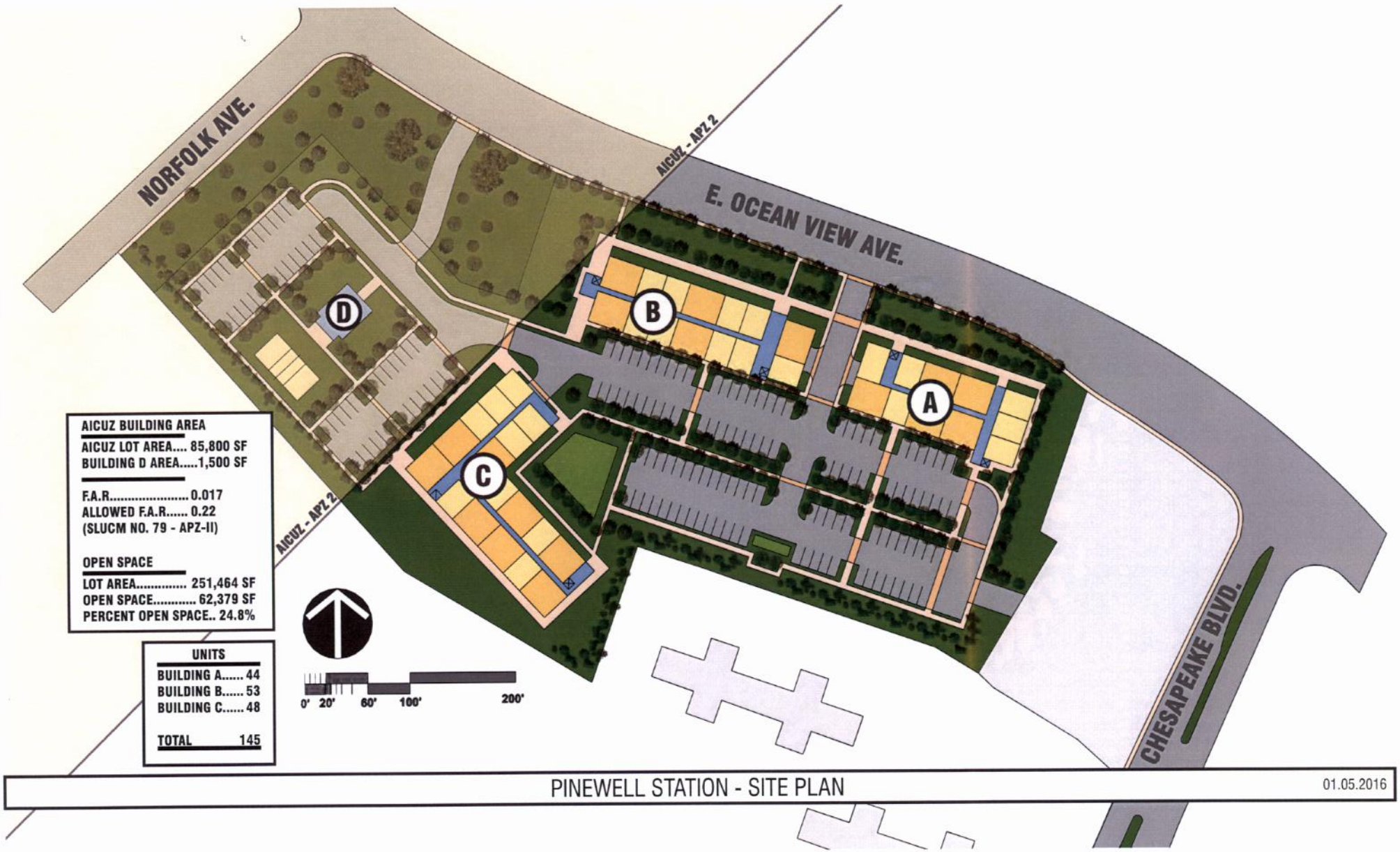
Print name: RONALD H. WILLIAMS JR. **Sign:** _____ / 1 / 15 / 16
(Property Owner or Authorized Agent of Signature) (Date)

Print name: _____ **Sign:** _____ / _____ / _____
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

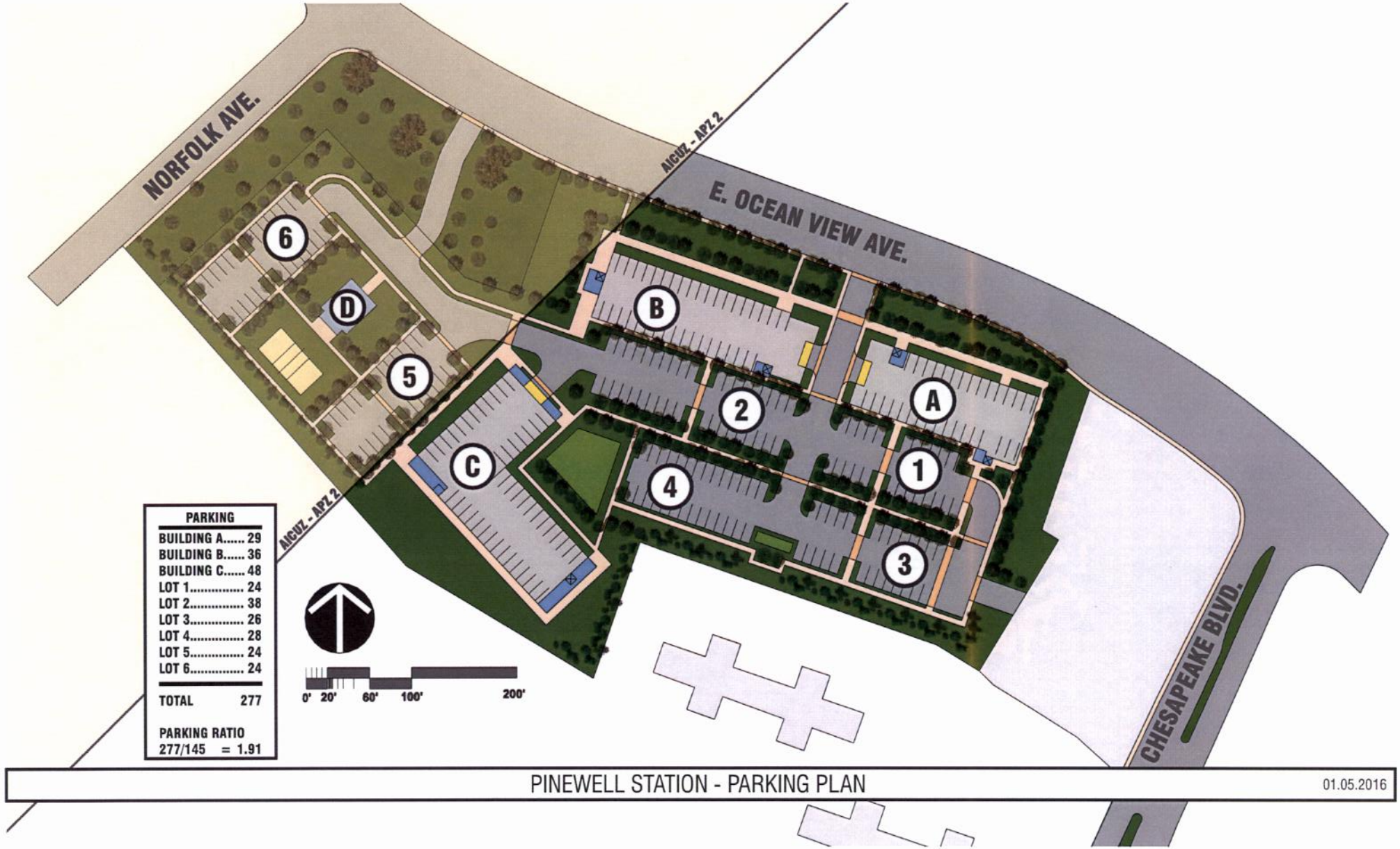
Print name: _____ **Sign:** _____ / _____ / _____
(Authorized Agent Signature) (Date)

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



PINEWELL STATION - SITE PLAN

01.05.2016



PINEWELL STATION - PARKING PLAN

01.05.2016

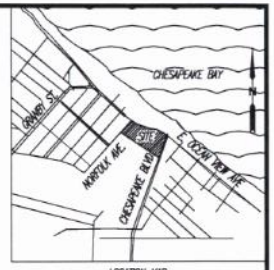
GENERAL NOTES

1. NO TITLE REPORT WAS PROVIDED FOR THIS SURVEY. ALL EASEMENTS MAY NOT BE SHOWN.
2. NO WETLAND DELINEATION MARKERS WERE OBSERVED DURING THE FIELD SURVEY.
3. THE REFERENCE MERIDIAN FOR THIS SURVEY IS BASED ON CITY OF NORFOLK CONTROL MONUMENTS GPS042, GPS069, AND GPS155 VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE NAD 1983/1993 (HARN). COORDINATES ARE EXPRESSED IN US SURVEY FEET.
4. FURTHER DEVELOPMENT OF THESE LOTS INCLUDING ANY FILLING OR PHYSICAL ALTERATIONS OF THE LOTS MAY REQUIRE ADDITIONAL PERMITS FROM THE CITY OF NORFOLK OR OTHER GOVERNMENTAL AGENCIES.
5. THE PROPERTY SHOWN HEREON APPEARS TO LIE WITHIN FLOOD ZONE "X-SHADED" ACCORDING TO FEMA – NFIP COMMUNITY PANEL 5101040030F DATED SEPT. 2, 2009. FLOOD DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE. FLOOD ZONE DATA SHOWN HEREON SHOULD NOT BE CONSTRUED AS A DETERMINATION OF FLOOD INSURANCE REQUIREMENTS ON ANY PROPERTIES SHOWN HEREON OR ON ADJACENT PROPERTIES.
6. THE TOTAL AREA ENCOMPASSED WITHIN THIS RESUBDIVISION = 277,927 SQUARE FEET/ 6.380 ACRES.
7. ALL OR A PORTION OF THIS RESUBDIVISION IS LOCATED IN THE CHESAPEAKE BAY PRESERVATION AREA (CBPA) AND IS SUBJECT TO THE PROVISIONS OF THE CHESAPEAKE BAY PRESERVATION AREA ORDINANCE.
8. THIS PLAT IS INTENDED FOR PRELIMINARY PLANNING PURPOSES ONLY. FIELD WORK IS ONGOING.

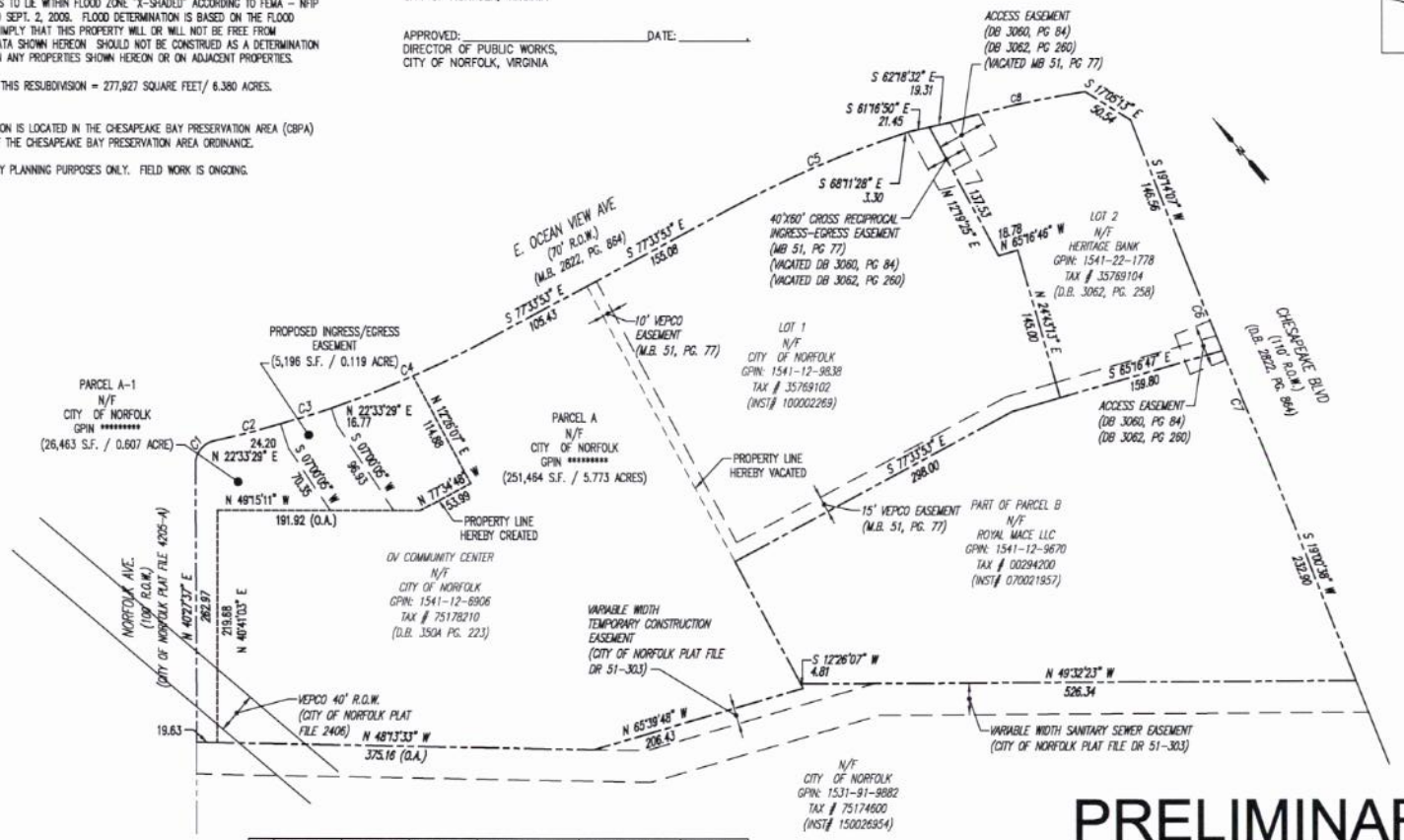
THE UNDERSIGNED CERTIFY THAT THE RESUBDIVISION AS IT APPEARS ON THIS PLAT CONFORMS TO THE APPLICABLE REGULATIONS RELATING TO THE SUBDIVISION OF LAND AND IS ACCORDINGLY APPROVED. BY SUCH APPROVAL, THE UNDERSIGNED DO NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREET OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHTS-OF-WAY, EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
PLANNING DIRECTOR,
CITY OF NORFOLK, VIRGINIA

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS,
CITY OF NORFOLK, VIRGINIA



LOCATION MAP
1" = 2000'



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	22.34	30.40	28.10	S 79°26'18" W	77°57'24"	18.08
C2	994.93	64.97	64.96	S 63°26'24" E	3°44'29"	32.50
C3	994.93	50.01	50.00	S 66°45'02" E	2°52'48"	25.01
C4	994.93	162.78	162.60	S 72°52'40" E	9°22'27"	81.57
C5	1037.17	178.39	178.17	N 72°38'15" W	9°51'17"	89.42
C6	4470.09	87.65	87.65	S 18°40'25" W	1°07'24"	43.82
C7	4470.09	103.45	103.45	S 17°26'56" W	1°19'34"	51.73
C8	905.66	132.22	132.10	N 61°58'49" W	8°21'53"	66.23

SOURCE OF TITLE

THE PROPERTY EMBRACED WITHIN THE LIMITS OF THIS RESUBDIVISION WAS CONVEYED TO THE CITY OF NORFOLK, VA FROM ****** BY DEED DATED **********, AND RECORDED BY INSTRUMENT # ********** IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA AND VIRGINIA BEACH INVESTMENT GROUP, BY DEED DATED **********, AND RECORDED BY INSTRUMENT # ********** IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA.

PRELIMINARY

RESUBDIVISION OF OCEAN VIEW COMMUNITY CENTER AND LOT 1

(D.B. 350A, PG. 223) (M.B. 51, PG. 77) (INST# 070021957)

NORFOLK VIRGINIA

COMMONWEALTH OF VIRGINIA
BETH ANNE G. CAMPBELL
Lic. No. 003316
11/19/15
LAND SURVEYOR

PROJECT #: 15096.0
SCALE: 1" = 80'
DATE: 12-14-2015
DRAWN BY: ANM/BAC
SHEET 1 OF 1

MIDATLANTIC
SURVEYING - LAND DESIGN
5305 CLEVELAND STREET SUITE 102
VIRGINIA BEACH, VA 23462
www.mas-ld.com
PHONE: 757-557-0888 / FAX: 757-416-5351

APPLICATION
TEXT AMENDMENT

Date of application: 03/09/15

Zoning Ordinance Text Amendment

Amend Section(s)

Add New Section(s) 27-40

APPLICANT

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

Ocean View Properties, Inc.

1. Name of applicant: (Last) Zirpoli and PerrinePrice (First) Robert and Harrison (MI)

Mailing address of applicant (Street/P.O. Box):

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

Daytime telephone number of applicant (757) 286-8377 & 961-633 Fax ( )

E-mail address of applicant: rzirpoli@erols.com & hp@perrineco.com

AUTHORIZED AGENT (if applicable)

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

Work Program Archtiects

2. Name of applicant: (Last) Price (First) Mel (MI)

Mailing address of applicant (Street/P.O. Box): 208 E. Plume St., Suite 2

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

Daytime telephone number of applicant (757) 472-9342 Fax ( )

E-mail address of applicant: mel@wparch.com

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

PROPERTY OWNER(S)

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

3. Name of property owner: City of Norfolk

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

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

Daytime telephone number of owner (757) 664-4765 email: susan.pollock@norfolk.gov

If applicable – list all property owners information with signatures on a separate attachment

DESCRIPTION OF AMENDMENT

Purpose of Amendment

To create a Planned Development that permits a mixed-use multifamily residential and commercial (retail) use.

CIVIC LEAGUE INFORMATION

Civic League contact: Cottage Line Civic League (also working with Greater Pinewell Civic League)

Date(s) contacted: 03/02/15 and 03/04/15

Ward/Super Ward information: Ward 5 / Super Ward 6

REQUIRED ATTACHMENTS

- ✓ Language for the text amendment (*see Example attached).
- ✓ Required application fee, **$420.00** (if check, make payable to the City of Norfolk).
  - Application fee includes a non-refundable $5 technology surcharge.

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: RONALD H. WILLIAMS JR. **Sign:** _____ / 11 / 15 / 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)

Pollock, Susan

From: Straley, Matthew
Sent: Wednesday, January 13, 2016 12:19 PM
To: 'Gpclpresident@gmail.com'; 'yurkovic3@cox.net'; 'linda.lundquist@ymail.com'
Cc: Smigiel, Thomas; Winn, Barclay; Ransom, Carlton; Pollock, Susan
Subject: revised Planning Commission applications - 600 and 719 E Ocean View Ave
Attachments: Pinewell_textamendment.pdf; Pinewell_rezoning.pdf

Mr. Apatov, Mr. Yurkovic, Ms. Lundquist:

Attached please find the following applications at 600 and 719 East Ocean View Avenue:

a. Amendment to the City's Future Land Use Map within the general plan, *plaNorfolk2030*, from Open Space/Recreation and Commercial to Multifamily.
b. Text amendment to the City's *Zoning Ordinance* to create PD-MU Pinewell Station (Pinewell Station Planned Development Mixed Use) district.
c. Change of zoning from C-2 (Corridor Commercial) and OSP (Open Space Preservation) districts to PD-MU Pinewell Station (Pinewell Station Planned Development Mixed Use) district.

The purpose of these requests is to allow for the construction of a multi-family residential and commercial development.

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

Should you have any questions, please e-mail or call *Susan Pollock Hart at (757) 664-4765, susan.pollock@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

Pollock, Susan

From: Mel Price <Mel@wparch.com>
Sent: Sunday, January 10, 2016 4:36 PM
To: Pollock, Susan
Cc: Matthew Hales
Subject: FW: Pinewell Station Project

Susan and Matt,

Please see the below email regarding the Pinewell Station presentation last Thursday night. We are now waiting on a letter from the Greater Pinewell Civic League, which will follow their monthly meeting this week.

Best,

Mel Price, AIA, LEED AP
PRINCIPAL
mel@wparch.com

WORK PROGRAM ARCHITECTS
208 E. Plume Street
Monticello Arcade, Suite 2
Norfolk, VA 23510
757.472.9342
www.wparch.com

From: Rigney, Chuck [mailto:Charles.Rigney@norfolk.gov]
Sent: Friday, January 08, 2016 6:33 PM
To: Vic Yurkovic
Cc: Homewood, George; Smigiel, Thomas; Newcomb, Leonard; Winn, Barclay; Steve G. Jones; Don Fuss; Protogyrou, Andrew; Jones, Marcus; Chapman, Peter; Benda, Wynter; Mel Price; Harrison J. Perrine
Subject: Re: Pinewell Station Project

Vic -
Many thanks to you and the others present for the time and energy you each devote to making our City the best it can be.

When I tell you your elected representatives remind us (especially me) daily about the need for more (quality) development in Ocean View, please believe me! We are committed to that, and this project is one more piece in making our case for that kind of new investment.
Professional partners like WPA, UDA, and, of course, developers like Ocean View Properties makes my job a lot easier, and so many thanks to them.
We will certainly convey your endorsement, and look forward to bringing this deal home to Ocean View!
Regards,
Chuck

Sent from my iPhone

On Jan 8, 2016, at 5:52 PM, Vic Yurkovic <yurkovic3@cox.net> wrote:

> Chuck and George,
> Cottage Line Civic League fully supports the "new" Pinewell Station Project as presented to our board and the membership last evening. There was some concern of where the tennis and basketball courts would be relocated to, but that did not prevent the overwhelming majority of our members from supporting this upscale apartment complex.
>
> Chuck, Thank You for bring Harrison & Joy the developers and Mel Price to our board last evening. The presentation was well received and cleared up lots of concerns. We sincerely appreciate your efforts to make this project come to fruition. ☺ Bring us some more!
>
> The City of Norfolk in our opinion needs to come to grips with the AICUZ issues and EVENLY apply the zoning. Projects CLEARLY in the highest crash zone need to be closely reviewed, and those NOT in the immediate HIGH impact areas need to get less scrutiny, for the development of our community.
>
> Please pass our overwhelming support for this project on to the Planning Commission.
>
> All the best,
> Vic Yurkovic
> President, Cottage Line Civic League
> Cell (757) 287-6693

GREATER PINEWELL CIVIC LEAGUE

February 17, 2016
Susan Pollock Hart
City Planning
City Hall Building
810 Union Street Suite 508
Norfolk, Va 23510

The Pinewell Station development is on the Planning Commission Agenda on 24 February. As the president of the Greater Pinewell Civic League, I am submitting our resolution of non support for this development.

Sincerely yours,

Don Fuss

President, Greater Pinewell Civic League

ENCL: Greater Pinewell Civic League Resolution on Pinewell Station.

Greater Pinewell Civic League Resolution on Pinewell Station Proposal A February 18, 2016

The Greater Pinewell Civic League (GPCL) supports the redevelopment of Ocean View and appreciates all efforts. Many of the problems faced in Ocean View are associated with development during a period of inappropriate zoning regulations 40 to 50 years ago. We have been left with scattered multi family dwellings, motels and commercial buildings as referenced in the Ocean View 2010 Planning Handbook.

We have enthusiastically embraced the goals set in the Norfolk 2030 plan. We also realize that patience is required to achieve these goals. With limited city funds available for significant impact projects guaranteeing improvement, we watch carefully changes being made to the Norfolk 2030 plan so that we can remain on course.

The GPCL does not support the proposed Pinewell Station project as proposed respectfully requests that the Planning Commission and City Council deny the zoning amendments for the following reasons:

- **Lack of Elevations and Materials.** The developer has not proffered the building elevations and materials.

- **Presentation of revised plan to GPCL.** The developer has not presented the revised plan to the GPCL.

- **Inappropriate Land Use & Density.** The use and density of the proposed project conflict with City adopted plans Norfolk 2030 for the site. The project is contrary to the ongoing, successful City and NRHA-led efforts to revitalize Ocean View.

- **Loss of Park & Recreation Facilities.** The Ocean View Senior Center, tennis courts, basketball courts, playground, public parking and related open space that serve the Pinewell neighborhood and the greater community will be lost if this proposed project is built.

- **Traffic Impacts & Pedestrian Safety.** The proposed project adds to an existing, City-documented cut-through traffic problem in the Pinewell neighborhood.

- **Impact to City Schools.** The impact on City schools from the added 145 residential units has not been identified or analyzed by City or school staff.

- **Not in compliance with Ocean View Residential District (OVR) Development Standards.** Planned development districts shall comply with standards according the districts it abuts (paragraph 27-11.2). The following identify deficiencies in the proposed development plan. The yard requirements specified required Fifteen (15) for all portions of a lot abutting Ocean View Avenue. The proposed plan provides ten (10) feet (paragraph 10-11.6 (a) (1). The first floor is not being used for habitable space as specified. (paragraph 10-11.6 (d). Access to the site is from Ocean View Avenue, this is prohibited in paragraph 10-11.7.

The scale of Pinewell Station has changed since the initial proposal. The proposed units have been reduced from 240 to 148. The open space has been increased to meet city standards or greater than 20%. The number of parking spaces has also been increased to meet city standards. The residential structures have now been repositioned to the site of the former Ramada Inn, avoiding the Accidental Potential Zone. The density of the project remains. To place the number of units in perspective, the two existing buildings are the Royal Mace comprising 80 units and Nansemond on the Bay with 100 units. Building an additional large complex will be a negative effect on maintaining a healthy and vibrant neighborhood. We have gone from the Heritage Bank to a Seven Eleven, will this project be next?

The GPCL recommends that a priority be placed on bringing existing multi family dwellings sites to current standards and not introduce additional density and non compliant developments.

Pollock, Susan

From: Andria McClellan <andria.mcclellan@gmail.com>
Sent: Thursday, February 25, 2016 8:28 AM
To: Homewood, George; Earl P Fraley Jr. (fraleyearl@aol.com); Martin Thomas Jr; Dan Neumann MD (dr.neumann@cox.net); Matt Hales (mhales@gatewayventures.net); Nikita Houchins (Nikitahouchins@kw.com); Ramona Austin (RAustin@odu.edu); Simons, Matthew
Subject: Fwd: Proposed Pinewell Station

FYI. I didn't see this letter in the Dropbox.
(Can we refer the sewer issue to Public Works, too?)

Andria McClellan
andria.mcclellan@gmail.com
C: 757-679-2883

Begin forwarded message:

From: Suzanne Wheatley <suzchuck@aol.com>
Subject: Proposed Pinewell Station
Date: February 24, 2016 at 9:41:34 PM EST
To: andria.mcclellan@gmail.com

Dear Commissioner McClellan,

I am a 17 year resident of Norfolk's Pinewell Neighborhood. My husband & I are raising our children here, we love our neighborhood; it's charm, proximity to the bay, our library, fabulous neighbors, etc.

What we don't love is the idea of our residency being nearly doubled by Pinewell Station being built on the edge of our neighborhood. We'd lose our playground that we worked hard to have installed, moving it to the new Ocean View Elementary is just too far for the many young families in our neighborhood. Also, a couple of times a year the sewer backs up in front of our home and there is raw sewage bubbling up into the street until the city workers can come and get it cleared up. What will happen to that issue if there are more than 300+ more people living within blocks of our home?

I would far prefer that the city put money into helping current apartment buildings in the Ocean View area make improvements, than to help the developers of new buildings.

I know the developers have tried to make changes to the plans based on our feedback, and we appreciate that. However, I still am very much opposed to this project.

Please vote accordingly when this comes before the planning commission.

Thank you for your time and for your service to our fine city.

Suzanne Wheatley, MSW
suzchuck@aol.com
757-630-9205

Pollock, Susan

From: Andria McClellan <andria.mcclellan@gmail.com>
Sent: Thursday, February 25, 2016 8:34 AM
To: Homewood, George; Simons, Matthew; Earl P Fraley Jr. (fraleyearl@aol.com); Martin Thomas Jr; Matt Hales (mhales@gatewayventures.net); Dan Neumann MD (dr.neumann@cox.net); Ramona Austin (RAustin@odu.edu); Nikita Houchins (Nikitahouchins@kw.com)
Subject: Fwd: Pinewell Concerns

FYI, I didn't recall seeing this in the Dropbox, so I will share with you below.

Andria McClellan
andria.mcclellan@gmail.com
C: 757-679-2883

Begin forwarded message:

From: Kathryn Sutter <kathryndsutter@gmail.com>
Subject: Pinewell Concerns
Date: February 24, 2016 at 8:34:26 AM EST
To: andria.mcclellan@gmail.com

Ms. McClellan,

I hope this email reaches you well. I am a homeowner in the Pinewell neighborhood and have concerns regarding the development of the Ramada Inn property. My husband and I received orders to Norfolk in December of 2012. We were instantly drawn to Pinewell due to the low traffic flow, instant community and close proximity to schools.

Pinewell is unlike other neighborhoods in this area and I strongly believe it is due to the lack of large apartment complexes. By building apartments, this will increase cut through traffic, density, as well as oversaturate our already full nearby public schools.

Please consider not building these apartments and keep Pinewell the hidden gem that it is.

Best regards,

Kathryn Sutter

Sent from my iPhone

Pollock, Susan

From: Andria McClellan <andria.mcclellan@gmail.com>
Sent: Thursday, February 25, 2016 8:46 AM
To: Homewood, George; Pollock, Susan; Simons, Matthew; Earl P Fraley Jr. (fraleyearl@aol.com); Martin Thomas Jr; Matt Hales (mhales@gatewayventures.net); Dan Neumann MD (dr.neumann@cox.net); Ramona Austin (RAustin@odu.edu); Nikita Houchins (Nikitahouchins@kw.com)
Subject: Fwd: I support Pinewell Station

FYI, another email that I didn't see in Dropbox.

Andria McClellan
andria.mcclellan@gmail.com
C: 757-679-2883

Begin forwarded message:

From: Richard <rhahn@seasideblock.com>
Subject: I support Pinewell Station
Date: February 23, 2016 at 7:38:10 PM EST
To: andria.mcclellan@gmail.com

Andria

Pinewell Station

I & my family have been resident of Pinewell since 2003 moved to Ocean View in 1993 my wife I have raise 2 wonderful children here.
Having seen the vast improvements in all of Ocean View from Willoughby Spit to East Beach to what many consider the beginning of the rebirth of Ocean View..... Pinewell by the Bay.

I am a member of Pinewell Civic League and writing to state our (wife & I) full support for PINEWELL STATION.

The Greater Pinewell Civic League meeting was attended by less than 30 people....Pinewell & Pinewell by the Bay 150+/- household, 30 people and just over 1/2 voting against Pinewell Station is not a fair representation of Pinewell.

"loss of recreation facilities" Nobody uses the playground, tennis courts and the Senior Center (outdated) is moving to a much better location. Yes the basketball courts do get used but they could easily be located across the street in City Park.

"traffic impacts & ped safety" the proposed egresses are onto Ocean View Ave not impacting Pinewell at all.

"impact to schools" minimal if any.

I travel a lot (not enough) and enjoy walking the cities and witness the urbanization of America. Norfolk is the Urban CENTER of Coastal Virgina

The positive of 148 apartments Pinewell Station

1 Quality housing helping clean-up the housing stock of Ocean View
2 Raising the standard of rental property in Ocean View
3 Norfolk's other WATERFRONT.
4 Benefiting Ocean View restaurants & businesses

Thank You
Richard Hahn

C: Dir., Department of Development

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: Charles E. Rigney Sr., Director of Development

Subject: An ordinance approving a land disposition and development contract between the City of Norfolk and Vistacor Advisors, LLC

Reviewed: _____
Peter H. Chapman, Deputy City Manager

Ward/Superward: 4/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: **PH-3**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Vistacor Advisors, LLC

III. **Description:**
This agenda item is an ordinance to approve a land disposition and development contract between the City of Norfolk (the "city"), seller, and Vistacor Advisors, LLC ("Vistacor"), purchaser, for four parcels of real property consisting of 1.56 acres, more or less, and located at Hampton Boulevard and 26th Street.

IV. **Analysis**

- Vistacor proposes to construct a high quality retail center to be known as "The Railyard at Lambert's Point" (the "Project") on real property located at Hampton Boulevard and 26th Street.
- The Project shall be constructed on approximately thirteen acres. A portion of the Project site, including four parcels totaling 1.56 acres, is owned by the city.
- Vistacor, at its sole cost and expense, shall construct an extension of the Elizabeth River Trail along the southern boundary line of the project.

V. **Financial Impact**

- Purchase price of the city-owned property is $600,000.
- The Economic Development Authority of the City of Norfolk (the "EDA") and Vistacor will enter into a Performance Grant Agreement or similar agreement under which Vistacor shall receive up to $300,000 per year for ten years.
- The purpose of the agreement is to offset the costs associated with the infrastructure improvements at the project (road improvements, signal improvements, etc.).

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

- Annual payments will be made on the basis of the incremental revenue realized by the city from sales and food/beverage taxes generated by the restaurant and retail tenants.

VI. Environmental

N/A

VII. Community Outreach/Notification

Vistacor has presented at the Lamberts' Point/Park Place/Highland Park Task Force and the Lambert's Point Civic League. Public notification for this agenda item was conducted through the city's agenda notification process.

VIII. Board/Commission Action

By a vote of 6 to 0, the Planning Commission recommended that the request for a change of zoning to modify the conditions of the zoning be approved.

IX. Coordination/Outreach

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

Supporting Material from the Department of Development:

- Ordinance
- LDDC

03/09/2016mr

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. of Development

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING A LAND DISPOSITION AND DEVELOPMENT CONTRACT BETWEEN THE CITY OF NORFOLK, AS SELLER, AND VISTACOR ADVISORS, LLC, AS PURCHASER, FOR FOUR PARCELS OF REAL PROPERTY CONSISTING OF 1.56 ACRES, MORE OR LESS, AND LOCATED AT HAMPTON BOULEVARD AND 26TH STREET IN THE CITY OF NORFOLK.

- - -

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

Section 1:- That the Land Disposition and Development Contract (the "Contract") between the City of Norfolk, as seller, and Vistacor Advisors, LLC ("Vistacor"), as purchaser, a copy of which is attached hereto, wherein the City of Norfolk agrees to transfer to Vistacor all those certain parcels of real property consisting of 1.56 acres, more or less, and located on Hampton Boulevard and 26th Street, as shown on Exhibit B of the Contract, and Vistacor agrees to construct a mixed use commercial development described and shown in Exhibit A to the contract, including, without limitation, approximately 98,300 square feet of retail space, to include an Earth Fare grocery store, approximately 3,800 square feet of office space and the potential development of approximately 20,000 square feet or more of additional office space, along with related amenities, a public bike and pedestrian trail, and surface parking, is hereby approved.

Section 2:- That the City Manager is authorized to correct, amend, or revise the Contract as he may deem necessary in order to carry out the intent of the Council and to execute the Contract, 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 from and after thirty (30) days from the date of its adoption.

LAND DISPOSITION AND DEVELOPMENT CONTRACT

BETWEEN

THE CITY OF NORFOLK, VIRGINIA

AND

VISTACOR ADVISORS, LLC

LAND DISPOSITION AND DEVELOPMENT CONTRACT

THIS LAND DISPOSITION AND DEVELOPMENT CONTRACT ("Contract"), is made as of the __ day of April, 2016, by and between the CITY OF NORFOLK, VIRGINIA ("City"), a municipal corporation of the Commonwealth of Virginia, and VISTACOR ADVISORS, LLC, a Virginia limited liability company ("Developer"). The parties to this Contract may be collectively referred to by the term "Parties" or individually as "Party".

RECITALS:

A. Under the leadership of the City Council of the City of Norfolk the City desires to expand commercial development within the City.

B. Accordingly, the City desires that Developer construct a high-quality retail center to be known as "Railyard at Lambert's Point" on real property located at Hampton Boulevard and W. 26th Street in the City of Norfolk in accordance with Developer's Proposal, as hereinafter defined, set forth in Exhibit A attached hereto and made a part hereof (the "Project"). The Project shall be constructed on approximately thirteen (13) acres, more or less, shown on Exhibit A (the "Project Site"). A portion of the Project Site, including four (4) parcels totaling 1.56 acres, more or less, is owned by the City and is shown on Exhibit B attached hereto and made a part hereof (the "Property").

C. Negotiations by the Parties have produced this Contract for the City to sell the Property to Developer and for Developer to construct and equip the Project in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants herein contained, the Deposit to be paid as described below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS OF TERMS

When used in this Contract with an initial capital letter or letters, each of the following terms shall have the meaning given it below.

(a) "Affiliate" of Developer means any legal entity, which controls, is controlled by, or is under common control with another entity with the Developer. For purposes of this Contract, Affiliate shall be deemed to include a partnership or other entity established as a joint venture for purposes of this Project by Developer and Hampshire Companies.

(b) "City" means the City of Norfolk.

(c) "City Delay" means any delay in completion of the Project resulting from any failure by City to perform timely any of its obligations under this Contract.

(d) "Closing Date" means the date established pursuant to Section 3.1 of this Contract.

(e) "Contract" means this Land Disposition and Development Contract between the City and the Developer.

(f) "Contractors" means the general contractors and subcontractors for construction of the Project.

(g) "Deposit" means the sum of Sixty Thousand and 00/100 Dollars ($60,000.00) that will be paid by Developer to City within five (5) business days after execution of this Contract.

(h) "Developer's Proposal" shall mean the Site Plan and related documents set forth in Exhibit A. In the event of a conflict between the terms of this Contract and the terms of Developer's Proposal, the terms of this Contract shall govern.

(i) "Development Budget and Timeline" means a budget and timeline, prepared by Developer and submitted to and approved by the City pursuant to Section 2.11 hereof for development of the Project on such schedule as is reasonably required to achieve the Construction Completion Deadline, as hereinafter defined, set forth in Section 2.11 hereof.

(j) "Due Diligence Period" means the ninety (90) day period after the date of execution of this Contract that is necessary for Developer to obtain the necessary information, assessments, studies, and the like before acquiring the Property.

(k) "Financing Commitment" means a commitment or commitments reasonably satisfactory to the City, which has or have been accepted by Developer from one or more equity investors or institutional lenders who are approved by the City, to finance the construction of the Project. The City's approval will not be unreasonably withheld. In order to constitute a Financing Commitment under this definition, a commitment must be duly authorized by the issuer and must be in substantially the same form and level of detail typically utilized by a prospective lender or investor in similar transactions, including requirements for closing and conditions thereof; and, in the case of loan commitments, setting forth the proposed principal amount, interest rate, amortization terms, collateral or guaranty requirements, maturity date, improvements to be constructed, and the expiration date of the commitment.

(l) "Outside Closing Date" means the latest date on which Closing may occur as set forth in Section 3.1 of this Contract.

(m) "Project" means the Developer's mixed use commercial development described and shown in the Developer's Proposal, including, without limitation, approximately 98,300 square feet of retail space, to include an Earth Fare grocery store, approximately 3,800 square feet of office space and the potential development of approximately 20,000 or more additional square feet of office space, along with related amenities, a public bike and pedestrian

trail, surface parking, and other requirements of the Project set forth in this Contract and to be constructed by Developer on the Project Site, as more particularly described in Developer's Proposal and shall also include the Developer Infrastructure Improvements, as hereinafter defined.

(n) "Substantially Complete" or "Substantial Completion" means, with respect to the Project, the date when the construction of the buildings and improvements of the Project is sufficiently completed so as to permit use of the buildings for the purposes for which they are intended and the issuance of a certificate of occupancy, which date may precede the full completion of all punch-list items, landscaping and similar design and development functions.

(o) "Unavoidable Delay" means a delay due to war, riots, civil commotion, strikes, labor disputes, embargoes, natural disaster, Acts of God or any other cause or contingency similarly beyond the control of the Parties or the Developer's contractors.

ARTICLE II

AGREEMENT TO CONVEY AND DEVELOP PROPERTY

Section 2.1. Conveyance of Property "As Is", Development, Design and Construction of Project.

City will convey fee simple title to the Property to Developer by special warranty deed which title shall be good and marketable and free of any liens, encumbrances, or other title defects which would prohibit or impair the use of the Property for the purposes contemplated by this Contract, except for any Permitted Encumbrances, as hereinafter defined. The City shall have reasonable time to cure any title defects which are not acceptable to Developer and/or its lender. The City, however, shall have the option of declining to cure any defect, and if the City does decline to cure any defect or does not cure any defect that it has agreed to cure, the Developer shall have the right either to waive its title objections and to take title to the Property subject to such

title defects, which shall be considered "Permitted Encumbrances" as defined in Section 3.6(a) of this Contract, or to terminate this Contract and to receive the return of the Deposit as its exclusive remedy for termination of this Contract and any related claim. Developer will accept from City the Property, subject to the terms and conditions hereinafter set forth. Except as expressly set forth in this Contract, Developer is accepting the use and conveyance of the Property "as is." Each Party shall be responsible for its costs of closing. Developer shall be responsible for any demolition.

The City shall not be obligated to any extent under this Contract until any required notices, advertisements and/or hearings have been held and an ordinance has been adopted by City Council approving the Project and authorizing the City Manager to enter into this Contract.

Section 2.2. Restrictive Covenants.

The restrictive covenants contained in this Section 2.2 ("Restrictive Covenants") are intended and designed to operate as covenants binding upon Developer and its Affiliates, successors and assigns. The Restrictive Covenants are intended for the benefit of the Property, provided that only the City and any successor or assignee of the City that is a local governmental agency shall have the right, power and authority to enforce the Restrictive Covenants. The City shall have the right, power and authority (without the necessity of obtaining the consent of Developer) to waive compliance with any of the Restrictive Covenants whenever it makes a determination, in its reasonable discretion, that such non-compliance or default does not materially interfere with the objectives of the City with regard to development. In addition to, but not in lieu, of any other right or remedy for breach of any one or more of the Restrictive Covenants, the City shall be entitled to seek injunctive relief, without necessarily showing monetary or special damages and without posting bond or security for a bond for the award of a permanent injunction. The violation of any of the Restrictive Covenants, and the exercise of any right or remedy for breach of any of such covenants, shall not destroy, impair or otherwise affect the lien of any recorded

instrument given by Developer to secure repayment of a loan or loans made for the purpose of providing funds for improving the Property or cause a reversion or forfeiture of title. The Parties recognize that the development and operation of the Property in a manner that is in the best interests of both Parties may from time to time require the confirmation, clarification, amplification or elaboration of the Restrictive Covenants in order to deal adequately with circumstances that may not now be foreseen or anticipated by the Parties.

As part of the consideration for this transaction, the Property to be conveyed, is expressly subject to the following covenants, restrictions, limitations and conditions that are to be imposed as covenants running with and binding upon the aforesaid Property and Project:

(a) Any land area within the Property not occupied by structures, hard surfacing, or vehicular driveways shall be kept planted with grass, trees, and plants or shrubbery and maintained in a healthy condition and neat appearance. In the event of a default by Developer, or its successors and assigns, in the planting or maintenance obligations set forth in this Section 2.2(a), which default continues for a period of thirty (30) business days after receipt by Developer of written notice thereof, the required planting and maintenance work may be completed by the City at the sole cost and expense of Developer, its successors and assigns, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(b) The Project and its appurtenant premises will be maintained by Developer in a sound condition and with a neat and well maintained appearance. Necessary repairs, maintenance and upkeep of the Project will be performed so as to preserve the attractive appearance, physical integrity, and the sanitary and safe condition of the buildings and other improvements. In the event of a default by Developer in the repair, maintenance or upkeep obligations set forth in this Section 2.2(b), which default continues for a period of thirty (30) days after receipt of written notice thereof by Developer, the required repairs, maintenance and upkeep

may be completed by the City at the sole cost and expense of Developer, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(c) Any service area, facility or equipment located on the Project that is visible from a public right-of-way shall be enclosed or adequately screened using landscaping or materials that are consistent with the design of the Project.

(d) Gas, electric and other utility services shall be underground to the Project from the main distribution. No utility line or connection to any utility line at or above ground level shall be permitted.

The Restrictive Covenants shall expire forty (40) years after the date of this Contract and shall be binding upon the City and Developer, and, if conveyed by Developer, then upon its successors and assigns.

It is intended and agreed hereby that the Restrictive Covenants under Section 2.2 shall be covenants running with the land and that they shall in any event, and without regard to technical classification or designation, legal or otherwise be binding upon the City and Developer respectively as the case may be.

Section 2.3. Title Insurance.

Prior to the expiration of the Due Diligence Period, Developer, at its expense, shall obtain a commitment for title insurance (the "Title Commitment") from a nationally recognized title company and furnish a copy of the Title Commitment to City.

Section 2.4. Due Diligence.

Developer shall have the right of entry set forth in Section 4.1. In the event Developer determines, in its sole discretion, the Property is unsuitable for the Project or title to the Property is not acceptable, Developer may terminate this Contract by written notice thereof to the City prior to expiration of the Due Diligence Period and Developer's sole remedy shall be return

of its Deposit and neither party shall have any further obligations under this Contract except as otherwise expressly provided in this Contract. In the event Developer does not exercise its right to terminate this Contract by giving the City written notice thereof prior to the expiration of the Due Diligence Period, its Deposit shall then be non-refundable after the conditions in Section 3.3(e) and Section 3.3(f) have been satisfied, unless this Contract is terminated by Developer because any of the conditions in Subsections (a), (b), (c), (d) or (d) of Section 3.3 have not been satisfied.

Section 2.5. Design of Project; ARB.

The Project will consist of the buildings, facilities and elements described in Developer's Proposal, as such proposal is revised in accordance with the terms of this Contract. The design and materials of the Project shall be subject to review and approval by the City's Architectural Review Board ("ARB") pursuant to City Code Section 32-70(a)(2). Accordingly, if not previously initiated, promptly after execution of this Contract, Developer shall submit the Project to the City's ARB.

Developer shall submit the preliminary plans to the City's Department of Planning, Department of Development, and Department of Public Works (a) when design is approximately 10% complete, (b) when design is approximately 60% complete, (c) when design is approximately 90% complete and (c) when design is sufficiently complete such that Developer's contractor can proceed with construction. The City shall review the design of the Project in accordance with the terms of Section 2.92.9 of this Contract. Developer may not proceed with construction until the plans are approved in writing by City and in order to enforce this Section 2.52.5, the City shall be entitled to seek injunctive relief without necessarily showing monetary or special damages and without posting bond or security for a bond for the award of a permanent injunction. The City's review will include, but will not be limited to, confirming that the design at the 60%, 90% and

100% stages is in substantial conformance with this Contract, the previous plans provided (as modified in accordance with the terms herewith) and approved and the plans approved by ARB. Developer must also obtain all other approvals required by the Norfolk City Code and other applicable laws and regulations. If Developer, despite using commercially reasonable effort, is unable to obtain approval by the City of the plans for the Project and all other governmental approvals and permits required to commence construction of the Project prior to Closing, Developer may terminate this Contract by giving the City written notice thereof prior to the Closing, and its sole remedy shall be the return of its Deposit and termination of this Contract and neither Party shall have any further obligation under this Contract, except as otherwise expressly provided in this Contract.

Section 2.6. Developer Infrastructure Improvements.

(a) Developer, at its sole cost and expense, shall complete the improvements shown in Exhibit C1 and described in Exhibit C2 as part of its completion of the Project (the "Developer Infrastructure Improvements"). The Developer Infrastructure Improvements shall be completed in a good and workmanlike manner and shall comply at the time of completion with all applicable laws. The plans and specifications for the Developer Infrastructure Improvements shall be subject to the review and approval of the City in accordance with the terms of this Contract. Developer must also obtain all other approvals required by the Norfolk City Code and other applicable laws and regulations for the Developer Infrastructure Improvements. Developer must provide the City with payment and performance bonds each in the amount of the general construction contract for the Project in form and substance acceptable to the City;

As part of the Developer Infrastructure Improvements, Developer, at its sole cost and expense, shall construct sidewalk improvements at the Project in accordance with Developer's

Proposal and consistent with the specifications set forth in Exhibit D attached hereto and made a part hereof. In the absence of such specifications in Exhibit D, such improvements shall be made in accordance with the City's standard specifications for sidewalks. Developer shall provide a surety bond to the City for completion of the sidewalks in accordance with the City's standard requirements.

Section 2.7. Elizabeth River Trail Relocation.

As part of the Developer Infrastructure Improvements, Developer, at its sole cost and expense, shall construct a relocation of the Elizabeth River Trail (the "ERT") along the southern boundary line of the Project Site as shown in the Developer's Proposal and shall grant to the City at Closing a permanent easement across the ERT portion of the Project for use by the public. Developer shall construct the ERT on the Project Site in accordance with the ERT specifications set forth in Exhibit E attached hereto and made a part hereof or as otherwise reasonably requested by the ERT Commission. The City shall maintain the ERT on the Project Site in keeping with its standards for maintenance and repair of the ERT generally.

Section 2.8. Relocation and Construction of Utilities.

As part of the Developer Infrastructure Improvements, Developer shall be responsible for confirming the existing water and sanitary sewer systems adjacent to or downstream of the Property are adequate to support the Project. Any water or sanitary sewer system upgrades necessary to support the Project shall be designed and constructed by the Developer at the Developer's expense. The Developer shall be responsible for the relocation of any utilities which is necessitated by the Project and for connecting to water, storm and sanitary sewer lines currently located in public rights of way, and all costs thereof shall be paid and borne by Developer. Connection fees and tap fees for such city utilities serving the Project will be

Developer's responsibility. The cost of franchise utility services for the Project shall be the responsibility of Developer. In addition, Developer shall cause all electric, telephone and other utility lines for the Project to be placed underground within public rights of way or utility easements located within the Property lines.

Section 2.9. City's Review Procedures. The City shall review the design submissions within thirty (30) days of its receipt of the same, and shall give notice to Developer within such thirty (30) day period of its determination that either (a) the same are approved as complete in accordance with the terms of this Contract, (b) that such submissions are incomplete or otherwise fail to comply with the terms of this Contract, or (c) that such submissions must be modified. If the City determines that the Project design documents submitted to it hereunder are incomplete or otherwise fail to comply with this Contract or must be modified in accordance herewith, it shall disapprove them or request such modification and shall, in its notice thereof to Developer, set forth with specificity the reasons for the failure to comply and/or the nature of the modification being requested. After correcting and/or modifying and completing the Project design documents in accordance herewith, Developer shall resubmit the Project design documents to the City within thirty (30) days after such notification from the City. The City shall, within thirty (30) days of the receipt of such revised Project design documents, give notice to Developer whether it approves or disapproves or requires further modification of the Project design documents and if it disapproves or requests further modifications, it shall set forth the specific reasons for such disapproval or requested modifications in its notice thereof to Developer. Each further revision and resubmission of any of the Project design documents by Developer, and each further review and notice of approval or disapproval or request for modification of any of the Project design documents by the City shall be done or made pursuant to the procedures hereinabove set forth.

Section 2.10. Modifications of Design by Developer. If Developer wishes to make modifications to the design of the Project, it shall submit such proposed modifications to the City for review and approval. Any such submission shall clearly identify all changes, omissions and additions as compared to the previously approved Project design documents. If the City determines, in its reasonable judgment, that the proposed modifications are acceptable, the City shall so notify Developer, the Project design shall be deemed to incorporate the modifications that have been approved by the City and Developer shall perform its obligations under this Contract in accordance with the Project design as modified. If the City determines, in its reasonable judgment, that the proposed modifications are not acceptable, the City shall so notify Developer within thirty (30) days, specifying in reasonable detail in what respects they are not acceptable, and Developer shall either (a) withdraw the proposed modifications, in which case, construction of the Project shall proceed on the basis of the Project design previously approved by the City, or (b) revise the proposed modifications in response to the City's objections, and resubmit such modifications to the City for review and approval within thirty (30) days after such notification from the City.

Section 2.11. Construction Schedule. At or prior to submission of the plans for final approval by the City, a Development Budget and Timeline shall be furnished by Developer to the City's Director of Development for review and approval by the City. The Project shall be Substantially Completed by Developer in a good and workmanlike manner in accordance with the design approved by the City under this Contract no later than that date which is twelve (12) months after commencement of construction (the "Construction Completion Deadline"), subject to Permitted Delays. Developer shall commence construction of the Project on or before (60) days following Closing (the "Construction Commencement Deadline") on such schedule as is reasonably required to achieve this Construction Completion Deadline. Promptly after the execution and delivery of this Contract, Developer shall commence and diligently prosecute all

investigations, studies, applications, architectural and engineering work, negotiations, letting and execution, as the case may be, of construction, demolition, and utility relocations or abandonment, contracts or commitments, necessary or appropriate for the commencement of construction in accordance with the timeline set forth herein. Full completion of all punch-list items, landscaping and similar design and development functions for the Project ("Final Completion") by Developer shall occur within two (2) months following Substantial Completion. In the event a delay in construction of the Project is caused by an Unavoidable Delay or City Delay, the construction commencement deadline or the Construction Completion Deadline shall be extended but only by the number of days of delay caused by such Unavoidable Delay or City Delay; provided, however, there shall be no extension of the applicable Construction Commencement Deadline or the Construction Completion Deadline unless (a) Developer provides written notice to the City within ten (10) business days after conclusion of such Unavoidable Delay or City Delay of (i) the occurrence of such Unavoidable Delay or City Delay, (ii) the total number of days of such Unavoidable Delay or City Delay, and (iii) the adjusted Construction Commencement Deadline or Construction Completion Deadline, and (b) the City agrees, which agreement shall not be unreasonably withheld, to the date(s) of such adjusted Construction Commencement Deadline and the Construction Completion Deadline in writing. Any Unavoidable Delay properly documented in accordance with the terms of this Section 2.102.11 shall be referred to as a "Permitted Delay."

Section 2.12. Financing Commitment; Failure to Obtain Financing. Prior to Closing, Developer shall provide a Financing Commitment to the City, in form and substance satisfactory to the City, of the Developer's financial ability to design, construct and equip the Project and thereafter to maintain, operate and lease same in accordance with the standards set forth in this Contract. If the City is not satisfied with the Financing Commitment, the City shall provide the Developer with written notice of why the Financing Commitment is unacceptable to the City.

Developer shall have secured a Financing Commitment for the funds necessary to satisfy its obligations under this Contract by no later than Closing. Failure to secure a Financing Commitment satisfactory to the City will permit the City to terminate this Contract. In the event of such termination, Developer's sole remedy shall be the return of the Deposit. Title to the Property will not be conveyed before the Developer closes on the financing for the construction of the Project and the terms and the source of the financing are acceptable to the City.

Section 2.13. Failure to Meet Development Schedule. In the event that (a) Developer fails to commence construction as specified in Section 2.102.11 (other than because of Permitted Delay), (b) construction ceases for ninety (90) consecutive days (other than because of Permitted Delay), or (c) Developer fails to complete construction on or before the Construction Completion Deadline (other than because of a Permitted Delay), then in such event, Developer shall pay liquidated damages for such delay for each day between the date twelve (12) months after the Construction Commencement Deadline and the date the Project is Completed. The amount of liquidated damages for such delay per day shall be the difference between real estate taxes that would be payable if the Project had been Completed on the date twelve (12) months after the Construction Completion Deadline and the actual real estate taxes that are assessed for the days between the date twelve (12) months after the Construction Completion Deadline and the date the Project is Completed. Developer agrees this provision is a valid and enforceable liquidated damages provision and the City's Real Estate Assessor's assessment of the amount owed shall be accepted by Developer as the proper amount.

Section 2.14. Risk of Loss and Insurance.

After Closing, the Developer shall bear the risk of loss on the Property and all improvements thereon, including, without limitation, the Project. Developer agrees that, in the event the Project is partially or fully damaged or destroyed prior to Final Completion and

occupancy and subject to the Project's lender allowing the use of insurance proceeds for reconstruction, Developer shall rebuild the Project at its cost, including the costs of design, construction and equipping same in accordance with the terms set forth herein. Failure to commence reconstruction within a reasonable time or failure to complete reconstruction on a construction schedule reasonably comparable to the construction schedule applicable to the initial construction of the Project shall entitle City, at the City's option, to terminate this Contract and have the Property reconveyed to City at no cost to City.

Beginning on the Date of Closing, Developer shall, at its sole expense and cost, keep the Property and all of the improvements, including the Project, on the Property insured, on forms and in companies acceptable to City subject to the prior rights of the Project's lender, for the benefit of Developer and City, in an amount equal to not less than the full insurable value (a) against loss and damage by fire, and (b) against loss or damage from risks covered by standard form of endorsement for use in Norfolk, Virginia. In no event shall the coverage amount be less than the amount it would take to design, construct and equip the Project in the event of partial or complete destruction of the Project. Subject to the prior rights of the Project's lender, City shall be a loss payee on all such policies until the final certificate of occupancy is issued for the Project.

Prior to Closing, City shall bear the risk of loss of the Property and any existing improvements. However, any improvements thereon are to be demolished by Developer after Closing; therefore, loss of all or part of improvements on the Property prior to Closing in no way requires City to rebuild the existing improvements and shall not affect Developer's obligation to close or affect the Purchase Price.

ARTICLE III

CLOSING AND PURCHASE PRICE

Section 3.1. Time and Place of Closing.

The closing ("Closing") shall take place at Office of the City Attorney, City Hall, 810 Union Street, Suite 900, Norfolk, Virginia 23510, or at any other location in Norfolk agreed to by the Parties, on a date which shall be the earlier of either (a) a date mutually satisfactory to Developer and the City, or (b) thirty (30) days after the conditions set forth in Section 3.3(f) have been satisfied but in no event later than March 31, 2017 ("Outside Closing Date").

Section 3.2. Consideration.

In consideration for the City's conveyance of the Property to Developer, (a) Developer shall pay to City Six Hundred Thousand and 00/100 Dollars ($600,000.00) and Developer shall be obligated to design, construct, and equip the Project on the Property at Developer's sole expense pursuant to the terms of this Contract.

Section 3.3. Conditions of Developer's Obligation to Close.

The obligation of Developer to close hereunder is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided, however, that Developer at its election, evidenced by notice delivered to the City prior to or at the Closing, may waive any or all of the following conditions:

(a) All representations, warranties, acknowledgments and covenants made by the City in this Contract shall be true and correct in all material respects and shall continue to be true and correct in all material respects at the date of Closing.

(b) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or shall be in force, that would prevent the use and development of the Project in accordance with this

Contract, the zoning, or in accordance with any related agreements to which the City is a party, or to which Developer is a party.

(c) There shall be no material adverse change to the physical or environmental condition of the Property since the date of this Contract.

(d) The City shall own good and marketable fee simple title to the Property free and clear of all liens and encumbrances except those permitted by this Contract.

(e) The Property shall have been rezoned to allow the use of the Property for the Project (the "Development Approvals").

(f) A building permit for the Project and a Financing Commitment for the Project shall have been obtained by the Developer.

(g) Developer shall have closed or will close simultaneously on its acquisition of the remainder of the Project Site.

(h) The Economic Development Authority of the City of Norfolk (the "Authority") and the Developer shall have entered into a Performance Grant Agreement or similar agreement under which the Developer shall be entitled to receive up to $300,000 per year for ten (10) years subject to the Project meeting certain performance criteria as established by the Authority, to include, without limitation, the continued operation of the Earth Fare grocery store and a Project occupancy rate with respect to commercial space in the Project of not less than fifty percent (50%). Any such grant agreement is conditioned upon the City and the Authority entering into a cooperation agreement with respect to such agreement. Any failure of the City and the Authority to enter into such cooperation agreement or any failure of the EDA to enter into a grant agreement with the Developer shall not constitute an event of default under this Contract but shall be grounds for Developer to terminate this Contract. The Parties shall endeavor to execute a grant agreement prior to the expiration of the Developer's Due Diligence Period. The proposed grant

agreement and any cooperation agreement are subject to approval by the Authority and the City Council of the City of Norfolk and any funds to be paid thereunder are subject to appropriation by the City Council of the City of Norfolk.

Section 3.4. Conditions of City's Obligation to Close.

The obligation of the City to close hereunder is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided, however, that the City at its election, evidenced by notice delivered to Developer prior to or at the Closing, may waive any or all of the following conditions:

(a) All representations, warranties, acknowledgments and covenants made by Developer in this Contract shall be true and correct in all material respects, and shall continue to be true and correct in all material respects at the date of Closing.

(b) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or shall be in force, that would prevent the use and development of the Property in accordance with this Contract, the zoning, or in accordance with any related agreements to which the City or Developer is or are a party.

(c) Developer will submit to City in accordance with City's zoning regulations two copies each of (i) the plan of development for the Project and (ii) the application for the building permit for the Project;

(d) Developer shall have obtained a Financing Commitment in accordance with Section 2.122.12 and shall have provided to the City appropriate evidence thereof;

(e) A certificate from the Virginia Board of Contractors or other evidence satisfactory to the City that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing with the Virginia Board of Contractors;

(f) Such other documentation including build out drawings, schematic drawings and renderings of the Project as may reasonably be requested by City to insure the orderly development of the Property in accordance with the terms of this Contract;

(g) City shall have approved the proposed budget in accordance with 2.9;

(h) City shall have approved the design development documents in accordance with Sections 2.5 and2.9;

(i) City shall have received a copy of the executed construction contract;

(j) City shall have received copies of payment and performance bonds each in the amount of the general construction contract for the Project in form and substance acceptable to the City;

(k) City shall have received a copy of a fully executed lease with a term of no less than ten (10) years between Developer and Earth Fare for a grocery store at the Project in the location shown in the Developer's Proposal.

(l) City shall have received proof satisfactory to the City of insurance required in Section 2.142.14.

(m) Developer shall have closed or will close simultaneously on its acquisition of the remainder of the Project Site.

Section 3.5. Failure to Satisfy Conditions.

In the event that any of the conditions of a Party's obligation to close hereunder as set forth in Section 3.3 or 3.4 hereof are unsatisfied for any reason other than a Permitted Delay, that Party shall be entitled, but not obligated, upon notice delivered to the other Party to this Contract on or prior to the Closing Date, to receive one adjournment of thirty (30) days of the Closing to enable that Party to satisfy or cause to be satisfied such conditions. If on the original or any adjourned Closing Date, any condition(s) of the obligation of a Party to close hereunder

shall remain unsatisfied and has not been waived by such Party, then such Party shall have the right to terminate this Contract upon thirty (30) days written notice to the other, and unless, during such thirty (30) day notice period, either (a) the Party entitled to terminate shall waive such condition(s) as provided above and agree to proceed to Closing hereunder, or (b) the Party entitled to terminate my, by written notice to the other Party, terminate this Contract, in which event this Contract shall immediately terminate and subject to the last sentence of Section 2.32.4, neither Party shall have any further rights hereunder or obligations to the other of any nature hereunder or by reason hereof, except that with respect to a failure to satisfy any condition of the Closing that results from a Party's default under this Contract, the provisions of this Contract pertaining to such default, and to the Parties' respective rights, remedies and obligations in connection with such default, shall be applicable in addition to, or (in the non-defaulting Party's discretion) as an alternative to, the non-defaulting Party's aforesaid right of termination.

Section 3.6. Deliveries at Closing by City.

At the Closing, City will execute and deliver to Developer the following:

(a) A special warranty deed conveying good and marketable fee simple title to the Property free and clear of all liens and encumbrances except "Permitted Encumbrances," as defined herein, to Developer subject to the restrictive covenants described in Section 2.2; "Permitted Encumbrances" shall mean all matters of record (except liens) that have not expired by time limitations contained therein or otherwise become ineffective or that were accepted by Developer pursuant to the provisions of Section 2.1 of this Contract.

(b) A certificate to the effect that the City is not a foreign entity subject to the withholding requirements of the Foreign Investment in Real Property Tax Act;

(c) A certified copy of the ordinance adopted by the City authorizing the conveyance of the Property to Developer pursuant to the terms of this Contract;

(d) The cooperation agreement referenced in Section 3.3(h) of this Contract; and

(e) Any other document or instrument required hereunder or reasonably requested by Developer or its title insurance company in order to consummate the transactions contemplated herein.

Section 3.7. Deliveries at the Closing by Developer.

At the Closing, Developer shall execute and/or deliver the following:

(a) Developer shall deliver to the City the Purchase Price minus the Deposit, by wire, cashier's check or certified funds.

(b) Developer shall deliver to the City evidence reasonably satisfactory to the City that Developer has been validly formed and is in good standing and qualified to do business in the Commonwealth of Virginia and City of Norfolk.

(c) Developer shall deliver to the City the written opinion of counsel of Developer, in form reasonably satisfactory to the City (assuming that all signatures are genuine, and further assuming that all documents presented to such counsel as copies conform with the originals), stating (1) that Developer is a limited liability company, duly organized and validly existing entity under the laws of the Commonwealth of Virginia; (2) that Developer has the power to enter into the transactions contemplated by this Contract (including, without limitation, entry into this Contract); (3) that all actions by Developer required to be authorized in the transaction contemplated by this Contract have been duly authorized; (4) that this Contract and all documents required to effectuate the transactions contemplated hereby which are to be executed by Developer (including, without limitation, all agreements and instruments to be executed by Developer at the Closing) have been duly executed and delivered by Developer, and constitute binding obligations of Developer, enforceable in accordance with their terms, except as enforceability may be limited

by applicable bankruptcy, insolvency, reorganizations, moratoriums or similar laws affecting the enforcement of creditors' rights generally and by legal and equitable limitation on the enforceability of specific remedies;

(d) Deed of Easement for the ERT portion of the Project Site in accordance with Section 2.7 of this Contract; and

(e) Any other document or instrument required hereunder or reasonably requested by the City in order to consummate the transactions contemplated herein, which document or instrument will be in form and substance reasonably acceptable to Developer, including, but not limited to, proof of insurance required by Section 2.142.14 which document or instrument will be in form and substance reasonably acceptable to City.

Section 3.8. Prorations. Proratable items relating to the Property will be prorated as of the date of Closing.

Section 3.9. Closing Costs. City is exempt from grantor's tax on the Deed. Developer will pay all other recording taxes and fees in connection with the recordation of the Deed, the cost of its title insurance commitment and policy, the cost of obtaining the survey and any subdivision plat required, and all other costs incurred in connection with its due diligence investigations of the Property. Each Party will pay its respective attorney's fees.

ARTICLE IV

ADDITIONAL COVENANTS

Section 4.1. Right of Entry. Commencing upon the date of full execution of this Contract and continuing until the earlier of the termination of this Contract or Closing, Developer and its agents, representatives and contractors will have the right to enter the Property for the purpose of surveying the Property, conducting soil tests and engineering studies and performing such other examinations as Developer deems necessary to determine the suitability of the Property

for its contemplated development. Developer will keep the Property free and clear of all mechanics' liens and will indemnify, defend and hold the City harmless from and against any and all claims, liens, liabilities, damages, losses and costs (including reasonable attorneys' fees) arising from the exercise by Developer of its right of entry under this Section. This indemnity will survive Closing and any termination of this Contract. If the Closing does not occur, Developer will repair any damage to the Property caused by Developer's exercise of such right of entry.

Section 4.2. Survey. Developer shall obtain a survey of the Property. Such survey shall be certified to Developer, the City, and the title company furnishing a title commitment to the Developer.

Section 4.3. Condemnation. If before the Closing all or any portion of the Property is taken under the power of eminent domain or is transferred in lieu of such taking and such taking or transfer materially interferes with Developer's contemplated development of the Property, Developer may, at its option, (i) terminate this Contract by notice to the City within thirty (30) days after Developer is notified of such taking or transfer, in which case return of the Deposit shall be the sole and exclusive remedy or (ii) proceed to Closing.

Section 4.4. Time is of the Essence. Time is of the essence as to the performance of the terms and conditions of this Contract. To the extent any provisions of this Contract specifically state that time is of the essence, such specific provisions are not intended to mean that time is not of the essence as to the remaining provisions of this Contract.

Section 4.5. Staging Area and Construction Operations. City does not have any obligation to Developer and/or its contractor to provide a staging area or any particular construction easements for construction of the Project. Developer shall see that any pile driving and similar or other loud construction methods are not started before 7:00 a.m. and cease by 7:00 p.m. on weekdays, and are not started before 8:00 a.m. and cease before 7:00 p.m. on weekends

and holidays except utility connections may be scheduled at times least disruptive to the Project and/or neighbors.

Section 4.6. Street Closures; Encroachments; Right of Way Permits. As part of Developer's due diligence, Developer shall work with City staff to determine what actions must be taken with respect to the public rights of way that intersect with and abut the Property to allow for the Project to be constructed, to include without limitation, street closures, the dedication of new public rights of way, encroachments, and right of way permits. The parties acknowledge the City does not own the underlying fee to a portion, if not all, of the public rights of way that intersect with and abut the Property and any dispute that arises with respect to ownership of or title to the underlying fee in the public rights of way shall be resolved by and between the Developer and the holder of such title.

ARTICLE V

PROGRESS REPORTS

Section 5.1. Progress Reports. In addition to timely construction of the Project, within ten (10) days after receipt of the City's request therefor, Developer shall provide the City with a written progress report that reflects all work done since the date of the prior progress report, if any; provided, however, Developer shall not be required to provide such progress reports more frequently than monthly.

ARTICLE VI

MODIFICATIONS FOR LENDER

If in connection with obtaining Financing Commitments for this Project, any lender shall request reasonable modifications of this Contract as a condition to such financing, the parties will execute a modification of this Contract, provided that such modification does not increase the

financial obligations of the City, or materially and adversely affect any rights of the City created by this Contract.

ARTICLE VII

ADDITIONAL OBLIGATIONS

Section 7.1. Zoning. If not previously initiated, promptly after execution of this Contract, Developer shall initiate appropriate proceedings in order to apply for rezoning of the Property to a classification that allows the Project to be carried out in accordance with the terms of the Contract.

Section 7.2. Permits. City shall execute as owner, as may be required, all building permit applications, plans of development, utility permit applications, utility easements, and such other documents as may be reasonably required for Developer to obtain building permits for the Project. Developer agrees to indemnify and save City harmless from any liabilities resulting from incorrect information therein, unless such information was provided by City.

Section 7.3. Certification. Upon Final Completion of the Project and the issuance of a certificate of occupancy, City will furnish Developer an appropriate instrument certifying that Developer has complied with the provisions hereof relating to the construction of the Project. If City shall, for cause, refuse or fail to provide certification, the City shall, within ten (10) days after written request by Developer, provide Developer with a written statement indicating in adequate detail how Developer has failed to complete the construction of the Project in conformity with this Contract, or is otherwise in default, and what measures or acts will be reasonably necessary in the opinion of the City, for Developer to take or perform in order to obtain certification.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Default by Developer.

The occurrence of any of the following shall be an event of default by Developer under this Contract:

(a) The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors' rights;

(b) The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights;

(c) The entering of an order for relief against Developer or the appointment of receiver, trustee, or custodian for all or a substantial part of the property or assets of Developer in any involuntary proceeding, and the continuation of such order, judgment or decree unstayed for any period of thirty (30) consecutive days;

(d) The failure of Developer to perform or to observe any covenant, obligation, condition or requirement of this Contract not specifically named as a default in this Section 8.1, and the continuation of such failure for thirty (30) days after written notice from City specifying the nature and extent of any such default, or, if such default cannot reasonably be cured within such thirty (30)-day period, the failure either (i) to commence to cure such default within such thirty (30)-day period -and to diligently continue to pursue such effort to cure to completion, or (ii) to cure such default within a reasonable time after the expiration of the first thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default.

Section 8.2. Remedies.

Upon the occurrence and continuance of any event of default described in Section 8.1 after written notice and expiration of any applicable cure period without cure, City may elect

to terminate this Contract by giving written notice of such termination to Developer, and this Contract shall terminate as of the date specified in such notice (which date shall be on or after the date of the notice of termination). In addition to the remedies described herein, a non-defaulting Party shall have available to it all other rights and remedies at law or in equity. Remedies under this Contract shall be cumulative and not restrictive of other remedies.

ARTICLE IX

ASSIGNMENT LIMITATIONS

Except as otherwise specifically provided herein, prior to Final Completion of the Project, Developer may not assign this Contract or any right, title or interest hereunder, to any entity other than an Affiliate without the City's prior written permission. Developer shall have the right to collaterally assign all or any portion of its rights in this Contract to any lender or lenders prior to the Final Completion of the Project or to anyone after the Project has been Finally Completed.

An assignment shall not relieve the assigning party from its obligations under this Contract. Any purported assignment of this Contract or of any right, title or interest hereunder not complying with this Article IX shall be void and of no force or effect.

ARTICLE X

MISCELLANEOUS

Section 10.1. Low and Moderate Income Job Opportunities. Developer shall make every reasonable effort to include provisions in the construction contracts for the Project, (i) requiring the contractor to make a good faith effort to see that job opportunities at the Project are made available to low and moderate income persons who live in Norfolk; and (ii) prohibiting any contractor from discriminating on the basis of race, color, creed, national origin, age or sex. Developer will cooperate with the City in alerting the contractors to any training programs or other job opportunity sponsored by the City, and encourage participation in such programs.

Section 10.2. City's Project Representative. The City hereby appoints Charles E. "Chuck" Rigney, Director of Development, or his designee as its representative for the Project who will be responsible for coordinating the City's approvals hereunder.

Section 10.3. No Broker. Developer and City each represent and warrant that no broker to whom a commission, fee or other compensation is payable is or has been involved in or brought about the transactions contemplated by this Contract. Each of said Parties shall indemnify and hold the others harmless from any and all claims, obligations, liabilities, costs or expense (including reasonable attorneys' fees) incurred as a result of any claim for brokerage commissions, fees or other compensation by any person or entity who alleges having acted or dealt with the indemnifying Party in connection with the Project or the transactions contemplated by this Contract. The Parties' obligations under this Section shall survive the Closing and any termination of this Contract.

Section 10.4. Relationship of Parties. This Contract is not to be construed to create a partnership or joint venture between the Parties.

Section 10.5. Negotiated Document. The Parties acknowledge that the provisions and language of this Contract have been negotiated, and agree that no provision of this Contract shall be construed against any Party by reason of such Party having drafted such provision of this Contract.

Section 10.6. Governing Law. This Contract shall be governed and construed by the laws of the Commonwealth of Virginia. In the event of any action arising between the Parties with respect to the Project, venue shall be in the Circuit Court of the City of Norfolk.

Section 10.7. Successors and Assigns. The agreements, terms, covenants and conditions of this Contract shall be binding upon and inure to the benefit of the City, Developer, and except as otherwise provided herein, their respective successors and permitted assigns.

Section 10.8. Further Assurances. Each Party hereto shall do all acts and things and make, execute and deliver such written instruments as shall from time to time be reasonably required to carry out the terms and provisions of this Contract.

Section 10.9. No Amendment. Neither this Contract nor any provisions hereof may be changed, modified, amended, supplemented, altered, waived, discharged or terminated except by an instrument in writing signed by both Parties and if required by any mortgage document, with the written consent of the applicable lender.

Section 10.10. Survival of Closing. The provisions of this Contract shall survive the Closing.

Section 10.11. Effectiveness. This Contract shall not be binding or effective until executed and delivered by the Parties hereto.

Section 10.12. Waiver. The failure of any Party to insist upon strict performance of any of the terms or provisions of this Contract or to exercise any option, right or remedy contained in this Contract, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, of this Contract nor be deemed to have been made unless expressed in writing and signed by such Party.

Section 10.13. Exhibits. Each Exhibit referred to in this Contract is incorporated by reference and attached to this Contract.

Section 10.14. Consent and Approvals.

(a) All consents and approvals which may be given under this Contract shall be in writing, as a condition of their effectiveness. The granting of any consent or approval by a Party to perform any act requiring consent or approval under the terms of this Contract or the failure on the part of a Party to object to any such action taken without the required consent or approval shall

not be deemed a waiver by the Party whose consent was required or its right to require such consent or approval for any further similar act.

(b) If it is provided that a particular consent or approval is not to be unreasonably withheld, such consent or approval also shall not be unreasonably conditioned or delayed and any matter required to be done satisfactorily or to the satisfaction of a Party only be done reasonably satisfactorily or to the reasonable satisfaction of that Party.

Section 10.15. Interpretation. For the purpose of construing this Contract, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural number and vice versa, words in one gender shall be deemed to include words in other genders, and the word "person" shall be deemed to include a corporation or partnership. Headings of articles and sections are inserted only for convenience and are not, and shall not be deemed, a limitation on the scope of the particular articles or sections to which they refer.

Section 10.16. "Including". In this Contract, whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, the word "including without limitation," and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

Section 10.17. Notices. All notices or other communications required or desired to be given with respect to this Contract shall be in writing and shall be delivered by hand or by courier service, or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as provided below. Each notice given by mail shall be deemed to be given by the sender when received or refused by the Party intended to receive such notice; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the Party intended to receive such notice or when such Party refuses to accept

delivery of such notice. Upon a change of address by either Party, such Party shall give written notice of such change to the other Party in accordance with the foregoing. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent, effective as of the date such notice would otherwise have been received.

To City:

City Manager
1100 City Hall
810 Union Street
Norfolk, VA 23510

With a copy to:

Director
City of Norfolk Department of Development
500 E Main St
Suite 1500
Norfolk, VA 23510

With a copy to:

City Attorney
Office of the City Attorney
810 Union Street, Suite 900
Norfolk, VA 23510

To Developer:
David P. Clarke, Partner
James D. Carr, Partner
110 Mid-Atlantic Place
Yorktown, VA 23693
Email: dclarke@vistacor.com
Email: jcarr@vistacor.com

With a copy to:

Section 10.18. Entire Agreement. This Contract constitutes the entire agreement between the Parties with respect to the Project and supersedes all prior understandings and writings, and this Contract may be amended or modified only by a writing signed by City, and Developer.

Section 10.19. Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.

Section 10.20. Recordation. This Contract may be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.

[SIGNATURE PAGES TO FOLLOW]

WITNESS the following signatures:

CITY OF NORFOLK

By:_____
Name:_____
Title:_____

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and Commonwealth aforesaid, by _____ _____ of the City of Norfolk, and by _____, Clerk of the City of Norfolk, this _____ day of _____, 2016.

_____
Notary Public

My Commission Expires:_____

Registration No.:_____

APPROVED AS TO CONTENTS:

_____
Director, Department of Development

APPROVED AS TO FORM
AND CORRECTNESS:

_____
Assistant City Attorney

DEVELOPER

VISTACOR ADVISORS, LLC
a Virginia limited liability company

By: _____
Title: _____
Date: _____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and Commonwealth aforesaid, by _____, _____ of Vistacor Advisors, LLC, a Virginia limited liability company, this _____ day of _____, 2016.

_____
Notary Public

My Commission Expires:_____

Registration No.:_____

EXHIBIT A

Developer's Proposal

Railyard at Lambert's Point

Vistacor Advisors, LLC

TIMMONS GROUP

Guernsey Tingle Architects

1

February 12, 2016

SOUTH ELEVATION - 26TH STREET- BUILDING ONE SCALE: 1/8" = 1-0"

EAST ELEVATION - HAMPTON BOULEVARD- BUILDING ONE SCALE: 1/8" = 1-0"

NORTH ELEVATION - 27TH STREET- BUILDING ONE SCALE: 1/8" = 1-0"

Railyard at Lambert's Point
Vistacor Advisors, LLC

TIMMONS GROUP

Guernsey Tingle Architects

2

February 12, 2016

EAST ELEVATION - HAMPTON BOULEVARD- BUILDING TWO SCALE: 1/8" = 1-0"

SOUTH ELEVATION - 25TH STREET- BUILDING TWO SCALE: 1/8" = 1-0"

NORTH ELEVATION - 26TH STREET- BUILDING TWO SCALE: 1/8" = 1-0"

Railyard at Lambert's Point

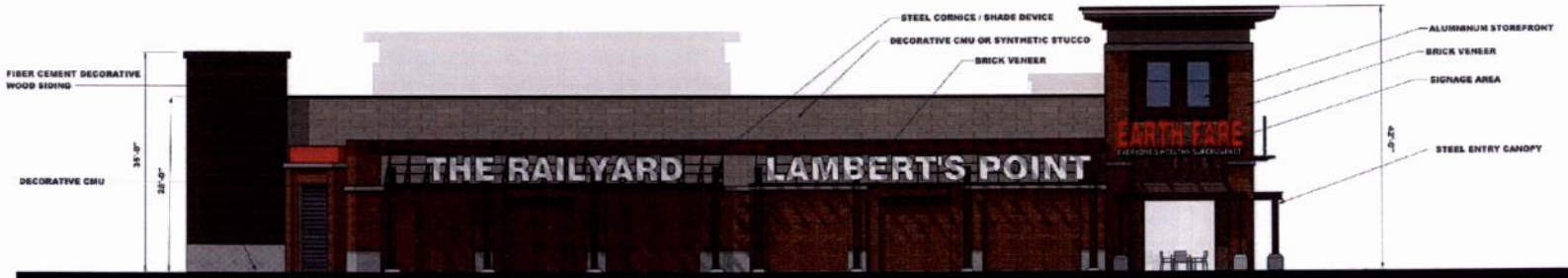
Vistacor Advisors, LLC

TIMMONS GROUP

Guernsey Tingle Architects

3

February 12, 2016



EAST ELEVATION - HAMPTON BOULEVARD - EARTHFARE BUILDING

SCALE: 1/8" = 1-0"

SOUTH ELEVATION - 24TH STREET- EARTHFARE BUILDING

SCALE: 1/8" = 1-0"

NORTH ELEVATION - 25TH STREET- EARTHFARE BUILDING

SCALE: 1/8" = 1-0"

Railyard at Lambert's Point

Vistacor Advisors, LLC

Guernsey Tingle Architects

TIMMONS GROUP

4

February 12, 2016

EAST ELEVATION - HAMPTON BOULEVARD- BUILDING THREE

SCALE: 1/8" = 1-0"

NORTH ELEVATION - 24TH STREET- BUILDINGS THREE AND FOUR

SCALE: 1/8" = 1-0"

Railyard at Lambert's Point

Vistacor Advisors, LLC

TIMMONS GROUP

Guernsey Tingle Architects

5

February 12, 2016

EXHIBIT B

Property

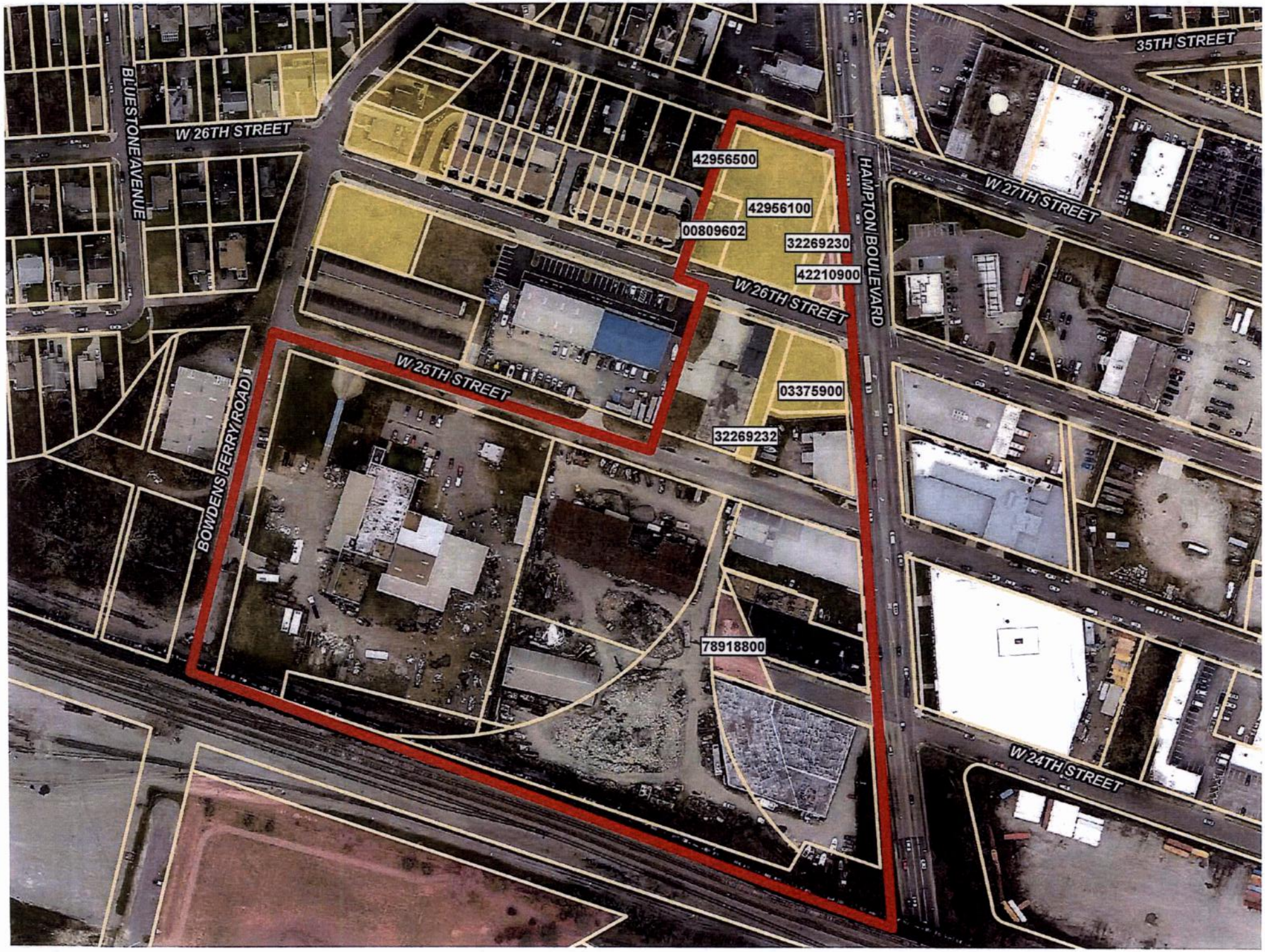
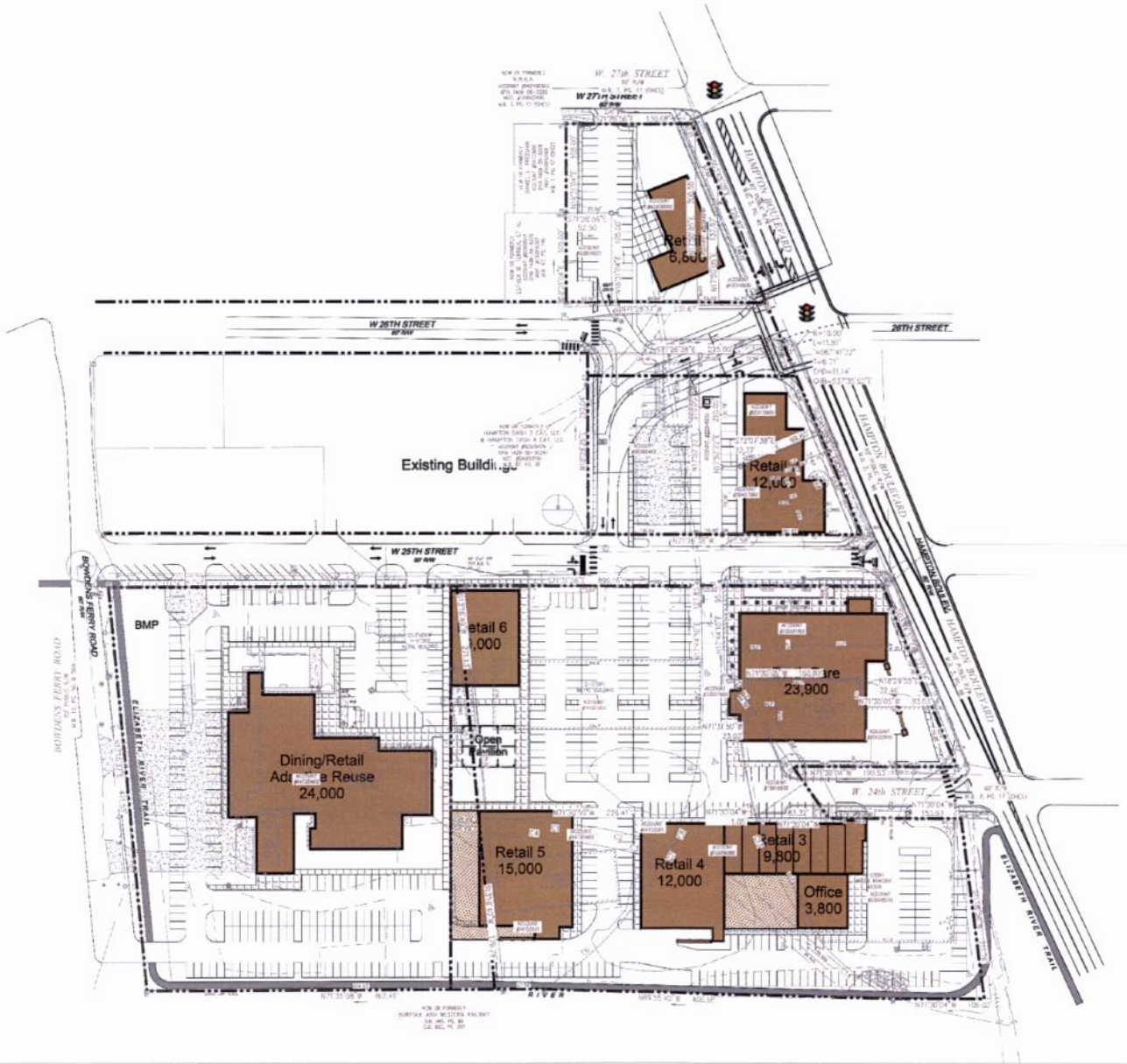

35TH STREET
BLUESTONE AVENUE
W 26TH STREET
42956500
42956100
00809602
32269230
42210900
W 27TH STREET
HAMPTON BOULEVARD
W 26TH STREET
W 25TH STREET
03375900
32269232
BOWDENS FERRY ROAD
78918800
W 24TH STREET

EXHIBIT C1

PLAT SHOWING DEVELOPER INFRASTRUCTURE IMPROVEMENTS



LAMBERT'S POINT

ALTA EXHIBIT - February 15, 2016

0 60 120 Feet

TIMMONS GROUP
YOUR VISION ACHIEVED THROUGH OURS.

EXHIBIT C2

DESCRIPTION OF DEVELOPER INFRASTRUCTURE IMPROVEMENTS

LAMBERT'S POINT - ITEMS TO BE REMOVED WITHIN R/W:

- Extend Elizabeth River bike trail through site. (Approximately 1,000 feet between Bowdens Ferry Road and Hampton Blvd.)
- Bowdens Ferry Road:
    - Drainage improvements
    - Demolition of existing pavement (entrances, sidewalks)
    - Utility relocations
    - Grading
- Hampton Blvd:
    - Travel lane, turn lane and median improvements along Hampton Blvd.
    - Demolition and relocation of underground existing power lines
    - Demolition and relocation of existing cable and fiber optics duct banks
    - Demolition of curbing, sidewalks, entrances, paving
    - Utility relocations
    - Grading
- 24th Street:
    - Pavement demolition
    - Utility relocations
    - Grading
- 25th Street:
    - Pavement demolition
    - Utility relocations
    - Grading
- 26th Street:
    - Install traffic signals and turn lanes at 26th Street and Hampton Blvd.
    - Pavement demolition
    - Utility relocations
    - Grading
- 27th Street:
    - Signal and timing modifications, striping at 27th street and Hampton Blvd.
    - Pavement demolition
    - Utility relocations
    - Grading

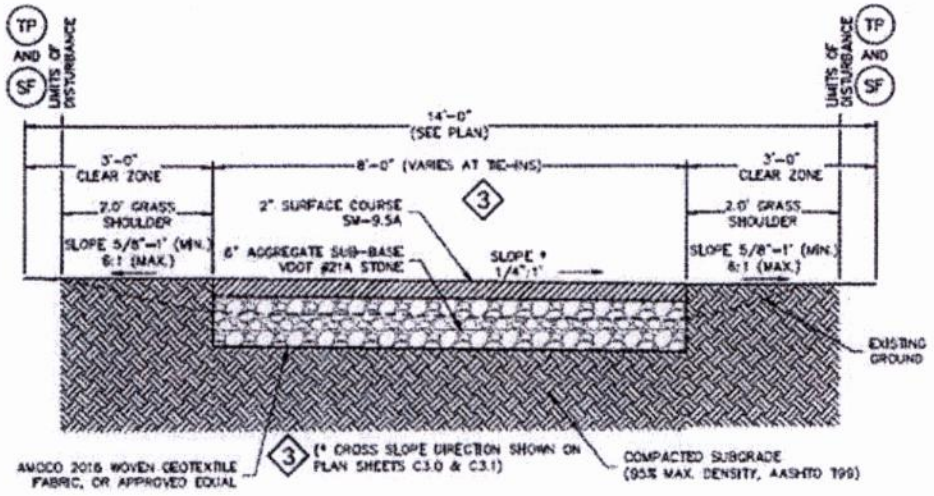
EXHIBIT D

SIDEWALK SPECIFICATIONS

(In the absence of agreed upon sidewalk specifications,
the specifications shall be as set forth in Section 2.6 of this Agreement)

EXHIBIT E

ERT Specifications



NOTES:

1. TRAIL SHALL GENERALLY MATCH EXISTING GRADE. ROOT PRUNING SHALL BE A MINIMUM DEPTH OF 8".
2. CONTRACTOR SHALL MAINTAIN DRAINAGE ACROSS TRAIL WITHOUT OBSTRUCTION
3. CONTRACTOR SHALL RE-GRADE AREAS AROUND TRAIL AS NECESSARY TO ENSURE POSITIVE STORMWATER RUNOFF.
4. PONDING OF WATER SHALL NOT BE ACCEPTED BY THE CITY. ANY REQUIRED RE-WORK SHALL BE AT THE EXPENSE OF THE CONTRACTOR.
5. CROSS GRADE DIRECTION SHOWN USING ARROW ON PLAN VIEW.

ASPHALT TRAIL SECTION (NO CROWN)

NTS

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: Change of zoning from R-8 (Single-Family) district to conditional C-1 (Limited Commercial) district and an Entertainment Establishment Special Exception at 2729 Bowdens Ferry Road – Andalousi

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

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: PH-4

I. **Staff Recommendation: Approval.**

II. **Commission Action:**

- This item was continued from the April 12 City Council docket to May 10 at the request of the applicant.
- By a vote of **5 to 1**, the Planning Commission recommends **Approval** of the requests.
- Subsequent to the Planning Commission's public hearing the applicant revised his hours of operation as depicted below.

III. **Request:** Change of zoning to Limited Commercial and an Entertainment Establishment Special Exception.

IV. **Applicant: Andalousi**

V. **Description:**

- The site is currently developed as a religious institution, however, it has been vacant for some time.
- Applicant has proposed an adaptive reuse of the existing church to a banquet facility.

	Proposed	Revised
Hours of Operation	9:00 a.m. until 12:00 midnight, seven days a week	11:00 a.m. to 11:00 p.m. Thursday through Saturday Closed Sunday through Wednesday
Hours for the Sale of Alcoholic Beverages and Entertainment	11:00 a.m. until 12:00 midnight, seven days a week	
Capacity	232 seats indoors 0 seats outdoors 240 total capacity	Same
Entertainment	Disc Jockey 6 member live band	Same

VI. **Historic Resources Impacts**

- The existing building is not located within a federal, state, or local historic district.
  - Since the original structure on the site was built in 1895 and is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.
- As part of the conditional rezoning, the applicant has proffered that the building on the site shall not be demolished and that no modifications will be made to the exterior of the building.

Staff point of contact: Susan Pollock at 664-4765, susan.pollock@norfolk.gov

Attachments:

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

THE CITY OF NORFOLK

MEMORANDUM

TO: The Honorable City Council

REVIEWED: Ronald H. Williams, Jr. Deputy City Manager

CC TO: Leonard M. Newcomb III, CFM, Assistant Director, City Planning
Susan Pollock Hart, CFM, Principal Planner, City Planning

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

SUBJECT: Change of zoning from R-8 (Single-Family) district to conditional C-1 (Limited Commercial) district and an Entertainment Establishment Special Exception at 2729 Bowdens Ferry Road – Andalousi

DATE: May 5, 2016

On the May 10, 2016 Regular Agenda, City Council will be reviewing two requests by Andalousi: a change of zoning from R-8 (Single-Family) district to conditional C-1 (Limited Commercial) district and a special exception request to operate an entertainment establishment with alcoholic beverages at 2729 Bowdens Ferry Road. The site is located on the west side of Bowdens Ferry Road, just south of 37th Street, within the Lamberts Point neighborhood. The applicant, Omar Boukhriss, proposes to operate a banquet facility with alcohol and entertainment. Mr. Boukhriss currently operates "Omar's Carriage House," located in the West Freemason neighborhood.

The site is currently developed as a religious institution (most recently the Greater House of Faith Apostolic Church), although it has been vacant for some time. The site is zoned R-8, which allows religious institutions with a special exception. Any new religious institution that proposed to use this building would need to apply for a special exception. The existing building is not located within a federal, state, or local historic district. However, since the original structure on the site was built in 1895 and is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

The City's general plan, *plaNorfolk2030*, identifies this site as single-family traditional; thus the proposed use as a banquet hall is not consistent with *plaNorfolk2030*. However, the Preserving Our Heritage chapter of *plaNorfolk2030* calls for protecting Norfolk's historic resources, in part by encouraging the re-use of nonconforming historic structures. The applicant is proposing an adaptive reuse of the existing church to a banquet facility. As part of the conditional rezoning, the applicant has proffered that the building on the site shall not be demolished and that no modifications will be made to the exterior of the building.

The Planning Department received two letters from the Lamberts Point Civic League. The first, dated December 31, 2015, expressed support for the application to convert the church to a banquet hall with entertainment and alcohol. The second, dated February 20, 2016, reiterated the unanimous support from the civic league for this application. However, at the Planning Commission public hearing, three residents of Lamberts Point voiced their opposition to this application, stating concerns over the use of the property as an entertainment establishment and the noise that may be generated later into the evening hours.

After conducting a duly advertised public hearing on February 25, 2016, at which the applicant and Lamberts Point Civic League provided comments, the City Planning Commission voted **5 to 1** (Mr. Hales was absent for this vote) to recommend **approval** of the application. The dissenting vote was based on concerns raised by residents of the neighborhood who came to the hearing and a desire to consider an 18-month "sunset clause" on the approval in order to address these concerns. However, given that the investment required to convert the existing building is quite substantial, such a sunset clause would negatively impact the ability to finance the project and likely would effectively be a denial. The lack of the 18-month sunset clause does not inhibit City Council's ability to revoke a special exception if the operator fails to run the establishment in compliance with the adopted ordinance.

There is no parking available on the church property so the applicant provided a tentative agreement for use of the parking at the Madison Career Center which is located directly across Lamberts Point Road to the east. Subsequent to the hearing, the applicant was unable to finalize that agreement, however, agreements with two other nearby businesses have been provided; agreements for the parking lot located at 1225 West 26th Street and owned by RG Electric Company, Inc. and parking located at 2701 Hampton Boulevard and owned by ODU Credit Union. A condition of the special exception is that the applicant provide a minimum of 35 parking spaces for his patrons.

Staff contact: Susan Pollock Hart at (757) 664-4765, susan.pollock@norfolk.gov

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: February 25, 2016

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Susan Pollock Hart

Staff Report	**Item No. 5**		
Address	**2729 Bowdens Ferry Road**		
Applicant	**Andalousi**		
	Change of Zoning	**From: R-8 (Single-Family)**	**To: C-1 (Limited Commercial)**
Request	**Special Exception**	**Entertainment Establishment**	
Property Owner	Southern Back & Trust		
Site Characteristics	Site Area/Building	20,125/9,718 sq. ft.	
	Future Land Use	Single Family Traditional	
	Zoning	R-8 (One-Family)	
	Neighborhoods	Lamberts Point	
	Character District	Traditional	
Surrounding Area	North	R-8: Single-Family homes	
	East	IN-1 (Institutional): Madison Career Center	
	South	R-8: Single-Family homes	
	West	R-8: Single-Family homes	

A. Summary of Request

- The site is located on the west side of Bowdens Ferry Road just south of 37th Street.
- The applicant proposes to operate a banquet facility with alcohol and entertainment.

B. Plan Consistency

- *plaNorfolk2030* designates this site as single-family traditional, meaning the proposed use is not consistent with *plaNorfolk2030*.
- The Preserving Our Heritage chapter of *plaNorfolk2030* calls for protecting Norfolk's historic resources, in part by encouraging the re-use of nonconforming historic structures.
- Since the proposed rezoning and special exception will permit the re-use of an existing historic designation-eligible structure that is not appropriate for single-family residential use, it can be supported despite the inconsistency with *plaNorfolk2030*.

C. Zoning Analysis

i. General

- The site is currently developed as a religious institution, however, it has been vacant for some time.
- The site is zoned R-8 which permits religious institutions by special exception.

	Proposed
Hours of Operation	9:00 a.m. until 12:00 midnight, seven days a week
Hours for the Sale of Alcoholic Beverages and Entertainment	11:00 a.m. until 12:00 midnight, seven days a week
Capacity	232 seats indoors 0 seats outdoors 240 total capacity
Entertainment	Disc Jockey 6 member live band

ii. Parking

- The site is located in the Traditional Character District, which requires one parking space per 175 square feet of enclosed building area for entertainment establishments.
  - Religious institutions require one parking space per 60 square feet.
- The parking required would be less than the previous use required and would comply with current standards.

- Although there are no parking spaces on site, the applicant will lease parking from the Madison Career Center which is located directly across Bowden's Ferry Road to the east.

iii. Flood Zone

- The property is located in the X (Low to Moderate) Flood Zone which is a low risk zone.

D. Transportation Impacts

- Institute of Transportation Engineers (ITE) figures estimate that that this proposal will generate 1,032 new vehicle trips per day.
- Based upon ITE data, the existing church on this site would be expected to generate 89 trips while the proposed 232 restaurant/banquet hall would be expected to generate 1,121 trips on weekdays.
- Hampton Boulevard just south of this location is identified as a severely congested corridor in the PM peak in the most recent update to regional Hampton Roads Congestion Management analysis – other portions of Hampton Boulevard adjacent to the site are shown as moderately congested during the morning and afternoon peaks in the regional document.
- The site is near transit service with Hampton Roads Transit bus route 2 (Hampton) operating along Hampton Boulevard near the site.
- Bowdens Ferry Road adjacent to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

E. Historic Resources Impacts

- The existing building is not located within a federal, state, or local historic district.
  - Since the original structure on the site was built in 1895 and is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.
- As part of the conditional rezoning, the applicant has proffered that the building on the site shall not be demolished and that no modifications will be made to the exterior of the building.

F. Public Schools Impacts

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

G. Impact on the Environment

There were two calls for service for this site over the past year, with no arrests made.

H. Impact on Surrounding Area/Site

By requiring this use to conform to the conditions listed below, the proposed 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

- The application was sent to the Lamberts Point Civic League on January 13.
- A letter of support was received from the Lamberts Point Civic League on December 31, 2015.

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 that the special exception request be **approved** subject to the conditions shown below:

(a) The hours of operation for the establishment shall be limited to 9:00 a.m. until 12:00 midnight, seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted

(b) The hours of operation for the sale of alcoholic beverages, and for entertainment shall be limited to 11:00 a.m. until 12:00 midnight, seven days a week.

(c) The seating for the establishment shall not exceed 232 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 240 people.

(d) 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.

(e) Entertainment shall be limited to a disc jockey or live bands having no more than 6 members. No other form of entertainment is permitted.

(f) The dance floor shall not exceed 196 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.

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

(h) 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.

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

(j) 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.

(k) 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.

(l) The proposed dumpster(s) shall not be located within any required front yard or corner side yard and shall be gated and shielded from view from any public right-of-way by opaque masonry or concrete walls (exclusive of that area needed for accessibility for trash removal) designed to be compatible with the principal building that it serves.

(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) 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) 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.

Notwithstanding anything to the contrary, the requirements of this subsection shall not apply to the following entities, who may lease or otherwise use the establishment for events that are permitted by and comply with this ordinance in all other respects:

(1) Any federal, state, or local government or governmental agency;

(2) Any party that receives a grant or other direct funding from a state or local government; and

(3) Any party that is recognized as a charitable organization in good standing under § 501(c)(3) of the Internal Revenue Code of the United States Code at the time of the event.

Collectively, the parties identified in items 1, 2 and 3 above are defined as "Authorized Entities".

(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 or any event held by an Authorized Entity which leases, lets, or uses the establishment.

(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 180 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 Lamberts Point Civic League

Proponents and Opponents

Proponents

Omar Boukhriss
2729 Bowdens Ferry Road
Norfolk, VA 23508

Thomas Harris
1231 W. 27th Street
Norfolk, VA 23508

Opponents

Pastor Julius Burchette
1414 W. 27th Street
Norfolk, VA 23508

Peter and Robin Bernath
3711 Bowdens Ferry Road
Norfolk, VA 23508

Leonder Garris
1241 W. 38th Street
Norfolk, VA 23508

02/24/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

PH-3

AN ORDINANCE TO REZONE PROPERTY LOCATED AT 2729 BOWDENS FERRY ROAD FROM R-8 (SINGLE-FAMILY RESIDENTIAL) DISTRICT TO CONDITIONAL C-1 (LIMITED COMMERCIAL) DISTRICT.

- - -

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

Section 1:- That the property located at 2729 Bowdens Ferry Road is hereby rezoned from R-8 (Single-Family Residential) district to conditional C-1 (Limited Commercial) district. The property which is the subject of this rezoning is more fully described as follows:

> Property fronting 244 feet, more or less, along the western line of Bowdens Ferry Road and 27 feet, more or less, along the northern line of West 27th Street; premises numbered 2729 Bowdens Ferry Road.

Section 2:- That the property rezoned by this ordinance shall be subject to the following condition:

(a) The existing building located on the site shall not be demolished.

(b) No modification will be done to the exterior of the building.

Section 3:- That the official Zoning Map for the City of Norfolk is hereby amended and reordained so as to reflect this rezoning.

Section 4:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

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

04/26/2016 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 "ANDALOUSI" ON PROPERTY LOCATED AT 2729 BOWDENS FERRY ROAD.

- - -

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

Section 1:- That a Special Exception is hereby granted to Omar Boukhriss authorizing the operation of an entertainment establishment with alcoholic beverages named "Andalousi" on property located at 2729 Bowdens Ferry Road. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 244 feet, more or less, along the western line of Bowdens Ferry Road and 27 feet, more or less, along the northern line of West 27th Street; premises numbered 2729 Bowdens Ferry Road.

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 11:00 a.m. until 11:00 p.m. Thursday through Saturday and closed Sunday through Wednesday. 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 232 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 240 people.

(c) 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.

(d) Entertainment shall be limited to a disc jockey or live bands having no more than six (6) members. No other form of entertainment is permitted.

(e) The dance floor shall not exceed 196 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.

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

(g) 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.

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

(i) 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.

(j) 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.

(k) Dumpsters shall not be located within any required front yard or corner side yard and shall be gated

and shielded from view from any public right-of-way by opaque masonry or concrete walls designed to be compatible with the principal building.

(l) 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.

(m) 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.

(n) 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.

(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) 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.

(r) 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.

(s) 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.

Notwithstanding anything to the contrary, the requirements of this subsection shall not apply to the following entities, who may lease or otherwise use the establishment for events that are permitted by and comply with this ordinance in all other respects:

(1) Any federal, state, or local government or governmental agency;

(2) Any party that receives a grant or other direct funding from a state or local government; and

(3) Any party that is recognized as a charitable organization in good standing under § 501(c)(3) of the Internal Revenue Code of the United States Code at the time of the event.

Collectively, the parties identified in items 1, 2 and 3 above are defined as "Authorized Entities".

(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 or any event held by an Authorized Entity which leases, lets, or uses the establishment.

(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 180 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.

(x) Off lot parking with no less than 35 spaces shall be secured with a proper lease in effect at all times that the property is used as permitted by this special exception.

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 (5 pages)

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

Date 1-7-16

Trade name of business ANDALOUSI

Address of business 2729 Bowdens Ferry Road NORFOLK VA

Name(s) of business owner(s)* Omar Boukhriss

Name(s) of property owner(s)* Southern Bank and Trust

Name(s) of business manager(s)/operator(s) Shoina Sandlar

Daytime telephone number (757) 621-5018

*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 9 AM	To	12 AM	Weekday	From 11 AM	To	12 AM
Friday	From 9 AM	To	12 AM	Friday	From 11 AM	To	12 AM
Saturday	From 9 AM	To	12AM	Saturday	From 11 AM	To	12 AM
Sunday	From 9 AM	To	12 AM	Sunday	From 11AM	To	12AM

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
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(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: NON Profit Organisation and Funds Raising

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: Wedding, Birthdays, Funds Raising Bat Mitzvah, Bar Mitzvah etc...

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

7a. If yes, explain: NON Profitable Organization Such as Physician For Peace /

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

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Exhibit A – Page 3
Entertainment Establishment

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

6 Men Band / DJ

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)

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) 232
   Number of bar seats 0
   Standing room

   b. Outdoor
   Number of seats 0

   c. Number of employees 8

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 240

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

   DJ, 6 Member live band

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

   3a. If yes,
   Square footage of establishment _____
   Square footage of dance floor 14 X 14

- 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.

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810 Union Street, Room 508
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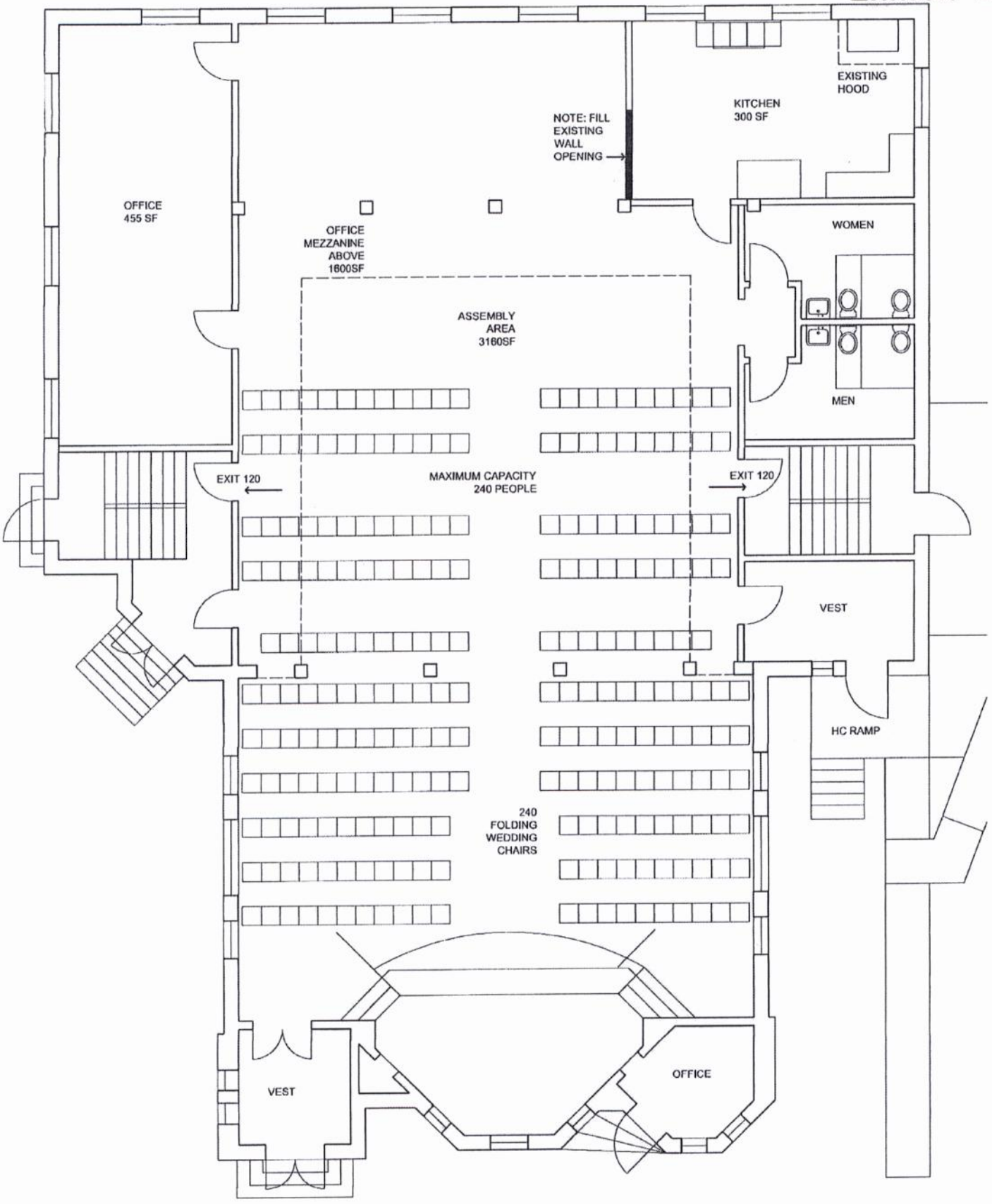
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January 2015)

Exhibit B



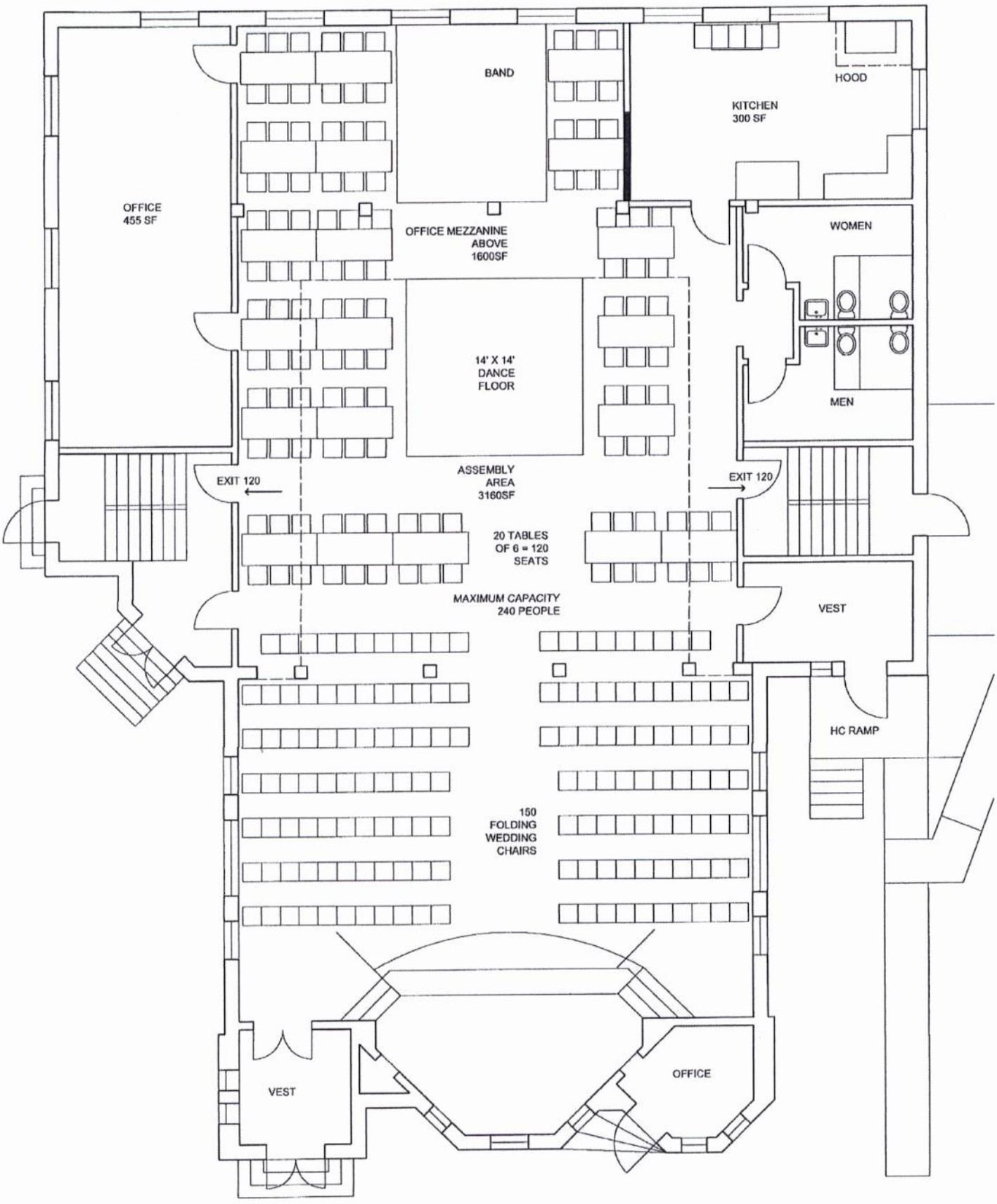
FURNITURE LAYOUT OPTION 1

TYMOFF MOSS ARCHITECTS
JANUARY 9 2016

0' 8' 16'

2729 BOWDEN FERRY ROAD

5200 GROSS SQUARE FEET GROUND FLOOR
EXISTING USE GROUP A-3
PROPOSED USEGROUP A-2
MAXIMUM POSTED OCCUPANCY 240 PEOPLE
TYPE 5B CONSTRUCTION, NON-SPRINKLERED
(2) EXISTING MARKED EXITS 36" DOORS X .3= 240 PEOPLE MAXIMUM



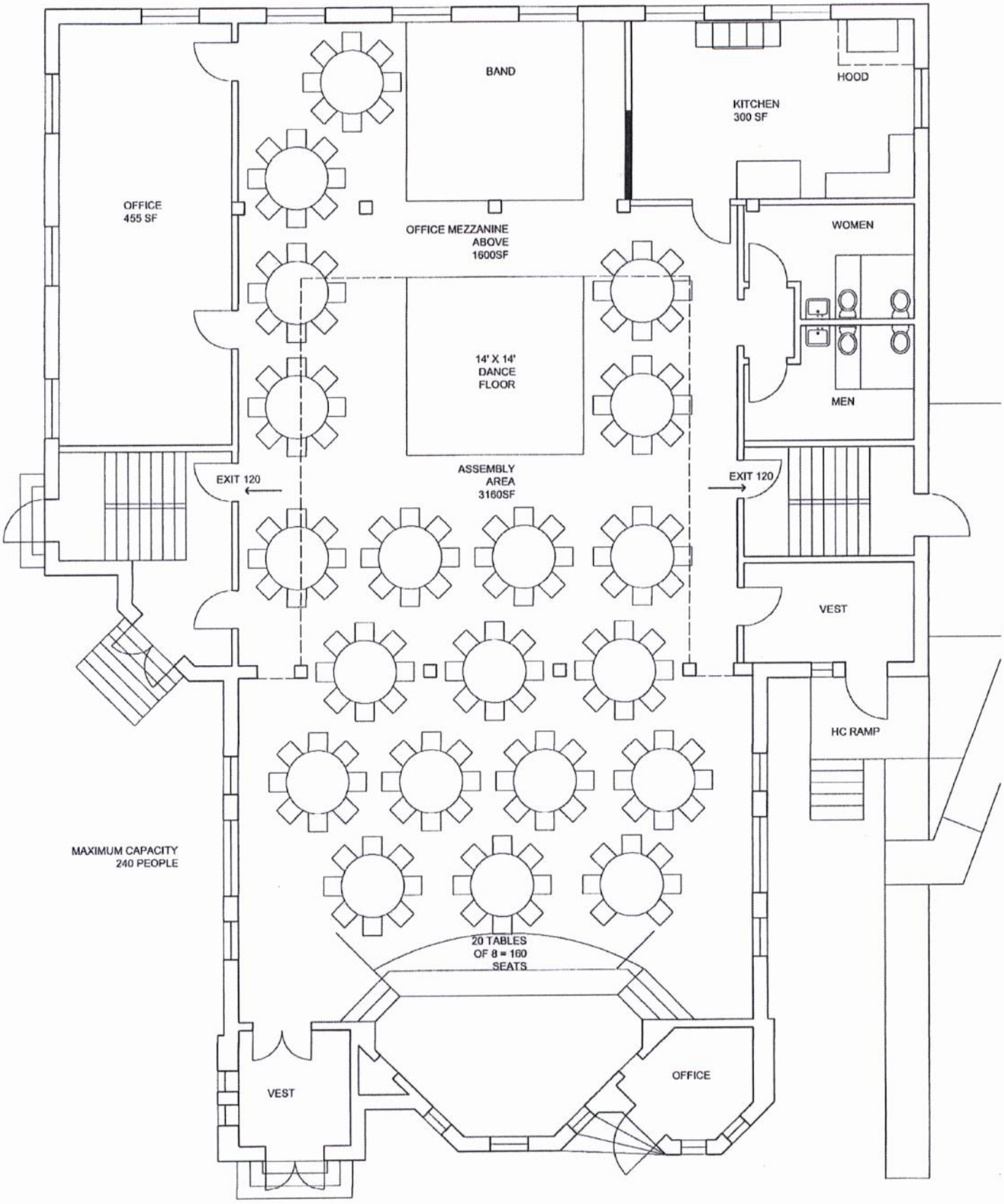
FURNITURE LAYOUT OPTION 2

TYMOFF MOSS ARCHITECTS
JANUARY 2016

0' 8' 16'

2729 BOWDEN FERRY ROAD

5200 GROSS SQUARE FEET GROUND FLOOR
EXISTING USE GROUP A-3
PROPOSED USEGROUP A-2
MAXIMUM POSTED OCCUPANCY 240 PEOPLE
TYPE 5B CONSTRUCTION, NON-SPRINKLERED
(2) EXISTING MARKED EXITS 36" DOORS X .3= 240 PEOPLE MAXIMUM



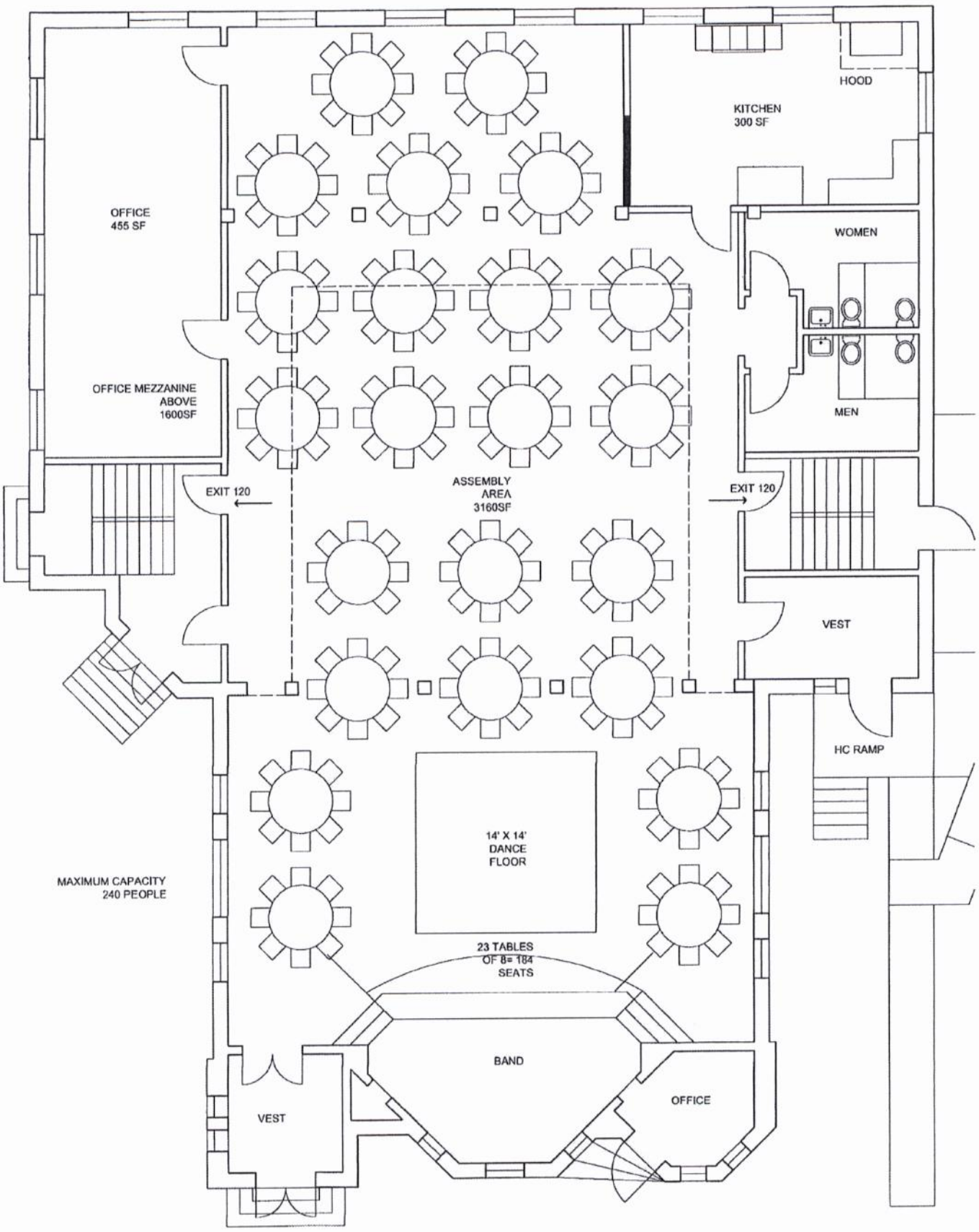
FURNITURE LAYOUT OPTION 3

TYMOFF MOSS ARCHITECTS
JANUARY 9 2016

0' 8' 16'

2729 BOWDEN FERRY ROAD

5200 GROSS SQUARE FEET GROUND FLOOR
EXISTING USE GROUP A-3
PROPOSED USEGROUP A-2
MAXIMUM POSTED OCCUPANCY 240 PEOPLE
TYPE 5B CONSTRUCTION, NON-SPRINKLERED
(2) EXISTING MARKED EXITS 36" DOORS X .3= 240 PEOPLE MAXIMUM



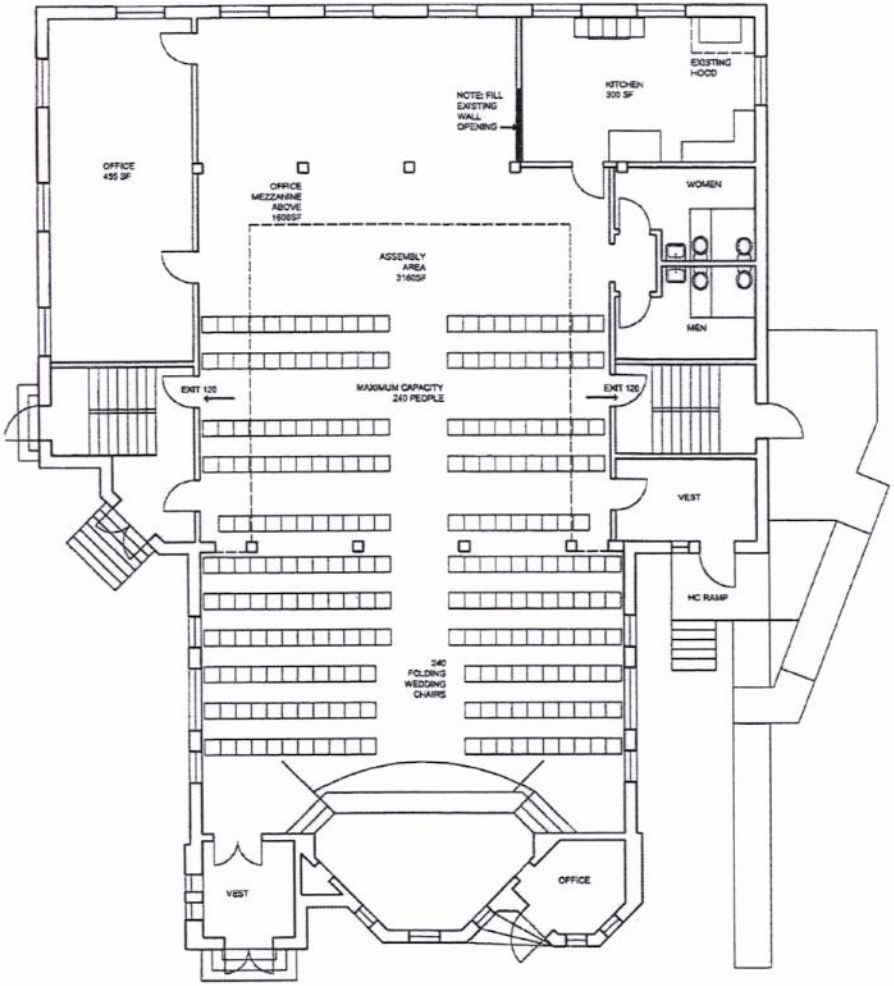
FURNITURE LAYOUT OPTION 4

TYMOFF MOSS ARCHITECTS
JANUARY 9 2016

0' 8' 16'

2729 BOWDEN FERRY ROAD

5200 GROSS SQUARE FEET GROUND FLOOR
EXISTING USE GROUP A-3
PROPOSED USEGROUP A-2
MAXIMUM POSTED OCCUPANCY 240 PEOPLE
TYPE 5B CONSTRUCTION, NON-SPRINKLERED
(2) EXISTING MARKED EXITS 36" DOORS X .3= 240 PEOPLE MAXIMUM



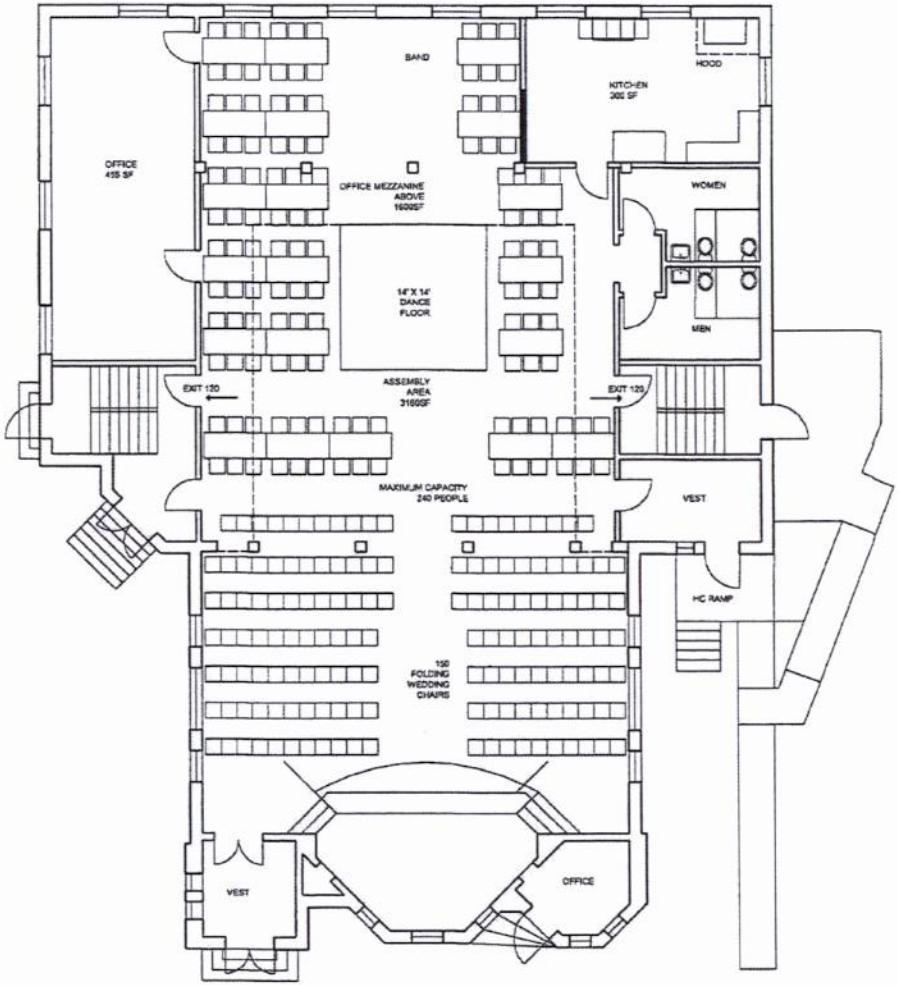
FURNITURE LAYOUT OPTION 1

TYMOFF MOSS ARCHITECTS
JANUARY 9 2018

0' 8' 16'

2729 BOWDEN FERRY ROAD
5200 GROSS SQUARE FEET GROUND FLOOR
EXISTING USE GROUP A-3
PROPOSED USEGROUP A-2
MAXIMUM POSTED OCCUPANCY 240 PEOPLE
TYPE 5B CONSTRUCTION, NON-SPRINKLERED
(2) EXISTING MARKED EXITS 36" DOORS X .3= 240 PEOPLE MAXIMUM

20 TABLES
OF 6 = 120
SEATS

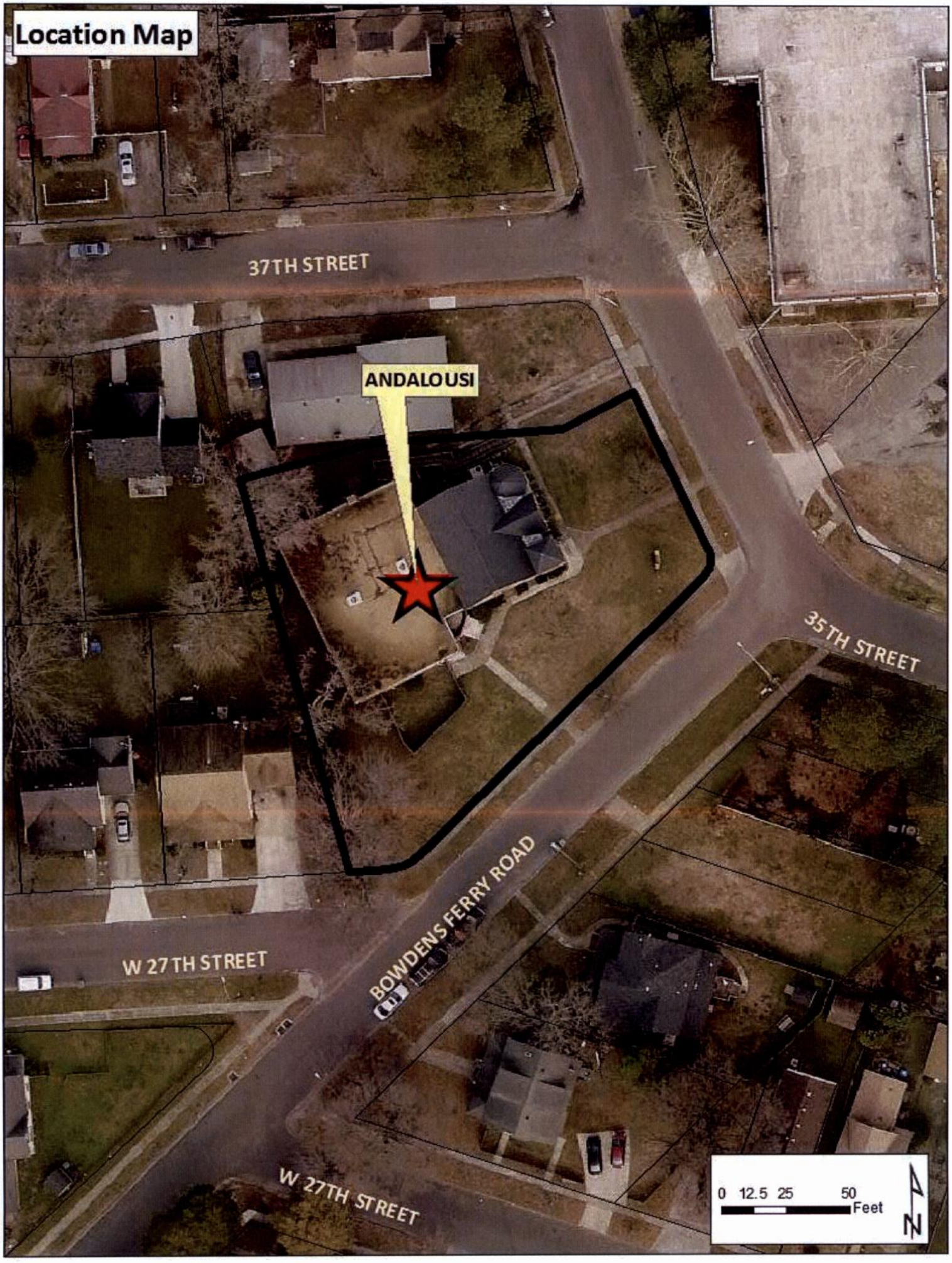


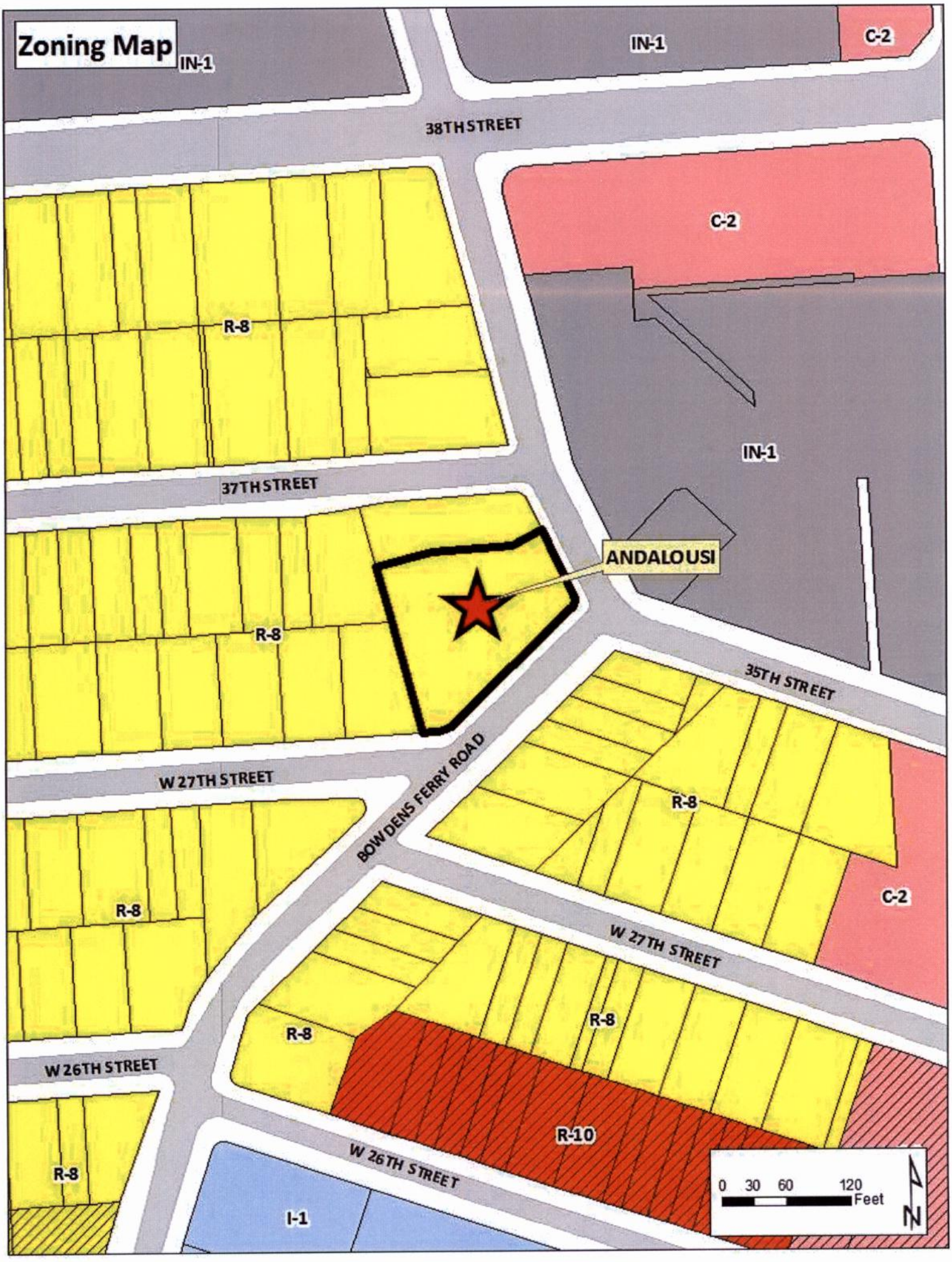
FURNITURE LAYOUT OPTION 2

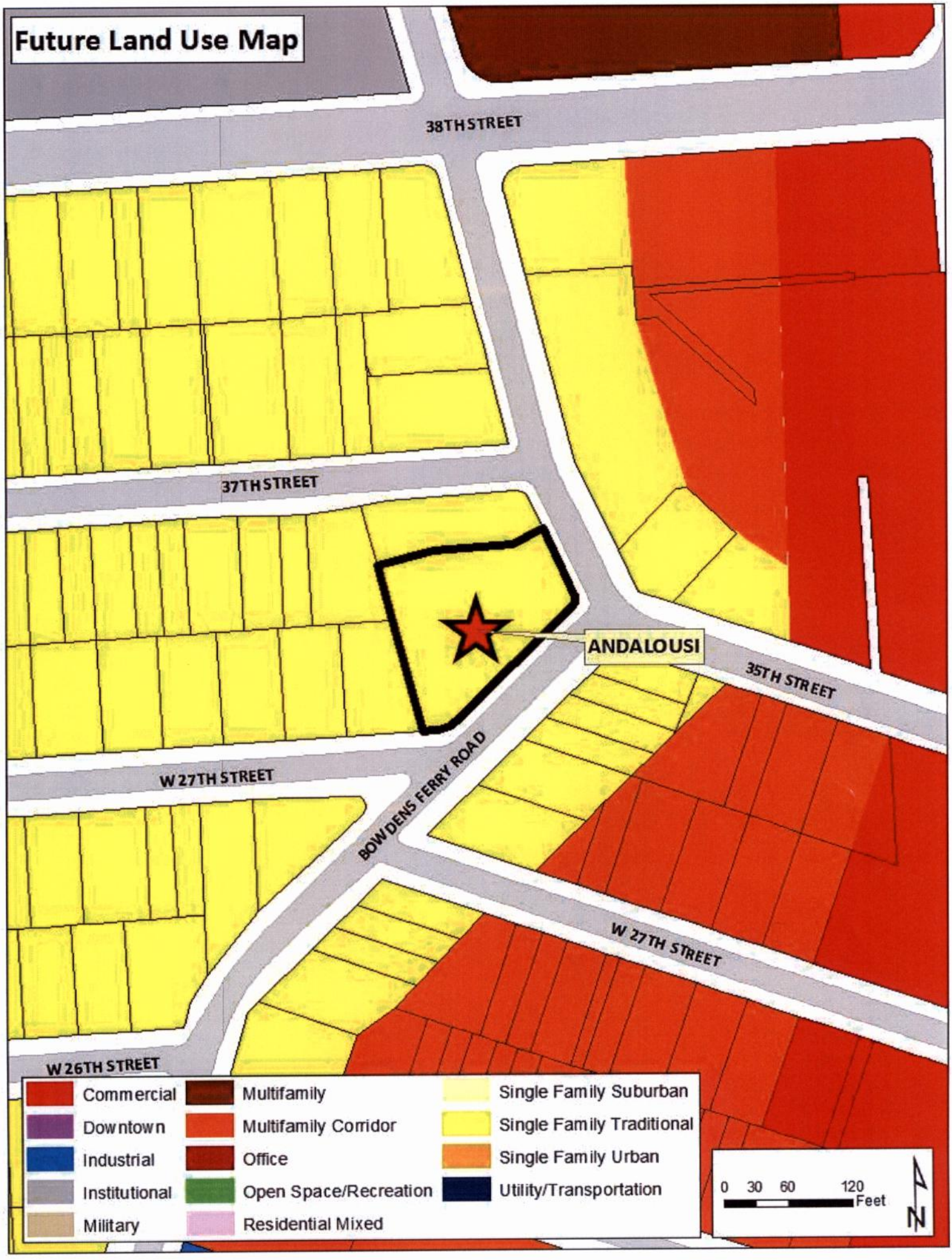
TYMOFF MOSS ARCHITECTS
JANUARY 9 2018

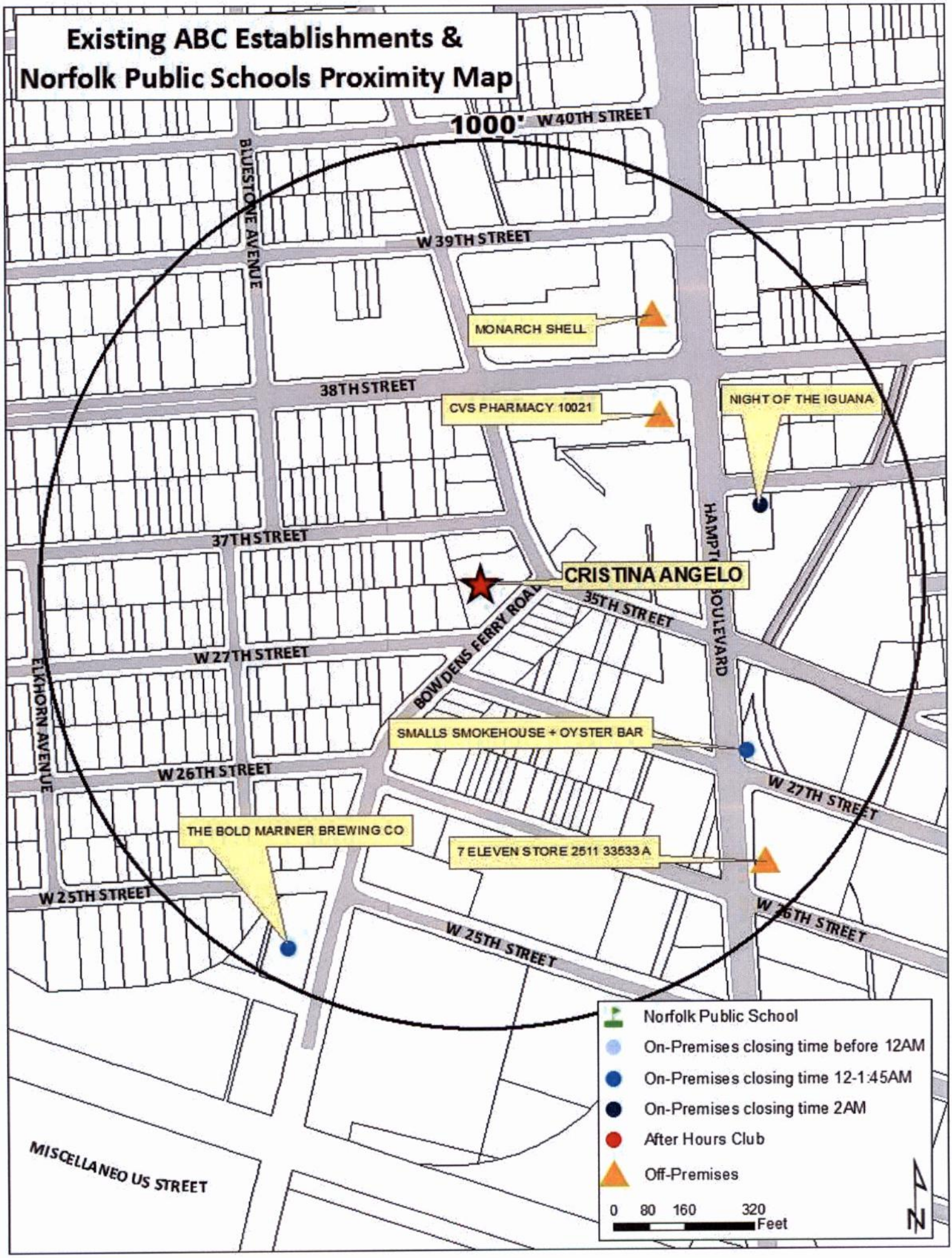
0' 8' 16'

2729 BOWDEN FERRY ROAD
5200 GROSS SQUARE FEET GROUND FLOOR
EXISTING USE GROUP A-3
PROPOSED USEGROUP A-2
MAXIMUM POSTED OCCUPANCY 240 PEOPLE
TYPE 5B CONSTRUCTION, NON-SPRINKLERED
(2) EXISTING MARKED EXITS 36" DOORS X .3= 240 PEOPLE MAXIMUM


Location Map
37TH STREET
ANDALOUSI
35TH STREET
BOWDENS FERRY ROAD
W 27TH STREET
W 27TH STREET
0 12.5 25 50
Feet
N


Zoning Map
IN-1
IN-1
C-2
38TH STREET
C-2
R-8
IN-1
37TH STREET
ANDALOUSI
R-8
35TH STREET
W 27TH STREET
BOWDENS FERRY ROAD
R-8
C-2
R-8
W 27TH STREET
R-8
R-8
W 26TH STREET
R-10
W 26TH STREET
R-8
I-1
0 30 60 120
Feet
N


Future Land Use Map
38TH STREET
37TH STREET
ANDALOUSI
35TH STREET
W 27TH STREET
BOWDENS FERRY ROAD
W 27TH STREET
W 26TH STREET
Commercial
Downtown
Industrial
Institutional
Military
Multifamily
Multifamily Corridor
Office
Open Space/Recreation
Residential Mixed
Single Family Suburban
Single Family Traditional
Single Family Urban
Utility/Transportation
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
W 40TH STREET
BLUESTONE AVENUE
W 39TH STREET
MONARCH SHELL
38TH STREET
CVS PHARMACY 10021
NIGHT OF THE IGUANA
37TH STREET
CRISTINA ANGELO
35TH STREET
W 27TH STREET
BOWDENS FERRY ROAD
ELKHORN AVENUE
SMALLS SMOKEHOUSE + OYSTER BAR
W 26TH STREET
W 27TH STREET
THE BOLD MARINER BREWING CO
7 ELEVEN STORE 2511 33533 A
W 25TH STREET
W 25TH STREET
W 25TH STREET
MISCELLANEOUS 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
CHANGE OF ZONING

Date of application: 1-07-16

Change of Zoning

From: R8 **Zoning** **To:** C1 **Zoning**

DESCRIPTION OF PROPERTY

Property location: (Street Number) 2729 (Street Name) Bowdens Ferry Road NORFOLK VA

Existing Use of Property: Church

Current Building Square Footage_____

Proposed Use Bonquet Hall

Proposed Building Square Footage_____

Trade Name of Business (If applicable) ANDALOUSI

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

1. Name of applicant: (Last) BOUKHRISS (First) OMAR (MI) ____

Mailing address of applicant (Street/P.O. Box): 313 W. Bute St

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

Daytime telephone number of applicant (757) 288-6982 Fax (757) 622-8122

E-mail address of applicant: Omarshouse@verizon.net

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)

3. Name of property owner: (Last) Southern Bank and Trust Company (First) _____ (MI) _____

Mailing address of property owner (Street/P.O. box): 403 Bush Street

(City) Norfolk (State) VA (Zip Code) 23510-1200

Daytime telephone number of owner ( ) _____ email: _____

CIVIC LEAGUE INFORMATION

Civic League contact: Thomas Harris

Date(s) contacted: October 7, 2015

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:_____ **Sign:**_____/_____/_____
(Property Owner or Authorized Agent of Signature) (Date)

Print name: OMAR BOUKHRISS **Sign:** [signature] 11 / 7 / 16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name:_____ **Sign:**_____/_____/_____
(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)

PROFERRED CONDITIONS

1) The Existing Building Located On the Site Shall Not be Demolished

2) No modification will be done to the Exterior of the building

3)

4)

5)

6)

Print name: OMAR BOUKHRISS **Sign:** [signature] 2/1 23 / 16
(Applicant) (Date)

Print name: OMAR BOUKHRISS **Sign:** [signature] 2/1 23 / 16
(Property Owner or Authorized Agent of Signature) (Date)

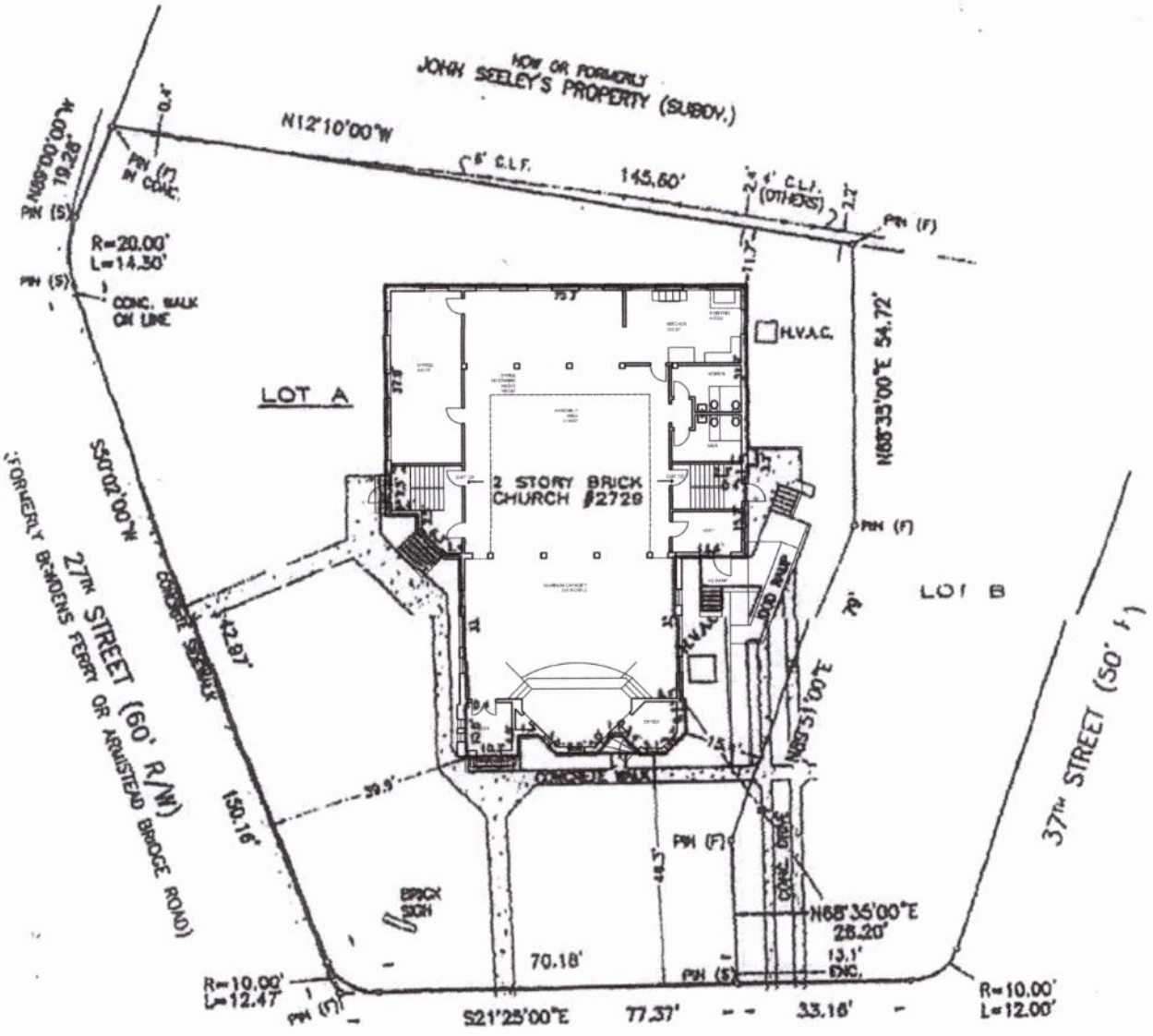
THIS IS TO CERTIFY THAT ON JULY 25, 2008, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

THE RESIDENCE SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "C"
FIRM MAP CITY OF NORFOLK — COMMUNITY NO. 510104
MAP REVISION: APRIL 17, 1984 — PANEL NO. 0017D

THIS SURVEY PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.

AREA OF SURVEY = 0.4499 AC.

COMMONWEALTH OF VIRGINIA
STEPHEN I. BOONE
Lic. No. 1333
7/25/08
LAND SURVEYOR



BOWDENS FERRY ROAD (VAR. R/W)

EXISTING FLOOR PLAN

TYMOFF MOSS ARCHITECTS
JANUARY 9 2016

0' 8' 16'

PHYSICAL SURVEY

OF

2729 BOWDENS FERRY ROAD

APPLICATION
ADULT USE SPECIAL EXCEPTION
ENTERTAINMENT ESTABLISHMENT
(Please Print)

Date 1-7-16

DESCRIPTION OF PROPERTY

Address 2729 Bowdens Ferry Road NORFOLK, VA

Existing Use of Property Church

Proposed Use Banquet Hall

Current Building Square Footage 9,720

Proposed Building Square Footage Same

Trade Name of Business (If applicable) ANDALOUSI

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

1. Name of applicant: (Last) BOUKHRISS (First) OMAR (MI) ____

Mailing address of applicant (Street/P.O. Box): 313 W. Bute St

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

Daytime telephone number of applicant (757) 288-6982 Fax (757) 622-8122

E-mail address of applicant: Omarshouse@verizon.net

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) _____ (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)

3. Name of property owner: (Last) Southern Bank and Trust. (First) _____ (MI) _____

Mailing address of property owner (Street/P.O. box): 503 Bush Street

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

Daytime telephone number of owner ( ) _____ email: _____

CIVIC LEAGUE INFORMATION

Civic League contact: Thomas Harris

Date(s) contacted: October 7, 2015

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:_____ **Sign:**_____ / _____ / _____
(Property Owner or Authorized Agent of Signature) (Date)

Print name: OMAR BOUKHRISS **Sign:** Omar Boukhriss 11 / 07 / 16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name:_____ **Sign:**_____ / _____ / _____
(Authorized Agent Signature) (Date)

SECURITY PLAN
of
OMAR BOUKRHISS
For
ANDALOUSI, LLC
2729 Bowden's Ferry Rd
Norfolk, VA 23508

Goals:

- To create a safe environment within and around Andalousi, LLC.
- To provide a level of control and safety for all arriving and departing guests.
- To mitigate any noise or inappropriate conduct by patrons entering or leaving facility which impairs the quiet enjoyment of immediate neighbors, particularly residents living nearby.
- To peacefully and effectively resolve all dangerous situations before any injury to person or property may occur. The staff and security team shall provide an assertive presence by displaying integrity and professionalism while executing their duties and responsibilities in an effort to maintain security, protection and safety to members of the public.
- To ensure a complete, orderly, safe and swift evacuation of the facility in case of fire, explosion or any other uncontrolled dangers within the building.
- To protect and promote the courteous, inviting and hospitable character of the neighborhood and the City of Norfolk.

The Plan:

- Off-duty police officers and members of the sheriff's department will be employed during events.
- Reputable security companies may also be called upon for staffing.
- Permanent on-site staff will attend all events and ensure the organization and control of events within and outside of the facility.
- Door personel will control activity at the main entrances at all times, monitoring entry of patrons.
- The premises will have an alarm system including monitoring of indoors and outdoors at all times accessible to the owner 24/7.
- In case of emergency situations in which the facility needs to be evacuated, all staff members including security will be responsible to ensure orderly and complete evacuation of the premises. Patrons will be escorted to a safe distance from the building. All exit signs are clearly marked.

Andalousi, LLC
2729 Bowdens Ferry Rd
Norfolk, VA 23508

Description of Facility:

Our facility will be a venue open to the public to rent for special events including but not limited to; weddings, receptions, private parties, birthdays, corporate and military events. Our full on-site catering kitchen will be available for use to execute these events.

Staffing:

The facility will employee 8-10 full time employees including kitchen staff, on and off site management, maintenance staff and security. In addition to this we will employ 20-50 part time employees to execute the events.

Pollock, Susan

From: Straley, Matthew
Sent: Wednesday, January 13, 2016 12:33 PM
To: 'lambertsptcivicleague@hotmail.com'; 'reggie.king@gmail.com'
Cc: Whibley, Terry; Williams, Angelia M.; Wilson, Denise; Pollock, Susan
Subject: new Planning Commission applications - 2729 Bowdens Ferry Road
Attachments: Andalousi_rezoning.pdf; Andalousi_entertainment.pdf

Mr. Harris and Mr. King,

Attached please find the following applications at 2729 Bowdens Ferry Road:

a. Change of zoning from R-8 (Single-Family) district to C-1 (Limited Commercial) district.
b. Special exception to operate an entertainment establishment with alcoholic beverages.

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

Should you have any questions, please e-mail or call *Susan Pollock Hart at (757) 664-4765, susan.pollock@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

December 31, 2015

Lamberts Point Civic League

City of Norfolk, VA

Department of City Planning

City Hall Building

810 Union Street

Norfolk, VA 23510

Dear City Planning Board,

I am writing on behalf of and at the request of Lamberts Point Civic League. We as a civic organization, would like to voice our support to Mr. Omar Boukhiss, owner of Omar's Carriage House. Mr. Boukhiss has asked for Lamberts Point Civic League's approval to turn the former Greater House of Faith Apostolic Church located at 2729 Bowden Ferry Rd. into a Wedding Reception Hall.

We as a group feel very happy that Mr. Boukhiss chose to renovate and upgrade the vacant building in our growing community.

Hopefully the new Reception Hall will ignite the spark of innovation and growth so badly needed in the Lamberts Point community. The plans for the upgrade was brought to our civic league many months ago. As a group we heard Mr. Broukhiss give his best presentation and after so many questions and answers, all of our concerns were addressed and we as Lamberts Point Civic League gave him our blessings.

Sincerely,

Thomas Harris

Thomas E. Harris

President

Lamberts Point Civic League

RG Electric Company, Inc

General Contractors
1225 West 26th Street, Norfolk, VA 23508
(757) 623-5012/Fax: (757) 627-5458

May 4, 2016

Department of City Planning
City of Norfolk
810 Union Street #508
Norfolk, VA 23510

Dear Sir,

This letter is to confirm that we have entered into an agreement with Mr. Omar Baukhriss to lease our parking lot, located at 1225 W. 26th Street, for use during evening and weekend events.

If you have any questions, please do not hesitate to call.

Sincerely,

Robert G. Dashiell, III
President

Markowski, Kimberly K.

From: Newcomb, Leonard
Sent: Thursday, May 05, 2016 2:49 PM
To: Markowski, Kimberly K.
Subject: FW: FW: Board Letter - Andalousi parking at ODU credit union

---

From: Simons, Matthew
Sent: Thursday, May 05, 2016 2:45 PM
To: Newcomb, Leonard
Cc: Rigney, Chuck
Subject: FW: FW: Board Letter - Andalousi parking at ODU credit union

Lenny,

See email agreement for parking at the ODU credit union.

Matthew Simons, AICP, CZA, CFM
City Planner II

757-664-4750

From: Omar's Carriage House [mailto:omarscarriagehouse@verizon.net]
Sent: Thursday, May 05, 2016 2:40 PM
To: Simons, Matthew
Subject: FW: FW: Board Letter

Shaina Sandler
Catering Director/General Manager
757.622.4990
www.omarscarriagehouse.com

From: oducu@oducreditunion.org [mailto:oducu@oducreditunion.org]
Sent: Thursday, March 24, 2016 2:15 PM
To: omarscarriagehouse@verizon.net
Subject: Re: FW: Board Letter

Omar Boukhriss,

The board has approved your request and will revisit it annually. I will draft up a letter with a few items that will need to be addressed, like access to our drive through, insurance and cleanup. I am heading out of the office and will be back on Tuesday. We wish you success with your new business endeavor. Have a great weekend. Thanks Diane

Diane Parker
ODU Credit Union
2701 Hampton Blvd
Norfolk VA 23517
PH: 757-533-9308
FAX: 757-625-1979
EMAIL: ODUCU@ODUCREDITUNION.ORG

------Original Mail------
From: "Omar's Carriage House" <omarscarriagehouse@verizon.net>
To: <oducu@oducreditunion.org>
Sent: Tue, 22 Mar 2016 14:52:06 -0400
Subject: FW: Board Letter

Hi Diane, attached is the letter for your board. Please let me know when you get it. Thank you

Omar Boukhriss

Owner/ President

757.288.6982

<http://www.omarscarriagehouse.com/> www.omarscarriagehouse.com

facebook.com/omarscarriagehouse

From: Omars [mailto:omarscarriagehouse@verizon.net]
Sent: Tuesday, March 22, 2016 2:48 PM
To: omarscarriagehouse@verizon.net
Subject: FW: Board Letter

From: Omars [mailto:omarscarriagehouse@verizon.net]
Sent: Sunday, March 20, 2016 3:53 PM
To: 'oducu@oducreditunion.org' <oducu@oducreditunion.org <mailto:oducu@oducreditunion.org> >
Cc: 'ihsane.mouak@norfolk.gov' <ihsane.mouak@norfolk.gov <mailto:ihsane.mouak@norfolk.gov> >
Subject: Board Letter

Hi Diane,

Attached is the letter for the board. I really appreciate your help with this.

Sincerely,

Omar

Email Services Provided by: CU Nation, Inc

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to resume a nonconforming use (eatery) at 2815 Colonial Avenue – The Coffee Tree**

Reviewed: _____ **Ward/Superward: 2/7**
Ronald H. Williams, Jr., Deputy City Manager

Approved: _____ **Item Number: R-1**
Marcus D. Jones, City Manager

I. **Staff Recommendation: Approval**.

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

III. **Request:** Special Exception to resume a nonconforming use (eatery)

IV. **Applicant: The Coffee Tree**

V. **Description:**

- The applicant is proposing an eatery on the ground floor of a historic mixed-use building, located on the southwest corner of Colonial Avenue and W. 29th Street.
- The Preserving Our Heritage chapter of *plaNorfolk2030* calls for protecting Norfolk's historic resources, in part by encouraging the re-use of nonconforming historic structures.
- The applicant proposes to allow the existing commercial space to be returned to a small café space (less than 12 seats), for which the historic building was originally built to accommodate.
- Letters of support were received from the Park Place Business Association and Park Place Civic League.

	Proposed
Hours of Operation	6:00 a.m. until 8:00 p.m., Seven days a week

VI. Historic Resources Impacts

- The building is listed as a contributing structure within the Park Place Historic District, which was adopted by the National Park Service (NPS) in 2006; listed on the National Register of Historic Places (NRHP) and meeting the Virginia Department of Historic Resources (VA DHR) as an area of local historic significance.
- The historic structure was built in 1929 as the Coddington Apartments for Mr. Floyd Coddington.
- The building included a commercial storefront where the original business, known as Coddington Confectionery, operated for several years by the owner of the entire building.
- The storefront was later occupied by M & L Cut Rate Drug Store, and then as McLane's Confectionery.

VII. Public Schools Impacts

The site is located in the James Monroe Elementary School, the Blair Middle School and Maury High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Letters of support from the Park Place Civic League and Park Place Business Association
- Letter of support, neighbor
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016
Executive Secretary: George M. Homewood, FAICP, CFM
Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	Item No. 8	
Address	**2815 Colonial Avenue**	
Applicant	**The Coffee Tree**	
Request	**Special Exception**	**To resume a nonconforming use**
Property Owner	Colonial Avenue Investments, LLC	
Site Characteristics	Site Area/Building Space	7,875 sq. ft./1,000 sq. ft.
	Future Land Use Map	Single-Family Traditional
	Zoning	R-11 (Moderate Density Multi-Family)
	Neighborhood	Park Place
	Character District	Traditional
Surrounding Area	North	R-11 and IN-1 (Institutional): Vacant land and James Monroe Elementary School
	East	R-11: Six-unit apartment, duplex and single-family
	South	R-11: Single-family and six-unit condo building
	West	R-11: Single-family and duplex

A. Summary of Request

- The applicant is proposing an eatery on the ground floor of a historic mixed-use building, located on the southwest corner of Colonial Avenue and W. 29th Street.

B. Plan Consistency

- *plaNorfolk2030* designates this site as Single-Family Traditional, meaning the proposed use is not consistent with *plaNorfolk2030*.
- The Preserving Our Heritage chapter of *plaNorfolk2030* calls for protecting Norfolk's historic resources, in part by encouraging the re-use of nonconforming historic structures.
- Since the proposed special exception will permit the re-use of a contributing historic structure that is not appropriate for single-family residential use, it can be supported despite the inconsistency with *plaNorfolk2030*.

C. Zoning Analysis

i. General

- The site is located in the R-11 zoning district, which does not normally permit the proposed use.
- The applicant proposes to allow the existing commercial space to be returned to a small café space (less than 12 seats), for which the historic building was originally built to accommodate.
  - The space has been vacant for several years, but was last used for church services.
- The *Zoning Ordinance* encourages the preservation of historic structures by permitting the resumption of historic uses upon granting of a special exception, if the proposed use is a use for which the building or space was originally designed to accommodate.
- A condition will be added to the special exception stating that any exterior modifications to the storefront must obtain a Certificate of Appropriateness from the City's Architectural Review Board, in order to ensure that improvements to the storefront façade are in keeping with the building's historic integrity.
  - The condition is necessary to ensure that proposed improvements are in keeping with the "Preserving Our Heritage" chapter of *plaNorfolk2030*.
    - Action H2.2.8 of the plan encourages the utilization of historic district design guidelines to promote the appropriate maintenance and rehabilitation of existing structures in historic districts.

	Proposed
Hours of Operation	6:00 a.m. until 8:00 p.m., Seven days a week

ii. Parking

- The site is located within the Traditional Character District.
- For an eatery of this size, the *Zoning Ordinance* requires that the site provides a minimum of four parking spaces and sufficient room to accommodate one bicycle.

- The building was built in 1929, prior to any parking requirements in the City; as such, the commercial space is grandfathered for four spaces based on the commercial use for which it was built.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that that a new restaurant on the site will generate 58 new vehicle trips per day.
- The site is near transit service with Hampton Roads Transit bus route 11 (Colonial) operating near the site.
- Colonial 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 building is listed as a contributing structure within the Park Place Historic District, which was adopted by the National Park Service (NPS) in 2006; listed on the National Register of Historic Places (NRHP) and meeting the Virginia Department of Historic Resources (VA DHR) as an area of local historic significance.
- The historic structure was built in 1929 as the Coddington Apartments for Mr. Floyd Coddington.
- The building included a commercial storefront where the original business, known as Coddington Confectionery, operated for several years by the owner of the entire building.
- The storefront was later occupied by M & L Cut Rate Drug Store, and then as McLane's Confectionery.

F. Public Schools Impacts

The site is located in the James Monroe Elementary School, the 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. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

By requiring this use to conform to the conditions listed below, the change of business ownership should not have a negative effect on the surrounding area.

J. Payment of Taxes

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

K. Civic League

- Notice was sent to the Park Place Civic League and Park Place Business Association on March 16.
- A letter of support was received from the Park Place Business Association on March 16.
- A letter of support was received from the Park Place Civic League on April 5.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. Recommendation

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

(a) The hours of operation for the establishment shall be from 6:00 a.m. until 8:00 p.m., seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

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

(c) No portion of the outdoor dining area 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.

(d) In order to ensure that all building improvements to the storefront façade are in keeping with the building's historic integrity, no exterior modifications, other than conforming signage, shall be made to the storefront along Colonial Avenue until a Certificate of Appropriateness is granted from the City's Architectural Review Board.

(e) The trashcan receptacles shall meet the following standards:

a. Shall not be located within any required front yard or corner side yard.
b. Shall he screened from view from any public right-of-way.
c. Shall be screened from view from adjacent properties.

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

(g) 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.

(h) 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.

(i) 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, snow, ice, and any bodily discharge.

(j) There shall be no alcohol, no entertainment, no dancing, and no dance floor provided.

(k) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(l) A copy of this special exception ordinance shall be available on the premises 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.

Attachments

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Park Place Civic League and Park Place Business Association
Letters of support from the Park Place Civic League and Park Place Business Association

Proponents and Opponents

Proponents

Gabriel Rapisardi – Applicant
2819 Colonial Avenue
Norfolk, VA 23508

Kathleen Yakstis
2801 Colonial Avenue
Norfolk, VA 23508

Opponents

None

04/22/16 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 RESUMPTION OF A NONCONFORMING RETAIL SALES ESTABLISHMENT NAMED "THE COFFEE TREE" IN AN HISTORIC BUILDING ON PROPERTY LOCATED AT 2815 COLONIAL AVENUE.

- - -

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

Section 1:- That a Special Exception is hereby granted authorizing the resumption of a nonconforming retail sales establishment named "The Coffee Tree" in an historic building on property located at 2815 Colonial Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property located on the southwest corner of Colonial Avenue and West 29th Street fronting 25 feet, more or less, along the western line of Colonial Avenue and 75 feet, more or less, along the southern line of West 29th Street; premises numbered 2815 Colonial Avenue.

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 8:00 p.m., seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) In order to ensure that improvements to the storefront façade are in keeping with the building's historic integrity, no exterior modifications, other than the installation of conforming signage, shall be made to the storefront along Colonial Avenue except when authorized by a Certificate of Appropriateness granted in accordance with the procedures set forth in Chapter

9 of the Zoning Ordinance of the City of Norfolk, 1992.

(c) 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.

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

(e) The waste receptacles stored on the property

(1) Shall not be located within any required front yard or corner side yard,

(2) Shall be screened from view from any public right-of-way, and

(3) Shall be screened from view from any adjacent property.

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

(g) 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.

(h) 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.

(i) 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.

(j) There shall be no alcohol, no entertainment, no dancing, and no dance floor provided.

(k) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(l) A copy of this special exception ordinance shall be available on the premises 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.

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.

Location Map
W 29TH STREET
THE COFFEE TREE
COLONIAL AVENUE
W 28TH STREET
0 10 20 40
Feet
N

Zoning Map
IN-1
IN-1
IN-1
IN-1
R-11
R-11
R-11
R-11
R-11
R-11
R-11
R-13
R-11
R-11
R-11
W 30TH STREET
W 29TH STREET
W 28TH STREET
W 27TH STREET
COLONIAL AVENUE
THE COFFEE TREE
0 30 60 120
Feet
N

APPLICATION
SPECIAL EXCEPTION

Special Exception for: To Resume a nonconforming use (café ≤ 12 seats)

Date of application: 3/6/16

DESCRIPTION OF PROPERTY

Property location: (Street Number) 2815 (Street Name) Colonial Ave

Existing Use of Property Vacant space

Current Building Square Footage 1000

Proposed Use Coffee / smoothie shop

Proposed Square Footage _____

Proposed Hours of Operation:

Weekday	From	6 am	To	8 pm
Friday	From	"	To	"
Saturday	From	"	To	"
Sunday	From	"	To	"

Trade Name of Business (If applicable) The COFFEE TREE

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

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

The COFFEE TREE LLC

1. Name of applicant: (Last) _____ (First) _____ (MI) ____

Mailing address of applicant (Street/P.O. Box): 1507 Halstead Ave Suite # 105

(City) Norfolk (State) VA (Zip Code) 23502

Daytime telephone number of applicant (757) 577-2902 Fax ( ) _____

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

AUTHORIZED AGENT (if applicable) Send any mail here
(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) Rapisardi (First) James (MI) G.

Mailing address of applicant (Street/P.O. Box): 612 San Pedro Dr.

(City) Chesapeake (State) VA (Zip Code) 23322

Daytime telephone number of applicant (757) 577-2902 Fax ( ) _____

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

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

Colonial Ave Investments LLC - James G. Rapisardi

3. Name of property owner: (Last) _____ (First) _____ (MI) ____

Charles D. Pittman JR & Assoc. P.C.

Mailing address of property owner (Street/P.O. box): 712 Hillingdon Court

(City) Virginia Beach (State) VA (Zip Code) 23462

Daytime telephone number of owner (757) 467-7600 email: cpittman@pittlaw.net

CIVIC LEAGUE INFORMATION

Civic League contact: Park Place - Frank Kriston

Date(s) contacted: Early Feb. by phone. Presented to the league on 2/22

Ward/Super Ward information: 2 - Whibley, 7 - Graves

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: (James G. Rapisardi) Colonial Ave Investments LLC **Sign:** _____ 3/6/16
(Property Owner or Authorized Agent of Signature) Manager (Date)

Print name: (James G. Rapisardi) COFFEE TREE LLC **Sign:** _____ 3/6/2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: James G. Rapisardi **Sign:** _____ 3/6/2016
(Authorized Agent Signature) (Date)

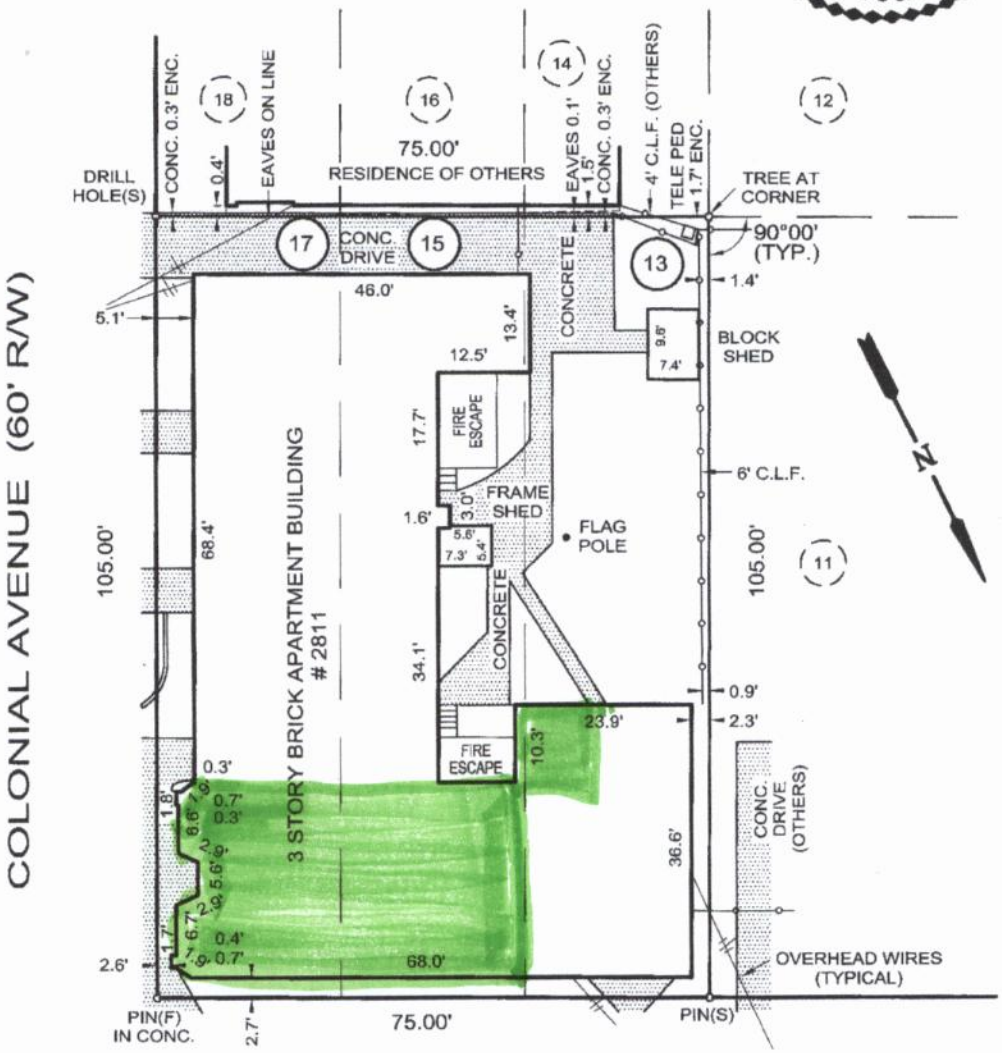
DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

THIS IS TO CERTIFY THAT ON JANUARY 23, 2015, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

THE RESIDENCE SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "X"
FIRM MAP CITY OF NORFOLK COMMUNITY NO. 510104
MAP REVISION: SEPT. 2, 2009 PANEL NO. 0130G

THIS SURVEY PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.

COMMONWEALTH OF VIRGINIA
STEPHEN I. BOONE
Lic. No. 1333
1/28/15
LAND SURVEYOR



PHYSICAL SURVEY

OF

2811 COLONIAL AVENUE, NORFOLK, VIRGINIA
LOTS 13, 15 AND 17, BLOCK 23
PARK PLACE
M.B. 3, PGS. 96 AND 97 (CHESAPEAKE)

FOR: GABRIEL RAPISARDI REAL ESTATE GROUP, LLC

STEPHEN I. BOONE & ASSOCIATES, P.C.
LAND SURVEYORS
PORTSMOUTH, VIRGINIA

SCALE: 1" = 20'

DATE: JANUARY 26, 2015

DRAFT: L.L.B.

F.B. 654, PG. 12, 13B

JOB #: 15-0056

Simons, Matthew

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 12:49 PM
To: 'fjkriston@gmail.com'; 'mwsalaam@yahoo.com'
Cc: Whibley, Terry; Williams, Angelia M.; Wilson, Denise; Simons, Matthew
Subject: new Planning Commission application
Attachments: CoffeeTree.pdf

Mr. Kriston and Mr. Fareed,

Attached please find the following application for a special exception to resume nonconforming uses (mixed-use building; residential with a café) at 2811 Colonial Avenue, suite 2819.

The purpose of the request is to allow for the vacant commercial space on the southwest corner of Colonial Avenue and W. 29th Street to be returned to a small retail café space (less than 12 seats), for which the historic building was originally built to accommodate.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

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

Thank You

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Simons, Matthew

From: vernon fareed <mwsalaam@yahoo.com>
Sent: Wednesday, March 16, 2016 2:01 PM
To: Straley, Matthew; fjkriston@gmail.com
Cc: Whibley, Terry; Williams, Angelia M.; Wilson, Denise; Simons, Matthew
Subject: Re: new Planning Commission application

Thank you and I'm confident that the PPBA will be supportive of this business use.
Vernon M. Fareed - PPBA

On Wednesday, March 16, 2016 12:49 PM, "Straley, Matthew" <Matthew.Straley@norfolk.gov> wrote:

Mr. Kriston and Mr. Fareed,

Attached please find the following application for a special exception to resume nonconforming uses (mixed-use building; residential with a café) at 2811 Colonial Avenue, suite 2819.

The purpose of the request is to allow for the vacant commercial space on the southwest corner of Colonial Avenue and W. 29th Street to be returned to a small retail café space (less than 12 seats), for which the historic building was originally built to accommodate.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

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

Thank You

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

PARK PLACE

Park Place Civic League

606 west 29th street, Norfolk, VA 23508

April 5, 2016

Mr. George Homewood
Director
Department of Planning
City Hall Building
Norfolk, VA 23510

Re: Coffee Tree Zoning Request
2811 Colonial Avenue

Dear Mr. Homewood,

Mr. James Rapisardi appeared before the Park Place Civic League on April 4, 2016, and requested League support of his zoning request to resume a non-conforming use of the property located at 2811 Colonial Ave St. for the Coffee Tree. The Civic League voted in favor of the request. We look forward to the success of this new business and a positive relationship between the Coffee Tree and the Park Place neighborhood.

Please feel free to contact me should additional information be required.

Respectfully Submitted,

Frank Kriston, President
Park Place Civic League

Cc: Dr. Theresa Whibley, City Council

Simons, Matthew

From: Cat Stanley <feral_felinity@inbox.com>
Sent: Thursday, April 28, 2016 12:49 PM
To: Simons, Matthew
Subject: Colonial Ave. Historical Building Hearing@2:30pm Today

Dearest Planning Commission of Norfolk, VA;

As a native-born Norfolkian (June 21st, 1957 in the old DePaul Hospital building, born to John Leonard King, father; Kathleen Rose Fitzgerald, mother) I'd like my voice to be heard and considered heavily in the matter of the old Coffee House building at the corner of Colonial Avenue & 29th Street and its future:

It's more than a building. It has a history, as do so many old historical buildings in Norfolk, all of which are near and dear to my own heart. Undoubtedly the same is also true of so many other native Norfolkian hearts. This building has earned its place in the world and in our city here. It's earned a legacy. I'm trusting you, the Planning Commission, to honor that history, restore and continue that legacy.

I am and will remain your continued concerned Norfolk native voice,

Kathleen Dale Yakstis

2801 Colonial Ave., Apt. 2

Norfolk, VA 23508

(757) 354-9087

~ "Oh, Heaven will not ever Heaven be,
Unless my cats are there to welcome me." -

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City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate an entertainment establishment at 257 Granby Street – Tiffany Kidwell-Gaylord**

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 **7 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception to operate an entertainment establishment with alcoholic beverages.

IV. **Applicant:** **Tiffany Kidwell-Gaylord**

V. **Description:**

- The site is located Downtown on the west side of Granby Street between W. Tazewell Street and College Place.
- The applicant proposes a new restaurant, named Elixia, to open in the space previously occupied by Empire and serve alcoholic beverages for on-premises consumption, offer entertainment, and add outdoor dining on Granby Street.

	Previous (Empire)	Proposed (Elixia)
Hours of Operation and for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same
Seating Capacity	88 seats indoors 0 seats outdoors 100 total capacity	88 seats indoors 6 seats outdoors 99 total capacity
Entertainment Options	None	• 3 member live band • Karaoke • Comedian • Poetry reading • Disc jockey

VI. Historic Resources Impacts

- The site is located within the Downtown Historic Overlay District (HO-D) and is a contributing structure.
- Any modifications to the exterior of the building would be subject to Architectural Review Board approval for a Certificate of Appropriateness.
- The outdoor dining area requires an encroachment from the Architectural Review Board, City Planning Commission, and City Council.

VII. Public Schools Impacts

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

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

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

Executive Secretary: George M. Homewood, FAICP, CFM GMW

Planner: Chris Whitney, CFM CW

Staff Report	Item No. 16	
Address	**257 Granby Street**	
Applicant	**Tiffany Kidwell-Gaylord**	
Request	**Special Exception**	**Entertainment Establishment**
Property Owner	Two Fifty-Five Granby, LLC	
Site Characteristics	Building Area/Space	27,681 sq. ft./2,500 sq. ft.
	Future Land Use Map	Downtown
	Zoning	D-3 (Freemason/Granby Conservation and Mixed Use) and HO-D (Downtown Historic Overlay)
	Neighborhood	Downtown
	Character District	Downtown
Surrounding Area	North	D-3: Subway, MacArthur Pharmacy
	East	D-3: The Governors School for the Arts, Harry's BBQ (vacant)
	South	D-3: Saint Germain, Ciniva web design
	West	D-3: Tidewater Community College, Harbor Heights condominiums

A. Summary of Request

- The site is located Downtown on the west side of Granby Street between W. Tazewell Street and College Place.
- The applicant proposes a new restaurant, named Elixia, to open in the space previously occupied by Empire and serve alcoholic beverages for on-premises consumption, offer entertainment, and add outdoor dining on Granby Street.

B. Plan Consistency

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

C. Zoning Analysis

i. <u>General</u>

The site is located in the D-3 district, which permits the proposed use by special exception.

	Previous (Empire)	Proposed (Elixia)
Hours of Operation and for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same
Seating Capacity	88 seats indoors 0 seats outdoors 100 total capacity	88 seats indoors 6 seats outdoors 99 total capacity
Entertainment Options	None	• 3 member live band • Karaoke • Comedian • Poetry reading • Disc jockey

- Special exception history:

City Council Approval	Applicant	Request
2001	Posh Dolche	Eating and Drinking Establishment
2002	Posh Dolche	Entertainment Establishment
2007	Posh Dolche	New owner/operator
January 2009 (revoked November 2009)	Posh Dolche	Add managers/operators
2010	Bootleggers	Entertainment Establishment
2011	Wonderbar	Entertainment Establishment

2012	Wonderbar	Add managers/operators
2013	Empire	Eating and Drinking Establishment
Pending	Tiffany Kidwell-Gaylord (Elixia)	Entertainment Establishment

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) Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures calculate forecast travel for restaurants based upon the total seating of an establishment.
- Since no increase in indoor seating is being proposed for the site, no additional trips are projected.
- This downtown site has good transit accessibility served with both frequent bus service and also light rail available at the nearby Monticello station.
- 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 (HO-D) and is a contributing structure.
- Any modifications to the exterior of the building would be subject to Architectural Review Board approval for a Certificate of Appropriateness.
- The outdoor dining area requires an encroachment from the Architectural Review Board, City Planning Commission, and City Council.

F. Public Schools Impacts

The site is located in 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. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

Over the past year, there have been five calls for police service at this site with no arrests made.

J. Payment of Taxes

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

K. Civic League

- Notice was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on March 16.
- An email of no objection was received from the Downtown Norfolk Civic League on March 16.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. Recommendation

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

(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 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 be less than 88 seats indoors, shall not be more than 6 seats outdoors, and the total occupant capacity, including employees, shall not exceed 99 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) 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.

(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 3 members, disc jockey, karaoke, comedian, and poetry reading. No other form of entertainment is permitted.

(g) The dance floor shall not exceed 178 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.

(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, snow, ice, 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 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.

(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
Email of no objection from the Downtown Norfolk Civic League

04/25/2016 lds

Form and Correctness Approved:

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 NAMED "ELIXIA" ON PROPERTY LOCATED AT 257 GRANBY STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to The Society, LLC authorizing the operation of an entertainment establishment with alcoholic beverages named "Elixia" on property located at 257 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 20 feet, more or less, along the western line of Granby Street, beginning 112 feet, more or less, from the northern line of West Tazewell Street and extending northwardly; premises numbered 257 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, 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 88 seats indoors, shall not be more than 6 seats outdoors, and the total occupant capacity, including employees, shall not exceed 99 people.

(c) 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.

(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 three (3) members, disc jockey, karaoke, comedian, and poetry reading. No other form of entertainment is permitted.

(g) The dance floor shall not exceed 178 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.

(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) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(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 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.

(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 eating and drinking establishment on this property, adopted on June 11, 2013 (Ordinance No. 45,133). 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 (3 pages)
Exhibit B (2 pages)

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

Date 3-9-2016

Trade name of business _____

Address of business 257 Granby Street Norfolk VA 23510

Name(s) of business owner(s)* Tiffany Kidwell-Gaylord

Name(s) of property owner(s)* Bobby Wright

Name(s) of business manager(s)/operator(s) Tiffany Kidwell-Gaylord

Daytime telephone number (757) 724-0096

*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 11 AM	To 2 AM	Weekday	From 11 pm	To 2 AM
Friday	From 11 AM	To 2 AM	Friday	From 11 pm	To 2 AM
Saturday	From 11 AM	To 2 AM	Saturday	From 11 pm	To 2 AM
Sunday	From 11 AM	To 2 AM	Sunday	From 11 pm	To 2 AM

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

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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:

N/A

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

5a. If yes, why:

N/A

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 parties Weddings

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

7a. If yes, explain:

N/A

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

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Telephone (757) 664-4752 Fax (757) 441-1569

Exhibit A – Page 3
Entertainment Establishment

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

Restaurant business since 1998

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
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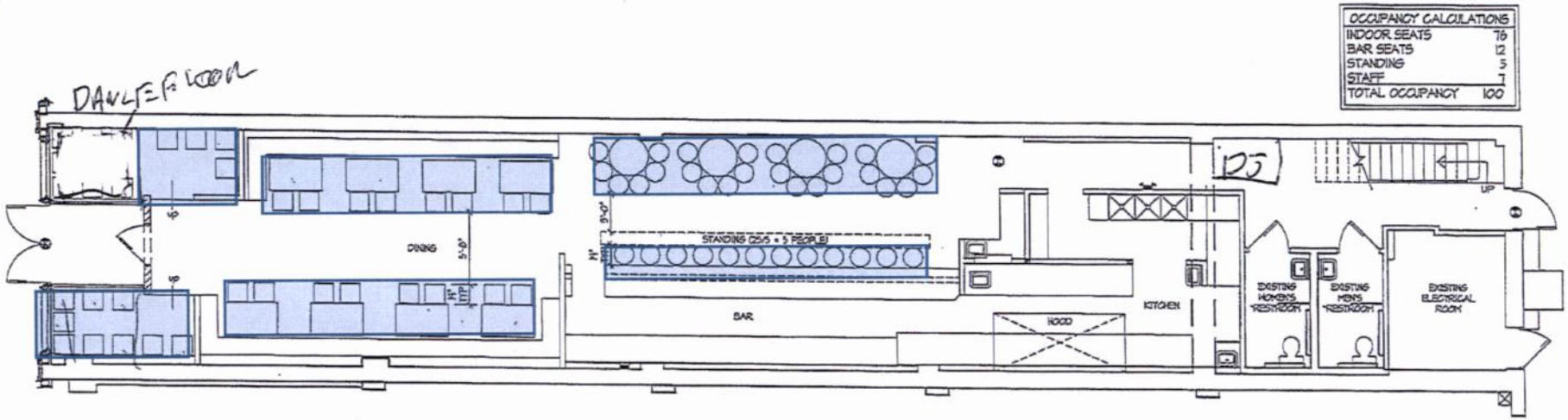
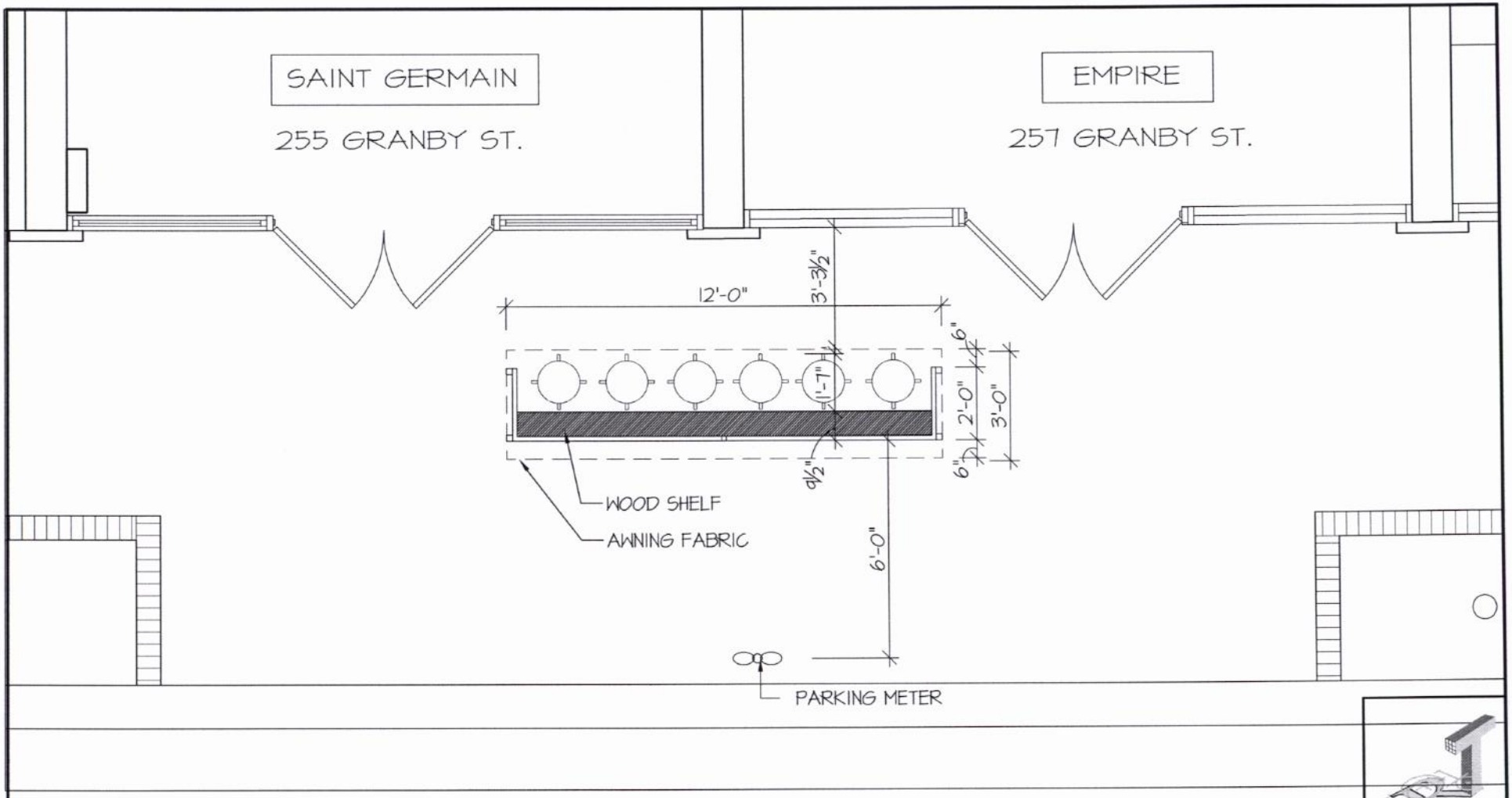
Exhibit B



EMPIRE: 257 GRANBY STREET, NORFOLK, VIRGINIA

NTS



OUTDOOR DINING - 255 & 257 GRANBY STREET

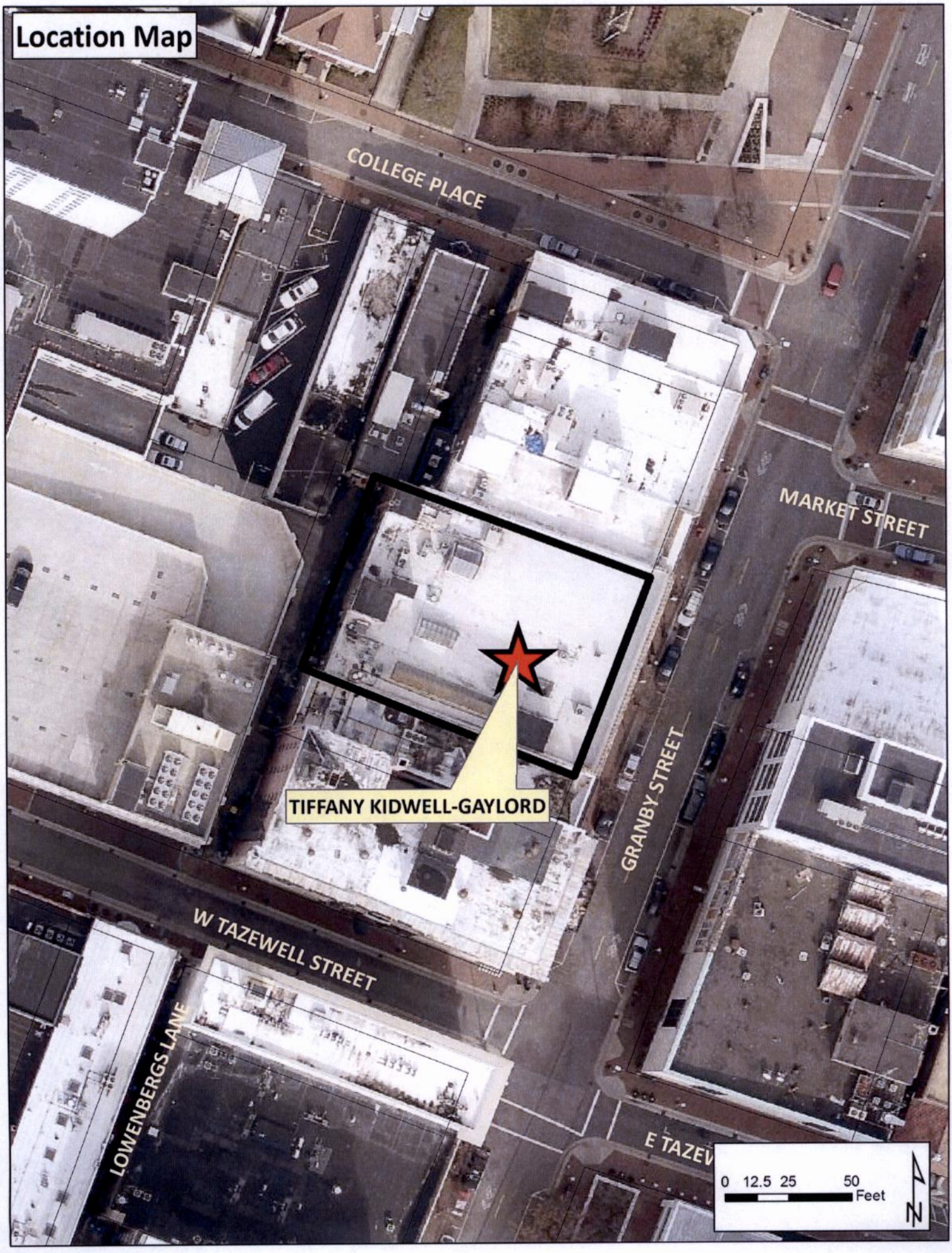
1/4" = 1'-0"

ROBYN THOMAS
ARCHITECTURE

913 W. 21st Street, Suite C
Norfolk, VA23517

Ofc: 757.622.7100
Fax: 757.640.1014

1 OF 2	A1.0
4-25-2016 DATE	
16-020 COMM. NO.	
DRAWN NL	
CHECKED RJT	
16-020 BASE 4-25-2016	


Location Map
COLLEGE PLACE
MARKET STREET
TIFFANY KIDWELL-GAYLORD
GRANBY STREET
W TAZEWELL STREET
LOWENBERGS LANE
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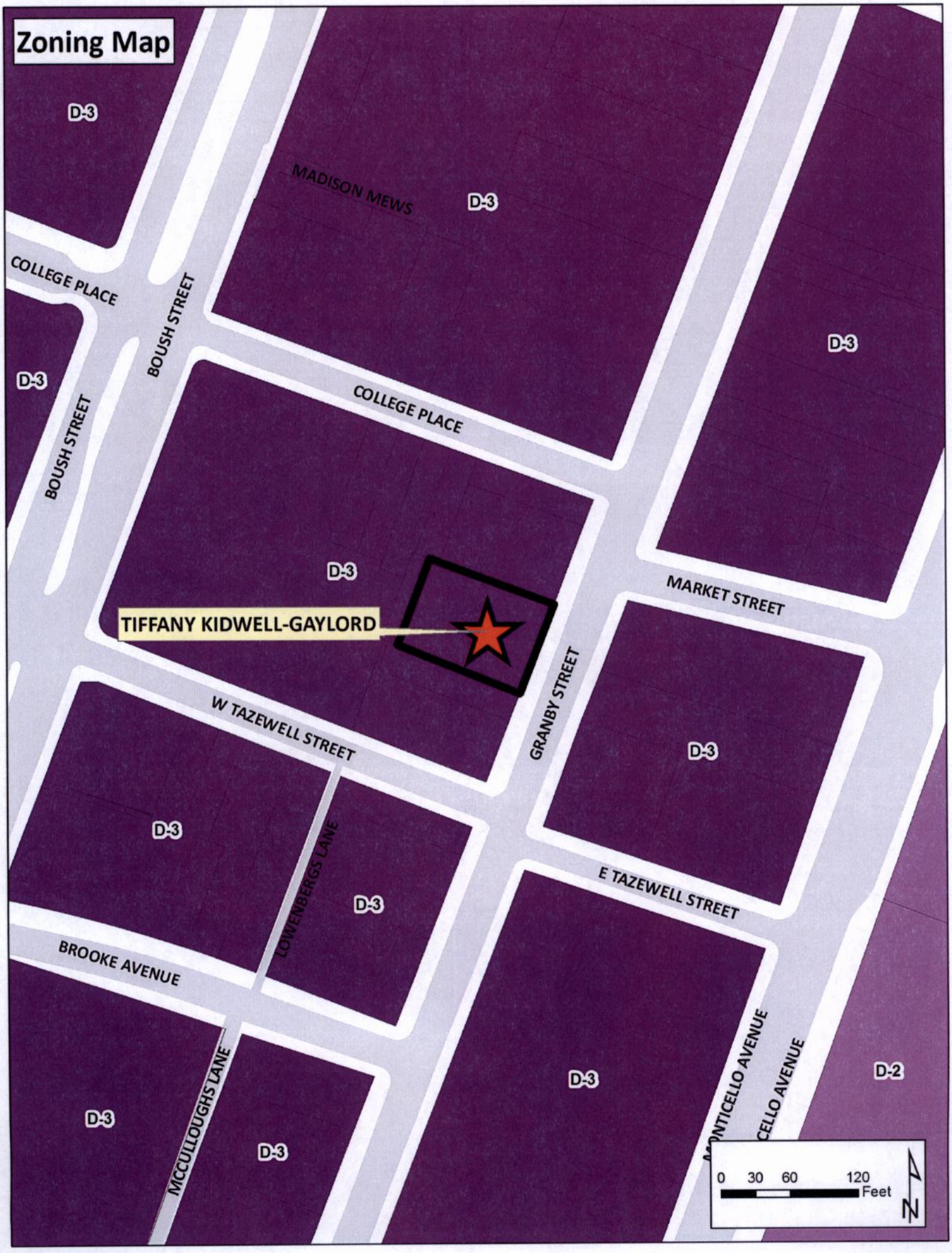
Zoning Map
D-3
MADISON MEWS
D-3
COLLEGE PLACE
BOUSH STREET
D-3
BOUSH STREET
COLLEGE PLACE
D-3
D-3
TIFFANY KIDWELL-GAYLORD
MARKET STREET
GRANBY STREET
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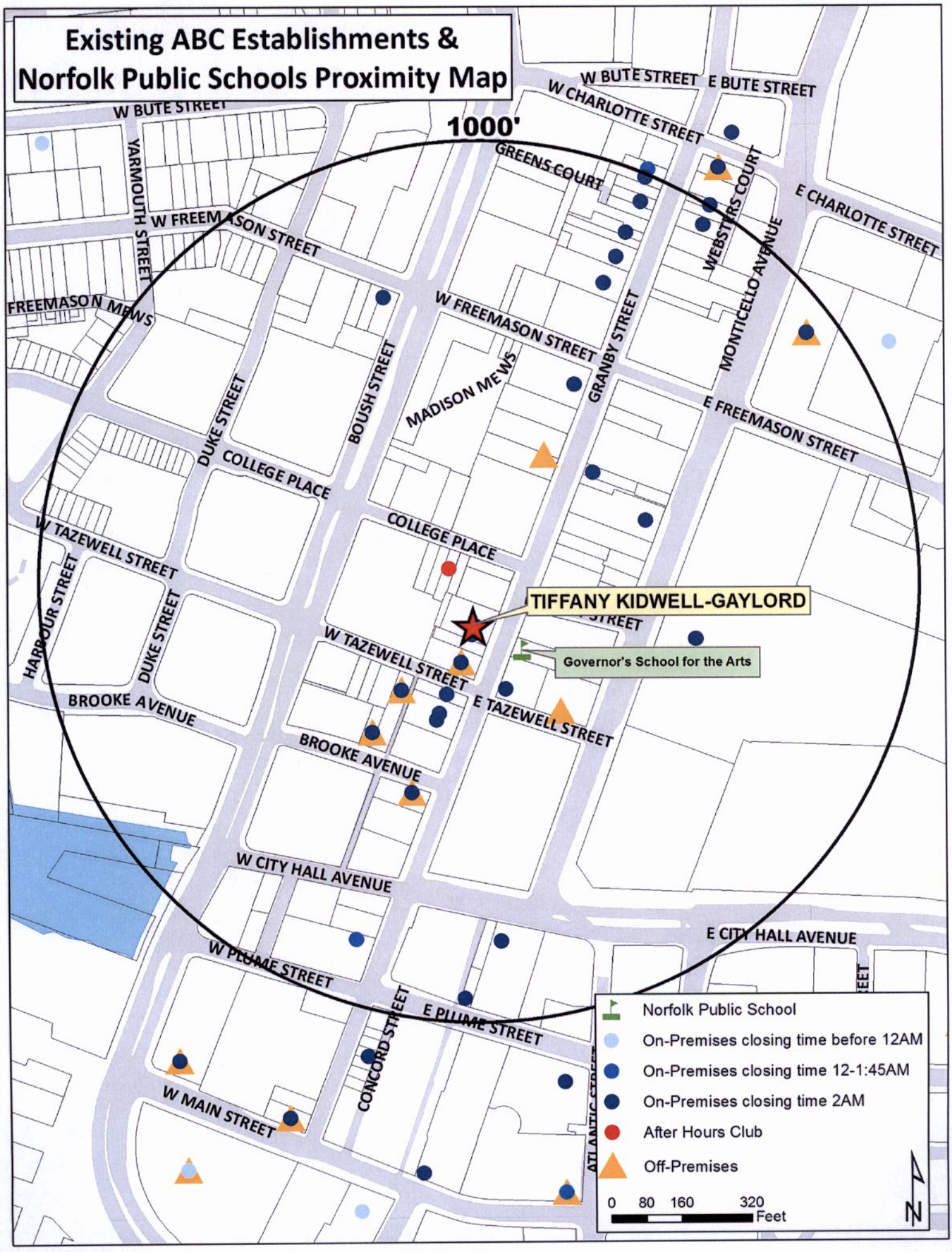
Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
W BUTE STREET
E BUTE STREET
W CHARLOTTE STREET
E CHARLOTTE STREET
GREENS COURT
WEBSTERS COURT
MONTICELLO AVENUE
YARMOUTH STREET
W FREEMASON STREET
E FREEMASON STREET
FREEMASON MEWS
GRANBY STREET
BOUSH STREET
MADISON MEWS
DUKE STREET
COLLEGE PLACE
W TAZEWELL STREET
E TAZEWELL STREET
HARBOUR STREET
BROOKE AVENUE
TIFFANY KIDWELL-GAYLORD
Governor's School for the Arts
W CITY HALL AVENUE
E CITY HALL AVENUE
W PLUME STREET
E PLUME STREET
CONCORD STREET
W MAIN STREET
ATLANTIC 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
ADULT USE SPECIAL EXCEPTION
ENTERTAINMENT ESTABLISHMENT
(Please Print)

Date 3-9-2016

DESCRIPTION OF PROPERTY

Address 257 Granby Street Norfolk Virginia 23510

Existing Use of Property Eating and Drinking Establishment

Proposed Use Eating and Drinking Establishment w/ Entertainment

Current Building Square Footage 2500

Proposed Building Square Footage 2500

Trade Name of Business (If applicable) [illegible]
TIFFANY KIDWELL, DAVID HLEDIK, HUNTER HERI

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

1. Name of applicant: (Last) Kidwell-Gaylord (First) Tiffany (MI) Ann

Mailing address of applicant (Street/P.O. Box): 1628 Duke of Windsor Road

(City) Virginia Beach (State) VA (Zip Code) 23454

Daytime telephone number of applicant 757 724-0096 Fax ( )

E-mail address of applicant: TiffanyKidwell1@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) Kidwell-Gaylord (First) Tiffany (MI) Ann

Mailing address of applicant (Street/P.O. Box): 1628 Duke of Windsor Road

(City) Virginia Beach (State) VA (Zip Code) 23454

Daytime telephone number of applicant 757 724-0096 Fax ( )

E-mail address of applicant: TiffanyKidwell1@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) Bobby Wright (First) Bobby (MI)

Mailing address of property owner (Street/P.O. box): Granby Street

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

Daytime telephone number of owner 757 472-9393 email: Bobby@theWright+Sites.com

CIVIC LEAGUE INFORMATION

Civic League contact: _____

Date(s) contacted: _____

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: Robert Wright **Sign:** _____ 3/11/16
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Kidwell-Gylord Tiffany **Sign:** _____ 3/9/2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ **Sign:** _____ / / _____
(Authorized Agent Signature) (Date)

DEPARTMENT OF CITY PLANNING
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LEGEND

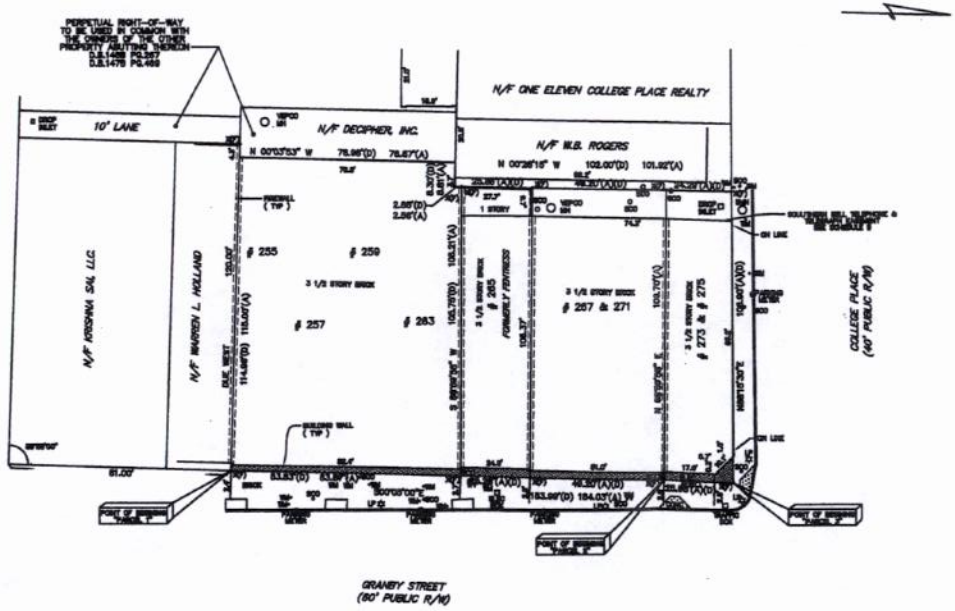
- IRON ROD/PIPE FOUND
- R.R. SPIKE FOUND
- P.K. NAIL FOUND
- FENCE POST FOUND & USED
- DRILL HOLE FOUND
- LIGHT POLE
- DRAIN INLET
- BLDG. BUILDING
- ELEC. TRANS. ELECTRIC TRANSFORMER
- STM. M.H. STORM MANHOLE
- M.H. MANHOLE
- R.O.W. RIGHT OF WAY
- M.B. MAP BOOK
- D.B. DEED BOOK
- P.I. POINT OF INTERSECTION
- H/F NOW OR FORMERLY
- RCP REINFORCED CONCRETE PIPE
- CONCRETE ACCENT LIGHTING BASE
- 4' LAMP POST
- LIGHT POLE ON CONCRETE BASE
- CURB DROP INLET
- S.S.C.O. SANITARY CLEAN OUT
- SPRINKLER CONTROL VALVE
- WATER VALVE
- FIRE HYDRANT
- HANDICAPPED PARKING SIGN
- DIRECTION OF FLOW
- FENCE LINE
- OVERHEAD POWER LINE
- FIREWALL
- BREAK POINT
- IRON ROD/PIPE SET
- R.R. SPIKE SET
- MEASUREMENT DISTANCE
- (D) DEED DISTANCE

STATEMENT OF ENCROACHMENTS

N/A

SCHEDULE "B" ITEMS PER COMMITMENT FOR TITLE INSURANCE DATED JUNE 12, 2006 ISSUED UNDER 182459

12. EASEMENT TO SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY, AS RECORDED IN THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA, IN DEED BOOK 1808, PAGE 122. (AS SHOWN ON SURVEY)



GENERAL NOTES

1. SUBJECT PROPERTY CONTAINS 20,103 SQUARE FEET or 0.46 ACRES (INCLUDING EASEMENTS AND RESERVATIONS).
2. ALL UTILITIES SERVING PROPERTY ARE UNDERGROUND UNLESS NOTED.
3. BEARING SYSTEM BASED ON RECORDED PLAT MAP BOOK 10 PAGE 10.
4. SUBJECT PROPERTY IS ZONED D-3. NO APPLICABLE BUILDING SETBACKS.
5. THE INSTRUMENTATION AND FIELD PROCEDURES UTILIZED IN THE PREPARATION OF THE SURVEY WERE TRAVERSE AND ELECTRONIC THEODOLITE AND THAT A MINIMUM LINEAR CLOSURE OF 1:15000 WAS OBTAINED.
6. NO ON-SITE PARKING PROVIDED.
7. ALL INGRESS/EGRESS TO THE PROPERTY IS FROM PUBLIC RIGHT-OF-WAYS.
8. ALL UTILITIES CONNECT TO THE PROPERTY THROUGH A PUBLIC RIGHT-OF-WAY OR AN INSURED EASEMENT.
9. ALL EXTERIOR BUILDING WALLS ARE LOCATED ALONG THE PROPERTY LINES, EXCEPT AS SHOWN.
10. THERE ARE NO VISIBLE GAPS OR GORES ALONG PROPERTY LINES AS DESCRIBED.

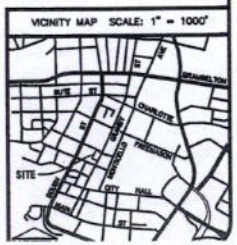
FLOOD NOTE:

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE C OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 510104-0017D, REVISED DATE OF APRIL 17, 1984. EXACT DESIGNATION CAN ONLY BE DETERMINED BY AN ELEVATION CERTIFICATE.

GRAPHIC SCALE

(IN FEET)

VICINITY MAP SCALE: 1" = 1000'



SURVEYOR'S CERTIFICATE

JUNE 30, 2006

THE UNDERSIGNED, BEING A DULY LICENSED AND QUALIFIED SURVEYOR IN AND FOR THE STATE OF VIRGINIA DOES HEREBY CERTIFY TO: GRANBY STREET, LLC & FIRST AMERICAN TITLE TITLE INSURANCE COMPANY.

THAT THIS SURVEY PRINT IS A TRUE AND ACCURATE SURVEY BASED ON AN INSPECTION OF THE FOLLOWING DESCRIBED REAL ESTATE (THE "PREMISES"):

LEGAL DESCRIPTION

Parcel 1:
ALL THAT certain lot, piece, or parcel of land, together with all the buildings and improvements thereon and all of the rights, privileges, and appurtenances thereunto appertaining, lying, situate, and being on the western side of Granby Street between Tazewell Street and College Place, in the City of Norfolk, Virginia, the said improvements being now numbered 255 to 263, inclusive, Granby Street, according to the present numbering of buildings on said street, which said piece or parcel of land is more particularly bounded and described as follows to-wit:

BEGINNING at a point on the western line of Granby Street which said point is distant eighty-one (81) feet in a northerly direction along said western line of Granby Street from its intersection with the northern line of Tazewell Street and from said point of beginning running thence in a westerly direction and parallel with Tazewell Street a distance of one hundred fourteen and ninety-nine hundredths (114.99) feet (D) 115.00 (A) to a point; thence in a northerly direction and parallel with said Granby Street a distance of seventy-eight and sixty-eight hundredths (78.68) feet (D) 78.67(A) to the southern line of the property which was conveyed to W.B. Rogers by Public Tazewell and Ella W. Tazewell by their deed bearing date of the 9th day of May, 1893, and duly of record in the Office of the Clerk of the Circuit Court of the City of Norfolk, Virginia, in Deed Book 96, at page 197; thence in an easterly direction, along the southern line of the said Rogers lot, eight and three tenths (8.30) feet(D) 8.31(A) to the southeastern corner of the said Rogers lot; thence in a northerly direction, building toward Granby Street and along the eastern line of the said Rogers lot, a distance of two and sixty-five hundredths (2.65) feet(D) 2.56(A) to the southeastern corner of the land now or formerly belonging to C.W. Fentress and formerly belonging to Newton; thence in an easterly direction along the southern line of said Fentress property one hundred five and seventy-five hundredths (105.75) feet(D) 105.31(A) to the western line of Granby Street; and thence in a northerly direction along the western line of Granby Street eighty-three and eighty-three hundredths (83.83) feet(D) 83.67(A) to the point of beginning; the said parcel of land being composed of a portion of Lots One (1), Two (2), and Three (3), in Block 8, as shown on a certain plat recorded in Map Book 1, page 20.

Together with a perpetual right of way or easement to be used in common with the owners of the other property abutting thereon, for right of way across a certain lane or alley in the rear of the above-described premises as reserved in two certain deeds from American Contracting Company, one to Hotel Corporation of Norfolk, dated June 13, 1905, and recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Deed Book 146-B, page 267, and the other to Royal Realty Corporation, dated September 25, 1905, and recorded in said Clerk's Office in Deed Book 147-B, page 466.

Reference is made to a plat of physical survey of said property of record in the aforesaid Clerk's Office in Map Book 11, at page 9.

Parcel 2:
ALL that certain lot, piece or parcel of land, with the buildings and improvements thereon, situated in the City of Norfolk, Virginia, and designated as 265 – 271 Granby Street, as shown on a plat prepared by Bobbitt & Gregg, Civil Engineers & Surveyors, dated January 2, 1962, and entitled "Physical Survey of #265-275 Granby Street and #103 & #105 College Place, Property of S.L. Slover Corporation, Norfolk, Virginia", which plat is duly recorded in the Clerk's Office of the Circuit Court (formerly Corporation Court) of the City of Norfolk, Virginia, in Map Book 18, at page 10.

BEGINNING at a point on the west side of Granby street 25.65 feet south of the southwest intersection of Granby Street and College Place as marked by a drill hole in the concrete sidewalk; thence along the west side of Granby Street S 0 degrees 05' 02" E, 74.45 feet to a point in the concrete sidewalk, said point being on the extension of the center line of a two-foot party wall between #265 and #263 Granby Street; thence S 88 degrees 59' 58" W, 108.21 feet to and along said center line of said party wall and to a point in a concrete lane; thence N 0 degrees 28' 15" W, 75.08 feet to a point in the southern line of College Place said the said being on the extension of the center line of a two-foot party wall between #271 & #273 Granby Street, thence N 88 degrees 59' 58" E along said center line a distance of 106.70' to the point of beginning.

Parcel 3:
ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, and the rights, privileges and appurtenances thereto belonging, situate in the City of Norfolk, Virginia, and designated as 273 – 275 Granby Street and 103 – 105 College Place on a plat prepared by Bobbitt & Gregg, Civil Engineers & Surveyors, dated January 2, 1962, and entitled "Physical Survey of #265 – #275 Granby Street and # 103 and # 105 College Place PROPERTY OF S.L. SLOVER CORPORATION, NORFOLK, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court (formerly Corporation Court) of the City of Norfolk, Virginia, in Map Book 18 at Page 10, and more particularly described with reference to said plat follows, to-wit:

BEGINNING at the southwest intersection of Granby Street and College Place as marked by a drill hole in the concrete sidewalk; thence along the west side of Granby Street S 0 degrees 05' 02" E, 25.65 feet to a point in the concrete sidewalk, said point being on the extension of the center line of a two-foot party wall between #271 and #273 Granby Street; thence S 88 degrees 59' 58" W, 106.69(D) 106.70'(A) feet to and along said center line of said party wall and to a point in a concrete lane; thence N 0 degrees 28' 15" W, 24.29 feet to a point in the southern line of College Place said the being also along the exterior wall of #275 Granby Street, thence N 88 degrees 15' 30" E along said exterior wall a distance of 106.90' to the point of beginning.

I HEREBY CERTIFY TO IDS LIFE INSURANCE COMPANY, ITS SUCCESSORS AND/OR ASSIGNS; 255 GRANBY, LLC; 259 GRANBY, L.L.C., 273 GRANBY, LLC; 333 GRANBY LLC; FIRST AMERICAN TITLE INSURANCE COMPANY; THAT THIS PLAT REPRESENTS A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION ON JUNE 30, 2006; THIS SURVEY HAS BEEN PREPARED (I) IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ASCM LAND TITLE SURVEYS", ADOPTED IN 1999, INCLUDING TABLE A ITEMS 1–4, 6, 7(a), (b), (c), 8–10, 11(b) AND 14–16, AND (II) PURSUANT TO ACCURACY STANDARDS, IN EFFECT ON THE DATE OF THIS CERTIFICATION, AND THE SURVEY MEASUREMENTS WERE MADE IN ACCORDANCE WITH THE MINIMUM ANGLE, DISTANCE AND CLOSURE REQUIREMENTS FOR SURVEY MEASUREMENTS WHICH CONTROL LAND BOUNDARIES FOR ALTA/ASCM LAND TITLE SURVEYS. NONE OF THE BUILDINGS SHOWN ENCROACH ON ANY STREET, TITLE OR BUILDING LINES, NOR ARE THERE ENCROACHMENTS BY IMPROVEMENTS FROM ADJOINING PROPERTIES, EXCEPT AS SHOWN.

DATED: 8-10-06

SIGNED: WARD M. HOLMES, L.S.

WARD M. HOLMES
LICENSED
LAND SURVEYOR

ALTA/ASCM SURVEY
OF
PROPERTIES LOCATED AT 255-275 GRANBY STREET
NORFOLK, VIRGINIA
ADDRESSED 255, 259, 273 GRANBY STREET NORFOLK, VIRGINIA
JOB NO.:HORSEY SCALE: 1" = 20' DATE: 6-30-06 REVISED 10-4-06 SHEET 1 OF 1

WARD M. HOLMES
LAND SURVEYOR, P.C.
5225 Granby Street, Norfolk, Virginia 23502

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 2:14 PM
To: 'dncl@welovenorfolk.org'; Miller, Mary
Cc: Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject: new Planning Commission application
Attachments: SecretSociety.pdf

Mr. Murphy and Ms. Miller,

Attached please find the following application for a special exception to operate an entertainment establishment with alcoholic beverages at 255 Granby Street, suite 257.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 4:16 PM
To: Whitney, Chris
Subject: FW: new Planning Commission application
Attachments: SecretSociety.pdf

FYI

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

From: Kevin R. Murphy [mailto:krmurphy@verizon.net]
Sent: Wednesday, March 16, 2016 4:14 PM
To: Straley, Matthew
Subject: RE: new Planning Commission application

Matthew,

The DNCL will have no objections to this application.

Thanks,

Kevin

From: Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
Sent: Wednesday, March 16, 2016 2:15 PM
To: dncl@welovenorfolk.org; Miller, Mary <mmiller@downtownnorfolk.org>
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: new Planning Commission application

Mr. Murphy and Ms. Miller,

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate a Day Care Home at 1439 Mellwood Court – Ms. Rosebuds Family Day Care Home**

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

Ward/Superward: 3/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-3

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

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

III. **Request:** Special Exception to operate a Day Care Home

IV. **Applicant:** **Ms. Rosebuds Family Day Care Home**

V. **Description:**
Granting this request will allow the existing home business, Ms. Rosebuds Family Day Home, to expand its capacity from five children to nine children.

	Proposed
Hours of Operation	6:00 a.m. to 12:00 midnight, Seven days a week
Hours for Outdoor Play Area	8:00 a.m. to 6:00 p.m., Seven days a week

VI. **Historic Resources Impacts**
The building is not located within a federal, state, or local historic district.

VII. **Public Schools Impacts**
The site is located in the Tanners Creek Elementary School, the Norview Middle School and Norview High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	Item No. 9	
Address	**1439 Mellwood Court**	
Applicant	**Ms. Rosebuds Family Day Home**	
Request	**Special Exception**	**Day Care Home**
Property Owner	Rosemary Everette	
Site Characteristics	Site/Building Area	5,000 sq. ft./1,230 sq. ft.
	Future Land Use Map	Single-Family Traditional
	Zoning	R-8 (Single-Family)
	Neighborhood	Shadywood East
	Character District	Suburban
Surrounding Area	North	R-8: Single-family homes
	East	R-8: Single-family homes
	South	R-8: Single-family homes
	West	R-8: Single-family homes

A. Summary of Request

- The property is located on the north side of Mellwood Court within the Shadywood East neighborhood.
- Granting this request will allow the existing home business, Ms. Rosebuds Family Day Home, to expand its capacity from five children to nine children.

B. Plan Consistency

- The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as Single-Family Traditional.
- The Supporting Lifelong Learning chapter of *plaNorfolk2030* calls for increasing the number and accessibility of high quality child care homes and centers.

C. Zoning Analysis

i. General

- In order to address any potential impacts to neighbors, a special exception is required for day care homes with between six to nine children on any residential lot between 5,000-5,999 square feet in lot area.
- The site is located in an R-8 (Single-Family) district on a lot with 5,000 square feet of lot area, developed with a single-family home with a minimum of 1,200 square feet, which permits the proposed use with a special exception.

	Proposed
Hours of Operation	6:00 a.m. to 12:00 midnight, Seven days a week
Hours for Outdoor Play Area	8:00 a.m. to 6:00 p.m., Seven days a week

- A new Certificate of Occupancy will be required to ensure that the home can safely accommodate an increase from a five-child to nine-child day care home.

ii. Parking

The site accommodates three off-street parking spaces, which complies with *Zoning Ordinance* requirements.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that a daycare with nine children will generate 40 new vehicle trips per day.

- Mellwood Court 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 Tanners Creek Elementary School, the Norview Middle School and Norview High School Attendance Zones.

G. Environmental Impacts

No environmental impacts are anticipated with the proposed day care home expansion.

H. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

- A six-foot solid fence will be required to be installed and maintained prior to zoning approval for the increased occupancy.
- It is unlikely that there will be any impacts to the surrounding neighbors.

J. Payment of Taxes

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

K. Civic League

- The Shadywood East Civic League is not currently active.
  - A notice was sent to the City's Neighborhood Development Specialist for this portion of the City.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. Recommendation

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

(a) The number of children shall be limited to a maximum of nine (9), excluding any children who are members of the family which reside at the home.

(b) No zoning approval shall be granted to permit the use authorized by this special exception until the applicant obtains a new certificate of occupancy to reflect the maximum occupancy allowed.

(c) The hours of operation for the day care home shall be limited to 6:00 a.m. until 12:00 midnight, seven days a week. The hours for use of the outdoor play area shall be limited to 8:00 a.m. until 6:00 p.m. seven days a week. No use of the residence as a day care home shall be permitted outside the hours of operation listed herein.

(d) An opaque fence not less than six (6) feet in height shall be installed around the outdoor play area and shall be located in conformity with the regulations of section 13-2.3 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended).

Attachments

Location Map
Zoning Map
Application
Physical Survey
Notice to the Neighborhood Development Specialist

Proponents and Opponents

Proponents
Rosemary Everette – Applicant
1439 Mellwood Court
Norfolk, VA 23513

Opponents
None

04/22/16 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved: MM.L

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF A DAY CARE HOME KNOWN AS "MS. ROSEBUDS FAMILY DAYHOME" ON PROPERTY LOCATED AT 1439 MELLWOOD COURT.

- - -

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 Day Care Home known as "Ms. Rosebuds Family Dayhome" on property located at 1439 Mellwood Court. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 50 feet, more or less, along the northern line of Mellwood Court beginning 623 feet, more or less, from the northeast corner of Mellwood Court and Edward Street and extending northeastwardly; premises numbered 1439 Mellwood Court.

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

(a) The number of children shall be limited to a maximum of nine (9), excluding any children who are members of the family which resides at the home.

(b) No zoning approval shall be granted to permit the use authorized by this special exception unless and until the applicant obtains a new certificate of occupancy to reflect the maximum occupancy allowed hereunder.

(c) The hours of operation for the day care home shall be limited to 6:00 a.m. until 12:00 midnight, seven days per week. No use of the residence as a day care home shall be permitted outside the hours of operation listed herein.

(d) An opaque fence not less than six (6) feet in height shall be installed around the outdoor play area and shall be located in conformity with the regulations of section 13-2.3 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended).

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.

Location Map
PICADILLY STREET
MS. ROSEBUDS
FAMILY DAYHOME
MELLWOOD COURT
0 10 20 40
Feet
N

Zoning Map
PDMU-1
PDMU-1
PDMU-1
PDMU-1
PDMU-1
PDMU-1
R-11
PICADILLY STREET
PCPD-R
MS. ROSEBUDS
FAMILY DAYHOME
R-8
R-8
MELLWOOD COURT
EDWARD STREET
R-8
R-8
R-11
0 25 50 100
Feet
N

APPLICATION
SPECIAL EXCEPTION

Special Exception for: Day Care Home (5,000 # lot)

Date of application: _____

DESCRIPTION OF PROPERTY

Property location: (Street Number) 1439 (Street Name) Mellwood Court Norfolk VA 23513

Existing Use of Property single-family home

Current Building Square Footage 1,230

Proposed Use Day Care Home with 9 children

Proposed Square Footage 1,230

Proposed Hours of Operation:

Weekday	From	6 4m	To	12 midnight
Friday	From	6 4m	To	12 midnight
Saturday	From	6 4m	To	12. midnight
Sunday	From	6 4m	To	12 midnight

Trade Name of Business (If applicable) Ms. Rose Rosebuds Family Day Home

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) Everette (First) Rosemary (MI) —

Mailing address of applicant (Street/P.O. Box): 1439 Mellwood Court

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

Daytime telephone number of applicant 757 962-7387 Fax (757) 962-7387

E-mail address of applicant: rosebuds.Daycare@aol.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)

3. Name of property owner: (Last) Same as Applicant (First) _____ (MI) _____

Mailing address of property owner (Street/P.O. box): _____

(City) _____ (State) _____ (Zip Code) _____

Daytime telephone number of owner ( ) _____ email: _____

CIVIC LEAGUE INFORMATION

Civic League contact: No active civic league

Date(s) contacted: _____

Ward/Super Ward information: ward 3 - Johnson / superward 7 - Graves

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: Rosemary Everette (Property Owner) **Sign:** Rosemary Everette / 2 / 29 - 2016 (Date)

Print name: Rosemary Everette (Applicant) **Sign:** Rosemary Everette / 2 / 29 - 2016 (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ (Authorized Agent Signature) **Sign:** _____ / ____ / ____ (Date)

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

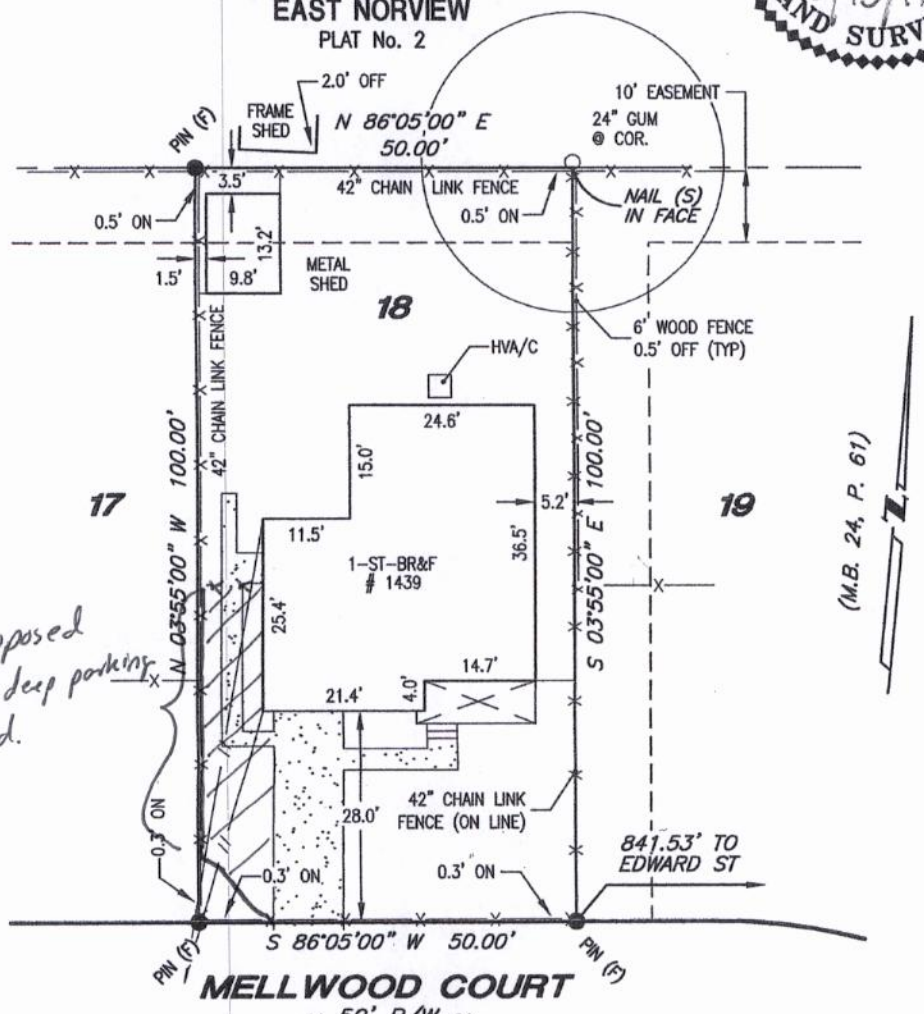
THIS IS TO CERTIFY THAT ON **FEBRUARY 17, 2016**, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE PROPERTY LINES OF RECORD AS SHOWN IN **M.B. 24, P. 61** AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE SAID PROPERTY LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

NOTE: A 5 FOOT EASEMENT, UNLESS GREATER WIDTH IS NOTED, ON ALL SIDES & REAR LOT LINES HAS BEEN DEDICATED TO THE CITY OF NORFOLK FOR DRAINAGE & UTILITIES.

FOX LAND SURVEYING, LLC
SIGNED BY:

COMMONWEALTH OF VIRGINIA
TRAVIS M. FOX
Lic. No. 2878
2/19/16
LAND SURVEYOR

SUBDIVISION OF LOT 19, BLOCK 12
EAST NORVIEW
PLAT No. 2



MELLWOOD COURT
~ 50' R/W ~
(M.B. 24, P. 61)

FLOOD INFORMATION: THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN FLOOD ZONE X (UNSHADED) (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) 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 0105 F** DATED **SEPTEMBER 2, 2009**.

- FOX LAND SURVEYING, LLC, 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 WHICH MAY AFFECT SAID PROPERTY AS SHOWN. THIS PLAT DOES NOT INTEND TO REPRESENT A SUBDIVISION OF LAND.

LAND SURVEYING
SITE DESIGN
MAPPING
FOX LAND SURVEYING
2981 RIDDICK LANE
VIRGINIA BEACH·VA·23456
foxlandsurvey.com 757·615·1675

SCALE: 1" = 20'

PHYSICAL SURVEY
OF
LOT 18
CORRECTED AND AMENDED PLAT OF SECTION TWO, SHADYWOOD SUBDIVISION OF LOTS 14 THROUGH 18 EAST NORVIEW

PLAT RECORDED IN MAP BOOK 24 AT PAGE 61, IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA
NORFOLK, VIRGINIA
Exclusively For
ROSEMARY EVERETTE

SHEET 1 OF 1

DRW/chk: TMF	NORFOLK, VIRGINIA	F.B. 5 P. 66-67	19 FEBRUARY, 2016	JN: 016-007

Simons, Matthew

From: Straley, Matthew
Sent: Thursday, March 17, 2016 11:51 AM
To: Herbst, James
Cc: Johnson, Mamie; Williams, Angelia M.; Simons, Matthew
Subject: new Planning Commission application
Attachments: Rosebud.pdf

Mr. Herbst,

The attached application has no active civic leagues nearby. If you know of contacts in the surrounding area, would you please see that this application gets forwarded to them?

Attached please find the following application for a special exception to operate a day care home at 1439 Mellwood Court.

The purpose of the request is to allow for the existing day care home to expand capacity in order to accommodate four additional children within the home (nine children total).

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

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

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to construct a mixed use development at 8131 Shore Drive – Harbor Villas**

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 **7 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception to construct a mixed use development.

IV. **Applicant: Harbor Villas**

V. **Description:**

- The site is currently zoned C-2 which allows mixed use development by special exception.
  - The *Zoning Ordinance* also requires that 50% of the first floor of a mixed use development must be a commercial use.
- The applicant proposes to construct three buildings each with commercial on the first floor and residential above.
  - In total, 14 residential units will be provided with 5,250 square feet of commercial and a 1,950 square foot restaurant.
  - The site will be accessed from one entrance from Shore Drive.

VI. **Public Schools Impacts**

- School attendance zones include Little Creek Elementary School (86% utilization), Azalea Middle School (99% utilization) and Lake Taylor High School (87% utilization).
- Approximately one school aged child could be generated by the proposed development (0.1 school aged children per unit).
- Given the low number of potential students and the existing school capacity, no significant school impacts are anticipated.

Staff point of contact: Susan Pollock Hart at 664-4765, susan.pollock@norfolk.gov.

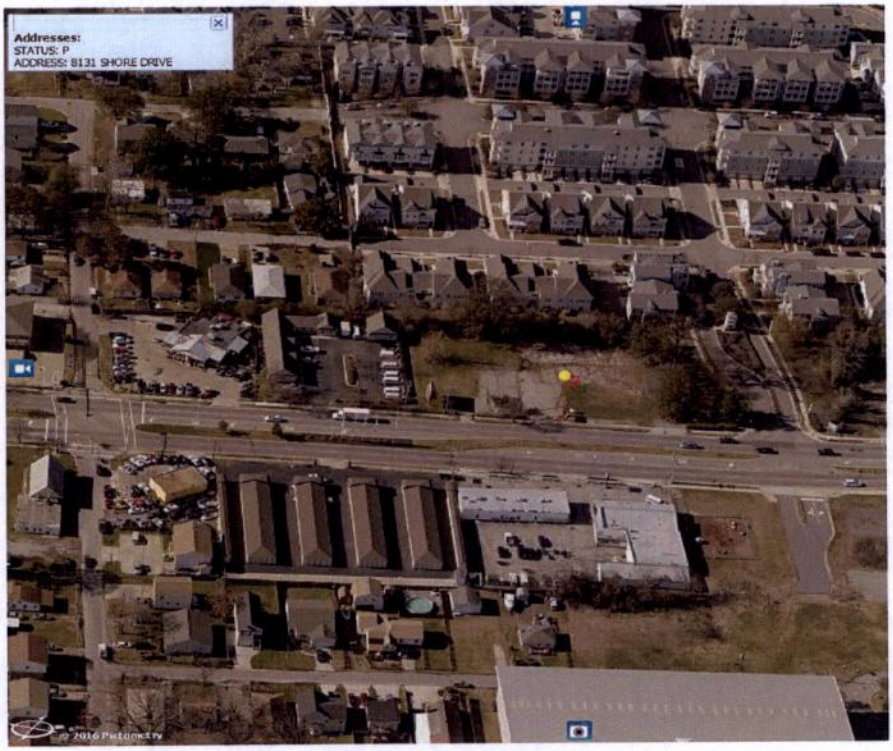
Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016
Executive Secretary: George M. Homewood, FAICP, CFM
Staff: Susan Pollock Hart, CFM

Staff Report	Item No. 7	
Address	**8131 Shore Drive**	
Applicant	**Harbor Villas by Albert Viola**	
Request	**Special Exception**	**Mixed use**
Property Owner	Darren King	
Site Characteristics	Site Area	.9 Acres
	Zoning	**C-2 (Corridor Commercial)**
	Neighborhood	East Ocean View
	Character District	Coastal
Surrounding Area	North	Harbor Walk PD: Mix of single-family and multi-family
	East	C-2: Small commercial strip center
	South	C-2: Small commercial strip center; Cap'n Groovey's
	West	Harbor Walk PD: Mix of single-family and multi-family



A. Summary of Request

- The site is located on the west side of Shore Drive south of Harbor Walk Drive.
- The applicant proposes to develop this vacant land with 14 residential units with commercial on the first floor.

B. Plan Consistency

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

C. Zoning Analysis

i. General

- The site is currently zoned C-2 which allows mixed use development by special exception.
  - The *Zoning Ordinance* also requires that 50% of the first floor of a mixed use development must be a commercial use.
- The applicant proposes to construct three buildings each with commercial on the first floor and residential above.
  - In total, 14 residential units will be provided with 5,250 square feet of commercial and a 1,950 square foot restaurant.
  - The site will be accessed from one entrance from Shore Drive.

ii. Parking

- Parking is proposed to be located to the rear of the site.
- The site is located in the Suburban Character District which requires:
  - 1.75 parking spaces per residential dwelling unit (25 parking spaces)
  - One parking space per 250 square feet for retail sales/service (21 parking spaces)
  - One space per 150 square feet for eating/eating and drinking/entertainment establishments (13 parking spaces)
- The *Zoning Ordinance* allows shared parking which allows a reduction in parking when parking for multiple separate uses may be provided collectively.
  - A reduction in the parking required for each separate use may be allowed when the separate uses involve differing hours of operation, days of operation or other circumstances that make it unlikely that the separate uses will experience peak-hours of usage simultaneously.
  - In total, 57 parking spaces are provided and 59 are required.
  - The reduction of two parking spaces under the shared parking concept is appropriate for this mixed use project.

iii. Flood Zone

- The property is in an AE Flood Zone and with a 7.6 foot Base Flood Elevation (BFE).
  - The finished floor of the proposed residential structure is required to be three feet above the BFE which is 10.6 feet.

- Parking and limed storage are allowed to be located below the finished floor.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that that this proposed mixed use development including a restaurant, retail shops and 14 apartment units will generate 566 new vehicle trips per day.
- Shore Drive near the site is not identified as a severely congested corridor in either the AM or PM peak hours in the current update to regional Hampton Roads Congestion Management analysis.
- The site is near transit service with Hampton Roads Transit bus routes 1 (Granby) operating adjacent to the site.
- Shore Drive adjacent to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

E. Historic Context and Impacts

The site is currently vacant and is not located in any local, state or federal historic district.

F. Public School Impacts

- School attendance zones include Little Creek Elementary School (86% utilization), Azalea Middle School (99% utilization) and Lake Taylor High School (87% utilization).
- Approximately one school aged child could be generated by the proposed development (0.1 school aged children per unit).
- Given the low number of potential students and the existing school capacity, no significant school impacts are anticipated.

G. Impact on the Environment

- As a new development, it will have to complete the Site Plan Review Process with all the standards set forth in the *Zoning Ordinance.*
- The proposed project will be required to fully comply with the city's stormwater management provisions.

H. Impact on Surrounding Area/Site

- The site is surrounded by multi-family and commercial uses.
- The addition of a multi-family development would not have a negative impact on the surrounding land uses.

I. Payment of Taxes

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

J. Civic League

A letter was sent to the East Ocean View Civic League on March 15.

K. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.

- Letters were mailed to all property owners within 300 feet of the property on March 18.
  Legal notification was placed in *The Virginian-Pilot* on April 14 and 21.

L. Recommendation

Staff recommends that the special exception be **approved** subject to the following conditions:

1. The property shall be developed substantially in conformance with the site plan and elevations.

2. The maximum number of dwelling units shall not exceed 14.

3. The elevations shall be reviewed and approved through the Design Review Process.

Attachments

Zoning Map
Location Map
Application
Letter to East Ocean View Civic League
Letter to the Virginia Beach Planning Department
Letter of support from the East Ocean View Civic League
Letter of support from the Harbor Walk Condominium Association and Harbor Walk II at East Beach Condominium Resident Association

Proponents and Opponents

Proponents

Albert Viola
205 b 60th Street
Virginia Beach, VA 23451

Thomas Palmatier
4261 Harbor Walk Avenue
Norfolk, VA 23518

Opponents

None

04/29/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT MIXED USES ON PROPERTY LOCATED AT 8131 SHORE DRIVE.

- - -

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

Section 1:- That a Special Exception is hereby granted to permit mixed uses on property located 8131 Shore Drive. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 250 feet, more or less, along the western line of Shore Drive beginning 60 feet, more or less, from the southern line of Harbor Walk Avenue and extending southwardly; premises numbered 8131 Shore Drive.

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

(a) Not more than 14 residential dwelling units shall be located on the property.

(b) The site shall be developed to provide no fewer than 57 new parking spaces on the site, in accordance with the proposed conceptual site plan attached hereto and marked as "Exhibit A."

(c) Prior to the issuance of any building permit, the exterior elevations, materials, and fenestration for each building must be reviewed and approved in accordance with the city's design review process

(d) The property shall be improved generally in accordance with the conceptual site plan attached hereto and marked as "Exhibit A," subject to any revisions required by the city to be made during the Site Plan Review, building permit plan review,

and design review processes.

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;

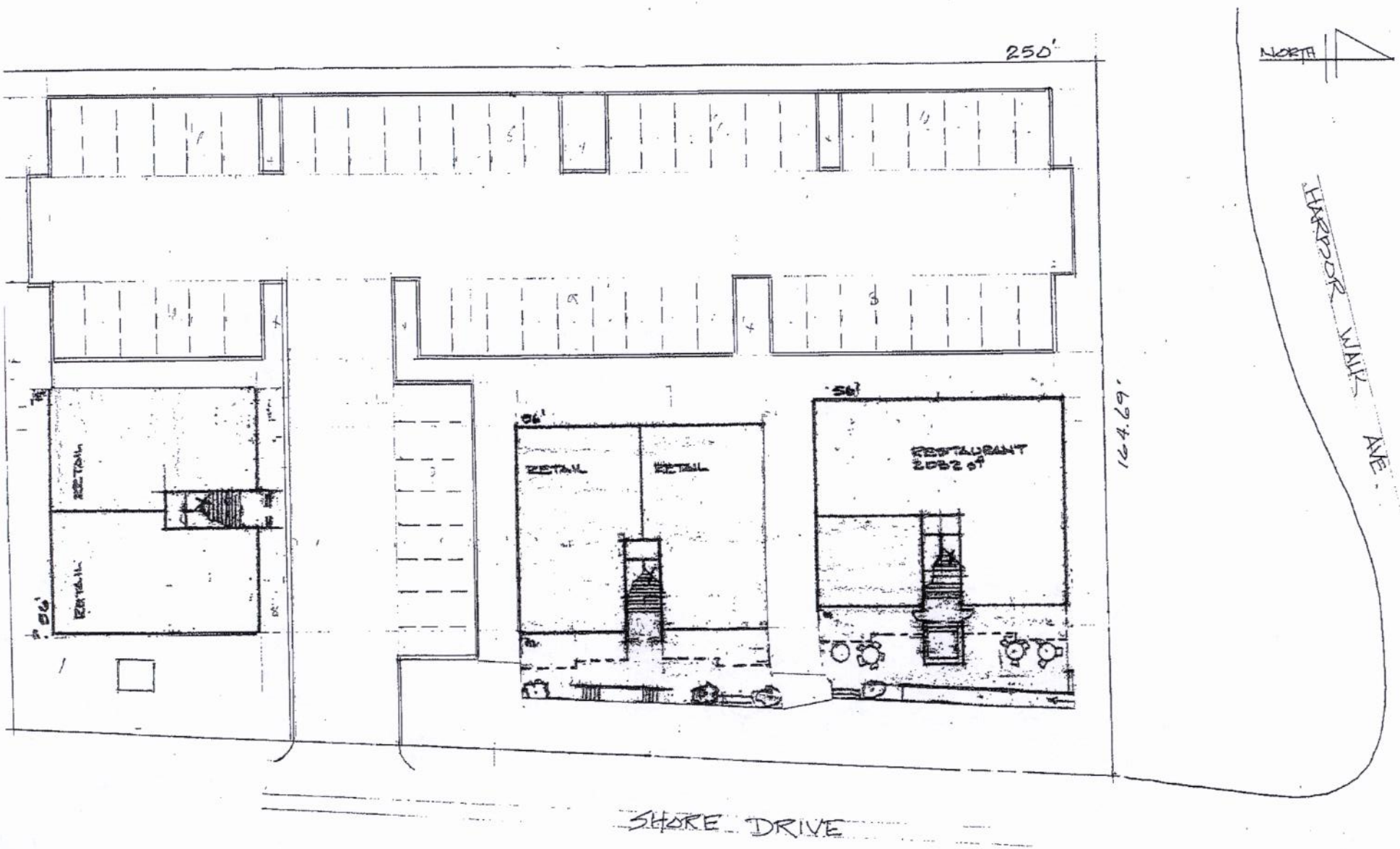
(i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

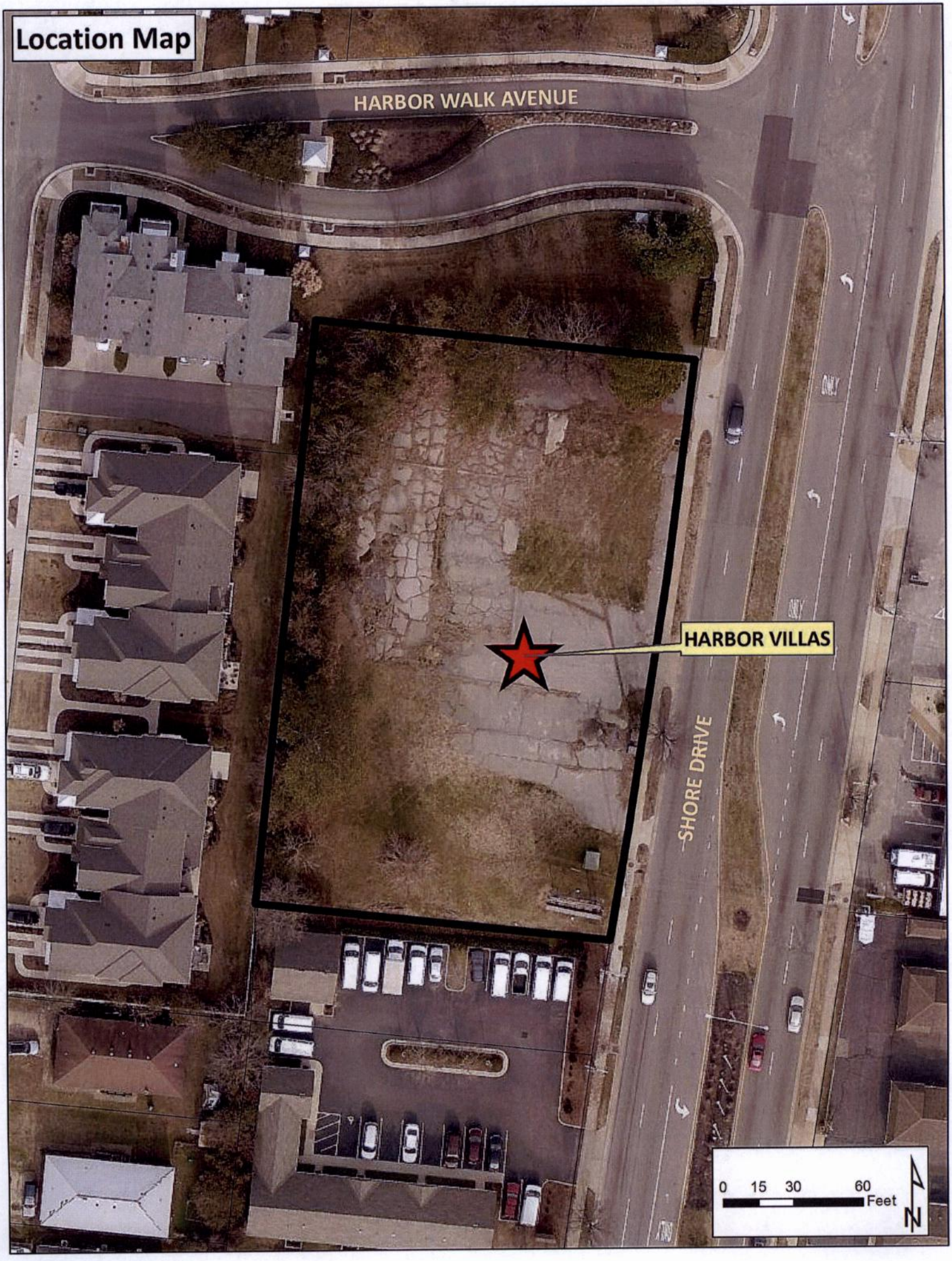
(j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and

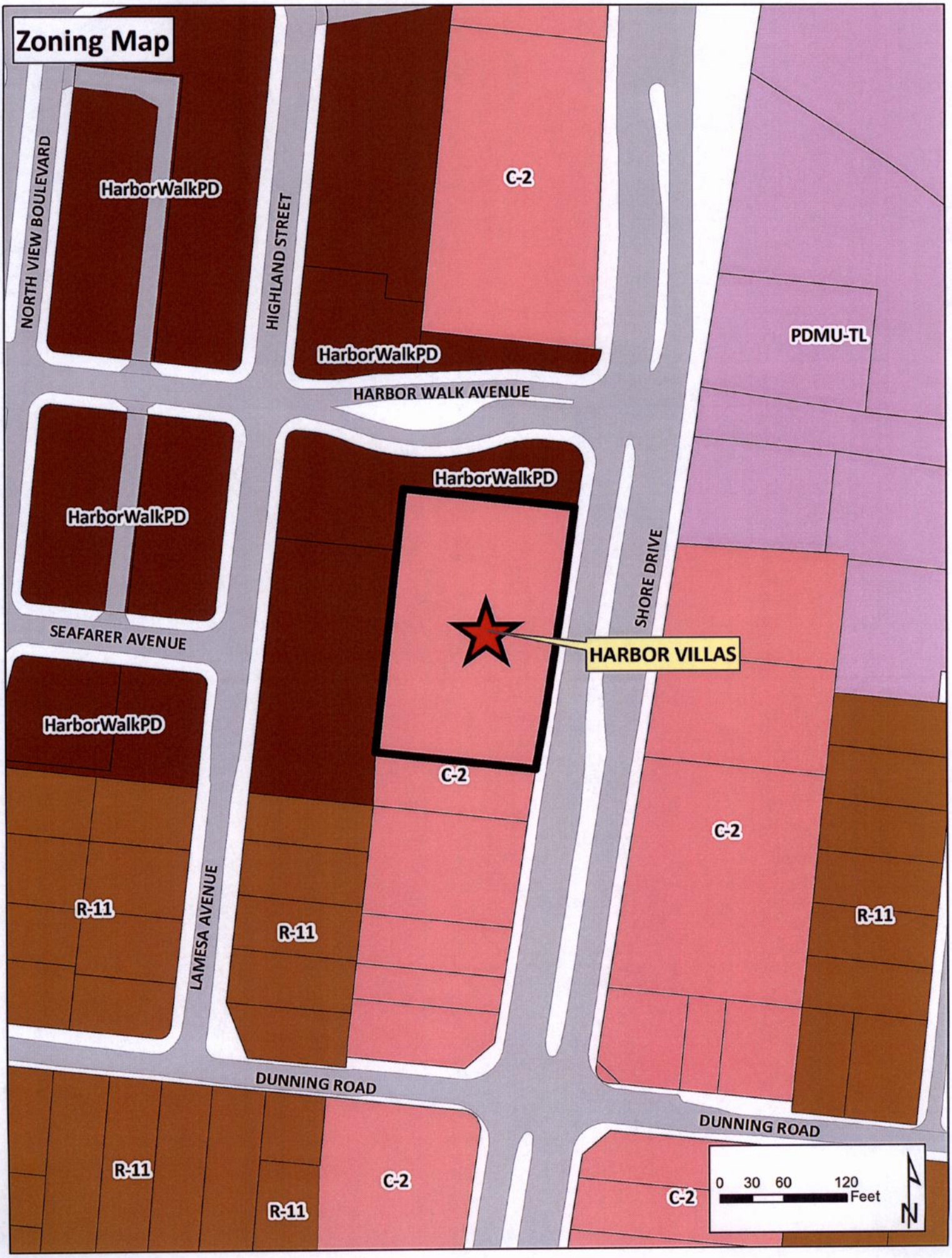
(k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (2 pages)


250'
NORTH
HARBOR WALK AVE.
164.69'
56'
RETAIL
RETAIL
RESTAURANT
2052 sf
SHORE DRIVE


Location Map
HARBOR WALK AVENUE
HARBOR VILLAS
SHORE DRIVE
ONLY
ONLY
0 15 30 60
Feet
N


Zoning Map
NORTH VIEW BOULEVARD
HighlandPD
HIGHLAND STREET
C-2
HarborWalkPD
HARBOR WALK AVENUE
PDMU-TL
HarborWalkPD
HarborWalkPD
SHORE DRIVE
SEAFARER AVENUE
HARBOR VILLAS
HarborWalkPD
C-2
C-2
R-11
LAMESA AVENUE
R-11
R-11
DUNNING ROAD
DUNNING ROAD
R-11
C-2
R-11
C-2
0 30 60 120
Feet
N

APPLICATION
SPECIAL EXCEPTION

Special Exception for: Mixed Use

Date of application: _____

DESCRIPTION OF PROPERTY

Property location: (Street Number) 8131 (Street Name) Shore Drive

Existing Use of Property Vacant

Current Building Square Footage 0

Proposed Use Multi use commercial 1st floor

14 Residential 2/3/4 floor

Proposed Square Footage 7200 sq Retail/commercial 14,800 residential

Proposed Hours of Operation:

Weekday	From	10	To	9
Friday	From	10	To	9
Saturday	From	10	To	9
Sunday	From	10	To	9

Trade Name of Business (If applicable) _____

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised September, 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) Viola (First) Albert (MI) ____

Mailing address of applicant (Street/P.O. Box): 2056 60th St.

(City) Va Bch (State) Va (Zip Code) 23451

Daytime telephone number of applicant ( ) 7574352918 Fax ( ) ____

E-mail address of applicant: buildrman67@aol

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) Viola (First) Albert (MI) ____

Mailing address of applicant (Street/P.O. Box): ____

(City) Same (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)

3. Name of property owner: (Last) Whitmell LLC (First) ____ (MI) ____

Mailing address of property owner (Street/P.O. box): 2056 60th St.

(City) Va Bch (State) Va (Zip Code) 23451

Daytime telephone number of owner (757)4352918 email: ____

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

CIVIC LEAGUE INFORMATION

Civic League contact: EoV John Green

Date(s) contacted: _____

Ward/Super Ward information: _____

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:

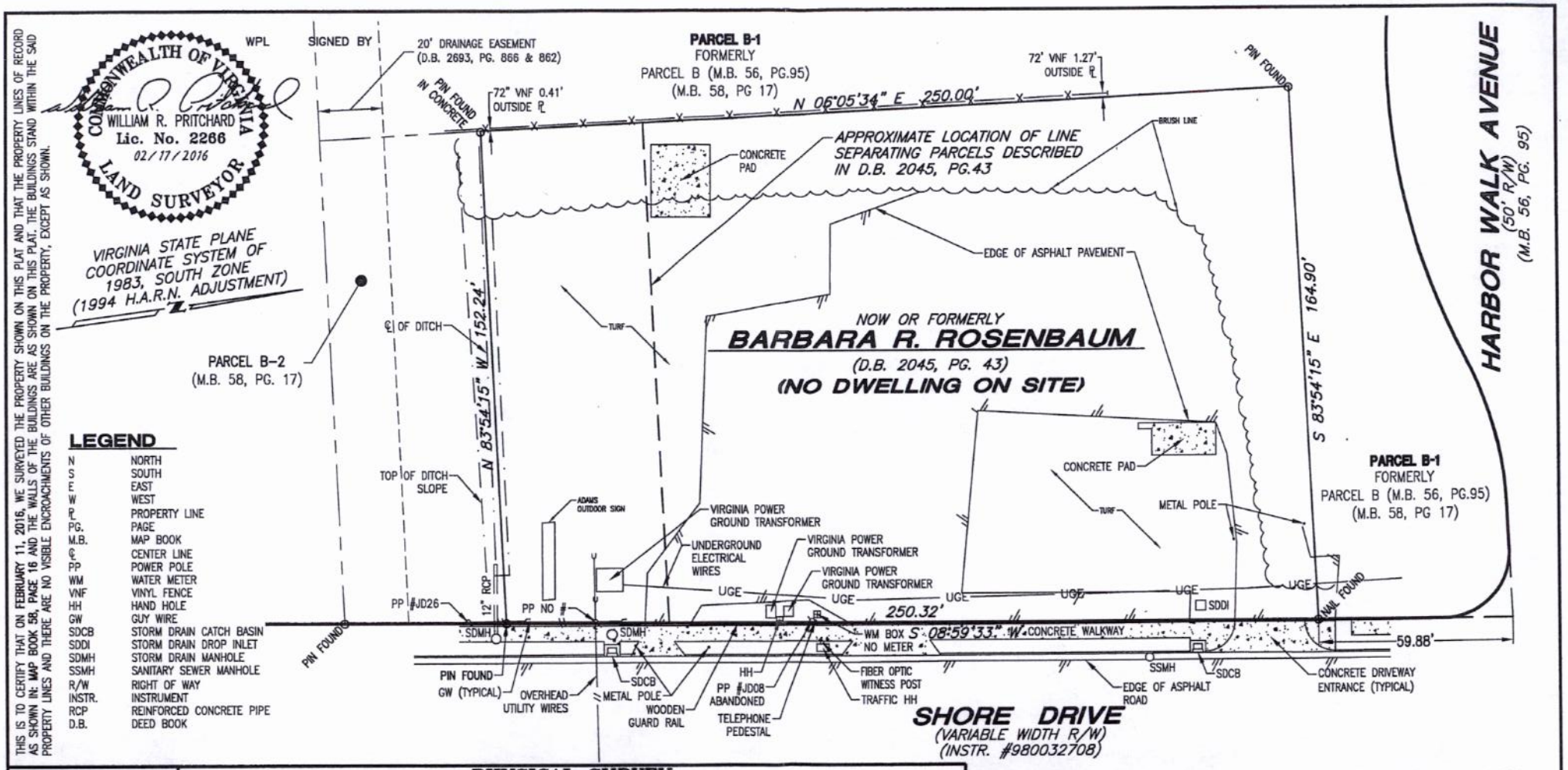
Print name: Albert Viola (Property Owner) **Sign:** _____ / 3. / 10 / 26 (Date)

Print name: _____ (Applicant) **Sign:** _____ / _____ / _____ (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ (Authorized Agent Signature) **Sign:** _____ / _____ / _____ (Date)

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



THIS IS TO CERTIFY THAT ON FEBRUARY 11, 2016, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE PROPERTY LINES OF RECORD AS SHOWN IN: MAP BOOK 58, PAGE 16 AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE SAID PROPERTY LINES AND THERE ARE NO VISIBLE ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

LEGEND

N	NORTH
S	SOUTH
E	EAST
W	WEST
P.	PROPERTY LINE
PG.	PAGE
M.B.	MAP BOOK
℄	CENTER LINE
PP	POWER POLE
WM	WATER METER
VNF	VINYL FENCE
HH	HAND HOLE
GW	GUY WIRE
SDCB	STORM DRAIN CATCH BASIN
SDDI	STORM DRAIN DROP INLET
SDMH	STORM DRAIN MANHOLE
SSMH	SANITARY SEWER MANHOLE
R/W	RIGHT OF WAY
INSTR.	INSTRUMENT
RCP	REINFORCED CONCRETE PIPE
D.B.	DEED BOOK

PHYSICAL SURVEY
OF
8131 SHORE DRIVE
NOW OR FORMERLY BARBARA R. ROSEBAUM (D.B. 2045, PG.43)
AS SHOWN ON PLAT ENTITLED
SUBDIVISION PLAT OF
HARBOR WALK PARCEL B
PLAT RECORDED IN MAP BOOK 58, PAGE 16, IN THE CLERK'S OFFICE
OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA
NORFOLK, VIRGINIA
EXCLUSIVELY For
ALBIE VIOLA

wpl
Landscape Architecture
Land Surveying
Civil Engineering
wplsite.com
757.431.1041
242 MUSTANG TRAIL STE B VIRGINIA BEACH, VA 23452

SCALE: 1" = 30'

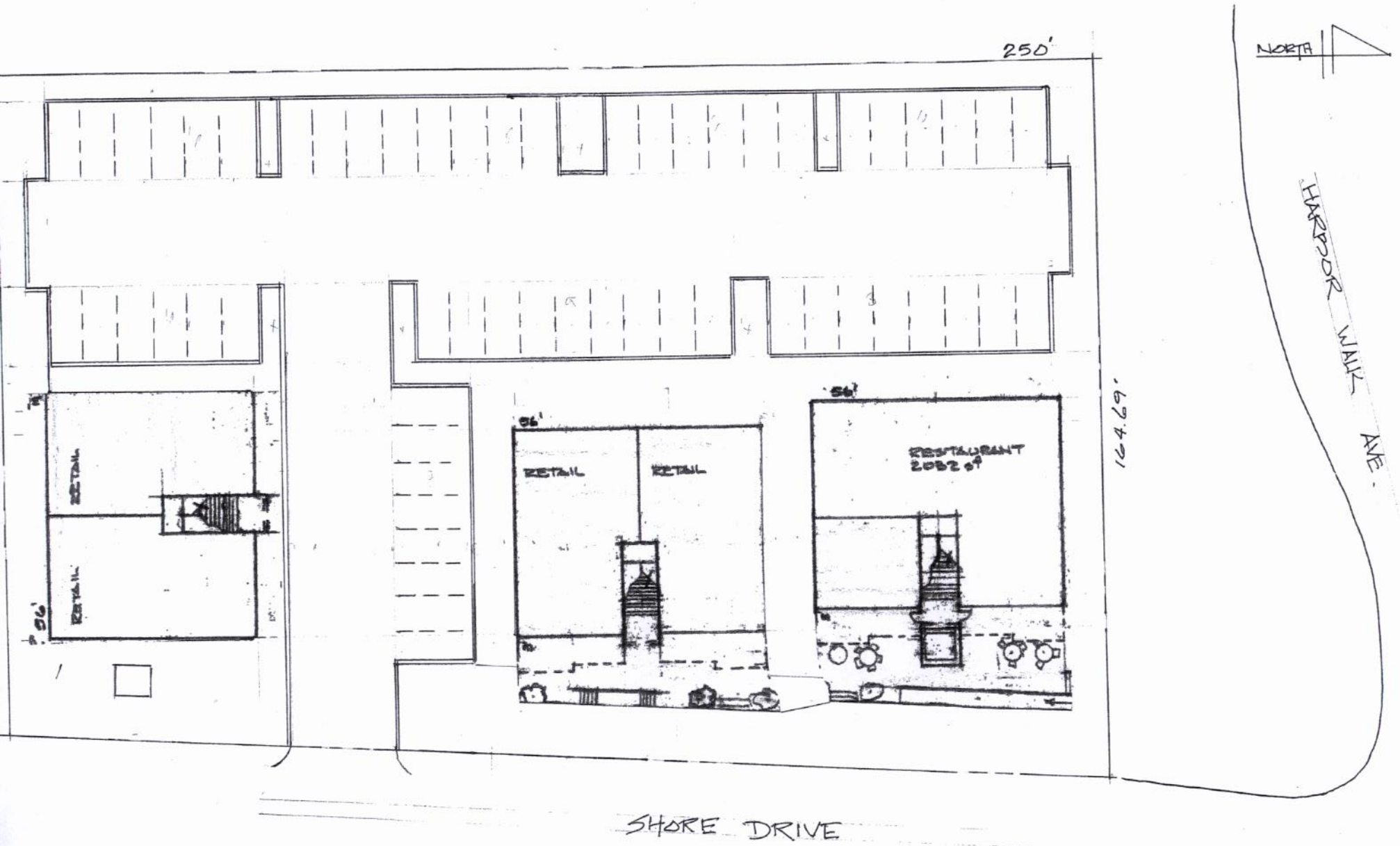
CAD/chk: BKM/wrp	CITY OF VIRGINIA BEACH, VIRGINIA	F.B. 1038 PG.17	PLAT: H-703	FEBRUARY 15, 2016	JN: 216-0040

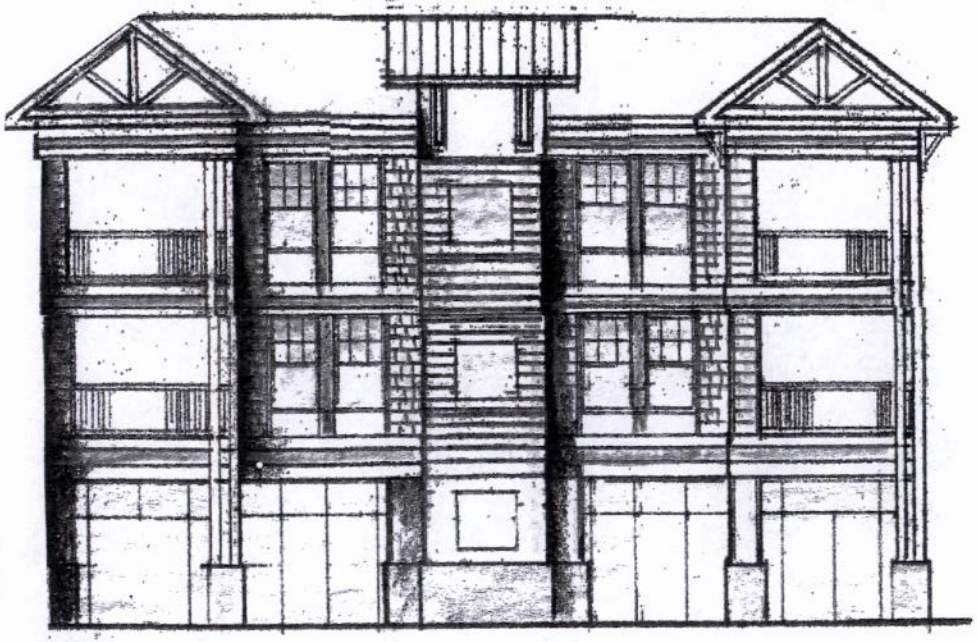
NOTE: THIS PROPERTY IS LOCATED IN THE CHESAPEAKE BAY PRESERVATION AREA (CBPA) AND IS SUBJECT TO CERTAIN DEVELOPMENT REQUIREMENTS AND LIMITATIONS. NO TREE REMOVAL, LAND DISTURBING ACTIVITY OR CONSTRUCTION ACTIVITY CAN BE COMMENCE WITHOUT PRIOR APPROVAL FROM THE CITY OF NORFOLK.

NOTE: ALL EASEMENTS AS SHOWN HEREON (UNLESS OTHERWISE NOTED) HAVE BEEN DEDICATED TO THE CITY OF NORFOLK, VIRGINIA FOR THE INSTALLATION AND/OR MAINTENANCE OF UTILITIES AND/OR DRAINAGE FACILITIES.

FLOOD INFORMATION: THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN **FLOOD ZONE AE (ELEVATION 7.6) (BASE FLOOD ELEVATIONS DETERMINED)** 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. 5101040070F DATED SEPTEMBER 2, 2009.**

- WPL 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.


250'
NORTH
HARBOR WALK AVE.
164.69'
96'
RETAIL
RETAIL
RETAIL
56'
RESTAURANT
2052 sf
SHORE DRIVE



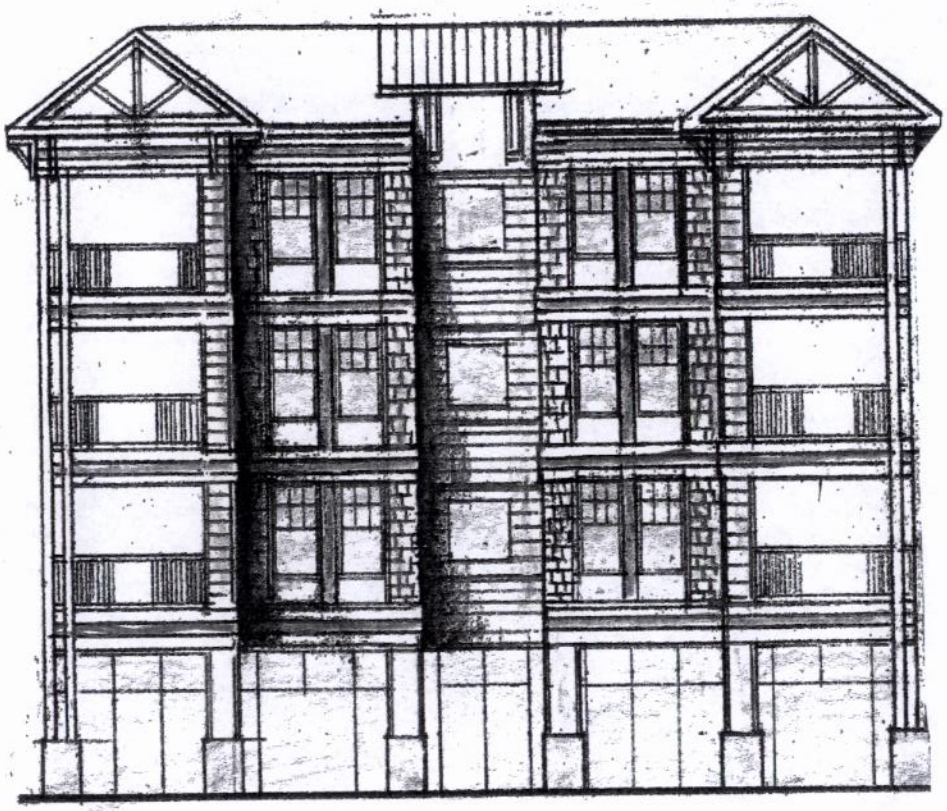
ZONING INFORMATION

LOCATION: SHORE DRIVE, NORFOLK, VIRGINIA

PROPOSED USE: MIXED USE: COMMMERCIAL/CONDOMINIUMS

1. ZONING: C-2
2. PARCEL SF: 39,581 SF
3. COMMERCIAL SF: 5,250 SF
4. RESTAURANT SF: 1,950 SF
5. RESIDENTIAL UNITS: 14
6. PARKING REQUIRED:
   - COMMERCIAL @ 250/SF = 21
   - RESTAURANT @ 150/SF = 13
   - RESIDENTIAL UNITS @ 1.75 EACH = 25
7. PARKING SPACES PROVIDED: 57
8. SIZE OF UNITS:
   - TYPE A: KITCHEN, LIVING, DINING, DECK, MASTER BEDROOM, BATHROOM, WIC, BEDROOM 2, FULL BATH, LAUNDRY.
   - TYPE B: LEVEL 1 – KITCHEN, LIVING, DINING, DECK, MASTER BEDROOM, BATHROOM, WIC, BEDROOM 2, FULL BATH.
     LEVEL 2 – BEDROOM 3, BATHROOM, FAMILY ROOM, STORAGE, LAUNDRY.
9. GROSS BUILDING COVERAGE: 8,968 SF
10. IMPERVIOUS SURFACE (TO INCLUDE PARKING, WALKS, BLDG FOOTPRINT): 25,730 SF

1/8" = 1'-0"



FRONT ELEVATION

Pollock, Susan

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 12:38 PM
To: 'greenie4720@yahoo.com'
Cc: Smigiel, Thomas; Winn, Barclay; Ransom, Carlton; Pollock, Susan
Subject: new Planning Commission application
Attachments: HarborVillas.pdf

Mr. Greene,

Attached please find the following application for a special exception for mixed uses (residential above commercial) at 8131 Shore Drive.

The purpose of this request is to construct 18 dwelling units above 7,200 square feet of commercial/retail space.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Susan Pollock Hart at (757) 664-4765, susan.pollock@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

LivingEOV
East Ocean View Civic League

25 April 2016

City of Norfolk
810 Union Street
Director of Planning and Community Development, Suite 508
City Hall Building
Norfolk, VA 23510

Subject: Request for rezoning and development

I am pleased to give my support and that of the East Ocean View Civic League (EOVCL) to Mr. Albert Viola's application for a special exception for mixed uses (residential above commercial) at 8131 Shore Drive, called "Harbor Village." The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing. There are two differences, as we understand the proposal, however. First, the request I received is for "18" units; Mr. Viola clarified at our meetings the correct number is "14." Second, the diagrams provided reflect streetside parking and buildings in the rear (closer to Harbor Walk); in fact, the buildings will be streetside so as to be consistent with the City's new zoning ordinances.

Mr. Viola attended the EOVCL Board of Directors meeting 31 March to brief his proposal, which includes both condominiums and a possible first floor restaurant and other commercial entities. The Board unanimously supported. He then attended the EOVCL meeting 7 April; and again presented the proposal for 14, vice 18, streetside units. He indicated at that time he had attended and briefed a Harbor Walk Homeowners forum subsequent to the 31st and they enthusiastically embraced the proposal. At our EOVCL meeting, the only question asked was whether Harbor Village residents would be able to exit onto Harbor Walk Avenue, vice solely onto Shore Drive, and the answer is "no." The Civic League *does* believe there will need to be a stop light installed at the corner of Harbor Walk Avenue and Shore Drive, if not for this development, than for the one previously approved and soon to begin construction across the street, Taylor's Landing.

Attendees believed Mr. Viola answered their concerns satisfactorily and the request for mixed use was then voted on and approved unanimously, 44-0. Mr. Viola continues to be an advocate for a revitalized East Ocean View.

Sincerely,

//Original Signed//

John M. Greene, Jr.
President, East Ocean View Civic League

Cc: Councilman Tommy Smigiel
Mr. Matt Hales
Mr. Martin Thomas
Ms. Andria McClellan
Ms. Susan Pollock
Ms. Ann Bolen

April 24, 2016

City of Norfolk
City Planning Commission

The Harbor Walk neighborhood at 8141 Shore Drive, is comprised of two resident Associations, the Harbor Walk Condominium Resident Association and the Harbor Walk II at East Beach Condominium Resident Association, with a total of 238 residential units. The following represents the official position of both Associations relating to the request by the developer for a special exception for mixed uses (residential above commercial) at 8131 Shore Drive to construct 18 dwelling units above 7,200 square feet of commercial/retail space.

- The Associations appreciate the developer, Mr. Albie Viola meeting with them to provide an overview of the proposed *Harbor Villas* development.

- The Associations are supportive of appropriate development efforts in the East Beach area and specifically close to Harbor Walk and Harbor Walk II at East Beach.

- The Associations believe strongly that a traffic light must be installed at the corner of Shore Drive and Harbor Walk Avenue. The proposed development, especially when combined with the additional residences being built directly across from Harbor Walk on the east side of Shore Drive, will exacerbate the already treacherous access to Harbor Walk Avenue off Shore Drive. The developments will increase both vehicle and foot traffic, as well as the number of U-turns at the intersection of Shore Drive and Harbor Walk Avenue. The installation of a traffic light at the intersection of Harbor Walk Avenue and Shore Drive is a matter of safety to our residents, the patrons of the businesses in the development, and to drivers and pedestrians on Shore Drive.

- The Associations are concerned about the composition and structure of any fencing or barriers between the development and our property. We are also concerned that Harbor Walk will become a "parking lot" for the development with increased pedestrian traffic through our yards.

Specifically we request:

* The fence line to the rear of the development must be extended to the corner of the property.
* A fence or impenetrable hedge be placed on the boundary line between the development and the Harbor Walk entrance to preclude pedestrians cutting through.
* That the existing foliage be retained to the maximum extent possible or replaced with appropriate landscaping to preserve the esthetics of the Harbor Walk entrance and the current sight and sound barriers between the development and the residences on Highland Street.

* That adequate parking be provided for the development. To ensure maximum usage of the available spaces, only the condo residents should be allowed to have reserved parking spaces. The other spaces should be available both to the daytime business tenants and to the proposed restaurant.

* That there be no access from the *Harbor Villas* development (pedestrian or vehicle) other than by Shore Drive.

We respectfully request that this document be made part of the record of the April 28, 2016 City Planning Commission meeting and that the position of the two Resident Associations be strongly considered by the Commission. This document was provided to the developer, Mr. Viola, in advance of the meeting.

Respectfully,

Christopher Rhoden
President
Harbor Walk Condominium Resident Association

Bert Polk
President
Harbor Walk II at East Beach Condominium Resident Association

THE CITY OF NORFOLK
CITY PLANNING

March 28, 2016

City of Virginia Beach
Department of Planning and Community Development
Barry Frankenfield
2405 Courthouse Drive, Building 2, Room 115
Virginia Beach, VA 23456

Dear Mr. Frankenfield,

The Norfolk Department of City Planning has recently received an application by **Albert Viola (Harbor Villas),** for a special exception to operate a mixed use development at 8131 Shore Drive, and located within one-half mile of the western corporate boundary of the City of Virginia Beach.

This item is tentatively scheduled for the Norfolk City Planning Commission public hearing to be held on April 28, 2016 at 2:30 p.m. in the City Council Chamber, 11th Floor, City Hall Building, Civic Center, Norfolk, Virginia.

If you would like additional information on the request, you may contact applicant, Albert Viola at (757) 435-2919, or by e-mail at buildrmen67@aol or you may telephone Susan Pollock on my staff at (757) 664-4765, susan.pollock@norfolk.gov. A copy of the complete application is enclosed.

This notice is being sent in accordance with the advertising requirements of the Code of Virginia, section 15.2-2204(c); pertaining to certain land use applications involving any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth. Because this notice is within the 10-day period before the scheduled date indicated above, you are asked to acknowledge your acceptance and receipt of this actual notice, in accordance with Virginia Code section 15.2-2204(c), either by signing a copy of this letter or by separate correspondence sent to this office.

Sincerely,

Leonard M. Newcomb, III, CFM
Department of City Planning
Assistant Director

cc: Susan Pollock, CFM

508 City Hall Building / Norfolk, Virginia 23510
Ph. (757) 664-4752 / Fax (757) 664-4748

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate a commercial drive-through at 4231 East Little Creek Road – Wells Fargo Bank ATM**

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

Ward/Superward: 5/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-5

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

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

III. **Request:** Special Exception to operate a commercial drive-through.

IV. **Applicant:** **Robert Lopez**

V. **Description:**

- The site is located within the East Beach Marketplace Shopping Center, near the corner of East Little Creek Road and Shore Drive.
- This request would allow Wells Fargo to construct a new 24-hour drive-up ATM kiosk on a portion of the shopping center parking lot.
- A sidewalk will be installed along the Shore Drive frontage to connect with the existing sidewalks on the property to the south of this site.
- As part of the site redevelopment, additional landscaping will be installed between the site and the Shore Drive frontage to screen the parking and drive-through lane.

VI. **Historic Resources Impacts**

The site is not located within a federal, state, or local historic district.

VII. **Public Schools Impacts**

This site is located within the Little Creek Elementary School, Azalea Middle School, and Lake Taylor High School Attendance Zones.

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

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

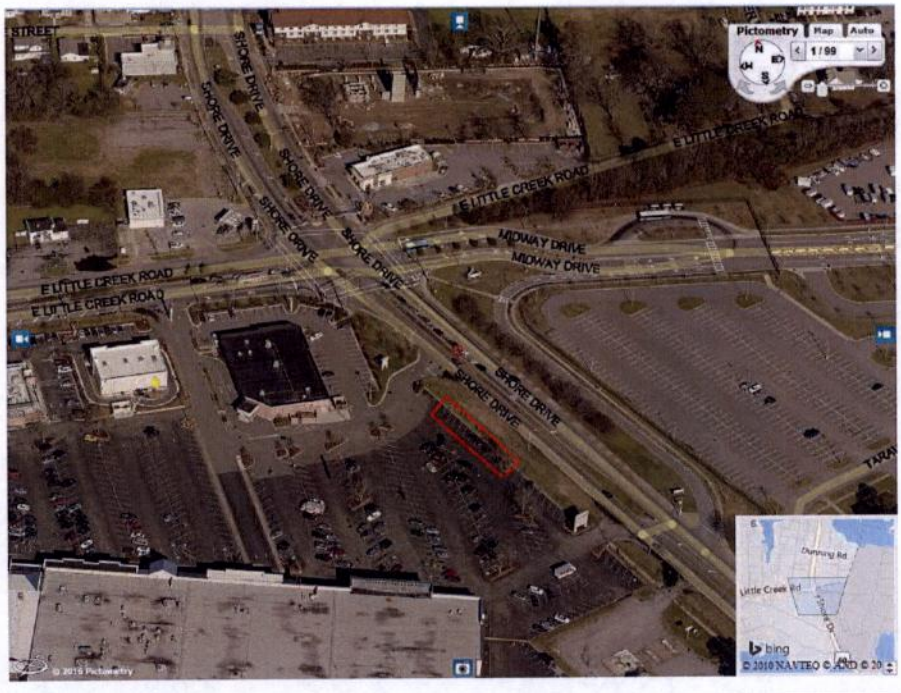
THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

60 Executive Secretary: George M. Homewood, FAICP, CFM GMW III

Planner: Chris Whitney, CFM CW

Staff Report	Item No. C-4	
Address	**4231 East Little Creek Road**	
Applicant	**Wells Fargo Bank**	
Request	**Special Exception**	**Commercial Drive-Through**
Property Owner	Little Creek Holdings, LLC	
Site Characteristics	Site/Building Area	18.8 acres/88 sq. ft. (kiosk)
	Future Land Use Map	Commercial
	Zoning	C-3 (Retail Center District)
	Neighborhood	Camellia Shores/East Ocean View
	Character District	Suburban
Surrounding Area	North	C-3: CVS Pharmacy
	East	City of Virginia Beach: Joint Expeditionary Base Little Creek-Fort Story
	South	R-13 (Moderately High Density Multi-Family): Park Towne Apartments Complex
	West	C-3: East Beach Marketplace shopping center



A. Summary of Request

- The site is located within the East Beach Marketplace Shopping Center, near the corner of East Little Creek Road and Shore Drive.
- This request would allow Wells Fargo to construct a new 24-hour drive-up ATM kiosk on a portion of the shopping center parking lot.

B. Plan Consistency

- The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as Commercial.
- The Providing Transportation Options chapter of *plaNorfolk2030* includes an action calling for the development of complete streets, including provisions for bicycles and pedestrians such as sidewalks, multi-use paths, or sharrows.
- In order to be fully consistent with *plaNorfolk2030*, site improvements should be included that further the implementation of complete streets.
    - The applicant proposes to install a sidewalk along Shore Drive.

C. Zoning Analysis

i. General

- The use is permitted in the C-3 district by special exception.
- The site is located within a large commercial shopping center and along two commercial corridors (E. Little Creek Road and Shore Drive).
- There is adjacent multi-family residential exposure to the south and southeast of the shopping center property; however, there is no direct residential exposure from this site where the proposed ATM facility will be located.
- The conceptual plan submitted by the applicant demonstrates compliance with *Zoning Ordinance* standards for a commercial drive-through, including appropriate landscape buffering between the development of the site and the Shore Drive frontage.
- The *Zoning Ordinance* requires three stacking spaces for an automated teller machine, with the starting point for the stacking spaces at the machine itself.
    - The proposed layout of this ATM kiosk meets this requirement.

ii. Parking

- The proposed project includes the removal of 10 parking spaces to accommodate the new ATM kiosk.
    - The East Beach Marketplace shopping center provides adequate on-site parking to accommodate the addition of this ATM facility, despite the removal of these spaces.

iii. Flood Zone

The property is located in the AE (High Risk), X, and X (Shaded) Flood Zones.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that that a new drive through Automated Teller Machine in the parking lot for the adjacent shopping center will generate 139 new vehicle trips per day.
- Shore Drive 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

This site is located within the Little Creek Elementary School, Azalea Middle School, and Lake Taylor High School Attendance Zones.

G. Environmental Impacts

- The construction of a drive-up ATM facility should not adversely impact the surrounding uses.
- A sidewalk will be installed along the Shore Drive frontage to connect with the existing sidewalks on the property to the south of this site.
- As part of the site redevelopment, additional landscaping will be installed between the site and the Shore Drive frontage to screen the parking and drive-through lane.

H. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

Over the past year there have been three calls for police service to the shopping center with no arrests made.

J. Payment of Taxes

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

K. Civic League

- Notice was sent to the East Ocean View and Camellia Shores Civic Leagues on February 10.
- The applicant contacted the civic leagues on November 2, 2015.
- A letter of support was received from the East Ocean View Civic League on February 10.

L. Communication Outreach/Notification

- Legal notice was posted on the property on February 16.
- Letters were mailed to all property owners within 300 feet of the property on March 11.
- Legal notification was placed in *The Virginian-Pilot* on March 10 and March 17.

M. Recommendation

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

(a) The site shall be generally designed and landscaping shall be installed in accordance with the conceptual site plan prepared by PSSI, dated March 17, 2016, entitled, "Proposed Plan," attached hereto and marked as "Exhibit A." The sidewalk depicted in the plan shall be installed along the Shore Drive frontage beginning at the northernmost portion of the project site and extending southwardly such that it connects with the existing sidewalk on property located at 7813 Shore Drive.

(b) All landscaping installed on the site shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(c) All bollards on the site shall be painted and maintained free of visible corrosion.

(d) 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.

(e) The property shall be kept in a clean and sanitary condition at all times.

Attachments

Location Map
Zoning Map
Application
Notice to the Civic Leagues
Letter of Support from East Ocean View Civic League
Letter to the Virginia Beach Department of Planning and Community Development

Proponents and Opponents

Proponents
Nick Armstrong – Representative
1627 S. Central Drive
Glendale, CA 90631

Opponents
None

04/26/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved: CW

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF A COMMERCIAL DRIVE-THROUGH FOR "WELLS FARGO BANK ATM" ON PROPERTY LOCATED AT 4231 EAST LITTLE CREEK ROAD.

- - -

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 "Wells Fargo Bank ATM" on property located at 4231 East Little Creek Road. The property which is the subject of this Special Exception is more fully described as follows:

A portion of the property fronting 1,027 feet, more or less, along the southern line of East Little Creek Road beginning 200 feet, more or less, from the eastern line of Woodall Road and extending eastwardly; said property also fronts 1,185 feet, more or less, along the northern line of Flowerfield Road and 454 feet, more or less, along the western line of Shore Drive; said portion of property that is subject to this special exception fronts 100 feet, more or less, along the western line of Shore Drive beginning at a point 80 feet, more or less, south of the northernmost portion of the property along Shore Drive and extending southwardly; premises numbered 4231 East Little Creek Road.

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

(a) The site shall be generally designed and landscaping shall be installed in accordance with the conceptual site plan prepared by PSSI, dated March 17, 2016, entitled, "Proposed Plan," attached hereto and marked as "Exhibit A." The sidewalk depicted in the plan shall be installed along the Shore Drive frontage beginning at the

northernmost portion of the project site and extending southwardly such that it connects with the existing sidewalk on property located at 7813 Shore Drive.

(b) All landscaping installed on the site shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(c) All bollards on the site shall be painted and maintained free of visible corrosion.

(d) 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.

(e) The property shall be kept in a clean and sanitary condition at all times.

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

NOTES

1. NEW DRIVE-UP ISLAND WITH ATM
2. NEW 4" WIDE WHITE DIAGONAL PARKING STRIPING @ 36" O.C.
3. NEW WHITE DIRECTION PARKING LOT ARROWS
4. NEW 12" HIGH WHITE LETTERS
5. NEW WHITE STOP LINE
6. NEW BORING PATH OF ELECTRICAL CONDUIT
7. NEW 5 FT. WIDE PUBLIC SIDEWALK

LANDSCAPE NOTES

1. NEW "FROST PROOF GARDENIA" SHRUBS

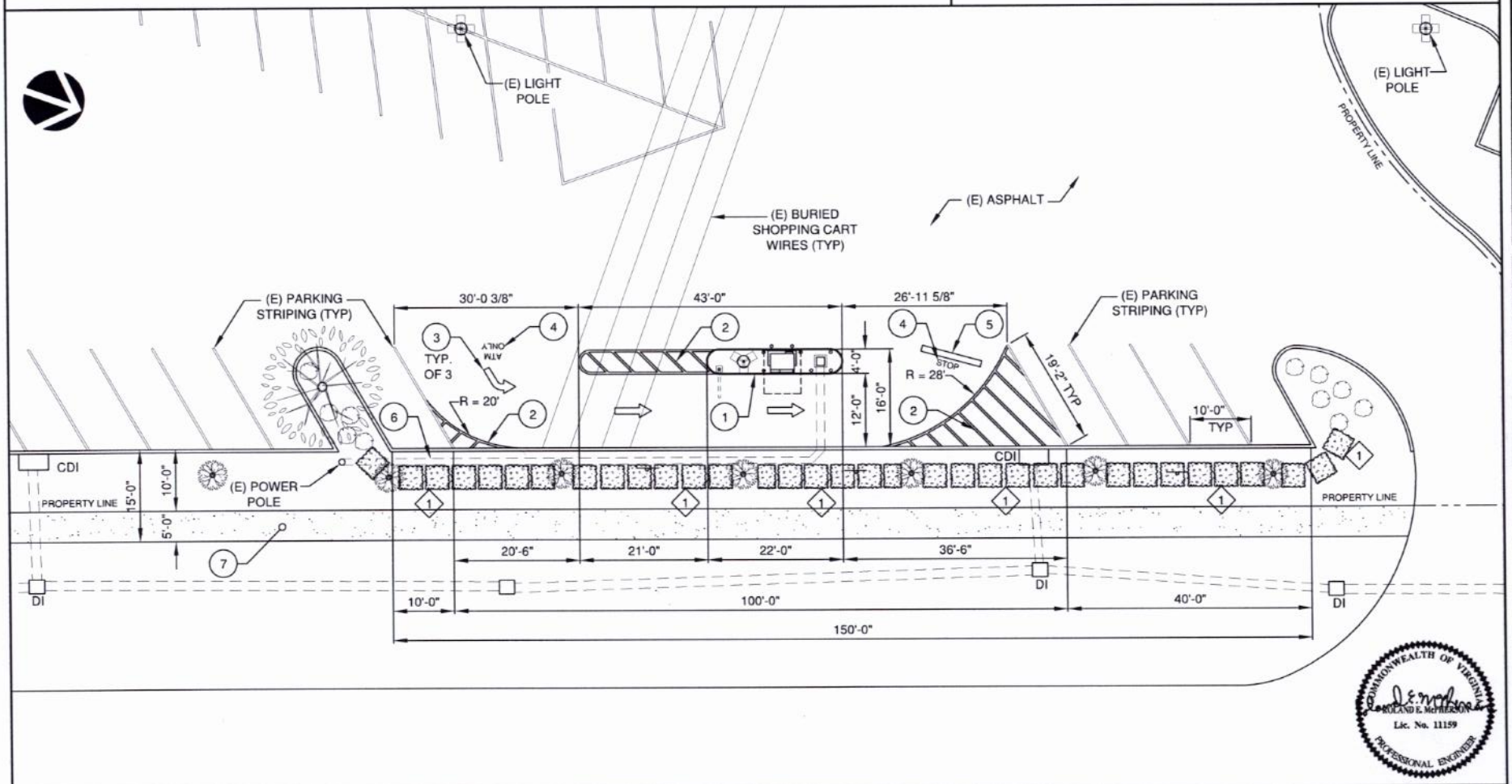
LATIN NAME: GARDENIA JASMINOIDES "FROSTPROOF"

WATERING NEEDS: NEEDS REGULAR WATERING - WEEKLY

MATURE HEIGHT: 5 FT.
MATURE WIDTH: 4 FT.

PLANTING NOTE:

1. SHRUBS SHALL BE INSTALLED AT 18" IN HEIGHT AND SHOULD REACH 3 FEET IN HEIGHT IN 3 YEARS.
2. PLANTS SHALL BE SPACED THAT WHEN MATURE, THEY ARE A CONTINUOUS BUFFER.
3. SHRUBS SHALL CONNECT TO EXISTING SHRUBS IN PARKING LOT PENINSULAS.
4. SHRUBS WILL BE MAINTAIN / TRIMMED TO 3 FT IN HEIGHT, AS PER ATM SECURITY REQUIREMENTS.



PROPOSED PLAN

SCALE: 1/16" = 1'-0" (1)

COMMONWEALTH OF VIRGINIA
ROLAND E. McPHERSON
Lic. No. 11159
PROFESSIONAL ENGINEER

McPHERSON DESIGN GROUP p.c.
STRUCTURAL ENGINEERS
6271 Center Drive, Suite 100
Norfolk, Virginia 23502-4132
Phone (757) 965-2000
Facsimile (757) 965-2001
www.McPhersonDesignGroup.com

WELLS FARGO

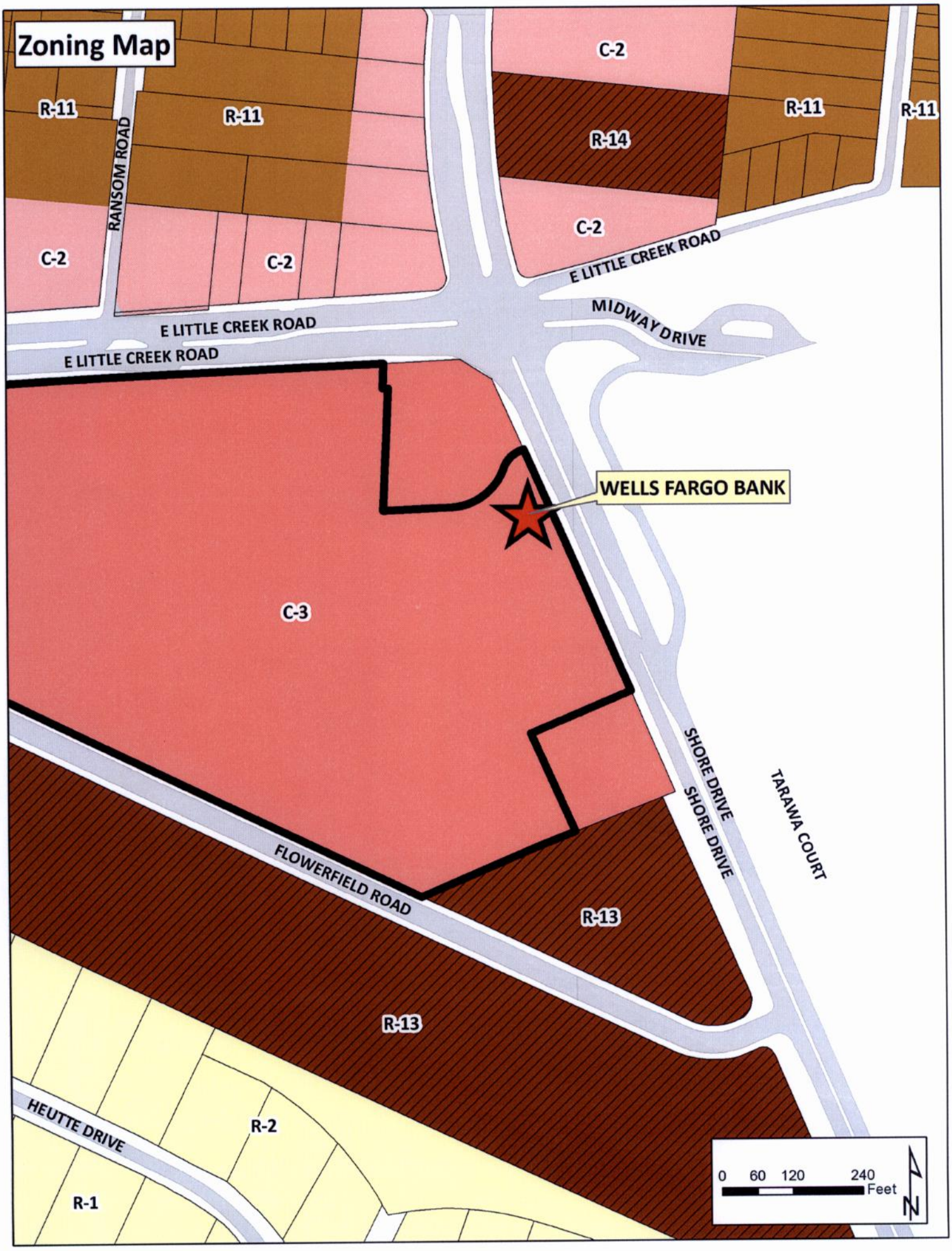
PSSI
A Sterling Bank Services Company
1627 South Central Avenue
Glendale, CA 91204

REVISIONS	
A	REC & PARK 02/18/16
B	PLAN COMSN 03/24/16
C	
D	

WELLS FARGO BANK
EAST BEACH MARKETPLACE ATM
4253 E LITTLE CREEK ROAD
NORFOLK, VA 23518

DRAWN BY:	A. PRICE
CHECKED:	
DATE:	03/17/2016
SCALE:	AS NOTED
TITLE:	PROPOSED PLAN
SHEET	A3

Location Map
E LITTLE CREEK ROAD
E LITTLE CREEK ROAD
E LITTLE CREEK ROAD
MIDWAY DRIVE
WELLS FARGO BANK
SHORE DRIVE
SHORE DRIVE
TARAWA CT
0 40 80 160
Feet
N


Zoning Map
R-11
R-11
RANSOM ROAD
C-2
C-2
C-2
R-14
C-2
R-11
R-11
E LITTLE CREEK ROAD
MIDWAY DRIVE
E LITTLE CREEK ROAD
E LITTLE CREEK ROAD
WELLS FARGO BANK
C-3
SHORE DRIVE
SHORE DRIVE
TARAWA COURT
FLOWERFIELD ROAD
R-13
R-13
HEUTTE DRIVE
R-2
R-1
0 60 120 240
Feet
N

APPLICATION
SPECIAL EXCEPTION

Special Exception for: EAST BEACH MARKETPLACE WELLS FARGO ATM

Date of application: 1-26-16

DESCRIPTION OF PROPERTY

Property location: (Street Number) 4231 E (Street Name) LITTLE CREEK ROAD

Existing Use of Property COMMERCIAL RETAIL

Current Building Square Footage 163,275

Proposed Use

DRIVE UP ATM IN PARKING LOT

Proposed Square Footage 88

Proposed Hours of Operation:

Weekday	From	12:00 AM	To	11:59 PM
Friday	From	12:00 AM	To	11:59 PM
Saturday	From	12:00 AM	To	11:59 PM
Sunday	From	12:00 AM	To	11:59 PM

Trade Name of Business (If applicable) WELLS FARGO BANK ATM

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) LOPEZ (First) ROBERT (MI)

Mailing address of applicant (Street/P.O. Box): 1627 S CENTRAL AVENUE

(City) GLENDALE (State) CALIFORNIA (Zip Code) 91204

Daytime telephone number of applicant (818) 242-0400 Fax (866) 760-8746

E-mail address of applicant: robert.lopez@sterlingbankservices.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)

LITTLE CREEK INVESTMENT CORP.

3. Name of property owner: (Last) MAHONEY (First) REG (MI)

Mailing address of property owner (Street/P.O. box): 2529 VIRGINIA BEACH BLVD

(City) VIRGINIA BEACH (State) VIRGINIA (Zip Code) 23452

Daytime telephone number of owner (757) 627-9088 email: BLAKE@WHLR.US

CIVIC LEAGUE INFORMATION

Civic League contact: Camellia Gardens - Heather Trollinger (hjtrollinger@hotmail.cm) & Camellia Shores - Mary Hass (marydwh@msn.com)

Date(s) contacted: 02 NOV 2015

Ward/Super Ward information: Ward 5 - Tommy R Smigiel Jr. / Superward 6 - Barclay C Winn

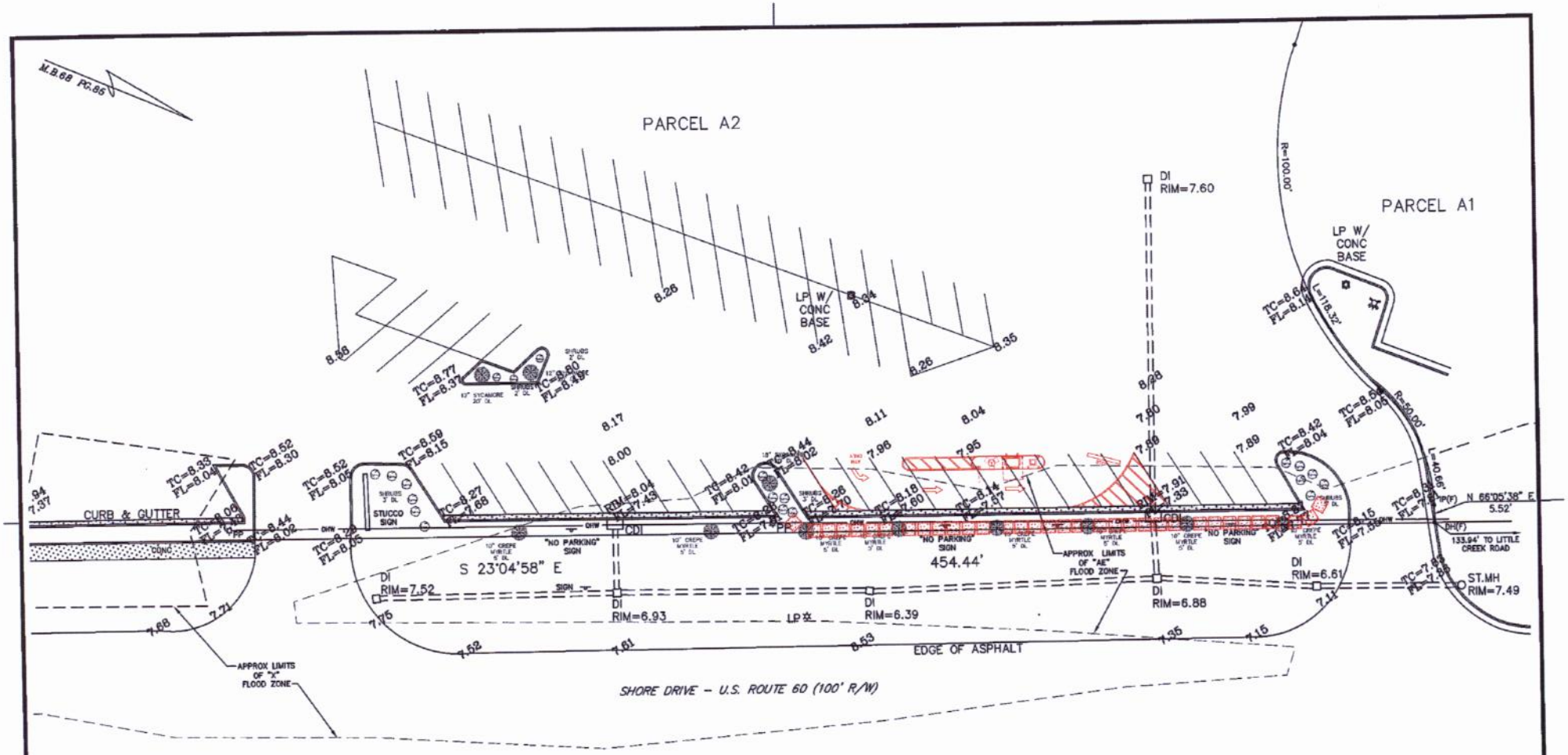
CERTIFICATION:
I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: DENBEIGH MARCHANT **Sign:** _____ 1/20/2016
(Property Owner or Authorized Agent of Signature) (Date)
AS AGENT FOR LITTLE CREEK INVESTMENT CORP.

Print name: Robert Lopez **Sign:** _____ 01/22/2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ **Sign:** _____ / _____ / _____
(Authorized Agent Signature) (Date)



EXISTING CONDITIONS
OF
PROJECT AREA
PARCEL A2
SUBDIVISION OF PARCEL A
LITTLE CREEK EAST SHOPPING CENTER
NORFOLK, VIRGINIA

COMMONWEALTH OF VIRGINIA
WARD M. HOLMES
LIC. No.1403
12-9-15
LAND SURVEYOR

GRAPHIC SCALE

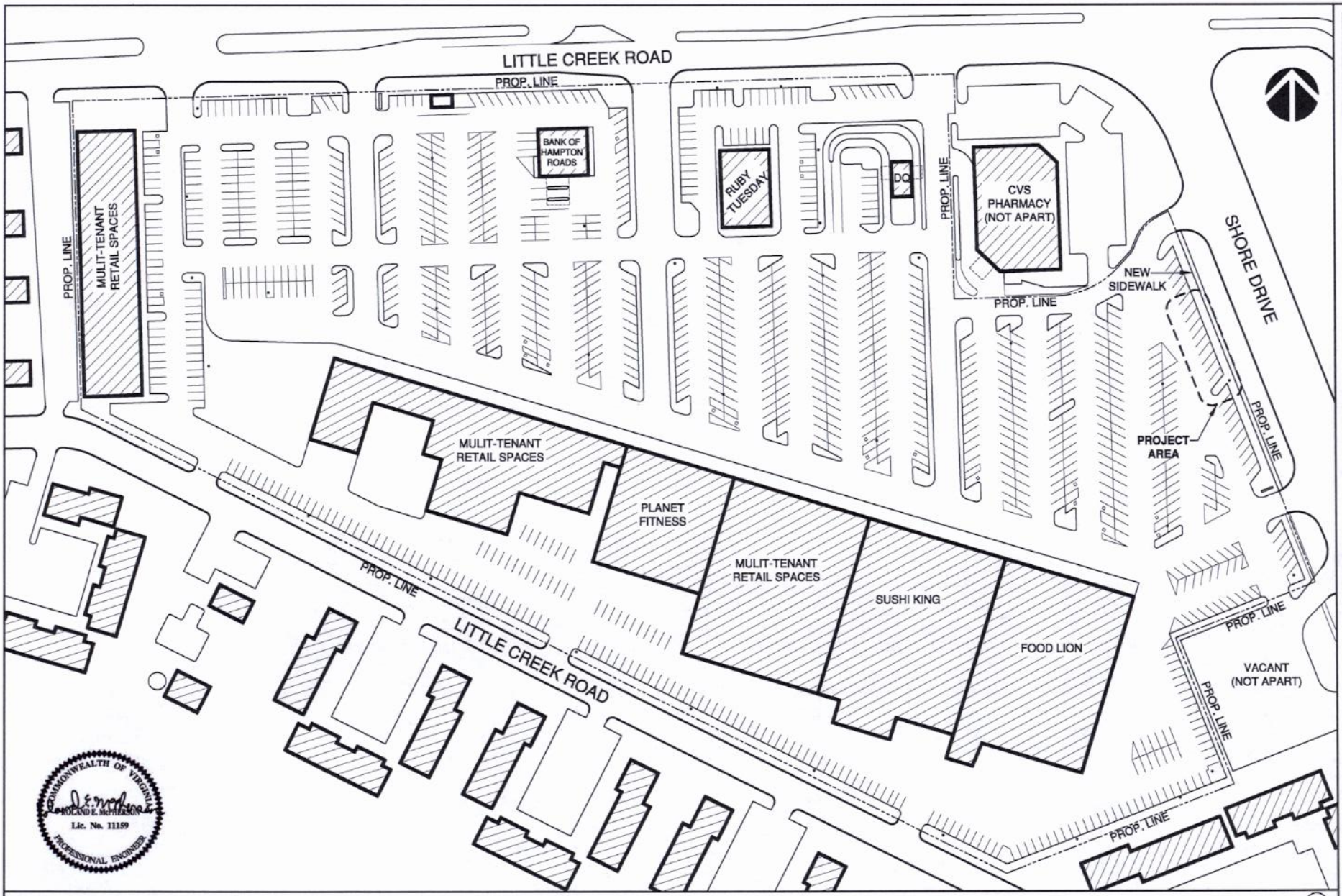
30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

WARD M. HOLMES
LAND SURVEYOR, P.C.
9225 GRANBY STREET
NORFOLK, VIRGINIA 23503
757-480-1230

DATE: DEC. 9, 2015	
SCALE: 1" = 30'	
DRAWN BY: WTL	CHECKED BY: DHH
JOB NO. 15-1075	SHEET 1 OF 1

959/39



SITE PLAN

SCALE: 1" = 100'-0" (1)

McPHERSON DESIGN GROUP p.c.
STRUCTURAL ENGINEERS
6521 Center Drive, Suite 130
Norfolk, Virginia 23502-4102
Phone: (757) 965-5000
Facsimile: (757) 965-5001
www.McPhersonDesignGroup.com

WELLS FARGO

PSSI
A Staffing Bank Services Company
1627 South Central Avenue
Glendale, CA 91204

REVISIONS	
A	REC & PARK 02/18/16
B	PLAN COMSN 03/24/16
C	
D	

WELLS FARGO BANK
EAST BEACH MARKETPLACE ATM
4253 E LITTLE CREEK ROAD
NORFOLK, VA 23518

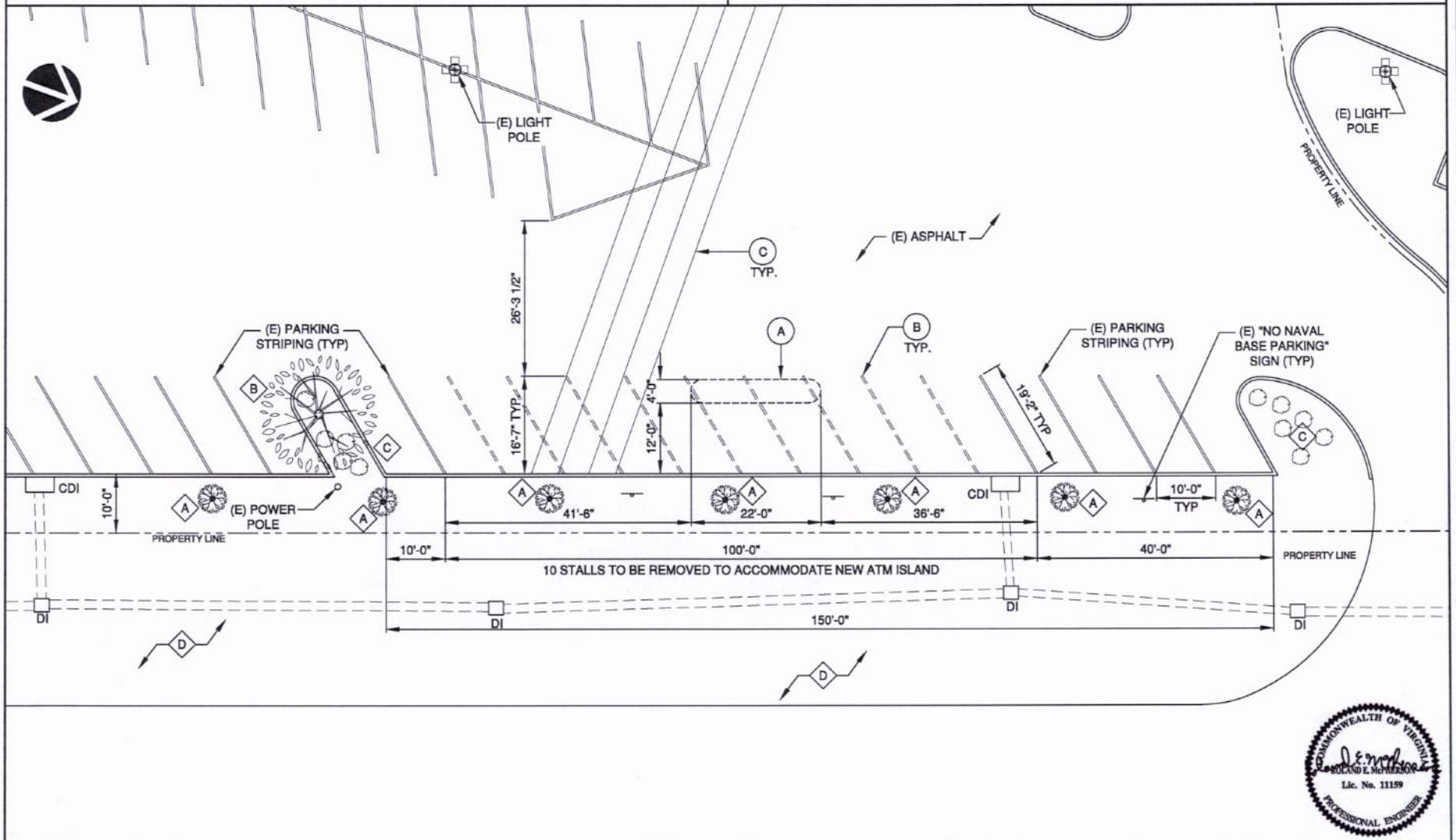
DRAWN BY:	A. PRICE
CHECKED:	
DATE:	03/17/2016
SCALE:	AS NOTED
TITLE:	SITE PLAN
SHEET:	A1

NOTES

- (A) SAWCUT ASPHALT FOR CONCRETE ISLAND FOOTING
- (B) REMOVE EXISTING PARKING STRIPING
- (C) EXISTING BURIED SHOPPING CART WIRES TO REMAIN

LANDSCAPE NOTES

- (A) 10" CREPE MYRTLE 5' DL
- (B) 18" SYCAMORE 20' DL
- (C) SHRUBS 3' DL
- (D) GRASS



COMMONWEALTH OF VIRGINIA
ROLAND E. McPHERSON
Lic. No. 11159
PROFESSIONAL ENGINEER

DEMOLITION PLAN

SCALE: 1/16" = 1'-0" (1)

McPHERSON DESIGN GROUP p.c.
STRUCTURAL ENGINEERS
6371 Center Drive, Suite 100
Norfolk, Virginia 23502-4102
Phone (757) 966-2000
Facsimile (757) 966-2001
www.McPhersonDesignGroup.com

WELLS FARGO

PSSI
A Sterling Bank Services Company
1927 South Central Avenue
Glendale, CA 91204

REVISIONS	
A	REC & PARK 02/18/18
B	PLAN COMSN 03/24/18
C	
D	

WELLS FARGO BANK
EAST BEACH MARKETPLACE ATM
4253 E LITTLE CREEK ROAD
NORFOLK, VA 23518

DRAWN BY	A. PRICE
CHECKED	
DATE	03/17/2018
SCALE	AS NOTED
TITLE	DEMOLITION PLAN
SHEET	A2

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, February 10, 2016 11:25 AM
To: 'greenie4720@yahoo.com'; 'marydwh@msn.com'
Cc: Smigiel, Thomas; Winn, Barclay; Herbst, James; Whitney, Chris
Subject: new Planning Commission application - 4231 E Little Creek Road
Attachments: Wells Fargo ATM.pdf

Mr. Greene and Ms. Haas,

Attached please find the application for a special exception to operate a commercial drive-through at 4231 East Little Creek Road.

The item is tentatively scheduled for the March 24, 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

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Whitney, Chris

From: John Greene <greenie4720@yahoo.com>
Sent: Wednesday, February 10, 2016 11:47 AM
To: Straley, Matthew; marydwh@msn.com
Cc: Smigiel, Thomas; Winn, Barclay; Herbst, James; Whitney, Chris; Ann Bolen
Subject: Re: new Planning Commission application - 4231 E Little Creek Road

Though technically not in the EOV Civic League area, per se, I have no objections to this and welcome the addition of another bank to our nearby area. On a personal note, I've been a Wells Fargo customer for decades, literally, and this will be far more convenient for me and other customers than driving the additional 2 miles down E. Little Creek. John Greene, President, East Ocean View Civic League

On Wednesday, February 10, 2016 11:25 AM, "Straley, Matthew" <Matthew.Straley@norfolk.gov> wrote:

Mr. Greene and Ms. Haas,

Attached please find the application for a special exception to operate a commercial drive-through at 4231 East Little Creek Road.

The item is tentatively scheduled for the March 24, 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

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

THE CITY OF NORFOLK

March 7, 2016

City of Virginia Beach
Department of Planning and Community Development
Barry Frankenfield
2405 Courthouse Drive, Building 2, Room 115
Virginia Beach, VA 23456

Dear Mr. Frankenfield,

The Norfolk Department of City Planning has recently received an application by **WELLS FARGO BANK** to operate a commercial drive-through facility on property located at 4231 E. Little Creek Road, and located within one-half mile of the western corporate boundary of the City of Virginia Beach.

This item is tentatively scheduled for the Norfolk City Planning Commission public hearing to be held on March 24, 2016 at 2:30 p.m. in the City Council Chambers, 11th Floor, City Hall Building, Civic Center, Norfolk, Virginia.

If you would like additional information on the request, you may contact the applicant, Robert Lopez at (818) 242-0400, robert.lopez@sterlingbankservices.com, or you may telephone Chris Whitney on my staff at (757) 823-1253, chris.whitney@norfolk.gov. A copy of the complete application is enclosed.

This notice is being sent in accordance with the advertising requirements of the Code of Virginia, section 15.2-2204(c); pertaining to certain land use applications involving any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth. Because this notice is within the 10-day period before the scheduled date indicated above, you are asked to acknowledge your acceptance and receipt of this actual notice, in accordance with Virginia Code section 15.2-2204(c), either by signing a copy of this letter or by separate correspondence sent to this office.

Sincerely,

George Homewood, AICP, CFM
Department of City Planning
Director

cc: Chris Whitney, CFM (email)

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception for the Sale of Alcoholic Beverages for Off-Premises Consumption at 1301 East Little Creek Road, Suites 4 and 5 – Mi Calavera Latin Store**

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

Ward/Superward: 5/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-6

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

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

III. **Request:** Special Exception for the Sale of Alcoholic Beverages for Off-Premises Consumption

IV. **Applicant:** **Mi Calavera Latin Store**

V. **Description:**
The applicant proposes to allow the existing store to continue offering alcoholic beverages for off-premises consumption with a new business owner.

	Previous (Pueblo Amigo)	Proposed (Mi Calavera)
Hours for the Sale of Alcoholic Beverages for Off-Premises Consumption	12:00 noon until 9:00 p.m., Monday through Saturday 12:00 noon until 8:30 p.m., Sunday	8:00 a.m. until 9:00 p.m. Seven days a week

VI. **Historic Resources Impacts**
The building is not located within a federal, state, or local historic district.

VII. **Public Schools Impacts**
The site is located in the Larrymore Elementary School, the Azalea Middle School and Lake Taylor High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:
- Staff Report to CPC dated April 28, 2016 with attachments
- Letter of no opposition from the South Bayview Civic League
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	Item No. 11	
Address	**1301 East Little Creek Road, Suites 4 and 5**	
Applicant	**Mi Calavera Latin Store**	
Request	**Special Exception**	**Sale of Alcoholic Beverages for Off-Premises Consumption**
Property Owner	Mandy's, Inc.	
Site Characteristics	Building Area/Space	9,280 sq. ft./1,372 sq. ft.
	Future Land Use Map	Commercial
	Zoning	C-2 (Corridor Commercial)
	Neighborhood	Larrymore Lawns
	Character District	Suburban
Surrounding Area	North	C-2: Talento Latino barber shop, Greater Grace Ministries, Bap Geon Import Auto Parts
	East	C-2: NAPA Auto Parts
	South	C-2: New York Hair Salon, Servicios Latinos
	West	C-2: SunTrust Bank

A. Summary of Request

- The site is located within a strip shopping center, on the south side of East Little Creek Road just east of North Military Highway.
- The applicant proposes to allow the existing store to continue offering alcoholic beverages for off-premises consumption with a new business owner.

B. Plan Consistency

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

C. Zoning Analysis

i. General

- The site is located in the C-2 district, which permits the proposed use by special exception.

	Previous (Pueblo Amigo)	Proposed (Mi Calavera)
Hours for the Sale of Alcoholic Beverages for Off-Premises Consumption	12:00 noon until 9:00 p.m., Monday through Saturday 12:00 noon until 8:30 p.m., Sunday	8:00 a.m. until 9:00 p.m. Seven days a week

ii. Parking

- The site is located within the Suburban Character District.
- The proposed change of business ownership at an existing establishment does not require additional parking.
- The proposed establishment is not proposing an increase in occupancy or building floor area and no additional parking impacts are anticipated.

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 in operator at this existing retail establishment.
- Little Creek Road 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 building is not located within a federal, state, or local historic district.

F. Public Schools Impacts

The site is located in the Larrymore Elementary School, the Azalea Middle School and Lake Taylor High School Attendance Zones.

G. Environmental Impacts

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

H. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

By requiring this use to conform to the conditions listed below, the change of business ownership should not have a negative effect on the surrounding area.

J. Payment of Taxes

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

K. Civic League

- Notice was sent to the Larrymore Lawns and South Bayview Civic Leagues on March 16.
- A letter of no opposition was received from the South Bayview Civic League on April 4.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. Recommendation

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

(a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 8:00 a.m. until 9:00 p.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 six (6) bottles or cans, with the exception of those bottled beers which are exclusively produced in bottles greater than 12 ounces but less than 40 ounces in size. 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) 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, snow, ice, and any bodily discharge.

(k) 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 Larrymore Lawns and South Bayview Civic Leagues
Letter of no opposition from the South Bayview Civic League

Proponents and Opponents

Proponents
None

Opponents
None

04/22/16 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 AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT AN ESTABLISHMENT KNOWN AS "MI CALAVERA LATIN STORE" ON PROPERTY LOCATED AT 1301 EAST LITTLE CREEK ROAD, SUITES 4 AND 5.

- - -

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

Section 1:- That a Special Exception is hereby granted to Mi Calavera Latin Store Incorporated authorizing the sale of beer and wine for off-premises consumption at an establishment known as "Mi Calavera Latin Store" on property located at 1301 East Little Creek Road, Suites 4 and 5. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronts 102 feet, more or less, along the southern line of East Little Creek Road beginning 410 feet, more or less, from the eastern line of North Military Highway and extending eastwardly; property also fronts 100 feet, more or less, along the northern line of Higby Street beginning 197 feet, more or less, from the eastern line of North Military Highway and extending eastwardly; premises numbered 1301 East Little Creek Road, suites 4 and 5.

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 8:00 a.m. until 9:00 p.m., seven days per 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) All beer sold for off premises consumption shall be in a package containing a minimum of 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 40 ounces in size. All wine shall be sold in containers with a minimum of 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) 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.

(k) 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 the Special Exception granted hereby amends the previously granted special exception permitting the sale of alcoholic beverages for off-premises consumption, adopted on September 27, 2011 (Ordinance No. 44,392). 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.

ATTACHMENT:
Exhibit A (3 pages)

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

Date of Application: 3/8/2016
Name of business: Mi Calavera Latin Store Suites 4+5
Address of business: 1301 East Little Creek Rd Norfolk, VA 23518
Name(s) of business owner(s)*: Mi Calavera Latin Store Incorporated
Name(s) of property owner(s)*: Mandy's Inc. - Gideon RIESS (Rosalva Ortega)
Name(s) of business manager(s)/operator(s): Rodrigo Noel Gonzalez Zuniga
Daytime telephone number (757): 776-1222 Rosalva ortega Gabriela Ortega.

*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 8a.m.	To 9p.m.	Weekday	From 8a.m.	To 9p.m.
Friday	From 8a.m.	To 9p.m.	Friday	From 8a.m.	To 9p.m.
Saturday	From 8a.m.	To 9p.m.	Saturday	From 8a.m.	To 9p.m.
Sunday	From 8a.m	To 9p.m.	Sunday	From 8a.m.	To 9p.m.

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

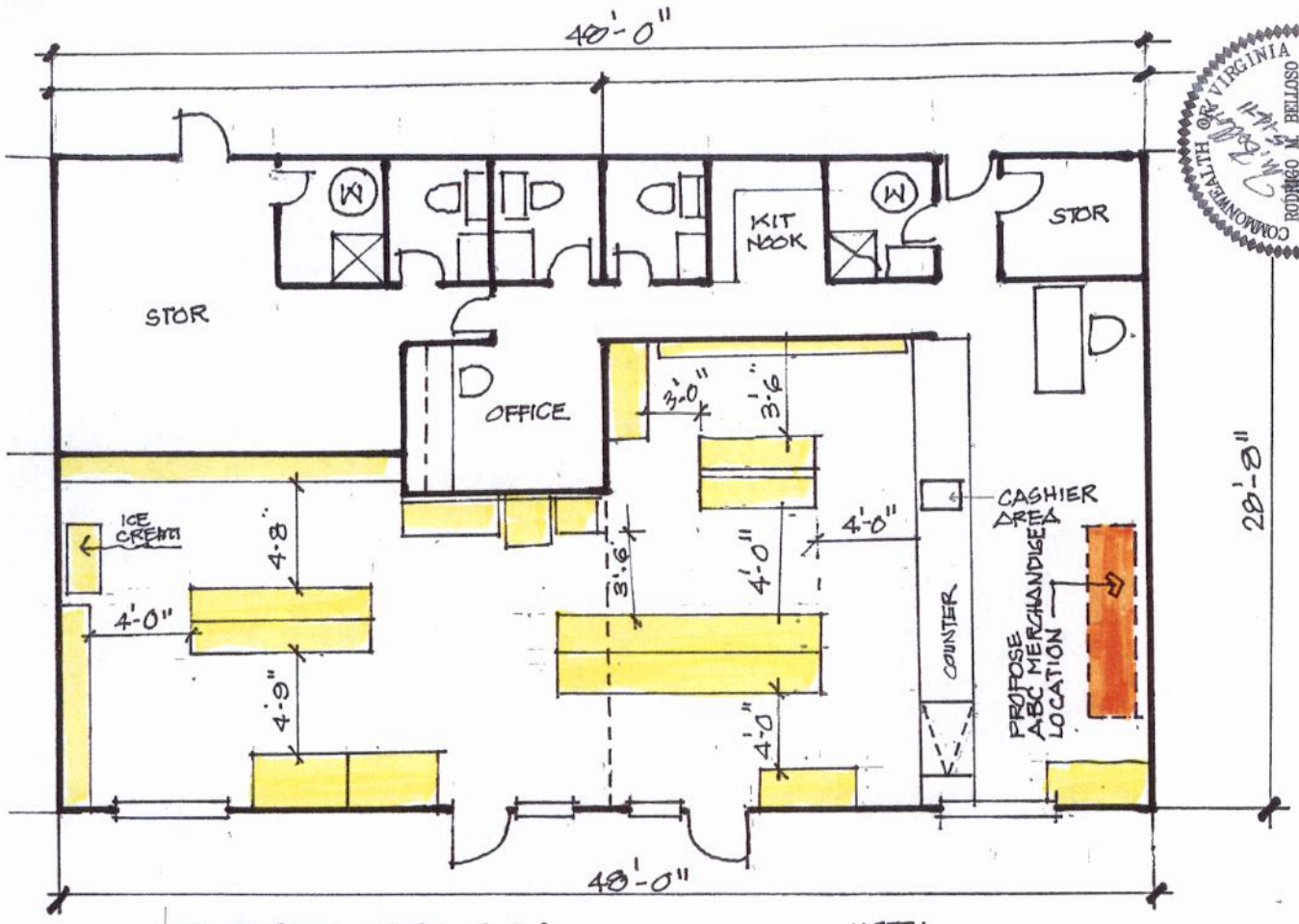
3. Alcoholic beverages to be sold:
☑ Room temperature ☑ Refrigerated

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:

yes, except only for specialty imports in quantities produced greater than 12oz, but less than 40oz

Rosalva ortega
Signature of applicant/owner



FLOOR PLAN EXISTING

3/16" = 1'-0"

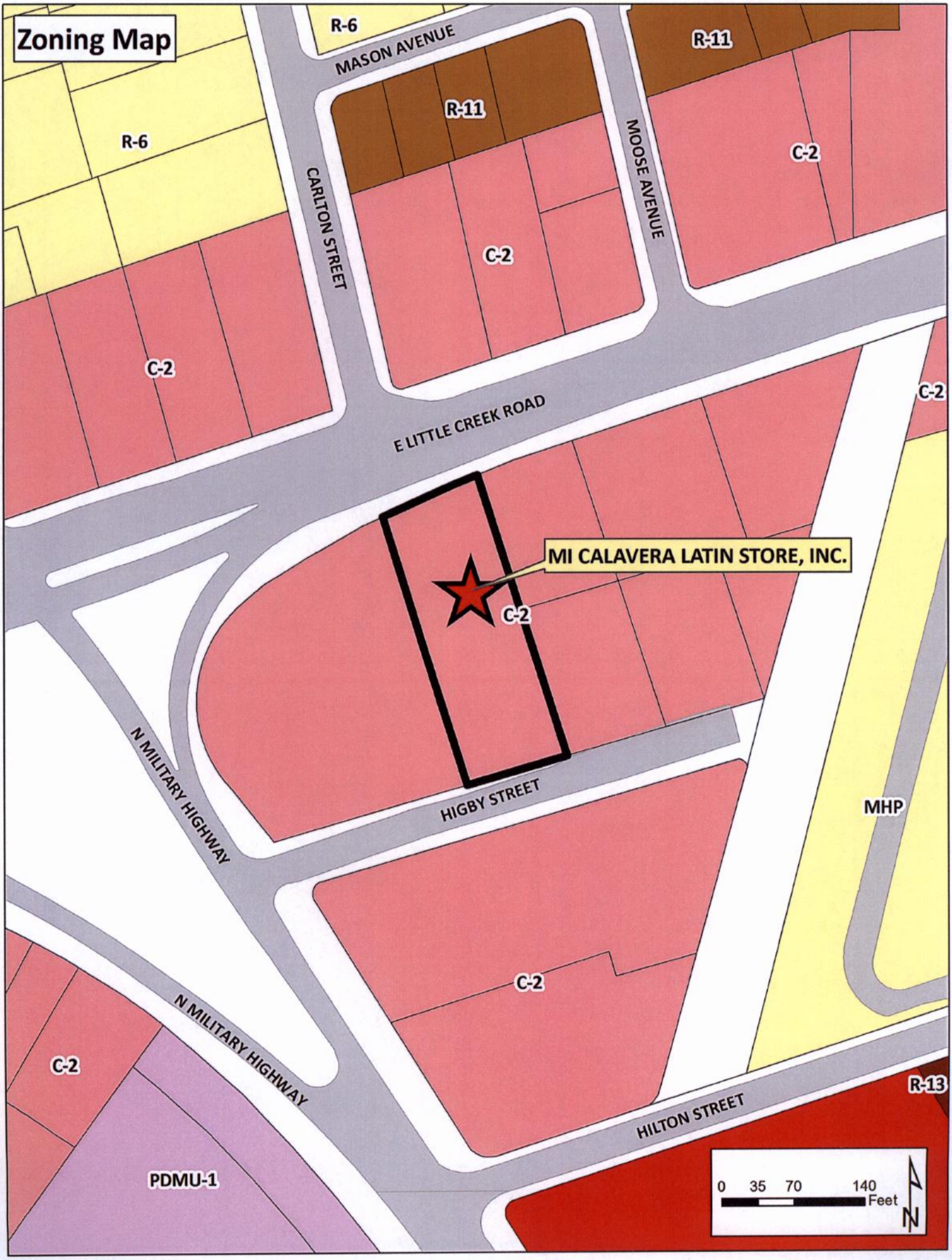
NOTE:
SHADED IN YELLOW DENOTES EXISTING MERCHANDISE UNITS

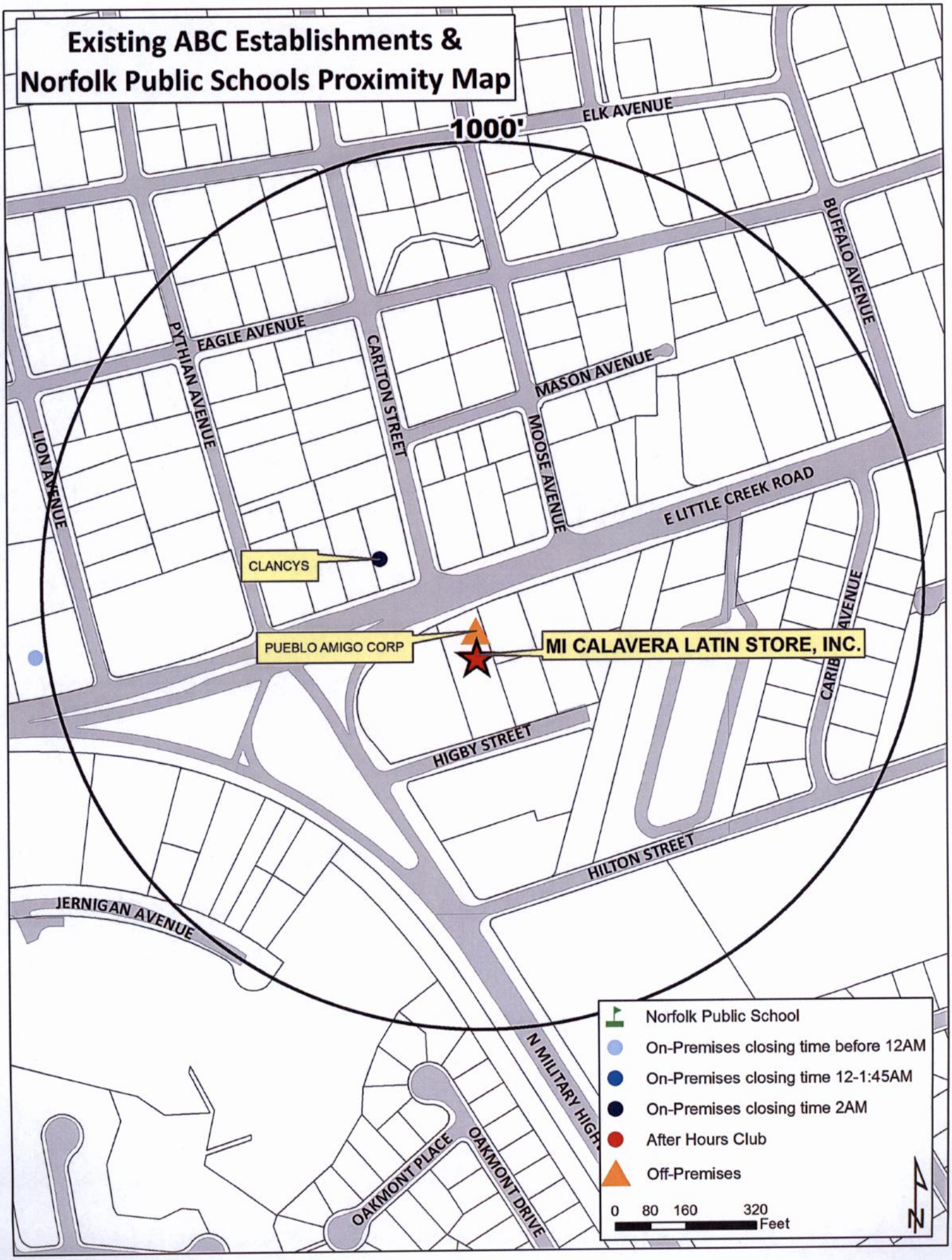
COMMONWEALTH OF VIRGINIA
RODRIGO M. BELLOSO
NO. 002966
ARCHITECT

TEL. 757-289-8985	DATE: 5-14-11
RODRIGO M. BELLOSO ASSOC.	SHEET: 1
244 MUSTANG TRAIL	
VIRGINIA BEACH, VA. 23452	OF 1

OWNER
PUEBLO AMIGO CORP.
1301 EAST LITTLE CREEK RD
SUITE NO. 4&5 NORFOLK, VIRGINIA

Location Map
CARLTON STREET
E LITTLE CREEK ROAD
MI CALAVERA LATIN STORE, INC.
HIGBY STREET
0 15 30 60
Feet
N


Zoning Map
R-6
MASON AVENUE
R-11
R-11
R-6
CARLTON STREET
MOOSE AVENUE
C-2
C-2
C-2
C-2
E LITTLE CREEK ROAD
MI CALAVERA LATIN STORE, INC.
C-2
N MILITARY HIGHWAY
HIGBY STREET
MHP
C-2
N MILITARY HIGHWAY
C-2
R-13
HILTON STREET
PDMU-1
0 35 70 140 Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
ELK AVENUE
BUFFALO AVENUE
EAGLE AVENUE
PYTHIAN AVENUE
CARLTON STREET
MASON AVENUE
MOOSE AVENUE
LION AVENUE
E LITTLE CREEK ROAD
CLANCYS
PUEBLO AMIGO CORP
MI CALAVERA LATIN STORE, INC.
HIGBY STREET
HILTON STREET
JERNIGAN AVENUE
N MILITARY HIGH
OAKMONT PLACE
OAKMONT DRIVE
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
ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION

Date of Application: 3-8-2016

DESCRIPTION OF PROPERTY

Property location: (Street Number) 1301 (Street Name) E. little Creek suite 4-5

Existing Use of Property Specialty Store

Current Building Square Footage 1,372 ☐ of 9,280 retail strip

Proposed Use Specialty Store

Proposed Building Square Footage same

Trade Name of Business (If applicable) Mi Calavera latin Store Incorporated

APPLICANT

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

1. Name of applicant: (Last) Ortega (First) Rosalva (MI) ____

Mailing address of applicant (Street/P.O. Box): 1806 Dahlia St

(City) Chesapeake (State) VA (Zip Code) 23324

Daytime telephone number of applicant (757) 776-1222 Fax ( ) ____

E-mail address of applicant: tinkbel430@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) Cortes (First) Yahadira (MI) P.

Mailing address of applicant (Street/P.O. Box): 1613 Grebe Court

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

Daytime telephone number of applicant (757) 386-3083 Fax ( )

E-mail address of applicant: tinkbel430@gmail.com

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

Mandy's Inc.

3. Name of property owner: (Last) Riess (First) Gideon (MI)

Mailing address of property owner (Street/P.O. box): 2504 Nestlebrook Trail

(City) Virginia Beach (State) VA (Zip Code) 23456

Daytime telephone number of owner (757) 761-5540 email:

CIVIC LEAGUE INFORMATION

Civic League contact: Larrymore Lawns

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: GIDEON RIESS (Property Owner) **Sign:** _____ 3.8.2016 (Date)

Print name: Rosalva Ortega (Applicant) **Sign:** Rosalva ortega 03/08/2016 (Date)

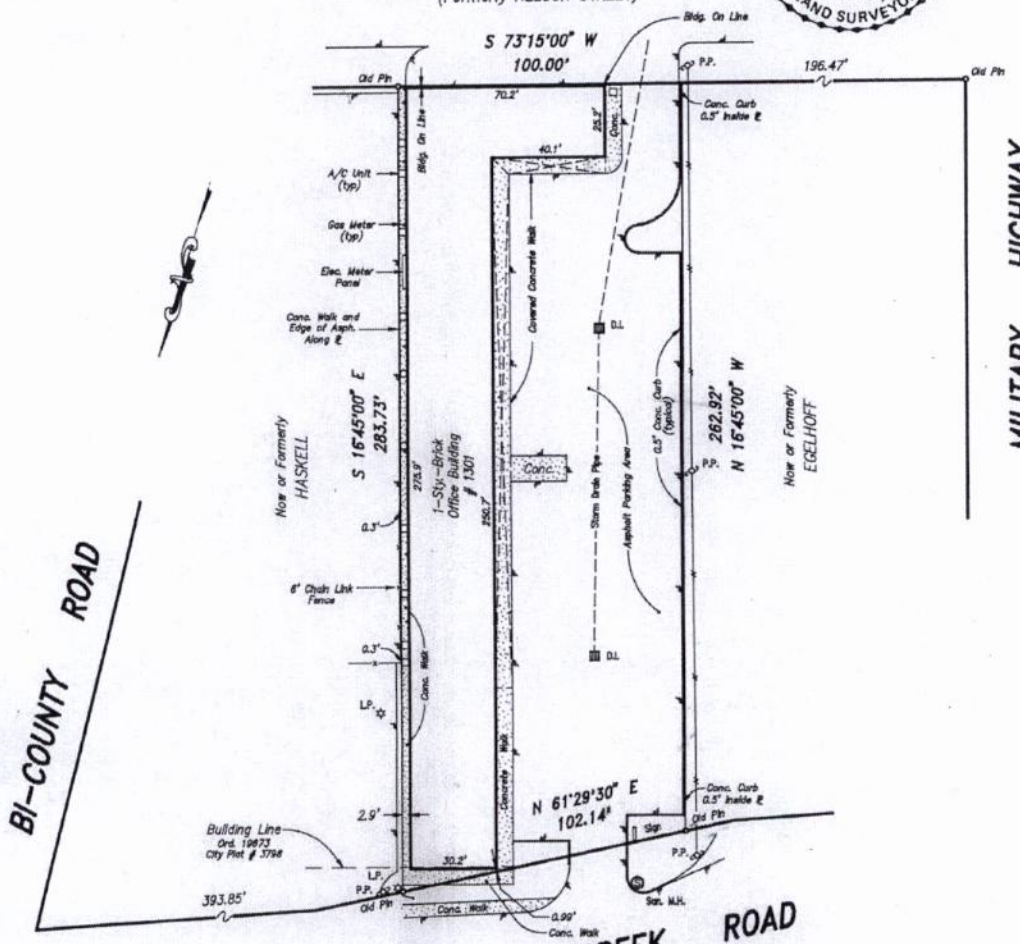
ONLY NEEDED IF APPLICABLE:

Print name: Yahadira P. Cortes (Authorized Agent Signature) **Sign:** yahadira C 03/08/2016 (Date)

THIS IS TO CERTIFY THAT I ON JULY 12, 1994 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 OTHER BUILDINGS ON THE PROPERTY EXCEPT AS SHOWN.

SIGNED:

COMMONWEALTH OF VIRGINIA
ARTHUR L. ROOD
No. 1543
7/12/94
LAND SURVEYOR



Physical Survey
of
0.63 Acs. Parcel
As Shown on Plat Entitled
Plat of Part of Property of M.W. TALBOT
South Side of Little Creek Road
Norfolk, Virginia
for
GIDEON RIESS

Note:
This survey does not guarantee the existance or location of underground utilities. The underground utilities shown hereon were established using above ground structures (valves, meters, manholes, etc...) and available utility maps.

NOTES:
1) 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.
2) FLOOD ZONE INFORMATION SHOWN HEREON IS SCALED FROM F.I.R.M. (F.I.R.M. MAPS ARE AT APPROX. SCALE) AND DOES NOT IMPLY THAT THE PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING. FOR FURTHER INFORMATION, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
LEE S. ROOD, P.C. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON.
3) ELEVATIONS SHOWN HEREON REFER TO N.G.V.D. OF 1929.

LEE S. ROOD, P.C.
Land Surveyors
5737 BARTEE STREET
NORFOLK, VIRGINIA 23502
Ph. (804) 466-1111

NOTE: THIS PROPERTY APPEARS TO FALL IN
FLOOD ZONE (S) "C"
COMMUNITY NO. 510104
PANEL NO. 06 D DATED: 4/17/84
BASE FLOOD ELEVATION = ---
GARAGE FLOOR ELEVATION = ---
FLOOR ELEV. @ FRONT ENTR. = ---

SCALE: 1"=40' | DATE: 7/12/94 | REFERENCE: M.B. 30, Pg. 1 | F.B. 614 Pg. 68-69

42,518-94 S-3825

Simons, Matthew

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 1:54 PM
To: 'tasoschrist@yahoo.com'; 'garland.russell@verizon.net'; 'paul_harrison@verizon.net'
Cc: Smigiel, Thomas; Winn, Barclay; Herbst, James; Simons, Matthew
Subject: new Planning Commission application
Attachments: MiCalavera.pdf

Mr. Christ and Ms. Russell,

Attached please find the following application for a special exception to operate an establishment for the sale of alcoholic beverages for off-premises consumption at 1301 E. Little Creek, suites 4 & 5.

The purpose of the request is to allow for a change of owner/operator of the existing retail store which currently sells alcoholic beverages for off-premises consumption.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

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

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception for an Entertainment Establishment at 1570 North Military Highway – Holiday Inn**

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

Ward/Superward: 4/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-7

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

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

III. **Request:** Special Exception for an Entertainment Establishment

IV. **Applicant:** **Holiday Inn**

V. **Description:**
The applicant proposes to allow the existing Holiday Inn to continue offering entertainment and alcohol options to its guests with a new business owner.

	Previous (HNVA Associates, LLC)	Proposed (ORF Hotel, LLC)
Hours for the sale of alcoholic beverages for the restaurant and meeting space	11:00 a.m. until 2:00 a.m. Seven days a week	Same
Seating Capacity (restaurant)	116 seats indoors 16 seats outdoors 144 total capacity	119 seats indoors 16 seats outdoors 144 total capacity
Seating Capacity (meeting space)	290 seats indoors 0 seats outdoors 310 total capacity	390 seats indoors 0 seats outdoors 430 total capacity
Entertainment Options	• Six-member live band • Disc jockey	Same

VI. **Historic Resources Impacts**

The building is not located within a federal, state, or local historic district.

VII. **Public Schools Impacts**

The site is located in the Fairlawn Elementary School, the Lake Taylor Middle School and Lake Taylor High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	Item No. 17	
Address	**1570 North Military Highway**	
Applicant	**Holiday Inn**	
Request	**Special Exception**	**Entertainment Establishment**
Property Owner	ORF Hotel, LLC	
Site Characteristics	Site/Building Area	4 acres/98,603 sq. ft. (147 lodging units)
	Future Land Use Map	Commercial
	Zoning	0-1 (Office)
	Neighborhood	Foxhall
	Character District	Suburban
Surrounding Area	North	O-1: Hotel; Residence Inn
	East	O-1: Offices; CMA CGM America
	South	O-1: Hotel; Hilton
	West	R-6 (Single-Family): Single-family homes

A. Summary of Request

- The site is located within the Lake Wright Executive Center office park, on the southeast corner of N. Military Highway and Lake Wright Drive.
- The applicant proposes to allow the existing Holiday Inn to continue offering entertainment and alcohol options to its guests with a new business owner.

B. Plan Consistency

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

C. Zoning Analysis

i. General

- The site is located in the O-1 district, which permits the proposed use by special exception.

	Previous (HNVA Associates, LLC)	Proposed (ORF Hotel, LLC)
Hours for the sale of alcoholic beverages for the restaurant and meeting space	11:00 a.m. until 2:00 a.m. Seven days a week	Same
Seating Capacity (restaurant)	116 seats indoors 16 seats outdoors 144 total capacity	119 seats indoors 16 seats outdoors 144 total capacity
Seating Capacity (meeting space)	290 seats indoors 0 seats outdoors 310 total capacity	390 seats indoors 0 seats outdoors 430 total capacity
Entertainment Options	• Six-member live band • Disc jockey	Same

ii. Parking

The change in ownership would not cause the need for any additional parking.

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 in operator at this existing establishment.
- North Military Highway adjacent to the site is identified as a severely congested corridor in the PM peak in the current update to regional Hampton Roads Congestion Management analysis.

- The City of Norfolk and the Virginia Department of Transportation are currently advancing a major improvement project for this segment of N. Military Highway which is scheduled to be completed by mid-2018.
- The site is near transit service with Hampton Roads Transit bus routes 15 (Military) and 23 (Princess Anne) operating near the site.
- Potential alignment options for the Cape Henry Trail, which is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan, are located along and near this site.

E. Historic Resources Impacts

The building is not located within a federal, state, or local historic district.

F. Public Schools Impacts

The site is located in the Fairlawn Elementary School, the Lake Taylor Middle School and Lake Taylor High School Attendance Zones.

G. Environmental Impacts

The site was developed under current development standards, including those for landscaping and parking.

H. AICUZ Impacts

- The site is located within a Noise Zone with a Day-Night Average Sound Level of 70-75 Decibels (DNL 70) as identified within the Hampton Roads regional Joint Land Use Study (JLUS), Air Installations Compatibility Use Zones (AICUZ) planning map.
  - When the hotel building was constructed in 2000, the building code required the structure to comply with the minimum sound attenuation requirements for new hotel construction within the DNL 70 noise zone.

I. Surrounding Area/Site Impacts

By requiring this use to conform to the conditions listed below, the change of business ownership should not have a negative effect on the surrounding area.

J. Payment of Taxes

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

K. Civic League

Notice was sent to the Foxhall Civic League on March 16.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. Recommendation

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

(a) The hours of operation for the sale of alcoholic beverages for the restaurant and the meeting space shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days a week.

(b) The seating for the restaurant shall not exceed 119 seats indoors, 16 seats outdoors, and the total occupant capacity, including employees, shall not exceed 144 people. The seating for the meeting space shall not exceed 390 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 430 people.

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

(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 six (6) members and disc jockey. No other form of entertainment is permitted.

(g) A portable dance floor not exceeding 100 square feet may be used within "The Landings" meeting space, and a portable dance floor not exceeding 144 square feet may be used within the "Grand Concourse" meeting space. The dance floor(s) shall be constructed of a different material than the primary floor material.

(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, snow, ice, 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) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(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 200 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 Foxhall Civic League

Proponents and Opponents

Proponents

Rohit Patel – Applicant
1570 N. Military Highway
Norfolk, VA 23502

April Mackey – Representative
1570 N. Military Highway
Norfolk, VA 23502

Opponents

None

04/25/2016 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 "HOLIDAY INN" ON PROPERTY LOCATED AT 1570 NORTH MILITARY HIGHWAY.

- - -

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

Section 1:- That a Special Exception is hereby granted to ORF Hotel, LLC authorizing the operation of an entertainment establishment with alcoholic beverages on property located at 1570 North Military Highway. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 448 feet, more or less, along the eastern line of North Military Highway and 306 feet, more or less, along the southern line of Lake Wright Drive; property also fronts 291 feet, more or less, along the northern line of Elizabeth Avenue; premises numbered 1570 North Military Highway.

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 the restaurant and the meeting space shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days per week.

(b) The seating for the restaurant shall not exceed 119 seats indoors, 16 seats outdoors, and the total occupant capacity, including employees, shall not exceed 144 people. The seating for the meeting space shall not exceed 390 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 430 people.

(c) No portion of any outdoor dining shall be enclosed and any covering must leave the dining space open

on at least three sides.

(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 six (6) members and disc jockey. No other form of entertainment is permitted.

(g) A portable dance floor not to exceed 100 square feet may be used within the meeting space identified as "The Landings" on the floor plans attached hereto and marked as "Exhibit B," and a portable dance floor not to exceed 144 square feet may be used within the meeting space identified as the "Grand Concourse" on the floor plans attached hereto and marked as "Exhibit B." The dance floors shall be constructed of a different material than the primary floor material.

(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) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(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 200 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 the operation of an entertainment establishment on this property, adopted on June 26, 2012, (Ordinance No. 44,736) and 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 (3 pages)

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

Date 03/08/2016

Trade name of business ORF Hotel, LLC

Address of business 1570 North Military Highway

Name(s) of business owner(s)* Neil P Amin, Rohit Patel, Naresh Patel - Orf Hotel, LLC

Name(s) of property owner(s)* Neil Amin, Rohit Patel, Naresh Patel - Orf Hotel, LLC

Name(s) of business manager(s)/operator(s) April Mackey, Daniel Council, Lauren Wright, Bruce Dorman, Mary West

Daytime telephone number (757) 213-2231

*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 Midnight	To Midnight		Weekday	From 11am	To 2am	
Friday	From Midnight	To Midnight		Friday	From 11	To 11	
Saturday	From Midnight	To Midnight		Saturday	From 11	To 11	
Sunday	From Midnight	To Midnight		Sunday	From 11	To 11	

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:

   ~~Separate banquet space is available in the hotel for private~~ parties/receptions, 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:

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

Robin Gates

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)

Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment

Restaurant / Bar + Lobby (No Entert.)

- 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) 111
   Number of bar seats 8
   Standing room ____

   b. **Outdoor**
   Number of seats 16

   c. **Number of employees** 9

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 144

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)

Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment

Meeting Spaces (conference/banquet rooms)

- 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) 100 ("The Landings") + 290 ("Grand Concourse") } 390
   Number of bar seats Ø
   Standing room 20

   b. Outdoor
   Number of seats Ø

   c. Number of employees 20

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 430

2. Entertainment
   List ANY type of entertainment proposed other than a ~~3~~ 6 member live band, karaoke, comedian, or poetry reading.

   D.J. for receptions

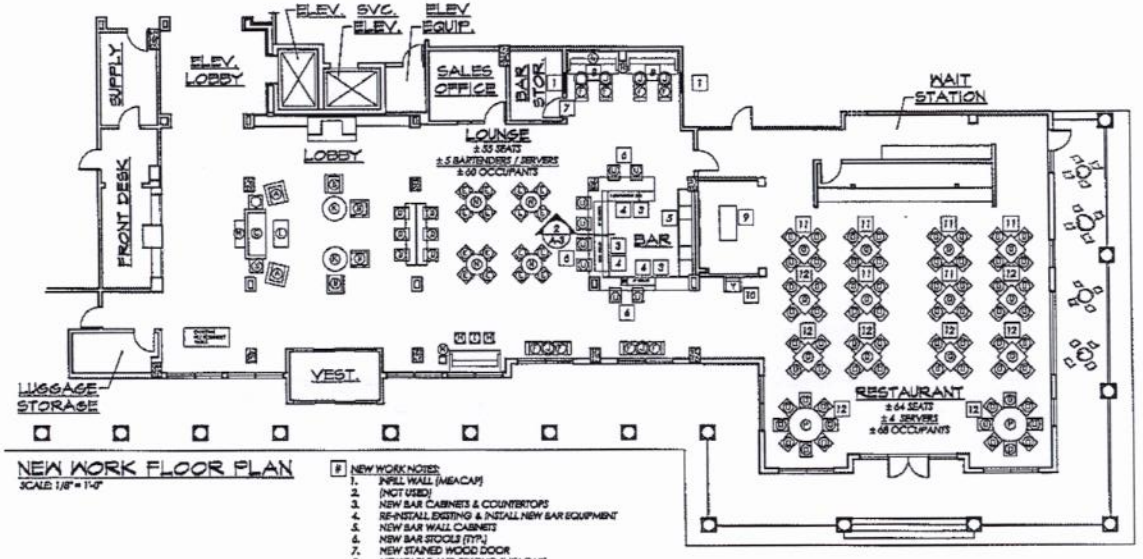
3. Will a dance floor be provided?
   ☑ Yes ☐ No

   3a. If yes,
   Square footage of establishment 1,100 ☐ in The Landings + 2,814 ☐ in Grand Concourse
   Square footage of dance floor ≤ 100 ☐ in The Landings + ≤ 144 ☐ in Grand Concourse

- 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

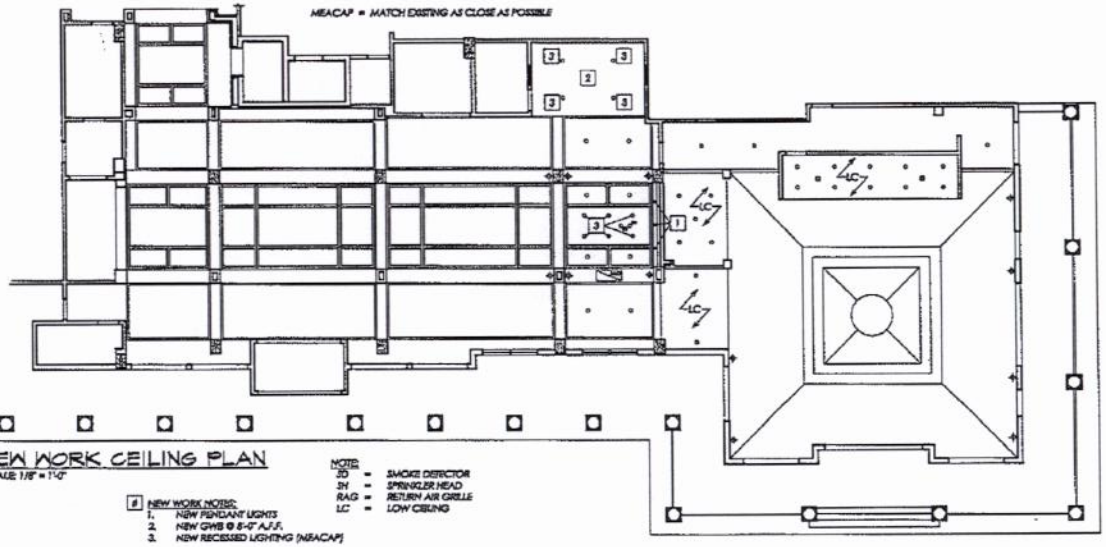


NEW WORK FLOOR PLAN

SCALE: 1/8" = 1'-0"

#	NEW WORK NOTES:
1.	INFILL WALL (MEACAP)
2.	(NOT USED)
3.	NEW BAR CABINETS & COUNTERTOPS
4.	RE-INSTALL EXISTING & INSTALL NEW BAR EQUIPMENT
5.	NEW BAR WALL CABINETS
6.	NEW BAR STOOLS (TYP.)
7.	NEW STAINED WOOD DOOR
8.	NEW TABLE AND SEATING (MEACAP)
9.	EXISTING STAINLESS SERVING CAMLETE TABLE
10.	NEW ROLLING STORAGE CABINET
11.	RE-USE EXISTING TABLES AND CHAIRS
12.	NEW TABLES AND CHAIRS (MEACAP)

MEACAP = MATCH EXISTING AS CLOSE AS POSSIBLE



NEW WORK CEILING PLAN

SCALE: 1/8" = 1'-0"

#	NEW WORK NOTES:
1.	NEW PENDANT LIGHTS
2.	NEW EXHS @ 8'-0" A.F.F.
3.	NEW RECESSED LIGHTING (MEACAP)

NOTE:	
SD	= SMOKE DETECTOR
SH	= SPRINKLER HEAD
RAG	= RETURN AIR GRILLE
LC	= LOW CEILING

MEACAP = MATCH EXISTING AS CLOSE AS POSSIBLE

CODE NOTES - VAUSBC (IBC 2009 CODE):

MIXED USE GROUP: R-1 RESIDENTIAL; A-3 ASSEMBLY; B BUSINESS

GROSS AREA =			
	R-1	=	1,164 S.F.
	A-3	=	19,475 S.F. - GROUND FLOOR NET AREA = 18,903 S.F. (1)
	B	=	3,711 S.F.
GROUND FLOOR TOTAL		=	24,350 S.F.
SECOND FLOOR TOTAL		=	18,903 S.F.
THIRD FLOOR TOTAL		=	18,903 S.F.
FOURTH FLOOR TOTAL		=	18,903 S.F.
FIFTH FLOOR TOTAL		=	18,903 S.F.
GRAND TOTAL		=	99,962 S.F.

ALLOWABLE HEIGHT & BUILDING AREA - PER TABLE 503

R-1	=	4 FLOORS & 24,000 S.F.
A-3	=	3 FLOORS & 15,500 S.F.
B	=	5 FLOORS & 37,500 S.F.

PER CHAPTER 16

NORFOLK, VIRGINIA	
SNOW LOAD	20 PSF
SEISMIC CONDITION	ZONE B
WIND SPEED	100 MPH (3 SECOND GUST)
WEATHERING	MODERATE
FROST LINE DEPTH	12 INCHES
TERMITE	MODERATE TO HEAVY

CONSTRUCTION TYPE:
TYPE 2A - PROTECTED
- SPRINKLERED

SPRINKLERED:	YES (PER NFPA 13)
WITHIN FIRE DISTRICT:	YES
BUILDING HEIGHT:	59'-0" TO TOP OF CONCRETE ROOF SLAB (5 FLOORS)

GROUND FLOOR HEIGHT & AREA COMPUTATIONS: R-1 (RESIDENTIAL)

ALLOWABLE TABULAR AREA:	100%
REDUCTION FOR HEIGHT:	-15%
INCREASE FOR OPEN PERIMETER:	150%
INCREASE FOR COMPLETE SUPPRESSION:	100%
TOTAL PERCENTAGE FACTOR:	335% or 3.35%
ACTUAL FLOOR AREA ALLOWED:	22,800 S.F. x 3.35% = 76,380 S.F.
ACTUAL FLOOR AREA PROVIDED:	1,164 S.F.
1,164 S.F. / 76,380 S.F. = 0.0152%	

GROUND FLOOR HEIGHT & AREA COMPUTATIONS: A-3 (ASSEMBLY)

ALLOWABLE TABULAR AREA:	100%
REDUCTION FOR HEIGHT:	-15%
INCREASE FOR OPEN PERIMETER:	150%
INCREASE FOR COMPLETE SUPPRESSION:	100%
TOTAL PERCENTAGE FACTOR:	335% or 3.35%
ACTUAL FLOOR AREA ALLOWED:	19,950 S.F. x 3.35% = 66,832.5 S.F.
ACTUAL FLOOR AREA PROVIDED:	19,475 S.F.
19,475 S.F. / 66,832 S.F. = 0.291-0%	

GROUND FLOOR HEIGHT & AREA COMPUTATIONS: B (BUSINESS)

ALLOWABLE TABULAR AREA:	100%
REDUCTION FOR HEIGHT:	-15%
INCREASE FOR OPEN PERIMETER:	150%
INCREASE FOR COMPLETE SUPPRESSION:	100%
TOTAL PERCENTAGE FACTOR:	335% or 3.35%
ACTUAL FLOOR AREA ALLOWED:	34,200 S.F. x 3.35% = 114,570 S.F.
ACTUAL FLOOR AREA PROVIDED:	3,711 S.F.
3,711 S.F. / 114,570 S.F. = 0.0325%	

TOTAL SEPARATED USE GROUPS:

ALLOWED:	LESS THAN 1%
ACTUAL:	0.3369%

Michael HENRY ARCHITECT

PROJECT TITLE: NEW LOUNGE BAR FOR HOLIDAY INN
LOCATION: NORFOLK, VIRGINIA
NEW WORK FLOOR & CEILING PLANS

NO.	DATE	REVISION
1	12.14.12	CODE REVISION

DRAWN BY: SMH
FILE NAME: 1178 - A1
SCALE: 1/8" = 1'-0"
DESIGN BY: MHH
CHECKED BY: MHH

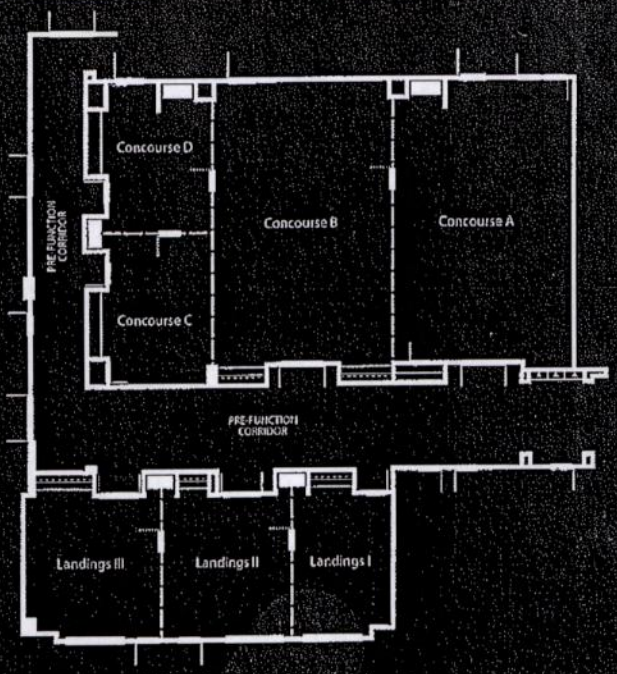
10 APR 12

JOB NO. 1178

A-2

SHEET 2 OF 9

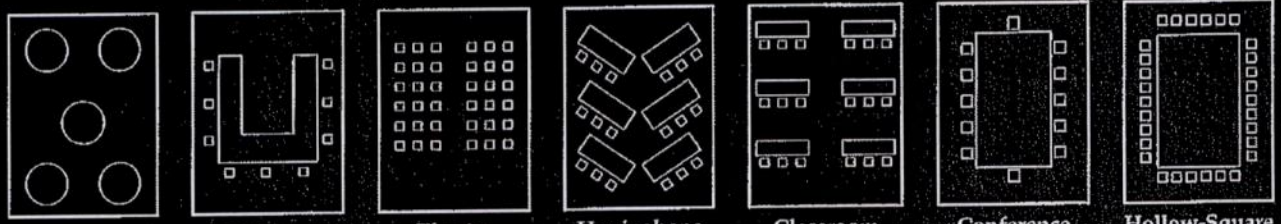
Floor Plan



Capacity

	Dimensions	Sq. Ft.	Banquet	Classroom	Theater
Grand Concourse	67x42	2814	225	175	290
Concourse A	24x42	1008	50	55	120
Concourse B	24x42	1008	60	60	130
Concourse C	18x21	378	16	15	25
Concourse D	18x21	378	10	12	20
The Landings	50x22	1100	60	50	100
Landings I	13x22	286	12	12	20
Landings II	18x22	396	20	18	30
Landings III	18x22	396	12	12	20

Set Up Styles



Banquet | U-shaped | Theater | Herringbone | Classroom | Conference | Hollow-Square

Holiday Inn
SELECT

1570 North Military Highway • Norfolk, Virginia 23502-1813
757•213•2231
FAX 757•213•2232

GROUND FLOOR PLAN

ROOM MIX						
ROOM TYPE	GND	2ND	3RD	4TH	5TH	TOTAL

PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

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LLW Architects, Inc

▲ revisions:

▲ mech

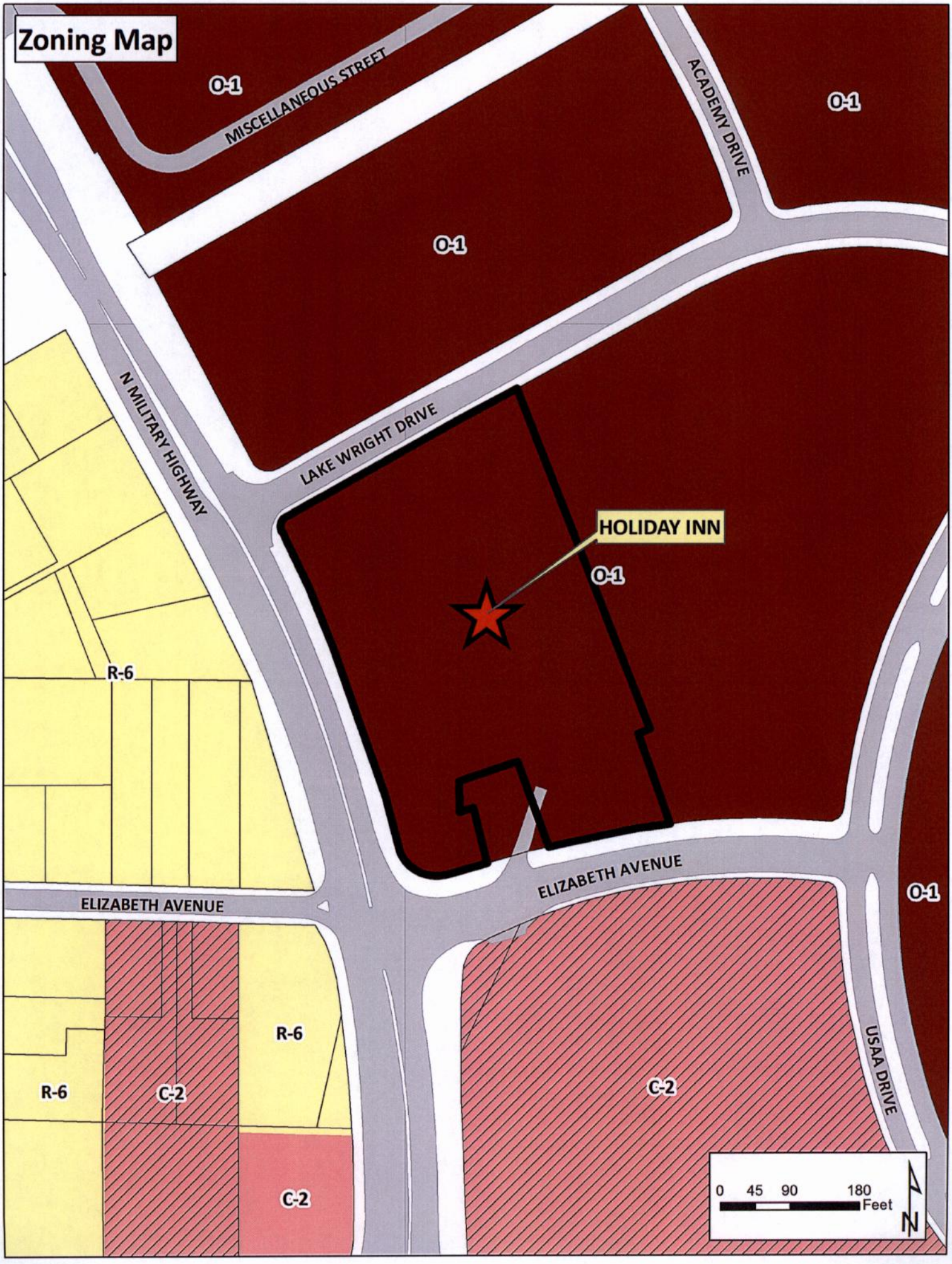
Holiday Inn & SUITES
Norfolk, Virginia

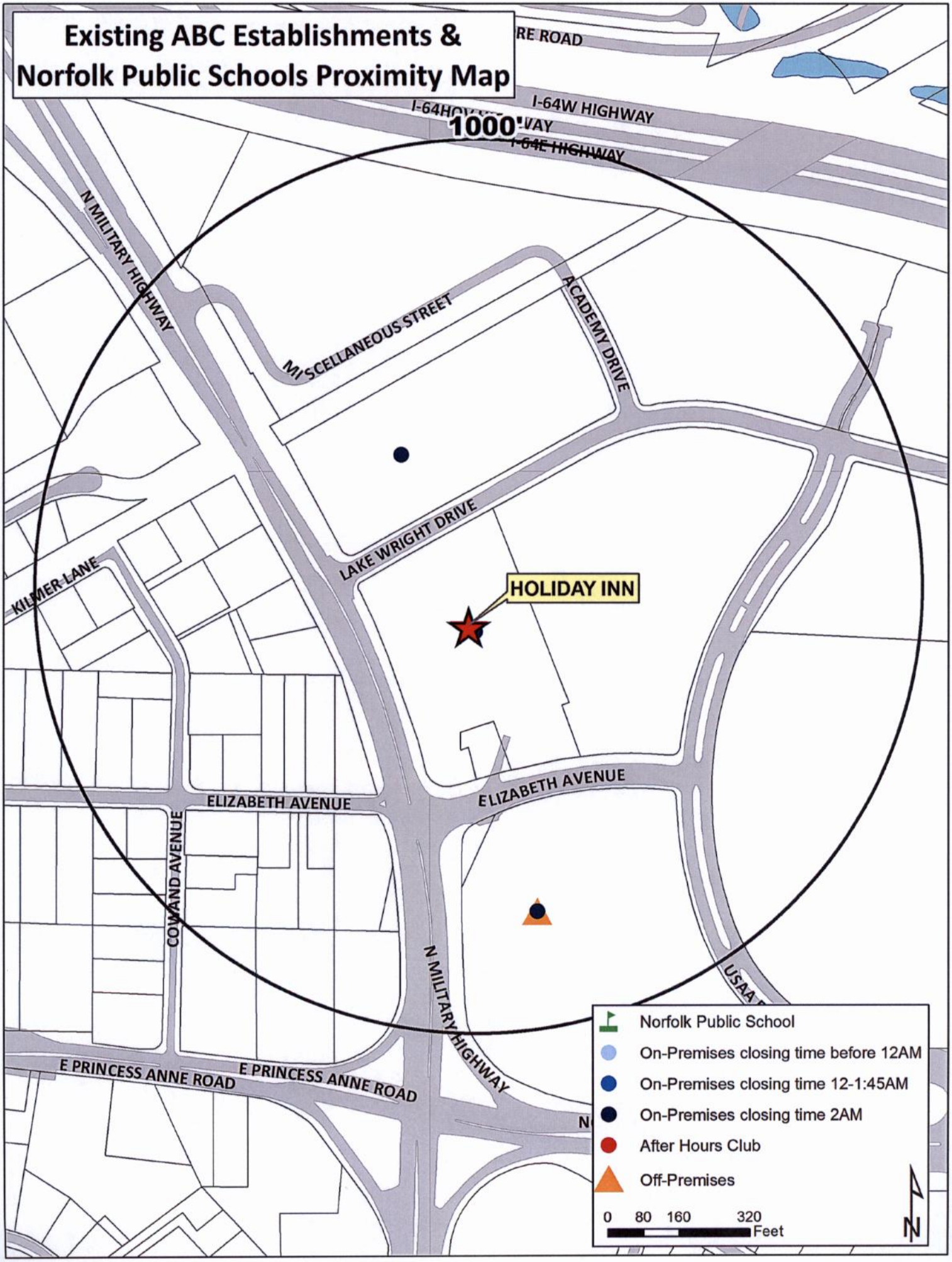
▲ title:
GROUND FLOOR PLAN

▲ date: 11-16-06
▲ job: 1058
▲ file: 1058-A21
▲ scale: 1/8"=1'-0"
▲ drawn by: RLD

sheet
A2.1
of 14

Location Map
LAKE WRIGHT DRIVE
HOLIDAY INN
N MILITARY HIGHWAY
N MILITARY HIGHWAY
ELIZABETH AVENUE
ELIZABETH AVENUE
0 20 40 80
Feet
N


Zoning Map
O-1
MISCELLANEOUS STREET
O-1
ACADEMY DRIVE
O-1
O-1
N MILITARY HIGHWAY
LAKE WRIGHT DRIVE
HOLIDAY INN
O-1
R-6
ELIZABETH AVENUE
ELIZABETH AVENUE
O-1
R-6
R-6
C-2
C-2
C-2
USAA DRIVE
0 45 90 180
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
I-64W HIGHWAY
N MILITARY HIGHWAY
MISCELLANEOUS STREET
ACADEMY DRIVE
LAKE WRIGHT DRIVE
KILMER LANE
HOLIDAY INN
ELIZABETH AVENUE
ELIZABETH AVENUE
COWAND AVENUE
N MILITARY HIGHWAY
E PRINCESS ANNE ROAD
E PRINCESS ANNE ROAD
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 03/08/2016

DESCRIPTION OF PROPERTY

Address 1570 North Military Highway

Existing Use of Property Hotel with restaurant and Bar

Proposed Use Hotel, with restaurant and Bar

Current Building Square Footage 18,903 ± (Grand floor - area wher alcohol is permitted)

Proposed Building Square Footage same

Trade Name of Business (If applicable) Holiday Inn, Norfolk Airport

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)
Ort Hotel, LLC - Neil Amin, Naresh Patel

1. Name of applicant: (Last) Patel (First) Rohit (MI) R

Mailing address of applicant (Street/P.O. Box): 430 Little Neck Road

(City) Virginia Beach (State) VA (Zip Code) 23452

Daytime telephone number of applicant (757) 846-6392 Fax (757) 213-2232

E-mail address of applicant: bobpatel58@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) Patel (First) Rohit (MI) R.

Mailing address of applicant (Street/P.O. Box): 430 Little Neck Road

(City) Virginia Beach (State) VA (Zip Code) 23452

Daytime telephone number of applicant (757) 846-6392 Fax ( )

E-mail address of applicant: bobpatel58@gmail.com

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

Orf Hotel, LLC - Neil Amin, Naresh Patel

3. Name of property owner: (Last) Patel (First) Rohit (MI) R

Mailing address of property owner (Street/P.O. box): 430 Little Neck Road

(City) Virginia Beach (State) VA (Zip Code) 23452

Daytime telephone number of owner (757) 846-6392 email: bobpatel58@gmail.com

CIVIC LEAGUE INFORMATION

Civic League contact: Foxhall Civic League

Date(s) contacted: March 11

Ward/Super Ward information: Ward 4 - Riddick / Superward 7 - Graves

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: Orf Hotel, LLC ROHIT PATEL **Sign:** Rohit Patel 3/11/2016
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Orf Hotel, LLC ROHIT PATEL **Sign:** Rohit Patel 3/11/2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: ROHIT PATEL **Sign:** Rohit Patel 3/11/2016
(Authorized Agent Signature) (Date)

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

Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment

Meeting Spaces (conference/banquet rooms)

- 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) 100 ("The Landings") + 290 ("Grand Concourse") } 390
   Number of bar seats Ø
   Standing room 20

   b. Outdoor
   Number of seats Ø

   c. Number of employees 20

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 430

2. Entertainment
   List ANY type of entertainment proposed other than a ~~3~~ 6 member live band, karaoke, comedian, or poetry reading.

   D.J. for receptions

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

   3a. If yes,
   Square footage of establishment 2,814 ♯ in Grand Concourse + 1,100 ♯ in The Landings
   Square footage of dance floor ≤ 100 ♯ in The Landings
   ≤ 144 ♯ in Grand Concourse

- 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)

REFERENCE TABLE

DATA SHOWN ON THIS REFERENCE TABLE WAS SUPPLIED BY: FIRST AMERICAN TITLE COMPANY
TITLE COMMITMENT NO.: NCS-451527-HOU1 EFFECTIVE DATE: JANUARY 6, 2011

INSTRUMENT	IN FAVOR OF	PURPOSE	COMMENT
D.B.1994, PG. 736&752	OWNERS OF LOTS A AND C	16' & 12' UTILITY EASEMENTS	SHOWN ON SURVEY
e.b. 52, PG. 5 & 6 m.b. 54, PG. 10 & 11	CITY OF NORFOLK	VARIOUS EASEMENTS	SHOWN ON SURVEY
D.B.1082, PG.289 M.B. 25, PG. 14	GWALTNEY & HAWKINS	5' UTILITY EASEMENT	SHOWN ON SURVEY
D.B. 825, PG. 152	DOWNY, WILLIAMS' & LOCKWOOD'S	VARIOUS RESTRICTIONS	NONE
D.B. 2993, PG. 592	BELL ATLANTIC-VIRGINIA	20' UTILITY EASEMENT	SHOWN ON SURVEY
D.B. 2600, PG. 48	CITY OF NORFOLK	25' BUILDING SETBACK LINES	SHOWN ON SURVEY
D.B. 761, PG. 282	CITY OF NORFOLK	WATER MAIN EASEMENT	LOCATION INDETERMINANT
D.B. 3020, PG. 49	CITY OF NORFOLK	PROTECTIVE PROVISIONS AND COVENANTS	NONE
INSTRUM. 050026043	Dan-Dan (NORFOLK) INC.	VARIABLE WIDTH INGRESS/EGRESS AND MAINTENANCE EASEMENT	SHOWN ON SURVEY

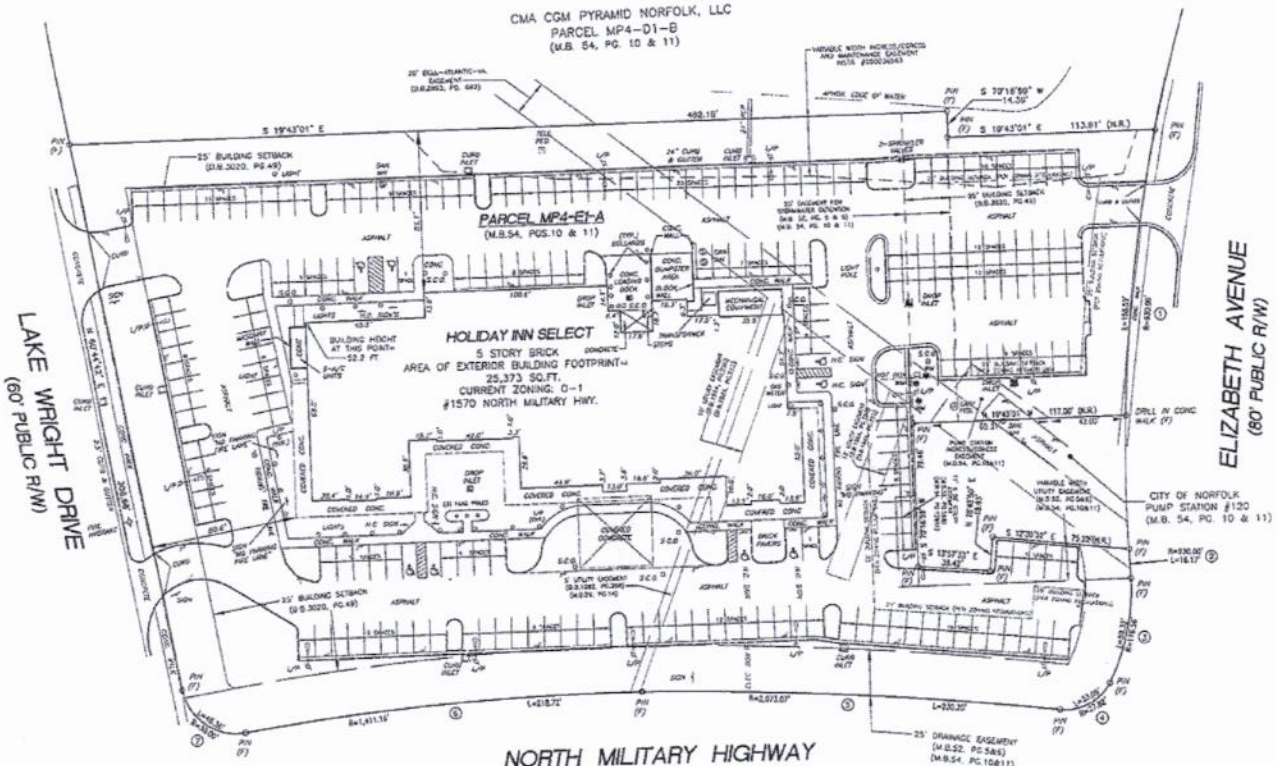
CURVE DATA

NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD BEARING	CHORD
1	930.00'	158.05'	09°46'15"	79.49'	S 78°14'03" W	158.40'
2	930.00'	16.17'	00°59'46"	8.08'	S 66°17'16" W	16.17'
3	116.56'	89.32'	29°09'33"	30.33'	S 83°32'33" W	58.68'
4	27.82'	33.05'	68°04'12"	18.79'	N 40°51'30" W	31.14'
5	2073.67'	230.20'	06°21'44"	115.22'	N 15°00'14" W	230.08'
6	1411.16'	218.72'	08°52'50"	109.56'	N 23°21'37" W	218.50'
7	30.00'	46.36'	88°32'44"	29.25'	N 16°28'30" E	41.88'

LEGAL DESCRIPTION

ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND, WITH ALL IMPROVEMENTS THEREON AND APPURTENANCES THEREUNTO BELONGING, SITUATE, LYING AND BEING IN THE CITY OF NORFOLK, VIRGINIA, BEING KNOWN, NUMBERED AND DESIGNATED AS "PARCEL MP4-E1-A" AS SHOWN ON THAT CERTAIN PLAT ENTITLED "RESUBDIVISION OF PARCEL MP4-E1 & PARCEL MP4-D1, AMENDED SUBDIVISION PLAT OF PROPERTY OF METROPOLITAN MEMORIAL PARK, (M.B. 51, PG. 137 & 138) (M.B. 52, PG. 2 & 3), NORFOLK, VIRGINIA", DATED OCTOBER 8, 2001, PREPARED BY HORTON & DODD, P.C., WHICH PLAT IS RECORDED IN MAP BOOK 54, AT PAGES 10 & 11, TOGETHER WITH THE RECIPROCAL RIGHTS, PRIVILEGES AND SET FORTH IN THE PROTECTIVE PROVISIONS AND COVENANTS (SIC) LAKE WRIGHT EXECUTIVE CENTER DECLARATION RECORDED IN DEED BOOK 3020, AT PAGE 49 WHICH BOTH PLAT AND DEED ARE DULY RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA.

VIRGINIA STATE PLANE COORDINATE SYSTEM SOUTH ZONE NAD 1983 (1994)
M.B. 54, PG. 10 & 11



LEGEND

- SANITARY MANHOLE
- STORM DRAIN
- SIGN (TYP.)
- TELEPHONE PEDESTAL
- LIGHT POLE
- SANITARY CLEANOUT
- WATER METER
- WATER VALVE

SITE DATA

SITE AREA:	106,186 SQUARE FEET OR 3.8151 ACRES
ZONING:	O-1 (HOTEL IS PERMITTED USE)
PARKING REQUIRED:	ONE (1) SPACE PER LODGING UNIT PLUS ONE (1) SPACE FOR EMPLOYEES. (HERE ARE 147 GUEST ROOMS AND 55-30 EMPLOYEES MAXIMUM PER DAY SHIFT) ON THIS SITE.
PARKING PROVIDED:	200 REGULAR 8 HANDICAPPED 208 TOTAL PARKING SPACES
TAX ID NO.:	80404015
BLDG. HEIGHT:	52.2 FEET (55 FEET MAX.)
DENSITY:	MINIMUM OF 500 SQUARE FEET OF LOT AREA FOR EACH LODGING UNIT. (147 ROOMS X 500 = 73,500 SQ. FT.)
BUILDING SETBACKS:	FRONT 25' SIDE 25' REAR 25'

SURVEYOR'S CERTIFICATE

TO: CMLT 2008-LS1 MILITARY LODGING, LLC, A VIRGINIA LIMITED LIABILITY COMPANY & LNR PARTNERS, LLC, A FLORIDA LIMITED LIABILITY COMPANY AND FIRST AMERICAN TITLE COMPANY;

THIS IS TO CERTIFY THAT THIS MAP ON PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1-4, 6(b), 7(a)(1), 7(c), 8, 9, 11(a), 13, 14, 16, 18, 21, 22 AND 24 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON FEBRUARY 26, 2013.

SIGNED: _____

COMMONWEALTH OF VIRGINIA
MICHAEL L. WILLIARD
Lic. No. 2078
2-28-13
LAND SURVEYOR

NOTES:
1. THIS PROPERTY APPEARS TO BE IN ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON THE FLOOD INSURANCE RATE MAP (FIRM), MAP NUMBER 5106870013F, MAP REVISED SEPTEMBER 2, 2009.
2. THE EXISTENCE AND/OR NON-EXISTENCE OF WETLANDS, HAZARDOUS SUBSTANCES OR ANY OTHER ENVIRONMENTAL ASPECTS WAS NOT/WAS INVESTIGATED NOR COMMENTED DURING THE PERFORMANCE OF THIS SURVEY.
3. GAS AND WATER EASEMENT PROPERTY THROUGH PUBLIC RESERVATION HEREBY GRANTED.

30 0 30 60
SCALE feet.

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HORTON & DODD, P.C.
Surveyors Engineers Planners
(757) 487-4636
360 George Washington Highway North Chesapeake, Virginia 23323

SHEET 1 OF 1
REFERENCE BOOK 4-30-2013 A.S.
SCALE 1"= 30'
DATE 2/28/13
FIELD EXAMS
DES. BY
DRN. BY MJW/DDB
CHK'D BY

ALTA/ACSM LAND TITLE SURVEY
OF
HOLIDAY INN SELECT
NORFOLK, VIRGINIA
FOR
CMLT 2008-LS1 MILITARY LODGING, LLC &
LNR PARTNERS, LLC

F:\NOR\DWG\22435 ALTA\ALTA(2-28-13).DWG (F1 (24x01)

SECURITY PLAN
OF
Holiday Inn Norfolk Airport
FOR
Orf Hotel, LLC
1570 North Military Hwy.
Norfolk, VA 23502

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 within Holiday Inn Norfolk Airport
- To provide a level of control and safety for all arriving and departing guests of Holiday Inn Norfolk Airport
- To mitigate any noise or inappropriate conduct by patrons of Holiday Inn Norfolk Airport entering or leaving the facility which impairs the quiet enjoyment of immediate neighbors, particularly residents living nearby.
- To peacefully and effectively resolve all dangerous situations before any injury to any person or property may occur. The Holiday Inn Norfolk Airport staff or security team shall provide an assertive presence by displaying integrity and professionalism while executing their duties and responsibilities in an effort to maintain security, protection, and safety of members of the public.
- To ensure a complete, orderly, safe, and swift evacuation of the facility in case of fire, explosion, or any other uncontrolled dangers within the building.
- To protect and promote the courteous, inviting, and hospitable character of the neighborhood and the City of Norfolk generally.

Features of the Plan:

Security Team:

- The Chief Engineer will be the head of the security team and the General Manager will also serve in assistant security capacity when needed. Staffing will be maintained each and every shift by an employee of the

security team that will consist of members of the engineering department. Other hotel staff will be on call as needed.

Rules and Regulations:

Unruly Patrons

Licensee will familiarize all security staff with provisions of the City of Norfolk's ordinances. When a patron acts in a violent, abusive, indecent, profane, boisterous or is otherwise disorderly, licensee will immediately contact the police and request that the police invoke the provisions of the city ordinance.

Patrons that are intoxicated

Licensee, its agents and employees may not sell, dispense or give away alcohol to any person who is under the influence of alcoholic beverages as that term is defined in the City of Norfolk's ordinance; no person of intoxication is permitted on premises.

No one customer can have more than one beverage in front of them at any given time. Customers are to no longer be served once a server has deemed them to be at their "limit" of consumption.

When a customer has been "cut off", the server will notify the other staff members so that they do serve the customer in a different area. Management will support the server's decision to terminate service to any customer. If a customer is too impaired to drive safely, licensee will intervene and exhaust all efforts for the customer not to drive and will arrange safe transportation. If the customer refuses, management will notify the Norfolk Police Department with a description of the person and the license plate number of the vehicle, if possible.

Patrons that present false identification

All identification cards used to prove age must be valid (i.e., may not be expired) and must be government issued. If the identification card is expired or appears at all questionable to the employee, the employee shall request a second form of identification. The employee shall make sure that the individual purchasing the alcohol is the person on the identification card. All employees are trained to ask the purchasers questions relating to their identification in order to verify the information. If the employee checking the ID has a strong suspicion that the ID is false, altered or belongs to someone other than the person presenting the ID, he/she shall confiscate the ID and turn it over to Management, to be presented to the police.

Circumstances under which the police will be called

The police will be called in a timely manner, any time Management or staff has information to believe a crime has been or is about to be committed and/or whenever a threat of or act of violence occurs on the premises in areas that would be considered in view or earshot of the establishment.

Handling of Physical Disturbances, including fights

Security or Management will ask anyone who is fighting to leave. If necessary, security or Management will call the local law enforcement agency for assistance. Licensee will permanently refuse admittance to any chronic customer. In case of damage to Holiday Inn Norfolk Airport property or any harm done to any staff members by said customer can also be held liable civilly.

Dress Code:

In order to receive service patrons must have proper attire which must include shirt and shoes. All patrons must be at least 21 years of age to sit at the bar and also be 21 years of age to purchase alcoholic beverages in the establishment.

Code of Conduct:

Holiday Norfolk Airport is a smoke free establishment and any patrons seen smoking will be asked to extinguish and move to a designated smoking area located outside of the building.
No weapons of any sort are allowed in the establishment.
Controlled substances are not permitted in the establishment, any such substances suspected or found the Norfolk police will be contacted and requested to come and take over the situation.

Access:
Patrons visiting the Holiday Inn Norfolk Airport have access through 4 main doors of the establishment. Restaurant main doors, hotel main door, side door by pool entrance and rear hotel doors. Vehicular traffic is by two entrances; one entrance/exit from Elizabeth Drive and one entrance/exit from Lake Wright Drive.

Parking and grounds are monitored throughout the day and night by the maintenance/security staff and any suspicious vehicles or loitering patrons are called into the desk or professionally greeted for them to state their purpose for being on premises.

Integration:
Holiday Inn Norfolk Airport will always be willing to cooperate with law enforcement regarding issues and investigations. Any evidence, statements, help or requests by law enforcement will be executed to the upmost ability in order to assist any law enforcement needs. The hotel works with the business watch program which helps report all suspicious activities to our fellow merchants with in the immediate community.

Uniform for Security Team

Uniforms are intended to help patrons, law enforcement, and emergency responders readily identify who from the facility is designated as responsible for maintaining security and empowered to implement or impose the facilities rules and regulations.

The uniform of security staff members will consist of the following: a cobalt blue button up shirt, khaki or black pants, and a Holiday Inn nametag identifying them as a staff member. In winter months the security staff may have on a black jacket but will always have a nametag on the outside of the uniform in clear view of any patrons, law enforcement, or other emergency servicers.

Security Team:

Personnel:

- 1 Security Team Leader: Chief Engineer: Duties of this position are to provide a level of control and safety for all arriving and departing guests of Holiday Inn Norfolk Airport including but not limited to hotel, bar, and restaurant. This position is also responsible for all scheduling and training of security staff members.
- At least 1 Security Person per shift. This person is to patrol all areas and enforce the policies, rules and regulations as previously stated. This person will be the direct contact for the hotel and emergency responders given any incidents. This person will also contact authorities should assistance be needed in the establishment.

General Duties and Responsibilities:
Each member of the Security Team will be trained to set up and control queuing in accordance with any floor plans approved through the City's special exception

process. All members shall work in concert to maintain order within the facility and outside in the immediate surroundings so as to prevent any activity which would interfere with the quiet enjoyment of nearby property owners or leaseholders

All team members will coordinate with any personnel who may be hired by the property owner to provide security immediately outside of the facility and will be responsible for communicating wait times and cut-offs for any prospective patron queuing up to gain entry.

All team members will be knowledgeable of each other's duties and responsibilities so as to be able to assist one another whenever necessary.

IT IS THE DUTY OF EVERY MEMBER OF THE TEAM TO PROTECT THE ESTABLISHMENT, ITS PATRONS, AND EMPLOYEES FROM ANY AND ALL PERCEIVED AND REAL THREATENING SITUATIONS.

Security Team Leader:

- Enumerate each duty which falls exclusively within the role of this position.
- Supervise all other security team members and monitors all members' compliance with this Security Plan.
- Enforce occupancy limits in accordance with any floor plans approved through the City's special exception process. The Leader may rely on information about the number of patrons entering and leaving the facility that might be gathered by other members of the security team.
- Report directly the General Manager
- Rove entire venue during operating hours to ensure patron flow and maintenance of open aisles and clear pathways to exits.
- Liaison to state and city enforcement officers and emergency responders.
- Coordinate configuration of the floor plan on a daily basis under the direction of the General Manager and in accordance with any floor plans approved through the City's special exception process.
- Provide or arrange security accompaniment for employees departing at the end of their shift.
- During emergency evacuation, ensure that all security team members are properly executing emergency duties and responsibilities.
- Maintain CPR certification

Security

- Enumerate each duty which falls exclusively within the role of this position
- Control activity at main entrance(s) at all times, monitoring entry of patrons and maintaining a clear egress
- Control access to the venue
- Enforce dress code, age limitation, and code of conduct.

- During emergency evacuation, direct patrons out of exits and to a location far enough from the building to be safe and to allow room for other patrons to continue to move away from the building and assemble.
- Maintain security presence in restroom corridor.
- Enumerate each duty which falls exclusively within the role of this position.
- Monitor continual compliance with Virginia ABC regulations.
- Identify and address hazards as they arise throughout the facility.
- Maintain security around bar area(s).
- Maintain security in restroom corridor.
- Rove entire venue during operating hours to ensure patron flow and maintenance of open aisles and clear pathways to exits.
- Regularly check emergency exits to ensure they are clear and accessible.
- Maintain CPR certification.

Communication:

Security Team members will carry a hand-held radio (i.e. walkie-talkie). Surveillance attachments (ear piece/microphone) will be utilized as warranted, particularly for personnel who need to have both hands free in order to execute their responsibilities. The Security Team Leader will monitor all radio traffic. Flashlights will be utilized by all security staff members as a back-up form of communication inside the facility whenever the situation warrants.

Electronic Security:

Hotel is outfitted with the following security and safety devices:

- Internal closed circuit camera systems which records video to a dvr disk drive that includes the following areas: 1-Front desk/entrance exit of building 2-second floor stairwell door south, 3-entrance/exit door at rear of hotel, 4-back of house employee entrance/exit, 5-kitchen door area, 6-side door front of property, 7-pool area exit door only, 8-first floor side door north, 9-prefuction hallways.
- Any video needed for investigations whether internal or from authorities can and will be downloaded to USB drives to save and use.
- All equipment is locked inside the General Managers office.
- The hotel is monitored for fire safety by John Brothers remotely 24/7. The alarm system is a Simplex 4020 system which includes the monitoring of smoke detector devices, sprinkler system, and visual alarms in the entire facility. The system is maintained by Hiller Systems.
- There are carbon monoxide detectors located in the following areas; pool pump room, property laundry facility, and lobby in front of fireplace area.
- Devices are located throughout the entire facility as required by local fire code for the city of Norfolk.
- The General manager and head of Security will be responsible for working with authorities on anything needed.

Emergency Evacuation Plan:

The Head of Security and/or other security personnel along with any other hotel staff will ensure swift, orderly and safe evacuation from the Holiday Inn Norfolk Airport to the designated patron assembly areas (See Diagram). Once evacuation has occurred, the Head of Security and his/her security team will conduct a thorough sweep of all areas including but not limited to bathrooms, restaurant and bar area to ensure no patrons are left behind. Once law enforcement arrives on site any and all cooperation will be made through the Head of Security and General Manager. In the event that an emergency exit is blocked, emergency response team will direct the patrons safely to one of our other marked exits in a safe and orderly fashion.

All means of egress are maintained to provide free and unobstructed egress from all parts of the establishment. Panic bars are provided on all side, rear and restaurant doors and the double doors at the vestibule are of the breakaway type.

Simons, Matthew

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 2:19 PM
To: 'foxhall23502@gmail.com'
Cc: Riddick, Paul; Williams, Angelia M.; Howard, Oneiceia; Whitney, Chris
Subject: new Planning Commission application
Attachments: HolidayInn.pdf

Ms. LeRoy,

Attached please find the following application for a special exception to operate an entertainment establishment with alcoholic beverages at 1570 N. Military Highway.

The purpose of the request is to allow for a change of owner/operator of the hotel, which provides alcoholic beverages and entertainment to its guests within the restaurant bar/lounge and banquet halls.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate an eating and drinking establishment at 255 Granby Street – Saint Germain**

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

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-8

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

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

III. **Request:** Special Exception to operate an eating and drinking establishment.

IV. **Applicant:** **Tiffany Kidwell-Gaylord**

V. **Description:**

- The site is located Downtown on the west side of Granby Street between W. Tazewell Street and College Place.
- The applicant proposes to add outdoor dining to an existing restaurant, Saint Germain, which will be located on Granby Street.

	Previous	Proposed
Hours of Operation and for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same
Seating Capacity	110 seats indoors 0 seats outdoors 122 total capacity	79 seats indoors 6 seats outdoors 99 total capacity

VI. **Historic Resources Impacts**

- The site is located within the Downtown Historic Overlay District (HO-D) and is a contributing structure.
- Any modifications to the exterior of the building would be subject to Architectural Review Board approval for a Certificate of Appropriateness.

- The outdoor dining area requires an encroachment from the Architectural Review Board, City Planning Commission, and City Council.

VII. Public Schools Impacts

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

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

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Chris Whitney, CFM

Staff Report	Item No. 15	
Address	**255 Granby Street**	
Applicant	**Saint Germain**	
Request	**Special Exception**	**Eating and Drinking Establishment**
Property Owner	Two Fifty-Five Granby, LLC	
Site Characteristics	Building Area/Space	27,681 sq. ft./2,500 sq. ft.
	Future Land Use Map	Downtown
	Zoning	D-3 (Freemason/Granby Conservation and Mixed Use) and HO-D (Downtown Historic Overlay)
	Neighborhood	Downtown
	Character District	Downtown
Surrounding Area	North	D-3: Empire (vacant)
	East	D-3: The Governors School for the Arts, Harry's BBQ (vacant)
	South	D-3: Ciniva web design, JuiceBar Juices
	West	D-3: Tidewater Community College, Harbor Heights condominiums

A. Summary of Request

- The site is located Downtown on the west side of Granby Street between W. Tazewell Street and College Place.
- The applicant proposes to add outdoor dining to an existing restaurant, Saint Germain, which will be located on Granby Street.

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-3 district, which permits the proposed use by special exception.
- Saint Germain was granted a special exception to operate an eating and drinking establishment in November 2014.
    - The request is to modify the existing special exception, as the addition of outdoor dining is an expansion of the use.

	Previous	Proposed
Hours of Operation and for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same
Seating Capacity	110 seats indoors 0 seats outdoors 122 total capacity	79 seats indoors 6 seats outdoors 99 total capacity

- Special exception history:

City Council Approval	Applicant	Request
1999	Havana	Eating and Drinking Establishment
2008	Havana	New owner/operator
2010	Havana	Add managers/operators
2014	Saint Germain	New operation – Eating and Drinking Establishment
Pending	Saint Germain	Add outdoor dining

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) Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that this restaurant will generate 150 fewer vehicle trips per day by decreasing total indoor seating at this location by 31 seats below currently approved levels.
- This downtown site has good transit accessibility served with both frequent bus service and also light rail available at the nearby Monticello station.
- 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 (HO-D) and is a contributing structure.
- Any modifications to the exterior of the building would be subject to Architectural Review Board approval for a Certificate of Appropriateness.
- The outdoor dining area requires an encroachment from the Architectural Review Board, City Planning Commission, and City Council.

F. Public Schools Impacts

The site is located in 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. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

There were no calls for service made for this site over the past year.

J. Payment of Taxes

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

K. Civic League

- Notice was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on March 16.
- An email of no objection was received from the Downtown Norfolk Civic League on March 16.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. 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 from 11:00 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 79 seats indoors, 6 seats outdoors, and the total occupant capacity, including employees, shall not exceed 99 people.

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

(d) 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.

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

(f) 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.

(g) 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.

(h) 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, snow, ice, and any bodily discharge.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) There shall be no entertainment, no dancing, and no dance floor provided.

(o) 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.

(p) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

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
Email of no objection from the Downtown Norfolk Civic League

Proponents and Opponents

Proponents

Rick Henn – Representative
1400 Granby Street, Unit 407
Norfolk, VA 23510

Opponents

None

04/25/2016 lds

Form and Correctness Approved:

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 EATING AND DRINKING ESTABLISHMENT NAMED "SAINT GERMAIN" ON PROPERTY LOCATED AT 255 GRANBY STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to Saint Germain, LLC authorizing the operation of an eating and drinking establishment named "Saint Germain" on property located at 255 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronting 83 feet, more or less, along the western line of Granby Street, beginning 81 feet, more or less, from the northern line of West Tazewell Street and extending northwardly; premises numbered 255 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 and for the sale of alcoholic beverages 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 exceed 79 seats indoors, 6 seats outdoors, and the total occupant capacity, including employees, shall not exceed 99 people.

(c) 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.

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

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

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) There shall be no entertainment, no dancing, and no dance floor provided.

(o) 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.

(p) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

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 eating and drinking establishment on this property, adopted on November 25, 2014 (Ordinance No. 45,785). 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.

ATTACHMENT:
Exhibit A (3 pages)

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

Date 3-9-2016

Trade name of business Saint Germain

Address of business 255 Granby Street Norfolk VA 23454

Name(s) of business owner(s)* Tiffany Kidwell Gaylord

Name(s) of property owner(s)* Bobby Wright

Name(s) of business manager(s)/operator(s) Tiffany Kidwell-Gaylord

Daytime telephone number (757) 724-0096

*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:

_____

N/A

_____

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 parties Weddings

_____

_____

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

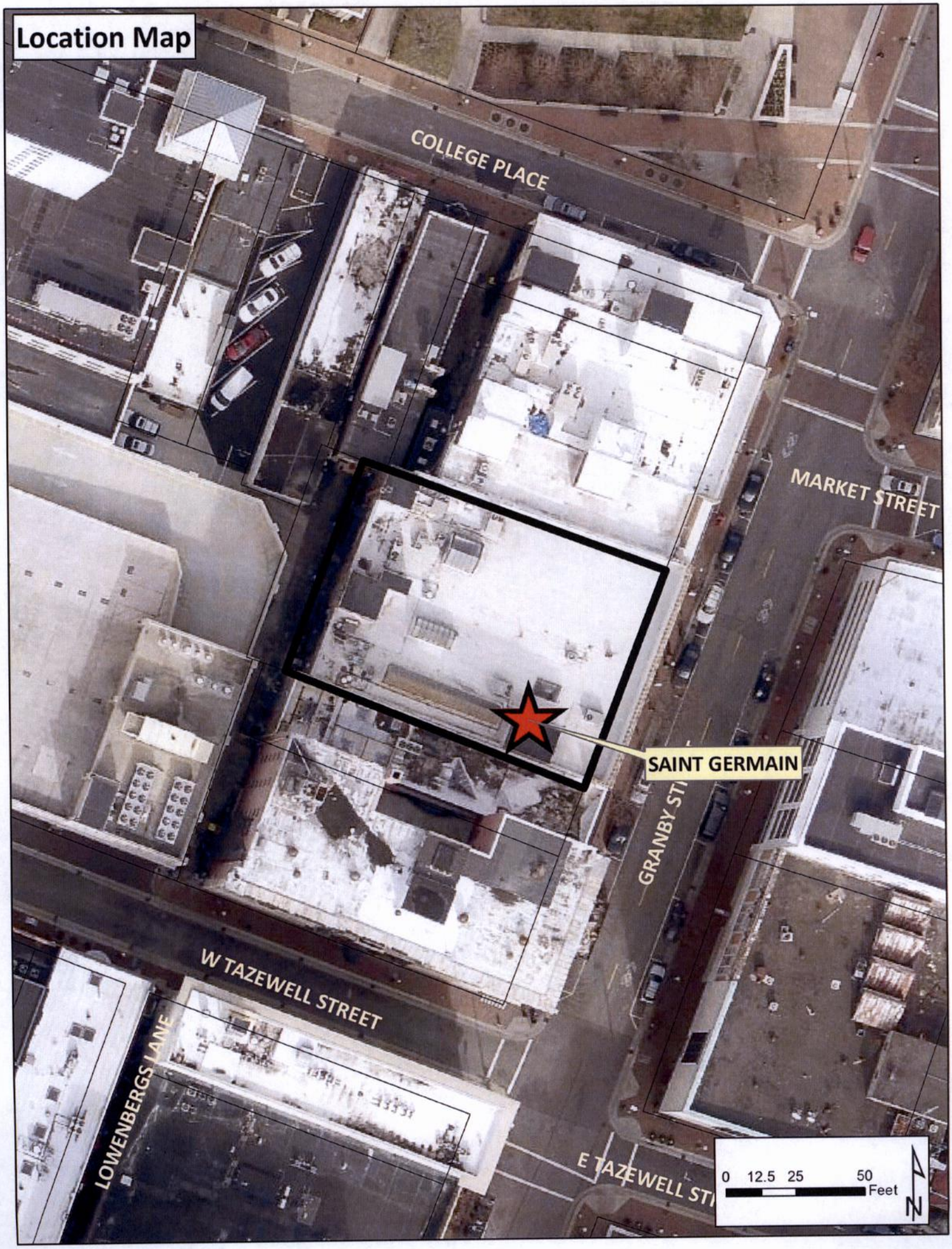
9. Additional comments/description/operational characteristics or prior experience:

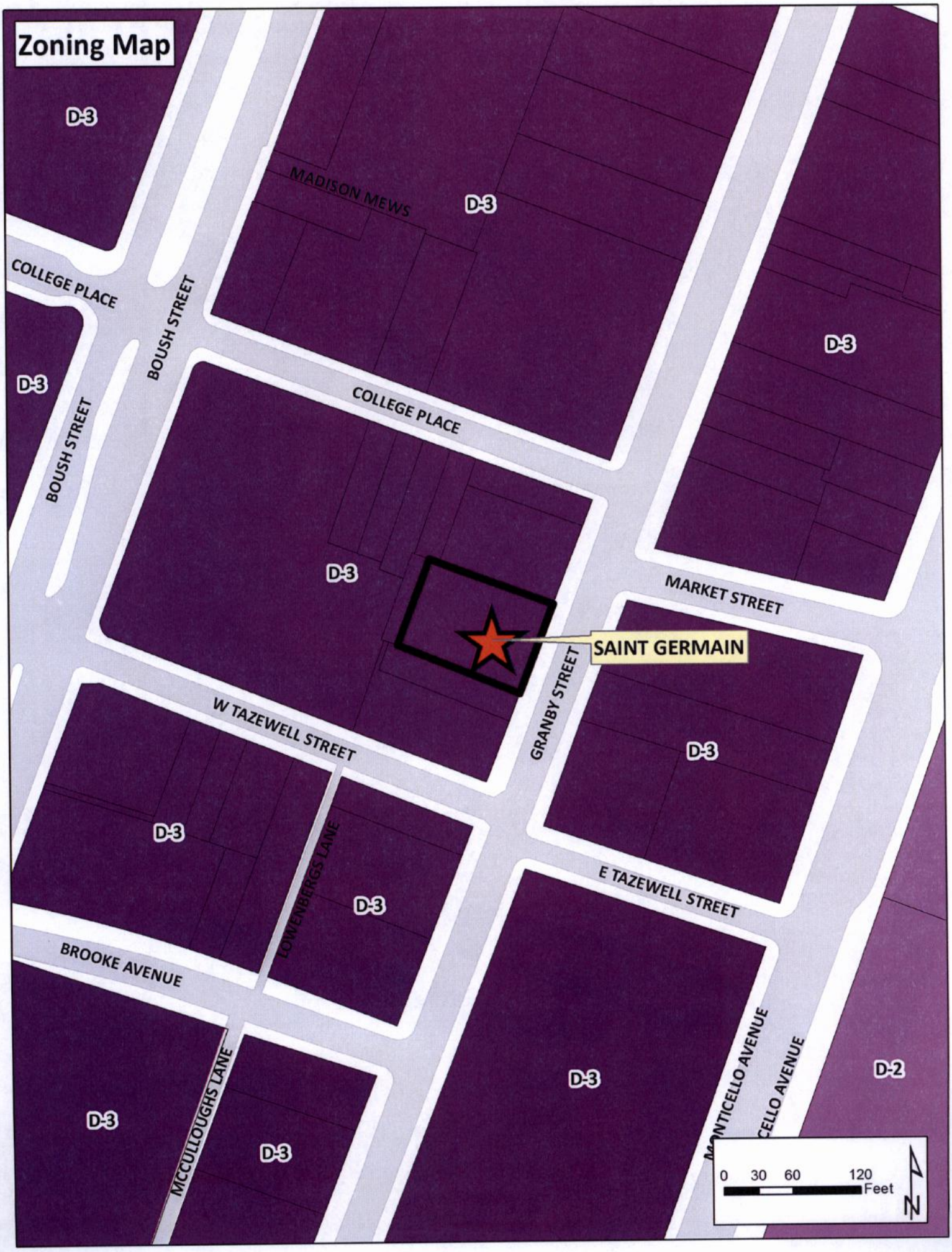
Restaurant business Since 1998

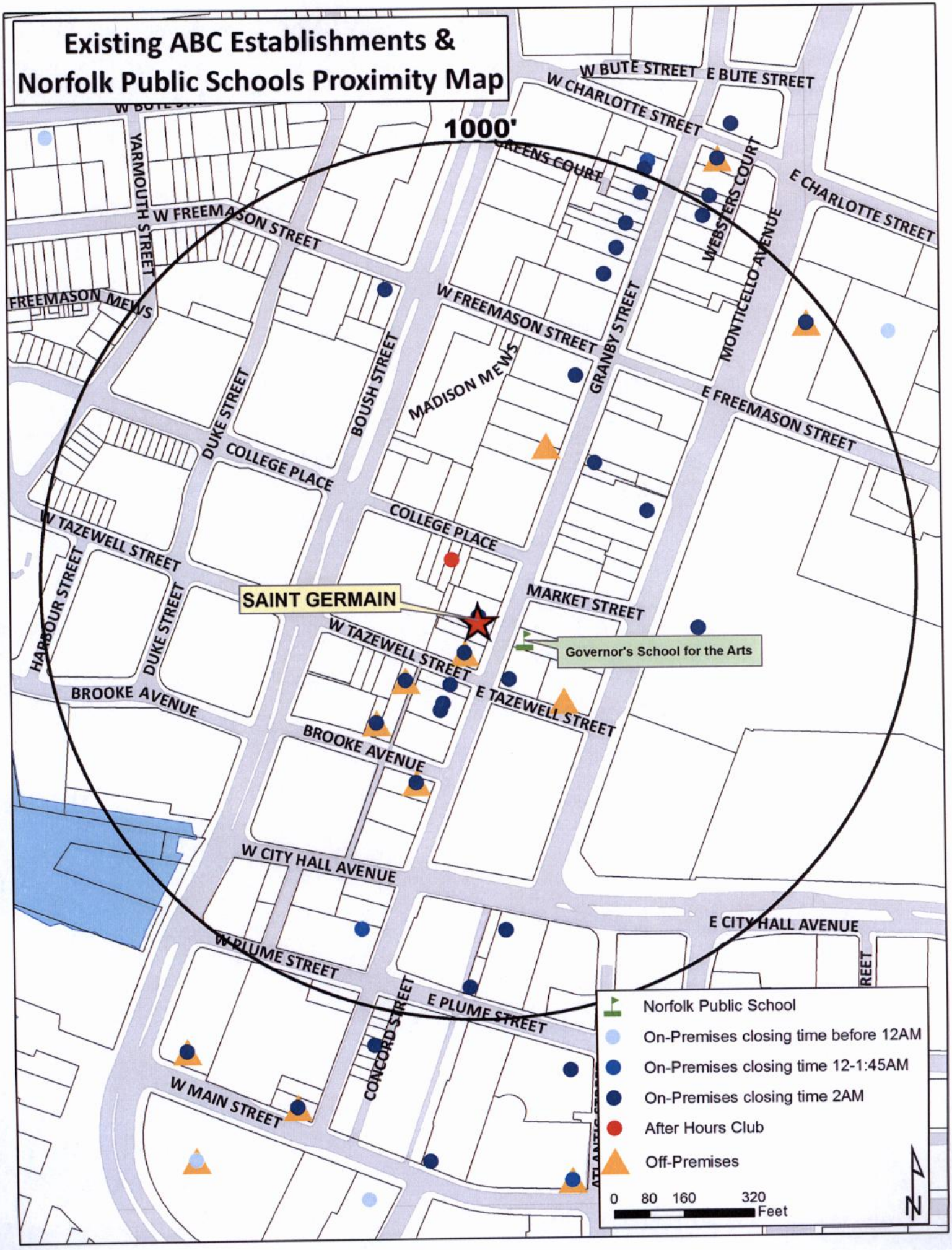
Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

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)


Location Map
COLLEGE PLACE
MARKET STREET
SAINT GERMAIN
GRANBY ST
W TAZEWELL STREET
LOWENBERGS LANE
E TAZEWELL ST
0 12.5 25 50
Feet
N


Zoning Map
D-3
MADISON MEWS
D-3
COLLEGE PLACE
BOUSH STREET
D-3
BOUSH STREET
COLLEGE PLACE
D-3
D-3
MARKET STREET
SAINT GERMAIN
GRANBY STREET
W TAZEWELL STREET
D-3
D-3
LOWENBERGS LANE
D-3
E TAZEWELL STREET
BROOKE AVENUE
D-3
MCCULLOUGHS LANE
D-3
D-3
D-2
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
W BUTE STREET
E BUTE STREET
W CHARLOTTE STREET
E CHARLOTTE STREET
GREENS COURT
WEBSTERS COURT
MONTICELLO AVENUE
YARMOUTH STREET
W FREEMASON STREET
FREEMASON MEWS
GRANBY STREET
E FREEMASON STREET
DUKE STREET
BOUSH STREET
MADISON MEWS
COLLEGE PLACE
W TAZEWELL STREET
HARBOUR STREET
SAINT GERMAIN
MARKET STREET
Governor's School for the Arts
E TAZEWELL STREET
BROOKE AVENUE
W CITY HALL AVENUE
E CITY HALL AVENUE
W PLUME STREET
E PLUME STREET
CONCORD STREET
W MAIN 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
ADULT USE SPECIAL EXCEPTION

(Please Print)

Date MARCH 9, 2016

DESCRIPTION OF PROPERTY

Address 255 Granby Street Norfolk Virginia 23510

Existing Use of Property Eating and drinking Establishment

Proposed Use Eating and drinking Establishment

Current Building Square Footage 2500

Proposed Building Square Footage 2500

Trade Name of Business (If applicable) Saint Germain LLC
TIFFANY KIDWELL, DAVID HIEDIK HUNTER HERI

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

1. Name of applicant: (Last) Kidwell-Gayoso (First) Tiffany (MI) Ann

Mailing address of applicant (Street/P.O. Box): 1628 Duke of Windsor Road

(City) Virginia Beach (State) VA (Zip Code) 23454

Daytime telephone number of applicant (757) 724-0096 Fax ( )

E-mail address of applicant: TiffanyKidwell1@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) Kidwell-Gaylord (First) Tiffany (MI) Ann

Mailing address of applicant (Street/P.O. Box): 1628 Duke of Windsor Road

(City) Virginia Beach (State) VA (Zip Code) 23454

Daytime telephone number of applicant (757) 724-0096 Fax ( )

E-mail address of applicant: TiffanyK.Owell7@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) Wright (First) Bobby (MI)

Mailing address of property owner (Street/P.O. box): Granby Street

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

Daytime telephone number of owner 757 472.9393 email: Bobby@thewrightsites.com

CIVIC LEAGUE INFORMATION

Civic League contact: _____

Date(s) contacted: _____

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: Robert Wright **Sign:** _____ 3 / 11 / 16
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Tiffany Kidwell-Gaylord **Sign:** _____ 3 / 9 / 2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ **Sign:** _____ / _____ / _____
(Authorized Agent Signature) (Date)

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
Eating and Drinking Establishment

- Complete this worksheet based for each floor plan submitted with application.

- Floor plan must be prepared by a registered design professional and include:
    - Tables/seats
    - Restroom facilities
    - Bar
    - Ingress and egress
    - Standing room
    - Outdoor seating
    - Total maximum capacity (including employees)

Total capacity

a. **Indoor**
   Number of seats (not including bar seats) 58
   Number of bar seats 21
   Standing room 6

b. **Outdoor**
   Number of seats 6

c. **Number of employees** 8

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 99

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
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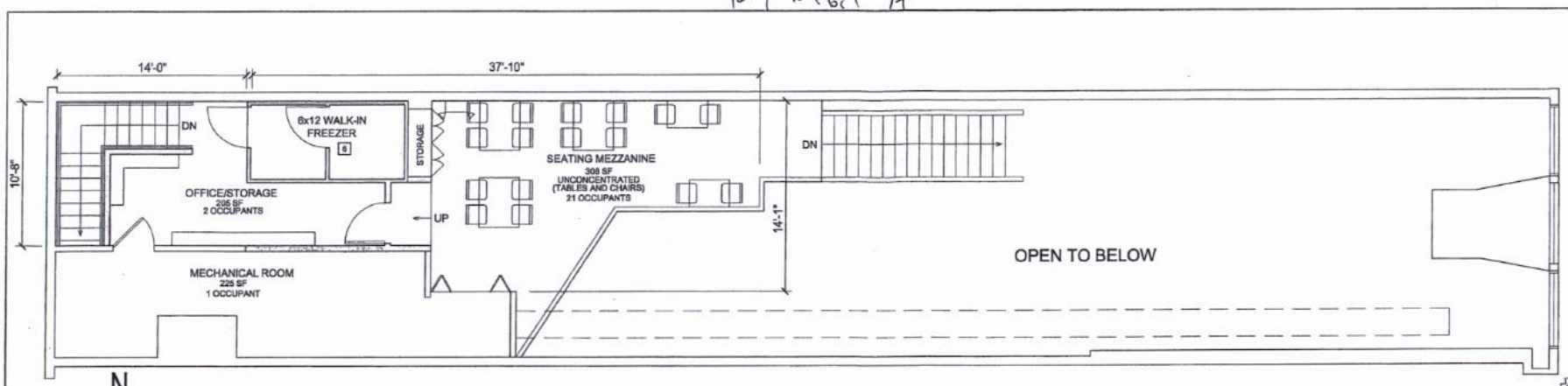
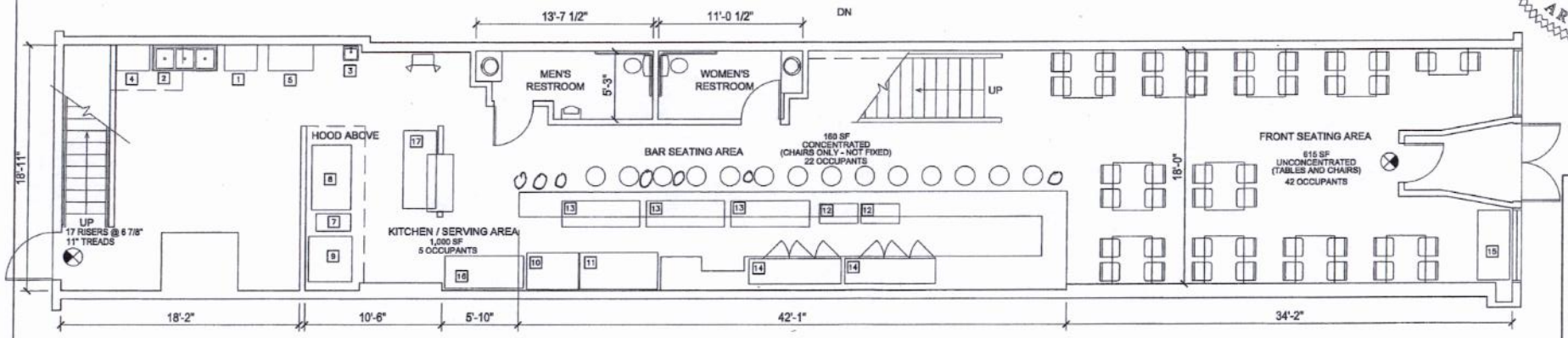
Exhibit A -



N

2 / A101 NEW WORK MEZZANINE PLAN

1/8" = 1'-0"



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1 / A101 NEW WORK FIRST FLOOR PLAN

1/8" = 1'-0"

1. DISHWASHER
2. 3-COMPARTMENT SINK WITH GREASE TRAP
3. HANDWASH SINK
4. MOP SINK (WATER HEATER OVER)
5. PREP SINK
6. 8X6 WALK-IN
7. FRYER
8. 60" RANGE/GRIDDLE
9. CONVECTION OVEN
10. 48" SANDWICH UNIT
11. 72" SANDWICH UNIT
12. 36" DRINK WELL
13. 72" KEG DISPENSER
14. BOTTLE COOLER
15. DOUBLE-SIDED GLASS MERCH-REF, SLIDING
16. 72" WORKTOP REFRIG
17. 2 PLATE HEATERS ON PLATING

EXIT SIGN W/ EMER LIGHT

EMER. LIGHT

WPA
WORK PROGRAM ARCHITECTS
WWW.WPARCH.COM 757.227.5310
208 E. PLUME STREET, SUITE 2 NORFOLK, VA 23510

COMMONWEALTH OF VIRGINIA
THOMAS F. WHITE, JR.
Lic No. 012590
9 / 19 / 14
ARCHITECT

ST.GERMAIN

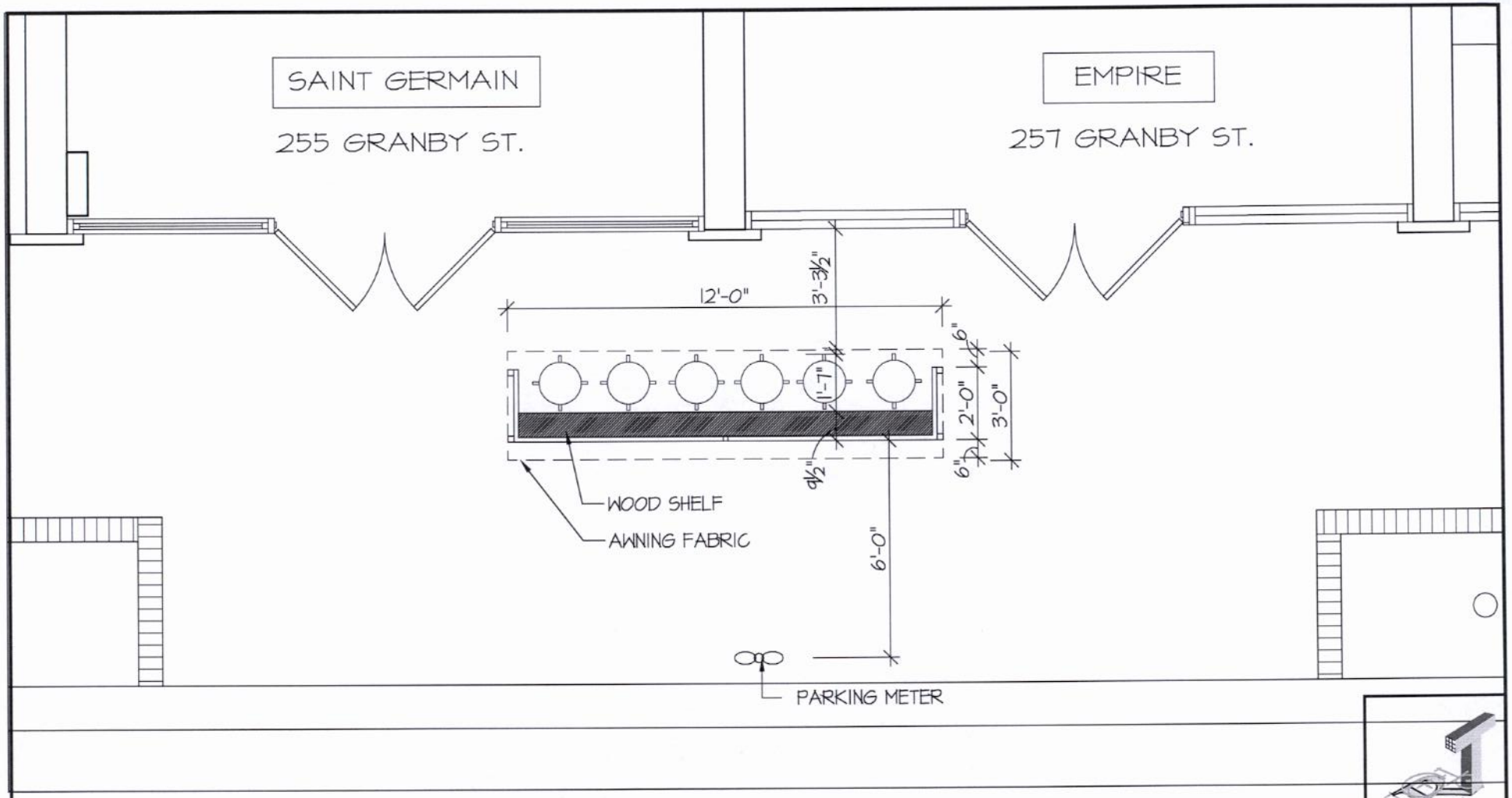
RESTAURANT BUILD OUT

255 GRANBY STREET
NORFOLK, VA 23510

PROJECT #	1422
DATE	09.19.2014
REVISION	
⚠	NOT APPLICABLE

NEW WORK FLOOR PLANS

A101



OUTDOOR DINING - 255 & 257 GRANBY STREET

1/4" = 1'-0"

ROBYN THOMAS
ARCHITECTURE

913 W. 21st Street, Suite C
Norfolk, VA 23517

Ofc: 757.622.7100
Fax: 757.640.1014

1 OF 2	A1.0
4-25-2016 DATE	
16-020 COMM NO.	
DRAWN NL	
CHECKED RJT	
16-020 BASE 4-25-2016	

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 2:13 PM
To: 'dncl@welovenorfolk.org'; Miller, Mary
Cc: Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject: new Planning Commission application
Attachments: SaintGermain.pdf

Mr. Murphy and Ms. Miller,

Attached please find the following application for a special exception to operate an entertainment establishment with alcoholic beverages at 255 Granby Street, suite 255.

The purpose of the request is to allow the existing restaurant to offer entertainment to its customers.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 4:04 PM
To: Whitney, Chris
Subject: FW: new Planning Commission application
Attachments: SaintGermain.pdf

FYI

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

From: Kevin R. Murphy [mailto:krmurphy@verizon.net]
Sent: Wednesday, March 16, 2016 4:01 PM
To: Straley, Matthew
Subject: RE: new Planning Commission application

Matthew,

The DNCL will have no objections to this application.

Thanks,

Kevin

From: Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
Sent: Wednesday, March 16, 2016 2:14 PM
To: dncl@welovenorfolk.org; Miller, Mary <mmiller@downtownnorfolk.org>
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: new Planning Commission application

Mr. Murphy and Ms. Miller,

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception for an Entertainment Establishment at 740 Duke Street, Suite 100 – d'Art Center**

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

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-9

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

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

III. **Request:** Special Exception for an Entertainment Establishment

IV. **Applicant:** **d'Art Center**

V. **Description:**
The application will allow the d'Art Center to offer alcoholic beverages and entertainment options to its patrons in its new location.

	Proposed
Hours of Operation	7:00 a.m. until 12:00 midnight, Seven days a week
Hours for Alcoholic Beverages and for Entertainment	9:00 a.m. until 12:00 midnight, Seven days a week
Capacity	49 total capacity per floor
Entertainment Options	• Five-member live band • Poetry Reading

VI. **Historic Resources Impacts**
The building is not located within a federal, state, or local historic district.

VII. Public Schools Impacts

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

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Letter of no objection – Downtown Norfolk Civic League
- Proponents and Opponents
- Ordinance

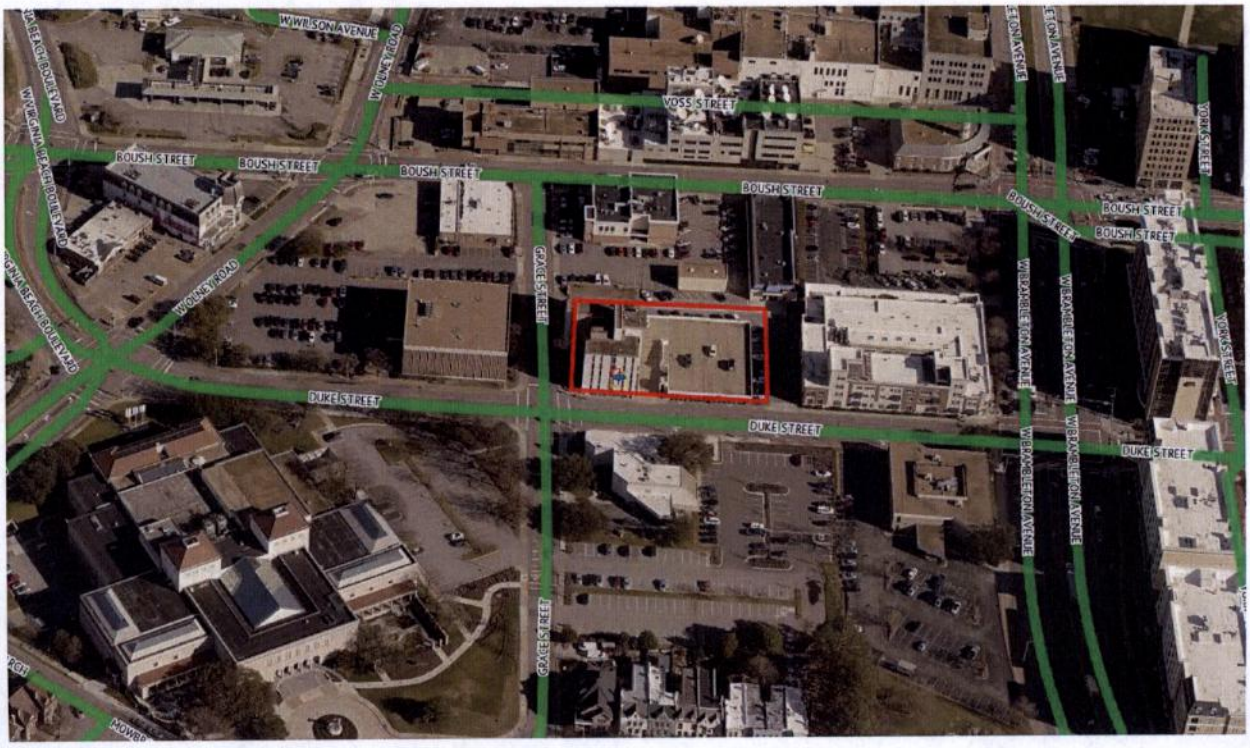
THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

On Executive Secretary: George M. Homewood, FAICP, CFM GMH

Planner: Matthew Simons, AICP, CZA, CFM M.S.

Staff Report	Item No. 18	
Address	740 Duke Street, Suite 100	
Applicant	d'Art Center	
Request	Special Exception	Entertainment Establishment
Property Owner	Downtown Norfolk Properties, LLC	
Site Characteristics	Building Area/Space	44,398 sq. ft./10,992 sq. ft.
	Future Land Use Map	Downtown
	Zoning	D-4 (Downtown Arts and Design)
	Neighborhood	Downtown
	Character District	Downtown
Surrounding Area	North	D-4: Norfolk Community Services Board
	East	D-4: Nouvelle Restaurant
	South	D-4: 220 West Downtown Condos
	West	D-4: Chrysler Museum Glass Studio



A. Summary of Request

- The establishment is proposed on the first and second floor of the Duke Grace Office Building, located on the southeast corner of Duke Street and Grace Street within the Downtown Arts and Design District.
- The applicant proposes to allow the existing d'Art Center to offer alcoholic beverages and entertainment options to its patrons.

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	7:00 a.m. until 12:00 midnight, Seven days a week
Hours for Alcoholic Beverages and for Entertainment	9:00 a.m. until 12:00 midnight, Seven days a week
Capacity	49 total capacity per floor
Entertainment Options	• Five-member live band • Poetry Reading

ii. Parking

- The site is located within the Downtown Character District, which requires one parking space per 250 square feet for new entertainment establishments.
- Given the proposed entertainment establishment is 10,992 square feet, it is required to accommodate 44 off-street parking spaces.
  - The site is able to accommodate the required parking within the parking garage located on-site to the south of the building.

iii. Flood Zone

- The property is located in the AE (Elev. 7.6) Flood Zone, which is a high-risk flood zone.
- Any substantial improvements or additions made to the structure must comply with appropriate development standards.

D. Transportation Impacts

- No new trips are forecast related to the proposed addition of on-site alcohol sales at this existing establishment.
- Duke 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 is not located within a federal, state, or local historic district.

F. Public Schools Impacts
The site is located in the Taylor Elementary School, the 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. AICUZ Impacts
N/A

I. Surrounding Area/Site Impacts
By requiring this use to conform to the conditions listed below, the addition of alcohol and entertainment should not have a negative effect on the surrounding area.

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

K. Civic League
Notice was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on March 16.

L. Communication Outreach/Notification
- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. Recommendation
Staff recommends **approval** of the special exception request subject to the conditions below:

(a) The hours of operation for the establishment shall be limited to 7:00 a.m. until 12:00 midnight, seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The hours for the consumption of alcoholic beverages and for entertainment shall be limited to 9:00 a.m. until 12:00 midnight, seven days a week.

(c) The total occupant capacity, including employees, shall not exceed 49 people per floor.

(d) 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.

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

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

(g) 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.

(h) 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.

(i) 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.

(j) 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, snow, ice, and any bodily discharge.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(o) 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.

(p) 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.

(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.

Notwithstanding anything to the contrary, the requirements of this subsection shall not apply to the following entities, who may lease or otherwise use the establishment for events that are permitted by and comply with this ordinance in all other respects:

(1) Any federal, state, or local government or governmental agency;
(2) Any party that receives a grant or other direct funding from a state or local government; and
(3) Any party that is recognized as a charitable organization in good standing under § 501(c)(3) of the Internal Revenue Code of the United States Code at the time of the event.

Collectively, the parties identified in items 1, 2 and 3 above are defined as "Authorized Entities".

(r) 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 or any event held by an Authorized Entity which leases, lets, or uses the establishment.

(s) 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.

Attachments

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

Proponents and Opponents

Proponents
Angela Tilley – Representative
740 Duke Street
Norfolk, VA 23510

Opponents
None

04/25/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved: MM.L

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "D'ART CENTER" ON PROPERTY LOCATED AT 740 DUKE STREET, SUITE 100.

- - -

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

Section 1:- That a Special Exception is hereby granted to d'Art Center authorizing the operation of an entertainment establishment with alcoholic beverages known as "d'Art Center" on property located at 740 Duke Street, Suite 100. The property which is the subject of this Special Exception is more fully described as follows:

> Property located at the southeast corner of Duke Street and Grace Street fronting 244 feet, more or less, along the eastern line of Duke Street and 122 feet, more or less, along the southern line of Grace Street; premises numbered 740 Duke Street, suite 100.

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 7:00 a.m. until 12:00 midnight, seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The hours of operation for the sale of alcoholic beverages for on-premises consumption and for entertainment shall be limited to 9:00 a.m. until 12:00 midnight, seven days per week.

(c) The total occupant capacity, including employees, shall not exceed 49 people per floor.

(d) 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.

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

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

(g) 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.

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

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(o) 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.

Notwithstanding anything to the contrary, the requirements of this subsection shall not apply to the following entities, who may lease or otherwise use the establishment for events that are permitted by and comply with this ordinance in all other respects:

(1) Any federal, state, or local government or governmental agency;

(2) Any party that receives a grant or other direct funding from a state or local government; and

(3) Any party that is recognized as a charitable organization in good standing under § 501(c)(3) of the Internal Revenue Code of the United States Code at the time of the event.

Collectively, the parties identified in items 1, 2 and 3 above are defined as "Authorized Entities".

(p) 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 or any event held by an Authorized Entity which leases, lets, or uses the establishment.

(q) 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; and

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

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.

ATTACHMENTS:
Exhibit A (4 pages)
Exhibit B (2 pages)

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

Date 3-2-16

Trade name of business 21c Art Center

Address of business 740 Duke Street Norfolk VA 23510, Ste. 100

Name(s) of business owner(s)* Carolyn Phillips, Executive Director - Dockside Art Review 501-(c)3

Name(s) of property owner(s)* Decker Family, Downtown Norfolk Properties, LLC

Name(s) of business manager(s)/operator(s) Carolyn Phillips, Executive Director

Daytime telephone number (757) 625-4211

*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 7:00am	To 12:00am	Weekday	From 9:00am	To 12:00am
Friday	From 7:00am	To 12:00am	Friday	From 9:00am	To 12:00am
Saturday	From 7:00am	To 12:00am	Saturday	From 9:00am	To 12:00am
Sunday	From 7:00am	To 12:00am	Sunday	From 9:00am	To 12:00am

* w/alcohol and entertainment ceasing at midnight.

Change made per applicant email request 4/20/16 M.S.

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

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(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:
   - ONLY for ticketed fundraisers - 2-4 times annually

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

   ☒Monday ☒Tuesday ☒Wednesday ☒Thursday ☒Friday ☒Saturday ☒Sunday see 5a

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

   6a. If yes, explain:
   - space can be rented for events from the d'Art Center

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

   7a. If yes, explain: Non-profit third parties only. All other events solely controlled & managed by d'Art
   - ~~d'Art has resident artist sublease tenants~~
   - spaces can be Rented for other events

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

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(Revised January, 2015)

Exhibit A – Page 3
Entertainment Establishment

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

The d'Art Center space at 746 Duke will be used similarly to the previous d'Art Center space at Selden Arcade.

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

Signature of Applicant

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(Revised January, 2015)

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) [ ]
   Number of bar seats [ ]
   Standing room [ ]

   b. Outdoor
   Number of seats [ ]

   c. Number of employees [4]

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = [49 per floor]

2. Entertainment
   List ANY type of entertainment proposed other than a ~~3~~ 5 member live band, ~~karaoke~~, ~~comedian~~, or poetry reading.

art displays

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.

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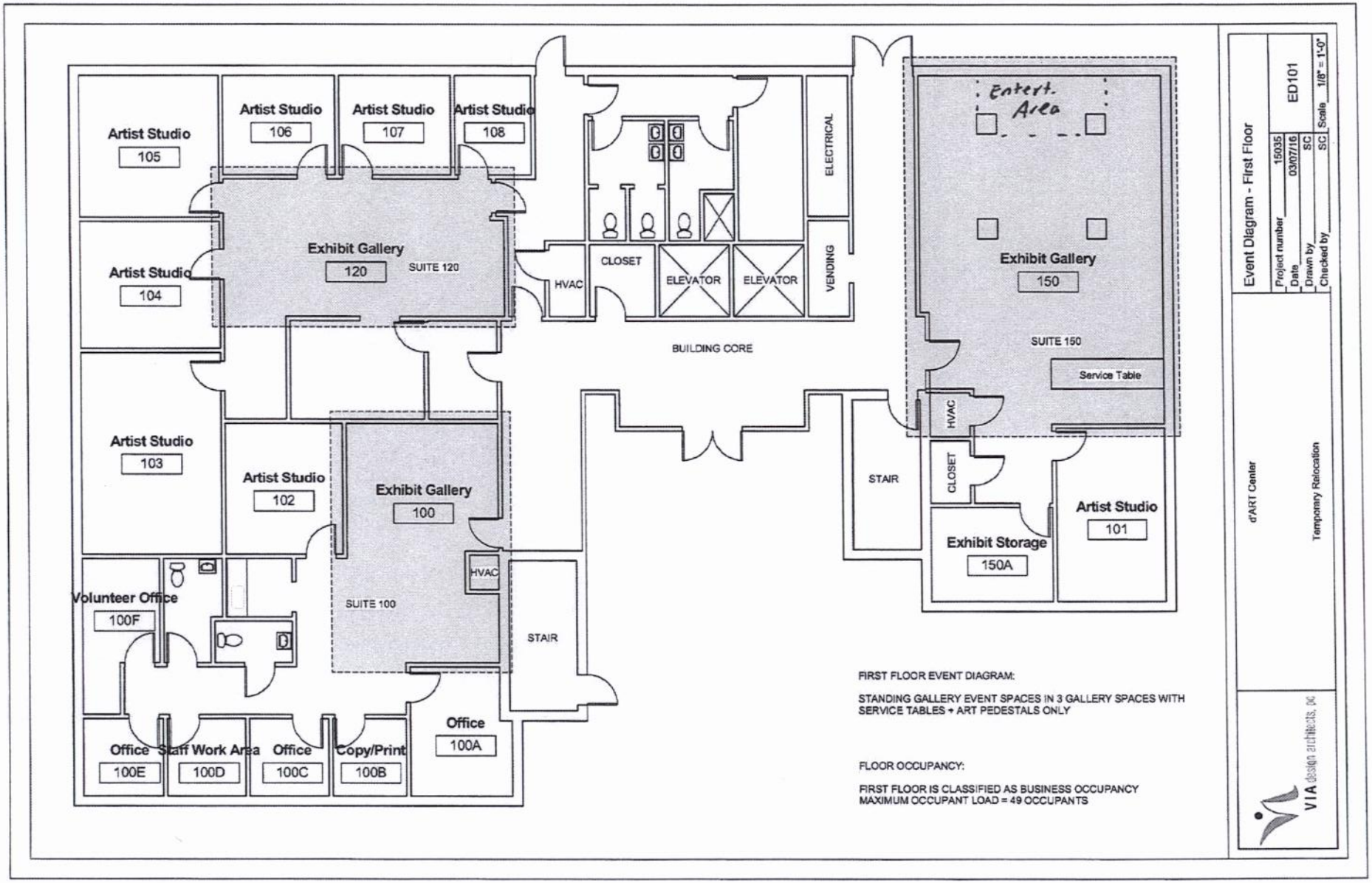
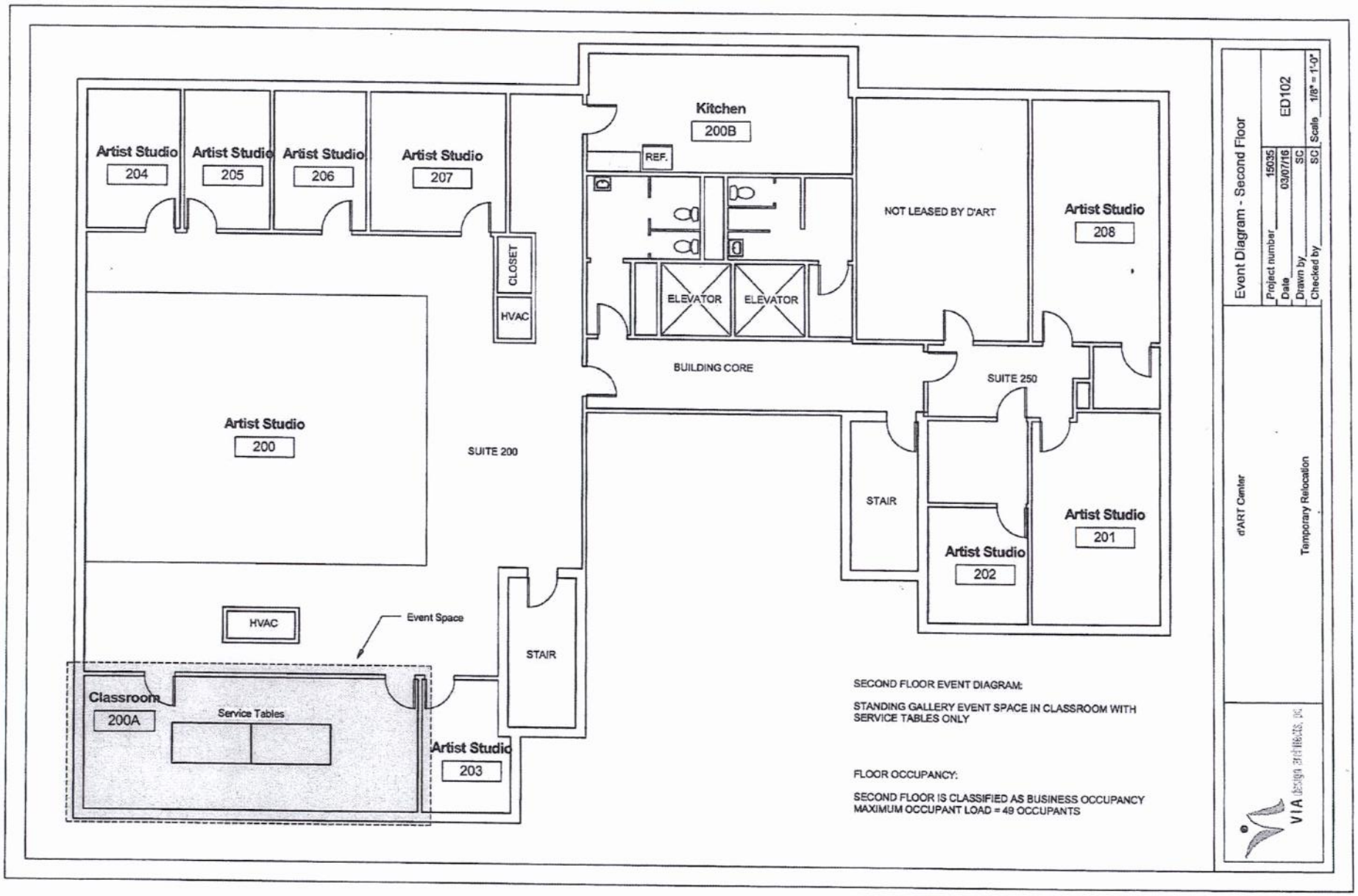
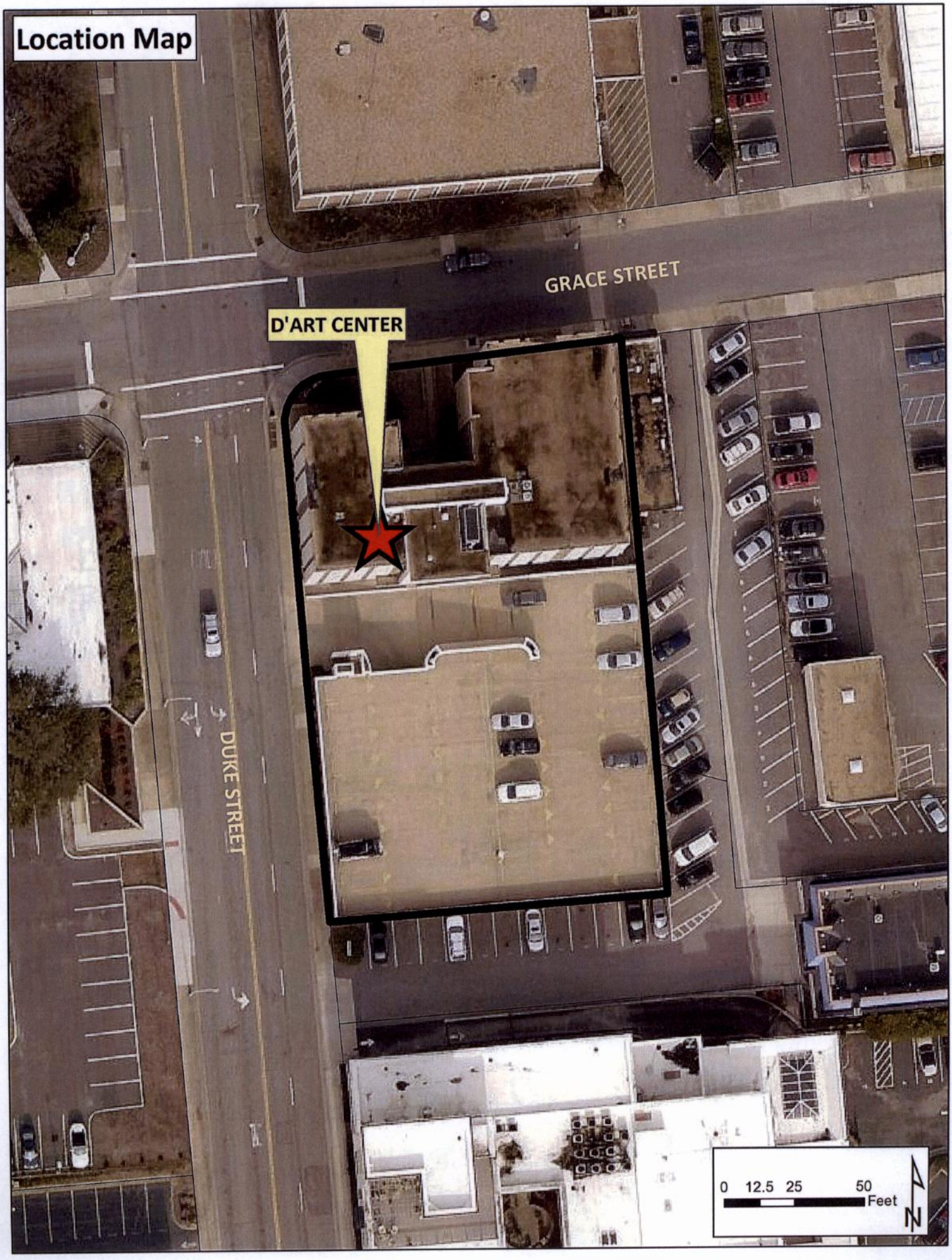
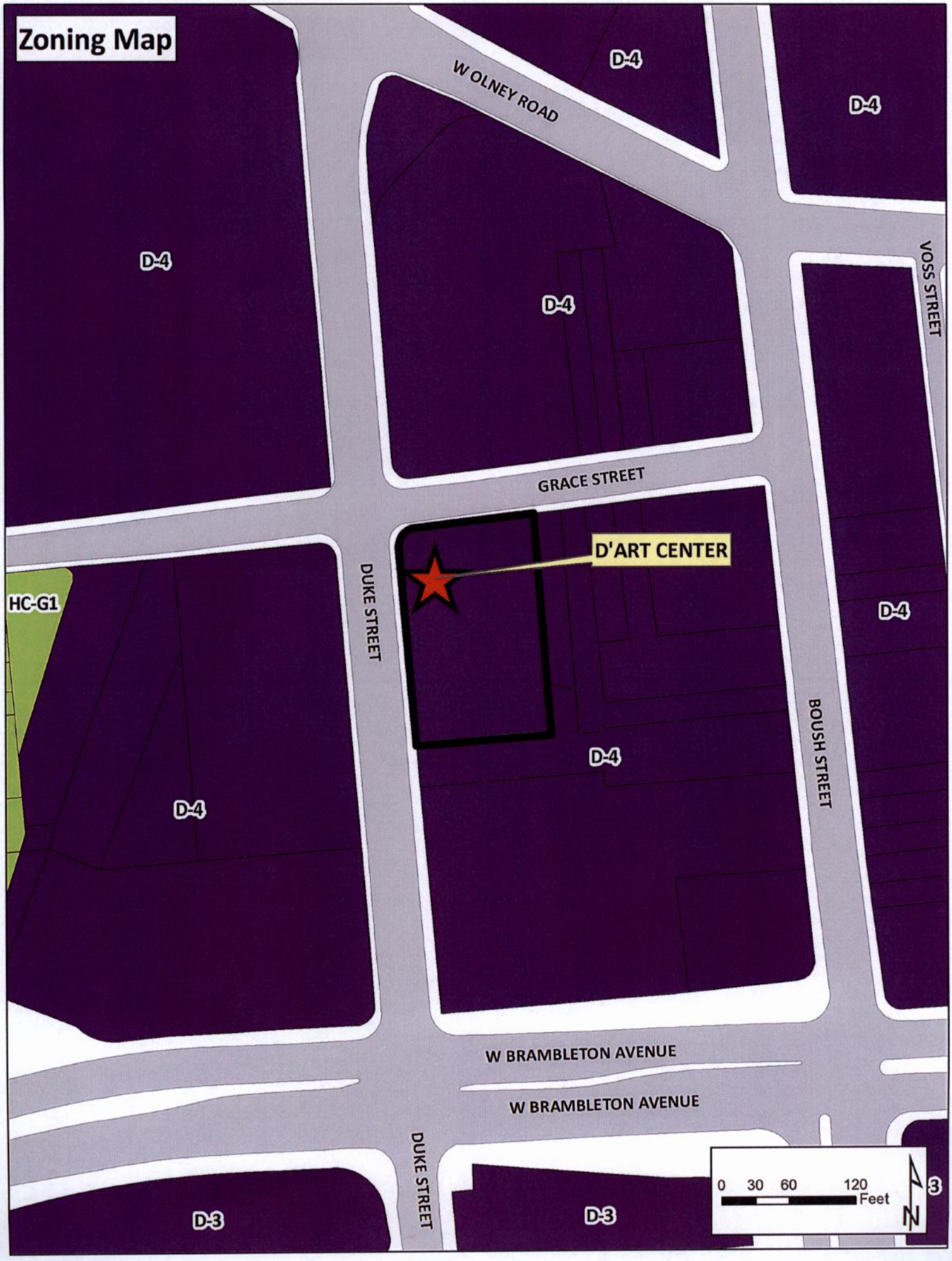
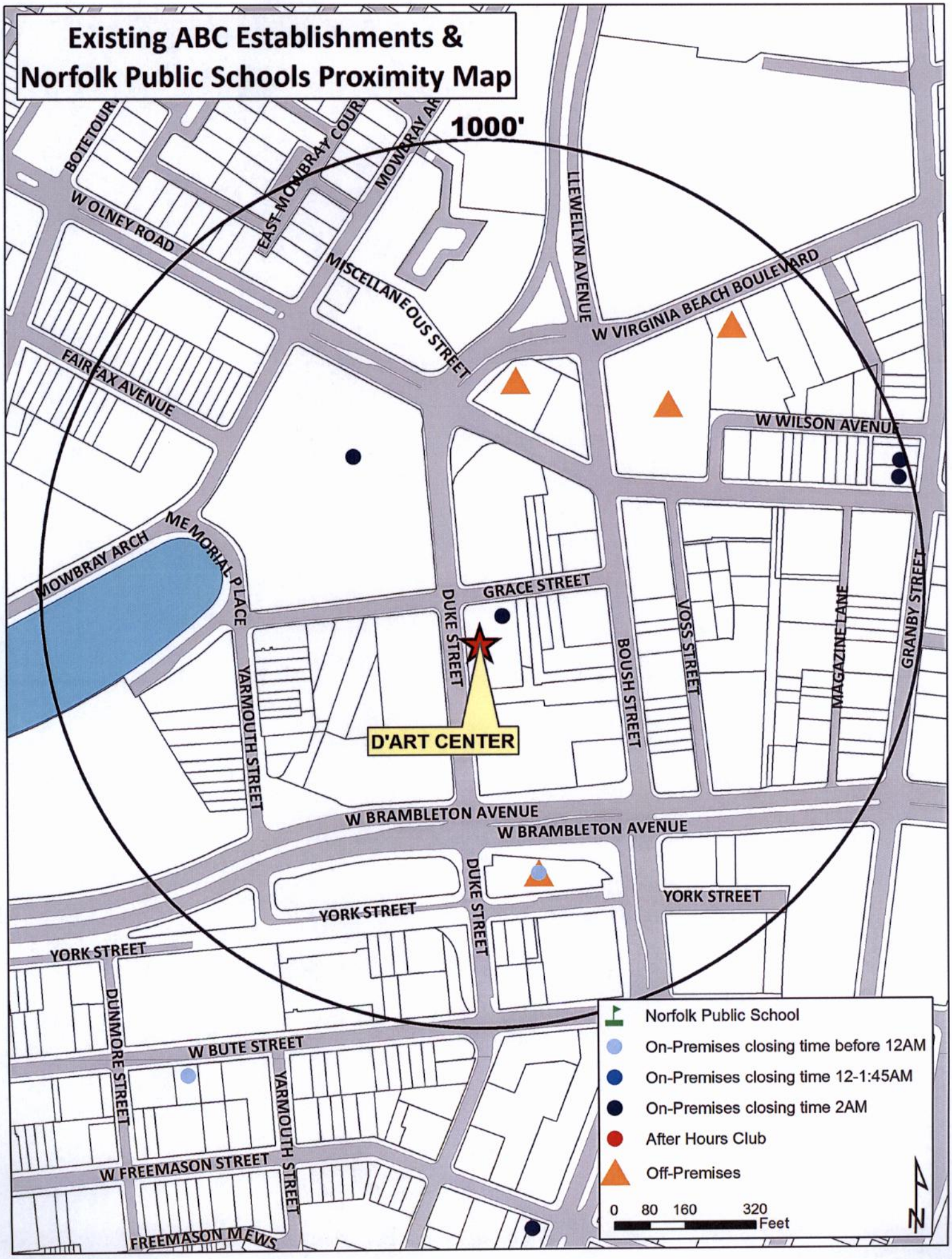
Exhibit B


Artist Studio
105
Artist Studio
106
Artist Studio
107
Artist Studio
108
Exhibit Gallery
120
SUITE 120
Artist Studio
104
Artist Studio
103
Artist Studio
102
Exhibit Gallery
100
SUITE 100
HVAC
Volunteer Office
100F
Office
100E
Staff Work Area
100D
Office
100C
Copy/Print
100B
Office
100A
STAIR
HVAC
CLOSET
ELEVATOR
ELEVATOR
VENDING
ELECTRICAL
BUILDING CORE
Entert. Area
Exhibit Gallery
150
SUITE 150
Service Table
HVAC
CLOSET
STAIR
Exhibit Storage
150A
Artist Studio
101
FIRST FLOOR EVENT DIAGRAM:
STANDING GALLERY EVENT SPACES IN 3 GALLERY SPACES WITH SERVICE TABLES + ART PEDESTALS ONLY
FLOOR OCCUPANCY:
FIRST FLOOR IS CLASSIFIED AS BUSINESS OCCUPANCY
MAXIMUM OCCUPANT LOAD = 49 OCCUPANTS
Event Diagram - First Floor
ED101
Project number 15035
Date 03/07/16
Drawn by SC
Checked by SC
Scale 1/8" = 1'-0"
d'ART Center
Temporary Relocation
VIA design architects, pc


Artist Studio
204
Artist Studio
205
Artist Studio
206
Artist Studio
207
CLOSET
HVAC
Kitchen
200B
REF.
ELEVATOR
ELEVATOR
BUILDING CORE
NOT LEASED BY D'ART
Artist Studio
208
SUITE 250
Artist Studio
200
SUITE 200
STAIR
Artist Studio
201
Artist Studio
202
HVAC
Event Space
STAIR
Classroom
200A
Service Tables
Artist Studio
203
SECOND FLOOR EVENT DIAGRAM:
STANDING GALLERY EVENT SPACE IN CLASSROOM WITH SERVICE TABLES ONLY
FLOOR OCCUPANCY:
SECOND FLOOR IS CLASSIFIED AS BUSINESS OCCUPANCY
MAXIMUM OCCUPANT LOAD = 49 OCCUPANTS
Event Diagram - Second Floor
Project number 15035
Date 03/07/16
Drawn by SC
Checked by SC
ED102
Scale 1/8" = 1'-0"
d'ART Center
Temporary Relocation
VIA


Location Map
GRACE STREET
D'ART CENTER
DUKE STREET
0 12.5 25 50
Feet
N


Zoning Map
W OLNEY ROAD
D-4
D-4
D-4
D-4
D-4
VOSS STREET
GRACE STREET
D'ART CENTER
DUKE STREET
HC-G1
D-4
D-4
D-4
BOUSH STREET
W BRAMBLETON AVENUE
W BRAMBLETON AVENUE
DUKE STREET
D-3
D-3
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
BOTETOURT
W OLNEY ROAD
EAST MOWBRAY COURT
MOWBRAY ARCH
MISCELLANEOUS STREET
LLEWELLYN AVENUE
W VIRGINIA BEACH BOULEVARD
FAIRFAX AVENUE
W WILSON AVENUE
MEMORIAL PLACE
MOWBRAY ARCH
GRACE STREET
DUKE STREET
BOUSH STREET
VOSS STREET
MAGAZINE LANE
GRANBY STREET
YARMOUTH STREET
D'ART CENTER
W BRAMBLETON AVENUE
W BRAMBLETON AVENUE
DUKE STREET
YORK STREET
YORK STREET
YORK STREET
DUNMORE STREET
W BUTE STREET
YARMOUTH STREET
W FREEMASON STREET
FREEMASON MEWS
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 3-2-16

DESCRIPTION OF PROPERTY

Address 740 Duke Street, Suite 100 Norfolk VA 23510

Existing Use of Property Office Building (multiple tenants)

Proposed Use d'Art Center (1st & 2nd floors)

Current Building Square Footage 28,531

Proposed Building Square Footage 10,992

Trade Name of Business (If applicable) d'Art Center

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

Dockside Art Review (501c3) dba "d'Art Center"

1. Name of applicant: (Last) Phillips (First) Carolyn (MI) B

Mailing address of applicant (Street/P.O. Box): 740 Duke Street

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

Daytime telephone number of applicant (757) 625-4211 Fax ( ) N/A

E-mail address of applicant: carolynphillipsart@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) Phillips (First) Carolyn (MI) B

Mailing address of applicant (Street/P.O. Box): 740 Duke Street

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

Daytime telephone number of applicant (757) 625-4211 Fax ( ) N/A

E-mail address of applicant: carolynphillips art@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) Decker (First) Phillip (MI) c/o Ross Bobby or H. Joel Weintraub Manager

Mailing address of property owner (Street/P.O. box): 109 E. Main St.

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

Daytime telephone number of owner (757) 640-2382 email: dlihp@aol.com

d ba Downtown Norfolk Properties, LLC

CIVIC LEAGUE INFORMATION

Civic League contact:

Date(s) contacted:

Ward/Super Ward information:

REQUIRED ATTACHMENTS

H. Jackson Ltd, Manager

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: Downtown Norfolk Properties, LLC / J. Joel Weintraub **Sign:** _____ / 3/7/16
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Carolyn Phillips **Sign:** _____ / 2 / 2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ **Sign:** _____ / _____ / _____
(Authorized Agent Signature) (Date)

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
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(Revised January, 2015)

Security Plan for the d'Art Center

740 Duke Street, Norfolk, VA 23510

Definition of "Security":

- freedom from danger, risk, etc.; safety
- freedom from worry, anxiety, or doubt; well-founded confidence
- something that secures or makes safe; protection; defense
- precautions taken to guard against crime, attack, etc.

Goals:

- To create a safe a secure environment for d'Art Center resident artists, patrons, staff, board members, and other affiliates.
- To provide a level of control and safety for all arriving and departing guests of the d'Art Center, through the oversight of d'Art staff and trained volunteers.
- To mitigate any noise or inappropriate conduct by patrons of the d'Art Center entering or leaving the facility which impairs the quiet enjoyment of immediate neighbors, particularly residents living nearby. This also applies to our resident artists and staff, who work closely and communally.
- To peacefully and effectively resolve all dangerous situations before any injury to any person or property occur. The d'Art Center staff, trained volunteers, and resident artists shall provide an assertive presence by displaying integrity and professionalism while executing their duties and responsibilities in an effort to maintain security, protection, and safety of members of the public.
- To ensure a complete, orderly, safe and swift evacuation of the facility in case of fire, explosion, or any other uncontrolled dangers within the building.
- To protect and promote the courteous, inviting, and hospitable character of the neighborhood and the City of Norfolk.

Features of the Plan:

- Security at the d'Art Center is handled by staff, trained volunteers, and with assistance from one of our resident artists who is a police officer in the City of Norfolk. Volunteers and staff are provided with information on emergency contacts, protocol for various scenarios that may arise, and detailed information on securing the premises for the safety of patrons and affiliates. Volunteers are trained similarly.
- Members of the public who visit d'Art, as well as d'Art affiliates like staff and resident artists, are expected to abide by all city, state, and federal laws regarding dress and weapons. D'Art is open to the public, and all age groups from the public; alcohol is only served occasionally at special events, usually in the evening. If someone at d'Art is found to be in lawful violation of dress or weapons, they would be asked to leave the premises and law enforcement would be contacted.
- Drink limits are documented and enforced by the bartender and/ or d'Art staff. Intoxicated persons would be prevented from driving themselves from the function; a cab is called, if a designated driver is not available. Intoxicated patrons who are unruly, or patrons who are

generally unruly, are asked to leave the premises. Law enforcement is contacted when necessary, depending on circumstances and severity.

Access:

- A parking deck is adjacent to the building, operated by the landlord, and available to tenants including d'Art Center resident artists and staff. The landlord maintains the parking deck. Patrons to the d'Art Center may utilize street parking near the facility; there are several streets nearby that allow public parking.

Integration:

- The d'Art Center will interface effectively with any law enforcement in situations where a possible crime has been committed or which warrant police intervention. All d'Art affiliates are committed to assisting law enforcement with what is necessary to find resolution to any adverse situation or circumstances. D'Art Center affiliates are also respectful of their neighbors, both within the building, and in the neighborhood. We work with our neighbors regarding parking, events, noise, or any other potential area of concern that may arise.

Uniform:

- D'Art staff and volunteers wear name tags and have identifiers on office doors and at desks.

Simons, Matthew

From:	Straley, Matthew
Sent:	Wednesday, March 16, 2016 2:22 PM
To:	'dncl@welovenorfolk.org'; Miller, Mary; 'info@ghentva.org'; 'Emily Birknes'; 'ghentsquare@verizon.net'
Cc:	Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject:	new Planning Commission application
Attachments:	dArts.pdf

Mr. Murphy, Ms. Miller, Ms. Birknes, and Ms. Lamkin:

Attached please find the following application for a special exception to operate an entertainment establishment with alcoholic beverages at 740 Duke Street, suite 100.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Simons, Matthew

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 4:06 PM
To: Whitney, Chris
Subject: FW: new Planning Commission application
Attachments: dArts.pdf

FYI

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

From: Kevin R. Murphy [mailto:krmurphy@verizon.net]
Sent: Wednesday, March 16, 2016 4:04 PM
To: Straley, Matthew
Subject: RE: new Planning Commission application

Matthew,

The DNCL will have no objections to this application.

Thank you,

Kevin

From: Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
Sent: Wednesday, March 16, 2016 2:22 PM
To: dncl@welovenorfolk.org; Miller, Mary <mmiller@downtownnorfolk.org>; info@ghentva.org; Emily Birknes <emilybirknes@gmail.com>; ghentsquare@verizon.net
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: new Planning Commission application

Mr. Murphy, Ms. Miller, Ms. Birknes, and Ms. Lamkin:

Attached please find the following application for a special exception to operate an entertainment establishment with alcoholic beverages at 740 Duke Street, suite 100.

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate an eating and drinking establishment at 245 Granby Street – Luce**

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

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-10

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

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

III. **Request:** Special Exception to operate an eating and drinking establishment.

IV. **Applicant:** **Tony Caruana**

V. **Description:**

- The site is located Downtown at the northwest corner of Granby Street and W. Tazewell Street.
- The applicant proposes to allow a new owner to operate Luce, an existing eating and drinking establishment, and add outdoor dining on W. Tazewell Street.

	Previous	Proposed
Hours of Operation and for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same
Seating Capacity	34 seats indoors 0 seats outdoors 49 total capacity	29 seats indoors 12 seats outdoors 56 total capacity

VI. **Historic Resources Impacts**

- The site is located within the Downtown Historic Overlay District (HO-D) and is a contributing structure.
- Any modifications to the exterior of the building would be subject to Architectural Review Board approval for a Certificate of Appropriateness.

- The outdoor dining area requires an encroachment from the Architectural Review Board, City Planning Commission, and City Council.

VII. Public Schools Impacts

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

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

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

60 Executive Secretary: George M. Homewood, FAICP, CFM GMH

Planner: Chris Whitney, CFM CW

Staff Report	Item No. 14	
Address	245 Granby Street	
Applicant	Luce	
Request	Special Exception	Eating and Drinking Establishment
Property Owner	245 Granby Street, LLC	
Site Characteristics	Site Area/Space	7,350 sq. ft./5,299 sq. ft.
	Future Land Use Map	Downtown
	Zoning	D-3 (Freemason/Granby Conservation and Mixed Use) and HO-D (Downtown Historic Overlay)
	Neighborhood	Downtown
	Character District	Downtown
Surrounding Area	North	D-3: The Tazewell Hotel, JuiceBar Juices
	East	D-3: Tap It Local
	South	D-3: Brick Anchor Brew-House
	West	D-3: The Tazewell Hotel, Harbor Heights

A. Summary of Request

- The site is located Downtown at the northwest corner of Granby Street and W. Tazewell Street.
- The applicant proposes to allow a new owner to operate Luce, an existing eating and drinking establishment, and add outdoor dining on W. Tazewell Street.

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-3 district, which permits the proposed use by special exception.

	Previous	Proposed
Hours of Operation and for the Sale of Alcoholic Beverages	11:00 a.m. until 2:00 a.m., Seven days a week	Same
Seating Capacity	34 seats indoors 0 seats outdoors 49 total capacity	29 seats indoors 12 seats outdoors 56 total capacity

- Special exception history:

City Council Approval	Applicant	Request
1999	Empire	Initial application
2013	Luce	Eating and Drinking Establishment
Pending	Luce	• Change of owner/operator • Add outdoor dining

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) Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that this restaurant will generate 24 fewer vehicle trips per day by decreasing total indoor seating at this location by five seats below currently approved levels.
- This downtown site has good transit accessibility served with both frequent bus service and also light rail available at the nearby Monticello station.
- 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 (HO-D) and is a contributing structure.
- Any modifications to the exterior of the building would be subject to Architectural Review Board approval for a Certificate of Appropriateness.
- The outdoor dining area requires an encroachment from the Architectural Review Board, City Planning Commission, and City Council.

F. Public Schools Impacts

The site is located in 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. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

Over the past year, there have been 22 calls for police service at this site with no arrests made.

J. Payment of Taxes

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

K. Civic League

- Notice was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on March 16.
- An email of no objection was received from the Downtown Norfolk Civic League on March 16.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. 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 from 11:00 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 29 seats indoors, 12 seats outdoors, and the total occupant capacity, including employees, shall not exceed 56 people.

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

(d) 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.

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

(f) 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.

(g) 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.

(h) 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, snow, ice, and any bodily discharge.

(i) 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.

(j) 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.

(k) 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.

(l) There shall be no entertainment, no dancing, and no dance floor provided.

(m) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(n) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

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
Email of no objection from the Downtown Norfolk Civic League

Proponents and Opponents

Proponents
Rick Henn – Representative
1400 Granby Street, Unit 407
Norfolk, VA 23510

Opponents
None

04/26/2016 lds

Form and Correctness Approved:

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 EATING AND DRINKING ESTABLISHMENT NAMED "LUCE" ON PROPERTY LOCATED AT 245 GRANBY STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to Tony Caruana authorizing the operation of an eating and drinking establishment named "Luce" on property located at 245 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

> Property located on the northwest corner of Granby Street and West Tazewell Street fronting 20 feet, more or less, along the eastern line of Granby Street and 60 feet, more or less, along the northern line of West Tazewell Street; premises numbered 245 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 and for the sale of alcoholic beverages shall be from 11:00 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 29 seats indoors, 12 seats outdoors, and the total occupant capacity, including employees, shall not exceed 56 people.

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

(d) 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.

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

(f) 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.

(g) 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.

(h) 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, snow, ice, and any bodily discharge.

(i) 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.

(j) 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.

(k) 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.

(l) There shall be no entertainment, no dancing, and no dance floor provided.

(m) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(n) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

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 (3 pages)

EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

Date 3/14/16

Trade name of business Lucie

Address of business 245 Granby St

Name(s) of business owner(s)* _____

Name(s) of property owner(s)* Buddy Gadams

Daytime telephone number ( ) _____

*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 11:00	To 2:00	Weekday	From 11:00	To 2:00 AM
Friday	From 11:00	To 2:00	Friday	From 11:00	To 2:00 AM
Saturday	From 11:00	To 2:00	Saturday	From 11:00	To 2:00 AM
Sunday	From 11:00	To 2:00	Sunday	From 11:00	To 2:00 AM

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

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

4. Will indoor or outdoor entertainment be provided?
(Entertainment consists of anything more than one, unamplified musician)
☐ Yes (Different application required) ☑ 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 2
Eating and Drinking Establishment

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

5a. If yes, please describe type and number of each game to be provided

_____

_____

6. Will patrons ever be charged to enter the establishment?
☐ Yes ☒ No

6a. If yes, why

_____

_____

6b. Which days of the week will there be a cover charge (circle all applicable days)?

Monday Tuesday Wednesday Thursday Friday

Saturday Sunday

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

7a. If yes, explain

_____

_____

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

8a. If yes, explain

_____

_____

9. Will there ever be a minimum age limit?
☐ Yes ☒ No

Exhibit A – Page 3

Eating and Drinking Establishment

10. 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)

Exhibit A – Floor Plan(s) Worksheet
Eating and Drinking Establishment

- Complete this worksheet based for each floor plan submitted with application.

- Floor plan must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Outdoor seating
  - Total maximum capacity (including employees)

Total capacity

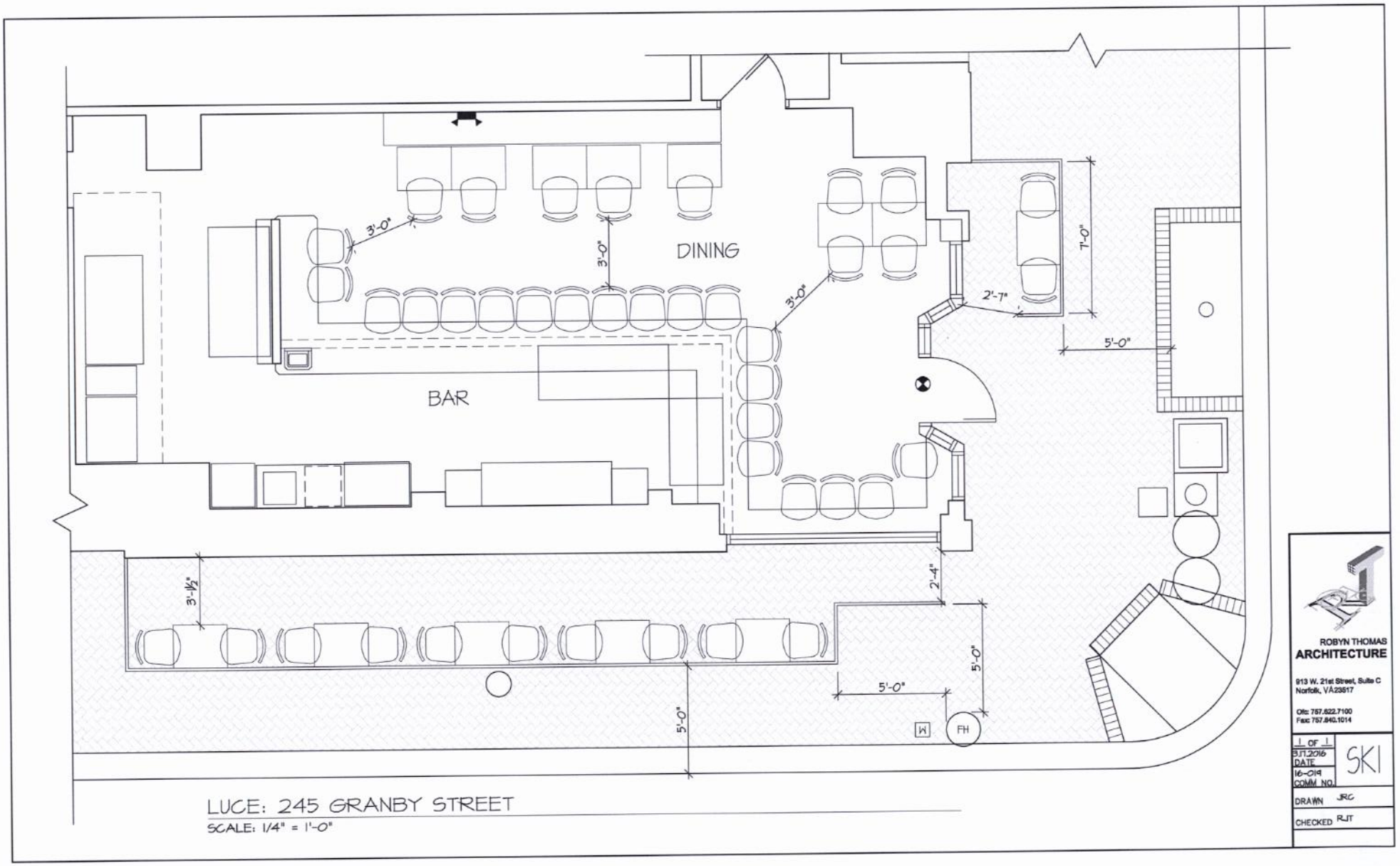
a. **Indoor**
   Number of seats (not including bar seats) 13
   Number of bar seats 16
   Standing room 3

b. **Outdoor**
   Number of seats 12

c. **Number of employees** 12

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 56

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

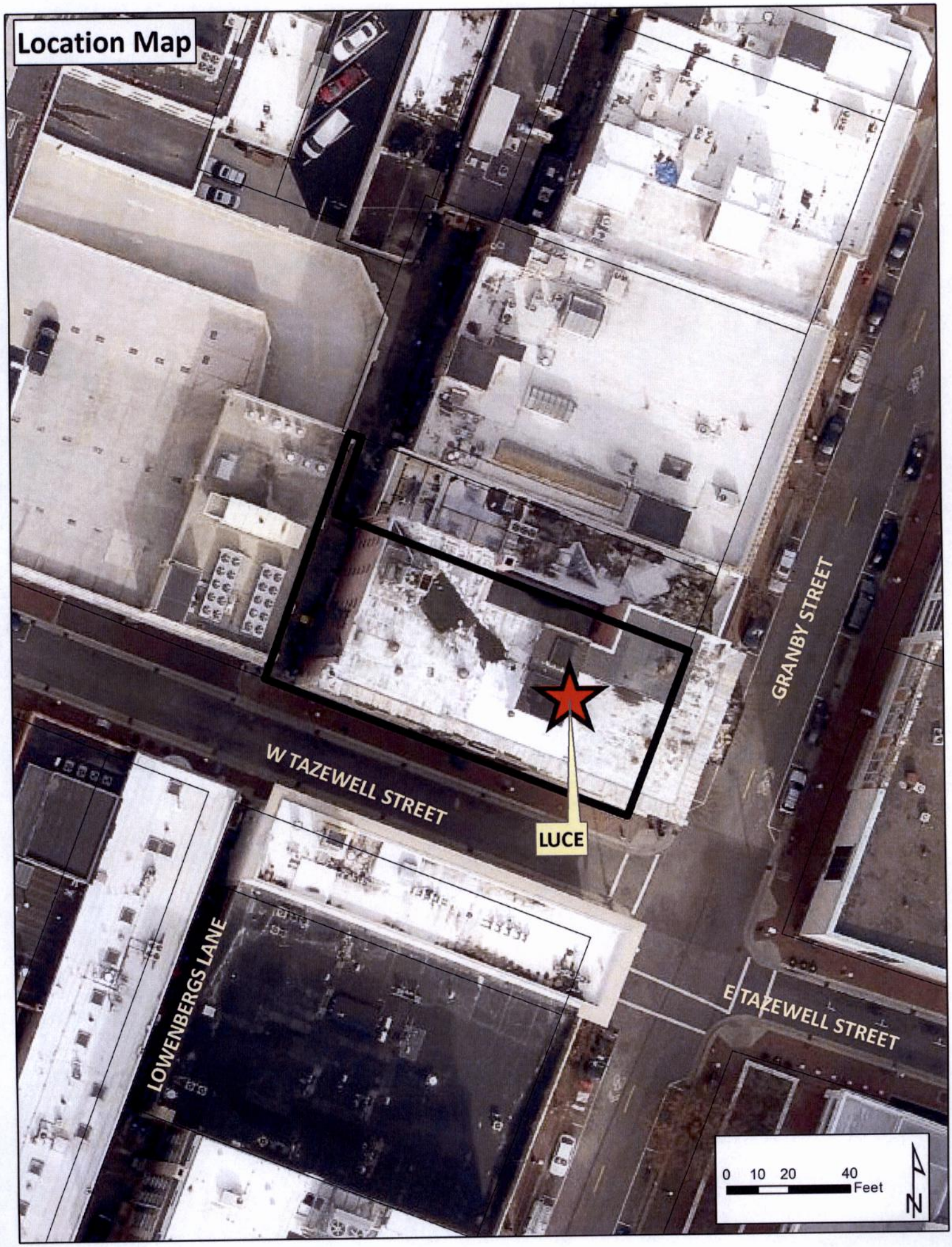


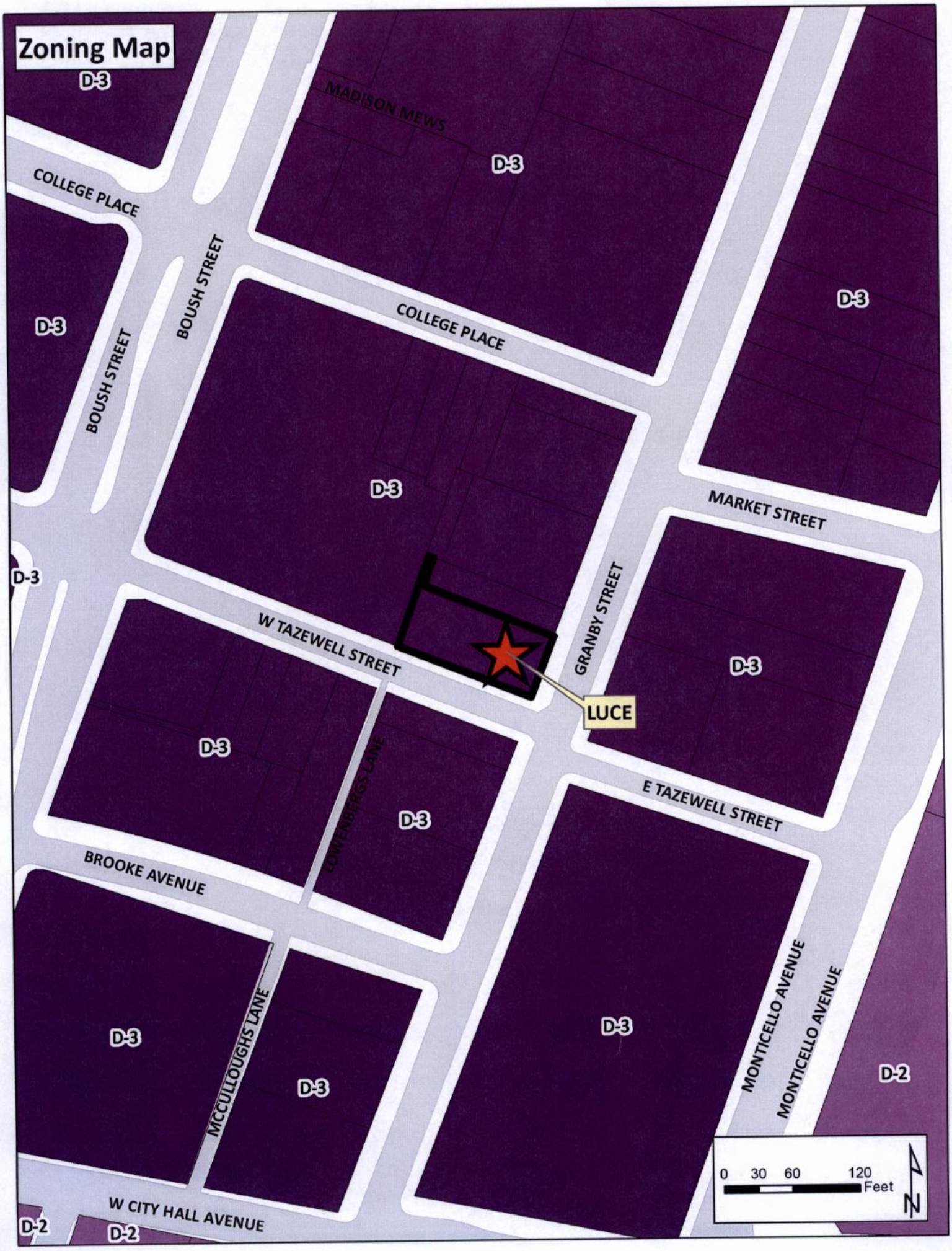
LUCE: 245 GRANBY STREET

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

ROBYN THOMAS
ARCHITECTURE
913 W. 21st Street, Suite C
Norfolk, VA 23517
Ofc: 757.622.7100
Fax: 757.640.1014

1 OF 1	
3/1/2016 DATE	SK1
16-019 COMM. NO.	
DRAWN JRC	
CHECKED RJT	


Location Map
W TAZEWELL STREET
GRANBY STREET
LUCE
LOWENBERGS LANE
E TAZEWELL STREET
0 10 20 40
Feet
N


Zoning Map
D-3
MADISON MEWS
D-3
COLLEGE PLACE
BOUSH STREET
D-3
BOUSH STREET
COLLEGE PLACE
D-3
D-3
MARKET STREET
D-3
GRANBY STREET
W TAZEWELL STREET
LUCE
D-3
D-3
LOWENBERGS LANE
D-3
E TAZEWELL STREET
BROOKE AVENUE
D-3
MCCULLOUGHS LANE
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MONTICELLO AVENUE
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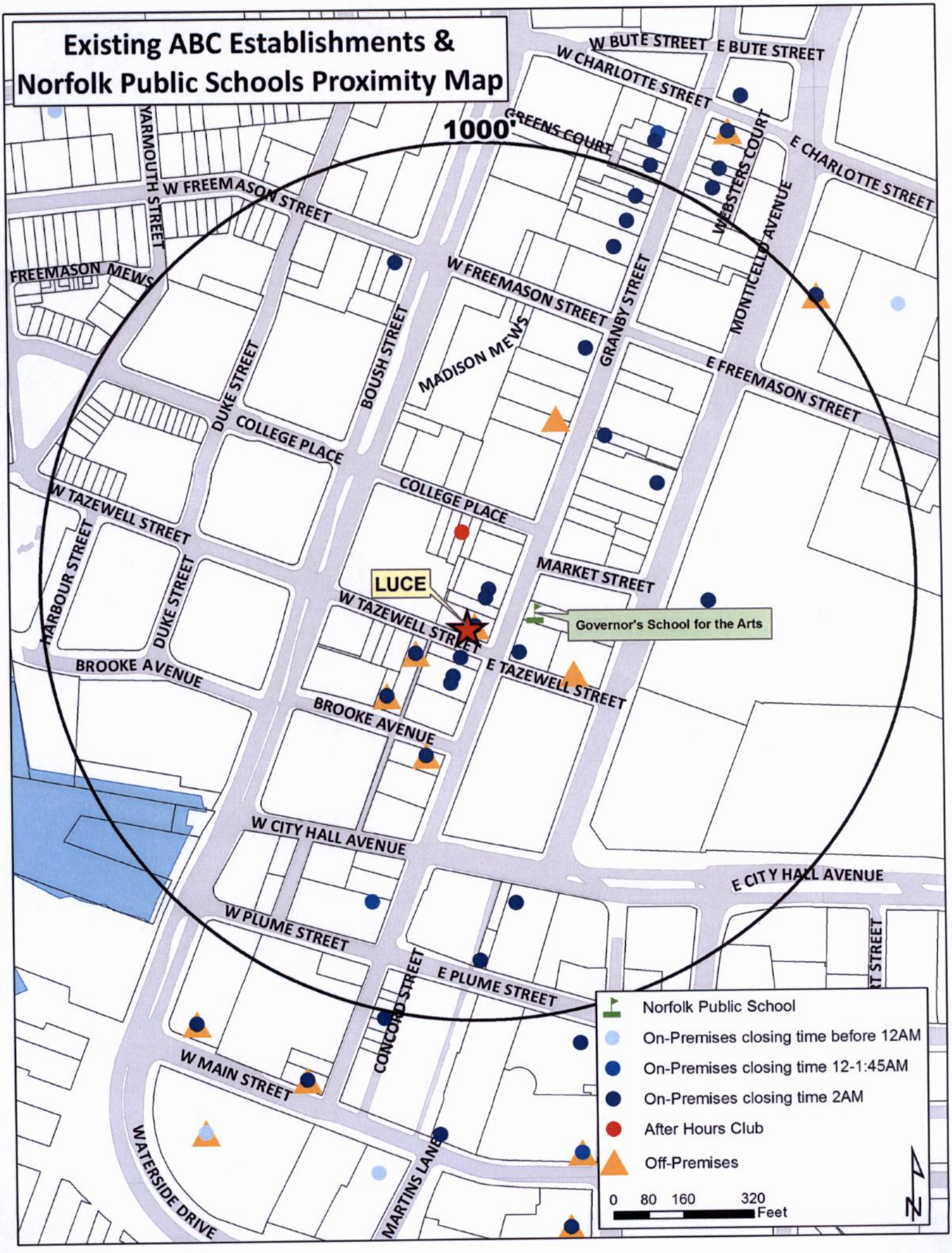
Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
W BUTE STREET
E BUTE STREET
W CHARLOTTE STREET
E CHARLOTTE STREET
GREENS COURT
WEBSTERS COURT
MONTICELLO AVENUE
YARMOUTH STREET
W FREEMASON STREET
FREEMASON MEWS
GRANBY STREET
E FREEMASON STREET
DUKE STREET
BOUSH STREET
MADISON MEWS
COLLEGE PLACE
W TAZEWELL STREET
HARBOUR STREET
MARKET STREET
LUCE
Governor's School for the Arts
E TAZEWELL STREET
BROOKE AVENUE
W CITY HALL AVENUE
E CITY HALL AVENUE
W PLUME STREET
E PLUME STREET
CONCORD STREET
W MAIN STREET
WATERSIDE DRIVE
MARTINS LANE
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
EATING AND DRINKING ESTABLISHMENT
(Please print)

Date 3/14/16

DESCRIPTION OF PROPERTY

Address 245 GRANBY ST SUITE 243

Existing Use of Property RESTAURANT

Proposed Use RESTAURANT

Current Building Square Footage 900 ±

Proposed Building Square Footage 900±

Trade Name of Business (if applicable) _____

APPLICANT

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

JARROD HALL MELISSA CARVANA

1. Name of applicant: (Last) CARVANA (First) TONY (MI) ____

Mailing address of applicant (Street/P.O. Box): 245 GRANBY ST

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

Daytime telephone number of applicant ( ) 751-4901 Fax ( ) _____

E-mail address of applicant: _____

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) Hewn (First) Rick (MI) S

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 ( ) 615-6405 Fax ( )

E-mail address of applicant: Rickhewnconsulting@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) Gadams (First) Buddy (MI)

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

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

Daytime telephone number of owner ( ) email: BGadams@Marathondevelopment.com

CIVIC LEAGUE INFORMATION

Civic League contact: DNC/DNCL

Date(s) contacted:

Ward/Super Ward information:

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 inch x 11 inch copy of a floor plan prepared by a registered design professional drawn to scale showing seats/tables, restroom facilities, bar, ingress and egress, standing room, outdoor dining and total maximum capacity (see attached example)
- 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.
- Completed Exhibit A, Description of Operations (attached)

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: Frank G Adams (Property Owner) **Sign:** _____ / ____ / ____ (Date)

Print name: Antonio Carrera (Applicant) **Sign:** _____ 3-14-16 (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Rick Heath (Authorized Agent Signature) **Sign:** _____ / ____ / ____ (Date)

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 2:10 PM
To: 'dncl@welovenorfolk.org'; Miller, Mary
Cc: Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject: new Planning Commission application
Attachments: Luce.pdf

Mr. Murphy and Ms. Miller,

Attached please find the following application for a special exception to operate an eating and drinking establishment at 245 Granby Street, suite 243.

The purpose of the request is to allow for a change of owner/operator of the existing restaurant.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 4:04 PM
To: Whitney, Chris
Subject: FW: new Planning Commission application
Attachments: Luce.pdf

FYI

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

From: Kevin R. Murphy [mailto:krmurphy@verizon.net]
Sent: Wednesday, March 16, 2016 4:01 PM
To: Straley, Matthew
Subject: RE: new Planning Commission application

Matthew,

The DNCL will have no objections to this application.

Kevin

From: Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
Sent: Wednesday, March 16, 2016 2:11 PM
To: dncl@welovenorfolk.org; Miller, Mary <mmiller@downtownnorfolk.org>
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: new Planning Commission application

Mr. Murphy and Ms. Miller,

Attached please find the following application for a special exception to operate an eating and drinking establishment at 245 Granby Street, suite 243.

The purpose of the request is to allow for a change of owner/operator of the existing restaurant.

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate an eating and drinking establishment at 800 Granby Street – Zeke's Beans and Bowls**

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

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-11

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

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

III. **Request:** Special Exception to operate an eating and drinking establishment.

IV. **Applicant:** **Nicholas Petriccione**

V. **Description:**

- The site is located in the Downtown Arts and Design District at the northeast corner of Granby Street and E. Wilson Avenue.
- The applicant proposes to serve alcoholic beverages for on-premises consumption at Zeke's Beans and Bowls, an existing café and eating establishment.

	Proposed
Hours of Operation and for the Sale of Alcoholic Beverages	8:00 a.m. until 12:00 midnight, Monday through Saturday 8:00 a.m. until 10:00 p.m., Sunday
Seating Capacity	27 seats indoors 10 seats outdoors 49 total capacity

VI. **Historic Resources Impacts**

The building is a contributing structure within the Norfolk Auto Row Historic District, which is a National and State registered historic district.

VII. Public Schools Impacts

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

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

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Chris Whitney, CFM

Staff Report	Item No. 13	
Address	**800 Granby Street**	
Applicant	**Zeke's Beans and Bowls**	
Request	**Special Exception**	**Eating and Drinking Establishment**
Property Owner	Anastasios Emmanuelidis	
Site Characteristics	Building Area/Space	4,048 sq. ft./1,200 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: Vacant space, apartments upstairs
	East	D-4: Vacant land
	South	D-4: The Plot 2.0
	West	D-4: Vacant space, Norfolk Printing Company

A. Summary of Request

- The site is located in the Downtown Arts and Design District at the northeast corner of Granby Street and E. Wilson Avenue.
- The applicant proposes to serve alcoholic beverages for on-premises consumption at Zeke's Beans and Bowls, an existing café and eating establishment.

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 and for the Sale of Alcoholic Beverages	8:00 a.m. until 12:00 midnight, Monday through Saturday 8:00 a.m. until 10:00 p.m., Sunday
Seating Capacity	27 seats indoors 10 seats outdoors 49 total capacity

ii. Parking

- The site is located within the Downtown Character District.
- Adding the sale of alcoholic beverages to an existing eating establishment does not require additional parking.
- The proposed establishment is not proposing an increase in occupancy or building floor area and no additional parking impacts are anticipated.

iii. Flood Zone

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

D. Transportation Impacts

- No new trips are forecast related to the proposed addition of on-site alcohol sales at this existing restaurant.
- 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 is a contributing structure within the Norfolk Auto Row Historic District, which is a National and State registered historic district.

F. Public Schools Impacts

The site is located in 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. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

Over the past year, there have been 13 calls for police service at this site with no arrests made.

J. Payment of Taxes

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

K. Civic League

- Notice was sent to the Downtown Norfolk Civic League, Downtown Norfolk Council, and Youngs Terrace Civic League on March 16.
- An email of no objection was received from the Downtown Norfolk Civic League on March 16.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. 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 from 8:00 a.m. until 12:00 a.m., Monday through Saturday and from 8:00 a.m. until 10:00 p.m. on Sunday. 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 27 seats indoors, 10 seats outdoors, and the total occupant capacity, including employees, shall not exceed 49 people.

(c) No portion of the outdoor dining area shall be enclosed and any covering must

leave the dining space open on at least three sides.

(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 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.

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

(g) 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.

(h) 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.

(i) Dumpsters shall be gated and not visible from any public right-of-way.

(j) 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, snow, ice, and any bodily discharge.

(k) 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.

(l) 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.

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(m) 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.

(n) 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.

(o) 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.

(p) There shall be no entertainment, no dancing, and no dance floor provided.

(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) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

Attachments

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Downtown Norfolk Civic League, Downtown Norfolk Council, and Youngs Terrace Civic League
Email of no objection from the Downtown Norfolk Civic League

Proponents and Opponents

Proponents
Nicholas Petriccione - Applicant
800 Granby Street
Norfolk, VA 23510

Opponents
None

04/26/2016 lds

Form and Correctness Approved:

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 EATING AND DRINKING ESTABLISHMENT NAMED "ZEKE'S BEANS AND BOWLS" ON PROPERTY LOCATED AT 800 GRANBY STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to Zeke's Beans & Bowls, LLC authorizing the operation of an eating and drinking establishment named "Zeke's Beans and Bowls" on property located at 800 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

> Property located on the northeast corner of Granby Street and East Wilson Avenue fronting 30 feet, more or less, along the eastern line of Granby Street and 55 feet, more or less, along the northern line of East Wilson Avenue; premises numbered 800 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 and for the sale of alcoholic beverages shall be from 8:00 a.m. until 12:00 a.m., Monday through Saturday and from 8:00 a.m. until 10:00 p.m. on Sunday. 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 27 seats indoors, 10 seats outdoors, and the total occupant capacity, including employees, shall not exceed 49 people.

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

(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 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.

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

(g) 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.

(h) 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.

(i) Dumpsters shall be gated and not visible from any public right-of-way.

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(o) 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.

(p) There shall be no entertainment, no dancing, and no dance floor provided.

(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) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

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 (3 pages)

EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

Date 2/26/16

Trade name of business Zeke's Beans & Bowls

Address of business 800 Granby St. Norfolk, VA 23510

Name(s) of business owner(s)* Nicholas Petriccione, Michael Schirmer - Zeke's Beans + Bowls, LLC

Name(s) of property owner(s)* Taso Emmanuelidis

Daytime telephone number (757) 963-5220

*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 8am	To	Midnight	Weekday	From 8am	To	Midnight
Friday	From	To		Friday	From	To	
Saturday	From	To		Saturday	From	To	
Sunday	From	To	10pm	Sunday	From	To	10pm

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

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

4. Will indoor or outdoor entertainment be provided?
(Entertainment consists of anything more than one, unamplified musician)
☐ Yes (Different application required) ☑ No

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(Revised January 2015)

Eating and Drinking Establishment

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

5a. If yes, please describe type and number of each game to be provided
2- arcade consoles

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

6a. If yes, why

6b. Which days of the week will there be a cover charge (circle all applicable days)?

Monday Tuesday Wednesday Thursday Friday

Saturday Sunday

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

7a. If yes, explain
open to idea of possible private parties should we be asked to do so

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

8a. If yes, explain

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

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Eating and Drinking Establishment

10. Additional comments/ description/operational characteristics or prior experience:

We have a Virginia Beach location has full bar, beer + wine.
Mr. Schirmer owns a bar/restaurant (The Boxx) for 4 years.

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

Signature of Applicant

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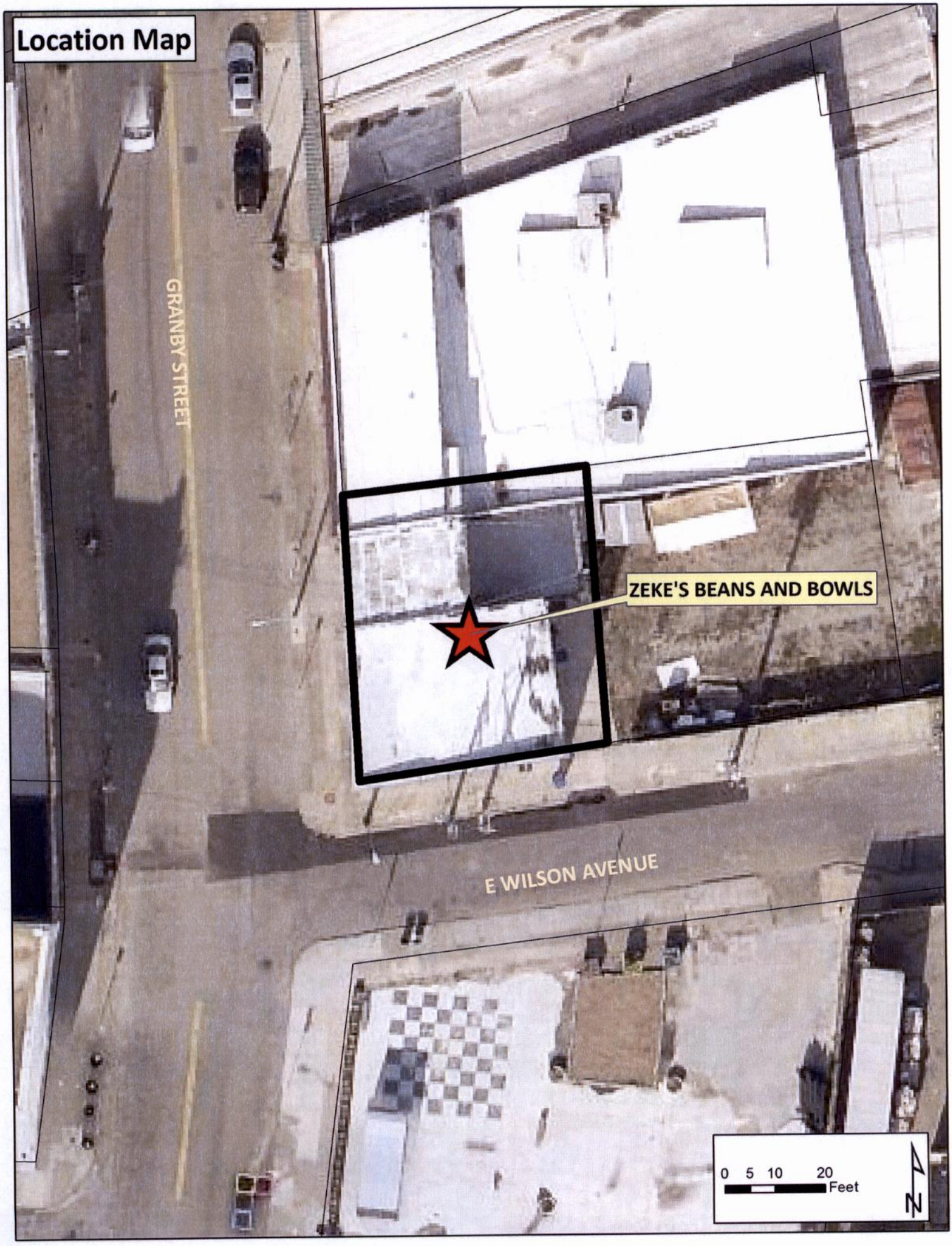
Location Map
GRANBY STREET
ZEKE'S BEANS AND BOWLS
E WILSON AVENUE
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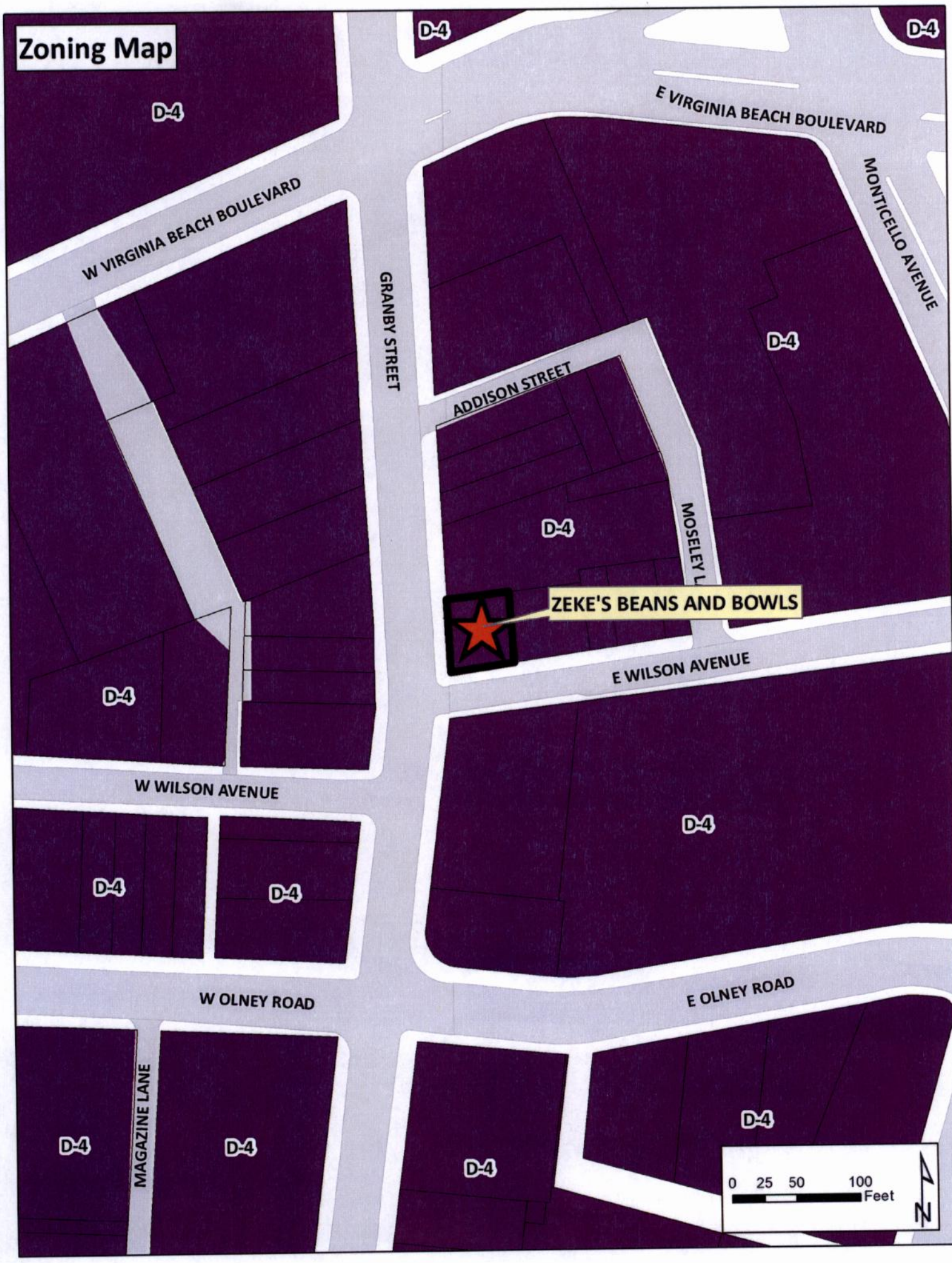
Zoning Map
D-4
D-4
D-4
E VIRGINIA BEACH BOULEVARD
W VIRGINIA BEACH BOULEVARD
MONTICELLO AVENUE
GRANBY STREET
D-4
ADDISON STREET
D-4
MOSELEY
ZEKE'S BEANS AND BOWLS
E WILSON AVENUE
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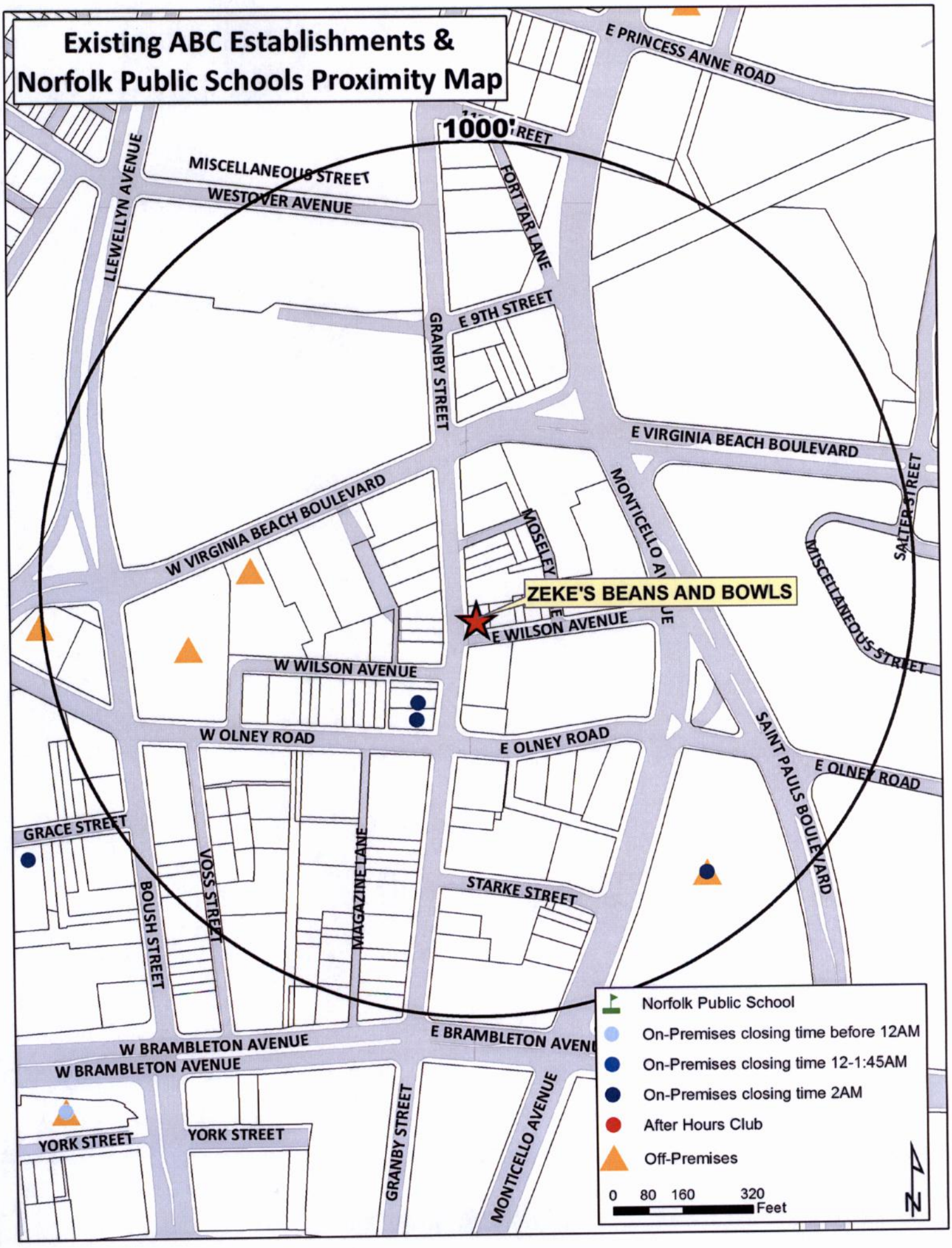
Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
E PRINCESS ANNE ROAD
LLEWELLYN AVENUE
MISCELLANEOUS STREET
WESTOVER AVENUE
FORT TAR LANE
GRANBY STREET
E 9TH STREET
E VIRGINIA BEACH BOULEVARD
W VIRGINIA BEACH BOULEVARD
MONTICELLO AVENUE
MOSELEY
SALTER STREET
MISCELLANEOUS STREET
ZEKE'S BEANS AND BOWLS
E WILSON AVENUE
W WILSON AVENUE
W OLNEY ROAD
E OLNEY ROAD
SAINT PAULS BOULEVARD
GRACE STREET
BOUSH STREET
VOSS STREET
MAGAZINE LANE
STARKE STREET
W BRAMBLETON AVENUE
W BRAMBLETON AVENUE
YORK STREET
YORK STREET
GRANBY STREET
MONTICELLO 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
(Please Print)

Date 10/22/15

DESCRIPTION OF PROPERTY

Address 800 Granby St.

Existing Use of Property restaurant

Proposed Use Eating and Drinking

Current Building Square Footage 1200 FT² Aproximately.

Proposed Building Square Footage same

Trade Name of Business (If applicable) Zeke's Beans & Bowls LLC

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

1. Name of applicant: (Last) Petriccione (First) Nicholas (MI) J

Mailing address of applicant (Street/P.O. Box): 759 Granby St. apt 201

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

Daytime telephone number of applicant (310) 460 8174 Fax ( )

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

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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) Schirmer (First) Michael (MI) R

Mailing address of applicant (Street/P.O. Box): 956 Indian Cir

(City) Virginia Beach (State) VA (Zip Code) 23451

Daytime telephone number of applicant (757) 325 7376 Fax ( )

E-mail address of applicant: schirminators@msn.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) Emmanuelidis (First) Taso (MI)

Mailing address of property owner (Street/P.O. box): 1307 Boissevain Ave

(City) Norfolk (State) VA (Zip Code) 23507

Daytime telephone number of owner (757) 623 6100 email: tasorents@acclaimedevents.com

CIVIC LEAGUE INFORMATION

Civic League contact: Kevin Murphy

Date(s) contacted: 10/22/15

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: A. EMMANUELIDIS **Sign:** _____ 12/28/2015
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Nicholas Petriccione **Sign:** _____ 10/22/15
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Michael Schirmer **Sign:** _____ 10/22/15
(Authorized Agent Signature) (Date)

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Exhibit A – Floor Plan(s) Worksheet
Eating and Drinking Establishment

- Complete this worksheet based for each floor plan submitted with application.

- Floor plan must be prepared by a registered design professional and include:
    - Tables/seats
    - Restroom facilities
    - Bar
    - Ingress and egress
    - Standing room
    - Outdoor seating
    - Total maximum capacity (including employees)

Total capacity

a. Indoor
Number of seats (not including bar seats) 35
Number of bar seats 2
Standing room _____

b. Outdoor
Number of seats 10

c. Number of employees 3

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 49

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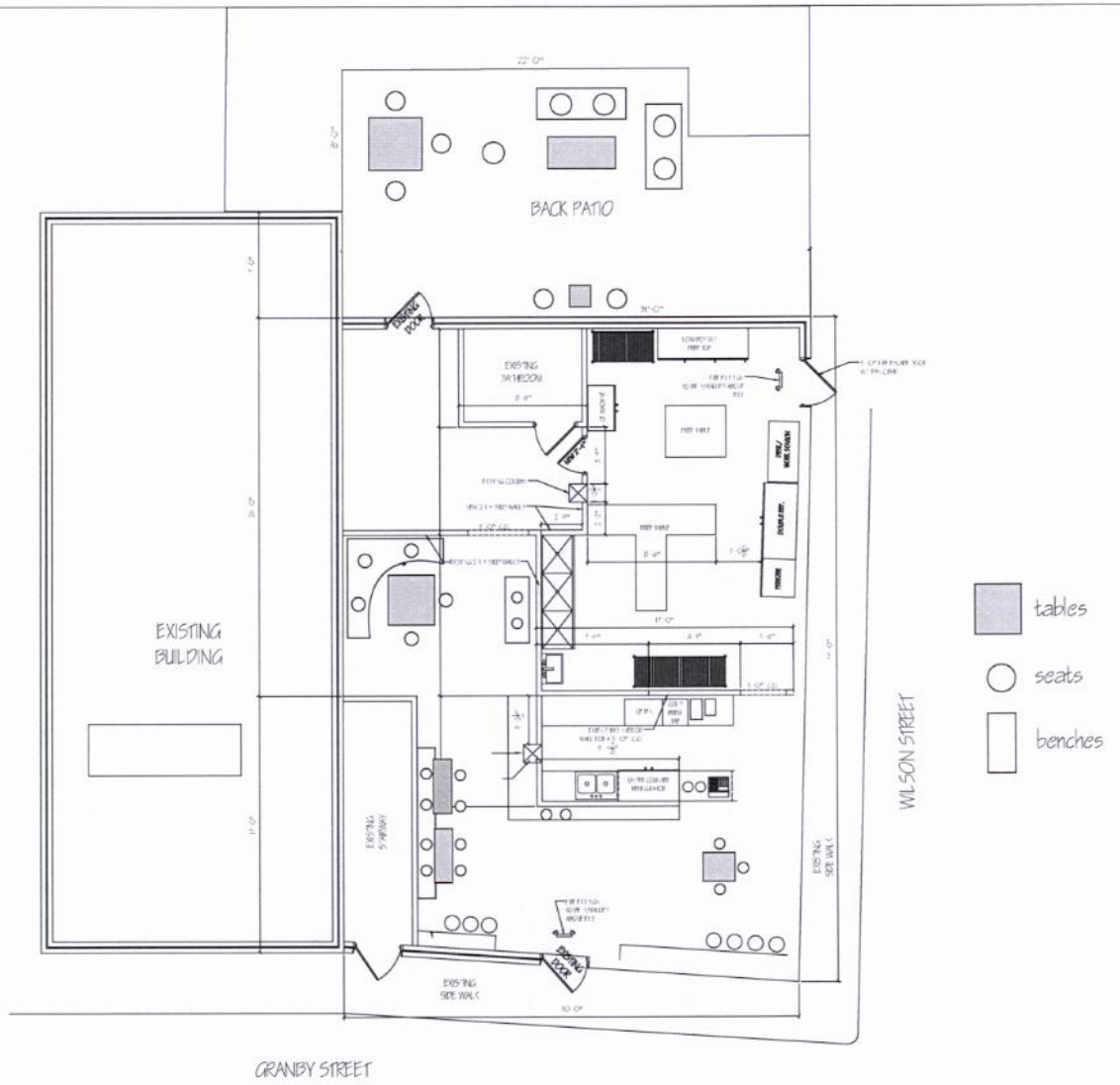
ZEKE'S BEANS & BOWLS

800 GRANBY STREET
NORFOLK, VIRGINIA 23510



DRAWINGS BY:
VAN AUKEN DESIGN DIVISION

VAN AUKEN DESIGN AND BUILD
1705 MEDITERRANEAN AVE
VIRGINIA BEACH, VIRGINIA 23451

PROJECT:
ZEKE'S
BEANS &BOWLS

PROJECT OWNER:
MIKE SHURMER &
NICK VITALE
310-460-8174

CONTACT PERSON:
PAUL VAN AUKEN
CLASS "A" 2705
088531A
PHONE: 757-739-0112
FAX: 757-257-0272

DATE:
3-12-16

A-1

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 2:02 PM
To: 'dncl@welovenorfolk.org'; Miller, Mary; 'ejohnson187@yahoo.com'; 'youngterracetmc1@yahoo.com'
Cc: Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject: new Planning Commission application
Attachments: ZekesBeans.pdf

Mr. Murphy, Ms. Miller, and Ms. Johnson:

Attached please find the following application for a special exception to operate an eating and drinking establishment at 800 Granby Street, suite 800.

The purpose of the request is to allow the existing café to offer alcoholic beverages to its dine-in customers.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 4:04 PM
To: Whitney, Chris
Subject: FW: new Planning Commission application
Attachments: ZekesBeans.pdf

FYI

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

From: Kevin R. Murphy [mailto:krmurphy@verizon.net]
Sent: Wednesday, March 16, 2016 4:00 PM
To: Straley, Matthew
Subject: RE: new Planning Commission application

Matthew,

The DNCL will have no objections to this application.

Kevin

From: Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
Sent: Wednesday, March 16, 2016 2:02 PM
To: dncl@welovenorfolk.org; Miller, Mary <mmiller@downtownnorfolk.org>; ejohnson187@yahoo.com; youngterracetmc1@yahoo.com
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: new Planning Commission application

Mr. Murphy, Ms. Miller, and Ms. Johnson:

Attached please find the following application for a special exception to operate an eating and drinking establishment at 800 Granby Street, suite 800.

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate an entertainment establishment and a Riverview PCO Development Certificate at 4201-4205 Granby Street – Mi Hogar Mexican Restaurant**

Reviewed: _____ **Ward/Superward: 2/6**
Ronald H. Williams, Jr., Deputy City Manager

Approved: _____ **Item Number: R-12**
Marcus D. Jones, City Manager

I. **Staff Recommendation: Approval.**

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

III. **Requests:** Special Exception to operate an entertainment establishment with alcoholic beverages and a Riverview Pedestrian Commercial Overlay Development Certificate.

IV. **Applicant: Mi Hogar Mexican Restaurant**

V. **Description:**

Special Exception

- The site is zoned C-2 (Corridor Commercial) and Riverview Pedestrian Commercial Overlay (PCO-Riverview) districts which permits the proposed use by special exception and requires a PCO Development Certificate for any new construction.
- The applicant is currently operating as an eating and drinking establishment and is proposing to add entertainment, modify the floor plan and add outdoor dining.

	Current	Proposed
Hours of operation and hours for the sale of alcoholic beverages	11:00 a.m. until 11:00 p.m., Monday through Friday 12:00 noon until 11:00 p.m. on Saturday 12:00 noon until 10:00 p.m. on Sunday	11:00 a.m. until 10:00 p.m., Monday through Thursday 11:00 a.m. until 11:00 p.m. on Friday 12:00 noon until 10:00 p.m. on Saturday 12:00 noon until 9:00 p.m. on Sunday

Entertainment	N/A	4 piece live mariachi band
Capacity	Not available	• 90 seats indoors • 18 seats outdoors • 118 total capacity

Riverview PCO Development Certificate

- Staff recommends that the Development Certificate be approved subject to the necessary waivers for building placement, parking location, and landscaping.
- The building was existing prior to the implementation of the PCO development standards and the proposed modifications would bring the site and building more into compliance with those standards.

Staff point of contact: Susan Pollock Hart at 664-4765, susan.pollock@norfolk.gov

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinances

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Staff: Susan Pollock Hart, CFM

Staff Report	**Item No.:** 19	
Address	**4201-4205 Granby Street**	
Applicant	**Mi Hogar Mexican Restaurant**	
Requests	**Special Exception**	**Entertainment Establishment**
	Development Certificate	**Riverview Pedestrian Commercial Overlay (PCO – Riverview)**
Property Owner	Pearl Backus Est.	
Site Characteristics	Current/After addition	2,550/3,075 sq. ft.
	Zoning	C-2 (Corridor Commercial) PCO-Riverview
	Neighborhood	Riverview/Colonial Place
	Character District	Traditional
Surrounding Area	North	C-2 & PCO-Riverview: Exxon gas station
	East	C-2 & PCO-Riverview: Mary Barnett's gift shop
	South	C-2 & PCO-Riverview: Office space
	West	PD-RRH (Residential Riverview House): apartments

A. Summary of Request

- This request would allow:
  - For a special exception to allow the current operator to add entertainment the existing eating and drinking establishment, to reduce closing hours on Saturday and Sunday, to modify the interior space and add outdoor dining along the front of the building.
  - PCO Development Certificate to allow the proposed modifications to the front façade.

B. Plan Consistency

The proposed special exception and PCO Development Certificate are consistent with *plaNorfolk2030*, which designates this site as Commercial.

C. Zoning Analysis

i. General

- The site is zoned C-2 (Corridor Commercial) and Riverview Pedestrian Commercial Overlay (PCO-Riverview) districts which permits the proposed use by special exception and requires a PCO Development Certificate for any new construction.
- The applicant is currently operating as an eating and drinking establishment and is proposing to add entertainment, modify he floor plan and add outdoor dining.

	Current	Proposed
Hours of operation and hours for the sale of alcoholic beverages	11:00 a.m. until 11:00 p.m., Monday through Friday 12:00 noon until 11:00 p.m. on Saturday 12:00 noon until 10:00 p.m. on Sunday	11:00 a.m. until 10:00 p.m., Monday through Thursday 11:00 a.m. until 11:00 p.m. on Friday 12:00 noon until 10:00 p.m. on Saturday 12:00 noon until 9:00 p.m. on Sunday
Entertainment	N/A	4 piece live mariachi band
Capacity	Not available	• 90 seats indoors • 18 seats outdoors • 118 total capacity

Special exception history:

City Council Approval	Applicant	Changes
1999	Mi Hogar	Initial Application eating and drinking establishment
1999	Mi Hogar	Downtown development certificate for freestanding sign.

ii. Parking

- The off-street parking requirement for restaurants within the PCO-Riverview district requires one parking space per 200 square feet of dining area.
  - Fifteen parking spaces are required and 35 are provided.
- Two bicycle parking spaces will be required.

iii. Flood Zone

- The property is located in the AE Flood Zone which is a high risk flood zone and X (Shaded) Flood Zone, which is a low risk flood zone.
- The proposed construction will have to comply with current flood zone requirements.

iv. Development Standards – PCO Development Certificate

- Building Location and Orientation:
  - The existing building was built in 1970 and predates the implementation of the PCO requirement for the building to be within 10 feet of the property line along Granby Street.
  - The proposed outdoor dining expansion will expand the building façade closer to the street and bring the building more into compliance with the development standards.
  - A waiver will be required.
- Façade Treatment:
  - The façade along Granby Street complies with the 50% transparency requirement and therefore no waiver is needed.
- Parking Location and Access:
  - Much of the parking is located in front of the building and does not comply with the PCO development standards requiring parking to be located to the rear of the building.
  - The applicant is proposing to close one of the curb cuts on Granby Street and eliminate a parking space.
  - A waiver will be required.
- Signage:
  - A freestanding sign currently is located on the site on Granby Street which is not permitted in this PCO.

- In 1999 a Development Certificate was approved granting a waiver for the existing sign.

- Landscaping and Buffering:
  - The applicant is proposing to provide additional landscaping along Granby Street where the driveway is proposed for closure.
  - The improvements will bring the applicant more into compliance with *Zoning Ordinance* requirements, but not completely.
  - A waiver will be required.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that this restaurant will generate 67 additional vehicle trips per day as a result of the proposed 525 square foot expansion.
- Granby Street near the site is not identified as a severely congested corridor in either the AM or PM peak hours in the current update to regional Hampton Roads Congestion Management analysis.
- The site is near transit service with Hampton Roads Transit bus routes 1 (Granby) operating adjacent to the site.
- Granby Street just north of the site at the Lafayette River Bridge is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

E. Impact on the Environment

- The applicant is proposing to eliminate the southernmost driveway on the site on Granby Street and provide additional landscaping.
- This will make travel on Granby Street safer as well as bring the site more into compliance with current development standards.

F. Impact on Surrounding Area/Site

- The addition of outdoor dining meets the purpose and intent of the Riverview PCO and will positively impact this commercial corridor.
- The dining is along Granby Street and would not impact her residential location to the west of the site.

G. Payment of Taxes

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

H. Civic League

Notice was sent to the Colonial Place/Riverview Civic League and the Riverview Business Association on April 12.

I. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.

- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

J. Recommendations

Staff recommends that the Riverview PCO Development Certificate and special exception request be **approved** subject to the conditions shown below:

Riverview PCO Development Certificate

- Staff recommends that the Development Certificate be approved subject to the necessary waivers for building placement, parking location, and landscaping.
- The building was existing prior to the implementation of the PCO development standards and the proposed modifications would bring the site and building more into compliance with those standards.

Entertainment Special Exception

Entertainment Establishment – Conditions

(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 10:00 p.m., Monday through Thursday, 11:00 p.m. until 11:00 p.m., on Friday, 12:00 noon until 10:00 p.m. on Saturday and from 12:00 noon until 9:00 p.m., on Sunday 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 90 seats indoors, 18 seats outdoors, and the total occupant capacity, including employees, shall not exceed 118 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 dining area.

(d) 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.

(e) Entertainment shall be limited to live bands having no more than four members. No other form of entertainment is permitted.

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

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

(h) 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.

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

(j) 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.

(k) 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.

(l) 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, snow, ice, and any bodily discharge.

(m) 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.

(n) 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.

(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 to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(r) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(s) 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;

Attachments:

Location map
Zoning map
1000' radii map of similar ABC establishments
Special Exception Application – Entertainment Establishment
Proposed elevations for development certificate
Notice to the Riverview/Colonial Place Civic League

Proponents and Opponents

Proponents
Armando M. Ayala
4201 Granby Street
Norfolk, VA 23504

Opponents
None

04/25/2016 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 "MI HOGAR MEXICAN RESTAURANT" ON PROPERTIES LOCATED AT 4201 TO 4205 GRANBY STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to Armando Ayala authorizing the operation of an entertainment establishment with alcoholic beverages on property located at 4201 to 4205 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

> Properties front 100 feet, more or less, along the western line of Granby Street and 215 feet, more or less, along the northern line of Connecticut Avenue; properties also front 150 feet, more or less, along the eastern line of Llewellyn Avenue; premises numbered 4201 to 4205 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, and for entertainment shall be limited to 11:00 a.m. until 11:00 p.m. Monday through Friday, 12:00 noon until 11:00 p.m. on Saturday, and 12:00 noon until 10:00 p.m. on Sunday. 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 90 seats indoors, 18 seats outdoors, and the total occupant capacity, including employees, shall not exceed 118 people.

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

(d) 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.

(e) Entertainment shall be limited to live bands having no more than five (5) members. No other form of entertainment is permitted.

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

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

(h) 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.

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

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(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 to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(r) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(s) 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; and

(9) The establishment's designated driver program.

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 eating and drinking establishment on this property, adopted on August 24, 1999 (Ordinance No. 39,708). 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 (4 pages)
Exhibit B (1 page)

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

Date 3-7-16

Trade name of business MI HOGAR MEXICAN RESTAURANT

Address of business 4201 GRANBY ST;

Name(s) of business owner(s)* ARMANDO AYALA & GREGORIO M. AYALA & GUADALUPE CAMACHO

Name(s) of property owner(s)* JERRY RENEGS FAMILY TRUST

Name(s) of business manager(s)/operator(s) ARMANDO AYALA & GREGORIO AYALA

Daytime telephone number (757) 640-7705

*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 11:AM	To 10 PM	Weekday	From 10 AM	To 10 PM
Friday	From 11 AM	To 11 PM	Friday	From 11 AM	To 11 PM
Saturday	From 12 PM	To 10 PM	Saturday	From 12 PM	To 10 PM
Sunday	From 12 PM	To 9 PM	Sunday	From 12 PM	To 9 PM

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:

_____

_____

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:

_____

_____

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

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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

X _____
Signature of Applicant

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

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) 82
   Number of bar seats 8
   Standing room ~~0~~

   b. **Outdoor**
   Number of seats 18

   c. **Number of employees** 10

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 118

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

   FOUR MEMBER MARIACHI 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.

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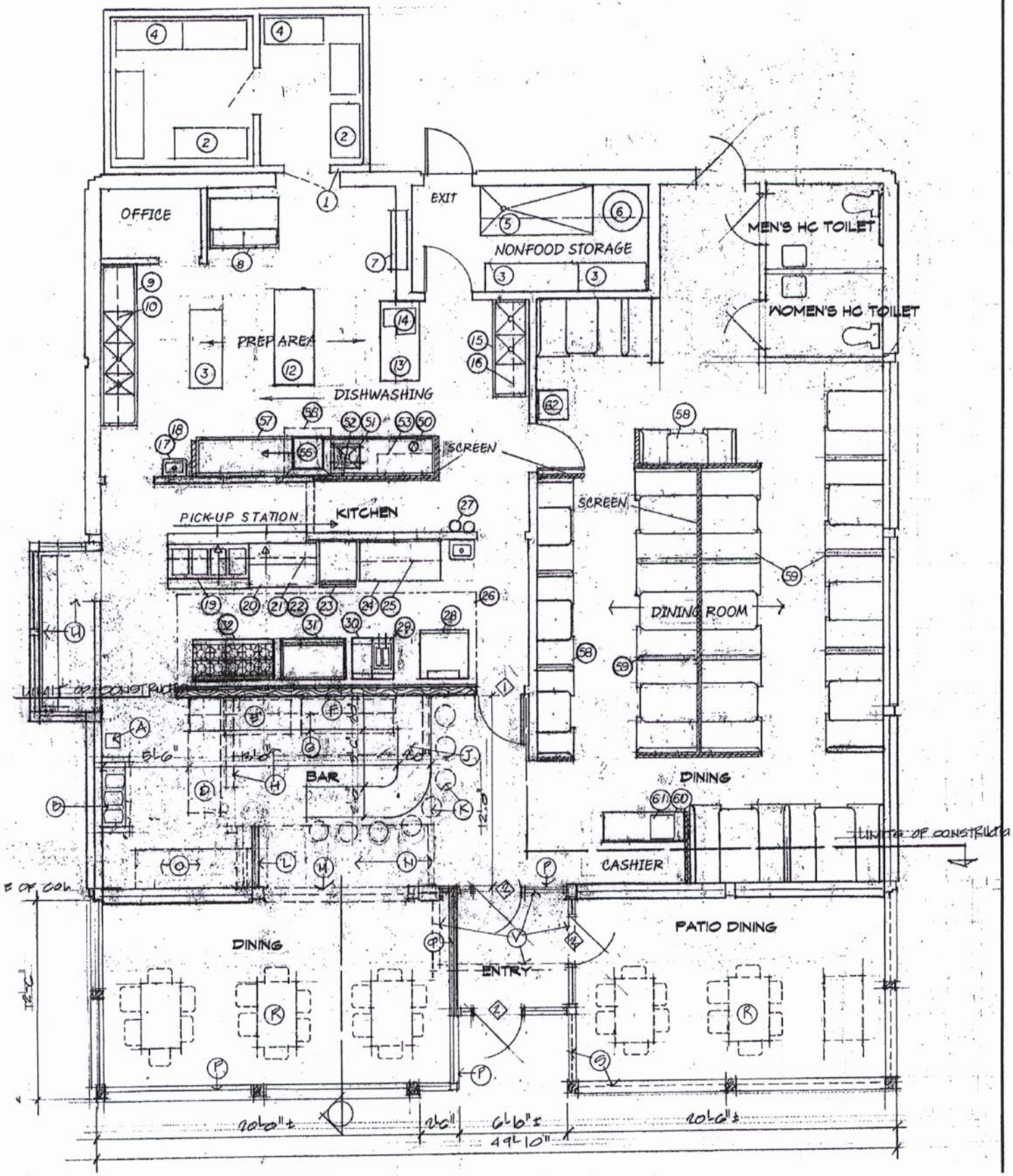
(Revised January 2015)

Exhibit B


OFFICE
EXIT
NONFOOD STORAGE
MEN'S HC TOILET
WOMEN'S HC TOILET
PREP AREA
DISHWASHING
SCREEN
PICK-UP STATION
KITCHEN
SCREEN
DINING ROOM
BAR
DINING
CASHIER
DINING
PATIO DINING
ENTRY
10'-0" ±
2'-0"
6'-6" ±
49'-10"
10'-0" ±

04/25/16 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A PEDESTRIAN COMMERCIAL OVERLAY DEVELOPMENT CERTIFICATE, WITH WAIVERS, TO PERMIT CONSTRUCTION OF AN ADDITION TO THE EXISTING BUILDING ON PROPERTIES LOCATED AT 4201 TO 4205 GRANBY STREET.

- - -

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

Section 1:- That a Pedestrian Commercial Overlay Development Certificate is hereby granted to permit construction of an addition to the existing building on properties located at 4201 to 4205 Granby Street. The properties to which the Certificate applies are more fully described as follows:

> Properties front 100 feet, more or less, along the western line of Granby Street and 215 feet, more or less, along the northern line of Connecticut Avenue; properties also front 150 feet, more or less, along the eastern line of Llewellyn Avenue; premises numbered 4201 to 4205 Granby Street:

Section 2:- That the Council expressly finds that waivers from the requirements of §§ 11-24.4(a) and 11-24.4(c) of the Zoning Ordinance of the City of Norfolk, 1992, (as amended) regarding building location and parking location are appropriate because the application submitted, while not strictly in accord with certain general regulations, meets public purposes, is not contrary to planning principals contained in the adopted general plan of Norfolk, and provides public protection to an equivalent or greater degree and provides public protection to an equivalent or greater degree; and also because, in the particular circumstances of the case, strict application of these regulations is not necessary for the accomplishment of public purposes or the provision of public protection at this time or in the future; wherefore such waiver is hereby granted.

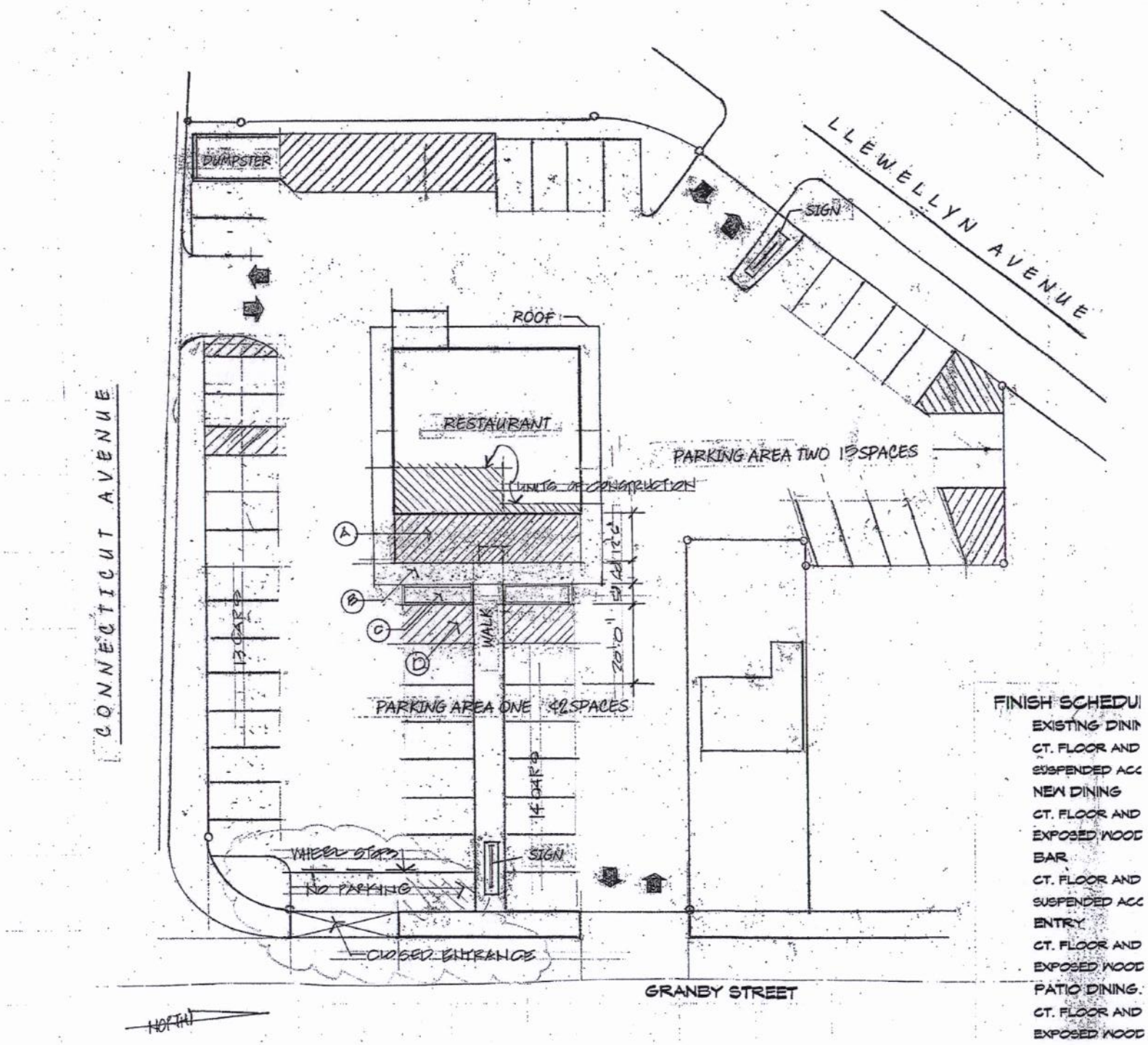
Section 3:- That the Pedestrian Commercial Overlay Development Certificate granted hereby shall be subject to the following condition:

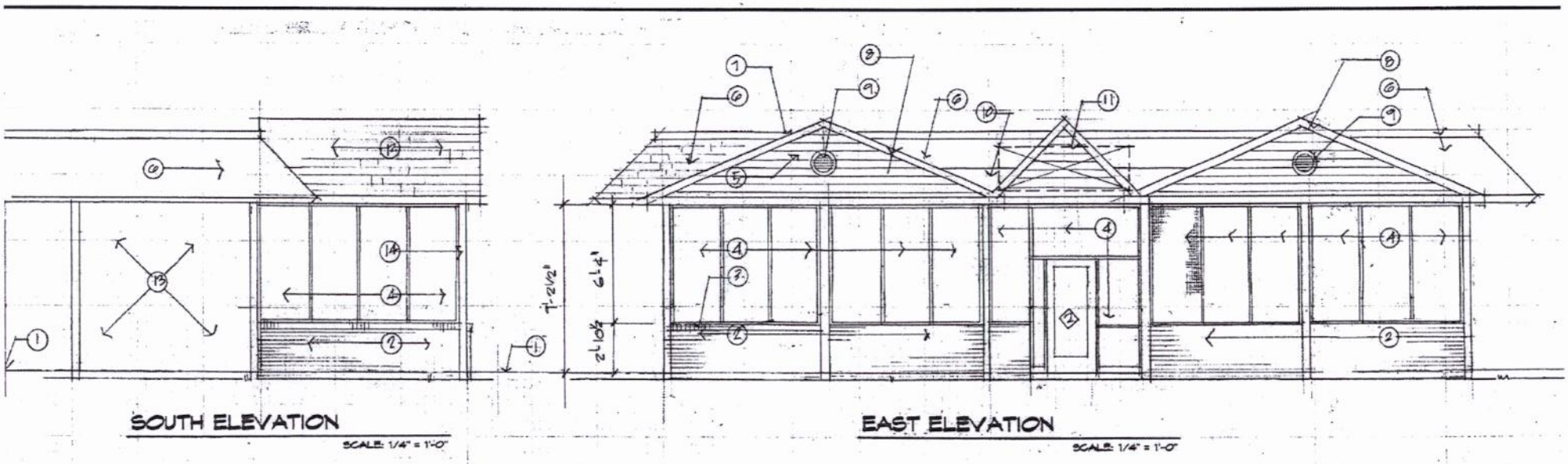
(a) The site shall, including the parking layout, landscaping improvements, and the east elevation of the building addition shall be improved generally in accordance with the drawings attached hereto and marked as "Exhibit A," subject to any revisions required to be made by the City during the review by the City's site plan review process and building permit plan review process.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (2 pages)

Exhibit A


DUMPSTER
SIGN
LLEWELLYN AVENUE
ROOF
RESTAURANT
LIMITS OF CONSTRUCTION
PARKING AREA TWO 15 SPACES
CONNECTICUT AVENUE
A
B
C
D
WALK
13 CAR P.
PARKING AREA ONE 42 SPACES
WHEEL STOPS
NO PARKING
SIGN
CLOSED ENTRANCE
GRANBY STREET
NORTH
FINISH SCHEDU
EXISTING DINI
CT. FLOOR AND
SUSPENDED ACC
NEW DINING
CT. FLOOR AND
EXPOSED WOOD
BAR
CT. FLOOR AND
SUSPENDED ACC
ENTRY
CT. FLOOR AND
EXPOSED WOOD
PATIO DINING
CT. FLOOR AND
EXPOSED WOOD

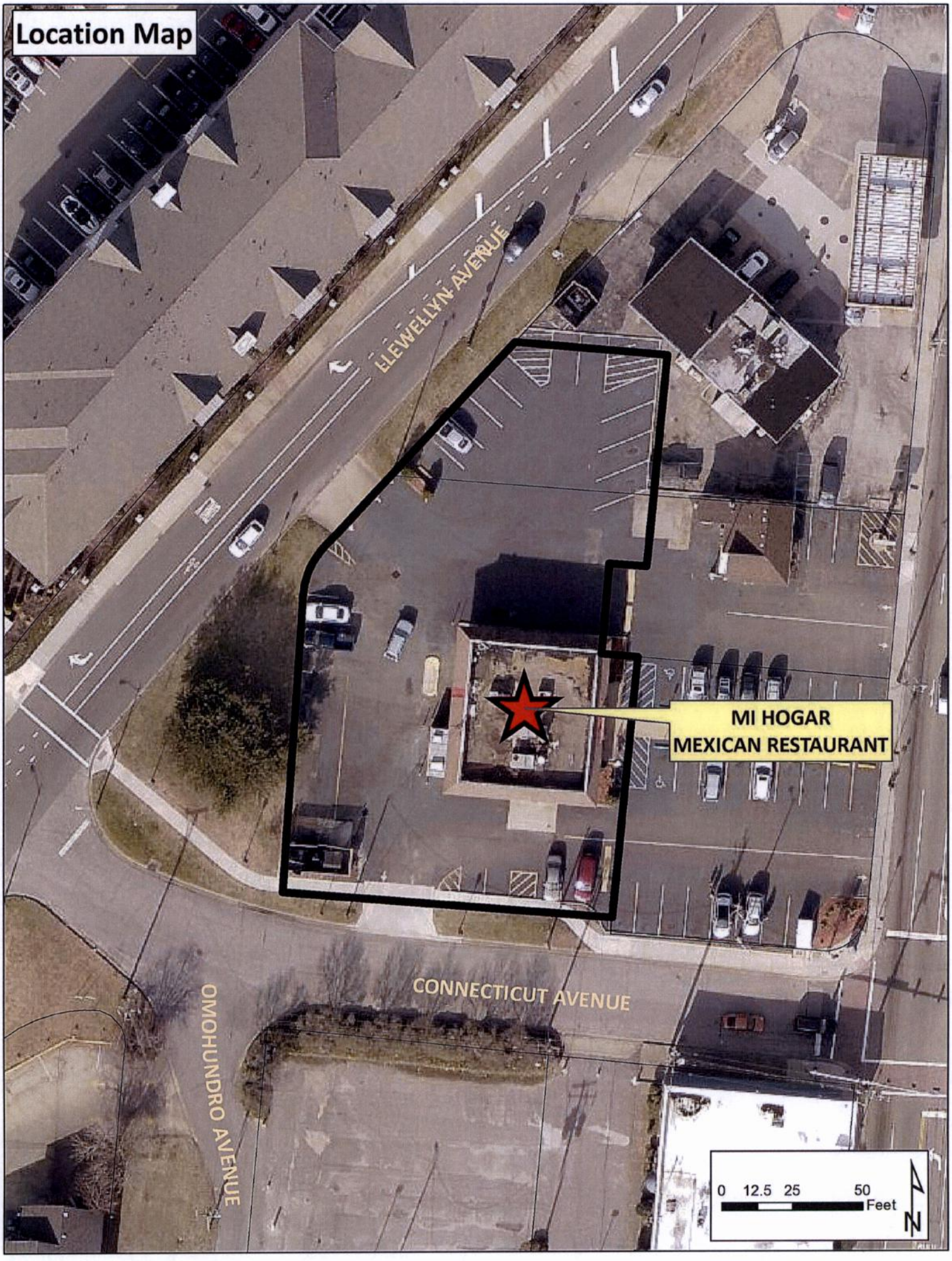


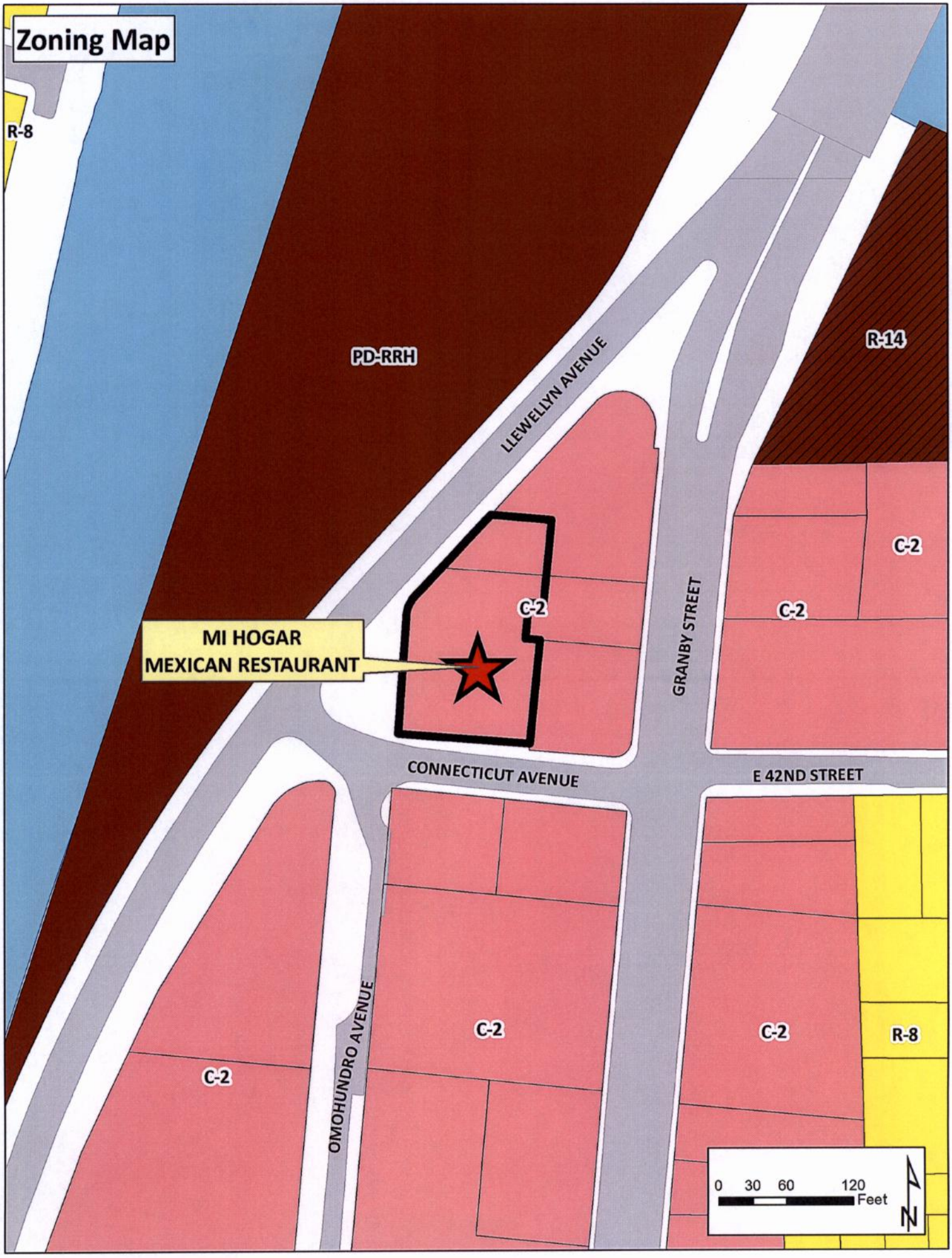
SOUTH ELEVATION

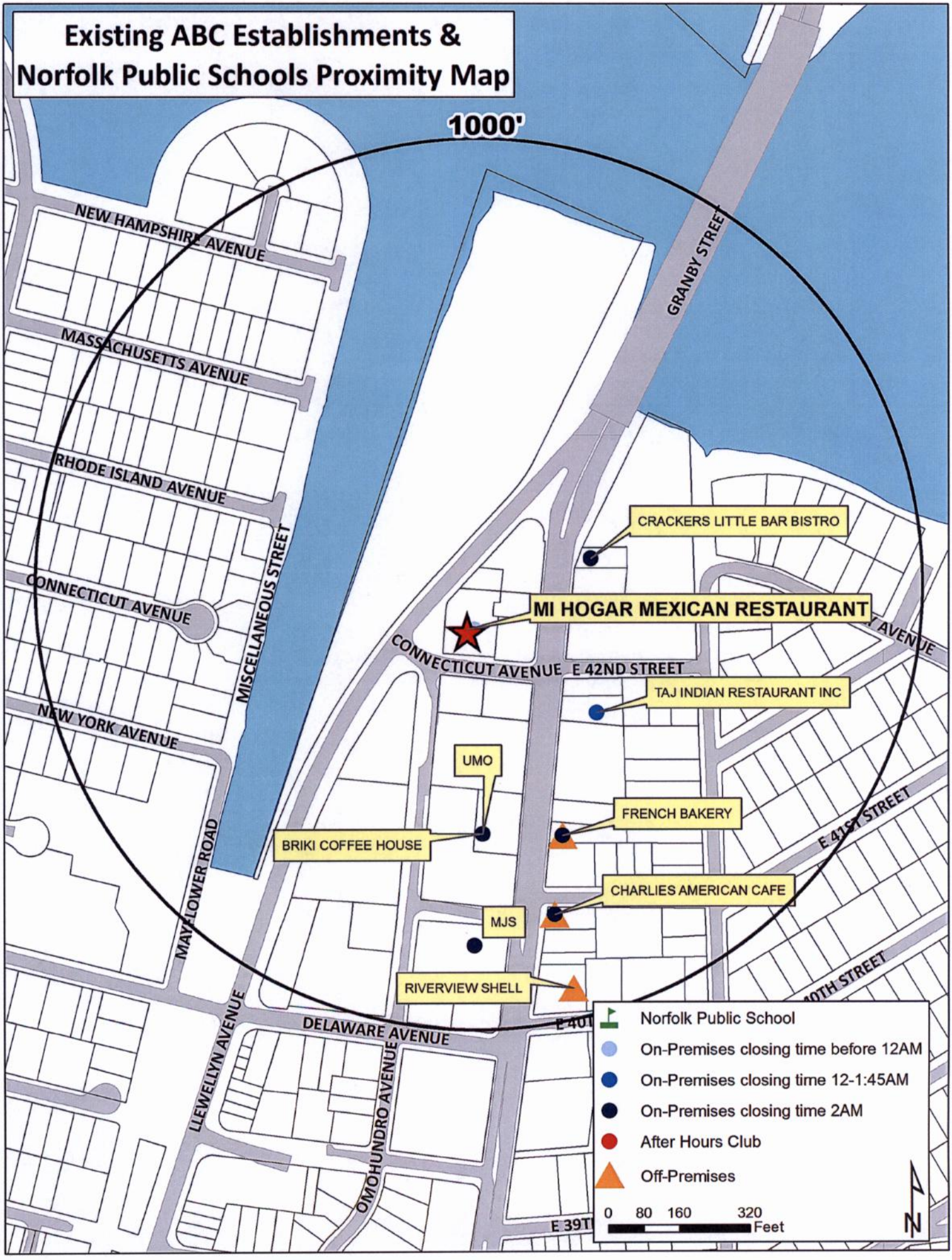
SCALE: 1/4" = 1'-0"

EAST ELEVATION

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


Location Map
LLEWELLYN AVENUE
MI HOGAR
MEXICAN RESTAURANT
CONNECTICUT AVENUE
OMOHUNDRO AVENUE
0 12.5 25 50
Feet
N


Zoning Map
R-8
PD-RRH
LLEWELLYN AVENUE
R-14
C-2
C-2
C-2
MI HOGAR
MEXICAN RESTAURANT
GRANBY STREET
CONNECTICUT AVENUE
E 42ND STREET
C-2
C-2
C-2
R-8
OMOHUNDRO AVENUE
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
NEW HAMPSHIRE AVENUE
MASSACHUSETTS AVENUE
RHODE ISLAND AVENUE
CONNECTICUT AVENUE
NEW YORK AVENUE
MISCELLANEOUS STREET
MAYFLOWER ROAD
LLEWELLYN AVENUE
DELAWARE AVENUE
OMOHUNDRO AVENUE
GRANBY STREET
CONNECTICUT AVENUE E 42ND STREET
E 41ST STREET
E 40TH STREET
E 39TH
CRACKERS LITTLE BAR BISTRO
MI HOGAR MEXICAN RESTAURANT
TAJ INDIAN RESTAURANT INC
UMO
FRENCH BAKERY
BRIKI COFFEE HOUSE
CHARLIES AMERICAN CAFE
MJS
RIVERVIEW SHELL
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 3-7-16

DESCRIPTION OF PROPERTY

Address 4201 GRANBY ST.

Existing Use of Property RESTAURANT / ADULT USE

Proposed Use ~~SAME~~ Entertainment Establishment

Current Building Square Footage 2550

Proposed Building Square Footage 3075

Trade Name of Business (If applicable) MI HOGAR MEXICAN RESTAURANT

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

1. Name of applicant: (Last) AYALA (First) ARMANDO (MI) M

Mailing address of applicant (Street/P.O. Box): 4201 GRANBY ST.

(City) NORFOLK (State) VA (Zip Code) 23504

Daytime telephone number of applicant (757) 640-7705 Fax ( ) 640-0032

E-mail address of applicant: Marmandoo live.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) _____ (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)

3. Name of property owner: (Last) ~~RENEESIS~~ RENEENSIS (First) JERRY (MI) P. (FAMILY TRUST)

Mailing address of property owner (Street/P.O. box): 7606 LEAFWOOD DR.

(City) NORFOLK (State) VA (Zip Code) 23518

Daytime telephone number of owner 757 587-7697 email: N/A

CIVIC LEAGUE INFORMATION

Civic League contact: John Robertson Colonial Place/Riverview president@cprvi.net

Date(s) contacted: _____

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: RUBY M. RENESIS TTEE **Sign:** Ruby M. Renesis TTEE 3/8/16
(Property Owner or Authorized Agent of Signature) (Date)

Print name: ARMANDO AYALA **Sign:** 3/7/16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ **Sign:** _____ / _____ / _____
(Authorized Agent Signature) (Date)

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

Pollock, Susan

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 2:27 PM
To: 'president@cprv.net'; 'Rvba23504@yahoo.com'
Cc: Whibley, Terry; Winn, Barclay; Wilson, Denise; Pollock, Susan
Subject: new Planning Commission application
Attachments: MiHogar.pdf

Ms. Flaherty and Mr. Childers,

Attached please find the following for 4201-4205 Granby Street:

a. Special exception to operate an entertainment establishment with alcoholic beverages.
b. Riverview Pedestrian Commercial Overlay (PCO-Riverview) development certificate with waivers.

The purpose of the request is to allow the existing restaurant to construct an addition to the building, expanding capacity, and to offer limited entertainment (four-piece mariachi) to its customers.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Susan Pollock Hart at (757) 664-4765, susan.pollock@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception to operate a microbrewery at 1121-1129 Boissevain Avenue – Benchtop Brewing Company**

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

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-13

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

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

III. **Request:** Special Exception to operate a microbrewery.

IV. **Applicant:** **Eric Tennant**

V. **Description:**

- The site is located within the West Ghent and Chelsea neighborhoods at the corner of Boissevain Avenue and Claremont Avenue.
- The applicant proposes a new microbrewery, Benchtop Brewing Co., to open and serve alcoholic beverages to its patrons for both on-premises and off-premises consumption.
  - The applicant proposes to sell and refill growler containers of 32 and 64 ounces in size and specialty and craft beers in a minimum of four-packs.

	Proposed
Hours of Operation for Microbrewery	24-hours a day, Seven days a week
Hours for the Sale of Alcoholic Beverages (on and off-premises consumption)	12:00 noon until 9:00 p.m., Monday through Wednesday 12:00 noon until 11:00 p.m., Thursday and Friday 11:00 a.m. until 11:00 p.m., Saturday and Sunday
Seating Capacity	77 seats indoors 34 seats outdoors 140 total capacity
Off-Premises Alcohol Types	• Four packs of specialty and craft beers • 32 and 64 oz. growlers

VI. Historic Resources Impacts

- The building is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

VII. Public Schools Impacts

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

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

Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016

by Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Chris Whitney, CFM

Staff Report	Item No. 20	
Address	**1121 – 1129 Boissevain Avenue**	
Applicant	**Benchtop Brewing Co.**	
Request	**Special Exception**	**Microbrewery**
Property Owner	Coleman, LLC	
Site Characteristics	Site/Building Area	20,344 sq. ft./5,299 sq. ft.
	Future Land Use Map	Industrial
	Zoning	I-2 (Light Industrial)
	Neighborhood	Chelsea/West Ghent
	Character District	Traditional
Surrounding Area	North	I-1 (Limited Industrial): Otzi Tattoo Agency
	East	I-2: Parking lot, Norfolk Plumbing, Inc.
	South	I-2: CV International offices
	West	I-2: The Fit Company

A. Summary of Request

- The site is located within the West Ghent and Chelsea neighborhoods at the corner of Boissevain Avenue and Claremont Avenue.
- The applicant proposes a new microbrewery, Benchtop Brewing Co., to open and serve alcoholic beverages to its patrons for both on-premises and off-premises consumption.
    - The applicant proposes to sell and refill growler containers of 32 and 64 ounces in size and specialty and craft beers in a minimum of four-packs.

B. Plan Consistency

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

C. Zoning Analysis

i. General

- The site is located in the I-2 district, which permits the proposed use by special exception.

	Proposed
Hours of Operation for Microbrewery	24-hours a day, Seven days a week
Hours for the Sale of Alcoholic Beverages (on and off-premises consumption)	12:00 noon until 9:00 p.m., Monday through Wednesday 12:00 noon until 11:00 p.m., Thursday and Friday 11:00 a.m. until 11:00 p.m., Saturday and Sunday
Seating Capacity	77 seats indoors 34 seats outdoors 140 total capacity
Off-Premises Alcohol Types	• Four packs of specialty and craft beers • 32 and 64 oz. growlers

ii. Parking

- The site is located within the Traditional Character District, which requires one parking space per 850 square feet of enclosed building area for a microbrewery.
- The proposed microbrewery is 5,299 square feet, it is required to accommodate six off-street parking spaces.
    - The adjacent parking lot currently contains 24 parking spaces.

iii. Flood Zone

The property is located in the AE (Elev. 7.6) and X (Shaded) Flood Zones.

D. Transportation Impacts

- Institute of Transportation Engineers (ITE) figures estimate that that this use will generate 353 new vehicle trips per day.
- Based upon ITE data, the existing warehouse use on this site would be expected to generate 19 weekday trips while the proposed microbrewery would be expected to generate 372 trips on weekdays.
- Boissevain 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 regional Hampton Roads Congestion Management analysis.
- Boissevain Avenue adjacent to the site is not an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan, but the existing Elizabeth River Trail is located just to the east of this location.

E. Historic Resources Impacts

- The building is not located within a federal, state, or local historic district.
    - Since the building on the site is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

F. Public Schools Impacts

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

G. Environmental Impacts

Landscaping is proposed along the Boissevain Avenue and Claremont Avenue frontages.

H. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

- By requiring this use to conform to the conditions listed below, the proposed microbrewery should not have a negative effect on the surrounding area.
- There were no calls for police service made for this site over the past year.

J. Payment of Taxes

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

K. Civic League

Notice was sent to the West Ghent Civic League on March 16 and the Chelsea Business Association on March 31.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. Recommendation

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

(a) The hours of operation for the establishment may be 24 hours a day, seven days a week.

(b) The hours of operation for the sale of alcoholic beverages for on-premises and off-premises consumption shall be limited to 5:00 p.m. until 9:00 p.m. Monday through Thursday, 5:00 p.m. until 10:00 p.m. Friday, 12:00 p.m. until 9:00 p.m. Saturday, and 12:00 p.m. until 6:00 p.m. Sunday. The establishment shall not be open to the public outside of the hours of operation listed herein.

(c) The seating for the establishment shall not exceed 77 seats indoors, 34 seats outdoors, and the total occupant capacity, including employees, shall not exceed 140 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 anywhere in the outdoor dining area.

(f) 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.

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

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

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

(k) 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.

(l) The facility 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 other local taxes which may become due while it is in operation.

(n) Dumpsters shall be gated and not visible from any public right-of-way.

(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, snow, ice, 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) 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) 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.

(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.

Attachments

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the West Ghent Civic League
Notice to the Chelsea Business Association

Proponents and Opponents

Proponents

Eric Tennant – Applicant
1129 Boissevain Avenue
Norfolk, VA 23507

Opponents

None

04/22/16 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved: CW

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF A MICROBREWERY NAMED "BENCHTOP BREWING COMPANY" ON PROPERTY LOCATED AT 1121 TO 1129 BOISSEVAIN AVENUE.

- - -

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

Section 1:- That a Special Exception is hereby granted to Benchtop Brewing Company, LLC authorizing the operation of a microbrewery named "Benchtop Brewing Company" on property located at 1121 to 1129 Boissevain Avenue. The property which is the subject of this Special Exception is more fully described as follows:

> Property located at the southeast corner of Boissevain Avenue and Claremont Avenue fronting 150 feet, more or less, along the southern line of Boissevain Avenue and 115 feet, more or less, along the eastern line of Claremont Avenue; premises numbered 1121 to 1129 Boissevain Avenue.

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 and off-premises consumption shall be limited to 12:00 noon until 9:00 p.m. Monday through Wednesday, 12:00 noon until 11:00 p.m. on Thursday and Friday, and 11:00 a.m. until 11:00 p.m. on Saturday and Sunday. The establishment shall not be open to the public outside of the hours of operation listed herein.

(b) The seating for the establishment shall not exceed 77 seats indoors, 34 seats outdoors, and the total occupant capacity, including employees, shall not exceed 140 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) 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.

(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 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.

(f) 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.

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

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

(i) No alcoholic beverage having more than 21% alcohol

by volume shall be sold for off-premises consumption.

(j) 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.

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

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

(m) All dumpsters shall be gated and not visible from any public right-of-way.

(n) 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.

(o) 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.

(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) 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.

(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.

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: 2-24-16

Name of business: Benchtop Brewing Company, LLC

Address of business: 1129 Boissevain Avenue

Name(s) of business owner(s)*: Jonathan Eric Tennant

Name(s) of property owner(s)*: Wayne Coleman

Name(s) of business manager(s)/operator(s): Jonathan Eric Tennant / managing member + President

Daytime telephone number (757): 352-8503

*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~~ M-W From 12:00 pm To 9:00 pm
Friday TH+ From 12:00 pm To 11:00 pm
Saturday From 11:00 am To 11:00 pm
Sunday From 11:00 am To 11:00 pm
(Brewing operations permitted 24-hours)

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

~~Weekday~~ M-W From 12:00 pm To 9:00 p.m
Friday TH+ From 12:00 pm To 11:00 pm
Saturday From 11:00 am To 11:00 pm
Sunday From 11:00 am To 11:00 pm

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

Exhibit A – Page 2
Brewery/Microbrewery/Brewpub

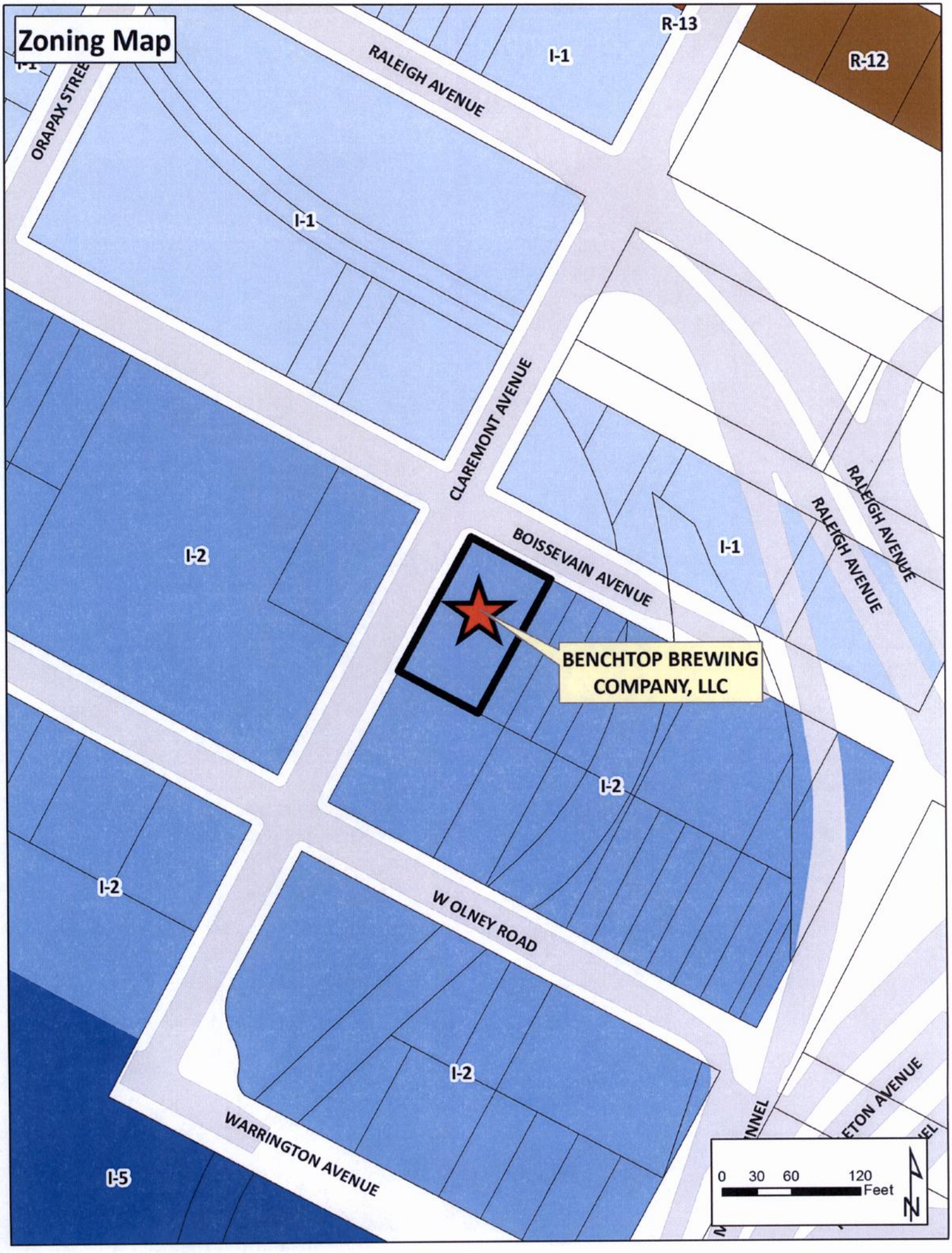
3. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes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

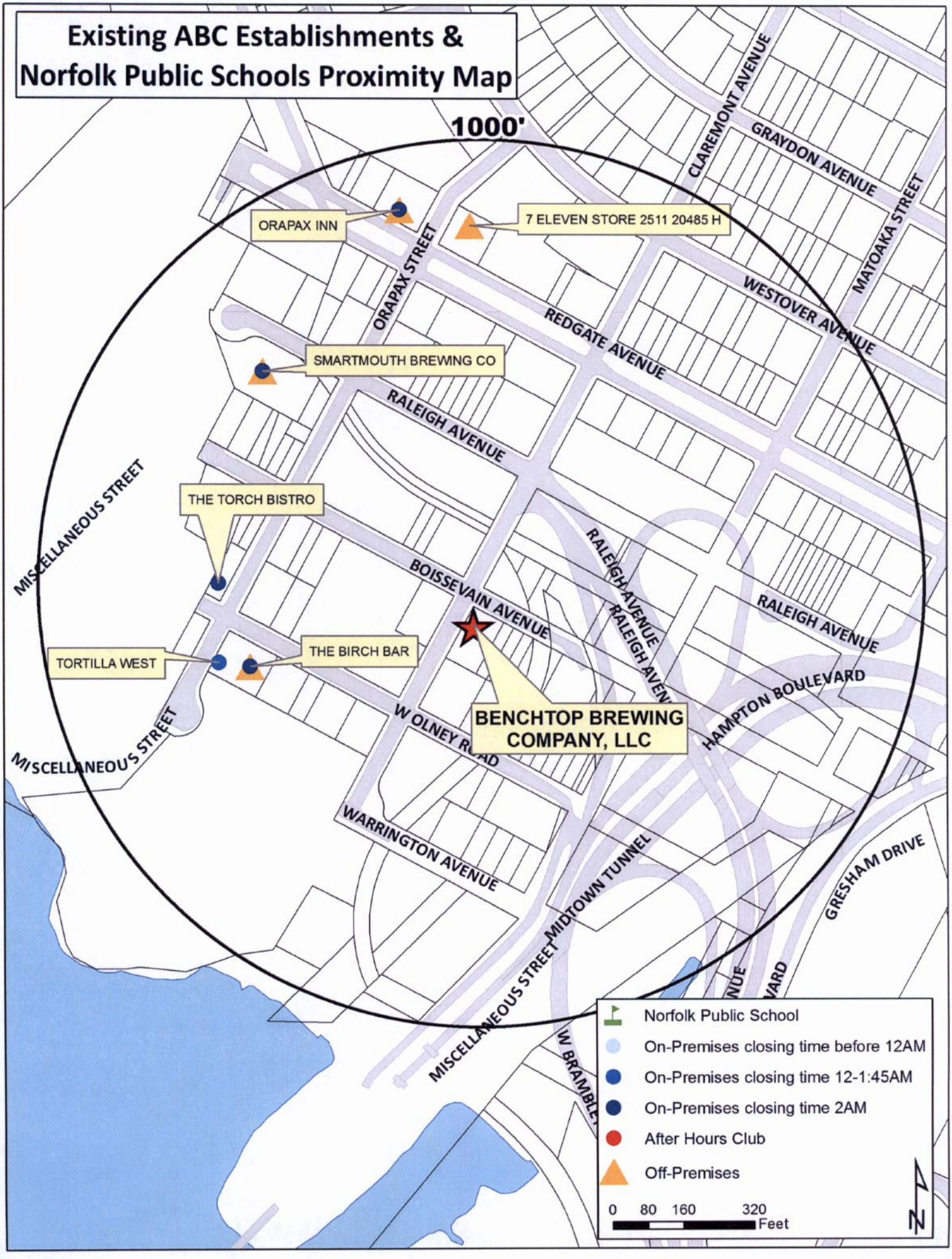
We would only sell single-sized bottles or cans in a minimum of 4-packs

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, 2016)

Location Map
BOISSEVAIN AVENUE
CLAREMONT AVENUE
BENCHTOP BREWING COMPANY, LLC
W OLNEY ROAD
0 12.5 25 50
Feet
N


Zoning Map
RALEIGH AVENUE
ORAPAX STREE
I-1
R-13
R-12
I-1
CLAREMONT AVENUE
I-2
BOISSEVAIN AVENUE
I-1
RALEIGH AVENUE
RALEIGH AVENUE
BENCHTOP BREWING COMPANY, LLC
I-2
I-2
W OLNEY ROAD
I-2
WARRINGTON AVENUE
I-5
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
ORAPAX INN
7 ELEVEN STORE 2511 20485 H
SMARTMOUTH BREWING CO
THE TORCH BISTRO
TORTILLA WEST
THE BIRCH BAR
BENCHTOP BREWING COMPANY, LLC
CLAREMONT AVENUE
GRAYDON AVENUE
MATOAKA STREET
ORAPAX STREET
WESTOVER AVENUE
REDGATE AVENUE
RALEIGH AVENUE
MISCELLANEOUS STREET
BOISSEVAIN AVENUE
HAMPTON BOULEVARD
W OLNEY ROAD
WARRINGTON AVENUE
MIDTOWN TUNNEL
GRESHAM DRIVE
W BRAMBLE
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: 2-24-16

DESCRIPTION OF PROPERTY

Property location: (Street Number) 1129 (Street Name) Boissevain Avenue

Existing Use of Property Warehouse

Current Building Square Footage ~~5,500~~ ET 5,299

Proposed Use Microbrewery

Proposed Building Square Footage ~~5,500~~ ET 5,299

Trade Name of Business (If applicable) Beachtop Brewing Company, LLC.

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

1. Name of applicant: (Last) Tennant (First) Jonathan (MI) E

Mailing address of applicant (Street/P.O. Box): 3621 Deerfield Dr

(City) Suffolk (State) VA (Zip Code) 23435

Daytime telephone number of applicant (757) 352-8503 Fax ( )

E-mail address of applicant: jetennan@hotmail.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) Tennant (First) Jonathan (MI) E

Mailing address of applicant (Street/P.O. Box): 3621 Deerfield Dr

(City) Suffolk (State) VA (Zip Code) 23435

Daytime telephone number of applicant (757) 352 8503 Fax ( )

E-mail address of applicant: jetennan@hotmail.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) Coleman (First) Wayne (MI)

Mailing address of property owner (Street/P.O. box): 1128 W Olney

(City) Norfolk (State) VA (Zip Code) 23507

Daytime telephone number of owner (757) 466-1170 email: WColeman@cvinternational.com

CIVIC LEAGUE INFORMATION

Civic League contact: George Pegram - President WGCL

Date(s) contacted: 2/9/16

Ward/Super Ward information: Ward 2 / Ward 6

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: WAYNE COLEMAN (Property Owner) **Sign:** Wayne Coleman 2/12/16 (Date)

Print name: J. ERIC TENNANT (Applicant) **Sign:** J. Eric Tennant 2/24/16 (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ (Authorized Agent Signature) **Sign:** _____ / _____ / _____ (Date)

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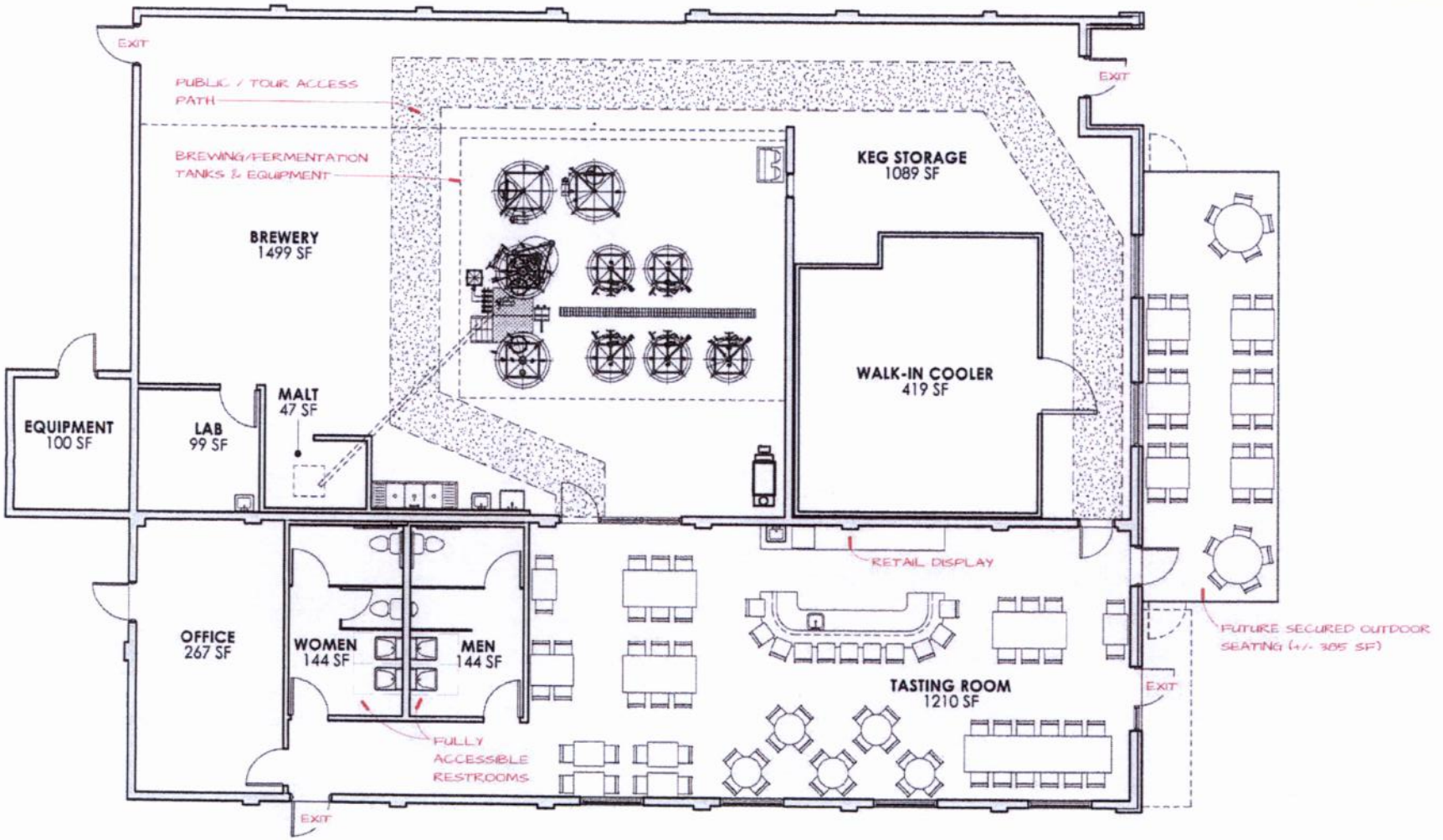
USE GROUP CLASSIFICATION:	F-2, A-2 (CURRENT USE IS ASSUMED S-1)
CONSTRUCTION TYPE:	II-B, NON-COMBUSTIBLE
FIRE SUPPRESSION:	NFPA 13 (NEW)
ALLOWABLE BUILDING AREA:	F2:23,000 SF ALLOWABLE, A2:9,500 SF ALLOWABLE
BUILDING AREA:	5,299 S.F. GROSS PROPOSED

OCCUPANCY CALCULATIONS:
15.9 EMPLOYEE/STAFF IN BREWERY OPERATIONS (F-2: @ 1:200)
98.6 INDOOR (A-2 @ 1:15 - ASSUMING STANDING AS MOST RESTRICTIVE)
25.5 OUTDOOR (A-2 @ 1:15 - ASSUMING STANDING AS MOST RESTRICTIVE)
140 TOTAL OCCUPANTS



EQUIPMENT/FURNITURE LAYOUT PLAN

1/8" = 1'-0"

CHA PROJECT 16008
ISSUE DATE 02.09.16

BREWERY LAYOUT PLAN

PC1.0

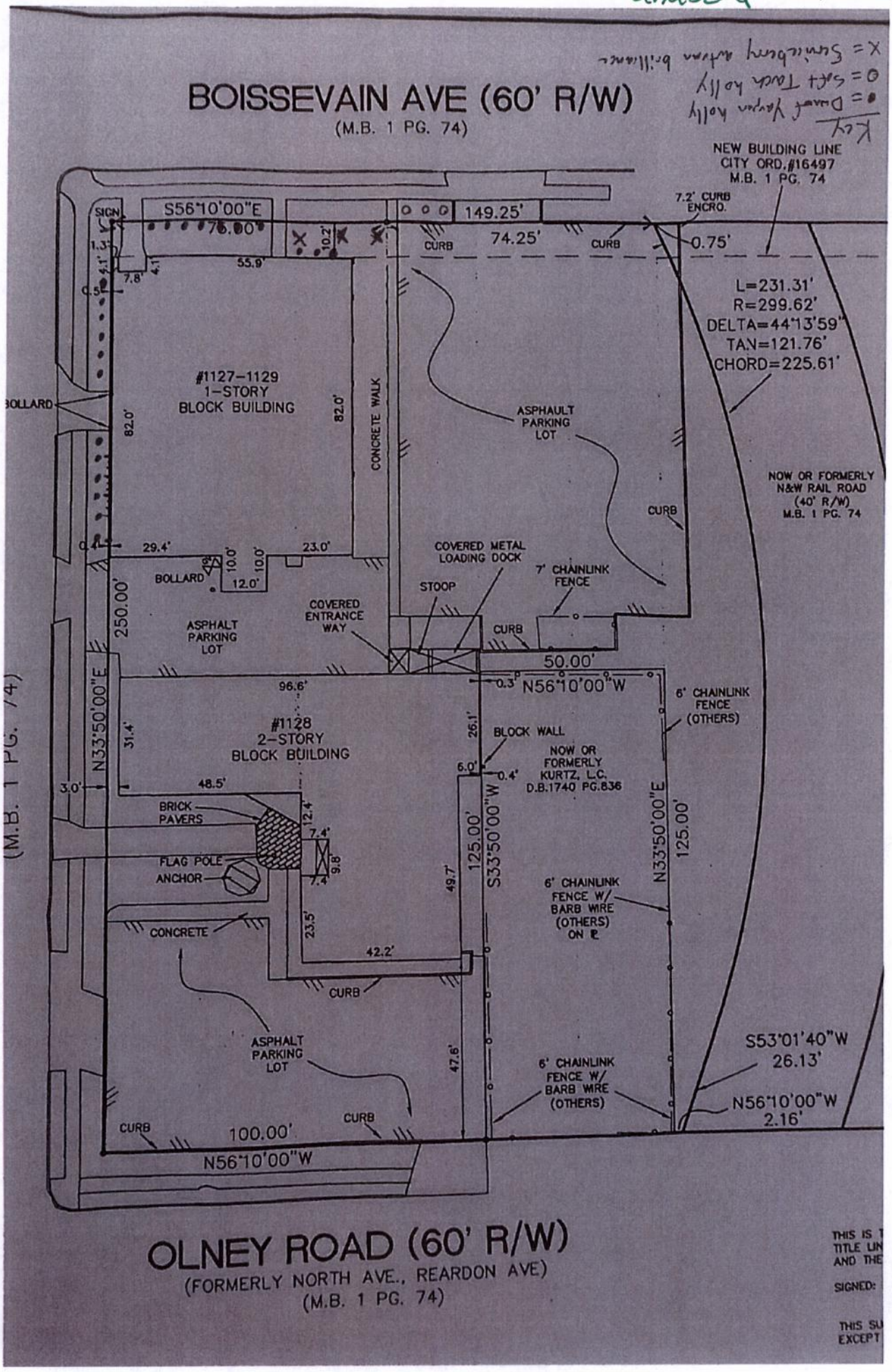
TENANT BUILD-OUT DRAWINGS FOR

BENCHTOP BREWERY

NORFOLK, VA 23507

COVINGTON HENDRIX ANDERSON

Landscape Plan



Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, March 16, 2016 2:46 PM
To: 'president@westghent.net'
Cc: Whibley, Terry; Winn, Barclay; Wilson, Denise; Whitney, Chris
Subject: new Planning Commission application
Attachments: Benchtop_microbrew.pdf

Mr. Lowe, MD

Attached please find the following application for a special exception to operate a microbrewery at 1121-1129 Boissevain Avenue:

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Whitney, Chris

From: Straley, Matthew
Sent: Thursday, March 31, 2016 8:15 AM
To: 'malia@thebirchbar.com'
Cc: Whitney, Chris
Subject: new Planning Commission application
Attachments: Benchtop_microbrew.pdf

Ms. Paasch,

Attached please find the following application for a special exception to operate a microbrewery at 1121-1129 Boissevain Avenue:

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

C: Dir., Department of City Planning

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: **Special Exception for an Eating and Drinking Establishment at 849 East Little Creek Road – El Rey #2**

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

Ward/Superward: 3/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-14

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

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

III. **Request:** Special Exception for an Eating and Drinking Establishment

IV. **Applicant:** **El Rey #2**

V. **Description:**
The applicant proposes to allow the existing restaurant, El Rey #2, to offer alcoholic beverages to its customers.

	Previous (El Rey #2)	Proposed (El Rey #2)
Hours of Operation and for the Sale of Alcoholic Beverages	No Alcohol (hours not regulated)	10:00 a.m. until 12:00 midnight, Monday through Friday 8:00 a.m. until 12:00 midnight, Saturday and Sunday
Seating Capacity	53 total capacity	49 seats indoors no seats outdoors 53 total capacity

VI. **Historic Resources Impacts**

- The building is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

VII. Public Schools Impacts

The site is located in the Crossroads Elementary School, the Norview Middle School and Norview High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

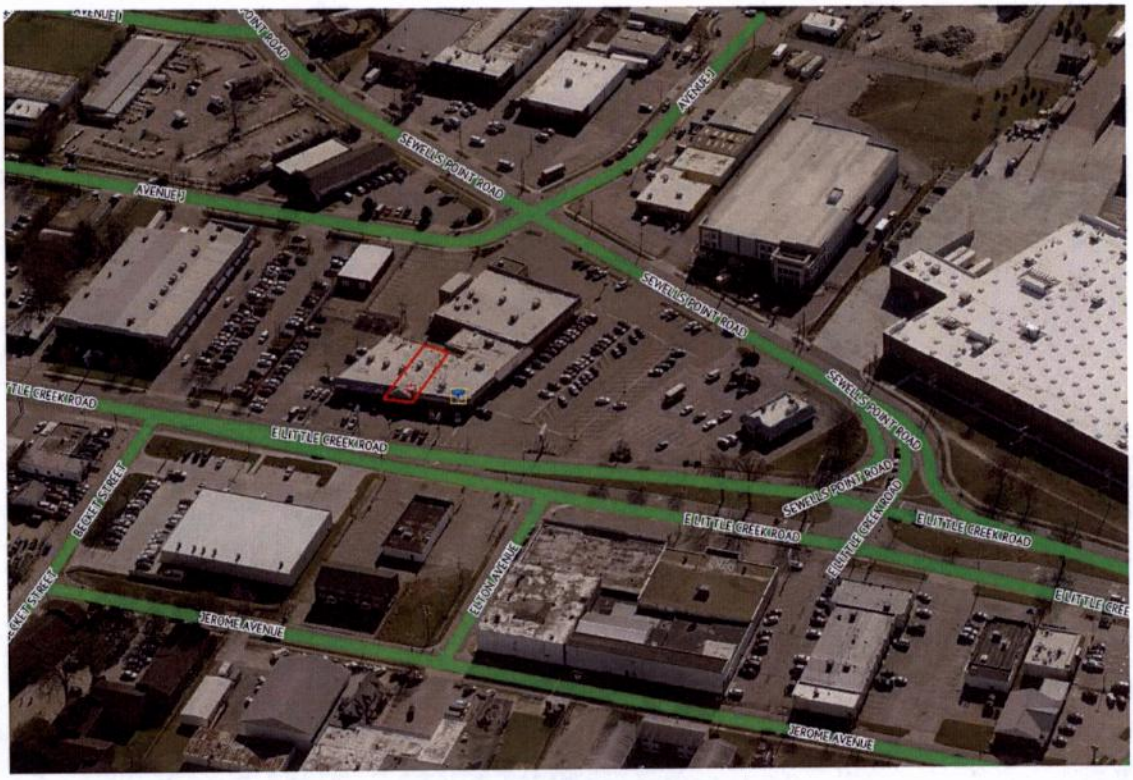
Attachments:

- Staff Report to CPC dated April 28, 2016 with attachments
- Letter of Support – Crossroads Civic League
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: April 28, 2016
Executive Secretary: George M. Homewood, FAICP, CFM
Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	Item No. 12	
Address	849 East Little Creek Road	
Applicant	El Rey #2	
Request	Special Exception	Eating and Drinking Establishment
Property Owner	P & W Enterprises, Inc.	
Site Characteristics	Building Area/Space	30,497 sq. ft./1,900 sq. ft.
	Future Land Use Map	Commercial
	Zoning	C-2 (Corridor Commercial)
	Neighborhood	Oakwood
	Character District	Suburban
Surrounding Area	North	C-2: O'Reilly Auto Parts
	East	C-2: Retail shops; Cuts & Styles, #1 Nails, Liberty Tax
	South	C-2: Lido Inn
	West	C-2: Midway Pawn Supercenter



A. Summary of Request

- The site is located within the Midway Shopping Center, on the southeast corner of East Little Creek Road and Sewells Point Road.
- The applicant proposes to allow the existing restaurant, El Rey #2, to offer alcoholic beverages to its customers.

B. Plan Consistency

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

C. Zoning Analysis

i. General

- The site is located in the C-2 district, which permits the proposed use by special exception.

	Previous (El Rey #2)	Proposed (El Rey #2)
Hours of Operation and for the Sale of Alcoholic Beverages	No Alcohol (hours not regulated)	10:00 a.m. until 12:00 midnight, Monday through Friday 8:00 a.m. until 12:00 midnight, Saturday and Sunday
Seating Capacity	53 total capacity	49 seats indoors no seats outdoors 53 total capacity

ii. Parking

- The site is located within the Suburban Character District.
- Adding the sale of alcoholic beverages to an existing eating establishment does not require additional parking.
- The proposed establishment is not proposing an increase in occupancy or building floor area and no additional parking impacts are anticipated.

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 addition of on-site alcohol sales at this existing restaurant.
- Little Creek Road 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 building is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

F. Public Schools Impacts

The site is located in the Crossroads Elementary School, the Norview Middle School and Norview High School Attendance Zones.

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*.
  - Landscaping will be installed at the base of the existing sign.
- The new landscaping will also reduce the imperviousness of the site, which will reduce stormwater runoff.

H. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

By requiring this use to conform to the conditions listed below, the addition of alcoholic beverages should not have a negative effect on the surrounding area.

J. Payment of Taxes

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

K. Civic League

Notice was sent to the Oakwood and Crossroads Civic Leagues on March 16.

L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in *The Virginian-Pilot* on April 14 and April 21.

M. 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 from 10:00 a.m. until 12:00 midnight, Monday through Friday, and from 8:00 a.m. until 12:00 midnight, Saturday and Sunday. 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 49 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 53 people.

(c) 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.

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

(e) 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.

(f) 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.

(g) 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, snow, ice, and any bodily discharge.

(h) 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.

(i) 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.

(j) 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.

(k) There shall be no entertainment, no dancing, and no dance floor provided.

(l) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(m) 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.

(n) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

Attachments

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Oakwood and Crossroads Civic Leagues

Proponents and Opponents

Proponents
Luis M. Zepeda – Applicant
950 Alma Drive
Norfolk, VA 23518

Opponents
None

04/22/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved: MM.A

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT NAMED "EL REY #2" ON PROPERTY LOCATED AT 849 EAST LITTLE CREEK ROAD.

- - -

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

Section 1:- That a Special Exception is hereby granted to El Rey #2, LLC authorizing the operation of an eating and drinking establishment named "El Rey #2" on property located at 849 East Little Creek Road. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronts 260 feet, more or less, along the southern line of East Little Creek Road beginning 197 feet, more or less, from the eastern line of Sewells Point Road and extending eastwardly; premises also fronts 325 feet, more or less, along the northeast line of Sewells Point Road, beginning 195 feet, more or less, from the intersection of East Little Creek Road and Sewells Point Road and extending southeastwardly; premises numbered 849 East Little Creek Road.

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 10:00 a.m. until 12:00 midnight, Monday through Friday, and 8:00 a.m. until 12:00 midnight on Saturday and Sunday. 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 49 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 53 people.

(c) 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.

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

(e) 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.

(f) 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.

(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) 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.

(i) 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.

(j) 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.

(k) There shall be no entertainment, no dancing, and no dance floor provided.

(l) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(m) A copy of this special exception ordinance and Exhibits shall be available on the premises 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.

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 (3 pages)

EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

Date 2-17-16

Trade name of business El Rey #2

Address of business 849 East Little CREEK Rd. Norfolk VA 23518

Name(s) of business owner(s)* Luis Zepeda, Bertha Zepeda, Luis M. Zepeda - "El Rey #2, LLC"

X Name(s) of property owner(s)* P+W Enterprises, Inc.

Daytime telephone number (757) 621-5056

*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 10am	To 12am	Weekday	From 10am	To 12am
Friday	From 10am	To 12am	Friday	From 10am	To 12am
Saturday	From 8am	To 12am	Saturday	From 8 am	To 12am
Sunday	From 8am	To 12am	Sunday	From 8am	To 12 am

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

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

4. Will indoor or outdoor entertainment be provided?
(Entertainment consists of anything more than one, unamplified musician)
☐ Yes (Different application required) ☑ No

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(Revised January, 2015)

Exhibit A – Page 2
Eating and Drinking Establishment

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

5a. If yes, please describe type and number of each game to be provided

_____

_____

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

6a. If yes, why

_____

_____

6b. Which days of the week will there be a cover charge (circle all applicable days)?

Monday Tuesday Wednesday Thursday Friday

Saturday Sunday

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

7a. If yes, explain

_____

_____

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

8a. If yes, explain

_____

_____

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

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Exhibit A – Page 3
Eating and Drinking Establishment

10. Additional comments/ description/operational characteristics or prior experience:

_____

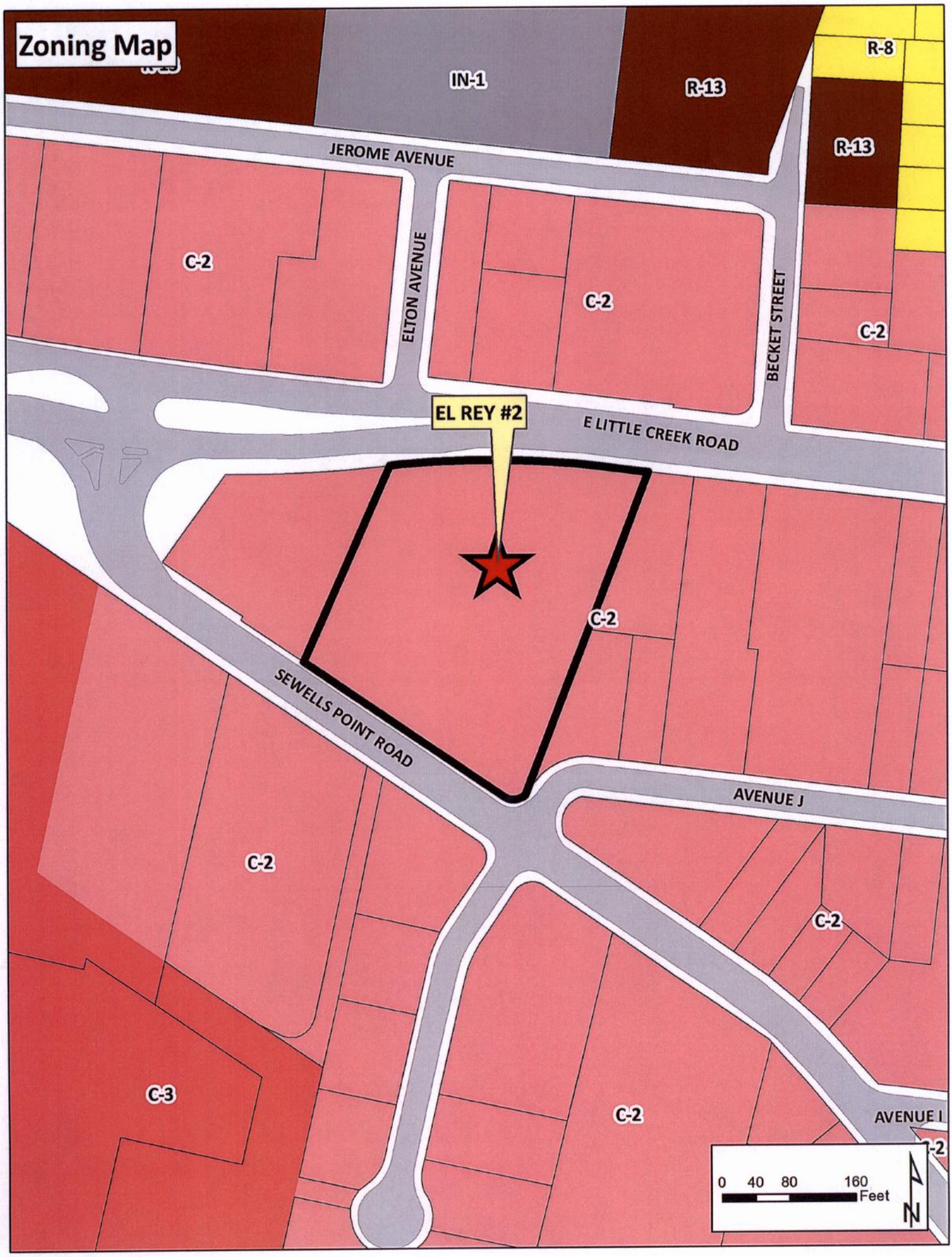
_____

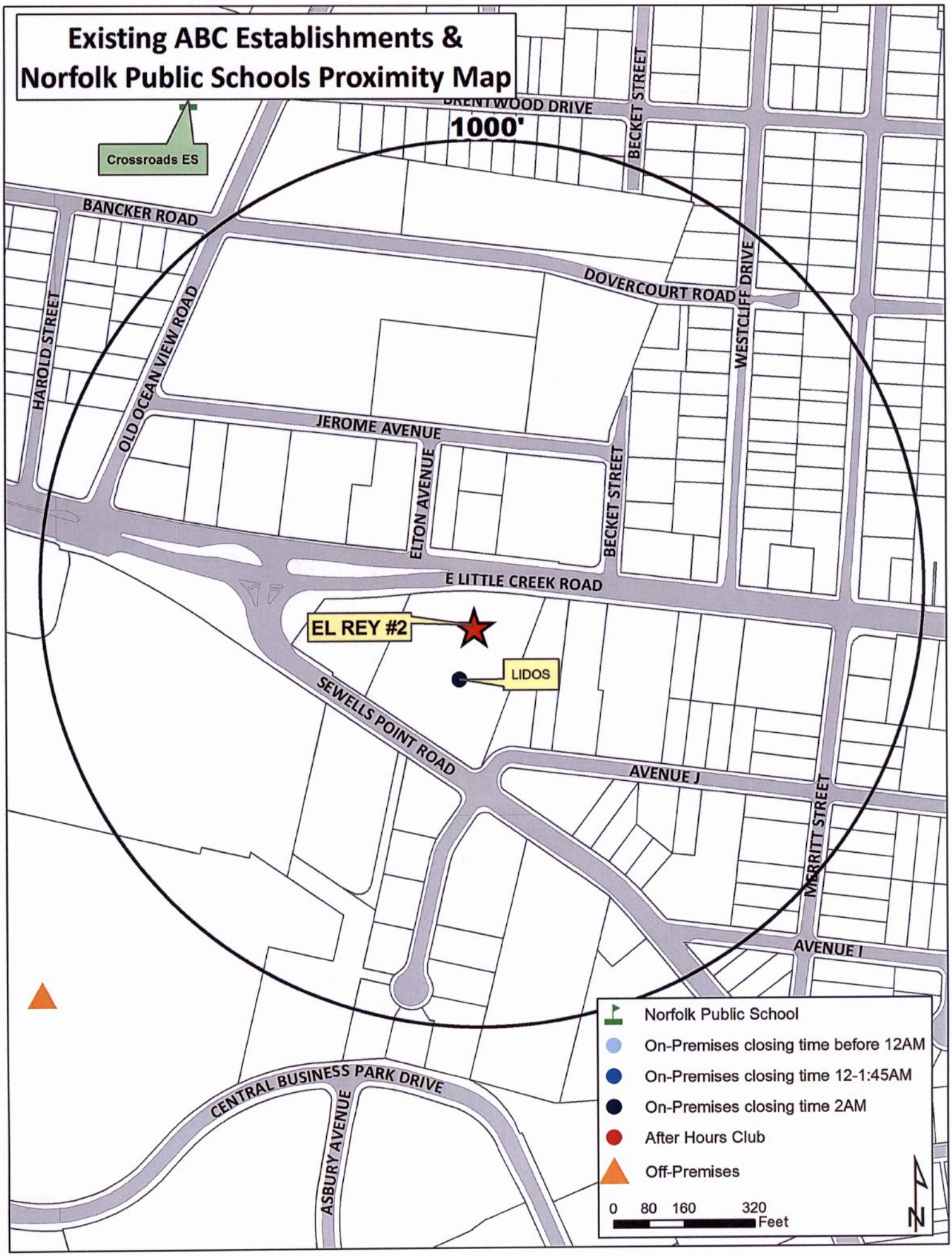
Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

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)

Location Map
ELTON AVENUE
E LITTLE CREEK ROAD
EL REY #2
E LITTLE CREEK ROAD
SEWELLS POINT ROAD
AVENUE J
0 20 40 80
Feet
N


Zoning Map
IN-1
R-13
R-8
R-13
JEROME AVENUE
ELTON AVENUE
BECKET STREET
C-2
C-2
C-2
EL REY #2
E LITTLE CREEK ROAD
C-2
SEWELLS POINT ROAD
AVENUE J
C-2
C-2
C-3
C-2
AVENUE I
0 40 80 160
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
Crossroads ES
1000'
BRENTWOOD DRIVE
BECKET STREET
BANCKER ROAD
DOVERCOURT ROAD
WESTCLIFF DRIVE
HAROLD STREET
OLD OCEAN VIEW ROAD
JEROME AVENUE
ELTON AVENUE
BECKET STREET
E LITTLE CREEK ROAD
EL REY #2
LIDOS
SEWELLS POINT ROAD
AVENUE J
MERRITT STREET
AVENUE I
CENTRAL BUSINESS PARK DRIVE
ASBURY 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
EATING AND DRINKING ESTABLISHMENT
(Please print)

Date 2-17-16

DESCRIPTION OF PROPERTY

Address 849 East little Creek Rd. Norfolk VA

Existing Use of Property Restaurant

Proposed Use same

Current Building Square Footage 1,900

Proposed Building Square Footage same

Trade Name of Business (if applicable) El Rey #2

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

Zepeda, Luis M. (son) Zepeda, Bertha (mother)

1. Name of applicant: (Last) Zepeda (First) Luis (father) (MI) ____

Mailing address of applicant (Street/P.O. Box): 950 Alma Dr.

(City) Norfolk (State) VA (Zip Code) 23518

Daytime telephone number of applicant (757) 589 3544 Fax ( )

E-mail address of applicant: zepedaluis1234@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) Zepeda (First) Luis (MI) M. (son)

Mailing address of applicant (Street/P.O. Box): 950 Alma Dr.

(City) Norfolk (State) VA (Zip Code) 23518

Daytime telephone number of applicant (757) 589-3174 Fax ( )

E-mail address of applicant: zepedaluis1234@gmail.com

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

Laurie W. Shroder d.b.a. P & W Enterprises, Inc.

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

Mailing address of property owner (Street/P.O. box): P.O. Box 14396

(City) Norfolk (State) Va. (Zip Code) 23518

Daytime telephone number of owner 757 621-5056 email: lwshroder@cox.net

CIVIC LEAGUE INFORMATION

Civic League contact: Oakwood civic league / Crossroads civic league

Date(s) contacted: ~~25th of January 2016~~ / 8th of January 2016

Ward/Super Ward information: Mary Simpson Jones / Hank Brown

757 339 5556 / 757 746 4688

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 inch x 11 inch copy of a floor plan prepared by a registered design professional drawn to scale showing seats/tables, restroom facilities, bar, ingress and egress, standing room, outdoor dining and total maximum capacity (see attached example)
- 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.
- Completed Exhibit A, Description of Operations (attached)

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: Laurie W. Shrader **Sign:** _____ 12-12-16
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Luis M. Zepeda **Sign:** _____ / / _____
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Luis M. Zepeda **Sign:** 2-17-16 / / _____
(Authorized Agent Signature) (Date)

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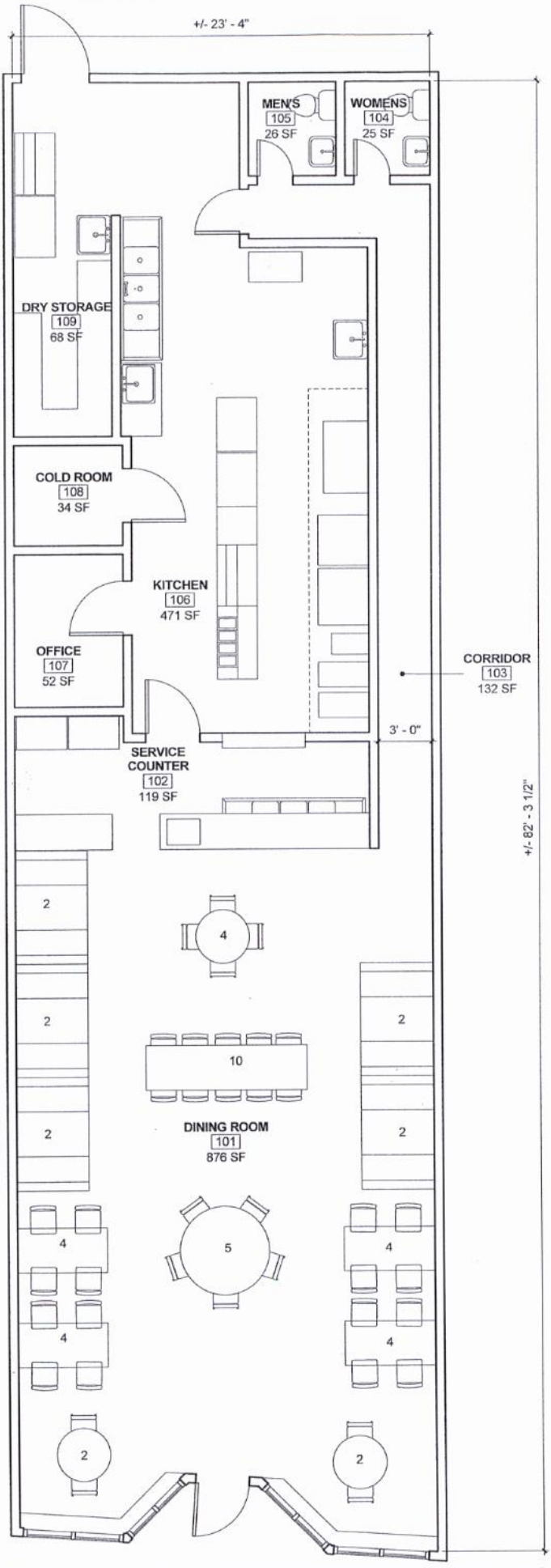


FIRST FLOOR
1/4" = 1'-0"

FOR THE PEOPLE PROJECTS, LLC
PROJECT MANAGEMENT | OWNER REPRESENTATION
8834 GRANBY STREET | NORFOLK, VA 23503
757.828.5911
JEN @ FORTHEPEOPLEPROJECTS.COM

REVISIONS:

DESIGNER OF RECORD:

EL REY #2 - EXISTING CONDITIONS

849 E. LITTLE CREEK RD. NORFOLK, VA 23518

EXISTING FLOOR PLAN

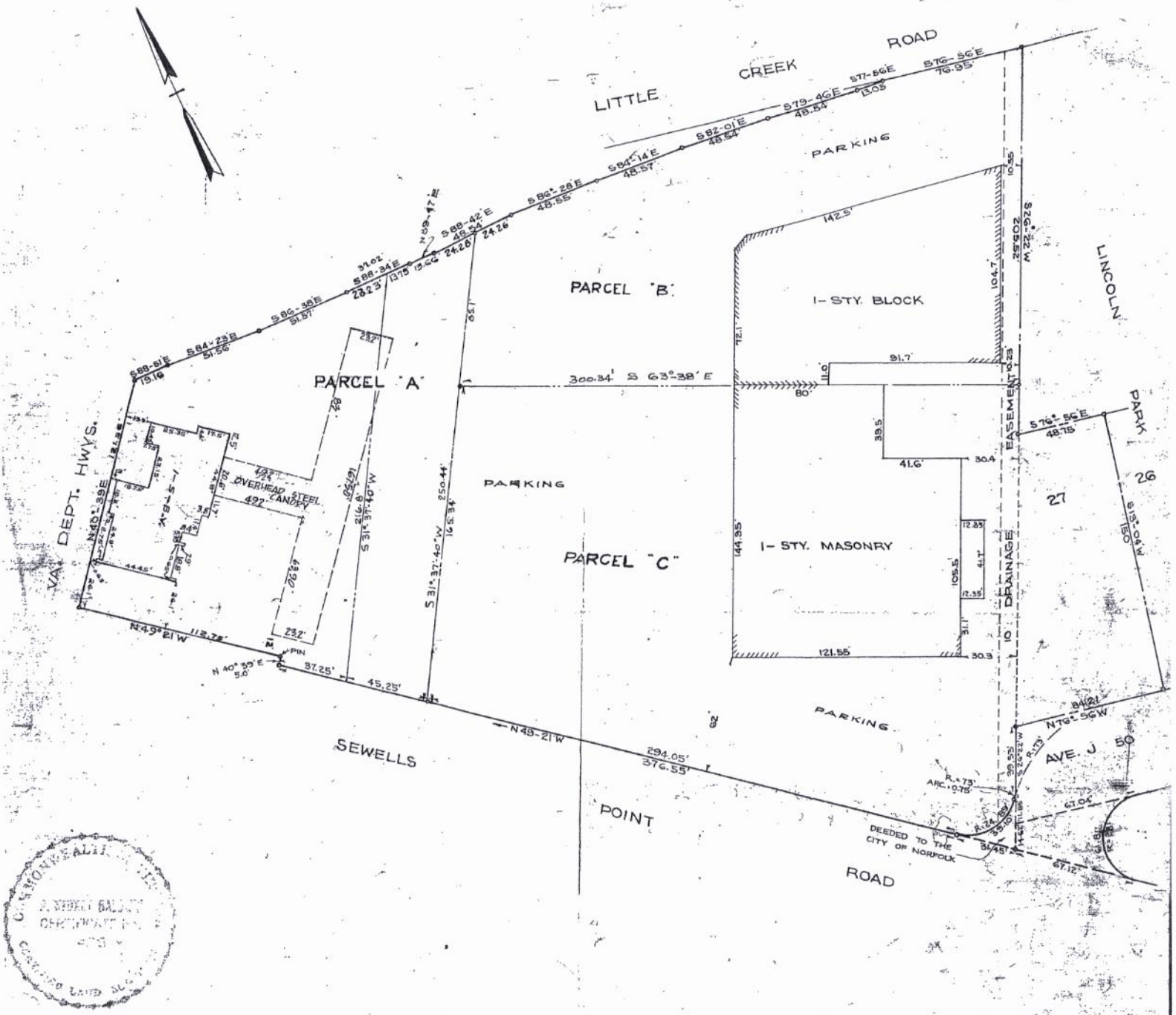
DATE: 12.17.15

PROJECT NO: 2015-117

DRAWN BY: JCS

A101

01 of 1



THIS IS TO CERTIFY THAT I ON MAY 1955 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 STANDS STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

SIGNED: R. Stuart Baldwin

REVISED PLAT: JAN. 9, 1956 R. Stuart Baldwin

REVISED PLAT: FEB. 28, 1956: R. S. B.

REVISED PLAT: OCTOBER 3, 1961: R. Stuart Baldwin

REVISED PLAT: DECEMBER 15, 1961: R. Stuart Baldwin

328

PHYSICAL SURVEY

FOR

GEORGE N. GABRIEL

NORFOLK, VA.

SCALE 1" = 50'

MAY 1955

JNO. M. BALDWIN C.E.
R.S. BALDWIN C.L.S.

T-51-F-26

Simons, Matthew

From:	Straley, Matthew
Sent:	Wednesday, March 16, 2016 1:57 PM
To:	'mjones176@cox.net'; 'hankmech99@cox.net'
Cc:	Johnson, Mamie; Williams, Angelia M.; Herbst, James; Simons, Matthew
Subject:	new Planning Commission application
Attachments:	ElRay.pdf

Ms. Simpson-Jones and Mr. Brown,

Attached please find the following application for a special exception to operate an eating and drinking establishment at 849 E. Little Creek Road, suite 849.

The purpose of the request is to allow the existing restaurant to offer alcoholic beverages to its dine-in customers.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

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

Thank You.

Matthew Straley
GIS Technician II

THE CITY OF NORFOLK
City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov

Simons, Matthew

From: CROSSROADS CIVIC LEAGUE <crossroads.norfolk.cares@gmail.com>
Sent: Thursday, April 28, 2016 3:16 PM
To: Simons, Matthew
Subject: Re: Special exemption permit for El Rey #2

Luis M. Zepeda the owner of El Rey #2 spoke to the Crossroads civic league in January about his restaurant trying to get a special exemptions permit. We held it over for 30 days for the members to evaluate and vote on. We as the Crossroads civic league do not have any issues with El Rey #2 being a restaurant that servers alcohol. As long as it does not convert to a bar that serves food.

Gary F
Crossroads civic league
Cos

C: Dir., Recreation, Parks and Open Space

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: Darrell R. Crittendon, Director
Recreation, Parks and Open Space

Subject: Donation from Marathon Development Group, Inc. for the construction of a dog walk area at 416 Granby Street

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: 4/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-15**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Department of Recreation, Parks & Open Space

III. **Description:**
This agenda item is an ordinance to accept a donation in the amount of $40,000 from Marathon Development Group, Inc. ("Marathon").

IV. **Analysis**
The Downtown Norfolk Council (the "DNC") recently completed a strategic planning process that listed a "dog walk" as a desired downtown asset. The strategic planning process outlined data and involved analysis that showed more people moving into Norfolk's downtown with their pets. As a result, one of the DNC's members, Marathon, who was a part of this strategic planning process, offered to donate financial resources to the City of Norfolk's Recreation Parks, and Open Space ("RPOS") department to help offset the expenses associated with this effort. The three organizations have worked together to determine a plan and location for the dog walk.

V. **Financial Impact**
This donation will help RPOS construct a dog walk area at 416 Granby Street.

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

Architectural Review Board will review and approve the design before construction starts.

IX. Coordination/Outreach

This letter has been coordinated with the Department of Recreation, Parks & Open Space, the City Attorney's Office, and the Downtown Norfolk Council.

Supporting Material from the Department of Recreation, Parks & Open Space:

- Ordinance

3/11/16 - bjl

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.

$ 40,000.00 2275-78-8102-4654
Account

_____ 3/24/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING WITH APPRECIATION $40,000 FROM MARATHON DEVELOPMENT GROUP, INC. AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF $40,000.00 FOR THE CONSTRUCTION OF A DOG WALK AREA AT 416 GRANBY STREET.

- - -

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

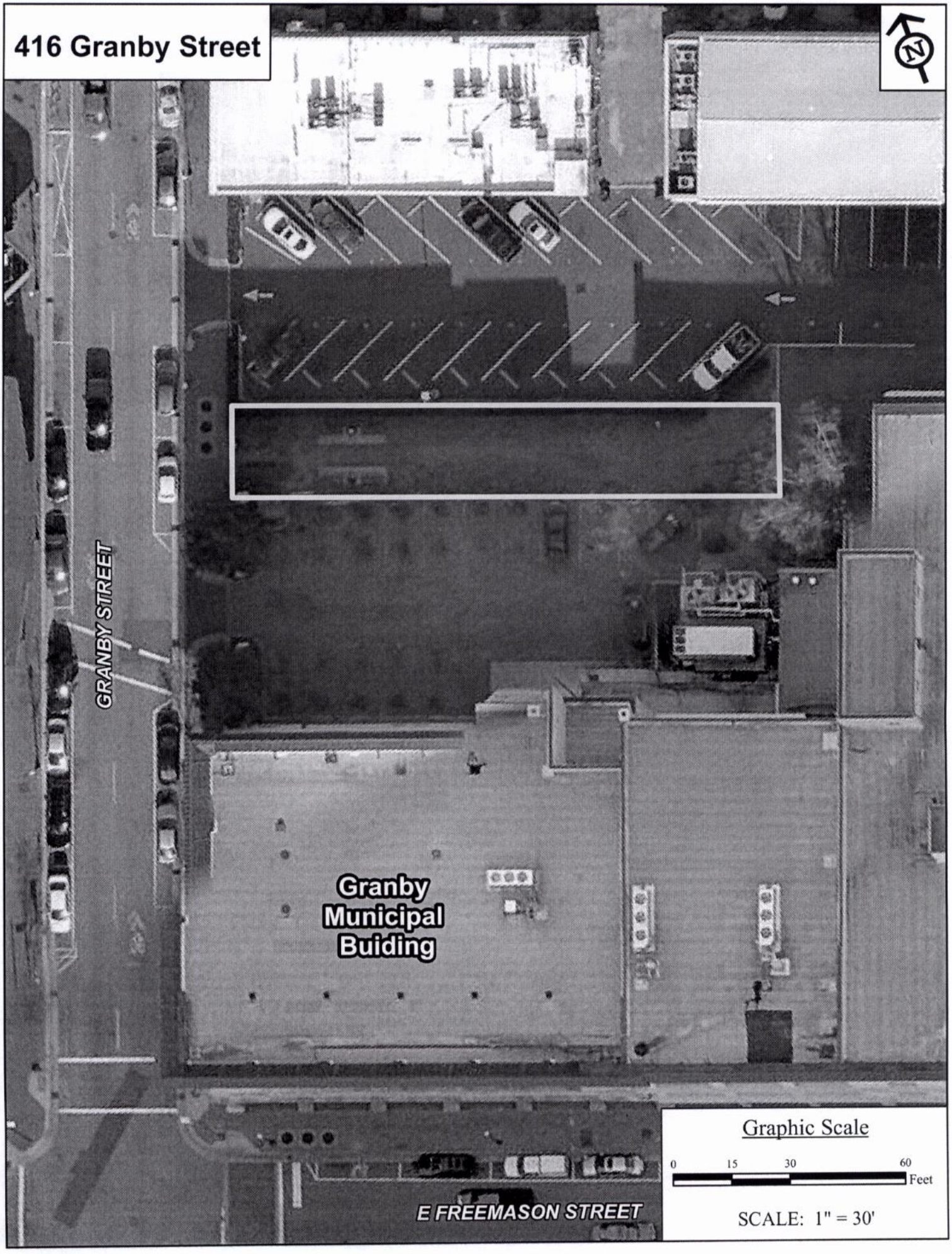
Section 1:- That a $40,000 donation from Marathon Development Group, Inc. for the construction of a dog walk area at 416 Granby Street, as shown on Exhibit A, is hereby accepted with appreciation.

Section 2:- That $40,000 is hereby appropriated and authorized to be expended for the construction of a dog walk area at 416 Granby Street.

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.

Exhibit A


416 Granby Street
N
GRANBY STREET
Granby
Municipal
Buiding
E FREEMASON STREET
Graphic Scale
0
15
30
60
Feet
SCALE: 1" = 30'

C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: David Ricks, Director of Public Works

Subject: Encroach into the right-of-way at 519 Front Street with an existing building, drain pipes and a concrete pad

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

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-16**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** 519 Front Street, LLC
515 Wilder Road
Virginia Beach, Virginia 23451

III. **Description:**
This agenda item is an ordinance permitting 519 Front Street, LLC to encroach into the right-of-way at 519 Front Street with an existing building, drain pipes and a concrete pad.

IV. **Analysis:**
The encroachment in this location will allow 519 Front Street, LLC to complete exterior improvements on a new renovation at 519 Front Street.

V. **Financial Impact:**
Liability insurance has been provided naming the City of Norfolk (the "city") as additional insured in the amount of $1,000,000; therefore, there should be no financial risk to the city. The city did not charge a fee for this encroachment.

VI. **Environmental:**
There is no negative environmental impact associated with this action.

VII. **Community Outreach/Notification:**
Public notification for this agenda item was conducted through the city's agenda notification process.

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

VIII. Board/Commission Action:

The Department of Public Works, the Department of Planning & Community Development, and the City Attorney's Office have reviewed this request for encroachment and offer no objections. The encroachment was reviewed and recommended by the Norfolk Design Review Committee and the City Planning Commission.

IX. Coordination/Outreach:

This letter and ordinance have been coordinated with Department of Public Works, the Department of Planning & Community Development, and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A

4/12/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE PERMITTING 519 FRONT STREET, LLC TO ENCROACH INTO THE RIGHT-OF-WAY AT 519 FRONT STREET WITH THE EXISTING BUILDING, DRAIN PIPES AND A CONCRETE PAD.

- - -

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

Section 1:- That permission is hereby granted to 519 Front Street, LLC ("519"), formerly known as Front Street Flats, LLC, to encroach into the right-of-way at 519 Front Street with the existing building, drain pipes and a concrete pad, as shown on Exhibit A attached hereto. Such permission being further subject to the following conditions:

(1) That this permission is expressly subject to the right of revocation by the Council and that in the event of such revocation, 519, or their successors and assigns, shall immediately remove the encroaching structures.

(2) That upon the removal of the encroaching structures or any part thereof, the authority hereby granted shall cease and terminate.

(3) That 519, or their successors and assigns, at their own cost and expense, shall take out and keep in full force and effect during the term of the encroachment general liability insurance with a company authorized to do business in the Commonwealth of Virginia, insuring and naming the City of Norfolk ("City") as an additional insured in the amount of at least $1,000,000.00 each occurrence and $2,000,000.00 general aggregate against liability from claims, actions and suits that may be asserted or brought against the City and/or 519, and their successors and assigns, for any injury to, or death of any person or persons, or for any damage to, or destruction of property resulting from the installation, maintenance, or

existence of said encroaching structures, with evidence of such insurance being provided to the City.

(4) That the City shall not be responsible for any damage to the encroaching structures, including replacement and reinstallation costs, resulting from the City's operation, maintenance, repair, or replacement of any utilities located in the right-of-way at the property address of 519 Front Street.

Section 2:- That the failure of 519, or their successors and assigns, to fully comply with all requirements and conditions set forth herein shall act as an automatic revocation of the permission granted hereby.

Section 3:- That the use of the said encroaching structures shall be deemed an acceptance by 519, and its successors and assigns, of all conditions to which the permissions herein are granted.

Section 4:- That this ordinance shall be in effect from and after its adoption.

EXHIBIT A TO ORDINANCE

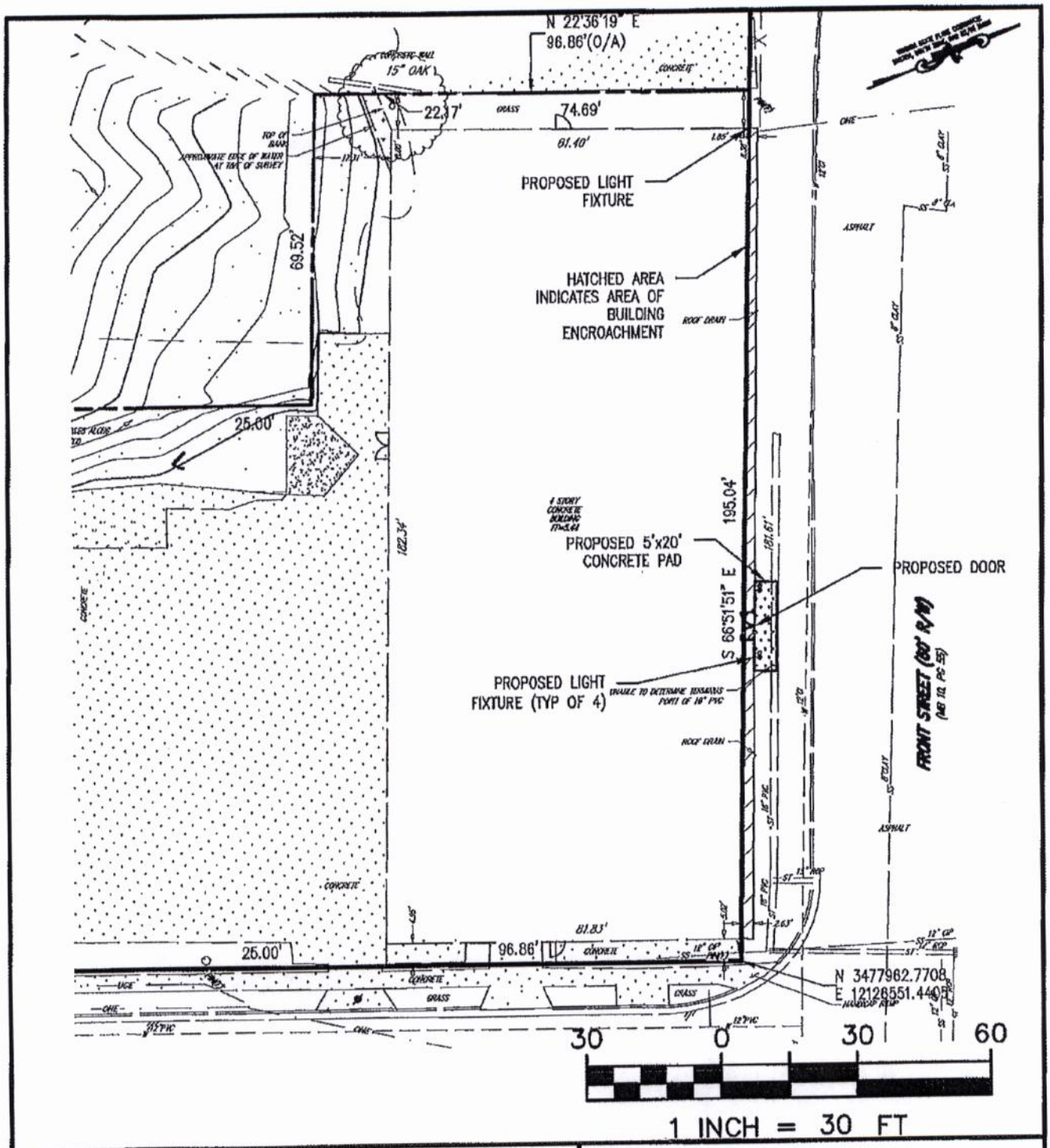


EXHIBIT 'A'
FOR
519 FRONT STREET
ENCROACHMENT APPLICATION

JANUARY 5, 2016

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

PROJ. NO.: 14054
DATE: 1/5/16 SCALE: 1"=30'

C: Dir., Department of General Services

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: Encroachment Agreement with Paul Filion for Outdoor Dining at 114 E. 25th Street

Reviewed: _____
Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-17**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Paul Filion
114 E. 25th St.
Norfolk, VA

III. **Description:**
This agenda item is an ordinance to permit the applicant, Paul Filion, to encroach into the City of Norfolk's (the "city's") right-of-way at 114 E. 25th Street with an area measuring approximately 155 square feet for use as an outdoor dining area and for no other purpose.

IV. **Analysis**
This encroachment will permit Paul Filion and his tenant, Rip Rap Brewery, to utilize this area for outdoor dining in addition to indoor seating. The term of the encroachment is no longer than five (5) years, commencing on May 1, 2016, or the date of any authorizing ordinance, and terminating on April 30, 2021. The permission granted for this encroachment is subject to the right of revocation by the Norfolk City Council.

V. **Financial Impact**

Encroachment Fee (Paul Filion)	Annual Rent: $930 (to be paid monthly: $77.50 per month)
Liability insurance for Paul Filion (to be provided by the tenant)	The City has been named as an additional insured in the amount of $1,000,000 per occurrence; therefore, there should be no financial risk to the City

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

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 letter and ordinance have been coordinated with the Department of General Services – Office of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Proposed Encroachment Agreement
- Outdoor Dining Layout
- Pictures of Exterior

3/14/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING PAUL FILION PERMISSION TO ENCROACH INTO THE RIGHT OF WAY AT 114 E. 25th STREET APPROXIMATELY 155 SQUARE FEET FOR THE PURPOSE OF OUTDOOR DINING AND APPROVING THE TERMS AND CONDITIONS OF THE ENCROACHMENT AGREEMENT.

- - -

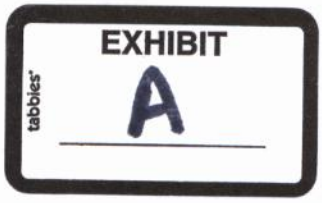
BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the terms and conditions of the Encroachment Agreement between the City of Norfolk and Paul Filion ("Filion"), a copy of which is attached hereto as Exhibit A, are hereby approved, and in accordance therewith, permission is hereby granted to Filion to encroach into the right of way at 114 E. 25th Street approximately 155 square feet for the purpose of outdoor dining and for no other purpose.

Section 2:- That the City Manager and other proper officers of the City are hereby authorized to execute the Encroachment Agreement and do all things necessary for its implementation.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Encroachment Agreement as he may deem advisable consistent with the intent of the Council as expressed therein.

Section 4:- That this ordinance shall be in effect from and after its adoption.



ENCROACHMENT AGREEMENT

This **ENCROACHMENT AGREEMENT** ("Agreement") is made and entered into this ___ day of _____, 2016, by and between the **CITY OF NORFOLK, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia ("City"), and **PAUL FILION,** an individual ("Filion"), whose address is 611 Vanderbilt Avenue, Virginia Beach, Virginia 23451.

WITNESSETH:

1. **ENCROACHMENT AREA:** City hereby grants permission to Filion to encroach into the right of way at 114 E. 25th Street approximately 155 +/- square feet, as shown on Exhibit A attached hereto ("Encroachment Area"), for the purpose of outdoor dining and for no other purpose.

2. **USE:** Filion, and his tenant(s), shall be permitted to occupy the Encroachment Area for outdoor dining purposes in conjunction with the operation of a dining establishment.

3. **TERM; TERMINATION:** The term of the permission to encroach granted hereby shall be no longer than five (5) years and shall commence on May 1, 2016, or upon the effective date of any authorizing ordinance, whichever shall last occur, and shall terminate on the last day of April, 2021. However, it is expressly understood that the permission granted herein is subject to the right of revocation by the Norfolk City Council, and that in the event of such revocation, Filion, and his tenant(s), if requested by City, shall remove the encroaching structures and shall cease using the Encroachment Area.

4. **COMPENSATION:** As compensation for the privilege of encroaching into the right of way, Filion shall pay City an annual encroachment fee in the amount of **Nine Hundred Thirty and 0/100 Dollars ($930.00)**, payable in monthly installments of **Seventy-seven and 50/100 Dollars ($77.50)**, beginning on the first day of May, 2016, or the day the ordinance is effective, whichever is later. The encroachment fee shall be paid by check payable to the "Norfolk

City Treasurer" and sent to the Department of General Services, 232 E. Main Street, Suite 250, Norfolk, VA 23510, and Attn: Mr. Jim Resolute.

5. **LATE FEES:** For any late payments received 5 days after the first of each month, Filion shall pay a late fee of five percent (5%) of the amount not paid when due.

6. **UTILITIES:** City shall not be responsible for utilities of any type used within the Encroachment Area. Filion shall pay all utility meter and utility services charges for all utilities, including but not limited to, gas, electricity, water, telephone, sewer, and any other necessary to serve the Encroachment Area.

7. **REPAIRS:** Filion, and his tenant(s), shall keep and maintain the Encroachment Area in good and complete state of repair and condition. Filion, and his tenant(s) shall make all repairs and replacements of every kind to the sidewalks and paved areas of the Encroachment Area in order to preserve and maintain the condition of the Encroachment Area. All such repairs and maintenance shall be performed in a good and competent manner, be at least equal in quality and usefulness to the original components, and not diminish the overall value of the Encroachment Area.

8. **REQUIREMENTS OF PUBLIC LAWS:** Filion, and his tenant(s), shall suffer no waste or injury to the Encroachment Area and shall comply with all federal, state, and municipal laws, ordinances and regulations applicable to the structure, use, and occupancy of the Encroachment Area. In addition, Filion, and his tenants(s), shall effect the correction, prevention and abatement of nuisances, violations or other grievances in, upon or connected with the Encroachment Area.

9. **RIGHT TO ENTER AND CURE:** City shall retain the right to enter upon the Encroachment Area at any time for the purpose of inspecting the Encroachment Area, ascertaining compliance with this Agreement, and making any repairs, which City deems necessary because of

any failure of Filion, or his tenant(s), to meet their obligations under this Agreement. The cost of any such repairs shall be deemed additional compensation payable to the City on demand. Any entry upon the Encroachment Area for cure and repair shall be accomplished by City at reasonable times and in the exercise of reasonable discretion by the City. The making of any repairs by City shall not constitute a waiver by City of any right or remedy upon Filion's, and/or his tenant(s), default in making repairs.

10. **NOTICE:** Any notice shall be in writing and shall be delivered by hand or sent by United States Registered or Certified Mail, postage prepaid, addressed as follows:

City: Department of General Services
Attn: Mr. Jim Resolute
232 E. Main Street, Suite 250
Norfolk, Virginia 23510

Filion: Paul Filion
611 Vanderbilt Avenue
Virginia Beach, Virginia 23451

With copies to: City Attorney
900 City Hall Building
810 Union Street
Norfolk, Virginia 23510

Either party hereto may change its address to which said notice shall be delivered or mailed by giving notice of such change as provided above. Notice shall be deemed given when delivered (if delivered by hand) or when postmarked (if sent properly by mail).

11. **ENVIRONMENTAL MATTERS:** Filion, and his tenant(s), agree that they will not introduce onto the Encroachment Area any toxic, hazardous, or dangerous materials unless such material is stored, safeguarded, or used in accordance with applicable laws and regulations. Filion, and his tenant(s), will not allow any air, water, or noise pollution to occur in the Encroachment Area. Filion, and his tenant(s), hereby agree to use and occupy the Encroachment Area in a safe and reasonable manner and in accordance with applicable law.

City in turn agrees that Filion, and his tenant(s), shall not be responsible or assume liability for environmental conditions existing on or about the Encroachment Area prior to occupancy by Filion thereof.

12. **DESTRUCTION:** If the encroaching structures or any part thereof shall be damaged or destroyed by fire, lightning, vandalism, or by any other casualty or cause, the permission granted hereby shall be automatically terminated unless the parties agree, in writing, to continue to permit the encroachments granted by this Agreement.

13. **NON-LIABILITY OF CITY:** City shall not be liable for any damage or injury which may be sustained by Filion, his tenant(s), or any other person as a consequence of the failure, breakage, leakage or obstruction of the water, plumbing, steam, gas, sewer, waste or spoil pipes, roof, drains, leaders, gutters, valleys, downspouts or the like, or of the electrical, ventilation, air conditioning, gas, power, conveyor, refrigeration, sprinkler, hearing or other systems, elevators or hoisting equipment, if any, upon the Encroachment Area, or by reason of the elements; or resulting from acts, conduct or omissions on the part of Filion, his tenant(s), or their agents, employees, guests, licensees, invitees, assignees or successors, or on the part of any other person or entity.

14. **REMOVAL OF SNOW:** Filion, and his tenant(s), agree to remove or cause to be removed, as the need for the same arises, snow and ice from the Encroachment Area.

15. **ALTERATIONS:** Filion, and his tenant(s), covenant and agree that they will not make any improvements, changes, installations, renovations, additions, or alterations in and about the Encroachment Area without the prior written consent of the City other than the approval given by Norfolk's Design Review Committee and Norfolk's Planning Commission. If Filion, and/or his tenants, install or make any improvements, additions, installations, renovations, changes on or to the Encroachment Area with the approval of City, Filion, and his tenant(s), hereby agree to remove, if requested by City, any improvements, additions, installations, and renovations, changes on or to

the Encroachment Area upon termination of this Agreement. In the event Filion, and/or his tenant(s), fail to remove the improvements, additions, installations, renovations, and changes on or to the Encroachment Area when requested to do so by City, then the City may remove the improvements, additions, installations, renovations, changes and Filion, and his tenant(s), shall be jointly and severally liable for paying for the cost of such removal.

16. **ASSIGNMENT AND SUBLETTING:** City and Filion agree that the permission to encroach granted hereby is for the benefit of Filion and his tenant(s), and may not be assigned by Filion without written approval from Norfolk's City Manager. Further, upon Filion's lease of the premises (adjoining the Encroachment Area) to a tenant, Filion shall have any such tenant execute a copy of this Agreement, acknowledging acceptance of the terms and conditions set forth herein.

17. **SURRENDER:** Filion, and his tenant(s), will surrender possession of the Encroachment Area to City and remove all goods and chattels and other personal property therefrom upon termination of the permission granted hereby. Filion, and his tenant(s), shall return the Encroachment Area to the City in as good order and condition as it was at the beginning of Filion's use of the Encroachment Area. If Filion, and his tenant(s), have been requested to remove and fail to remove all items from the Encroachment Area upon termination hereof, City is authorized to remove and dispose of any such personal property and Filion, and his tenant(s), shall be jointly and severally liable to City for the cost of any removal and disposal.

18. **INSURANCE:** Filion, and his tenant(s), shall maintain in full force and effect Commercial General Liability ("CGL") insurance with a combined single limit policy of bodily injury, death and property damage insurance of One Million and 0/100 Dollars ($1,000,000) per occurrence and Two Million and 0/100 Dollars ($2,000,000) general aggregate insuring against all liability arising out of the use, occupancy, or maintenance of the Encroachment Area and

appurtenant areas. CGL insurance shall be written on an approved ISO form for coverage in the Commonwealth of Virginia, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, and liability assumed under insured contract. The City, its officers, employees, agents and representatives shall be named as additional insured on any such policy. Coverage shall be evidenced by a Certificate of Insurance provided to the City within thirty (30) days after adoption of this Agreement. All insurance policies and certificates shall provide for thirty (30) days advance notice in writing to the City, as the additional insured, if the insurance is cancelled or modified. Filion, and his tenant(s), shall inform the City Attorney and the Department of General Services within 15 days of receiving such notice or cancellation, and immediately obtain coverage compliant with this agreement.

Filion, and his tenant(s), shall maintain the applicable statutory Workers' Compensation Insurance, and Employer's Liability Insurance with a limit of at least $500,000 per accident/disease, and policy limit of $500,000 covering any of Filion's employees, and his tenant's employees, whose work occurs within the premises which are subject to this agreement.

19. **INDEMNIFICATION**: Filion, and his tenant(s), shall indemnify and save harmless City from all fines, penalties, costs, suits, proceedings, liabilities, damages, claims and actions of any kind arising out of the use and occupation of the Premises by reason of any breach or nonperformance of any covenant or condition of this Agreement by Filion, or his tenant(s), or by Filion's, or his tenant(s)', intentional act or negligence, and not caused in whole or in part by City. This indemnification shall extend to all claims of any person or party for death or injury to persons and damage to any property, and to legal expenses, including reasonable attorney's fees, incurred by City in the defense of such claims or incurred by City as a result of a breach of any provision of this Agreement by Filion, or his tenant(s), but does not extend to circumstances caused in whole or in part by City.

20. **FIXTURES:** City covenants and agrees that no part of the improvements constructed, erected or placed by Filion, or his tenant(s), in the Encroachment Area shall be or become, or be considered as being, affixed to or a part of the right of way, and any and all provisions and principles of law to the contrary notwithstanding, it being the specific intention of City, Filion, and his tenant(s), to covenant and agree that all improvements of every kind and nature constructed, erected or placed by Filion, and/or its tenant(s), in the Encroachment Area shall be and remain the property of Filion, and/or his tenant(s), unless such improvements are not removed upon termination of this Agreement.

21. **ENVIRONMENTAL:**

(a) For purposes of this section:

(i) "Hazardous Substances" include any pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials or hazardous substances as defined in or pursuant to the Resource and Conservation Recovery Act (42 U.S.C. § 6901 et seq.) (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.) (CERCLA) or any other federal, state, or local environmental law, ordinance, rule or regulation.

(ii) "Release" means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, disposing, or dumping.

(iii) "Notice" means any summons, citation, directive, order, claim, litigation, investigation, proceeding, judgment, letter or other communication, written or oral, actual or threatened, from any authority of the Commonwealth of Virginia, the United States Environmental Protection Agency (USEPA) or other federal, state or local agency or authority, or any other entity or any individual, concerning any intentional act or omission resulting or which may result in the Release of Hazardous Substances into the waters or onto the lands of the

Commonwealth of Virginia, or into waters outside the jurisdiction of the Commonwealth of Virginia or into the "environment," as such terms are defined in CERCLA. "Notice" shall include the imposition of any lien on any real property, personal property or revenues of Filion, and/or his tenant(s), including but not limited to Filion's, or his tenant(s)', interest in the Encroachment Area, the adjoining real property, or any of Filion's, and/or his tenant(s)', personal property located thereon, or any violation of federal, state or local environmental laws, ordinances, rules, regulations, governmental actions, orders or permits, or any knowledge, after due inquiry and investigation, or any facts which could give rise to any of the above.

(b) To the extent that Filion, and his tenant(s), may be permitted under applicable law to use the Encroachment Area for the generating, manufacture, refining, transporting, treatment, storage, handling, disposal, transfer or processing of Hazardous Substances, solid wastes or other dangerous or toxic substances, Filion, and his tenant(s), shall insure that said use shall be conducted at all times strictly in accordance with applicable statutes, ordinances and governmental rules and regulations. Filion, and his tenant(s), shall not cause or permit, because of any intentional or unintentional act or omission, a Release of Hazardous Substances in the Encroachment Area. If any such intentional or unintentional act or omission causes a Release of Hazardous Substance in the Encroachment Area, Filion, or his tenant(s), shall promptly clean up and remediate such Release in accordance with the applicable federal, state and local regulations and to the reasonable satisfaction of City.

(c) Filion, and his tenant(s), shall comply with all applicable federal, state, and local environmental laws, ordinances, rules and regulations, and shall obtain and comply with all permits required thereunder, any successor, or new environmental laws. Upon the receipt of any Notice, Filion, and his tenant(s), shall notify City promptly in writing, detailing all relevant facts and circumstances relating to the Notice.

(d) The requirements of this Section 21 shall apply to any successor in interest to Filion, and his tenant(s), whether due to merger, sale of assets or other business combination or change of control.

(e) Filion, and his tenant(s), hereby agree to defend (with counsel satisfactory to City) and indemnify and hold City harmless from and against any and all claims, losses, liabilities, damages and expenses (including, without limitation, reasonable cleanup costs and attorney's fees arising under this indemnity) which may arise directly or indirectly from any use or Release of Hazardous Substances in the Encroachment Area and losses and claims against City resulting from Filion's, and/or his tenant(s), failure to comply strictly with the provisions of this Section 21. The provisions of this Section 21 shall survive the termination of this permission granted by this Agreement.

22. **LIENS OR ENCUMBRANCES:** If because of any act or omission of Filion, and/or his tenant(s), any mechanic's lien or other lien, charge or order for the payment of money shall be filed against any portion of the Encroachment Area, Filion, and his tenant(s), shall, at their own cost and expense, cause the same to be discharged of record or bonded within ninety (90) days after written notice from the City to Filion, and/or his tenant(s), of the filing thereof, and Filion, and/or his tenant(s), shall have the right to contest the validity of such lien if they so choose.

23. **APPLICABLE LAW:** The permission granted by this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Any suit or legal proceeding relating to permission granted hereby shall be brought only in the state or federal courts located in the Eastern District of Virginia.

24. **WAIVER OF TRIAL BY JURY:** To the extent permitted by law, City and Filion, and his tenant(s), mutually waive their right to trial by jury in any action, proceeding, or

counterclaim brought by either party against the other with respect to any dispute or claim arising out of the permission to encroach granted to Filion, and his tenant(s), by this agreement.

25. **OTHER REQUIREMENTS:**

(a) Filion, and his tenant(s), shall comply with the City of Norfolk's Downtown Outdoor Dining Policy.

(b) Filion, and his tenant(s), shall comply with all requirements of the City of Norfolk Department of Public Health with respect to the use of the Encroachment Area.

(c) The use of the Encroachment Area shall be subject to the jurisdiction and review of the City of Norfolk's Design Review Committee.

(d) Filion's, and his tenant(s)', use of the Encroachment Area shall not interfere with any water meters or sewer cleanouts.

(e) A trashcan compatible in design and style with the table and chairs will be provided for the outdoor dining, and trash shall be removed daily.

(f) Tables and chairs will be arranged according to plan approved by Norfolk's Design Review Committee.

26. **TITLES AND HEADINGS**: Titles and headings are inserted in this Agreement for reference purposes only, and shall not be used to interpret the Agreement.

27. **SEVERABILITY**: Each provision of this Agreement must be interpreted in a way that is valid under applicable law. In the event that any provision or portion of this Agreement is determined by a court of competent jurisdiction to be void, invalid, or otherwise unenforceable, such provision or portion shall be deemed reformed, insofar as is possible, to cure the defect and give maximum effect to the intent of the City and Filion, and his tenant(s), entering into this Agreement, and in any event the remainder of the Agreement shall continue in full force and effect.

28. **ENTIRE UNDERSTANDING**: This Agreement constitutes the entire understanding between or on behalf of the City and Filion, and his tenant(s), and supersedes any prior understandings and/or written or oral agreements between them or on their behalf respecting the subject matter herein. There are no representations, agreements, arrangements, or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Agreement, which are not fully expressed herein.

This Agreement may be modified or amended only by a writing signed and dated by both parties. All amendments shall be incorporated and made a part of this Agreement, and attached hereto.

29. **SUCCESSORS AND ASSIGNS**: All rights hereunder shall inure to the benefit of and all obligations hereunder shall be binding upon successors, assigns, subsidiaries, subrogees, parents, agents, employees, attorneys, accounts, legal representatives, directors, shareholders, heirs, and executors or administrators of each of the parties to this Agreement.

30. **COMPLIANCE WITH FEDERAL IMMIGRATION LAW:** At all times during which any term of this Agreement is in effect, Filion, and his tenant(s), do not and shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed either by Title 8, Section 1324a of the United States Code or the U.S. Attorney General.

31. **AUTHORITY TO EXECUTE:** The terms of this Agreement are contractual and not mere recital, and the individuals executing this Agreement hereby represent and warrant that they have full and complete authority to covenant and agree as herein provided and to execute this Agreement on behalf of the Parties hereto.

32. **AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH:** Filion's tenant(s), hereby represent that it/they is/are organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership and is/are authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

33. **COUNTERPARTS**: The Agreement may be signed in counterparts. The Parties hereto agree that facsimile or email signatures shall have the full force and effect of original signatures.

IN WITNESS WHEREOF, the parties hereto have executed or have caused this Encroachment Agreement to be executed by their duly authorized officers and their corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

(SIGNATURE PAGES FOLLOW)

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 State 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 Encroachment Agreement, have acknowledged the same before me in my City and State aforesaid.

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

_____
Notary Public
Registration: _____

Approved as to Contents:

_____
Director of General Services

Approved as to Form and Correctness

_____
Deputy City Attorney

_____

PAUL FILION

COMMONWEALTH OF VIRGINIA
CITY OF _____, to-wit:

I, _____, a Notary Public in and for the City of _____, in the Commonwealth of Virginia, do hereby certify that Paul Filion, whose name is signed to the foregoing Encroachment Agreement, has acknowledged the same before me in my City and State aforesaid. He/She is personally known to me or has produced a driver's license as identification.

Given under my hand this ____day of _____, 2016.

_____
Notary Public
Registration: _____

Tenant Endorsement and Acceptance:

Tenant: _____

By:_____
Title:_____

COMMONWEALTH OF VIRGINIA
CITY OF _____, to-wit:

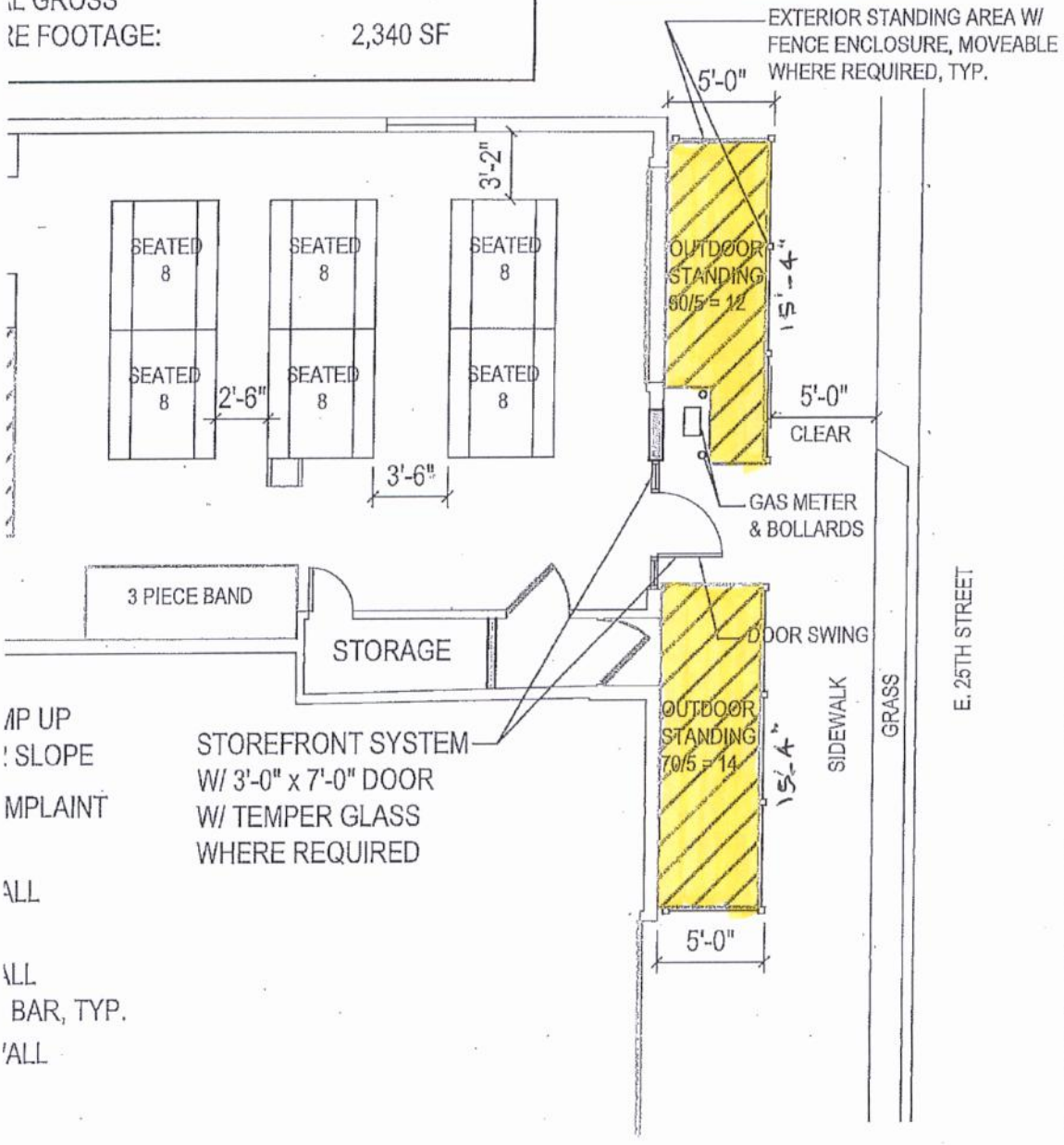
I, _____, a Notary Public in and for the City of _____, in the Commonwealth of Virginia, do hereby certify that _____, _____(title) of _____ whose name is signed to the foregoing Encroachment Agreement, has acknowledged the same before me in my City and State aforesaid. He/She is personally known to me or has produced a driver's license as identification.

Given under my hand this ____day of _____, 2016.

_____
Notary Public
Registration: _____

TRUCTION TYPE:	5B
NG USE GROUP:	F-2, A-2
/ABLE FIRE AREA:	F-2: 13,000 SF A-2: 6,000 SF
L GROSS E FOOTAGE:	2,340 SF

OCCUPANCY CALCULATIONS
48 INDOOR SEATING
43 INDOOR STANDING
26 OUTDOOR STANDING
5 STAFF
3 BAND
125 TOTAL



MP UP
SLOPE
MPLAINT
ALL
ALL
BAR, TYP.
ALL

, VA 23517

LEGEND - NEW CONSTRUCTION

PARTITION

DOOR

RIPRAP BREWING COMPANY
SPACE LAYOUT

ENCROACHMENT OPTION #2

116 E. 25TH STREET
NORFOLK, VA

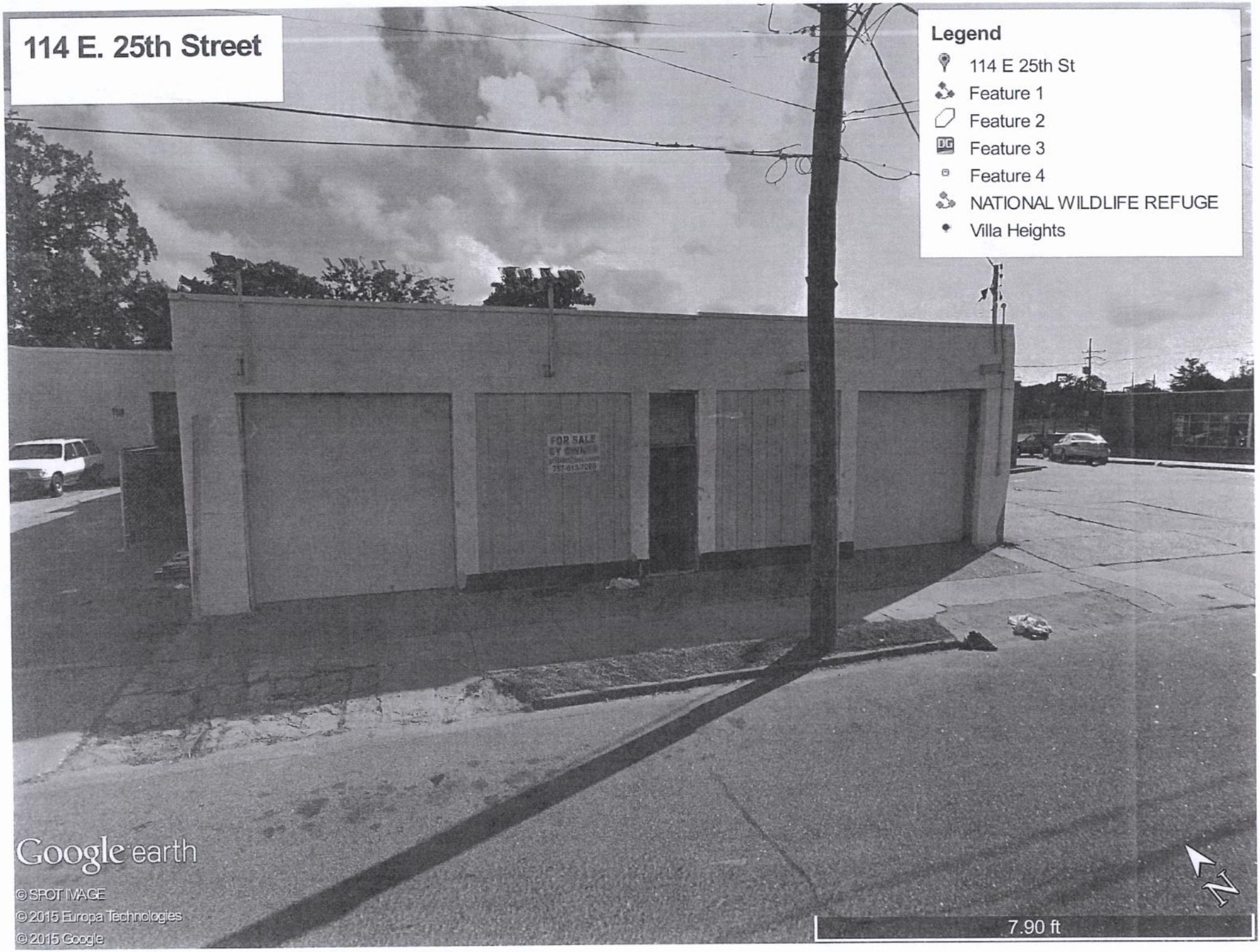
Revisions:

Date: 8/18/2015

Project: 00000.000

Sheet: of x

Auto
Valet


114 E. 25th Street
Legend
114 E 25th St
Feature 1
Feature 2
Feature 3
Feature 4
NATIONAL WILDLIFE REFUGE
Villa Heights
FOR SALE
BY OWNER
757-613-7089
Google earth
© SPOT IMAGE
© 2015 Europa Technologies
© 2015 Google
N
7.90 ft

C: Dir., Department of Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: David Ricks, Director of Public Works

Subject: Nonexclusive Telecommunications Franchise Agreement, Mobilitie, L.L.C.

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

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-18**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Mobilitie, LLC
2220 University Drive
Newport Beach, CA 92660

III. **Description:**
This agenda item is an ordinance approving a Nonexclusive Telecommunications Franchise Agreement between the City of Norfolk (the "city") and Mobilitie LLC ("Mobilitie"). The term of the Agreement is for five (5) years.

IV. **Analysis**
Mobilitie is the largest privately-held wireless infrastructure provider in the United States. Mobilitie installs and operates indoor and outdoor neutral host distributed antenna systems, small cell antennas, Wi-Fi networks, and communication tower sites, as well as other infrastructure used by wireless carriers to enable high speed mobile cellular and broadband communications. This Agreement grants Mobilitie the right, upon certain conditions, to install, operate and maintain its telecommunications facilities, in, over, under, and across the city's rights-of-way for the purpose of enabling telecommunication services within certain areas of the city. Mobilitie is certificated by the State to provide local exchange telecommunications services.

V. **Financial Impact**
As compensation to the city for use of its right-of-way, Mobilitie will pay to the city a franchise fee of three (3) percent of its gross earnings for the provision of local telecommunication service.

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 has been coordinated with the City Attorney's Office and the Department of Public Works.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A, (Nonexclusive Telecommunications Franchise Agreement)

Form CCO-003

12/10/15 sb

Form and Correctness Approval:

By Martha P. McBurn
Office of the City Attorney

NORFOLK, VIRGINIA

Contents Approved:

By _____
DEPT. PUBLIC WORKS

ORDINANCE No.

AN ORDINANCE APPROVING A NONEXCLUSIVE TELECOMMUNICATIONS FRANCHISE AGREEMENT WITH MOBILITIE, LLC

- - -

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

Section 1: - That the Nonexclusive Telecommunications Franchise Agreement between the City of Norfolk and Mobilitie, LLC, a copy of which is attached hereto as Exhibit A, by which Mobilitie, LLC, shall have the right, upon certain conditions, to install and operate conduit in the City's rights of way for the purpose of enabling telecommunications services within certain areas of the City, is hereby approved.

Section 2: - That the proper officers of the City are authorized to enter into such agreement in behalf of the City, subject to approval by the City Attorney as to the agreement's form and correctness, and to do all things necessary and proper to carry out its provisions.

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

NONEXCLUSIVE TELECOMMUNICATIONS FRANCHISE AGREEMENT

This Nonexclusive Telecommunications Franchise Agreement (hereinafter "Agreement") is made and entered into as of _____ ___, 2016, by and between the City of Norfolk, Virginia, a Virginia municipal corporation (hereinafter "City" or "Grantor") and Mobilitie, LLC (hereinafter "Mobilitie" or "Grantee"), having an office at 2220 University Drive, Newport Beach, CA 92660.

WHEREAS, Mobilitie has requested the right to install and operate a telecommunications system or facilities in the City's rights-of-way in order to provide telecommunication services within certain areas of the City; and

WHEREAS, Mobilitie desires to enter the City's rights-of-way under a nonexclusive telecommunications Franchise to use the rights-of-way at its own risk; and

WHEREAS, the City is agreeable to allowing Mobilitie to use the City's rights-of-way subject to certain terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the City and Mobilitie agree as follows:

Section 1. Grant of Authority. Mobilitie is hereby granted a nonexclusive telecommunications Franchise to construct, maintain, and operate telecommunications facilities in, over, under, and across the public ways within the City, as designated on the routing map attached as Exhibit 1, for the sole purpose of providing telecommunication services, including, but not limited to, both local and long distance. This Franchise does not include any provision of any cable television services of any type or any video programming other than telecommunication services as defined in the definitions section of this Agreement. The City specifically reserves the right to grant other telecommunications franchises, licenses or other rights as it deems appropriate for other telecommunication systems or facilities or any other purposes in accordance with the law. Mobilitie is not authorized to sublicense or sublease to any Person the right to occupy or use the Public Ways of the City to install, construct, maintain, upgrade, repair, or remove Telecommunications Facilities or any other equipment for any purpose.

Section 2. Acceptance of Franchise. Mobilitie hereby accepts the franchise and agrees to comply with all of the terms of the Agreement, as well as with all applicable Federal, State and local laws, ordinances, resolutions, codes, rules and regulations, regardless of whether they are expressly referenced in this Agreement.

Section 3. Definitions. For the purpose of this Agreement, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

"Affiliate" means a person that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person.

"Cable Act" shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. *§532, et seq.* as now and hereafter amended.

"Cable operator" means a person providing or offering to provide "cable service" within the City as that term is defined in the Cable Act.

"Cable service" for the purpose of this Agreement shall have the same meaning provided by the Cable Act.

"City" means the City of Norfolk, Virginia, and where appropriate its officers, agents, employees and volunteers.

"City property" means and includes all real property owned by the City, other than public streets and utility easements, as those terms are defined herein, and all property held in a proprietary capacity by the City, which are not subject to right-of-way franchising as provided by law.

"Communications Act" means the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, and as may be amended from time to time.

"Conduit" means any materials such as the metal or plastic pipe that protects wire, cable, lines, fiber optic cable, or other technology for the provision of telecommunication service.

"Duct" means a pipe, tube, channel or similar item for carrying wires, lines, cables, fiber optic cable, or other technology for the provision of telecommunications service.

"Excess capacity" means the volume or capacity in any existing or future duct, innerduct, conduit, manhole, handhold or other utility facility within the public way that is, or will be, available for use for additional telecommunications facilities.

"Effective Date" means the date of this Agreement as set forth on the first page of this Agreement, which shall be effective upon the date on which this Agreement has been fully executed by all the parties. This date shall be used for reference purposes and all other purposes.

"FCC" or ***"Federal Communications Commission"*** means the Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Franchise" means the non-exclusive, revocable license granted to Grantee in this Agreement to use the public ways of the City for the purposes of constructing, installing, using, maintaining testing, inspecting, operating, repairing and removing the Telecommunications System pursuant to and in accordance with this Agreement.

"Grantee" or ***"Mobilitie"*** means Mobilitie, LLC

"Grantor" means the City of Norfolk, Virginia.

"Maintenance" means any effort or expenditure taken or made by a Grantee to preserve, repair, or improve existing telecommunications facilities or infrastructure in accordance with generally accepted industry standards.

"Other ways" means the highways, streets, alleys, utility easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.

"Overhead facilities" means utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means any natural person, corporation, company, association, joint stock company or association, firm, partnership, limited liability company, joint venture, trust, individual and any other legally recognized entity, private or public, whether for profit or not-for-profit and includes the officers, agents, employees or representatives of such entity where appropriate.

"Public street" means the surface of and the space above and below any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including non-paved surfaces, now or hereafter held by the City for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer easements or similar public use.

"Public way" means and includes all public streets and utility easements, as those terms are defined herein, now or hereafter held or controlled by the City, but only to the extent of the City's right, title, interest

or authority to grant a License to occupy and use such streets and easements for telecommunications facilities.

***"State"* or "Commonwealth"** means the Commonwealth of Virginia.

"State Corporation Commission" means the State administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers in the Commonwealth of Virginia.

"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the State Corporation Commission or other regulatory entity, to allow its use by a telecommunications carrier for a pole attachment.

"Telecommunications facilities" means the plant, equipment and property, including but not limited to, fiber optic cables, cables, lines, wires, conduits, ducts, circuits, pedestals, nodes, antennae, power supplies, radio, waveguides, vaults, manholes, amplifiers, electronics and other appurtenances or technology used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

"Telecommunications service" means the providing or offering for rent, sale or lease, or in exchange for other value received, the transmittal of signals, including but not limited to voice, data, image, radio frequency, graphic or video or other programming information between or among points by wire, lines cable, fiber optics, circuits, laser or infrared, antennae, microwave, radio, satellite or other telecommunications facilities.

"Telecommunications system," see ***"Telecommunications facilities"***

"Underground facilities" means utility or telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.

"Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the State Corporation Commission or other regulator entity.

"Public Utility" *or* ***"Utility"*** shall be defined in accordance with applicable state laws regarding public utilities, but shall specifically include providers of telecommunications services.

"Utility easement" means any easement held by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities.

"Utility facilities" means the plant, equipment and property, including but not limited to, the poles, pipes, mains, conduits, ducts, cables, fiber optic cables, circuits, wires, lines, antennae, plant and equipment located under, on or above the surface of the ground within the public ways of the City and used or to be used for the purpose of providing utility or telecommunications services.

Section 4. Grantee's Authority. Grantee warrants and represents that it has obtained all necessary and appropriate authority and approval from all applicable federal and state agencies or authorities to provide all telecommunications facilities and services it intends to provide within the City and upon request by the City will provide evidence of such authority.

Section 5. Franchise Only. Grantee acknowledges and agrees that all Grantee is granted by this Agreement is a nonexclusive telecommunications Franchise and that no other rights of any kind are granted by this Agreement, including but not limited to any right to provide any type of cable television services or video programming.

Section 6. Application of Undergrounding Ordinances. Grantee understands that the City is in the process of amending its undergrounding ordinances. Grantee acknowledges and agrees that to the extent

these ordinances require new utility facilities to be installed underground, within one hundred twenty (120) days of enactments, or, if such requirement is challenged in an administrative or judicial proceeding, within one hundred twenty (120) days of final resolution thereof, Grantee shall initiate, and expeditiously complete, the placement of all of its utility facilities in the City's public ways underground at its sole cost and without charge to the City.

Section 7. Compensation. As compensation to the City for use of the City's rights of way, Grantee shall pay to the City annually, in the manner set forth hereinafter, three (3) percent of its gross earnings derived in the City of Norfolk for the provision of Telecommunications Service.

7.1 The annual compensation for a Franchise as provided for in Section 7, shall be payable annually on or before the 60th day after the end of each calendar year or fraction thereof.

7.2 Each annual payment shall be by check made payable to the City and filed with the Norfolk Commissioner of Revenue.

7.3 Each payment required by this section shall be accompanied by a statement executed by an authorized officer of the Grantee certifying the amount of gross earnings for the period covered by the payment.

7.4 All payments required by this section, and accompanying statements, shall be subject to audit by the Norfolk Commissioner of Revenue and assessment or refund if the payment is found to be in error.

7.5 In the event that such audit results in an assessment by and an additional payment to the City, such additional payment shall be subject to interest at the rate of one and one-half percent (1½%) per month, or any fraction of a month elapsed after the due date where the additional payment exceeds five percent (5%) of the amount paid by the Grantee.

7.6 Failure of the Grantee to pay the fees required under this Section 7 within thirty (30) days of the due date shall subject the Grantee to a ten percent (10%) penalty, and interest charges of one and one-half percent (1½%) per month, or portion thereof, for each month payment is delinquent.

7.7 Failure of the Grantee to make the annual payment required under this Section 7 within ninety (90) days of the due date may subject the Grantee to the revocation of its Franchise following thirty (30) days written notice from the City. In the event the annual payment is not received within one hundred and twenty (120) days of the due date, the Grantee shall be considered to have abandoned the telecommunications facilities installed under this Franchise and said telecommunications facilities shall become the property of the City.

Section 8. Term. The term of the franchise shall begin on the Effective Date of this Agreement and shall expire five (5) years from the Effective Date. The term may be terminated earlier by mutual agreement or in the event of default. Upon Expiration of this Agreement, it is the intention of the parties hereto to enter into a new (5) year Franchise Agreement containing substantially similar terms; however, any such new Franchise Agreement shall be subject to the approval of City Council through a duly adopted ordinance. Grantee shall notify the City in writing of its desire to exercise any such renewal option at least ninety (90) days in advance of the expiration of the then current Franchise term.

Section 9. Other Remedies. Nothing in this Agreement shall be construed as waiving or limiting any rights or remedies that the City or Grantee may have, at law or in equity, for enforcement of this Agreement.

Section 10. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Section 11. Transfer of Ownership. Grantee shall not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, either voluntarily or by forced or involuntary sale, or ordinary sale, consolidation, or otherwise (except to a parent, affiliate, wholly owned subsidiary, or in connection with financing by Grantee in the ordinary course of business) any of the rights or privileges granted by this Agreement without the prior consent of the City Council, which consent shall not be unreasonably withheld. Notwithstanding any other provision of this Agreement, but subject to any applicable requirements in the City Charter and the State Code, no consent from the City shall be required for a transfer in trust, mortgage, collateral, assignment or other instrument of hypothecation, in whole or in part, to secure an indebtedness, or for a *pro forma* transfer of corporation, partnership, or other entity controlling, controlled by or under common control with the Grantee.

Section 12. Administrative Costs. Grantee will pay to the City the sum of One Thousand Dollars ($1,000) for the administrative costs and expenses incurred by the City related to the grant of this Franchise. Upon execution of the Agreement by both parties, the administrative fee shall be paid to the City within 14 days. Failure to pay such fee shall entitle the Grantor to revoke this Franchise Agreement at its sole discretion.

Section 13. Location of Facilities. Subject to the terms of Section 16 of this Agreement, Grantee's facilities shall be constructed, installed and located, at their sole expense, as follows:

(a) Grantee shall install its copper and/or fiber optic cables within an existing underground duct or conduit whenever excess capacity exists within such utility facility, so long as Grantee, by so doing, would not be required to relinquish ownership and control of its facilities to the owner of the duct or conduit, and so long as Grantee determines such installation to be the most economically feasible option available.

(b) Subject to any applicable City ordinances or code provisions, Grantee may install utility poles in the public right-of-way and attach Telecommunications facilities to said utility poles. In addition, Grantee may install its Telecommunications facilities on existing or replacement utility poles to the extent that space is available thereon.

(c) Grantee shall comply, at its sole expense, with all requirements regarding the placement of its facilities underground in those areas designated as underground districts in the Norfolk City Code, or whenever all new and existing cable facilities and Telecommunications facilities are located or are required to be located underground within a particular segment of a public way of the City.

Section 14. Permits. Grantee, including its contractors and consultants, prior to any construction or work being commenced, is required to obtain at its sole expense all applicable permits, including any application and permit for, street opening, if any streets will be disturbed, and street, lane or sidewalk closures. However, nothing herein shall prohibit the City and a Grantee from agreeing to an alternative plan to review permit and construction procedures provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices, and are in accordance with applicable City Code provisions.

Section 15. Public Works. The rights and privileges granted by this Agreement shall not be in preference or hindrance to the rights of the City and any other lawful governmental authorities having jurisdiction to perform or carry out any public works or public improvements. Should the telecommunications system interfere with the construction, maintenance or repair of such public works or improvements, Grantee, at its expense, shall protect or relocate the telecommunications system, or any applicable part thereof, as directed by the City or other governmental authorities having jurisdiction.

Section 16. Use of Public Ways.

16.1 Grantee, in any opening it shall make in the public ways of the City, shall be subject to the provisions of this Agreement and to all applicable ordinances, codes and regulations of the City. The

Telecommunications system of the Grantee shall be located so as not to interfere with the public safety or with the convenience of persons using the public ways.

16.2 The City reserves the right by resolution of the City Council or otherwise through proper representatives of the City to specifically designate the location of the Telecommunications system of Grantee with reference to municipal facilities, such sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, public cable television utilities, and railway communication and power lines, in such a manner as to protect the public safety and public and private property. Failure by the City to so designate does not relieve Grantee of its responsibilities in matters of public safety as provided in this Agreement. Grantee shall construct, maintain and locate its telecommunications system so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities of the City.

16.3 Except in the cases of emergencies, Grantee shall not move, materially alter, materially change, or extend any of its telecommunications system in any public way unless prior written notice of its intention to do so is given to the City Manager and permission in writing to do so is granted by the City Manager or such requirement is waived by the City Manager. Such permission shall be conditioned upon compliance with the terms and conditions of this Agreement, with such other terms and conditions as will preserve, protect and promote the safety of the public using the public ways, and as will prevent undue interference with or obstruction of the use of the public ways by the public, the City or by any other public utility or public service corporation for their respective purposes and functions. Such work by Grantee shall also be coordinated with the City's annual paving program through the Department of Public Works. This section shall be subject to 47 U.S.C. § 1455.

16.4 The City requires that written permits, in any and all cases, be obtained by Grantee whenever it becomes necessary for Grantee to excavate in the public ways in order to install, construct, maintain or extend the Telecommunications system. Such permits may be made applicable to any and all types of excavations in the public ways, as prescribed by City, and City may establish a fee for each excavation made in a public way by a Grantee. Such permits may require the particular part or point of the public ways where construction or excavation is to be conducted, the length of time in which such permit shall authorize such work to be done and the hours of each day during which such work shall be undertaken. A single permit maybe issued for multiple excavations to be made in public ways; provided, however, any public way opening fee established by City shall apply to each excavation made in public ways of the City. Exceptions to the requirement for a written permit may be allowed in cases of emergencies involving public safety or restoration of service. In the case of emergency excavations made in the public ways without permit, Grantee shall attempt to notify the Director of Public Works or his designee immediately to obtain appropriate guidance and authority; however, in the event Grantee is unable to make such contact after making a diligent attempt to do so, Grantee may make a report of each such excavation to the City within two (2) working days and pay such fee as may be established by City for excavations in public ways by Grantee. Any permit applications and inspections related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay Grantee in efficiently discharging its public service obligation.

16.5 Immediately after installation, repair or extension of the Telecommunications system or any portion thereof or any pavement cut by Grantee in any public way of the City, the incidental trenches or excavations shall be refilled by Grantee in a manner acceptable to the Director of Public Works. Pavement, sidewalks, curbs, gutters or any other portions of public ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former condition by Grantee at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve the former conditions, Grantee shall use materials whose type, specification and quantities exceed or are different from those used in the installation, then Grantee at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, Grantee shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the Director

of Public Works and the full length of the section or sections cut, a section being defined as that-area marked by expansion joints or scoring or as determined by the Director of Public Works in accordance with the City's Right-of-Way Excavation & Restoration Manual. Grantee shall maintain, repair and keep in good condition for a period of two (2) years following such disturbance all portions of public ways disturbed by Grantee, to the extent that such maintenance and repair is necessary because of defective workmanship or materials supplied by Grantee.

16.6 Grantee shall promptly remove or correct any obstruction, damage, or defect in any public way which may have been caused by Grantee in the installation, operation, maintenance or extension of Grantee's telecommunications system. Any such obstruction, damage, or defect which is not promptly removed, repaired or corrected by Grantee after proper notice so to do, given by the City to Grantee, may be removed or corrected by the City, and the cost thereof shall be charged against Grantee and may be enforced as a lien upon any of Grantee's properties or assets. Any expense, cost, or damages incurred for repair, relocation, or replacement to City water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction or maintenance of Grantee's Telecommunications system shall be borne by Grantee and any and all expense and cost incurred in connection therewith by the City shall be fully reimbursed by the Grantee to the City.

16.7 If weather or other conditions do not permit the complete restoration required by this Section, the Grantee shall temporarily restore the affected public ways or property. Such temporary restoration shall be at the Grantee's sole expense and the Grantee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

16.8 Grantee or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including the Virginia Work Area Protection Manual as amended from time to time.

16.9 Grantee shall not open, disturb or obstruct, at any one time, any more of the public ways than reasonably may be necessary to enable it to proceed in laying or repairing its Telecommunications system. Neither shall Grantee permit any public ways so opened, disturbed or obstructed by it in the installation, construction, repair or extension of its Telecommunications system to remain open or the public way disturbed or obstructed for a longer period of time than reasonably shall be necessary. In all cases where any public ways shall be excavated, disturbed or obstructed by Grantee, Grantee shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals and other devices necessary or proper to adequately give notice, protection and warning to the public of the existence of all actual conditions present.

16.10 Whenever the City shall widen, reconstruct, realign, pave or repave, or otherwise work on any public ways, or shall change the grade or line of any public ways, or shall construct or reconstruct any water, sanitary sewer, storm sewer, drainage or communications facility of the City, it shall be the duty of Grantee to move, alter or relocate its Telecommunications system or any part thereof as requested by the City at Grantee's expense. Upon written notice by the Director of Public Works of the City's intention to perform work as specified above, Grantee shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the City for such construction, reconstruction or improvements. Should the Grantee fail, refuse or neglect to comply with such notice, the Telecommunications system or any part hereof may be removed, altered or relocated by the City and the City shall not be liable to Grantee for any damages resulting from such removal, alteration or relocation.

16.11 In the event any Street or portion thereof used by Grantee shall be vacated by the City or the use thereof discontinued by Grantee during the term of this Franchise, Grantee shall not be obligated to remove its Telecommunications facilities therefrom unless specifically requested by the City to

do so and on the removal thereof Grantee shall, at its own expense, restore, repair or reconstruct the Street area where such removal has occurred and place the Street area where such removal has occurred to a condition similar to that existing before such removal took place. In the event of failure, neglect or refusal of Grantee, after one hundred twenty (120) days' notice by the City to remove the Telecommunications facilities or to repair, restore, reconstruct, improve or maintain such Street portion, the City may do such work or cause it to be done, and the cost thereof as found and declared by the City shall be paid by Grantee as directed by the City and collection may be made by any available remedy.

Section 17. Damage to Property. Neither Grantee, nor any person acting on Grantee's behalf, shall take any action or permit any action to be done which may impair or damage any City Property, public ways of the City, other Ways or other property located in, on or adjacent thereto.

Section 18. Repair and Emergency Work. In the event of an unexpected repair or emergency, Grantee may commence such repair and emergency response work as required under the circumstances, provided Grantee shall notify the City as promptly as possible, before such repair or emergency work is started or as soon thereafter as possible if advance notice is not practicable.

Section 19. Maintenance of Facilities. Grantee shall maintain its Telecommunications facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements, laws, ordinances, and regulations.

Section 20. Safety Standards. Grantee shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries or nuisances to the public.

Section 21. Police Power. All rights and privileges granted hereby are subject to the lawful exercise of the police power of the City to adopt and enforce local laws, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to the City is the right to adopt, in addition to the provisions of this Agreement and existing laws, such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public.

Section 22. Relocation of Facilities. Within one hundred twenty (120) days following written notice from the City, Grantee shall temporarily or permanently relocate, change or alter the position of any Telecommunications facilities within the public ways at Grantee's expense whenever the City shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

(a) The construction, repair, maintenance or installation of any City facilities or other public improvement in or upon the public ways.

(b) The operations of the City or other governmental entity in or upon the public ways.

Grantee shall only relocate, change, or alter the position of Telecommunications facilities to sites that are mutually agreed upon by City and Grantee.

Section 23. Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any Telecommunications facilities located within the public ways or other areas of the City as the City may determine to be necessary, appropriate or useful in response to any life-threatening emergency. The City will endeavor to notify Grantee of such emergencies that may affect their Telecommunications facilities. Nothing herein shall create any duties or obligations on the City to so notify Grantee nor shall the City, its officers, agents, employees, or volunteers in any way be liable for any failure to notify Grantee.

Section 24. Damage to Grantee's Facilities. Except for acts of gross negligence or willful misconduct, and subject to the City's rights to sovereign immunity, the City, its officers, agents, and employees, shall not be liable for any damage to or loss of any Grantee's Telecommunications services or

Telecommunications facilities within the public ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City.

Section 25. Duty to Provide Information. Within ten (10) days of a written request from the City, Grantee shall furnish the City with information sufficient to demonstrate that:

(a) Grantee has complied with all requirements of this Agreement.

(b) That all franchise fees, municipal sales taxes, telecommunications taxes, utility taxes or any other taxes, fees or charges due the City in connection with the telecommunications services or facilities provided by the Grantee have been properly collected and/or paid by Grantee.

(b) All books, records, maps, and other documents maintained by Grantee with respect to its services or facilities within City or the public ways shall be made available for inspection by representatives of the City at least every six (6) months and at other reasonable times and intervals.

The City may request such information to the extent it is necessary to ensure compliance with this franchise agreement.

Section 26. Insurance and Bond Requirements.

26.1 Requirement of Insurance. Grantee shall, at its expense, obtain and maintain during the life of this Agreement the insurance and bond required by this Agreement. Any required insurance and bond shall be effective prior to the beginning of any work by Grantee within the City.

26.2 Commercial General Liability. Grantee shall maintain during the life of this Agreement Commercial General Liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of any of the work or activity under or by virtue of this Agreement. The minimum limits of liability for this coverage shall be $2,000,000 combined single limit for any one occurrence.

26.3 Contractual Liability. Grantee shall maintain during the life of this Agreement broad form Contractual Liability insurance including the indemnification obligation set forth in this Agreement.

26.4 Workers' Compensation. Grantee shall maintain during the life of this Agreement Workers' Compensation insurance covering Grantee's statutory obligation under the laws of the Commonwealth of Virginia and Employer's Liability insurance for all its employees engaged in work under this Agreement.

26.5 Automobile Liability. Grantee shall maintain during the life of this Agreement Automobile Liability insurance. The minimum limit of liability for such insurance shall be $1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.

26.7 Umbrella Coverage. The insurance coverages and amounts set forth in subsections (b), (c), (d) and (e) of this Section may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of $5,000,000. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by subsections (b), (c), (d) and (e), and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by Grantee to the City.

26.8 Pollution Liability Insurance. Grantee shall maintain during the life of this Agreement Pollution Liability Insurance in the amount of $1,000,000 each occurrence. Coverage shall be provided for

bodily injury and property damage resulting from pollutants, which are discharged suddenly and accidentally. In addition, the insurance will provide coverage for cleanup costs.

26.9 Evidence of Insurance. All insurance shall meet the following requirements:

(a) The Grantee shall furnish the City a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles, the amount of such deductible being subject to approval by the City.

(b) The required certificate or certificates of insurance shall include substantially the following statement: "The insurance covered by this certificate shall not be canceled or materially altered, except after thirty (30) days written notice has been received by the City of Norfolk."

(c) The required certificate or certificates of insurance shall name the City of Norfolk, its officers, agents, employees and volunteers as additional insured.

(d) Insurance coverage shall be in a form and with an insurance company approved by the City which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Agreement must be authorized to do business in the Commonwealth of Virginia.

Section 27: Liability. Grantee agrees and binds itself to indemnify, keep and hold the City, its officers, agents, and employees free and harmless from any and all claims, causes of action, damages or any liability on account of any injury or damage of any type to any persons or property growing out of, or directly or indirectly resulting from, any act or omission of Grantee, including but not limited to: (a) Grantee's use of the public ways or other areas of the City; (b) the acquisition, construction, reconstruction, erection, installation, operation, maintenance, repair or extension of Grantee's telecommunications facilities; (c) the exercise of any right or privilege granted by or under this Agreement; or (d) the failure, refusal or neglect of Grantee to perform any duty imposed upon or assumed by Grantee by or under this Agreement. In the event that any suit or proceeding shall be brought against the City at law or in equity, either independently or jointly with Grantee on account thereof, Grantee, upon timely notice given to it by the City, will defend the City in any such action or other proceeding at the cost of the Grantee. In the event of any settlement or final judgment being awarded against the City, either independently or jointly with Grantee, then Grantee will pay any such settlement or judgment or will comply with such decree, pay all costs and expenses of whatsoever nature and hold the City, it officers, agents, and employees free and harmless therefrom.

Section 28: Hazardous Materials.

28.1 While on or near City's property or easement or in its performance of this Agreement, Grantee shall not transport, dispose of or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Agreement and in any event Grantee shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances or waste. Regardless of City's acquiescence, Grantee shall indemnify and hold City, its officers, agents, employees and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines or penalties, including reasonable attorney's fees, resulting from Grantee's violation of this paragraph and agrees to reimburse City for all costs and expenses incurred by City in eliminating or remedying such violations. Grantee also agrees to reimburse City and hold City, its officers, agents, employees and volunteers harmless from any and all costs, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of Grantee's use or release of any hazardous substance or waste onto the ground, or into the water or air from, near or upon City's premises.

28.2 The Grantee shall protect, indemnify, and hold harmless the City from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the

performance of any work or activity arising out of the use of any telecommunication facilities or the provision of telecommunication service.

Section 29: Performance and Labor and Material Surety. Before this Agreement is effective, and as necessary thereafter, the Grantee shall provide such bonds or other instruments in form and substance acceptable to the City as may be required by this Agreement.

Section 30: Bond.

30.1 Within ten (10) consecutive calendar days after the effective date of this Agreement but before any construction is commenced, Grantee shall furnish to the City a performance bond made payable to the City in the amount of one hundred thousand dollars ($100,000). The Performance Bond is to guarantee that the project is constructed and maintained in a proper manner without damage to the public ways or other areas of the City. The bond shall be written by a corporate surety acceptable to the City and authorized to do business in the Commonwealth of Virginia. Upon satisfactory completion of construction of the Grantee's telecommunications facilities, the performance bond may be reduced to the amount of twenty-five thousand dollars ($25,000) and made payable to the City, and shall be maintained at this amount throughout the term of this Agreement.

30.2 The bond shall guarantee, to the satisfaction of the City:

(a) timely completion of construction;

(b) construction in compliance with applicable plans, permits, technical codes and standards;

(c) proper location of the facilities as specified by the City;

(d) proper maintenance of Grantee's facilities during the term of this Agreement;

(e) restoration of the public ways and other property affected by any construction or repair work performed by or at the request of Grantee;

(f) the submission of "as-built" drawings after completion of the work as required by this Agreement; and

(g) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.

Section 31: Coordination of Construction Activities. Grantee is required to cooperate with the City as follows:

(a) Anytime Grantee plans expansion of its backbone system, Grantee shall provide the City with a schedule of its proposed construction activities in and around any public ways, or that may affect the public ways.

(b) Grantee shall meet with the City and other users of the public ways annually, or as determined by the City, to schedule and coordinate construction in the public ways.

(c) All construction locations, activities and schedules shall be coordinated, as ordered by the Director of Public Works, to minimize public inconvenience, disruption or damages.

Section 32: Nonenforcement by City. Grantee shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of the City, upon any one or more occasions, to insist upon Grantee's performance or to seek Grantee's compliance with any one or more of such terms or conditions of this Agreement.

Section 33: Construction Codes. Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Safety Code.

Section 34: Engineer's Certification. All permit applications for bridge attachments and for excavations that are adjacent to the Light Rail track bed shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

Section 35: Traffic Control Plan. All permit applications which involve work on, in, under, across or along any public ways shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent with applicable local, state and federal laws and regulations, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.

Section 36: Issuance of Permit. Within forty-five (45) days after submission of all plans and documents required of the applicant and payment of the fees required by this Agreement, and compliance with the provisions of the Virginia Code, the City, if satisfied that the applications, plans and document comply with all requirements of this Agreement, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as may be deemed necessary or appropriate.

Section 37: Construction Schedule. The Grantee shall submit a written construction schedule to the Director of Public Works ten (10) working days before commencing any work in or about the public ways. The Grantee shall further notify the Director of Public Works not less than five (5) working days in advance of any excavation or work in the public ways and shall comply with the provisions of the Virginia Underground Utility Damage Prevention Act, Virginia Code § 56-265.14 et. seq.

Section 38: Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The City and its representatives shall be provided access to the work and such further information as it may require to ensure compliance with such requirements.

Section 39: Display of Permit. The Grantee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the City at all times when construction work is occurring.

Section 40: Survey of Underground Facilities. The Grantee shall supply and specify the location of all facilities by depth, line, grade, proximity to other facilities or other standard, the Grantee shall cause the location of such facilities to be verified, to the extent required, by a registered state surveyor. The Grantee shall relocate, at its expense, any facilities which are not located in compliance with permit requirements.

Section 41: Noncomplying Work. Upon order of the City, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Agreement, shall be removed at the sole expense of Grantee.

Section 42: Completion of Construction. The Grantee shall promptly complete all construction activities so as to minimize disruption of the City's public ways and other public and private property. All construction work authorized by a permit within the public ways, including restoration, must be completed within 30 days of the date of issuance of the permit.

Section 43: As-Built Drawings. Within sixty (60) days after completion of construction, the Grantee shall furnish the City with two (2) complete sets of as-built plans, drawn to scale and certified to the City as accurately depicting the actual location of all telecommunications facilities constructed pursuant to the permit and shall include a digitized map(s) in both printed and electronic form readable by the current version of Auto CAD or PDF. Grantee shall, upon request, provide updated maps annually.

Section 44: Landscape Restoration.

44.1 All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of telecommunications facilities shall be replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of the work.

44.2 All restoration work within the public ways or other areas shall be done in accordance with landscape plans approved by the Director of Public Works, or his designee, and shall comply with sections 45-10 through 45-31 of the Code of the City of Norfolk, 1979.

Section 45: Responsibility of Owner. The owner of the facilities to be constructed and, if different, the Grantee is responsible for performance of and compliance with all provisions of this Agreement.

Section 46: Controlling Law. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia and any applicable federal laws.

Section 47: Captions. The paragraph Captions and Headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 48: Nondiscrimination. Grantee shall not discriminate on the basis of race, religion, color sex or national origin in its employment practices, contracting or provision of services.

Section 49: Commencement of Work. Grantee will not commence work within City until detailed plans have been provided to and approved by the Director of Public Works.

Section 50: Forum Selection. By virtue of entering into this Agreement, Grantee agrees and submits itself to a court of competent jurisdiction in the City of Norfolk, Virginia, or in the United States District Court for the Eastern District of Virginia, Norfolk Division, and further agrees that this Agreement is controlled by the laws of the Commonwealth of Virginia or any applicable federal laws and that all claims, disputes and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia or any applicable federal laws or by any regulatory body with jurisdiction including the Federal Communications Commission.

Section 51: Effective Date. This Agreement shall be in full force and effect as of the Effective Date when fully executed by an authorized officer of Grantee and the authorized officials of the City.

Section 52: Removal of Grantee's Facilities. Subject to applicable law, if Grantee is not awarded a franchise or otherwise granted rights by any future ordinance or agreement adopted by the City, or if the term of this Agreement expires or the rights granted to Grantee by this Agreement are revoked by the City, Grantee shall immediately cease operations within the City and shall not be permitted to operate, maintain or repair its existing encroachments or facilities and shall promptly remove any and all Grantee's facilities and equipment within the City, all at the sole cost of Grantee.

Section 53: Notices. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed as follows or if sent by facsimile to the facsimile number set forth below, with a hard copy contemporaneously mailed as previously specified:

If to Grantor to:

City Manager
1101 City Hall Building
Norfolk, Virginia 23510
Fax No. (757) 664-4239

With copies to:

City Attorney
908 City Hall Building
Norfolk, Virginia 23510

Director of Public Works
700 City Hall Building
Norfolk, Virginia 23510

Fax No. (757) 664-4201 Fax No. (757) 664-4603

If to Grantee to:

Mobilitie, LLC
2220 University Drive
Newport Beach, CA 92660
ATTN: James Grass, Vice President, Corporate Counsel
Fax No. (949) 548-4667

With a copy to:

Grantor or Grantee may from time to time designate any other address for this purpose by written notice to the other party.

Section 54. Compliance with Federal Immigration Law. At all times during which any term of this Franchise is in effect, Grantee shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed by either Title 8, section 1324a of the United States Code or the U.S. Attorney General.

Section 55. Compliance with State Law – Authorization to Conduct Business in the Commonwealth: Grantee hereby represents that it is organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership and is authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

(SIGNATURE PAGE TO FOLLOW)

Mobilitie, LLC, by the undersigned authorized agent, does hereby agree to abide by the terms, conditions, and obligations of the Agreement.

WITNESS the following duly authorized signatures:

CITY OF NORFOLK
NORFOLK, VIRGINIA

By: _____
City Manager

_____
Date

ATTEST:

_____
City Clerk

_____
Date

Mobilitie, LLC

By:_____

Title:_____

_____
Date

ATTEST:

_____
Secretary

_____
Date

Approved as to Content:

_____
Director of Public Works

Approved as to Form and Correctness:

_____
Deputy City Attorney

Exhibit 1

Norfolk City Site Locations

★ Attachment ★ New Pole

#	Latitude	Longitude	Closest Address
1	36.898986	-76.282991	190 Kingsley Ln, Norfolk, Virginia 23505
2	36.876570	-76.258249	2501 Lafayette Blvd, Norfolk, Virginia 23509
3	36.832339	-76.282431	122 E Berkley Ave, Norfolk, Virginia 23523
4	36.851947	-76.039569	2126 Carnaby Dr, Virginia Beach, Virginia 23454

0 0.5 1 2 Miles

0036ATL

C: Dir., Cultural Facilities

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: John Rhamstine, Director, Cultural Facilities

Subject: Ordinance establishing the "Festival Area" of Harborfest 2016 and setting forth the applicable regulations for the festival

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-19**

I. **Recommendation:** Adopt ordinance

II. **Applicant:** City of Norfolk

III. **Description**
This agenda item is an ordinance to establish certain public areas and streets of the City of Norfolk (the "city") as the "festival area" and setting forth the regulations applicable to such festival area for the Norfolk Harborfest 2016 celebration ("Harborfest 2016).

IV. **Analysis**
This ordinance establishes the boundaries of the festival area and sets forth the regulations for the Harborfest 2016 celebration. This will allow the Norfolk Police Department, Norfolk Festevents and city staff to enforce the regulations as necessary. All regulations are written for the purpose of public safety and/or protection of the park itself.

V. **Financial Impact**
N/A

VI. **Environmental**
N/A

VII. **Community Outreach/Notification**
Public notification for this agenda item was conducted through the city's agenda notification process.

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

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Cultural Facilities and the City Attorney's office.

Supporting Material from the City Attorney's Office:

- Ordinance

4/27/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ESTABLISHING CERTAIN PUBLIC AREAS AND STREETS OF THE CITY OF NORFOLK AS THE "FESTIVAL AREA" AND SETTING FORTH THE REGULATIONS APPLICABLE TO SUCH FESTIVAL AREA FOR THE NORFOLK HARBORFEST 2016 CELEBRATION.

- - -

WHEREAS, from 10:00 a.m. on Thursday, June 9, 2016 until 6:00 p.m. on Sunday, June 12, 2016, there will be held a public celebration festival known as "Norfolk Harborfest 2016" in certain downtown areas of the City; and

WHEREAS, said festival will take place on certain designated public areas situated in the downtown area of the City, including Town Point Park and certain public streets which are to be closed for the duration of the festival; and

WHEREAS, because of the large numbers of people expected to congregate and participate in said festival, and the traffic congestion which is expected to result, it is deemed necessary to prescribe certain regulations governing the use of the festival area in the interests of public health and safety; now, therefore,

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

Section 1:- That the following described city-owned public areas in the City are hereby designated and established as the "Festival Area" for Norfolk

Harborfest 2016 from June 9, 2016 at 10:00 a.m. until June 12, 2016 at 6:00 p.m. or as extended in accordance with Section 2:

All those certain areas in the City of Norfolk encompassing: Boush Street, south of the southern line of City Hall Avenue; (2) Plume Street, west of the western face of Town Point parking structure; (3) All of Waterside Drive that lies west of the western line of St. Paul's Boulevard; (4) All that certain peninsula of land that is commonly known as Nauticus/National Maritime Center and the Half Moone Cruise Terminal and their associated structures that lies west of Boush Street; (5) Town Point Park; (6) The Elizabeth River Esplanade from Harbor Park westward and northward along the Elizabeth River to the western terminus at College Place and Botetourt Street; (7) The property commonly known as "Pagoda and Oriental Garden Park" as delineated by the land mass west of Harbour Street extending westwardly to the Elizabeth River including all public areas of Pier "A" and Pier "B"; (8) The exterior public areas of the Waterside Festival Marketplace; (9) The parcels of land known as Parcel "13B-1" and Parcel "13C" immediately south and west of Harbor Place Condominiums and bounded by Brook Avenue, the Elizabeth River and the Elizabeth River Esplanade; (10) The area known as Freemason Green, bounded by College Place, Yarmouth Street, Tazewell Street and College Cross; (11) The temporary docks along the Elizabeth River, east of Waterside Marina and south of the Sheraton Hotel (12) Beginning at the northwestern corner of Waterside Drive and St. Pauls Boulevard; thence westwardly, and northwardly along the northern and eastern right-of-way lines of Waterside Drive, extending across intersecting streets, to the southern line of Main Street; thence along the eastern right-of-way line of Boush Street, extending across intersecting streets, to the southern right-of-way line of City Hall Avenue; thence westwardly along the extension of the southern right-of-way line of City Hall

Avenue, across Boush Street to the east side of the floodwall; thence northwardly along the floodwall to a point on the southern line of the City Hall Canal; thence westwardly along the southern line of the City Hall Canal to the Pierhead Line (Port Wardens Line); thence southeasterly along the Pierhead Line (Port Wardens Line) to the intersection of the western and southern shoreline on the southwest side of Town Point Park; thence southeastwardly along the shore line of the Eastern Branch of the Elizabeth River (including any piers, wharfs, jetties, and bulkheads extending into the Elizabeth River) to the western bulkhead of the Otter Berth; thence northwardly, eastwardly and southwardly along the western, northern and eastern bulkheads of the Otter Berth to the northern shore line of the Eastern Branch of the Elizabeth River; thence eastwardly along the northern shore line of the Eastern Branch of the Elizabeth River (including any piers, wharfs, jetties, and bulkheads extending into the Elizabeth River,) along the southern limits of Town Point Park and the Elizabeth River Esplanade to a point on the shore line opposite the southwest property corner of the Dominion Tower property; thence northwardly to the southwest corner of the Dominion Tower; thence northwestwardly, northwardly and northeastwardly along the property of the Dominion Tower to the southern line of Waterside Drive; thence westwardly across the southern line of Waterside Drive to the western line of St. Pauls Boulevard; thence northwardly along the western line of St. Pauls Boulevard to the point of beginning, excluding therefrom, however, the Waterside Festival Marketplace building and the pedestrian walkway therefrom over Waterside Drive to the Waterside Parking Structure, and the private property of the Sheraton Hotel and the pedestrian walkway therefrom over Waterside Drive, from portal to portal.

Section 2:- That in the event inclement weather necessitates the re-scheduling of the fireworks display

to Sunday night, June 12, 2016, the City Manager, or his designee, is authorized to extend the "Norfolk Harborfest 2016" celebration festival to 9:30 p.m. on Sunday, June 12, 2016.

Section 3:- That notwithstanding any other ordinance or provision of law, unless expressly indicated otherwise, and in addition to any other existing ordinances and regulations governing any area encompassed within the Festival Area boundaries, the following regulations shall apply to and will be in force in the Festival Area from June 9, 2016, at 10:00 a.m. to June 12, 2016 at 6:00 p.m., or as extended in accordance with Section 2:

(a) Notwithstanding the provisions of Chapter 26 of the Norfolk City Code (1979, as amended), during the duration of Harborfest 2016, all parties in the "Festival Area" defined in Section 1, above, other than those parties who have contracted with or otherwise been approved by Norfolk Festevents Ltd. to provide entertainment for Norfolk Harborfest 2016, must abide by the decibel levels set out in § 26-10, Table I, Maximum Sound Pressure Levels, for property categorized as "park and recreational" use. Parties who violate this provision will first receive a verbal warning, and if they refuse to cease the unlawful activity, will be charged with violating the noise restriction provisions of Chapter 26.

(b) It shall be unlawful for any person to bring into the Festival Area or possess any alcoholic beverage not purchased in the Festival Area.

(c) It shall be unlawful for any person to bring, carry or possess any of the following weapons, whether or not concealed: any dirk, bowie knife, switchblade knife, razor, slingshot, metal knuckles, blackjack, or any flailing instrument consisting of two (2) or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nunchahka, nunchuck, nunchaku, shuriken, or fighting chain, or any

disc, of whatever configuration, having at least two (2) points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind as those enumerated in this section. Any such weapon shall be forfeited to the city and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the division of consolidated laboratory services shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of in accordance with applicable law. This section shall not apply to any authorized law enforcement officer.

(d) It shall be unlawful for any person to enter any area posted as "Closed to the Public" or use or encourage the use of any area in violation of posted notices. Any section or part of the Festival Area may be declared closed to the public by the City Manager or his designee at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and may either be entirely closed or closed to certain uses as the City Manager or his designee shall determine.

(e) It shall be unlawful for any person to carry or possess any glass container of any kind, with the exception of unopened glass containers or glass artwork purchased in the Festival Area from authorized vendors. Concessionaires authorized to vend food or beverages shall be permitted to use glass containers for their own use and shall remove all such containers upon termination of their activities in the Festival Area.

(f) It shall be unlawful for any person to engage in any of the following activities, unless such activity has been specifically authorized by a franchise granted in accordance with the provisions of the City

Charter or by a permit to conduct a special event issued in accordance with the provisions of this article:

(1) Display of merchandise.

(2) Sales of flowers, souvenirs or other merchandise.

(3) Any other commercial activity which is not specifically authorized by this article or by a permit duly issued by the City. For purposes of this subsection, busking as permitted by Section 29-70.1 of the Norfolk City Code, 1979, as amended, (created by Ordinance No. 44,226, effective April 26, 2011), shall not be considered a "commercial activity."

(g) It shall be unlawful for any person to construct or erect any building or structure of whatever kind, whether permanent or temporary or run or string any public service utility lines into, upon or across the Festival Area land, unless authorized by a permit duly issued by the appropriate City officials.

(h) It shall be unlawful for any person to willfully mark, deface, disfigure, injure, tamper with, displace or remove any property, including but not limited to any buildings, bridges, tables, benches, fireplaces, railings, paving or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or property or appurtenances whatsoever, either real or personal.

(i) It shall be unlawful for any person to beg, solicit funds or seek contributions for any purpose, public or private. For purposes of this subsection busking as

permitted by Section 29-70.1 of the Norfolk City Code, 1979, as amended shall not be considered begging, soliciting funds or seeking contributions.

(j) It shall be unlawful for any person to climb or ascend any structure, statuary object, planter or tree.

(k) It shall be unlawful for any person to place or operate vending machines or coin-operated amusement devices, with the exception of those located in duly authorized city facilities.

(l) It shall be unlawful for any person to have in his possession or set off or otherwise cause to explode or discharge or burn any firecrackers, torpedo rockets or other fireworks or explosives of inflammable material, or discharge them or throw them into the Festival Area from land, highways, buildings or vessels moored adjacent thereto. This prohibition includes any substance, compound, mixture or article which, when in conjunction with any substance or compound, would be dangerous from any of the foregoing standpoints.

(1) Notwithstanding the provisions of paragraph (l) above, fireworks displays or shows may be authorized in the Festival Area by permit granted by the City Manager or his designee and approved by the Fire Chief.

(m) It shall be unlawful for any person to enter or to be upon the premises of the Festival Area while intoxicated, whether such intoxication results from alcohol, narcotic drug, or other intoxicant or drug of whatever nature. And it shall be unlawful for any person to be in the possession of, consume or use any illegal drug while in the Festival Area.

(n) It shall be unlawful for any person to bring, possess or drink within the Festival Area, any alcoholic beverage of any kind at any time, except as authorized in this ordinance. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars ($100.00).

(o) It shall be unlawful for any person to ride, walk or push a bicycle, except as may be necessary to place such bicycle in a designated bike rack. This section shall not apply to any authorized law enforcement officer or fire/paramedical personnel nor shall it apply to bicycles that are part of a scheduled performance being used for their intended purpose.

(p) It shall be unlawful for any person to roller skate, to ride on a skateboard or to operate any other similar device having metal, plastic or rubber tread wheels, with the exception of such devices that are part of a scheduled performance being used for their intended purpose.

(q) It shall be unlawful for any person to bring any domestic or wild animal into the Festival Area, or to possess or have custody of any domestic or wild animal in the Festival Area, with the exception of service animals or animals that are part of a scheduled performance being used for their intended purpose. No domestic or wild animals shall be permitted in the Festival Area, with the exception of service animals or animals that are part of a scheduled performance being used for their intended purpose. For the purposes of this ordinance, the term "service animal" shall be defined as "an animal that has been individually trained to perform tasks for people with disabilities, such as a seeing-eye dog."

(r) It shall be unlawful for any person to operate or park any motor vehicle, except

for the following vehicles and any other vehicles that have been duly authorized by the appropriate City officials:

(1) Fire vehicles, police vehicles, and ambulances responding to emergency calls.

(2) Utility vehicles and building services vehicles engaged in the repair of hazards or the correction of disruptions of essential services.

(3) Self-propelled wheel chairs or invalid tricycles operated by persons whose physical disabilities prohibit normal walking.

(4) Festival Area maintenance vehicles.

(5) Vehicles for display or operated for special events at such times and places as may be authorized by a written permit issued by the City Manager or his designee.

(6) Mini-buses or trackless trains operated by a public transportation agency pursuant to a written permit issued by the City Manager or his designee.

(s) It shall be unlawful for any person to stop, stand or park any vehicle at any time:

(1) In such a manner as to block the passage of any emergency vehicle.

(2) In such a manner as to block pedestrian movement or access to any building or vessel adjacent to the Festival Area.

(3) Unless actively engaged in loading or unloading, maintenance,

service or construction, during authorized hours.

(t) It shall be unlawful for any person, except authorized entertainers, to take part in or abet the playing of any games involving thrown or otherwise propelled objects, such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games, such as football, baseball and quoits, is prohibited.

(u) It shall be unlawful for any person to fly or control any type of airborne equipment, including but not limited to model planes, helicopters, drones (radio and wire controlled), kites and air balloons, except pursuant to permit for such use issued by the City Manager or his designee.

(v) All service animals shall be restrained on a leash at all times. Owners shall comply with the provisions of section 6.1-72 of the Code of the City of Norfolk, Virginia, 1979, with regard to animal feces.

(w) It shall be unlawful for any person to expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. This prohibition shall not apply to any regularly licensed concessionaire acting by and under the authority and regulation of the City Council or pursuant to permit issued by the City Manager or his designee.

(x) It shall be unlawful for any person to announce, advertise or call the public attention in any way to any article or service for sale or hire.

(y) It shall be unlawful for any person to paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever in the Festival Area, nor shall any

person erect or cause to be erected any sign of whatever nature on any public area adjacent to the Festival Area, without first obtaining proper authorization from the appropriate city officials.

(z) The City Manager or his designee is hereby authorized to issue special event permits for either public or private commercial use of the Festival Area. The City Manager or his designee shall forward to the Commissioner of the Revenue a list of all permits issued so that the applicable Business Professional and Occupational License, food and beverage, and admissions tax ordinances can be appropriately enforced. The list shall contain the following information: (1) name and address of applicant; (2) name and address of sponsor; (3) date and hours requested and use to be made of the Festival Area; (4) location assigned within the Festival Area; (5) any other information received that is used to identify the business or the nature of the business activity. The list shall be forwarded to the Commissioner of the Revenue 21 days prior to the opening day of the festival. Updates will be provided to the Commissioner of the Revenue as they are available.

(1) Such permit may authorize any one or more of the following activities:

(a) The sale of food, beverages and other refreshments.

(b) The sale of goods and merchandise.

(c) The provision of various forms of entertainment, including programs of the performing arts.

(d) The distribution of educational or informational

literature and other materials specifically and directly related to a special event by duly authorized festival participants.

(2) A person seeking the issuance of a permit for the use of the Festival Area for such purpose shall file an application with the City Manager or his designee. The application shall state:

(a) The name and address of the applicant.

(b) The name and address of the person sponsoring the activity, if any.

(c) The day and hours for which the permit is desired and the proposed use to be made of the Festival Area.

(d) The portion of the Festival Area for which such permit is desired.

(e) An estimate of the anticipated attendance.

(f) Any other information which the City Manager or his designee shall find reasonably necessary to a fair determination as to whether the permit should be issued.

(3) The City Manager or his designee may require the applicant for a permit under this article to provide or construct any facilities and furnish such materials, equipment or supplies which the City Manager or his designee considers essential to the health, safety and welfare of any person.

(4) The City Manager or his designee shall issue a permit applied for under this article, if he finds:

(a) That the proposed activity or use of the Festival Area will not unreasonably interfere with or detract from the general public's enjoyment of the Festival Area.

(b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(c) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.

(d) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city.

(e) That the portion of the Festival Area desired has not been reserved for other use at the date and hour requested in the application.

(5) It shall be unlawful for any person to fail to produce and exhibit any permit issued to him or her under this article, upon request of any authorized person who shall desire to inspect such permit for the purpose of enforcing compliance with any ordinance of the city or regulation of the department.

(6) A person to whom a permit is issued under this ordinance shall be

bound by all applicable rules and regulations of the Festival Area and all applicable City ordinances as fully as though the same were inserted in the permit.

(7) A person to whom a permit is issued under this article shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person to whom such permit was issued. The City Manager or his designee may require such public liability insurance, naming the City as an additional insured, as he deems to be in the best interest of the City.

(8) It shall be unlawful for any person to disturb or interfere unreasonably with any person occupying any area, or participating in any activity under the authority of a permit issued under this ordinance.

(9) The City Manager or his designee shall have the authority to revoke a permit issued pursuant to this ordinance, upon a finding of a violation of any rule, ordinance or condition of the permit, or upon good cause shown.

(aa) The City Manager or his designee is hereby authorized to issue special event permits for noncommercial expressive activities protected by the First Amendment of the United States to occur within Town Point Park and the rest of the Festival Area during Norfolk Harborfest. Such permits shall be subject to the usual time, place and manner considerations as delineated in Section 29-67.1 of the Norfolk City Code, 1979, as amended, including but not limited to the fact that the Festival Area, including the Park, is usually crowded during Norfolk Harborfest. The requirement of Section 29-67.1, as amended, shall be followed when considering permit

requests under this subsection (aa), except for the following provisions:

(1) The small group exception from the permit requirement under this subsection (aa) shall be for activities involving ten (10) people or less. This same amended small group exception shall apply to busking done pursuant to Section 29-70.1 of the Norfolk City Code, 1979, as amended;

(2) The deadline for applying for a permit under this subsection (aa) shall be no later than ten (10) days before the date of the beginning of Harborfest. In calculating this time period, weekends and holidays and the date of the beginning of Norfolk Harborfest shall not be counted; and

(3) All the general restrictions of this ordinance, not including subsection (z), establishing the Festival Area for Norfolk Harborfest and regulating its use, shall apply to any permit issued pursuant to this subsection (aa).

Section 4:- Nothing contained in this ordinance shall be construed as governing, limiting or preventing the purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof, except as may be expressly authorized in the Code of Virginia, 1950, as amended.

Section 5:- Any person violating any provision of this ordinance shall be guilty of a Class 1 misdemeanor.

Section 6:- All persons who enter the Festival Area during the period specified above, as a condition of their entry and/or continued presence in the Festival Area, shall be deemed to have consented to an inspection of their belongings, for purposes of enforcement of this ordinance.

Section 7:- That this ordinance shall be in effect from and after its adoption.

C: Dir., Cultural Facilities

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: John Rhamstine, Director, Cultural Facilities

Subject: Ordinance closing certain city-owned docks to public use for Harborfest 2016

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-20**

I. **Recommendation:** Adopt ordinance

II. **Applicant:** City of Norfolk

III. **Description**
This agenda item is an ordinance to close certain city-owned docks to public use for Harborfest 2016.

IV. **Analysis**
This ordinance closes certain city-owned docks known as the Municipal Marina at Waterside, Hammond Dock, Liverpool Dock, Peace 'n' Plenty Dock, Otter Berth, Mercury Dock, Elizabeth Dock, Kingfisher Dock, Freemason Harbor Basin between Pier A and Pier B and the waters at the end of Pier B, Town Point Park Bulkhead, Freemason Street Harbor, the north and south Nauticus/National Maritime Center Basins, International Dock, and any temporary piers or docks extending from the Festival Area and specifically constructed for the Norfolk Harborfest 2016 celebration, to public use from 10:00 a.m. on Thursday, June 9, 2016 until 6:00 p.m. on Sunday, June 12, 2016.

V. **Financial Impact**
N/A

VI. **Environmental**
N/A

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

VII. Community Outreach/Notification

N/A

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter has been coordinated with the Department of Cultural Facilities and the City Attorney's office.

Supporting Material from the Department of Law:

- Ordinance

4/27/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE CLOSING CERTAIN CITY-OWNED DOCKS TO PUBLIC USE DURING THE NORFOLK HARBORFEST 2016 CELEBRATION.

- - -

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

Section 1:- That notwithstanding the provisions of the Norfolk City Code, 1979, as amended, from 10:00 a.m. on Thursday, June 9, 2016 until 6:00 p.m. on Sunday, June 12, 2016, or as extended in accordance with Section 2, the Municipal Marina at Waterside, Hammond Dock, Liverpool Dock, Peace 'n' Plenty Dock, Otter Berth, Mercury Dock, Elizabeth Dock, Kingfisher Dock, Freemason Harbor Basin between Pier A and Pier B and the waters at the end of Pier B, Town Point Park Bulkhead, Freemason Street Harbor, the north and south Nauticus/National Maritime Center Basins, International Dock, and any temporary piers or docks extending from the Festival Area and specifically constructed for the Norfolk Harborfest 2016 celebration, such Festival Area being defined in a separate ordinance, shall be closed to the public in connection with the Norfolk Harborfest 2016 celebration.

Section 2:- That in the event inclement weather necessitates the re-scheduling of the fireworks display to Sunday night, June 12, 2016, the City Manager, or his designee, is authorized to extend the closure to the public of the Municipal Marina, docks, piers, and areas described in Section 1 until 9:30 p.m. on Sunday, June 12, 2016.

Section 3:- That notwithstanding the provisions of the Norfolk City Code, 1979, as amended, berthing and/or docking at said City-owned docks during the period of said closure will be permitted only upon approval of the City Manager in accordance with such rules and regulations as the City Manager may adopt for said period.

Section 4:- That in addition to any other remedies available at law, the City Manager and the Chief of Police, or their designees, are hereby authorized to cause any vessel which berths

or docks at said City-owned docks during the period of said closure without approval to be towed at the expense of the owner of said vessel. All charges or expenses incurred by the City of Norfolk in causing said vessel to be towed and/or stored after said towing shall constitute a lien against said vessel until paid.

Section 5:- That the provisions of this ordinance shall not apply to any cruise ships scheduled to dock in the area of Nauticus during the period of the Norfolk Harborfest 2016 celebration.

Section 6:- That this ordinance shall be in effect from and after its adoption.

C: Dir., Department of General Services

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

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

Subject: Ordinance to approve a Right of Entry Agreement with New Hope Church of God in Christ

Reviewed: _____
Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: 2/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-21**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** New Hope Church of God in Christ
616, 618, and 620 W. 35th Street
Norfolk, VA

III. **Description:**
This agenda item is an ordinance to approve a Right-of-Entry Agreement (the "Agreement") between the City of Norfolk (the "city") and New Hope Church of God in Christ ("New Hope") for the use of property located at 616, 618 and 620 W. 35th Street (the "Property").

IV. **Analysis**
This Agreement will permit New Hope to enter and use the Property from May 26, 2016 through May 29, 2016 for the purpose of preparing for and hosting its annual event known as "Crusade Against Drugs and Violence" (the "Event"). The Event is open to the public. Food and care packages are provided to attendees and will be available for those in need. The services conducted by New Hope will provide opportunities for the local community to obtain information about drug and violence awareness and prevention. The City will have access to the property at all times.

V. **Financial Impact**

Liability insurance for New Hope Church of God in Christ	The City has been named as an additional insured in the amount of $1,000,000 per occurrence; therefore, there should be no financial risk to the City.

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

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 letter and ordinance have been coordinated with the Department of General Services – Office of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Right of Entry Agreement
- Map View of Area

3/29/2016-wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING A RIGHT OF ENTRY PERMITTING THE NEW HOPE CHURCH OF GOD IN CHRIST TO GO UPON AND USE THAT CERTAIN CITY OWNED PROPERTY NUMBERED AND DESIGNATED AS 616, 618, AND 620 W. 35TH STREET.

- - -

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

Section 1:- That the Right of Entry between the City of Norfolk ("City") and New Hope Church of God in Christ ("New Hope") that permits New Hope to go upon and use for certain purposes that certain property owned by the City and numbered and designated as 616, 618, and 620 W. 35th Street, a copy of which Right of Entry is attached hereto and incorporated herein as Exhibit A, is hereby approved.

Section 2:- That the City Manager and other proper officers of the City are authorized to execute the Right of Entry on behalf of the City and to do all things necessary and proper in furtherance thereof.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Right of Entry as he may deem appropriate, consistent with the Council's intent as expressed herein.

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

EXHIBIT A TO ORDINANCE

THIS RIGHT OF ENTRY AGREEMENT ("Agreement"), made this ____ day of _____, 2016, by and between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), Grantor, and **NEW HOPE CHURCH OF GOD IN CHRIST** ("New Hope"), Grantee.

WITNESSETH:

The City does hereby grant to New Hope permission to enter upon and use certain City-owned parcels of property numbered and designated as 616, 618, and 620 W. 35th Street ("Property") from May 26, 2016 through May 29, 2016 for the purpose of preparing for and hosting New Hope's annual event known as "Crusade Against Drugs and Violence" ("Event"), which Event includes the placement of a tent on the Property for such purpose.

This Agreement shall be subject to the following terms and conditions:

1. The Event term and schedule authorized by this Agreement shall be as follows:

May 26, 2016	9:00AM – 5:00PM	Set up and preparation
May 27, 2016	8:00AM – 7:30PM 7:30PM – 9:00PM 9:00PM – 11:00PM	Set up and preparation Event Clean up
May 28, 2016	9:00AM – 11:00AM 11:00AM – 9:00PM 9:00PM – 10:00PM	Set up and preparation Event Clean up
May 29, 2016	8:30AM – 9:30AM 9:30AM – 9:00PM 9:00PM – 10:00PM	Set up and preparation Event Clean up

2. The Right of Entry for the Event is subject to the City's right of revocation, at any time, and in its sole discretion.

3. The City shall have access to the Property at all times.

4. Prior to entering upon the Property, New Hope shall obtain all necessary permits and authorizations required for their intended use of the Property.

5. New Hope expressly agrees to indemnify, defend, and hold the City harmless from and against any and all claims, loss, damage, injury, and liability however caused, resulting from, arising out of, or in any way connected with New Hope's use of the Property.

6. New Hope, at its own cost and expense, shall take out and keep in full force and effect, liability insurance with a company authorized to do business in the Commonwealth of Virginia, insuring itself and naming the City as an additional party insured in the amount of at least $1,000,000.00 against liability for the death or injury to any person or persons, and in the amount of $100,000.00 for destruction of property from any and all claims, actions, and suits that may be asserted or brought against New Hope, or its successors, assigns, or against the City.

7. Upon the expiration of this Right of Entry, New Hope shall restore the property to its original condition, as it existed prior to entry, and shall repair any damage that results from New Hope's use of the Property.

8. This Agreement and the Right of Entry may not be assigned by New Hope Church to another entity.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials as of the day and year first above written.

(SIGNATURE PAGES FOLLOW)

NEW HOPE CHURCH OF GOD IN CHRIST

_____

By: _____

Title: _____

COMMONWEALTH OF VIRGINIA,
CITY OF _____, to wit:

I, _____, a Notary Public of the City of_____, Commonwealth of Virginia, do hereby certify that_____, _____ (Title) of New Hope Church of God in Christ, whose name is signed in the foregoing Right of Entry Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this___ day of _____. 2016.

_____

Notary Public

Registration No.:_____

CITY OF NORFOLK

By:_____ (SEAL)
City Manager

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA,
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public of the City of Norfolk, 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 name is signed in the foregoing Right of Entry Agreement, has acknowledged the same before me in my City and State aforesaid.

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

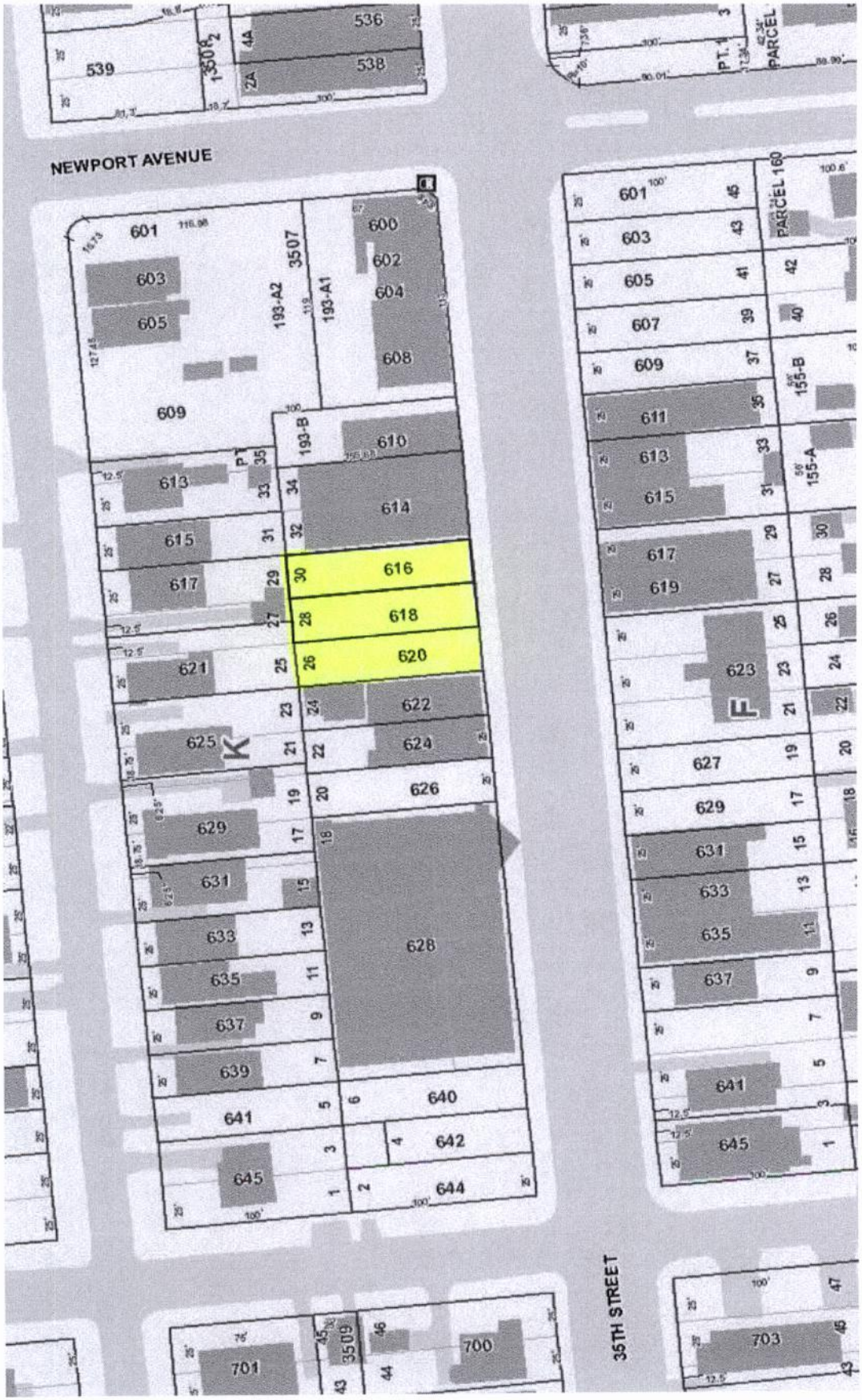
_____
Notary Public
Registration No.:_____

APPROVED AS TO CONTENT:

_____
Director of General Services

APPROVED AS TO FORM AND CORRECTNESS:

_____
Assistant City Attorney


NEWPORT AVENUE
35TH STREET
PARCEL 160
PARCEL
3507
3509
193-A2
193-A1
193-B
155-A
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539
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C: Director, Norfolk Public Library

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: Sonal Rastogi, Director
Norfolk Public Library

Subject: Universal Service Fund E-Rate Reimbursement Program award in the amount of $40,608.48

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-22**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to accept and appropriate the sum of $40,608.48 for the award of an E-Rate Reimbursement from the Schools and Libraries Division of the Universal Service Fund E-Rate Reimbursement of the Federal Communications Commission ("Reimbursement Program").

IV. **Analysis:**
In accordance with the Telecommunications Act of 1996, the Reimbursement Program has offered funds to the City of Norfolk (the "city") for the purpose of supporting and sustaining telecommunications and technology services for the Norfolk Public Library system.

V. **Financial Impact**
This grant award is for $40,608.48 and does not require a local match; therefore, there is no direct financial impact to the department's FY 2016 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.

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

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Libraries, the City Attorney's Office and the Department of Finance.

Supporting Material from the Department of Libraries:

- Ordinance

3/11/16 - bjl

Form and Correctness Approved:

By [signature] RAP
Office of the City Attorney

Contents Approved:

By Sonal Rastogi
DEPT. Norfolk Public Library

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.

$ 40,608.48 2275-13-7765-9154 SJH

Account

[signature] 3/29/16
Director of Finance Date

AMS pk

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING $40,608.48 FROM THE SCHOOLS AND LIBRARIES DIVISION OF THE UNIVERSAL SERVICE FUND E-RATE REIMBURSEMENT PROGRAM AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF $40,608.48 FOR TELECOMMUNICATIONS AND TECHNOLOGY SERVICES FOR THE NORFOLK PUBLIC LIBRARY.

\- - -

WHEREAS, The Schools and Libraries Division of Universal Service Funds E-Rate Reimbursement Program of the Federal Communications Commission (FCC) was established as part of the Telecommunications Act of 1996 with the expressed purpose of providing affordable access to telecommunications services for all eligible schools and libraries, and

WHEREAS, the Reimbursement Program has offered funds to the City for telecommunications and technology services for the Norfolk Public Library; and

WHEREAS, the City accepts the reimbursement funds from the Schools and Libraries division of Universal Service Funds E-Rate Reimbursement for the Norfolk Public Library; now, therefore,

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

Section 1:- That a $40,608.48 reimbursement award

from The Schools and Libraries Division of the Universal Service Fund E-Rate Reimbursement for telecommunications and technology services for the Norfolk Public Library is hereby accepted.

Section 2:- That $40,608.48 in reimbursement funds are hereby appropriated and authorized to be expended for telecommunications and technology services for the Norfolk Public Library, according to the terms and conditions of the E-Rate Reimbursement, if an when the funds are made available from The Schools and Libraries Division of the Universal Service E-Rate Program.

Section 3:- That the City Manager is hereby authorized to do all things necessary to receive the funds and implement the services.

Section 4:- That this ordinance shall be in effect from and after its adoption.

C: Director, Norfolk Public Library

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: Sonal Rastogi, Director
Norfolk Public Library

Subject: Donation from Hampton Roads Community Foundation

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-23**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to accept a donation in the amount of $9,170 from the Hampton Roads Community Foundation (the "Foundation") to support library services and programs.

IV. **Analysis**
The Foundation's mission is to make grants and donations that transform the quality of life and inspire philanthropy in Southeastern Virginia. The Foundation wishes to donate funds to the City of Norfolk (the "city") to be used to support library services and programs, with a preference for the purpose of additional books, reading or educational materials at the Pretlow Anchor Branch Library.

V. **Financial Impact**
This donation is for $9,170 and does not require a local match; therefore, there is no direct financial impact to the department's FY 2016 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.

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

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with City Attorney's Office and Department of Finance.

Supporting Material from Norfolk Public Library:

- Ordinance

3/16/16 - bjl

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Norfolk Public Library

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.

$ 9,170.00 2275-13-9155-9155
Account

_____ 3/29/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING WITH APPRECIATION THE DONATION OF $9,170 TO THE CITY FROM THE HAMPTON ROADS COMMUNITY FOUNDATION AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF $9,170 TO SUPPORT LIBRARY SERVICES AND PROGRAMS WITH A PREFERENCE FOR THE PURCHASE OF ADDITIONAL BOOKS, READING OR EDUCATIONAL MATERIALS AT THE PRETLOW ANCHOR BRANCH LIBRARY.

- - -

WHEREAS, the Hampton Roads Community Foundation wishes to donate funds to the City to be used to support library services and programs, with a preference for the purpose of additional books, reading or educational materials at the Pretlow Anchor Branch Library; and

WHEREAS, the City accepts the donation from the Hampton Roads Community Foundation with appreciation; now, therefore,

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

Section 1:- That a donation of $9,170 to the City from the Hampton Roads Community Foundation to be expended to support library services and programs, with a preference for the purchase of additional books, reading or educational materials for the Pretlow Anchor Branch Library is hereby accepted.

Section 2:- That $9,170 in donated funds are hereby appropriated and authorized to be expended to support

library services and programs, with a preference for the purchase of additional books, reading or educational materials for the Pretlow Branch.

Section 3:- That this ordinance shall be in effect from and after its adoption.

C: Dir., Department of Neighborhood Development

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: James A. Rogers, Director
Department of Neighborhood Development

Subject: Accepting Funds Donated in Support of the Norfolk Neighborhood Expo

Reviewed: _____
Peter H. Chapman, Deputy City Manager

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-24**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to accept funds donated to the City of Norfolk (the "city") to support the Norfolk Neighborhood Expo event (the "Expo"). The Expo is a signature event of the Department of Neighborhood Development ("Neighborhood Development").

IV. **Analysis**
The donation of funds to the city will be used to implement the Expo and further the mission of the event to celebrate the city's families, schools and neighborhoods and promote the importance of building safe, healthy and inclusive relationships: neighbor to neighbor, parent to teacher, and resident to community partner.

V. **Financial Impact**
The donation of funds will provide special revenue funding to Neighborhood Development for implementation of the event.

VI. **Environmental**
N/A

VII. **Community Outreach/Notification**
Public notification for this agenda item was conducted through the city's agenda notification process.

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

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Neighborhood Development, the Department of Finance and the City Attorney's office.

Supporting Material from the Department of Neighborhood Development

- Ordinance

3/17/16 - bjt

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____ KMP 3-23-16
DEPT. Neighborhood 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.

$ N/A 2275-22-9153 be
Account

_____ 3/29/16 AMS
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING FUNDS DONATED TO THE CITY TO SUPPORT THE NORFOLK NEIGHBORHOOD EXPO EVENT OF THE CITY'S DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF THE FUNDS FOR THE EVENT.

- - -

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

Section 1:- That funds donated to the City to support the Norfolk Neighborhood Expo event of the City's Neighborhood Development Department that celebrates Norfolk's families, schools and neighborhoods and promotes the importance of building safe, healthy and inclusive relationships are hereby accepted.

Section 2:- That the funds donated are hereby appropriated and authorized to be expended for the implementation of the Norfolk Neighborhood Expo event, if and when the funds are made available from the donors.

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

City of NORFOLK

C: Dir., Department of Neighborhood Development

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: James Rogers, Director, Department of Neighborhood Development

Subject: Accepting Funds Donated in Support of Shoot Hoops Not Guns

Reviewed: Peter H. Chapman, Deputy City Manager

Ward/Superward: Citywide

Approved: Marcus D. Jones, City Manager

Item Number: **R-25**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to accept funds donated to the City of Norfolk (the "city") to support the Shoot Hoops Not Guns event ("Shoot Hoops"). Shoot Hoops is a signature event of the Department of Neighborhood Development ("Neighborhood Development").

IV. **Analysis**
The donation of funds to the city will be used to implement Shoot Hoops and further the mission of the event to demystify the roles police officers play in Norfolk, bridge the divide between residents of Norfolk and local law enforcement, and spread awareness of gun violence in the community and teach prevention through positive alternatives.

V. **Financial Impact**
The donation of funds will provide special revenue funding to Neighborhood Development for the implementation of the event.

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 Neighborhood Development, the Department of Finance and the City Attorney's office.

Supporting Material from the Department of Neighborhood Development

- Ordinance

3/17/16 - bjt

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Neighborhood 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.

$ N/A 2275-22-9152
Account

_____ 3/29/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING FUNDS DONATED TO THE CITY TO SUPPORT THE SHOOT HOOPS NOT GUNS EVENT OF THE CITY'S DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF THE FUNDS FOR THE EVENT.

- - -

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

Section 1:- That the funds donated to the City to support the Shoot Hoops Not Guns event of the City's Neighborhood Development Department that demystifies the roles police officers play in Norfolk, spreads awareness of gun violence in the community and teaches prevention through positive alternatives are hereby accepted.

Section 2:- That the funds donated are hereby appropriated and authorized to be expended for the implementation of the Shoot Hoops Not Guns event if and when the funds are made available from the donors.

Section 3:- That this ordinance shall be in effect from and after its adoption.

C: Dir., Department of Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: David L. Ricks, Director
Department of Public Works

Subject: Amendment to the Comprehensive Agreement with S.B. Ballard Construction Company for Design and Construction of New Schools

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

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number:
R-26

I. **Recommendation:** Adopt ordinance

II. **Applicant:** City of Norfolk and S.B. Ballard Construction Company

III. **Description:**
The attached ordinance authorizes the City Manager to negotiate and execute an amendment to the Comprehensive Agreement between the City of Norfolk (the "City"), Norfolk Public Schools ("NPS") and S.B. Ballard Construction Company ("S.B. Ballard") for the purpose of adding the acquisition and installation of security camera systems for each of the five schools to the comprehensive agreement and to adjust the Project's budget to reflect the addition of the work.

IV. **Analysis**
The City and NPS desire to move funding from the NPS technology allowance to the Comprehensive Agreement for the acquisition and installation of security cameras for the five schools.

V. **Financial Impact**
Funds for the services that will be added to the Comprehensive Agreement have been included in the Capital Improvement Program.

VI. **Environmental**
N/A

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

Agenda Overview

Amendment to the Comprehensive Agreement with S.B. Ballard Construction Company for Design and Construction of New Schools

If approved, this agenda item authorizes the City Manager to negotiate and execute an amendment to the Comprehensive Agreement between the City of Norfolk, Norfolk Public Schools and S.B. Ballard Construction Company for the purpose of adding for the acquisition and installation of security camera systems for each of the five schools to the comprehensive agreement and to adjust the Project's budget to reflect such addition to the work. Approval is recommended.

Marcus, please approve text for Agenda Overview

☑ Approved

☐ Approved with changes

3/8/16 MPM:sb

Form and Correctness Approved:

By Martha P. McBann
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO AN AGREEMENT IN SUBSTANTIAL CONFORMITY WITH THE TERMS AND CONDITIONS OF AMENDMENT NO. 3 TO THE COMPREHENSIVE AGREEMENT BY AND BETWEEN THE CITY OF NORFOLK, NORFOLK PUBLIC SCHOOLS, AND S.B. BALLARD CONSTRUCTION COMPANY FOR THE DESIGN AND CONSTRUCTION OF FOUR SCHOOLS KNOWN AS CAMPOSTELLA K-8 SCHOOL, BROAD CREEK PK-5 SCHOOL, OCEAN VIEW PK-5 SCHOOL AND LARCHMONT PK-5 SCHOOL, WITH AN OPTION TO DESIGN AND BUILD CAMP ALLEN PK-5 SCHOOL TO RESTORE SECURITY CAMERA SYSTEMS, WHICH WERE REMOVED AS PART OF THE INFORMATION TECHNOLOGY FROM EACH OF THE SCHOOLS PURSUANT TO AMENDMENT NO. 2 TO THE COMPREHENSIVE AGREEMENT.

- - -

WHEREAS, the City of Norfolk (the "City") and Norfolk Public Schools ("NPS"), collectively the "Owner", and S.B. Ballard Construction Company ("Ballard") entered into a Comprehensive Agreement for the design and construction of four schools known as Campostella K-8 School, Broad Creek PK-5 School, Ocean View PK-5 School and Larchmont PK-5 School, with an option to design and build Camp Allen PK-5 School, pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002, Va. Code § 56-575.1, *et seq.* ("PPEA") and the Guidelines adopted by the City pursuant to the PPEA (the "Comprehensive Agreement"); and

WHEREAS, the Owner and Ballard desire to amend the Comprehensive Agreement to restore security camera systems, which were removed from information technology for each of the schools pursuant to Amendment No. 2 to the Comprehensive Agreement; and

WHEREAS, the Owner desires to adjust the Projects' Budget attached to the Comprehensive Agreement as Exhibit C to reflect such action; now therefore

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

Section 1:- That the City Manager is authorized to negotiate and execute an amendment to the Comprehensive Agreement for the design and construction of four schools known as Campostella K-8 School, Broad Creek PK-5 School, Ocean View PK-5 School, and Larchmont PK-5 School, with an option to design and build Camp Allen PK-5 School in substantial conformity with the terms and conditions of the amendment which is attached hereto as Exhibit A ("Amendment").

Section 2:- That the City Manager and the other proper officers of the City are authorized to execute the Amendment on behalf of the City and to do all things necessary and proper to carry out its terms.

Section 3:- That this ordinance is in effect from and after its adoption.

AMENDMENT NO. 3 TO THE COMPREHENSIVE AGREEMENT BETWEEN THE CITY OF NORFOLK, VIRGINIA, NORFOLK PUBLIC SCHOOLS AND S.B. BALLARD CONSTRUCTION COMPANY

THIS AMENDMENT NO. 3 dated the ___ day of March, 2016 amends the COMPREHENSIVE AGREEMENT dated December 18, 2014, between the CITY OF NORFOLK, VIRGINIA (the "City") AND NORFOLK PUBLIC SCHOOLS ("NPS") (collectively, "the Owner"), and S.B. Ballard Construction Company ("S.B. Ballard" or "the Design-Builder") (the "Comprehensive Agreement"). The Owner and the Design-Builder are referred to individually as a "Party" and collectively as "the Parties".

WITNESSETH:

For and in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the Design-Builder agree as follows:

1. GENERAL SCOPE OF WORK. The Security Camera Systems, which were removed from the Comprehensive Agreement as part of the information technology, pursuant to Amendment # 2, are hereby restored as part of the work under the Comprehensive Agreement and each of the Design-Build Contracts.

2. PROJECTS' BUDGET. The Projects' Budget attached to the Comprehensive Agreement as Exhibit C is hereby replaced by the Projects' Budget attached hereto as Exhibit 1.

3. OTHER TERMS AND CONDITIONS. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Amendment No 2 as of the day and year first above written.

CITY OF NORFOLK

By:_____
Marcus D. Jones, City Manager

Attest:

_____
City Clerk

Contents Approved:

_____
Director of Public Works

Approved as to Form and Correctness:

_____
Martha P. McGann, Deputy City Attorney

NORFOLK PUBLIC SCHOOLS

By:_____
Dr. Melinda J. Boone, Superintendent

S.B. BALLARD CONSTRUCTION COMPANY

By:_____
President

By:_____
Project Executive

EXHIBIT 1

Norfolk Public Schools – SBBCC PPEA Program
Comprehensive Agreement Budget:

Scope Description	Campostella	Broad Creek	Larchmont	Ocean View	Camp Allen	Totals
Remaining Design	$ 1,828,840	$ 1,035,363	$ 1,241,832	$ 1,207,986	$ 1,495,437	$ 6,809,458
Construction	$ 30,303,860	$ 19,570,995	$ 19,628,466	$ 19,224,059	$ 22,953,129	$ 111,680,509
Contingency	$ 550,000	$ 366,472	$ 813,466	$ 766,648	$ 729,807	$ 3,226,393
Fees	$ 1,592,582	$ 970,110	$ 991,518	$ 982,803	$ 1,265,193	$ 5,802,206
Allowance Reduction	$ (2,074,860)	$ (1,251,817)	$ (1,185,195)	$ (1,178,922)		$ (5,690,794)
Add Security Cameras	$ 129,572	$ 90,939	$ 90,939	$ 91,304	$ 119,862	$ 522,616
Total Value Per School	$ 32,329,994	$ 20,782,062	$ 21,581,026	$ 21,093,878	$ 26,563,428	$ 122,350,388

Total Cost Value For All Schools = $122,350,388

C: Director, Department of Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 10, 2016

From: David Ricks, Director of Public Works

Subject: Agreement for Use and Support of a Solid Waste Disposal System with the Southeastern Public Service Authority of Virginia

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

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number:
R-27

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Southeastern Public Service Authority

III. **Description:**
This agenda item is an ordinance to approve an Agreement for Use and Support of a Solid Waste Disposal System ("Agreement") with the Southeastern Public Service Authority ("SPSA") for the disposal of municipal solid waste after January 25, 2018; and authorizing the City Manager to enter into the agreement on behalf of the City. The initial term of the agreement will be fifteen (15) years.

IV. **Analysis**

- The current Agreement between SPSA and the nine Member Communities ("Members") that comprise SPSA will expire January 24, 2018.
- Under the current agreement, not all Members are paying the same tipping fee, nor been subject to the same set of rules. The post-2018 Agreement will be identical for all Members, and all Members will pay the same tipping fees.
- The post-2018 Agreement obligates Members to deliver all municipal solid waste ("MSW") controlled by that locality, subject to certain practical exclusions, to SPSA. SPSA is obligated to manage, operate and maintain their disposal system in accordance with their Strategic Operating Plan and applicable law.
- The vendor selected by the SPSA Board for post-2018 MSW disposal is Re-Power South ("RPS"). The total system-wide cost to SPSA Members is projected to be $56.52 per ton of MSW (in 2015 dollars).

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

- The post-2018 Agreement includes a mechanism that allows a SPSA Member to exit SPSA prior to the expiration of the fifteen year term, as long as it provides an eighteen month notice and pays its *pro rata* share of all outstanding SPSA financial obligations.

V. Financial Impact

Accepting the new Agreement and Strategic Operating Plan is estimated to decrease the tipping fees paid by the City of Norfolk (the "city") to SPSA from $8M per year to $4M per year, assuming 2015 MSW tonnages.

VI. Environmental

Assuming that SPSA's selected MSW disposal vendor is able to successfully construct and operate their planned facility in the City of Chesapeake, a positive impact to the environment is anticipated because the proposed disposal method recycles more of the MSW waste stream than the current processing method.

VII. Community Outreach/Notification

No community outreach or notification would be necessary prior to or after dealing with this ordinance, as residents will not see a change in the city's MSW collection practices. Public notification for this agenda item was conducted through the city's agenda notification process.

VIII. Board/Commission Action

SPSA's Board of Directors voted on March 4, 2016 to approve, as to form, the Agreement and the Strategic Operating Plan for post-2018 SPSA, and directed the Executive Director of SPSA to cause these documents to be disseminated to SPSA Members for review, consideration, execution, and approval on or before May 13, 2016.

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Public Works and the City Attorney's Office.

Supporting material from the City Attorney's Office:

- Ordinance
- Use and Support Agreement

05/05/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING THE TERMS AND CONDITIONS OF A CERTAIN AGREEMENT BETWEEN THE CITY OF NORFOLK AND THE SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA RELATING TO THE DISPOSAL OF NORFOLK'S SOLID WASTE ON AND AFTER JANUARY 25, 2018, AND AUTHORIZING THE CITY MANAGER TO ENTER INTO THE AGREEMENT ON BEHALF OF THE CITY.

- - -

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

Section 1:- That the terms and conditions of the "Agreement for Use and Support of a Solid Waste Disposal System" between the City of Norfolk and the Southeastern Public Service Authority of Virginia ("SPSA"), a copy of which is attached hereto, relating to the disposal of Norfolk's solid waste, be and the same hereby is approved.

Section 2:- That the City Manager is hereby authorized to enter into the "Agreement for Use and Support of a Solid Waste Disposal System" attached hereto on behalf of the City.

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

ATTACHMENT:
Agreement for Use and Support of
a Solid Waste Disposal System,
including Schedules I and II
(68 pages)

AGREEMENT FOR

USE AND SUPPORT OF A

SOLID WASTE DISPOSAL SYSTEM

This AGREEMENT FOR USE AND SUPPORT OF A SOLID WASTE DISPOSAL SYSTEM ("Agreement"), dated as of /_____/, is made by and between the SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA, hereinafter referred to as the "Authority", and the CITY/COUNTY OF _____, VIRGINIA, hereinafter referred to as the "Member Locality."

BACKGROUND:

WHEREAS, the Authority was created in 1976 by concurrent resolution of the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach and the Counties of Isle of Wight and Southampton (the "SPSA Members");* and

WHEREAS, between 1983 and 1984, the SPSA Members entered into individual Use and Support Agreements with the Authority (such agreements, as originally entered into and subsequently amended, are the "Legacy Use & Support Agreements") which provided, among other things, that each SPSA Member would deliver to the Authority substantially all of the disposable solid waste generated or collected by or within or under the control of such member; and

WHEREAS, all of the Legacy Use and Support Agreements will expire on January 24, 2018; and

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* NOTE: Definition of "SPSA Members" will need to be modified in final Use & Support Agreements if any current Members elect NOT to continue with SPSA in the "Post-2018" period.

WHEREAS, in advance of the expiration of the Legacy Use and Support Agreements, a series of comprehensive studies were performed and discussions conducted in order to assess regional solid waste management planning and related issues; and

WHEREAS, based on such studies, discussions and other factors, the SPSA Members have determined that a cooperative approach to the continuation of a regional system of municipal solid waste management, effected through the Authority, is in the best interests of the SPSA Members individually and the region in general; and

WHEREAS, accordingly, the SPSA Members have each agreed to enter into *identical new agreements* with the Authority to replace their respective Legacy Use & Support Agreements (collectively, the "Post-2018 Use & Support Agreements"), with effect as of the Agreement Effective Date (defined below), to provide for the SPSA Members' continuing delivery of municipal solid waste to the Authority and for the Authority's continuing management and disposal of such waste.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and other consideration herein contained, the Authority and the Member Locality agree that, effective as of (but not until) the Agreement Effective Date, the Legacy Use & Support Agreement between the parties originally dated _____, as amended, shall be and hereby is terminated and superseded in its entirety by the following terms and conditions set forth in this Agreement:

ARTICLE I

GENERAL INTENT AND PURPOSE

1. This Agreement is entered into between the Authority and the Member Locality in consideration of the "Background" factors stated above and pursuant to the authorization and mandate of the Virginia Water and Waste Authorities Act.

2. The Authority, in accordance with and subject to the terms, procedures, provisions and conditions hereinafter set out, desires to maintain and manage a safe, sanitary and environmentally sound solid waste disposal system and through such system accept, manage and dispose of the Member Locality's solid waste.

3. The Member Locality, in accordance with and subject to the terms, procedures, provisions and conditions hereinafter set out, desires to use and support the Authority's solid waste disposal system by providing for the disposal via such system of all municipal solid waste generated within, collected by or otherwise under the control of the Member Locality, and at rates set by the Board of Directors of the Authority from time to time in accordance with the Virginia Water and Waste Authorities Act.

ARTICLE II

DEFINITIONS

1. Agreement Effective Date – January 25, 2018.

2. Applicable Law – Collectively, the Virginia Water and Waste Authorities Act (as amended by Section 15.2-5102.1 of the Code of Virginia, sometimes referred to as the "Cosgrove Act"), the Virginia Waste Management Act, the Virginia Solid Waste Management Regulations (currently Chapter 81 of the Virginia Administrative Code), the Virginia Hazardous Waste

Management Regulations (currently Chapter 60 of the Virginia Administrative Code), the Resource Conservation and Recovery Act and any other federal, state or local law, rule, regulation, ordinance, permit, decree or other governmental requirement that applies to the services or obligations of either party under this Agreement, whether now or hereafter in effect, and each as may be amended from time to time.

3. Construction and Demolition Debris – Any Solid Waste that is produced or generated during or in connection with the construction, remodeling, repair and/or destruction or demolition of residential or commercial buildings, municipal buildings, roadways and other municipal structures, and other structures, including, but not limited to, lumber, wire, sheetrock, brick, shingles, glass, asphalt and concrete.

4. Delivery Point – Each facility and location owned or operated by the Authority, or by a third party that is subject to a contract with the Authority in respect of the Disposal System, that (a) possesses all permits required under Applicable Law to receive Solid Waste for disposal and (b) is designated by the Authority from time to time, in the Strategic Operating Plan, to accept Municipal Solid Waste from the Member Locality for further and final processing and disposal by or on behalf of the Authority (certain Delivery Points may sometimes be referred to as "transfer stations").

5. Designated Disposal Mechanism – The method (or methods) utilized by the Authority for final disposal of Municipal Solid Waste during the Term of this Agreement, as designated by the Board of Directors of the Authority from time to time in accordance with the express terms of and set forth in the Strategic Operating Plan. The Designated Disposal Mechanism may include, among other methods, (a) disposal of Municipal Solid Waste in the Regional Landfill in accordance with Applicable Law, (b) disposal of Municipal Solid Waste

through one or more facilities owned and/or operated by the Authority in accordance with Applicable Law and/or (c) disposal of Municipal Solid Waste pursuant to agreements between the Authority and one or more third parties.

6. Disaster Waste – Any Solid Waste and debris that (a) is generated as a result of or in connection with any significant storm or other severe weather occurrence (such as, but not limited to, hurricanes and tornadoes), natural or man-made disaster, war, act of terrorism or other similar occurrence or event, together with Solid Waste and debris generated in connection with clean-up and/or reconstruction activities resulting from any such occurrences or events, and (b) is of a quantity or type materially different from the Solid Waste normally generated by or within the Member Locality.

7. Disposal System – All facilities and/or locations owned or leased by the Authority, or with respect to which the Authority otherwise maintains a contractual/commercial relationship, for the collection, management, processing and/or disposal of Solid Waste, including, but not necessarily limited to, the Regional Landfill, all Delivery Points and the Designated Disposal Mechanism(s), together with all equipment and vehicles owned or leased by the Authority and used in connection with the collection, management, processing and/or disposal of Solid Waste.

8. Disposal System Fees – Rates, fees and other charges imposed by the Authority for the collection, management, processing and/or disposal of Solid Waste within the Disposal System, as determined by the Board of Directors of the Authority from time to time in accordance with the Virginia Water and Waste Authorities Act (certain Disposal System Fees may sometimes be referred to as "tipping fees").

9. Hazardous Waste – Any waste or other material that because of its quantity, concentration or physical, chemical or infectious characteristics may (a) cause or significantly

contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (b) pose a substantial present or potential hazard to human health, the Disposal System or the environment when treated, stored, transported, disposed of or otherwise managed. Hazardous Waste specifically includes, but is not necessarily limited to, any waste classified as "hazardous" under the Resource Conservation and Recovery Act, the Virginia Hazardous Waste Management Regulations or any other Applicable Law.

10. Household Hazardous Waste – Surplus or excess household products that contain corrosive, toxic, ignitable or reactive ingredients, including, but not necessarily limited to, cleaning products, old paints and paint-related products, pesticides, pool chemicals, drain cleaners and degreasers and other car-care products.

11. Municipal Solid Waste – All Solid Waste the collection of which is controlled by the Member Locality, including (a) Solid Waste that is generated anywhere within the SPSA Service Area and collected by the Member Locality, and (b) residential Solid Waste that is generated anywhere within the SPSA Service Area and collected by a third party for the benefit of (and under the direction and control of) the Member Locality. Municipal Solid Waste expressly excludes the following (collectively referred to herein as "Excluded Waste"): (i) Hazardous Waste and Household Hazardous Waste, (ii) Recyclable Waste, (iii) Yard Waste, (iv) Construction and Demolition Debris, (v) Disaster Waste, (vi) Solid Waste delivered by citizens of the Member Locality to publicly-accessible landfills or other facilities and disposed of at such facilities, (vii) any Solid Waste generated by school boards, authorities or other political entities of the Member Locality (except to the extent (but only to the extent) that any such Solid Waste is actually collected by the Member Locality itself), and (viii) Out-of-Area Waste.

12. Out-of-Area Waste – Any Solid Waste that is created or generated outside of, or originates outside of, the SPSA Service Area.

13. Recyclable Waste – Any Solid Waste that, pursuant to Virginia's Solid Waste Management Regulations (or other relevant Applicable Law) in effect from time to time, or pursuant to prevailing commercial practices in the waste management industry at the applicable time, (a) can be used or reused, modified for use or reuse, or prepared for beneficial use or reuse as an ingredient in an industrial process to make a product or as an effective substitute for a commercial product or (b) is otherwise processible (or reprocessible) to recover a usable product or is regenerable to another usable form, in each case, however, expressly excluding "residual" Solid Waste generated in connection with any such modification, preparation and/or processing for use, reuse, recovery and/or regeneration of other Solid Waste to the extent that such "residuals" cannot be categorized as "Recyclable Waste" in accordance with the foregoing.

14. Regional Landfill – The landfill located in the City of Suffolk, Virginia, developed, owned and operated by the Authority for the disposal of Solid Waste, or any additional or successor landfill developed, owned and operated by the Authority.

15. Solid Waste – Any garbage, refuse, sludge, debris and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or residential/community activities, excluding (a) solid or dissolved material in domestic sewage, (b) solid or dissolved material in irrigation return flows or in industrial discharges that are sources subject to a permit from the State Water Control Board and (c) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended; provided, the waste that constitutes Solid Waste hereunder (and/or is excluded from the definition of Solid Waste hereunder) shall be subject to change from

time to time during the Term of this Agreement to the extent necessary or appropriate under the Virginia Waste Management Act or other Applicable Law.

16. Special Termination Provision – The terms, conditions, requirements and procedures, collectively, pursuant to which the Member Locality may terminate this Agreement prior to the expiration of the Term (including, without limitation, payment by the Member Locality of the Early Termination Payment as calculated thereunder), in connection with its withdrawal from the Authority, as currently set forth in Schedule II attached hereto and as the same may hereafter be amended by the Board of Directors of the Authority in accordance with the express terms of Article VI.8 below, including, but not necessarily limited to, when and to the extent required to comply with Applicable Law.

17. "SPSA Service Area" – The geographic area covered by the political subdivision boundaries of the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach, Virginia and the counties of Isle of Wight and Southampton, Virginia.

18. Strategic Operating Plan – That certain plan adopted by the Board of Directors of the Authority and attached hereto as Schedule I, which sets forth certain operational, maintenance, administrative and other responsibilities of the Authority with respect to the Disposal System and the performance of related services by the Authority, as the same may from time to time be amended, supplemented or modified by approval of at least seventy-five percent (75%) of the Board of Directors of the Authority.

19. Term – The duration of this Agreement, as set forth in Article III hereof.

20. Yard Waste – Any Solid Waste defined as "yard waste" under the Virginia Waste Management Act (or other relevant Applicable Law) in effect from time to time, currently

consisting of decomposable waste materials generated by yard and lawn care and including leaves, grass trimmings, brush, wood chips and shrub and tree trimmings, excluding roots, limbs or stumps that exceed the limitation(s) in length and/or diameter specified by the Authority in writing from time to time.

ARTICLE III

TERM OF AGREEMENT; TERMINATION

1. Term.

(a) This Agreement shall become effective as of the Agreement Effective Date and shall continue thereafter for an initial term ending at midnight on the later to occur of (x) June 30, 2033 or (y) the last day of the initial term of any waste disposal agreement with a third-party vendor serving as the primary/principal Designated Disposal Mechanism for the Authority (the "Initial Term"), unless earlier terminated (i) by the Member Locality in accordance with the provisions of Section 2 below or (ii) in accordance with Section 3 below.

(b) Following the Initial Term, subject to the Member Locality's continuing termination rights under Section 2 below and to the termination provisions of Section 3 below, this Agreement shall automatically renew for successive additional terms of fifteen (15) years each (each, a "Renewal Term"), unless the Member Locality provides the Authority with written notice of its intent not to renew this Agreement at least eighteen (18) months prior to the expiration of the Initial Term or Renewal Term then in effect. For the avoidance of doubt, the Authority acknowledges and agrees that if the Member Locality provides timely notice of its intent not to renew this Agreement in accordance with this Section 1(b), then (i) this Agreement shall terminate effective as of the last day of the Initial Term or Renewal Term then in effect and (ii) such termination shall not be subject to the Special Termination Provision or require payment by the

Member Locality of any Early Termination Payment (or any other resulting penalty, obligation or liability); rather, the Early Termination Payment shall be payable in accordance with the Special Termination Provision only in the event that the Member Locality terminates this Agreement prior to the expiration of the Term, as further described in Section 2 below and Schedule II attached hereto.

(c) The Initial Term and any/all Renewal Terms are referred to herein collectively as the "Term" of this Agreement.

(d) To avoid any doubt, the parties acknowledge and agree that (i) this Agreement, and the parties' respective rights, obligations and responsibilities hereunder, shall commence and otherwise become effective only as of (and not until) the Agreement Effective Date, and (ii) until the Agreement Effective Date, the parties' existing Legacy Use & Support Agreement shall remain in effect and govern the parties' respective rights, responsibilities and obligations thereunder.

2. Early Termination. The Member Locality may terminate this Agreement prior to the expiration of the Term only in accordance with the Special Termination Provision, the current version of which is attached hereto as Schedule II.

3. Termination on Dissolution. This Agreement shall terminate contemporaneously with the dissolution of the Authority in accordance with the provisions of the Water and Waste Authorities Act (or other relevant Applicable Law).

4. Notification. The Authority shall notify the Member Locality (and all other SPSA Members) immediately following receipt by the Authority of (a) written notice by any SPSA Member of its election not to renew this Agreement under Section 1(b) above and/or (b) any

Termination Notice delivered by any SPSA Member under and in accordance with the Special Termination Provision.

ARTICLE IV

AUTHORITY OBLIGATIONS

1. Strategic Operating Plan. The Authority shall manage, operate and maintain the Disposal System in accordance with the Strategic Operating Plan in effect from time to time. As described therein, the Strategic Operating Plan shall be reviewed by the Board of Directors of the Authority on at least an annual basis in connection with the Board's review and consideration of the annual operating budget of the Authority, and at such other times as the Board may deem necessary or appropriate. If deemed necessary or appropriate after any such review, the Strategic Operating Plan may be updated or otherwise modified by a resolution approved by at least seventy-five percent (75%) of the Board of Directors of the Authority, and any such updated/modified Strategic Operating Plan shall be appended to this Agreement as new Schedule I hereto in complete replacement of any and all prior Strategic Operating Plans. Notwithstanding the foregoing or anything to the contrary herein, in the event of a conflict between the terms and conditions of this Agreement and the terms and conditions of the Strategic Operating Plan, the terms and conditions of this Agreement (considered without reference to the Strategic Operating Plan) shall control with respect to the subject matter hereof.

2. Management, Operation and Maintenance. Subject to any additional, more specific, requirements, exceptions and limitations set forth in this Agreement (including but not limited to any such requirements, exceptions and limitations set forth in the Strategic Operating Plan), the Authority shall:

(a) Continually manage, operate and maintain the Disposal System in accordance with the requirements of this Agreement, all Applicable Law and any other contracts or agreements to which the Authority is a party with respect to the Disposal System;

(b) Receive and accept all Municipal Solid Waste at Delivery Points within the Disposal System;

(c) Directly or indirectly provide for all transportation vehicles and equipment required to transport Municipal Solid Waste from each Delivery Point to the Designated Disposal Mechanism(s) then being utilized by the Authority;

(d) Manage and otherwise effect the disposal of all Municipal Solid Waste via the Designated Disposal Mechanism(s) then being utilized by the Authority;

(e) Perform all applicable corrective, preventive and routine maintenance to the Disposal System, including repairs and replacements, designed to maintain the Disposal System in accordance with customary standards then prevailing in the waste management industry, including by remediating all property damaged or otherwise adversely impacted as a result of the services provided by the Authority hereunder, such that the Disposal System is maintained in good physical and operating condition consistent with customary industry practices and Applicable Law;

(f) Use all reasonable efforts to minimize service disruptions, Member Locality impacts and other inconveniences due to the availability of Delivery Points, the management, operation, maintenance, repair or replacement activities of the Authority with respect to the Disposal System, or any combination of such foregoing activities;

(g) Use all reasonable efforts to enforce, in accordance with their respective terms, all contracts, agreements and other arrangements to which the Authority is a party in

connection with its management, operation and maintenance of the Disposal System, including but not limited to the Post-2018 Use & Support Agreements with the other SPSA Members and all contracts with respect to the Designated Disposal Mechanism(s) then utilized by the Authority;

(h) Provide qualified management, supervision and personnel necessary to perform the Authority's services hereunder;

(i) Maintain a sufficient number of personnel on hand to properly operate the Delivery Points, Regional Landfill, transportation system, and Authority administration at a level appropriate for the Disposal System, as determined by the Executive Staff of the Authority in accordance with and otherwise consistent with the Authority's annual budget approved by the Board of Directors each fiscal year;

(j) Provide the Member Locality, by the end of February in each year during the Term, with a good faith written estimate/projection of all applicable Disposal System Fees for the Authority's next fiscal year;

(k) Develop, implement and maintain comprehensive policies and procedures regarding Hazardous Waste, including procedures designed to exclude Hazardous Waste from the Disposal System, in each case in accordance with all Applicable Law. Such policies and procedures may be set forth more particularly in the Strategic Operating Plan and/or in manuals or other documentation that the Authority is required to maintain in effect pursuant to the Strategic Operating Plan;

(l) Not facilitate the importation of Out-of-Area Waste for (i) disposal in the Regional Landfill and/or (ii) handling/processing/disposal at or by any other Delivery Point included within the Disposal System; and

(m) Not accept (and shall not be required to accept) any Excluded Waste (including but not limited to Disaster Waste) anywhere within the Disposal System, in each case except (i) in accordance with policies and procedures set forth in the Strategic Operating Plan (for example, policies and procedures regarding the acceptance of Household Hazardous Waste) or (ii) as otherwise expressly authorized and approved by the Board of Directors of the Authority pursuant to an amendment to this Agreement duly adopted in accordance with the express terms of Article VI. 8 below.

Unless otherwise specified in this Agreement, the Authority shall be solely responsible for all means, methods, techniques, procedures and safety programs or any combination of the foregoing in connection with the performance of the Authority's services hereunder, including in the event any such services are subcontracted or otherwise delegated to one or more third parties.

3. Delivery Points. Without limiting the generality of the foregoing obligations of the Authority under Section 2 above, the Authority agrees that the Member Locality shall have the right to deliver or cause the delivery of its Municipal Solid Waste to any or all Delivery Points included within the Disposal System, subject at all times to (a) available capacity at any such Delivery Point designated by the Member Locality and (b) the right of the Authority to designate certain Delivery Points for special categories of Municipal Solid Waste; provided, notwithstanding anything in the foregoing or anywhere else in this Agreement to the contrary, the Authority shall at all times during the Term of this Agreement ensure that the Member Locality has access to at least one Delivery Point included within the Disposal System.

4. Compliance with Law. The Authority shall perform all services under this Agreement, including, without limitation, operation and maintenance of the Disposal System, in accordance with all Applicable Law. Furthermore, the Authority shall use best efforts to ensure

that all subcontractors performing services relative to the Disposal System comply with all Applicable Law in the performance of such services.

5. Permits and Insurance. The Authority shall, at its sole cost and expense, obtain and maintain in effect at all times during the Term: (i) all licenses, permits and insurance that are necessary or appropriate in connection with the services provided hereunder in accordance with Applicable Law and otherwise consistent with industry standards; and (ii) at a minimum, the following insurance coverage:

(a) comprehensive general liability primary insurance having a minimum combined single limit of liability of one million dollars ($1,000,000) per occurrence;

(b) comprehensive automobile liability primary insurance applicable to all owned, hired and non-owned vehicles having a minimum combined single limit of liability of one million dollars ($1,000,000) per occurrence;

(c) environmental impact liability insurance of five million dollars ($5,000,000) per occurrence; and

(d) excess liability insurance having a minimum limit of liability of ten million dollars ($10,000,000) per occurrence.

The Authority shall, at least annually, review its existing licenses, permits and insurance and, as and when necessary, update and/or modify such licenses, permits and insurance to ensure that they are in compliance with all Applicable Law and otherwise consistent with reasonable industry standards.

6. Ancillary Waste Disposal Services.

(a) In addition to the arrangement contemplated under this Agreement pursuant to which the Authority shall accept, manage and effect the ultimate disposal of all Municipal Solid

Waste of the Member Locality, the Authority may from time to time provide the Member Locality with additional/"ancillary" Solid Waste management and disposal services (collectively, "Ancillary Waste Disposal Services"), which may include (by way of example and not necessarily limitation) management and/or disposal of Household Hazardous Waste, vehicle tires (*i.e.*, tire-shredding services), Yard Waste and/or sludge.

(b) The Authority will provide Ancillary Waste Disposal Services, if at all, pursuant to a separate agreement with the Member Locality and/or pursuant to a "global" arrangement applicable to all SPSA Members and set forth in the Strategic Operating Plan; provided, however, that (i) all such Ancillary Waste Disposal Services and all applicable arrangement(s) with the Member Locality with respect to such Ancillary Waste Disposal Services shall be subject to prior approval of the Board of Directors of the Authority, and (ii) unless otherwise expressly authorized and approved by the Board of Directors of the Authority, (A) the fees charged by the Authority to the Member Locality for any such Ancillary Waste Disposal Services shall, at a minimum, be sufficient/adequate to cover the costs incurred by the Authority in providing such services and (B) all Ancillary Waste Disposal Services shall be available at identical fees to all SPSA Members that at such time are parties to a Post-2018 Use & Support Agreement.

(c) Each year, in connection with its annual presentation to the Board of Directors of the Authority of its annual operating budget, the Authority shall prepare and provide a separate report that (i) specifically identifies all Ancillary Waste Disposal Services provided to each SPSA Member (including, if applicable, to the Member Locality) and (ii) includes appropriate/relevant financial data to demonstrate to the Board of Directors whether or not the fees

charged by the Authority for such Ancillary Waste Disposal Services actually covered the costs incurred by the Authority in providing such services to each applicable SPSA Member.

(d) Notwithstanding anything herein to the contrary, and for the avoidance of doubt, the Authority acknowledges and agrees that its "core" obligation to accept, manage and dispose of the Municipal Solid Waste of the Member Locality (and all other SPSA Members) (i) does not and shall not constitute Ancillary Waste Disposal Services under this Section 6 and (ii) shall be performed by the Authority for the benefit of the Member Locality (and all other SPSA Members) only under and in accordance with their respective Post-2018 Use & Support Agreements and not pursuant to any other contract, agreement or arrangement.

ARTICLE V

MEMBER LOCALITY OBLIGATIONS

1. Delivery of Municipal Waste; Related Obligations.

(a) The Member Locality shall be required to, and shall, deliver or cause to be delivered to the Authority one hundred percent (100%) of its Municipal Solid Waste.

(b) In connection therewith, the Member Locality shall strictly comply with all rules or regulations of the Authority in effect from time to time during the Term of this Agreement, and all instructions and directions of the Authority's agents and employees, in each case that are (i) required under Applicable Law, (ii) set forth in the Strategic Operating Plan and not otherwise inconsistent with the terms and conditions of this Agreement or (iii) are otherwise necessary for the lawful, safe and effective use and operation of the Disposal System and are communicated to the Member Locality in writing from time to time (including but not limited to all rules and regulations associated with the delivery of Municipal Solid Waste to applicable Delivery Points).

(c) On an annual basis, as promptly as practicable following receipt of any written request from the Authority (which the Authority shall endeavor to provide in advance of the Member Locality's deliberations regarding its annual budget), the Member Locality shall provide the Authority with a good faith, written estimate of the aggregate tonnage of Municipal Solid Waste that the Member Locality expects to deliver or otherwise cause to be delivered to the Disposal System during the Member Locality's next fiscal year. (The Authority understands that such estimates provided by the Member Locality cannot and do not constitute a guarantee, and that the actual amount of Municipal Solid Waste delivered by the Member Locality in a given year could vary materially from the corresponding good faith estimate thereof.) In addition, the Member Locality shall provide the Authority with as much prior notice as is reasonably practicable under the circumstances of any material changes (whether pending or possible) in the Municipal Solid Waste delivered (or caused to be delivered) by the Member Locality to the Authority hereunder, including, by way of example and not limitation, adoption of or changes in any recycling programs and/or changes in residential waste collection practices.

2. Payment of Disposal System Fees.

(a) The Member Locality shall be required to, and shall, pay to the Authority the Disposal System Fees set forth in fee schedules adopted by the Authority from time to time, in accordance with the Virginia Water and Waste Authorities Act or other Applicable Law, in respect of all Solid Waste delivered to the Authority by the Member Locality and, where applicable, by individual residents of the Member Locality. The Authority may establish individual fee schedules for various types of users and grades or categories of Solid Waste that require special handling or methods of disposal; provided, however, consistent with the requirements under the Articles of Incorporation of the Authority, (i) the Disposal System Fee schedules so adopted by the Authority

shall at all times be identical with respect to all SPSA Members that have entered into a Post-2018 Use & Support Agreement, including the Member Locality, for so long as such SPSA Members (including the Member Locality) remain a party to a Post-2018 Use & Support Agreement, and (ii) with respect to all SPSA Members that have entered into and remain parties to a Post-2018 Use & Support Agreement, the Disposal System Fee schedules so adopted by the Authority shall in no event be based upon or distinguish between any such SPSA Members on the basis of the Delivery Point used by any such SPSA Member or the distance of any such SPSA Member from any such Delivery Point.

(b) The Authority shall invoice the Member Locality for all Disposal System Fees on a monthly basis, within ten (10) business days after the end of each month during the Term. Invoices will (i) reflect the total Municipal Solid Waste (or other applicable Solid Waste) tonnage received by the Authority from the Member Locality during the billing period, together with such other relevant information as the Authority and the Member Locality may deem appropriate, and (ii) include the Authority's calculation of the Disposal System Fees payable by the Member Locality for such billing period. Invoices shall be due and payable, without offset, on or before (and in any event no later than) the last business day of the month immediately following the month covered by the invoice, except to the extent any such invoices are then subject to a good faith dispute between the parties. Any Disposal System Fees not timely paid will be subject to "late payment" penalties and/or interest in accordance with the policies and procedures of the Authority that are then in effect and set forth in the Strategic Operating Plan and/or the Disposal System Fee schedule.

(c) The Member Locality shall have the right, no more often than twice per calendar year during the Term of this Agreement, on no less than thirty (30) days' prior written

notice, to inspect (or to appoint an independent accounting firm to inspect) any and all books and records of the Authority relating to this Agreement for any legitimate, bona fide business purpose, including, but not necessarily limited to, auditing the accuracy of the Authority's invoices and calculations of Disposal System Fees payable hereunder; provided, the Member Locality may not compensate any accounting firm hired for such inspection or audit on a contingency basis. Any audits and inspections pursuant to this Agreement shall be conducted during normal business hours solely at the Authority's offices, with minimal interference to the Authority's normal business operations. In the event any such audit reveals that the Authority has overcharged the Member Locality during the period audited, then (i) the Authority shall credit the amount that the Member Locality overpaid to the next invoice submitted by the Authority to the Member Locality; and (ii) if the Authority has overcharged the Member Locality by more than five percent (5%), in the aggregate, for the period audited, then (x) the amount credited to the Member Locality shall also include interest at a rate of three percent (3%) per annum, between the date of the overpayment and the date the overpayment is so credited to the Member Locality, and (y) the Authority shall reimburse the Member Locality for the reasonable costs and expenses of any such audit. Except to the extent otherwise expressly provided in the foregoing, the costs and expenses of any such audit will be borne entirely by the Member Locality.

3. Title to Waste. The Member Locality hereby assigns and transfers to the Authority, and the Authority hereby accepts, all right, title and interest in and to all Municipal Solid Waste (and other applicable Solid Waste, expressly excluding Hazardous Waste) delivered to and accepted by the Authority pursuant to this Agreement, and such ownership shall vest in the Authority when recorded by the Authority's weighing scales or other measuring devices at a Delivery Point; provided, however, that inoperability of the Authority's weighing scales or

measuring devices shall not alter the transfer of title of Municipal Solid Waste (or other applicable Solid Waste) to the Authority if it is otherwise accepted by the Authority. The Member Locality further agrees to join with the Authority in defense of any adverse claim to ownership of Municipal Solid Waste (or other applicable Solid Waste).

4. Hazardous Waste. The Member Locality shall not knowingly deliver or cause to be delivered to the Authority, or otherwise knowingly cause or allow to enter into the Disposal System, any Hazardous Waste. The Member Locality further agrees that in no event and under no circumstances shall title to any Hazardous Waste pass to the Authority. Upon receipt into the Disposal System of any Hazardous Waste from the Member Locality, the Authority shall provide the Member Locality with all reasonably available evidence identifying the Member Locality as the source of such Hazardous Waste. Thereafter, the Member Locality, with the reasonable assistance and cooperation of the Authority in loading the waste, shall expeditiously and within a reasonable period of time under the circumstances remove or arrange for removal of the Hazardous Waste from the Disposal System at no expense to the Authority. Notwithstanding the foregoing, (a) if the Authority in its reasonable discretion deems it necessary or appropriate for the protection of property, human health or the environment, or if the Member Locality fails to promptly remove Hazardous Waste in accordance with the foregoing requirements, then the Authority, acting through itself or others, may (i) remove and dispose of the Hazardous Waste and (ii) charge the Member Locality the reasonable costs and expenses paid or otherwise incurred by the Authority in connection with the removal and disposal of such waste, which such costs and expenses shall be added to the Member Locality's invoice for the month(s) in which they are incurred; and (b) the Member Locality shall have the right to dispute that it is the source of the Hazardous Waste (or that Solid Waste designated by the Authority as Hazardous Waste does in fact constitute Hazardous

Waste hereunder), and any action undertaken by the Member Locality (or the Authority) in removing or arranging for the removal of Solid Waste designated by the Authority as Hazardous Waste shall not constitute a waiver of such rights.

5. Other Excluded Waste. In addition to and not in limitation of the restrictions on Hazardous Waste set forth in the foregoing Section 4, the Member Locality shall not knowingly deliver or cause to be delivered to the Authority, or otherwise knowingly cause or allow to enter into the Disposal System, any Excluded Waste, in each case except (a) in accordance with the policies and procedures set forth in the Strategic Operating Plan (for example, policies and procedures regarding the delivery of Household Hazardous Waste) or (b) as otherwise expressly authorized and approved by the Board of Directors of the Authority pursuant to an amendment to this Agreement duly adopted in accordance with the express terms of Article VI.8 below.

6. Special Covenant. Under this Agreement, the Member Locality has committed to deliver or cause to be delivered to the Authority all of its Municipal Solid Waste, which in accordance with the definition set forth above consists of all Solid Waste the collection of which is controlled by the Member Locality. In light of this commitment and the corresponding obligations of the Authority hereunder, and the impact on the other SPSA Members of the Member Locality's failure to fulfill such commitment, the Member Locality agrees that for so long as this Agreement remains in effect the Member Locality shall not relinquish control of the collection of residential Solid Waste.

ARTICLE VI

GENERAL

1. Entire Agreement. As of, and from and after, the Agreement Effective Date, the provisions of this Agreement, including the Strategic Operating Plan and any other schedules,

appendices or exhibits hereto, do and shall constitute the entire agreement between the parties with respect to the subject matter hereof and supersede any and all prior or contemporaneous negotiations, understandings or agreements with respect to the subject matter hereof. (Without limiting the generality of the foregoing, the parties hereby acknowledge and agree that, as of the Agreement Effective Date, (a) the Legacy Use & Support Agreement between the parties shall terminate and be of no further force or effect and (b) this Agreement shall supersede the Legacy Use & Support Agreement between the parties in its entirety.) However, nothing in this Agreement shall be construed to limit the right of the parties to enter into agreements, contracts or arrangements with respect to the provision and use of Ancillary Waste Disposal Services, the use, maintenance and/or operation of Disposal System facilities or other authorized activities; provided, however, such other agreements, contracts and arrangements shall (i) where related to the provision of Ancillary Waste Disposal Services be subject to the terms of Section 6 under Article IV above, and (ii) in any event be subject to approval by the Board of Directors of the Authority in accordance with applicable Law. It is agreed that this Agreement has been jointly negotiated and prepared by both parties, and this Agreement shall not be construed against either party by reason of that party's participation in the drafting or preparation of this instrument.

2. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

3. Dispute Resolution. Any dispute, claim or controversy arising under, out of, in connection with or relating to this Agreement, or the transactions contemplated hereby, or any course of conduct, course of dealing, or actions of any party relating to this Agreement, including any claim based on or arising from an alleged tort (each, a "Dispute"), shall be resolved exclusively in the following manner:

(a) Pre-Mediation Procedures. Prior to resorting to litigation in respect of any Dispute hereunder, each party shall cause one or more senior members of its executive staff (*e.g.*, City/County Manager or Assistant City/County Manager, in the case of the Member Locality, and Executive Director or Deputy Executive Director, in the case of the Authority) to first meet with senior members of the executive staff the other party and attempt to resolve the Dispute by mutual agreement. The initial meeting under this Section 3(a) shall be held within ten (10) days after the request by either party for any such meeting.

(b) Mediation.

(i) If the Dispute is not resolved by the parties under Section 3(a) above, either party may submit to the other party a written request for non-binding mediation of such Dispute. Within fifteen (15) days after such written request is made, the parties shall attempt to agree on a single mediator. If the parties cannot agree on a mediator within such period of time, then the mediator shall be jointly designated by similarly-situated outside advisors of the parties (for instance, the respective accounting firms or law firms then providing services to the respective parties).

(ii) Mediation shall take place at the place or places and at the time or times set by the mediator, but shall not be held in public. The rules of procedure, evidence and discovery with respect to any mediation shall be as directed by the mediator. Neither party may be represented at hearings before the mediator by an attorney, but each party may consult with counsel outside the hearing room and counsel may assist in preparing any written materials to be used in the mediation, including statements and briefs.

(iii) The mediator shall facilitate communications between the parties and assist them in attempting to reach a mutually acceptable resolution of the Dispute by agreement. The mediator shall make no binding determinations, findings, or decisions.

(iv) The mediator's expenses shall be borne equally by the parties.

(v) At any point in the mediation process after the initial meeting with the mediator, either party may declare in writing that an impasse exists, and thereafter either party may proceed to litigation in accordance with the terms of Section 3(c) below.

(c) Litigation. Any Dispute not resolved in accordance with the foregoing provisions shall be resolved by a United States federal court or Virginia state court sitting in the City of Norfolk in the Commonwealth of Virginia (the "Chosen Courts"), and each party hereby irrevocably (i) consents and submits to the exclusive jurisdiction of the Chosen Courts for any suit, action or proceeding initiated in respect of such Dispute, (ii) waives any objection to the laying of venue of any such suit, action or proceeding brought in the Chosen Courts, including any claim that any such suit, action or proceeding brought in the Chosen Courts has been brought in an inconvenient forum, and waives the right to raise any such objection, and (iii) waives all right to trial by jury in any suit, action or proceeding initiated in respect of such Dispute.

(d) Equitable Relief. The parties specifically and expressly acknowledge and agree that the breach by either party of certain provisions of this Agreement will cause the other party irreparable harm. Therefore, in addition to but not in limitation of any other remedy to which the non-breaching party may be entitled, if either party breaches or threatens to breach any such provisions hereof, the other party shall be entitled to obtain equitable relief for any such breach or threatened breach so that the party that is breaching, has breached or has threatened to breach this Agreement shall be required to cease and desist immediately from such activities (it being agreed

that damages alone would be inadequate to compensate the other party and would be an inadequate remedy in such event).

4. Notice. Any notice or other communication required or permitted to be given under this Agreement shall be given in writing and delivered in person, sent via confirmed facsimile or delivered by nationally-recognized courier service, properly addressed and stamped with the required postage, to the applicable party at its address specified below and shall be deemed effective upon receipt of confirmation of delivery (or attempted delivery that is refused by the recipient). Either party may from time to time change the individual designated to receive notices or its address by giving the other party notice of the change in accordance with this Section 4. The current addresses for the parties are as follows:

The Authority	**Member Locality**
Southeastern Public Service Authority of Virginia	
Attn: Executive Director	
723 Woodlake Drive	Attn: _____
Chesapeake, Virginia 23320	
Fax: 757-965-9528	Fax: _____

5. No Waivers. The failure of either party to object to a breach or default by the other party under this Agreement shall not constitute a waiver of that party's rights with respect to any subsequent breach or default as to the same or any other obligation or condition of this Agreement. No provisions of this Agreement shall be deemed waived without express written consent of waiver.

6. Severability. If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable in any respect, the parties shall make good faith efforts to modify this Agreement in a manner that will implement the intent of the parties as embodied herein. Any

resulting modification and the remaining provisions of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

7. Assignment. Neither party may assign this Agreement without the prior written consent of the other party; provided, a permitted assignment shall not relieve a party of its obligations under this Agreement unless this Agreement (and all of such obligations) shall have been assumed by the assignee in a writing satisfactory to the other party in its sole discretion. Nothing in the foregoing shall limit or serve as a limitation on the Authority's right to subcontract and/or delegate its obligations hereunder in accordance with the Strategic Operating Plan and/or Applicable Law.

8. Amendment. Any proposed amendment, modification, repeal or alteration, in whole or in part, of any material provision of this Agreement, including but not necessarily limited to provisions regarding the Designated Disposal Mechanism, Excluded Waste and the Special Termination Provision (each, a "Proposed Amendment"), shall be presented in writing for the first time at a regular meeting of the Board of Directors of the Authority. Any such Proposed Amendment may be considered and modified/supplemented at the meeting during which such Proposed Amendment was first presented, but a Proposed Amendment may not (and shall not) be acted upon by the Board of Directors until, at the earliest, the next regular meeting of the Board of Directors. In addition to and not in limitation of the foregoing notice requirements, no amendment, modification, repeal or alteration, in whole or in part, of this Agreement, or any provision hereof, shall be valid unless such amendment or modification (a) is set forth in writing and executed by both the Authority and the Member Locality and (b) has been authorized by a resolution approved by at least seventy-five percent (75%) of the Board of Directors of the Authority.

9. No Survival. All rights and obligations of the parties under this Agreement shall be extinguished and terminated in their entirety upon any termination or expiration of this Agreement in accordance with the terms hereof; provided, however, that termination or expiration of this Agreement shall not limit or prohibit either party from pursuing any remedies available to it at the time of or in connection with any such termination or expiration.

10. Acknowledgement. This Agreement reflects an arm's-length transaction. Nothing herein shall create a fiduciary, partnership, joint venture or other agency relationship between the parties. This Agreement is not entered into for the benefit of, nor are any rights granted to, any third party except as may be expressly provided for herein (if at all). Neither party may withhold or offset any amount due or owed to the other party under this Agreement against any amount due from (or allegedly due from) the other party, whether under this Agreement or otherwise.

11. Force Majeure. Failure of either party to perform under this Agreement, including but not limited to failure of the Member Locality to deliver or cause to be delivered Municipal Solid Waste to the Authority and/or inability of the Authority to accept Municipal Solid Waste at any or all Delivery Points, but expressly excluding payment of monies owed hereunder, by reason of Force Majeure shall not constitute default under or be cause for termination of this Agreement. However, the party so failing to perform by reason of Force Majeure shall notify the other party of the failure as promptly as practicable under the circumstances, including the reasons therefor, and shall use reasonable best efforts to correct such failure to perform as promptly as practicable under the circumstances. "Force Majeure" shall mean any cause beyond the reasonable control of the party whose performance is affected hereunder, including but not limited to acts of God, war, terrorism, riot, fire, explosion, storm, flood, labor disputes, inability to obtain or use fuel, power or raw materials, shortage or failure of the usual means of transportation, injunction, accident or

breakdown of machinery or equipment, or failure of performance by any Designated Disposal Mechanism that is not owned and operated by (or otherwise under the direct control of) the Authority, whether or not any such occurrence is caused by the negligence, active or otherwise, of the affected party, its agents and/or employees.

12. Counterparts. This Agreement may be executed in multiple counterparts and by each party on a separate counterpart, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument.

[Remainder of page intentionally left blank – signature page(s) follow]

IN WITNESS WHEREOF, the Authority and the Member Locality have caused this agreement to be executed on their behalf and their seals to be affixed and attested by officials thereunto duly authorized, all as of the day and year first above written.

ATTEST:

SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA

_____

By:_____

ATTEST:

CITY/COUNTY OF:_____

_____

By:_____

SCHEDULE I

STRATEGIC OPERATING PLAN

[TO BE ADDED]

SCHEDULE II

SPECIAL TERMINATION PROVISION

1. Termination Notice. If the Member Locality desires to terminate this Agreement prior to the expiration of the Term, the Member Locality shall provide the Authority with written notice of its intention to so terminate this Agreement prior to the end of the Term, specifying the date on which the termination is to be effective (the "Termination Notice"); provided, unless otherwise agreed by the Authority, the effective date of any termination of this Agreement hereunder must (and shall) be at least two (2) years after the date of the Termination Notice delivered by the Member Locality. Following the delivery of a Termination Notice by the Member Locality hereunder, the parties shall thereafter continue to perform all of their respective obligations and comply with all of their respective covenants and requirements under this Agreement until the effective date of the termination of this Agreement and withdrawal of the Member Locality from the Authority hereunder.

2. Early Termination Payment.

(a) (i) As a condition to early termination of this Agreement, and in order to satisfy the requirements of the amendment to the Virginia Water and Waste Authorities Act set forth in the Virginia Acts of Assembly - 2000 Session, Chapter 596, Approved April 7, 2000, as may be amended from time to time (the "Withdrawal Provision"), the Member Locality shall pay a termination payment calculated in accordance with the terms of this Special Termination Provision (the "Early Termination Payment").

(ii) Specifically, the Early Termination Payment shall equal the Present Value Amount of the Member Locality's Pro Rata Share of the Net Financial Obligations of the

Authority, each as of the date of the Termination Notice, as further defined and determined in accordance with the following:

(A) The "Net Financial Obligations" of the Authority shall equal (1) all financial obligations of the Authority that are outstanding or otherwise exist as of the date of the Member Locality's Termination Notice, including, but not necessarily limited to, (x) the principal and interest on all outstanding bonds and other indebtedness of the Authority, (y) all projected closure and post-closure financial obligations of the Authority with respect to the Disposal System (including but not necessarily limited to the Regional Landfill and any Delivery Points then maintained (owned/operated) by the Authority) and (z) all remaining financial obligations under contractual commitments (written and/or oral) then in effect, including but not limited to, waste-disposal contracts, vendor contracts, etc., *minus* (2) any cash or other immediately available funds that, as of the date of the Member Locality's Termination Notice, the Authority has on hand and has specifically designated for use in connection with the satisfaction of specified financial obligations of the Authority (by way of example, in calculating Net Financial Obligations hereunder, the projected closure and post-closure financial obligations of the Authority with respect to the Disposal System would be *reduced* by the actual amount of any cash included within any "Landfill Closure Fund" maintained by the Authority in respect of such obligations as of the date of such Termination Notice).

(B) The Member Locality's "Pro Rata Share" shall equal fraction, (i) the numerator of which shall be the total number of tons of Municipal Solid Waste delivered to the Authority by or on behalf of the Member Locality during the sixty (60) calendar month period ending on the last day of the month immediately preceding the month in which the Termination Notice was received by the Authority, and (ii) the denominator of which shall be the

total number of tons of Solid Waste delivered to the Authority during such sixty (60)-calendar month period by or on behalf of all SPSA Members that are members of the Authority as of the date of such Termination Notice (for clarity, the "historical" Solid Waste tonnage of any SPSA Member that has terminated its Post-2018 Use & Support Agreement as of the date of the Member Locality's Termination Notice would be excluded from the denominator in the foregoing formula).

(C) The "Present Value Amount" shall equal the net discounted value of the Member Locality's Pro Rata Share of the Net Financial Obligations of the Authority, discounted at the rate of interest on the 10-year U.S. Treasury Bills as listed in the *Wall Street Journal* on the date of the Member Locality's Termination Notice.

3. Calculation of Financial Obligations and Early Termination Payment.

(a) Within six (6) months after its receipt of the Member Locality's Termination Notice, the Authority shall provide to the Member Locality a written calculation of (i) the Net Financial Obligations of the Authority as of the date of such Termination Notice, (ii) the Member Locality's Pro Rata Share of such Net Financial Obligations, and (iii) the corresponding Early Termination Payment payable by the Member Locality, as calculated based on the Present Value Amount of the Member Locality's Pro Rata Share of such Net Financial Obligations.

(b) If the Member Locality disagrees with the Authority's calculation of the Net Financial Obligations, the Member Locality's Pro Rata Share of such Net Financial Obligations and/or the Early Termination Payment, the Member Locality shall notify the Authority in writing of such disagreement within thirty (30) days after receipt of the Authority's calculation(s) thereof, which written notice shall specify the nature of the dispute in as much detail as

possible. Thereafter, the parties shall use their best efforts to resolve such disagreement through the joint consultation of the Authority and the Member Locality and arrive at a definitive calculation of the Net Financial Obligations, the Member Locality's Pro Rata Share of such Net Financial Obligations and/or the Early Termination Payment, as applicable (collectively, the "Final Termination Amounts"). **Failing timely objection by the Member Locality, the Net Financial Obligations, the Member Locality's Pro Rata Share of such Net Financial Obligations and the Early Termination Payment calculated by the Authority shall be deemed to be (and shall, for all purposes hereunder, be) the Final Termination Amounts.**

(c) (i) If the Member Locality raises a timely objection to the Authority's calculation of the Net Financial Obligations, the Member Locality's Pro Rata Share of such Net Financial Obligations and/or the Early Termination Payment, and the Member Locality and the Authority are unable to mutually arrive at the Final Termination Amounts within sixty (60) days after the date the Authority receives notice of the Member Locality's objection, such matter shall thereupon be submitted to the Independent Accounting Firm for definitive calculation of the Final Termination Amounts. The "Independent Accounting Firm" shall be a public accounting firm (A) that is not then providing, and has not at any time in the immediately preceding three (3) years provided, accounting, audit or other related services to either party; and (B) that either (x) is mutually agreed upon by the parties, or (y) if the parties are unable to agree upon an accounting firm, is jointly designated by the accounting firms then utilized by the parties for their respective accounting, audit and related financial services. The Independent Accounting Firm shall be designated by one of the foregoing methods within ten (10) days after the expiration of the sixty (60)-day period provided for above.

(ii) Within ninety (90) days after submission, the Independent Accounting Firm shall resolve any accounting issues in dispute and prepare and deliver in writing a definitive statement of the Final Termination Amounts. In preparing the Final Termination Amounts, the Independent Accounting Firm shall limit its work to resolving those accounting issues that are in dispute (and such other accounting issues as may be necessary to resolve those issues in dispute) in accordance with the definitions and terms set forth in this Agreement (including in particular this Special Termination Provision) and otherwise in accordance with GAAP.

(iii) The definitive statement of the Final Termination Amounts prepared by the Independent Accounting Firm shall be final and binding upon the parties, absent manifest error. The costs and fees of the Independent Accounting Firm shall be borne and paid solely by the Member Locality.

4. Final Notice; Revocation.

(a) The Member Locality must give the Authority written final notice of its planned termination of this Agreement hereunder. Such final notice of termination must be delivered by the Member Locality no later than six (6) months after the Final Termination Amounts described above have been definitively determined (whether by agreement of the parties, by the Independent Accounting Firm or otherwise).

(b) Notwithstanding anything to the contrary in the foregoing or anywhere else in this Agreement, the Member Locality shall have the right, at any time before the date that is six (6) months prior to the effective date of termination specified in its original Termination Notice, to revoke its Termination Notice by providing the Authority with written notice of such revocation, in which case (i) the Member Locality shall remain a SPSA Member and (ii) this Agreement shall

remain in full force and effect in accordance with its terms; provided, however, that the Member Locality shall, upon demand by the Authority, reimburse the Authority for all costs and expenses incurred by the Authority in connection with its preparation for the termination of this Agreement, including but not limited to all applicable legal, accounting, consulting and other advisory fees and expenses.

5. Payment Terms; Satisfaction of Contractual Obligations.

(a) The Member Locality shall pay its Early Termination Payment, whether determined by agreement of the parties, by the Independent Accounting Firm or otherwise, to the Authority in a single lump sum payment on the effective date of the termination of this Agreement.

(b) If the Member Locality has otherwise satisfied all payment and other obligations incurred under this Agreement between the date of its Termination Notice and the effective date of termination of this Agreement hereunder, then (i) the Authority's receipt of such Early Termination Payment shall be deemed to (and shall) satisfy all obligations of the Member Locality under or otherwise in respect of paragraph 2 of the Withdrawal Provision with respect to the termination and satisfaction of all written obligations incurred by the Member Locality while it was a SPSA Member, and (ii) no such written obligations so incurred by the Member Locality shall thereafter remain (or be deemed to remain) in effect; provided, however, that the Member Locality is and shall be solely responsible for complying with all other applicable terms and requirements of the Withdrawal Provision.

6. Special Acknowledgement. The parties recognize that the Authority will incur various costs and make capital and operational decisions throughout the Term of this Agreement based upon the expectation of providing services to the Member Locality, and to the other SPSA Members, throughout the Initial Term or Renewal Term of this Agreement then in effect, and that

the decision of the Member Locality to terminate this Agreement prior to the expiration thereof will or may have a variety of financial and operational consequences to the Authority. The parties further recognize that those consequences, and their costs, cannot be easily determined, and therefore the parties agree that the Early Termination Payment calculated hereunder constitutes a fair, reasonable and equitable quantification of the costs to the Authority of such consequences. Accordingly, (a) it is the intention of the parties to provide in this Special Termination Provision a means for the Member Locality to terminate this Agreement prior to its scheduled expiration date without financial harm or loss to the Authority or the other SPSA Members, (b) the provisions of this Special Termination Provision shall be construed, and the actions and determinations of the parties required hereunder shall be taken, consistent with that intent, and (c) the parties acknowledge and agree that the terms and conditions of this Special Termination Provision, including but not limited to the Early Termination Payment obligation provided for hereunder, are fair, reasonable and in the best interests of the Authority and the SPSA Members.

7. Additional Termination Conditions.

(a) As a further condition to effective termination of this Agreement prior to its scheduled expiration date, on or prior to the effective date of termination of this Agreement the Member Locality shall at its sole expense take all action required for it to withdraw from membership in the Authority, including, but not limited to, (i) satisfying all applicable procedural and other requirements set forth in the Withdrawal Provision, including paragraphs 2, 3 and 4 thereof, and (ii) assisting the Board of Directors of the Authority in adopting any amendment to the Articles of Incorporation of the Authority that is or may be required to remove the Member Locality as a SPSA Member.

(b) The parties acknowledge and agree that termination of this Agreement shall not, alone, result in the termination of any other contract or agreement (if any) between the Authority and the Member Locality.

(c) Following termination of this Agreement in accordance with the terms of this Special Termination Provision, the Member Locality may not (and shall not) accept for disposal any Solid Waste delivered by or on behalf of any other city or county that is a SPSA Member for so long as such cities and counties remain SPSA Members.

[END]

SOUTHEASTERN PUBLIC SERVICE AUTHORITY
OF VIRGINIA

STRATEGIC OPERATING PLAN*

MEMBER MUNICIPALITIES:**
CITIES OF CHESAPEAKE, FRANKLIN, NORFOLK, PORTSMOUTH, SUFFOLK AND VIRGINIA BEACH, AND THE COUNTIES OF ISLE OF WIGHT AND SOUTHAMPTON

Effective Date:_____

(Covering SPSA Fiscal Year _____)

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* Note: Except where noted, current draft is based on SPSA's existing policies and procedures.

** Note: Member Municipalities to be updated to reflect any current Members that elect NOT to continue with SPSA in the post-2018 period.

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I-1371683.5

STRATEGIC OPERATING PLAN

SOUTHEASTERN PUBLIC SERVICE AUTHORITY

1.0 INTRODUCTION

The Southeastern Public Service Authority of Virginia ("SPSA" or the "Authority") is a public body politic and corporate and a political subdivision of the Commonwealth of Virginia. SPSA was created in 1976 under the Virginia Water and Waste Authorities Act for the purpose of operating a regional solid waste disposal system for its eight (8) members including the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach and the Counties of Isle Of Wight and Southampton (the "Member Localities").#

This Strategic Operating Plan ("SOP") describes and outlines SPSA's operations and responsibilities as it pertains to the region's solid waste disposal system. This SOP will be reviewed by the Board of Directors of SPSA on at least an annual basis and, in connection with such reviews, may be revised, amended and/or modified by the Board of Directors in accordance with the terms of Section 10.0 below. Furthermore, from and after January 25, 2018, this SOP will be attached to and incorporated by reference in the "new" Use & Support Agreements entered into by SPSA and the Member Localities effective as of such date.

Core Purpose:	Management of safe and environmentally sound disposal of regional waste.
Philosophy:	SPSA will be a service-oriented, quality-focused organization that continually seeks improvement and cost effectiveness.
Cores Values:	Integrity, excellence, accountability, cooperation, teamwork.
Core Business:	Create, manage and maintain an infrastructure for the disposal of regional waste, including through the operation and management of the regional landfill and all transfer stations and other delivery points, and provide for the transportation of processible waste.

Certain capitalized terms not otherwise defined in this SOP have the meanings set forth in Appendix A attached hereto.

2.0 GUIDING PRINCIPLES

SPSA is a service organization that provides waste disposal and associated services to its member communities – the Member Localities – and other users of its Disposal System. **SPSA's single most important priority is to satisfy the waste-disposal needs of the Member Localities, and accordingly SPSA's primary guiding principle is to endeavor, at all times, to provide the highest quality of services in meeting such member needs at the lowest reasonable cost.** Other

Note: Member Localities to be updated to reflect any current Members that elect NOT to continue with SPSA in the post-2018 period.

I - 1 3 7 1 6 8 3 . 5 principles, policies and procedures that SPSA has adopted to fulfill its highest priority, as stated above, include among others the following:

- SPSA will plan, construct and operate its Disposal System in a manner designed to ensure that Member Localities have viable, cost-effective Solid Waste disposal options for at least the next 20-plus years, consistent with the requirements of the Regional Solid Waste Management Plan for Southeastern Virginia prepared on behalf of SPSA, and will periodically revaluate/reassess (and as and when necessary and appropriate modify) its Disposal System to ensure that SPSA is adapting to evolving waste-disposal needs of its Member Localities.

- SPSA will continually perform internal reviews, and adapt its policies and procedures as appropriate, in a manner designed to ensure it is utilizing best management practices in all facets of its operation of the Disposal System to ensure the highest level of service at the lowest reasonable cost.

- SPSA previously implemented and will continue to maintain an overall "Five-Year Strategic Plan", which is and will continue to be reviewed annually by Executive Staff and the Board of Directors to determine whether amendments are appropriate.

- SPSA recognizes the differences in the waste-disposal needs of its Member Localities and strives to satisfy differing member needs in a cost-effective way. Said differently, SPSA realizes that a "one-size-fits-all" approach is insufficient given the divergent requirements of its members and, where possible in a cost-effective and efficient manner, identifies and implements procedures to address specific member needs. One example of such current measures utilized by SPSA is its flexibility with regard to its Delivery Points (transfer stations): its Member Localities typically utilize the Delivery Point(s) that are most convenient for their drivers, whether or not those stations fall within the geographic boundaries of the given member. Furthermore, SPSA will continually assess and adapt to changing member requirements through the implementation of new/additional procedures as appropriate.

- SPSA regularly considers using third-party vendors when it is likely to result in reduced operating costs or other efficiencies. SPSA issues requests for proposals (RFPs) where appropriate that, among other benefits, are designed to ensure the best "outsourced" services at the lowest costs. Recent examples include: Liability and Property Insurance; Auditing Services; Health Insurance; Computer Software; and Financial/Banking Services. Going forward, SPSA will continue evaluating the use of third-parties where it identifies potential reductions in costs and/or other efficiencies through such outsourced services.

- SPSA has not received any Public-Private Educational Facilities Infrastructure Act ("PPEA") proposals since the Suffolk Energy Partners proposal regarding the purchase/sale of landfill gas (described below). However, Executive Staff recently updated SPSA's own PPEA Guidelines to ensure compliance with the latest regulatory guidance, and the Board of Directors and Executive Staff will continue to accept and consider PPEA proposals as and when they are received.

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• Consistent with other regulatory requirements, SPSA engages and will continue to engage outside expert services to evaluate and report, at least annually, on available capacity at the Regional Landfill, including estimates as to the remaining "expected life" of the facility, taking into consideration -- and projecting -- future changes in the quantity of waste disposed of in its landfill.

• SPSA maintains records of its costs, revenue, debt and capital expenses by fiscal year for each operating program, as well as records of costs for each individual capital project. These records are maintained in accordance with customary business and accounting practices, and such financial records are reported on -- with relevant supporting information provided -- monthly during regular Board meetings. This detailed financial record-keeping also facilitates SPSA's preparation of reliable, accurate and balanced annual budgets, and will remain a fundamental aspect of SPSA administration at all times going forward.

- SPSA also maintains and will continue to maintain a detailed Financing Plan that includes a plan for the retirement of all outstanding debt and a plan for the funding of all planned capital projects. The Financing Plan is approved by the Board of Directors each year, including any funds designated for capital projects, and reports regarding SPSA's compliance with the Plan are and will continue to be provided to the Board on a regular basis. Similarly, the Debt Retirement Plan is approved each year by the Board as part of SPSA's annual budget. All Plans are and, to the extent appropriate, will continue to be reviewed annually by a certified public accounting firm as part of SPSA's annual financial audit.

- In addition to its financial audits, SPSA may also from time to time, where circumstances warrant or where Executive Staff or the Board of Directors otherwise deem it appropriate or beneficial to the organization, conduct independent performance audits with respect to its operations.

- Contrary to SPSA policy for much of its existence before 2010, under current Board and Executive Staff leadership SPSA has not issued any debt whatsoever and, moreover, current policy favors avoiding new debt in favor of a "pay-as-you-go" practice for even its most significant capital improvements. Furthermore, consistent with applicable law, SPSA has implemented and will continually maintain in effect appropriate policies to (i) prohibit the issuance of long-term bond indebtedness to fund operational expenses and (ii) require that, prior to issuance of new debt, the Board of Directors perform a due diligence investigation regarding the appropriateness of issuing the debt, including an analysis of the costs of repaying the debt, which would then be certified by an external certified public accountant, reviewed by the Board and, finally, subjected to a vote requiring a minimum approval of seventy-five percent (75%) of the Board of Directors.

- SPSA strives to maintain its operations through staffing that reliably provides SPSA services to the Member Localities, and other users of the Disposal System, with the lowest "headcount" reasonably possible in light of its obligations. Personnel and

I-1371683.5 staffing needs are evaluated constantly and changes are and will continue to be made promptly as and when circumstances require.

• SPSA has embraced the guiding principle of openness and transparency in its operations and management. Executive Staff and legal counsel update the Board of Directors and, where appropriate, the Member Localities on at least a monthly basis with regard to all material developments, whether in operations, relations with the Members themselves and/or with vendors and other customers, such as the United States Navy. Where an issue arises in any of these relationships, Executive Staff, the Board and counsel thoughtfully evaluate the range of possible solutions, as well as the applicable costs and other implications of the situation, before arriving at a decision on how to best address the matter. SPSA will continually endeavor to ensure that its Board is the most informed and involved governmental agency in the region.

- SPSA is well-positioned to monitor, evaluate and adapt to changes in the waste-disposal industry, and regularly seeks and will continue to request external, expert guidance on emerging technologies and other relevant developments in its field, with the enduring goal of maintaining state-of-the-art, efficient and effective operations in performing its services to the Member Localities and otherwise carrying out its mission.

- As noted above, SPSA's core purpose is management of safe and environmentally sound disposal of regional waste, and SPSA devotes the majority of its time and effort to activities associated with its purpose. Of course, to the extent not inconsistent with that core purpose, SPSA may from time to time consider implementation and performance of additional waste disposal services, beyond its core function of disposal of regional waste, where circumstances warrant. (For example, yard debris disposal and recycling are examples of services that SPSA has provided for its members in the past, and these and other "ancillary" services may in fact be worthy endeavors in the future.) However, before implementing any such additional waste disposal services, Executive Staff and the Board of Directors will undertake a detailed and thorough evaluation -- including accounting and financial diligence -- to ensure cost-effectiveness, as well as operational review to confirm SPSA's ability to efficiently and effectively provide such services. Any "non-core" services would likely require separate contracts to ensure all parties' interests are adequately protected, and ultimately Board approval would be required for SPSA to undertake any activities not associated with its primary role.

- Finally, to reiterate a principal tenet of SPSA's governance, its first responsibility is to satisfy the waste-disposal needs of its Member Localities by providing the highest quality of services at the lowest reasonable cost. However, to the extent not inconsistent with or adverse to its obligations to SPSA members, SPSA may provide services to commercial and other non-municipal customers. Such services will not under any circumstances subordinate SPSA's commitment to its members, nor will the Disposal System Fees paid by the Member Localities "subsidize" artificially low rates for such commercial and other customers. Instead, to the extent undertaken, SPSA would strive to provide commercial and other customers with the same quality services

I - 1 3 7 1 6 8 3 . 5 as its members enjoy at commercially reasonable rates, which should not only benefit SPSA and such other customers but also the Member Localities by alleviating waste-disposal burdens and obligations which the members might otherwise be required to manage.

3.0 ORGANIZATIONAL STRUCTURE

SPSA is managed by a 16-member Board of Directors, composed of eight (8) members appointed by the Governor of Virginia and eight (8) "ex-officio" members employed and appointed by each of the Member Localities. The Board of Directors, in turn, appoints an Executive Director responsible for the direct hire and supervision of all other SPSA employees, in addition to the day-to-day operations of the Authority.

SPSA is organized under five (5) distinct divisions:

1. Administrative Division: SPSA's Administrative Division supports the entire Disposal System. It includes the Executive Office, Human Resources, Accounting, Purchasing, Information Technology, the Regional Office Building and a Safety Department.

2. Fleet Maintenance Division: The Fleet Maintenance Division provides preventive maintenance and repairs to approximately 245 pieces of rolling stock equipment utilized by SPSA in its operations. SPSA currently operates two maintenance facilities: (i) one large 14-bay facility located at the Operations Center on Victory Boulevard in Portsmouth and (ii) one 2-bay facility located at the Regional Landfill in Suffolk. The majority of the equipment is serviced and repaired at the Portsmouth facility. The types of equipment include track dozers and excavators, compactors, articulating dump trucks, wheeled loaders, skid steers, Class 8 tractors, Class 6 vehicles, trailers, pickup trucks and a variety of smaller construction equipment.

3. Regional Landfill Division: The Regional Landfill Division consists of landfill operation, environmental management and the tire shredder operation.

   a. *Landfill Operation*

   The Regional Landfill is located on an 833-acre parcel off the merged US Routes 58, 13 and 460 in Suffolk, Virginia (mailing address is 1 Bob Foeller Drive). Facilities at the Regional Landfill include but are not limited to:

   Closed landfill Cells I through IV – 106 disposal acres
   Active landfill Cells V and VI – 43.8 and 41.3 disposal acres respectively
   Cell VII permitted expansion area – 54.2 disposal acres
   Unpermitted potential expansion area – 264.6 disposal acres
   Scale facility (also serves the Delivery Point for the Suffolk transfer station)
   Operations and vehicle maintenance building
   Household hazardous waste collection center
   Tire shredder
   Soils management facility (Clearfield MMG, tenant)
   Gas to energy plant (Suffolk Energy Partners, LLC, contractor and operator)

I - 1 3 7 1 6 8 3 . 5 Currently, the Regional Landfill accepts only Construction and Demolition Debris (CDD), ash residue from the Wheelabrator WTE Facilities (discussed below), Non-Processible Waste not accepted at any Disposal System Delivery Point, gray soils and clean fill. Disaster Waste is not accepted.

As noted above in its "Guiding Principles", SPSA evaluates the capacity of the Regional Landfill annually, taking into consideration and projecting future changes in the quantity of waste disposed of in the landfill.

The Regional Landfill also manages and maintains a "landfill gas recovery system", which began full operation November 17, 1994. The system includes gas collection wells strategically located throughout Cells I – VI. In addition to the gas collection wells, the system includes gas collection piping, a flare system, condensate drains, a 3.2 MW power plant using four internal combustion engines and 2.3 miles of pipeline to sell gas to BASF. Landfill gas not supplied to BASF is used to generate electricity and some is flared if and when it is not otherwise able to be utilized. The landfill gas collection system is currently operated and maintained by Suffolk Energy Partners, pursuant to contract that continues through 2031.

b. *Environmental Management Department:*

The environmental management department is responsible for compliance matters throughout the SPSA organization. The department manages permits issued to SPSA and its facilities by the Virginia Department of Environmental Quality (DEQ), Hampton Roads Sanitation District (HRSD), the Virginia Department of Public Health and underground storage tank compliance at several facilities (each facility within the Disposal System maintains at least one permit, and the Regional Landfill is regulated by four permits). To ensure compliance, the environmental department conducts regular inspections at facilities and training of SPSA personnel. In addition, environmental staff manages the Environmental Management System (EMS). The EMS program consists of a multitude of documentation, training, and audit requirements throughout the organization. Lastly, environmental staff also conducts field monitoring for ground water, gas, drinking water, effluent and random load inspections designed to ensure permit compliance.

This department is also responsible for the Household Hazardous Waste (HHW) and White Goods (metal recycling) programs maintained by SPSA

i. *Household Hazardous Waste:*

SPSA operates three HHW collection facilities. The HHW collection facility at the Regional Landfill in Suffolk is open full time, Monday through Friday, and a half-day Saturday. The remaining two facilities are open based upon a monthly recurring schedule. Additionally, from time to time, SPSA assists the Member Localities with special HHW collection events. Residents from all Member Localities may bring unwanted HHW to any of these HHW facilities to be disposed of safely, free of charge; however, the resident's applicable Member

Locality is charged a Disposal System Fee for its residents' use of the HHW facilities. Commercial HHW is NOT accepted at any HHW facility maintained by SPSA; instead, HHW generated commercially must be disposed of using a commercial waste disposal company.

ii. *White Goods:*

White goods or other metal-containing waste are collected at the Regional Landfill and are recycled with a local metal recycling company, and SPSA receives the then-current scrap metal price for the metal that is collected. Also, environmental staff is licensed to recover refrigerant from any applicable device received in the White Goods program.

c. *Tire Shredder Department:* SPSA's tire-shredding operations commenced in 1988 at the Regional Landfill, where residents of the Member Localities can dispose of automobile tires by bringing them to tire-shredder operations facility. SPSA employees de-rim tires on site and recycle the rims, and tires are then processed through the tire shredder. The finished product is used as supplemental daily landfill cover, and is also used in drainage projects, pipe substrate and to repair leachate seeps.

4. Delivery Point Division: The Delivery Point Division consists of transfer station operations and the scalehouse operations.

a. *Transfer Station Operations:*

i. *Boykins* - The station was opened in 1985 and consists of an elevated area where customers can deposit waste into a stationary compactor or two open-top roll-off containers. The station is permitted to accept 50 tons per day and is manned by Southampton County and serviced by SPSA. SPSA is responsible for dumping the containers and maintaining the facility equipment, buildings and grounds. The facility has one 40-yard compactor and two 40-yard open top containers for residential and municipal disposal. SPSA owns the improvements on the land at this transfer station, which is leased from a private citizen pursuant to a lease that expires March 31, 2025.

ii. *Chesapeake Transfer Station* - This transfer station was built in 1984 and is located on a 4.75 acre parcel of land west of Greenbrier Parkway in the City of Chesapeake. The transfer station utilizes a bi-level, non-compacted, direct dump design consisting of one refuse hopper and a tipping area on the upper level and a "load out" area on the lower level. The facility has a maximum design capacity of 500 tons per day with a storage capacity of up to 150 tons at any given time. SPSA owns the improvements on the land at this transfer station, which is leased from the City of Chesapeake pursuant to a lease arrangement that continues until May 31, 2016.

iii. *Franklin Transfer Station* - This station was opened in 1985 and consists of an open tipping floor area screened with a fabric chain link fence and a prefabricated office building. Waste is dumped into the single hopper directly into open top transfer trailers and currently hauled to a non-SPSA landfill by a Wheelabrator contractor. The facility is permitted for 150 tons per day and capable of storing 50 tons at any one time. The station utilizes a drop and hook operation. SPSA owns the Franklin transfer station, including all land and improvements.

iv. *Isle of Wight Transfer Station* - This station was opened in 1985 and consists of a push-wall transfer station with a three-sided metal building superstructure. Transfer trailers travel on a loading lane situated at a lower grade than the tipping floor so that the sides of the trailers are approximately 4 feet above the tipping floor, and a front-end loader lifts waste into the transfer trailers and which are then currently hauled to a non-SPSA landfill by a Wheelabrator contractor. The station is permitted for 150 tons per day, capable of storing 50 tons at any one time, and utilizes a drop and hook operation. SPSA owns the improvements on the land at this transfer station, which is leased from Isle of Wight County pursuant to a lease that expires on January 24, 2018.

v. *Ivor Transfer Station* – This station was opened in 1985 and consists of an elevated area where customers can deposit waste into a stationary compactor or two open-top roll-off containers. The station is permitted to accept 30 tons per day and is manned by Southampton County and serviced by SPSA. SPSA is responsible for emptying the containers and maintaining the facility equipment, buildings and grounds. The facility has one 40-yard compactor and two 40-yard open top containers for residential and municipal dumping. SPSA owns the Ivor transfer station, including all land and improvements.

vi. *Landstown Transfer Station* - This station opened in January 1993 and consists of an enclosed tipping floor with three hoppers for loading. The station operates 24 hours per day, with the exception of Sunday, and is permitted to accept 1500 tons per day. Waste is collected and stored on the tipping floor throughout the day then hauled at night. SPSA owns the improvements on the land, which is leased to SPSA by the City of Virginia Beach. The current lease expires December 30, 2017, though SPSA has a unilateral right to extend the lease for an additional 30 years by providing the City with 30 days' notice.

vii. *Norfolk Transfer Station* - This station opened in 1985 and consists of an enclosed tipping floor with three hoppers for loading. The station operates 24 hours per day Monday through Saturday, and half a day on Sunday, and is permitted to accept 1300 tons per day. Residents may use the station only from Noon to 4:00 p.m. on Saturday and Sunday, and the City of Norfolk pays the cost to operate the facility during

these hours. Waste is collected and stored on the tipping floor throughout the day then hauled at night. SPSA owns the Norfolk transfer station, including all land and improvements.

viii. *Oceana Transfer Station* - This station was built by the City of Virginia Beach and opened in 1982. In 1987, SPSA bought the station facility for $1,000,000, but still leases the land -- which is owned by the Virginia Department of Transportation (VDOT) -- and pays rent of $1.00 per year under the lease. SPSA operates the station pursuant to its lease with VDOT (technically a "permit"), which can be terminated by VDOT upon 30 days' notice to SPSA. The station has a design capacity of 500 tons per day, with the capability of storing 450 tons at any one time. The station utilizes a drop-and-hook system, which allows waste on the floor to be removed and placed in staged trailers for hauling at a later time. The station does not accept waste from residential customers.

ix. *Suffolk Transfer Station* – This station, built in 2005, is located near the entrance to the Regional Landfill and consists of an enclosed tipping floor with two hoppers for loading. The station is permitted to accept 1300 tons per day. SPSA owns the Suffolk transfer station, including all land and improvements.

b. *Scalehouse Operations:* SPSA's scalehouse operation is responsible for ensuring the accurate measurement of (i) solid waste flowing through SPSA's transfer stations to the Regional Landfill and the WTE Facilities in Portsmouth (the current Designated Disposal Mechanism) and (ii) the revenue generated from the disposal of waste. Scale attendants man scalehouses at the Chesapeake, Landstown, Norfolk, Oceana and Regional Landfill transfer stations and at the WTE Facilities in Portsmouth. The scalehouses in Franklin and Isle of Wight are manned by transfer station staff.

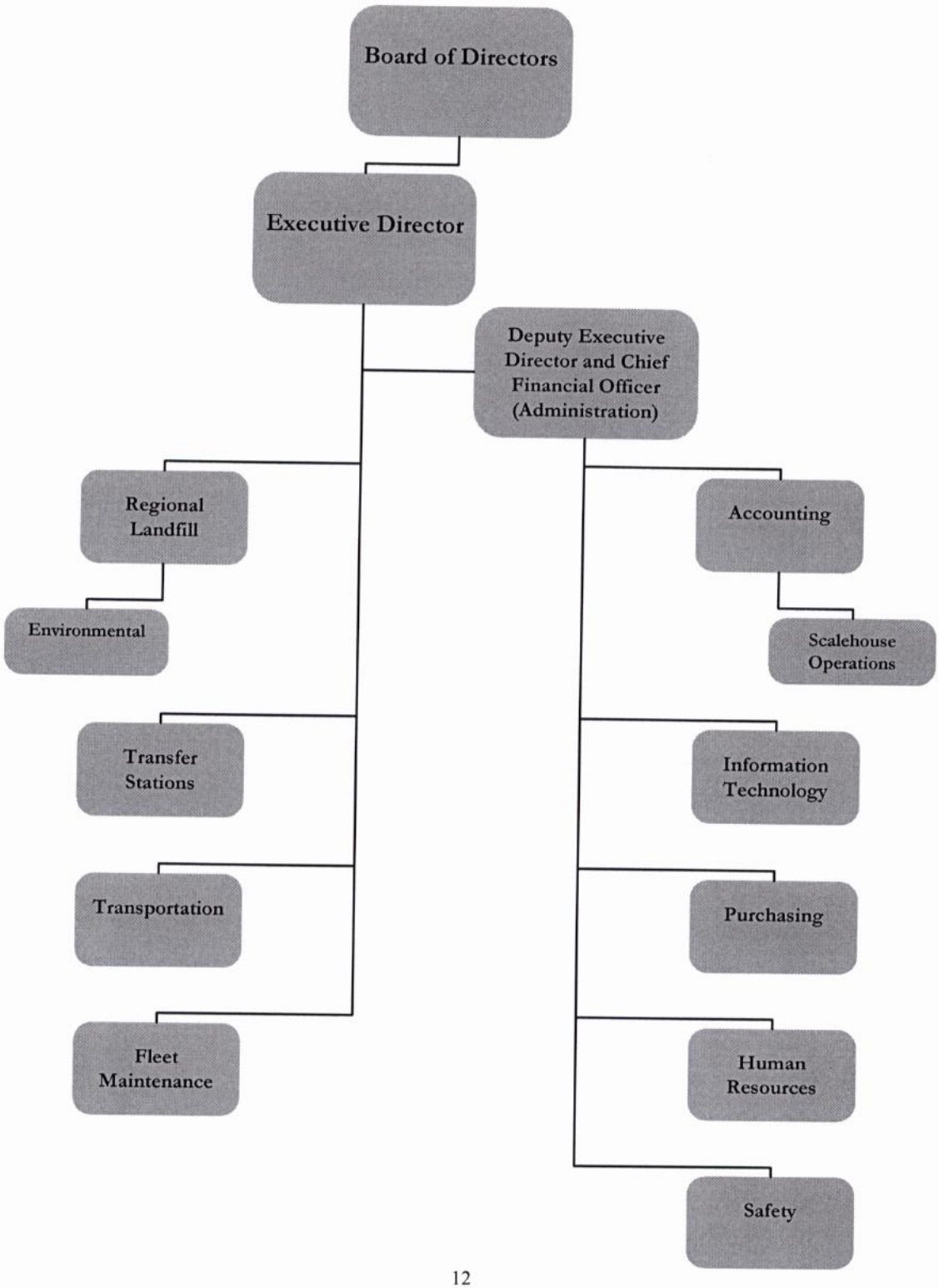
SPSA's scale attendants operate the scale recording devices to capture truck weights and process transactions, including truck information, customer account information, type of waste and associated tipping fee rate, methods of payment and credit card processing. These transactions are uploaded into SPSA's accounting software for subsequent billing of SPSA's customers. This data is also currently transmitted to Wheelabrator on a daily basis for their own use in billing Wheelabrator customers, such as private/commercial haulers.

Scale attendants also handle phone calls to the various transfer stations as well as face-to-face interactions with the Member Localities, residents and private haulers to ensure that only solid waste meeting SPSA's standards is accepted for disposal at SPSA facilities.

5. Transportation Division: The Transportation Division is currently responsible for conducting hauling operations transferring processible waste from the transfer stations to the WTE Facilities owned and operated by Wheelabrator. In addition to

I-1371683.5 transporting waste from the transfer stations, the transportation division staff operates roll-off trucks, a tanker and a low-boy trailer, and also hauls leachate from various transfer stations and sludge from the City of Norfolk's Water Treatment Plan to the Regional Landfill.

I-1371683.5 SPSA's Organizational Chart is illustrated as follows:


Board of Directors
Executive Director
Deputy Executive Director and Chief Financial Officer (Administration)
Regional Landfill
Environmental
Transfer Stations
Transportation
Fleet Maintenance
Accounting
Scalehouse Operations
Information Technology
Purchasing
Human Resources
Safety

4.0 OPERATION AND USE OF FACILITIES

1. General

The right to dispose of Solid Waste (excluding Hazardous Waste and certain other Excluded Waste, such as Disaster Waste) at the Delivery Points designated herein is available to any and all persons, corporations and governmental agencies without exclusion under the terms and conditions of this SOP. Use of these facilities, however, is at all times governed by rules and regulations as are adopted by SPSA from time to time and incorporated into this SOP. Member Localities and private haulers must register their respective vehicles with SPSA, including tare weights, prior to use.

In addition, operating hours may be varied from time to time by SPSA to accommodate special circumstances. Notices will be posted at the main entrance of each Delivery Point advising users of regular operating hours and any special operating hours, as well as observed holidays.

2. Delivery Points and Receiving Times

Location	Monday – Friday	Saturday
Chesapeake Transfer Station 901 Hollowell Lane Chesapeake, VA 23320	7 am – 3 pm	7 am – 12 pm
Franklin Transfer Station 30521 General Thomas Highway Franklin, VA 23851	8 am – 3 pm	8 am – 12 pm
Isle of Wight Transfer Station 13191 Foursquare Road Smithfield, VA 23430	8 am – 3 pm	8 am – 12 pm
Landstown Transfer Station 1825 Concert Drive Virginia Beach, VA 23453	5 am – 5 pm	7 am – 12 pm
Norfolk Transfer Station 3136 Woodlake Avenue Norfolk, VA 23504	5 am – 5 pm	7 am – 12 pm
Oceana Transfer Station 2025 Virginia Beach Boulevard Virginia Beach, VA 23462	6 am - 3 pm	7 am – 12 pm
Suffolk Transfer Station Located at the Regional Landfill	7 am – 4 pm	7 am – 12 pm
Regional Landfill (including Tire Shredder) 1 Bob Foeller Drive Suffolk, VA 23434	Closed Mondays Tuesday – Friday: 7 am – 4 pm	Closed
HHW Collection (Regional Landfill) 1 Bob Foeller Drive Suffolk, VA 23434	8 am – 4 pm	8 am – 12 pm

Location	Days and Hours
Boykins Transfer Station 18448 General Thomas Highway Boykins, VA 23827	Tuesday, Thursday, Saturday: 7 am – 7 pm Monday, Wednesday, Friday: Closed
Ivor Transfer Station 36439 General Mahone Blvd. Ivor, VA 23866	Wednesday, Friday, Sunday: 7 am – 7 pm Monday, Tuesday, Thursday, Saturday: Closed
WTE Facilities 2 Victory Blvd. Portsmouth, VA 23702	Monday 3 am – Saturday Noon

Any changes to the receiving times for these Delivery Points, whether due to policy changes, weather or modifications to the Holiday Schedule described below, or for any other reason, absent emergency, are coordinated with the Member Localities as well as applicable vendors.

3. Holiday Schedule

SPSA's current holiday schedule is as follows:

New Year's Day	January 1st
Lee-Jackson Day*	Friday preceding the 3rd Monday in January
Martin Luther King, Jr. Day*	Third Monday in January
President's Day *	Third Monday in February
Memorial Day*	Last Monday in May
Independence Day	July 4th
Labor Day*	First Monday in September
Columbus Day*	Second Monday in October
Veteran's Day*	November 11th
Thanksgiving Day	Fourth Thursday in November
FRI following Thanksgiving Day*	Fourth Friday in November
Christmas Day	December 25th

If any of New Year's Day, Independence Day, Veteran's Day, Christmas Eve or Christmas Day Falls on a Sunday, when a facility is otherwise closed, then the applicable holiday is observed on the date designated for its observation as a holiday by the Federal Government. For those holidays marked above with an asterisk (*), all SPSA transfer stations will operate under the schedule for Saturday hours -- i.e. they will be open for one-half day (either 7 am - Noon or 8 am – Noon) under receiving hours listed above.

I - 1 3 7 1 6 8 3 . 5 4. "Extra" Charges to Member Localities

SPSA charges each Member Locality at an hourly rate to the extent the Member requests to extend a transfer station's normal receiving time. The hourly rate is calculated each fiscal year and includes the full cost to SPSA for extending hours past its normal receiving time, including the time necessary to haul the waste to the proper disposal point.

5. Units of Measure

Each Delivery Point is equipped with vehicular scales. All vehicles, except those of residential users, are weighed with the driver aboard upon arrival. All departing vehicles are then weighed a second time, unless the vehicle tare weights are known. Disposal System Fees (tipping fees), in turn, are charged based upon the difference between the arrival and departure weights. If the scales at the receiving location are inoperative, the fee is based on the average amount received per vehicle when dumping records for such vehicle for the twelve (12) full months immediately preceding are available or, when such records are not available, the fee is based on the average amount received per vehicle of like size and/or compaction ratio.

The driver of each vehicle is given a statement after each load of Solid Waste is dumped, and each such statement reflects the weight of the waste dumped, the applicable date, time and Delivery Point, and the applicable Disposal System Fee.

In addition, SPSA may designate grades or categories of Solid Waste that will be measured upon receipt by SPSA by number of units or by means other than by weight.

6. Right to Reject Waste

SPSA accepts most non-hazardous Solid Waste within the Disposal System, subject to the other terms and conditions of this SOP, including, but not limited to, SPSA's exclusion of Disaster Waste from the Disposal System (see SPSA's Role in a Storm Event under Section 8.0 below). SPSA also retains the right to refuse to accept waste from users who have failed to pay any applicable Disposal System Fees.

All reasonable attempts are made to reject unacceptable waste before it is received within the Disposal System. However, if grades or categories of waste are disposed of at a Delivery Point that is not designated for the receipt of such waste, it is the responsibility of the user to remove such material at its own expense. Any such material not promptly removed by the user may be removed by SPSA, and the costs for such removal are then charged against the user.

7. Traffic Guidelines

Each of the Delivery Points is expected to handle a large number of vehicles. Traffic control at each location is at the sole discretion of SPSA.

8. Residential Waste Guidelines

Residents of the Member Localities are not charged for disposal of their household waste. However, starting in January 2018, the residents' applicable Member Localities will be charged Disposal System

I-1371683.5 Fees for residential disposal of household waste within the SPSA Disposal System; provided, the foregoing policy of charging the Member Localities for their residents' disposal of household waste shall not apply at the Delivery Points in Boykins and Ivor, which serve residents of Southampton County.

Residents may dispose of their household waste during operating hours at each authorized Delivery Point (with the exception of the Norfolk Transfer Station, which permits free disposal to Norfolk residents only on Saturdays between the hours of 7 a.m. and 4 p.m. and Sundays between the hours of Noon and 4 p.m.), but only if the following conditions are met.

a. Proof of residency (for example, a driver's license or a utility bill).

b. All household waste, bagged or un-bagged, including furniture, mattresses and small appliances that have a freon-free certification sticker (if applicable) are acceptable.

c. Yard Waste is acceptable; however, limbs, branches and brush must be less than six feet in length and not greater than 6 inches in diameter.

d. Disaster Waste may not be delivered to, and will not be accepted by SPSA at, any Delivery Point within the Disposal System (see SPSA's Role in a Storm Event under Section 8.0 below).

e. Solid Waste that is authorized to be delivered by residents must be delivered in one of the following "*private vehicles*":

   i. Automobiles, station wagons, passenger vans with under 15 seats, sport utility vehicles, low- sided pickup trucks (350 size or smaller) and similar vehicles that are unmarked and unmodified (by way of example, but not limitation, vehicles without business decals/markings or equipment racks, such as pipe or ladder racks or similar modifications).

   ii. Utility trailers, *up to eight feet in length*, with no visible tools and/or equipment, that are being towed by one of the above-mentioned private vehicles.

These Residential Waste Disposal Guidelines are designed to ensure that residents of the SPSA's Member Localities are entitled to the safe and efficient disposal of their residential Solid Waste. Residents must adhere to all SPSA guidelines, policies and procedures while utilizing the SPSA Disposal System, and failure to do so may result in loss of access to SPSA's facilities.

9. Maintenance and Development of Delivery Points (Transfer Stations) Post-2018

a. *Transfer Station Ownership/Control.* SPSA will own or lease all Delivery Points included within the SPSA Disposal System as of January 24, 2018 and will be responsible for the operation and maintenance of these facilities in accordance with all applicable permits and related rules, regulations and other Applicable Law. If a Delivery Point is leased from a Member Locality (or other third party), then the duration and, to the extent reasonably practical, all other terms of all such leases will be identical unless otherwise specifically agreed by the Board of Directors of SPSA. In addition, any

 such lease of a Delivery Point from a given Member Locality shall, unless otherwise agreed in writing by the parties, terminate contemporaneously with the withdrawal of the applicable Member Locality from SPSA.

b. *Transfer Station Projects – Development Costs*. The following provisions address any project involving the construction, renovation, relocation or expansion of a Delivery Point (each, a "Transfer Station Project").

i. *Existing Delivery Points.* If a given Transfer Station Project involves the renovation, relocation or expansion of an existing Delivery Point for purposes of maintaining, preserving or improving continued operations of such existing Delivery Point (each, an "Existing Delivery Point"), then (x) such Transfer Station Project in respect of the Existing Delivery Point shall be subject to the approval of SPSA's Board of Directors, and (y) if such Transfer Station Project is duly and validly authorized and approved by the Board, then SPSA shall be responsible for all development costs associated such Transfer Station Project, including but not limited to all soft costs, construction and equipment costs and start-up costs, associated with the corresponding Existing Delivery Point. Notwithstanding anything herein to the contrary, however, if debt will be incurred by SPSA in connection with any such Transfer Station Project involving an Existing Delivery Point, the debt must be approved by the Board of Directors of the Authority in accordance with all requirements under Applicable Law before the project can commence.

ii. *New Delivery Points.* If a given Transfer Station Project involves the construction, renovation, relocation or expansion of a Delivery Point for any reasons *other* than maintaining or improving continued operations of an Existing Delivery Point (each, a "New Delivery Point"), then (x) the applicable Member Locality shall first propose the Transfer Station Project for such New Delivery Point to SPSA's Board of Directors, and (y) if such New Delivery Point will be operated and maintained by SPSA, then the Transfer Station Project shall be subject to the approval of SPSA's Board of Directors. In any event, whether or not any such Transfer Station Project for a New Delivery Point requires approval from SPSA's Board of Directors, the applicable Member Locality shall be solely responsible for all development costs associated with each and every Transfer Station Project for a New Delivery Point, including but not limited to all soft costs, construction and equipment costs and start-up costs , and any such development costs incurred by SPSA in connection with a Transfer Station Project for a New Delivery Point will be paid to SPSA no less often than monthly by the applicable Member Locality in accordance with a separate "Delivery Point Development Agreement" to be entered into by SPSA and such Member Locality. Notwithstanding the foregoing, however, if the SPSA Board of Directors agrees that a given New Delivery Point is in the best long-term financial interest of SPSA, even

if not operationally necessary at that point, then upon approval of the Board of Directors, SPSA may enter into a cost-sharing agreement for development costs associated with the Transfer Station Project for such New Delivery Point, so long as (and to the extent that) the SPSA Board of Directors makes a determination that SPSA's proposed share of the development costs will not exceed the net value of the New Delivery Point.

c. *Transfer Station Projects – Operational Costs*. From and after the completion of each Transfer Station Project, SPSA shall be responsible for the annual operations and maintenance costs, including where applicable rental/lease and related costs, of (i) each Existing Delivery Point resulting from the Transfer Station Project; and (ii) each New Delivery Point resulting from the Transfer Station Project if (but only if) SPSA and the Member Locality have agreed that such New Delivery Point will be operated and maintained by SPSA.

10. Out-of-Area Waste. Notwithstanding anything in this SOP to the contrary, SPSA shall not under any circumstances facilitate the importation of Out-of-Area Waste for (a) disposal in the Regional Landfill and/or (b) handling/processing/disposal at or by any other Delivery Point included within the Disposal System.

5.0 DESIGNATED DISPOSAL MECHANISM; PLANNING HORIZON

1. Designated Disposal Mechanism.

a. *Selection Process for Designated Disposal Mechanism*. From time to time, as and when appropriate under the circumstances, and no less often then every seven (7) years, the SPSA Board of Directors (or a subcommittee thereof) and Executive Staff will undertake a comprehensive review of the Designated Disposal Mechanism then being utilized and, further, will assess its viability for future periods of time. While it is ultimately the responsibility of the SPSA Board of Directors to determine the best and most efficient Designated Disposal Mechanism for the Authority and its Member Localities (considering both process and economic factors), in so doing the Board will necessarily seek and consider the input of the Member Localities. (The Board of Directors may also solicit input/guidance from independent professionals in the field as well.) In connection with such review and consideration of the Designated Disposal Mechanism, in consultation with the Member Localities, the Board and Executive Staff may conclude that the Designated Disposal Mechanism then being utilized by SPSA is the most efficient and effective method of waste-disposal or, on the other hand, may determine that it is appropriate and in the best interests of SPSA and the Member Localities to explore alternative waste-disposal options, including (but not limited to) the issuance of one or more Requests for Proposal in accordance with Applicable Law, disposal of Municipal Solid Waste in the Regional Landfill or some other waste-disposal method/mechanism. Based on and following each such periodic review and assessment, Executive Staff will make a final recommendation for the Designated Disposal Mechanism for the applicable future period(s), and

Executive Staff shall endeavor to make such recommendation so as to give the SPSA Board of Directors and the Member Localities as much time as is reasonably practicable under the circumstances to consider such recommendation and all relevant considerations. Following such recommendation and, where appropriate, solicitation of input from the Member Localities, SPSA will conduct a vote in accordance with Applicable Law seeking approval from its Board of Directors for the recommended Designated Disposal Mechanism, it being expressly acknowledged and agreed that the approval of any Designated Disposal Mechanism for the Authority is and shall be at the sole discretion of the Board. Notwithstanding the foregoing or anything else in this SOP to the contrary, however, (i) the Designated Disposal Mechanism may not include any landfill constructed, operated or otherwise existing in the Northwest River Watershed (defined as the geographical areas lying within the boundaries delineated as such and specified as the "Northwest River Watershed" on Appendix B attached to this SOP), and (ii) SPSA shall not dispose of any Municipal Solid Waste (or other Solid Waste) in any landfill constructed, operated or otherwise existing in the Northwest River Watershed.

b. *Current Designated Disposal Mechanism*. In 2010, SPSA sold its refuse-derived fuel plant (RDF) and power plant (collectively, the "WTE Faculties") to Wheelabrator Technologies, Inc. ("Wheelabrator"), then an affiliate of Waste Management, Inc. (All of Wheelabrator's operations were sold to Energy Capital Partners, a private equity group, in 2014.) In connection with the sale, SPSA and Wheelabrator executed a Service Agreement for solid waste disposal services, pursuant to which (i) SPSA must provide Wheelabrator with all waste received at each of its transfer stations, (ii) Wheelabrator must accept and process SPSA's solid waste at the WTE Facilities, and (iii) SPSA pays Wheelabrator an annual fee for such services, subject to various offsets and credits.

More specifically, SPSA accepts municipal and commercial solid waste (excluding Hazardous Waste) at nine transfer stations. SPSA's transfer station staff sorts the solid waste received into Processible Waste and Non-Processible Waste at five of its transfer stations. The Processible Waste is hauled by SPSA from the applicable transfer stations to the WTE Facilities. The Non-Processible Waste received at seven of the transfer stations is loaded into non-SPSA trailers by SPSA staff and hauled to a non-SPSA landfill by Wheelabrator. At Wheelabrator's request and with SPSA's approval, Processible Waste may be diverted directly from a SPSA transfer station and hauled by SPSA to the Regional Landfill, rather than the WTE Facilities, at Wheelabrator's cost.

The Service Agreement with Wheelabrator continues through January 24, 2018 and, as such, the Wheelabrator arrangement represents SPSA's current Designated Disposal Mechanism.

I - 1 3 7 1 6 8 3 . 5 2. Planning Horizon.

SPSA prepares, through the use of an independent professional engineer, an annual airspace management report designed to assist in the management of the remaining airspace for the Regional Landfill.

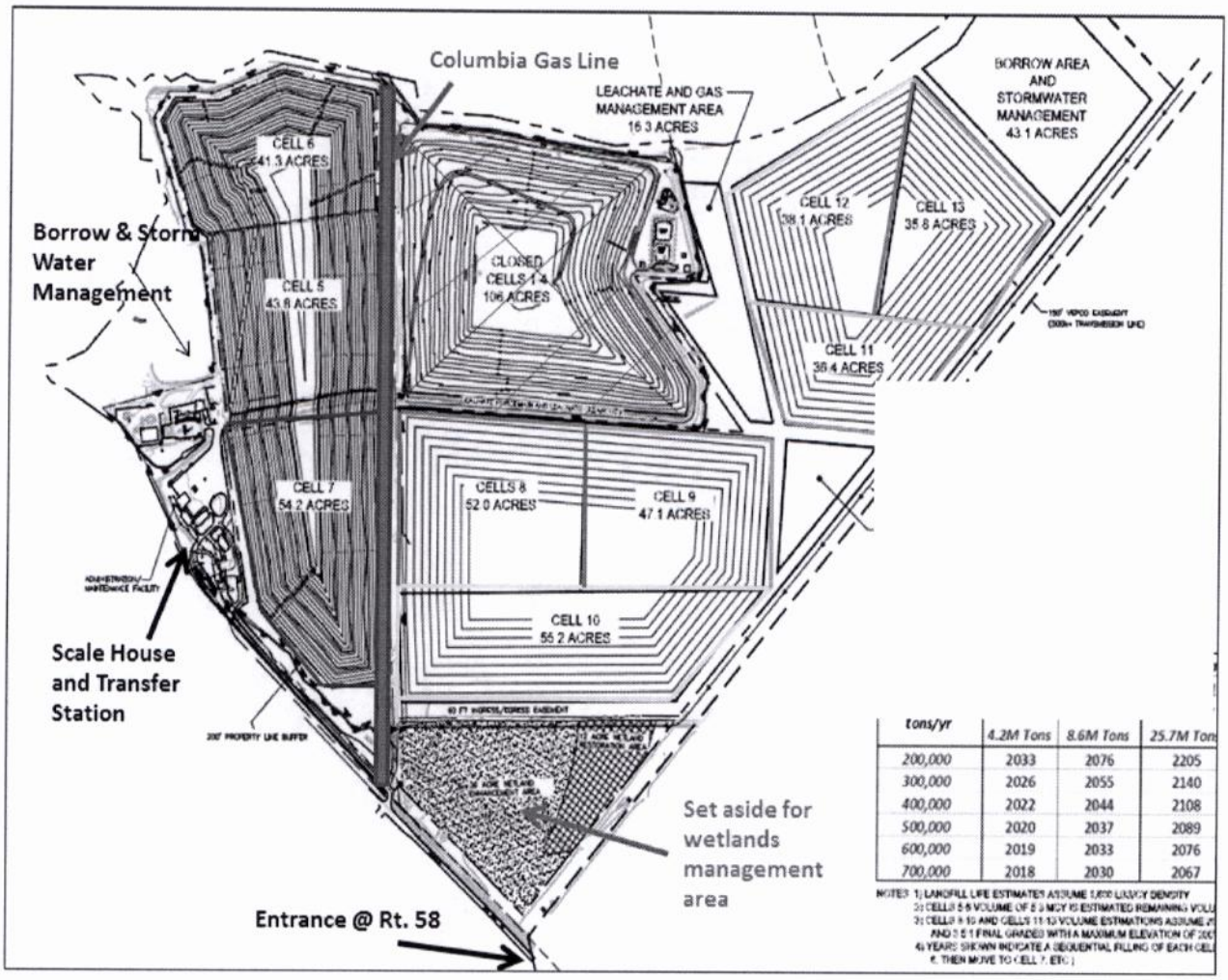
Based on the 2015 report and various assumptions, including annual Solid Waste disposal of approximately 268,345 tons per year, Cells 5 & 6 are currently projected to reach capacity in September 2031.

In addition to Cells 5 & 6, the Regional Landfill includes a 56-acre lateral expansion known as Cell 7. Cell 7 was approved by the Virginia Department of Environmental Quality on June 8, 2011. The capacity of Cell 7 is approximately 10,800,000 cubic yards, or approximately 9 million tons of Solid Waste.

A conceptual plan has also been developed for the potential expansion of Cells 8 – 13, which would provide an additional 264-plus acres of potential expansion areas at the Regional Landfill. SPSA owns the applicable land; however, the additional cells have yet to be permitted. This additional capacity could provide enough capacity for the region for 100 plus years, based on the estimated annual Solid Waste tonnage noted above. Please see an illustration of the "Conceptual Plan" below.

SPSA will continue to monitor the capacity of the Regional Landfill based on, among other things, variations in tons disposed and other planned and unplanned events, and SPSA will in turn update/modify its management reports accordingly, again no less than annually.

Regional Landfill – Conceptual Plan



6.0 BASIS OF ACCOUNTING AND FINANCIAL REPORTING

1. Basis of Accounting and Financial Reporting

SPSA's activities are accounted for in a manner similar to accounting methodologies utilized in the private sector, using the flow of economic resources measurement focus and the accrual basis of accounting. Assets, liabilities, net assets, revenues and expenses are accounted for through an enterprise fund, with revenues recorded when earned and expenses recorded when the corresponding liabilities are incurred.

I-1371683.5 Annual financial statements are prepared on the accrual basis of accounting. SPSA reports as a special purpose government entity engaged in business-type activities, as defined by the Governmental Accounting Standards Board (GASB). Business-type activities are those that are financed in whole or in part by fees charged to external parties for goods or services.

2. Annual Budget

SPSA's fiscal year is July 1 through June 30. The SPSA Board of Directors adopts an annual financial plan, or budget, reflecting projected revenues and expenses for the upcoming fiscal year and directs the Executive Director to implement the plan.

The annual budget is adopted as "balanced" on a cash basis, meaning that current revenues will equal current expenses; however, SPSA may use fund balances, or surplus cash, to fund capital expenses and equipment replacement. SPSA may amend or supplement its budget from time to time during the fiscal year, and the Executive Director is authorized to make transfers within the budget line items. Operating budgets lapse at fiscal year-end, with the exception of unfinished capital projects and encumbrances for purchases not received by June 30, which roll-over to the new fiscal year.

The annual budget also includes a five (5)-year projection of revenues, expenses and projected Disposal System Fees.

In accordance with the requirements of SPSA's existing debt covenants, (i) SPSA files a preliminary budget with its bond trustee on or before May 15 of each fiscal year, and (ii) SPSA files the final financial plan for the upcoming fiscal year, as adopted by SPSA's Board of Directors, on or before June 30. All SPSA debt is expected to be repaid in full by January 24, 2018.

3. Annual Audit

SPSA engages an independent certified public accountant to conduct an annual audit of its financial records and statements each year.

7.0 RATES, FEES AND CHARGES FOR SOLID WASTE MANAGEMENT*

In accordance with the requirements of SPSA's existing debt covenants, the rates for fees and charges for solid waste disposal (i.e., Disposal System Fees) are currently fixed so that gross revenues minus operating expenses, or net revenues, are greater than or equal to (i) 1.2 times the annual debt service of senior debt and (ii) 1.1 times the sum of the annual debt service of senior debt plus senior subordinated debt. As noted above, all SPSA debt is expected to be repaid in full by January 24, 2018, after which time SPSA will have more flexibility with regard to its Disposal System Fees, subject to requirements of Applicable Law.

*NOTE: Beginning in 2018, SPSA's Disposal System Fee shall include operating costs; landfill closure and post-closure costs; and landfill replacement costs.

I-1371683.5 The Water and Waste Authority Act provides requirements/criteria that SPSA must follow when establishing its applicable Disposal System Fees. Specifically, Section 15.2-5136 states that "rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the system or systems, or facilities incident thereto, for which such bonds were issued, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, and (iii) to provide a margin of safety for making such payments." Accordingly, while SPSA may change (increase or decrease) its Disposal System Fees from time to time, (x) SPSA will at all times follow such statutory requirements in implementing any such changes in its Disposal System Fees and (y) any such changes may be implemented only after proper notice has been provided and, where required, public hearing on such changes have been held, all in accordance with Applicable law.

Invoices for Disposal System services are typically provided on a monthly basis, within ten (10) days after the end of each billing period, and unless otherwise specified by contract are due on or before the last business day of the month immediately following the month covered by the invoice, except to the extent any such invoices are subject to a good faith dispute. Each invoice provided by SPSA reflects the total tonnage of Solid Waste received by SPSA from the applicable user during the given billing period, together with such other information as SPSA deems appropriate or relevant. Past due account balances are considered delinquent and are subject to a finance charge of 18% annually. In addition, potential problem accounts or accounts that are in a continuous delinquent payment status may be placed in a credit hold status and the applicable customer/user may be denied access to the SPSA Disposal System until the account returns to current status and/or an arrangement with SPSA has been made to satisfy the past due balance. Delinquent accounts may also be referred to a collection agency or otherwise pursued through litigation.

8.0 SPSA'S ROLE IN A STORM EVENT

As described elsewhere in this SOP, SPSA does not accept Disaster Waste within the Disposal System. Instead, SPSA has historically served as the "procurement agent" for regional management of debris caused by hurricanes and other major storms/disasters (i.e., Disaster Waste). More specifically, SPSA acts as the representative of certain localities, including all SPSA Member Localities as well as the counties of Surry, Northampton, Accomack, Sussex and Greensville (the "Covered Localities"), in the procurement process.

In that role, SPSA issues an RFP for storm debris removal, reduction, disposal and monitoring/management services. A team comprised of personnel from certain participating Covered Localities then evaluates companies who respond and selects several providers (the "Contractors"), and SPSA enters into "stand-by" agreements with each Contractor on behalf of the Covered Localities. Under the agreements, SPSA (i) receives a work request from a Covered Locality for debris removal, reduction and disposal and (ii) directs the request to the appropriate Contractor as a task order. After the initial task order, all service and payment arrangements are between the Covered Locality and the designated Contractor, without SPSA involvement.

This arrangement is known as "cooperative procurement" under the Virginia Public Procurement Act. A typical cooperative scenario would be in the form of a "piggy-back" arrangement, where one public

I - 1 3 7 1 6 8 3 . 5 body issues an RFP listing other public bodies who may participate. Then each of the public bodies, including the public body that issued the RFP, would have its own, separate contract for services with the terms as set forth in the RFP.

Here, however, SPSA enters into the ensuing agreements with the Contractors on behalf of the Covered Localities, but is not receiving any services from or making any payments to the Contractors, and the Localities do not execute individual agreements with the Contractors. (In short, SPSA is simply "administering" a cooperative procurement agreement.) Subsequent discussions between Covered Localities and the selected Contractor(s) for the amount and type of service provided are the sole responsibility of each Covered Localities, as are any arrangements for billing and payment for services rendered. The Covered Locality are also responsible for clearing, removal, separation and disposal of the majority of storm generated debris and other Disaster Waste, with the assistance of contractors and the use of temporary municipal processing and burning facilities.

The individual Covered Localities, and the region in general, benefit from this process: For instance, any disaster prompting Contractor action under the agreements would likely impact the region as a whole and not just one particular city or county; by acting on behalf of the region and its Covered Localities in the procurement process, SPSA is able to obtain more favorable pricing terms than any individual Covered Locality likely could on its own. SPSA is also familiar with and skilled in the procurement process for storm debris management generally, so all parties likewise benefit from the enhanced efficiencies associated with cooperative procurement.

In addition to its role as "procurement agent" for regional management of Disaster Waste, SPSA's objectives in the event of a major disaster would be to: (1) coordinate suspension and resumption of services, internally and with Member Localities, (2) maintain essential internal support capabilities, such as communication, equipment and vehicle fueling, and equipment maintenance and repair, (3) suspend acceptance of household waste until system capabilities and community needs can be evaluated, and (4) resume normal operations as soon as conditions permit.

SPSA also reserves the right to temporarily suspend residential waste disposal prior to storm events if it is negatively impacting the ability to handle municipal and commercial waste.

9.0 POLICIES AND PROCEDURES TO BE MAINTAINED

SPSA maintains, and shall maintain, the following documentation, policies and procedures in accordance with Applicable Law and regulations:

1. Strategic Operating Plan
2. Articles of Incorporation and Bylaws
3. Financial Policies
4. Procurement Policies and Procedures
5. Employee Policy Manual
6. Record Retention
7. Safety Policies and Procedures
8. Environmental Policies
9. Insurance Policies
10. Regional Landfill Operating Manual

I-1371683.5

11. Tire Shredder Operating Manual
12. Transfer Station Operating Manual
13. Emergency Operations Plan
14. Disaster Response Plan

The above documentation, policies and procedures are maintained at SPSA's headquarters, currently the Regional Office Building in Chesapeake, are incorporated into the SOP by this reference and are available for review and inspection by authorized representatives of all Member Localities.

10.0 REVISIONS TO STRATEGIC OPERATING PLAN

Revisions to this Strategic Operating Plan may be made at the sole discretion of SPSA to the extent approved by the SPSA Board of Directors in accordance with the terms hereof. More specifically, this Strategic Operating Plan shall be reviewed by the Board of Directors on at least an annual basis in connection with the Board's review and consideration of SPSA's annual operating budget, and at such other times as the Board may deem necessary or appropriate. If deemed necessary or appropriate after any such review, this Strategic Operating Plan may be updated or otherwise modified by the SPSA Board of Directors, and any such updated/modified Strategic Operating Plan shall be in complete replacement of this any and all other prior Strategic Operating Plans. Notwithstanding anything to the contrary in the foregoing, no update, amendment or modification of this Strategic Operating Plan, or any provision hereof, shall be valid unless such update, amendment or modification has been authorized by a resolution approved by at least seventy-five percent (75%) of the Board of Directors of SPSA.

[END]

APPENDIX A

Definitions

Applicable Law – Collectively, the Virginia Water and Waste Authorities Act, the Virginia Waste Management Act (as amended by Section 15.2-5102.1 of the Code of Virginia, sometimes referred to as the "Cosgrove Act"), the Virginia Solid Waste Management Regulations (currently Chapter 81 of the Virginia Administrative Code), the Virginia Hazardous Waste Management Regulations (currently Chapter 60 of the Virginia Administrative Code), the Resource Conservation and Recovery Act and any other federal, state or local law, rule, regulation, ordinance, permit, decree or other governmental requirement that applies to the services or obligations under this SOP, whether now or hereafter in effect, and each as may be amended from time to time.

Construction and Demolition Debris – Any Solid Waste that is produced or generated during or in connection with the construction, remodeling, repair and/or destruction or demolition of residential or commercial buildings, municipal buildings, roadways and other municipal structures, and other structures, including, but not limited to, lumber, wire, sheetrock, brick, shingles, glass, asphalt and concrete.

Delivery Point – Each facility and location owned or operated by the Authority, or by a third party that is subject to a contract with the Authority in respect of the Disposal System, that (a) possesses all permits required under Applicable Law to receive Solid Waste for disposal and (b) is designated by the Authority from time to time herein to accept Municipal Solid Waste from the Member Localities for further and final processing and disposal by or on behalf of the Authority (certain Delivery Points may sometimes be referred to as "transfer stations").

Designated Disposal Mechanism – The method (or methods) utilized by the Authority for final disposal of Municipal Solid Waste under this SOP, as designated by the Board of Directors of the Authority from time to time in accordance with the express terms hereof and set forth herein. The Designated Disposal Mechanism may include, among other methods, (a) disposal of Municipal Solid Waste in the Regional Landfill in accordance with Applicable Law, (b) disposal of Municipal Solid Waste through one or more facilities owned and/or operated by the Authority in accordance with Applicable Law and/or (c) disposal of Municipal Solid Waste pursuant to agreements between the Authority and one or more third parties.

Disaster Waste – Any Solid Waste and debris that (a) is generated as a result of or in connection with any significant storm or other severe weather occurrence (such as, but not limited to, hurricanes and tornadoes), natural or man-made disaster, war, act of terrorism or other similar occurrence, together with Solid Waste and debris generated in connection with clean-up and/or reconstruction activities resulting from any such occurrences or events, and (b) is of a quantity or type materially different from the Solid Waste normally generated by or within the Member Locality.

Disposal System – All facilities and/or locations owned or leased by the Authority, or with respect to which the Authority otherwise maintains a contractual/commercial relationship, for the collection, management, processing and/or disposal of Solid Waste, including, but not necessarily limited to, the Regional Landfill, all Delivery Points and the Designated Disposal Mechanism(s), together with all

 equipment and vehicles owned or leased by the Authority and used in connection with the collection, management, processing and/or disposal of Solid Waste.

Disposal System Fees – Rates, fees and other charges imposed by the Authority for the collection, management, processing and/or disposal of Solid Waste within the Disposal System, as determined by the Board of Directors of the Authority from time to time in accordance with the Virginia Water and Waste Authorities Act (certain Disposal System Fees may sometimes be referred to as "tipping fees").

Hazardous Waste – Any waste or other material that because of its quantity, concentration or physical, chemical or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (b) pose a substantial present or potential hazard to human health, the Disposal System or the environment when treated, stored, transported, disposed of or otherwise managed. Hazardous Waste specifically includes, but is not necessarily limited to, any waste classified as "hazardous" under the Resource Conservation and Recovery Act, the Virginia Hazardous Waste Management Regulations or any other Applicable Law.

Household Hazardous Waste – Surplus or excess household products that contain corrosive, toxic, ignitable or reactive ingredients, including, but not necessarily limited to, cleaning products, old paints and paint-related products, pesticides, pool chemicals, drain cleaners and degreasers and other car-care products.

Municipal Solid Waste – All Solid Waste the collection of which is controlled by the Member Locality, including (a) Solid Waste that is generated anywhere within the SPSA Service Area and collected by the Member Locality, and (b) residential Solid Waste that is generated anywhere within the SPSA Service Area and collected by a third party for the benefit of (and under the direction and control of) the Member Locality. Municipal Solid Waste expressly excludes the following (collectively referred to herein as "Excluded Waste"): (i) Hazardous Waste and Household Hazardous Waste, (ii) Recyclable Waste, (iii) Yard Waste, (iv) Construction and Demolition Debris, (v) Disaster Waste, (vi) Solid Waste delivered by citizens of the Member Locality to publicly-accessible landfills or other facilities and disposed of at such facilities, (vii) any Solid Waste generated by school boards, authorities or other political entities of the Member Locality (except to the extent (but only to the extent) that any such Solid Waste is actually collected by the Member Locality itself) and (viii) Out-of-Area Waste.

Non-Processible Waste (NPSW) - All Solid Waste, other than Hazardous Waste, that could impair the operation or capacity of the Applicable Disposal Mechanism(s), at SPSA's sole discretion, or cause potential or actual injury to SPSA's employees and/or contractors, but which is capable of being disposed of by sanitary landfill, including but without being limited to metal cable, gypsum board, bricks and blocks, dirt, liquid wastes including sludge from water and waste water treatment plants, tree stumps, logs or other material larger than sic (6) inches in diameter and/or sic (6) feet long.

Out-of-Area Waste – Any Solid Waste that is created or generated outside of, or originates outside of, the SPSA Service Area.

Processible Solid Waste (PSW) – Any Solid Waste other than Hazardous Waste or non-processible waste, including especially material having energy value but currently being discarded without recovery of such energy value.

I-1371683.5 Recyclable Waste – Any Solid Waste that, pursuant to Virginia's Solid Waste Management Regulations (or other relevant Applicable Law) in effect from time to time, or pursuant to prevailing commercial practices in the waste management industry at the applicable time, (a) can be used or reused, modified for use or reuse, or prepared for beneficial use or reuse as an ingredient in an industrial process to make a product or as an effective substitute for a commercial product, or (b) is otherwise processible (or reprocessible) to recover a usable product or is regenerable to another usable form, in each case, however, expressly excluding "residual" Solid Waste generated in connection with any such modification, preparation and/or processing for use, reuse, recovery and/or regeneration of other Solid Waste to the extent that such "residuals" cannot be categorized as "Recyclable Waste" in accordance with the foregoing.

Regional Landfill – The landfill located in the City of Suffolk, Virginia, developed, owned and operated by the Authority for the disposal of Solid Waste, or any additional or successor landfill developed, owned and operated by the Authority.

Solid Waste – Any garbage, refuse, sludge, debris and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or residential/community activities, excluding (a) solid or dissolved material in domestic sewage, (b) solid or dissolved material in irrigation return flows or in industrial discharges that are sources subject to a permit from the State Water Control Board and (c) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended; provided, the waste that constitutes Solid Waste hereunder (and/or is excluded from the definition of Solid Waste hereunder) shall be subject to change from time to time to the extent necessary or appropriate under the Virginia Waste Management Act or other Applicable Law.

SPSA Service Area – The geographic area covered by the political subdivision boundaries of the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach, Virginia and the counties of Isle of Wight and Southampton, Virginia.

Strategic Operating Plan/SOP – This plan adopted by the Board of Directors of the Authority, which sets forth certain operational, maintenance, administrative and other responsibilities of the Authority with respect to the Disposal System and the performance of related services by the Authority, as the same may from time to time be updated, amended or modified in accordance with the terms hereof.

Yard Waste – Any Solid Waste defined as "yard waste" under the Virginia Waste Management Act (or other relevant Applicable Law) in effect from time to time, currently consisting of decomposable waste materials generated by yard and lawn care and including leaves, grass trimmings, brush, wood chips and shrub and tree trimmings, excluding roots, limbs or stumps that exceed the limitation(s) in length and/or diameter specified by a Member Locality from time to time.

[End of Definitions]

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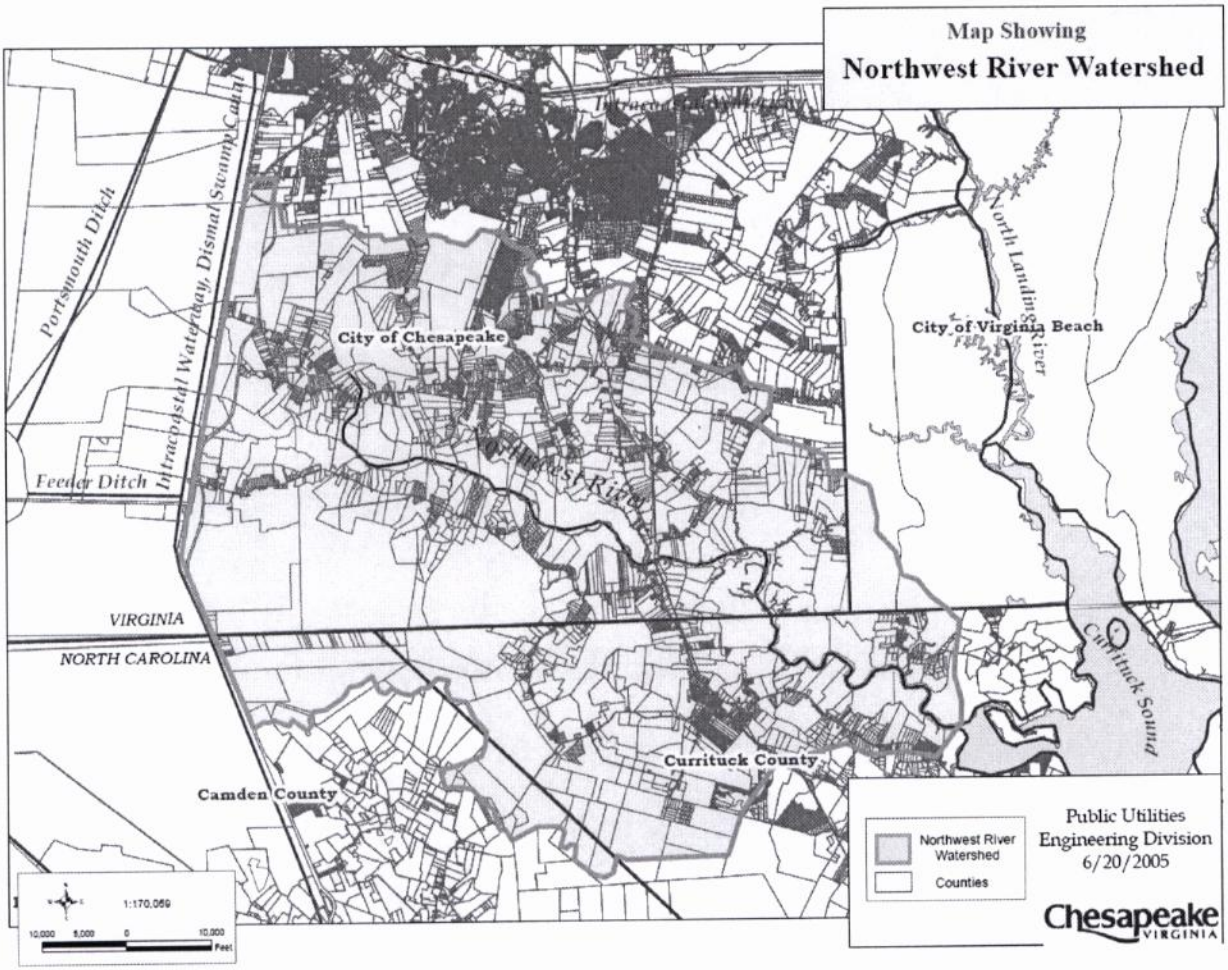
APPENDIX B

Northwest River Watershed



NORFOLK

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ERIKKA M. MASSIE
ZACHARY A. SIMMONS
KARLA J. SOLORIA
ALEX H. PINCUS

May 4, 2016

R-28

To the Honorable Council
City of Norfolk, Virginia

Re: Ordinance to Amend Norfolk City Code Section 25-630.1

Dear Ladies and Gentlemen:

Attached please find an ordinance amending Norfolk City Code Section 25-630.1 concerning interfering with vehicular traffic.

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

5/3/16 - JEC:ll

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO AMEND AND REORDAIN THE NORFOLK CITY CODE, 1979, **SO AS TO** ADD ONE NEW SECTION CONCERNING INTERFERING WITH VEHICULAR TRAFFIC.

\- - -

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

Section 1:- That the Norfolk City Code, 1979, is hereby amended and reordained by adding one new section concerning interfering with vehicular traffic, such section numbered and reading as follows:

Sec. 25-630.1. Interfering with Vehicular Traffic.

A pedestrian may not stand upon the edge of a roadway and behave in a manner so as to cause a reasonable man to believe the pedestrian is about to jump into the roadway in front of his vehicle.

Section 2:- That this ordinance shall be in effect from and after its adoption.

5/6/16 lm

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

R-29

ORDINANCE No.

AN ORDINANCE TO SCHEDULE A CITY COUNCIL MEETING ON TUESDAY, MAY 17, 2016 AT 4:00 P.M.

- - -

WHEREAS, Section 2-4 of the City Code provides that the Council shall determine the need to schedule a City Council meeting on the third Tuesday of the month; and

WHEREAS, it is the desire of the Council of the City of Norfolk to schedule a weekly meeting of the Council of the City of Norfolk on Tuesday, May 17, 2016 at 4:00 P.M.; now, therefore,

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

Section 1:- That the Council has determined to hold a meeting of the Council of the City of Norfolk on Tuesday, May 17, 2016 at 4:00 P.M.

Section 2:- That this ordinance shall be in effect from and after its adoption.