CITY COUNCIL
AGENDA

TUESDAY, OCTOBER 11, 2016

Work Session Agenda

5:00 PM – City Hall - 10th Floor Conference Room

Legislative Agenda

Michael Edwards, Kemper Consulting Michelle Washington, Public and Government Relations Manager

Agenda Overview

Marcus D. Jones, City Manager

October 25, 2016 Docket Item: Formation Of Legal Entities For Conversion Of Assisted Rental Communities

John Kownack, Executive Director Norfolk Redevelopment and Housing Authority

Council Interests

Documents:

10-11-16 COUNCIL INTERESTS.PDF

FY 2017 Annual Audit Plan

John Sanderlin, City Auditor

Closed Session

Real Estate Matter

Chuck Rigney, Director of Development

Announcement Of Meeting

Documents:

10-11-16 ANNOUNCEMENT OF MEETING.PDF

Additional Documents

Documents:

10-11-16 CITY-OWNED LOT DEVELOPMENT CERTIFICATE - 1716 PRINCETON AVE.PDF
10-11-16 MINUTES OF CITY COUNCIL MEETING OF SEPTEMBER 13.PDF
10-11-16 NONSTANDARD LOT CERTIFICATE - 2409 LAFAYETTE BLVD.PDF
10-11-16 NONSTANDARD LOT CERTIFICATE - 3401 LENS AVE.PDF
10-11-16 NRHA - FORMATION OF LEGAL ENTITIES - OCTOBER 25 DOCKET ITEM.PDF
10-11-16 PENDING LAND USE ACTIONS.PDF
10-11-16 RESULTS OF CITY PLANNING COMMISSION PUBLIC HEARING OF SEPTEMBER 22.PDF
10-11-16 MINUTES OF CITY COUNCIL RETREAT (SEPTEMBER 19 AND 20) AND JOINT SCHOOL BOARD MEETING (SEPTEMBER 27).PDF

Formal Session

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

Prayer

Prayer to be offered by Reverend Dr. Keith I.Jones, Shiloh Baptist Church, 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 the conveyance to Kyle and Letitia Nickerson of a certain non-conforming lot located at **860 Washington Avenue**.

Documents:

PH-01 CONVEYANCE OF GEM LOT AT 860 WASHINGTON AVE - KYLE AND LETITIA NICKERSON.PDF

PH-2

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on a Lease Agreement with Copy Connection, LLC for the lease of city owned property located in the Main Street Parking Garage Complex and known as **236 East Main Street**.

Documents:

PH-02 LEASE AGREEMENT WTIH COPY CONNECTION, LLC.PDF

Regular Agenda

R-1

Matter of a letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an entertainment establishment with alcoholic beverages known as **'Collector Norfolk'** on property located at **2409 Fawn Street** will be introduced in writing and read by its title.

(Passed by at the September 13, 2016 meeting)

Documents:

R-01 SPECIAL EXCEPTION - COLLECTOR NORFOLK.PDF

R-2

Matter of a 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.

(Passed by at the September 13, 2016 meeting)

Documents:

R-02 NONEXCLUSIVE TELECOMMUNICATIONS FRANCHISE AGREEMENT WITH MOBILITIE LLC.PDF

R-3

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 **'Wing Stop'** on property located at **520 West 21st Street, Unit D1**," will be introduced in writing and read by its title.

Documents:

R-03 SPECIAL EXCEPTION - WING STOP.PDF

R-4

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 **'Applebee's Neighborhood Grill and Bar'** on property located at **725 East Little Creek Road**, **Building 3, Unit 501**,"will be introduced in writing and read by its title.

Documents:

R-04 SPECIAL EXCEPTION - APPLEBEES NEIGHGBORHOOD GRILL AND BAR.PDF

R-5

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to operate an automobile sales and service establishment named **'A and S Enterprises'** on property located at **5139 East Virginia Beach Boulevard,**" will be introduced in writing and read by its title.

Documents:

R-05 SPECIAL EXCEPTION - ANDRE RIDDICK.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 **'New York Deli and Smoke Shop'** on property located at **4214 East Little Creek Road**,"will be introduced in writing and read by its title.

Documents:

R-06 SPECIAL EXCEPTION - NEW YORK DELI AND SMOKE SHOP.PDF

R-7

Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $4,775.31 plus interest to **LWN Panda**, LLC based upon the overpayment of its business personal property taxes for the tax year 2016," will be introduced in writing and read by its title.

Documents:

R-07 TAX OVERPAYMENT - LWN PANDA, LLC.PDF

R-8

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting the conveyance of a **permanent drainage easement** by **Norfolk Christian Holding Academy** to the City of Norfolk and authorizing the City Manager to accept the Easement on behalf of the City," will be introduced in writing and read by its title.

Documents:

R-08 DEDICATION OF A FIFTEEN FOOT PUBLIC DRAINAGE EASEMENT.PDF

R-9

Letter from the City Clerk requesting use of the Mace for the **32nd Annual Holidays in the City Grand Illumination Parade** to be held on Saturday, November 19, 2016.

Documents:

R-09 USE OF THE NORFOLK MACE FOR GRAND ILLUMINATION PARADE.PDF

R-10

Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **George P. and Brenda W. Arnold** to encroach into city property at **1119 Little Bay Avenue** with rip rap, a pier and lifts," will be introduced in writing and read by its title.

Documents:

R-10 ENCROACHMENT AT 1119 LITTLE BAY AVE - GEORGE AND BRENDA ARNOLD.PDF

R-11

Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **Wave Church** to encroach into the right-of-way of **College Place** with an existing awning," will be introduced in writing and read by its title.

Documents:

R-11 ENCROACHMENT AT 120 COLLEGE PL - WAVE CHURCH.PDF

R-12

Letter from thc City Manager and an Ordinance entitled, "An Ordinance permitting 2**00 East 22nd Street, LLC** to encroach into the right-of-way of **East 22nd Street** with an entrance door and canopy, and into the right-of-way on Monticello Avenue with ten (10') feet of the building,"will be introduced in writing and read by its title.

Documents:

R-12 ENCROACHMENT AT E 22ND ST - 200 E 22ND STREET, LLC.PDF

R-13

Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **Bress Realty, LLC** to encroach into the right-of-way of **Granby Street** with a wall sign and temporary planter,"will be introduced in writing and read by its title.

Documents:

R-13 ENCROACHMENT AT 727 GRANBY ST - BRESS REALTY.PDF

R-14

Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting **Athens, LLC** to encroach into the right-of-way of **Redgate Avenue** with an extension of the existing mansard roof," will be introduced in writing and read by its title.

Documents:

R-14 ENCROACHMENT AT 1300 REDGATE AVE - ATHENS, LLC.PDF

R-15

Letter from the City Manager and an Ordinance entitled, "An Ordinance permitting Gatehouse II, LLC to encroach into the rights-of way of E. 20th Street, Armistead Avenue, Monticello Avenue and E. 19th Street with various structures," will be introduced in writing and read by its title.

Documents:

R-15 ENCROACHMENT AT E 20TH ST - GATEHOUSE II, LLC.PDF

R-16

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving an agreement between the **Commonwealth of Virginia, Department of Transportation** and the City of Norfolk, relating to the collection and processing of approximately 845 miles of pavement data with a fully configured ARAN; and authorizing the expenditure of a sum of up to $233,305.00 from funds heretofore appropriated in the City's General Operating Budget to cover the City's costs related to the project," will be introduced in writing and read by its title.

Documents:

R-16 AGREEMENT WITH VDOT FOR STREET INVENTORY DATA ANALYSIS.PDF

R-17

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **L & H Real Property, LLC** permission to encroach into the right-of-way at **1310**

Colley Avenue approximately 264 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 AGREEMENT FOR OUTDOOR DINING WITH L AND H REAL PROPERTY, LLC - 1310 COLLEY AVE.PDF

R-18

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Lease Agreement** between **1155 Pineridge, LLC** and the City of Norfolk for the lease of that certain property owned by 1155 Pineridge, LLC located at **1155 Pineridge Road**, and authorizing the City Manager to execute the Lease Agreement on behalf of the City of Norfolk," will be introduced in writing and read by its title.

Documents:

R-18 LEASE AGREEMENT WITH 1155 PINERIDGE, LLC - 1155 PINERIDGE RD.PDF

R-19

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Lease Agreement** between the Norfolk Redevelopment and Housing Authority and the City of Norfolk for the lease of that certain property owned by the Norfolk Redevelopment and Housing Authority, located at **1445 Roberts Road**, and authorizing the City Manager to execute the Lease Agreement on behalf of the City of Norfolk," will be introduced in writing and read by its title.

Documents:

R-19 LEASE AGREEMENT WITH NRHA - 1445 ROBERTS RD.PDF

R-20

Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Purchase Offer Agreement** between **Virginia Department of Transportation**, as seller, and the City, as purchaser, for the sale of 0.127 acres of land for the purpose of constructing an access road and authorizing the City Manager to execute the Deed on behalf of the City,"will be introduced in writing and read by its title.

Documents:

R-20 PURCHASE OF PROPERTY FROM VDOT FOR NORFOLK COURTS BUILDING.PDF

R-21

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting a $183,126.00 Grant Award from the **U.S. Department of Justice Programs, Bureau of Justice Assistance from the FY 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) Program** and appropriating and authorizing the expenditure of the fund for equipment expenses for the program,"will be introduced in writing and read by its title.

Documents:

R-21 FY 2016 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AWARD - 183,126.PDF

R-22

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting a $45,110.00 Grant Award from the **Virginia Department of Motor Vehicles** for police officers' overtime pay to assist with a selective enforcement-alcohol initiative, to pay training fees and for equipment purchases and accepting a $29,328.00 Grant Award for police officers' overtime pay to assist with a selective enforcement-speed initiative, appropriating and authorizing the expenditure of the Grand Funds and local matching funds in the amounts of $22,555.00 and $14,664.00 as in-kind services by the Norfolk Police Department for grant purposes," will be introduced in writing and read by its title.

Documents:

R-22 FY 2017 SELECTIVE ENFORCEMENT HIGHWAY SAFETY GRANTS FROM VIRGINIA DEPARTMENT OF MOTOR VEHICLES.PDF

R-23

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting a $50,000.00 Grant Award from the Supreme Court of Virginia for the **Adult Drug Court Vivitrol Pilot Program** and appropriating and authorizing the expenditure of the grant funds for the Program,"will be introduced in writing and read by its title.

Documents:

R-23 ACCEPTANCE OF GRANT FROM SUPREME COURT OF VIRGINIA FOR VIVITROL PILOT PROGRAM.PDF

R-24

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting with appreciation the donation to the City, 19 **ballistic K-9 vests** having a value of approximately $41,800 from the SPIKES K-9 FUND for the Norfolk Police Department K-9 Program," will be introduced in writing and read by its title.

Documents:

R-24 DONATION OF NINETEEN K-9 BALLISTIC VESTS FROM SPIKES K9 FUND.PDF

R-25

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $27,046.00 in **Rescue Squad Assistance Grant Funds from the Office of Emergency Medical Services**, and appropriating and authorizing the expenditure of the grant funds and local matching funds in the amount of $27,046.44 to purchase portable cardiopulmonary resuscitation (CPR) devices for the Department of Fire Rescue," will be introduced in writing and read by its title.

Documents:

R-25 RESCUE SQUAD ASSISTANCE FUND GRANT - 27,046.PDF

R-26

Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $67,120.17 from the schools and libraries Division of the **Universal Service Fund E-rate Reimbursement Program** and appropriating and authorizing the expenditure of $67,120.17 for telecommunications and technology services for the Norfolk Public Library,"will be introduced in writing and read by its title.

Documents:

R-26 UNIVERSAL SERVICE FUND E-RATE REIMBURSEMENT PROGRAM AWARD - 67,120.17.PDF

R-27

Letter from the City Manager and a Resolution entitled, "A Resolution appointing members to the **Coastal Management Review Board** for the City of Norfolk and to the **Erosion Advisory Commission** for the City of Norfolk and to assign an initial term of service for each member," will be introduced in writing and read by its title.

Documents:

R-27 APPOINTMENT OF MEMBERS TO COASTAL MANAGEMENT REVIEW BOARD AND EROSION ADVISORY COMMISSION.PDF

THE CITY OF NORFOLK

October 7, 2016

City Council;

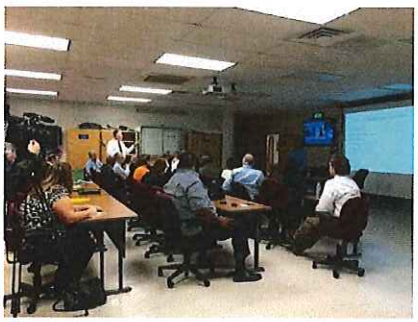
Today's memo provides you with information from the September 13th Council meeting.

Highlights include:

- New Wheelchair Signage
- Coastal Resilience Laboratory & Accelerator

Hurricane Matthew Preps

Since Monday, Team Norfolk has planned and prepared for the upcoming weekend impacts from Hurricane Matthew.



Preparations included regular updates from Emergency Operations Manager Jim Redick to city staff and partner agencies.

Public Works crews have cleaned storm drains and ditches. New strainers on the Ohio Creek pumps near Spartan Village will help keep trash and debris out so the pumps work effectively.

We've communicated to citizens through Norfolk Alert, civic league emails, flyers, website and social media updates. Press releases went to the media. The York Street Parking Garage opened at 5:00 p.m. and will remain available to citizens who need a place to park until Monday at 12:00 p.m.

Extra staff is on hand through the weekend to check pumps, assist with storm-related cleanup and help in emergencies if necessary.

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:	October 7, 2016

Today's memo includes information from your September 13th Council meeting.

Hampton Blvd. Speeding: Norfolk Police maintain a consistent presence on Hampton Boulevard to address speeding and other traffic infractions. Since January, traffic officers have written nearly 1,000 tickets. Police will continue to ensure there is a visible presence and continue enforcement actions along Hampton Blvd.

Wheelchair Signage: Public Works will install "wheelchair traffic ahead" signs at 701 Easy Street and 5631 Tidewater Drive. The Transportation Division will conduct analysis of other locations and develop a list of pedestrian enhancement improvement projects that will utilize the $7.5M Urban Allocation funding that you approved this year.

Ocean View Driver Feedback Signs: In anticipation of the impacts from Hurricane Matthew, Public Works removed all electronic driver feedback signs in Ocean View. The damaged signs from the last storm will be repaired and all signs returned when weather conditions permit.

Coastal Resilience Laboratory & Accelerator Center: The Resilience Office in partnership with the Commonwealth is finalizing a business plan for the Accelerator. Once complete, the Commonwealth will convene other cities in the region and make a decision on how the resources at the Accelerator will be used.

Successful Bond Sale: Capturing strong interest among buyers, the City of Norfolk successfully sold $187 million in general obligations bonds on September 27 and 28, 2016, using a 3-prong approach.

1) Capital Improvement Bonds $106.7 million
2) Refunding Bonds for savings $69.9 million
3) Qualified Energy Conservation Bonds (QECBs) $10.5 million

The innovative structure provides cash flow needs for previously authorized Capital Improvements Programs. The City achieved a savings of $5.9 million across multiple funds, by refunding previously existing bonds for savings. This saving was anticipated when we developed the FY 2017 Budget. To

further the City's environmental sustainability goals, the City issued QECBs to fund the costs associated with energy efficiency improvements at the Southside STEM Academy at Campostella. Utilizing QECBs, the City saved approximately $2.2 million in debt service payments over the life of the bonds, when compared to traditional tax-exempt financing.

Have a good weekend.

CITY OF NORFOLK
OFFICE OF THE MAYOR

KENNETH COOPER ALEXANDER
MAYOR

October 7, 2016

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

Ladies and Gentlemen:

Pursuant to Section 12 of the City Charter, I hereby call a special meeting of the Council to meet at 5:00 P.M., October 11, 2016, in the 10th floor conference room at City Hall for a Business Meeting.

Thank you,

Kenneth C. Alexander
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 • kenneth.alexander@norfolk.gov

CITY OF NORFOLK
OFFICE OF THE MAYOR

KENNETH COOPER ALEXANDER
MAYOR

October 7, 2016

The following meetings will take place on Tuesday, October 11, 2016:

1. 5:00 P.M. Council to assemble in the 10th floor conference room at City Hall for a Business Meeting.

2. 7:00 P.M. Regular Council Meeting.

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NORFOLK, VIRGINIA

DOCKET FOR THE COUNCIL

TUESDAY, OCTOBER 11, 2016 – 7:00 P.M.

Prayer to be offered by Reverend Dr. Keith I. Jones, Shiloh Baptist Church, 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 the conveyance to Kyle and Letitia Nickerson of a certain non-conforming lot located at **860 Washington Avenue**.

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REGULAR AGENDA

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(Passed by at the September 13, 2016 meeting)

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THE CITY OF NORFOLK
CITY PLANNING

Inter Departmental Memorandum

TO:	City Council
THROUGH:	Marcus D. Jones, City Manager
FROM:	George Homewood, FAICP, Director of City Planning
COPIES TO:	Ronald G. Moore, Sr. Design & Rehabilitation Consultant
SUBJECT:	City of Norfolk-Owned Lot Development Certificate – 1716 Princeton Avenue
DATE:	October 11, 2016

Attached is a Certificate for a City of Norfolk-Owned Lot authorizing development of a standard lot consistent with the same process authorized by Council in 2009 for nonstandard lots. 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 city-owned lot has been sold for development.

Property Information

Location:	1716 Princeton Avenue	**Neighborhood:**	Campostella Heights
Zoning:	R-8	**Standard Lot Size:**	50 Ft. x 100 Ft.
House Type:	2 Story Single Family	**Proposed Lot Size:**	50 Ft. x 110.74Ft.
House Size: (Width x Depth)	30 Ft. x 40 Ft.	**Square Footage:**	2180 Sq. Ft.

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

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

THE CITY OF NORFOLK
CITY PLANNING

Department of Planning and Community Development
Zoning Certification for City of Norfolk-Owned Lots

Applicant Information

Applicant Name:	Seven City Builders	**Date of Application:**	June 1, 2016
Mailing Address:	2231 Millville Road		
City, State, Zip Code:	Chesapeake, VA 23323		
Phone Number:	757-971-2637	**E-Mail:**	

Property Information

Location:	1716 Princeton Avenue	**Neighborhood:**	Campostella Heights
Zoning:	R-8	**Standard Lot Size:**	50 Feet x 100 Feet
House Type:	2 Story Single Family	**Proposed Lot Size:**	50 Feet X 110.74 Feet
Proposed House Size:	30 Feet x 40 Feet	**Square Footage:**	2180 SF

The proposed building plans and elevations for development of the site at 1716 Princeton Avenue and located in the Campostella Heights neighborhood in Norfolk, Virginia have been determined to be in keeping with the character of the neighborhood using the standards established by City Council in Section 4-0.15 of the Zoning Ordinance, which include but are not limited to location and placement of windows, doors, roof(s), porch(es), columns, driveways, garage(s), and building height.

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

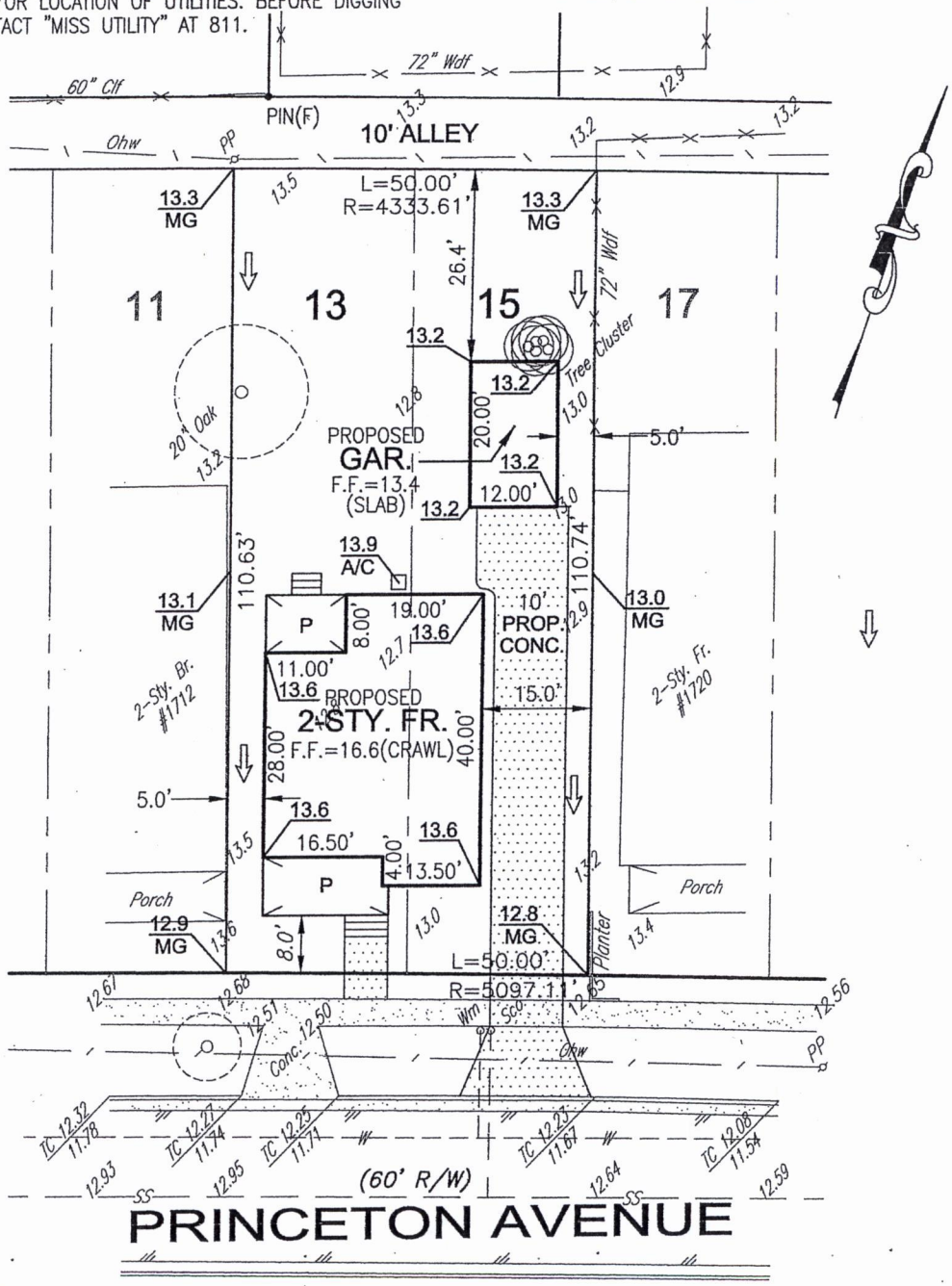
George Homewood, FAICP, Director
City Planning

September 30, 2016
Date

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

FRONT ELEVATION

1. ELEVATIONS SHOWN HEREON ARE BASED ON NAVD 88(92)CITY OF NORFOLK DATUM.
2. BUILDING DIMENSIONS SHOWN AND STAKED ARE TO EXTERIOR FRAMING DIMENSIONS.
3. UTILITY, TOPOGRAPHIC AND LOT GRADING INFORMATION TAKEN FROM FIELD SURVEY AND CITY APPROVED PLANS.
4. INSTALL STANDARD CITY OF NORFOLK ENTRANCE, CITY INSPECTOR TO CONFIRM ENTRANCE IS ACCEPTABLE.
5. THIS PLAN DOES NOT GUARANTEE THE EXISTANCE AND/OR LOCATION OF UTILITIES. BEFORE DIGGING CONTACT "MISS UTILITY" AT 811.
6. FOR WORK IN THE PUBLIC RIGHT-OF-WAYS CONTACT CONSTRUCTION SUPERINTENDANT AT LEAST 48 HOURS IN ADVANCE AT 441-2952.
7. DEED RESTRICTIONS, EASEMENTS AND COVENANTS THAT MAY AFFECT THE PROPERTY ARE THE RESPONSIBILITY OF THE OWNER.
8. THIS PROPERTY APPEARS TO FALL INSIDE FLOOD ZONE X AS SHOWN ON F.E.M.A. FLOOD MAP COMMUNITY NUMBER 510104, PANEL NUMBER 0165F, DATED 09-02-09



SITE PLAN
OF
LOTS 13 & 15, BLOCK E
AMENDED PLAT OF
CAMPOSTELLA HEIGHTS
Norfolk, Virginia
FOR
7 CITY BUILDERS, LLC

0' 20' 40' 60'

REF. PLAT: M.B. 17, PG. 7 & 8(NORFOLK CO.)

COMMONWEALTH OF VIRGINIA
JOHN E. BRUNELLE
Lic. No. 002334
8-18-16
LAND SURVEYOR

John E. Brunelle, L.S.
LAND SURVEYING
445 BATTLEFIELD BLVD N.-SUITE E
CHESAPEAKE, VA. 23320
(757)421-7755 (FAX)421-7745

SCALE : 1"=20'	DATE : JANUARY 22, 2016	DWG. BY : HTB	PROJ. # 0201716

C:\SURV\WORK\SITEPLAN NORF\0201716.dwg

REVISED: AUGUST 18, 2016

THE CITY OF NORFOLK

Inter Department Correspondence Sheet

TO: Members of Council

FROM: City Clerk

COPIES TO:

SUBJECT: Minutes of City Council Meeting

September 23, 2016

Attached are the minutes from the City Council meeting held on September 13, 2016.

Brek

R. Breckenridge Daughtrey

NORFOLK, VIRGINIA

BUSINESS MEETING OF COUNCIL

TUESDAY, SEPTEMBER 13, 2016

Mayor Alexander called the meeting to order at 5:13 p.m. with the following members present: Ms. Graves, Ms. Johnson, Ms. McClellan, Mr. Riddick, Mr. Smigiel, and Mr. Thomas. Dr. Whibley was absent.

He thereupon called on the clerk to read the motion of closed session.

A. CLOSED SESSION

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

(3) Acquisition and disposition of real property.

(5) Location or expansion of a business or industry.

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

No: None.

B. NORFOLK WORKS

Peter Chapman, Deputy City Manager, reported as follows on a Workforce Development Pilot Program:

- The goal of the program is to: 1) communicate employment to job seekers; 2) deliver education, job training and employment support services; and 3) create partnerships with employers to secure job commitments for Norfolk residents.
- The pilot program will focus on cybersecurity and work with an initial cohort of 25 clients.
- The program will be located downtown on the ground floor of the Fountain Park garage.

C. READY TO THRIVE UPDATE

Sabrina Joy-Hogg, Deputy City Manager, reported on this events as follows:

- 982 children between the ages of 2 and 18 were served
- 300 people volunteered including over 200 city employees
- 45 public schools were represented
- There were numerous community partners
- A steering committee is working to develop a year-long pilot program

D. STORMWATER FEE REDUCTION PROGRAM

David Ricks, Director of Public Works, reported as follows:

- It is recommended that the City Code be amended to provide for reductions and/or waivers of the storm water fee.
- Full exemption is required for government properties with individual storm water permits.

E. COUNCIL INTERESTS

Councilman Riddick:

- Forwarded a written list of concerns to the City Manager.
- With regard to Docket item R-2, asked Mr. Homewood to make sure the three churches located nearby have no objection to this Special Exception request.

Councilman Smigiel:

- Asked fellow Council members to attend the Virginia Municipal League conference in October, if possible.
- With regard to Hermine and the State of Emergency declared by Governor McAuliffe, asked if a full damage assessment had been done to see if we qualify for funding to assist with repairs.
- With regard to Docket items, asked to be notified in advance when a fellow Council member plans to request a continuance.

Councilwoman Graves:

- With regard to Norfolk Works and marketing information to citizens, asked to be mindful of those citizens who are not online.
- Forwarded a citizen's text message to the Administration regarding caution and safety signage for motorized wheelchairs.

Councilman Thomas:

- Asked Council to take up appointments ASAP noting that the City Planning Commission had difficulty reaching a quorum at their last meeting.
- Asked that radar speed signs be installed in the Willoughby area.
- Asked if presentations could be put in the dropbox prior to the Council meetings.
- Asked for updates on: The creation of the Technology Advisory Committee; the status of the Selden Arcade.

Councilwoman McClellan:

- Asked for updates on Waterside prior to every City Council meeting if possible. She asked the Administration to clarify if any office space can be included that's not part of a lessee arrangement.
- Asked that speeding on Hampton Boulevard near Larchmont be addressed.
- Asked for an update on the $5 million portion of the HUD NDRC Grant that's going to the Accelerator.
- With regard to Docket item R-1, suggested appropriate signalization to help mitigate the backups at 4th View Street.

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

CITY COUNCIL MEETING

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

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

The opening prayer was offered by Pastor Christopher Hines, Way of the Cross Church, followed by the Pledge of Allegiance.

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

President Alexander moved to excuse Dr. Whibley from today's meeting.

Motion adopted.

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

No: None.

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

Motion adopted.

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

No: None.

CERTIFICATION OF CLOSED MEETING

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

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

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

No: None.

PUBLIC HEARINGS

PH-1 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on approving the conveyance of a portion of the **Curlew Drive** right of way to the **Virginia Department of Transportation** by Deed of Quitclaim.

Thereupon, an Ordinance entitled, "An Ordinance approving the conveyance of a portion of the **Curlew Drive** right of way to the **Virginia Department of Transportation** by Deed of Quitclaim," was introduced and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 14, 2016.

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

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 the conveyance to **Hoffler Architects, LLC** of certain parcels of property located at **2935 and 2939 E. Virginia Beach Boulevard** for the total sum of $25,000.00 in accordance with the terms and conditions of the Purchase and Sale Agreement.

Thereupon, an Ordinance entitled, "An Ordinance authorizing the conveyance to **Hoffler Architects, LLC** of certain parcels of property located at **2935 and 2939 E. Virginia Beach Boulevard** for the total sum of $25,000.00 in accordance with the terms and conditions of the **Purchase and Sale Agreement**," was introduced and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 14, 2016.

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

No: None.

Abstain: Graves.

Ms. Graves abstained, noting that Hoffler Architects, LLC is a client.

PH-3 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Sunsations Realty, LLC**, for a zoning text amendment to Section 27-27, **"River's Edge at Berkley Residential Planned Development District"** (PD-R River's Edge at Berkley) of the *Zoning Ordinance* to create new development standards for a residential planned development on the property.

R.J. Nutter, 222 Central Park Avenue, the attorney, John Hines, 4500 Main Street, Suite 400, and Mike Ashe, 4249 Chestwick Lane, all of Virginia Beach, were present to answer questions.

Ronnie Jennings, 1625 Colon Avenue, Beacon Light Civic League, spoke in favor of this application.

Herbert Ballard, Sr., 130 Bellamy Ave, was present in opposition to this matter, but did not speak.

Thereupon, an Ordinance entitled, "An Ordinance to amend Section 27-27 of the *Zoning Ordinance of the City of Norfolk, 1992*, **SO AS TO** revise the plan of development for the **River's Edge at Berkley Residential Planned Development District** (PD-R River's Edge at Berkley)," was introduced and read by its title.

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

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

No: None.

PH-4 **PUBLIC HEARING** scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Norfolk Redevelopment and Housing Authority**, for a change of zoning from R-12 (Medium Density Multi-Family) and BFRPO (Bay Front Residential Parking Overlay) Districts to C-3 (Retail Center) District on the 10-foot rear portion of properties located at **9548-9574 21st Bay Street**.

Jim Holloman, Norfolk Redevelopment and Housing Authority, was present to answer questions.

Thereupon, an Ordinance entitled, "An Ordinance to rezone a portion of the properties located at **9548 to 9574 21st Bay Street** from R-12 (Multi-Family Residential) District and BFRPO (Bay Front Residential Parking Overlay) District to C-3 (Retail Center Commercial) District," was introduced and read by its title.

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

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

No: None.

REGULAR AGENDA

R-1 Matter of a letter from the City Manager and an Ordinance entitled, "An Ordinance requesting the **Virginia Department of Transportation** to establish projects for the **West Ocean View Flyover**, the Citywide **ADA Ramp Construction, Phase 3**, and the Granby Street/Bayview Boulevard Intersection Improvements in accordance with the Programmatic Project Administration Agreement between the City of Norfolk and the Virginia Department of Transportation; and appropriating and authorizing the expenditure of the total sum of $3,540,000.00 for these projects, subject to and in accordance with the terms of the aforesaid **Agreement**," was introduced in writing and read by its title.

(DELAYED AT THE MEETING OF AUGUST 23, 2016)

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

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

No: None.

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 known as **'Collector Norfolk'** on property located at **2409 Fawn Street**," was introduced in writing and read by its title.

Ryan Meadows, 317 B Wimbleton Chase, Chesapeake, was present to answer questions.

ACTION: The matter was continued on the request of Councilman Paul Riddick to October 11, 2016.

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

No: None.

R-3 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** authorizing the operation of an entertainment establishment with alcoholic beverages known as **'Borjo Coffeehouse'** on property located at **4416 Monarch Way**," was introduced in writing and read by its title.

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

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

No: None.

R-4 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 **'Clementine's'** on property located at **110 Lavalette Avenue, Suite C**," was introduced in writing and read by its title.

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

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

No: None.

R-5 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 **'Exception Ale'** on property located at **2000 Colonial Avenue, Suite 6**," was introduced in writing and read by its title.

Greg Hartman, 4543 Valhalla Drive, Portsmouth, was present to answer questions.

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

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

No: None.

R-6 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting an easement from **Lake Wright Retail Investors, LLC** for the purpose of constructing and maintaining a public sidewalk and authorizing the City Manager to execute the **Deed of Easement** on behalf of the City of Norfolk," was introduced in writing and read by its title.

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

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

No: None.

R-7 Letter from the City Manager and an Ordinance entitled, "An Ordinance dedicating certain property owned by the City of Norfolk as public right of way in connection with the **Military Highway Continuous Flow Intersection Project**," was introduced in writing and read by its title.

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

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

No: None.

R-8 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Nonexclusive Telecommunications Franchise Agreement** with **Mobilitie, LLC**," was introduced in writing and read by its title.

ACTION: The matter was continued on the request of Councilwoman Johnson to October 11, 2016.

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

No: None.

R-9 Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing the City Manager to enter into a **Right of Entry Agreement** with **Richard C. Hood and Sharon S. Smith** regarding the property located at **1432 Gates Avenue**, in connection with the **Jeff Robertson Park Stormwater Wetland Project**," was introduced in writing and read by its title.

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

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

No: None.

R-10 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 **Commonwealth of Virginia, Department of Transportation and Corman-E.V. Williams**, a joint venture, for work related to the **Virginia Department of Transportation Military Highway Continuous Flow Intersection Project**," was introduced in writing and read by its title.

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

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

No: None.

R-11 Letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain **Sections 25-653, 654,** and **656** of the *Norfolk City Code, 1979*, **SO AS TO** add three new yield intersections, six new stop intersections, and three new streets included in the prohibition regarding trucks of one and one-half tons," was introduced in writing and read by its title.

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

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

No: None.

R-12 Letter from the City Manager and an Ordinance entitled, "An Ordinance finding a public necessity for the acquisition in fee simple of the property interests owned by **Joshua Pretlow, Jr., Anne Pretlow Henderson, T. Kirk Pretlow, and Jennie Pretlow Barrett** in certain property located in **the City of Suffolk at the Western Branch Reservoir**; approving the **Purchase and Sales Agreement**; and authorizing the expenditure of a sum of up to $256,000.00 from funds heretofore appropriated for acquisition of the property and all related transactional costs," was introduced in writing and read by its title.

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

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

No: None.

R-13 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **Berman Realty, LLC** permission to encroach into the right-of-way at **1316 Colley Avenue** approximately 386 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 September 13, 2016.

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

No: None.

R- 14 Letter from the City Manager and an Ordinance entitled, "An Ordinance granting **SLNWC Office Company, LLC** permission to encroach into the rights-of-way of **Monticello Avenue and Charlotte Street** at **440 Monticello Avenue** approximately 37 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 September 13, 2016.

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

No: None.

R-15 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving a **Temporary Right of Entry Agreement** with **Cellco Partnership d/b/a Verizon Wireless**, granting permission to cross a portion of city-owned property at **723 Spotswood Avenue** for the purpose of installing and maintaining an aerial fiber route and antennas on an existing power pole," was introduced in writing and read by its title.

Stephen Romine, 999, the attorney, was present to answer questions.

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

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

No: None.

R-16 Letter from the City Manager and an Ordinance entitled, "An Ordinance authorizing an amendment to **Lease** between **Virginia Stage Company** and the City of Norfolk for property located at **220 Boush Street** and authorizing the City Manager to execute the amendment on behalf of the City of Norfolk," was introduced in writing and read by its title.

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

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

No: None.

R-17 Letter from the City Manager and an Ordinance entitled, "An Ordinance approving the acceptance of the **Norfolk Drug Treatment Court Grant Award** of $250,000 from the **Supreme Court of Virginia** for the **Adult Drug Court Program** and program fees up to $15,000 and appropriating the grant funds and program fees and authorizing expenditure of $78,500 from previously appropriated funds as a local cash match," was introduced in writing and read by its title.

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

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

No: None.

R-18 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $348,950 from the **Storm Water Local Assistance Fund Grant** for the implementation of flood reduction and environmental sustainability and appropriating and authorizing the expenditure of the $348,950 grant and $348,950 match funds for the **Anne Outten Pond Retrofit Water Quality Improvement Project**," was introduced in writing and read by its title.

Ellis W. James, 2021 Kenlake Place, stated that this is a step in the right direction to address the storm water problems.

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

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

No: None.

R-19 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting a **Victim Witness Grant Award** of $715,553.00 from the **Virginia Department of Criminal Justice Services** for the continuation of the **FY17 Victim/Witness Assistance Program**, appropriating and authorizing the expenditure of the grant funds for the program and authorizing the employment of thirteen (13) persons for the program in a Special Project employment status," was introduced in writing and read by its title.

Betsy Powell, Commonwealth Attorney's Office, 312 Northshore Road, was present to answer questions.

Ellis W. James, 2021 Kenlake Place, stated that this is an important issue given the problems in the community and on the peninsula. This will help bridge the gap between the police who patrol our streets and to help our citizens be safe.

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

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

No: None.

R-20 Letter from the City Manager and an Ordinance entitled, "An Ordinance accepting $5,000 in grant funds from the **Virginia Commission for the Arts**, appropriating and authorizing the expenditure of the grant funds and authorizing the expenditure of $5,000 in local cash matching funds for distribution by the City on a competitive basis to local arts organizations," was introduced in writing and read by its title.

Debra Burrell, Arts Manager, 208 E Main Street, was present to answer questions.

Terrance Afer-Anderson. 1210 Colonial Avenue #1206, thanked Council for supporting the Arts.

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

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

No: None.

R-21 Letter from the City Manager and an Ordinance entitled, "An Ordinance amending **Ordinance No. 46,499**, regarding the exemption from **Real Estate Taxes** for two parcels of **Real Property of First Baptist Church of Campostella Trust** retroactive to September 1, 2014, and one parcel of Real Estate retroactive to January 1, 2015 **SO AS TO** correct the number of parcels and the revenue impact to the City and its taxpayers for granting retroactive exemption from $5,439.89 to $525.30," was introduced in writing and read by its title.

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

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

No: None.

R-22 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $14,598.74, plus interest to **Canon Solutions America, Inc.** based upon the overpayment of its Business Personal Property Taxes for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-23 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $2,538.82, plus interest to **F. Sullivan Callahan, PLC** based upon the overpayment of its Business Personal Property Taxes for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-24 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $18,313.13, plus interest to **Hudson-NIA JV of Norfolk, Inc.** based upon the overpayment of its Business Personal Property Taxes for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-25 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $5,124.01 plus interest to **LP Norfolk LLC** based upon the overpayment of its Business Personal Property Taxes for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-26 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $12,554.75 plus interest to **Macy's Retail Holdings, Inc.** based upon the overpayment of its Business License Tax for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-27 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $16,771.00 plus interest to **Merrill Lynch, Pierce, Fenner & Smith Incorporated** based upon the overpayment of its Business Personal Property Taxes for the Tax Year 2015," was be introduced in writing and read by its title.

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

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

No: None.

R-28 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $2,974.73 plus interest to **North Title, LLC** based upon the overpayment of its Business Professional and Occupational License Tax for the Tax Years 2013 through 2016," was introduced in writing and read by its title.

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

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

No: None.

R-29 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $3,490.55 plus interest to **Orion Marine Construction, Inc.** based upon the overpayment of its Business Personal Property Tax for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-30 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $6,298.40 plus interest to **Pierce & Thornton PLC** based upon the overpayment of its Business License Tax for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-31 Letter from the City Attorney and an Ordinance entitled, "An Ordinance directing the City Treasurer to issue a refund in the amount of $3,730.51 plus interest to **Universal Air Products Corporation** based upon the overpayment of its Business Personal Property Tax for the Tax Year 2016," was introduced in writing and read by its title.

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

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

No: None.

R-32 Letter from the City Clerk transmitting an **Abstract of Votes** cast in the City of Norfolk at the Special Election held on August 23, 2016.

ACTION: Received and filed.

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

No: None.

R-33 Letter from the City Attorney and an Ordinance entitled, "An Ordinance to schedule a meeting between the City Council and the **Norfolk School Board** on **Tuesday, September 27, 2016 at 4:00 P.M.** in the **10th floor, Large Conference Room**," was introduced in writing and read by its title.

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

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

No: None.

R-34 Letter from the City Clerk and a Resolution entitled, "A Resolution establishing a **Naval Station Norfolk Centennial Commission** and appointing its members," was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, made a recommendation that this Commission should include a representative of the Filipino community.

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

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

No: None.

R-35 A Resolution entitled, "A Resolution expressing the thanks and appreciation of the Norfolk City Council to **Barclay C. Winn** for sixteen years of service to the City while serving as a member of the City Council," was introduced in writing and read by its title.

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

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

No: None.

R-36 A Resolution entitled, "A Resolution expressing the thanks and appreciation of the Norfolk City Council to **Andrew A. Protogyrou** for six years of service to the City while serving as a member of the City Council," was introduced in writing and read by its title.

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

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

No: None.

NEW BUSINESS

1. Rhonda Madison, 2919 East Virginia Beach Blvd., asked for assistance to preserve her mother's 103 years old home, stating that in 1995 when windows were installed that the property showed signs of deterioration.

2. Steve Kurak, 302 Sequoia Road, Portsmouth, from Lets Open Doors, a non-profit organization, explained some of the products they offer for the replacement of windows, doors and hardware to existing buildings to assist people with disabilities.

3. Rayton White, 735 Wiley Drive, Grandy Village Advisory Council, thanked the Mayor for coming out and speaking to the youth. He stated that there were serval incidents that occurred during the Summer Camp Program at the Grandy Village Recreation Center, among the staff, parents, and children, city staff behavior towards the young people.

4. Jeffrey Logan, 1150 Wedge Street, talked about diversity in Public Safety. He stated that a copy of the Equal Employee Opportunity Plan (EEOP), should be posted and that equal opportunities should be provided to everyone regardless of their orientation.

5. Danny Lee Ginn, 3844 Dare Circle, expressed concerns about remarks made by Councilman Riddick regarding the police and calling for the FBI to investigate all police shootings from 2013 to 2016.

THE CITY OF NORFOLK
CITY PLANNING

Inter Departmental Memorandum

TO:	City Council
THROUGH:	Marcus D. Jones, City Manager
FROM:	George Homewood, AICP, Director of City Planning
COPIES TO:	Ronald G. Moore, Sr. Design & Rehabilitation Consultant
SUBJECT:	Non Standard Lot Certificate – 2409 Lafayette Blvd.
DATE:	October 7, 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:	2409 Lafayette Blvd.	**Neighborhood:**	Fairmont Park
Zoning:	R-11	**Standard Lot Size:**	37.5 Ft. x 100 Ft.
House Type:	2 Story Single Family	**Proposed Lot Size:**	35 Ft. x 116 Ft.
House Size: (Width x Depth)	20 Ft. x 41 Ft.	**Square Footage:**	1624 Sq. Ft.

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

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

THE CITY OF NORFOLK
CITY PLANNING

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

Applicant Information

Applicant Name:	Concept Properties, LLC	**Date of Application:**	June 13, 2016
Mailing Address:	1600 E. Little Creek Road		
City, State, Zip Code:	Norfolk, VA 23518		
Phone Number:	757-3286-5060	**E-Mail:**	

Property Information

Location:	2409 Lafayette Blvd.	**Neighborhood:**	Fairmont Park
Zoning:	R-11	**Standard Lot Size:**	37.5 Feet x 100 Feet
House Type:	2 Story Single Family	**Proposed Lot Size:**	37.5 Feet X 116 Feet
Proposed House Size:	20 Feet x 41 Feet	**Square Footage:**	1624 SF

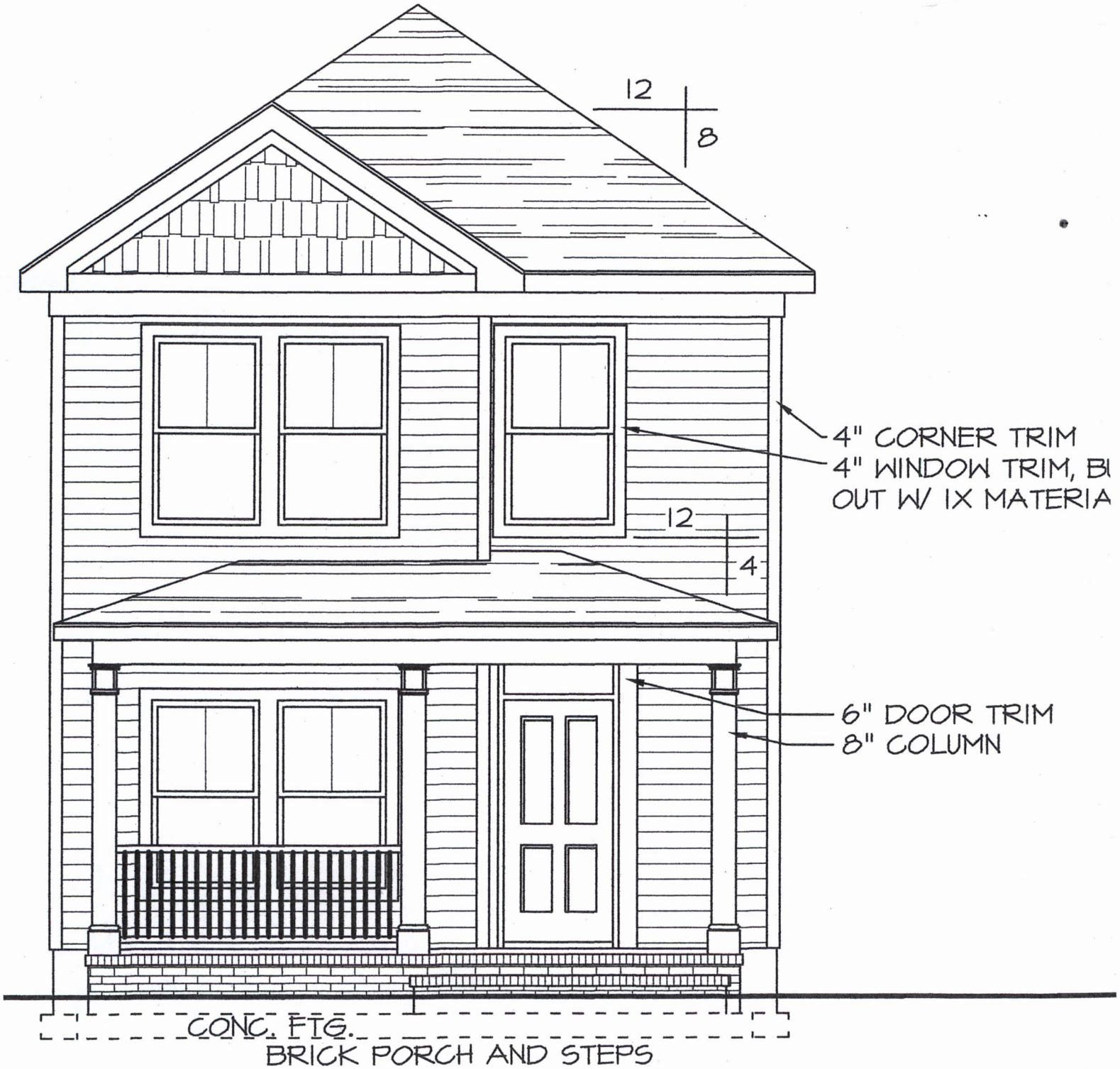
The proposed building plans and elevations for development of the site at 2409 Lafayette Boulevard and located in the Fairmont Park neighborhood in Norfolk, Virginia have been determined to be in keeping with the character of the neighborhood using the standards established by City Council in Section 4-0.15 of the Zoning Ordinance, which include but are not limited to location and placement of windows, doors, roof(s), porch(es), columns, driveways, garage(s), and building height.

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

George Homewood, FAICP, Director
City Planning

September 8, 2016
Date

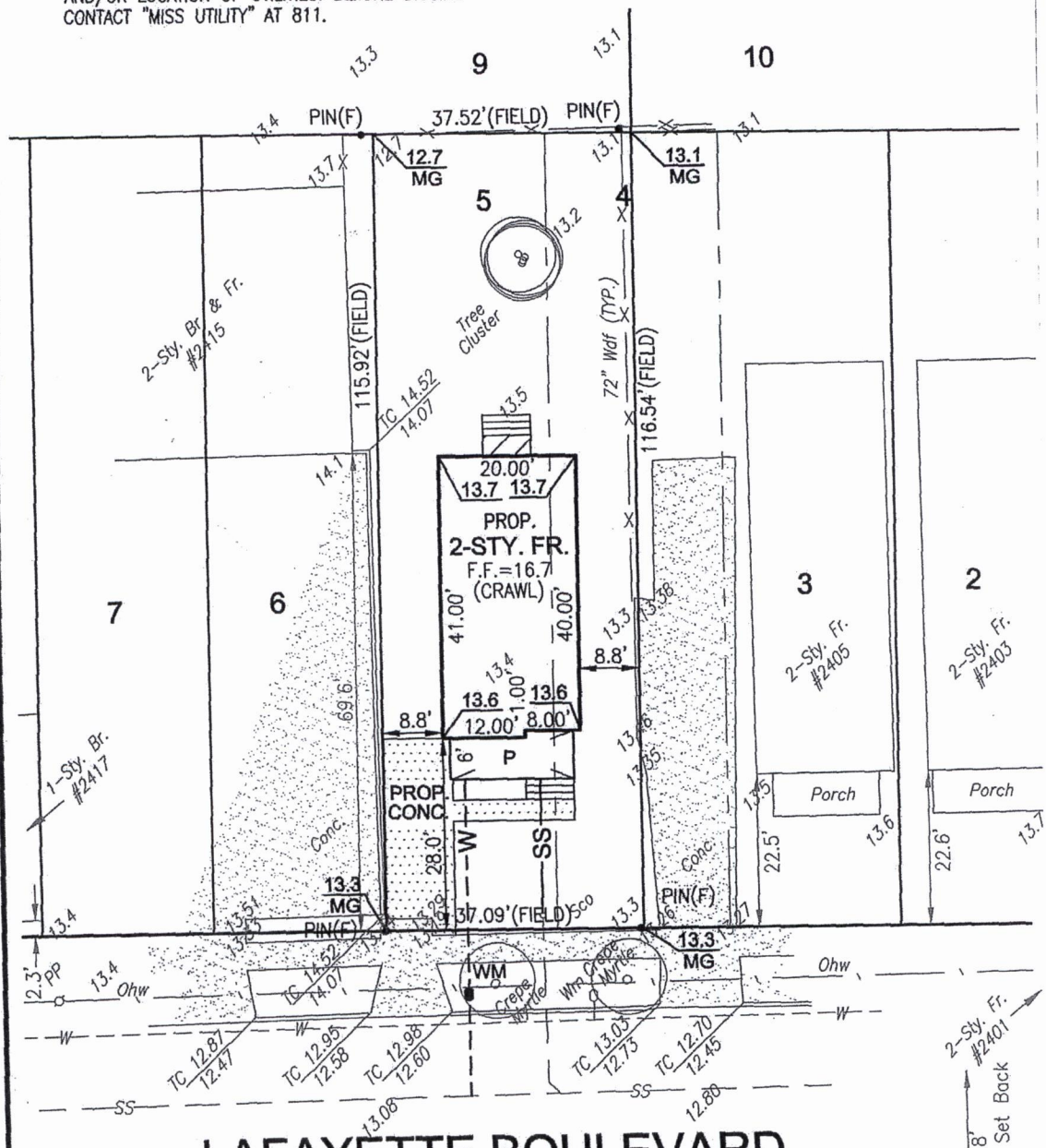
BC: City Manager's Office
Planning Director
Program Manager
Building Official



FRONT ELEVATION - SLAB

1/8"=1'-0"

1. ELEVATIONS SHOWN HEREON ARE BASED ON NAVD 88(92)CITY OF NORFOLK DATUM.
2. BUILDING DIMENSIONS SHOWN AND STAKED ARE TO EXTERIOR FRAMING DIMENSIONS.
3. UTILITY, TOPOGRAPHIC AND LOT GRADING INFORMATION TAKEN FROM FIELD SURVEY AND CITY APPROVED PLANS.
4. INSTALL STANDARD CITY OF NORFOLK ENTRANCE, CITY INSPECTOR TO CONFIRM ENTRANCE IS ACCEPTABLE.
5. THIS PLAN DOES NOT GUARANTEE THE EXISTANCE AND/OR LOCATION OF UTILITIES. BEFORE DIGGING CONTACT "MISS UTILITY" AT 811.
6. FOR WORK IN THE PUBLIC RIGHT-OF-WAYS CONTACT CONSTRUCTION SUPERINTENDANT AT LEAST 48 HOURS IN ADVANCE AT 441-2952.
7. DEED RESTRICTIONS, EASEMENTS AND COVENANTS THAT MAY AFFECT THE PROPERTY ARE THE RESPONSIBILITY OF THE OWNER.
8. THIS PROPERTY APPEARS TO FALL INSIDE FLOOD ZONE X AS SHOWN ON F.E.M.A. FLOOD MAP COMMUNITY NUMBER 510104, PANEL NUMBER 0135F, DATED 09-02-09



LAFAYETTE BOULEVARD

SITE PLAN
OF
LOT 5 & 12.5' of LOT 4
BLOCK 12
LAFAYETTE TERRACE
Norfolk, Virginia
FOR
BRIAN EMERSON

COMMONWEALTH OF VIRGINIA
JOHN E. BRUNELLE
Lic. No. 002334
6-30-16
LAND SURVEYOR

John E. Brunelle, L.S.
LAND SURVEYING
445 BATTLEFIELD BLVD N.-SUITE E
CHESAPEAKE, VA. 23320
(757)421-7755 (FAX)421-7745

0' 20' 40' 60'

REF. PLAT: M.B. 5, PG. 61

SCALE : 1"=20'	DATE : JUNE 30, 2016	DWG. BY : SMC	PROJ. # 0219616

C:\SURV\WORK\SITEPLAN NORF\0219616.dwg

THE CITY OF NORFOLK
CITY PLANNING

Inter Departmental Memorandum

TO:	City Council
THROUGH:	Marcus D. Jones, City Manager
FROM:	George Homewood, FAICP, Director of City Planning
COPIES TO:	Ronald G. Moore, Sr. Design & Rehabilitation Consultant
SUBJECT:	Non Standard Lot Certificate – 3401 Lens Avenue
DATE:	October 7, 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:	3401 Lens Avenue	**Neighborhood:**	Fairmount Park
Zoning:	R-8	**Standard Lot Size:**	50 Ft. x 100 Ft.
House Type:	2 Story Single Family	**Proposed Lot Size:**	45 Ft. x 100 Ft.
House Size: (Width x Depth)	30 Ft. x 50 Ft.	**Square Footage:**	2208 Sq. Ft.

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

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

THE CITY OF NORFOLK
CITY PLANNING

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

Applicant Information

Applicant Name:	Portside Improvements	**Date of Application:**	November 30, 2015
Mailing Address:	7419 Sewells Point Road		
City, State, Zip Code:	Norfolk, VA 23513		
Phone Number:	757.621.6840	**E-Mail:**	

Property Information

Location:	3401 Lens Avenue	**Neighborhood:**	Fairmont Park
Zoning:	R-8	**Standard Lot Size:**	50 Feet x 100 Feet
House Type:	2 Story Single Family	**Proposed Lot Size:**	45 Feet X 100 Feet
Proposed House Size:	30 Feet x 50 Feet	**Square Footage:**	2280 SF

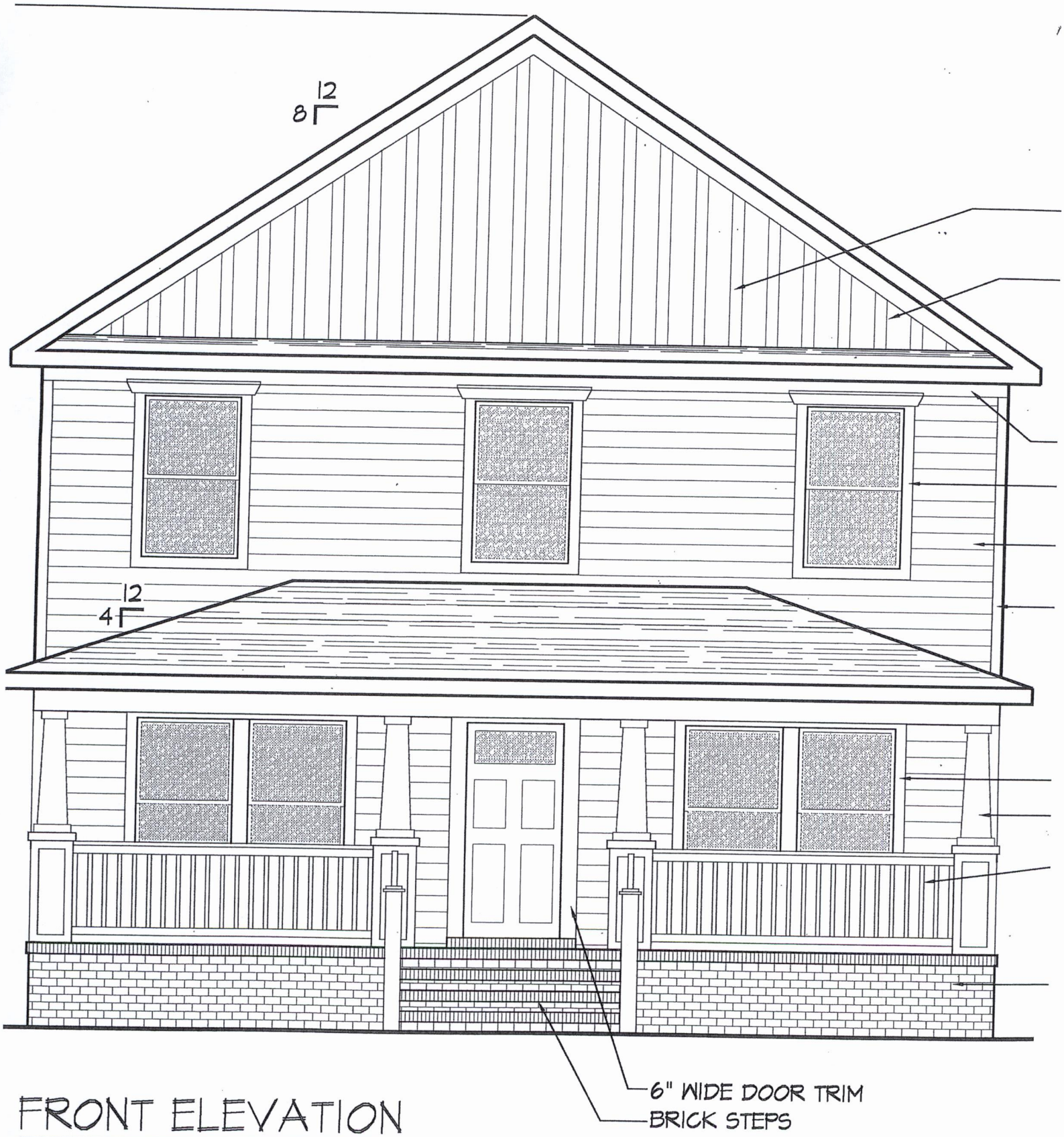
The proposed building plans and elevations for development of the site at 3401 Lens Avenue and located in the Fairmont Park neighborhood in Norfolk, Virginia has been determined to be in keeping with the character of the neighborhood using the standards established by City Council in Section 4-0.15 of 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, FAICP, Director
City Planning

September 23, 2016
Date

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

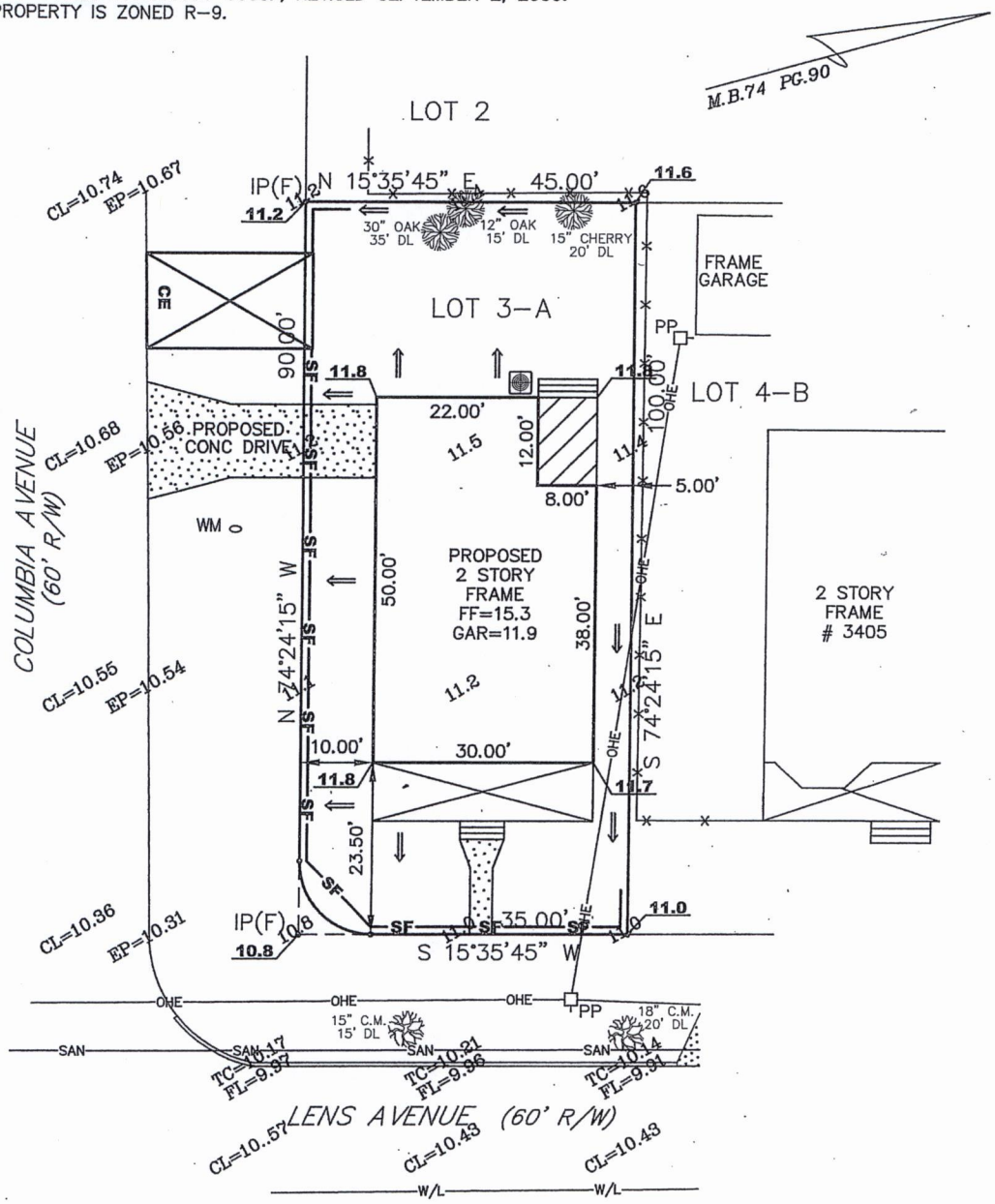


FRONT ELEVATION

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

GENERAL NOTES

1. ELEVATIONS SHOWN HEREON ARE IN FEET AND REFER TO NAVD–88 DATUM.
2. AFTER BUILDING PERMIT IS ISSUED, WARD M. HOLMES ASSUMES THE BUILDER APPROVED THE SIZE AND LOCATION OF THE HOUSE AS SHOWN HEREON.
3. SEWER AND WATER ARE AVAILABLE.
4. **0.00** = PROPOSED ELEVATION.
5. FF = FINISHED FLOOR ELEVATION.
6. THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "X"(UNSHADED) FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 510104–0095F, REVISED SEPTEMBER 2, 2009.
7. PROPERTY IS ZONED R–9.



SITE PLAN
OF
LOT 3–A, BLOCK 13
SUBDIVISION OF
LOTS 3, 4 & 5, BLOCK 13
FAIRMOUNT PARK
NORFOLK, VIRGINIA
FOR
MARTIN CASEY

DATE: AUG. 25, 2016
SCALE: 1" = 20'
NOTE: FOR PLAT SEE M.B.74 PG.90 NORFOLK, VA.

WARD M. HOLMES
LAND SURVEYOR, P.C.
9225 GRANBY STREET
NORFOLK, VIRGINIA 23503
757–480–1230

COMMONWEALTH OF VIRGINIA
DANIEL H.. HOLMES
Lic. No. 2974
8/25/16
LAND SURVEYOR

DRAWN BY: DHH

PROJECT NO. 15–388

THE CITY OF NORFOLK

MEMORANDUM

TO: City Council

CC TO: Marcus D. Jones, City Manager

FROM: John C. Kownack, Executive Director, NRHA

SUBJECT: October 25 Docket Item - Formation of Legal Entities by NRHA for Conversion of Assisted Rental Communities

DATE: October 7, 2016

On the October 25, 2016 regular agenda, City Council will consider a resolution to authorize the formation of legal entities to facilitate the conversion of existing assisted rental communities from the Low Income Public Housing ("LIPH") program to the Project Based Voucher ("PBV") program. The communities involved have received preliminary approval by the U. S. Department of Housing and Urban Development ("HUD") to participate in the Rental Assistance Demonstration ("RAD") program.

NRHA desires to convert North Wellington (25 units), a recently developed portion of Grandy Village (16 units), and a portion of Grandy Village that underwent significant renovation in 2008 (275 units) to the RAD program in order to streamline HUD funding streams and to replace the current HUD deeds of trusts on these LIPH properties with less restrictive use agreements. To convert from the LIPH program to the PBV program under RAD, HUD requires the use of separate entities to own and manage the properties.

The proposed resolution would authorize only the creation of entities relating to properties that are being converted under the "non-financial" category of the RAD program. These "non-financial" conversions would not involve the pursuit of Low Income Housing Tax Credits ("LIHTC") and would not result in any changes in the obligation to maintain the units or cause any substantive impact on tenant requirements or rent calculations. In this manner, the authorization to create these entities would differ from the recent discussion relating to entity creation for the Young Terrace and Diggs Town communities, which include mixed-finance renovations involving the use of LIHTC equity.

On May 12, 2016, the NRHA Board of Commissioners approved a resolution authorizing the creation of the required entities, pending approval by the City Council.

As required by HUD, community meetings were held with the residents of North Wellington, on July 9, 2016, and Grandy Village, on July 23, 2016, to describe the RAD program and explain the impact of the program on current tenants.

THE CITY OF NORFOLK
CITY PLANNING

MEMORANDUM

TO:	City Council
THROUGH:	Marcus D. Jones, City Manager
FROM:	George M. Homewood, FAICP, CFM, Planning Director
COPIES TO:	City Attorney, City Clerk
SUBJECT:	Pending Land Use Actions
DATE:	October 7, 2016

Attached for your review is the Pending Land Use Report, identifying applications received and site plans approved from September 7, 2016 through October 4, 2016. The report reflects items that are tentatively scheduled to be heard at the October 10, 2016 and November 7, 2016 Architectural Review Board meeting as well as the October 27, 2016 and November 10, 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 – October 10, 2016

Number	Applicant	Location	Action	Ward	SW	Neighborhood
1	Randy Lyall	900 Asbury Avenue	New construction building	3	7	N/A
2	Margaret Nelson	555 E Liberty Street	Exterior alterations	4	7	Beacon Light/Berkley
3	Paige Pollard	204 W 22nd Street	Landmark designation	2	6	N/A

City Planning Commission – October 27, 2016

Number	Applicant	Location	Request	Ward	SW	Neighborhood
4	Loan Max	3607 N. Military Highway	Special exception to operate an automobile title loan establishment	3	7	Norvella Heights
5	Mi Tierra Maya Mexican Grill	7920 Chesapeake Boulevard, Suite A	Special exception to operate an eating and drinking establishment	5	6	South Bayview
6	Bayview Contracting Services	1101-1113 East Leicester Avenue	Special exception to create a flag lot	5	6	Bayview

7	Old Dominion Real Estate Foundation	4200-4220 Hampton Boulevard, ES Hampton Boulevard, SS 43rd Street, and NS W. 42nd Street	• Conditional change of zoning from C-2 (Corridor Commercial) to conditional C-2 (Corridor Commercial) on portions of properties fronting 222 feet, more or less, along the eastern line of Hampton Boulevard and 155 feet, more or less, along the southern line of 43rd Street • Conditional change of zoning from UV (University Village) to conditional C-2 district on portions of properties fronting 10 feet, more or less, along the southern line of 43rd Street, beginning 155 feet, more or less, from the eastern line of Hampton Boulevard and extending eastwardly	2	7	ODU Village
8	Priority Ford	3340- 3420 N. Military Highway	Special exception to operate an automobile sales and service facility	4	7	Indlewood/ Sandy Heights
9	Melia Ingram	Portion of Wise Street and an unnamed 15' lane	Closure of all that certain lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being a portion of Wise Street and an unnamed 15' lane, all lying east of N. Military Highway	4	7	Indlewood/ Sandy Heights

10	C. Christopher Nicholas	West of Gunn Court and north of 7000 Gunn Court	Closure of an irregular-shaped lot, piece or parcel of land situate, being located 30.00 feet south, more or less, of the 20' Lane located west of Gunn Court; and north of 7000 Gunn Court	4	7	Suburban Acres

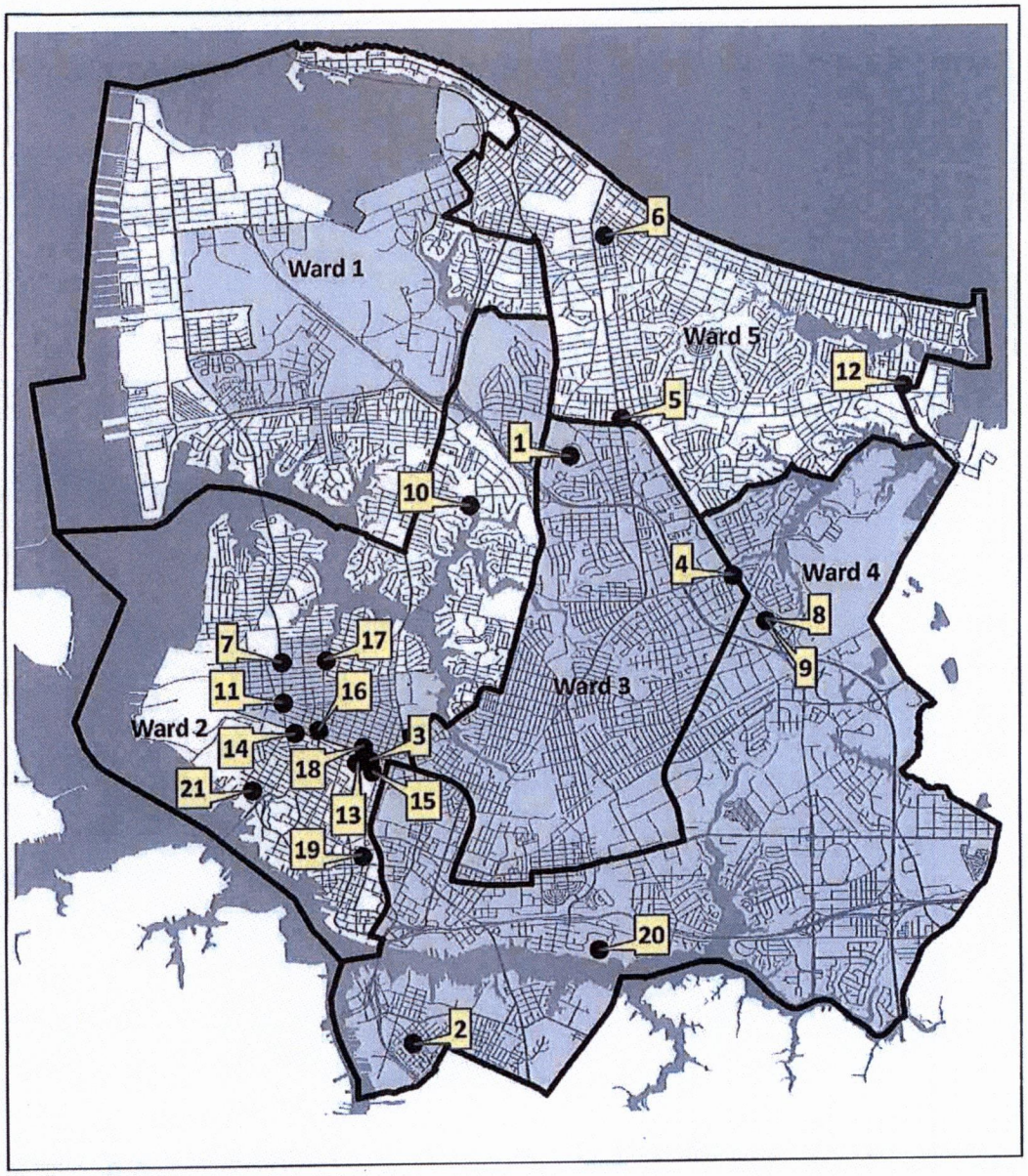
City Planning Commission – November 10, 2016

Number	Applicant	Location	Request	Ward	SW	Neighborhood
11	Small's Restaurant & Catering Co.	2700 Hampton Boulevard	• Special exception to amend a previously granted special exception for an entertainment establishment with alcoholic beverages. • Special exception for the sale of alcoholic beverages for off-premises consumption	2	7	Lambert's Point
12	Sphinx Builders, LLC	4334- 4350 E. Little Creek Road	• Change of zoning from R-11 (Moderate Density Multi-Family) to R-12 (Medium Density Multi-Family). • Special exception to build 31 multi-family units	5	6	East Ocean View
13	Palace Shops South, LLC	301 W 21st St	• Zoning text amendment to repeal section 11-22, "Palace Shops Localized Alternative Sign Overlay District," of the Zoning Ordinance • Special exception to permit alternative signage at 301 W 21st Street.	2	6	Ghent
14	Independence Tattoo III	952 W. 21st Street	Special exception to operate a tattoo parlor/school	2	6	Ghent
15	Urban Castaways	114 W. 20th Street	Special exception to operate a consignment shop	2	6	Ghent

16	Commune – Real Food	2406 Colley Avenue	Special exception to operate an eating and drinking establishment	2	7	Park Place
17	Dorothy's BBQ Smokehouse	4110 Colley Avenue	• Special exception to operate an eating and drinking establishment • Special exception for the sale of alcoholic beverages for off-premises consumption.	2	7	Highland Park
18	Dead Reckoning Distillery	312 W. 24th Street	Special exception to operate a micro-distillery	2	7	Park Place
19	Jhane's Sweet Lounge	731 Granby Street	Special exception to operate an entertainment establishment with alcoholic beverages	2	6	Downtown
20	NRHA	Southern 221.10 feet of Wiley Drive	Closure of that southern 221.10 feet of Wiley Drive (60' width), including cul-de-sac, as shown on that certain plat entitled, "Grandy Park," as recorded in the Clerk's Office of the Circuit Court of Norfolk, Virginia in Map Book 15 at Page 82.	2	6	Grandy Village

Approved Site Plans

Number	Site Plan #	Project	Ward	SW	Neighborhood
21	16-0061	1129 Boissevain Ave. - Water Line & ADA Compliance Upgrades	2	6	Chelsea



Pending Land Use Actions
SEPTEMBER 7 - OCTOBER 4

0 4,000 8,000 16,000 Feet

Superwards
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This map is for graphic purposes only.

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

THE CITY OF NORFOLK

MEMORANDUM

TO: City Council

THROUGH: Marcus D. Jones, City Manager

CC TO: City Attorney, City Clerk

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

SUBJECT: September 22, 2016 City Planning Commission Public Hearing Results

DATE: October 7, 2016

Attached are the results from the September 22, 2016 Norfolk City Planning Commission public hearing. This report will be prepared on a monthly basis, following each Planning Commission public hearing, to ensure you are informed of Planning Commission actions. No action is required on this report.

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

NORFOLK CITY PLANNING COMMISSION PUBLIC HEARING AGENDA
SEPTEMBER 22, 2016
RESULTS

The Norfolk City Planning Commission will hold a public hearing on September 22, 2016 at 2:30 p.m. in the City Council Chamber, 11th Floor, City Hall Building, Civic Center, Norfolk, Virginia to consider the following applications:

I. Public Hearing items:

REGULAR AGENDA

CONTINUED TO THE OCTOBER 27th, 2016 PUBLIC HEARING

1. **EAST BEACH COMPANY, LLC,** for the following applications at 9510 and the northern portion of 9500 30th Bay Street:
   a. Amendment to the Future Land Use Designation in the general plan, *plaNorfolk2030*, from Commercial to Residential Mixed.
   b. Change of zoning from conditional C-2 (Corridor Commercial) district to PD-MUEB (East Beach Planned Development Mixed Use) district.

   The purpose of this request is to allow for the expansion of the East Beach Planned Development, consistent with the development standards of the PD-MUEB district.

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

CONTINUED TO THE OCTOBER 27th, 2016 PUBLIC HEARING

2. **ROYAL FARMS,** for the following applications at 5516 Raby Road:
   a. Amendment to the Future Land Use Designation in the general plan, *plaNorfolk2030*, from Institutional to Commercial.
   b. Change of zoning from IN-1 (Institutional) district to C-2 (Corridor Commercial) district.
   c. Special exception to operate a convenience store, 24-hours (with fuel sales).
   d. Special exception to operate a car wash.
   e. Special exception for the sale of alcoholic beverages for off-premises consumption.

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

CONTINUED TO THE OCTOBER 27th, 2016 PUBLIC HEARING

3. **COOK OUT RESTAURANT,** for the following applications:
   a. Change of zoning from R-8 (Single-Family) district to C-2 (Corridor Commercial) district at 7918 Orchid Avenue.
   b. Special exception to operate a commercial drive-through at 720 E. Little Creek Road and 7918 Orchid Avenue.

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

APPROVAL RECOMMENDED, 5-0

4. **ANDRE RIDDICK,** for a special exception to operate an automobile sales and service facility at 5139 E. Virginia Beach Boulevard.

   Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

APPROVAL RECOMMENDED, 5-0

5. **WING STOP,** for a special exception to operate an eating and drinking establishment at 520 W. 21st Street, Unit D1.

   Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

APPROVAL RECOMMENDED, 5-0

6. **APPLEBEE'S NEIGHBORHOOD GRILL AND BAR,** for a special exception to operate an eating and drinking establishment at 725 E. Little Creek Road, Building 3, Unit 501.

   Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

APPROVAL RECOMMENDED, 5-0

7. **NEW YORK DELI AND SMOKE SHOP,** for a special exception to operate an establishment for the sale of alcoholic beverages for off-premises consumption at 4214 E. Little Creek Road.

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

CONTINUED TO THE OCTOBER 27th, 2016 PUBLIC HEARING

8. **DRAÍS VA,** for a special exception to operate an entertainment establishment with alcoholic beverages at 200 E. Plume Street.

   Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

APPROVAL RECOMMENDED, 5-0

9. **F. SULLIVAN CALLAHAN,** for a closure of that portion of 45th Street being the southern 10.5 feet from the east line of Colley Avenue eastwardly 150 feet.

   The purpose of the request is to join a 10-foot strip of 45th Street with the property located at 4414 Colley Avenue; the existing house would no longer encroach into the right-of-way along 45th Street.

   Staff contact: Jeff Raliski at (757) 664-4766, jeffrey.raliski@norfolk.gov

II. New Business

APPROVED, 5-0

1. Permission to schedule and advertise a City Planning Commission Work Session to discuss new Zoning Ordinance - December 1, 2016 – 10:30 am in the 10th floor conference room, City Hall Civic Center – 810 Union Street, Norfolk, VA.
2. Initiate Text Amendments –

   CONTINUED TO THE NOVEMBER 10th, 2016 PUBLIC HEARING

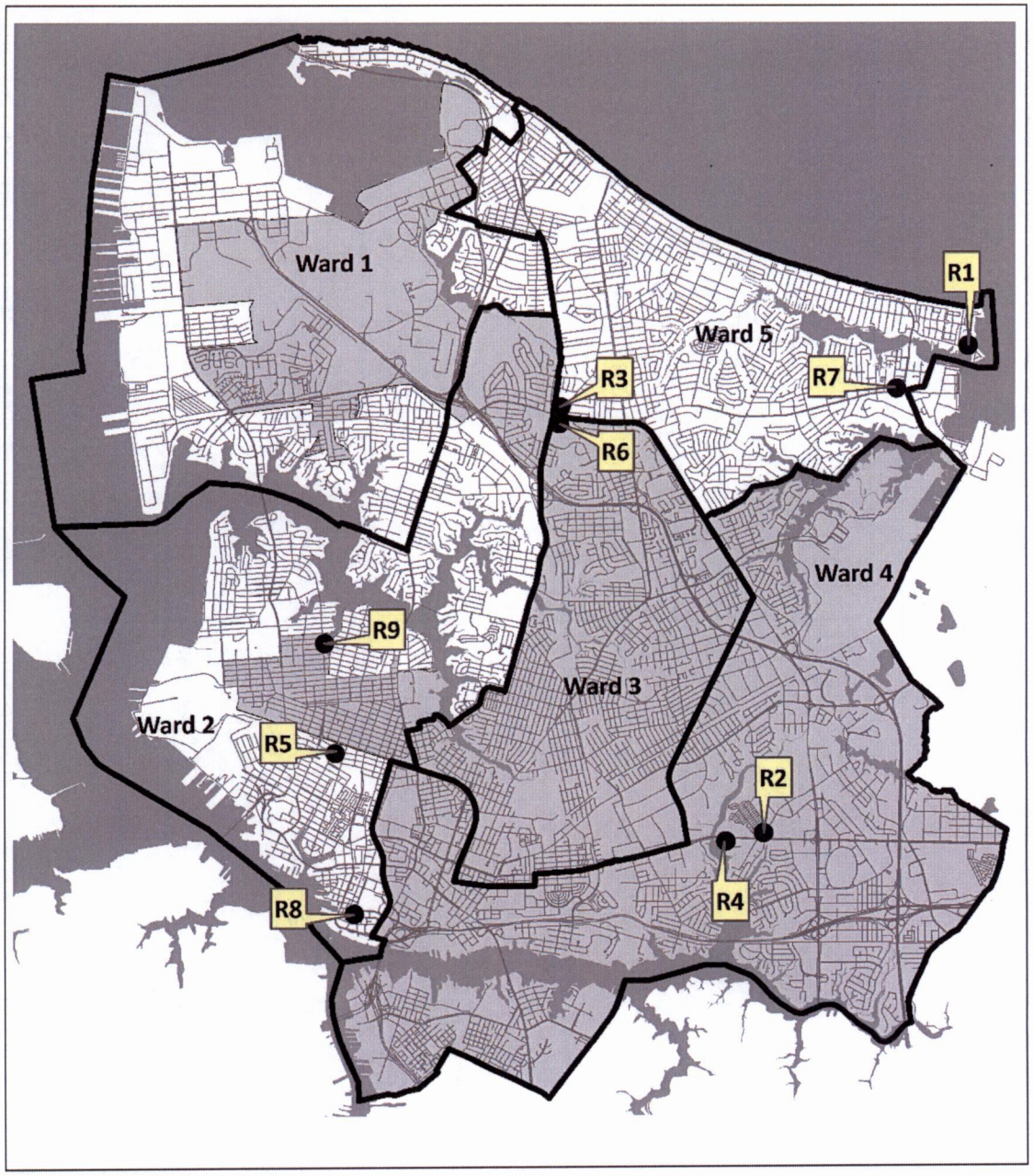
   a. To allow electronic interactive messaging signs in the 21st Street PCO and Colley Ave PCO.

   APPROVED, 5-0

   b. To adopt a new Flood Insurance rate map for the City of Norfolk.

Maps, plats, and other information concerning the above proposals may be seen at the office of the Department of City Planning, Room 508, City Hall Building, Norfolk, Virginia 23510 or you may telephone (757) 664-4752. All interested parties are invited to be present at the time and place noted above. Additional information may be obtained online at: http://www.norfolk.gov/planning/city_planning_commission.asp

George M. Homewood, FAICP, CFM
Executive Secretary



Planning Commission Items
SEPTEMBER

0 4,000 8,000 16,000 Feet

Superwards
6
7

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This map is for graphic purposes only.

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

City of Norfolk

Inter Department Correspondence Sheet

TO: Members of City Council

FROM: Breck Daughtrey, City Clerk

COPIES TO:

SUBJECT: Minutes of City Council Meeting

October 7, 2016

Attached are the minutes of the City Council Retreat held on September 19 & 20, 2016 and the Joint School Board meeting held on Tuesday, September 27, 2016.

Breck

Breck

CITY COUNCIL MEETING

PETER G. DEICKER JR. CRUISE AND CELEBRATION CENTER

NORFOLK, VIRGINIA

SEPTEMBER 19, 2016

President Alexander called the meeting to order at 8:00 a.m. with the following members present: Mrs. Graves, Ms. Johnson, Ms. McClellan, Mr. Riddick, Mr. Smigiel, Mr. Thomas and Dr. Whibley.

Mr. Riddick asked to make an opening statement. He stated he believes this council is the best he has worked with in a long time and that he is willing to help anyone.

The Mayor opened the retreat by stating the retreat will help set a course for the future and that a shared vision will be crafted.

Themes from the council that emerged from interviews with the consultant included:

- Education
- Boldness when it comes to open, space, parks
- Boldness in addressing public housing
- Boldness in addressing crime, sea level rise and flooding
- Sustainability

Mr. Smigiel asked that council address the parks plan as a work item. Mayor Alexander noted there would be time for that in the afternoon session.

Mrs. Graves suggested scheduling a monthly work session as a way to address issues council does not seem to have time to get to with its present twice a month meeting schedule.

PRE-RETREAT INTERVIEW SUMMARY

Ms. Suzanne Puryear, serving as facilitator, stated council will work on crafting a vision and developing a strategy for achieving the vision.

She asked what ground rules council wanted to set for the retreat:

- Respect others views
- Take time to listen
- Be candid
- ELMO – enough, let's move on

VISION FOR THE FUTURE

Council participated in an exercise designed to elicit responses for preparing a vision statement.

- Johnson: Choice neighborhoods, Ward issues are council issues
- Graves: a place everyone loves
- Smigiel: a vibrant, diverse, community that celebrates life
- Alexander: Resilient, alternative, a global destination community, a city where families want to live, work and play

Ms. Johnson: All neighborhoods need to be places where anyone would want to live.

Mayor: Noted income inequalities exist and part of addressing choice is looking at developing mixed income communities and attracting more jobs and job readiness opportunities.

Mrs. Graves: Stated all neighborhoods should be safe and clean.

Mr. Smigiel: Civic leagues in Ocean View have said they support creating mixed income communities and not tearing down entire communities

Mr. Riddick: Make sure public works expenditures are not race and class identifiable.

Dr. Whibley: Expressed interest in creating regulated low-income housing in areas not now identified as low-income.

Mr. Thomas: Wants the City to be progressive, ahead of the curve and wants the city to be economically successful with good jobs and a high median income, and to be an authentic port city and be proud of that and build on it.

Ms. McClellan: Norfolk needs to be a leader in the region; needs to embrace being an inclusive community.

Mrs. Graves: Need to address sexual orientation – have a policy.

Mr. Riddick: Norfolk must be a city where children are safe; they must be kept physically and emotionally strong and have high self-esteem. Must prepare children to be productive members of society.

Mrs. Graves: Wants Norfolk to be perceived positively by people coming to or visiting the city.

Ms. McClellan: Suggested a customer satisfaction survey to assess perception in the city.

Mayor: The City can do better at capitalizing on the many international connections that exist on the city's beaches and other assets.

Mr. Smigiel: There are people, schools and neighborhoods where people aren't celebrating and so the city needs to strive to get all citizens to celebrate life in Norfolk.

Dr. Whibley: Encourage involving citizens who have many skills to help work with city government.

EDUCATION

Mr. Smigiel: Council shouldn't be telling the school board what to do, but should be a partner. He proposed establishing a commission on lifelong learning and to bring the institutions of higher education and others together to work on it.

Ms. McClellan: Stated she is interested in helping children outside of school such as the "Ready to Thrive" program and improving school facilities.

Ms. Johnson: Wants council to look at NPS mission, goals and initiatives and compare with the city's. She also mentioned providing on-going funding to NPS and examining how council can help NPS.

Mr. Riddick: Asked if council's role has changed with an elected school board.

Mayor: Constitutionally speaking, the relationship has not changed. Council's role is to help NPS provide a world class education, close the achievement gap and improve test scores, and the school system needs to tell the council what it needs to achieve those things.

Mrs. Graves: Council needs to do a better job at defining its role in education now that the board is elected, and that council's role is not to tell the board what to do.

Ms. McClellan: Stated she believes council should have a say in outcomes given council's role in funding the system.

Dr. Whibley: Reserved money is not the only answer and expressed support for Mr. Smigiel' s suggestion of a commission on lifelong learning and would like to discuss it further.

Mr. Thomas: Suggested meeting more frequently with the school board – perhaps quarterly – and that council needs to be involved in how its funding is spent. He also stated the school system needs bold initiatives and supported the CTE school.

Mayor: Noted the CTE school can be a partnership – a charter school approach – with a charter and a board of governors.

Mr. Smigiel: Noted school board has the final say whether a charter school is set up.

Mr. Riddick: Asked if NPS is getting the best use out of the vocational school on Military Highway. If not, how can more students be sent there to get skills.

Dr. Whibley: Asked about the status of information on a revenue sharing formula for the schools. The City Manager stated staff has looked into this and there are some localities who have this arrangement and it can be brought to the council quickly if desired.

Mr. Smigiel: Five schools are being built but no conversation has been held on what is next. He recommended examining ways to modernize existing schools to bring them up to modern standards.

Ms. Johnson: Expressed support for the proposed revenue sharing agreement and urged that as improvements are made to schools, not to forget to make environmentally sustainable improvements.

Mayor: Suggested also examining school consolidations where it makes sense.

Ms. McClellan: Stated council needs to support teachers and make sure they are getting what they need to be successful.

Mr. Smigiel: Expressed support for better pay for teachers.

Mayor: Stated he has spoken with the manager and police chief about pay and pay for teachers and noted ways that need to be found to incentivize teachers to live in the city – the same for police and fire-rescue.

Ms. Puryear said four goals seem to have emerged from the discussion:

1. Commission on Lifelong Learning
2. Career Technical Education School
3. Continuous funding for schools
4. Ready to Thrive concept – wrap around services

PUBLIC SAFETY

Ms. Puryear offered introductory remarks for this topic.

Mayor: Noted previous comments on good and bad neighborhoods and the difference between them and suggested looking at what we can do to lower the crime rate.

Mr. Riddick: Observed it's been a difficult year for homicides and gun crimes and wondered if we are soft on crime and if everything possible is being done to control crime. He also noted problems with traffic safety issues such as speeding and texting while driving. He said he is also concerned with pedestrian deaths, and would like to see more emphasis on traffic safety.

Mr. Smigiel: Wondered if police officers are well enough versed in social media as a number of shootings are mentioned on Facebook and other sites.

Ms. McClellan: Asked how technology is being used by the police such as predictive modeling to get ahead of the curve. Stated it is important to emphasize driver education as more bike lanes are added so cars and bikes can co-exist compatibly.

Mayor: Suggested perhaps police should be stricter on traffic safety stops.

Mrs. Graves: Noted that in helping children there is also a need to look at the parents or family.

Mr. Riddick: Stated be believes there aren't enough activities for girls, and this needs to be addressed; this also has implication for public safety.

Ms. McClellan: Suggested finding ways to bring young people back into school once they've left so they can get their life back on track.

Mayor: Noted there is an urgency to addressing homicide and gun violence, there is also the need for community engagement. He asked how to design a pilot project to develop a partnership between police, neighborhoods/citizens and the school system. He suggested beginning the program in Huntersville, Southside and East Ocean View.

Dr. Whibley: Asked if changing the 11 pm curfew would help.

City Manager: Reviewed crime statistics noting a 15% decrease in the three Nighthawks neighborhoods.

Ms. Johnson: Asked to publicize the results of the Nighthawks Program as well and the Ready to Thrive Program.

Look at policies for dealing with absentee landlords who aren't maintaining their properties.

Ms. McClellan: Suggested looking into a new program in D.C. whereby citizens inform police if they have video cameras so as to develop an inventory for police to call upon when investigating crimes.

Mr. Smigiel: Asked if it's possible to require all apartments to post ownership or property management information.

Ms. Puryear summarized the main points of discussion as follows:

- Use of technology/social media
- Use of data and ability to communicate to citizens
- Community policing

Mayor: Suggested using dashcam and body camera videos as part of policing.

Ms. McClellan: Asked what is being done in terms of maintaining the jail, and noted the large number of young deputies, asking if they are paid comparable to other localities to mitigate against losing experienced deputies.

Mr. Smigiel: What is being done with the Community Resource Officer effort, how it looks now.

Mr. Thomas: Stated as younger people begin to move into neighborhoods they tend to use social media rather than attend civic league meetings and the city will need to adapt to that.

Ms. McClellan: Asked it the CRO's can post their monthly reports to Nextdoor.

HOUSING

Following a presentation on market conditions and housing needs assessment, council discussed aspects of a housing strategy as follows:

Mayor: Asked to be provided with information on what is the median price of a home that makes it revenue neutral – such that values above that produce revenue for city services provided and values below that result in city services costing more than the taxes the property generates.

Mr. Riddick: Stated the challenge is to develop a strategy to reduce public housing and deconcentrate poverty without hurting the public housing residents.

Mayor: Noted the discrepancy between Norfolk and Virginia Beach's total regional population and percentage of public housing and that Norfolk's situation is not sustainable for the long run.

Mr. Riddick: Expressed concern about the expanded scope of the project, and need to be careful about how it is done.

NORFOLK INDICATORS OF FINANCIAL HEALTH

The City Manager reported as follows:

- General Fund revenue up 6%
- Expenditures down 2.3%
- Variance = .7%
- Projecting at $4.4 million gap FY2018
- Financial policy on use of surplus: If surplus exceeds .5% of General Fund Budget and structural balance has been achieved, then up to $2 million to be used for CIP, debt reduction and reserves.
- Recommendation: use $2 million to reduce debt; direct $2.4 million to the FY2018 gap; use $1 million for one-time actions.

Council discussion ensued regarding debt service, employee and teacher raises. In response to a question about the adequacy of risk management reserves, the city attorney expressed concern, and stated he will prepare an answer as to need as there are a number of claims on it.

The Mayor recommended and council concurred to apply the $1 million available to risk management reserve.

INFRASTRUCTURE DISCUSSION

Mr. Smigiel: Asked to update the parks master plan, to begin to prioritize projects and examine adequacy of funding.

Mr. Riddick: Asked how to approach assisting Spartan Village with its flooding and what a retention pond will cost.

Ms. McClellan: Asked how will infrastructure projects be funded in light of the city's debt policy.

Dr. Whibley: Recommended including a resiliency requirement for all infrastructure projects.

TECHNOLOGY

Ms. McClellan: Recommended moving forward with a technology advisory commission and involving the creative technology community in helping the city solve its problems.

Steven DeBerry noted the existing Connect Norfolk Committee and the goals of the committee can be broadened to incorporate other needs.

Mr. Smigiel stated the committee needs citizen members.

Mr. Thomas agreed and commented projects needs to be previewed to users to ensure what is proposed will be used. He cited the inadequacies of the city's mobile website as an example.

Mr. Smigiel asked about regional communication.

LEGISLATIVE PRIORITIES

Michelle Washington, Public and Government Relations Director, reviewed the proposed 2017 Legislative Package.

Mr. Riddick: Asked for a presentation on legalization of marijuana.

The administration responded it is in a data gathering state, and needs help with how best to shape it for presentation to the legislature; partners are also needed to help with a statewide effort.

Ms. McClellan: Asked if the General Assembly needs to be involved should council chose to make changes to the 2018 school board election. She stated she would like to discuss it.

WRAP-UP

Ms. Puryear stated she will develop a summary and provide a copy to the council.

Mrs. Graves: Suggested using council committees to work on initiatives coming out of the retreat.

Mr. Smigiel: Volunteered to help put together the Lifelong Learning Commission. Dr. Whibley and Ms. Johnson will help.

Mayor: Said council will work with staff on implementing the projects from the retreat.

With no further business, Mayor Alexander adjourned the meeting.

CITY COUNCIL MEETING

PETER G. DEICKER JR. CRUISE AND CELEBRATION CENTER

NORFOLK, VIRGINIA

SEPTEMBER 20, 2016

President Alexander called the meeting to order at 8:20 a.m. with the following members present: Mrs. Graves, Ms. Johnson, Ms. McClellan, Mr. Riddick, Mr. Smigiel, Mr. Thomas and Dr. Whibley.

He thereupon called for the first item of business.

CLOSED SESSION

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

(1) Discussion of performance of council appointed officers.

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

No: None.

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.

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

No: None.

ELECTRONIC VOTING

The City Clerk provided a presentation on electronic voting in response to a council request. The City of Suffolk's system was used as an example.

Mrs. Graves commented about a manual for council members and the advantage to having such a guide.

Ms. McClellan recommended YouTube videos on how an Ordinance becomes a law or adopted; how to register to speak and participate in a meeting.

City Clerk to assemble costs for installation and maintenance of the system presented.

Ms. McClellan asked to have a searchable data base for council votes.

There being no further business, Mayor Alexander adjourned the meeting.

NORFOLK, VIRGINIA

BUSINESS MEETING OF COUNCIL

TUESDAY, SEPTEMBER 27, 2016

President Alexander called the meeting to order at 4:00 p.m. with the following members present: Mrs. Graves, Ms. Johnson, Ms. McClellan, Mr. Riddick, Mr. Smigiel, Mr. Thomas and Dr. Whibley.

JOINT MEETING WITH THE SCHOOL BOARD

Members of the School Board present, Rodney Jordan, Chair, Noelle Gabriel, M.D., Vice Chair, Courtney Doyle, Tanya Bhasin, Reverend Edward Haywood, Brad Robinson and Yvonne Wagner. Superintendent Dr. Melinda Boone was also present.

Mayor Alexander welcomed the members of the schoolboard and called on chairman, Rodney Jordan for remarks.

Mr. Jordan noted council's retreat discussion on education that included council's role and responsibilities. He then called on board member Courtney Doyle to introduce discussion on school governance.

Ms. Bhasin reviewed a board accountability process.

Rev. Haywood discussed the board's ethics policy.

SUPERINTENDENT'S UPDATE

Dr. Melinda Boone, superintendent, reported as follows:

- School accreditation percentages have increased from 29% in school year 2013-2014 to 51% after 2015-1016.
- 6 of 13 schools that were third year warned are now fully accredited.
- Based on the 2015-16 data 23 of 45 schools are fully accredited. One school is partially accredited. (Fully accredited last year; missed by 1 point this year.)

- Two schools remain in the warning status.
- There are ten schools with accreditation denied.
- Nine schools are waiting to learn their status.

2016-17 SOL results:

- 18 elementary schools are projected to meet full accreditation. 84% of elementary schools met or exceeded state benchmarks in History; 17 elementary schools had double-digit gains in at least one tested area in Reading; 74% of elementary schools had increases in Science.

- All middle schools met or exceeded state benchmarks in Civics, Economics and World Geography. District average continues to exceed state average in EOC (end-of-course) Geometry and Algebra II. Eighth and seventh grade reading scores increased 11% and 19% respectively from SY2012-13. All secondary math tests had notable improvements since SY2013. Five of six tested areas had double digits gains.

- All 5 high schools met or exceeded the benchmark for EOC Reading, Writing, World Geography, and Chemistry. All 12 EOC benchmarks were met or exceeded. Three EOC tests were greater than the state average; Chemistry, World Geography, and Algebra II.

Gains in student achievement can be attributed to dedicated teachers and principals and a tiered system of support that includes data analysis, lesson plans and professional development. The lesson planning process has been revised. It will be introduced this year and evaluated; tweaks will be made if needed. The district is focused on Redesign in two key areas: literacy and leadership. The key elements are: listening, learning, connecting, aligning and creating systems for effectiveness.

With reference to the recent *Virginian-Pilot* article, Dr. Boone explained that last year the School Board asked the district to research course enrollment and student support at the high school level. Reports on course enrollment and first and second semester trends were then presented in November 2015, January 2016 and May 2016. The results revealed that students at-risk of not passing a first semester may sometimes be redirected from the second semester of a course sequence. The student is guided into either repeating the first semester or to a course that leads the student to be ready for success going forward.

Dr. Boone stated that the majority of the SOL tested courses have 90% or more of the students taking the first and second semesters of course sequence. They found the greatest number of students who experienced a redirection or different pathway

toward graduation were primarily in Algebra I and Geography. Dr. Boone stressed that all students who will receive a standard or advanced study diploma still must take and pass the SOL test in order to receive verified credits. There is no circumventing the opportunity for the SOL course prior to graduation.

Councilman Riddick asked Dr. Boone where the term "recycling" originated. Dr. Boone answered that it's a term used by the media, not NPS. Councilman Riddick applauded the efforts to recognize these students and to support and strengthen them. He suggested NPS create a term that reflects the support and strength building. Dr. Boone referenced the phrase in her presentation: "alternative pathway to success."

Dr. Boone gave a breakdown of revenue sources for the 2016-17 approved operating budget. The Governor's budget included a mid-year 2% increase for teachers in certain positons. The school district built its budget on a full-year 2.5% increase for all employees. In the event that the state is not able to sustain its portion of that raise, the district will immediately face a $1.4 million deficit in the current fiscal year budget.

Revenue sources:

- State funds - $190,545,112
- Federal Funds - $5,651,426
- City Funds - $118,499,322
- Carry Forward Funds - $3,149,274
- Other funds - $4,023,361

Mr. Smigiel commented that the newspaper unfairly focused on Norfolk, that the state design for high schools provides flexibility for helping students succeed and that SOL courses can be moved between grades.

Mrs. Graves stated she believes the alternative pathway to success is a positive strategy for helping students succeed.

Ms. Johnson said she has visited the vocational technical school and what she saw was impressive particularly the partnership with shipyards. She asked what the qualifications are for students to enroll there.

CTE SCHOOL UPDATE

The City Manager reported as follows:

- The effort for a Career Technical Education school began in 2010 with a partnership that included Greater Norfolk Corporation, the *Virginian-Pilot* publisher and the Hampton Roads Community Foundation.
- In 2012, City Council appropriated $500,000 for planning; the study was completed in 2013.
- Poverty Commission recommended CTE
- 2015 the School Board endorsed CTE planning and pubic charter formation and council appropriated $1 million to the project.
- The concept has now moved to a Regional Career Pathways Center
- There is a need to recruit major employer sponsors, higher education partners and other regional school system participants.
- A tentative schedule calls for lining up funding, design in 2017, construction in 2018 and opening in 2019.
- The question is whether the school should start smaller as a city initiative or proceed as a regional effort.

Mayor Alexander asked the Manager to work with the superintendent on a recommendation.

Ms. Johnson commented the board supports the school and moving forward.

Dr. Whibley stated there seem to be questions about funding, location and whether it's a city or regional facility and a decision needs to be made.

Mr. Smigiel said a timetable is needed.

Ms. McClellan recommended implementing 2-3 programs and worry about building design later.

Mr. Riddick asked how much it would cost to send a student through a program and to target young people 13 to 17 years old.

Mayor Alexander directed the manager to work with the superintendent to develop the idea further and come back with a recommendation.

SCHOOL LEGISLATIVE PRIORITIES

Ms. Doyle reported the board will develop legislative priorities at its next meeting and should approve them by the end of the month.

Dr. Whibley asked to know what the priorities are before council meets with the legislative delegation on November 1.

Mayor Alexander asked Council and School Board members for final remarks.

Ms. Wagner stated that working collectively with Council shows a real unity in making sure our schools move forward.

Councilman Smigiel suggested having quarterly retreats or joint meetings with the School Board. He added that the first meeting should be a half-day at a minimum.

Rev. Haywood echoed Councilman Smigiel's suggestion for quarterly meetings that would allow ample time for discussion.

Councilwoman Graves stated that as we move to an elected School Board there will be changes in the roles of the Council and School Board. She stressed that it's important to acknowledge that it's not the Council versus the School Board because both bodies are moving forward collectively to ensure students' success.

Councilwoman Johnson suggested discussion of Norfolk Public Schools' initiatives and City Council's initiatives and how they link, noting it will help both to better plan for the future of families and students.

Ms. Bhasin shared the sentiments of Councilman Smigiel. She stressed that there is a lot of work to be done and she looks forward to future discussions with Council. She added that the discussions should include public safety, housing and health.

Dr. Robinson stated he is very encouraged by the conversations around the table and that we have very dedicated people working to improve our schools and our entire city. He echoed Councilman Smigiel's suggestion for a joint retreat. He stated that he would like to see the CTE move forward.

Councilman Thomas thanked the School Board for their hard work. He echoed the request for more joint meetings. He also criticized the media for the recent article in the *Virginian-Pilot* which has turned out to be a non-issue.

Councilman Riddick echoed Councilwoman Graves' statements about the City Council and the School Board working together collaboratively.

Ms. Doyle suggested starting to work on the budget as soon as possible. She added that the more supports in place for the community at-large ultimately helps students who come from challenging areas of the city.

Councilwoman McClellan echoed Ms. Doyle, noting the need to ensure that students come to school healthy and ready to learn. She suggested that Council recognize at every City Council meeting something positive happening in the school system.

Councilwoman Whibley suggested that Mayor Alexander and Chairman Jordan work out a schedule for future joint meetings.

Dr. Gabriel thanked the City Council for hosting the meeting today and added that she looks forward to working with them in the future. She pointed out that the School Board's student member was not in attendance today. She added that this appointment to the Board is an example of how Norfolk has put students first.

CLOSED SESSION

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

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

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

No: None.

City of NORFOLK

C: Dir., Department of General Services

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: Conveyance of the GEM lot located at 860 Washington Avenue to Kyle and Letitia Nickerson

Reviewed: Peter H. Chapman, Deputy City Manager

Ward/Superward: 4/7

Approved: Marcus D. Jones, City Manager

Item Number: **PH-1**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Kyle and Letitia Nickerson
864 Washington Avenue
Norfolk, VA 23510

III. **Description:**
This agenda item is an ordinance to approve the conveyance of a vacant, non-standard size, non-buildable parcel of land owned by the City of Norfolk (the "city"). This parcel is a GEM Lot and was acquired by the city under § 58.1-3970.1 of the *Code of Virginia*, 1950, as amended. The parcel located at 860 Washington Avenue (the "property") is to be conveyed to Kyle and Letitia Nickerson (the "Nickersons").

IV. **Analysis**
The Nickersons seek to contract with the city for the purchase of the property. The Nickersons, owners of the adjacent property, understand that the property in question is nonconforming and non-buildable, therefore no structures are to be built on the property. The property is only to be used as a driveway or side yard under the terms of the agreement. Conveying this GEM lot to the Nickersons will enable the City to place the property back on the tax rolls. There has been no specific city use has been identified for this property.

V. **Financial Impact**

Cost for Conveyance	$10.00 (the lot is nonconforming and non-buildable)
Costs of Closing	Each party to this transaction shall pay its own legal fees.
FY2016 Assessed Value of Parcel	$18,700
Annual Tax Revenue of Parcel	$215.05

VI. Environmental

There are no known environmental issues associated with this property.

VII. Community Outreach/Notification

In accordance with the *Norfolk City Charter* and the *Code of Virginia*, a legal notice will be posted in *The Virginian-Pilot*. In addition, public notification for this agenda item was conducted through the city'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
- Legal Description
- Proposed Conveyance Agreement

8/29/2016-wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE AUTHORIZING THE CONVEYANCE TO KYLE AND LETITIA NICKERSON OF A CERTAIN NON-CONFORMING LOT LOCATED AT 860 WASHINGTON AVENUE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONVEYANCE AGREEMENT.

- - -

WHEREAS, Section 58.1-3970.1 of the Code of Virginia, 1950, as amended, authorizes the appointment of a Special Commissioner for the purpose of conveying to localities, in lieu of public auction, certain real property with delinquent taxes and liens that meet certain criteria set forth therein; and

WHEREAS, the parcel of real property located at 860 Washington Avenue and more particularly described in Exhibit A, attached hereto and made a part hereof ("Property"), was conveyed to the City of Norfolk ("City") by a Special Commissioner's deed executed and delivered pursuant to a decree entered by the Circuit Court of the City of Norfolk in accordance with the provisions of Section 58.1-3970.1 of the Code of Virginia, 1950, as amended; and

WHEREAS, upon acquisition of the Property, the City recorded a Declaration of Protective and Restrictive Covenants ("Restrictive Covenants") in the Clerk's Office of the Circuit Court of the City of Norfolk, as Instrument No.

060023651, which document provides, inter alia, that a violation of any protective or restrictive covenant contained therein shall, in the sole discretion of the City, cause the title to the Property to revert to the City; and

WHEREAS, Section 2(5) of the Norfolk City Charter provides the City with broad authority for the disposition of its real property; and

WHEREAS, Council has determined that the Property is not needed for any of the uses or purposes of the City, that the maintenance of the lot is a continuing financial burden on the City, and that, inasmuch as the said lot is a non-conforming GEM lot with very limited marketability, the public interest is best served by the conveyance of the Property to Kyle and Letitia Nickerson (the "Nickersons"), the adjoining property owners, for the nominal sum of $10.00 upon the terms and conditions set forth in the Conveyance Agreement attached hereto as Exhibit B; now therefore,

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

Section 1:- That the conveyance of the Property, located at 860 Washington Avenue and further described in Exhibit A, to the Nickersons for the nominal sum of $10.00 upon the terms and conditions set forth in the Conveyance Agreement attached as Exhibit B, is hereby authorized and approved.

Section 2:- That the City Manager, and the other proper officers of the City, are authorized to execute the Conveyance Agreement on behalf of the City of Norfolk and, upon receipt of the sum of $10.00, to be disbursed

in accordance with the requirements of Section 58.1-3970.1 of the Code of Virginia, to deliver to the Nickersons a Special Warranty Deed in form satisfactory to the City Attorney, and to do all other things necessary and proper to effect the conveyance of the said Property to the Nickersons.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Conveyance Agreement as he may deem advisable to carry out the intent of the Council as expressed herein.

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

EXHIBIT "A"
Tax Account Number 4044-5600

That certain lot of land, with the buildings and improvements thereon, situate in the City of Norfolk, Virginia, and bounded and described, as follows:

Beginning at a point on the north side of Washington Avenue three hundred and seventy-two (372) feet, more or less, west of the western line of Proescher Street, and running thence westwardly along the northern side of Washington Avenue twenty-five (25) feet, more or less; thence running northwardly one hundred and twenty-five (125) feet, more or less; thence running eastwardly twenty-five (25) feet, more or less; thence running southwardly one hundred and twenty-five (125) feet, more or less, to the point of beginning; the building located on said parcel of land being numbered 860 Washington Avenue according to the present numbering of houses in the City of Norfolk.

INSTRUMENT #060023651
RECORDED IN THE CLERK'S OFFICE OF
NORFOLK ON
JUNE 5, 2006 AT 07:57AM
GEORGE E. SCHAEFER, CLERK

RECORDED BY: MXY

EXHIBIT B TO ORDINANCE

CONVEYANCE AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2016, between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), and **KYLE C. NICKERSON AND LETITIA J. NICKERSON** (the "Nickersons"), whose address is 864 Washington Avenue, Norfolk, Virginia 23504.

RECITALS:

A. City is the owner in fee simple absolute of a certain parcel of real property, together with all rights and appurtenances thereunto pertaining, located in the City of Norfolk, Virginia, known as 860 Washington Avenue, more particularly described in Exhibit A, attached to and made a part of this Agreement (the "Property"), the City having acquired the same pursuant to the provisions of Section 58.1-3970.1 of the Code of Virginia, 1950, as amended.

B. Upon acquisition of the Property, the City recorded a Declaration of Protective and Restrictive Covenants ("Restrictive Covenants") in the Clerk's Office of the Circuit Court of the City of Norfolk, as Instrument No. 060023651, a copy of which is attached hereto as Exhibit B, which provides, inter alia, that a violation of any protective or restrictive covenant contained therein shall, in the sole discretion of the City, cause the title to the Property to revert to the City.

C. The Nickersons desire to purchase the property from City and City desires to sell the property to the Nickersons in accordance with the terms and conditions of this Agreement.

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

E. The conveyance of the Property to the Nickersons will enable the Nickersons to construct a driveway that will enhance their own property, which is adjacent to the Property, will prevent the lot from becoming blighted and a nuisance to the neighborhood, and will return the Property to the real estate tax rolls.

NOW, THEREFORE, in consideration of the purchase price and the mutual promises contained in this Agreement, the City and the Nickersons agree as follows:

1. SALE. City agrees to sell and the Nickersons agrees to purchase the Property, together with all easements, rights, and appurtenances thereto.

2. PURCHASE PRICE. The purchase price ("Purchase Price") for the Property is the nominal sum of **Ten Dollars and 0/100 ($10.00)**.

3. CONVEYANCE.

a. The City agrees to convey the property to the Nickersons by Special Warranty Deed, subject to applicable easements and restrictive covenants of record, and specifically the Restrictive Covenants attached hereto as Exhibit B.

b. The Nickersons understand and agree that the Property is non-conforming and non-buildable and therefore no structures shall be built on the Property. The Nickersons may use the Property as a driveway and side yard only.

c. Possession of the Property will be given to the Nickersons at Closing.

d. City agrees to pay the expenses of preparing the deed. The Nickersons will pay all other fees and costs charged in connection with the transfer of the Property and the recordation of the deed.

e. City and the Nickersons agree that the attorney or title insurance company ("Title Company") selected by the Nickersons shall act as the settlement agent ("Settlement Agent") at the Nickersons' expense. The Settlement Agent shall prepare the settlement statement, update and record the deed, collect and disburse settlement funds in accordance with this Agreement and the settlement statement, and file any required state and federal tax forms or other certifications in accordance with Paragraph 15.

4. FEASIBILITY PERIOD. The Nickersons shall have ninety (90) days from the date this Agreement is executed by all parties in which to complete its assessment of the Property, including title examination and environmental assessment.

5. CLOSING. The Closing will be made at the offices of the Norfolk City Attorney, in Norfolk, Virginia 23510, or such other location as the parties may agree, within 30 days after expiration of the Feasibility Period, or as soon thereafter as settlement documents can be prepared and any title issues can be resolved.

6. CONDITIONS. The Nickersons' obligations are expressly conditioned upon the satisfaction of each of the following conditions in the sole determination of the Nickersons, it being understood that the City is under no obligation whatsoever to expend any funds to satisfy any of these conditions. If any one of the following conditions cannot be met during the Feasibility Period, the Nickersons may unilaterally terminate this Agreement:

a. Receipt of a satisfactory title commitment.

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

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

7. SOLD "AS IS"; NO REPRESENTATIONS AND WARRANTIES BY CITY. The Nickersons acknowledge that the City has made no representations or warranties whatsoever in regard to the Property, except for Special Warranty of Title. The Nickersons agree that they have inspected and are thoroughly familiar with the Property and are acquiring the Property in its "as is" condition. The Nickersons understand and agree that the City has not made and makes no representations or warranties of any kind with respect to the condition of the Property or its fitness, suitability or acceptability for any particular use or purpose, and the City shall not be liable for any latent or patent defects therein.

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

The Nickersons: Kyle and Letitia Nickerson
864 Washington Avenue
Norfolk, Virginia 23504

City: Director, Department of General Services
Office of Real Estate
City of Norfolk
232 East Main Street, Suite 250
Norfolk, Virginia 23510

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

9. SURVIVAL. The provisions contained in this Agreement will be true as of the date of this Agreement and as of the date of Closing and will survive the Closing.

10. BROKERAGE OR AGENT'S FEES. Neither the City nor the Nickersons are represented by a real estate broker, agent or finder in this transaction. No fees or commissions are or will be due from or payable by the City as a result of this transaction. The City shall not have any obligation whatsoever to pay any brokerage or agent's fees or commissions, nor shall the City have any obligation whatsoever to see that any such fees or commissions are paid.

11. DEFAULT AND REMEDIES.

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

(i) Terminate this Agreement; or

(ii) Seek and obtain specific performance of this Agreement.

12. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and will supersede the terms and conditions of all prior written and oral agreements, if any, concerning the matters it covers. The parties acknowledge there are no oral agreements, understandings, representations, or warranties that supplement or explain the terms and conditions contained in this Agreement. This Agreement may not be modified except by an agreement in writing signed by the parties.

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

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

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

(SIGNATURE PAGES FOLLOW)

WITNESS the following duly authorized signatures and seals:

CITY OF NORFOLK

By: _____
City Manager

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that 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 Conveyance Agreement, have acknowledged the same before me in my City and State aforesaid.

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

_____
Notary Public
Registration No._____

Contents Approved:

_____
Director, Department of General Services

Approved as to Form and Correctness:

_____
Deputy City Attorney

_____
KYLE C. NICKERSON

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City/County of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that Kyle C. Nickerson, whose name is signed to the foregoing Conveyance Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this ___day of _____, 2016.

_____
Notary Public
Registration No._____

_____
LETITIA J. NICKERSON

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City/County of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that Letitia J. Nickerson, whose name is signed to the foregoing Conveyance Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this ___day of _____, 2016.

_____
Notary Public
Registration No._____

EXHIBIT "A"
Tax Account Number 4044-5600

That certain lot of land, with the buildings and improvements thereon, situate in the City of Norfolk, Virginia, and bounded and described, as follows:

Beginning at a point on the north side of Washington Avenue three hundred and seventy-two (372) feet, more or less, west of the western line of Proescher Street, and running thence westwardly along the northern side of Washington Avenue twenty-five (25) feet, more or less; thence running northwardly one hundred and twenty-five (125) feet, more or less; thence running eastwardly twenty-five (25) feet, more or less; thence running southwardly one hundred and twenty-five (125) feet, more or less, to the point of beginning; the building located on said parcel of land being numbered 860 Washington Avenue according to the present numbering of houses in the City of Norfolk.

INSTRUMENT #060023651
RECORDED IN THE CLERK'S OFFICE OF
NORFOLK ON
JUNE 5, 2006 AT 07:57AM
GEORGE E. SCHAEFER, CLERK

RECORDED BY: MXY

EXHIBIT B

Instrument Control Number

2006 JUN -5 A 7:57

000008

Commonwealth of Virginia
Land Record Instruments
Cover Sheet - Form A

JUN.05 060023651

[ILS VLR Cover Sheet Agent 1.0.66]

TAX EXEMPT	CORP		
		Date of Instrument:	[6/2/2006]
		Instrument Type:	[DEC]
		Number of Parcels	[1]
		Number of Pages	[6]
		City [x] County [ ]	[City Of Norfolk]

(Box for Deed Stamp Only)

First and Second Grantors

TAX EXEMPT	CORP	Last Name	First Name	Middle Name or Initial	Suffix
[x]	[x]	[City of Norfolk]	[ ]	[ ]	[ ]
[ ]	[ ]	[Trapani]	[Philip]	[R.]	[Jr.]

First and Second Grantees

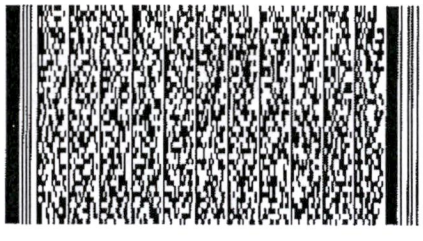
TAX EXEMPT	CORP	Last Name	First Name	Middle Name or Initial	Suffix
[x]	[x]	[City of Norfolk]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

Grantee Address (Name) [City of Norfolk]
(Address 1) [Norfolk City Attorney's Office]
(Address 2) [810 Union Street, Room 900]
(City, State, Zip) [Norfolk] [VA] [23510]

Consideration [0.00] **Existing Debt** [0.00] **Assumption Balance** [0.00]

Prior Instr. Recorded at: City [ ] **County** [ ] [ ] **Percent. in this Juris.** [100]
Book [ ] **Page** [ ] **Instr. No** [060020720]
Parcel Identification No (PIN) [n/a]
Tax Map Num. (if different than PIN) [4044-5600]
Short Property Description [N S Washington Avenue]
[ ]
Current Property Address (Address 1) [N S Washington Avenue]
(Address 2) [ ]
(City, State, Zip) [Norfolk] [VA] [ ]

Instrument Prepared by [City of Norfolk]
Recording Paid for by [N/A]
Return Recording to (Name) [Charles Stanley Prentace]
(Address 1) [Deputy City Attorney]
(Address 2) [810 Union Street, Room 900]
(City, State, Zip) [Norfolk] [VA] [23510]
Customer Case ID [ ] [ ] [ ]



frank smith

Instrument Control Number

Commonwealth of Virginia
Land Record Instruments
Continuation Cover Sheet
Form B

[ILS VLR Cover Sheet Agent 1.0.66]

Date of Instrument: [6/2/2006]
Instrument Type: [DEC]

Number of Parcels [1]
Number of Pages [6]

City [x] County [ ] [City Of Norfolk]

(Box for Deed Stamp Only)

Grantors/Grantees/Parcel Continuation Form B

TAX EXEMPT	GRANTOR	GRANTEE	CORP	Last Name	First Name	Middle Name or Initial	Suffix
☐	☒	☐	☐	[Smith	] [Cordelia	] [	] [ ]
☐	☒	☐	☐	[Whitaker	] [James	] [	] [ ]
☐	☒	☐	☐	[Whitaker	] [Isaac	] [	] [ ]
☐	☒	☐	☐	[Whitaker	] [Nelson	] [	] [ ]
☐	☒	☐	☐	[Whitaker	] [Cary	] [	] [ ]
☐	☒	☐	☐	[Whitaker	] [Joseph	] [	] [ ]
☐	☒	☐	☐	[Whitaker	] [Ralph	] [	] [ ]
☐	☐	☐	☐	[	] [	] [	] [ ]
☐	☐	☐	☐	[	] [	] [	] [ ]
☐	☐	☐	☐	[	] [	] [	] [ ]
☐	☐	☐	☐	[	] [	] [	] [ ]
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☐	☐	☐	☐	[	] [	] [	] [ ]

Prior Instr. Recorded at: City [ ] County [ ] [ ] Percent. in this Juris. [ ]
Book [ ] Page [ ] Instr. No [ ]
Parcel Identification No (PIN) [ ]
Tax Map Num. (if different than PIN) [ ]
Short Property Description [ ]
[ ]
Current Property Address (Address 1) [ ]
(Address 2) [ ]
(City, State, Zip) [ ] [ ] [ ]

DECLARATION OF
PROTECTIVE AND RESTRICTIVE COVENANTS
RELATIVE TO PROPERTY LOCATED AT
N S WASHINGTON AVE (TAX ACCOUNT #4044-5600)

THIS DECLARATION, made this 31ST day of MAY, 2006, by the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("Declarant"), whose address is City Hall, 810 Union Street, Norfolk, Virginia, 23510.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property described in Exhibit A, attached hereto and made a part hereof ("Property"); and

WHEREAS, Declarant, in order to provide for orderly development, improvement and maintenance of the Property, and the surrounding neighborhood, deems it suitable and appropriate to establish and publish certain standards and restrictions and to impose the same upon the Property;

NOW, THEREFORE, for and in consideration of the premises, the mutual benefits accruing to Declarant, to the surrounding neighborhood, and to subsequent purchasers of the Property, Declarant does hereby declare said Property to be subject to the following covenants, which covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in and to the Property or any part thereof.

A. PERMITTED AND PROHIBITED USES.

1. Any construction on or development of the Property shall be in keeping with the City of Norfolk's General Plan, as well as the City's neighborhood plans, as such plans may be approved from time to time by the City Council.

2. No building or structure of any kind shall be constructed, altered or permitted on the Property without the prior written approval of the design of such building or structure by the Director of City Planning for the City of Norfolk ("Director"). A set of plans shall be submitted to the Director for approval as set forth herein.

3. All buildings and structures located on the Property shall be kept in good repair and the Property shall be kept in compliance with all City codes and ordinances.

4. If the Property is located on a street or in a district that is designated as an underground street or district under the provisions of the Norfolk City Code, 1979, as amended ("City Code"), then any building or structure located on the Property shall be served by underground utilities, and no above ground poles and wires shall be permitted, unless otherwise provided in the City Code.

B. REVIEW AND APPROVAL OF PLANS

1. All plans for any new buildings or structures to be located on the Property, including any additions to existing buildings or structures, must be presented to and approved by the Director in writing prior to the commencement of any construction.

2. The Director shall approve or disapprove plans submitted to him within forty-five (45) days after an application has been made to him. If the Director fails to act within the said 45 days, the application shall be deemed to have been approved. In the event the plans are disapproved by the Director, the party submitting the plans shall have 45 days from the date of such disapproval to submit revised plans, such revised plans to contain any revisions required by the Director.

3. The plans required to be submitted to the Director for approval shall include a full set of construction plans and site plans.

4. The construction of any building or structure on the Property must commence within ninety (90) days of the receipt of approval by the Director. Work thereon shall be prosecuted diligently and must be completed within a reasonable time not to exceed twelve (12) months from the date construction commences.

C. GRANTEE'S ACCEPTANCE

The Grantee of the Property subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of the Property, shall accept such deed or contract upon and subject to each and all of these protective and restrictive covenants and the agreements herein contained, and also the jurisdiction, rights, and powers of Declarant, and by such acceptance shall, for himself, his heirs, personal representatives, successors and assigns, consent, and agree to and with Declarant to keep, observe, comply with, and perform said protective and restrictive covenants.

D. EFFECTS OF PROTECTIVE AND RESTRICTIVE COVENANTS.

1. These protective and restrictive covenants shall run with the Property and shall be binding upon all parties and all persons claiming under them.

2. These protective and restrictive covenants may be changed, modified, or amended by a duly recorded instrument signed by the Declarant and the then current owner of the Property.

3. Each and every protective and restrictive covenant contained herein shall be considered to be an independent and separate covenant and agreement, and in the event that any one or more of said protective or restrictive covenants shall, for any reason, be held to be invalid or unenforceable, all remaining protective and restrictive covenants shall nevertheless remain in full force and effect.

4. The failure of any party or person to enforce a protective or restrictive covenant contained herein in any instance or against any person shall not constitute a waiver or abrogation of said protective or restrictive covenant.

E. REMEDIES.

The Declarant or any party to whose benefit these protective and restrictive covenants inure may proceed at law or in equity to prevent the occurrence, continuation, or violation of any of these protective and restrictive covenants, and the court in any such action may award reasonable expenses in prosecuting such action, including attorney's fees. In addition to any other remedy available at law or in equity, a violation of any protective or restrictive covenant contained herein shall, in the sole

discretion of the Declarant and upon the giving of written notice to the then current owner of the Property, cause the title to the Property to revert to the Declarant.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.

CITY OF NORFOLK

By: _____ [SEAL]
City Manager

Attest:

_____
City Clerk 5/31/06

Approved as to form and correctness:

_____ 5.18.06
Deputy City Attorney

STATE OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Marietta B. Cowart, a Notary Public in and for the City of Norfolk, in the State of Virginia, whose term of office expires on the 31ST day of August, 2008, do hereby certify that Regina V.K. Williams, City Manager and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing instrument dated May 31, 2006 have acknowledged the same before me in my City and State aforesaid.

Given under my hand this 31ST day of May, 2006.

Marietta B Cowart [SEAL]
Notary Public

EXHIBIT "A"
Tax Account Number 4044-5600

That certain lot of land, with the buildings and improvements thereon, situate in the City of Norfolk, Virginia, and bounded and described, as follows:

Beginning at a point on the north side of Washington Avenue three hundred and seventy-two (372) feet, more or less, west of the western line of Proescher Street, and running thence westwardly along the northern side of Washington Avenue twenty-five (25) feet, more or less; thence running northwardly one hundred and twenty-five (125) feet, more or less; thence running eastwardly twenty-five (25) feet, more or less; thence running southwardly one hundred and twenty-five (125) feet, more or less, to the point of beginning; the building located on said parcel of land being numbered 860 Washington Avenue according to the present numbering of houses in the City of Norfolk.

INSTRUMENT #060023651
RECORDED IN THE CLERK'S OFFICE OF
NORFOLK ON
JUNE 5, 2006 AT 07:57AM
GEORGE E. SCHAEFER, CLERK

RECORDED BY: MXY

City of NORFOLK

C: Dir., Department of General Services

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: Lease Agreement between the City of Norfolk and Copy Connection, LLC

Reviewed: Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: 2/6

Approved: Marcus D. Jones, City Manager

Item Number: **PH-2**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Copy Connection, LLC
236 E. Main Street
Norfolk, VA 23510

III. **Description:**
This agenda item is an ordinance to approve a lease agreement between the City of Norfolk (the "city") and Copy Connection, LLC ("Copy Connection") for city-owned property located at 236 E. Main Street.

IV. **Analysis:**
This lease agreement will permit Copy Connection to continue to lease and use the city-owned space located at 236 E. Main Street as office space and to provide copy services for the downtown Norfolk area. The term of the proposed lease is five (5) years, commencing on October 1, 2016 and terminating on September 30, 2021. This business has been in this location since 2011.

V. **Financial Impact:**
The rent will be subject to a 3% annual escalation. Also included is an HVAC/Water/Sewage monthly charge ("Additional Rent") also set to escalate 3% each year – as a tenant in the Main Street garage building, each tenant is responsible for a prorated share of these expenses.

Term	Monthly Rent	Annual Rent	Additional Rent
10/01/2016 – 09/31/2017	$1,340.99	$16,091.88	$144.90
10/01/2017 – 09/31/2018	$1,381.22	$16,574.64	$149.25
10/01/2018 – 09/31/2019	$1,422.65	$17,071.80	$153.72
10/01/2019 – 09/31/2020	$1,465.33	$17,583.96	$158.34
10/01/2020 – 09/31/2021	$1,509.29	$18,111.48	$163.09

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

Liability insurance for 236 E. Main Street (Copy Connection, LLC)	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

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 Lease Agreement
- Current Floor Plan for space

6/16/2016 -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 LEASE AGREEMENT WITH COPY CONNECTION, LLC FOR THE LEASE OF CITY OWNED PROPERTY LOCATED IN THE MAIN STREET PARKING GARAGE COMPLEX AND KNOWN AS 236 EAST MAIN STREET.

- - -

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

Section 1:- That the Lease Agreement, a copy of which is attached hereto as Exhibit A, between the City of Norfolk ("City") and Copy Connection, LLC ("CC"), whereby the City leases to CC certain property located in the Main Street Parking Garage Complex and known as 236 East Main Street for use as an office space for copying services, is hereby approved.

Section 2:- That the City Manager and other proper officers of the City are authorized to execute the Lease on behalf of the City and to do all things necessary and proper to implement its terms.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Lease Agreement as he may deem advisable consistent with the intent of the Council.

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

EXHIBIT A TO ORDINANCE

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") made this _____ day of _____, 2016, by and between the **CITY OF NORFOLK** ("City"), a municipal corporation of the Commonwealth of Virginia, Lessor, and **COPY CONNECTION, LLC** ("CC"), a Virginia limited liability company, Lessee.

WITNESSETH:

1. **PREMISES**. City, for and in consideration of the rents, covenants and agreements hereinafter mentioned, reserved and contained, to be paid, kept and performed by CC, does hereby demise and lease unto CC, and CC does hereby lease from City, the property owned by the City of Norfolk known as 236 East Main Street, 954 square feet in area, in Norfolk, Virginia, as shown in Exhibit A attached hereto ("Premises").

2. **USE.** CC covenants and agrees to use and occupy Premises as an office space for copying services and for no other purpose.

3. **ACCEPTANCE OF PREMISES:** CC hereby agrees to accept the Properties from the City as they are found by CC in "as is and where is" condition. CC further understands that the Premises are part of the Main Street Parking Garage complex and that other portions of the building will be utilized in a manner consistent with that purpose.

4. **LEASE TERM.** This lease agreement is for a five year term and will commence on October 1, 2016 ("Commencement Date") and will terminate on September 30, 2021 ("Termination Date"), subject to the default provisions contained in Section 25.

5. **RENT:** Rent shall be made payable to the Norfolk City Treasurer and shall be in such sums as are set forth in the table below. The rent amount will increase 3% annually in each successive year of the lease.

Term	Monthly Rent	Annual Rent
10/01/2016-09/30/2017	$1,340.99	$16,091.88
10/01/2017-09/30/2018	$1,381.22	$16,574.64
10/01/2018- 09/30/2019	$1,422.65	$17,071.80
10/01/2019-09/30/2020	$1,465.33	$17,583.96
10/01/2020-09/30/2021	$1,509.29	$18,111.48

The rent shall be paid in monthly installments, made promptly on the first day of each month during the term of this Lease without demand and without offset or deduction. No payment by CC or receipt by City of a lesser amount than the monthly installment stipulated in this Lease shall be deemed other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or payment, or any writing accompanying any check or payment of such rent, be deemed an accord and satisfaction, and City may accept such check or payment without

prejudice to City's right to recover the balance of such rent or pursue any other remedy provided in this Lease.

6. PAST DUE RENT AND LATE CHARGES: CC hereby acknowledges that late payment by CC to City of rent or other sums due hereunder will cause City to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. In the event CC shall fail to pay, when the same is due and payable, any Rent, charges or adjustments, and if said sums have not been paid within five (5) days of their due date, then CC shall pay to City a "Late Charge" of five percent (5%) of the amount due on all rents. CC further covenants and agrees to pay City as a "bad check" or returned check charge the amount of Fifty Dollars ($50.00) per bad check.

7. UTILITIES AND OTHER COSTS: CC shall make arangements to have the individually metered electrical service to the Premises billed directly to CC and promptly pay for all charges when due in connection with the use of the Premises.

CC shall pay City, as additional rent, its prorated share of the expenses for providing HVAC, water and sewerage, and trash collection to the Premises. CC and City expressly agree that the following amounts shall be CC's prorated share of the HVAC, water and sewerage, and trash collection expenses provided to the Premises, and electricity and gas used in connection with the operation of the HVAC. This monthly charge shall be increased by three percent (3%) each year of the term of this Lease as set forth below:

Term	Additional Rent
10/01/2016-09/30/2017	$144.90
10/01/2017-09/30/2018	$149.25
10/01/2018- 09/30/2019	$153.72
10/01/2019-09/30/2020	$158.34
10/01/2020-09/30/2021	$163.09

8. ADDITIONAL RENT: Additional Rent payable by CC shall include:

(a) all taxes, leasehold taxes, assessments, utilities (as noted in Section 6) and other governmental charges, excluding charges arising from hazardous substances deposited prior to CC's tenancy assessed against or levied upon the Premises or related to the use or occupancy thereof;

(b) all other expenses and charges which, during the term hereof, shall arise, be levied, assessed or imposed upon or against the Premises as an incident of the ownership thereof and which are of the kind customarily paid by owners of land and buildings by reason of such ownership, it being the intention hereof that, during the term of this Lease, CC shall be chargeable with and shall pay all sums which an owner of the Premises would pay, having regard to the safeguarding of his investments and the preservation of the freehold.

(c) notwithstanding anything in this Lease to the contrary, CC does not hereby become responsible or in any manner whatsoever assume liability for environmental conditions or liabilities existing prior to its occupancy hereunder, or for such conditions not caused or permitted by CC.

Each of the items payable as Additional Rent shall be paid on or before the date when each becomes due, except CC may pay any tax, assessment, water rent or other governmental charge after it becomes due but before any penalty or interest accrues thereon. City shall furnish to CC any and all bills for items payable as Additional Rent in sufficient time for payments to be made by CC. City agrees to elect to pay any future assessment which may be levied against the Premises in the maximum number of installments permitted by law. CC shall furnish to City, within thirty (30) days after the date upon which any such charge is payable by CC as hereinabove provided, official receipts of the appropriate taxing or governmental authority, or other proofs satisfactory to City, evidencing the payment of Additional Rent. If CC shall fail to make any payment or to do any act required of it by any provision of this Lease, City may make such payment or do such act and the amount of such payment, or the cost of doing such act, together with interest thereon at the rate of 18% per annum, shall be deemed Additional Rent payable by CC upon demand by City. The making of any such payment or the doing of any such act by City shall not constitute a waiver by City of any right or remedy provided by this Lease upon CC's default in the making of such payment or the doing of such act. All taxes, assessments, and other governmental charges assessed against or levied upon the Premises shall be apportioned as between City and CC at the Commencement Date and Termination Date.

CC shall have the right to contest or review by appropriate proceedings or in any other manner permitted by law, at CC's sole cost and expense, in CC's name or in City's name, or both, any tax, assessment or charge, and City shall, without expense or charge to it, cooperate with CC and execute any documents or pleadings required for such purposes. If required by City, CC shall furnish a surety company bond, or other security reasonably satisfactory to City, against any liens by reason of such contest. The aforesaid contest by CC may include appeals from any judgments, decrees or orders until a final non-appealable determination shall be made by a court or governmental department or authority having jurisdiction in the matter.

9. TRASH REMOVAL AND JANITORIAL SERVICES: As the Premises are part of the Main Street Parking Garage complex, CC is part of a common trash removal service provided by the City. CC shall store all trash, rubbish and garbage in fully closed containers at the rear of the Premises in the loading dock area off Atlantic Street. CC shall not burn or otherwise inappropriately dispose of any trash, waste, rubbish or garbage in and/or about the Premises. Any expenses incurred by City related to the removal of such inappropriate disposal shall be reimbursed by CC.

10. PARKING: At the discretion of CC, City agrees to make available two (2) unreserved parking spaces for CC's use within the parking garage attached to the Premises. CC is responsible for making arrangements with the City's Division of Parking and paying the costs of parking at published rates per space, per month.

11. CHANGE IN SCOPE OF TAXATION: If at any time during the term of this Lease, the method or scope of taxation prevailing on the date hereof shall be altered, modified or enlarged so as to cause the method of taxation to be changed, in whole or in part, so that in substitution for the real estate taxes now assessed there may be, in whole or in part, a capital levy or other imposition based on the value of the Premises, or the rents received therefrom, or some other form of assessment based in whole or in part on some other valuation of the City's real

property comprising the Premises, then the substituted tax or imposition shall be payable and discharged by CC in the manner required pursuant to the law promulgated which shall authorize the change in the scope of taxation, and as required by the terms and conditions of this Lease.

Nothing contained in this Lease shall require CC to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of City, or federal income or state income tax or excess profits or revenue tax, except to the extent such taxes; are imposed in whole or partial substitution for real property taxes.

If any tax which CC is required to pay as previously stated is a graduated tax, CC shall be required to pay only the portion thereof which would have been payable by City if the Premises were the only real property owned by City.

12. INDEMNIFICATION AND CC'S INSURANCE: CC, at its own cost and expense, shall obtain and maintain Comprehensive General Liability Insurance on the Premises for the joint and separate benefit of City and CC in an amount not less than $1,000,000 for injury to or death of any person or persons, $2,000,000 for any one occurrence, and $500,000 for property damage, or in such higher limits as shall be reasonably required by City.

CC will be responsible for any and all damages to CC's inventory, furniture, fixtures and equipment, and will, at all times during the lease term and at its own cost expense, maintain all risk property insurance against damage by fire or other perils in an amount equal to the replacement value of all parts of the Premises for which the CC is responsible. Each insurance policy shall be so written as to protect the City and the CC, as their respective interests may appear, and all liability policies shall specifically name the City as an Additional Insured under the policy. If CC fails to provide such insurance, City may terminate this lease with ten (10) days notice to CC. Certificates of Insurance verifying all required insurance policies shall be delivered to the City prior to the CC's occupancy or build-out of the leased space.

CC agrees to look solely to the proceeds of CC's own insurer for indemnity against exposure for casualty losses of property or business interruption. CC warrants that its liability, property and business interruption insurers shall have no rights against City by virtue of assignment loan agreement or otherwise.

CC shall indemnify City for and against any and all claims, demands, suits, actions and judgments of any kind or nature whatsoever, including costs and expenses, for any personal injury or property damage to any person, or property, arising or resulting, directly or indirectly, from the entry onto the Premises by CC or CC's agents.

13. <u>REPAIRS</u>: CC shall keep and maintain the Premises in a good and complete state of repair and condition, except for ordinary wear and tear. CC shall make all repairs and replacements of every kind and character, to include, but not be limited to, store front glass, and maintain the Premises and the appurtenances belonging thereto, and will not call upon City during the term of this lease for the making of any repairs or replacements whatsoever. All repairs and replacements shall:

(a) be performed in a good and workmanlike manner,

(b) be at least substantially equal in quality and usefulness to the original work,
(c) be of first-class modern character, and
(d) not diminish the overall value of the Premises.

In this context, Premises refers to the partitions, ceilings, floors and other improvements heretofore or hereafter constructed at CC's expense.

14. NO ASSIGNMENT OR SUBLEASE: CC covenants not to assign, mortgage or encumber this Lease nor sublet or suffer or permit the Premises or any portion thereof to be used by others without the prior written consent of the City in each instance. The transfer of fifty percent (50%) or more of CC's stock, if CC is a corporation, or the transfer of twenty-five percent (25%) or more partnership interest in CC, if CC is a partnership, or the dissolution of CC as a corporation or partnership, is regarded as an assignment of the Lease, and the same is not permitted without the prior written consent of the City. CC and any guarantors shall remain liable for this Lease, its terms and covenants in such event that the City does grant consent to an assignment or sublease, and shall guarantee the performance of the assignee or sublessee without the need for guarantor's signature or consent thereto.

15. ESTOPPEL CERTIFICATE: CC shall, from time to time and within ten (10) days after request therefore by the City, execute, acknowledge and deliver to the City or its Agent a written Estoppel Certificate in recordable form. The Estoppel Certificate shall certify to the City, its Mortgagee or other party designated by the City, as of the date of such Estoppel Certificate that (a) the CC is in possession of Premises and is currently paying the Base Rent reserved hereunder; (b) the following Lease dates are and have been established: the Commencement Date and Termination Date of the Lease and that date upon which the CC started to pay rent; (c) that this Lease is unmodified and in full force and effect, or if there have been modifications, that the same are in full force and effect as modified and setting forth such modifications; (d) that there are no existing set-offs or defenses against the enforcement of any rights or remedies of the City, or any duty or obligation of the CC, hereunder, and if so, specify the same in detail; and (e) that the CC has no knowledge of any event having occurred that will authorize the termination of this Lease by the CC, or that the CC has no knowledge of any uncured defaults on the part of the City under this Lease, or if the CC has such knowledge, specifying the same in detail. In the event that the CC does not execute and deliver such Estoppel Certificate, as required herein, for purposes of this Lease, shall be and shall constitute an Irrevocable Power of Attorney, appointing and designating the City, its successors and assignees, as the CC's attorney-in-fact to execute and deliver such Estoppel Certificate as herein provided.

16. SUBORDINATION AND ATTORNMENT: CC agrees that this Lease is subordinate to any mortgage or lien resulting from financing or refinancing, now or hereafter placed upon the land on which the Premises have been built or upon any building hereafter placed upon the land, of which the Premises are a part. CC will further attorn to and acknowledge the foreclosure purchaser or purchasers as the City hereunder. This shall be self-operative and no further instrument of subordination shall be required by any mortgagee. However, CC shall, upon the request of any party in interest, promptly execute such instrument or certificate to carry out the intent thereof. City agrees to use its best efforts to obtain a non-disturbance agreement.

17. QUIET ENJOYMENT: City hereby covenants that CC, upon fully complying with and promptly performing all the terms, covenants and conditions of this Lease, on its part to be performed, and further, upon the prompt and timely payment of all rental sums due hereinunder, shall have and quietly enjoy the Premises for the Lease Term set forth herein.

18. ADDITIONAL COVENANTS BY CC: CC shall not make alterations, additions or improvements to the building structure of which the Premises are a part without first obtaining City's written approval and consent. For purposes of this Lease, the structural components of the building are hereby defined as the foundation, structural steel, roof, exterior walls, storefront components including storefront glass and doors, back doors, or loading doors, existing interior plumbing improvements, exterior plumbing lines, HVAC unit components and ductwork, electric service, ceiling and light fixtures and common areas. CC shall present to City plans and specifications for any such work at the time approval is sought from City for CC structural modifications.

CC has the right to install its store trade fixtures in the Premises, provided that such installation does not damage the construction of the building nor interfere with the structural components of the building of which the Premises are a part. Such installations shall be at the sole risk and at the expense of the CC. All fixtures installed by CC shall remain the property of CC, and if the CC is not in default of the Lease, its terms and covenants herein, the same fixtures shall be removed by CC at the expense of the CC at the end of the Lease. CC further agrees to repair and/or to reimburse City for the cost of repair for any damages to the Premises caused by the installation and removal of its trade fixtures. In the event that fixtures are left behind or abandoned, CC shall pay to City any expenses associated with repairs to the Premises caused by the removal of same fixtures.

CC's signage is subject to and shall be within the sign criteria established by the Department of City Planning of the City of Norfolk. Design of storefront signage and fabrication and installation of the same shall be approved by the City or its Agent in writing prior to sign installation by CC at CC's expense. CC further agrees to maintain such storefront signage, awning signs, canopy signs, show window lettering, door signs or additional similar advertising signs in a good condition of repair and attractive display at all times.

Signs installed by CC are the property of CC, and if CC is not in default hereunder, shall also be removed by CC at the end of the Lease Term at CC's expense. Signs that are left behind or abandoned become the property of the City. If CC abandons sign upon termination of this Lease, or sooner, City shall have the right to remove the sign and CC agrees to be responsible and liable for the cost of such removal and the cost of such repairs occasioned by same removal.

CC will not use nor permit the Premises to be used for any illegal or immoral purpose. CC hereby agrees to comply with all Federal, State and Municipal laws, ordinances and regulations as they relate to CC's business and/or to the Premises in which the CC's business is located, and the use, storage and disposal of hazardous substances.

CC shall not make any use of the Premises, which would make voidable or void any policy of fire or extended coverage insurance covering any of the buildings or cause the buildings to

become uninsurable. CC covenants that, without prior written consent of the City, CC will not do anything which will increase the rate of fire insurance premium on the building. If by reason of any use by CC of the Premises or the keeping by CC of any flammable substances in the Premises, the hazardous insurance premiums or policies maintained by City shall be increased over normal rates for the building, the amount of the increase in the City insurance premium shall be paid to City by CC from time to time on demand. CC hereby covenants that it shall cease and desist any activity so affecting the insurability of the Premises upon written demand of the City.

CC will not use nor permit to be used any advertising medium or device such as audio broadcast, loudspeaker, radio, public address system, remote radio station, or flashing or digital reader sign, without the prior written consent of the City.

CC shall not hold any fire, bankruptcy, and going-out of business or auction sales, without the prior written consent of the City.

CC shall not use the sidewalks or any other portions of the common areas for any purpose related to the selling of merchandise or services without the City's consent in writing.

CC shall notify City in writing of all accidents or security-related incidents, i.e. crimes against person(s) and property, which occur in or about the Premises.

CC is hereby responsible and liable for any freezing in pipes and/or within plumbing fixtures and shall pay for the damages incurred. CC shall keep the Premises at a sufficient temperature to prevent such freezing or make such arrangements with a local utility service to prevent freeze-ups.

19. CITY'S INSPECTION AND ACCESS: City or its Agent, employees and/or contractors shall have the right to enter the Premises at any reasonable time to examine the same; to show the Premises to prospective purchasers, lenders, or prospective tenants of the Premises; and to make such repairs, alterations, improvements or additions as City may deem necessary or desirable. If CC is not personally present to permit entry and an entry is necessary, City or its Agent may, in the case of emergency, or if the Premises are unsecured and temporarily unoccupied, forcibly enter or secure the same, or take such other steps to address the emergency that City deems appropriate, without rendering City liable therefore. Otherwise, all such work and installation shall be done, so far as practical, so as not to unreasonably interfere with CC's use of the Premises. CC also hereby grants unto City and its Agent the right, within four (4) months prior to the Termination Date, to post and to remain thereon, without hindrance or destruction, the usual notice of "For Rent" on the storefront glass or front walls of said Premises. The exercise of any of these reserved rights by City shall not be deemed as an eviction or disturbance of CC's use, possession and quiet enjoyment of the Premises, and shall never render City liable in any manner to CC or any other person.

20. WAIVER OF SUBROGATION: City and CC waive all right of recovery against each other for any loss in or about the Properties, from perils insured against and under the fire insurance contract, including any all risk endorsements thereof, whether due to negligence or any other cause. This release of liability shall be operative only as long as waiver of subrogation clauses

are available on insurance policies, in the amounts, form, kinds and with a company satisfactory to City.

21. INDEMNITY AGAINST LIENS: CC agrees that it will, at all times during this Lease, take any and all steps necessary to prevent the filing of mechanics liens against the Premises. CC further agrees to indemnify and save the City harmless from and against any and all liabilities incurred by CC or claimed or charged against the Premises. CC shall promptly pay, or otherwise discharge, any and all such claims, expenses and liens, including the mechanic's materialmen's and other laborer's liens asserted or claimed against the Premises or any part thereof. In no event shall City or any of the City's property be liable for or chargeable with any expense or lien for work, labor or materials used for and in the Premises; or for any improvements thereof or changes made upon the order of CC, or to discharge the obligations of the CC.

22. FIRE AND/OR DESTRUCTION: If the Premises shall be damaged by fire or other casualty during the Term hereof, City agrees that it will restore the structural components and items, as defined in Section 17 hereof, with reasonable dispatch to substantially the same condition that they were in so far as the proceeds from City's insurance permit and, further provided that, City's mortgagee does not require insurance proceeds to be paid to it. Once City restoration work is complete, and since time is of the essence, CC's rent payment shall re-commence on the date that CC reopens for business but no later than the sixtieth (60th) day after City notifies CC in writing that the Premises are ready for fixturing. The CC shall be responsible, at its sole cost and expense, to repair or replace any and all of the CC's fixtures, equipment and leasehold improvements, which were damaged or destroyed by the same insured cause. The rent payable hereunder shall be equitably and proportionately abated, according to loss of use to CC, during the period of time intervening between the date of such fire and/or destruction and the date that the Premises are restored. However, if the damage is due to the fault or the negligence of the CC or its employees, there shall be no abatement of rent. If such destruction occurs, during the last two (2) years of the term and exceeds fifty percent (50%) of the insurable value of the Premises at the time of such destruction occurs, City, at its option, may terminate this Lease as of the date of such destruction by giving CC written notice of its intention to do so within sixty (60) days after such date of destruction. If this Lease is so terminated, then the rent payable hereunder shall be abated as of the date of same destruction and CC shall remove all its property from the Premises within thirty (30) days after the receipt of written notice of termination. Unless City gives such notice, this Lease shall remain in full force and effect and City shall repair such damage as its expense, as expeditiously as possible under the circumstances. Notwithstanding the foregoing, in the event of damage to the Premises by fire or casualty which is not the result of CC's negligence, and which cannot be repaired within one hundred eighty (180) days of occurrence, City or CC shall have the right to terminate this Lease by giving the other party thirty (30) days prior written notice.

23. FORCE MAJEURE: In the event that either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature, not the fault of the party delayed in performing the work or doing acts required under the terms of this Lease, then performance of such acts shall be excused for the period of the delay; and the period for the

performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the provisions of this Lease shall not operate to release CC from this Lease nor to excuse CC, nor shall CC in any event be excused from prompt payment of rent and adjustments, and all other charges due to City by CC.

24. EMINENT DOMAIN: If all the Premises are condemned or taken by the power of eminent domain exercised by any governmental or quasi-governmental authority, this Lease shall terminate as of the date that the CC is required to vacate the Premises and all Rent shall be paid up to and until same date of termination. If only part of the Premises shall be taken and the size of the Premises are proportionately reduced, then the CC is entitled to an equal and proportionate reduction in Rent. Further, City shall, as expeditiously as possible, repair the remaining portion of Premises to the extent necessary to render the same suitable for which the Premises were leased. CC hereby waives any right that it may have to any condemnation award or sum paid under threat of condemnation as a result of a complete or partial taking of the Premises and/or any portion of the common areas. If there is only a partial taking of the common areas, this Lease shall not terminate and this Lease shall remain in full force and in effect. After partial taking of the common areas, the City, within a reasonable time thereafter, shall repair or reconstruct the remaining portion of the common areas to the extent necessary to make the same a complete architectural unit.

25. CC'S DEFAULT: The occurrence of any one of the following events constitutes a default by the CC and a breach of this Lease and its covenants by the CC, if such default, breach or non performance is continued and not cured within ten (10) days after written notice from City: (a) The vacating or abandonment of the Premises by CC, or the failure of the CC to be open for business and for the conduct of business as described in Section 2 of this Lease; (b) The failure by CC to make any payment of rent and adjustments on or before the due date thereof; (c) The failure by CC to perform any covenants herein or the breach by CC of any Lease covenants herein, other than those described in this section, and the further failure by CC to cure such covenant breach or non-performance, or to commence to cure and diligently pursue the cure of the covenant breach or non-performance which cannot be fully remedied within ten (10) days; (d) Petition by CC for bankruptcy, insolvency, or general assignment for the benefit of its creditors, or receiver appointment for CC for the substantial part of its assets and properties and such receiver is not removed with ten (10) days after its appointment; (e) If the CC shall default as described in this section, or in the performance of any covenant contained in this Lease, and if such default is repeated once within the next twelve months then, notwithstanding that such defaults shall have been cured within the period after notice as herein provided, any further similar default within such twelve month period shall be deemed a CC Default which cannot be cured, notwithstanding provisions for cure provided in this Lease. Upon such default, the City may proceed, with five days notice but no opportunity for cure, to exercise its remedies upon default.

26. CITY'S REMEDIES: In the event of CC Default, including CC's abandonment or vacating the Premises, City shall have the right, in addition to all other rights and remedies provided by the law, to terminate this Lease, and/or to re-enter and take possession of the Premises, peaceably or by force, and/or to change the locks thereto and to remove any property and merchandise therein, without liability to CC for damage arising therefrom and without obligation to CC to store any merchandise and property. Any costs of removal and storage of CC's fixtures,

inventory, equipment or any other personal property shall be the expense of CC and shall be added to all sums owed by CC to City. Further, City is under no obligation to CC, after default or abandonment, to relet the Premises in the name of CC or for the benefit of the City. City may, at its option and without subsequent notice to CC, re-let the Premises for such term and on such covenants and purposes as City, in its sole discretion, may determine are in the best interest of the City. City may collect and receive all rents derived therefrom and apply the same, after deduction of appropriate expenses, to the payment of the rent overdue and payable hereunder from the CC in default. The CC in default shall remain liable for any deficiency. Further, City shall not be responsible for or liable for any failure to re-let the Premises or any part hereof, or for any failure to collect any rent connected therewith. The City's recovery of possession of the Premises by any means shall not relieve the CC of its obligation to pay rent and adjustments through the term of the Lease, including any extensions in effect at the time of default under which CC then occupies the Premises.

Acceptance by City of delinquent rent from CC after CC Default shall not cure such default or entitle CC to possession of the Premises. CC hereby expressly waives any and all rights of redemption, if any, granted by and under any present or future law, in the event that CC shall be evicted or dispossessed for any cause in default or in the event that the City obtains possession of the Premises by virtue of the remedies outlined in this Lease, or otherwise. The receipt by City of rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by City of any covenant hereof shall be deemed to have been agreed upon, unless explicitly reduced to written agreement and signed by City and CC.

All remedies of City shall be cumulative.

27. ATTORNEYS' FEES: CC hereby agrees to pay all costs incurred by the City on account of the CC's default, including but not limited to collection costs, court costs and attorney fees in an amount equal to twenty-five percent (25%) of any money owed to City by CC at the time and accruing after City requests the assistance of an attorney. If CC's default is a non-monetary default, CC shall pay the greater of Two Hundred Fifty Dollars ($250.00) or City's actual attorney's fees.

28. TERMINATION AND SURRENDER: Upon the Termination Date of this Lease, CC shall surrender the Premises to City in as good condition as they were found upon the CC taking possession of the Premises; except for ordinary wear and tear, reduction of the Premises by condemnation or damage by fire, destruction or other casualties or causes beyond CC's control. CC shall deliver to City or its Agent all keys to the Premises and remove all its personal property, merchandise and trade fixtures. After CC vacation or CC abandonment, City may elect to retain or dispose of, in any manner, CC alterations and improvements or CC's personal property that CC does not remove from the Premises before or after the Termination Date. Title to any such CC alterations or CC's personal property, that City elects to retain or dispose of after the Termination Date, shall vest to and in the City. CC waives all claims against City for any damage to CC resulting from City's retention or disposition of any such alterations or personal property. CC is further liable to City for City's expenses and costs for removing and disposing of any CC alterations or CC personal property, which City does not elect to acquire.

29. WAIVERS: The failure of City to insist, in any one or more instances, to strict performance by CC as to any Lease covenants shall, not be construed as a waiver by City or relinquishment, in the future, of such covenants, but the same shall continue and remain in full force and effect. The receipt by City or its Agent of rent with knowledge of a covenant breach hereof shall not be deemed a waiver of the same covenant breach, and no waiver by City of any provision hereof shall be deemed to have been agreed upon unless expressed in writing and signed by the parties hereto.

CC hereby waives the benefit of the homestead exemption as to this Lease.

30. EXCULPATION: The term "City" as used in this Lease means only the owner, for the time being or at the time of Lease execution by CC, of the building in which the Premises are located or the owner of a Lease of both said building and the land thereunder. City shall be liable for the performance of its obligations hereunder only to the extent of City's assets as they pertain to the Premises. The City and its officers, agents, employees, successors and assignees shall not be liable personally. Further, the liability of the City shall not extend beyond the period of time of City's ownership of the Premises.

31. SUCCESSORS AND ASSIGNS: All the terms, covenants and agreements of this Lease shall extend to and be binding upon the City and be binding upon the CC and its respective heirs, administrators, executors, successors, assignees, concessionaires, marital communities, if any, and their respective assigns; and/or upon any person or persons coming into ownership or possession of any interest in the Premises by operation of law or otherwise.

32. NOTICES: Any notice herein provided for to be given to City shall be deemed to be given if and when posted in United States registered or certified mail, postage prepaid, addressed to:

CITY'S NOTICE ADDRESS:
Marcus D. Jones, City Manager
City Manager's Office
810 Union Street, Suite 1100
Norfolk, Virginia 23510

Copy to:
Jim Resolute
Department of Real Estate
232 E Main Street, Suite 250
Norfolk, Virginia 23510

CC'S NOTICE ADDRESS:
Copy Connection, LLC
236 E. Main Street
Norfolk, Virginia 23510

Any notice herein provided for to be given to CC shall be deemed to be given if and when posted in United States registered or certified mail, postage prepaid.

Either party may, at any time, change its address for the purposes of notice hereof by sending a written notice to the other party stating the change and setting forth the new address.

33. AMERICANS WITH DISABILITIES ACT: In the event that any federal, state, or local government authority (the "Applicable Authority") with jurisdiction determines that the exterior and/or interior of the Premises are not in compliance with the Americans with Disabilities Act of 1990 (the "ADA"), City, at its sole cost, agrees to take such remedial action as is required by the Applicable Authority pursuant to the ADA to correct or remedy such noncompliance. Alternatively, if in City's judgment the remedial or corrective measures proposed by the Applicable Authority do not have to be performed in order for City to be in compliance with the ADA, City may contest, at its sole cost, such matter in lieu of performing the remedial action. However, upon final judgment being entered against City in a court of competent jurisdiction with regard to ADA requirements, City agrees to take such remedial actions, at its sole cost, as ordered by such court.

34. BROKER: CC is not represented by a Broker in this transaction.

35. NO JOINT VENTURE: It is hereby agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture between City and CC, or between City and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party

36. ENTIRE AGREEMENT: This Lease contains the entire agreement of the parties hereto. Any and all oral or written agreements understandings, representations and warranties, promises and statements of the parties hereto or from their respective officers and directors or from their partners, Agents or brokers with respect to the subject matter of this Lease, and any matter not covered and mentioned in this Lease, shall be inferior and be merged in and by this Original Lease. No such prior oral or written agreement, understanding, representation or warranty, promise or statement shall be effective or binding for any reason or purpose, unless specifically set forth in this original Lease. No provision of this Lease may be amended or added to except by an agreement in writing, signed by the parties hereto or their respective successors in interest. This Lease shall not be effective or binding on any party until fully executed by both parties hereto.

37. SEVERABILITY: In the event that any provision herein is unlawful, or otherwise unenforceable, it shall be severed and deemed null and void and shall not impair the validity of the remaining provisions of this Lease.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the parties have caused this Lease 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 aCCve written.

CITY OF NORFOLK

By:_____(SEAL)
City Manager

Attest:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the ____ day of _____, 20___, do hereby certify that Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Lease Agreement, have acknowledged the same before me in my City and State aforesaid.

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

_____
Notary Public
Registration No._____

Approved as to Contents:

_____
Director of General Services

Approved as to Form and Correctness:

_____
Deputy City Attorney

COPY CONNECTION, LLC

By:_____
Name (Printed): _____
Title: _____

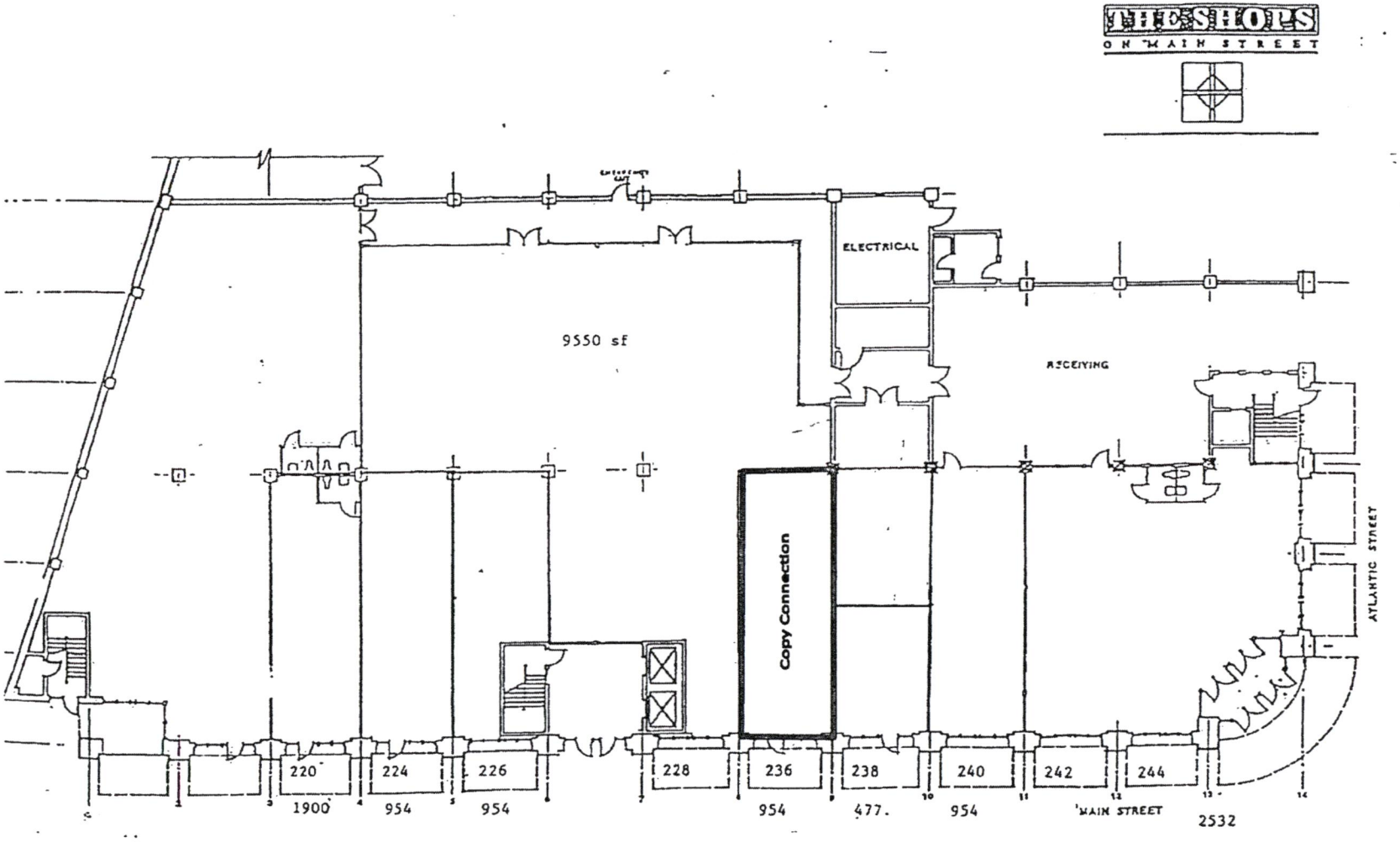
COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the ___ day of _____, 20___, do hereby certify that _____, _____ (Title) of Copy Connection, LLC, whose name is signed to the foregoing Lease Agreement, have acknowledged the same before me in my City and State aforesaid.

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

_____
Notary Public
Registration No._____

Exhibit A


THE SHOPS
ON MAIN STREET
ELECTRICAL
9550 sf
RECEIVING
Copy Connection
ATLANTIC STREET
220
224
226
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240
242
244
1900
954
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477.
954
MAIN STREET
2532

City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: **Special Exception for an Entertainment Establishment at 2409 Fawn Street – Collector Norfolk**

Reviewed: _____ **Ward/Superward: 3/7**
Wynter C. Benda, Deputy City Manager

Approved: _____ **Item Number: R-1**
Marcus D. Jones, City Manager

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

II. **Commission Action:** By a vote of **5 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception for an Entertainment Establishment

IV. **Applicant:** **Collector Norfolk**

V. **Description:**

- This application was continued from the September 13th City Council public hearing to the October 11th hearing in order to allow the applicant to meet with several of the faith-based organizations in the vicinity of the proposed establishment.
  - The applicant attended a joint roundtable meeting with several of the church leaders, hosted by the Faith Deliverance Christian Center. The applicant presented the details of the proposal followed by an open discussion.
  - **No opposition has been raised from the faith-based organizations.**
- The establishment is proposed within a portion of an industrial building located along the west side of Fawn Street, between E. 23rd and E. 25th Streets.
- The applicant proposes to operate a banquet hall facility.

	Proposed
Hours of Operation	12:00 noon until 10:00 p.m., Friday through Sunday
Hours for Alcoholic Beverages and for Entertainment	Same

Capacity	Entertainment Plan: • 70 seats • 80 total capacity No Entertainment: • 144 seats • 150 total capacity
Entertainment Options	• Five-member live band • Disc Jockey • Karaoke • Comedian • Poetry Reading

VI. Parking

- The proposed entertainment establishment is required to accommodate 22 off-street parking spaces.
  - The site is able to accommodate the required parking with a parking lease agreement from the Herald Of His Coming C.O.G.I.C. church located on the west side of Fawn Street between E. 26th and E. 27th Streets, which is located less than 500 feet walking distance from Collector Norfolk, directly one block north of this site.
  - The lease agreement is for 22 parking spaces at the church overflow lot, with permission to lease more spaces upon request if needed.
  - The primary hours of operation for the church do not conflict with the primary hours of operation for Collector Norfolk.
- A condition has been added to the special exception stating that the special exception shall terminate in the event that the lease securing the 22 parking spaces is terminated or otherwise altered such that any of the parking spaces required by this condition are no longer secured for the use and benefit of the establishment.

VII. Historic Resources Impacts

The building is a contributing structure within the Norfolk & Western Railroad Historic District, which is a National and State registered historic district.

VIII. Public Schools Impacts

This site is located within the Lindenwood Elementary School, The Academy for Discovery at Lakewood, and Granby High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated August 25, 2016 with attachments
- Letter of support – Villa Heights Civic League
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: August 25, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	**Item No. 6**	
Address	**2409 Fawn Street**	
Applicant	**Collector Norfolk**	
Request	**Special Exception**	**Entertainment Establishment**
Property Owner	Gordinitch Properties, LLC	
Site Characteristics	Building Area/Space	24,000 sq. ft./3,792 sq. ft.
	Future Land Use Map	Industrial
	Zoning	I-2 (Light Industrial)
	Neighborhood	Villa Heights
	Character District	Traditional
Surrounding Area	North	I-2 and C-2 (Corridor Commercial): Owen's wholesale distribution, Five Points Farmer's Market, and Fawn Street Artists' Studios
	East	I-2: Surface Technologies Corp; commercial and industrial equipment repair
	South	I-2: Sign contractors, landscape services, pallet recycling yard
	West	I-2: Vacant industrial properties

A. Summary of Request

- The establishment is proposed within a portion of an industrial building located along the west side of Fawn Street, between E. 23rd and E. 25th Streets.
- The applicant proposes to operate a banquet hall facility.

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	12:00 noon until 10:00 p.m., Friday through Sunday
Hours for Alcoholic Beverages and for Entertainment	Same
Capacity	Entertainment Plan: • 70 seats • 80 total capacity No Entertainment: • 144 seats • 150 total capacity
Entertainment Options	• Five-member live band • Disc Jockey • Karaoke • Comedian • Poetry Reading

ii. Parking

- The site is located within the Traditional Character District, which requires one parking space per 175 square feet for new entertainment establishments.
- Given the proposed entertainment establishment is 3,792 square feet, it is required to accommodate 22 off-street parking spaces.
  - The site is able to accommodate the required parking with a parking lease agreement from the Herald Of His Coming C.O.G.I.C. church located on the west side of Fawn Street between E. 26th and E. 27th Streets, which is located less than 500 feet walking distance from Collector Norfolk.
  - The lease agreement is for 22 parking spaces at the church overflow lot, with permission to lease more spaces upon request if needed.

- The primary hours of operation for the church do not conflict with the primary hours of operation for Collector Norfolk.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low-risk zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that that this proposed banquet hall will generate 725 new vehicle trips per day on the three days per week that the facility will be open.
- Church 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 route 3 (Chesapeake) operating near the site.
- Fawn Street 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 a contributing structure within the Norfolk & Western Railroad Historic District, which is a National and State registered historic district.

F. Public Schools Impacts

The site is located in the Lindenwood Elementary School, Norview Middle School, and Granby 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 proposed establishment 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 Villa Heights, Lindenwood/Barraud Park/Cottage Heights, and Olde Huntersville Civic Leagues on July 16.

L. Communication Outreach/Notification

- Legal notice was posted on the property on July 12.
- Letters were mailed to all property owners within 300 feet of the property on August 12.
- Legal notification was placed in *The Virginian-Pilot* on August 11 and 18.

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 12:00 noon until 10:00 p.m., Friday through Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) At times when no disc jockey and no dance floor are provided, seating for the establishment shall not be less than 70 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 150 people. At times when a disc jockey or dance floor are provided, seating for the establishment shall not be less than 70 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 80 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) At all times that the property is used in the manner permitted by this Special Exception, a fully executed lease agreement must be in effect which provides for no fewer than 22 off-street vehicular parking spaces located within a walking distance of 500 feet, as measured along a convenient pedestrian route, to be used for the benefit of the establishment. A copy of the lease agreement securing this parking, including all amendments, shall be provided to the Zoning Administrator to be placed on file with the Department of City Planning. This special exception shall terminate in the event that the lease securing these spaces is terminated or otherwise altered such that any of the parking spaces required by this condition are no longer secured for the use and benefit of the establishment, provided that such termination shall not be effective until 90 days after the date upon which the parking lease was terminated or otherwise altered.

(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, karaoke, comedian, poetry reading, and disc jockey. No other form of entertainment is permitted.

(f) The dance floor shall not exceed 120 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." 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 remain unobstructed.

(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 by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

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

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

(t) No patrons or guests shall be charged a cover charge or fee for entry to 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 120 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.

Attachments

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Villa Heights, Lindenwood/Barraud Park/Cottage Heights, and Olde Huntersville Civic Leagues
Letter of support – Villa Heights Civic League

Collector - Notification sent to all Property Owners within 300 feet

Owner	Property Address
Surface Technologies Corp Inc	Fawn St
Gordinitch Properties, Llc	721 E 25th St
Gaskins, Robert E Et Al	2419 Church St
Gaskins, Robert E Et Al	2423 Church St
Arzillo, James R & Julianne	742 E 25th St
Arzillo, James R & Julianne	2416 Church St
Stark Industries, Llc	744 E 25th St
Stark Industries, Llc	752 E 25th St
Surface Technologies Corp Inc	741 E 25th St
2500 Church Street, Llc	2500 Church St
City Of Norfolk	E S Church St
City Of Norfolk	E S Church St
City Of Norfolk	E S Church St
City Of Norfolk	E S Church St
City Of Norfolk	E S Church St
City Of Norfolk	E S Church St
City Of Norfolk	E S Church St
Arzillo, James R & Julianne	E S Church St
Wolcott Center Llc	2501 Fawn St
Wolcott Center Llc	2501 Fawn St
City Of Norfolk	712 E 23rd St
Church Street Five, Llc	733 E 23rd St
Church Street Five, Llc	724 Rugby St
Church Street Five, Llc	735 E 23rd St
City Of Norfolk	E S Church St
Church Street Five, Llc	N S Rugby St
F H Gaskins Company, Inc	321 E 25th St
Snow Limited	2401 Church St
Surface Technologies Of Va Inc	731 E 25th St
City Of Norfolk	E S Church St
Snow Jr & King Inc	2415 Church St
Snow Jr & King Inc	2415 Church St
Stark Industries, Llc	745 E 26th St
Baum, James A & Etta C	727 E 26th St
City Of Norfolk	E S Church St
City Of Norfolk	E S Church St
City Of Norfolk	2501 Church St
Church Street Five, Llc	731 E 23rd St
2500 Church Street, Llc	S S E 26th St
Commonwealth Transportation Comm	S S E 26th St
Twenty-Third Street Lc	737 E 23rd St
Big View Llc	731 Rugby St
Big View Llc	731 Rugby St
Big View Llc	731 Rugby St

Proponents and Opponents

Proponents
Catherine Meadows – Applicant
2409 Fawn Street
Norfolk, VA 23504

Ryan Meadows – Applicant
2409 Fawn Street
Norfolk, VA 23504

Janet M. Stokley – Property Owner
Gordinitch Properties, LLC
5405 Nature Lane
Virginia Beach, VA 23455

Opponents
None

08/24/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

R-1

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "COLLECTOR NORFOLK" ON PROPERTY LOCATED AT 2409 FAWN STREET.

- - -

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

Section 1:- That a Special Exception is hereby granted to Ryan Meadows authorizing the operation of an entertainment establishment with alcoholic beverages named "Collector Norfolk" on property located at 2409 Fawn Street. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronts 40 feet, more or less, along the western line of Fawn Street beginning 80 feet, more or less, from the southern line of East 25th Street and extending southwardly; premises numbered 2409 Fawn 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 12:00 noon until 10:00 p.m., Friday through Sunday and closed Monday through Thursday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) At times when no disc jockey and no dance floor are provided, seating for the establishment shall not be less than 70 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 150 people. At times when a disc jockey or dance floor are provided, seating for the establishment shall not be less than 70 seats indoors, no seats outdoors, and the

total occupant capacity, including employees, shall not exceed 80 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) At all times that the property is used in the manner permitted by this Special Exception, a fully executed lease agreement must be in effect which provides for no fewer than 22 off-street vehicular parking spaces located within a walking distance of 500 feet, as measured along a convenient pedestrian route, to be used for the benefit of the establishment. A copy of the lease agreement securing this parking, including all amendments, shall be provided to the Zoning Administrator to be placed on file with the Department of City Planning. This special exception shall terminate in the event that the lease securing these spaces is terminated or otherwise altered such that any of the parking spaces required by this condition are no longer secured for the use and benefit of the establishment, provided that such termination shall not be effective until 90 days after the date upon which the parking lease was terminated or otherwise altered.

(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, karaoke, comedian, poetry reading, and disc jockey. No other form of

entertainment is permitted.

(f) The dance floor shall not exceed 120 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." 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 remain unobstructed.

(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) 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 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) 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.

(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) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.

(r) 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 Security Plan.

(s) 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 120 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.

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

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

(a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;

(b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;

(c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;

(d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;

(e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;

(f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;

(g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;

(h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;

(i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

(j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and

(k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting an entertainment establishment on this property, 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 (4 pages)
Exhibit B (2 pages)

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

Date 7/10/16

Trade name of business COLLECTOR NORFOLK

Address of business 2909 FAWN STREET, NORFOLK, VA 23504

Name(s) of business owner(s)* RYAN MEADOWS

Name(s) of property owner(s)* JANET STOKLEY

Name(s) of business manager(s)/operator(s) Ryan Meadows, Catherine Meadows

Daytime telephone number (757) 613-2826

*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~~ NSAP Entertainment		
Weekday	From _____	To _____	Weekday	From _____	To _____
Friday	From NOON	To 10 pm	Friday	From noon	To 10 pm
Saturday	From NOON	To 10 pm	Saturday	From noon	To 10 pm
Sunday	From NOON	To 10 pm	Sunday	From noon	To 10 pm

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

3. Type of alcoholic beverage applied for:
NA ☑ 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:
PRIVATE EVENTS, SUCH AS: MEETINGS, LIFE CELEBRATIONS, 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

Exhibit A – Page 3
Entertainment Establishment

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

_____

_____

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

_____
Signature of Applicant

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

	Option A (no entertainment)	Option B (entertainment)
a. Indoor		
Number of seats (not including bar seats)	144	70
Number of bar seats	—	Ø
Standing room	—	Ø
b. Outdoor		
Number of seats	N/A	N/A
c. Number of employees	6	5
		Band 5
Total Occupancy (Indoor/Outdoor seats, standing room and employees) =	150	Total: 80

2. Entertainment
List ANY type of entertainment proposed other than a ~~3~~ 5 member live band, karaoke, comedian, or poetry reading.

NA Disc Jockey.

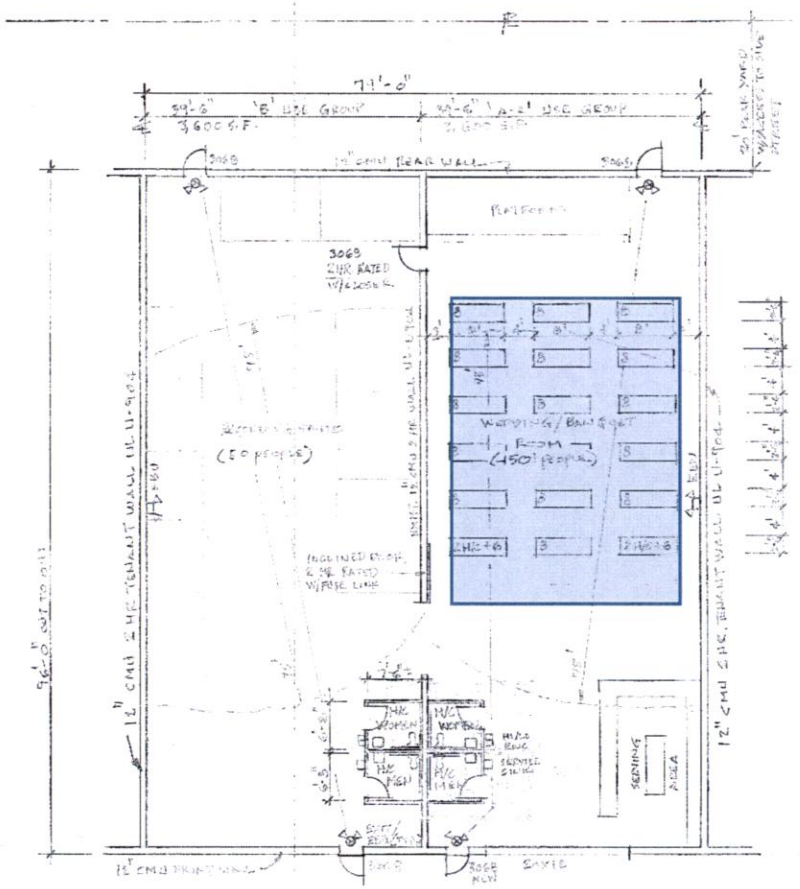
3. Will a dance floor be provided?
☐ Yes ☒ No

3a. If yes,
Square footage of establishment 3,600
Square footage of dance floor 120

- 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

Exhibit B



FLOOR PLAN
SCALE: 1/8" = 1'-0"

TABLES:

16 X 8 = 128
2X6X2 = 4
2X6X2 = 12
STAFF = 6

TOTAL = 150 PEOPLE

BANQUET SEATING LAYOUT

Building Code Statement:

1. This Project was designed as per the requirements of the 2012 Edition of the Virginia Construction Code.
2. Use Group: A-2 and B non separated use groups.
3. Construction Class: III-B with 12" thick masonry walls at front and rear walls and tenant separation walls that would rate as 2 hours meeting UL U-904.
4. Building Area: 7,200 sq.ft. (3,600 S.F. 'B') (3,600 S.F. 'A-2')
5. Scope: This building is to be used as a photographic studio ('B' Use Group) and for weddings and banquet facilities (A-2 Use Group)
6. Occupant load: A-2 Use = 150 people. B Use = 50 people. people.
7. Toilet Facilities Provided:

	B Use		
Water closets	women	1 x 25 people	
	men	1 x 25 people	
	A Use		
	women	1 x 75 people	
	men	1 x 75 people	

8. This building does not have a sprinkler system. Building has 3 exits with a net open area of 102". At 0.2" per occupant per person will allow 510 people per Section 1005.3.2. MAX. TRAVEL DISTANCE TO EXIT IS 75' PER TABLE 1014.3.

COMMONWEALTH OF VIRGINIA
5/20/16
CHRIS E. VERREBY, JR.
LIC. NO. 0401
SIGNATURE

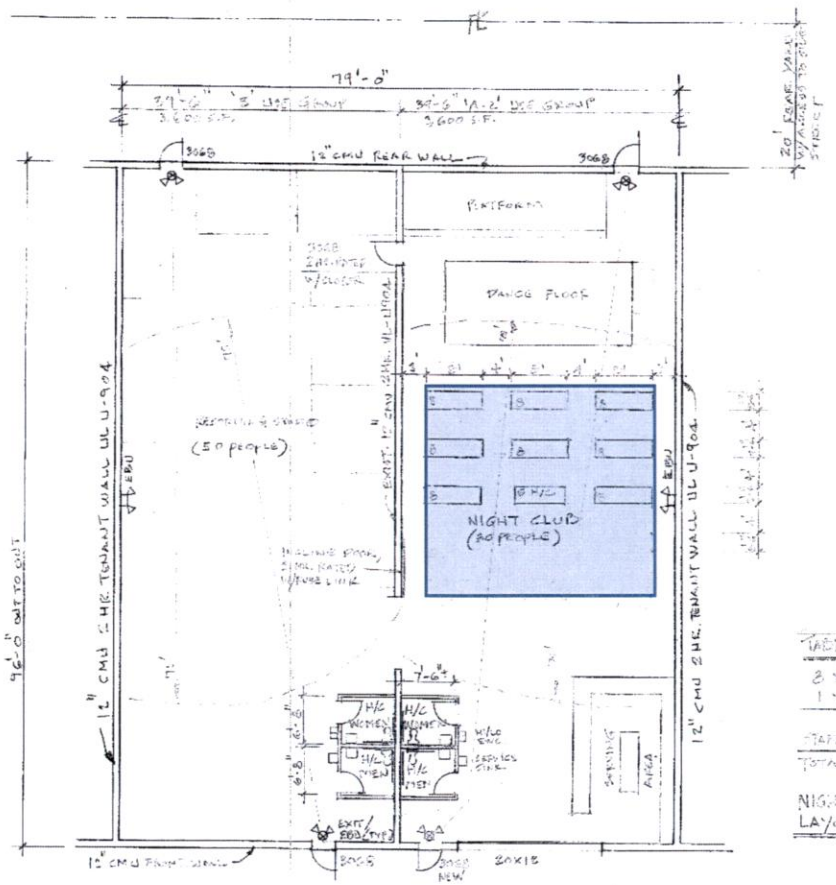
REVISIONS	BY
5/20/16	SY

Verebely & Associates, Architects
Chesapeake Virginia

ALL DESIGNS, DRAWINGS, AND SPECIFICATIONS CONTAINED HEREIN ARE THE PROPERTY OF THE ARCHITECT AND SHALL NOT BE USED IN WHOLE OR IN PART FOR ANY OTHER PROJECT WITHOUT WRITTEN AUTHORIZATION BY THE ARCHITECT.

FLOOR PLAN AND NOTES
PHOTO STUDIO - WEDDING BANQUET CENTER
COLLECTOR PRODUCTIONS
2409 FAWN STREET
NORFOLK, VA.

Date 18 MAY 16
Scale —
Drawn VERB
Job 16-22
Sheet 1 of 1 Sheets



FLOOR PLAN
SCALE: 1/8" = 1'-0"

TABLES:

8 x 8 =	64 SEATS
1 x 6 1/2 =	6 SEATS
	70 SEATS
STAFF/BAND	10
TOTAL OCCUP.	80 PEOPLE

NIGHT CLUB SEATING LAYOUT

Building Code Statement:

1. This Project was designed as per the requirements of the 2012 Edition of the Virginia Construction Code.
2. Use Group: A-2 and B non separated use groups.
3. Construction Class: III-B with 12" thick masonry walls at front and rear walls and tenant separation walls that would rate as 2 hours meeting UL U-904.
4. Building Area: 7,200 sq.ft. (3,600 S.F. 'B' USE) (3,600 S.F. 'A-2' USE)
5. Scope: This building is to be used as a photographic studio ('B' Use Group) and for NIGHT CLUB facilities (A-2 Use Group).
6. Occupant load: A-2 Use = 80 people. B Use = 50 people.
7. Toilet Facilities Provided: (NIGHT CLUB SEATING LAYOUT)

	B Use	
Water closets	women	1 x 25 people
	men	1 x 25 people
	A Use	
	women	1 x 40 people
	men	1 x 40 people

8. This building does not have a sprinkler system. Building has 4 exits with a net open area of 144". At 0.2" per occupant per person will allow 720 people per Section 1005.3.2. MAX. TRAVEL DISTANCE TO EXIT IS 75' PER TABLE 1014.3.

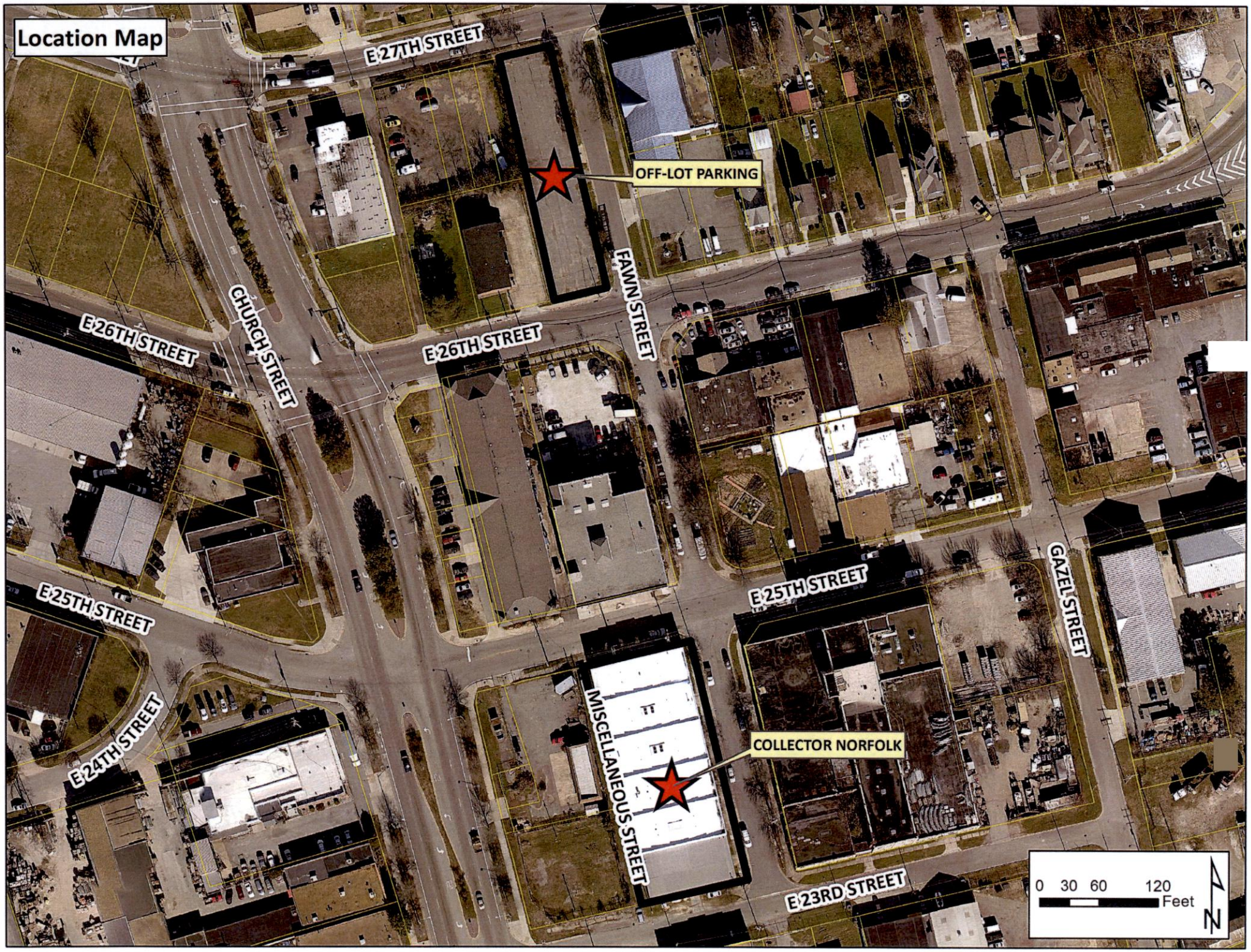
COMMONWEALTH OF VIRGINIA
5/18/16
WILLIAM B. VEREBELY, JR.
LIC. No. 4347
ARCHITECT

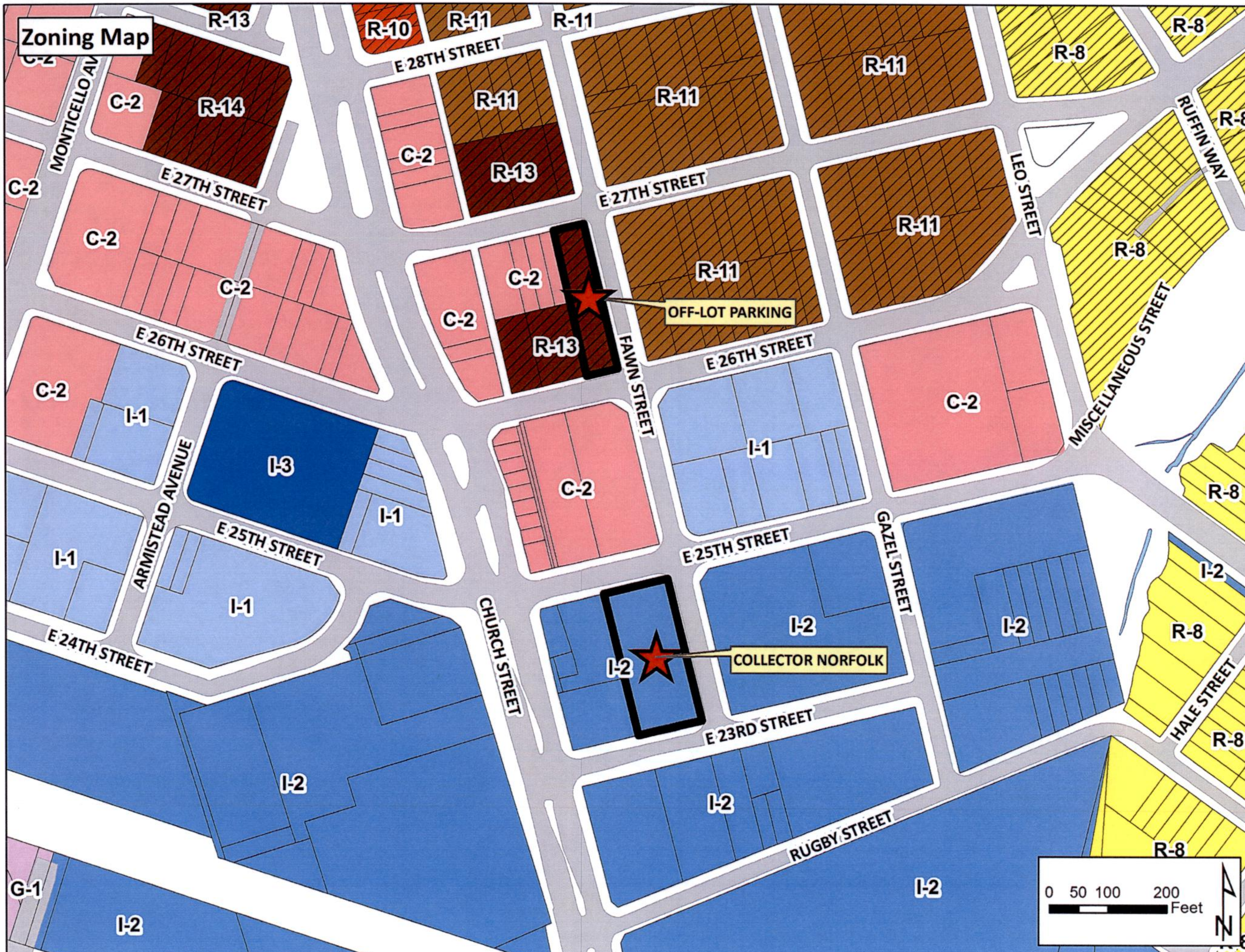
REVISIONS	BY
6/28/16	BV
8/15/16	BV
8/18/16	BV
8/19/16	BV

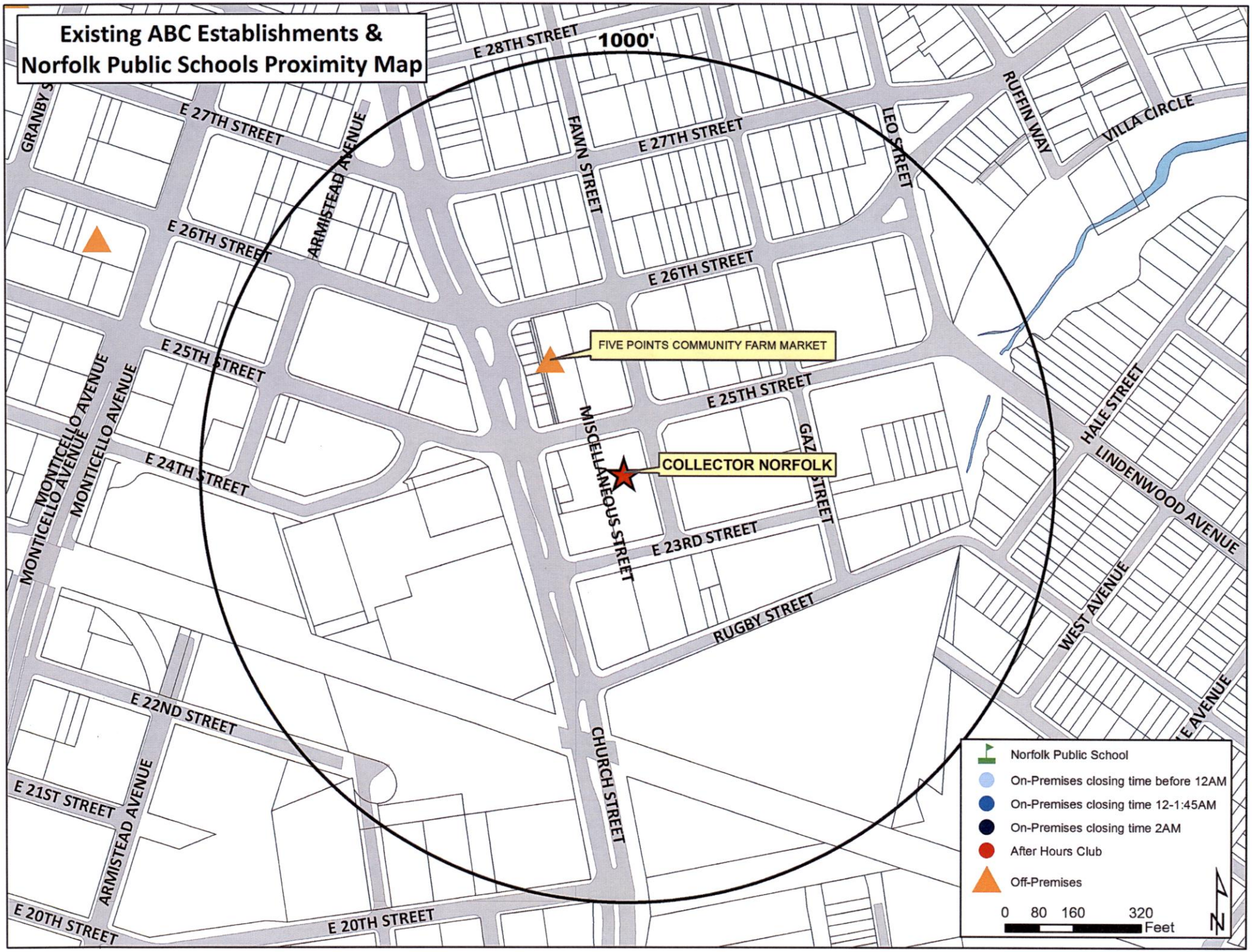
Verebely & Associates, Architects
Chesapeake Virginia

FLOOR PLAN AND NOTES SEATING LAYOUT
RECORDING STUDIO - WEDDING BANQUET CENTER
COLLECTOR PRODUCTIONS
2409 FAWN STREET
NORFOLK, VA.

Date 18 MAY 16
Scale —
Drawn VERB
Job 16-22
Sheet 1 of 1 Sheets


Location Map
E 27TH STREET
OFF-LOT PARKING
FAWN STREET
CHURCH STREET
E 26TH STREET
E 26TH STREET
E 25TH STREET
E 25TH STREET
GAZEL STREET
E 24TH STREET
MISCELLANEOUS STREET
COLLECTOR NORFOLK
E 23RD STREET
0 30 60 120
Feet
N


Zoning Map
OFF-LOT PARKING
COLLECTOR NORFOLK
E 28TH STREET
E 27TH STREET
E 26TH STREET
E 25TH STREET
E 24TH STREET
E 23RD STREET
RUGBY STREET
MONTICELLO AVE
ARMISTEAD AVENUE
CHURCH STREET
FAWN STREET
GAZEL STREET
LEO STREET
MISCELLANEOUS STREET
RUFFIN WAY
HALE STREET
R-13
R-10
R-11
R-14
R-8
C-2
I-1
I-2
I-3
G-1
0 50 100 200
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
E 28TH STREET
E 27TH STREET
E 26TH STREET
E 25TH STREET
E 24TH STREET
E 23RD STREET
E 22ND STREET
E 21ST STREET
E 20TH STREET
GRANBY S
ARMISTEAD AVENUE
FAWN STREET
LEO STREET
RUFFIN WAY
VILLA CIRCLE
MONTICELLO AVENUE
MISCELLANEOUS STREET
GAZ STREET
HALE STREET
LINDENWOOD AVENUE
WEST AVENUE
RUGBY STREET
CHURCH STREET
FIVE POINTS COMMUNITY FARM MARKET
COLLECTOR NORFOLK
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 7/10/16

DESCRIPTION OF PROPERTY

Address 2409 FAWN STREET, NORFOLK, VA 23504

Existing Use of Property MEDIA SERVICES

Proposed Use ADDITIONALLY PRIVATE EVENTS

Current Building Square Footage 3,792

Proposed Building Square Footage 3,792

Trade Name of Business (If applicable) COLLECTOR NORFOLK

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

1. Name of applicant: (Last) MEADOWS (First) RYAN (MI) F

Mailing address of applicant (Street/P.O. Box): 317 WIMBLEDON CHASE APT. B

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

Daytime telephone number of applicant (757) 619-2826 Fax ( )

E-mail address of applicant: RYAN@COLLECTORPRODUCTIONS.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) STOKLEY (First) JANET (MI) M

Mailing address of property owner (Street/P.O. box): 610 W 24th St.

(City) NORFOLK (State) VA (Zip Code) 23517

Daytime telephone number of owner (757) 681-4458 email: GORDINITCHPROP[redacted]@GMAIL.COM

CIVIC LEAGUE INFORMATION

Civic League contact: LANA PRESSLEY

Date(s) contacted: LAST CONTACT: JULY 5, 2016 (EMAIL ATTACHED

Ward/Super Ward information: _____

CIVIC LEAGUE INFORMATION

Civic League contact: Lana Pressley

Date(s) contacted: last contact June 13

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: Janet M Stokley **Sign:** [signature] 6/7/16
(Property Owner or Authorized Agent of Signature) (Date)
Goodwitch Properties, LLC

Print name: Ryan Meadows **Sign:** [signature] 6/13/2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

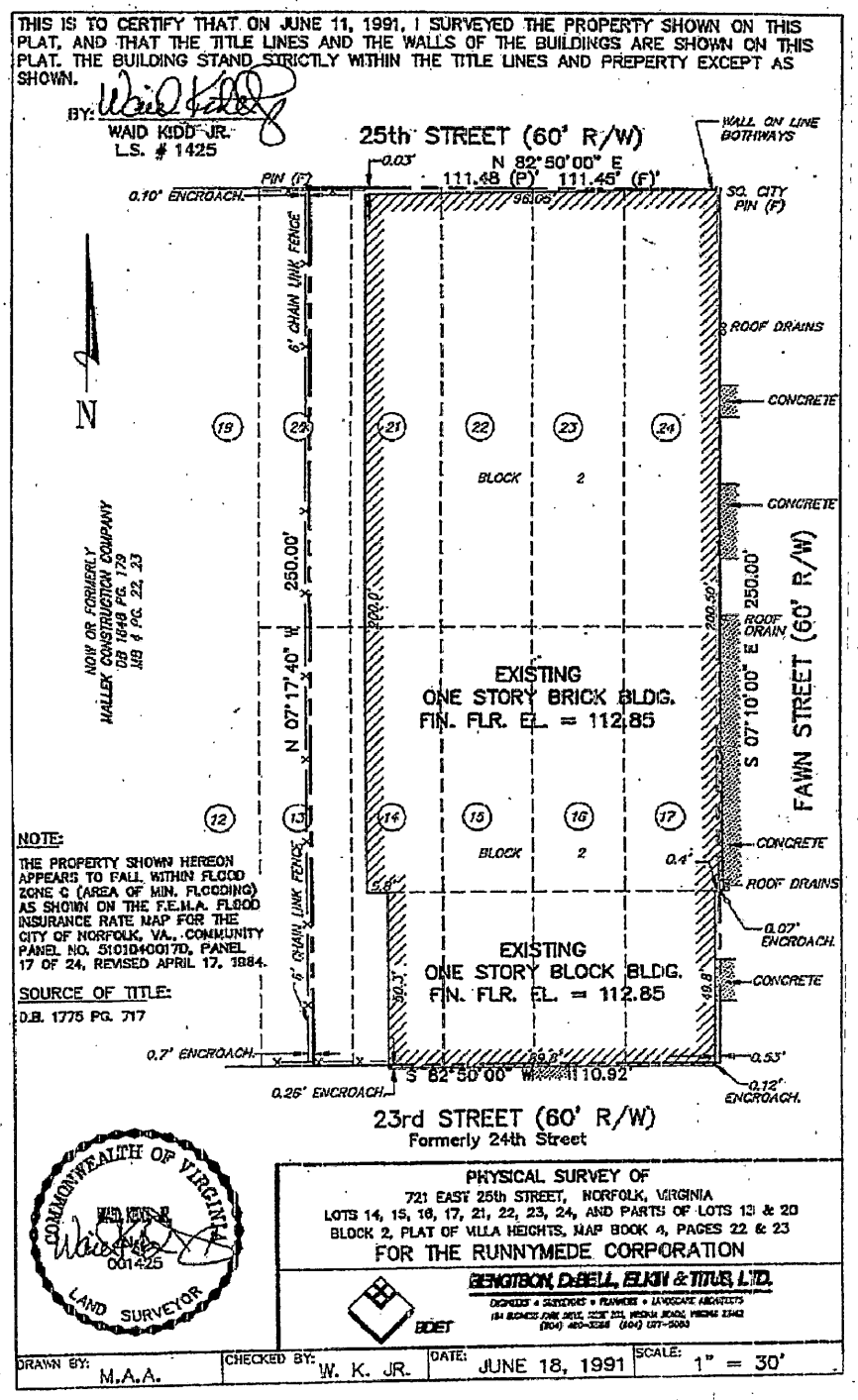
Print name:_____ **Sign:**_____/_____/_____
(Authorized Agent Signature) (Date)

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

S.L. NUSBAUM Realty Co.
Since 1906.

22,689 SF Multi-Tenant Flex Property Located in Midtown Commerce Center

721 E. 25th Street
Norfolk, Virginia 23504



Bill Overman, III, CCIM | 757.640.2254 | 757.478.2743 | boverman@slnusbaum.com
Stephanie Sanker, CCIM, SIOR, Vice President | 757.640.2290 | 757.679.1065 | ssanker@slnusbaum.com
slnusbaum.com

COLLECTOR

2409 Fawn Street, Norfolk, VA 23504
Owner: Ryan Meadows | Phone: 757.613.2826

SECURITY PLAN

Goals:

- To create a safe and secure environment within Collector Norfolk
- To provide a level of control and safety for all arriving and departing guests of Collector Norfolk
- To mitigate any noise or inappropriate conduct by patrons of Collector Norfolk 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 Collector 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.

Security Team:

A total of up to (3) Collector representative will remain on site during event hours to monitor the security of the building and its guests. They will insure the safety of individuals and the building.

General Duties and Responsibilities:

- Each Collector Staff responsible for the security of an event 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.
- Enforce occupancy limits in accordance with any floor plans approved through the City's special exception process.
- 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.
- 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.
- Identify and address hazards as they arise throughout the facility.

- **Parking:** Limited Parking is provided to guests. Once those spaces are taken individuals are responsible for locating street parking. Collector will make every effort to maintain security on its grounds but will not be held responsible for activities/events/accidents occurring off premises.

- **Integration:** Collector will cooperate and support the presence and work of law enforcement on its property. Collector will do its best to work with neighboring establishments to address issues which might come up between businesses or in the public areas immediately adjacent to the businesses.

It is the duty the Collector Security Representative to protect the establishment, its patrons and employees from any and all perceived and real threatening situations.

Simons, Matthew

From: Straley, Matthew
Sent: Wednesday, July 13, 2016 12:38 PM
To: 'villaheightscivicleague@gmail.com'; 'kpmceachin@cox.net'; 'beagthompson@gmail.com'
Cc: Johnson, Mamie; Williams, Angelia M.; Wilson, Denise; Simons, Matthew
Subject: new Planning Commission application - 2409 Fawn St
Attachments: Collector Norfolk.pdf

Ms. Pressley, Mr. McEachin, Ms. Garvin-Thompson:

Attached please find the application for a special exception to operate an entertainment establishment with alcoholic beverages at 2409 Fawn Street.

The item is tentatively scheduled for the August 25, 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

To: VILLA HEIGHTS CIVIC LEAGUE
Subject: RE: FW: new Planning Commission application - 2409 Fawn St

Thanks Ms. Pressley, I'll let the Planning Commission know.

Matthew Simons, AICP, CZA, CFM
City Planner II

757-664-4750

From: VILLA HEIGHTS CIVIC LEAGUE [mailto:villaheightscivicleague@gmail.com]
Sent: Wednesday, August 10, 2016 8:14 AM
To: Simons, Matthew
Subject: Re: FW: new Planning Commission application - 2409 Fawn St

Matthew,

We have no worries with the application for Collectors.

On Sun, Aug 7, 2016 at 1:40 PM, Simons, Matthew <Matthew.Simons@norfolk.gov> wrote:

Ms. Pressley,

I hope all is well with you and your family.

I wanted to touch base with you to confirm that there were no outstanding concerns amongst the Villa Heights Civic League and the upcoming Special Exception application by Collector Norfolk.

Is there anything that you would like me to specific relay to the Planning Commission?

Thanks,

Matthew Simons, AICP, CZA, CFM

City Planner II

757-664-4750

C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David Ricks, Director of Public Works

Subject: Nonexclusive Telecommunications Franchise Agreement with Mobilitie, LLC

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: Marcus D. Jones, City Manager

Item Number: **R-2**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Mobilitie, LLC
2220 University Drive
Newport Beach, CA 92660

III. **Description:**
This agenda item, which was continued to October 11, 2016 at the request of City Council, is an ordinance approving a Nonexclusive Telecommunications Franchise Agreement (the "Agreement") between the City of Norfolk (the "City") and Mobilitie, LLC ("Mobilitie"). The term of the Agreement is for five years.

IV. **Analysis**

- Mobilitie installs and operates indoor and outdoor neutral host distributed antenna systems, small cell antennas, Wi-Fi networks, and communication tower and pole mounted antenna 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 the City's rights-of-way, for the purpose of enabling telecommunication services within certain areas of the City.
- Mobilitie holds a Certificate of Public Convenience and Necessity to provide local non-switched local transport services throughout Virginia.
- This Agreement was previously approved by City Council on June 14, 2016. Mobilitie subsequently asked for a clarification of the grant of authority which has been reviewed and approved.

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 percent of its gross earnings for the provision of local telecommunication services.

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)

8/2/16 sb

Form and Correctness Approved: APM

By Martha P. McBann
Office of the City Attorney

Form CCO-003

Contents Approved:

By
DEPT. PUBLIC WORKS

NORFOLK, VIRGINIA

ORDINANCE No.

R-2

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 provided, however, that Mobilitie shall be permitted to sublicense or sublease the use of the Telecommunications Facilities to any Person for the purpose providing telecommunication services so long as such Person does not install or attach its own equipment within the Public Ways of the City.

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
Fax No. (757) 664-4201

Director of Public Works
700 City Hall Building
Norfolk, Virginia 23510
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

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

Miles
0 0.5 1 2

0036ATL

C: Dir., Department of City Planning

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: **Special Exception for an Eating and Drinking Establishment – 520 W. 21st Street, Unit D1 – Wing Stop**

Reviewed: _____ **Ward/Superward: 2/6**
Wynter C. Benda, Deputy City Manager

Approved: _____ **Item Number: R-3**
Marcus D. Jones, City Manager

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

II. **Commission Action:** By a vote of **5 to 0**, the Planning Commission recommends **Approval**

III. **Request:** Special Exception for an Eating and Drinking Establishment

IV. **Applicant:** **Wing Stop**

V. **Description:**

- The site is located on the north side of W. 21st Street within the 21 West shopping center.
- The applicant proposes to open a new restaurant, Wing Stop, within a vacant suite most recently occupied by Jersey Mike's and serve beer for on-premises consumption.

	Proposed
Hours of Operation and for the Sale of Alcohol	11:00 a.m. until 12:00 midnight Seven days a week
Capacity	42 seats indoors 0 seats outdoors 64 total capacity

VI. **Historic Resources Impacts**

- The site is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, the site 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

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

Staff point of contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated September 22, 2016 with attachments
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: September 22, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Chris Whitney, CFM

Staff Report	**Item No. 5**	
Address	**520 W. 21st Street, Unit D1**	
Applicant	**Wing Stop**	
Request	**Special Exception**	**Eating and Drinking Establishment**
Property Owner	21 West, LLC	
Site Characteristics	Building/Suite Area	35,625 sq. ft./1,800 sq. ft.
	Future Land Use	Commercial
	Zoning	C-2 (Corridor Commercial) and PCO-21st (Pedestrian Commercial Overlay District-21st Street)
	Neighborhood	Ghent Business District
	Character District	Traditional
Surrounding Area	North	I-3 (General Industrial): Yukon Lumber
	East	C-2, PCO-21st: Katana Japanese Steakhouse, Moe's Southwest Grill
	South	C-2, PCO-21st: Bank of Hampton Roads, Rite-Aid
	West	C-2, PCO-21st: Cold Stone Creamery, Total Wine & More

A. Summary of Request

- The site is located on the north side of W. 21st Street within the 21 West shopping center.
- The applicant proposes to open a new restaurant, Wing Stop, within a vacant suite most recently occupied by Jersey Mike's and serve beer for on-premises consumption.

B. Plan Consistency

Analysis

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

C. Zoning Analysis

i. General

The use is permitted in the C-2 and PCO-21st districts by special exception.

	Proposed
Hours of Operation and for the Sale of Alcohol	11:00 a.m. until 12:00 midnight Seven days a week
Capacity	42 seats indoors 0 seats outdoors 64 total capacity

ii. Parking

This establishment is located within the 21 West shopping center, which provides adequate on-site parking to support this use.

iii. Flood Zone

The property is in an X Flood Zone which is a low risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures estimate that no new trips will be generated by changing operations at this existing restaurant site.
- W. 21st Street near 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 site is near transit service with Hampton Roads Transit bus route 4 (Church) operating near the site.
- W. 21st Street adjacent to the site is not an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

E. Historic Context and Impacts

- The site is not located in any local, state or federal historic district.
  - Since some or all of the structures on the site are at least 50 years old, the building could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

F. Public School Impacts

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

G. Environment Impacts

The shopping center was developed under current landscaping standards and therefore provides an adequate buffer between the parking area and the W. 21st Street frontage.

H. Surrounding Area/Site Impacts

- The site is surrounded by commercial uses with some industrial uses nearby.
- The addition of a restaurant serving alcohol for on-premises consumption would not have a negative impact on the surrounding land uses, as there are multiple establishments serving alcohol in close proximity.

I. AICUZ

N/A

J. Payment of Taxes

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

K. Civic League

Notice was sent to the Ghent Neighborhood League and the Ghent Business Association on August 10.

L. Communication Outreach/Notification

- Legal notice was posted on the property on August 16.
- Letters were mailed to all property owners within 300 feet of the property on September 8.
- Legal notification was placed in *The Virginian-Pilot* on September 8 and September 15.

M. Recommendation

Staff recommends that the special exception be **approved** 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 12:00 a.m., seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The seating for the establishment shall not exceed 42 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 64

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) 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 other local taxes which may become due while it is in operation.

(f) 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.

(g) 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.

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

(i) 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.

(j) There shall be 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 Adult Use Special Exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this Adult Use 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
Application
Notification list of all property owners within 300 feet of the site
Notice to the Ghent Neighborhood League and the Ghent Business Association
Letter of Support from the Ghent Neighborhood League

Proponents and Opponents

Proponents

None

Opponents

None

09/22/2016 lds

Form and Correctness Approved: RAP

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 "WING STOP" ON PROPERTY LOCATED AT 520 WEST 21ST STREET, UNIT D1.

- - -

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

Section 1:- That a Special Exception is hereby granted to Mid Atlantic Wings, LLC authorizing the operation of an eating and drinking establishment named "Wing Stop" on property located at 520 West 21st Street, Unit D1. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 253 feet, more or less, along the northern line of West 21st Street, 234 feet, more or less, along the eastern line of Manteo Street, and 210 feet, more or less, along the southern line of West 22nd Street; premises numbered 520 West 21st Street, Unit D1.

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 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 seating for the establishment shall not exceed 42 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 64 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) 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 other local taxes which may become due while it is in operation.

(f) 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.

(g) 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.

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

(i) 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.

(j) There shall be 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 Adult Use Special Exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this Adult Use 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 (4 pages)

EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

Date 6/24/16.

Trade name of business Wing Stop

Address of business 520 W. 21st Unit D1, Norfolk VA 23517

Name(s) of business owner(s)* SANJAY PATEL Mid Atlantic Wings LLC

Name(s) of property owner(s)* 21 West LLC

Daytime telephone number (757) 465-8282

*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 AM	To 12 AM	Weekday	From 11 AM	To 12 AM
Friday	From 11 AM	To 12 AM	Friday	From 11 AM	To 12 AM
Saturday	From 11 AM	To 12 AM	Saturday	From 11 AM	To 12 AM
Sunday	From 11 AM	To 12 AM	Sunday	From 11 AM	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

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

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

   21 yrs for Drinking.

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Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

Exhibit A – Page 3
Eating and Drinking Establishment

10. Additional comments/ description/operational characteristics or prior experience:
NA

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

Sanjay Patel

Signature of Applicant

Mid Atlantic Wings LLC.

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)	42
Number of bar seats	0
Standing room	17

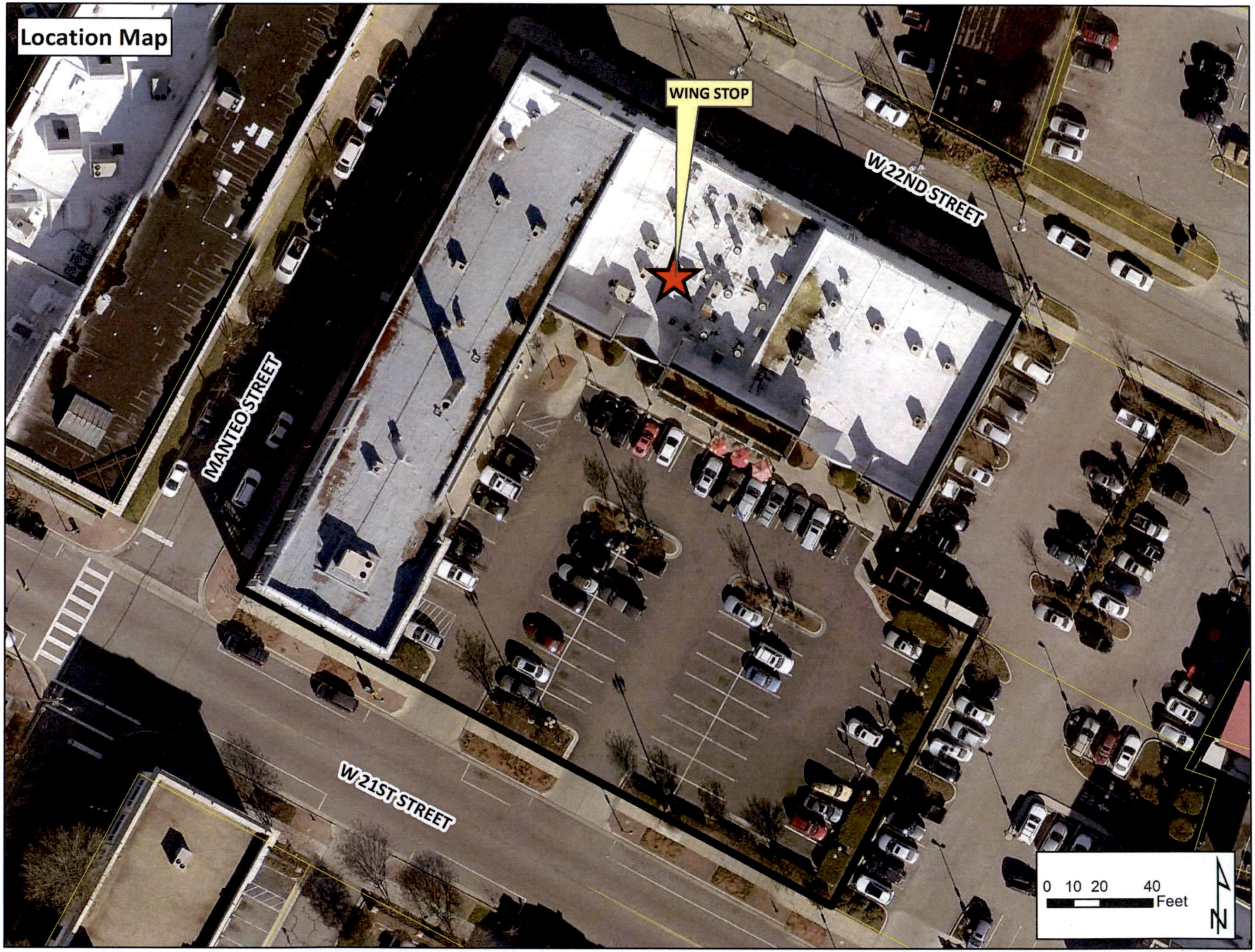
b. Outdoor

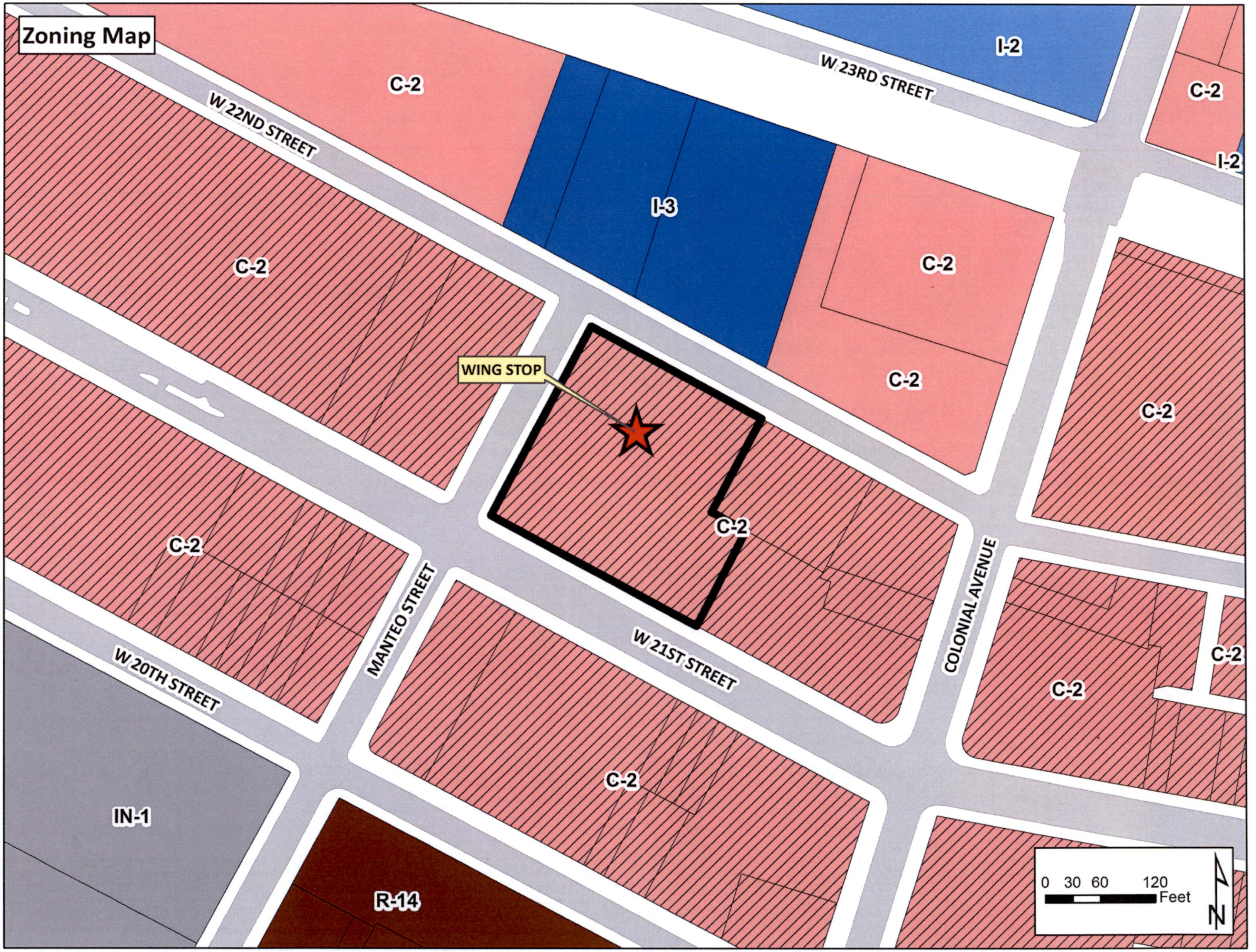
Number of seats	0

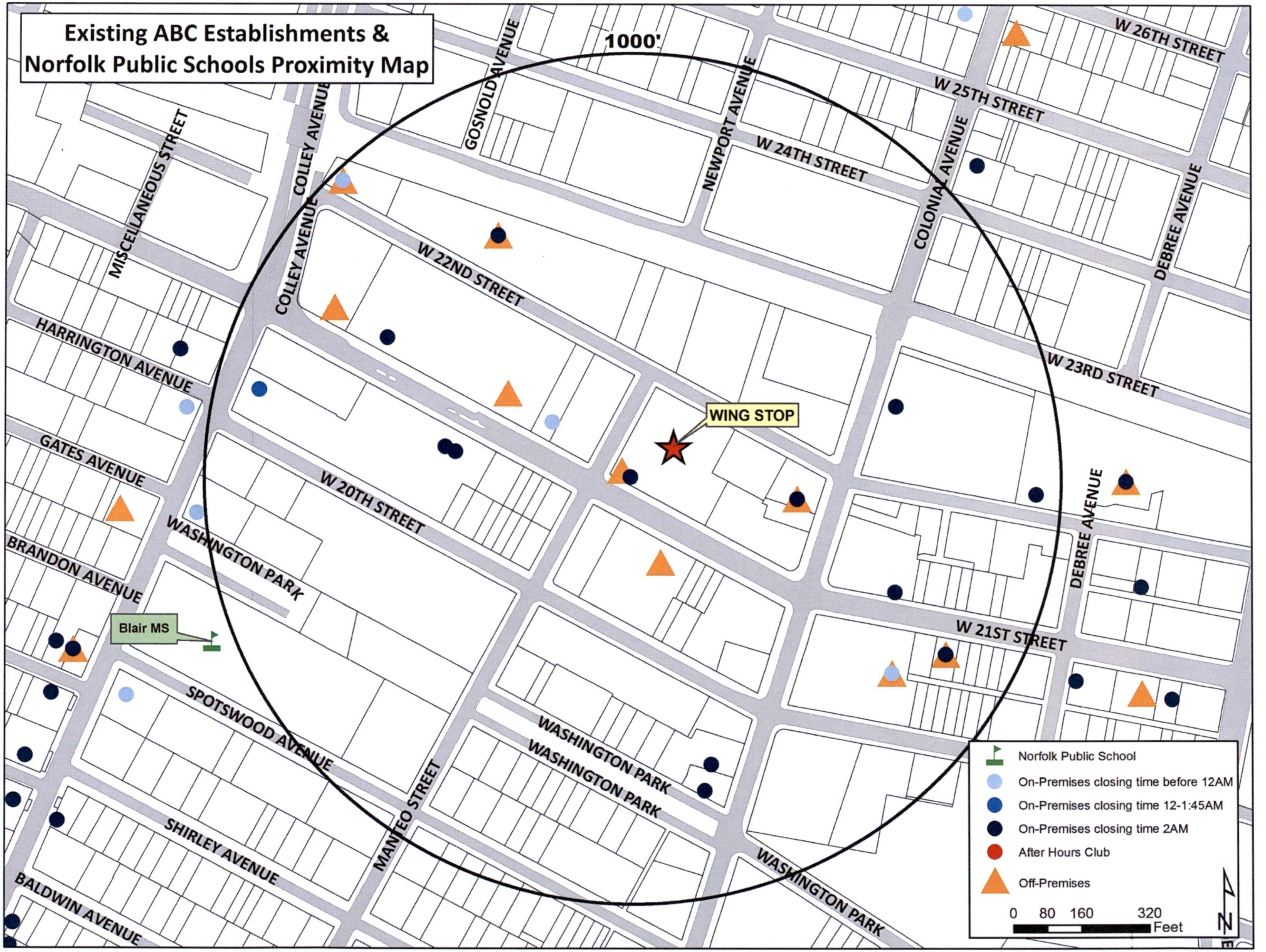
c. Number of employees 5

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 64

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


Location Map
WING STOP
W 22ND STREET
MANTEO STREET
W 21ST STREET
0 10 20 40
Feet
N


Zoning Map
W 22ND STREET
W 23RD STREET
W 20TH STREET
W 21ST STREET
MANTEO STREET
COLONIAL AVENUE
WING STOP
C-2
I-2
I-3
IN-1
R-14
0 30 60 120
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
W 26TH STREET
W 25TH STREET
W 24TH STREET
W 23RD STREET
W 22ND STREET
W 21ST STREET
W 20TH STREET
GOSNOLD AVENUE
NEWPORT AVENUE
COLONIAL AVENUE
DEBREE AVENUE
COLLEY AVENUE
MISCELLANEOUS STREET
HARRINGTON AVENUE
GATES AVENUE
BRANDON AVENUE
WASHINGTON PARK
SPOTSWOOD AVENUE
SHIRLEY AVENUE
BALDWIN AVENUE
MANTEO STREET
WING STOP
Blair MS
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 06/24/2016

DESCRIPTION OF PROPERTY

Address 520 W. 21st Unit D1, Norfolk VA 23517

Existing Use of Property Restuarant

Proposed Use Restuarant

Current Building Square Footage 1800

Proposed Building Square Footage 1800

Trade Name of Business (if applicable) Wing Stop

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

1. Name of applicant: (Last) PATEL (First) SANJAY (MI) ____

Mailing address of applicant (Street/P.O. Box): 2434 Gum Road

(City) Chesapeake (State) VA (Zip Code) 23321

Daytime telephone number of applicant (757) 465 8282 Fax (757) 465 8585

E-mail address of applicant: sanjaypatel@lapgroup.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)
PROPERTY OWNER → 21 WEST LLC

3. Name of property owner: (Last) Levin (First) RICHARD G. (MI) ____

Mailing address of property owner (Street/P.O. box): 315 Edwin Drive

(City) Virginia Beach (State) VA (Zip Code) 23462

Daytime telephone number of owner (757) 630-2342 email: RICHARDGLEVIN@GMAIL.COM

CIVIC LEAGUE INFORMATION

Civic League contact: _____

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

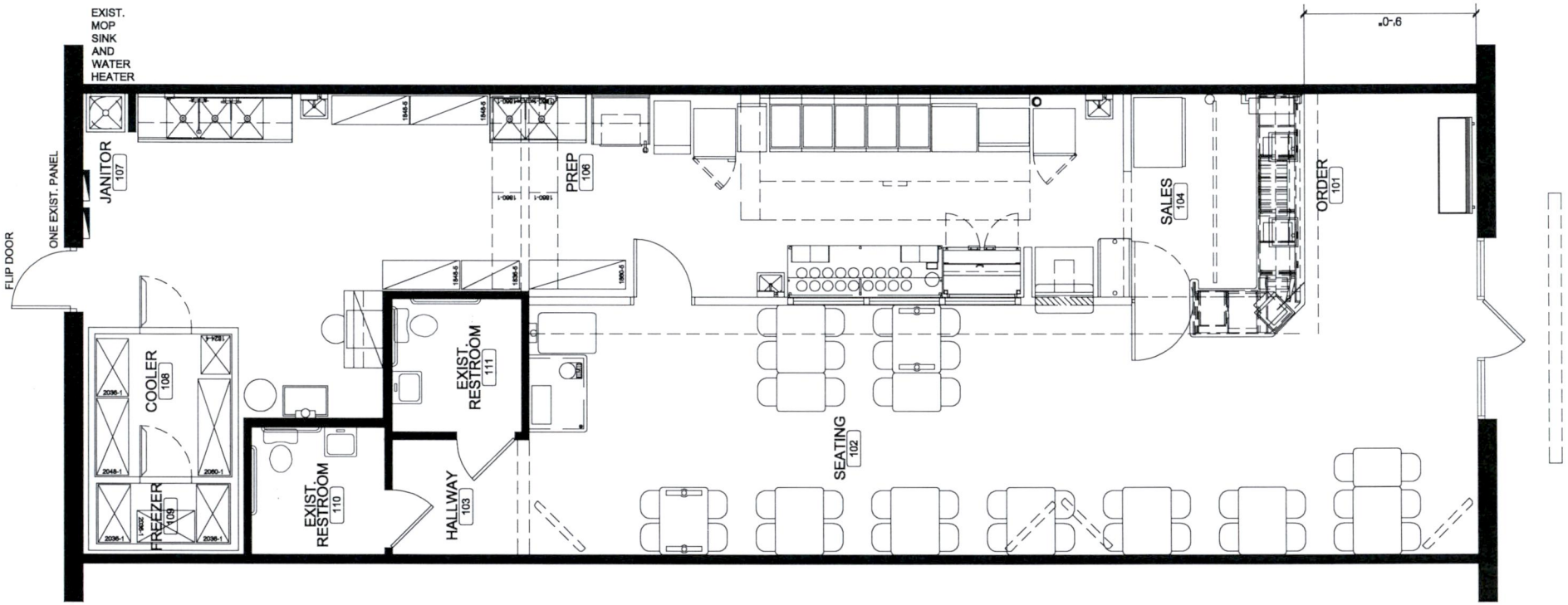
I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: 21 West, LLC **Sign:** 6, 27, 2016
(Property Owner) Richard G. Levin Mgr. (Date)
MANAGER

Print name: SANJAY PATEL **Sign:** Sanjay Patel 6, 24, 2016.
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

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



PROJECT DATA:

OVERALL NET LEASE (USABLE) AREA:	1,727 SQ. FT. (NET USABLE SPACE)
SALES, COOKING, PREP & JANITOR AREAS:	782 SQ. FT. @ 1/200 (GROSS) = 4 OCCUPANTS
SEATING AREA:	678 SQ. FT. @ 1/15 = 46 OCCUPANTS
ORDER (STANDING) AREA:	60 SQ. FT. @ 1/5 = 12 OCCUPANTS
COOLER / FREEZER AREA:	90 SQ. FT. (ACCESSORY USE, NOT APPLICABLE)
PASSAGE, MEN & WOMEN RESTROOM AREAS:	145 SQ. FT. (ACCESSORY USE, NOT APPLICABLE)
SEATING ANALYSIS:	42 TOTAL SEATS
TOTAL OCCUPANT LOAD:	64 OCCUPANTS

LAYOUT NOTES:
- 2012 VIRGINIA CONSTRUCTION CODE ALLOWS SECOND REQUIRED EXIT TO PASS THROUGH KITCHEN

THE WING WING·STOP EXPERTS

GL#S144

PROJECT LOCATION:

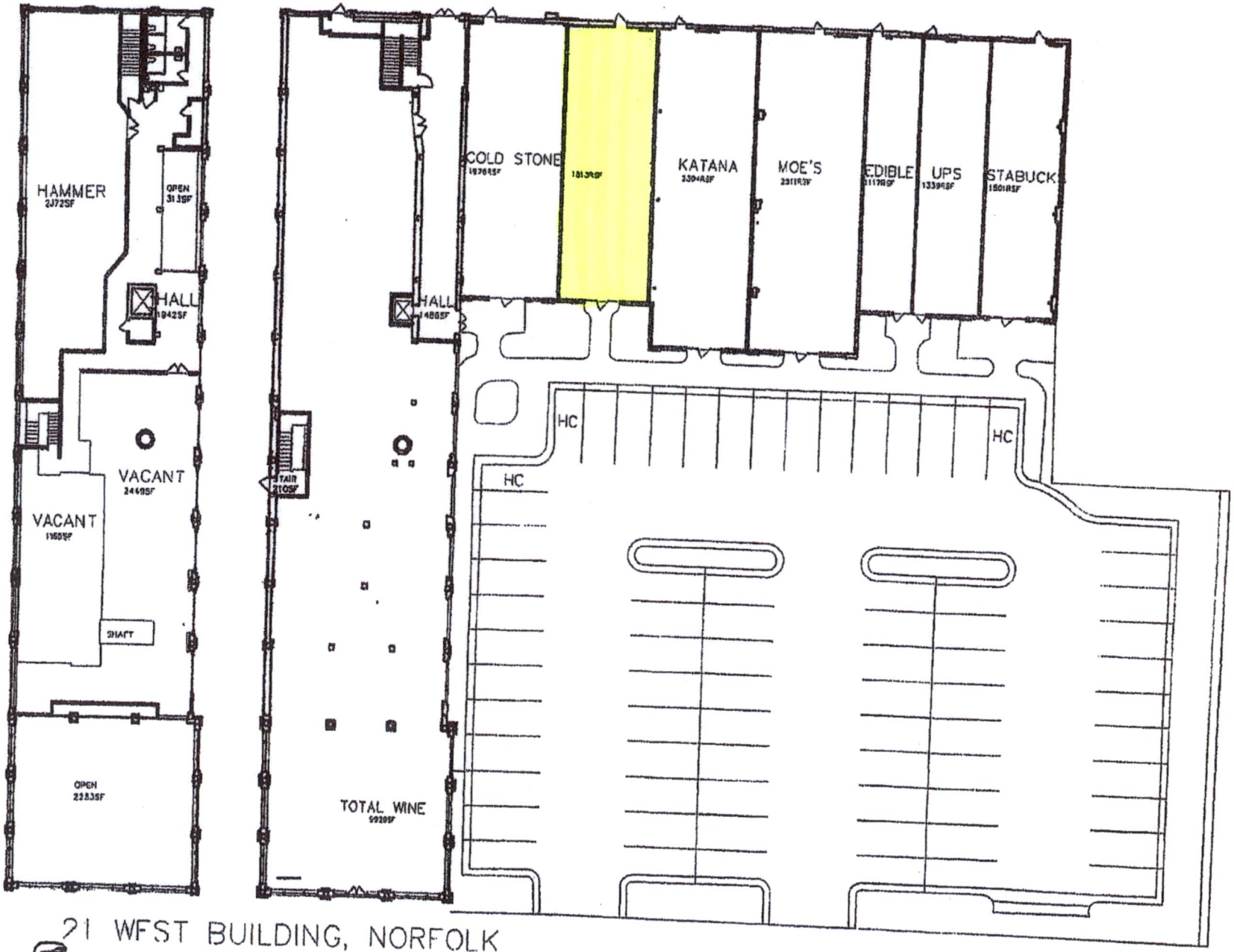
NORFOLK, VA

DRAWING NAME

SCHEMATIC EQUIPMENT PLAN

ISSUE DATE: 01/05/2016
RE-ISSUE DATE: 07/28/2016

EXHIBIT H1



21 WEST BUILDING, NORFOLK

Wing Stop - Notification sent to all Property Owners within 300 feet

Owner	Property Address
Center Cup Llc	704 W 20th St
Center Cup Llc	706 W 20th St
Center Cup Llc	708 W 20th St
Center Cup Llc	712 W 20th St
Center Cup Llc	N S W 20th St
Center Cup Llc	711 W 21st St
Levin, Richard G & Judith A	2117 Colonial Av
L & L Of Norfolk, Llc	700 W 21st St
L & L Of Norfolk, Llc	700 W 21st St
L & L Of Norfolk, Llc	706 W 22nd St
Campbell, Charles M & Ann R	2111 Colonial Av
Downing Family Llc	2110 Colonial Av
Downing Family Llc	2120 Colonial Av
520 W 22nd, Llc	700 W 22nd St
Manteo Management, Llc	701 W 21st St
Manteo Management, Llc	703 W 21st St
Manteo Management, Llc	705 W 21st St
Manteo Management, Llc	707 W 21st St
Cobblestone Associates Llc	522 W 20th St
Pettitt Kleintop Lc	517 W 21st St
Meltsner, Jerry	2001 Manteo St
Levin, Richard G	539 W 21st St
Wolverine Property Co	525 W 21st St
Dorey, Norma J	710 W 21st St
Dorey, Norma J	710 W 21st St
Bne Restaurant Group Ii Llc	N S W 20th St
Bne Restaurant Group Ii Llc	515 W 21st St
Bne Restaurant Group Ii Llc	513 W 21st St
Landmark Industries	2001 Colonial Av
Bne Restaurant Group Ii Llc	505 W 21st St
520 W 22nd, Llc	520 W 22nd St
The Rosemyr Corp	432 W 21st St
The Rosemyr Corp	432 W 21st St
Rosemyr Corp, The	721 W 21st St
Rosemyr Corp, The	721 W 21st St
Rosemyr Corp, The	721 W 21st St
Rosemyr Corp, The	721 W 21st St
Rosemyr Corp, The	721 W 21st St
Rosemyr Corp, The	730 W 21st St
Rosemyr Corp, The	730 W 21st St
Rosemyr Corp, The	738 W 22nd St
Rosemyr Corp, The	738 W 22nd St
Twenty-One West Llc	520 W 21st St
Monarch Bank Et Al	500 W 21st St

Monarch Bank Et Al	521 W 22nd St
L & L Of Norfolk, Llc	2219 Colonial Av
2201 Colonial Avenue, Llc	2201 Colonial Av

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, August 10, 2016 10:58 AM
To: 'info@ghentva.org'; 'Emily Birknes'; 'ted@nusbauminsurance.com'
Cc: Whibley, Terry; McClellan, Andria; Wilson, Denise; Whitney, Chris
Subject: new Planning Commission application - 520 W 21st St
Attachments: Wing Stop.pdf

Ms. Birknes and Mr. Enright,

Attached please find the application for a special exception to operate an eating and drinking establishment at 520 W. 21st Street, Unit D1.

The item is tentatively scheduled for the September 22, 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

Archived: Tuesday, September 20, 2016 9:49:05 AM
From: Homewood, George
Sent: Monday, September 19, 2016 10:04:26 PM
To: Nathaniel McCormick
Cc: emilybirknes@gmail.com; Newcomb, Leonard; Whitney, Chris
Subject: Re: Planning Commission Comments - Ghent Neighborhood League
Importance: Normal

Thanks Nat.

George M Homewood, FAICP CFM
Director of City Planning
Norfolk, VA
Sent from my iPhone

On Sep 19, 2016, at 4:33 PM, Nathaniel McCormick <nmccormick@nrha.us> wrote:

> Dear Mr. Homewood:
>
> This is to provide input from the Ghent Neighborhood League regarding two projects within Ghent's Pedestrian Commercial Overlay district and scheduled on upcoming City Planning Commission agendas.
>
> On the September 22 agenda, GNL has no objection to the proposed application by Wing Stop for a special exception for an eating and drinking establishment at 520 West 21st Street.
>
> On the October 27 agenda, in regard to the application by The Monument Companies for a multi-family project re-using existing buildings in the 200 block of West 22nd Street, GNL had an opportunity to hear from Mr. Chris Johnson, representing The Monument Companies, who was invited to GNL's regular meeting on September 15. Mr. Johnson presented the proposed project and GNL members and guests had the opportunity to ask questions. Input was generally supportive of the project and its potential to activate an under-utilized area, and no objections were registered.
>
> As always, we appreciate your consideration of these comments.
>
> Respectfully,
>
> Nat McCormick
> Ghent Neighborhood League
> Project Review Chairman

C: Dir., Department of City Planning

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: **Special Exception for an Eating and Drinking Establishment – 725 E. Little Creek Road, Building 3, Unit 501 – Applebee's Neighborhood Grill and Bar**

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: 3/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: R-4

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

II. **Commission Action:** By a vote of **5 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception for an Eating and Drinking Establishment.

IV. **Applicant:** **Applebee's Neighborhood Grill and Bar**

V. **Description:**

- The site is located on the south side of E. Little Creek Road within the Little Creek Marketplace shopping center.
- This request allows Applebee's Neighborhood Grill and Bar to open a new restaurant, serving alcohol for on-premises consumption, within a vacant suite of a building directly in front of Sam's Club.
- Applebee's also proposes to construct a covered patio for outdoor seating.

	Proposed
Hours of Operation and Hours for the Sale of Alcohol	11:00 a.m. until 12:00 midnight, Sunday through Thursday 11:00 a.m. until 2:00 a.m., Friday and Saturday
Capacity	• 153 seats indoors • 50 seats outdoors • 238 total capacity

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 Crossroads Elementary School, Norview Middle School, and Norview High School Attendance Zones.

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

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated September 22, 2016 with attachments
- Ordinance

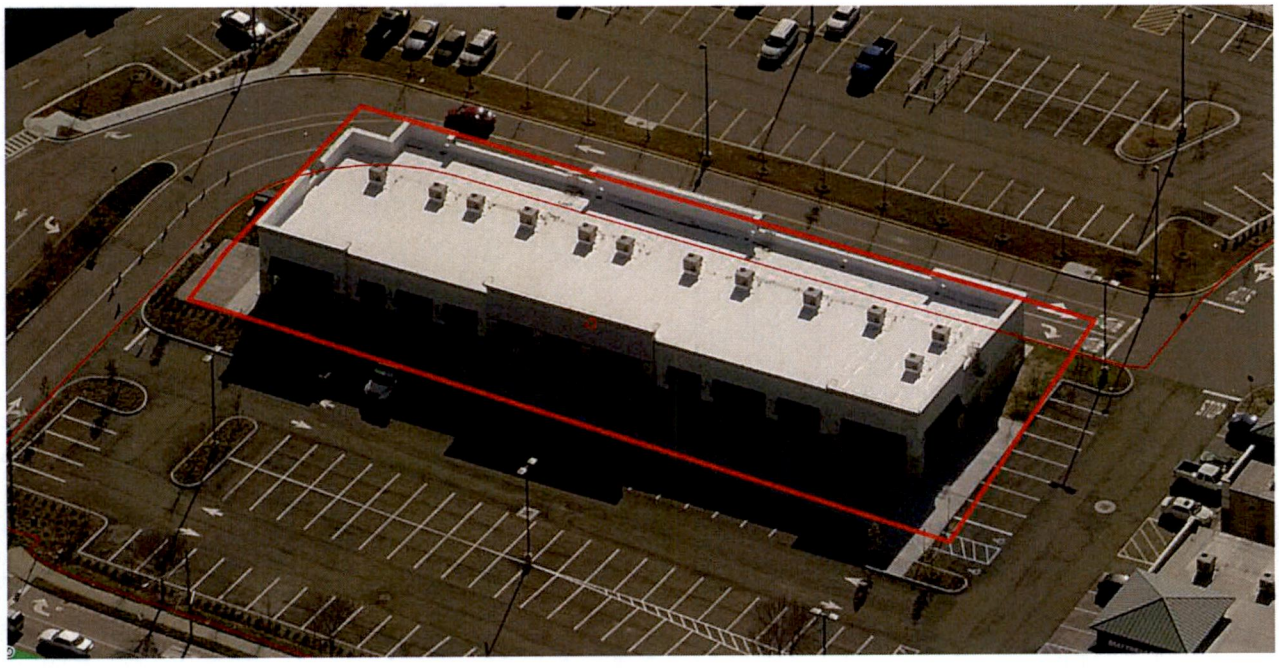
THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: September 22, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Chris Whitney, CFM

Staff Report	**Item No. 6**	
Address	**725 E. Little Creek Road, Building 3, Unit 501**	
Applicant	**Applebee's Neighborhood Grill and Bar**	
Request	**Special Exception**	**Eating and Drinking Establishment**
Property Owner	Little Tidewater Associates, LLC	
Site Characteristics	Building/Suite Area	23,100 sq. ft./ 4,693 sq. ft.
	Future Land Use Map	Commercial
	Zoning	C-3 (Retail Center) and Little Creek Marketplace Localized Alternative Sign Overlay (LCM-LASO)
	Neighborhood	N/A
	Character District	Suburban
Surrounding Area	North	C-2 (Corridor Commercial): Burger King, Arby's, 7-Eleven
	East	C-3: Sam's Club
	South	C-3: Wal-Mart & Sam's Club parking lot
	West	C-3: Jersey Mike's, Verizon store, Mattress Firm



A. Summary of Request

- The site is located on the south side of E. Little Creek Road within the Little Creek Marketplace shopping center.
- This request allows Applebee's Neighborhood Grill and Bar to open a new restaurant, serving alcohol for on-premises consumption, within a vacant suite of a building directly in front of Sam's Club.
- Applebee's also proposes to construct a covered patio for outdoor seating.

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 zoned C-3 district which permits the use by Special Exception.
- The site is surrounded by commercial uses.

	Proposed
Hours of Operation and Hours for the Sale of Alcohol	11:00 a.m. until 12:00 midnight, Sunday through Thursday 11:00 a.m. until 2:00 a.m., Friday and Saturday
Capacity	• 153 seats indoors • 50 seats outdoors • 238 total capacity

ii. Parking

- The site is located in the Suburban Character District.
- There is adequate on-site parking within the Little Creek Marketplace Shopping Center to accommodate this new establishment.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

Trip Generation Analysis

- Institute of Transportation Engineers (ITE) figures estimate that this restaurant will generate 739 new vehicle trips per day.
- Neither Tidewater Drive nor E. Little Creek Road adjacent to the site are identified as severely congested corridors in either the AM or PM peak hours in the current update to regional Hampton Roads Congestion Management analysis.
- The site is near transit services with Hampton Roads Transit bus routes 5 (Willoughby), 8 (Tidewater) and 21 (Little Creek) operating near the site.

- Neither Tidewater Drive nor E. Little Creek Road adjacent to the site are identified priority corridors 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.

D. Public Schools Impacts

The site is located in the Crossroads Elementary School, Norview Middle School, and Norview High School Attendance Zones.

F. Impact on the Environment

The site was developed under current development standards, including current standards for landscaping and parking.

G. AICUZ Impacts

N/A

H. Impact on Surrounding Area/Site

Over the past year there have been no calls for police service.

I. Payment of Taxes

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

J. Civic League

- The application was sent to the Crossroads and Oakdale Farms/Denby Park/Cottage Row Park Civic Leagues on August 10.
- A letter of support was received from the Crossroads Civic League on August 12.

K. Communication Outreach/Notification

- Legal notice was posted on the property on August 16.
- Letters were mailed to all property owners within 300 feet of the property on September 8.
- Legal notification was placed in *The Virginian-Pilot* on September 8 and September 15.

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 and for the sale of alcoholic beverages shall be from 11:00 a.m. until 12:00 a.m. Sunday through Monday and from 11:00 a.m. until 2:00 a.m. Friday and Saturday. 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 153 seats indoors, 50 seats outdoors, and the total occupant capacity, including employees, shall not exceed 238 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. Signage notifying patrons of this restriction shall be conspicuously posted.

(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 other local taxes which may become due while it is in operation.

(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, 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 Adult Use Special Exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this Adult Use 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
Application
Notification list of all property owners within 300 feet of the site
Notice to the civic leagues
Letter of Support from the Crossroads Civic League

Proponents and Opponents

Proponents

Glenn D. Wilson – Applicant
13873 Park Center Road
Herndon, VA 20171

Opponents

None

09/22/2016 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 EATING AND DRINKING ESTABLISHMENT NAMED "APPLEBEE'S NEIGHBORHOOD GRILL AND BAR" ON PROPERTY LOCATED AT 725 EAST LITTLE CREEK ROAD, BUILDING 3, UNIT 501.

- - -

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

Section 1:- That a Special Exception is hereby granted to Potomac Family Dining Group Operating Company, LLC authorizing the operation of an eating and drinking establishment named "Applebee's Neighborhood Grill and Bar" on property located at 725 East Little Creek Road, Building 3, Unit 501. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 480 feet, more or less, along the southern line of East Little Creek Road and 1,505 feet, more or less, along the eastern line of Tidewater Drive; premises numbered 725 East Little Creek Road, Building 3, Unit 501.

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 12:00 midnight Sunday through Thursday and 11:00 a.m. until 2:00 a.m. the following morning on Friday and Saturday. 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 153 seats indoors, 50 seats outdoors, and the total occupant capacity, including employees, shall not exceed 238 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. Signage notifying patrons of this restriction shall be conspicuously posted.

(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 other local taxes which may become due while it is in operation.

(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, 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 Adult Use Special Exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this Adult Use 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 (4 pages)

EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

Date 7/27/16

Trade name of business APPLEBEE'S NEIGHBORHOOD GRILL & BAR

Address of business 725 EAST LITTLE CREEK RD, UNIT 501 NORFOLK, VA

Name(s) of business owner(s)* TIMOTHY M. GEORGE

Name(s) of property owner(s)* TIMOTHY M. FINN (S.L. NUSBAUM REALTY CO.)

Daytime telephone number (757) 640-2268

*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 AM	To 12:00 MIDNIGHT	Weekday	From 11:00 AM	To 12:00 MIDNIGHT
Friday	From 11:00 AM	To 2:00 AM	Friday	From 11:00 AM	To 2:00 AM
Saturday	From 11:00 AM	To 2:00 AM	Saturday	From 11:00 AM	To 2:00 AM
Sunday	From 11:00 AM	To 12:00 MIDNIGHT	Sunday	From 11:00 AM	To 12:00 MIDNIGHT

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)

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

Eating and Drinking Establishment

10. Additional comments/ description/operational characteristics or prior experience:

POTOMAC FAMILY DINING ROUP OWNS AND OPERATES 67 APPLEBEE'S NEIGHBORHOOD GRILL AND BAR'S.

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

7/28/2014

Signature of Applicant

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

Exhibit A – Floor Plan(s) Worksheet
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

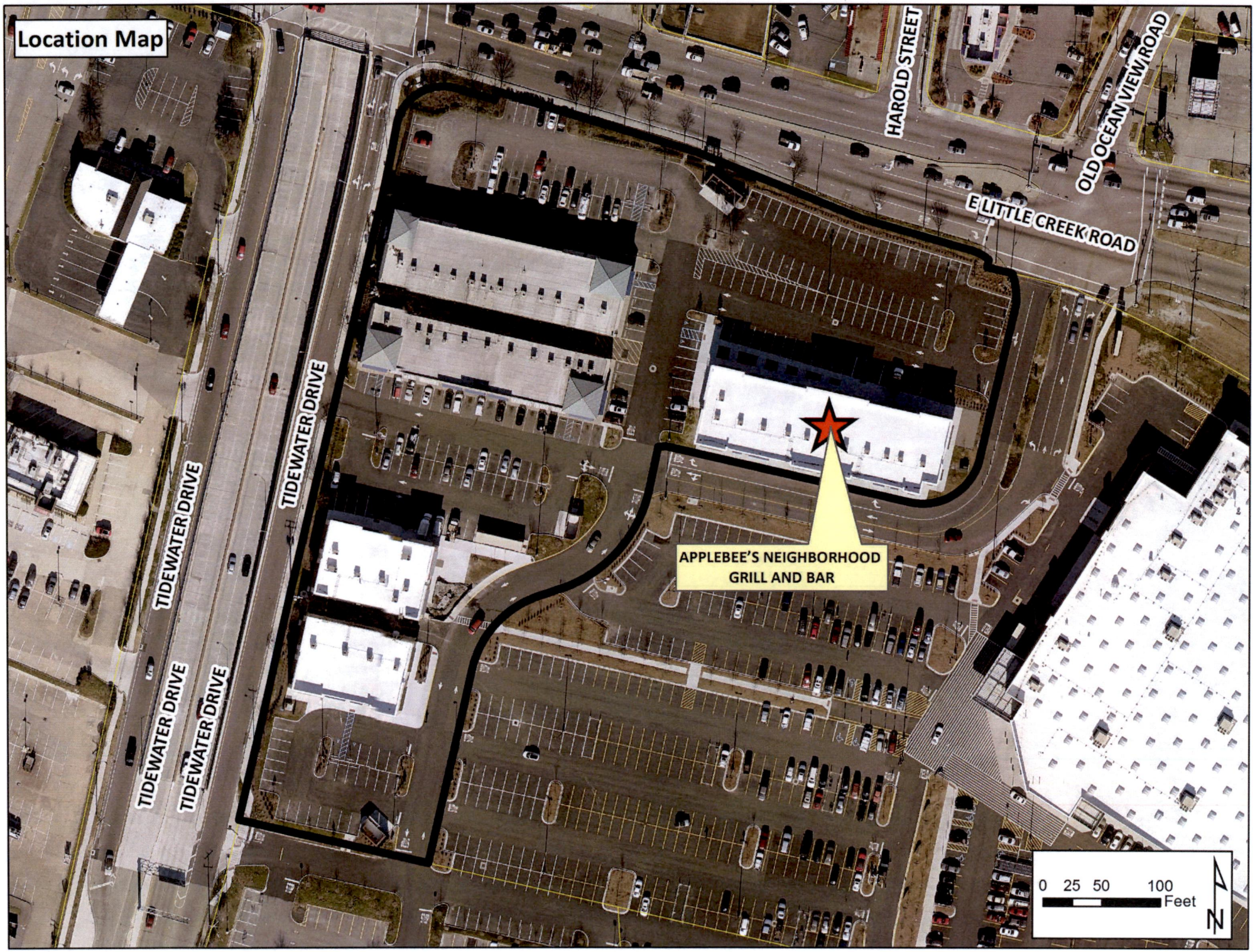
a. **Indoor**
   Number of seats (not including bar seats) 136
   Number of bar seats 17
   Standing room 10

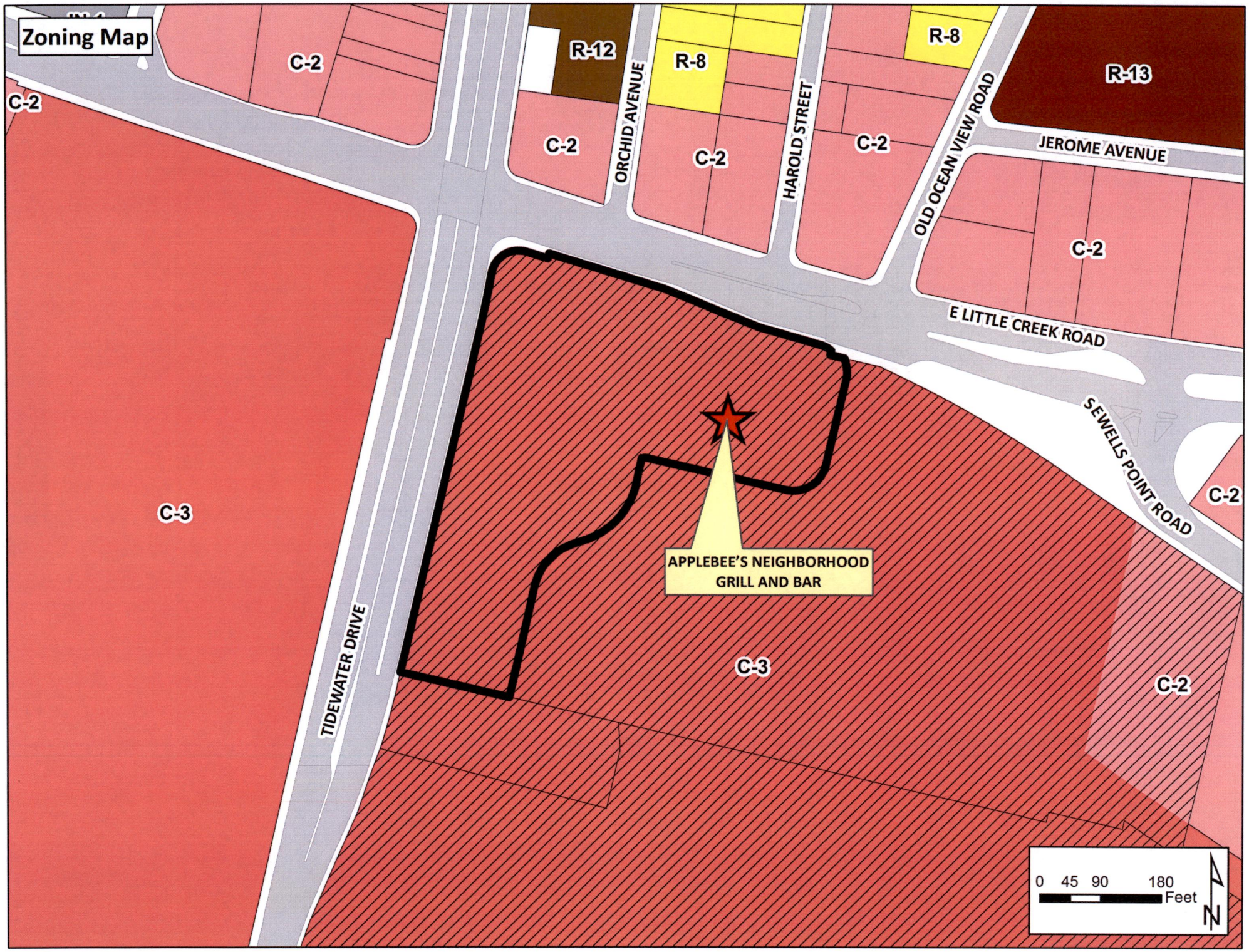
b. **Outdoor**
   Number of seats 50

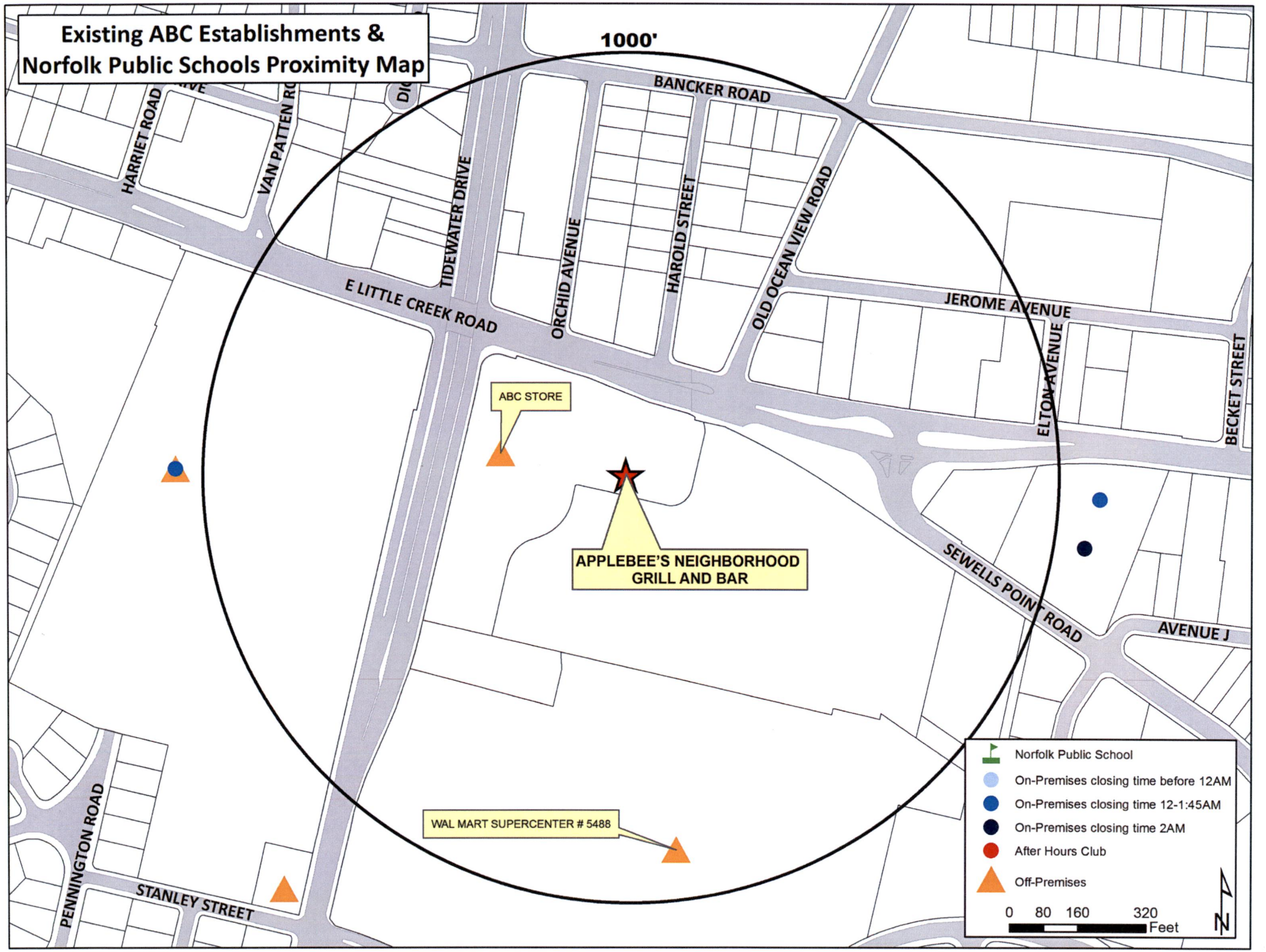
c. **Number of employees** 25

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 238

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
HAROLD STREET
OLD OCEAN VIEW ROAD
E LITTLE CREEK ROAD
TIDEWATER DRIVE
TIDEWATER DRIVE
TIDEWATER DRIVE
TIDEWATER DRIVE
APPLEBEE'S NEIGHBORHOOD GRILL AND BAR
0 25 50 100 Feet
N


Zoning Map
C-2
C-2
R-12
C-2
R-8
C-2
R-8
C-2
R-13
JEROME AVENUE
C-2
E LITTLE CREEK ROAD
SEWELLS POINT ROAD
C-2
C-3
C-3
C-2
ORCHID AVENUE
HAROLD STREET
OLD OCEAN VIEW ROAD
TIDEWATER DRIVE
APPLEBEE'S NEIGHBORHOOD GRILL AND BAR
0 45 90 180 Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
BANCKER ROAD
HARRIET ROAD
VAN PATTEN RO
TIDEWATER DRIVE
ORCHID AVENUE
HAROLD STREET
OLD OCEAN VIEW ROAD
E LITTLE CREEK ROAD
JEROME AVENUE
ELTON AVENUE
BECKET STREET
ABC STORE
APPLEBEE'S NEIGHBORHOOD
GRILL AND BAR
SEWELLS POINT ROAD
AVENUE J
WAL MART SUPERCENTER # 5488
PENNINGTON ROAD
STANLEY 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
EATING AND DRINKING ESTABLISHMENT
(Please print)

Date 7/27/16

DESCRIPTION OF PROPERTY

Address 725 E LITTLE CREK ROAD, BUILDING 3, NORFOLK, VA 23518

Existing Use of Property N/A

Proposed Use RESTAURANT & BAR

Current Building Square Footage 4693

Proposed Building Square Footage N/A

Trade Name of Business (if applicable) APPLEBEE'S NEIGHBORHOOD GRILL AND BAR

APPLICANT

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

1. Name of applicant: (Last) WILSON (First) GLENN (MI) D

Mailing address of applicant (Street/P.O. Box): 13873 PARK CENTER RD, STE 3165

(City) HERNDON (State) VA (Zip Code) 20171

Daytime telephone number of applicant (571) 748-4361 Fax (804) 414-7761

E-mail address of applicant: GWILSON@POTOMACDINING.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) ATWOOD (First) COLLEEN (MI) B

Mailing address of applicant (Street/P.O. Box): 1645 WESTGATE CIRCLE

(City) BRENTWOOD (State) TN (Zip Code) 37027

Daytime telephone number of applicant (615) 370-1779 Fax (615) 370-9108

E-mail address of applicant: HREISER@DANDEINC.US (PROJECT COORDINATOR)

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) FINN (First) TIMOTHY (MI) M

Mailing address of property owner (Street/P.O. box): 440 MONTICELLO AVE

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

Daytime telephone number of owner (757) 640-2268 email: TFINN@SLNUSBAUM.COM

CIVIC LEAGUE INFORMATION

Civic League contact: N/A

Date(s) contacted: _____

Ward/Super Ward information: Ward 3 / SuperWard 7

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:

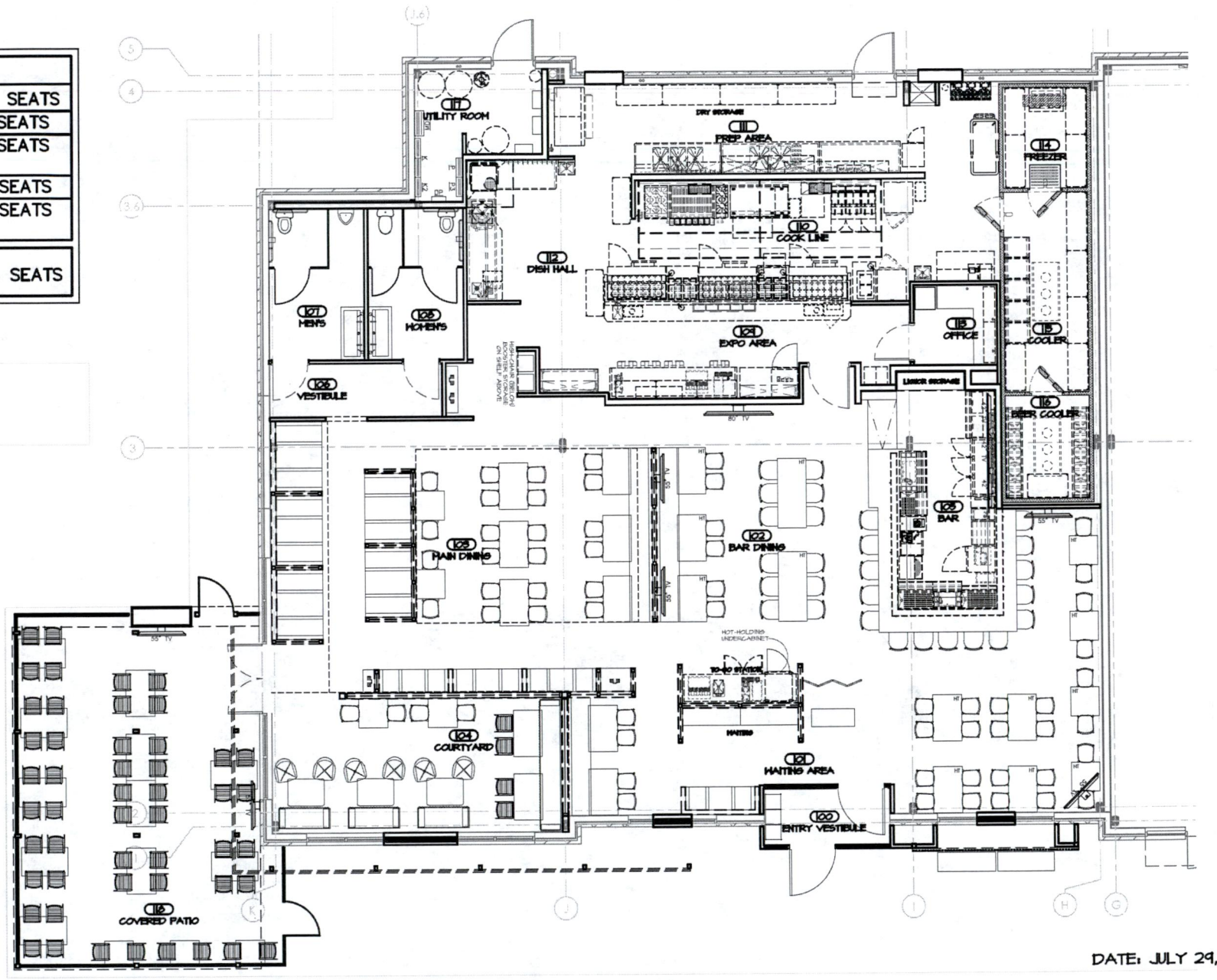
Print name: Timothy M. Finn MGR. **Sign:** Timothy M. Finn, mgr. / 07 / 29/2016
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Glenn D Wilson **Sign:** [signature] / 07 / 28/2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Blake Emerson **Sign:** [signature] 8 / 1 / 16
(Authorized Agent Signature) (Date)

SEATING	
MAIN DINING	136 SEATS
BAR	17 SEATS
STANDING ROOM	10 SEATS
PATIO	50 SEATS
# OF EMPLOYEES	25 SEATS
TOTAL OCCUPANCY	238 SEATS



1645 Westgate Cr.
Brentwood, TN
(615) 370-1779
(615) 370-9108

APPLEBEE'S FRANCHISEE RESTAURANT - NORFOLK, VA - LITTLE CREEK MARKETPLACE

TENANT UP-FIT; EXISTING SHELL SPACE (BY LANDLORD)

PROPOSED FLOOR PLAN

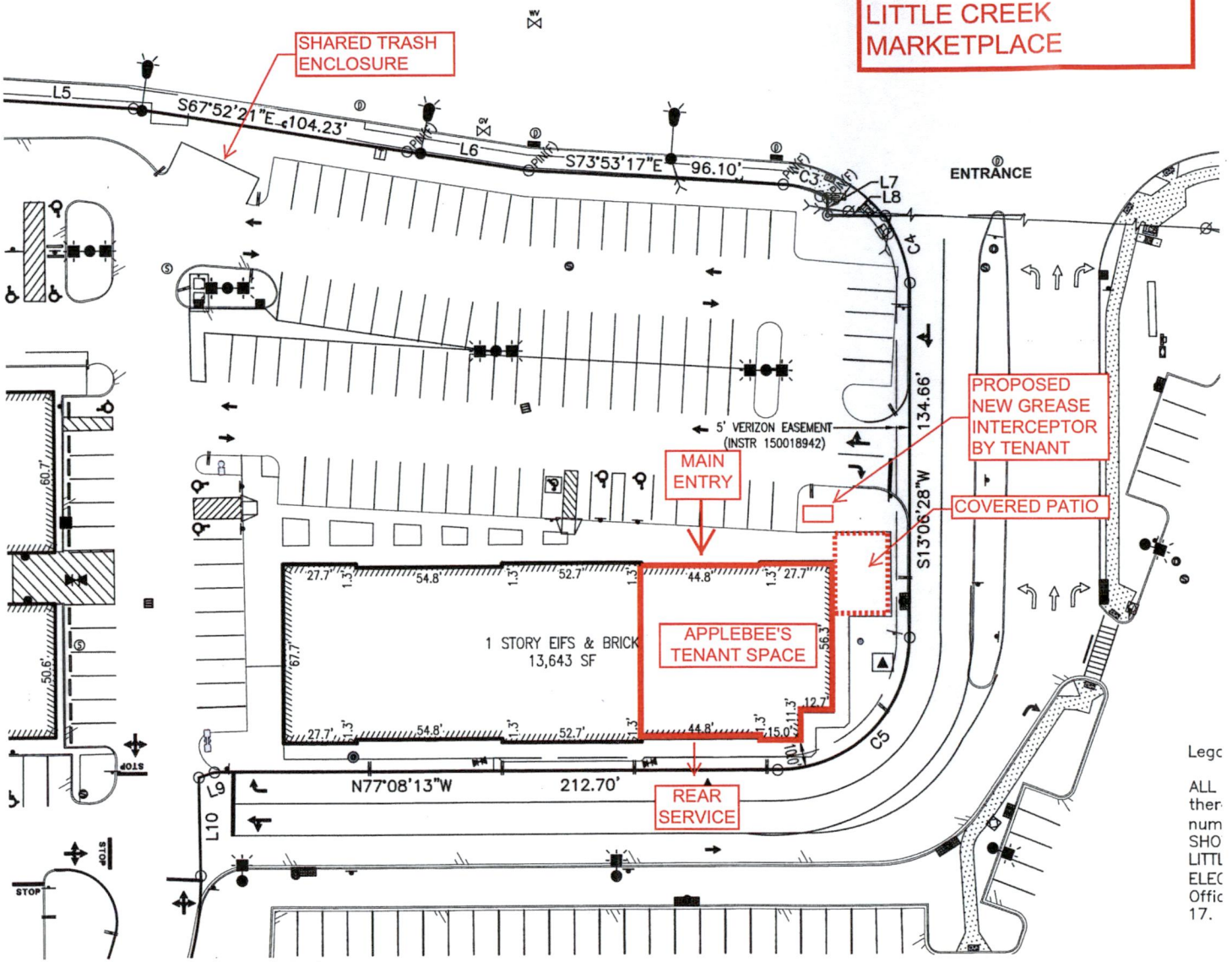
FLOOR PLAN

DATE: JULY 29, 2016

EAST LITTLE CREEK ROAD
(VARIABLE WIDTH PUBLIC R/W)

(M.B. 73, PG. 16)

PROPOSED APPLEBEE'S TENANT BUILD-OUT IN LITTLE CREEK MARKETPLACE



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NOTES:

1. THE PROPERTY SHOWN HEREON FALLS WITHIN FLOOD ZONE X, AS SHOWN ON THE NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP FOR THE CITY OF NORFOLK, VIRGINIA COMMUNITY MAP #510104 0060 F AND LAST DATED SEPTEMBER 2, 2009.
2. THE PROPERTY SHOWN HEREON IS CURRENTLY:

PARCEL	TAX PARCEL	SQ.FT.	ACRES	BLDG AREA	BLDG CVRG.	BLDG HGHT.	REG. PARK.	HC PARK.
2	50000542	211,741	4.861	49,465	23.3%	AS SHOWN	238	16

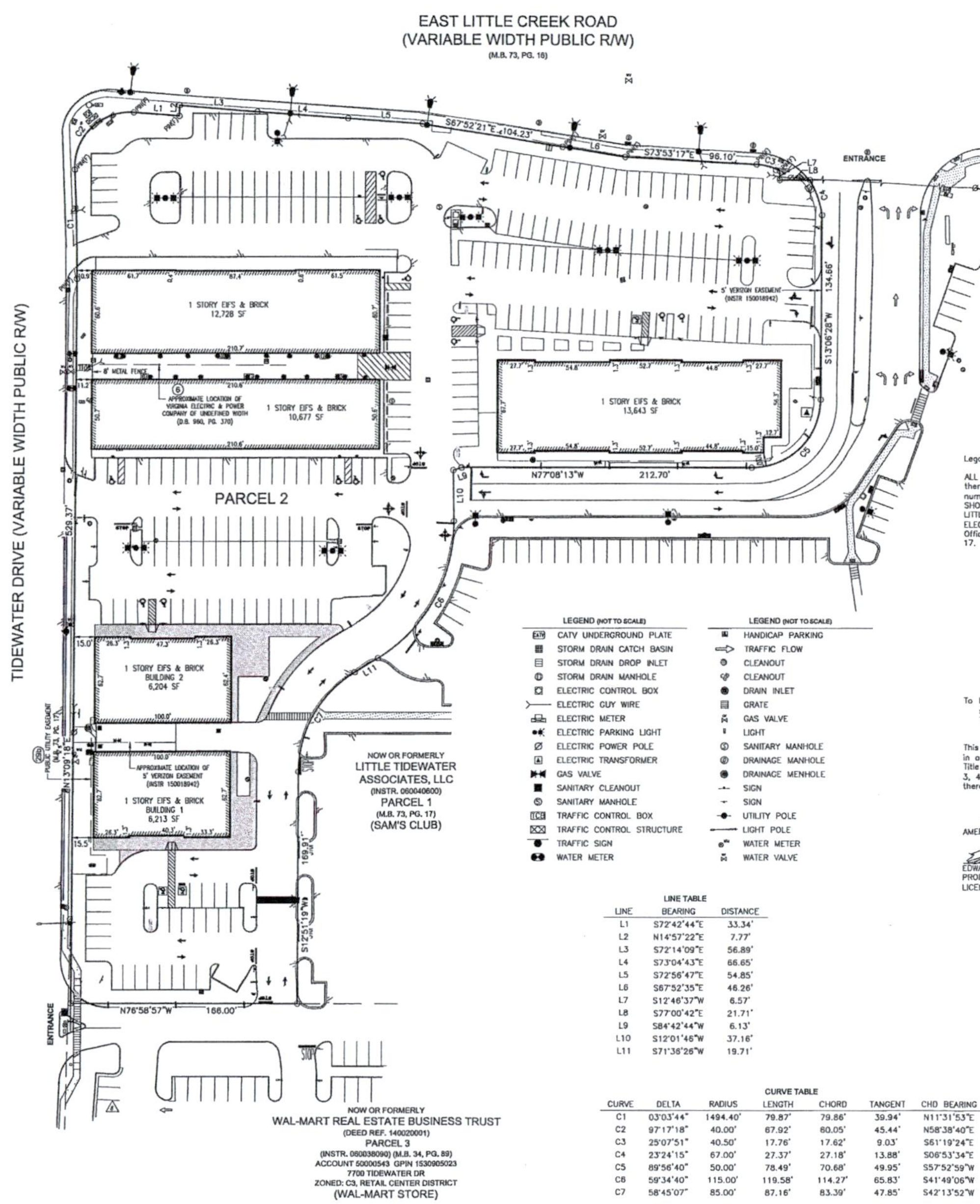
3. THE PROPERTY SHOWN HEREON IS CURRENTLY ZONED:
C-3 (RETAIL CENTER DISTRICT)

MINIMUM LOT WIDTH: 125 FEET
PRINCIPAL BUILDING SETBACK REQUIRED YARDS:
FRONT YARDS: 10 FEET
SIDE YARDS:
CORNER: 10 FEET
INTERIOR: 10 FEET
REAR YARD: 10 FEET
MAXIMUM BUILDING HEIGHTS: 60 FEET

4. WITH RESPECT TO ITEMS 16, 17 AND 18 CONTAINED IN TABLE A OF THE OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS DETAILED IN THE ALTA/ACSM LAND TITLE SURVEY REQUIREMENTS, WE OFFER THE FOLLOWING OBSERVATIONS OF SUBJECT PROPERTY:
(16) WE OBSERVED NO EVIDENCE OF CURRENT EARTH MOVING ACTIVITIES OR BUILDING CONSTRUCTION.
(17) WE OBSERVED NO EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIR. THE CITY OF NORFOLK PROPOSES NO CHANGES TO THE STREET RIGHT OF WAY.
(18) WE OBSERVED NO EVIDENCE OF THE SITE BEING USED AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

Exceptions Contained in Fidelity National Title Insurance Company
Policy No: 2730646-92-92588796 Order No: 091046797 Policy Date December 23, 2014

3. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 718, at Page 208 may affect the property shown hereon, its location cannot be established
4. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 811, at Page 391 does not affect the property shown hereon.
5. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 917, at Page 34 does not affect the property shown hereon, it was Quitclaimed by Instrument No. 150000365
6. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 960, at Page 370 affects the property and is shown hereon.
7. The easement in favor of the City of Norfolk recorded in Deed Book 1002, at Page 635 does not affect the property shown hereon.
8. The easement in favor of Chesapeake and Potomac Telephone Company recorded in Deed Book 1151, at Page 661 does not affect the property shown hereon.
9. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 1162, at Page 499 does not affect the property shown hereon, it was Quitclaimed by Instrument No. 150000365.
10. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 1250, at Page 304 does not affect the property shown hereon, it was Quitclaimed by Instrument No. 150000365.
11. The Terms, Provisions of Declaration recorded in Deed book 1355, at Page 597 affects the property shown hereon; there are no plottable easements.
12. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 2059, at Page 172 does not affect the property shown hereon, it was Quitclaimed by Instrument No. 150000365.
13. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 2953, at Page 720 may affect the property shown hereon. Its location cannot be established.
14. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 1509, at Page 772 does not affect the property shown hereon.
15. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 814, at Page 336 does not affect the property shown hereon.
16. The easement in favor of Virginia Electric and Power Company recorded in Deed Book 776, at Page 466 may affect the property shown hereon. Its location cannot be established.
17. The Terms, Provisions of Declaration of Covenants for Storm and Surface Water Facility and System Maintenance in favor of the City of Norfolk and Wal Mart Stores East, LP recorded in Instrument No. 050055211 affects the property shown hereon there are no plottable easements.
18. Terms and Provisions of Declaration of Covenants for Storm and Surface Water Facility and System Maintenance Draining City Right of Way Water in favor of the City of Norfolk and Wal Mart Stores East, LP recorded in Instrument No. 050055212 affects the property shown hereon; there are no plottable easements.
19. The Plat recorded in Plat Book 59, at Page 107A–112A shows a right of way dedication, the dedication is reflected on this survey. It does not affect.
20. The rights of tenants in possession under recorded leases is not a survey matter.
21. Survey information is shown on a previous survey is not a survey matter.
22. The Terms of Sub–Lease between Wal Mart Stores East, LP and Little Tidewater Associates, LLC recorded in Instrument No. 060040601 affects the property shown hereon; there are no plottable easements.
23. The Terms, Provisions recorded in Instrument No. 060040602 and Instrument No. 150000362 affects the property shown hereon; there are no plottable easements.
24. The Restriction recorded in Instrument No. 060040600 affects the property and is shown hereon; there are no plottable easements.
25. The easement in favor of Virginia Electric and Power Company recorded in Instrument No. 060050408 does not affect the property shown hereon.
26. The Deed of Lease with Virginia Alcoholic Beverage Control Board recorded in Instrument No. 070013258 affects the property shown hereon; there are no plottable easements.
27. The Declaration of Covenants for Storm and Surface Water Facility and System Maintenance recorded in Instrument No. 140022962 affects the property shown hereon; there are no plottable easements.
28. The easement in favor of Virginia Electric and Power Company recorded in Instrument No. 140024515 does not affect the property shown hereon.
29. The following matters shown on plat recorded in Map Book 73 at Pages 16 and 17 affect the property as follows:
a. 15' Utility Easement dedicated to City of Norfolk, does not affect.
b. Public Utility Easement dedicated to City of Norfolk, affects the property and is shown here on.
c. Ingress/Egress Easement. Does not affect.



LEGEND (NOT TO SCALE)

- CATV UNDERGROUND PLATE
- STORM DRAIN CATCH BASIN
- STORM DRAIN DROP INLET
- STORM DRAIN MANHOLE
- ELECTRIC CONTROL BOX
- ELECTRIC GUY WIRE
- ELECTRIC METER
- ELECTRIC PARKING LIGHT
- ELECTRIC POWER POLE
- ELECTRIC TRANSFORMER
- GAS VALVE
- SANITARY CLEANOUT
- SANITARY MANHOLE
- TRAFFIC CONTROL BOX
- TRAFFIC CONTROL STRUCTURE
- TRAFFIC SIGN
- WATER METER

LEGEND (NOT TO SCALE)

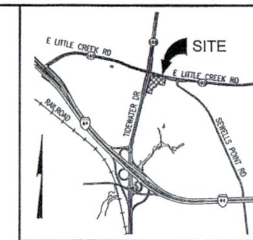
- HANDICAP PARKING
- TRAFFIC FLOW
- CLEANOUT
- CLEANOUT
- DRAIN INLET
- GRATE
- GAS VALVE
- LIGHT
- SANITARY MANHOLE
- DRAINAGE MANHOLE
- DRAINAGE MENHOLE
- SIGN
- SIGN
- UTILITY POLE
- LIGHT POLE
- WATER METER
- WATER VALVE

LINE TABLE

LINE	BEARING	DISTANCE
L1	S72°42'44"E	33.34'
L2	N14°57'22"E	7.77'
L3	S72°14'09"E	56.89'
L4	S73°04'43"E	66.65'
L5	S72°56'47"E	54.85'
L6	S67°52'35"E	46.26'
L7	S12°46'37"W	6.57'
L8	S77°00'42"E	21.71'
L9	S84°42'44"W	6.13'
L10	S12°01'46"W	37.16'
L11	S71°36'26"W	19.71'

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD	TANGENT	CHD BEARING
C1	03°03'44"	1494.40'	79.87'	79.86'	39.94'	N11°31'53"E
C2	97°17'18"	40.00'	67.92'	60.05'	45.44'	N58°38'40"E
C3	25°07'51"	40.50'	17.76'	17.62'	9.03'	S61°19'24"E
C4	23°24'15"	67.00'	27.37'	27.18'	13.88'	S06°53'34"E
C5	89°56'40"	50.00'	78.49'	70.68'	49.95'	S57°52'59"W
C6	59°34'40"	115.00'	119.58'	114.27'	65.83'	S41°49'06"W
C7	58°45'07"	85.00'	87.16'	83.39'	47.85'	S42°13'52"W



Location Map Scale: 1" = 2000'

Legal Description

ALL those certain lots, pieces or parcels of land, with the buildings and improvements thereon, situate, lying and being in the City of Norfolk, Virginia, and being known, numbered and designated as PARCEL 2, as shown on that certain plat entitled, "PLAT SHOWING RESUBDIVISION, EASEMENTS AND RIGHT OF WAY DEDICATION OF THE LANDS OF LITTLE TIDEWATER ASSOCIATES, L.L.C., AND WAL–MART STORES EAST, LP, ROSEMONT ELECTION DISTRICT, NORFOLK, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of City of Norfolk, Virginia, in Map Book 73 at Pages 16 and 17.

To Little Tidewater, L.L.C., a Virginia limited liability company, TowneBank and/or its successors and/or assigns as their respective interests may appear, Fidelity National Title Insurance Company, its successors and assigns:

This is to certify that this map or 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, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10(a), 11(a), 13, 14, 16 and 18 of Table A thereof. The field work was completed on NOVEMBER 24, 2015.

AMERICAN ENGINEERING

EDWARD F. RUDIGER, Jr.
PROFESSIONAL LAND SURVEYOR
LICENSE No. #1698

COMMONWEALTH OF VIRGINIA
11-25-2015
EDWARD F. RUDIGER, JR.
Lic. No. 1698
LAND SURVEYOR

DATE: November 25, 2015

ALTA/ACSM LAND TITLE SURVEY OF
PARCEL 2
PLAT SHOWING RESUBDIVISION, EASEMENTS & RIGHT OF WAY DEDICATION OF THE LANDS OF LITTLE TIDEWATER ASSOCIATES, L.L.C., AND WAL-MART STORES EAST, LP
ROSEMONT ELECTION DISTRICT, NORFOLK, VIRGINIA
FOR
LITTLE TIDEWATER, L.L.C.

Date	Scale	0	40	80	120
11/24/15	1"=40'				

AMERICAN Engineering
American Engineering Associates - Southeast, P.A. Inc.
448 Viking Drive, Suite 17
Virginia Beach, VA 23452
757-468-6800
FIRM# 0405001094

SHEET 1 OF 1

Project	Drawn By	Checked By	Drawing Path\Name, Layout
15025	DMV	EFR, Jr	M:\15\025\Surveys\15025 Alta.dwg, 001

Applebees - Notification sent to all Property Owners within 300 feet

Owner	Property Address
E T Enterprises, Llc	630 E Little Creek Rd
Southern Shopping Center Llc	7519 Tidewater Dr
Southern Shopping Center Llc	7519 Tidewater Dr
Southern Shopping Center Llc	7519 Tidewater Dr
Southern Shopping Center Llc	7519 Tidewater Dr
Southern Shopping Center Llc	7519 Tidewater Dr
Southern Shopping Center Llc	7519 Tidewater Dr
Southern Shopping Center Llc	7519 Tidewater Dr
Nflk Automatic Coin Laundry Inc	7916 Old Ocean View Rd
Smb, Llc	730 E Little Creek Rd
Forshaw, Harold A & Ellen F	7918 Orchid Av
Overton's Markets, Inc	7915 Tidewater Dr
Halo Properties Llc	7915 Orchid Av
Land, Denise Ott	W S Harold St
Legum,Edward Furn Co Hampton,Inc.	720 E Little Creek Rd
Eight Hundred E Little Crk Rd Llc	800 E Little Creek Rd
Hartman, Robert E & Margaret A	7913 Tidewater Dr
Thornton, Gloria B	700 E Little Creek Rd
A & G Properties Ii Llc	814 E Little Creek Rd
A & G Properties Ii Llc	814 E Little Creek Rd
City Of Norfolk	7922 Tidewater Dr
Wal-Mart Real Estate Business Trust	7530 Tidewater Dr
Wnd Land Llc	740 E Little Creek Rd
Love In Greenwich, Llc	741 E Little Creek Rd
Love In Greenwich, Llc	741 E Little Creek Rd
Little Tidewater Associates, Llc	7870 Tidewater Dr
Little Tidewater Associates, Llc	7870 Tidewater Dr
Little Tidewater Associates, Llc	7870 Tidewater Dr
Wal-Mart Real Estate Business Trust	7700 Tidewater Dr

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, August 10, 2016 11:16 AM
To: 'hankmech99@cox.net'; 'crossroadscivicleague@gmail.com'; 'rebeccajluce@gmail.com'
Cc: Johnson, Mamie; Williams, Angelia M.; Herbst, James; Whitney, Chris
Subject: new Planning Commission application - 725 E Little Creek Rd
Attachments: Applebees.pdf

Ms. Luce and Mr. Brown,

Attached please find the application for a special exception to operate an eating and drinking establishment at 725 E. Little Creek Road, Building 3, Unit 501.

The item is tentatively scheduled for the September 22, 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: Cross Roads Civic League <crossroadscivicleague@gmail.com>
Sent: Friday, August 12, 2016 1:56 PM
To: Straley, Matthew
Subject: Re: new Planning Commission application - 725 E Little Creek Rd

Matthew
The crossroads civic league also supports this establishment.

Gary F
Crossroads Civic league
CoS

On Aug 10, 2016 11:16, "Straley, Matthew" <Matthew.Straley@norfolk.gov> wrote:

Ms. Luce and Mr. Brown,

Attached please find the application for a special exception to operate an eating and drinking establishment at 725 E. Little Creek Road, Building 3, Unit 501.

The item is tentatively scheduled for the September 22, 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 of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: **Special exception to operate an automobile sales and service facility at 5139 East Virginia Beach Boulevard – Andre Riddick**

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: 4/7

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-5**

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

II. **Commission Action:** By a vote of **5 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special exception to operate an automobile sales and service facility.

IV. **Applicant:** **Andre Riddick**

V. **Description:**

- The site is located on the southeast corner of East Virginia Beach Boulevard and Jett Street within the Poplar Halls neighborhood.
- The applicant proposes to open a new automobile sales and service business, tentatively named "A and S Enterprises," within the vacant building on this site.

	Proposed
Hours of Operation	9:00 a.m. until 9:00 p.m., Monday through Friday 9:00 a.m. until 8:00 p.m., Saturday Closed Sunday

VI. **Historic Resources Impacts**

The site is not located within a federal, state, or local historic district.

VII. **Public Schools Impacts**

The site is located in the Fairlawn Elementary School, Lake Taylor Middle School, and Booker T. Washington High School Attendance Zones.

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

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated September 22, 2016 with attachments
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: September 22, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Chris Whitney, CFM

Staff Report	Item No. 4	
Address	5139 E. Virginia Beach Boulevard	
Applicant	Andre Riddick	
Request	Special Exception	Automobile Sales and Service
Property Owner	Donald E. Lane Revocable Living Trust	
Site Characteristics	Site/Building Area	38,106 sq. ft. (.87 acres)/1,428 sq. ft.
	Future Land Use Map	Commercial
	Zoning	C-2 (Corridor Commercial)
	Neighborhood	Poplar Halls
	Character District	Suburban
Surrounding Area	North	IN-2 (Institutional Campus): Union Mission Ministries
	East	C-2: Virginia Employment Commission
	South	C-2: Ward Oil Co. , Conditional C-2: Cardinal TV & Audio Services
	West	Conditional C-2: Realty Specialists

A. Summary of Request

- The site is located on the southeast corner of East Virginia Beach Boulevard and Jett Street within the Poplar Halls neighborhood.
- The applicant proposes to open a new automobile sales and service business, tentatively named "A and S Enterprises," within the vacant building on this site.

B. Plan Consistency

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

Zoning Analysis

i. General

- The site is zoned C-2, which permits the proposed use with a special exception.
- The site is located along a commercial corridor and is surrounded by other commercial uses.
- Previous operations on this site include a City of Norfolk gas station and convenience store (ceased in 2011) and wholesale goods (ceased in 2015).
- The attached conditions ensure compliance with *plaNorfolk2030* and all *Zoning Ordinance* requirements.

	Proposed
Hours of Operation	9:00 a.m. until 9:00 p.m., Monday through Friday 9:00 a.m. until 8:00 p.m., Saturday Closed Sunday

ii. Parking

- The current parking regulations for an automobile sales and service facility within the Suburban Character District require one parking space per 500 square feet of enclosed building area plus three parking spaces per bay.
- The building is 1,428 square feet and has one bay, which requires six parking spaces.
  - The surface parking lot on the site is sufficient to accommodate the parking requirements for the proposed use.

iii. Flood Zone

The property is located in the AE (High Risk), X (Low to Moderate), and X (Shaded) Flood Zones.

C. Transportation Impacts

- Institute of Transportation Engineers figures estimate that a new automobile sales restaurant on the site will generate 58 new vehicle trips per day.
- East Virginia Beach Boulevard adjacent to the site is not identified as a severely congested corridor in the current update to regional Hampton Roads Congestion Management analysis.
- The site is near transit service with Hampton Roads Transit bus route 20 (Virginia Beach) operating adjacent to the site.
- East Virginia Beach Boulevard adjacent to the site is not an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

D. Historic Resources Impacts

The site is not located within a federal, state, or local historic district.

E. Public Schools Impacts

The site is located in the Fairlawn Elementary School, Lake Taylor Middle School, and Booker T. Washington High School Attendance Zones.

F. Environmental Impacts

- The applicant has agreed to make improvements to the site, including providing a ten foot landscape buffer along the frontages of East Virginia Beach Boulevard and Jett Street in accordance with the *Zoning Ordinance*.
- Additional landscaping will be installed along the interior property lines (eastern and southern property lines) to further buffer the site from adjacent properties.
- The existing perimeter fence will be repaired and maintained.
- The existing light pole foundations will be retained and reused.

G. Surrounding Area/Site Impacts

Over the past year there have been no calls for police service.

H. Payment of Taxes

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

I. Civic League

- Notice was sent to the Poplar Halls Civic League on August 10 and 11.
    - A new civic league president was recently elected, necessitating the second notice.

J. Communication Outreach/Notification

- Legal notice was posted on the property on August 16.
- Letters were mailed to all property owners within 300 feet of the property on September 8.
- Legal notification was placed in *The Virginian-Pilot* on September 8 and September 15.

K. Recommendation

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

(a) The hours of operation for the facility shall be from 9:00 a.m. until 9:00 p.m., Monday through Friday, from 9:00 a.m. until 8:00 p.m., Saturday, and closed on Sunday. No use of the facility outside of the hours of operation listed herein shall be permitted.

(b) Landscaping shall be installed in accordance with the landscape plan attached hereto and marked "Exhibit A." Landscape buffers no less than ten (10) feet in width shall be installed adjacent to the East Virginia Beach Boulevard and Jett Street frontages. Landscaping placement and species shall be as approved by the Department of Recreation, Parks, and Open Space.

(c) Landscaping shall be installed and maintained at the base of any freestanding sign in accordance with the provisions of section 16-6 of the *Zoning Ordinance of the City of Norfolk*, 1992 (as amended). The landscaping shall be maintained at all times.

(d) All landscaping installed on the site shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.

(f) The use of temporary signs shall comply with Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended). The use of feather flags, pennants, and streamers is prohibited.

(g) There shall be no signage, flags or banners visible from any public right-of-way affixed to the automobiles being displayed for sale.

(h) All nonconforming fences and signs on the site shall be removed. The existing perimeter fence on the site shall be repaired and shall not be removed.

(i) A system of tire stops shall be established along the interior edge of all buffer yards. The tire block system shall not permit vehicles to encroach into buffer yards by more than two (2) feet.

(j) There shall be no razor wire permitted on the site and any existing razor wire shall be removed.

(k) Test driving of the vehicles shall not occur within the neighborhood located in the vicinity of the site.

(l) The parking lot shall be striped in accordance with attached site plan, marked "Exhibit A."

(m) The existing light pole foundations shall be maintained and reused.

(n) All storage, display and parking of vehicles shall adhere to the parking and landscape plan, attached hereto and marked as "Exhibit A."

(o) No parking of any vehicles used for storage, display, or offered for sale or resale shall be permitted anywhere on the property other than in those areas identified as "inventory parking/automobiles for sale" on the proposed site plan attached hereto and marked as "Exhibit A."

(p) There shall be no storage of wrecked or inoperative vehicles in the building or on the property without a work order or an insurance claim form.

(q) All repair work shall be done inside the building. No repair work may take place outside.

(r) No exterior storage, placement or any otherwise display of tires or other vehicle parts is allowed.

(s) All bollards on the site shall be painted and maintained free of visible corrosion.

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

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

(v) The property shall be kept in a clean and sanitary condition at all times.

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

(x) No business license shall be issued until conditions (b), (c), (e), (f), (h), (i), (j), (l), (s) and (t) have all been implemented fully on the site.

Attachments

- Location Map
- Zoning Map
- 1000' radii map of similar automobile establishments
- Application
- Notification list of all property owners within 300 feet of the site
- Site plan/landscape plan
- Notices to the Poplar Halls Civic League

Proponents and Opponents

Proponents

Andre Riddick – Applicant
3409 Montgomery Place
Virginia Beach, VA 23452

Steven P. McDonald
1905 Tufton Court
Virginia Beach, VA 23454

Jake Kahle
5328 and 5320 E. Virginia Beach Boulevard
Norfolk, VA 23502

Opponents

None

09/22/2016 lds

Form and Correctness Approved: RP

By _____
Office of the City Attorney

Contents Approved: CW

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO OPERATE AN AUTOMOBILE SALES AND SERVICE ESTABLISHMENT NAMED "A AND S ENTERPRISES" ON PROPERTY LOCATED AT 5139 EAST VIRGINIA BEACH BOULEVARD.

- - -

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 an Automobile Sales and Service establishment named "A and S Enterprises" on property located at 5139 East Virginia Beach Boulevard. The property which is the subject of this Special Exception is more fully described as follows:

> Property fronts 200 feet, more or less, along the southern line of East Virginia Beach Boulevard and 195 feet, more or less, along the eastern line of Jett Street; premises numbered 5139 East Virginia Beach Boulevard.

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

(a) The hours of operation for the facility shall be limited to 9:00 a.m. until 9:00 p.m. Monday through Friday, 9:00 a.m. until 8:00 p.m. on Saturday, and closed on Sunday. No use of the facility outside of the hours of operation listed herein shall be permitted.

(b) Landscaping shall be installed in accordance with the plan attached hereto and marked as "Exhibit A." Landscape buffers no less than ten (10) feet in width shall be installed adjacent to the East Virginia Beach Boulevard and Jett Street and shall be planted with species and placements approved by the Department of Recreation, Parks, and Open Space.

(c) Landscaping shall be installed and maintained at the base of any freestanding sign in accordance with the provisions of section 16-6 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended).

(d) All landscaping installed on the site shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

(e) Notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), no less than 85% of the glass areas of the ground floor of the building shall be transparent as defined in the Zoning Ordinance.

(f) The use of temporary signs shall comply with Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended). Any use of feather flags, pennants, or streamers is prohibited.

(g) There shall be no signs, flags or banners visible from any public right-of-way affixed to an automobile being displayed for sale.

(h) All nonconforming fences and signs on the site shall be removed. The existing perimeter fence on the site shall be repaired and maintained.

(i) A system of tire stops shall be established along the interior edge of all buffer yards. The tire block system shall not permit vehicles to encroach into buffer yards by more than two (2) feet.

(j) There shall be no razor wire permitted on the site and any existing razor wire shall be removed.

(k) The facility shall ensure that no test driving of the vehicles occurs within the neighborhood located in the vicinity of the site.

(l) The parking lot shall be striped in a manner that provides for the parking arrangement indicated on the plan attached hereto and marked as "Exhibit A."

(m) The existing light pole foundations shall be

maintained and reused.

(n) There shall be no storage of wrecked or inoperative vehicles in the building or on the property without a work order or an insurance claim form.

(o) All repair work shall be done inside the building. No repair work may take place outside.

(p) No exterior storage, placement or any otherwise display of tires or other vehicle parts is allowed.

(q) All bollards on the site shall be painted and maintained free of visible corrosion.

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

(s) 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.

(t) The property shall be kept in a clean and sanitary condition at all times.

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

(v) No business license shall be issued until conditions (b), (h), (i), (j) and (l) have all been implemented fully on the site.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

(a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes

for which this ordinance was enacted and for which the regulations of the district in question were established;

(b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;

(c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;

(d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;

(e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;

(f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;

(g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;

(h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;

(i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

(j) The proposed use and development complies with all additional standards imposed on it by the particular

provisions of the ordinance authorizing such use; and

(k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

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

ATTACHMENT:
Exhibit A (1 page)

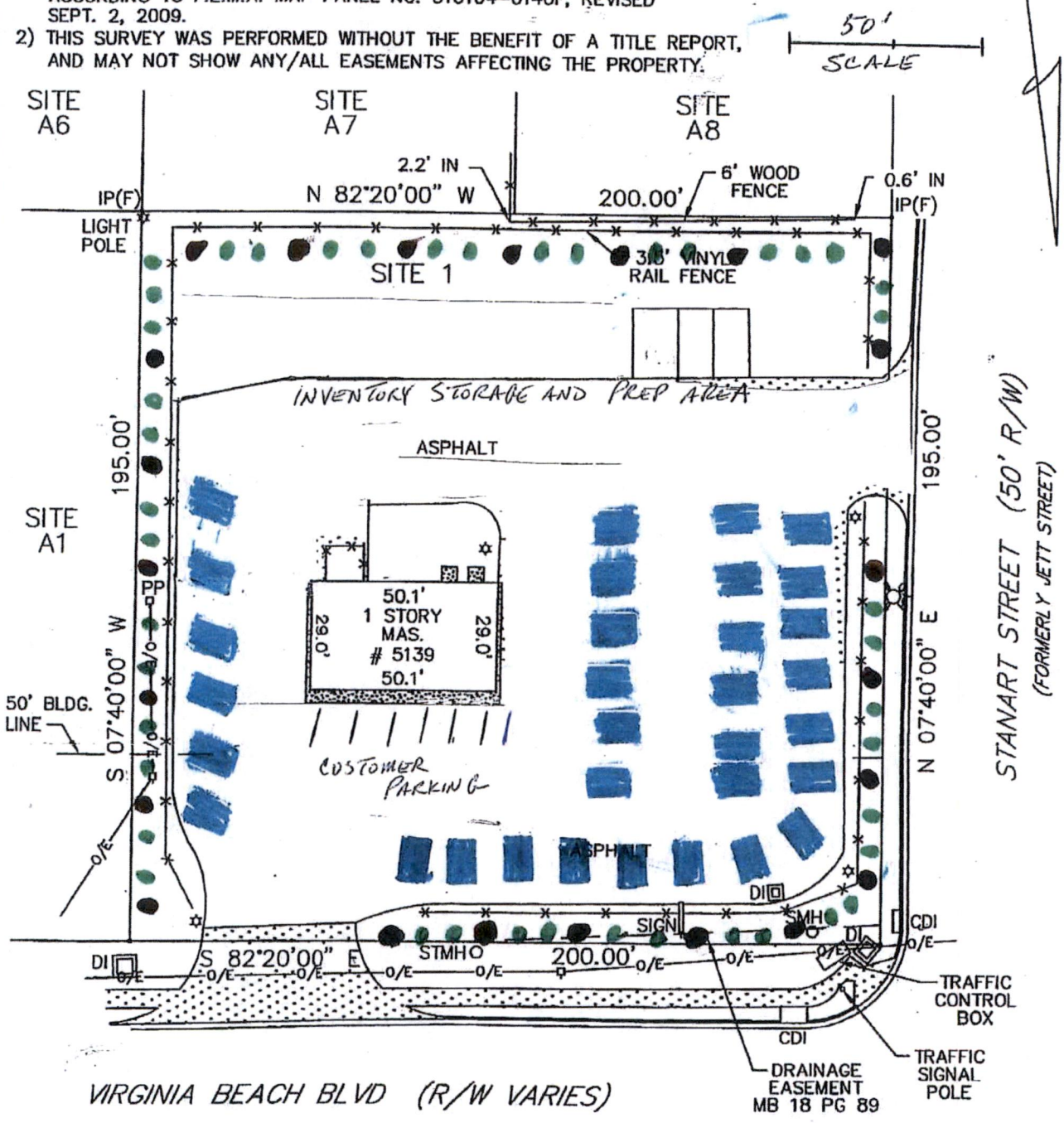
Exhibit A

THIS IS TO CERTIFY THAT I, ON OCT. 6, 2010, SURVEYED THE PROPERTY SHOWN HEREON AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE AS SHOWN HEREON. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS EXCEPT AS SHOWN.

SIGNED: Wm M Holmes

NOTES:

1) THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "X" FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 510104–0140F, REVISED SEPT. 2, 2009.
2) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ANY/ALL EASEMENTS AFFECTING THE PROPERTY.



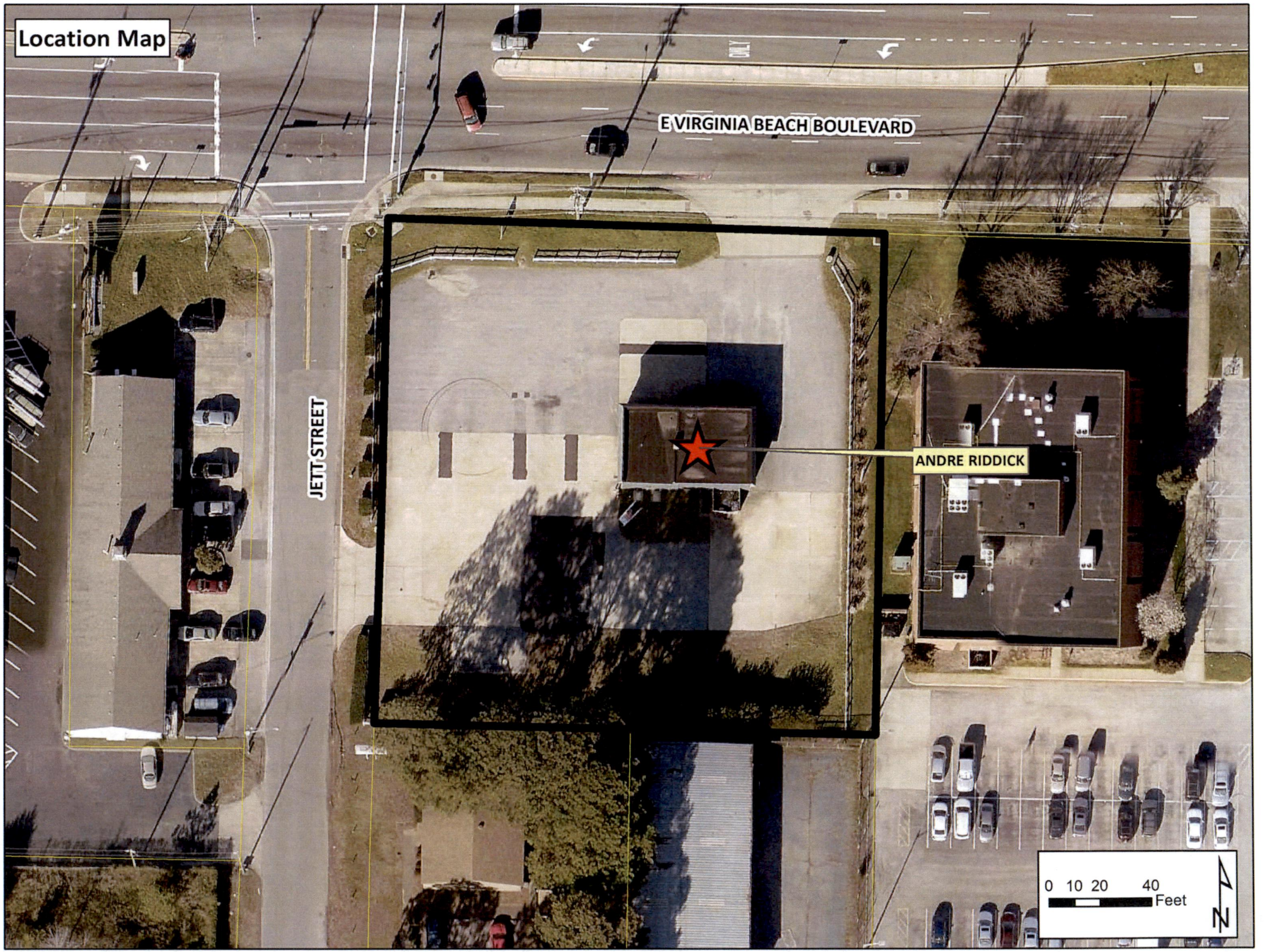
● = TREES

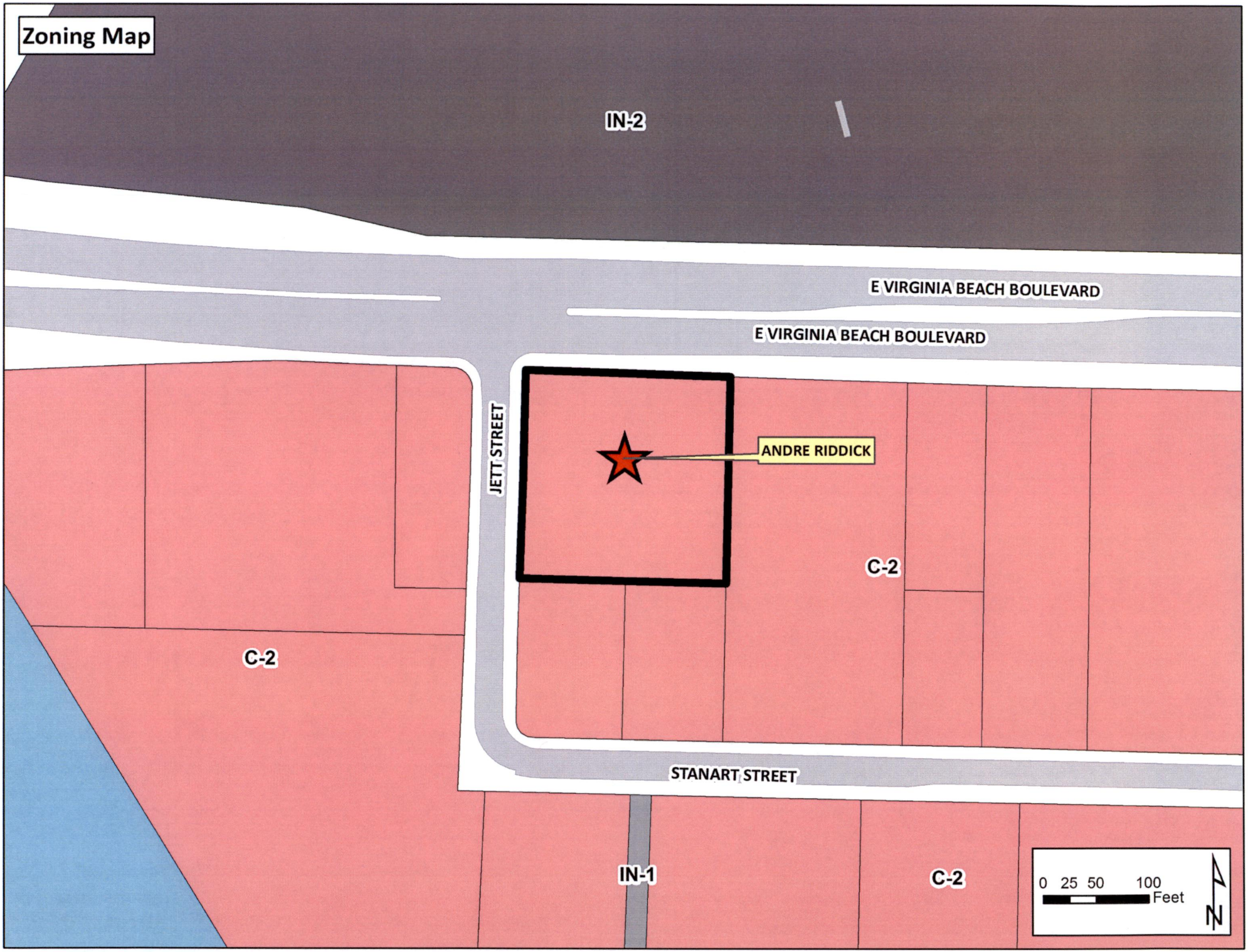
● = BUSHES

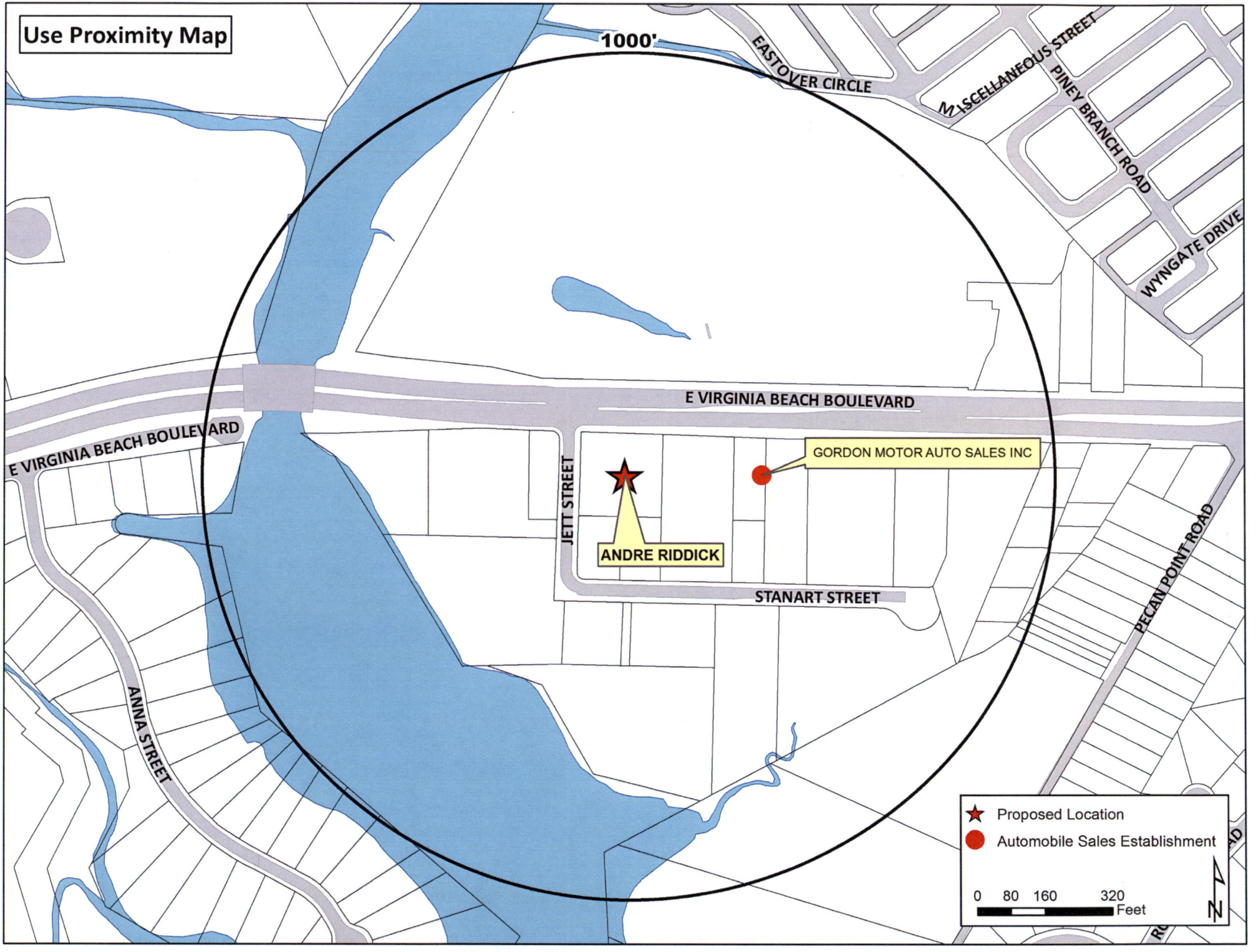
■ = AUTOMOBILES FOR SALE

5139 E. VIRGINIA BEACH BLVD

PHYSICAL SURVEY
OF
SITE 1
SUBDIVISION OF SITE A
AS SHOWN ON PLAT OF


Location Map
E VIRGINIA BEACH BOULEVARD
ONLY
JETT STREET
ANDRE RIDDICK
0 10 20 40
Feet
N


Zoning Map
IN-2
E VIRGINIA BEACH BOULEVARD
E VIRGINIA BEACH BOULEVARD
JETT STREET
ANDRE RIDDICK
C-2
C-2
STANART STREET
IN-1
C-2
0 25 50 100
Feet
N


Use Proximity Map
1000'
EASTOVER CIRCLE
MISCELLANEOUS STREET
PINEY BRANCH ROAD
WYNGATE DRIVE
E VIRGINIA BEACH BOULEVARD
E VIRGINIA BEACH BOULEVARD
GORDON MOTOR AUTO SALES INC
JETT STREET
ANDRE RIDDICK
STANART STREET
PECAN POINT ROAD
ANNA STREET
Proposed Location
Automobile Sales Establishment
0 80 160 320
Feet
N

APPLICATION
SPECIAL EXCEPTION

Special Exception for: AUTO SALES AND SERVICE

Date of application: 8/6/16

DESCRIPTION OF PROPERTY

Property location: (Street Number) 5139 (Street Name) E. VA BEACH BLVD

Existing Use of Property N/A

Current Building Square Footage 1428

Proposed Use AUTO SALES AND SERVICE

Proposed Square Footage SAME

Proposed Hours of Operation:

Weekday	From	9AM	To	9PM
Friday	From	9AM	To	9PM
Saturday	From	9AM	To	8PM
Sunday	From	CLOSED	To	CLOSED

Trade Name of Business (If applicable) TBA

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) RIDDICK (First) ANTONE (MI) L.

Mailing address of applicant (Street/P.O. Box): 3409 MONTGOMERY PLACE

(City) VA BEACH (State) VA (Zip Code) 23452

Daytime telephone number of applicant (757) 373-4245 Fax (757) 645-6071

E-mail address of applicant: ALRIDD@MSN.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)
DONALD E. LANE REVOCABLE LIVING TRUST

3. Name of property owner: (Last) LANE (First) DONALD (MI) E.

Mailing address of property owner (Street/P.O. box): 2520 CENTERVILLE TPK.

(City) CHESAPEAKE (State) VA (Zip Code) 23322

Daytime telephone number of owner (757) 404-2506 email: USER410639@aol.com
404-2506

CIVIC LEAGUE INFORMATION

Civic League contact: MARVIN RAWLS

Date(s) contacted: _____

Ward/Super Ward information: 4/7

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: DONALD E. LANE **Sign:** _____ / 8 / 8-2016
(Property Owner or Authorized Agent of Signature) (Date)

ANDRE RIDDICK

Print name: _____ **Sign:** _____ 8 / 8 / 2016
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

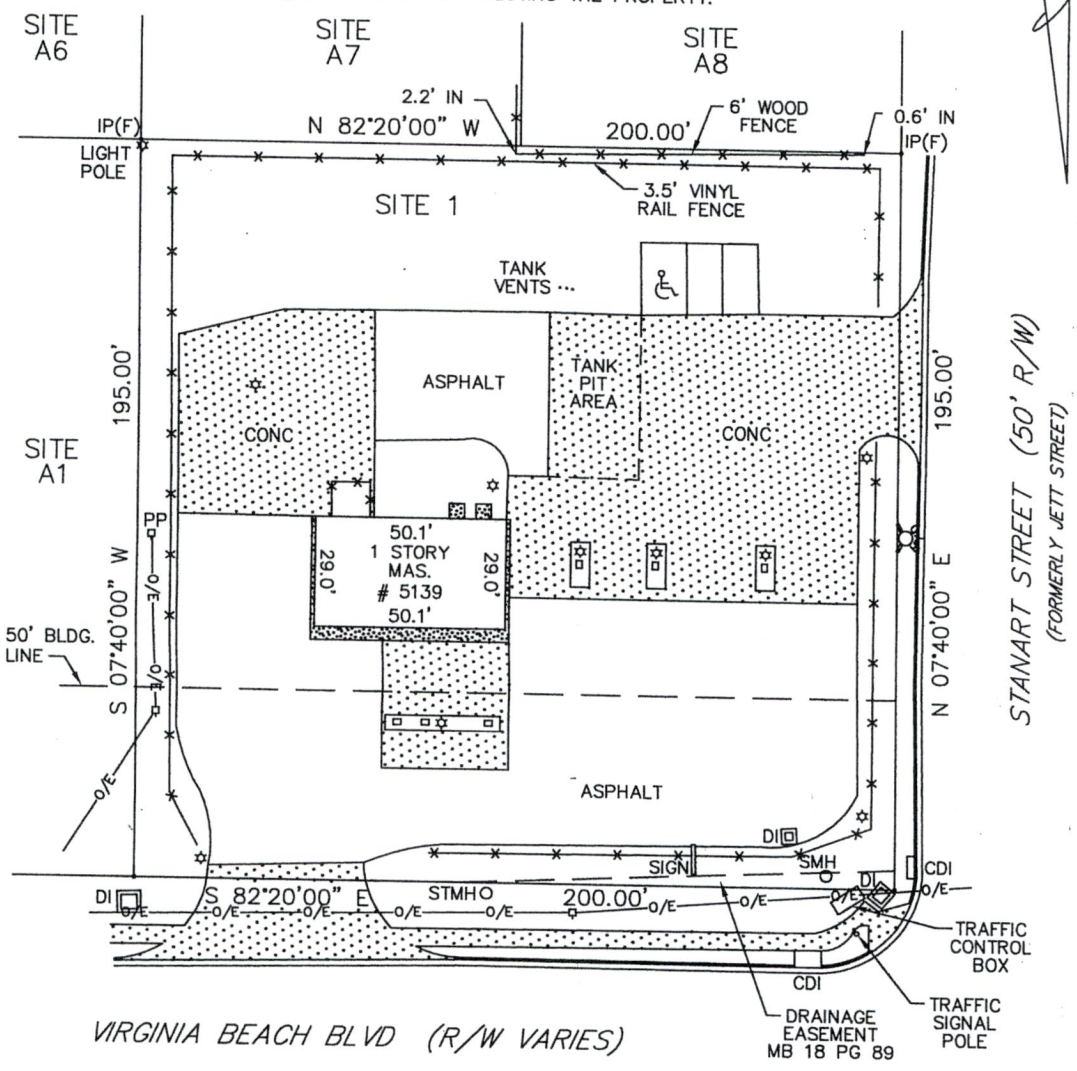
Print name: _____ **Sign:** _____ / ____ / ____
(Authorized Agent Signature) (Date)

THIS IS TO CERTIFY THAT I, ON OCT. 6, 2010, SURVEYED THE PROPERTY SHOWN HEREON AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE AS SHOWN HEREON. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS EXCEPT AS SHOWN.

SIGNED: Ward M Holmes

NOTES:

1) THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "X" FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 510104-0140F, REVISED SEPT. 2, 2009.
2) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ANY/ALL EASEMENTS AFFECTING THE PROPERTY.



PHYSICAL SURVEY
OF
SITE 1
SUBDIVISION OF SITE A
AS SHOWN ON PLAT OF
SUBDIVISION OF PROPERTY FOR
MARY P. LEESNITZER
FOR STANART PROPERTIES, INC.
NORFOLK, VIRGINIA
FOR
DONALD E. LANE

DATE: OCT. 6, 2010
SCALE: 1" = 40'
NOTE: FOR PLAT SEE
M.B.18 PG.89
M.B.19 PG.41
NORFOLK, VA.

COMMONWEALTH OF VIRGINIA
WARD M. HOLMES
LIC. No.1403
Ward M Holmes
10-6-10
LAND SURVEYOR

WARD M. HOLMES
LAND SURVEYOR, P.C.
9225 GRANBY STREET
NORFOLK, VIRGINIA 23503
757-480-1230

PROJECT NO. 972838

Andre Riddick - Notification sent to all Property Owners within 300 feet

Owner	Property Address
Goganious, Lorenzo H & Bettie J	5127 E Virginia Beach Blvd
887 Norfolk Square, Llc	5209 E Virginia Beach Blvd
Jovanne Llc	5121 E Virginia Beach Blvd A1
Richmond Sign Co	5121 E Virginia Beach Blvd A2
Liao, Lin Yu Et Al	5121 E Virginia Beach Blvd B1
Mccoy, Johnny C	5121 E Virginia Beach Blvd B2
Mccoy, Johnny C	5121 E Virginia Beach Blvd C1
Kinerk Llc	5121 E Virginia Beach Blvd C2
Hair Graphic Intern By Linda Inc	5121 E Virginia Beach Blvd D1
Broad Creek Square Inc	5121 E Virginia Beach Blvd D2
Select Xh Property Llc Et Als	5121 E Virginia Beach Blvd D3
Kinerk Llc	5121 E Virginia Beach Blvd E1
Kinerk Llc	5121 E Virginia Beach Blvd E2
Kinerk Llc	5121 E Virginia Beach Blvd E3
Lane, Donald E Revocable Living Trust	5139 E Virginia Beach Blvd
Commonwealth Of Va	921 Jett St
Commonwealth Of Virginia Vec	5143 Stanart St
Eden Korean Presbyterian Ch Trs	S S Stanart St
Cardinal Tv &Audio Service Co Inc	930 Jett St
Gordon Investment Properties Llc	5203 E Virginia Beach Blvd
Shick, Lige Mclelland Revocable Living Trust	5136 Stanart St
2255 National Ave, Llc	5139 Stanart St
Johnson, June G	5129 Stanart St
Virginia Employment Commission	5144 Stanart St
Comm Of Va	5145 E Virginia Beach Blvd
Union Mission Holding Corp	5100 E Virginia Beach Blvd
Union Mission Holding Corp	5100 E Virginia Beach Blvd
Union Mission Holding Corp	5100 E Virginia Beach Blvd
Union Mission Holding Corp	5100 E Virginia Beach Blvd
Union Mission Holding Corp	5100 E Virginia Beach Blvd
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Union Mission Holding Corp	5100 E Virginia Beach Blvd

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, August 10, 2016 10:47 AM
To: 'Poplarhallcivicleague@yahoo.com'
Cc: Riddick, Paul; Williams, Angelia M.; Goldin, Jamie; Whitney, Chris
Subject: new Planning Commission application - 5139 E Virginia Beach Blvd
Attachments: Riddick_auto.pdf

Mr. Rawls,

Attached please find the application special exception to operate an automobile sales and service facility at 5139 E. Virginia Beach Boulevard.

The item is tentatively scheduled for the September 22, 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, August 11, 2016 8:11 AM
To: 'bccorbin1@verizon.net'
Cc: Whitney, Chris
Subject: new Planning Commission application - 5139 E Virginia Beach Blvd
Attachments: Riddick_auto.pdf

Mr. Corbin,

Attached please find the application special exception to operate an automobile sales and service facility at 5139 E. Virginia Beach Boulevard.

The item is tentatively scheduled for the September 22, 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

October 11, 2016

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

Subject: **Special Exception to operate an establishment for the sale of alcoholic beverages for off-premises consumption – 4214 E. Little Creek Road – New York Deli and Smoke Shop**

Reviewed: _____ **Ward/Superward: 5/6**
Wynter C. Benda, Deputy City Manager

Approved: _____ **Item Number: R-6**
Marcus D. Jones, City Manager

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

II. **Commission Action:** By a vote of **5 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special Exception to operate an establishment for the sale of alcoholic beverages for off-premises consumption.

IV. **Applicant:** **New York Deli and Smoke Shop**

V. **Description:**

- The applicant proposes to allow the existing store to offer alcoholic beverages for off-premises consumption to its customers.

	Proposed
Hours for the Sale of Alcoholic Beverages for Off-Premises Consumption	10:00 a.m. until 9:00 p.m., Seven days a week
Off-Premises Alcohol Types	Beer and wine

VI. **Historic Resources Impacts**

- The site is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, the site 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 Little Creek Elementary School, Azalea Middle School, and Lake Taylor High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, Matthew.Simons@norfolk.gov

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated September 22, 2016 with attachments
- Letter of support
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: September 22, 2016

Executive Secretary: George M. Homewood, FAICP, CFM

Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	**Item No.** 7	
Address	**4214 E. Little Creek Road**	
Applicant	**New York Deli and Smoke Shop**	
Request	**Special Exception**	**Sale of Alcoholic Beverages for Off-Premises Consumption**
Property Owner	A & G Properties LLC	
Site Characteristics	Site Area/Space	7,848 sq. ft./ 800 sq. ft.
	Future Land Use Map	Commercial
	Zoning	C-2 (Corridor Commercial)
	Neighborhood	East Ocean View
	Character District	Coastal
Surrounding Area	North	R-11 (Moderate Density Multi-Family): Vacant land
	East	C-2: ACE Cash Express consumer lending
	South	C-3 (Retail Center District): East Beach Marketplace shopping center
	West	C-2: Soaps N Suds laundromat

A. Summary of Request

- The site is located on the north side of E. Little Creek Road, between Shore Drive and Ransom Road, at the southern edge of the East Ocean View neighborhood.
- The applicant proposes to allow the existing store to offer alcoholic beverages for off-premises consumption 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 surrounded by a mix of commercial and residential uses nearby.
- The site is located in the C-2 (Corridor Commercial) district, which permits the proposed use by special exception.

	Proposed
Hours for the Sale of Alcoholic Beverages for Off-Premises Consumption	10:00 a.m. until 9:00 p.m., Seven days a week
Off-Premises Alcohol Types	Beer and wine

ii. Parking

- The site is located within the Suburban Character District.
- The proposed addition of alcohol sales at an existing establishment does not require additional parking.
- No increase in occupancy or building floor area is proposed and no additional parking impacts are anticipated.
  - The site accommodates more than three parking spaces, which meets the parking requirement for a retail store of this size (800 square feet).

iii. Flood Zone

The property is located in the X 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 off-premises alcohol sales at this existing retail location.
- E. Little Creek Road adjacent to 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 route 21 (Little Creek) operating along E. Little Creek Road adjacent to the site.

- E. 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 site is not located within a federal, state, or local historic district.
  - The structure on the site is at least 50 years old; thus the site 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 Little Creek Elementary School, Azalea Middle School, and Lake Taylor High School Attendance Zones.

G. Environmental Impacts

As a condition of approval, the site will be required to add new landscaping to the base of the existing freestanding sign.

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 sales at this existing retail location 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 East Ocean View Civic League on August 10.
- A letter of support was received from the East Ocean View Civic League on September 5.

L. Communication Outreach/Notification

- Legal notification was sent to the City of Virginia Beach on August 12 – site located within ½ mile of Virginia Beach City boundaries.
- Legal notification was sent to the Commanding Officer of Joint Expeditionary Base Little Creek-Fort Story on August 12 – site is within 3,000 feet of a military installation.
- Legal notice was posted on the property on August 16.
- Letters were mailed to all property owners within 300 feet of the property on September 8.
- Legal notification was placed in *The Virginian-Pilot* on September 8 and September 15.

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 10:00 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 and 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
Notification list of all property owners within 300 feet of the site
Notice to the City of Virginia Beach – Planner Director
Notice to Joint Expeditionary Base Little Creek-Fort Story – Commanding Officer
Notice to the East Ocean View Civic League
Letter of approval from the East Ocean View Civic League

Proponents and Opponents

Proponents
None

Opponents
None

09/22/2016 lds

Form and Correctness Approved: RAP

By _____
Office of the City Attorney

Contents Approved: M.S.

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 "NEW YORK DELI AND SMOKE SHOP" ON PROPERTY LOCATED AT 4214 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 Rashed Corp. authorizing the sale of beer and wine for off-premises consumption at an establishment known as "New York Deli and Smoke Shop" on property located at 4214 East Little Creek Road. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 50 feet, more or less, along the northern line of East Little Creek Road beginning 150 feet, more or less, from the eastern line of Ransom Road and extending eastwardly; premises numbered 4214 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 sale of alcoholic beverages for off-premises consumption shall be limited to 10:00 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 and 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, 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 this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (2 pages)

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

Date of Application: 7/6/16

Name of business: Rosheel INC

Address of business: 4214 E Little Creek Rd

Name(s) of business owner(s)*: Antonio Amareen

Name(s) of property owner(s)*: A/G Properties

Name(s) of business manager(s)/operator(s): Antonio Amareen

Daytime telephone number (757): 416-5869

*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 10 AM	To 9 PM	Weekday	From 10 AM	To 9PM
Friday	From 10 AM	To 9 PM	Friday	From 10 AM	To 9PM
Saturday	From 10 AM	To 9 PM	Saturday	From 10 AM	To 9 PM
Sunday	From 10 AM	To 9 PM	Sunday	From 10 AM	To 9 PM

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

3. Alcoholic beverages to be sold:
☐ Room temperature X Refrigerated

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

3. Alcoholic beverages to be sold:

Room temperature Refrigerated

Exhibit A – Page 2
ABC-Off

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:

RASHED CORPORATION

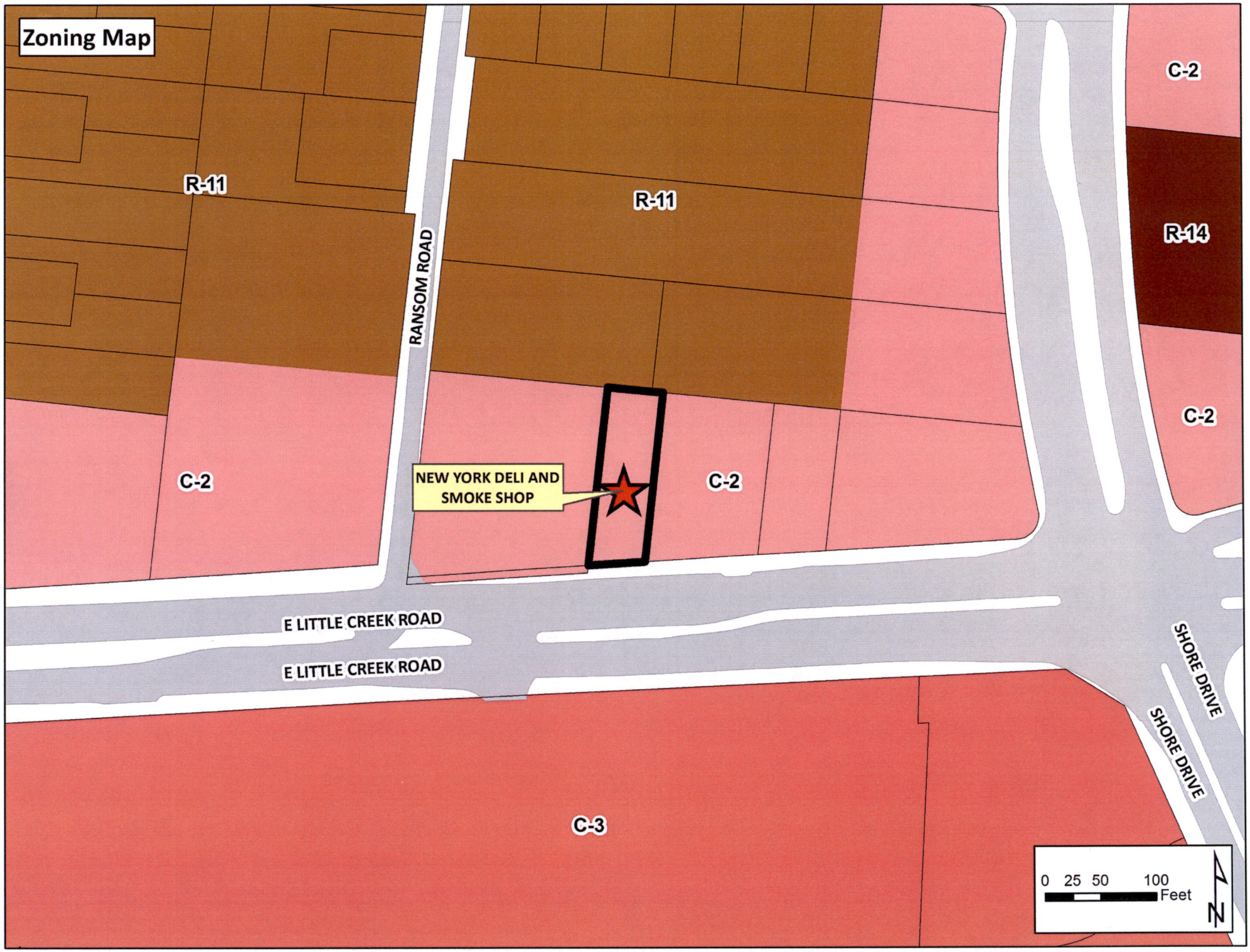
By: _____ 7/06/16

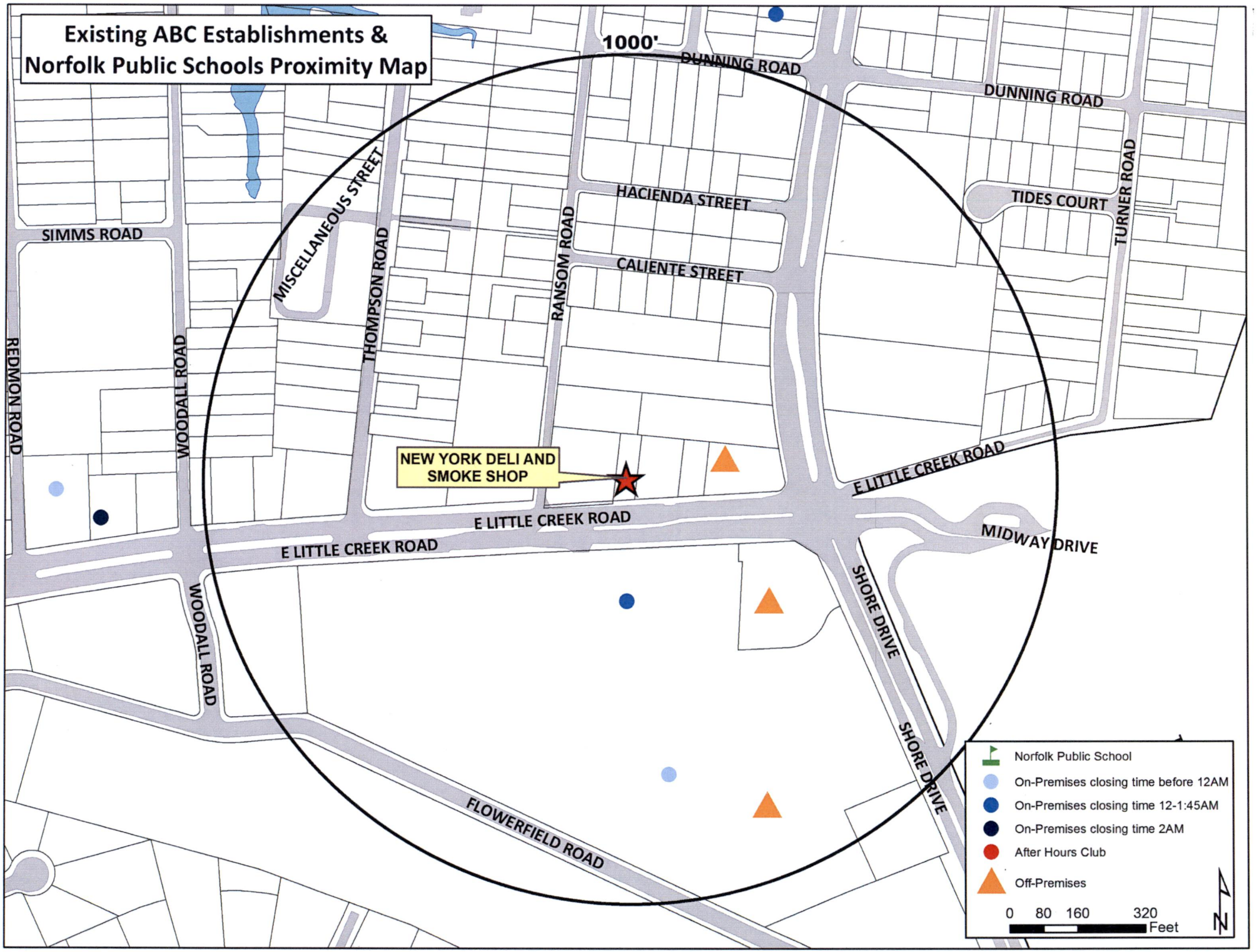
Signature of applicant/owner

EXAMPLE

Survey

Location Map
RANSOM ROAD
NEW YORK DELI AND
SMOKE SHOP
E LITTLE CREEK ROAD
0 10 20 40
Feet
N


Zoning Map
R-11
R-11
C-2
C-2
C-2
C-2
R-14
NEW YORK DELI AND
SMOKE SHOP
RANSOM ROAD
E LITTLE CREEK ROAD
E LITTLE CREEK ROAD
SHORE DRIVE
SHORE DRIVE
C-3
0 25 50 100
Feet
N


Existing ABC Establishments &
Norfolk Public Schools Proximity Map
1000'
DUNNING ROAD
DUNNING ROAD
HACIENDA STREET
CALIENTE STREET
TIDES COURT
TURNER ROAD
SIMMS ROAD
MISCELLANEOUS STREET
THOMPSON ROAD
RANSOM ROAD
REDMON ROAD
WOODALL ROAD
NEW YORK DELI AND
SMOKE SHOP
E LITTLE CREEK ROAD
E LITTLE CREEK ROAD
E LITTLE CREEK ROAD
MIDWAY DRIVE
SHORE DRIVE
SHORE DRIVE
WOODALL ROAD
FLOWERFIELD 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
ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION

Date of Application: 07-06-16

DESCRIPTION OF PROPERTY

Property location: (Street Number) 4214 (Street Name) E Little Creek RD

Existing Use of Property Convenient store/Deli

Current Building Square Footage 800 sq ft

Proposed Use Convenient store/Deli

Proposed Building Square Footage 800 sqft

Trade Name of Business (If applicable) New York Deli and smoke shop

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

RASHED INC

1. Name of applicant: (Last) Amareen (First) Antonio (MI) M

Mailing address of applicant (Street/P.O. Box): 1213 Bassewood ct

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

Daytime telephone number of applicant ((757) 816-3461 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
(Revised September, 2015)

AUTHORIZED AGENT (if applicable)
(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)
RASHED INC

2. Name of applicant: (Last) Ameen (First) Antonio (MI) M

Mailing address of applicant (Street/P.O. Box): 4214 E Little Creek RD

(City) Norfolk (State) VA (Zip Code) 23518

Daytime telephone number of applicant (757) 416-5869 Fax ( )

E-mail address of applicant: bellcayfe@yahoo.com

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

3. Name of property owner: (Last) Poeyzos (First) George (MI) K

Mailing address of property owner (Street/P.O. box): P.O Box 12179

(City) Newport News (State) VA (Zip Code) 23612

Daytime telephone number of owner (757) 595-7622 email:

CIVIC LEAGUE INFORMATION

Civic League contact: East Ocean View Civic league

Date(s) contacted: 7/7/16

Ward/Super Ward information: John greene

Mailing address of property owner (Street/P.O. box): P. O. Box 12179

(City) Newport News (State) VA (Zip Code) 23612

Daytime telephone number of owner (757) 595-7600 email: _____

CIVIC LEAGUE INFORMATION

Civic League contact: East Ocean View Civic League

Date(s) contacted: 07-07-16 greenie4720@yahoo.com

Ward/Super Ward information: John greene

Application
ABC Off-Premise
Page 3

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: Ato Properties **Sign:** [signature] / 12 / 16
(Property Owner) (Date)

Print name: Antonio Amoreen **Sign:** [signature] / 07/06/16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

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

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

Date of Application: 7/6/16

Name of business: Rosheel INC

Address of business: 4214 E Little Creek Rd

Name(s) of business owner(s)*: Antonio Amareen

Name(s) of property owner(s)*: A/G Properties

Name(s) of business manager(s)/operator(s): Antonio Amareen

Daytime telephone number (757): 416-5869

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*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 10 AM	To 9 PM	Weekday	From 10 AM	To 9PM
Friday	From 10 AM	To 9 PM	Friday	From 10 AM	To 9PM
Saturday	From 10 AM	To 9 PM	Saturday	From 10 AM	To 9 PM
Sunday	From 10 AM	To 9 PM	Sunday	From 10 AM	To 9 PM

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

3. Alcoholic beverages to be sold:
   ☐ Room temperature X Refrigerated

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

3. Alcoholic beverages to be sold:

Room temperature Refrigerated

Exhibit A – Page 2
ABC-Off

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:

RASHED CORPORATION

By: _____ 7/06/16

Signature of applicant/owner

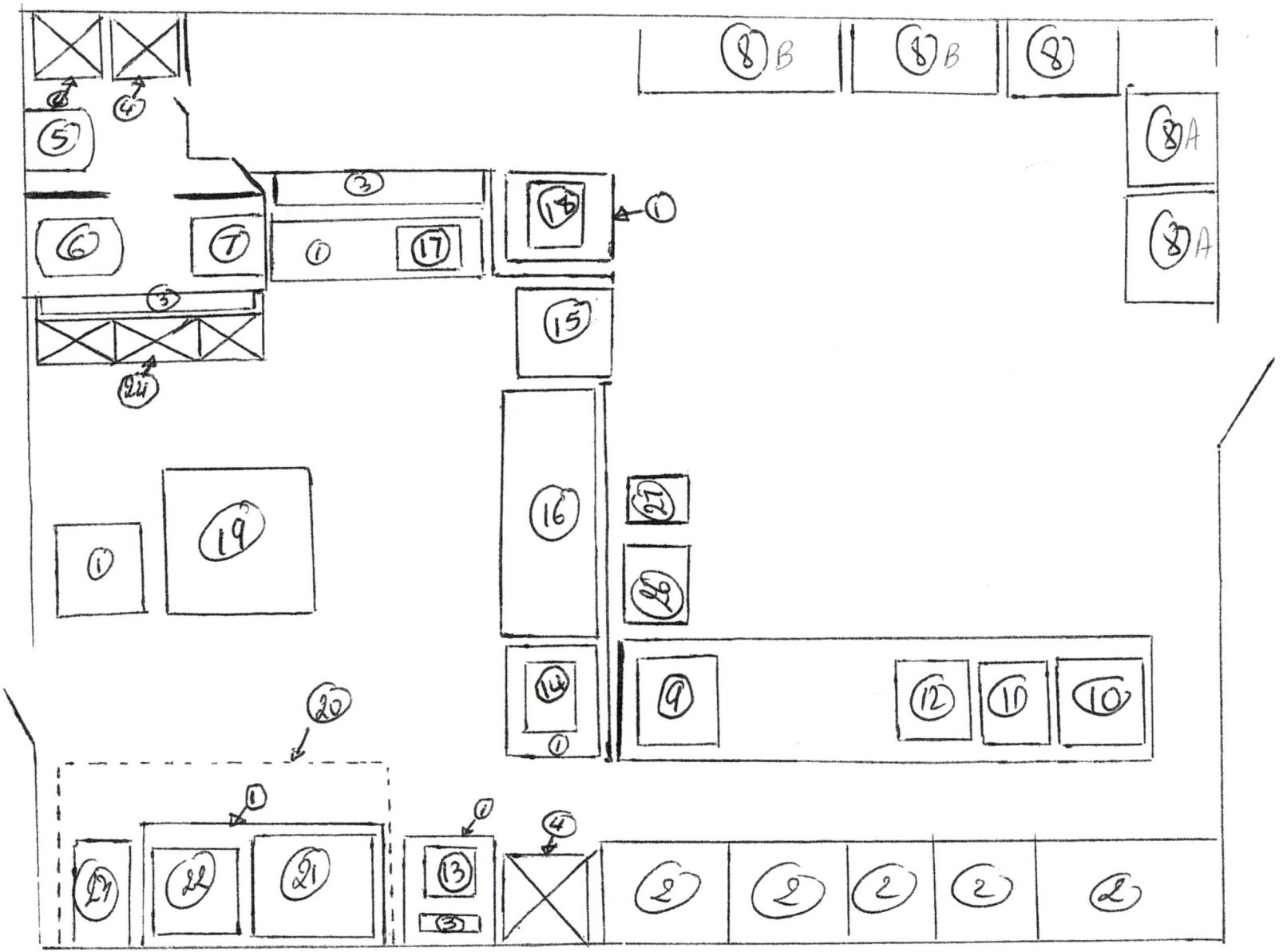
EXAMPLE

Survey

Equipment schedule

1. TABLES
2. cigarettes RACKS
3. shelves
4. - sinks
5. - TOILET
6. water HEATER
7. AC UNIT
8. - REACH-in Refrigerator
9. - OVER the Counter self
10. - LOTTERY MAchine
11. ~~Lottery~~ scratch Dispenser
12. Cash Register
13. HOT DOG WARMER
14. pizza WARMER
15. MEAT Deli CASE
16. SANDWISH prep TABLE
17. MEAT SLICER
18. Fountain DRINK MAchine
19. ~~stand up freezer~~ freezer
20. Hood
21. OVEN
22. Grill
23. Deep fryer
24. three compartment sink
25. HOT food CASE
26. Ships RACK
27. ATM MAchine

5A - Soft Beverages
5B - Alcoholic Beverages

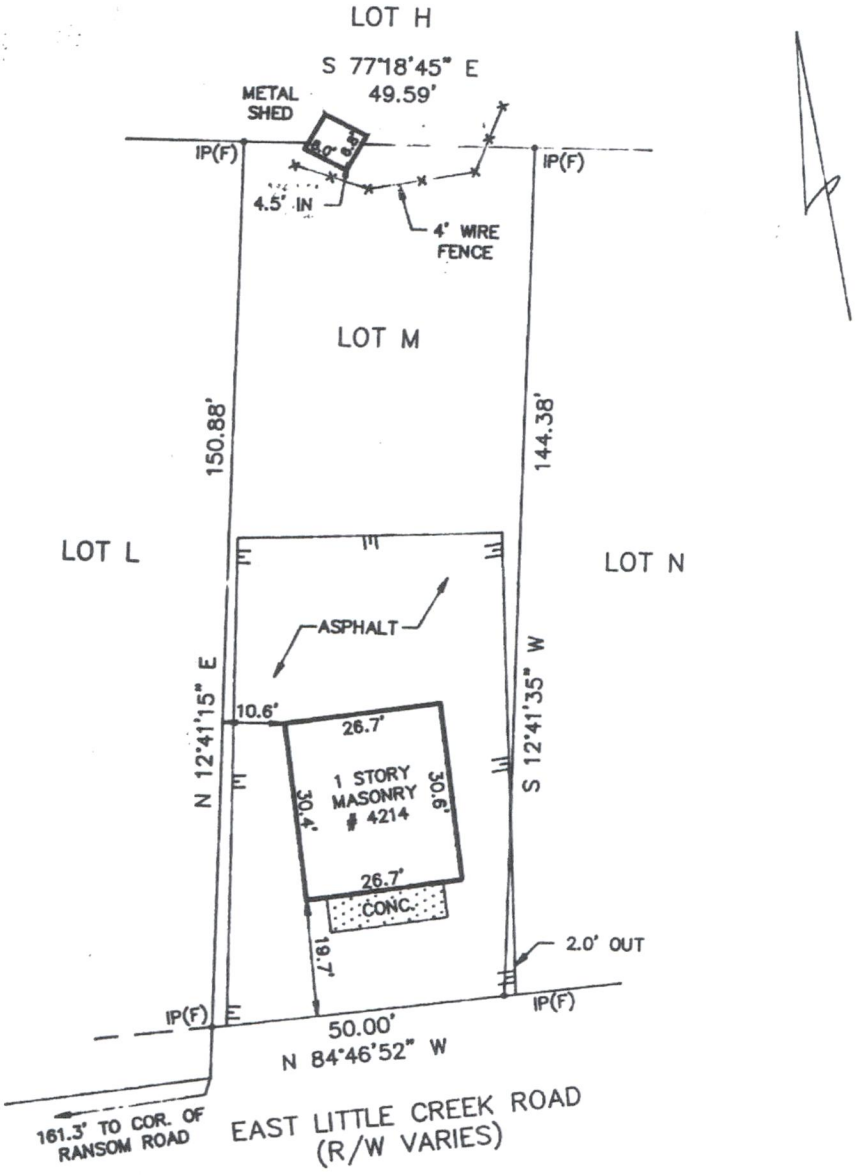


8 B
8 B
8
8 A
8 A
5
4
3
18
1
6
7
1
17
3
15
24
16
27
19
1
28
14
9
12
11
10
1
20
1
1
4
23
22
21
13
3
2
2
2
2
2

THIS IS TO CERTIFY THAT I, ON 7-12-99, SURVEYED THE PROPERTY SHOWN HEREON, AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE AS SHOWN HEREON. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

SIGNED: Ward M Holmes

NOTE: THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "B,C" FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 510104-0001E, REVISED JULY 16, 1996.



PHYSICAL SURVEY
OF
LOT M
THE WILLARD R. COOK & CO. INC. PROPERTY
NORFOLK, VIRGINIA
FOR
POLYZOS ENTERPRISES, INC.

DATE: JULY 12, 1999
SCALE: 1" = 25'
NOTE: FOR PLAT SEE MB 10 PG 4 VA. BEACH, VA.

COMMONWEALTH OF VIRGINIA
WARD M. HOLMES
CERTIFICATE No. 1403
VIRGINIA
Ward M Holmes
7-12-99
LAND SURVEYOR

WARD M. HOLMES
LAND SURVEYOR, P.C.
9225 GRANBY STREET
NORFOLK, VIRGINIA 23503
757-480-1230

437/59 (333)

PROJECT NO. 991600

NY Deli - Notification sent to all Property Owners within 300 feet

Owner	Property Address
Wolf, Norma	4221 Caliente St
City Of Norfolk	W S Shore Dr
City Of Norfolk	E S Ransom Rd
City Of Norfolk	7920 Ransom Rd
A & G Properties Llc	4206 E Little Creek Rd
A & G Properties Llc	E S Ransom Rd
Davis, Charles E	4201 Caliente St
A & G Properties Llc	4214 E Little Creek Rd
Jones, Kathleen P Revocable Living Trust	4020 E Little Creek Rd
Monroe, Willie S	4217 Caliente St
Monzon, Dorothy L	4227 Caliente St
Jth Tax Inc	7931 Shore Dr
Pablo, Anna L Irrevoc Trust	7930 Ransom Rd
Pittas, Sylvia H	4222 E Little Creek Rd
Pittas, Sylvia H	4226 E Little Creek Rd
Sterling Vista Llc	4213 Caliente St
Ptr Investments	4207 Caliente St
Wendt, Christopher H	7931 Ransom Rd
Caraballo, David & Rosemarie	7927 Ransom Rd
Sej Asset Mgmt & Investment Co	7901 Shore Dr
Little Creek Holdings, Llc	4231 E Little Creek Rd
Little Creek Holdings, Llc	4231 E Little Creek Rd
Little Creek Holdings, Llc	4231 E Little Creek Rd
Little Creek Holdings, Llc	4231 E Little Creek Rd
Little Creek Holdings, Llc	4231 E Little Creek Rd
Little Creek Holdings, Llc	4231 E Little Creek Rd
Little Creek Holdings, Llc	4231 E Little Creek Rd
Arc Dbporbr001, Llc	4261 E Little Creek Rd

THE CITY OF NORFOLK

August 12, 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 the following land use applications located within one-half mile of the western corporate boundary of the City of Virginia Beach:

NRHA, for a change of zoning from R-12 (Medium Density Multi-Family) and BFRPO (Bay Front Residential Parking Overlay) districts to C-3 (Retail Center) district on the 10-foot rear portion of properties at 9548-9574 21st Bay Street.

The purpose of this request is to allow for an expansion of a loading dock in the rear of the East Beach Shoppes.

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

EAST BEACH COMPANY, LLC, for the following applications at 9500 30th Bay Street:

a. Amendment to the Future Land Use Designation in the general plan, *plaNorfolk2030*, from Commercial to Residential Mixed.
b. Change of zoning from C-2 (Corridor Commercial) district to PD-MUEB (East Beach Planned Development Mixed Use) district.

The purpose of this request is to allow for the development of 26 single-family homes as part of Phase 8 of the East Beach Planned Development.

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

NEW YORK DELI AND SMOKE SHOP, for a special exception to operate an establishment for the sale of alcoholic beverages for off-premises consumption at 4214 E. Little Creek Road.

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

The item by **NRHA** is tentatively scheduled for the Norfolk City Planning Commission public hearing to be held on August 25, 2016 at 2:30 p.m., and the items by **EAST BEACH COMPANY, LLC** and **NEW YORK DELI AND SMOKE SHOP** are tentatively scheduled for the Norfolk City Planning Commission public hearing to be held on September 22, 2016; both hearings to be held 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 telephone the staff contact listed under the respective items above. 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
Department of City Planning
Assistant Director

cc: Susan Pollock Hart, CFM (email)
Matthew Simons, AICP CFM (email)
Chris Whitney, CFM (email)

THE CITY OF NORFOLK

August 12, 2016

CAPT Daniel J. Senesky, Commanding Officer
Attention: Mercedes Holland, CPLO
Joint Expeditionary Base Little Creek-Fort Story
2600 Tarawa Court, Suite 100
Virginia Beach, VA 23459

Captain Daniel J. Senesky, Commanding Officer,

The Norfolk Department of City Planning has recently received the following land use applications located within 3,000 feet of the boundary of the Joint Expeditionary Base Little Creek-Fort Story:

NRHA, for a change of zoning from R-12 (Medium Density Multi-Family) and BFRPO (Bay Front Residential Parking Overlay) districts to C-3 (Retail Center) district on the 10-foot rear portion of properties at 9548-9574 21st Bay Street.

The purpose of this request is to allow for an expansion of a loading dock in the rear of the East Beach Shoppes.

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

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The purpose of this request is to allow for the development of 26 single-family homes as part of Phase 8 of the East Beach Planned Development.

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

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

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If you would like additional information on the request, you may telephone the staff contact listed under the respective items above. 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(d); pertaining to certain land use applications involving any parcel of land located within 3,000 feet of a boundary of a military base or military installation. You or your representative are kindly requested to acknowledge your acceptance and receipt of this actual notice, either by signing a copy of this letter or by separate correspondence sent to this office, and the City of Norfolk welcomes any comments or recommendations concerning the abovementioned items if you see fit.

Sincerely,

Leonard M. Newcomb

Leonard M. Newcomb, III
Department of City Planning
Assistant Director

cc: Susan Pollock Hart, CFM (email)
Matthew Simons, AICP CFM (email)
Chris Whitney, CFM (email)

Simons, Matthew

From: Straley, Matthew
Sent: Wednesday, August 10, 2016 10:31 AM
To: 'greenie4720@yahoo.com'
Cc: Smigiel, Thomas; McClellan, Andria; Ransom, Carlton; Simons, Matthew
Subject: new Planning Commission application - 4214 E Little Creek Rd
Attachments: NYDeli.pdf

Mr. Greene,

Attached please find the application for a special exception to operate an establishment for the sale of alcoholic beverages for off-premises consumption at 4214 E. Little Creek Road.

The item is tentatively scheduled for the September 22, 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

LivingEOV
East Ocean View Civic League

5 September 2016

City of Norfolk
810 Union Street
Director of Planning and Community Development, Suite 508
City Hall Building
Norfolk, VA 23510

Subject: New York Deli and Smokehouse Application for a Special Exception

I am pleased to give my support and that of the East Ocean View Civic League to the request for a special exception to operate an establishment for the sale of alcoholic beverages for off-premises consumption at 4214 E. Little Creek Road. I met personally with Mr. Antonio Amareen, the owner, regarding his request. He was very personable; he's a small business owner just "trying to stay afloat." He sells a variety of sandwiches, pizza, sodas and assorted counter items; and indicated this will help.

There were no questions at our Civic League meeting on 1 September about the request, and it was voted on and approved unanimously.

His store fills a niche for our area; it has done reasonably well; we wish them continued success.

Sincerely,

//Original Signed//

John M. Greene, Jr.
President, East Ocean View Civic League

Cc:
Councilman Tommy Smigiel
Councilwoman Andria McClellan
Councilman Martin Thomas, Jr.
Mr. Matt Hales, Planning Commission
Mr. Matt Simons, Planning Staff
Mr. Matt Straley, Planning Staff Point of Contact
Ms. Ann Bolen, VP, EOVCL

NORFOLK

Office of the City Attorney

BERNARD A. PISHKO
City Attorney
WAYNE RINGER
MARY L. NEXSEN
NATHANIEL BEAMAN IV
MARTHA P. McGANN
CYNTHIA B. HALL
JACK E. CLOUD
HEATHER A. MULLEN
DEREK A. MUNGO
TAMELE YVETTE HOBSON
NADA N. KAWWASS
ADAM D. MELITA
MICHELLE G. FOY
MATTHEW P. MORKEN
HEATHER L. KELLEY
ERIKKA M. MASSIE
ZACHARY A. SIMMONS
KARLA J. SOLORIA
ALEX H. PINCUS

October 11, 2016

To the Honorable Council
City of Norfolk, Virginia

Re: Tax Overpayment
LWN Panda, LLC

R-7

Dear Ladies and Gentlemen:

Attached please find an ordinance directing the City Treasurer to issue a refund to LWN Panda, LLC the amount of $4,775.31 based upon the overpayment of its Business Personal Property Tax for the tax year 2016, resulting in a refund due of $4,775.31, plus interest.

Respectfully submitted,

Bernard A. Pishko
City Attorney

Recommendation: Adopt Ordinance

810 Union Street, Suite 900 • Norfolk, VA 23510
(757) 664-4529 • Fax: (757) 664-4201

8/31/2016MR
Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____, Chief Deputy
Commissioner of the Revenue

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

$ 4,775.31 1009 105 020 4020 be
Refund Account

$ 159.17 1000 105 020 4024
Interest Account

_____ 9/22/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE DIRECTING THE CITY TREASURER TO ISSUE A REFUND TO LWN PANDA, LLC BASED UPON THE OVERPAYMENT OF ITS BUSINESS PERSONAL PROPERTY TAXES FOR THE TAX YEAR 2016.

- - -

WHEREAS the Commissioner of the Revenue has determined that the business personal property tax was erroneously overpaid by LWN Panda, LLC for the tax year 2016 and has corrected this assessment in accordance with Virginia Code § 58.1-3981;

WHEREAS the Commissioner of the Revenue has certified with the consent of the City Attorney that the aforementioned taxpayer paid all taxes due on the erroneous assessment and is entitled to a refund of excess taxes paid, based on the corrected assessment, in the amount of $4,775.31, plus interest; now, therefore

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

Section 1:- That $4,775.31, plus interest at the rate established by applicable law, is hereby appropriated for a refund to LWN Panda, LLC.

Section 2:- That the Treasurer of the City of

Norfolk is hereby directed to issue a refund to LWN Panda, LLC in the amount specified above as soon as practicable upon passage of this ordinance.

Section 3:- That this ordinance shall be in effect from and after its adoption.

Norfolk Commissioner of the Revenue
Certification and Request for the Refund
Of Previously Paid Tax to:

LWN Panda LLC
Account Number
743640/907654 & 743640

August 29, 2016

Overview:

Taxpayer was statutorily assessed for 2016. On August 29th the taxpayer provided depreciation schedules for its locations. We removed the leasehold improvements and corrected the assessments for both locations.

In compliance with ***Norfolk Code § 24-7***, the Commissioner of the Revenue's files pertaining to this request are available for inspection by the City Attorney.

Fiscal Impact:

This refund reduces business personal property tax revenue by **$4,775.31** for the 2017 fiscal year.

Conclusion:

It is recommended that the City Attorney consent to the issuance of the refund and call for City Council to direct the City Treasurer to refund the business personal property overpayment of **$4,775.31.**

Certification

I, C. Evans Poston, Jr., Commissioner of the Revenue for the City of Norfolk, certify that the above named company is due a refund in the amount of $4,775.31 as specified by *Virginia Code §58.1-3981* due to the overpayment of Business Personal Property Taxes.

Chief Deputy for

C. Evans Poston, Jr., Commissioner of the Revenue — 8/30/16 Date

Bernard Pishko, City Attorney — 8/31/16 Date

C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2015

From: David L. Ricks, Director of Public Works

Subject: Dedication of a fifteen foot public drainage easement

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: 2/6

Approved: Marcus D. Jones, City Manager

Item Number: **R-8**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Norfolk Christian Schools
255 Thole Street
Norfolk, Virginia 23505

III. **Description:**
This agenda item is an ordinance to approve the dedication of a fifteen foot public drainage easement to the City of Norfolk (the "City") by Norfolk Christian Holding Academy ("Norfolk Christian") for drainage of public rights-of-way.

IV. **Analysis:**
This drainage easement is being conveyed to the City for drainage pipe being installed in Seekel Street, east of Midfield Street. The storm water pipe drains the rights-of-way of Midfield Street, Seekel Street and Filbert Street and is necessary to maintain continuity of the drainage from the rights-of-way. The City vacated the former Seekel Street right-of-way on October 29, 2013 as it was no longer needed for municipal purposes.

V. **Financial Impact:**
There are no costs associated with the dedication of the drainage easement.

VI. **Environmental:**
There are no known environmental issues associated with dedication of this new drainage easement.

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 Department of Public Works and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A
- Exhibit B

9/1/2016-wld

BAP

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING THE CONVEYANCE OF A PERMANENT DRAINAGE EASEMENT BY NORFOLK CHRISTIAN HOLDING ACADEMY TO THE CITY OF NORFOLK AND AUTHORIZING THE CITY MANAGER TO ACCEPT THE EASEMENT ON BEHALF OF THE CITY.

- - -

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

Section 1:- That the conveyance of a permanent drainage easement shown on Exhibit A attached hereto, by Norfolk Christian Holding Academy to the City of Norfolk, is hereby accepted and approved.

Section 2:- That the City Manager is authorized to accept a Deed of Easement, attached hereto as Exhibit B, in form approved by the City Attorney, and to do all things necessary and proper to effect the conveyance of the permanent drainage easement to the City of Norfolk.

Section 3:- That this ordinance shall be in effect from and after its adoption.

EXHIBIT A TO ORDINANCE

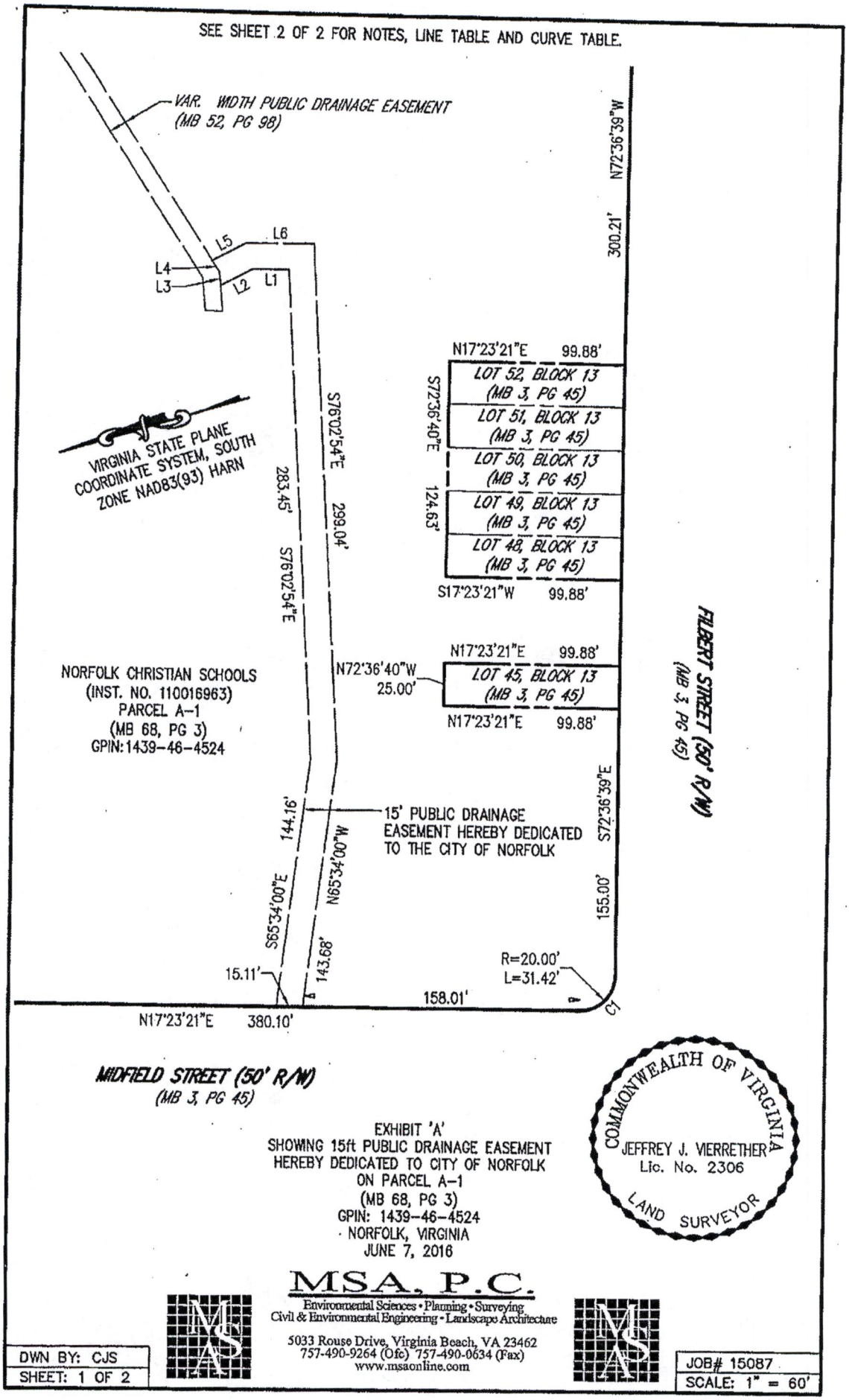

EXHIBIT 'A'
SHOWING 15ft PUBLIC DRAINAGE EASEMENT
HEREBY DEDICATED TO CITY OF NORFOLK
ON PARCEL A-1
(MB 68, PG 3)
GPIN: 1439-46-4524
NORFOLK, VIRGINIA
JUNE 7, 2016

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

DWN BY: CJS	JOB# 15087
SHEET: 1 OF 2	SCALE: 1" = 60'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N 17°01'51" E	20.80'
L2	N 11°22'19" W	20.75'
L3	S 78°05'21" E	7.64'
L4	N 74°12'41" E	8.00'
L5	S 11°22'19" E	22.14'
L6	S 17°01'51" W	38.81'

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	20.00'	31.42'	20.00'	28.28'	N27° 36' 39"W	90°00'00"

NOTES:

1. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THEREFORE MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT THE PROPERTY AS SHOWN.
2. NORTH MERIDIAN SHOWN HEREON IS BASED ON VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE NAD83/93 HARN, AS REFERENCED FROM CITY OF NORFOLK, SURVEY CONTROL POINT(S) "CN041" & "GPS089".
3. THE PURPOSE OF THIS EXHIBIT IS TO SHOW A 15ft PUBLIC DRAINAGE EASEMENT HEREBY DEDICATED TO CITY OF NORFOLK ON PARCEL A-1.
4. THIS EXHIBIT SHOULD NOT BE CONSIDERED A BOUNDARY SURVEY OR A SUBDIVISION OF LAND.

COMMONWEALTH OF VIRGINIA
JEFFREY J. VIERRETHER
Lic. No. 2306
LAND SURVEYOR

EXHIBIT 'A'
SHOWING 15ft PUBLIC DRAINAGE EASEMENT
HEREBY DEDICATED TO CITY OF NORFOLK
ON PARCEL A-1
(MB 68, PG 3)
GPIN: 1439-46-4524
NORFOLK, VIRGINIA
JUNE 7, 2016

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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

DWN BY: CJS
SHEET: 2 OF 2

JOB# 15087
SCALE: N/A

EXHIBIT B TO ORDINANCE

TAX I.D.#1439-46-4524

Prepared by and return to:
Frank M. Rawls, VSB #16828
332 W. Constance Road
Suffolk, VA 23434

THIS DEED OF EASEMENT, made and entered into this 10th day of June, 2016, by and between NORFOLK CHRISTIAN HOLDING CORPORATION, a Virginia corporation, Grantor, and CITY OF NORFOLK, VIRGINIA, a municipal corporation of the Commonwealth of Virginia and its successors and assigns, Grantee, and NORFOLK CHRISTIAN SCHOOLS, a Virginia corporation, Tenant, Grantor for indexing purposes, whose address is 255 Thole Street, Norfolk, Virginia 23505.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars ($10.00) cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, the Grantor does hereby grant and convey unto City of Norfolk, Virginia, Grantee, and its successors and assigns, the following described easement, to-wit:

> A permanent easement of right-of-way for public drainage, fifteen feet in width, located on the land of the Grantor and designated as "15′ PUBLIC DRAINAGE EASEMENT HEREBY DEDICATED TO THE CITY OF NORFOLK" as shown on a plat entitled "EXHIBIT `A′ SHOWING 15ft PUBLIC DRAINAGE EASEMENT HEREBY DEDICATED TO CITY OF NORFOLK ON PARCEL A-1 (MB 68, PG 3) GPIN: 1439-46-4524 NORFOLK, VIRGINIA" dated June 7, 2016 and made by MSA, P.C., a copy of which is attached hereto and made a part of this deed. Said easement shall be over and across the property owned by the Grantor as shown on the aforesaid Exhibit A.

FERGUSON, RAWLS
& RAINES, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

The easement of right-of-way shall include the right at any time and from time to time to construct, maintain, inspect, operate, protect, replace, repair, the said public drainage easement.

The easement shall further include, at reasonable times, the right of unimpaired access to said easement over the right-of-way granted herein, with the further right to maintain the right-of-way and keep said right-of-way clear so as to allow the drainage easement to function according to its intended purposes.

The Grantee further agrees to repair or to pay for any actual damages which may be done or directly caused by the Grantee in the exercise of any of its rights.

This includes but is not limited to the repair or replacement in a good and workmanlike manner all paving, turf, or anything disturbed or cut during the construction, maintenance, or operation of the above-described public drainage easement. Grantee shall upon completion of the construction of the drainage easement, as soon as reasonably possible, restore and level the surface of the easement area to the same grade existing prior to the construction of the drainage system, and leave the easement area clean, free of debris, and free of any liens relating to Grantee's work.

For and in consideration of the sum of Ten Dollars ($10.00) cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged by the Tenant, who holds certain leasehold rights, title, and interest in and to the easement areas does hereby consent to the perpetual right-of-way and easement agreement herein, subordinates any lease between the Grantor and Tenant and does further agree that the

FERGUSON, RAWLS
& RAINES, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

provisions of this easement shall not be affected or impaired by the exercise of any of the rights and privileges of the Tenant.

The terms, covenants, and provisions of this easement of right-of-way shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto.

The Grantor covenants that, subject to restrictions and easements that may be of record or are apparent upon inspection, it has the right to convey the easement herein granted.

WITNESS the following signatures and seals:

NORFOLK CHRISTIAN HOLDING CORPORATION

By_____ (SEAL)
Timothy P. Daffron, President

STATE OF VIRGINIA
CITY OF _____, to-wit:

I, _____, Notary Public in and for the City and State aforesaid, do hereby certify that Timothy P. Daffron, President of Norfolk Christian Holding Corporation, whose name is signed to the foregoing writing, has acknowledged the same before me in the City and State aforesaid.

Given under my hand this _____day of _____, 2016.

_____
Notary Public

My Commission Expires:

FERGUSON, RAWLS
& RAINES, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

The signature of Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, is affixed hereto on behalf of the Council of the City of Norfolk, Virginia, pursuant to an ordinance duly adopted by the City Council, to evidence the acceptance of this Deed of Easement by the City, in accordance with Section 15.2-1803, Code of Virginia, 1950, as amended.

CITY OF NORFOLK

By:_____ (SEAL)
City Manager

Attest:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the _____ day of _____, 20___, do hereby certify that Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Deed of Easement, have acknowledged the same before me in my City and State aforesaid.

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

_____
Notary Public
Registration No._____

Contents Approved:

_____
Director of Public Works

Approved as to Form and Correctness:

_____
Assistant City Attorney

FERGUSON, RAWLS
& RAINES, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

NORFOLK CHRISTIAN SCHOOLS

By_____ (SEAL)
C. Bradford Hobbs, President

STATE OF VIRGINIA
CITY OF _____, to-wit:

I, _____, Notary Public in and for the City and State aforesaid, do hereby certify that C. Bradford Hobbs, President of Norfolk Christian Schools, whose name is signed to the foregoing writing, has acknowledged the same before me in the City and State aforesaid.

Given under my hand this _____day of _____, 2016.

_____
Notary Public

My Commission Expires:

FERGUSON, RAWLS
& RAINES, P.C.
P. O. Box 1458
Suffolk, VA 23439-1458
(757) 539-2400
(757) 934-0953 FAX

City of Norfolk
Virginia

Office of the City Clerk

October 11, 2016

To the Honorable Council
City of Norfolk, Virginia

R-9

Re: Use of Mace

Ladies and Gentlemen:

A request has been received for use of the Mace for the 32nd Annual Holidays in the City Grand Illumination Parade to be held on Saturday, November 19, 2016.

Respectfully submitted,

R. Breckenridge Daughtrey
City Clerk

Recommendation: Approve use of Mace

810 UNION STREET • SUITE 1006 • NORFOLK, VIRGINIA 23510 • (757) 664-4253 • FAX (757) 664-4290

September 6, 2016

Mr. Breck Daughtrey
City of Norfolk
810 Union Street, 10th Floor
Norfolk, VA 23510

Dear Breck,

Plans are underway for the 32nd Annual Holidays in the City Grand Illumination Parade to be held on Saturday, November 19th. On behalf of the Downtown Norfolk Council and the Grand Illumination Parade Committee, I would like to request the service of the City of Norfolk Honor Guard unit. Also along with the Honor Guard, I would like to request the Norfolk Mace to be included in the parade.

If additional information is required, please contact me or Noel Gramlich, our staff member that is coordinating the event, at 623-1757. Thank you for your support.

Sincerely,

Mary

Mary Miller
President & CEO

223 East City Hall Avenue, Suite 212, Norfolk, VA 23510 | DowntownNorfolk.org | **PH:** (757) 623-1757 | **FAX:** (757) 623-1756

C: Dir., Department of Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David Ricks, Director of Public Works

Subject: Encroach into right-of-way at 1119 Little Bay Avenue with rip rap, a pier and lifts

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: 1/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-10**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** George P. and Brenda W. Arnold
1119 Little Bay Avenue
Norfolk, Virginia 23503-1206

III. **Description:**
This agenda item is an ordinance to permit George P. and Brenda W. Arnold ("Arnold") to encroach into the City of Norfolk's (the "City's") right-of-way at 1119 Little Bay Avenue with rip rap, a pier and lifts.

IV. **Analysis:**
An encroachment is an object or structure that infringes into the City's rights-of-way or property. *Norfolk City Code*, § 42-10, requires all encroachments into the rights-of-way to be approved by City Council. The encroachment in this location will allow Arnold to upgrade and renovate an existing pier and shoreline.

V. **Financial Impact:**
Liability insurance has been provided naming the City as additional insured in the amount of $300,000; therefore, there should be no financial risk to the City. The City did not charge a fee for this encroachment.

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's agenda notification process.

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. Review and approval by the Norfolk Design Review Committee and the City Planning Commission is not required.

IX. Coordination/Outreach:

This letter has 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 (7 sheets)

08/25/16 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE PERMITTING GEORGE P. AND BRENDA W. ARNOLD TO ENCROACH INTO CITY PROPERTY AT 1119 LITTLE BAY AVENUE, WITH RIP RAP, A PIER AND LIFTS.

- - -

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

Section 1:- That permission is hereby granted to George P. and Brenda W. Arnold, and their successors and assigns, the owners of certain property located at 1119 Little Bay Avenue, to encroach into City property, with a pier, rip rap and lifts, as shown on the physical survey attached hereto as Exhibit A, subject to and contingent upon the following conditions:

(1) Walkways and stairs on City land or public right-of way are to remain open to the public. Signage shall not be erected that indicates that the structure is private. Signage or gates may only be installed on adjacent private property in conformity with applicable City codes.

(2) No modification or expansion of the structure is permitted without authorization by City Council. Should the structure be damaged or destroyed by a storm event, the grantee may be permitted to repair and/or rebuild the structure subject to conformity to current building codes and according to the attached plans.

(3) For encroachments involving stairs from the sand dune to the beach, the grantee shall undertake yearly revegetation of the sand dune's bayward slope with American Beach grass (Hatteras or Bogue variety) for a distance no less than 30 feet, east and west of the structure. The specifications and timing of the planting shall be as prescribed by the

City's Environmental Services Bureau. No sand fencing or placing of other material, such as Christmas trees or branches, is permitted on the beach or in the sand dunes without permission from the Environmental Services Bureau.

(4) Following construction of any walkway or stairway across the sand dunes, the grantee is responsible for revegetating and maintaining the dune adjacent to the structure with appropriate dune grasses. Information on appropriate planting requirements shall be as prescribed by Environmental Services Bureau.

(5) The structure shall be maintained according to the attached plans and in conformity with the building code. Should a storm event damage the structure, the grantee shall immediately following the event erect a physical barrier, such as three 2"x 4" cross boards to prevent access to the damaged structure until such time as permission is granted to repair or replace the damaged structure.

(6) Unless specifically authorized by City Council, encroachment permission for walkways and stairways crossing the sand dunes are limited to providing access to and from the beach. These structures may not be retrofitted for other recreational purposes and no chairs, tables, benches, swings, hammocks, grills, fire pits, chimineas, watercraft, flagpoles, or other items may be placed on or attached to the subject structure.

(7) Should migrating sand cover the structure, the Grantee shall notify the City's Environmental Services Bureau prior to undertaking any excavation of the sand. The Bureau can advise the Grantee if the needed maintenance will require a sand dune permit from the Norfolk Wetlands Board.

(8) This permission is expressly subject to the right of revocation by the Council and that in

the event of such revocation, George P. and Brenda W. Arnold, or their successors and assigns, shall immediately remove the encroaching structures.

(9) Upon the removal of the encroaching structures or any part thereof the authority hereby granted shall cease and terminate.

(10) George P. and Brenda W. Arnold, or their successors and assigns, at their own cost and expense, shall take out and keep in full force and effect public liability insurance in some company authorized to do business in the Commonwealth of Virginia, insuring them and naming the City of Norfolk as an additional insured party in the amount of at least $300,000.00 against liability from any and all claims, actions and suits that may be asserted or brought against the City of Norfolk and/or George P. and Brenda W. Arnold, 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; that evidence of such insurance shall be filed with the Risk Manager, Department of Finance, of the City of Norfolk.

Section 2:- That the failure of George P. and Brenda W. Arnold, or their successors and assigns, to fully comply with all contingencies set forth herein shall operate as an automatic revocation of the permission granted hereby.

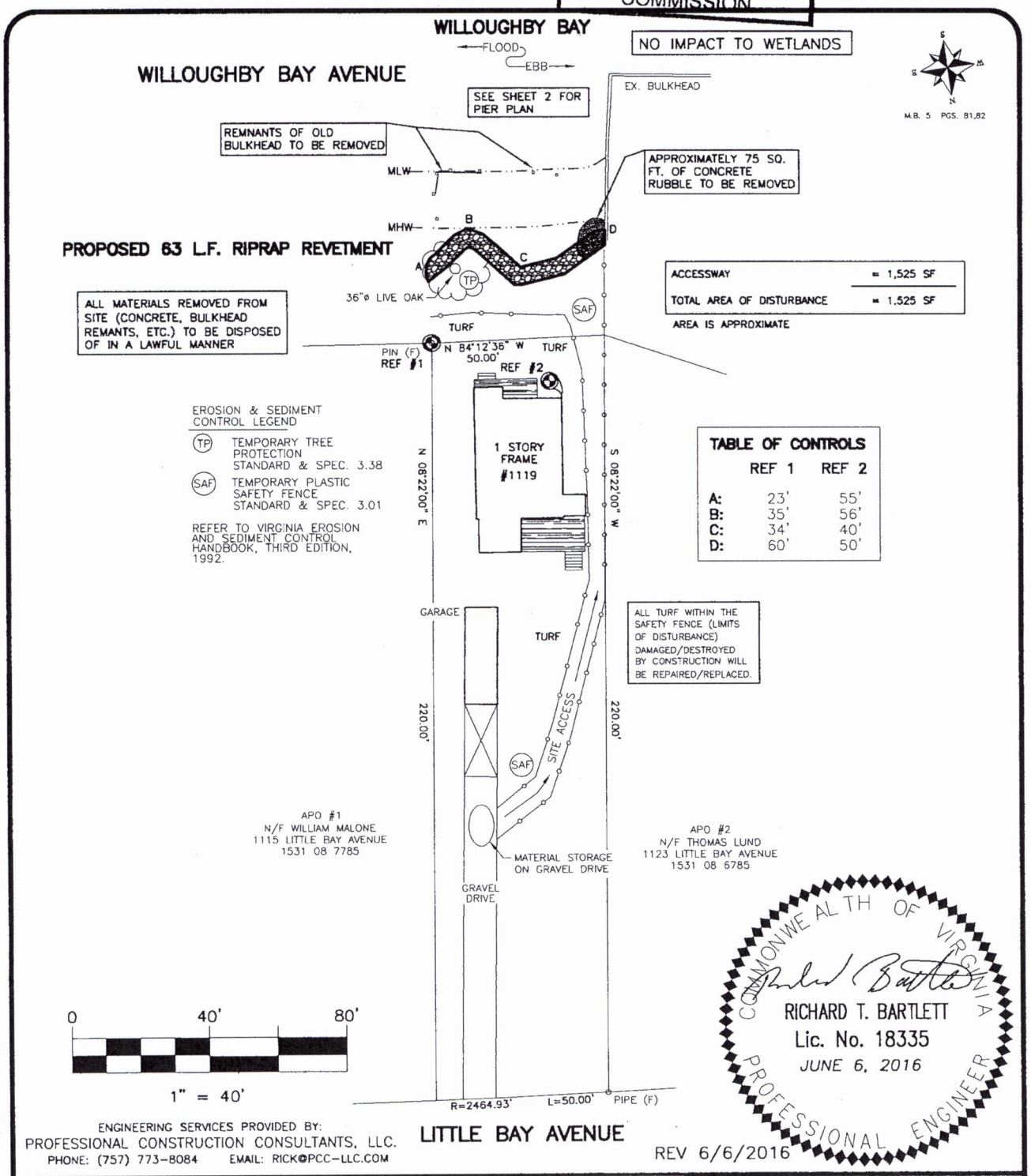
Section 3:- That the use of the said encroaching structures shall be deemed an acceptance by George P. and Brenda W. Arnold, and their successors and assigns, of all conditions to which the permission herein granted is subject.

Section 4:- That this ordinance shall be in effect from and after its adoption.

Exhibit A

ADDITIONAL INFO
REVISION

RECEIVED
JUN 06 2016
MARINE RESOURCES COMMISSION



ENGINEERING SERVICES PROVIDED BY:
PROFESSIONAL CONSTRUCTION CONSULTANTS, LLC.
PHONE: (757) 773-8084 EMAIL: RICK@PCC-LLC.COM

APO'S:
1. W. MALONE
2. T. LUND

PROJECT LOCATION: WILLOUGHBY BAY
FOR: GEORGE P. ARNOLD
1119 LITTLE BAY AVENUE
NORFOLK, VA 23503

PROPOSED RIPRAP, PIER & LIFTS
PURPOSE: EROSION CONTROL/ACCESS
DATUM: MLW -1.52 MHW +0.91 NAVD88
DATE 5/5/2016 SHEET 1 OF 7

ADDITIONAL INFO
REVISION

RECEIVED
JUN 06 2016
MARINE RESOURCES
COMMISSION

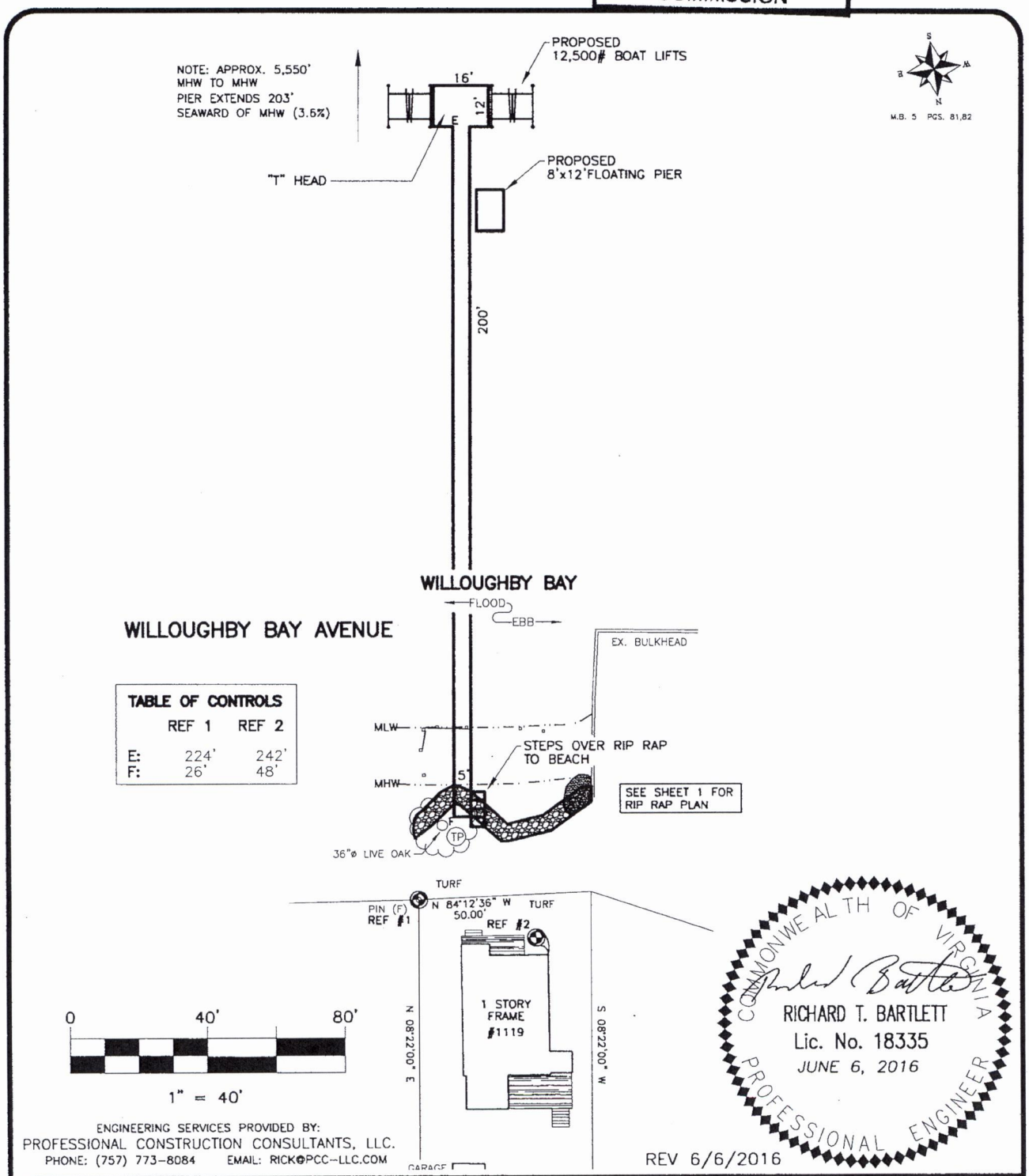


TABLE OF CONTROLS

	REF 1	REF 2
E:	224'	242'
F:	26'	48'

ENGINEERING SERVICES PROVIDED BY:
PROFESSIONAL CONSTRUCTION CONSULTANTS, LLC.
PHONE: (757) 773-8084 EMAIL: RICK@PCC-LLC.COM

REV 6/6/2016

APO'S:
1. W. MALONE
2. T. LUND

PROJECT LOCATION: WILLOUGHBY BAY
FOR: GEORGE P. ARNOLD
1119 LITTLE BAY AVENUE
NORFOLK, VA 23503

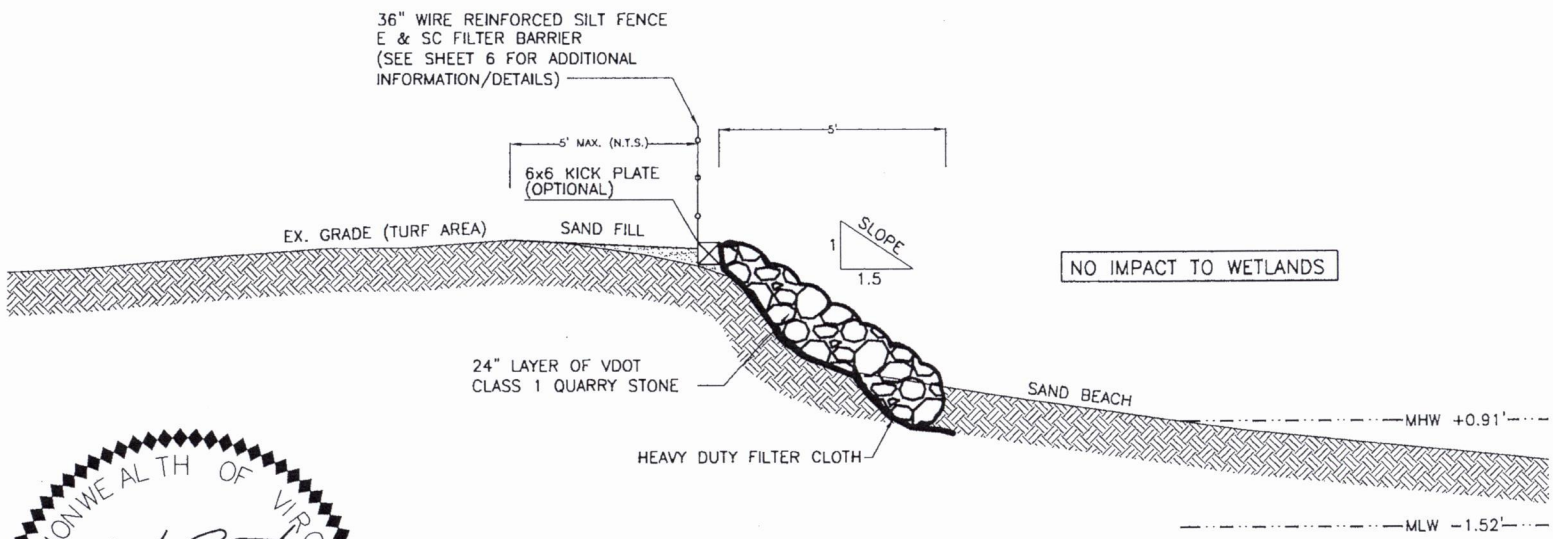
PROPOSED RIPRAP, PIER & LIFTS
PURPOSE: EROSION CONTROL/ACCESS
DATUM: MLW −1.52 MHW +0.91 NAVD88
DATE 5/5/2016 SHEET 2 OF 7

RECEIVED
JUN 06 2016
MARINE RESOURCES COMMISSION

ADDITIONAL INFO REVISION

PROPOSED RIPRAP CROSS SECTION

SCALE: 1/4" =1.0'



NO IMPACT TO WETLANDS

COMMONWEALTH OF VIRGINIA
RICHARD T. BARTLETT
Lic. No. 18335
JUNE 6, 2016
PROFESSIONAL ENGINEER

REV 6/6/2016

THE 36" WIRE REINFORCED SILT FENCE (E&SC) SHALL BE PROPERLY INSTALLED (STAKED AND TRENCHED) SEAWARD OF ALL DISTURBED AREAS AND PRIOR TO BACK FILLING AT THE CONCLUSION OF EACH WORK DAY AND MAINTAINED UNTIL A PERMANENT VEGETATIVE COVER HAS BEEN ESTABLISHED.

ENGINEERING SERVICES PROVIDED BY:
PROFESSIONAL CONSTRUCTION CONSULTANTS, LLC.
PHONE: (757) 773-8084 EMAIL: RICK@PCC-LLC.COM

0 1' 5'
1/4" = 1'

APO'S:
1. W. MALONE
2. T. LUND

PROJECT LOCATION: WILLOUGHBY BAY
FOR: GEORGE P. ARNOLD
1119 LITTLE BAY AVENUE
NORFOLK, VA 23503

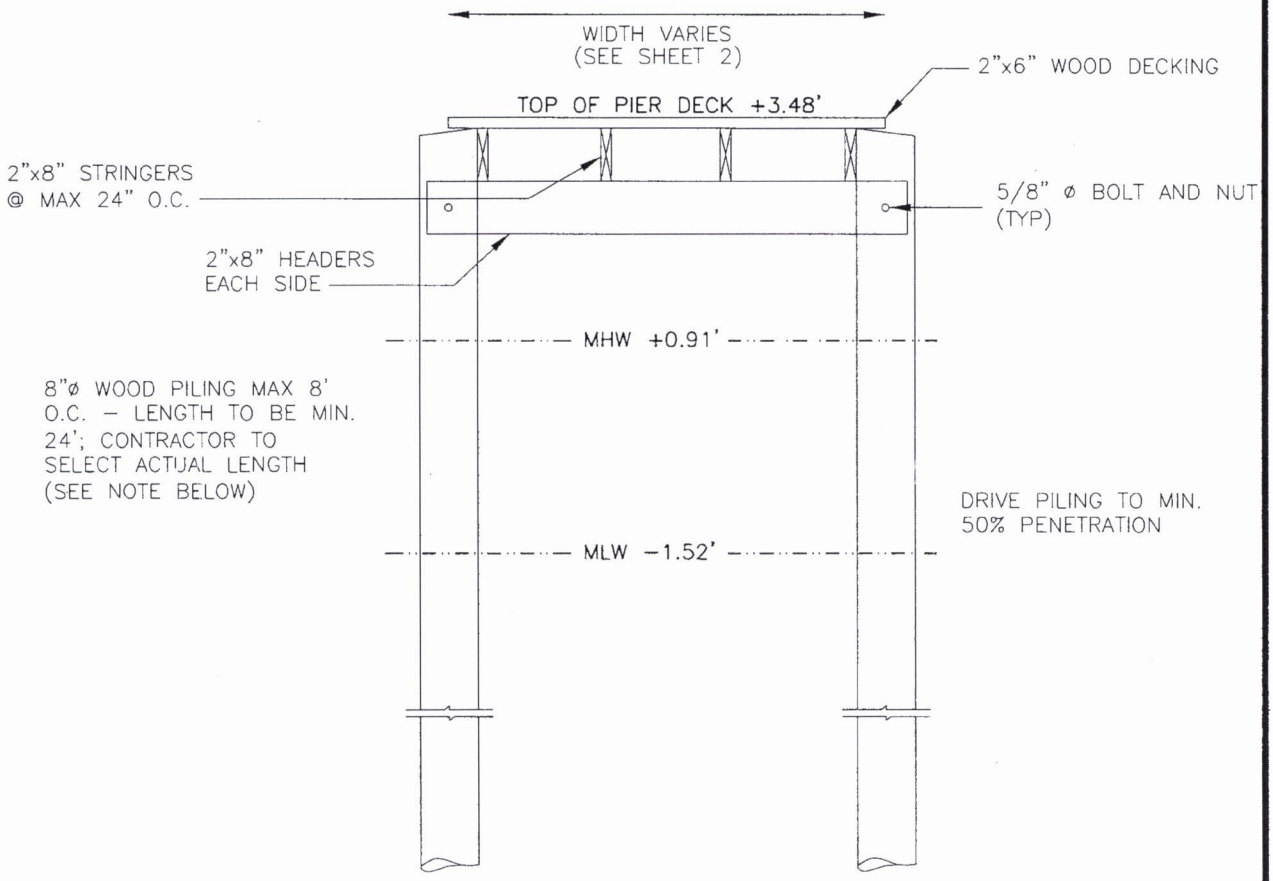
PROPOSED RIPRAP, PIER & LIFTS
PURPOSE: EROSION CONTROL/ACCESS
DATUM: MLW -1.52 MHW +0.91 NAVD88
DATE 5/5/2016 SHEET 3 OF 7

ADDITIONAL INFO
REVISION

RECEIVED
JUN 06 2016
MARINE RESOURCES
COMMISSION

PROPOSED PIER CROSS SECTION

SCALE: 1/2" =1.0'



NOTES:

1. ALL TIMBER MATERIAL FOR USE IN THIS MARINE ENVIRONMENT SHALL BE PRESERVATIVE TREATED I.A.W. THE AWPA.
2. ALL HARDWARE SHALL BE GALVANIZED I.A.W. ASTM A-153.

DRAWINGS ARE FOR PERMIT PURPOSES ONLY, AND DO NOT CONSTITUTE FULL DESIGN DRAWINGS. NO HYDROGRAPHIC SURVEYS OR SOIL BORINGS HAVE BEEN TAKEN TO DETERMINE DEPTH OF WATER AND SUBSURFACE SOIL CONDITIONS (FOR PILE LENGTH DETERMINATION). PIER LAYOUT IS BASED ON VISUAL ON-SITE INSPECTION. ABNORMAL SITE CONDITIONS NOT READILY APPARENT HAVE NOT BEEN TAKEN INTO ACCOUNT, AND MAY REQUIRE MODIFICATIONS TO THE MINIMUM PILE LENGTHS SHOWN. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY DEPTH OF WATER AND SUBSURFACE CONDITIONS AND TO SELECT PILE LENGTHS ADEQUATE FOR THE STRUCTURE.

COMMONWEALTH OF VIRGINIA
RICHARD T. BARTLETT
Lic. No. 18335
JUNE 6, 2016
PROFESSIONAL ENGINEER

ENGINEERING SERVICES PROVIDED BY:
PROFESSIONAL CONSTRUCTION CONSULTANTS, LLC.
PHONE: (757) 773-8084 EMAIL: RICK@PCC-LLC.COM

REV 6/6/2016

APO'S:
1. W. MALONE
2. T. LUND

PROJECT LOCATION: WILLOUGHBY BAY
FOR: GEORGE P. ARNOLD
1119 LITTLE BAY AVENUE
NORFOLK, VA 23503

PROPOSED RIPRAP, PIER & LIFTS
PURPOSE: EROSION CONTROL/ACCESS
DATUM: MLW -1.52 MHW +0.91 NAVD88
DATE 5/5/2016 SHEET 4 OF 7

ADDITIONAL INFO
REVISION

RECEIVED
JUN 06 2016
MARINE RESOURCES
COMMISSION

SEQUENCE OF EVENTS

1. MOBILIZE EQUIPMENT TO SITE, MARK ACCESS WAY WITH SAFETY FENCE (1 DAY).
2. REMOVE REMNANTS OF OLD BULKHEAD AND CONCRETE RUBBLE, DISPOSE OF MATERIALS IN A LAWFUL MANNER (1 DAY).
3. CONSTRUCT PIER (15 DAYS).
4. INSTALL LIFTS AND FLOATING PIER IN ACCORDANCE WITH MANUFACTURERS' RECOMMENDATIONS AND SPECIFICATIONS (5 DAYS).
5. INSTALL NEW QUARRY STONE RIPRAP (2 DAYS).
6. CONSTRUCT STEPS OVER RIP RAP (1 DAY).
7. DEMOBILIZE EQUIPMENT FROM SITE WHILE ADDING TOP SOIL AND SEED TO ALL AREAS DENUDED/DAMAGED BY CONSTRUCTION OPERATIONS (1 DAY).

COMMONWEALTH OF VIRGINIA
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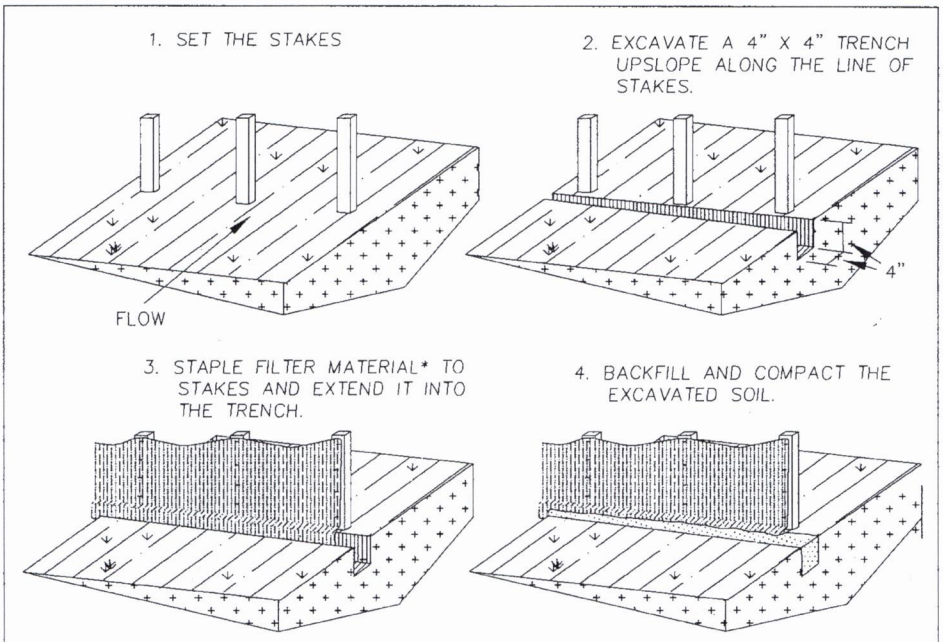
REV 6/6/2016

APO'S: 1. W. MALONE 2. T. LUND	PROJECT LOCATION: WILLOUGHBY BAY FOR: GEORGE P. ARNOLD 1119 LITTLE BAY AVENUE NORFOLK, VA 23503	PROPOSED RIPRAP, PIER & LIFTS PURPOSE: EROSION CONTROL/ACCESS DATUM: MLW −1.52 MHW +0.91 NAVD88 DATE 5/5/2016 SHEET 5 OF 7

ADDITIONAL INFO REVISION

RECEIVED
JUN 06 2016
MARINE RESOURCES COMMISSION



* 36" HIGH, TYPE "C" FABRIC WITH MINIMUM 14 GAUGE GALVANIZED STEEL WOVEN WIRE MESH WITH MAXIMUM MESH SPACING OF 8" TO COMPLY WITH VIRGINIA EROSION AND SEDIMENT CONTROL HANDBOOK, 1992 ADDITION.

CONSTRUCTION OF A WIRE REINFORCED SILT FENCE FILTER BARRIER

THE 36" WIRE REINFORCED SILT FENCE (E&SC) SHALL BE PROPERLY INSTALLED (STAKED AND TRENCHED) SEAWARD OF ALL DISTURBED AREAS AND PRIOR TO BACK FILLING AT THE CONCLUSION OF EACH WORK DAY AND MAINTAINED UNTIL A PERMANENT VEGETATIVE COVER HAS BEEN ESTABLISHED.

COMMONWEALTH OF VIRGINIA
RICHARD T. BARTLETT
Lic. No. 18335
JUNE 6, 2016
PROFESSIONAL ENGINEER

ENGINEERING SERVICES PROVIDED BY:
PROFESSIONAL CONSTRUCTION CONSULTANTS, LLC.
PHONE: (757) 773-8084 EMAIL: RICK@PCC-LLC.COM

REV 6/6/2016

APO'S:
1. W. MALONE
2. T. LUND

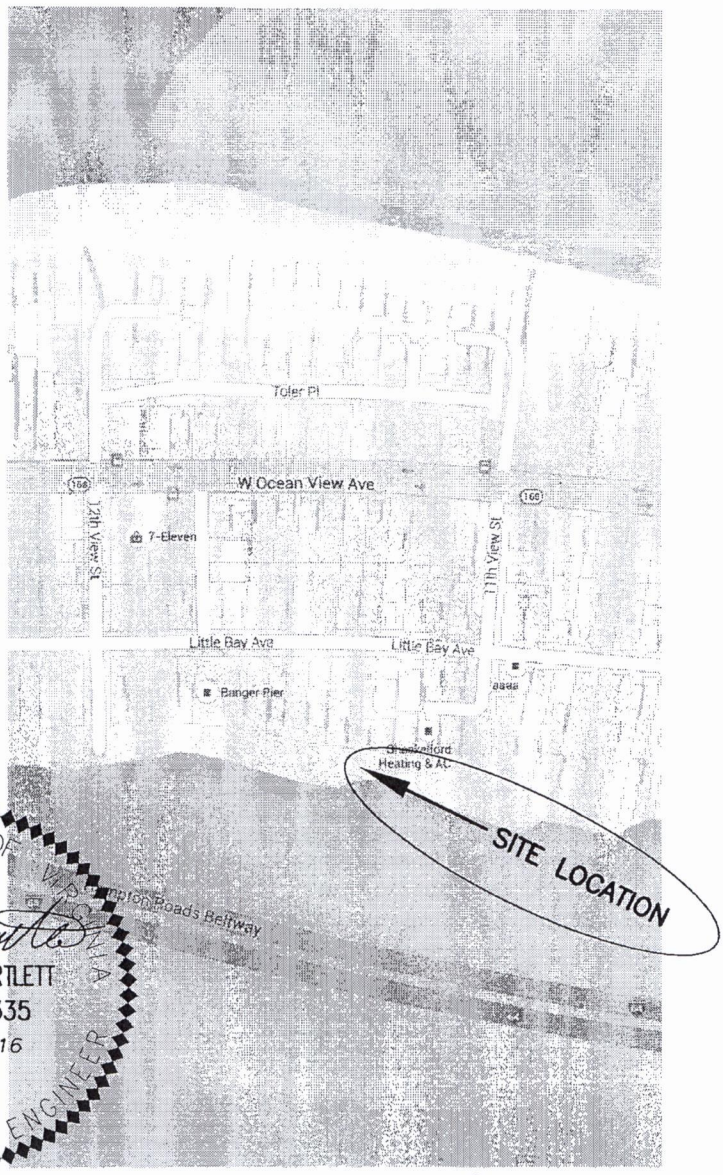
PROJECT LOCATION: WILLOUGHBY BAY
FOR: GEORGE P. ARNOLD
1119 LITTLE BAY AVENUE
NORFOLK, VA 23503

PROPOSED RIPRAP, PIER & LIFTS
PURPOSE: EROSION CONTROL/ACCESS
DATUM: MLW −1.52 MHW +0.91 NAVD88
DATE 5/5/2016 SHEET 6 OF 7

ADDITIONAL INFO
REVISION

RECEIVED
JUN 06 2016
MARINE RESOURCES
COMMISSION

VICINITY MAP



COMMONWEALTH OF VIRGINIA
RICHARD T. BARTLETT
Lic. No. 18335
JUNE 6, 2016
PROFESSIONAL ENGINEER

© GOOGLE 2016

ENGINEERING SERVICES PROVIDED BY:
PROFESSIONAL CONSTRUCTION CONSULTANTS, LLC.
PHONE: (757) 773-8084 EMAIL: RICK@PCC-LLC.COM

REV 6/6/2016

APO'S:
1. W. MALONE
2. T. LUND

PROJECT LOCATION: WILLOUGHBY BAY
FOR: GEORGE P. ARNOLD
1119 LITTLE BAY AVENUE
NORFOLK, VA 23503

PROPOSED RIPRAP, PIER & LIFTS
PURPOSE: EROSION CONTROL/ACCESS
DATUM: MLW −1.52 MHW +0.91 NAVD88
DATE 5/5/2016 SHEET 7 OF 7

C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David Ricks, Director of Public Works

Subject: Encroach into the right-of-way of 120 College Place with an existing awning

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Ward/Superward: 2/6

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-11**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Wave Church
120 College Place
Norfolk, Virginia 23510

III. **Description:**
This agenda item is an ordinance to permit Wave Church to encroach into the City of Norfolk's (the "City's") right-of-way at 120 College Place with an existing awning.

IV. **Analysis:**
An encroachment is an object or structure that infringes into the City's rights-of-way or property. *Norfolk City Code*, § 42-10, requires all encroachments into the rights-of-way to be approved by City Council. The encroachment in this location will allow Wave Church to continue using the awning as a covered door entrance.

V. **Financial Impact:**
Liability insurance has been provided naming 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:**
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's agenda notification process.

VIII. Board/Commission Action:

The Department of Public Works, the Department of Planning & Community Development, and the City Attorney's Office has reviewed this request for encroachment and offer no objections. Review and approval by the Architectural Review Board and the City Planning Commission is not required.

IX. Coordination/Outreach:

This letter and ordinance have been coordinated with Department of Public Works, the Department of City Planning, and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A

Agenda Overview:
Encroach into the right-of-way of 120 College Place with an existing awning

If approved, this agenda item will permit Wave Church to encroach into the City of Norfolk's right-of-way at 120 College Place with an existing awning. This will allow the continued use of the awning as a covered door entrance. Approval recommended

Marcus, please approve text for Agenda Overview

☑ Approved

☐ Approved with changes

From Department Head to City Manager

- An encroachment is an object or structure that infringes into City of Norfolk's rights-of-way or property.
- All encroachments must be approved by Council and are revocable by Council.
- This encroachment will allow Wave Church to continue using the awning as a covered door entrance.

9/7/2016 - wld

Form and Correctness Approved: BAP

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE PERMITTING WAVE CHURCH TO ENCROACH INTO THE RIGHT-OF-WAY OF COLLEGE PLACE WITH AN EXISTING AWNING.

- - -

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

Section 1:- That permission is hereby granted to Wave Church ("Wave") to encroach into the right-of-way at 120 College Place with an existing awning, 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, Wave, or its 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 Wave, or its successors and assigns, at its 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 Wave, and its 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 120 College Place.

Section 2:- That the failure of Wave, or its 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.

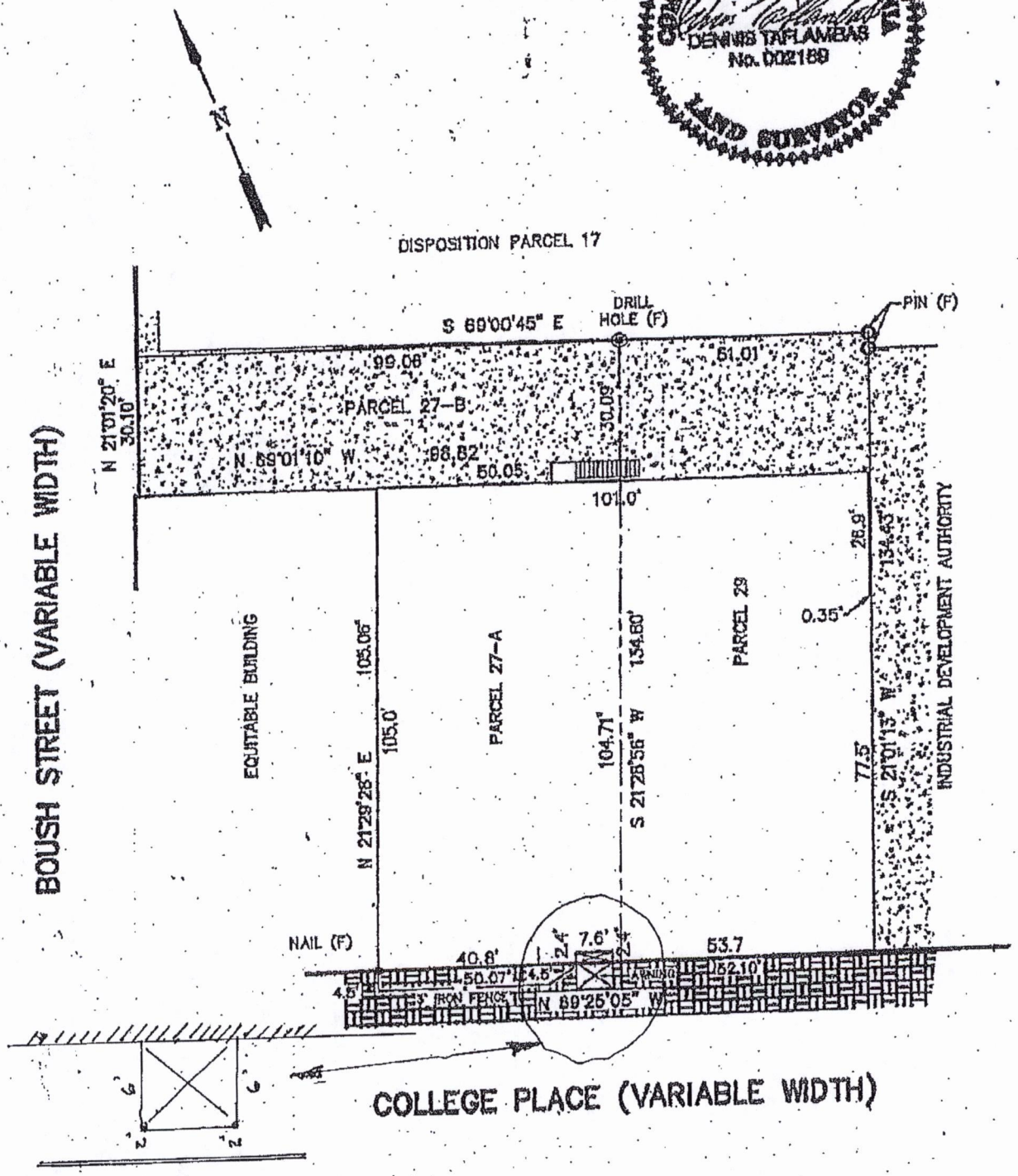
Section 3:- That the use of the said encroaching structures shall be deemed an acceptance by Wave, and its successors and assigns, of all conditions to which the permissions herein are granted.

Section 4:- That this ordinance shall be in effect from and after its adoption.

EXHIBIT A TO ORDINANCE

THIS IS TO CERTIFY THAT I ON JULY 7, 2004 SURVEYED THE PROPERTY SHOWN ON THIS PLAT. THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS, EXCEPT AS SHOWN.

COMMONWEALTH OF VIRGINIA
DENNIS TAFLAMBAS
No. 002189
LAND SURVEYOR



C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David L. Ricks, Director of Public Works

Subject: Encroach into the right-of-way of East 22nd Street with an entrance door and canopy, and into the right-of-way of Monticello Avenue with ten feet of the existing building

Ward/Superward: 4/7

Reviewed: _____
Wynter C. Benda, Deputy City Manager

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-12**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** 200 E. 22nd Street, LLC
200 E. 22nd Street
Norfolk, Virginia 23508

III. **Description:**
This agenda item is an ordinance to permit 200 East 22nd Street, LLC to encroach into the City of Norfolk's (the "City's") right-of-way of East 22nd Street with an entrance door and canopy, and into the right-of-way of Monticello Avenue with ten feet of the existing building.

IV. **Analysis:**
An encroachment is an object or structure that infringes into the City's rights-of-way or property. *Norfolk City Code*, § 42-10, requires all encroachments onto City rights-of-way or property to be approved by City Council. This encroachment in this location will allow for enhancement of the façade of the building and will allow for the encroachment of the existing building.

V. **Financial Impact:**
Liability insurance has been provided naming 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.

VIII. Board/Commission Action:

The Department of Public Works and the City Attorney's Office have reviewed this request for dedication and offer no objections. The encroachment was reviewed and recommended by the Architectural Review Board and the City Planning Commission.

IX. Coordination/Outreach:

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

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A-1 & A-2

9/20/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE PERMITTING 200 EAST 22ND STREET, LLC TO ENCROACH INTO THE RIGHT-OF-WAY OF EAST 22ND STREET WITH AN ENTRANCE DOOR AND CANOPY, AND INTO THE RIGHT-OF-WAY OF MONTICELLO AVENUE WITH TEN (10') FEET OF THE BUILDING.

- - -

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

Section 1:- That permission is hereby granted to 200 East 22nd Street, LLC ("200") to encroach into the right-of-way of East 22nd Street with an entrance door and an overhead canopy (14' high), and into the right-of-way of Monticello Avenue with ten (10') feet of the building, as shown on Exhibit A-1 and Exhibit A-2 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, 200, or its 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 200, or its successors and assigns, at its 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 200, and its 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.

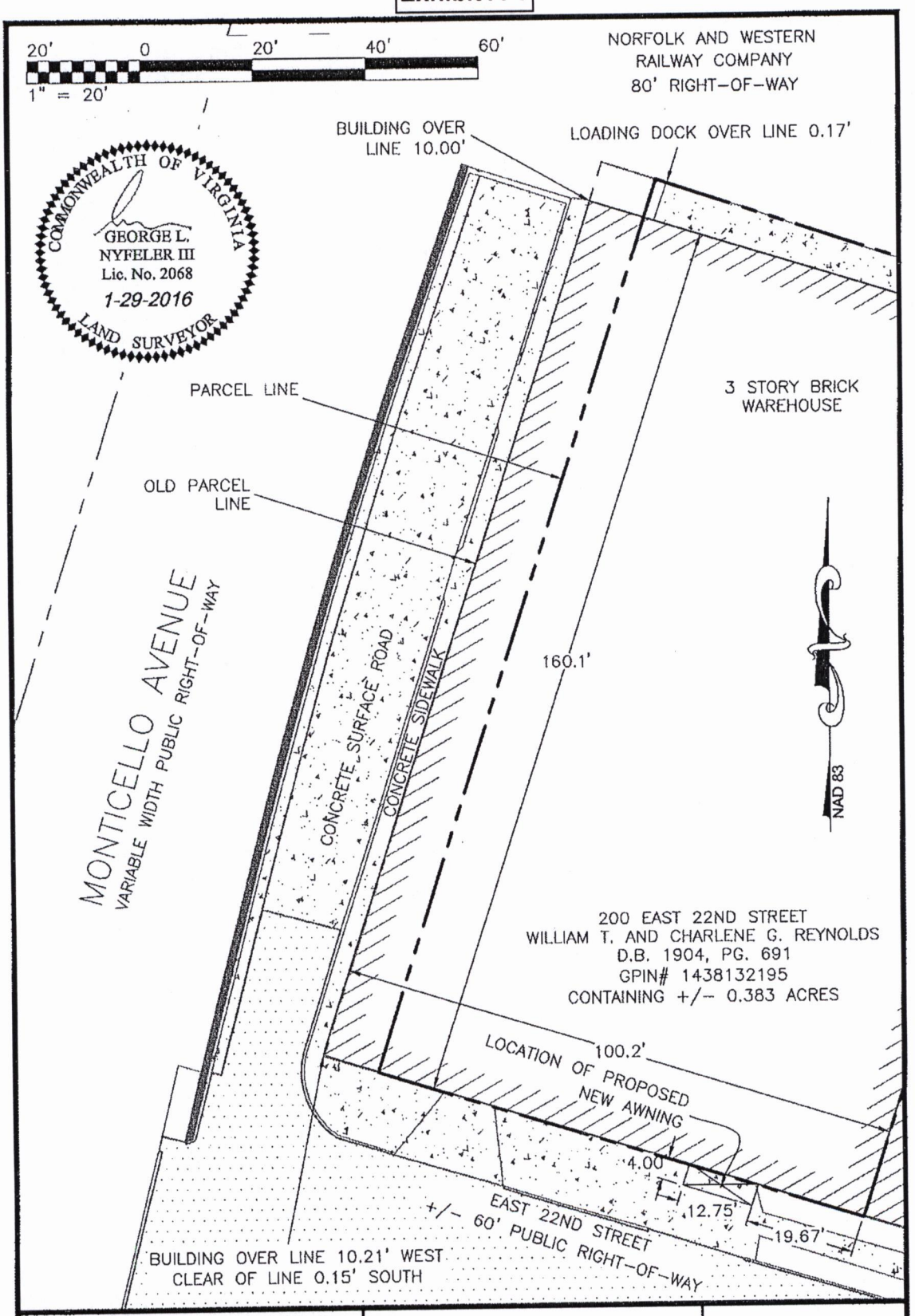
(4) That the City shall not be responsible for any damage to the encroaching structures, including replacement and reinstallation costs, resulting from the City's operation, maintenance, repair, or replacement of any utilities located in the right-of-ways at the property address of 200 East 22nd Street, on either East 22nd Street or Monticello Avenue.

Section 2:- That the failure of 200, or its 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 200, and its successors and assigns, of all conditions to which the permissions herein are granted.

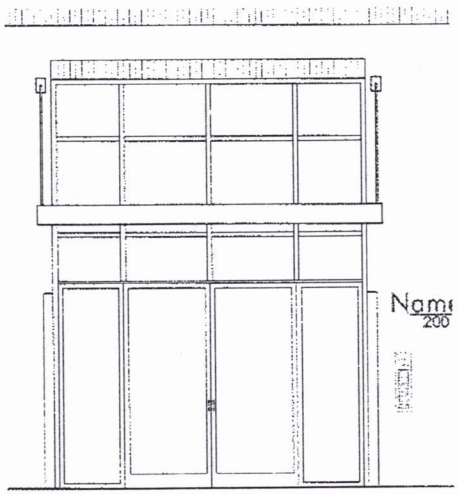
Section 4:- That this ordinance shall be in effect from and after its adoption.

Exhibit A-1

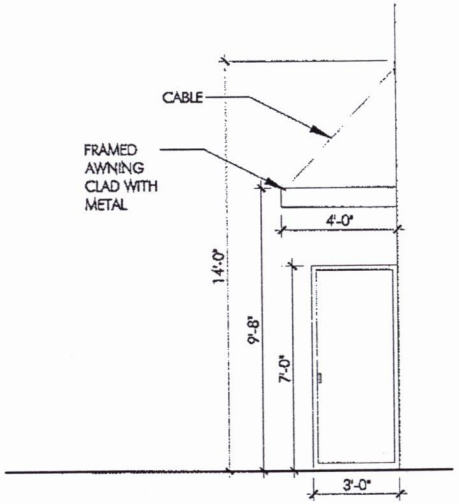


ENCROACHMENT EXHIBIT			
FOR:	NYFELER ASSOCIATES	DATE: 1/29/2016	SCALE: 1" = 20'
200 E 22ND STREET	LAND SURVEYING & MAPPING	JOB NUMBER: 16003	DRAWN BY: JRW
CITY OF NORFOLK, VA	619 W CARY STREET RICHMOND, VA 23220		APPROVED BY: GLN
	804-277-4231		
	www.nyfelerassociates.com		

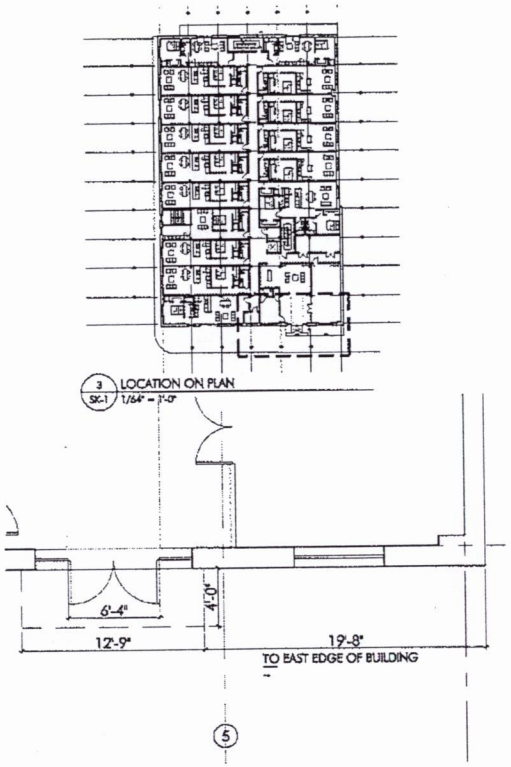
Exhibit A-2



1 SK-1 AWNING AND DOOR ENCROACHMENT ELEVATION
1/4" = 1'-0"



2 SK-1 AWNING AND DOOR ENCROACHMENT SECTION
1/4" = 1'-0"



3 SK-1 AWNING AND DOOR ENCROACHMENT PLAN
1/4" = 1'-0"

THE MONUMENT COMPANIES
1425 EAST CARY STREET
RICHMOND, VA 23219
TELEPHONE: (804) 303-7347
www.themonumentcompanies.com

200 E. 22ND ST
NORFOLK, VA

ISSUED:

GDC REVIEW	01-29-2016

REGISTRATION

DOOR AND AWNING ENCROACHMENT

SK-1

C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David Ricks, Director of Public Works

Subject: Encroach into the right-of-way of Granby Street with a wall sign and temporary planter

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: 2/6

Approved: Marcus D. Jones, City Manager

Item Number: **R-13**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Bress Realty
727 Granby Street
Norfolk, Virginia 23510

III. **Description:**
This agenda item is an ordinance to permit Bress Realty, LLC ("Bress") to encroach into the City of Norfolk's (the "City's") right-of-way at 727 Granby Street with a wall sign and temporary planter.

IV. **Analysis:**
An encroachment is an object or structure that infringes into the City's right-of-way or property. *Norfolk City Code*, § 42-10, requires all encroachments into the right-of-way to be approved by City Council. The encroachment in this location will allow Bress to enhance the façade of their building for location purposes.

V. **Financial Impact:**
Liability insurance has been provided naming 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:**
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's agenda notification process.

VIII. Board/Commission Action:

The Department of Public Works, the Department of Planning & Community Development, and the City Attorney's Office has 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 (3 sheets)

9/7/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE PERMITTING BRESS REALTY, LLC TO ENCROACH INTO THE RIGHT-OF-WAY OF GRANBY STREET WITH A WALL SIGN AND TEMPORARY PLANTER.

- - -

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

Section 1:- That permission is hereby granted to Bress Realty, LLC ("Bress") to encroach into the right-of-way at 727 Granby Street with a wall sign and temporary planter, 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, Bress, or its 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 Bress, or its successors and assigns, at its 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 Bress, and its 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

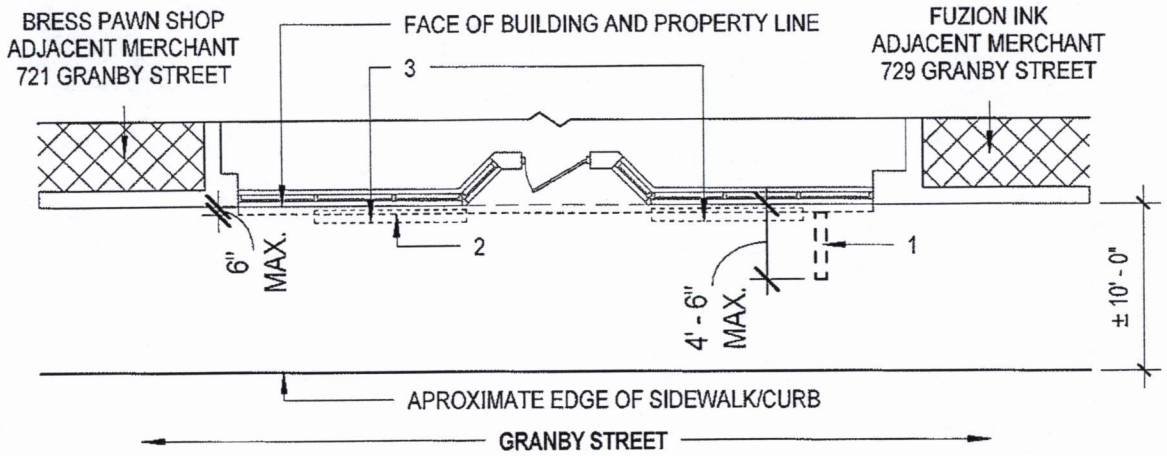
evidence of such insurance being provided to the City.

(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 727 Granby Street.

Section 2:- That the failure of Bress, or its 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 Bress, and its successors and assigns, of all conditions to which the permissions herein are granted.

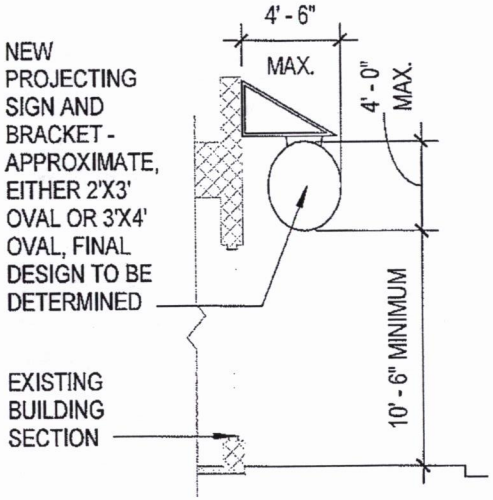
Section 4:- That this ordinance shall be in effect from and after its adoption.



NUMBERED NOTES:
1. NEW PROJECTING SIGN AND BRACKET ABOVE - FINAL LOCATION ALONG BULIDNG FRONTAGE TO BE DETERMINED.
2. 6" MAXIMUM ENCROACHMENT FOR WALL SIGN ABOVE.
3. TEMPORARY PLANTERS - MOVEABLE.

1 ENCROACHMENT PLAN
3/32" = 1'-0"

PROPOSED SIGNAGE - APPROXIMATE DESIGN



2 PROJECTING SIGN PROFILE
1/8" = 1'-0"

EXISTING CONDITIONS

WPA
WORK PROGRAM ARCHITECTS
757.227.5310

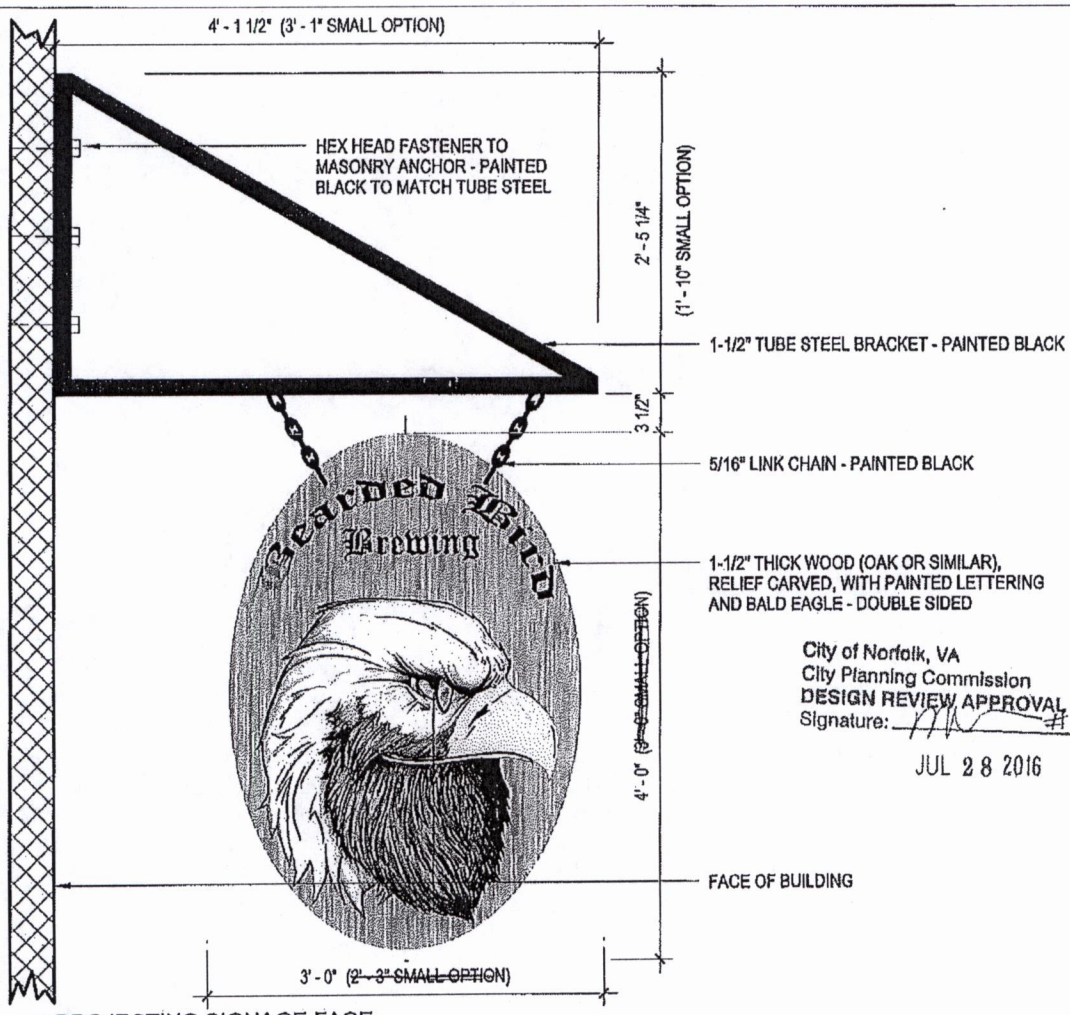
BEARDED BIRD BREWING
727 GRANBY ST - NORFOLK VA, 23510

Project #	
1603	
Date	
28 JUNE 2016	

SIGNAGE AND PLANTER ENCROACHMENT

G100

EXHIBIT A TO ORDINANCE



City of Norfolk, VA
City Planning Commission
DESIGN REVIEW APPROVAL
Signature: #16-58
JUL 28 2016

1 PROJECTING SIGNAGE FACE
1" = 1'-0"

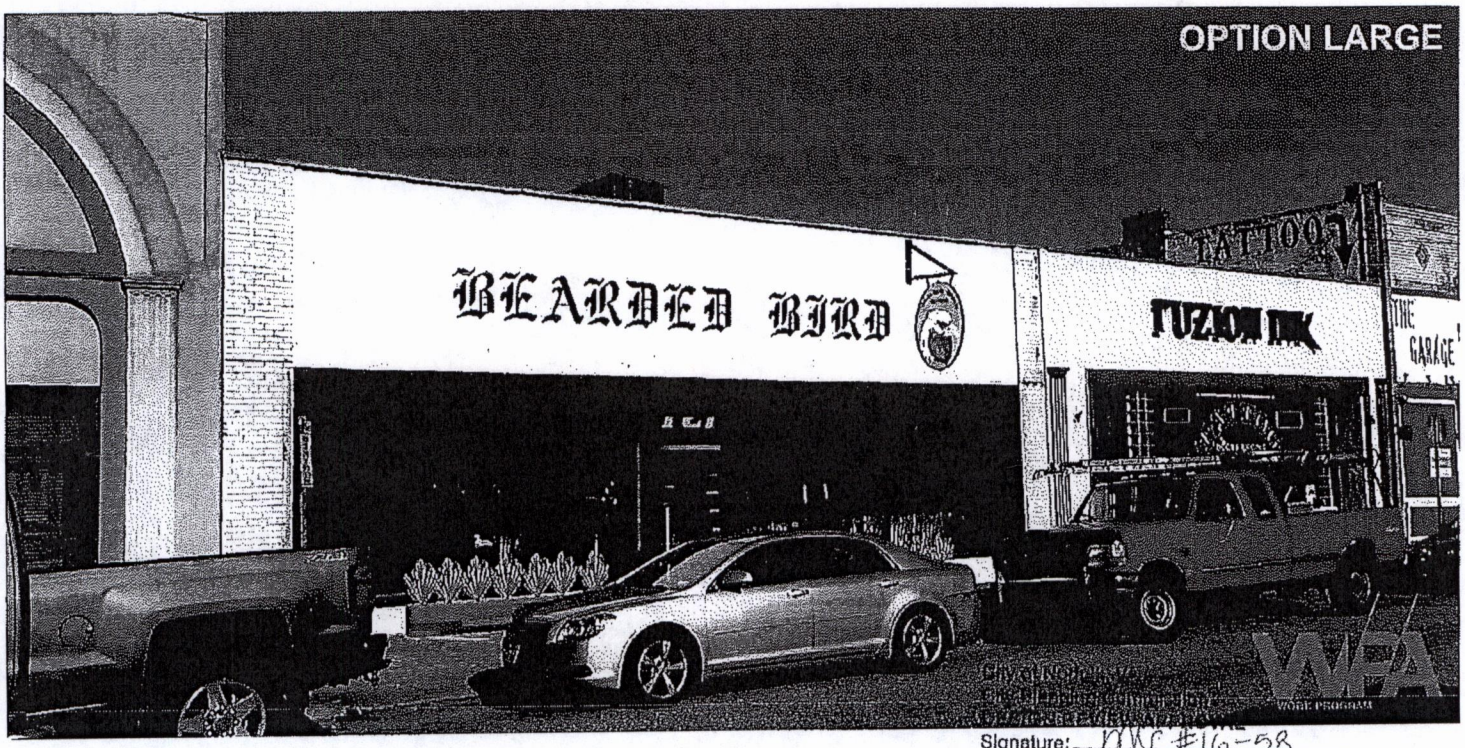
WPA
WORK PROGRAM ARCHITECTS
757.227.5310

BEARDED BIRD BREWING
727 GRANBY ST - NORFOLK VA, 23510

Project #
1603
Date
08 JULY 2016

PROJECTING SIGNAGE

G300



Signature: MNC #16-58

JUL 28 2016

C: Dir., Department of Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David Ricks, Director of Public Works

Subject: Encroach into the right-of-way of Redgate Avenue with an extension of the existing mansard roof

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: 2/6

Approved: Marcus D. Jones, City Manager

Item Number: **R-14**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Athens, LLC
1300 Redgate Avenue
Norfolk, Virginia 23507

III. **Description:**
This agenda item is an ordinance to permit Athens, LLC ("Athens") to encroach into the City of Norfolk's (the "City's") right-of-way at 1300 Redgate Avenue with an extension of the existing mansard roof.

IV. **Analysis:**
An encroachment is an object or structure that infringes into the City's rights-of-way or property. *Norfolk City Code*, § 42-10, requires all encroachments into the rights-of-way to be approved by City Council. This encroachment will allow Athens to extend its present roof line for the benefit of its dining area expansion at 1300 Redgate Avenue.

V. **Financial Impact:**
Liability insurance has been provided naming 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:**
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's agenda notification process.

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 has 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 (2 sheets)

8/16/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE PERMITTING ATHENS, LLC TO ENCROACH INTO THE RIGHT-OF-WAY OF REDGATE AVENUE WITH AN EXTENSION OF THE EXISTING MANSARD ROOF.

- - -

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

Section 1:- That permission is hereby granted to Athens, LLC ("Athens") to encroach into the right-of-way at 1300 Redgate Avenue with an extension of the existing mansard roof, 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, Athens, or its 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 Athens, or its successors and assigns, at its 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 Athens, and its 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 1300 Redgate Avenue.

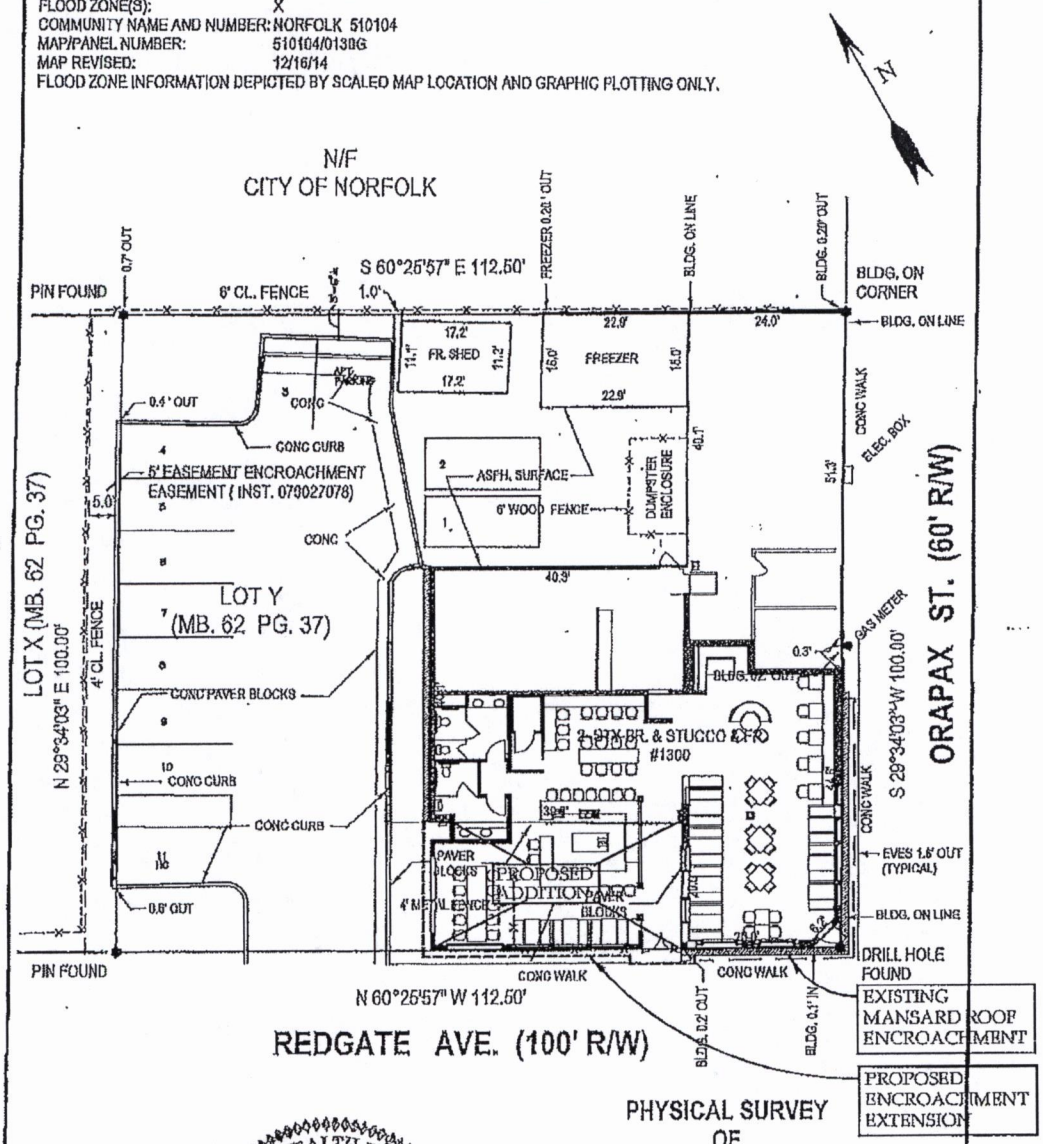
Section 2:- That the failure of Athens, or its successors and assigns, to fully comply with all requirements and conditions set forth herein shall act as an automatic revocation of the permission granted hereby.

Section 3:- That the use of the said encroaching structures shall be deemed an acceptance by Athens, 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

THIS IS TO CERTIFY THAT I, ON FEBRUARY 3, 2016 SURVEYED THE PROPERTY SHOWN ON THIS PLAT.
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY OR ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT THE PROPERTY SHOWN HEREON. A CURRENT TITLE REPORT WAS NOT FURNISHED.
NOTE:
ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP (FIRM) THIS PROPERTY APPEARS TO FALL IN
FLOOD ZONE(S): X
COMMUNITY NAME AND NUMBER: NORFOLK 510104
MAP/PANEL NUMBER: 510104/0130G
MAP REVISED: 12/16/14
FLOOD ZONE INFORMATION DEPICTED BY SCALED MAP LOCATION AND GRAPHIC PLOTTING ONLY.



COMMONWEALTH OF VIRGINIA
ARTHUR L. ROOD
Lic. No. 1543
02/03/16
LAND SURVEYOR

PHYSICAL SURVEY
OF
LOT Y
SUBDIVISION OF
LOTS 1-7, BLOCK 65
PLAT OF REDGATE REALTY CORP.
(MB. 62 PG. 37)
NORFOLK, VIRGINIA
FOR
ATHENS, LLC

AREA (PLAT)
11250 SF OR 0.2583 AC.

0 20'

SCALE: 1"=20'
DATE: 02/03/16
REF: MB. 62 PG. 37 NORFOLK
FB/PG: T121/42
FILE NO: 63239

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

63239

THIS IS TO CERTIFY THAT I, ON FEBRUARY 3, 2016 SURVEYED THE PROPERTY SHOWN ON THIS PLAT.
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY OR ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT THE PROPERTY SHOWN HEREON. A CURRENT TITLE REPORT WAS NOT FURNISHED.
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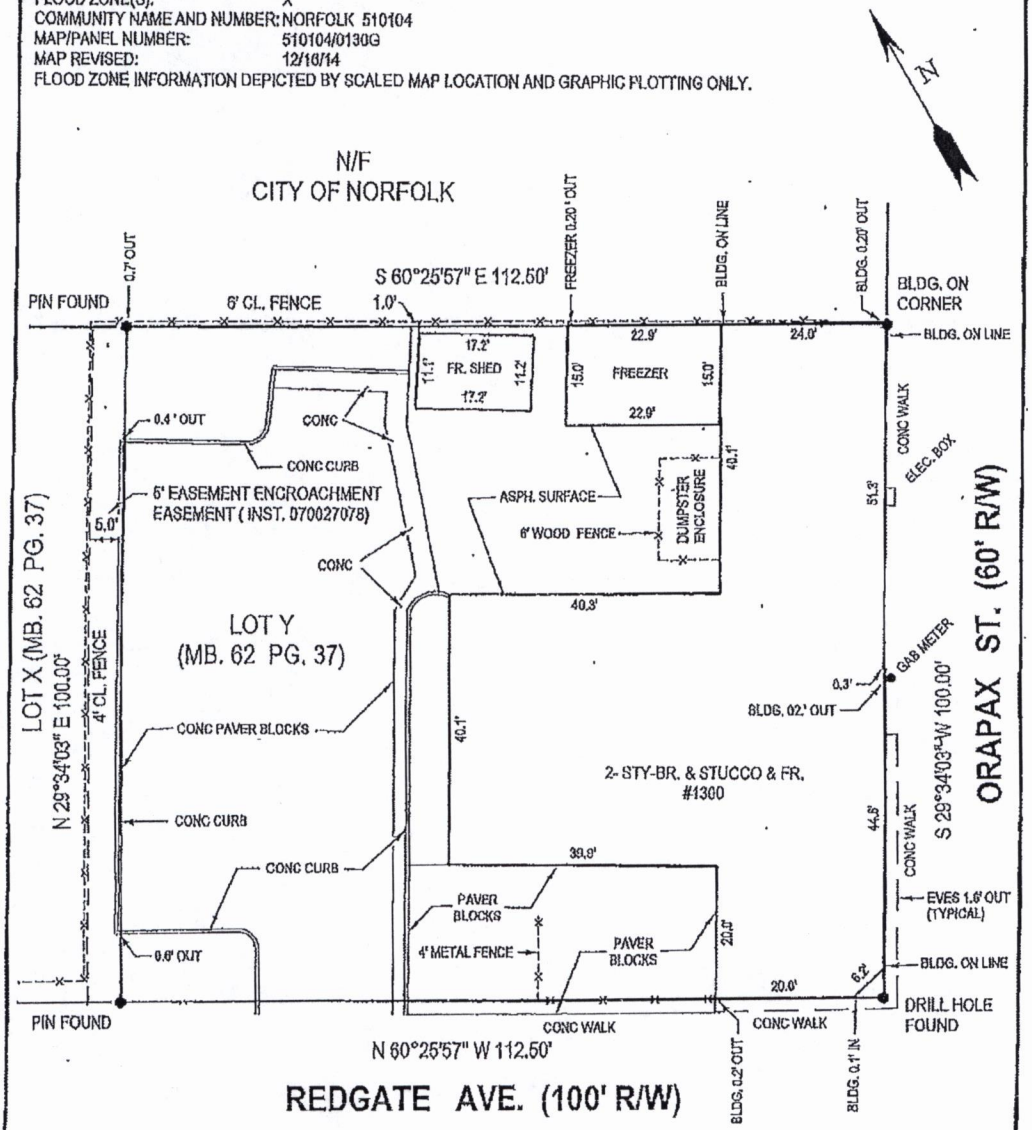


COMMONWEALTH OF VIRGINIA
ARTHUR L. ROOD
Lic. No. 1643
02/03/16
LAND SURVEYOR

PHYSICAL SURVEY
OF
LOT Y
SUBDIVISION OF
LOTS 1-7, BLOCK 65
PLAT OF REDGATE REALTY CORP.
(MB. 62 PG. 37)
NORFOLK, VIRGINIA
FOR
ATHENS, LLC

AREA (PLAT)
11250 SF OR 0.2583 AC.

0 20'

SCALE: 1"=20'
DATE: 02/03/16
REF: MB. 62 PG. 37 NORFOLK
FB/PG: T121/42
FILE NO: 63239

63239

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

C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David Ricks, Director of Public Works

Subject: Encroach into the rights-of-way of E. 20th Street, Armistead Avenue, Monticello Avenue and 19th Street with various structures

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:** Gatehouse II, LLC
201 E. 20th Street
Norfolk, Virginia 23510

III. **Description:**
This agenda item is an ordinance to permit Gatehouse II, LLC ("Gatehouse") to encroach into the City of Norfolk's (the "City's") rights-of-way of E. 20th Street, Armistead Avenue, Monticello Avenue and 19th Street with various structures.

IV. **Analysis:**
An encroachment is an object or structure that infringes into the City's rights-of-way or property. *Norfolk City Code*, § 42-10, requires all encroachments into the rights-of-way to be approved by City Council. The encroachment in this location will allow Gatehouse to make improvements to their parking area and building façade.

V. **Financial Impact:**
Liability insurance has been provided naming 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:**
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's agenda notification process.

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. Review and approval by the Architectural Review Board and the City Planning Commission is not required.

IX. Coordination/Outreach:

This letter has been coordinated with the 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 (2 sheets)

9/21/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE PERMITTING GATEHOUSE II, LLC TO ENCROACH INTO THE RIGHTS-OF-WAY OF E. 20TH STREET, ARMISTEAD AVENUE, MONTICELLO AVENUE AND E. 19TH STREET WITH VARIOUS STRUCTURES.

- - -

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

Section 1:- That permission is hereby granted to Gatehouse II, LLC ("Gatehouse") to encroach into the right-of-way of E. 20th Street with an electric box, cable box, bollards and door; into the right-of-way of Armistead Avenue with roof drains, electric panels and conduit, a concrete ramp and railings, doors and vents, and a gas valve and bollards; into the right-of-way of E. 19th Street with concrete ramps and railings, roof drains, canopy and lighting; and into the right-of-way of Monticello Avenue with a sign, curb, parking, landscaping, planters, light pole and brick wall, all 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, Gatehouse, or its 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 Gatehouse, or its successors and assigns, at its 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 Gatehouse, and its 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.

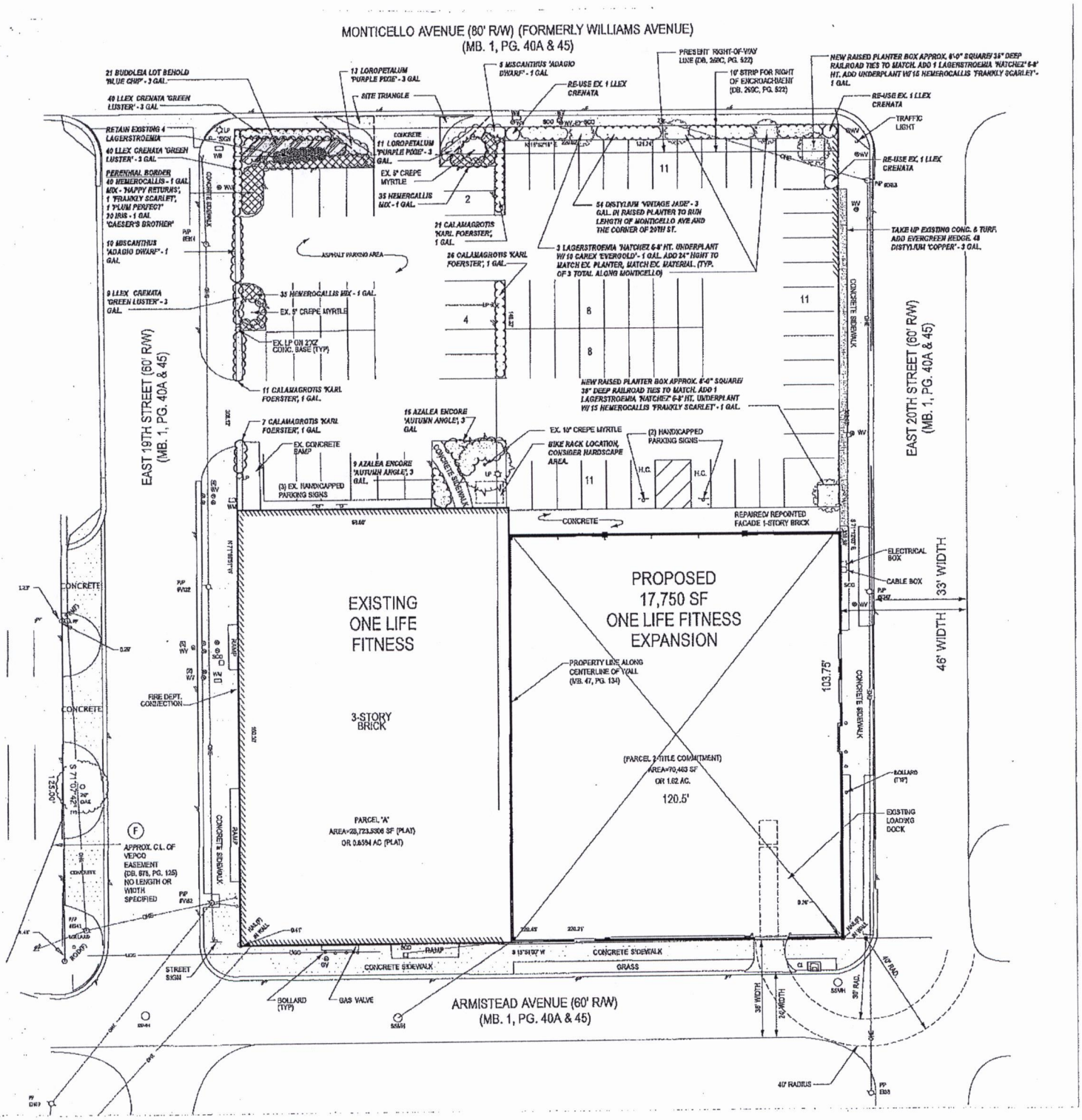
(4) That the City shall not be responsible for any damage to the encroaching structures, including replacement and reinstallation costs, resulting from the City's operation, maintenance, repair, or replacement of any utilities located in the rights-of-way of E. 20th Street, Armistead Avenue, E. 19th Street and Monticello Avenue, the location being shown on Exhibit A.

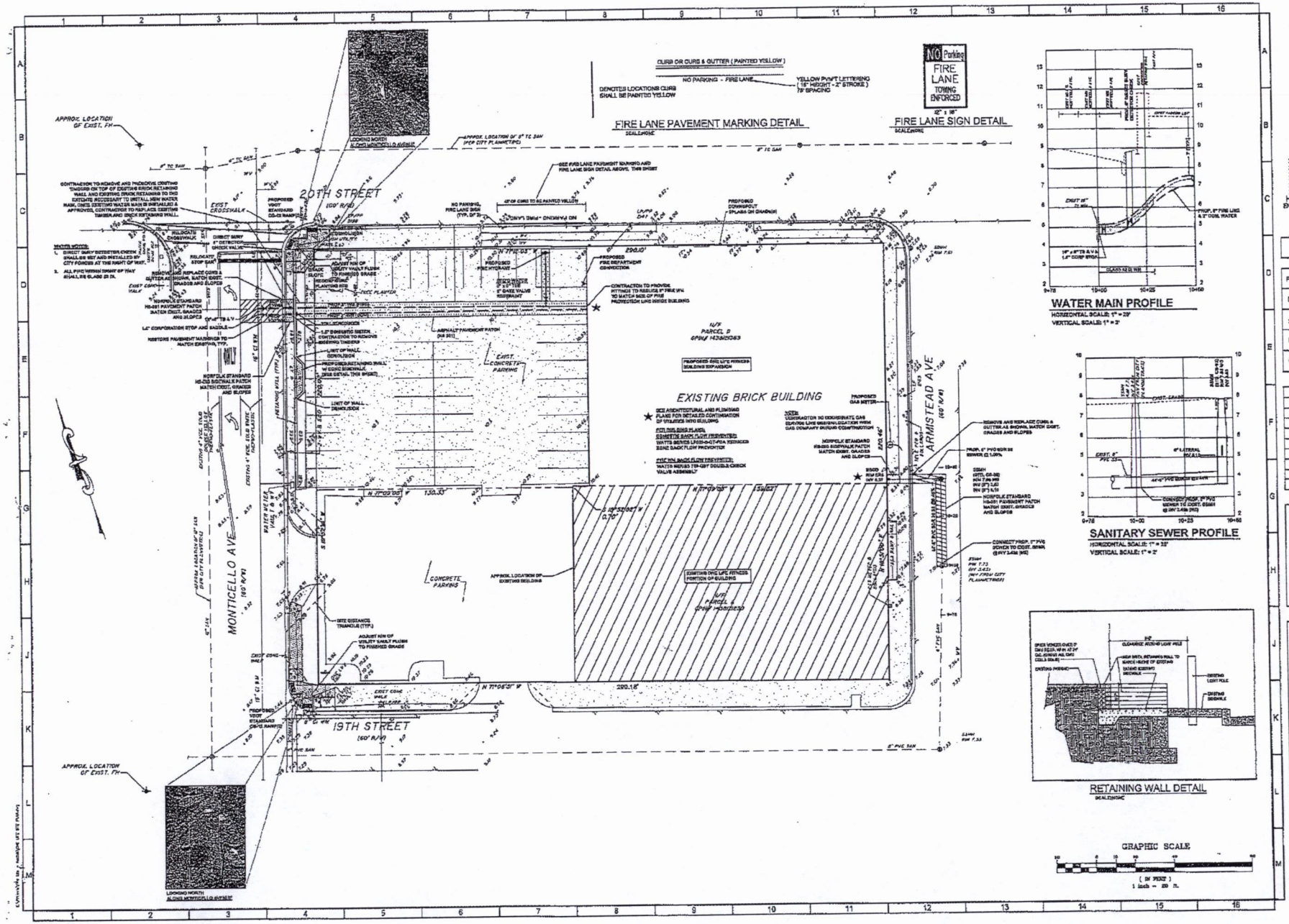
Section 2:- That the failure of Gatehouse, or its successors and assigns, to fully comply with all requirements and conditions set forth herein shall act as an automatic revocation of the permission granted hereby.

Section 3:- That the use of the said encroaching structures shall be deemed an acceptance by the Gatehouse, 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





NOTIFY
Miss Utilities At
1-800-552-7001 or 811
For Location of Existing
Utilities

HASSELL & FOLKES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
328 VOLVO PARKWAY
CHESAPEAKE, VIRGINIA 23320
PHONE: (757) 547-8451
FAX: (757) 547-8461
www.hfpc-pvpc.com

Date

Project No.	15-028
Date	07-20-2016
Scale	1" = 20'
Drawn	JLR
Checked	SWB

REVISIONS

MARK	DATE	INITIAL

COMMONWEALTH OF VIRGINIA
SHARI A. BONNELL
Lic. No. 023802
07-20-2016
PROFESSIONAL ENGINEER

SITE PLAN
OF
ONE LIFE FITNESS
MASTER WATER

GPINS 1438121239, 1438121369
NORFOLK, VIRGINIA

C102

C: Dir., Department of Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: David L. Ricks, Director of Public Works

Subject: Agreement between the Commonwealth of Virginia, Department of Transportation and the City of Norfolk for street inventory data analysis

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: Marcus D. Jones, City Manager

Item Number: **R-16**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to approve an agreement between the Commonwealth of Virginia, Department of Transportation ("VDOT") and the City of Norfolk (the "City") relating to the collection of data for citywide VDOT streets for the analysis of pavement condition according to its structural, functional and safety criteria.

IV. **Analysis**
The City receives funding annually from VDOT for street maintenance based on the data submitted by the City. This agreement will allow the City to gather the most current and accurate information on the performance of the City's pavement network in order to prescribe effective, preventative maintenance strategies. The data analysis of VDOT street inventory will improve the process of planning the maintenance and repair of a network of roadways, while increasing the safety of pedestrians and bicyclists.

V. **Financial Impact**
The total cost of $233,305 will be expended from funds heretofore appropriated in the City's General Operating Budget.

VI. **Environmental**
N/A

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

VII. Community Outreach/Notification

A GPS and video technology vehicle called SCANNER will be used to measure a range of road condition parameters including ride quality, rut depth, intensity of cracking, texture depth and edge condition. The vehicle will be unoppressive to residents and businesses.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and resolution have been coordinated with the City Attorney's office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A
- Exhibit B

9/28/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____ For DR.
DEPT. Public Works

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

$ 176,690-1000-10-600-328 FY17-5580
46,475-1000-10-600-333-FY17-5580
10,140-2300-35-612-5307
Account

_____ 9/29/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION AND THE CITY OF NORFOLK, RELATING TO THE COLLECTION AND PROCESSING OF APPROXIMATELY 845 MILES OF PAVEMENT DATA WITH A FULLY CONFIGURED ARAN; AND AUTHORIZING THE EXPENDITURE OF A SUM OF UP TO $233,305.00 FROM FUNDS HERETOFORE APPROPRIATED IN THE CITY'S GENERAL OPERATING BUDGET TO COVER THE CITY'S COSTS RELATED TO THE PROJECT.

- - -

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

Section 1:- That the terms and conditions of a certain agreement between the Commonwealth of Virginia, Department of Transportation ("VDOT") and the City of Norfolk ("City") relating to the design, construction, and administration of a project for the collection and processing of approximately 845 miles of pavement data with a fully configured ARAN within the City of Norfolk ("Agreement"), a copy of which Agreement is attached hereto as Exhibit A, are hereby approved.

Section 2:- That the sum of up to $233,305.00 is hereby authorized to be expended from funds heretofore appropriated in the City's General Operating budget to cover the City's costs related to the project.

Section 3:- That the City Manager and other proper officers of the City are authorized to execute the Agreement on behalf of the City and to do all things necessary and proper to implement its terms.

Section 4:- That the City Manager, with the advice and counsel of the City Attorney, is further authorized to correct, amend or revise the Agreement as may be necessary to carry out the intent of the Council as expressed in this ordinance.

Section 5:- That this ordinance shall be in effect from and after its adoption.

EXHIBIT A TO ORDINANCE

City of Norfolk

VDOT PROJECT ADMINISTRATION AGREEMENT

CITY OF NORFOLK

UPC 94919

THIS AGREEMENT, made and executed in triplicate on this the ____ day of September, 2016, between the COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT", and the CITY OF NORFOLK, hereinafter referred to as the "CITY".

WITNESSETH:

WHEREAS, the CITY has expressed its desire to have the DEPARTMENT administer the work as described in Appendix B, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds as shown in Appendix A have all been allocated by the CITY to finance the project; and

WHEREAS, the CITY has requested that the DEPARTMENT design and construct this project in accordance with the scope of work described in Appendix B, and the DEPARTMENT has agreed to perform such work; and

WHEREAS, both parties have concurred in the DEPARTMENT's administration of the project identified in this Agreement and its associated Appendices A and B in accordance with applicable federal, state, and local law and regulations; and

WHEREAS, the CITY governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 33.2-209 of the Code of Virginia authorizes both the DEPARTMENT and the CITY to enter into this Agreement;

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

A. The DEPARTMENT shall:

1. Complete said work as identified in Appendix B, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties.

2. Perform or have performed, and remit all payments for, all preliminary engineering, right-of-way acquisition, construction, contract

administration, and inspection services activities for the project(s) as required.

3. Bill the CITY upon successful delivery to and acceptance of pavement data and images by the CITY. VDOT will provide a copy of the Contractor's invoice and payment voucher to the CITY.

4. Notify the CITY of additional project expenses resulting from unanticipated circumstances and provide detailed estimates of additional costs associated with those circumstances. The DEPARTMENT will make all efforts to con contact the CITY prior to performing those activities.

B. The CITY shall:

1. Make payment to VDOT within thirty (30) days of acceptance of invoice from VDOT.

2. Accept responsibility for any additional project costs resulting from unforeseeable circumstances, but only after concurrence of the CITY and modification of this Agreement.

C. Funding by the CITY shall be subject to annual appropriation or other lawful appropriation by the CITY Council.

D. Should funding be insufficient and CITY funds be unavailable, both parties will review all available options for moving the project forward, including but not limited to, halting work until additional funds are allocated, revising the project scope to conform to available funds, or cancelling the project.

E. Should the project be cancelled as a result of the lack of funding by the CITY, the CITY shall be responsible for any costs, claims and liabilities associated with the early termination of any construction contract(s) issued pursuant to this agreement.

F. This Agreement may be terminated by either party upon 60 days advance written notice. Eligible expenses incurred through the date of termination shall be reimbursed to the DEPARTMENT subject to the limitations established in this Agreement.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors and assigns.

THIS AGREEMENT may be modified in writing upon mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by its duly authorized representatives as of the day, month, and year first herein written.

CITY OF NORFOLK, VIRGINIA:

By:_____
City Manager

Attest:

_____
City Clerk

Contents Approved:

_____
Department of Public Works

Form and Correctness Approved:

_____
Deputy City Attorney

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

_____ _____
Commissioner of Highways Date
Commonwealth of Virginia
Department of Transportation

_____ _____
Signature of Witness Date

Appendix A

Project Number: UPC 94919 **Locality: CITY of Norfolk**

Project Identification and Funding

Scope: **Pavement Data Collection and Analysis Services (approximately 845 miles)**

From: **CITY wide**

To:

The Work will be performed in accordance with all terms and conditions of the contract #44182 (RFP 152675-FH) "Pavement Data Collection and Evaluation Services" by VDOT's Contractor.

Locality Project Manager Contact Info: Gurleen Bopari, CEII, City of Norfolk, Ph. 757-8023-4039

Department Project Coordinator Contact Info: Raja Shekharan, Ph.D., P.E., Pavement Management Program Engineer, Maintenance Division, VDOT Ph. 804-786-0870

Estimated Project Costs

Phase	Estimated Project Costs	Funding Advanced to VDOT	Funds Retained by Locality
Preliminary Engineering	$233,305.00	$0	$233,305.00
Right-of-Way & Utilities			
Construction			
Total Estimated Cost	$233,305.00	$0	$233,305.00

Project Financing

A	B	C	D	E
Local Funds	<fund source C>	<fund source C>	<fund source D>	Aggregate Allocations (A+B+C+D)
$233,305.00				$233,305.00

Estimated Payment

FY2016		Total
$233,305.00		$233,305.00

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official and date

Typed or printed name of person signing

Authorized VDOT Official Recommendation and date

Typed or printed name of person signing

Appendix B

Project Number: (UPC 94919) **Locality: CITY of Norfolk**

Project Scope	
Work Description:	**Collect and process approximately 845 miles of pavement data with a fully configured ARAN in the CITY of Norfolk**
From:	**CITY-wide**
To:	
The Work will be performed in accordance with all terms and conditions of the contract #44182 (RFP 152675-FH) "Pavement Data Collection and Evaluation Services" by VDOT Contractor.	
Locality Project Manager Contact Info: Department Project Coordinator Contact Info:	

Detailed Scope of Services

Fugro Roadware Inc. (FRDW) will collect and process approximately 845 miles of pavement data with a fully configured ARAN in the CITY of Norfolk.

The CITY of Norfolk will provide the detailed inventory and mileage data for collection to FRDW with a copy to VDOT. FDRW will provide all the data and the images for the inventory provided by the CITY of Norfolk as per the specifications in the VDOT Contract #44182 (RFP 152675-FH).

The CITY of Norfolk may reduce or add mileage (not to exceed 25% of the above mentioned total mileage) per its discretion, subject, however to the condition that the CITY and VDOT agree to any estimated additional costs associated with the work and the CITY agrees to reimburse VDOT for any such additional costs. FRDW will ensure the data is collected and processed following the highest Pavement Evaluation industry standard operation procedures and protocols.

This work will be performed in accordance of all terms and conditions of the VDOT Contract #44182 (RFP 152675-FH)

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official and date	Authorized VDOT Official Recommendation and date
Typed or printed name of person signing	Typed or printed name of person signing

FUGRO ROADWARE

3104 Northside Ave.
Richmond VA
23228 USA

Toll-Free NA: 800-828-ARAN (2726)
Fax: +1 905 567 2871
Web: www.fugroroadware.com

Scott Smith
City of Norfolk
2205 McKann Avenue
Norfolk, VA
23509 USA

May 25, 2016

Dear Scott:

Fugro Roadware is pleased to provide this quotation to perform asset inventory and feature extraction services for the City of Norfolk, Virginia.

To conduct the feature extraction of the assets, Fugro Roadware will use the collected High Definition Right-of-Way (ROW) images in combination with our Surveyor software (see *Figure 1*). Surveyor uses the calibrated, geo-referenced, and the City's Linear Reference System (LRS) reference images collected by the Automated Road Analyzer (ARAN), to capture, extract, measure, and store data on the City's signs visible in the right-of-way. Attribute data is input through mouse interactions with customizable drop-down menus and through the keyboard e.g. for comments and conditions of the associated asset. The Surveyor software includes built-in templates for asset type identification, asset editor, video playback tools, measurement of width, height, length offset, interactive data tools, pop up asset browser, etc.

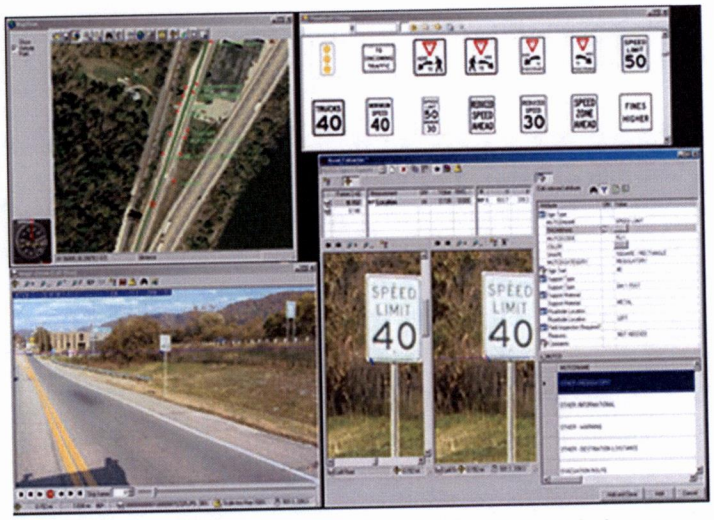


Figure 1 - Surveyor Asset Processing Software

The City will be provided the ROW video, and condition and assessment data both in a Geodatabase and Access database (mdb file).

Fugro Roadware's Surveyor program has been in use since 1994, providing asset inventory data to almost a dozen state agencies and multiple municipalities. Since 2008, Fugro has extracted and delivered greater than 70 different asset types totaling 5.1 million unique assets on over 216,000 miles of road.

Table 1 includes the pricing for Fugro to conduct an asset inventory and feature extraction of the requested asset types for the City of Norfolk.

Table 1 – Asset Inventory and Feature Extraction Services for the City of Norfolk

Item	Description	Price Per Unit	Quantity	Extended Price	Comment
1	**Num Lanes Grouped (bicycle/turn lane/width)**	**$ 20.00**	**845.00**	**$ 16,900.00**	**All grouped and captured in One asset with attributes for each type**
	Number of Lanes	$ 10.00	845.00	$ 8,450.00	
	Bicycle Lanes	$ 8.00	845.00	$ 6,760.00	
	Turn Lanes	$ 8.00	845.00	$ 6,760.00	
	Lane Widths	$ 8.00	845.00	$ 6,760.00	
2	**Sidewalks Grouped (Sidewalks/Sidewalk Ramps)**	**$ 20.00**	**845.00**	**$ 16,900.00**	**Items remain separate (Grouped Rate)**
	Sidewalks	$ 16.00	845.00	$ 13,520.00	
	Sidewalk Ramps (ADA)	$ 15.00	845.00	$ 12,675.00	
3	**Manholes Grouped (Manholes/Drop Inlets/Catch Basins)**	**$ 12.00**	**845.00**	**$ 10,140.00**	**Items remain separate (Grouped Rate)**
	Manholes	$ 6.00	845.00	$ 5,070.00	
	Drop Inlets / Catch Basins	$ 10.00	845.00	$ 8,450.00	

4	Curbs	$ 16.00	845.00	$ 13,520.00	
5	Linear Pavement Markings	$ 10.00	845.00	$ 8,450.00	
6	On Route Parking	$ 8.00	845.00	$ 6,760.00	
7	Raised Pavement Markings (plowable included)	$ 6.00	845.00	$ 5,070.00	
8	School Zones	$ 6.00	845.00	$ 5,070.00	
9	Shoulders & Shoulder Width	$ 16.00	845.00	$ 13,520.00	
10	Driveways & Access Points	$ 12.00	845.00	$ 10,140.00	
11	Highway Lighting	$ 10.00	845.00	$ 8,450.00	
12	MUTCD Signs (speed included)	$ 15.00	845.00	$ 12,675.00	
Total with Grouped Rate				**$127,595.00**	

Terms of Purchase

1. All prices are in in US dollars and do not include applicable taxes or expenses.
2. This quotation is valid for 30 days for the date of issue.

If you have any questions or require clarification, please do not hesitate to contact me at 814-762-4480 or via e-mail at lgordon@fugro.com.

Yours sincerely,

On Behalf of Fugro Roadware

Lutrell Gordon
Project Manager
Fugro Roadware

FUGRO ROADWARE

2505 Meadowvale Blvd
Mississauga, Ontario
L5N 5S2
Canada

Tel: +1 905 567 2870
Fax: +1 905 567 2871
Toll-Free NA: 800-828-ARAN (2726)
Web: www.fugroroadware.com

Scott Smith
City of Norfolk
2205 McKann Avenue
Norfolk, VA
23509 USA

May 25, 2016

Dear Scott:

Fugro Roadware is pleased to provide this quotation to the City of Norfolk, Virginia. Pricing for pavement collection and distress processing are in accordance with the current contract between Fugro Roadware and the Virginia Department of Transportation.

It is our understanding that setup for processing or rating of the collected pavement data will be based upon Stantec's Road Matrix software instead of the protocol currently being used by Fugro Roadware for the Virginia Department of Transportation (VDOT).

Table 1 includes the pricing for the City for pavement data collection, processing and reporting.

Table 1 – Pavement Data Collection Services for the City of Norfolk

ITEM	DESCRIPTION	PRICE PER UNIT	QUANTITY	EXTENDED PRICE
1	Data Collection & Data Processing	$118/mile	845	$99,710.00
2	Project Setup & Road Matrix Protocol Calibration	$6,000.00	1	$6,000.00
			TOTAL	**$105,710.00**

Terms of Purchase

1. All prices are in in US dollars and do not include applicable taxes or expenses.
2. This quotation is valid for 30 days for the date of issue.

If you have any questions or require clarification, please do not hesitate to contact me at 814-762-4480 or via e-mail at lgordon@fugro.com.

Yours sincerely,

On Behalf of Fugro Roadware

Lutrell Gordon
Project Manager
Fugro Roadware

C: Dir., Department of General Services

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: Encroachment Agreement with L&H Real Property, LLC for Outdoor Dining at 1310 Colley Avenue

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:** L&H Real Property, LLC
Attn: Mr. Allan Sullivan
2106 Llewellyn Avenue
Norfolk, VA 23517

III. **Description:**
This agenda item is an ordinance to permit L&H Real Property, LLC ("L&H") to encroach into the City of Norfolk's (the "city's") right-of-way at 1310 Colley Avenue with an area measuring approximately 264 square feet for use as an outdoor dining area and for no other purpose.

IV. **Analysis**
This encroachment will permit L&H and its tenant (Peck and Pour) to utilize this area for outdoor dining in addition to the establishment's indoor seating options. The term of the encroachment is no longer than five (5) years, commencing on September 1, 2016, or the date of any authorizing ordinance, and terminating on August 31, 2021. The permission granted for this encroachment is subject to the right of revocation by the Norfolk City Council.

V. **Financial Impact**

Encroachment Fee (L&H)	Annual Rent: $1,584.00 ($132.00 – to be paid monthly)
Liability insurance (L&H)	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

VI. **Environmental**
There are no known environmental issues associated with this property.

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's agenda notification process.

VIII. Board/Commission Action

Current design of the outdoor dining area was previously approved by ARB in May of 2004 and no changes to the area have been made since.

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

7/28/2016 - wld

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING L&H REAL PROPERTY, LLC PERMISSION TO ENCROACH INTO THE RIGHT-OF-WAY AT 1310 COLLEY AVENUE APPROXIMATELY 264 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 L&H Real Properties, LLC ("L&H"), a copy of which is attached hereto as Exhibit A, are hereby approved, and in accordance therewith, permission is hereby granted to L&H to encroach into the right-of-way at 1310 Colley Avenue approximately 264 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.

EXHIBIT A TO ORDINANCE

ENCROACHMENT AGREEMENT

This **ENCROACHMENT AGREEMENT** ("Agreement") is made and entered into this ___ day of _____, 2016, by and between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), and **L&H REAL PROPERTY, LLC,** a Virginia limited liability company, ("L&H"), whose address is 2106 Llewellyn Avenue, Norfolk, Virginia 23517.

WITNESSETH:

1. **ENCROACHMENT AREA:** City hereby grants permission to L&H to encroach into the right-of-way at 1310 Colley Avenue approximately 264 +/- square feet, as shown on Exhibit A attached hereto ("Encroachment Area"), for the purpose of outdoor dining and for no other purpose.

2. **USE:** L&H, and its 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 September 1, 2016, or upon the effective date of any authorizing ordinance, whichever shall last occur, and shall terminate on August 31, 2021. However, it is expressly understood that the permission granted hereby is subject to the right of revocation by the Norfolk City Council, and that in the event of such revocation L&H, and its tenant(s), 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, Berman shall pay City an annual encroachment fee in the amount of **One Thousand Five Hundred Eighty-Four Dollars and 0/100 ($1,584.00)**, payable in monthly installments of One Hundred Thirty-Two Dollars and 0/100 ($132.00), beginning on the first day of September,

2016 and monthly thereafter. 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, Attn: Mr. Jim Resolute.

5. **LATE FEES:** For any late payments received 15 days after the first of each month, L&H 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. L&H 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 utilities necessary to serve the Encroachment Area.

7. **REPAIRS:** L&H, and its tenant(s), shall keep and maintain the Encroachment Area in good and complete state of repair and condition. L&H, and its 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:** L&H, and its 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, L&H, and its tenant(s), shall be responsible for 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 L&H, and/or its 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 L&H's, and/or its 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. James Resolute, Jr.
232 E. Main Street, Suite 250
Norfolk, Virginia 23510

L&H: L&H Real Property, LLC
Attn: Mr. Allan Sullivan
2106 Llewellyn Avenue
Norfolk, Virginia 23517

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. **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.

12. **NON-LIABILITY OF CITY:** City shall not be liable for any damage or injury which may be sustained by L&H, its 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 L&H, its tenant(s), or their agents, employees, guests, licensees, invitees, assignees or successors, or on the part of any other person or entity.

13. **REMOVAL OF SNOW:** L&H, and its tenant(s), agree to remove or cause to be removed, as the need for the same arises, snow and ice from the Encroachment Area.

14. **ALTERATIONS:** L&H, and its 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 L&H, and/or its tenant(s), install or make any improvements, additions, installations, renovations, changes on or to the Encroachment Area with the approval of City, L&H, and its 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 L&H, and/or its 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, and changes. L&H, and its tenant(s), shall be jointly and severally liable for paying for the cost of such removal.

15. **ASSIGNMENT AND SUBLETTING:** City and L&H agree that the permission to encroach granted hereby is for the benefit of L&H and its tenant(s), and may not be assigned by

L&H without express authorization by the City. Further, upon L&H's lease of the premises (adjoining the Encroachment Area) to a tenant, L&H shall have any such tenant execute a copy of this Agreement, acknowledging acceptance of the terms and conditions set forth herein.

16. **SURRENDER:** L&H, and its 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. L&H, and its tenant(s), shall return the Encroachment Area to the City in as good order and condition as it was at the beginning of L&H's use of the Encroachment Area. If L&H, and its 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 L&H, and its tenant(s), shall be jointly and severally liable to City for the cost of any removal and disposal.

17. **INSURANCE:** L&H, and/or its 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 City if the insurance is cancelled or modified. L&H, and its 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.

Further, L&H, and its 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 L&H's employees, as well as its tenant's employees, whose work occurs within the premises which are subject to this agreement.

18. **INDEMNIFICATION**: L&H, and its 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 L&H, or its tenant(s), or by L&H's, or its 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 L&H, and/or its tenant(s), but does not extend to circumstances caused in whole or in part by City.

19. **FIXTURES:** City covenants and agrees that no part of the improvements constructed, erected or placed by L&H, or its 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 and L&H, and its tenant(s), to covenant and agree that all improvements of every kind and nature constructed, erected or placed by L&H, and/or its tenant(s), in the Encroachment Area shall be and remain the property of L&H, and/or its tenant(s), unless such improvements are not removed upon termination of this Agreement.

20. **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 L&H, and/or its tenant(s), including but not limited to the L&H's, or its tenant(s)', interest in the Encroachment Area or any of L&H's, and/or its tenant(s), 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 L&H, and its 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, L&H, and its 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. L&H, and its 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, L&H, and its 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) L&H, and its 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, as well as under any successor or new environmental laws. Upon the receipt of any Notice, L&H, and its tenant(s), shall notify City promptly in writing, detailing all relevant facts and circumstances relating to the Notice.

(d) The requirements of this section shall apply to any successor in interest to L&H, and/or its tenant(s), whether due to merger, sale of assets or other business combination or change of control.

(e) L&H, and its tenant(s), hereby agrees 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 L&H's, and/or its tenant(s), failure to comply strictly with the provisions of this section. The provisions of this section shall survive the termination of this permission granted by this Agreement.

21. **LIENS OR ENCUMBRANCES :** If because of any act or omission of L&H, and/or its 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, L&H, and its tenant(s), shall, at its 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 L&H, and/or its tenant(s), of the filing thereof, and L&H, and/or its tenant(s), shall have the right to contest the validity of such lien if they so choose.

22. **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 Norfolk, Virginia.

23. **WAIVER OF TRIAL BY JURY:** To the extent permitted by law, City and L&H, and its tenant(s), mutually waive their rights 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 L&H, and its tenant(s), by this agreement.

24. **OTHER REQUIREMENTS:**

(a) L&H, and its tenant(s), shall comply with the City of Norfolk's Downtown Outdoor Dining Policy, as amended from time to time.

(b) L&H, and its 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) L&H's, and its 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.

25. **TITLES AND HEADINGS**: Titles and headings are inserted in this Agreement for reference purposes only, and shall not be used to interpret the Agreement.

26. **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 L&H, and its tenant(s), entering into this Agreement, and in any event the remainder of the Agreement shall continue in full force and effect.

27. **ENTIRE UNDERSTANDING**: This Agreement constitutes the entire understanding between or on behalf of the City and L&H, and its 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.

28. **SUCCESSORS AND ASSIGNS**: In the event L&H assigns, conveys, sells, or otherwise disposes of its interest in the property located at 1310 Colley Avenue to a party other than an affiliated entity, the permission granted by this Agreement shall immediately terminate. Any such successor in interest to L&H that desires to encroach into the right-of-way must submit a new application for approval by the City.

29. **COMPLIANCE WITH FEDERAL IMMIGRATION LAW:** At all times during which any term of this Agreement is in effect, L&H, and its 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.

30. **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.

31. **AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH:** L&H, and its tenant(s), hereby represent that they 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 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.

32. **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.

CITY OF NORFOLK

By: _____
City Manager

Attest:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, 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

L&H REAL PROPERTY, LLC

By:_____
Name (Printed): _____
Title:_____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of _____, in the Commonwealth of Virginia, do hereby certify that _____, _____ (Title) of L&H Granby LLC 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:_____
Name (Printed): _____
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: _____

EXHIBIT A

RKHART | THOMAS

ARCHITECTURE & INTERIOR DESIGN
A Professional Corporation

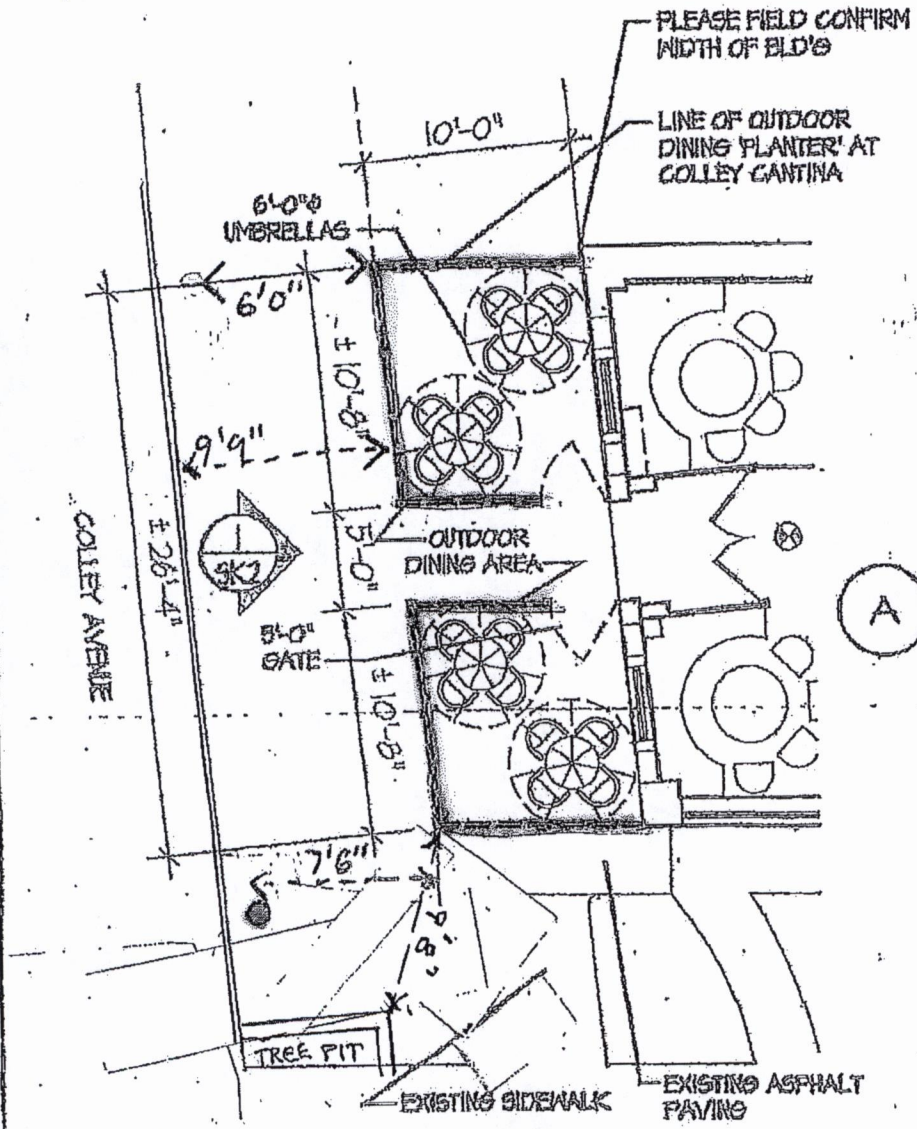
420 WEST BUTE ST. NORFOLK, VA 23510
PHONE 757.622.[illegible] FAX 757.[illegible]

OUTDOOR DINING PLAN

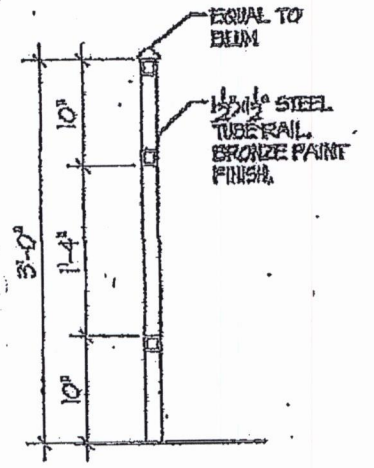
COLLEY AVE., NORFOLK, VIRGINIA

DATE: 04/22/04
COMM.: 03-1110
DRAWN BY: KWG/LAW
CKD. BY: RJT
SCALE: 1/8" = 1'-0"

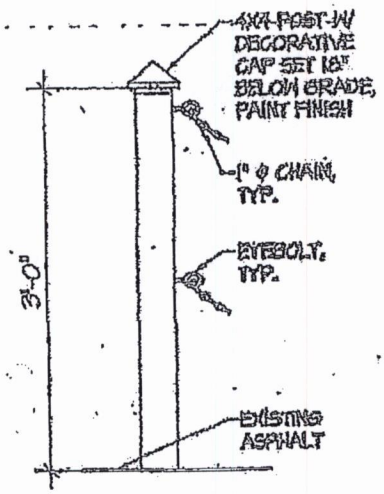
DWG. NO.
SK1



OUTDOOR DINING PLAN
1/8" = 1'-0"

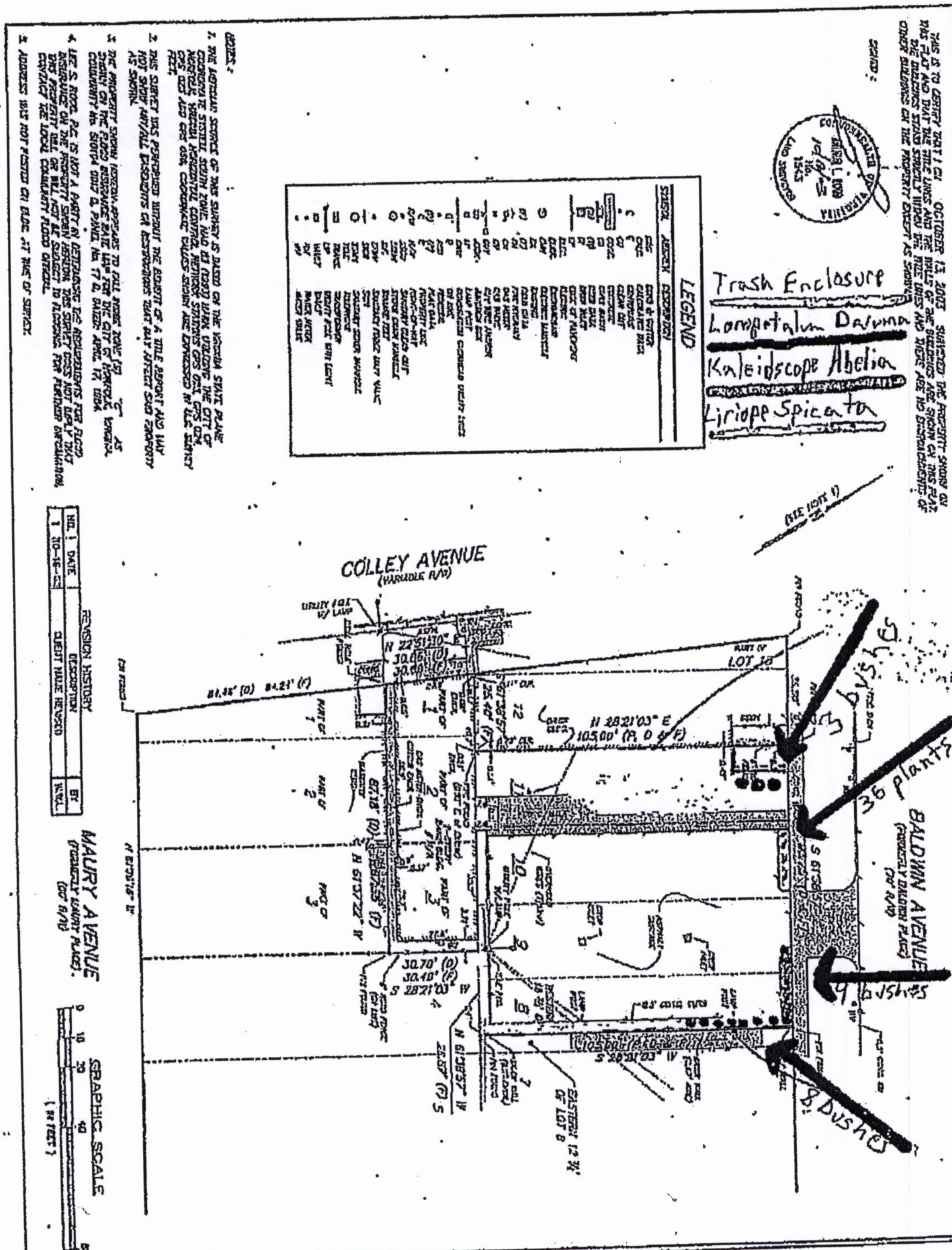


A FINAL RAILING DETAIL
3/4" = 1'-0"



B TEMPORARY RAILING DETAIL
3/4" = 1'-0"

Dominion Power Pole (not in encroachment)
Street Light
Outdoor Dining Railing



DRAWN BY:	R.W.L.
CHECKED BY:	A.L.R.
SCALE:	1"=20'
DATE:	10-13-03
JOB NO.:	55,993
FILE NO.:	55-5501
REF.:	M.B. 3, Pg. 6
F.B.	T-54, Pg. 76
SHEET 1 OF 1	

PHYSICAL SURVEY
OF
PART OF LOTS 1, 2 & 3, THE WESTERN 18 3/4' OF LOT 8, ALL OF LOTS 9, 10 & 11, BLOCK B, MAP OF GREATER GHENT ADDITION AND ADJACENT PROPERTIES
NORFOLK, VIRGINIA
FOR
L & H REAL PROPERTY, LLC

LEE S. ROOD, P.C.
LAND SURVEYORS
5707 HARTGE STREET
NORFOLK, VIRGINIA 23502
TEL: (757) 466-1313
FAX: (757) 466-0064

City of NORFOLK

C: Dir., Department of General Services

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: Lease Agreement between 1155 Pineridge, LLC and the City of Norfolk for the property located at 1155 Pineridge Road

Reviewed: Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: 4/6

Approved: Marcus D. Jones, City Manager

Item Number: **R-18**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to approve a lease agreement between 1155 Pineridge, LLC ("1155 Pineridge") and the City of Norfolk (the "city") to continue to lease the property located at 1155 Pineridge Road.

IV. **Analysis**
This lease agreement will permit the City to continue to lease and use the space located at 1155 Pineridge Road for the Norfolk Library Service Center's centralized library support functions, such as, administrative offices, interim and permanent storage of books and collections, shipping and receiving shipments, processing, and distribution to the other Norfolk library branches. Use of this space relieves the new main library from processing large shipments and decreases the potential of exceeding maximum load allowances. The City will continue to lease approximately 42,000 square feet of space. The term of the proposed lease is seven (7) years, commencing on November 1, 2016, or the date of any authorizing ordinance, and terminating on approximately October 31, 2023.

V. **Financial Impact:**
The rent will be subject to an annual escalation as noted in the accompanying rent table.

Term	Monthly Rent	Annual Rent
11/01/2016 – 10/31/2017	$24,406.20	$292,874.40
11/01/2017 – 10/31/2018	$24,894.32	$298,731.89
11/01/2018 – 10/31/2019	$25,392.21	$304,706.53
11/01/2019 – 10/31/2020	$25,900.05	$310,800.66
11/01/2020 – 10/31/2021	$26,418.06	$317,016.67
11/01/2021 – 10/31/2022	$26,946.42	$323,357.00
11/01/2022 – 10/31/2023	$27,485.35	$329,824.14

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 Lease Agreement

8/26/2016 -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 LEASE AGREEMENT BETWEEN 1155 PINERIDGE, LLC AND THE CITY OF NORFOLK FOR THE LEASE OF THAT CERTAIN PROPERTY OWNED BY 1155 PINERIDGE, LLC, LOCATED AT 1155 PINERIDGE ROAD, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY OF NORFOLK.

- - -

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

Section 1:- That the Lease Agreement between 1155 Pineridge, LLC ("1155") and the City of Norfolk ("City"), a copy of which is attached hereto as Exhibit A attached hereto, by which 1155 leases to City that certain property owned by 1155, located at 1155 Pineridge Road, shown on Exhibit B attached hereto, is hereby approved.

Section 2:- That the City Manager is authorized to execute the Lease Agreement for and on behalf of the City, and to do all things necessary and proper to carry out its terms.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Lease Agreement as he may deem advisable in order to carry out the intent of the Council.

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

EXHIBIT A TO ORDINANCE

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), executed on the ___ day of _____ 2016, by and between the **1155 PINERIDGE, LLC,** a Virginia limited liability company, ("1155"), and the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia, ("City").

WITNESSETH:

WHEREAS, 1155 and City began a landlord-tenant relationship for the property at 1155 Pineridge Road, in the City of Norfolk, Virginia, in 2008 for the lease of 27,000 square feet, with execution of the Lease Agreement occurring on August 25, 2008 ("Initial Lease"); and

WHEREAS, the parties subsequently entered into the now existing lease, which commenced on November 1, 2011 and will terminate on October 31, 2016 ("Existing Lease"), which Existing Lease includes an expanded leased area totaling 42,000 square feet; and

WHEREAS, the Norfolk Library Service Center's centralized library support functions, such as, administrative offices, interim and permanent storage of books and collections, shipping and receiving large shipments, processing, and distribution among library branches are well-suited to the industrial setting of the subject property; and

WHEREAS, the operations of the Norfolk Library Service Center relieves the new main library from having to process large shipments and decreases the potential of exceeding the maximum load tolerances; and

WHEREAS, to continue to meet the needs of the library system, the parties desire to enter into a new lease agreement for the 42,000 square feet under new, but similar, terms and conditions;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1. **PREMISES**. That for and in consideration of the payment by City of the rent hereinafter described and the performance by City of the covenants and agreements hereinafter agreed to be performed by it, and in accordance with all of the provisions hereinafter set forth, City does hereby take, lease, and hire from 1155, a portion of that certain building owned by 1155 known as 1155 Pineridge Road, in the City of Norfolk, Virginia, containing approximately 42,000 square feet of gross floor area, and comprised of warehouse space, open office area, administrative offices, and other general use areas, all as described in Exhibit A attached hereto and made a part hereof ("Premises").

2. **USE.** The Premises shall be used for library administrative offices, storage, receiving, cataloguing and distribution of library materials, and other related functions of the library system, and for no other purpose. City agrees that it will comply with all applicable laws regarding its use of the Premises, including, but not limited to, the Americans with Disabilities Act of 1990 (ADA) and the regulations promulgated thereunder to the extent applicable.

3. **TERM OF LEASE.** The term of this Lease shall be for a period of seven (7) years ("Term"), to commence on the later of (i) November 1, 2016, or (ii) the effective date of any authorizing ordinance approving this Agreement by Norfolk City Council ("Commencement Date"), and terminating on the date that is the last day of the eighty-fourth (84th) full calendar month thereafter ("Termination Date"), subject to the default provisions herein contained. At City's option, City may extend the lease for one (1) additional one-year term by notifying 1155 at least ninety (90) days prior to the Termination Date of this Lease.

4. **TERMINATION OF EXISTING LEASE.** The Existing Lease shall terminate and be of no further force and effect as of the Commencement Date of this Lease.

5. **RENT.** Starting on the Commencement Date, and monthly thereafter during the Term and on the first day of each month, City will pay to 1155, without demand, without notice, and without offset or deduction, as Rent, the following monthly amounts:

LEASE TERM	ANNUAL BASE RENT	MONTHLY BASE RENT
11/1/16 – 10/31/17	$292,874.40	$24,406.20
11/1/17 – 10/31/18	$298,731.89	$24,894.32
11/1/18 – 10/31/19	$304,706.53	$25,392.21
11/1/19 – 10/31/20	$310,800.66	$25,900.05
11/1/20 – 10/31/21	$317,016.67	$26,418.06
11/1/21 - 10/30/22	$323,357.00	$26,946.42
11/1/22 – 10/30/23	$329,824.14	$27,485.35
TOTAL	**$2,177,311.29**	

Should the Term of the Lease begin on any day other than the first day of the first month, the rent shall be prorated from the Commencement Date based on the actual number of days in the first month. Should City exercise City's option to extend the Term, the Rent shall be increased by two percent (2%) over the Rent for the last year of the Term, $28,035.05 per month ($336,420.62 annually).

All Rent shall be paid to 1155 Pineridge, LLC, c/o Mr. Paul H. Peck, President, P.O. Box 2394, Norfolk, VA 23501-2394, or at such other place as 1155 may, from time to time, designate in writing.

Appropriations Clause. City's financial obligations and payment thereof which arise under this Lease are subject to and conditioned upon appropriations by Norfolk City Council. City shall advise Pineridge in writing on April 1st of each calendar year during the Term of its election to terminate this Lease due to lack of appropriations ("Notice of Termination"). In the event City elects to terminate this Lease pursuant to the previous sentence, City shall, to the extent permitted by law, continue to occupy the Premises and pay Monthly Base Rent, in accordance with the above

Rent Schedule, and common area expenses (described under Paragraph 13) after the Notice of Termination for a period of eight (8) months. After the expiration of the eight (8) months the Lease will be considered terminated. Should the City continue to occupy the Premises after this established Termination Date, without entering into a new written agreement, the City shall be considered a holdover tenant, subject to the terms of a Holdover Tenancy (as described in Paragraph 27).

Expansion Right. There is available or may be available additional space in the building where the Premises are located. At any time it is available, City may rent such additional space based on the then current rent per square foot for such available space. If a third party makes an offer to rent any or all of the available space and 1155 advises City in writing of its intention to accept said offer ("1155's Notice"), City shall have first right of refusal to rent at the current rent per square foot, exercisable upon written notice to 1155 within five (5) business days from City's receipt of 1155's Notice. If City does not notify 1155 within five (5) business days of its intention to exercise its right of first refusal, 1155 shall be free to rent the available space to another tenant.

6. **PAST DUE RENT AND LATE CHARGES.** In the event City shall fail to pay, when the same is due and payable, any Rent or other charges or adjustments and if said sums have not been paid within ten (10) days of their due date, then City shall pay to 1155 a late charge of five percent (5%) of the past due amount.

7. **NO ASSIGNMENT OR SUBLEASE.** City covenants not to assign, mortgage or encumber this Lease or sublet or permit the Premises or any portion thereof to be used by others without the prior written consent of the 1155 in each instance, such consent not to be unreasonably withheld. City shall be responsible for payment of 1155's reasonable attorney's fees and out-of-pocket expenses incurred in connection with the review of any proposed sublease or assignment.

8. **OPTION TO PURCHASE**. 1155 hereby grants to the City the option to purchase the property on which the Premises are located at any time during the Term of this Lease by written notice sent by certified mail or hand-delivery to 1155 Pineridge, LLC, c/o Mr. Paul H. Peck, President, P.O. Box 2394, Norfolk, Virginia 23501. This option to purchase the property runs with the Term of this Lease.

9. **RIGHT OF FIRST REFUSAL**. In the event that 1155 receives an unsolicited, bonafide offer to purchase the property on which the Premises are located by a third party during the Term of this Lease, 1155 hereby grants to the City the right of first refusal on any sale of the said property. Any proposed sale of the property will be submitted to the City and the City shall have the right to purchase the property on the same terms and conditions as the proposed purchaser. All such proposals of any kind shall be presented to the City in writing at the City's address set forth herein by certified mail or hand-delivery, and City shall have twenty (20) days from the date the notice is received to enter into a non-binding letter of understanding with 1155 which acknowledges the intentions of the parties to negotiate in good faith a mutually satisfactory Purchase and Sale Agreement to purchase the property on the same terms as the proposed purchaser, subject to the approval of the Norfolk City Council. If City fails to enter into a non-binding letter of understanding with 1155 within twenty (20) days, this right of first refusal shall be deemed null and void and of no further effect. However, all other terms and conditions of this Lease shall remain in full force and effect.

Any conveyance of the Property during the term of this lease will be subject to the provisions of this Lease and City may, at its expense, record a Memorandum of Lease in the land records of the City of Norfolk.

10. **ACCEPTANCE OF PREMISES**. City hereby agrees to accept the Premises "as is", acknowledging that City is the current occupant of the Premises and that the Premises are in good working order and repair. This acceptance does not apply to major structural building systems such as, but not limited to, roof, structure, electrical, and plumbing, components, all of which 1155 does hereby covenant to be in good working order and repair as of the Commencement Date. HVAC conditions are covered under Paragraph 12.

11. **TENANT ALTERATIONS AND MODIFICATIONS.** With the written permission of 1155, which shall not be unreasonably withheld, City may at its own cost and expense make from time to time any non-structural changes, alterations, additions, and improvements to the interior of the Premises which City may deem necessary or suitable for the conduct of its business. City shall not make any structural or exterior changes to the Premises without the prior written consent of 1155.

12. **REPAIRS AND MAINTENANCE**. City, at its sole cost and expense, will be responsible for the normal, regular, day to day maintenance and repairs of the Premises, including but not limited to the electric and plumbing systems. However, City shall not be obligated to repair or replace an entire system, including the electric and plumbing systems, unless such repair or replacement is necessitated by the negligence of City, its officers, agents, employees, or contractors. City shall arrange for janitorial services and trash removal at its sole cost and expense. 1155 shall deliver the Premises with the HVAC in good working order and provide evidence of such to City in writing. City will be responsible for normal maintenance of the HVAC systems and will, as requested, provide documentation of regular preventive maintenance performed. The cost of any required repairs or replacement of the HVAC shall be paid by City up to $10,000.00 per year, and 1155 shall be responsible for the remaining balance. 1155 shall not provide or replace

any fire extinguishers except those fire extinguishers that are currently located within the Premises. The building contains a security system that monitors the Premises, but 1155 makes no representations or guarantees as to the condition or working order of the system or the security of the Premises.

13. **COMMON AREAS**. During the pendancy of this Lease, City shall be responsible for City's pro-rata share of the increases in insurance and in real estate taxes for the Premises that occur after the Commencement Date. City shall also be responsible for its pro-rata share of the common area expenses including, without limitation, repairs and maintenance of the common areas, parking areas, and exterior lighting.

14. **ELECTRIC ROOM**. City acknowledges that the electricity source for the building is located in the Premises. 1155 will retain rights to access such electric room throughout the Term of this Lease. Additionally, in the event a lease is signed with a third party for any portion of the vacant space, 1155 retains the right to (a) determine the best way to compute the pro-rata share of the common utilities, and (b) retain access to those areas located in the Premises that supply the entire building.

15. **PARKING**. Until such time that another tenant leases a portion of the building, City will have exclusive access and use of the parking areas on the Premises. To the extent unauthorized persons use the parking areas of the Premises, City is hereby authorized and shall have the responsibility to enforce its exclusive use of the parking areas.

16. **UTILITIES.** City will be responsible for all utility costs in association with the operation of the Premises.

17. **1155 MAINTENANCE**. 1155 covenants that it will, at its own cost and expense, be responsible for the maintenance of the roof and major structural building systems of the Premises, as described in Paragraph 10.

18. **ESTOPPEL CERTIFICATE**. City shall, from time to time and within ten (10) days after request therefor by 1155, execute, acknowledge and deliver to 1155 a written Estoppel Certificate in recordable form. The Estoppel Certificate shall certify to 1155, its Mortgagee or other party designated by 1155 as of the date of such Estoppel Certificate that (a) City is in possession of the Premises and is currently paying the Rent; (b) the following Lease dates are and have been established: the Commencement Date and Termination Date of this Lease, and the date upon which City started to pay Rent; (c) this Lease is unmodified and in full force and effect, or if there have been modifications, that the same are in full force and effect (setting forth such modifications); (d) there are no existing set-offs or defenses to the enforcement of any rights or remedies of 1155, or any duties or obligations of City, hereunder, or, if there are, they shall be specified in detail; and (e) City has no knowledge of any event having occurred that will justify the termination of this Lease by City, or any uncured defaults on the part of 1155 under this Lease; if City has such knowledge, the same shall be specified in detail.

19. **SUBORDINATION AND ATTORNMENT**. City agrees that this Lease is subordinate to any mortgage or lien resulting from financing or refinancing, now or hereafter placed upon the land on which the Premises have been built or upon any building hereafter placed upon the land, of which the Premises are a part. City will, further, attorn to and acknowledge any foreclosure purchaser or purchasers as 1155 hereunder. This subordination shall be self-operative and no further instrument of subordination shall be required by any mortgagee. However, City

shall, upon the request of any party in interest, promptly execute such instrument or certificate to carry out the intent hereof as shall be required by 1155.

20. **QUIET ENJOYMENT**. 1155 hereby covenants that City, upon fully complying with and promptly performing all the terms, covenants and conditions of this Lease, on its part to be performed, and further, upon the prompt and timely payment of all rental sums due hereunder, shall have and quietly enjoy the Premises for the Term set forth herein.

21. **INDEMNITY AGAINST LIENS**. City agrees that it will, at all times during the Term of this Lease, take any and all steps necessary to prevent the filing of mechanic's liens against the Premises resulting from any work performed by or on behalf of City. In no event shall 1155 or any of 1155's property be liable for or chargeable with any expense or lien for work, labor or materials used for and in the Premises by or on behalf of City; or for any improvements thereof or changes made upon the order of City, or to discharge the obligations of City during the Term of this Lease. 1155 agrees to the same obligations towards City as to any liens or charges or expenses made upon order of 1155.

22. **FIRE AND/OR DESTRUCTION**. If the Premises shall be damaged by fire or other casualty at a time when more than six (6) months is remaining in the Term of this Lease or any extension or renewals thereof, 1155 agrees that it will restore the structural components and items with reasonable dispatch to substantially the same condition that they were in, so far as the proceeds from 1155's insurance permits and provided that 1155's mortgagee does not require insurance proceeds to be paid to it. Once 1155's restoration work is complete to City's reasonable satisfaction, and since time is of the essence, City's rent payment shall recommence on the thirtieth (30th) day after 1155 notifies City in writing that the Premises are ready for fixturing. City shall be responsible, at its sole cost and expense, to repair or replace any of City's fixtures, equipment and

leasehold improvements which were damaged or destroyed by the same insured cause. The Rent payable hereunder shall be equitably and proportionately abated, according to loss of use to City, during the period of time intervening between the date of such fire and/or destruction and the date that the Premises are restored. In the event that the property is not restored so as to permit reentry by City to its prior capacity by a date ninety (90) days after casualty then City may terminate this Lease without penalty or any further obligation by advising 1155 in writing.

23. **FORCE MAJEURE**. In the event that either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature, not the fault of the party delayed in performing the work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the provisions of this paragraph shall not operate to release City from this Lease nor to excuse City from prompt payment of Rent.

24. **EMINENT DOMAIN**. If all the Premises are condemned or taken by the power of eminent domain exercised by any governmental or quasi-governmental authority, this Lease shall terminate as of the date that City is required to vacate the Premises and all Rent shall be paid up to and until the date of termination. If only part of the Premises shall be taken and the size of the Premises is proportionately reduced, then City is entitled to an equal and proportionate reduction in Rent. Further, 1155 shall, as expeditiously as possible, repair the remaining portion of Premises to the extent necessary to render the same suitable for which the Premises were leased.

City hereby waives any right that it may have to any condemnation award or sum paid under threat of condemnation as a result of a complete or partial taking of the Premises.

25. **DEFAULT**. The occurrence of any one of the following events may constitute a default by the party and a breach of this Lease and its covenants by the party, if such default, breach or nonperformance is continued and not cured or commenced to be cured within the applicable number of days after written notice:

(a) The failure by City to make any payment of Rent, and adjustments within ten (10) days after same shall be due, if written notice has been received by City, including right to cure and the cure period has lapsed;

(b) The failure by either party to perform any covenants herein, or the breach by either party of the Lease covenants herein, and the continual further failure by City to cure such covenant, breach, or non performance within fifteen (15) days after written notice;

(c) The failure by either party to perform all of its obligations under the terms of this Lease.

26. **REMEDIES**. In the event of either party's default, the non-defaulting party has the right to terminate this Lease, in addition to all other rights and remedies provided by the law.

27. **HOLDOVER TENANCY**. If City shall occupy the Premises after the established Termination Date of this Lease, including any Termination Date established by a failure of Norfolk City Council to appropriate funds or any Termination Date otherwise established under the terms of this Lease, and in the absence of any written agreement extending the term hereof, the City's tenancy shall become a month-to-month Holdover Tenancy, that may be terminated by either City or 1155 upon thirty (30) days written notice, and the Rent shall be due in an amount equal to the

Monthly Base Rent, applicable and due at the Termination Date, plus Five Thousand and 00/100 Dollars ($5,000.00).

28. **TERMINATION AND SURRENDER**. Upon the expiration or termination of this Lease, City shall surrender the Premises to 1155 in as good a condition as they were found upon City taking possession of the Premises, except for ordinary wear and tear. City shall deliver to 1155 or its Agent all keys to the Premises and remove all its personal property, merchandise and trade fixtures and make all necessary repairs or reimbursements. After City vacates or abandons the Premises, 1155 may elect to retain or dispose of, in any manner, any of City's improvements or City's personal property that City does not remove from the Premises prior to the Termination Date. Title to any such personal property shall vest in 1155. City waives all claims against 1155 for any damage to City resulting from 1155's retention or disposition of any such personal property. City shall also be liable to 1155 for 1155's expenses and costs of removing, disposing of and storing any of City's personal property.

29. **CITY WAIVERS**. The failure of 1155 to insist upon strict performance by City as to any Lease covenant shall not be construed as a waiver by 1155 of such covenant in the future, but the same shall continue and remain in full force and effect. The receipt by 1155 or its Agent of rent with knowledge of a covenant breach shall not be deemed a waiver of such covenant breach, and no waiver by 1155 of any provision hereof shall be deemed to have been agreed upon unless expressed in writing and signed by the parties hereto.

30. **SUCCESSORS AND ASSIGNS**. All the terms, covenants and provisions of this Lease shall extend to and be binding upon 1155 and City and their respective heirs, administrators, executors, successors, assigns, subtenants, sublessees, and any person or persons who obtain an ownership or possessory interest in the Premises by operation of law or otherwise.

31. **NOTICES**. Any notice to be given to either party shall be deemed to be given when posted in United States registered or certified mail, postage prepaid, addressed as follows:

1155: 1155 Pineridge, LLC
c/o Mr. Paul H. Peck, President
P.O. Box 2394
Norfolk, Virginia 23501

City: City of Norfolk
Manager of Real Estate
232 East Main Street, Suite 250
Norfolk, Virginia 23510

Either party may, at any time, change its address for the purposes of notice by sending a written notice to the other party stating the change and setting forth the new address.

32. **BROKERAGE REPRESENTATION**. 1155 and City shall have no obligation to the other for the payment of any real estate commission in regard to this Lease

33. **LEASE SUBMISSION**. The submission of this Lease for examination does not constitute an offer to lease. This Lease shall become effective only upon execution by both City and 1155.

34. **HAZARDOUS SUBSTANCES**. The term Hazardous Substances as used herein shall include any substances declared to hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority having jurisdiction. City shall not cause, or permit its agent, licensees or employees to use, generate, release, manufacture, produce, process, store, or dispose of any hazardous substance on or from the Premises. Hazardous Substances shall not include any materials kept on the Premises, in those limited quantities necessary for the operation or maintenance of office equipment. City shall be responsible for payment of all damages, fines, judgments, penalties, costs, liabilities, or losses arising during or after the term of this Lease, and any extensions thereto, from or in connection with the presence

of any Hazardous Substances in or on the Premises to the extent such Hazardous Substances are present due to the negligent acts or omissions of City, its employees, agents, or contractors.

35. **ENTRY**. City agrees to permit 1155 and/or its authorized agent to enter the Premises upon twenty-four (24) hours notice for inspecting, making such repairs or additions as 1155 may desire or be required to make, for showing the Premises to any prospective purchaser, and during the last six (6) months of this Lease Term or any extension or renewal, to prospective tenants. 1155 shall perform such repairs, at such times and in such manner as will not unreasonably interfere with the use of the Premises by City. 1155 shall have the right to enter the Premises without notice in situations deemed to be emergency situations by 1155.

36. **TIME OF THE ESSENCE**. Time shall be of the essence in this Lease.

37. **SELF INSURED**. The parties acknowledge that City is self-insured. City shall have the right to satisfy any or all insurance requirements by use of self-insurance and shall provide evidence of the same to 1155.

38. **ENTIRE AGREEMENT**. This Lease contains the entire agreement of the parties. No prior oral or written agreement, understanding, representation or warranty, promise or statement shall be effective or binding for any reason or purpose, unless specifically set forth in this Lease. No provision of this Lease may be amended or added to except by an agreement in writing, signed by the parties hereto or their respective successors in interest. This Lease shall not be effective or binding on either party until fully executed by both parties hereto.

IN WITNESS WHEREOF this Lease has been duly executed by the parties hereto.

(SIGNATURE PAGES FOLLOW)

LANDLORD:

1155 PINERIDGE, LLC

By: _____
Name (Printed): _____
Title:_____

STATE OF _____
CITY/COUNTY OF _____, to-wit:

I, _____, a Notary Public in and for the City/County of _____ in the State of _____, whose term of office expires on the ___ day of _____, 20___, do hereby certify that _____, _____ (Title) of 1155 Pineridge, LLC, whose name is signed to the foregoing Lease 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 in and for the City of Norfolk in the Commonwealth of Virginia, whose term of office expires on the ____ day of _____, 20___, do hereby certify that Marcus D. Jones, City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names are signed to the foregoing Lease Agreement, have acknowledged the same before me in my City and State aforesaid.

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

_____
Notary Public
Registration No._____

APPROVED AS TO CONTENTS:

_____
Director of General Services

APPROVED AS TO FORM AND CORRECTNESS:

_____
Deputy City Attorney

CERTIFICATE OF FUNDING

I hereby certify that the money required for this Agreement is in the City Treasury to the credit of the fund from which it is to be drawn and not appropriated for any other purpose.

ACCOUNT:_____

AMOUNT:_____

VENDOR CODE: _____

CONTRACT NO.:_____

_____

Director of Finance Date

EXHIBIT A

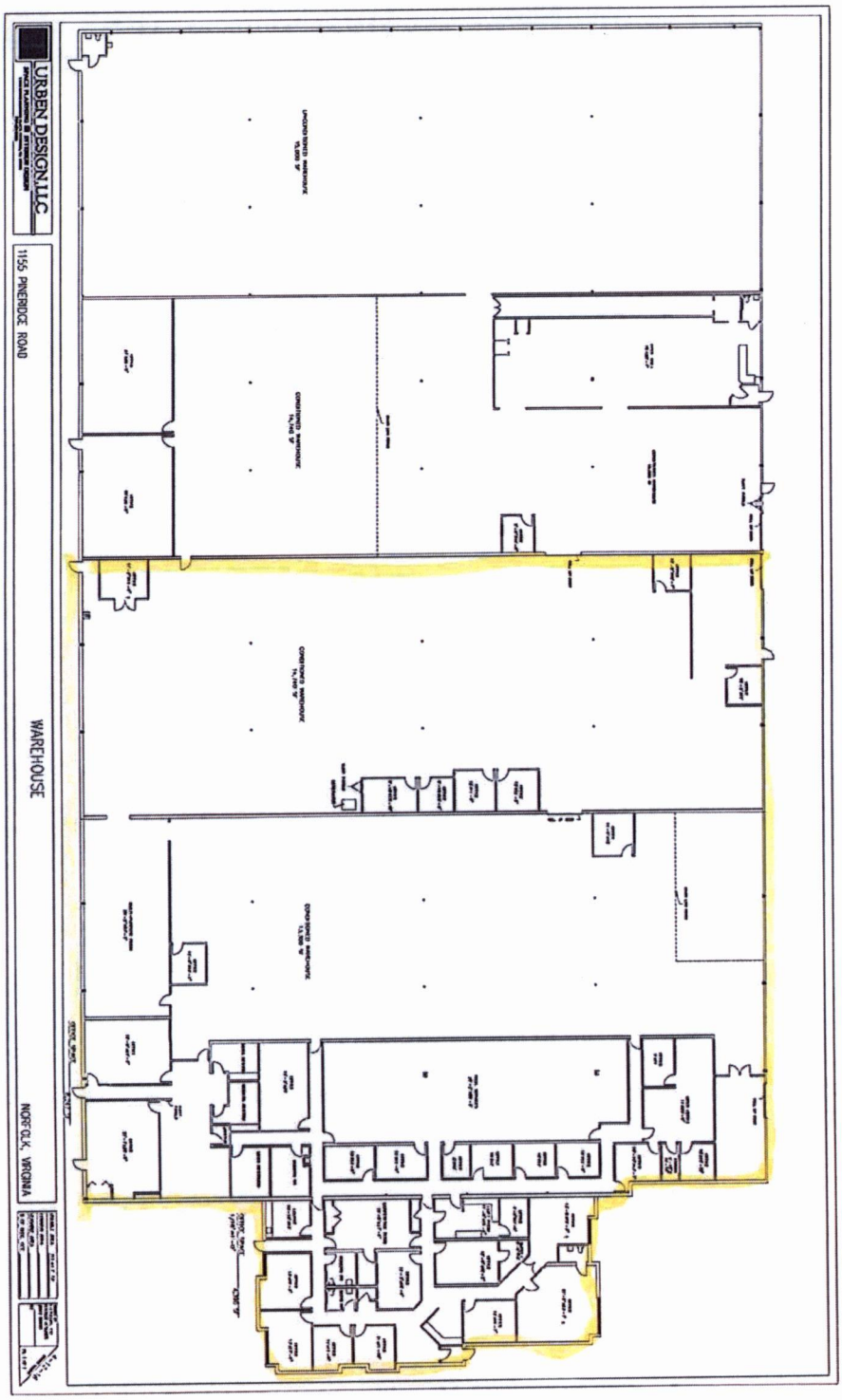
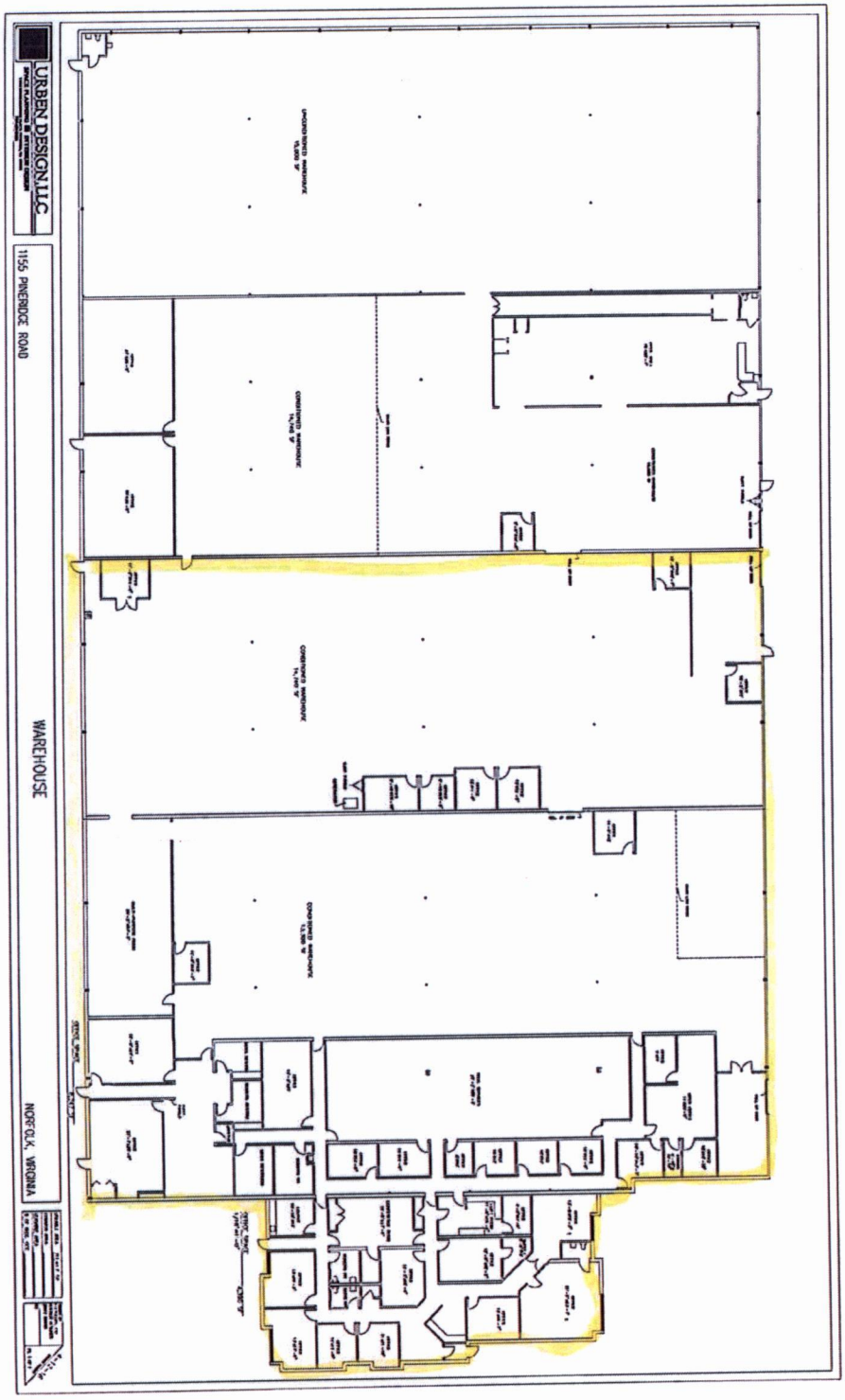

URBEN DESIGN LLC
11555 PINERIDGE ROAD
WAREHOUSE
NORFOLK, VIRGINIA

EXHIBIT B TO ORDINANCE



City of NORFOLK

C: Dir., Department of General Services

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: Lease Agreement between Norfolk Redevelopment and Housing Authority and the City of Norfolk for property located at 1445 Roberts Road

Reviewed: Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: 4/6

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 approve a lease agreement between the Norfolk Redevelopment and Housing Authority ("NRHA") and the City of Norfolk (the "city") for the property located at 1445 Roberts Road.

IV. **Analysis**
This lease agreement will permit the city to lease and use the space owned by NRHA for the purpose of storage and distribution of maintenance-related materials, supplies, and equipment for the city. The city will lease approximately 20,300 square feet of office space and storage facilities in the building. The term of the proposed lease is twenty (20) years, commencing on November 1, 2016 and terminating on October 31, 2036.

V. **Financial Impact**
The annual rent for this space is fixed at ten dollars annually, payable to NRHA at the beginning of each year under the lease.

VI. **Environmental**
There are no known environmental issues associated with this property.

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'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 Lease Agreement

6/29/2016 -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 LEASE AGREEMENT BETWEEN THE NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY AND THE CITY OF NORFOLK FOR THE LEASE OF THAT CERTAIN PROPERTY OWNED BY THE NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY, LOCATED AT 1445 ROBERTS ROAD, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY OF NORFOLK.

- - -

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

Section 1:- That the Lease Agreement between the Norfolk Redevelopment and Housing Authority ("NRHA") and the City of Norfolk ("City"), a copy of which is attached hereto as Exhibit A, by which the NRHA leases to the City that certain property owned by the NRHA, located at 1445 Roberts Road, shown on Exhibit B attached hereto, is hereby approved.

Section 2:- That the City Manager is authorized to execute the Lease Agreement for and on behalf of the City, and to do all things necessary and proper to carry out its terms.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Lease Agreement as he may deem advisable in order to carry out the intent of the Council.

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

EXHIBIT A TO ORDINANCE

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), executed on the ___ day of _____ 2016, by and between the **NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("NRHA"), Lessor, and the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), Lessee.

WITNESSETH:

WHEREAS, NRHA and City desire to enter into a landlord-tenant relationship concerning a portion of the subject property and building at 1445 Roberts Road, Norfolk, VA ("Premises") for the lease of approximately 20,300 square feet of gross floor area, as shown on Exhibit A attached hereto; and

WHEREAS, NRHA and City acknowledge the current status of the condition of the building located on the Premises and acknowledge that any necessary build out to meet the needs of City will be the responsibility of the City; and

NOW, THEREFORE, in consideration of the rents, convenants, and agreements hereinafter mentioned, reserved, and contained, to be paid, kept, and performed by City, NRHA does hereby demise and lease unto City, and City does hereby lease from NRHA, the Premises, and the parties hereby agree as follows:

1. USE. The Premises shall be used for storage and distribution of City materials, supplies and equipment, and for no other purpose, without prior written notification provided to NRHA. City agrees that it will comply with all applicable laws regarding its use of the Premises. City agrees that it will comply with all applicable laws regarding its use of the Premises including, but not limited to the Americans with Disabilities Act of 1990 (ADA) and the regulations promulgated thereunder to the extent applicable.

2. **TERM OF LEASE.** The term of this Lease shall be for a period of twenty (20) years ("Term"), commencing on November 1, 2016, or upon the effective date of any authorizing ordinance, whichever shall last occur ("Commencement Date"), and ending on October 31, 2036 ("Termination Date"), subject to annual appropriation of funds by City Council and the default provisions herein contained.

3. **EARLY TERMINATION.** City may vacate the Premises at any time and terminate the Lease, upon ninety (90) days prior written notice to NRHA.

4. **RENT.**

A. Base Rent. Starting on the Commencement Date, and annually on the first day of each and every year thereafter during the Term of this Lease, City will pay to NRHA as rent, without demand, notice, offset, or deduction, the annual sum of **TEN DOLLARS AND 00/100 ($10.00)** ("Base Rent"). Such rent shall be paid to NRHA at the address listed in Paragraph 29, or at any address as may be designated by NRHA from time to time.

B. Appropriations Clause. City's financial obligations and payment thereof which arise under this Lease are subject to and conditioned upon appropriations by Norfolk City Council. In the event Norfolk City Council fails to appropriate funds, this Lease will terminate on the last day of the fiscal year for which funds have been appropriated, unless terminated sooner under the terms of this Lease.

5. **PAST DUE RENT AND LATE CHARGES.** In the event City shall fail to pay when due any Rent or other charges or adjustments within ten (10) days of their due date, then City shall pay to NRHA a late charge of five percent (5%) of the past due amount.

6. **NO ASSIGNMENT OR SUBLEASE.** City covenants not to assign, mortgage or encumber this Lease or sublet or permit the Premises or any portion thereof to be used by others

without the prior written consent of NRHA in each instance, such consent not to be unreasonably withheld. City shall be responsible for payment of NRHA's reasonable attorney's fees and out-of-pocket expenses incurred in connection with the review of any proposed sublease or assignment.

7. **OPTION TO PURCHASE.** NRHA hereby grants to City the option to purchase the property on which the Premises is located at any time during the Term of this Lease, with City giving written notice sent by certified mail or hand-delivery to NRHA at the address specified in Paragraph 29. This option to purchase the said Property runs with the Term of this Lease.

8. **RIGHT OF FIRST REFUSAL.** In the event that NRHA receives an unsolicited, bonafide offer to purchase the Property by a third party during the term of this Lease, NRHA hereby grants to City the right of first refusal on any sale of the Property. Any proposed sale of the Property will be submitted to City and City shall have the right to purchase the Property on the same terms and conditions as the proposed purchaser. All such proposals of any kind shall be presented to City in writing at City's address set in Paragraph 29 by certified mail or hand-delivery, and City shall have thirty (30) days from the date the notice is received to enter into a non-binding letter of understanding with NRHA which acknowledges the intentions of the parties to negotiate a mutually satisfactory Purchase and Sale Agreement to purchase the Property subject to the approval by the Norfolk City Council. If City fails to enter into a non-binding letter of understanding with NRHA within thirty (30) days, this right of first refusal shall be deemed null and void and of no further effect. However, all other terms and conditions of the Lease shall remain in full force and effect.

Any conveyance of the Property during the Term of this Lease will be subject to the provisions of this Lease and City may, at its own expense, record a memorandum of lease.

9. **ACCEPTANCE OF PREMISES.** City hereby agrees to accept the Premises "as is". By this acceptance, the City acknowledges that the Premises does not currently have electrical or water service, and that the lavatories are in disrepair.

10. **ALTERATIONS AND MODIFICATIONS.** With the written permission of NRHA, which shall not be unreasonably withheld, City may at its own cost and expense make from time to time any structural changes, alterations, additions, and improvements to the exterior and interior of the Premises which City may deem necessary or suitable for the conduct of its business.

11. **REPAIRS AND MAINTENANCE.** NRHA acknowledges that it will be responsible for the maintenance, including any costs and expenses, of the portion of the roof, structural building systems of the building and exterior areas that are not included as part of the Premises. City, at its sole cost and expense, will be responsible for only normal and regular day to day maintenance and repairs of the Premises, in its current condition. City shall not be obligated to repair or replace any system, including the roof, structure, electric and plumbing components related to any portion of the building immediately adjoining the Premises, unless such repair or replacement is necessitated by the negligence of City, its officers, agents, employees, or contractors. City shall make arrangements for janitorial services and trash removal at its sole cost and expense. If desired, City will be responsible for installation and normal maintenance of any HVAC system for the Premises. City shall be responsible for acquiring and maintaining any needed fire extinguishers to be located within the Premises and to install and maintain any desired or needed security system to monitor the Premises. NRHA makes no representations or guarantees as to the security of the Premises.

12. ELECTRICAL UTILITY. Should City have electrical service reestablished for the Premises, City shall be responsible for the maintenance of the electrical system servicing the Premises, however, NRHA will retain the right to access any established electric service supply area or room (containing breaker box) during the Term of this Lease for maintenance and inspection. Additionally, in the event a lease is signed with a third party for any portion of vacant space, NRHA retains the right to (a) determine the best way to compute the pro-rata share of the common utilities, and (b) retain access to those areas located in the leased Premises that supply the entire building.

13. ACCESS AND PARKING. City will have non-exclusive access and use of the 18' wide asphalt drive running along the south side of the entire building, as shown on Exhibit A. City will have exclusive access and use of the parking area adjoining the building immediately to the west of the Premises, containing approximately 13,797 square feet ("Premises Parking Area"), as also shown on Exhibit A. To the extent unauthorized persons use the Premises Parking Area, City is hereby authorized and shall have the responsibility to enforce its exclusive use. City shall be responsible for maintenance and repair of the Premises Parking Area. NRHA shall be responsible for the maintenance and repair of the common driveway entrance area and the entire asphalt drive.

14. UTILITIES. City will be responsible for all utility costs in association with the operation of the Premises.

15. SIGNAGE. City agrees to pay for any requested reasonable signage. Design, cost and location of signage must receive approval from NRHA prior to installation, such approval not to be unreasonably withheld.

16. ESTOPPEL CERTIFICATE. City shall, from time to time and within ten (10) days after request therefore by NRHA, execute, acknowledge and deliver to NRHA a written Estoppel Certificate in recordable form. The Estoppel Certificate shall certify to NRHA, its Mortgagee or other party designated by NRHA as of the date of such Estoppel Certificate that (a) City is in possession of the Premises and is currently paying the Rent; (b) the following dates are and have been established: the Commencement Date and Termination Date of this Lease, and the date upon which City started to pay rent; (c) this Lease is unmodified and in full force and effect, or if there have been modifications, that the same are in full force and effect (setting forth such modifications); (d) that there are no existing set-offs or defenses to the enforcement of any rights or remedies of NRHA, or any duties or obligations of City, hereunder, or, if there are, they shall be specified in detail; and (e) City has no knowledge of any event having occurred that will justify the termination of this Lease by City, or any uncured defaults on the part of NRHA under this Lease; if City has such knowledge, the same shall be specified in detail.

17. SUBORDINATION AND ATTORNMENT. City agrees that this Lease is subordinate to any mortgage or lien resulting from financing or refinancing, now or hereafter placed upon the land on which the Premises have been built or upon any building hereafter placed upon the land, of which the Premises are a part. City will, further, attorn to and acknowledge any foreclosure purchaser or purchasers as NRHA hereunder. This subordination shall be self-operative and no further instrument of subordination shall be required by any mortgagee. However, City shall, upon the request of any party in interest, promptly execute such instrument or certificate to carry out the intent hereof as shall be required by NRHA.

18. QUIET ENJOYMENT. NRHA hereby covenants that City, upon fully complying with and promptly performing all the terms, covenants and conditions of this Lease, on

its part to be performed, and further, upon the prompt and timely payment of all rental sums due hereunder, shall have and quietly enjoy the Premises for the Term set forth herein.

19. INDEMNITY AGAINST LIENS. City agrees that it will, at all times during the Term of this Lease, take any and all steps necessary to prevent the filing of mechanic's liens against the Premises. In no event shall NRHA or any of NRHA's property be liable for or chargeable with any expense or lien for work, labor or materials used for and in the Premises; or for any improvements thereof or changes made upon the order of City, or to discharge the obligations of City during the term of this Lease. NRHA agrees to the same obligations towards City as to any liens or charges or expenses made upon order of NRHA.

20. FIRE AND/OR DESTRUCTION. If the Premises shall be damaged by fire or other casualty at a time when more than six (6) months is remaining in the Term of this Lease or any extension or renewals thereof, NRHA agrees that it will restore the structural components and items with reasonable dispatch to substantially the same condition that they were in, so far as the proceeds from NRHA's insurance permit and, further provided that, NRHA's mortgagee does not require insurance proceeds to be paid to it. Once NRHA's restoration work is complete to City's reasonable satisfaction, and since time is of the essence, City's Rent payment shall recommence on the thirtieth (30th) day after NRHA notifies City in writing that the Premises are ready for fixturing. City shall be responsible, at its sole cost and expense, to repair or replace any of City's fixtures, equipment and leasehold improvements which were damaged or destroyed by the same insured cause. The Rent payable hereunder shall be equitably and proportionately abated, according to loss of use to City, during the period of time intervening between the date of such fire and/or destruction and the date that the Premises are restored. In the event that the property is not

restored so as to permit reentry by City to its prior capacity ninety (90) days after casualty, then City may terminate lease without penalty or any further obligation by advising NRHA in writing.

21. FORCE MAJEURE. In the event that either party shall be delayed or hindered in, or prevented from, the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature, not the fault of the party delayed in performing the work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the provisions of this paragraph shall not operate to release City from this Lease nor to excuse City from prompt payment of Rent.

22. EMINENT DOMAIN. If all the Premises are condemned or taken by the power of eminent domain exercised by any governmental or quasi-governmental authority, this Lease shall terminate as of the date that City is required to vacate the Premises and all Rent shall be paid up to and until the date of termination. If only part of the Premises shall be taken and the size of the Premises is proportionately reduced, then City is entitled to an equal and proportionate reduction in Rent. Further, NRHA shall, as expeditiously as possible, repair the remaining portion of Premises to the extent necessary to render the same suitable for which the Premises were leased. City hereby waives any right that it may have to any condemnation award or sum paid under threat of condemnation as a result of a complete or partial taking of the Premises.

23. DEFAULT. The occurrence of any one of the following events may constitute a default and a breach of this Lease and its covenants, if such default, breach or nonperformance is

continued and not cured or commenced to be cured within the applicable number of days after written notice:

(a) The failure by City to make any payment of Rent, and adjustments within ten (10) days after same shall be due, if written notice has been received by City, including right to cure and the cure period has lapsed.

(b) The failure by either party to perform any covenants herein, or the breach by either party of the Lease covenants herein, and the continual further failure by City to cure such covenant, breach, or non performance within fifteen (15) days after written notice.

(c) The failure by either party to perform all of its obligations under the terms of this Lease.

24. REMEDIES. In the event of either party's default, the non-defaulting party has the right to terminate the Lease, in addition to all other rights and remedies provided by the law.

25. TERMINATION AND SURRENDER. Upon the expiration or termination of this Lease, City shall surrender the Premises to NRHA in as good a condition as they were found upon the City taking possession of the Premises, except for ordinary wear and tear. City shall deliver to NRHA or its Agent all keys to the Premises and remove all its personal property, merchandise and trade fixtures and make all necessary repairs or reimbursements. After City vacates or abandons the Premises, NRHA may elect to retain or dispose of, in any manner, any of City's improvements or City's personal property that City does not remove from the Premises prior to the Termination Date. Title to any such personal property shall vest in NRHA. City waives all claims against NRHA for any damage to City resulting from NRHA's retention or disposition of any such personal property. City shall also be liable to NRHA for NRHA's expenses and costs of removing, disposing of and storing any of City's personal property.

26. **CITY WAIVERS.** The failure of NRHA to insist upon strict performance by City as to any Lease covenant shall not be construed as a waiver by NRHA of such covenant in the future, but the same shall continue and remain in full force and effect. The receipt by NRHA or its Agent of rent with knowledge of a covenant breach shall not be deemed a waiver of such covenant breach, and no waiver by NRHA of any provision hereof shall be deemed to have been agreed upon unless expressed in writing and signed by the parties hereto.

27. **SUCCESSORS AND ASSIGNS.** All the terms, covenants and provisions of this Lease shall extend to and be binding upon NRHA and City and their respective heirs, administrators, executors, successors, assigns, subtenants, sublesses, and any person or persons who obtain an ownership or possessory interest in the Premises by operation of law or otherwise.

28. **NOTICES.** Any notice to be given to either party shall be deemed to be given when posted in United States registered or certified mail, postage prepaid, addressed as follows:

NRHA: NRHA
Attn: Mr. Michael Clark
P.O. Box 968
Norfolk, Virginia 23501

City: City of Norfolk
Attn: Manager of Real Estate
232 East Main Street, Suite 250
Norfolk, Virginia 23510

Either party may, at any time, change its address for the purposes of notice by sending a written notice to the other party stating the change and setting forth the new address.

29. **BROKERAGE REPRESENTATION.** NRHA and City shall have no obligation to the other for the payment of any real estate commission in regard to this Lease.

30. **LEASE SUBMISSION.** The submission of this Lease for examination does not constitute an offer to lease. This Lease shall become effective only upon execution by both City and NRHA.

31. **HAZARDOUS SUBSTANCES.** The term Hazardous Substances as used herein shall include any substances declared to hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority having jurisdiction. City shall not cause or permit its agent, licensees or employees to use, generate, release, manufacture, produce, process, store, or dispose of any hazardous substance on or from the Premises. Hazardous Substances shall not include any materials kept on the Premises in limited quantities necessary for the operation or maintenance of office equipment. City shall be responsible for payment of all damages, fines, judgments, penalties, costs, liabilities, or losses arising during or after the term of this Lease, and any extensions thereto, from or in connection with the presence of any Hazardous Substances in or on the Premises to the extent such Hazardous Substances are present due to the negligent acts or omissions of City, its employees, agents, or contractors.

32. **ENTRY.** City agrees to permit NRHA and/or its authorized agent to enter the Premises upon twenty-four (24) hours notice for inspecting, making such repairs or additions as NRHA may desire or be required to make, and for showing the Premises to any prospective purchaser, and during the last six (6) months of the Lease term or any extension or renewal, to prospective tenants. NRHA shall perform such repairs, at such times and in such manner as will not unreasonably interfere with the use by City of the Premises. NRHA shall have the right to enter the Premises without notice in situations deemed to be emergency situations by NRHA.

33. **TIME OF THE ESSENCE.** Time shall be of the essence in this Lease.

34. **SELF INSURED.** The parties acknowledge that City is self-insured. City shall have the right to satisfy any or all insurance requirements by use of self-insurance and shall provide evidence of the same to NRHA.

35. **ENTIRE AGREEMENT.** This Lease contains the entire agreement of the parties. No prior oral or written agreement, understanding, representation or warranty, promise or statement shall be effective or binding for any reason or purpose, unless specifically set forth in this Lease. No provision of this Lease may be amended or added to except by an agreement in writing, signed by the parties hereto or their respective successors in interest. This Lease shall not be effective or binding on either party until fully executed by both parties hereto.

IN WITNESS WHEREOF this Lease has been duly executed by the parties hereto.

[SIGNATURE PAGES FOLLOW]

NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY

By: _____
Name (Printed):_____
Title:_____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the State of Virginia, do hereby certify that _____, _____ (Title) of Norfolk Redevelopment and Housing Authority, whose name is signed to the foregoing Lease Agreement, have acknowledged the same before me in my City and State aforesaid.

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

_____
Notary Public
Registration No._____

CITY OF NORFOLK

By:_____
City Manager

Attest:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the _____ day of _____, 20___, do hereby certify that Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Lease, have 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 Contents:

_____
Director of General Services

Approved as to Form and Correctness:

_____
Deputy City Attorney

CERTIFICATE OF FUNDING

I hereby certify that the money required for this Agreement is in the City Treasury to the credit of the fund from which it is to be drawn and not appropriated for any other purpose.

ACCOUNT: _____

AMOUNT: _____

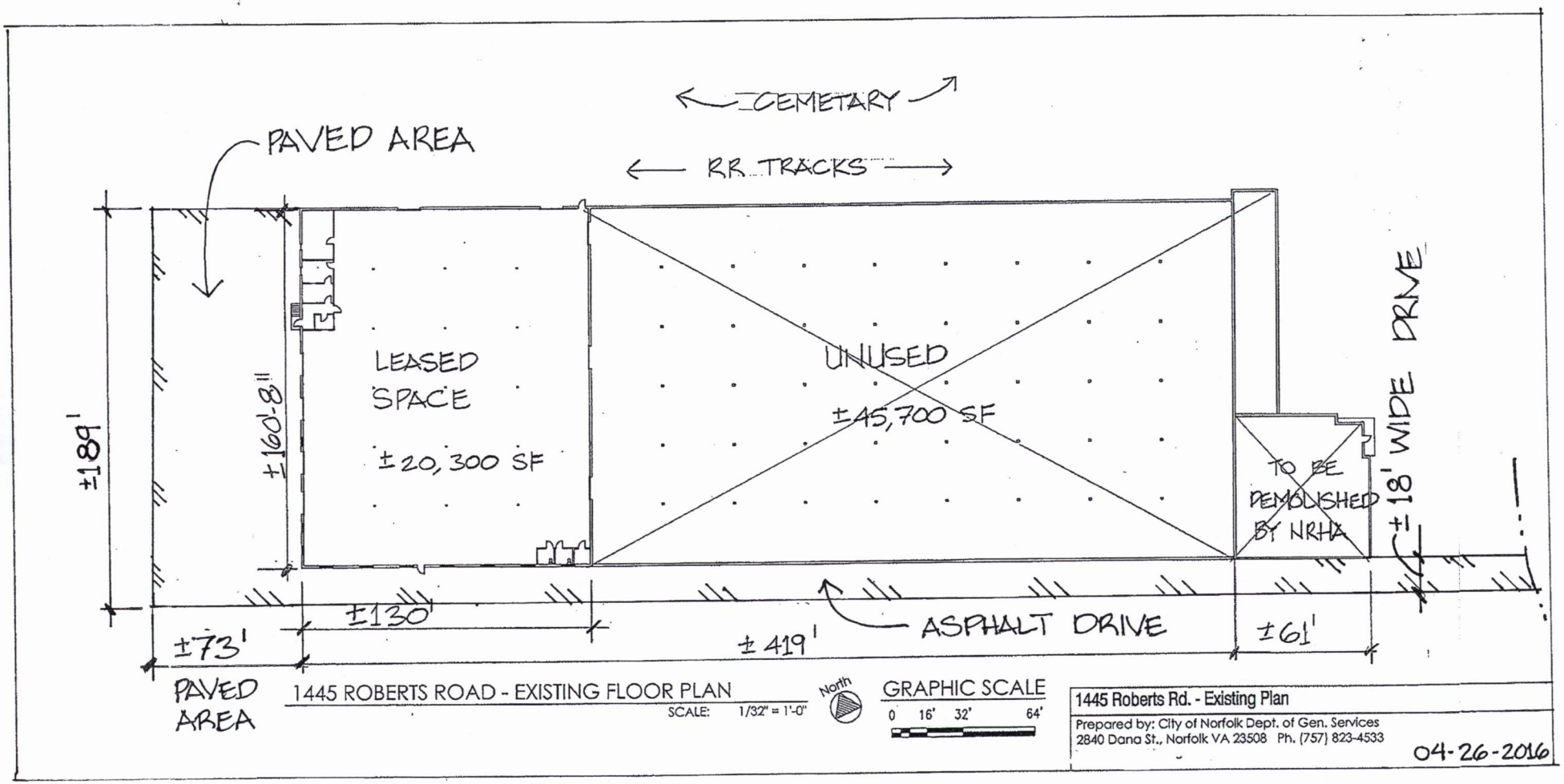
VENDOR CODE: _____

CONTRACT NO.: _____

_____

Director of Finance Date

EXHIBIT A



1445 ROBERTS ROAD - EXISTING FLOOR PLAN

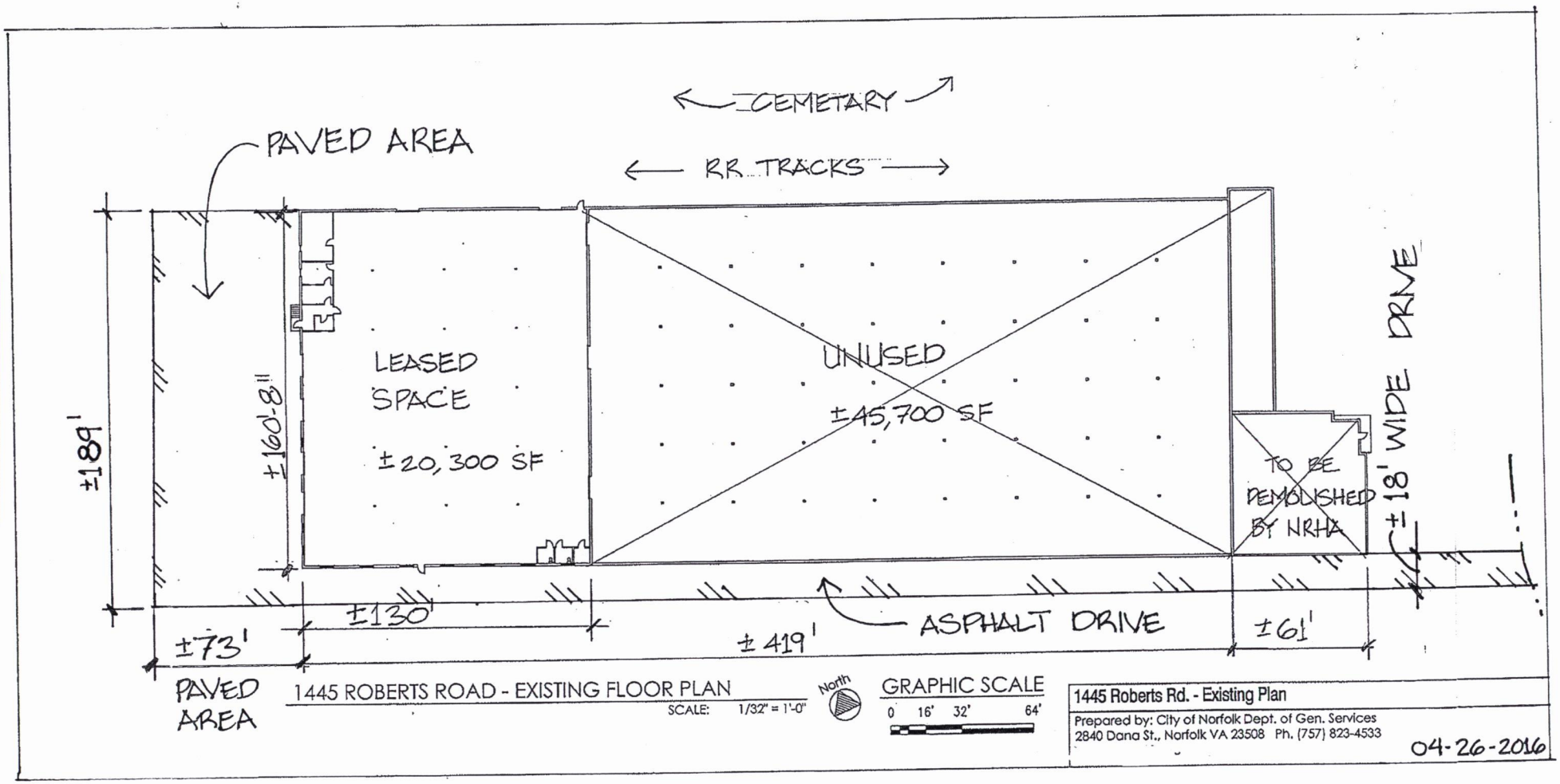
SCALE: 1/32" = 1'-0"

1445 Roberts Rd. - Existing Plan

Prepared by: City of Norfolk Dept. of Gen. Services
2840 Dana St., Norfolk VA 23508 Ph. (757) 823-4533

04-26-2016

EXHIBIT B TO ORDINANCE



1445 ROBERTS ROAD - EXISTING FLOOR PLAN

SCALE: 1/32" = 1'-0"

C: Dir., Department of General Services

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

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

Subject: Ordinance approving a purchase agreement with the Virginia Department of Transportation for .127 acres of land adjacent to the Norfolk Courts Building

Reviewed: Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: 2/6

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 approve the purchase of .127 acres of land adjacent to the Norfolk Courts Building by the City of Norfolk (the "City") from the Virginia Department of Transportation ("VDOT"). This land will be used for the ongoing courthouse project.

IV. **Analysis**
The City seeks to acquire from VDOT .127 acres of land adjacent to the Norfolk Courts Building, between the courthouse and I-264, for the ongoing courthouse project and the surrounding grounds thereto.

V. **Financial Impact**

Purchase price	$28,766.00
Typical Costs of Closing	Each party to this transaction shall pay its own legal fees.
FY2016 Assessed Value of Parcel	N/A
Annual Real Property Tax Revenue	N/A

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.

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 General Services – Office of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Exhibit A to Ordinance – Purchase Agreement

8/30/2016MR

Form and Correctness Approved:

By Michelle G. Fitz
Office of the City Attorney

Contents Approved:

By
Director, Department of General Services

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.

$ 28,766.00 4000 10 3076 FY12
Account

Director of Finance 9/20/16
Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING A PURCHASE OFFER AGREEMENT BETWEEN VIRGINIA DEPARTMENT OF TRANSPORTATION, AS SELLER, AND THE CITY, AS PURCHASER, FOR THE SALE OF 0.127 ACRES OF LAND FOR THE PURPOSE OF CONSTRUCTING AN ACCESS ROAD AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE DEED ON BEHALF OF THE CITY.

- - -

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

Section 1:- That the Purchase Offer Agreement (the "Agreement") between Virginia Department of Transportation, as seller, and the City of Norfolk (the "City"), as purchaser, a copy of which is attached hereto as Exhibit A, wherein the Seller agrees to transfer to the City 0.127 acres of real property located adjacent to the Norfolk Courts Building between the courthouse property and the on-ramp to I-264 and shown on Exhibit B attached hereto, upon the terms and conditions set forth in the Agreement, is hereby approved.

Section 2:- That the City Manager is authorized to correct, amend, or revise the Agreement as he may deem necessary in order to carry out the intent of the Council and to execute the Agreement, as corrected, amended, or revised in accordance herewith, for and on behalf of the City, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 3:- That the City Manager is further authorized to accept and to execute a deed for the Property and to execute such other documents as are necessary for the City to take title to the Property, with the advice and counsel of the City Attorney, as he may deem advisable to carry out the intent of the Council.

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

OFFER TO PURCHASE AND ADJACENT LANDOWNER'S AFFIDAVIT

Route: 264, Project: NA, City: Norfolk
Former Property of Elizabeth River Tunnel District
PMI #: 10193
Date: August 30, 2016

Brief legal description of Virginia Department of Transportation property: Being as Shown on plat titled, "EXHIBIT SHOWING TRANSFER OF VDOT PROPERTY TO THE CITY OF NORFOLK" dated May 25, 2016 and lying west of and adjacent to the New Limited Access Line of Route 264 from a point 24.871 feet opposite Station 11+02.375 (City Hall Avenue Baseline) to a point 102.344 feet opposite Station 10+37.439 (City Hall Avenue Baseline) containing 0.127 acre, more or less, land; and being a part of the same lands acquired from Elizabeth River Tunnel District, a political subdivision of the State of Virginia, by Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia, Session 1973, dated January 10, 1973, recorded as Instrument Number 160000001, being recorded in the Office of the Clerk of the Circuit Court of Norfolk, Virginia.

I/We do AGREE to purchase the property described above, containing 0.127 acre, for $28,766.00 and do SWEAR and AFFIRM that the City of Norfolk is the owner of record of the land immediately adjacent to the described property.

This offer is conditionally accepted by the Virginia Department of Transportation subject to acceptance, in writing, by the State Director of Right of Way and Utilities.

I/We understand the property is sold "as is", and it will be conveyed by quitclaim deed. I/We understand that a formal closing will take place at which time the purchaser will be required to pay for recording of the deed and any tax or fee associated with the recordation or property transfer.

The purchaser acknowledges that it has received all environmental reports in possession of the Department relating to the property, and will be granted a right of entry as the opportunity to conduct a Phase I Environmental Site Assessment solely at purchasers expense, to satisfy their due diligence requirements under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) prior to closing on the property, and agrees that completion of such Assessment shall not delay closing for more than a period of 30 days from the date of this document or be deemed waived by the purchaser without further action.

Check one:
_____☐ I/We will conduct a Phase I Environmental Site Assessment to be completed in 30 days from the date of this document.
_____☐ I/We will not conduct a Phase I Environmental Site Assessment to be completed in 30 days from the date of this document.

I/We understand the property is subject to the following easements:
None

The deed for the property being conveyed is to be titled in the exact manner the adjoining land is titled in the local courthouse records and should be as follows (please print or type):

City of Norfolk _____

_____

City of Norfolk

BY: (See attached signature page)

TITLE: _____

State of _____

County/City/Town of_____

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by

_____, _____, on behalf of the
Title

City of Norfolk.

Affix Stamp for Notary ID and Commission Expiration Date:

_____
Notary Public

PURCHASER:

CITY OF NORFOLK

By: _____
City Manager

ATTEST:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

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

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

_____
Notary Public Registration No.

APPROVED AS TO CONTENTS:

_____
Director, General Services

APPROVED AS TO FORM AND CORRECTNESS:

_____
Assistant City Attorney

CERTIFICATION OF FUNDING

I hereby certify that the money required for this Purchase and Sale Agreement is in the City Treasury to the credit of the fund from which it is to be drawn and not appropriated for any other purpose.

Account: _____

Amount: _____

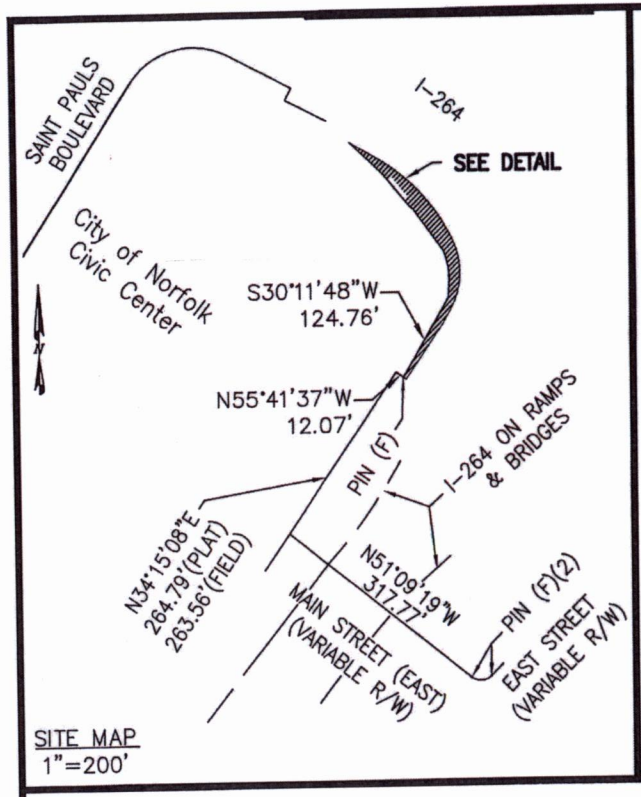
Contract No.: _____

Vendor Code: _____

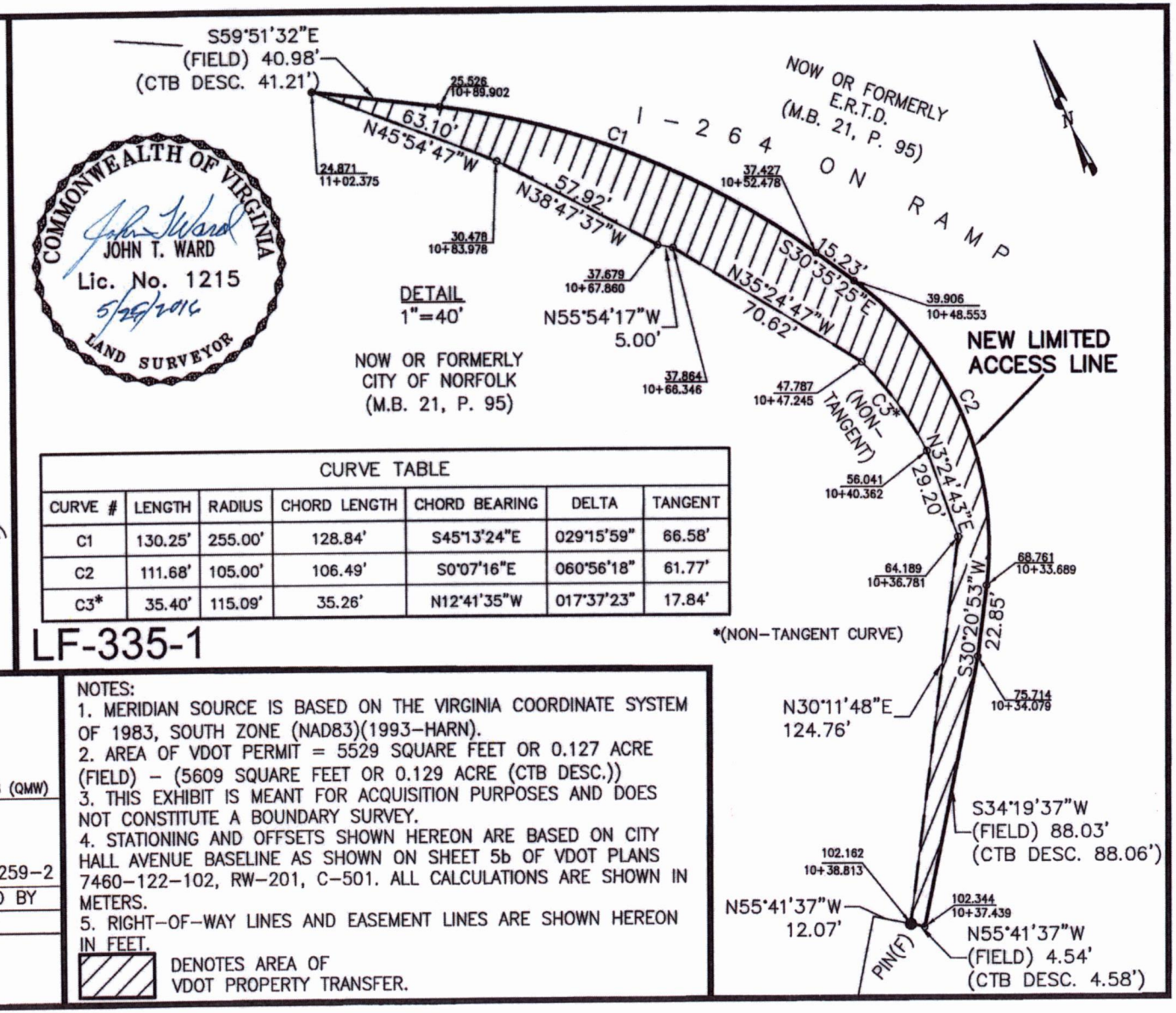
Business License No.: _____

_____

Director of Finance Date



SITE MAP
1"=200'



COMMONWEALTH OF VIRGINIA
JOHN T. WARD
Lic. No. 1215
5/26/2016
LAND SURVEYOR

CURVE TABLE						
CURVE #	LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING	DELTA	TANGENT
C1	130.25'	255.00'	128.84'	S45°13'24"E	029°15'59"	66.58'
C2	111.68'	105.00'	106.49'	S0°07'16"E	060°56'18"	61.77'
C3*	35.40'	115.09'	35.26'	N12°41'35"W	017°37'23"	17.84'

*(NON-TANGENT CURVE)

LF-335-1

EXHIBIT SHOWING TRANSFER OF VDOT PROPERTY TO THE CITY OF NORFOLK
NORFOLK, VIRGINIA

REVISED 10/16/14 (JTW) REVISED 05/24/16 (QMW)

40 0 40 80

DRAWING SCALE 1"=40' 090259-2

DATE	SCALE	DRAWN BY	CHECKED BY
10-16-2014	1"=40'	ELG	JTW

DIVISION OF SURVEYS
DEPARTMENT OF PUBLIC WORKS
NORFOLK, VIRGINIA

NOTES:
1. MERIDIAN SOURCE IS BASED ON THE VIRGINIA COORDINATE SYSTEM OF 1983, SOUTH ZONE (NAD83)(1993-HARN).
2. AREA OF VDOT PERMIT = 5529 SQUARE FEET OR 0.127 ACRE (FIELD) - (5609 SQUARE FEET OR 0.129 ACRE (CTB DESC.))
3. THIS EXHIBIT IS MEANT FOR ACQUISITION PURPOSES AND DOES NOT CONSTITUTE A BOUNDARY SURVEY.
4. STATIONING AND OFFSETS SHOWN HEREON ARE BASED ON CITY HALL AVENUE BASELINE AS SHOWN ON SHEET 5b OF VDOT PLANS 7460-122-102, RW-201, C-501. ALL CALCULATIONS ARE SHOWN IN METERS.
5. RIGHT-OF-WAY LINES AND EASEMENT LINES ARE SHOWN HEREON IN FEET.

DENOTES AREA OF VDOT PROPERTY TRANSFER.

C: Chief of Police

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: Michael G. Goldsmith, Chief of Police

Subject: Accept the FY2016 Edward Byrne Memorial Justice Assistance Grant award of $183,126 from the U.S. Department of Justice

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: Marcus D. Jones, City Manager

Item Number: **R-21**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**
This agenda item is an ordinance to accept and appropriate the sum of up to $183,126 from the U.S. Department of Justice from the FY 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

IV. **Analysis**
This grant in the amount of $183,126 is designated to purchase four marked and equipped police interceptor sport utility vehicles for the Norfolk Police Department's Special Operations patrols. The purchase of these vehicles will provide additional visible patrols in the communities in an effort to reduce violent crimes and to alleviate fear within those communities.

V. **Financial Impact**
This grant does not require a local cash match.

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 and ordinance have been coordinated with the Norfolk Police Department and the City Attorney's Office.

Supporting Material from the Norfolk Police Department

- Ordinance
- Grant Award Letter

9/19/16 - bjt

Form and Correctness Approved: RAP

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Norfolk Police Department

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

$ 183,126.00 _____ 2275-19-9190-9190
Account

_____ 9/23/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING A $183,126.00 GRANT AWARD FROM THE U.S. DEPARTMENT OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE FROM THE FY 2016 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF THE FUNDS FOR EQUIPMENT EXPENSES FOR THE PROGRAM.

- - -

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

Section 1:- That $183,126.00 in grant funds from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance from the FY 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) Program are hereby accepted.

Section 2:- That $183,126.00 in grant funds are hereby appropriated and authorized for expenditure for the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance from the FY 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) Program, if and when the funds are made available from the U.S. Department of Justice for the following: to purchase four (4) marked police interceptor sport utility vehicles to provide additional visible patrols in communities in an effort to reduce violent crimes and to alleviate fear within those communities, according to the terms and conditions of the JAG Program.

Section 3:- That this ordinance shall be in effect from and after its adoption.

U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of Justice Programs

Washington, D.C. 20531

August 26, 2016

Mr. Marcus D. Jones
City of Norfolk
1109 City Hall Building
Norfolk, VA 23501

Dear Mr. Jones:

On behalf of Attorney General Loretta Lynch, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 16 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation in the amount of $183,126 for City of Norfolk.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Dawn Hill, Program Manager at (202) 598-7513; and

- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

Denise O'Donnell
Director

Enclosures

OFFICE FOR CIVIL RIGHTS

Office of Justice Programs

U.S. Department of Justice

810 7th Street, NW
Washington, DC 20531

Tel: (202) 307-0690
TTY: (202) 307-2027
E-mail: askOCR@usdoj.gov
Website: www.ojp.usdoj.gov/ocr

August 26, 2016

Mr. Marcus D. Jones
City of Norfolk
1109 City Hall Building
Norfolk, VA 23501

Dear Mr. Jones:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) comply with the applicable federal civil rights laws. We at the OCR are available to help you and your organization meet the civil rights requirements that come with DOJ funding.

Ensuring Access to Federally Assisted Programs

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at http://ojp.gov/about/ocr/vawafaqs.htm.

Enforcing Civil Rights Laws

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal opportunity standards.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website http://www.lep.gov.

Ensuring Equal Treatment for Faith-Based Organizations

The DOJ regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38, requires State Administering Agencies (SAAs) to treat faith-based organizations the same as any other applicant or recipient. The regulation prohibits SAAs from making awards or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the DOJ to fund inherently (or explicitly) religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must hold them separately from the program funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see the OCR's website at http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm.

SAAs and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c); the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10604(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5672(b); and VAWA, Pub. L. No. 113-4, sec. 3(b)(4), 127 Stat. 54, 61-62 (to be codified at 42 U.S.C. § 13925(b)(13)) contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions.
Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

Using Arrest and Conviction Records in Making Employment Decisions

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at http://www.ojp.usdoj.gov//about/ocr/pdfs/UseofConviction_Advisory.pdf. Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOPs) (see below).

Complying with the Safe Streets Act

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEOP (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

Meeting the EEOP Requirement

If your organization has less than fifty employees or receives an award of less than $25,000 or is a nonprofit organization, a medical institution, an educational institution, or an Indian tribe, then it is exempt from the EEOP requirement. To claim the exemption, your organization must complete and submit Section A of the Certification Form, which is available online at http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf.

If your organization is a government agency or private business and receives an award of $25,000 or more, but less than $500,000, and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form), but it does not have to submit the report to the OCR for review. Instead, your organization has to maintain the Utilization Report on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to the OCR. The Certification Form is available at http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf.

If your organization is a government agency or private business and has received an award for $500,000 or more and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form) and submit it to the OCR for review within sixty days from the date of this letter. For assistance in developing a Utilization Report, please consult the OCR's website at http://www.ojp.usdoj.gov/about/ocr/eeop.htm. In addition, your organization has to complete Section C of the Certification Form and return it to the OCR. The Certification Form is available at http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf.

To comply with the EEOP requirements, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 307-0690, by TTY at (202) 307-2027, or by e-mail at EEOsubmisson@usdoj.gov.

Meeting the Requirement to Submit Findings of Discrimination

If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

Ensuring the Compliance of Subrecipients

SAAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see http://www.ojp.usdoj.gov/funding/other_requirements.htm.

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.

Sincerely,

Michael L. Alston

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Grant

1. RECIPIENT NAME AND ADDRESS (Including Zip Code)
City of Norfolk
1109 City Hall Building
Norfolk, VA 23501

4. AWARD NUMBER: 2016-DJ-BX-0035

5. PROJECT PERIOD: FROM 10/01/2015 TO 09/30/2019
BUDGET PERIOD: FROM 10/01/2015 TO 09/30/2019

6. AWARD DATE 08/26/2016

7. ACTION
Initial

2a. GRANTEE IRS/VENDOR NO.
546001465

8. SUPPLEMENT NUMBER
00

2b. GRANTEE DUNS NO.
074740069

9. PREVIOUS AWARD AMOUNT $ 0

3. PROJECT TITLE
Vehicles for Special Operations Patrols to Reduce Gun Violence

10. AMOUNT OF THIS AWARD $ 183,126

11. TOTAL AWARD $ 183,126

12. SPECIAL CONDITIONS
THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT
This project is supported under FY16(BJA - JAG) 42 USC 3750, et seq.

14 . CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)
16.738 - Edward Byrne Memorial Justice Assistance Grant Program

15. METHOD OF PAYMENT
GPRS

[redacted] AGENCY APPROVAL [redacted]

16. TYPED NAME AND TITLE OF APPROVING OFFICIAL
Denise O'Donnell
Director

17. SIGNATURE OF APPROVING OFFICIAL
Denise O'Donnell

[redacted] GRANTEE ACCEPTANCE [redacted]

18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL
Marcus D. Jones
City Manager

19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

19A. DATE

[redacted] AGENCY USE ONLY [redacted]

20. ACCOUNTING CLASSIFICATION CODES

FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT
X	B	DJ	80	00	00		183126

21. RDJUGT0671

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

SPECIAL CONDITIONS

1. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this 2016 award from the Office of Justice Programs (OJP).

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this 2016 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded in 2014 or earlier years), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this 2016 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the Office of Justice Programs (OJP) website at http://ojp.gov/funding/Part200UniformRequirements.htm.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

2. Compliance with DOJ Grants Financial Guide

The recipient agrees to comply with the Department of Justice Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide"), including any updated version that may be posted during the period of performance.

3. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at http://www.ojp.gov/training/fmts.htm. All trainings that satisfy this condition include a session on grant fraud prevention and detection

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

SPECIAL CONDITIONS

4. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

5. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

6. Requirements related to System for Award Management and Unique Entity Identifiers

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at http://www.sam.gov. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at http://ojp.gov/funding/Explore/SAM.htm (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

7. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at http://ojp.gov/funding/Explore/SubawardAuthorization.htm (Award condition: Award Condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

SPECIAL CONDITIONS

8. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed $150,000

   The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

   The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at http://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed $150,000)), and are incorporated by reference here.

9. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

   The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.
   The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at http://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

10. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

    The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

    Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

11. Requirement for data on performance and effectiveness under the award

    The recipient must collect and maintain data that measure the performance and effectiveness of activities under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act, and other applicable laws.

12. OJP Training Guiding Principles

    Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at http://ojp.gov/funding/ojptrainingguidingprinciples.htm.

SPECIAL CONDITIONS

13. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

14. The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

15. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at http://www.ecfr.gov/cgi-bin/ECFR?page=browse), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

17. Restrictions on "lobbying"

Federal funds may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government.

Should any question arise as to whether a particular use of Federal funds by a recipient (or subrecipient) would or might fall within the scope of this prohibition, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

SPECIAL CONDITIONS

18. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2016)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2016, are set out at http://ojp.gov/funding/Explore/FY2016-AppropriationsLawRestrictions.htm, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

19. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at http://www.usdoj.gov/oig.

SPECIAL CONDITIONS

20. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

SPECIAL CONDITIONS

21. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

    The recipient must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

    The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

    Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

22. Encouragement of policies to ban text messaging while driving

    Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

23. The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

24. The recipient agrees to comply with applicable requirements to report first-tier subawards of $25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients of award funds. Such data will be submitted to the FFATA Subaward Reporting System (FSRS). The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the Office of Justice Programs web site at http://ojp.gov/funding/Explore/FFATA.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here. This condition, and its reporting requirement, does not apply to grant awards made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

25. Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

SPECIAL CONDITIONS

26. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: http://www.it.ojp.gov/gsp_grantcondition. Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

27. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

28. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.

29. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

30. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.

31. Award recipients must verify Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

32. The grantee agrees that within 120 days of award acceptance, each current member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (internet-based) task force training. Additionally, all future task force members are required to complete this training once during the life of this award, or once every four years if multiple awards include this requirement. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. When BJA funding supports a task force, a task force personnel roster should be compiled and maintained, along with course completion certificates, by the grant recipient. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

33. The recipient agrees to participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

SPECIAL CONDITIONS

34. Approval of this award does not indicate approval of any consultant rate in excess of $650 per day. A detailed justification must be submitted to and approved by the Office of Justice Programs (OJP) program office prior to obligation or expenditure of such funds.

35. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.

    The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:
    a. New construction;
    b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
    c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
    d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
    e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

    The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at http://www.ojp.usdoj.gov/BJA/resource/nepa.html, for programs relating to methamphetamine laboratory operations.

    Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

36. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the grant funds in the trust fund (including any interest earned) during the period of the grant and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to the Office of Justice Programs at the time of closeout.

37. JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the Bulletproof Vest Partnership (BVP) program.

SPECIAL CONDITIONS

38. Ballistic-resistant and stab-resistant body armor purchased with JAG funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and are listed on the NIJ Compliant Body Armor Model List (http://nij.gov). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: http://www.nij.gov/topics/technology/body-armor/safety-initiative.htm.

39. The recipient agrees to submit a signed certification that all law enforcement agencies receiving vests purchased with JAG funds have a written "mandatory wear" policy in effect. Fiscal agents and state agencies must keep signed certifications on file for any subrecipients planning to utilize JAG funds for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any JAG funding can be used by the agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

40. The recipient agrees to monitor subawards under this JAG award in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the DOJ Financial Guide, and to include the applicable conditions of this award in any subaward. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of JAG funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

41. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

42. Award recipients must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through GMS (https://grants.ojp.usdoj.gov). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measure the results of their work. Therefore, quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

43. Any law enforcement agency receiving direct or sub-awarded JAG funding must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

44. BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to your My BJA account at https://www.bja.gov/Login.aspx to access the Success Story Submission form. If you do not yet have a My BJA account, please register at https://www.bja.gov/profile.aspx. Once you register, one of the available areas on your My BJA page will be "My Success Stories". Within this box, you will see an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the new BJA Success Story web page at https://www.bja.gov/SuccessStoryList.aspx.

45. Recipient understands and agrees that award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions may be accessed here: https://www.bja.gov/funding/JAGControlledPurchaseList.pdf

SPECIAL CONDITIONS

46. The recipient understands that, pursuant to recommendation 2.1 of Executive Order 13688, law enforcement agencies that acquire controlled equipment through Federal programs must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP's request, the recipient agrees to provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.

47. Recipient understands and agrees that the purchase or acquisition of any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, with award funds by an agency will trigger a requirement that the agency collect and retain (for at least 3 years) certain information about the use of 1) any federally-acquired Controlled Equipment in the agency's inventory, and 2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and make that information available to BJA upon request. Details about what information must be collected and retained may be accessed here: https://www.whitehouse.gov/sites/default/files/docs/le_equipment_wg_final_report_final.pdf

48. Recipient understands and agrees that failure to comply with conditions related to Prohibited or Controlled Expenditures may result in a prohibition from further Controlled Expenditure approval under this or other federal awards.

49. Recipient understands and agrees that award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure list may be accessed here: https://www.bja.gov/funding/JAGControlledPurchaseList.pdf.

50. Recipient understands and agrees that, notwithstanding 2 CFR § 200.313, no equipment listed on the Controlled Expenditure List that is purchased under this award may be transferred or sold to a third party, except as described below:

    a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it was requesting approval to use award fund for the initial purchase of items on the Controlled Expenditure List.
    b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.
    c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.

    Recipient further understands and agrees to notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased under this award, and to abide by any applicable laws and regulations in such disposal.

U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Norfolk

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:
a. New construction;
b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see https://www.bja.gov/Funding/nepa.html.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Assistance

GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

Grant

PROJECT NUMBER
2016-DJ-BX-0035

This project is supported under FY16(BJA - JAG) 42 USC 3750, et seq.

1. STAFF CONTACT (Name & telephone number)

Dawn Hill
(202) 598-7513

2. PROJECT DIRECTOR (Name, address & telephone number)

Christina Condon
Management Analyst II
100 Brooke Avenue
Public Safety Financial Management
Norfolk, VA 23510-1826
(757) 664-6434

3a. TITLE OF THE PROGRAM

2016 Edward Byrne Memorial Justice Assistance Grant Program

3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)

4. TITLE OF PROJECT

Vehicles for Special Operations Patrols to Reduce Gun Violence

5. NAME & ADDRESS OF GRANTEE

City of Norfolk
1109 City Hall Building
Norfolk, VA 23501

6. NAME & ADRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2015 TO: 09/30/2019

8. BUDGET PERIOD

FROM: 10/01/2015 TO: 09/30/2019

9. AMOUNT OF AWARD

$ 183,126

10. DATE OF AWARD

08/26/2016

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following program areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation).

The City of Norfolk will use the JAG funds to purchase four marked patrol cars for the city police department. These vehicles will be used by the police department's special operations team to increase patrols in areas with the highest incidents of violent crimes and crimes involving firearms, based on crime analysis data from calls of service.

NCA/NCF

c: Chief of Police

THE CITY OF NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: Michael G. Goldsmith, Chief of Police

Subject: Accept two FY 2017 Selective Enforcement Highway Safety Grants: Alcohol Initiative for $45,110 and Speed Initiative for $29,328 from the Virginia Department of Motor Vehicles

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 $74,438 from the Virginia Department of Motor Vehicles, Selective Enforcement Highway Safety Grants: $45,110 for Alcohol Initiative and $29,328 for Speed Initiative.

IV. **Analysis**
This grant of $74,438 is for two FY 2017 Selective Enforcement Highway Safety Grants: Alcohol Initiative in the amount of $45,110 and Speed Initiative in the amount of $29,328. The funding for the Alcohol Initiative will pay for police officers' overtime pay to assist with alcohol selective enforcement, training fees and equipment purchases. The funding for the Speed Initiative will pay for police officers' overtime pay to assist with speed selective enforcement.

V. **Financial Impact**
The grants require a 50% local in-kind services match of up to $22,555 for the Alcohol Initiative and $14,664 for the Speed Initiative, to be provided by the Norfolk Police Department.

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's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

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

Supporting Material from the Norfolk Police Department:

- Ordinance
- Grant Award Letter

9/20/16 - bjl

Form and Correctness Approved: RAP

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Norfolk Police Department

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

29,328.00
$ 45,110

2275-19 8124-9191
2275-19-8124-9192
Account

_____ 9/23/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING A $45,110.00 GRANT AWARD FROM THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES FOR POLICE OFFICERS' OVERTIME PAY TO ASSIST WITH A SELECTIVE ENFORCEMENT-ALCOHOL INITIATIVE, TO PAY TRAINING FEES AND FOR EQUIPMENT PURCHASES AND ACCEPTING A $29,328.00 GRANT AWARD FOR POLICE OFFICERS' OVERTIME PAY TO ASSIST WITH A SELECTIVE ENFORCEMENT-SPEED INITIATIVE, APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF THE GRANT FUNDS AND LOCAL MATCHING FUNDS IN THE AMOUNTS OF $22,555.00 AND $14,664.00 AS IN-KIND SERVICES BY THE NORFOLK POLICE DEPARTMENT FOR GRANT PURPOSES.

- - -

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

Section 1:- That a $45,110.00 grant award from the Virginia Department of Motor Vehicles for police officers' overtime pay to assist with a selective enforcement-alcohol initiative, to pay for training fees and for equipment purposes and a $29,328.00 grant award from the Virginia Department of Motor Vehicles for police officers' overtime pay to assist with a selective enforcement-speed initiative for the Norfolk Police Department are hereby accepted.

Section 2:- That $45,110.00 and $29,328.00 in grant funds are hereby appropriated and authorized for expenditure for police officers' overtime pay to assist with a selective enforcement-alcohol initiative, to pay training fees and equipment purchases and for police officers' overtime pay to assist with a selective enforcement-speed initiative for the Norfolk Police Department, if and when the funds are made available from toe Virginia Department of Motor Vehicles.

Section 3:- That local matches of $22,555.00 and $14,664.00, heretofore-appropriated as in-kind services, are hereby authorized

for expenditure by the Norfolk Police Department for grant purposes.

Section 4:- That this ordinance shall be in effect from and after its adoption.

COMMONWEALTH of VIRGINIA
Department of Motor Vehicles
2300 West Broad Street

Richard D. Holcomb
Commissioner

Post Office Box 27412
Richmond, VA 23269-0001

August 8, 2016

James Hackett, Lieutenant
Norfolk City
901 Asbury Avenue
Norfolk, VA 23513

Dear Mr. Hackett:

Safety has been and will continue to be a high priority in Virginia's overall transportation system. The McAuliffe administration is committed to ensuring that safety is the highest priority in the development of the Commonwealth's multi-modal transportation system.

I am pleased to inform you that the highway safety project proposal(s) listed below has been approved for pass-through grant funding from the National Highway Traffic Safety Administration for Federal Fiscal Year (FFY) 2017.

Program Project ID#	Project Title	Amount Approved
SC-2017-57130-6779	Selective Enforcement - Speed	$29,328.00
AL-2017-57123-6772	Selective Enforcement - Alcohol	$45,110.00

The availability of funds under this grant is contingent upon two conditions: (1) the project director and the fiscal contact responsible for the financial management of your grant must attend a grantee workshop and (2) the release of federal funds to the Commonwealth. Your assigned grant monitor will be contacting you to provide the dates and locations for this mandatory training.

You will receive the project agreement(s), scope of work, special conditions, and project budget during the training session. As the recipient of a FFY 2017 grant award, it is important that you read and follow the information carefully. If you have any questions regarding the conditions, please contact the grant monitor assigned to your grant.

Thank you for your commitment and participation in improving highway safety. We look forward to the positive impact that your project will have on making our roadways safer. Should you have questions regarding this grant award, contact George Bishop, Deputy Commissioner, at George.Bishop@dmv.virginia.gov or by phone at (804) 474-2284.

Sincerely,

Richard D. Holcomb

RDH/sb

Grant Monitor Dwight Jenkins

C: Norfolk Circuit Court Judges' Office

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: Judge John R. Doyle, III, Circuit Court

Subject: Acceptance of a grant from the Supreme Court of Virginia for the Norfolk Adult Drug Treatment Court Vivitrol Pilot Program - $50,000

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 and appropriate a $50,000 grant award (the "grant") from the Supreme Court of Virginia for the Adult Drug Court Vivitrol Pilot Program (the "pilot program") and to authorize the expenditure of the grant funds, which are to be received as follows:

Expenditure	Amount
Supreme Court of Virginia Vivitrol Pilot Program Grant	$ 50,000
Total	**$ 50,000**

IV. **Analysis**

This grant will provide resources to support medication, provider fees, counseling and patient monitoring for clients in the pilot program. The pilot program will utilize non-narcotic, non-addictive, long-acting, injectable prescription drug treatment regimens for clients in need of alcohol and substance abuse treatment.

V. **Financial Impact**

The total grant award is $50,000. There is no local cash match for this award.

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

VI. Environmental

N/A

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This ordinance has been coordinated with the Department of Finance, Budget & Strategic Planning, the City Attorney's Office, the Norfolk Circuit Court Clerk and Judges (through the Chief Judge).

Supporting Material from the City Attorney's Office:

- Ordinance

9/21/16 - bjt

Form and Correctness Approved: RAP

By _____
Office of the City Attorney

Contents Approved:

By _____ 9-21-16
DEPT. Norfolk Circuit Court

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.

SOH 9/21/16 50,000.00 2275-111-9193-9193
Account

_____ 9/21/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING A $50,000.00 GRANT AWARD FROM THE SUPREME COURT OF VIRGINIA FOR THE ADULT DRUG COURT VIVITROL PILOT PROGRAM AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF THE GRANT FUNDS FOR THE PROGRAM.

- - -

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

Section 1:- That a $50,000.00 grant award from the Supreme Court of Virginia for the Adult Drug Court Vivitrol Pilot Program is hereby accepted.

Section 2:- That $50,000.00 in grant funds are hereby appropriated and authorized to be expended for the Adult Drug Court Vivitrol Program, according to the terms and conditions of the Virginia Drug Court Vivitrol Pilot Program grant, if and when the funds are made available from the Supreme Court of Virginia.

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

Supreme Court of Virginia
Office of the Executive Secretary
100 North Ninth Street Richmond, VA 23219

Statement of Vivitrol Pilot Grant Award/Acceptance

Subgrantee--
City of Norfolk
Grant Period--
From: 7/1/2016 **Through:** 6/30/2017

Date: July 26, 2016

Project Director	Project Administrator	Finance Officer
Ms. Marla Newby Drug Court Coordinator Norfolk Circuit Court 150 St Paul's Blvd, 8th Floor Norfolk, VA 23510 **Phone No:** (757) 823-1276 **Email:** mnewby@circuitcourtva.us	Mr. Marcus Jones City Manager 810 Union Street Suite 1101 Norfolk, VA 23510 **Phone No:** (757) 664-4242 **Email:** City.Manager@norfolk.gov	Mr. Thomas Larson Chief Deputy Clerk Norfolk Circuit Court Clerk's Office, 7th Floor Norfolk, VA 23510 **Phone No:** (757)664-4399 **Email:** tlarson@circuitcourtva.us

GRANT AWARD BUDGET

Budget Categories	Program Funds TOTALS
A. Personnel	$
B. Consultants	$ 4,198-
C. Travel	$ -0-
D. Equipment	$ -0-
E. Indirect Expenses	$ -0-
F. Supplies & Other Expenses	$ 45,802
TOTALS	$50,000.00

This grant is subject to all rules, regulations, and criteria included in the grant application and the special conditions attached thereto.

Paul F. DeLosh

Paul F. DeLosh, Director of Judicial Services

The undersigned, having received the Statement of Grant Award/Acceptance and the Conditions attached thereto, does hereby accept this grant and agree to the conditions pertaining thereto, this 26th day of July 2016.

Signature: [signature]

Title: CITY MANAGER

STATEMENT OF GRANT AWARD SPECIAL CONDITIONS

Supreme Court of Virginia
Office of the Executive Secretary
Judicial Services Department
100 North Ninth Street
Richmond, Virginia 23219

For the Norfolk Drug Court VIVITROL PILOT	
Subgrantee: City of Norfolk	
Title: Norfolk Adult Drug Court	**Date:** July 26, 2016

The following conditions are attached to and made a part of this grant award:

1. By signing the Statement of Grant Award/Acceptance, the grant recipient agrees:

   - to use the grant funds to carry out the activities described in the grant application, as modified by the terms and conditions attached to this award or by subsequent amendments approved by the OES;
   - to adhere to the approved budget contained in this award and amendments made to it in accord with these terms and conditions;
   - and to comply with all terms, conditions and assurances either attached to this award or submitted with the grant application.

2. The subgrantee agrees to submit such reports as requested by the OES on forms provided by the OES. Funds from this grant will not be disbursed, if any of the required Financial or Progress reports are overdue by more than 30 days unless you can show good cause for missing the reporting deadline.

3. Grant funds, including local match, may be expended and/or obligated during the grant period. All legal obligations must be liquidated no later than 60 days after the end of the grant period. The grant recipient agrees to supply a final grant financial report and return all received and unexpended grant funds (exclusive of local match) to the OES within 60 days after the end of the grant liquidation period.

4. By accepting this grant, the recipient assures that funds made available through it will not be used to replace state or local funds that would, in the absence of this grant, be made available for the same purposes.

5. Subgrantee may follow their own established travel rates if they have an established travel policy. If a subgrantee does not have an established policy, then they must adhere to state travel policy. The state allows reimbursement for actual reasonable expenses. The state allows $0.55 per mile for mileage. Transportation costs for air and rail must be at coach rates.

6. Within 60 days of the starting date of the grant, the subgrantee must initiate the project funded. If not, the subgrantee must report to the OES, by letter, the steps taken to initiate the project, the reasons for the delay, and the expected starting date. If the project is not operational within 90 days of the start date, the subgrantee must obtain approval in writing from the OES for a new implementation date or the OES may cancel and terminate the project and redistribute the funds.

7. **No amendment to the approved budget may be made without the prior written approval of OES. No more than two (2) budget amendments will be permitted during the grant period. Budget amendments must be requested using the enclosed budget amendment request form accompanied with a narrative. No budget amendments will be allowed after Friday April 14, 2017.**

8. The subgrantee agrees to forward a copy to the OES of the scheduled audit of this grant award.

9. All purchases for goods and services must comply with the Virginia Public Procurement Act. Procurement transactions, whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. An exemption to this regulation requires the prior approval of the OES and is only given in unusual circumstances. Any request for exemption must be submitted in writing to the OES. Permission to make sole source procurements must be obtained from the OES in advance.

10. Acceptance of this grant award by the local government applicant constitutes its agreement that it assumes full responsibility for the management of all aspects of the grant and the activities funded by the grant, including assuring proper fiscal management of and accounting for grant funds; assuring that personnel paid with grant funds are hired, supervised and evaluated in accord with the local government's established employment and personnel policies; and assuring that all terms, conditions and assurances—those submitted with the grant application, and those issued with this award—are complied with.

11. Any delegation of responsibility for carrying out grant-funded activities to an office or department not a part of the local government must be pursuant to a written memorandum of understanding by which the implementing office or department agrees to comply with all applicable grant terms, conditions and assurances. Any such delegation notwithstanding, the applicant acknowledges by its acceptance of the award its ultimate responsibility for compliance with all terms, conditions and assurances of the grant award.

12. PROJECT INCOME: Any funds generated as a direct result of the OES grant funded projects are deemed project income. Project income must be reported on forms provided by the OES. The following are examples of project income: Service fees; Client fees; Drug test fees; Usage or Rental fees; sales of materials; income received from sale of seized and forfeited assets (cash, personal or real property included).

13. **Prior to the OES disbursing funds**, the Subgrantee must comply with the following special conditions:

    a. Equipment is not approved for these funds. The funds in that category were moved to the supplies and others category.
    b. Provide documentation of your compliance with the Nine Components of Successful MAT Programs.
    c. Vivitrol, the non-narcotic, non-addictive, long-acting, injectable prescription drug can be utilized for alcohol dependence. Your application indicates you plan to use this only for heroin and opiate addiction. Please confirm or modify your target population if needed.
    d. Reveal that the American Society of Addictive Medicine (ASAM) criteria is used to determine participant level of care.
    e. Share documentation regarding compliance with COV§54.1-2522.1. Requirements for prescribers to use the Prescription Monitoring Program (PMP).
    f. Provide a copy of your recovery planning completed by each participant to either address stopping the Vivitrol, transitioning to another medication (MAT), or graduating and continuing with Vivitrol treatment.
    g. Disclose other treatment services (other than the Vivitrol counseling & monitoring) the Vivitrol pilot participants may receive while participating in this drug court pilot.

h. Demonstrate the participants option to pay for continued injections and wrap around services if no longer eligible for this pilot program.
i. Describe details on where the Vivitrol medication will be stored and administered.
j. Under Projected Duration for Participants – "Graduation for pilot program participants is recommended after six months of sobriety". Please share the required sobriety period for non-Vivitrol pilot participants.
k. If the case manager is only available during regular business hours, please describe how s issues related to a potential crisis will be handled during non-business hours.
l. Share a copy of the Vivitrol alert bracelet or wallet card and the instructions you provide to participants on how to use.
m. Submit completed required quarterly progress reports each quarter. Quartely progress reports should document pilot activities and include all Vivitrol/MAT training the drug court team participates in, including the training date, trainer and attendees.
n. The Norfolk Drug Court Team to attend all Vivitrol pilot stakeholders meetings.
o. Reveal if the participant and family also receive the naloxone drug upon completion of the REVIVE training.
p. Disclose how the Vivitrol Patient Counseling Information form in the package will be utilized and verify it will be documented as part of the medical record.

Nine Components of Successful MAT Programs

1. **Counseling and other services—plus medication— are essential.**

Courts require medication-assisted treatment participants to receive counseling and wraparound services from a licensed treatment provider in addition to medication. These services are no different from those provided to participants not receiving MAT.

2. **Courts are selective about treatment programs and private prescribing physicians.**

Drug courts require participants to obtain an assessment at one or more designated licensed treatment programs. When MAT is recommended, the courts generally prefer that MAT medication and other services be provided by a program licensed by the state Office of Alcoholism and Substance Abuse Services, usually on a court-provided list. However, participants receiving buprenorphine sometimes receive the medication from an office- based physician, most commonly if the licensed treatment programs have reached their federally mandated buprenorphine cap (currently 30 patients the first year; 100 patients annually, thereafter). Courts also permit participants to receive injectable naltrexone from private doctors because they inject the medication monthly, which addresses concerns about diversion. With all forms of MAT, participants still must receive counseling and other services from a licensed treatment program. If a court finds that a provider does not meet the court's standards, it typically does not permit future participants to use that provider.

3. **Courts develop strong relationships with treatment programs and require regular communication regarding participant progress.**

Trust and communication are essential. Courts with successful MAT programs maintain frequent contact with treatment providers. They expect honest and accurate reports, as well as follow-through. If providers do not communicate sufficiently, courts stop referring participants and select other providers. The consensus among the 10 courts interviewed is that licensed treatment programs generally are more reliable communicators than private physicians.

4. **Screening and assessment must consider all clinically appropriate forms of treatment.**

Court staff conducts the initial screening and refers to programs who conduct

cannot misuse their medication as easily. Naltrexone is generally injected by a physician, and therefore, viewed as the least divertible medication. All courts acknowledge that there is some illicit diversion of MAT medication (mainly buprenorphine), but see it as something that they can manage and that does not justify a blanket prohibition. Many practitioners note that illicit use of medication occurs among opioid addicted people who are not enrolled in MAT programs and who often use MAT medication illicitly to self-medicate; such misuse might decrease with more access to MAT.

8. Medications for medication-assisted treatment are covered through government and/or private insurance programs.

Medicaid or other insurance programs generally pay for participants' treatment, especially in the initial stages of drug treatment court. When participants begin working, coverage can become more challenging. Courts try to help participants access appropriate coverage, but are not always successful. For those who need to self-pay, methadone is much less expensive than buprenorphine and naltrexone.

9. Medication-assisted treatment operates very similarly to other kinds of treatment.

Courts repeatedly emphasized that they did not do things very differently for MAT participants. Some courts conduct identical urine testing for MAT and other participants, while other courts add methadone and buprenorphine tests for MAT participants only. A few courts also count buprenorphine strips. Thus, many of the key components noted above are also essential for other parts of the treatment court's operation.

C: Michael G. Goldsmith, Chief of Police

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: Michael G. Goldsmith, Chief of Police

Subject: Donation of Nineteen Ballistic Vests from Spike's K9 Fund

Reviewed: Wynter C. Benda, Deputy City Manager

Ward/Superward: Citywide

Approved: Marcus D. Jones, City Manager

Item Number: **R-24**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Norfolk Police Department

III. **Description:**
This agenda item is an ordinance authorizing the acceptance of a donation to the City of Norfolk (the "city") of nineteen (19) ballistic K-9 vests from Spike's K9 Fund, for the Norfolk Police Department's ("NPD's") K-9 Program. This donation is made in memory of NPD's K-9 Krijger.

IV. **Analysis**
Spikes K9 Fund is a 501(c)3 Tax-Exempt Organization founded by James Hatch, a retired Special Warfare Operator. Mr. Hatch was a K-9 handler during several deployments: one of the most memorable being a K-9 named Spike. On his final deployment, a K-9 lost his life while saving Mr. Hatch. From that day on, Mr. Hatch oriented his life around the training, care and preservation of working dogs. On January 11, 2016, K-9 Krijger of the NPD was killed in the line of duty. After this tragedy, CNN's Anderson Cooper made a donation to Spike's K9 Fund. The contribution provided ballistic protection to over forty local K-9's. Other localities which have received support from Spike's K9 Fund include Chesapeake, Suffolk, Portsmouth and Virginia Beach.

V. **Financial Impact**
There is no financial impact to the city related to the donation of the ballistic K-9 vests. This donation has a value of approximately $41,800.00. This is a private donation for the enhancement of the safety of NPD K-9 Unit members.

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

VI. Environmental

N/A

VII. Community Outreach/Notification

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

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

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

Supporting Material from the Norfolk Police Department:

- Ordinance

8/9/2016-bjl

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Norfolk Police Department

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING WITH APPRECIATION THE DONATION TO THE CITY OF 19 BALLISTIC K-9 VESTS HAVING A VALUE OF APPROXIMATELY $41,800 FROM THE SPIKES K-9 FUND FOR THE NORFOLK POLICE DEPARTMENT K-9 PROGRAM.

- - -

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

Section 1:- That the donation to the City of 19 ballistic K-9 vests having a value of approximately $41,800 from the SPIKES K-9 FUND for the Norfolk Police Department K-9 Program is hereby accepted with appreciation.

Section 2:- That the City Manager is hereby authorized to do all things necessary to receive and accept the K-9 vests for use by the Norfolk Police Department.

Section 3:- That this ordinance shall be in effect from and after its adoption.

C: Dir., Norfolk Fire-Rescue

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: Jeffrey F. Wise, Fire Chief

Subject: Rescue Squad Assistance Fund Grant - $27,046.00

Reviewed: _____
Wynter C. Benda, 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 a Rescue Squad Assistance Fund Grant Award (the "grant") of $27,046.00 from the Virginia Department of Health, Office of Emergency Medical Services, appropriating and authorizing the expenditure of the grant funds and authorizing the expenditure of $27,046.44 of a local cash match for the purchase of portable Cardiopulmonary Resuscitation ("CPR") devices for the Department of Fire-Rescue ("Fire-Rescue").

IV. **Analysis**
The purchase of portable CPR devices will provide continuous compressions, at the appropriate rate and depth, to cardiac arrest patients while being transported. This equipment will also remove the hazard of a firefighter/EMS provider standing in a moving ambulance and being injured en route to the hospital.

V. **Financial Impact**
The grant requires a local cash match in the amount of $27,046.44 for a total project amount of $54,092.44. The cash match will come from the portion of Fire-Rescue's general fund budget allocated to support emergency medical supplies and equipment.

VI. **Environmental**
N/A

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

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter has been coordinated with the Department of Fire-Rescue, Office of Budget & Strategic Planning and the City Attorney's Office.

Supporting Material from the Department of Fire-Rescue:

- Ordinance

3/29/16 - bjl

Form and Correctness Approved: RAP

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Norfolk Fire-Rescue

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

27,046.00 2275-20-8131-9170
$ 27,046.44 1000-20012-588-5211 and 52
Account

9/07/16
Director of Finance

9/7/16
Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING $27,046.00 IN RESCUE SQUAD ASSISTANCE GRANT FUNDS FROM THE OFFICE OF EMERGENCY MEDICAL SERVICES, AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF THE GRANT FUNDS AND LOCAL MATCHING FUNDS IN THE AMOUNT OF $27,046.44 TO PURCHASE PORTABLE CARDIOPULMONARY RESUSCITATION (CPR) DEVICES FOR THE DEPARTMENT OF FIRE-RESCUE.

- - -

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

Section 1:- That $27,046.00 in Rescue Squad Assistance Fund grant award funds from the Virginia Department of Health, Office of Emergency Medical Services for the purchase of portable Cardiopulmonary Resuscitation (CPR) devices for the Department of Fire-Rescue is hereby accepted.

Section 2:- That $27,046.00 in grant funds from the Rescue Squad Assistance Fund of the Virginia of Health, Office of Emergency Medical Services are hereby appropriated and authorized for expenditure for the purchase of portable Cardiopulmonary Resuscitation (CPR) devices for the Department of Fire-Rescue, if and when the funds are made available from the Virginia Department of Health, Office of Emergency Medical Services.

Section 3:- That the expenditure of heretofore-appropriated funds from account number 1000-20-012-588-5211 of up to $27,046.44 is hereby authorized as a local cash match for the purchase of portable Cardiopulmonary Resuscitation (CPR) devices for the Department of Fire-Rescue.

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

October 11, 2016

From: Sonal Rastogi, Director
Norfolk Public Library

Subject: Universal Service Fund E-Rate Reimbursement Program award in the amount of $67,120.17

Reviewed: Wynter C. Benda, 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

III. **Description:**
This agenda item is an ordinance to accept and appropriate the sum of $67,120.17 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 $67,120.17 and does not require a local match; therefore, there is no direct financial impact to the department's FY 2017 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 Norfolk Public Library, the City Attorney's Office and the Department of Finance.

Supporting Material from the Norfolk Public Library:

- Ordinance

3/9/16 - bjl

Form and Correctness Approved:

By _____
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.

$ 67,120.17 SR-2275-13-7765-91

Account

_____ 8/26/16
Director of Finance Date

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING $67,120.17 FROM THE SCHOOLS AND LIBRARIES DIVISION OF THE UNIVERSAL SERVICE FUND E-RATE REIMBURSEMENT PROGRAM AND APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF $67,120.17 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 $67,120.17 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 $67,120.17 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.

City of NORFOLK

C: City Attorney

To the Honorable Council
City of Norfolk, Virginia

October 11, 2016

From: Adam Melita, Deputy City Attorney

Subject: A Resolution appointing members to the Coastal Management Review Board, updating membership of the Erosion Advisory Commission, and assigning terms of service for each member

Reviewed: _____
Sabrina Joy-Hogg, Deputy City Manager

Ward/Superward: Citywide

Approved: _____
Marcus D. Jones, City Manager

Item Number: **R-27**

I. **Recommendation:** Adopt Resolution

II. **Applicant:** Office of the City Manager

III. **Description:**
This agenda item is a resolution to appoint members to the Coastal Management Review Board (the "Board"), update membership of the Erosion Advisory Commission (the "Commission") for the City of Norfolk (the "City") and assign an initial term of service for each member.

IV. **Analysis**
The beaches, coastal primary sand dunes, and sand along the Chesapeake Bay are an essential natural resource that benefit from being managed in a proactive, consistent, and comprehensive manner. The City's Sand Management Plan (the "Plan") was formally adopted and made a part of the City's comprehensive plan, *plaNorfolk2030*, on June 28, 2016 (Ord. No. 46,446), in order to protect this resource. The Board was created to maintain and monitor the Plan. The membership of the Board is comprised of a panel of experts familiar with the coastal environment, citizen stakeholders, and staff involved in managing the City's resiliency programs. The Commission is a body established under state law in order to participate in any funding that the Commonwealth makes available under the Public Beach Maintenance and Development Fund (*Code of Virginia*, Title 10.1, Chapter 7).

V. **Financial Impact**
N/A

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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

No Board or Commission actions are required.

IX. Coordination/Outreach

This letter has been coordinated with the Department of Planning and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Resolution

09/16/2016 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

Resolution

A RESOLUTION APPOINTING MEMBERS TO THE COASTAL MANAGEMENT AND REVIEW BOARD FOR THE CITY OF NORFOLK AND TO THE EROSION ADVISORY COMMISSION FOR THE CITY OF NORFOLK AND TO ASSIGN AN INITIAL TERM OF SERVICE FOR EACH MEMBER.

- - -

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

Section 1:- Finding that each is qualified for service on the Coastal Management and Review Board for the City of Norfolk and that they satisfy the established eligibility for service on the Board, the following persons are each hereby appointed to the Board for the biennial term of two (2) years:

(a) Thomas R. Smigiel, Jr., Councilperson, Ward 5;

(b) Andria P. McClellan, Councilperson, Super Ward 6;

(c) John Greene, President, East Ocean View Civic League;

(d) Victor G. Yurkovic, Jr., President, Cottage Line Civic League;

(e) Donald J. Musacchio, President, Willoughby Civic League;

(f) Scott Smith, Coastal Resiliency Engineer, City of Norfolk;

(g) Robert J. Tajan, Department of Planning, City of Norfolk;

(h) Wynter C. Benda, Office of the City Manager, City of Norfolk;

(i) Dr. Larry P. Atkinson, Professor of Oceanography, Department of the Ocean, Earth & Atmospheric

Sciences of Old Dominion University;

(j) Rachael Maulorico, Habitat Engineer, Virginia Marine Resources Commission;

(k) Michelle Hamor, Army Corps of Engineers, Norfolk District; and

(l) Dr. Christopher Hein, Virginia Institute of Marine Science.

Section 2:- Finding that each is qualified for service on the Erosion Advisory Commission for the City of Norfolk and that they satisfy the established eligibility for service on the Commission, the following persons are each hereby appointed to the Commission for a biennial term of two (2) years:

(a) Thomas R. Smigiel, Jr., Councilperson, Ward 5;

(b) Andria P. McClellan, Councilperson, Super Ward 6;

(c) John Greene, President, East Ocean View Civic League;

(d) Victor G. Yurkovic, Jr., President, Cottage Line Civic League;

(e) Donald J. Musacchio, President, Willoughby Civic League;

(f) Scott Smith, Coastal Resiliency Engineer, City of Norfolk; and

(g) Chuck Joyner, Department of Public Works, City of Norfolk.

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