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AGENDA

NEWPORT NEWS CITY COUNCIL
REGULAR CITY COUNCIL MEETING

JANUARY 26, 2016

City Council Chambers

7:00 p.m.

A. Call to Order

B. Invocation

- Elder Darrin Lyons, Bethel Restoration Center

C. Pledge of Allegiance to the Flag of the United States of America

D. Presentations

1. Resolution of Recognition: Charles A. "Chuck" Hall on his Retirement as Executive Director of the Hampton-Newport News Community Services Board (HNNCSB)

E. Public Hearings

1. Ordinance Authorizing the Vacation of a Waterline Easement Located at 12080 Jefferson Avenue
2. Ordinance Authorizing Conditional Use Permit No. CU-16-358, to CARS LLC, for the Operation of a Used Car Dealership on Property Located at 11203 Jefferson Avenue and Zoned C2 General Commercial
3. Ordinance Granting Conditional Use Permit No. CU-16-359, to The Southland Corporation & Headrick Properties, LLC, for the Operation of an Automobile Gasoline Supply Station on Property Located at 11500 and 11504 Jefferson Avenue and Zoned C1 Retail Commercial and C2 General Commercial
4. Ordinance Granting Conditional Use Permit No. CU-16-360, to Stevens Memorial Baptist Church, to Install an Electronic Display Sign for a Community Facility on Property Located at 224 Richneck Road and Zoned R4 Single-Family Dwelling
5. Ordinance Authorizing Zoning Text Amendment No. ZT-16-373, City of Newport

News to City Code, Chapter 45, Zoning Ordinance, Article II., Definitions, Section 45-201, to Define a New Use, Day Services Center; Article IV., Section 45-402, Add it to the Summary of Uses by District Matrix; and Article V., General Regulations to Add New Section 45-534, Day Services Center

6. Ordinance Authorizing Zoning Text Amendment No. ZT-16-374, City of Newport News to City Code, Chapter 45, Zoning Ordinance, to Delete the Minimum Parking Requirement in Article XIX, O3 Office/Research and Development District Regulations; Section 45-1904, Off-Street Parking and Loading Regulations
7. Ordinance Authorizing Zoning Text Amendment No. ZT-16-375, City of Newport News to City Code, Chapter 45, Zoning Ordinance; Article IV., Summary of Uses by District; Section 45-402; to Remove Halfway House as a Permitted Use in the R1, R2, R3 and R4 Single-Family Dwelling Districts

F. Consent Agenda

1. Minutes of the Special Meeting of January 12, 2016
2. Minutes of the Work Session of January 12, 2016
3. Minutes of the Regular Meeting of January 12, 2016
4. Resolution of Recognition: The Honorable Mamye E. BaCote on her Retirement as a Member of the Virginia House of Delegates
5. Resolution to Comply with the Virginia Department of Transportation (VDOT) Requirement to Formally Add to the City's Street Maintenance Inventory an Increase in Lane Mileage for Street Maintenance Payments
6. Resolution Authorizing the City Manager to Execute the Statement of Agreement by and between the City and the Virginia Department of Health (Peninsula Health District)

G. Other City Council Actions

1. Ordinance Amending City Code, Chapter 40.2, Enterprise Zones, Technology Zones and Tourism Zones, by Adding New Article IV., Defense Production Zones
2. Resolution Authorizing the Issuance of up to \$145,000,000 General Obligation General Improvement (GOGI) Refunding Bonds and/or Water Refunding Bonds
3. Resolution Authorizing a Five (5) Year License Agreement for the Maintenance and Use of East Boundary Road and Directing the City Manager to Execute the License Agreement By and Between the City and Mariners' Museum
4. Item 1 of 2: Department of Engineering – Additional Funds from the Virginia Department of Environmental Quality Stormwater Local Assistance Fund (SLAF): Construction of Glen Allen and Turnberry Stream Restoration Projects – \$55,036
5. Part 2 of 2: Resolution Authorizing the City Manager to Execute a Grant Agreement between the City and the Virginia Department of Environmental Quality (DEQ)

H. Appropriations

1. Department of Engineering - FY2016 Bond Authorization, Sanitary Sewer Rehabilitation Category: Construction of 34th Street Sanitary Sewer - \$800,000

I. Citizen Comments on Matters Germane to the Business of City Council

J. *New Business and Councilmember Comments

1. City Manager
2. City Attorney
3. City Clerk
4. Cherry
5. Coleman
6. Price
7. Scott
8. Vick
9. Woodbury
10. Bateman

K. Adjourn

***THE BUSINESS PORTION OF THE MEETING WILL BE CONCLUDED NO LATER THAN 10:00 P.M. TO ALLOW PERSONS TO ADDRESS CITY COUNCIL UNDER "CITIZEN COMMENTS ON MATTERS GERMANE TO THE BUSINESS OF CITY COUNCIL."**

A. Call to Order

B. Invocation - Elder Darrin Lyons, Bethel Restoration Center

C. Pledge of Allegiance to the Flag of the United States of America

D. Presentations

E. Public Hearings

1. Ordinance Authorizing the Vacation of a Waterline Easement Located at 12080 Jefferson Avenue

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION TO IREIT NEWPORT NEWS TECH CENTER, L.L.C., FOR A PORTION OF A WATERLINE EASEMENT NO LONGER UTILIZED BY THE CITY.

BACKGROUND:

- The location of this property is 12080 Jefferson Avenue and is located at Marketplace at Tech Center in Newport News.
- IREIT Newport News Tech Center, L.L.C. has asked the City to formally vacate the unneeded portion of the existing waterline easement due to an encroachment of the easement into the Whole Foods Market via a deed of vacation.
- A Notice of Public Hearing has been published in *Daily Press* for the required four consecutive weeks.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Vacation of Waterline Easement

sdm14033 Authorizing re Deed of Easement - IREIT Newport News Tech Center LLC

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Vacation of Waterline Easement at 12080 Jefferson Avenue

IREIT Newport News Tech Center, L.L.C., is requesting a partial vacation of an existing waterline easement due to an encroachment of the easement into the Whole Foods Market at Marketplace at Tech Center, located at 12080 Jefferson Avenue. The easement was conveyed to the City of Newport News at no cost in 2014. It has been determined that this portion of the easement is no longer needed.

A Public Notice advertising the proposed vacation was published in the December 21, 2015, December 28, 2015, January 4, 2016, and January 11, 2016 editions of the *Daily Press*.

I recommend that City Council adopt the ordinance authorizing me to execute a Deed of Vacation to IREIT Newport News Tech Center, L.L.C. for that portion of the waterline easement no longer utilized by the City.


James M. Bourey

JMB:WW

cc: Scott Dewhirst, Acting Director, Waterworks Department

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING CITY MANAGER TO EXECUTE AND CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, A DEED OF VACATION OF AN INTEREST IN REAL PROPERTY AS DESCRIBED HEREIN TO IREIT NEWPORT NEWS TECH CENTER, L.L.C., AND AUTHORIZING THE CITY MANAGER TO TAKE SUCH FURTHER ACTION AS SHALL BE NECESSARY TO COMPLETE THE TRANSACTION.

WHEREAS, City Manager recommends that the City Council authorize the conveyance of certain interest in real property located at 12080 Jefferson Avenue, Newport News, Virginia, by quitclaim deed to IREIT Newport News Tech Center, L.L.C.; and

WHEREAS, the property to be conveyed consists of an unneeded portion of a ten foot (10') wide waterline easement over said property; and

WHEREAS, the City Council wishes to provide the City Manager general authority to cause the real estate transaction to be completed.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest on behalf of the City of Newport News, Virginia, a deed of vacation, vacating and quitclaiming the portion of the easement described in the deed attached hereto and made a part hereof to IREIT Newport News Tech Center, L.L.C..

2. That the City Manager is hereby authorized and directed to take such further actions as shall be necessary to complete the transaction.

3. That all deeds and other documents shall be subject to the review and approval of the City Attorney.

4. That this ordinance shall be in effect on and after the date of its adoption, January 26, 2016.

Tax ID#: 162.0002-02

Consideration: \$0

Prepared By:
City Attorney's Office
2400 Washington Avenue
Newport News, VA 23607
Tel: (757) 926-8416
Fax: (757) 926-8549

Exemption Claimed Under Section
58.1-811.C.4. For Taxes Imposed by
Section 58.1-802 on a Conveyance by
a Virginia City.

Title Insurance Underwriter: Unknown
Deed prepared without benefit of title examination

THIS DEED OF VACATION, made this 26th day of January, 2016, by and between the **CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation, Grantor, and **IREIT NEWPORT NEWS TECH CENTER, L.L.C.**, a Delaware limited liability company, Grantee, whose mailing address is 2901 Butterfield Road, Oak Brook, Illinois 60523.

RECITALS

WHEREAS, by Deed dated October 31, 2014, and recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, as Instrument No. 140015444, certain water pipeline easements were conveyed to Grantor; and

WHEREAS, a portion of a waterline easement thereby dedicated is not being utilized by Grantor, and Grantee has requested that Grantor vacate said portion of the waterline easement; and

WHEREAS, Grantor agrees to the vacation of said portion of its easement, and the Council of the City of Newport News, by Ordinance No. _____, adopted on January 26, 2016, authorized the vacation and quitclaim conveyance of that portion of the waterline easement that is no longer needed.

NOW, THEREFORE, 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 and sufficiency of which is hereby acknowledged, the Grantor does hereby vacate, remise, release, grant, convey and forever quitclaim to Grantee, any and all right, title and interest of the Grantor, either at

law or in equity, to that certain portion of its waterline easement, described as follows:

All of that area shown and identified as "10' WATERLINE EASEMENT TO BE VACATED" on that plat entitled "VACATION PLAT OF A WATER MAIN EASEMENT PROJECTING ACROSS LANDS OF IREIT NEWPORT NEWS TECH CENTER, LLC TO BE VACATED BY CITY OF NEWPORT NEWS, VIRGINIA LOCATED IN THE CITY OF NEWPORT NEWS, VIRGINIA" made by Timmons Group, dated December 22, 2015, revised January 15, 2016, consisting of three sheets, a copy of which is attached hereto for a more complete and accurate description of the easement hereby vacated.

TO HAVE AND TO HOLD whatever interest the Grantor may possess in said vacated easement unto the Grantee, its successors and assigns, forever.

WITNESS the following signatures and seals:

[Signature Page Follows]

CITY OF NEWPORT NEWS, VIRGINIA

By: _____
City Manager

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

COMMONWEALTH OF VIRGINIA
City of Newport News, to wit:

I, _____, a Notary Public in and for the City and Commonwealth aforesaid, do hereby certify that the CITY OF NEWPORT NEWS, VIRGINIA by James M. Bourey, its City Manager, and attested by Mabel Washington Jenkins, MMC, its City Clerk, whose names are signed to the foregoing writing, hereto annexed, have each acknowledged the same before me in my City and Commonwealth aforesaid.

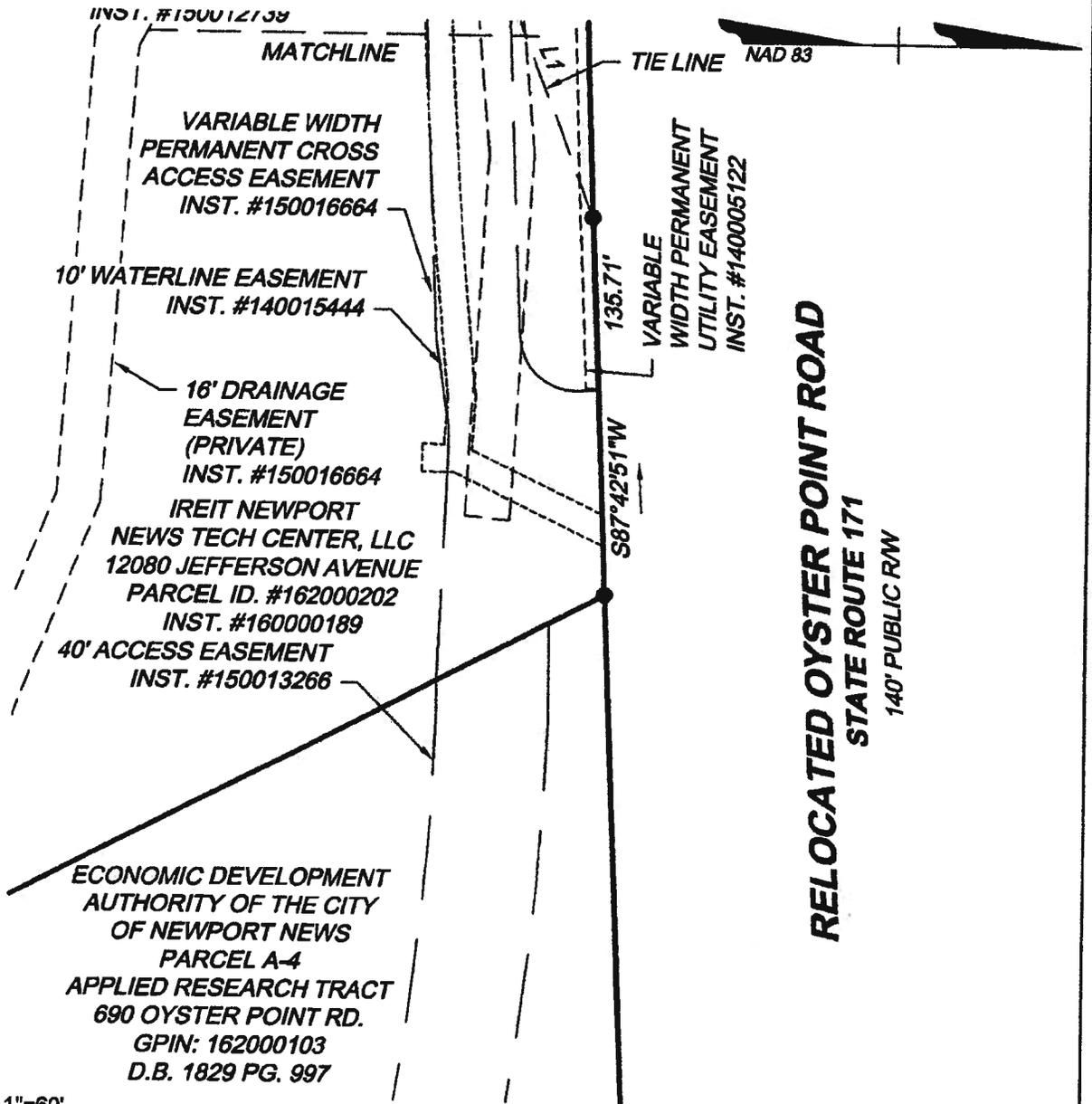
GIVEN under my hand this ____ day of _____, 2016.

Notary Public

My commission expires: _____

Registration No.: _____

sdm14032



ECONOMIC DEVELOPMENT
 AUTHORITY OF THE CITY
 OF NEWPORT NEWS
 PARCEL A-4
 APPLIED RESEARCH TRACT
 690 OYSTER POINT RD.
 GPIN: 162000103
 D.B. 1829 PG. 997

SCALE 1"=60'



Note:

1. Title to this parcel of land was obtained through Instrument Number 160000189.
2. See GPIN Number 162000202
3. Plat of Meridian Reference: NAD83



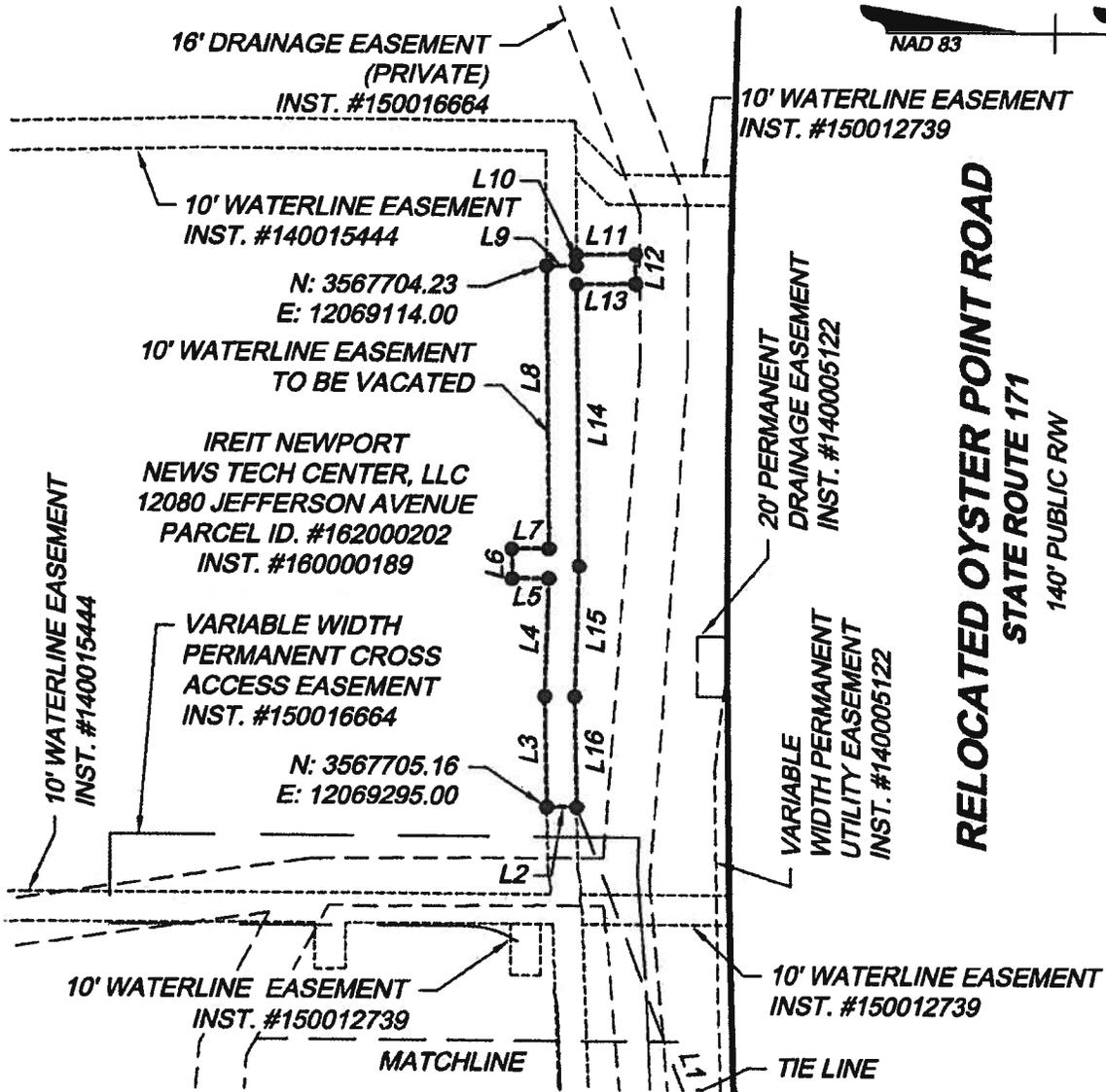
TIMMONS GROUP

TRI-CITIES OFFICE
 4701 OWENS WAY, SUITE 900
 PRINCE GEORGE, VIRGINIA 23875

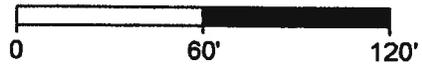
VACATION PLAT OF A WATER MAIN EASEMENT

PROJECTING ACROSS LANDS OF
 IREIT NEWPORT NEWS TECH CENTER, LLC
 TO BE VACATED BY
CITY OF NEWPORT NEWS, VIRGINIA
 LOCATED IN THE CITY OF NEWPORT NEWS, VIRGINIA

Date: Dec. 22, 2015	Drawn By: J. Livingston	Scale: 1"=60'
Rev: Jan. 15, 2016	Checked By: W.M. Naulty	Sheet 1 of 3
	Job No. 33671-903	
Print File No.	Extension No.	

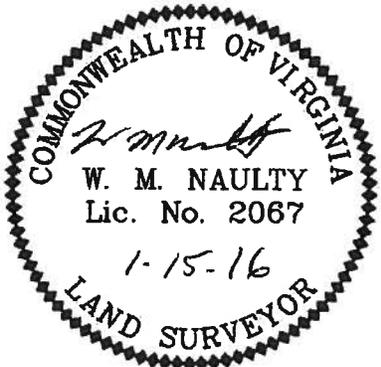


SCALE 1"=60'



Note:

1. Title to this parcel of land was obtained through Instrument Number 160000189.
2. See GPIN Number 162000202
3. Plat of Meridian Reference: NAD83



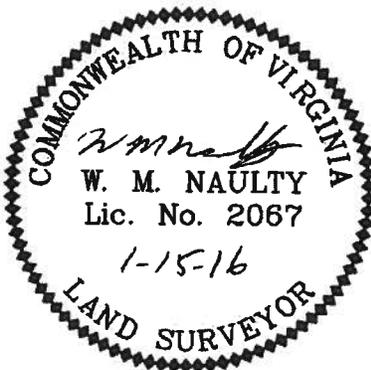
<p>TIMMONS GROUP </p> <p>TRI-CITIES OFFICE 4701 OWENS WAY, SUITE 900 PRINCE GEORGE, VIRGINIA 23875</p>		
<p>VACATION PLAT OF A WATER MAIN EASEMENT PROJECTING ACROSS LANDS OF IREIT NEWPORT NEWS TECH CENTER, LLC TO BE VACATED BY CITY OF NEWPORT NEWS, VIRGINIA LOCATED IN THE CITY OF NEWPORT NEWS, VIRGINIA</p>		
Date: Dec. 22, 2015	Drawn By: J. Livingston	Scale: 1"=60'
Rev: Jan. 15, 2016	Checked By: W.M. Naulty	Sheet 2 of 3
Job No. 33671-903		
Print File No.	Extension No.	

LINE TABLE		
LINE	BEARING	LENGTH
L1	S69°16'10"W	153.32'
L2	S0°01'54"E	10.00'
L3	S88°41'47"W	37.29'
L4	N88°14'53"W	39.24'
L5	S0°48'42"E	12.14'
L6	S89°11'18"W	10.00'
L7	N0°48'42"W	12.33'
L8	S89°11'18"W	94.50'

LINE TABLE		
LINE	BEARING	LENGTH
L9	N0°01'54"W	9.95'
L10	S89°58'06"W	3.78'
L11	N0°48'42"W	19.75'
L12	N89°11'18"E	10.00'
L13	S0°48'42"E	19.75'
L14	N89°11'18"E	94.07'
L15	S88°14'53"E	43.50'
L16	N88°41'47"E	37.25'

Note:

1. Title to this parcel of land was obtained through Instrument Number 160000189.
2. See GPIN Number 162000202
3. Plat of Meridian Reference: NAD83



TIMMONS GROUP

TRI-CITIES OFFICE
 4701 OWENS WAY, SUITE 900
 PRINCE GEORGE, VIRGINIA 23875

VACATION PLAT OF A WATER MAIN EASEMENT

PROJECTING ACROSS LANDS OF
 IREIT NEWPORT NEWS TECH CENTER, LLC
 TO BE VACATED BY
CITY OF NEWPORT NEWS, VIRGINIA
 LOCATED IN THE CITY OF NEWPORT NEWS, VIRGINIA

Date: Dec. 22, 2015	Drawn By: J. Livingston	Scale: 1"=60'
Rev: Jan. 15, 2016	Checked By: W.M. Naulty	Sheet 3 of 3
	Job No. 33671-903	
Print File No.	Extension No.	

E. Public Hearings

2. Ordinance Authorizing Conditional Use Permit No. CU-16-358, to CARS LLC, for the Operation of a Used Car Dealership on Property Located at 11203 Jefferson Avenue and Zoned C2 General Commercial

ACTION: A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-16-358 FOR THE OPERATION OF A USED CAR DEALERSHIP AT 11203 JEFFERSON AVENUE AND ZONED C2 GENERAL COMMERCIAL.

- BACKGROUND:**
- CARS LLC wishes to relocate their tenant, Drive Time Used Automobile Sales, from 11292 Jefferson Avenue to the subject property, currently occupied by an auto repair facility.
 - The proposed use is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map.
 - On January 6, 2016, the City Planning Commission voted 8:0 with one abstention to recommend approval of this request with conditions.
Vote on Roll Call
For: Austin, Carpenter, Groce, Jones, Long, Mulvaney, Roberts, Simmons
Against: None
Abstention: Willis
 - The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CU-16-358 CARS LLC
Staff Report and CPC Minute Excerpts
sdm14022 CU-16-358 re Cars, LLC

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Conditional Use Permit No. CU-16-358, CARS, LLC

CARS, LLC requests a conditional use permit for the operation of a used car dealership on property located at 11203 Jefferson Avenue. This property, along with adjacent properties located at 11211 and 11213 Jefferson Avenue, will be the new location of Drive Time Used Automobile Sales after they relocate their business from their current location at 11292 Jefferson Avenue.

The request is compatible with the *Framework for the Future 2030* Comprehensive Plan land use map recommendation of neighborhood commercial, as well as with the surrounding uses.

On January 6, 2016, the City Planning Commission voted 8:0 with one abstention to recommend approval of the request to City Council with conditions. I concur with the City Planning Commission's recommendation.

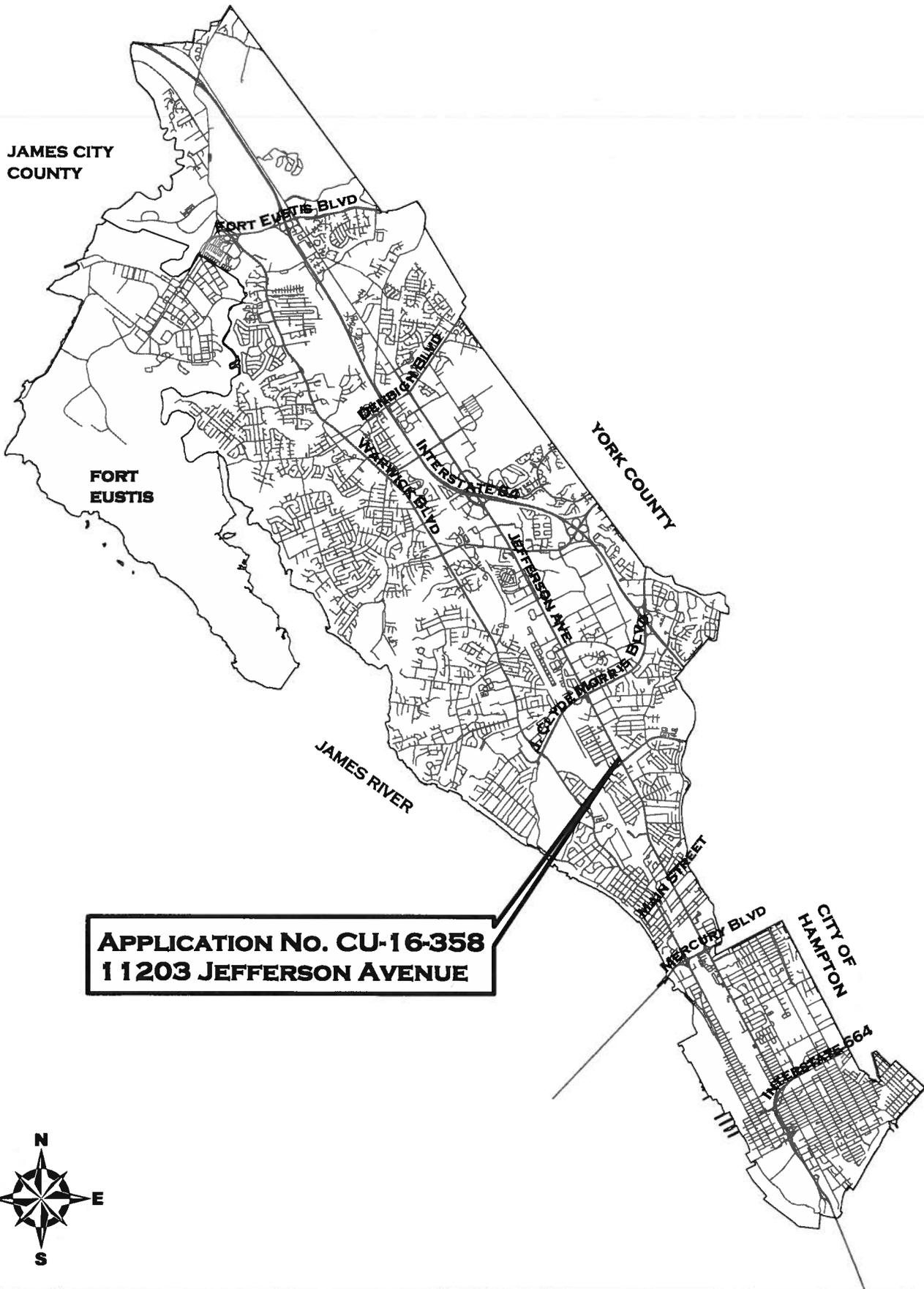

James M. Bourey

JMB:dfw

Attachment

**CITY OF NEWPORT NEWS
CITY COUNCIL
JANUARY 26, 2016**

**CONDITIONAL USE PERMIT
APPLICATION NO. CU-16-358
CARS LLC**



CONDITIONAL USE PERMIT NO. CU-16-358 CARS LLC

APPLICANT/OWNER

CARS LLC is the applicant and owner.

SITE DESCRIPTION

Location

11203 Jefferson Avenue

Acreage

The parcel contains 0.92 acres.

Existing Zoning

C2 General Commercial (See Appendix A-1.)

Framework for the Future

Neighborhood Commercial (See Appendix A-4.)

Present Use

Automobile repair center

Request

The applicant is requesting a conditional use permit to allow for the operation of a used automobile dealership.



FACTS

Vicinity

Adjacent to the north are parcels that contain used auto sales.

Across Jefferson Avenue to the east is an Exxon convenience store with gasoline sales on property zoned C1 Retail Commercial.

Adjacent to the south is a car title loan office on property zoned C2 General Commercial.

Adjacent to the west are single-family homes on property zoned R3 Single-Family Dwelling. (See Appendix A-3.)

Zoning History

The property has been zoned C2 General Commercial since the citywide comprehensive rezoning became effective August 1, 1997.

Regulatory Review

Section 45-402 of the Zoning Ordinance allows automobile dealerships in the C2 General Commercial zoning district with the approval of a conditional use permit.

The Zoning Ordinance requires one (1) parking space per 500 square feet of floor area. The site plan shows a 7,677 square foot building for which 15 parking spaces are required. There are 21 parking spaces on the property.

The proposed dealership will also occupy the adjacent properties located at 11211 and 11213 Jefferson Avenue. Automotive sales are permitted on these properties as legally nonconforming uses. The properties have internal ingress/egress and provide an additional 65 parking spaces.

The departments of Codes Compliance, Engineering, Public Works, Public Utilities, Fire, Police, Parks, Recreation and Tourism and Development have no objection to the request.

Comprehensive Plan Review

The *Framework for the Future 2030* comprehensive plan land use map designates neighborhood commercial uses for the property. A used automobile dealership is a commercial use that serves the neighborhood and community and is consistent with this designation. (See Appendix A-4.)

The Neighborhoods section of the Land Use Chapter of *the Framework for the Future 2030* also calls for buffers to protect residential areas from intrusion by commercial uses. The dealership will be required to install an opaque fence along the rear property line. This fence will provide more screening than would be required for the continued operation of the existing use, or any by-right use on the property.

ANALYSIS

CARS LLC wishes to relocate their tenant, Drive Time Auto Sales, from their current location at 11282 Jefferson Avenue to the subject property and the two adjacent properties. The subject property has contained a small motor vehicle repair and service facility since being developed in 1973 but has not been used for automobile sales. Thus, a conditional use permit is required for the addition of used automobile sales to the small motor vehicle repair and service facility. The adjacent properties located at 11211 and 11213 Jefferson Avenue have continuously been used for used automobile sales and are legally nonconforming and do not require a conditional use permit.

The expansion of operations to include used automobile sales on the subject property is not anticipated to create any additional impact to the surrounding area. The installation of a privacy fence along the rear property line will be required in order to provide new screening for the adjacent homes.

The existing sign will be lowered to a maximum height of eight (8) feet. The design and materials for the sign, as well as building mounted signs, will be reviewed and approved by the Director of Planning.

CONCLUSION

The proposed used automobile dealership will allow for the relocation of an existing used automobile dealership. The sale of used automobiles on the subject property will not have a measurably greater impact on the surrounding properties than the existing automobile service use. The proposed use is consistent with the *Framework for the Future 2030* comprehensive plan.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council approval of conditional use permit CU-16-358 to allow for the operation of a used automobile dealership with the following conditions:

1. A six (6) foot high opaque fence shall be installed along the full length of the rear property line. The fence shall be maintained in good condition for the duration of the use authorized by this permit. The materials, color and style of the fence shall be reviewed and approved by the Director of Planning.
2. Only one (1) freestanding sign shall be permitted on the Property. The existing sign shall be modified, or replaced, so that it is a monument style sign no higher than eight (8) feet measured from the highest point of the sign area structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.

3. No flags, banners, balloons, or window advertising shall be affixed to any automobiles on display.
4. The automobiles displayed on the site shall not encroach into the public right-of-way, landscape strip or buffer areas.
5. The automobiles for sale shall be displayed only in marked parking spaces and shall not be double-parked.
6. All repair and service work shall be performed within an enclosed building.
7. There shall be no outside storage of cars in a state of obvious disrepair.
8. Outdoor public address systems shall be prohibited.
9. All lighting shall have a mounting height no greater than twenty (20) feet. Lighting installed along the rear of the site shall be full cut-off fixtures and provide shielding on the residential side of the fixture.
10. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time that recording is made. The Equipment shall provide surveillance coverage encompassing both the front, side and rear exteriors of the business. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty (30) days.
11. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
12. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.

13. A Certificate of Use and Occupancy shall be obtained prior to the operation of any business use on the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
14. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
15. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
16. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
17. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

CPC RECOMMENDATION

On January 6, 2016, the Planning Commission voted 8:0 with one abstention to recommend approval of the conditional use permit to the City Council with the following conditions:

1. A six (6) foot high opaque fence shall be installed along the full length of the rear property line. The fence shall be maintained in good condition for the duration of

the use authorized by this permit. The materials, color and style of the fence shall be reviewed and approved by the Director of Planning.

2. Only one (1) freestanding sign shall be permitted on the Property. The existing sign shall be modified, or replaced, so that it is a monument style sign no higher than eight (8) feet measured from the highest point of the sign area structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.
3. No flags, banners, balloons, or window advertising shall be affixed to any automobiles on display.
4. The automobiles displayed on the site shall not encroach into the public right-of-way, landscape strip or buffer areas.
5. The automobiles for sale shall be displayed only in marked parking spaces and shall not be double-parked.
6. All repair and service work shall be performed within an enclosed building.
7. There shall be no outside storage of cars in a state of obvious disrepair.
8. Outdoor public address systems shall be prohibited.
9. All lighting shall have a mounting height no greater than twenty (20) feet. Lighting installed along the rear of the site shall be full cut-off fixtures and provide shielding on the residential side of the fixture.
10. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time that recording is made. The Equipment shall provide surveillance coverage encompassing both the front, side and rear exteriors of the business. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty (30) days.

11. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
12. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.
13. A Certificate of Use and Occupancy shall be obtained prior to the operation of any business use on the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
14. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
15. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
16. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
17. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

APPENDIX

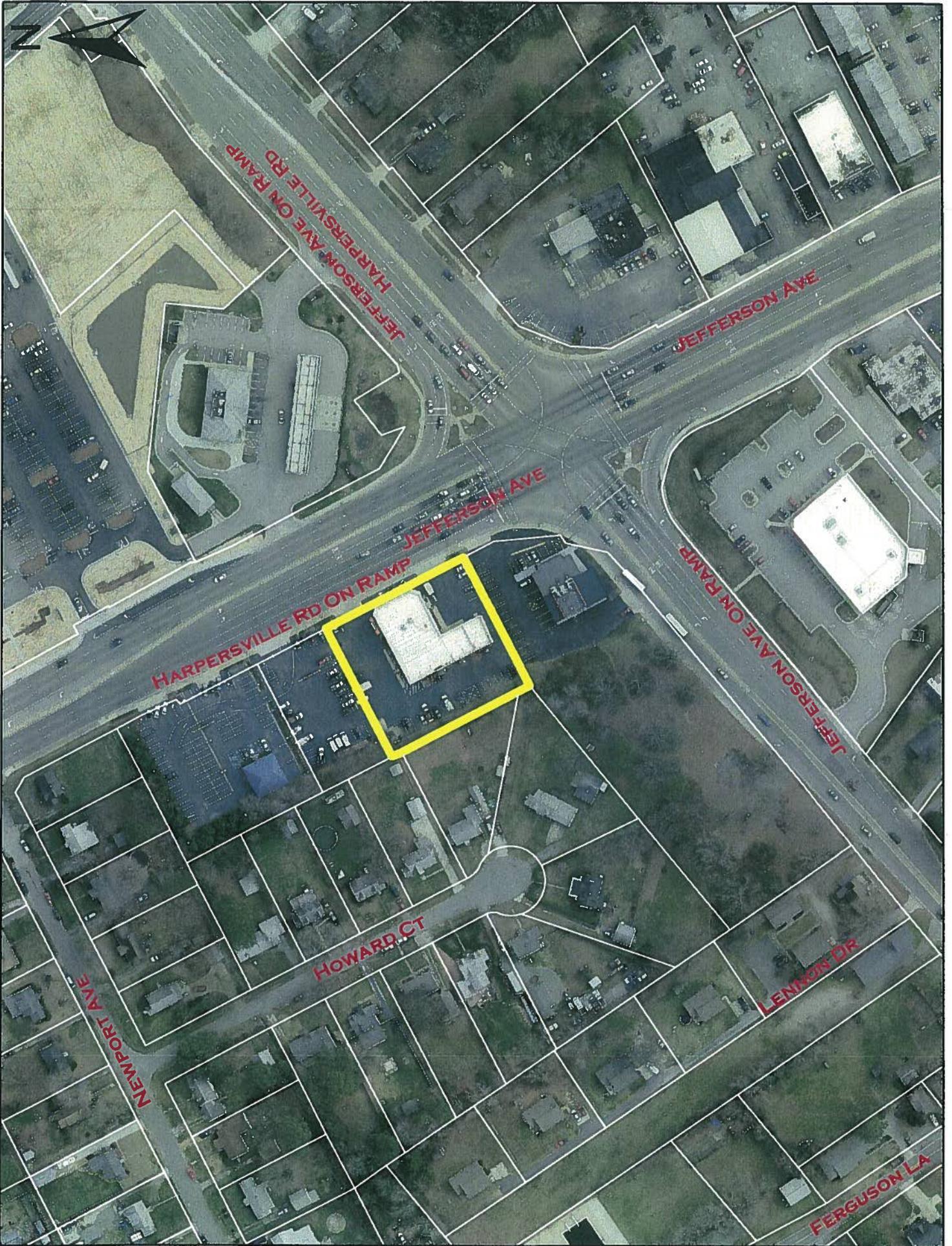
A-1 VICINITY/ZONING MAP

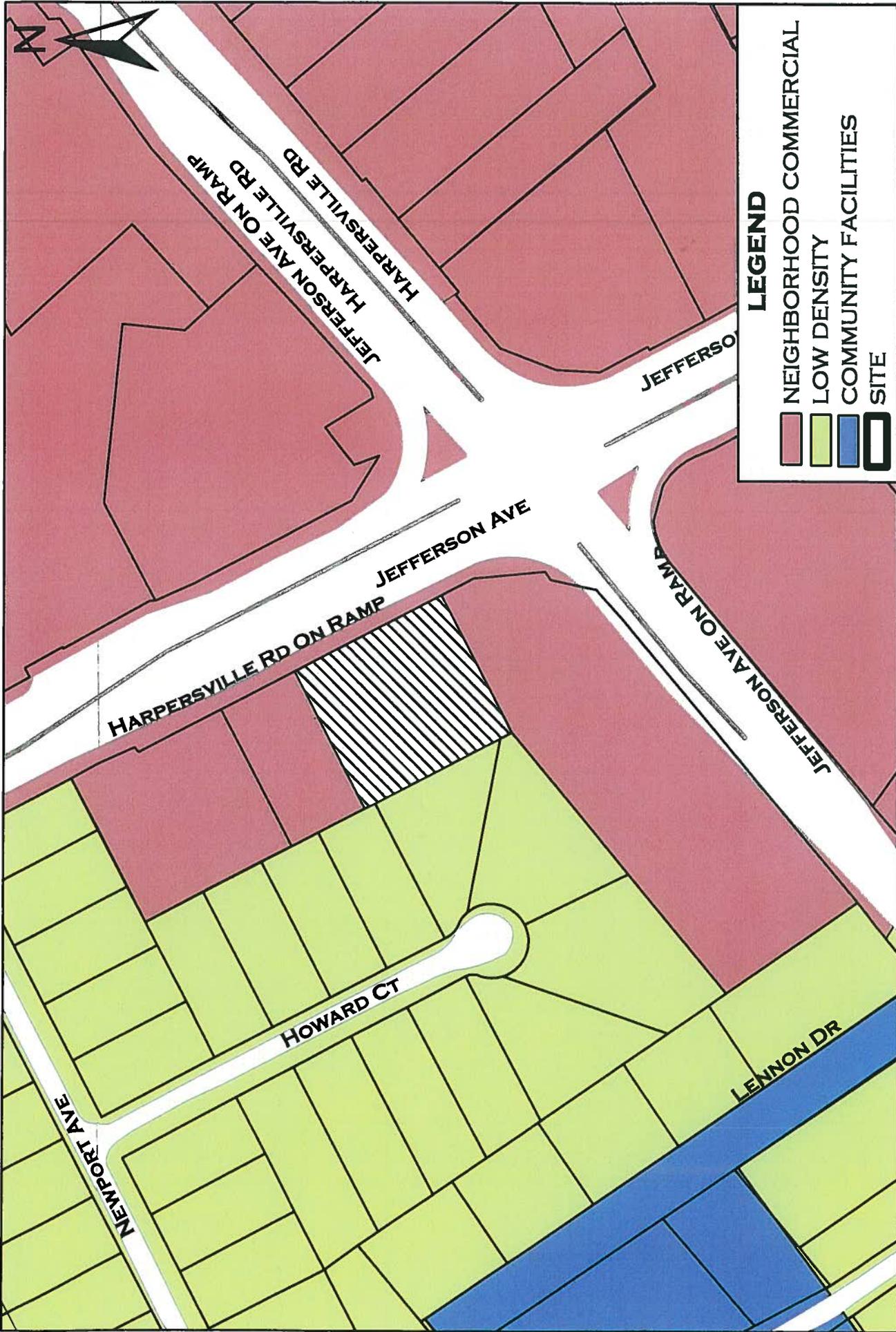
A-2 SITE PLAN

A-3 AERIAL MAP

A-4 *FRAMEWORK FOR THE FUTURE 2030* LAND USE MAP

**A-5 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF
JANUARY 6, 2016**





FRAMEWORK FOR THE FUTURE 2030

CARS LLC

EXCERPTS FROM PLANNING COMMISSION MINUTES

January 6, 2016

CU-16-358, CARS LLC. Requests a conditional use permit to allow for the operation of a used car dealership on a 0.92 acre parcel located at 11203 Jefferson Avenue and zoned C2 General Commercial. The Parcel No. is 240.00-05-20.

Ms. Willis declared a conflict of interest in hearing this case and recused herself. She was excused.

David Watson, Planner, presented the staff report (copy attached to record minutes).

Mr. Carpenter asked what kind of material is used in opaque fencing. Mr. Watson stated it can be wood or vinyl.

Mr. Carpenter opened the public hearing.

Mr. Donald W. Davis, 3630 Route 17, Yorktown, representative for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Davis gave a brief presentation of the application.

Mr. Carpenter closed the public hearing.

Mr. Long made a motion to recommend approval of conditional use permit CU-16-358 to City Council, as recommended by staff. The motion was seconded by Mr. Roberts.

Vote on Roll Call

For: Jones, Simmons, Mulvaney, Austin, Groce, Long, Roberts, Carpenter

Against: None

Abstention: Willis

The Planning Commission voted 8:0 with one abstention to recommend approval of conditional use permit CU-16-358 to City Council.

ORDINANCE NO. _____

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-358 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING AN AUTOMOBILE SALES, USED CAR DEALERSHIP ON PROPERTY IN A C2 GENERAL COMMERCIAL ZONING DISTRICT.

WHEREAS, application number CU-16-358 has been made by **CARS, LLC, owner and applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating an automobile sales, used car dealership on property in a C2 General Commercial Zoning District; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-16-358 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating an automobile sales, used car dealership on property in a C2 General Commercial Zoning District; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

All that certain lot, piece or parcel of land, situate, lying and being in the City of Newport News, Virginia, and more particularly described as follows:

Commencing at a pipe on the westerly side of Jefferson Avenue distant S. 20 degrees E. 434.13 feet from the iron marker at the Southwest corner of Newport Avenue and Jefferson Avenue, as shown on the plat of "Beacondsdale - Section A" of record in the Clerk's Office of the Circuit Court (formerly Hustings Court) for the City of Newport News, Virginia, and from the point of commencement thus established, proceeding thence along said westerly line of Jefferson Avenue S. 20 degrees E. a distance of 205.75 feet to a pipe; thence S. 70 degrees W. a distance of 219.49 feet to a pipe, thence N. 14 degrees 08 minutes 20 second W. a distance of 190.88 feet to a pipe, thence N. 20 degrees W. a distance of 15.87 feet to a pipe; thence N. 70 degrees E. a distance of 200

feet to the pipe at the point or place of commencement, all as shown on that certain map or plat entitled, "Plat of Part of J. W. Hornsby Estate in Warwick, Virginia", dated November 17, 1952, made by J. B. Sinclair, Jr., Civil Engineer, a copy of said plat being attached to deed dated December 10, 1952 from William Sherwood Hornsby et als Executors and Trustees of the Estate of John William Hornsby, deceased to Nathan Peltz, et als, Trustees of the Peltz Trust, acting under and virtue of that certain trust indenture dated December 9, 1952, duly of record in the Clerk's Office aforesaid, in Deed Book 7, page 89.

LESS AND EXCEPT, that certain portion of land conveyed to the Commonwealth of Virginia, as shown and designated in RED on Sheets 14 and 15 of the certain plat recorded in the aforesaid Clerk's Office in State Highway Plat Book 8, page 40 and 41.

FURTHER, LESS AND EXCEPT that certain portion of land conveyed to the Commonwealth of Virginia by deed dated March 2, 1998 and recorded in the aforesaid Clerk's Office in Deed Book 1497, page 1038.

The Property has a common street address of 11203 Jefferson Avenue and has Real Estate Assessor's Tax I.D.# 240.00-05-20.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. A six (6) foot high opaque fence shall be installed along the full length of the rear property line. The fence shall be maintained in good condition for the duration of the use authorized by this permit. The materials, color and style of the fence shall be reviewed and approved by the Director of Planning.
2. Only one (1) freestanding sign shall be permitted on the Property. The existing sign shall be modified, or replaced, so that it is a monument style sign no higher than eight (8) feet measured from the highest point of the sign area structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.
3. No flags, banners, balloons, or window advertising shall be affixed to any automobiles on display.
4. The automobiles displayed on the site shall not encroach into the public

right-of-way, landscape strip or buffer areas.

5. The automobiles for sale shall be displayed only in marked parking spaces and shall not be double-parked.
6. All repair and service work shall be performed within an enclosed building.
7. There shall be no outside storage of cars in a state of obvious disrepair.
8. Outdoor public address systems shall be prohibited.
9. All lighting shall have a mounting height no greater than twenty (20) feet. Lighting installed along the rear of the site shall be full cut-off fixtures and provide shielding on the residential side of the fixture.
10. The applicant shall cause a plan (“the Plan”) to be prepared for the installation and operation of digital video equipment (the “Equipment”) with recording devices and capability sufficient to include date and time the recording is made. The Equipment shall provide surveillance coverage encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.
11. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
12. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
13. The applicant, as well as successors, assigns, and agents, if any, shall obtain

all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.

14. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
15. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
16. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
17. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this

conditional use permit has not commenced within twenty-four (24) months of January 26, 2016, or,

2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

E. Public Hearings

3. Ordinance Granting Conditional Use Permit No. CU-16-359, to The Southland Corporation & Headrick Properties, LLC, for the Operation of an Automobile Gasoline Supply Station on Property Located at 11500 and 11504 Jefferson Avenue and Zoned C1 Retail Commercial and C2 General Commercial

ACTION: A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-16-359 FOR THE OPERATION OF AN AUTOMOBILE GASOLINE SUPPLY STATION IN CONJUNCTION WITH A 7-ELEVEN CONVENIENCE STORE ON PROPERTY LOCATED AT 11500 AND 11504 JEFFERSON AVENUE AND ZONED C1 RETAIL COMMERCIAL AND C2 GENERAL COMMERCIAL.

- BACKGROUND:**
- The existing 7-Eleven convenience store and adjacent property will be redeveloped with a new store and gasoline pumps.
 - The request will improve the appearance of this site and is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map.
 - On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of this request with conditions.
Vote on Roll Call
For: Austin, Carpenter, Groce, Jones, Long, Mulvaney, Roberts, Simmons Willis
Against: None
Abstention: None
 - The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CU-16-359 Southland Corp

Staff Report and CPC Minute Excerpts

sdm CU-16-359 re The Southland Corp and Headric Properties, LLC, owners and 7-Eleven, Inc., applicant

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Conditional Use Permit No. CU-16-359, The Southland Corporation & Headrick Properties, LLC

The Southland Corporation & Headrick Properties, LLC request a conditional use permit to allow for the operation of an automobile gasoline supply station on two parcels containing 1.03 acres located at 11500 and 11504 Jefferson Avenue and zoned C1 Retail Commercial and C2 General Commercial, respectively.

The new fueling station and 7-Eleven Convenience Store will be constructed on a site currently occupied by a 7-Eleven Convenience Store without fuel and the High Sierra Pools offices.

The request is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map, as well as with the recommendation for visual improvement of the city's corridors.

On January 6, 2016, the City Planning Commission voted 9:0 to recommend approval of the request to City Council with conditions. I concur with the City Planning Commission's recommendation.

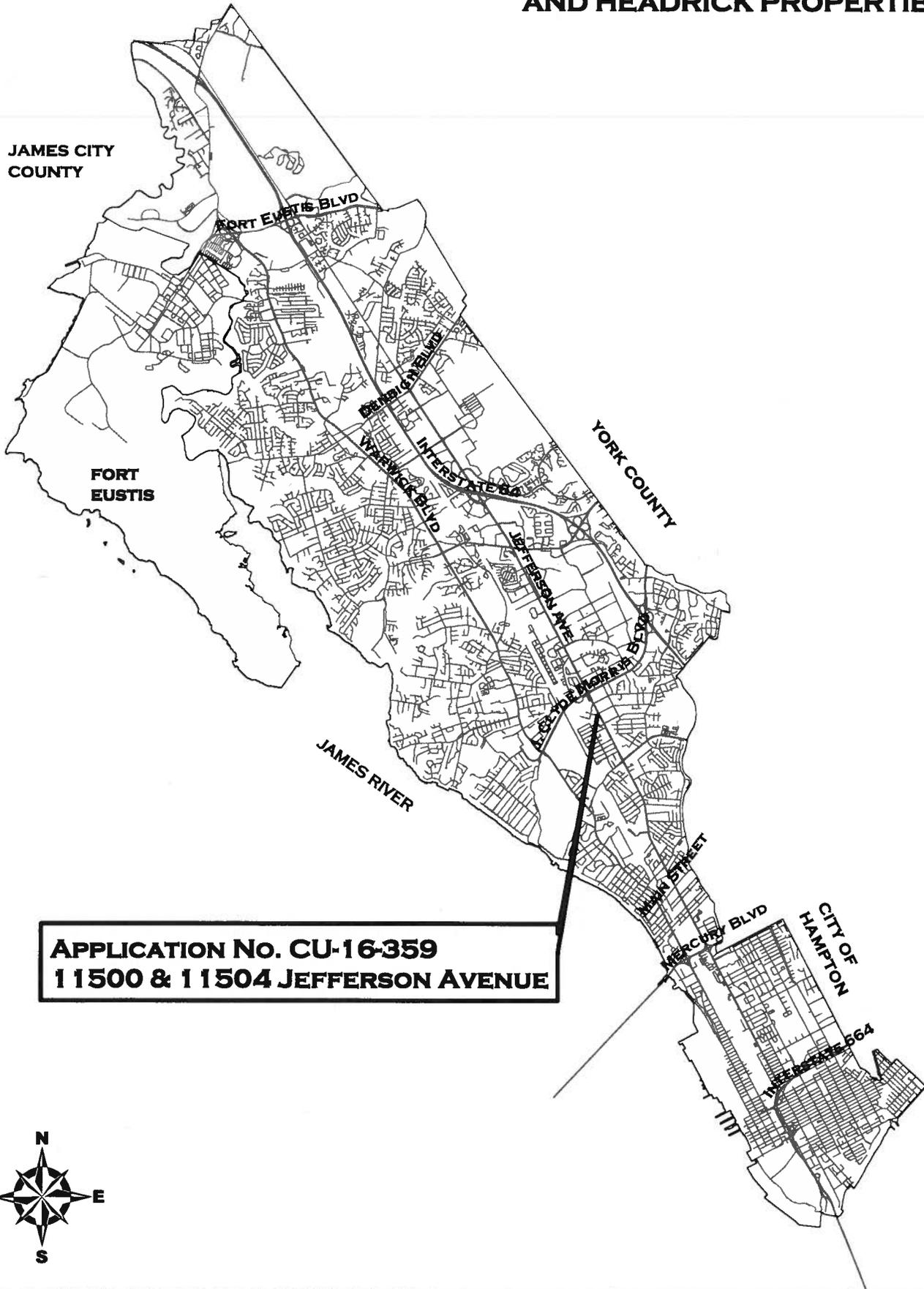

James M. Bourey

JMB:sgd

Attachment

**CITY OF NEWPORT NEWS
CITY COUNCIL
JANUARY 26, 2016**

**CONDITIONAL USE PERMIT
APPLICATION NO. CU-16-359
THE SOUTHLAND CORPORATION
AND HEADRICK PROPERTIES LLC**



**APPLICATION No. CU-16-359
11500 & 11504 JEFFERSON AVENUE**



CONDITIONAL USE PERMIT NO. CU-16-359, THE SOUTHLAND CORPORATION & HEADRICK PROPERTIES LLC.

APPLICANT/OWNER

The Southland Corporation and Headrick Properties LLC, are the owners and 7-Eleven, Inc. is the applicant.

SITE DESCRIPTION

Location

11500 and 11504 Jefferson Avenue

Acreage

The parcels contain 1.03 acres.

Existing Zoning

C1 Retail Commercial and C2 General Commercial (See Appendix A-1.)

Framework for the Future

Community Commercial (See Appendix A-5.)

Present Use

7-Eleven convenience store and High Sierra Pools

Request

The applicant is requesting a conditional use permit to allow for the operation of an automobile gasoline supply station within the C1 Retail Commercial and C2 General Commercial zoning districts.



FACTS

Vicinity

North, abutting the property, is a converted residential structure that houses an office with a custodian apartment on property zoned C2 General Commercial.

East, abutting the property, is a single-family dwelling on property zoned R4 Single-Family Dwelling.

South, across Groome Road, are apartments on property zoned R7 Medium Density Multiple-Family Dwelling.

West, across Jefferson Avenue, is Deer Park on property zoned P1 Park. (See Appendix A-1.)

Zoning History

The properties have been zoned C1 Retail Commercial and C2 General Commercial since the citywide comprehensive rezoning became effective August 1, 1997. Prior to that, the properties were zoned C2-A General Commercial.

Regulatory Review

The zoning ordinance allows an automobile gasoline supply station in C1 Retail Commercial and C2 General Commercial with the approval of a conditional use permit.

The Site Regulations require landscape strips in the areas adjacent to Jefferson Avenue and Groome Road. The ordinance also requires a 20-foot transitional buffer area between commercial and park districts as well as multi-family districts for any new development. This occurs along the southern and western property lines on Groome Road and Jefferson Avenue respectively and will incorporate the landscape strips. A 30-foot buffer is required between single-family and commercial zoning districts, this occurs along the eastern property line. The site plan shows the buffers along all three sides.

The zoning ordinance requires one (1) parking space for every 250 square feet of floor area for retail uses and a maximum of one (1) parking space for every 200 square feet of floor area. The 3,020 square foot convenience store would therefore require a maximum of 15 parking spaces. If the applicant applies for and is granted an administrative increase of 30 percent, five (5) additional spaces will be allowed. The site plan submitted indicates a total of 19 parking spaces, ten (10) of which are at the gasoline pumps. (See Appendix A-2.)

A Traffic Impact Assessment (TIA) was prepared by Bryant B. Goodloe, PC which has been reviewed and accepted with revisions per recommendations by the Department of Engineering. (See Appendix A-6.)

The departments of Codes Compliance, Public Works, Public Utilities, Fire, Police, Parks, Recreation and Tourism and Development have no objection to the request.

Comprehensive Plan Review

The *Framework for the Future 2030* comprehensive plan land use map designates community commercial for the property. The proposed use is consistent with that designation. (See Appendix A-7.)

The *Framework* also recommends the visual improvement of the city's corridors. The proposed use will add new landscaping to the site improving the transition from the residential uses into the commercial uses along Jefferson Avenue.

ANALYSIS

The proposed site currently houses a 7-Eleven convenience store and a converted residential structure that serves as a business office with a custodian apartment. Both structures will be demolished as part of the new development.

There are currently two curb cuts allowing direct access from Jefferson Avenue and one on Groome Road. Both entrances to the corner property are currently too close to the intersection. The closure of one of the curb cuts on Jefferson Avenue and the relocation of two remaining ones will allow for an improved traffic flow on the site from both roads. Further, the installation of landscape buffers along three of the four sides of the property will vastly improve the site's current condition and will provide adequate screening for the adjacent residential uses.

Department of Engineering staff is satisfied that the Traffic Impact Assessment (TIA) represents a fair analysis of the site. The TIA was revised to address the Department's comments. Based on the TIA, the Department of Engineering identifies improvements that are the responsibility of the developer: installation of stop controlled right in/right out entrance to the site on Jefferson Avenue; installation of a standard site entrance on Groome Road; and the installation of sidewalks with ADA compliant handicap ramps for the entire site frontage along Groome Road, and the installation of ADA complaint handicap ramps on all four (4) approaches of the intersection. The Department also recommends improving pedestrian accommodations at the intersection of Jefferson Avenue and Groome Road by installing pedestrian signal heads, pedestrian signal buttons and associated components for the eastbound approach. Finally, the left turn movements on Jefferson Avenue will be changed from a permissive to protected-permissive movements by adding flashing yellows to the signals. (See Appendix A-6 and A-7.)

In addition to the TIA's recommendations, the Department notes that this section of Jefferson Avenue is along an existing bike route, which requires that the sidewalk be widened to a minimum of 8 feet as shown in the proposed site plan. (See Appendix A-2.)

Extensive landscaping will be installed on the site to screen the parking areas as well as the dumpsters. All structures and landscaping are subject to the review and approval by the Director of Planning. The fuel vent pipes will be located towards the rear of the

property within the landscaped area to make them as unobtrusive as possible. The proposed air compressor and vacuum cleaner will be located internally on the site and will be adequately screened by vegetation. If the fuel dispensing activity closes for more than one year, the fuel tanks, pumps, and canopy are required to be dismantled and removed.

The proposed brick structure in conjunction with the extensive vegetation will improve the site's curb appeal. (See Appendix A-3.)

The proposed gasoline supply station and convenience store will provide a service to the surrounding residential and commercial uses as well as citizens traveling the corridor.

Automobile fueling stations typically seek locations with high traffic counts and ease of access. This site is suitable for this use because it is a corner location at the entrance to a neighborhood on a heavily traveled thoroughfare.

CONCLUSION

The new building and landscaping will improve the appearance of this site and minimize the use's impact on the adjacent residential uses. The redevelopment and expansion of the existing use to include gasoline pumps is consistent with the *Framework for the Future 2030* comprehensive plan and is compatible to the surrounding uses within the immediate vicinity.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council approval of conditional use permit CU-16-359 to allow for the construction of an automobile gasoline supply station at 11500 and 11504 Jefferson Avenue with the following conditions:

1. A class 1 site plan shall be submitted to and reviewed by the Site Plan Review Committee and be approved by the Director of Engineering. This site plan shall be in general conformance with the Concept Plan prepared by Blakeway Corp. as revised December 21, 2015, identified as Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.
2. Building elevations and exterior building materials for the Property shall be consistent with the drawings prepared by Vertical Construction submission date October 24, 2015 "7-Eleven Site No. 1037037" and identified as Appendix A-3. Full bricks shall be used to construct all facades. Final drawings shall be reviewed and approved by the Director of Planning prior to the issuance of a building permit.

3. The applicant shall cause a 20-foot transitional buffer area to be installed and maintained in perpetuity along the property's western and southern boundaries as well as a 30-foot transitional buffer area along the property's eastern boundary.
4. Fuel tank ventilation apparatus shall not be installed adjacent to Jefferson Avenue.
5. A landscape plan in conformance with the requirements of the Site Regulations shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
6. The applicant shall implement the improvements as recommended in the December 10, 2015 Traffic Impact Assessment (TIA) prepared by Bryan B. Goodloe PC. as revised per recommendations by the Department of Engineering.
 - Install one stop controlled right in/right out entrance to the site on Jefferson Avenue.
 - Install one stop controlled standard site entrance on Groome Road.
 - Install sidewalks with handicap ramps for the entire site frontage along Groome Road.
 - Maintain existing sidewalk with handicap ramps along Jefferson Avenue.
 - Improve pedestrian accommodations at the intersection of Jefferson Avenue and Groome Road by installing pedestrian signal heads, pedestrian signal buttons and associated components across all four approaches.
 - Modify the traffic signal at Jefferson Avenue and Groome Road to a protective-permissive movement (flashing yellows.)
7. Only one (1) freestanding sign shall be permitted on the Property. The sign shall be a monument style sign no taller than eight (8) feet measured from the highest point of the sign structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.
8. All signs, including directional signs, location, design and materials shall be reviewed and approved by the Director of Planning.
9. No temporary or portable signs shall be permitted on the Property. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.

10. There shall be no signage on the fueling stations other than that required by law for safety.
11. Signage on the canopy shall be limited to the placement of a logo.
12. All outdoor storage and displays of saleable items shall be prohibited excluding those items located in vending machines or enclosed areas.
13. All vacuum and air supply equipment shall be screened from public rights-of-way. Screening materials shall be approved by the Director of Planning prior to site plan approval.
14. All dumpsters and HVAC systems shall be screened from adjacent properties and rights-of-way with materials and design to match the building and shall be approved by the Director of Planning prior to site plan approval, and shall be maintained in such condition in perpetuity.
15. All lighting on the Property shall be consistent with those standards recommended by the Illumination Engineering Society of North America (IESNA.) A photometric lighting plan indicating the number and type of lighting shall be submitted for review and approval by the Director of Engineering. Lighting shall be installed and operated as shown on the approved plan. Lighting shall be directed inward and downward on the Property so that such lighting does not spillover onto adjacent properties.
16. The playing of music on any outdoor speakers shall be prohibited.
17. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time that recording is made. The Equipment shall provide surveillance coverage encompassing both the front, side and rear exteriors of the business. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.

18. The applicant shall provide written notice to the Director of Planning in the event of the cessation of fuel dispensing activity at the automobile gasoline supply station. Such notice shall be provided no later than seven days after such fuel dispensing activity ceases.
19. In the event a fuel dispensing activity ceases at the automobile gasoline supply station for a period in excess of 12 months:
 - a. The tanks, fueling equipment (including the gas pumps and fueling islands) shall be removed;
 - b. The canopy shall be removed; and
 - c. The real property in or which the improvements listed in subsection (a) and (b) above, are placed or constructed shall be restored to the same grade or condition as the remainder of the parking lot and maintained either as landscaped green area or as paved area until a new site plan for the site has been approved by the city.
20. Prior to operating the use permitted by this conditional use permit, a bond in an amount deemed appropriate by the Director of Planning and in a form deemed appropriate by the City Attorney shall be posted by the applicant with the City and maintained for one year after the conditional use permit expires to ensure that the applicant will restore the real property as required in condition 19 a, b, and c.
21. There shall be maintained on the property an auxiliary generator or generators sufficient in size and capacity to operate all fueling stations during electrical outages or the facility shall be pre-wired for and provided with mobile generator(s) by contract or by transfer of generator(s) owned by the applicant to the site. The mobile generator(s) and the facility shall be operable within 12 hours of the National Weather Service posting a warning for the City of Newport News of a named tropical storm or named hurricane or within 12 hours of the occurrence of a winter storm which disrupts power to the Property.
22. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
23. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.
24. A Certificate of Use and Occupancy shall be obtained prior to the operation of any business use on the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully

implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.

25. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
26. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
27. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
28. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

CPC RECOMMENDATION

On January 6, 2016, the Planning Commission voted unanimously (9:0) to recommend approval of the conditional use permit to the City Council with the following conditions:

1. A class 1 site plan shall be submitted to and reviewed by the Site Plan Review Committee and be approved by the Director of Engineering. This site plan shall be in general conformance with the Concept Plan prepared by Blakeway Corp. as revised December 21, 2015, identified as Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.

2. Building elevations and exterior building materials for the Property shall be consistent with the drawings prepared by Vertical Construction submission date October 24, 2015 "7-Eleven Site No. 1037037" and identified as Appendix A-3. Full bricks shall be used to construct all facades. Final drawings shall be reviewed and approved by the Director of Planning prior to the issuance of a building permit.
3. The applicant shall cause a 20-foot transitional buffer area to be installed and maintained in perpetuity along the property's western and southern boundaries as well as a 30-foot transitional buffer area along the property's eastern boundary.
4. Fuel tank ventilation apparatus shall not be installed adjacent to Jefferson Avenue.
5. A landscape plan in conformance with the requirements of the Site Regulations shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
6. The applicant shall implement the improvements as recommended in the December 10, 2015 Traffic Impact Assessment (TIA) prepared by Bryan B. Goodloe PC. as revised per recommendations by the Department of Engineering.
 - Install one stop controlled right in/right out entrance to the site on Jefferson Avenue.
 - Install one stop controlled standard site entrance on Groome Road.
 - Install sidewalks with handicap ramps for the entire site frontage along Groome Road.
 - Maintain existing sidewalk with handicap ramps along Jefferson Avenue.
 - Improve pedestrian accommodations at the intersection of Jefferson Avenue and Groome Road by installing pedestrian signal heads, pedestrian signal buttons and associated components across all four approaches.
 - Modify the traffic signal at Jefferson Avenue and Groome Road to a protective-permissive movement (flashing yellows.)
7. Only one (1) freestanding sign shall be permitted on the Property. The sign shall be a monument style sign no taller than eight (8) feet measured from the highest point of the sign structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.

8. All signs, including directional signs, location, design and materials shall be reviewed and approved by the Director of Planning.
9. No temporary or portable signs shall be permitted on the Property. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
10. There shall be no signage on the fueling stations other than that required by law for safety.
11. Signage on the canopy shall be limited to the placement of a logo.
12. All outdoor storage and displays of saleable items shall be prohibited excluding those items located in vending machines or enclosed areas.
13. All vacuum and air supply equipment shall be screened from public rights-of-way. Screening materials shall be approved by the Director of Planning prior to site plan approval.
14. All dumpsters and HVAC systems shall be screened from adjacent properties and rights-of-way with materials and design to match the building and shall be approved by the Director of Planning prior to site plan approval, and shall be maintained in such condition in perpetuity.
15. All lighting on the Property shall be consistent with those standards recommended by the Illumination Engineering Society of North America (IESNA.) A photometric lighting plan indicating the number and type of lighting shall be submitted for review and approval by the Director of Engineering. Lighting shall be installed and operated as shown on the approved plan. Lighting shall be directed inward and downward on the Property so that such lighting does not spillover onto adjacent properties.
16. The playing of music on any outdoor speakers shall be prohibited.
17. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time that recording is made. The Equipment shall provide surveillance coverage encompassing both the front, side and rear exteriors of the business. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times.

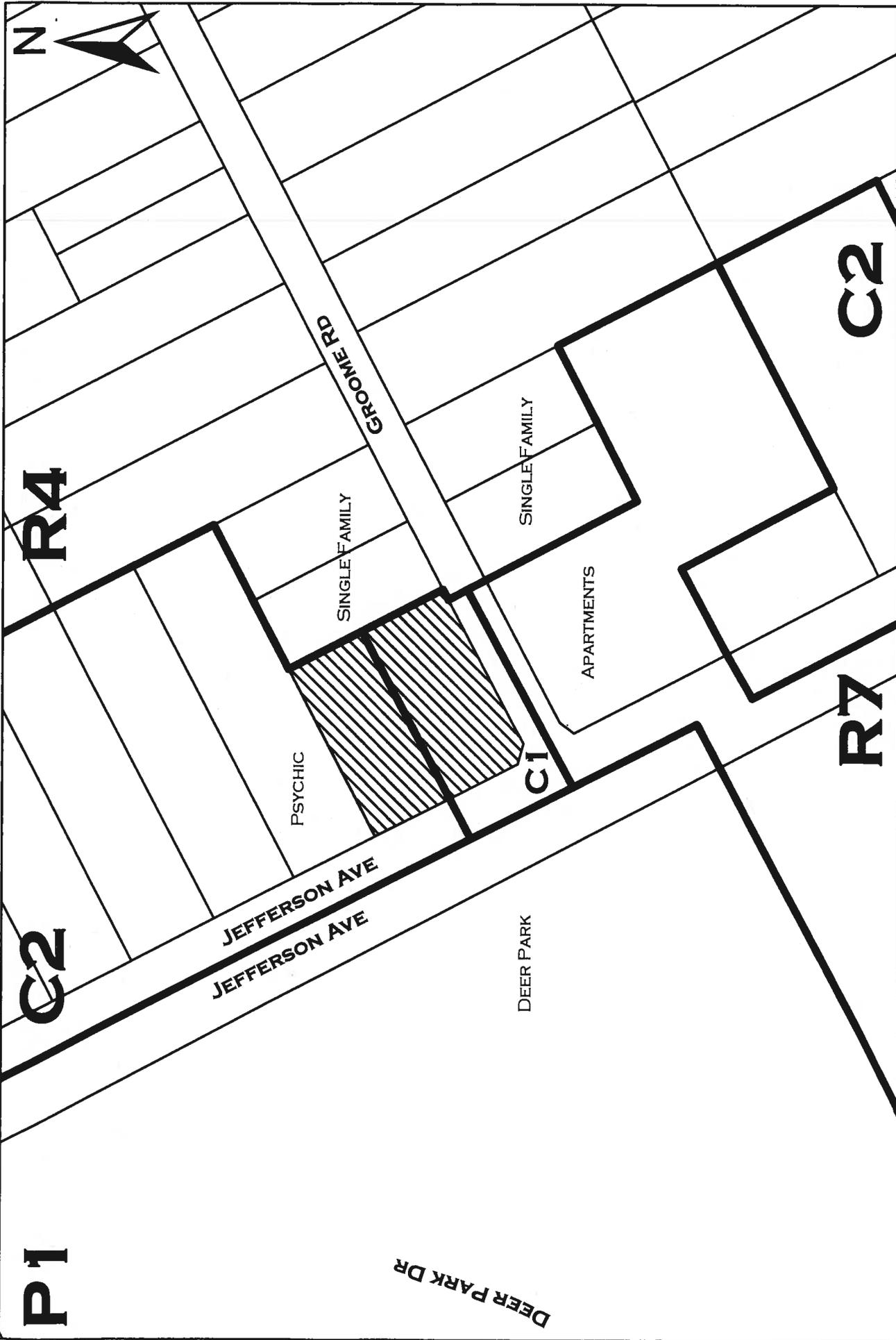
Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.

18. The applicant shall provide written notice to the Director of Planning in the event of the cessation of fuel dispensing activity at the automobile gasoline supply station. Such notice shall be provided no later than seven days after such fuel dispensing activity ceases.
19. In the event a fuel dispensing activity ceases at the automobile gasoline supply station for a period in excess of 12 months:
 - a. The tanks, fueling equipment (including the gas pumps and fueling islands) shall be removed;
 - b. The canopy shall be removed; and
 - c. The real property in or which the improvements listed in subsection (a) and (b) above, are placed or constructed shall be restored to the same grade or condition as the remainder of the parking lot and maintained either as landscaped green area or as paved area until a new site plan for the site has been approved by the city.
20. Prior to operating the use permitted by this conditional use permit, a bond in an amount deemed appropriate by the Director of Planning and in a form deemed appropriate by the City Attorney shall be posted by the applicant with the City and maintained for one year after the conditional use permit expires to ensure that the applicant will restore the real property as required in condition 19 a, b, and c.
21. There shall be maintained on the property an auxiliary generator or generators sufficient in size and capacity to operate all fueling stations during electrical outages or the facility shall be pre-wired for and provided with mobile generator(s) by contract or by transfer of generator(s) owned by the applicant to the site. The mobile generator(s) and the facility shall be operable within 12 hours of the National Weather Service posting a warning for the City of Newport News of a named tropical storm or named hurricane or within 12 hours of the occurrence of a winter storm which disrupts power to the Property.
22. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

23. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.
24. A Certificate of Use and Occupancy shall be obtained prior to the operation of any business use on the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
25. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
26. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
27. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
28. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

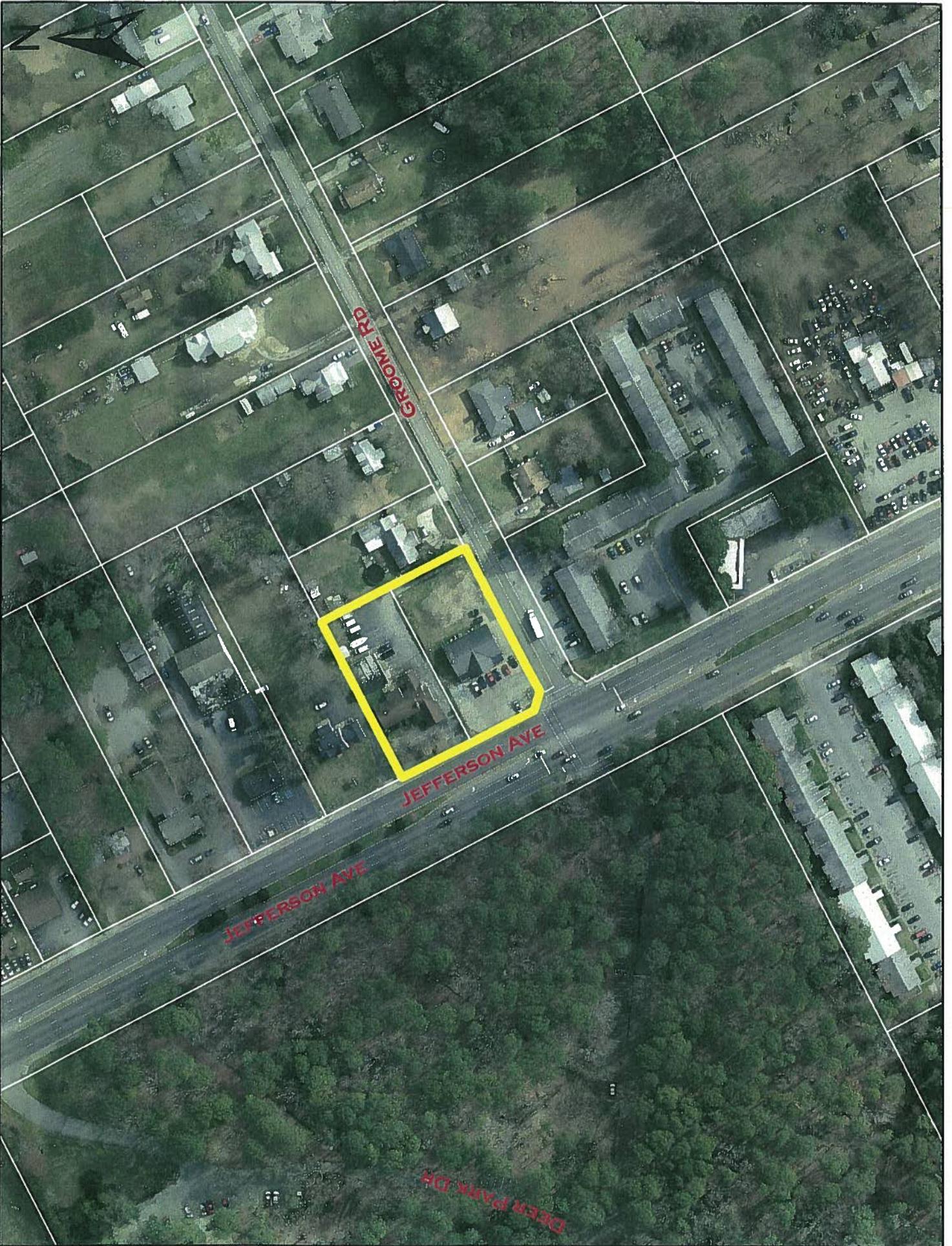
APPENDIX

- A-1 VICINITY/ZONING MAP**
- A-2 SITE PLAN**
- A-3 BUILDING ELEVATIONS**
- A-4 AERIAL MAP**
- A-5 *FRAMEWORK FOR THE FUTURE 2030* LAND USE MAP**
- A-6 TRAFFIC IMPACT ASSESSMENT EXECUTIVE SUMMARY**
- A-7 DEPARTMENT OF ENGINEERING COMMENTS**
- A-8 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF
JANUARY 6, 2016**



**THE SOUTHLAND CORPORATION
& HEADRICK PROPERTIES LLC.**

CU-16-359





THE SOUTHLAND CORPORATION FRAMEWORK FOR THE FUTURE 2030
& HEADRICK PROPERTIES LLC.

EXECUTIVE SUMMARY

7-Eleven is proposing to replace an older 7-Eleven store without gas with a new 7-Eleven convenience store with 3,010 square feet and 10 fueling positions. This project will be located at the northeast corner of Jefferson Avenue and Groome Road (11500 Jefferson Avenue). The existing right-in/right-out entrance on Jefferson Avenue will be replaced with a right-in/right-out entrance located at the north end of the property. There are two existing full access entrances on Groome Road that will be replaced with a single full access entrance located at the eastern end of the property. There is an actuated coordinated signalized intersection at Groome Road & Jefferson Avenue, with sidewalks & handicapped ramps. The City has recently installed pedestrian (ped) heads & push buttons on the north side of the intersection across Jefferson Avenue. There are no ped and/or push buttons on any of the other approaches.

This site is properly zoned and needs a CUP approval. This property has adjacent retail uses on Jefferson Avenue. There is an apartment building on the southeast corner, a Karate facility just north of the site, and Deer Park on the west side of Jefferson Avenue. North and south of this site there are a number of retail facilities. Residential uses are located to the east of this site.

Scope of Services

Mr. David Wilkinson with the City of Newport News wants a study of the a.m. & p.m. peak hours for the following locations: 1) the signalized intersection of Jefferson Avenue & Groome Road and 2) the two proposed 7-Eleven entrances. His main concern is with the left turn motion from southbound Jefferson Avenue onto Groome Road or to U-turn back to your entrance. This motion is presently a permissive movement (green ball only) and a protective-permissive movement (flashing yellow) will be needed. Mr. Randy Cooper furnished the City's Synchro models, recent turning movement counts, and plans of the existing traffic signal. He indicated that ped signal heads & push buttons across Groome Road (east side of the intersection) will be needed, if the right-of-way allows on the south side of the intersection.

Year 2015 Build Conditions –The developer shall provide the design, construction, & funding for the following items:

- **Intersection of Jefferson Avenue & Groome Road** – The existing traffic signal will need the following modifications:
 - a. The existing left turn movements on Jefferson Avenue need to be changed from a permissive to protected-permissive movements (flashing yellows).
 - b. Pedestrian signal heads with push buttons & the appropriate signs are to be installed for the remaining legs of the intersection that do not have them. None of the existing handicapped ramps meet ADA Standards and new ADA compliant handicapped ramps need to be installed on all four corners.
 - c. The developer will be responsible for the surveys, the traffic signal modification plans, and the construction of these items. The surveys and plans will not need to be started until the City Council approves the CUP.
 - d. The City will need to retime this traffic signal for the flashing yellows & to provide additional green time on the side street in the p.m. peak hour.
 - e. This is a Category II improvement that is essential to this intersection & is secondary to this project.

Traffic Impact Assessment at 11500 Jefferson Avenue

- **Intersection of Jefferson Avenue & the 7-Eleven North Entrance** – This STOP sign controlled standard site entrance will be a right-in/right-out entrance that will replace the existing entrance. The width shall be determined by traffic classification with the City at the time of site plan submission. This entrance should have 1-entering lane & 1-exiting lane. Neither a separate right turn lane nor a taper will be needed on Jefferson Avenue. This is a Category I improvement that is essential to development access.
- **Intersection of Groome Road and the 7-Eleven South Entrance** – This STOP sign controlled standard site entrance will have a full access entrance with all of the movements that will replace two existing entrances. The width shall be determined by traffic classification with the City at the time of site plan submission. This entrance should have 1-entering lane & 1-exiting lane. Neither separate left nor right turn lanes will be needed on Groome Road. This is a Category I improvement that is essential to development access.
- **Site Layout** - The existing sidewalks along Jefferson Avenue shall be maintained with handicap ramps. New sidewalks and handicapped ramps shall be provided along Groome Road on this site. This is a Category I improvement that is essential to development access.

City of Newport News
 Department of Engineering

December 17, 2015

To: Director of Planning
From: Director of Engineering
Subject: Comments for Planning Commission Case for January 6, 2016

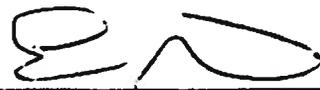
Application No. CU-16-358, Cars LLC The Department of Engineering has no objection to the request for a conditional use permit to allow the operation of a used car dealership on a 0.91 acre parcel located at 11203 Jefferson Avenue and zoned C2 General Commercial. Advise the applicant that a site plan will be required if alteration of the site is proposed.

Application No. CU-16-359, The Southland Corporation & Roger D. Headrick The Department of Engineering has no objection to the request for a conditional use permit to allow the operation of a gasoline supply station in conjunction with a convenience store on two parcels totaling 1.03 acres located at 11500 and 11504 Jefferson Avenue and zoned C1 retail Commercial and C2 General Commercial. Advise the applicant that a site plan and property line vacation plat will be required. A Traffic Impact Analysis has been provided for the site. It is recommended that all Category I and II improvements identified in the report as approved by the Director of Engineering must be required to be constructed by the developer.

In addition to the findings of the Traffic Impact Analysis, this section of Jefferson Avenue is along an existing bike route. Therefore, the sidewalk along Jefferson Avenue shall be widened to a minimum of 8 foot for the frontage of Jefferson Avenue.

Application No. CU-16-360, Stevens Memorial Baptist Church The Department of Engineering has no objection to the request for a conditional use permit to allow the installation of a LED sign for a church on a 4.55 acre parcel located at 224 Richneck Road and zoned R4 Single Family Dwelling. For transportation safety, it is recommended that only a LED sign capable of appropriately responding to ambient light levels be installed. The brightness of the sign is recommended to be established at 0.3 foot-candles above ambient light levels.

Application No. S.E. 2881 Dunamis Christian Center trustees & SLCCF Co. The Department of Engineering has no objection to the request for a special exception to allow the reduction in the required transitional buffer area from 30 feet to 0 feet located at 2000, 2006 & 2010 27th Street to allow the construction of a retail store on three parcels totaling 0.84 acres and zoned C1 Retail Commercial. Advise the applicant that a site plan and property line vacation plat will be required.



Everett P. Skipper, PE, BCEE

EPS/SDK

EXCERPTS FROM PLANNING COMMISSION MINUTES

January 6, 2016

CU-16-359, The Southland Corporation & Headrick Properties, LLC. Request a conditional use permit to allow the construction of an automobile gasoline supply station in conjunction with a convenience store (7-Eleven) on two parcels totaling 1.03 acres located at 11500 & 11504 Jefferson Avenue and zoned C1 Retail Commercial and C2 General Commercial. The Parcel Nos. are 223.00-02-06 & 05.

Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Mr. Carpenter opened the public hearing.

Mr. Stephen Romine, 999 Waterside Drive, Norfolk, Attorney for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Romine introduced his project team and gave a brief presentation of the application.

Ms. Willis stated Mr. Romine presented a schematic that did not have trees between the subject property and the commercial property next door, which does not match the schematic that was included in the Planning staff report appendix. Mr. Romine stated there will be landscaping. Mr. Gary Franks, 770 Independence Circle, Virginia Beach stated the schematic Mr. Romine presented was an older version and the schematic included in the staff report is correct.

Ms. Austin asked if any of the parking spaces in front of the store designated for handicapped parking. Mr. Romine stated yes, we meet the handicapped parking requirements.

Mr. Long asked if the administrative waiver for parking is approved, will the layout of the site change. Mr. Romine stated no, the site layout will not change.

Mr. Roberts asked where a temporary generator would be placed on the site, if needed. Mr. Franks stated we usually extend the rear of the dumpster enclosure and place a concrete pad area for a permanent or temporary generator adjacent to a quick connect to the building.

Mr. Mulvaney stated if a permanent generator is placed on the site, which would require regular testing, we would need to condition that to make sure it does not interfere with the residential property close by. Mr. Romine stated we do not normally install permanent generators. He stated we do not intend to have a permanent generator on the site, but if we did, we would have noise attenuation and other precautions so as not to disrupt the neighbors.

Mr. Carpenter asked if the brick to be used will be a full brick. Mr. Romine stated yes, it will be a full brick.

Mr. Carpenter stated the ingress and egress pattern on the site is a good improvement.

Mr. Carpenter closed the public hearing.

Mr. Long made a motion to recommend approval of conditional use permit CU-16-359 to City Council, as recommended by staff. The motion was seconded by Ms. Willis.

Vote on Roll Call

For: Simmons, Mulvaney, Austin, Willis, Long, Roberts, Groce, Jones, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-16-359 to City Council.

ORDINANCE NO. _____

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-359 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF PERMITTING THE OPERATION OF AN AUTOMOBILE GASOLINE SUPPLY STATION ON A SITE ZONED C1 RETAIL COMMERCIAL AND C2 GENERAL COMMERCIAL DISTRICTS.

WHEREAS, application number CU-16-359 has been made by **THE SOUTHLAND CORPORATION and HEADRICK PROPERTIES, LLC, owners, and 7-ELEVEN, INC., applicant**, for a conditional use permit for the hereinafter described property for the purpose of permitting the operation of an automobile gasoline supply station on a site zoned C1 Retail Commercial and C2 General Commercial Districts; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-16-359 is hereby granted for the property described in paragraph (b) hereof for the purpose of permitting the operation of an automobile gasoline supply station on a site zoned C1 Retail Commercial and C2 General Commercial Districts; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

PARCEL 1

All that certain lot, piece or parcel of land, situate, lying and being in the City of Newport News, Virginia, known and designated as Part of Lot FORTY-ONE (41), as shown on that certain plat entitled "PLAT OF SUBDIVISION OF J. C. ROBINSON IN WARWICK CO., VA.," dated January 17, 1941, made by J. B. Sinclair, Jr., Civil Engineer, and duly of record in the Clerk's Office of the Hustings Court of the City of Newport News, Virginia in Warwick Plat Book 1, page 124, and being more particularly described from that certain plat attached to and made a part of that certain deed to Jesse J. Thore, et ux, of record in Deed Book 23, page 444, in the Clerk's Office aforesaid, said plat being known as "PLAT OF THE PROPERTY OF MERVIN O. AND MARJORIE SPRUILL, PART

OF LOT 41, ROBINSON TRACT, CITY OF WARWICK, VIRGINIA”, made by R. F. Pyle, Certified Land Surveyor, and dated December 31, 1953:

BEGINNING at a point marked by a concrete monument where the northerly side of Groome Road and the easterly side of Virginia State Route 168 intersect, and from the point of beginning thus established running thence N. 69° 40' E. a distance of 215.00 feet to a point marked by a pipe; thence N. 19° 43' W. a distance of 112.00 feet to a point marked by a pipe; thence S. 69° 40' W. a distance of 215 feet to a point marked by a pipe; thence S. 19° 43' E. a distance of 112.00 feet to the point or place of beginning.

PARCEL 2

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, Virginia, known and designated as Part of Lot FORTY-ONE (41), as shown on that certain plat entitled, “PLAT OF THE PROPERTY OF MANFRED G. BLOCK, PART OF LOT 41, J. C. ROBINSON TRACT, CITY OF NEWPORT NEWS, VIRGINIA”, made by C. K. Tudor, Engineers, dated October 25, 1978, and recorded in the Clerk’s Office of the Circuit Court for the City of Newport News, Virginia, in Deed Book 1011, at page 797, to which plat reference is here made.

Less and except that portion conveyed to the Commonwealth of Virginia for right of way purposes in Deed Book 1037, page 1847.

The Property has a street address of 11500 and 11504 Jefferson Avenue and Real Estate Assessor’s Tax I.D.#s 223.00-02-06 and 223.00-02-05, respectively.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. A class 1 site plan shall be submitted to and reviewed by the Site Plan Review Committee and be approved by the Director of Engineering. This site plan shall be in general conformance with the Concept Plan prepared by Blakeway Corp. as revised December 21, 2015, identified as Appendix A-2, which is attached hereto and made a part hereof, and shall conform to this conditional use permit, the City’s Site Regulations and the Zoning Ordinance.
2. Building elevations and exterior building materials for the Property shall be consistent with the drawings prepared by Vertical Construction submission

date October 24, 2015 “7-Eleven Site No. 1037037” and identified as Appendix A-3, which is attached hereto and made a part hereof. Full bricks shall be used to construct all facades. Final drawings shall be reviewed and approved by the Director of Planning prior to the issuance of a building permit.

3. The applicant shall cause a 20-foot transitional buffer area to be installed and maintained in perpetuity along the property’s western and southern boundaries as well as a 30-foot transitional buffer area long the property’s eastern boundary.
4. Fuel tank ventilation apparatus shall not be installed adjacent to Jefferson Avenue.
5. A landscape plan in conformance with the requirements of the Site Regulations shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
6. The applicant shall implement the improvements as recommended in the December 10, 2015 Traffic Impact Assessment (TIA) prepared by Bryan B. Goodloe, PC, as revised per recommendations by the Department of Engineering:
 - Install one stop controlled right in/right out entrance to the site on Jefferson Avenue.
 - Install one stop controlled standard site entrance on Groome Road.
 - Install sidewalks with handicap ramps for the entire site frontage along Groome Road.
 - Maintain existing sidewalk with handicap ramps along Jefferson Avenue.
 - Improve pedestrian accommodations at the intersection of Jefferson Avenue and Groome Road by installing pedestrian signal heads, pedestrian signal buttons and associated components across all four approaches.
 - Modify the traffic signal at Jefferson Avenue and Groome Road to a protective-permissive movement (flashing yellow.)
7. Only one (1) freestanding sign shall be permitted on the Property. The sign shall be a monument style sign no taller than eight (8) feet measured from the highest point of the sign structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be

reviewed and approved by the Director of Planning.

8. All signs, including directional signs, location, design and materials shall be reviewed and approved by the Director of Planning.
9. No temporary or portable signs shall be permitted on the Property. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
10. There shall be no signage on the fueling stations other than that required by law for safety.
11. Signage on the canopy shall be limited to the placement of a logo.
12. All outdoor storage and displays of saleable items shall be prohibited excluding those items located in vending machines or enclosed areas.
13. All vacuum and air supply equipment shall be screened from public rights-of-way. Screening materials shall be approved by the Director of Planning prior to site plan approval.
14. All dumpsters and HVAC systems shall be screened from adjacent properties and rights-of-way with materials and design to match the building and shall be approved by the Director of Planning prior to site plan approval and shall be maintained in such condition in perpetuity.
15. All lighting on the Property shall be consistent with those standards recommended by the Illumination Engineering Society of North America (IESNA). A photometric lighting plan indicating the number and type of lighting shall be submitted for review and approval by the Director of Planning. Lighting shall be installed and operated as shown on the approved plan. Lighting shall be directed inward and downward on the Property so that such lighting does not spillover onto adjacent properties.
16. The playing of music on outdoor speakers shall be prohibited.
17. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time the recording is made. The Equipment shall provide surveillance coverage encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one

hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.

18. The applicant shall provide written notice to the Director of Planning in the event of the cessation of fuel dispensing activity at the automobile gasoline supply station or the convenience store. Such notice shall be provided no later than seven days after such fuel dispensing activity ceases, as each event occurs.
19. In the event a fuel dispensing activity ceases at the automobile gasoline supply station for a period in excess of twelve (12) months:
 - a. The tanks, fueling equipment (including the gas pumps and fueling islands) shall be removed;
 - b. The canopy shall be removed; and
 - c. The real property on which the improvements listed in subsection (a) and (b) above are placed or constructed shall be restored to the same grade or condition as the remainder of the parking lot and maintained either as landscaped green area or as paved area until a new site plan for the site has been approved by the City.
20. Prior to operating the use permitted by this conditional use permit, a bond in an amount deemed appropriate by the Director of Planning and in a form deemed appropriate by the City Attorney shall be posted by the applicant with the City and maintained for one year after the conditional use permit expires to ensure that the applicant will restore the real property as required in condition 19. a, b, and c.
21. There shall be maintained on the Property an auxiliary generator or generators sufficient in size and capacity to operate all fueling stations during electrical outages or the facility shall be pre-wired for and provided with mobile generator(s) by contract or by transfer of generator(s) owned

by Applicant to the site. The mobile generator(s) and the facility shall be operable within twelve (12) hours of the National Weather Service posting a warning for the City of Newport News of a named tropical storm or named hurricane or within twelve (12) hours of the occurrence of a winter storm which disrupts power to the Property.

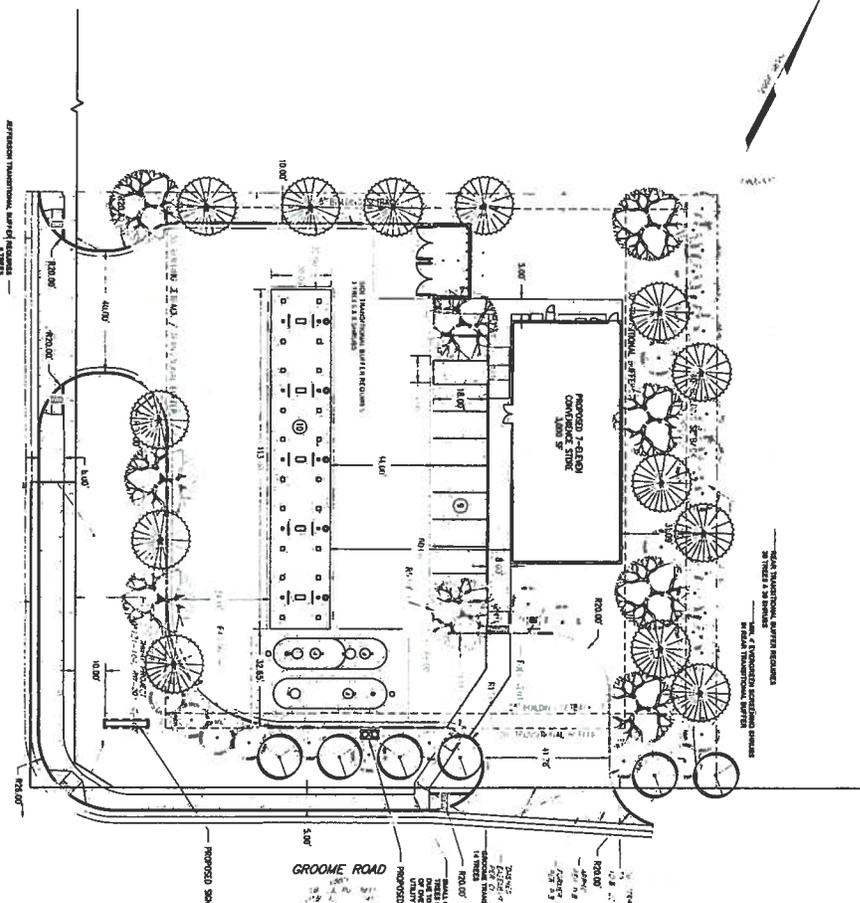
22. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
23. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
24. The applicant, as well as successors, assigns, and agents, if any, shall obtain all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
25. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
26. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
27. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being

ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.

28. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of January 26, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.



JEFFERSON BOULEVARD

PROPOSED 3-4,000 CONCRETE STORE

PROPOSED 2000 CONCRETE STORE

PROPOSED 300'

LANDSCAPE BUFFERS:

NO.	DESCRIPTION	WIDTH	HEIGHT
1	1" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	10'
2	2" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	20'
3	3" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	30'
4	4" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	40'
5	5" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	50'
6	6" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	60'
7	7" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	70'
8	8" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	80'
9	9" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	90'
10	10" TREE 15' SPACING PER LINE OF PROPOSED BUFFER	10'	100'

CONCEPT PLANT SCHEDULE

NO.	DESCRIPTION	QUANTITY	SIZE
1	1" TREE	10	10'
2	2" TREE	5	20'
3	3" TREE	3	30'
4	4" TREE	1	40'
5	5" TREE	1	50'
6	6" TREE	1	60'
7	7" TREE	1	70'
8	8" TREE	1	80'
9	9" TREE	1	90'
10	10" TREE	1	100'

SITE ANALYSIS

PROPOSED PARCEL AREA: 1.132 ac

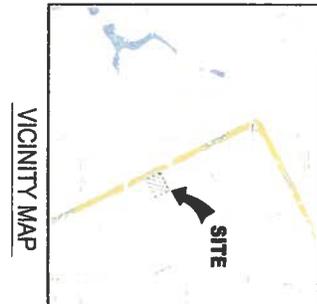
PROPOSED ZONING: C-1/C-2

REQUIRED: 12 SPACES

RECOMMENDED: 18 SPACES

LANDSCAPE BUFFER: 10'

PROPOSED: 18 SPACES



GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF NEWPORT NEWS ZONING ORDINANCES AND THE CITY ENGINEER'S REQUIREMENTS.
2. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY ENGINEER'S REQUIREMENTS.
3. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY ENGINEER'S REQUIREMENTS.
4. THE PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY ENGINEER'S REQUIREMENTS.

DATA SHEET

NO.	DESCRIPTION	QUANTITY	SIZE
1	1" TREE	10	10'
2	2" TREE	5	20'
3	3" TREE	3	30'
4	4" TREE	1	40'
5	5" TREE	1	50'
6	6" TREE	1	60'
7	7" TREE	1	70'
8	8" TREE	1	80'
9	9" TREE	1	90'
10	10" TREE	1	100'

THREE CRITERIA FOR EXISTING TREES:

1. THE TREE IS A SIGNIFICANT LANDSCAPE FEATURE.
2. THE TREE IS A SIGNIFICANT HISTORICAL OR CULTURAL RESOURCE.
3. THE TREE IS A SIGNIFICANT ECOLOGICAL RESOURCE.

JEFFERSON AND GROOME

CONCEPT PLAN

11000 JEFFERSON AVE, NEWPORT NEWS, VA

DESCRIPTION

NO.	DESCRIPTION	DATE
1	CONCEPT PLAN	10/21/14
2	CONCEPT PLAN	10/21/14
3	CONCEPT PLAN	10/21/14
4	CONCEPT PLAN	10/21/14
5	CONCEPT PLAN	10/21/14
6	CONCEPT PLAN	10/21/14
7	CONCEPT PLAN	10/21/14
8	CONCEPT PLAN	10/21/14
9	CONCEPT PLAN	10/21/14
10	CONCEPT PLAN	10/21/14

Blakeway Corp

11000 JEFFERSON AVE, NEWPORT NEWS, VA



E. Public Hearings

4. Ordinance Granting Conditional Use Permit No. CU-16-360, to Stevens Memorial Baptist Church, to Install an Electronic Display Sign for a Community Facility on Property Located at 224 Richneck Road and Zoned R4 Single-Family Dwelling

ACTION: A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-16-360 TO STEVENS MEMORIAL BAPTIST CHURCH TO INSTALL AN ELECTRONIC DISPLAY SIGN FOR A COMMUNITY FACILITY IN A RESIDENTIAL DISTRICT AT 224 RICHNECK ROAD AND ZONED R4 SINGLE-FAMILY DWELLING.

BACKGROUND:

- Stevens Memorial Baptist Church wishes to replace their existing sign with an eight (8) foot tall monument sign that contains an electronic display.
- The sign ordinance requirements for lighting intensity and timing are being met, therefore, the sign will have minimal impact on adjacent residential uses.
- On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of this request with conditions.
Vote on Roll Call
For: Austin, Carpenter, Groce, Jones, Long, Mulvaney, Roberts, Simmons Willis
Against: None
Abstention: None
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CU-16-360 Stevens Memorial

Staff report and CPC meeting minutes

sdm14026 CU-16-360 re Stevens Memorial Baptist Church

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Conditional Use Permit No. CU-16-360, Stevens Memorial Baptist Church

Stevens Memorial Baptist Church requests a conditional use permit to allow for the installation of an electronic display sign for a community facility in a residential district. The church is located at 224 Richneck Road on a 4.55 acre parcel zoned R4 Single-Family Dwelling.

The new eight-foot tall sign will replace an existing ten-foot tall monument style sign.

The proposed sign meets all the requirements of the sign ordinance for electronic display. It will observe the required lighting schedule and with its location on the property should have minimal impact on the adjacent residential uses.

On January 6, 2016, the City Planning Commission voted 9:0 to recommend approval of the request to City Council with conditions. I concur with the City Planning Commission's recommendation.


James M. Bourey

JMB:sgd

Attachment

**CITY OF NEWPORT NEWS
CITY COUNCIL
JANUARY 26, 2016**

**CONDITIONAL USE PERMIT
APPLICATION NO. CU-16-360
STEVENS MEMORIAL
BAPTIST CHURCH**

**JAMES CITY
COUNTY**

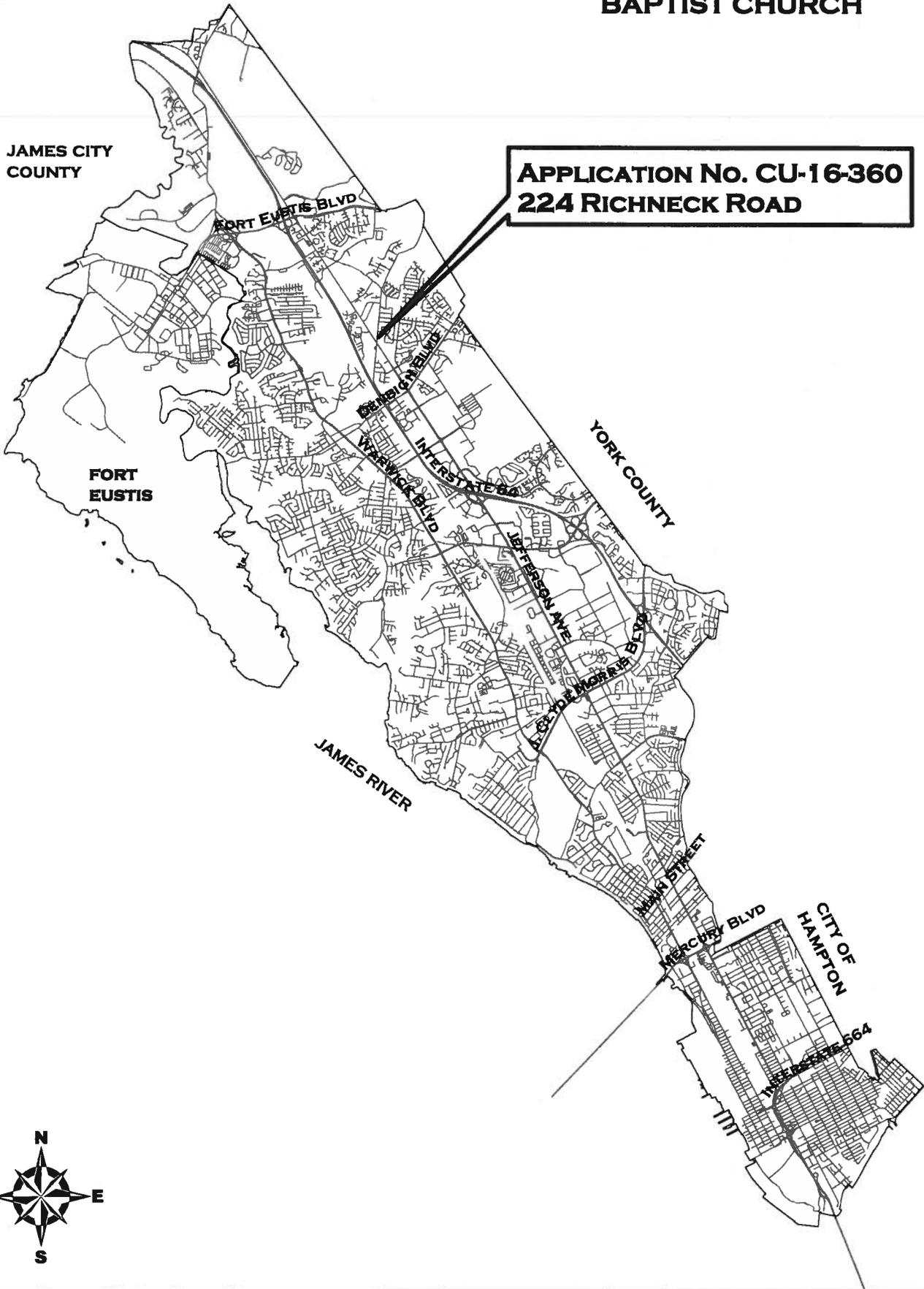
**APPLICATION No. CU-16-360
224 RICHNECK ROAD**

**FORT
EUSTIS**

YORK COUNTY

JAMES RIVER

**CITY OF
HAMPTON**



CONDITIONAL USE PERMIT NO. CU-16-360, STEVENS MEMORIAL BAPTIST CHURCH

APPLICANT/OWNER

Stevens Memorial Baptist Church is the owner and applicant.

SITE DESCRIPTION

Location

224 Richneck Road

Acreage

The parcel contains 4.55 acres.

Existing Zoning

R4 Single-Family Dwelling (See Appendix A-1.)

Framework for the Future

Community Facilities (See Appendix A-4.)

Present Use

Stevens Memorial Baptist Church currently operates at the site.

Request

The applicant is requesting a conditional use permit to allow for the installation of an electronic display sign for a community facility in a residential district.



FACTS

Vicinity

North and east, abutting the property, are single-family homes on property zoned R4 Single-Family Dwelling.

South, abutting the property is an automobile dealership on property zoned C2 General Commercial.

West, across Richneck Road, are the offices of the Commissioner of the Revenue, a small shopping center and an automobile gasoline supply station on property zoned C1 Retail Commercial. (See Appendix A-1.)

Zoning History

The property has been zoned R4 Single-Family Dwelling since the citywide comprehensive rezoning became effective August 1, 1997.

Regulatory Review

On June 24, 2014, City Council approved an amendment to Chapter 33.01 of the City Code, sign ordinance. The amendment included the addition of a new section addressing electronic display signs.

The sign ordinance requires approval of a conditional use permit for the installation of an electronic display sign for a community facility located in a residential district.

The new section also limits the number of electronic display signs to no more than one sign on any developed site. It limits the height of the structure to 10 feet as well as the area of the sign to no more than 32 square feet per sign face. All dimensional requirements are being met. (See Appendix A-2.)

The ordinance also mandates that any sign that is visible from and within 250 feet of any portion of a single or multi-family dwelling district cannot be illuminated between the hours of 10:00 PM and 6:00 AM. The conditions reflect such requirement.

The departments of Codes Compliance, Engineering, Public Works, Public Utilities, Fire, Police, Parks, Recreation and Tourism and Development have no objection to the request.

Comprehensive Plan Review

The *Framework for the Future 2030* comprehensive plan land use map designates community facilities for the property. (See Appendix A-4.)

ANALYSIS

Stevens Memorial Baptist Church has been at this location for over 30 years. Currently the church has an externally illuminated 10-foot tall monument style sign. The proposed

8-foot tall monument style sign will be constructed in the same location as the existing sign. (See Appendix A-2.)

The proposed sign will have a 30-inch tall base on which the 41-inch tall electronic display will rest. The sign will be topped by a 25-inch tall cabinet with the name of the church for a total height of 8 feet.

Although there are commercial uses across Richneck Road and Jefferson Avenue visible from the site, the church is located at the entrance of the residential neighborhood abutting single-family structures. The proposed sign will be visible from many of the homes within the neighborhood. The conditions stipulated in the ordinance are designed to minimize negative impacts associated with electronic displays. This allows the community facility to use the display to inform the community about upcoming events without being obtrusive similarly to a static reader board. To further minimize any negative impacts on residential uses, the ordinance stipulates that the sign shall not be illuminated from 10:00 PM to 6:00 AM and the brightness of the display shall be dimmer after dark. Therefore, following all the stipulations in the sign ordinance will minimize any potential light spillage into nearby homes as well as retain the residential character of the property.

The proposed freestanding sign is lower than the one it will replace and will be easier to read. Adherence to the sign ordinance requirements will minimize impacts on adjacent residential properties. Further, the sign will complement the church's contemporary architectural style. (See Appendix A-2.)

CONCLUSION

The proposed sign meets all the requirements of the sign ordinance for electronic display signs. It will observe the required lighting schedule and it should have a minimal impact on the adjacent residential uses because of its location at the entrance to the neighborhood where commercial uses are within proximity.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council approval of conditional use permit CU-16-360 to allow for the installation of an electronic display sign at 224 Richneck Road with the following conditions:

1. The placement, design, size, height and illumination of the signage shall be in accordance with the submitted drawing prepared by Hampton Roads Sign Company dated November 17, 2015, identified as Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Sign Ordinance.
2. The electronic display portion of the sign shall not exceed thirty-two (32) square feet per face.

3. The sign shall not be illuminated between the hours of 10:00 PM and 6:00 AM.
4. The illumination of the sign shall be no greater than ten thousand (10,000) nits or foot candles from sunrise to sunset or seven hundred (700) nits or foot candles between sunset and 10:00 PM, and shall be equipped with automatic brightness control which will operate at all times the display is lit.
5. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.
6. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
7. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
8. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
9. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

CPC RECOMMENDATION

On January 6, 2016, the Planning Commission voted unanimously (9:0) to recommend approval of the conditional use permit to the City Council with the following conditions:

1. The placement, design, size, height and illumination of the signage shall be in accordance with the submitted drawing prepared by Hampton Roads Sign Company dated November 17, 2015, identified as Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Sign Ordinance.
2. The electronic display portion of the sign shall not exceed thirty-two (32) square feet per face.
3. The sign shall not be illuminated between the hours of 10:00 PM and 6:00 AM.
4. The illumination of the sign shall be no greater than ten thousand (10,000) nits or foot candles from sunrise to sunset or seven hundred (700) nits or foot candles between sunset and 10:00 PM, and shall be equipped with automatic brightness control which will operate at all times the display is lit.
5. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.
6. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
7. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
8. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
9. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the

property is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

APPENDIX

A-1 VICINITY/ZONING MAP

A-2 SIGN DESIGN

A-3 AERIAL MAP

A-4 *FRAMEWORK FOR THE FUTURE 2030* LAND USE MAP

**A-5 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF
JANUARY 6, 2016**

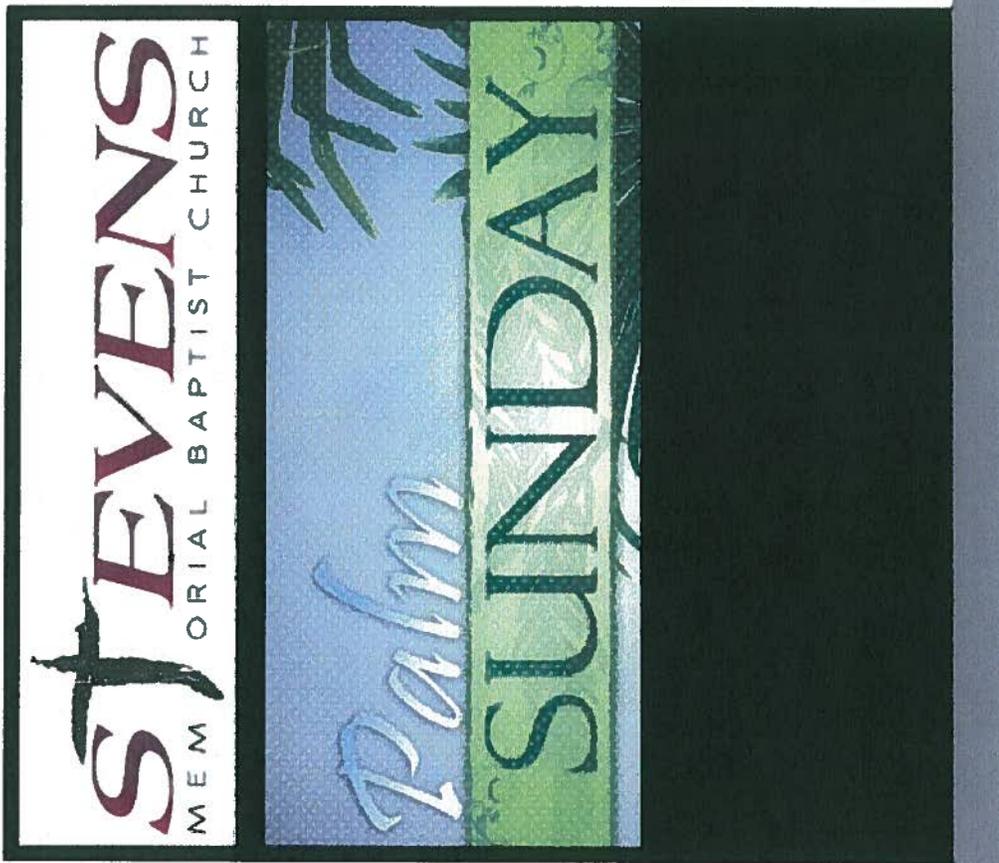


**STEVENS MEMORIAL
BAPTIST CHURCH**

CU-16-360

PROOF 4

7' 3"



25"

8'

41"

30"



Project Title STEVENS MEMORIAL BAPTIST CHURCH MONUMENT SIGN WITH EMC

Contact

Colors

11/17/15

Art Supplied By

Customer

Us

Art File Location



PROPOSAL

HAMPTON ROADS SIGN COMPANY
 2413 WOLFTRAP RD, UNIT A
 YORKTOWN, VA 23692
 PHN. 757-877-0176

DATE
11/09/2015

To:
 STEVENS BAPTIST CHURCH
 224 RICHNECK ROAD
 YORKTOWN, VA
 (757)877-4691

Ship To / Install At:

DESCRIPTION OF WORK TO BE PERFORMED

- FABRICATION & INSTALLATION OF FREESTANDING POLE SIGN. TOP CABINET MADE OF ANGLE-IRON FRAME WRAPPED IN ALUMINUM. PAINTED WITH AUTOMOTIVE FINISH TO CUSTOMERS SPECIFICATIONSS LAYOUT ALSO APPROVED.
 - LED CAVINET BY WATCHFIRE ALL ALUMINUM CONSTRUCTION 41" X 7'3" DOUBLESIDED FINISHED IN SATIN (BLACK) WITH UL LISTED SIGNS TO BE MOUNTED ON 6" SCHEDULE 40 STEEL PIPE. SET IN CONCRETE EXISTING.
- POLE COVER BASE ALSO ALUMINUM CONSTRUCTION PAINTED TO MATCH CABINETS.
- SIGN TO 8' HT. UPPER CABINET TO BE LIGHTED BY EXISTING EXTERNAL FLOOD LIGHTS.
 - SIGN TO BE INSTALLED IN LOCATION OF EXSISTING SIGN TO BE REMOVED.

PROPOSED COST:

\$

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

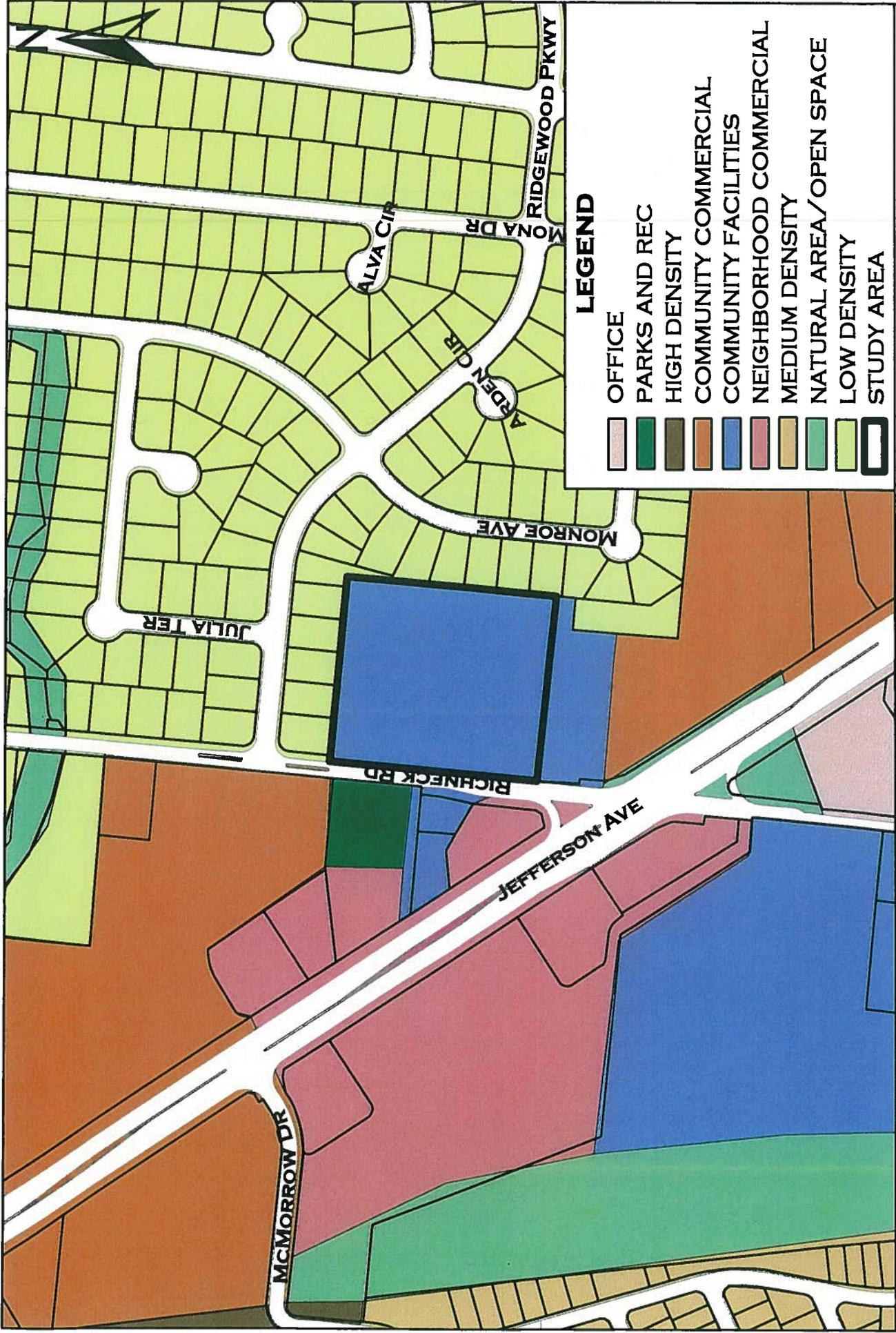
The proposed cost listed above and any other costs associated, as well as the specifications and conditions, are satisfactory and are hereby accepted. You are authorized to do the work as specified.

This proposal may be withdrawn by Hampton Roads Signs if not accepted within 30 days. Payments are to be made as follows: _____

Authorized Representative: _____ Date: _____

Authorized Representative: _____ Date: _____





LEGEND

- OFFICE
- PARKS AND REC
- HIGH DENSITY
- COMMUNITY COMMERCIAL
- COMMUNITY FACILITIES
- NEIGHBORHOOD COMMERCIAL
- MEDIUM DENSITY
- NATURAL AREA/OPEN SPACE
- LOW DENSITY
- STUDY AREA

**STEVENS MEMORIAL
BAPTIST CHURCH**

**FRAMEWORK FOR
THE FUTURE 2030**

EXCERPTS FROM PLANNING COMMISSION MINUTES

January 6, 2016

CU-16-360, Stevens Memorial Baptist Church. Requests a conditional use permit to install an electronic display sign for a church on a 4.55 acre parcel located at 224 Richneck Road and zoned R4 Single-Family Dwelling. The Parcel No. is 073.00-05-34.

Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Mr. Carpenter opened the public hearing.

Mr. Kent Flythe, 2413A Wolfrap Road, Yorktown, representative for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Flythe gave a brief presentation of the application.

Mr. Mulvaney asked what is the difference between 700 and 10,000 nits or foot candles. He stated he is concerned about the potential for the sign to rotate and move with residences nearby. Mr. Flythe stated there is a huge difference in the lumens. He stated the sign will not impact the residences. Mr. Flythe stated that you can change the colors at night so they are not as vibrant, and you can have a darker background without full color.

Mr. Mulvaney asked if he is in his living room in an adjacent residence with his windows open and his blinds or curtains not drawn, what kind of impact the light from the sign would have. Mr. Flythe stated there are members of a church who live approximately 50 feet from a church with an electronic sign in York County, and they do not have an issue with the sign.

Mr. Carpenter asked if the sign will be located in the same location as the existing sign. Mr. Flythe stated yes.

Mr. Roberts stated that when the Regulations Committee was writing the sign ordinance to include illuminated reader boards; we went through an extensive study with representatives from the sign industry. He stated they brought signs that were mounted on the rear of a vehicle to demonstrate the different nits and illumination. Mr. Roberts stated we took the vehicle into the parking garage beneath City Hall to see what the signs would look like when they were reduced to 700 nits or foot candles. He stated the committee came up with these values when the ordinance was rewritten. Mr. Flythe stated Mr. Eric King is the Mid-Atlantic representative from Watch Fire, from whom he purchases LEDs, and is the same gentleman that met with the Regulations Committee.

Ms. Austin asked if the information on the lighted part of the sign will be animated or will it slide with information. Mr. Flythe stated everything on the sign will be controlled by a

computer and we must adhere to the conditions in the Planning staff report. He stated we will not have a lot of flashing, but there will be a change of messages.

Ms. Cotton stated the new ordinance addresses animation and how many seconds between message changes.

Mr. Carpenter asked why the applicant is not moving the sign closer to Jefferson Avenue to have more visibility, and less of an impact on the adjacent residences.

Mr. Jay Russ, 218 Drummonds Way, Hampton, Pastor for the church, stated we wanted to move the sign toward Jefferson Avenue because we have a second driveway we are working on; however, it is more cost effective to keep the sign where it is. He stated where the sign is now it bothers less people because the church will block the sign from the adjacent residences behind the church. Mr. Russ stated if we move the sign over, the church does not block it from the people in the back. He stated where it is now, there is an 8-foot fence and 15-foot crepe myrtles blocking the three houses that have any potential of seeing the sign. Mr. Russ stated if we moved the sign closer to Jefferson Avenue it will be easier for everyone to see for a longer time, but we are thinking about the cost and effect on the neighbors.

Mr. Carpenter closed the public hearing.

Mr. Groce made a motion to recommend approval of conditional use permit CU-16-360 to City Council, as recommended by staff. The motion was seconded by Mr. Jones.

Vote on Roll Call

For: Mulvaney, Austin, Willis, Groce, Long, Roberts, Jones, Simmons, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-16-360 to City Council.

ORDINANCE NO. _____

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-360 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF ALLOWING THE INSTALLATION OF AN ELECTRONIC DISPLAY SIGN FOR A COMMUNITY FACILITY IN A RESIDENTIAL DISTRICT.

WHEREAS, application number CU-16-360 has been made by **STEVENS MEMORIAL BAPTIST CHURCH, owner and applicant**, for a conditional use permit for the hereinafter described property for the purpose of allowing the installation of an electronic display sign for a community facility in a residential district; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-16-360 is hereby granted for the property described in paragraph (b) hereof for the purpose of allowing the installation of an electronic display sign for a community facility in a residential district; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, Virginia, known and designated as 4.55 acres, more or less, and designated as Parcel "B" on that certain plat entitled, "Plat of the Property of John C. Day and Associates, Inc., Parcel 'A' and 'B', Newport News, Virginia, dated January 7, 1965 and revised October 13, 1965, and made by Coenen and Associates, Engineers", a copy of said plat being attached to a certain deed of correction from John C. Day and Associates, Inc. and others to O. S. Jones, et al, Trustees, dated January 30, 1966 and recorded in Deed Book 613, page 480 of the Clerk's Office of the Circuit Court of Newport News, Virginia, to which reference is here made.

The Property has a common street address of 224 Richneck Road and is assigned Real Estate Assessor's Tax I.D.# 073.00-05-34.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. The placement, design, size, height and illumination of the signage shall be in accordance with the submitted drawing prepared by Hampton Roads Sign Company dated November 17, 2015, identified as Appendix A-2, which is attached hereto and made a part hereof, and shall conform to this conditional use permit, the City's Site Regulations and the Sign Ordinance.
2. The electronic display portion of the sign shall not exceed thirty-two (32) square feet per face.
3. The sign shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.
4. The illumination of the sign shall be no greater than ten thousand (10,000) nits or foot candles from sunrise to sunset or seven hundred (700) nits or foot candles between sunset and 10:00 p.m. and shall be equipped with automatic brightness control which will operate at all times the display is lit.
5. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
6. The applicant, as well as successors, assigns, and agents, if any, shall obtain all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
7. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
8. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for

revocation of the conditional use permit by City Council.

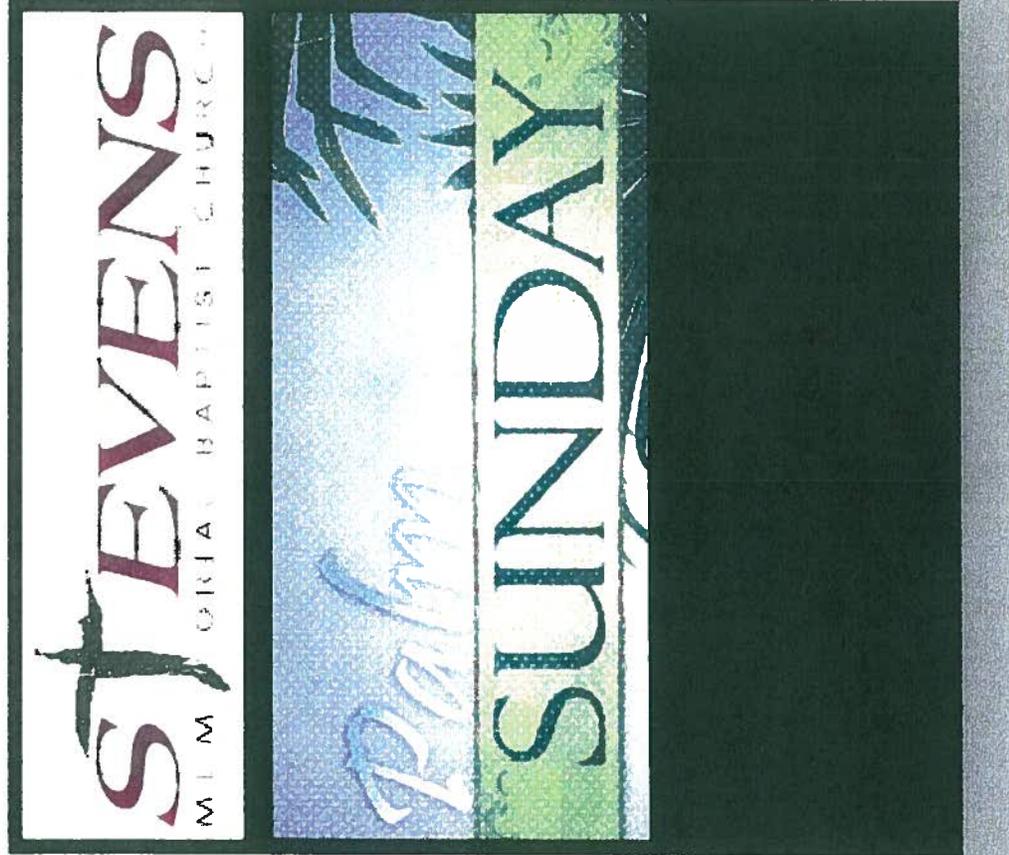
9. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
10. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of January 26, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

PROOF 4

7'3"



25"

8'

41"

30"

STEVENS MEMORIAL BAPTIST CHURCH MONUMENT SIGN WITH EMC

11/17/15

E. Public Hearings

5. Ordinance Authorizing Zoning Text Amendment No. ZT-16-373, City of Newport News to City Code, Chapter 45, Zoning Ordinance, Article II., Definitions, Section 45-201, to Define a New Use, Day Services Center; Article IV., Section 45-402, Add it to the Summary of Uses by District Matrix; and Article V., General Regulations to Add New Section 45-534, Day Services Center

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING ZONING TEXT AMENDMENT NO ZT-16-373, CITY OF NEWPORT NEWS, TO CITY CODE, CHAPTER 45, ZONING ORDINANCE; ARTICLE II., DEFINITIONS, SECTION 45-201; ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402; AND ARTICLE V., GENERAL REGULATIONS BY ADDING SECTION 45-534, DAY SERVICES CENTER.

BACKGROUND:

- This amendment establishes a new use, Day Services Center, in the Zoning Ordinance; allows it in specific districts with the issuance of a conditional use permit; and, provides regulations for its use and operation.
- On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of this request.
Vote on Roll Call
For: Austin, Carpenter, Groce, Jones, Long, Mulvaney, Roberts, Simmons, Willis
Against: None
Abstention: None
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re ZT-16-373 City of NN
Staff Report and CPC Minute Excerpts
sdm13832 Sec. 45-201
sdm13853 Sec. 45-402
sdm13833 Sec. 45-534

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Zoning Text Amendment No. ZT-16-373, City of Newport News

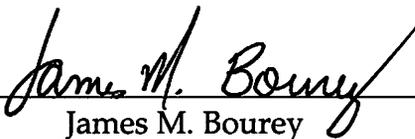
The request is to amend the zoning ordinance to add a new use, Day Services Center. In September 2015, City Council tasked staff with determining the feasibility of a day services center in Newport News.

Day Services Centers are facilities that provide a centralized point for services to the homeless. The centers provide daytime shelter to the homeless, access to mail, laundry, health services, education and other services to improve their daily and long-term outcomes.

The amendment defines the use and recommends that it be allowed by conditional use permit in the O1 Office, C1 Retail Commercial, C2 General Commercial, C3 Regional Business and C4 Oyster Point Business districts. The amendment also outlines regulations that address operation, location and parking.

On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of the zoning text amendment.

I concur with Planning Commission's recommendation.


James M. Bourey

JMB:ckc

Attachment

ZONING TEXT AMENDMENT ZT-16-373 CITY OF NEWPORT NEWS

BACKGROUND

The request is to amend Article II. Definitions, Section 45-201; Article IV. Summary of Uses by District, Section 45-402 and Article V. General Regulations by adding Section 45-535, Day Services Center.

The purpose of the change is to add a new use, Day Services Center, to the zoning ordinance; allow it in specific districts with the issuance of a conditional use permit; and, provide regulations for its use and operation.

In September of last year City Council was presented with the possibility of a day services center concept to assist the Virginia Peninsula homeless population. Following that meeting, staff was tasked with determining the feasibility of such a use in Newport News.

Day Services Centers are facilities that provide a centralized point for services to the homeless. The Centers provide daytime shelter to the homeless, access to mail, laundry, health services, education and other services to improve their daily and long term outcomes.

While more work will follow to consider sites for a location as well as establish a coordinated strategy to develop a Day Services Center, the first step is to allow the use in the city by amending the zoning ordinance. Therefore, the amendment defines the use and recommends that it be allowed by conditional use permit in the O1 Office, C1 Retail Commercial, C2 General Commercial, C3 Regional Business and C4 Oyster Point Business districts. Finally, the amendment outlines regulations that address operation, location and parking.

On November 18, 2015, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment for Article II. Definitions, Section 45-201, Article IV. Summary of Uses by District, Section 45-402 and Article V. General Regulations, Section 45-535, Day Services Center.

CPC RECOMMENDATION

On January 6, 2016, the City Planning Commission voted unanimously (9:0) to recommend adoption of the zoning text amendment to the City Council.

APPENDIX

A-1 ARTICLE II. DEFINITIONS, SECTION 45-201; ARTICLE IV. SUMMARY OF USES BY DISTRICT, SECTION 45-402; AND ARTICLE V. GENERAL REGULATIONS, SECTION 45-535

A-2 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF JANUARY 6, 2016

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., DEFINITIONS, SECTION 45-201, DEFINITION OF CERTAIN WORDS AND TERMS, BY ADDING THERETO THE DEFINITIONS OF DAY SERVICES CENTER AND MULTI-FUNCTIONAL SERVICES FACILITY.

WHEREAS, Section 45-201 of the Code of the City of Newport News, Virginia, contains the definition of certain words and terms used in the Zoning Ordinance of the City of Newport News, Virginia; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment to Section 45-201 which would add the definitions of day services center and multi-functional services facility; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the addition of the terms fay services center and multi-functional services facility in Section 45-201.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article II., Definitions, Section 45-201, Definition of certain words and terms, be, and the same hereby is, amended and reordained by adding the definition of the terms day service center and multi-functional services facility, as follows:

Day services center. A facility where the principal function is providing on-site services and assistance to the homeless population by government agencies and/or non-profit organizations. Those services shall not include overnight accommodations or food service.

2. That the rest and remainder of Section 45-201 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein, and shall be deemed reordained hereby.

DRAFT

sdm13853

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT, BY AMENDING USE "H" ENTITLED PERSONAL SERVICES.

WHEREAS, Section 45-402 of the Code of the City of Newport News, Virginia, contains a comprehensive listing of uses permitted by the Zoning Ordinance of the City of Newport News, Virginia, in a "matrix" format; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment, identified as ZT-16-_____, to Section 45-402, Summary of Uses by District, which would add use "H.4.1. Day Services Center" to allow such use in the O1 Office, C1 Retail Commercial, C2 General Commercial, C3 Regional Business District and C4 Oyster Point Business, by conditional use permit; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, by adding use "H.4.1. Day Services Center" to allow such uses in the O1 Office, C1 Retail Commercial, C2 General Commercial, C3 Regional Business District, C4 Oyster Point Business, by conditional use permit.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained by adding use "H.4.1. Day Services Center" to allow such use in O1 Personal, C1 Retail Commercial, C2 General Commercial, C3 Regional Business District and C4 Oyster Point Business, by conditional use permit.

2. The rest and remainder of Section 45-402 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein and shall be deemed reordained hereby.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE V., GENERAL REGULATIONS, BY ADDING THERETO A NEW SECTION, NAMELY: SECTION 45-535, DAY SERVICES CENTER.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article V., General Regulations, be, and the same hereby is, amended and reordained, by adding thereto a new section, namely: Sec., 45-535, Day services center, as follows:

CHAPTER 45

ZONING ORDINANCE

ARTICLE V. GENERAL REGULATIONS

Sec. 45-535. Day services center.

- (a) The use shall be operated by a government agency and/or a non-profit organization.
- (b) The hours of operation shall be limited to 6:00 a.m. to 6:00 p.m.
- (c) The owner/operator shall submit a management plan for the facility to address services to be offered, staffing, client capacity, parking, security/loitering management, maintenance and litter control prior to occupancy.
- (d) The facility shall be located within 0.25 mile of a bus stop/transportation facility.
- (e) The facility shall be located a minimum of 1,000 feet from schools and parks and shall be located no closer than five thousand (5,000) feet to any other day services center. For the purposes of this subsection, distances shall be measured on a straight line (1) from the structure containing the day services center to the nearest point of the property containing a school or park and (2) measured on a straight line between the structure containing the day services center and the structure containing any other day service center.
- (f) One (1) parking space per employee plus one off-street loading/unloading space,

but not less than one space for every 500 square feet of floor area, shall be provided.

EXCERPTS FROM PLANNING COMMISSION MINUTES

January 6, 2016

ZT-16-373 City of Newport News Requests an amendment to the Zoning Ordinance to define a new use, Day Services Center, add it to the Summary of Uses by District matrix, and add general regulations for its operation. Article II, Section 45-201; Article IV, Section 45-402; and Article V, Section 45-535.

Claudia Cotton, Manager of Current Planning, presented the staff report (copy attached to record minutes).

Ms. Austin asked if other services include showers. Ms. Cotton stated yes, it would include showers. Mr. Roberts stated the facility does not include meals. Ms. Cotton stated it does not include meals or overnight stays. Ms. Cotton stated this is strictly for services during the daytime hours.

There being no questions or comments, Mr. Carpenter opened and closed the public hearing.

Mr. Roberts made a motion to recommend approval of zoning text amendment ZT-16-373 to City Council, as recommended by staff. The motion was seconded by Ms. Austin.

Vote on Roll Call

For: Austin, Willis, Groce, Long, Roberts, Jones, Simmons, Mulvaney, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of zoning text amendment ZT-16-373 to City Council.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., DEFINITIONS, SECTION 45-201, DEFINITION OF CERTAIN WORDS AND TERMS, BY ADDING THERETO THE DEFINITION OF DAY SERVICES CENTER; ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT, BY AMENDING USE “H” ENTITLED PERSONAL SERVICES; AND ARTICLE V., GENERAL REGULATIONS, BY ADDING THERETO A NEW SECTION, NAMELY: SECTION 45-534, DAY SERVICES CENTER.

I. WHEREAS, Section 45-201 of the Code of the City of Newport News, Virginia, contains the definition of certain words and terms used in the Zoning Ordinance of the City of Newport News, Virginia; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment to Section 45-201 which would add the definition of day services center; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the addition of the term day services center in Section 45-201.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

a. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article II., Definitions, Section 45-201, Definition of certain words and terms, be, and the same hereby is, amended and reordained by adding the definition of the term day service center, as follows:

Day services center. A facility where the principal function is providing on-site services and assistance to the homeless population by government agencies and/or non-profit organizations. Those services shall not include overnight accommodations or food service.

b. That the rest and remainder of Section 45-201 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein, and shall be deemed reordained hereby.

II. WHEREAS, Section 45-402 of the Code of the City of Newport News, Virginia, contains a comprehensive listing of uses permitted by the Zoning Ordinance of the City of Newport News, Virginia, in a “matrix” format; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law,

has recommended an amendment to Section 45-402, Summary of Uses by District, which would add use “H.4.1. Day Services Center” to allow such use in the O1 Office, C1 Retail Commercial, C2 General Commercial, C3 Regional Business District and C4 Oyster Point Business, by conditional use permit; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, by adding use “H.4.1. Day Services Center” to allow such uses in the O1 Office, C1 Retail Commercial, C2 General Commercial, C3 Regional Business District, C4 Oyster Point Business, by conditional use permit.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Council of the City of Newport News, Virginia:

a. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained by adding use “H.4.1. Day Services Center” to allow such use in O1 Personal, C1 Retail Commercial, C2 General Commercial, C3 Regional Business District and C4 Oyster Point Business, by conditional use permit.

b. The rest and remainder of Section 45-402 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein and shall be deemed reordained hereby.

III. BE IT FURTHER ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article V., General Regulations, be, and the same hereby is, amended and reordained, by adding thereto a new section, namely: Sec., 45-534, Day services center, as follows:

CHAPTER 45

ZONING ORDINANCE

ARTICLE V. GENERAL REGULATIONS

Sec. 45-534. Day services center.

(a) The use shall be operated by a government agency and/or a non-profit organization.

(b) The hours of operation shall be limited to 6:00 a.m. to 6:00 p.m.

(c) The owner/operator shall submit to the Department of Codes Compliance a management plan for the facility to address services to be offered, staffing, client capacity, parking, security/loitering management, maintenance and litter control prior to occupancy.

(d) The facility shall be located within 0.25 mile of a bus stop/transportation facility.

(e) The facility shall be located a minimum of 1,000 feet from schools and parks and shall be located no closer than five thousand (5,000) feet to any other day services center. For the purposes of this subsection, distances shall be measured on a straight line (1) from the structure containing the day services center to the nearest point of the property containing a school or park and (2) measured on a straight line between the structure containing the day services center and the structure containing any other day service center.

(f) One (1) parking space per employee plus one off-street loading/unloading space, but not less than one space for every 500 square feet of floor area, shall be provided.

E. Public Hearings

6. Ordinance Authorizing Zoning Text Amendment No. ZT-16-374, City of Newport News to City Code, Chapter 45, Zoning Ordinance, to Delete the Minimum Parking Requirement in Article XIX, O3 Office/Research and Development District Regulations; Section 45-1904, Off-Street Parking and Loading Regulations

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING ZONING TEXT AMENDMENT NO. ZT-16-374 CITY OF NEWPORT NEWS, TO CITY CODE, CHAPTER 45, ZONING ORDINANCE TO DELETE THE MINIMUM PARKING REQUIREMENT IN ARTICLE XIX., O3 OFFICE/RESEARCH AND DEVELOPMENT DISTRICT REGULATIONS, SECTION 45-1904, OFF-STREET PARKING AND LOADING REGULATIONS.

- BACKGROUND:**
- This amendment deletes the minimum parking requirement for office uses in the O3 Office/Research and Development district and refers to the general parking requirements for all uses, including office uses.
 - On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of this request.
Vote on Roll Call
For: Austin, Carpenter, Groce, Jones, Long, Mulvaney, Roberts, Simmons, Willis
Against: None
Abstention: None
 - The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re ZT-16-374 City of NN

Staff Report and CPC Minute Excerpts

sdm13868 Sec. 45-1904, Off-street parking and loading regulations

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Zoning Text Amendment No. ZT-16-374, City of Newport News

The request is to amend the Zoning Ordinance to delete the minimum parking requirement for office uses in the O3 Office/Research and Development district and refer to the general parking requirements for all uses, including office uses, as outlined in Article XXX., Off-Street Parking and Loading Regulations.

Parking requirements for new office development in the O3 Office/Research and Development district will not differ substantially from office development in other parts of the City. Therefore, it is unnecessary to require more parking in the O3 Office/Research and Development district than that required elsewhere.

On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of the Zoning Text amendment.

I concur with Planning Commission's recommendation.



James M. Bourey

JMB:ckc

Attachment

ZONING TEXT AMENDMENT ZT-16-374 CITY OF NEWPORT NEWS

BACKGROUND

The request is to amend Article XIX. O3 Office/Research and Development District Regulations, Section 45-1904, Off-Street Parking and Loading Regulations regarding minimum parking requirements.

The purpose of the change is to delete the minimum parking requirement for office uses in the O3 Office/Research and Development district and refer to the general parking requirements for all uses, including office uses, as outlined in Article XXX. Off-Street Parking and Loading Requirements. The current parking requirement for office uses in O3 Office/Research and Development is one (1) space for each 260 square feet of gross useable floor area, whereas Article XXX requires one (1) space for each 300 square feet of floor area.

The O3 Office/Research and Development district is designed to encourage office/research and development parks and science centers developed according to an approved master plan that will house large research offices, including laboratories that operate on a 24/7 basis. Therefore, parking needs are spread out over time. Additionally, research and development offices typically have large spaces with fewer workers than customary office space. By requiring more parking than required elsewhere in the city, the district regulation will, in effect, over-park the area. The parking requirement is a minimum requirement, therefore, additional parking above the minimum is permitted and it can be addressed in the approved master plan.

On November 18, 2015, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment for Article XIX. O3 Office/Research and Development District Regulations, Section 45-1904, Off-Street Parking and Loading Regulations.

CPC RECOMMENDATION

On January 6, 2016, the City Planning Commission voted unanimously (9:0) to recommend adoption of the zoning text amendment to the City Council.

APPENDIX

- A-1 ARTICLE XIX. 03 OFFICE/RESEARCH AND DEVELOPMENT
DISTRICT REGULATIONS, SECTION 45-1904, OFF-STREET PARKING
AND LOADING REGULATIONS**

- A-2 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF
JANUARY 6, 2016**

DRAFT

sdm13868

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XIX., 03 OFFICE/RESEARCH AND DEVELOPMENT DISTRICT REGULATIONS, SECTION 45-1904, OFF-STREET PARKING AND LOADING REGULATIONS.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XIX., 03 Office/Research and Development District Regulations, Section 45-1904, Off-street parking and loading regulations, be, and the same hereby is, amended and reordained as follows:

CHAPTER 45

ZONING ORDINANCE

ARTICLE XIX. 03 OFFICE/RESEARCH AND DEVELOPMENT DISTRICT REGULATIONS

Sec. 45-1904. Off-street parking and loading regulations.

~~For office use the minimum number of required parking spaces shall be one (1) space for each 260 square feet of gross useable floor area.~~

~~For other uses the minimum number of required Parking spaces shall be as required by Article XXX.~~

EXCERPTS FROM PLANNING COMMISSION MINUTES**January 6, 2016**

ZT-16-374 City of Newport News Requests an amendment to the Zoning Ordinance to delete the minimum parking requirement in the O3 Office/Research and Development district and refer to Article XXX, Off-Street Parking and Loading Requirements. Article XIX, Section 45-1904.

Claudia Cotton, Manager of Current Planning, presented the staff report (copy attached to record minutes).

There being no questions or comments, Mr. Carpenter opened and closed the public hearing.

Mr. Roberts made a motion to recommend approval of zoning text amendment ZT-16-374 to City Council, as recommended by staff. The motion was seconded by Mr. Mulvaney.

Vote on Roll Call

For: Willis, Groce, Long, Roberts, Jones, Simmons, Mulvaney, Austin, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of zoning text amendment ZT-16-374 to City Council.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XIX., 03 OFFICE/RESEARCH AND DEVELOPMENT DISTRICT REGULATIONS, SECTION 45-1904, OFF-STREET PARKING AND LOADING REGULATIONS.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XIX., 03 Office/Research and Development District Regulations, Section 45-1904, Off-street parking and loading regulations, be, and the same hereby is, amended and reordained as follows:

CHAPTER 45

ZONING ORDINANCE

**ARTICLE XIX. 03 OFFICE/RESEARCH
AND DEVELOPMENT DISTRICT REGULATIONS**

Sec. 45-1904. Off-street parking and loading regulations.

~~For office use the minimum number of required parking spaces shall be one (1) space for each 260 square feet of gross useable floor area.~~

~~For other uses the minimum number of required Parking spaces shall be as required by Article XXX.~~

E. Public Hearings

7. Ordinance Authorizing Zoning Text Amendment No. ZT-16-375, City of Newport News to City Code, Chapter 45, Zoning Ordinance; Article IV., Summary of Uses by District; Section 45-402; to Remove Halfway House as a Permitted Use in the R1, R2, R3 and R4 Single-Family Dwelling Districts

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING ZONING TEXT AMENDMENT NO. ZT-16-375, CITY OF NEWPORT NEWS TO CITY CODE, CHAPTER 45, ZONING ORDINANCE; ARTICLE IV., SUMMARY OF USES BY DISTRICT; SECTION 45-402; TO REMOVE HALFWAY HOUSES AS A PERMITTED USE IN THE R1, R2, R3 AND R4 SINGLE-FAMILY DWELLING DISTRICTS.

BACKGROUND:

- The amendment removes halfway house as a permitted use in the R1, R2, R3 and R4 Single-Family Dwelling districts.
- On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of this request.
Vote on Roll Call
For: Austin, Carpenter, Groce, Jones, Long, Mulvaney, Roberts, Simmons, Willis
Against: None
Abstention: None
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re ZT-16-375 City of NN

Staff Report and CPC Minute Excerpts

sdm13867 ZT-16-375 Sec. 45-402 (Halfway House)

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

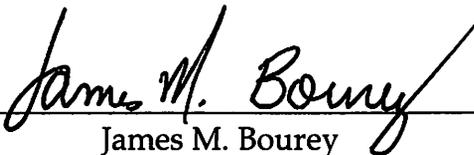
TO: The Honorable City Council
FROM: City Manager
SUBJECT: Zoning Text Amendment No. ZT-16-375, City of Newport News

The request is to amend the Zoning Ordinance to remove halfway houses as a permitted use in the R1, R2, R3 and R4 Single-Family Dwelling districts.

Such facilities, while providing room and board, also operate with offices and employees to provide counseling and other rehabilitative and treatment services to the residents. Such an operation has a more extensive footprint and activity level than single-family homes. Further, a larger number of residents typically live in a facility which is out of character with typical densities of single-family neighborhoods.

On January 6, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of the Zoning Text amendment.

I concur with Planning Commission's recommendation.


James M. Bourey

JMB:ckc

Attachment

ZONING TEXT AMENDMENT ZT-16-375 CITY OF NEWPORT NEWS

BACKGROUND

The request is to amend Article IV. Summary of Uses by District, Section 45-402, Summary of Uses by District by removing 'Halfway House' as a permitted use in the R1 Single-Family Dwelling District, R2 Single-Family Dwelling District, R3 Single-Family Dwelling District and R4 Single-Family Dwelling District.

The zoning ordinance defines a halfway house as: *A building for the purpose of providing room and board, recreation, counseling, and other rehabilitative services to individuals who are participating in work release, prerelease, or probationary programs or other similar programs from state or federal institutions and who are under the supervision of a court, state or local agency.*

There is one (1) permitted halfway house in the city in a C2 General Commercial zoning district. Its location is well suited for the use as it provides access to employers as well as public transportation. It was approved to house up to 84 residents.

Such facilities, while providing room and board, also operate with offices and employees to provide counseling and other rehabilitative and treatment services to the residents. Such an operation has a more extensive footprint and activity level than single-family homes due to the daily service providers and/or employees coming to the facility. Its impact on a neighborhood would therefore be more extensive. Further, the larger number of residents living in the facility is out of character with typical densities of single-family neighborhoods.

Therefore, the amendment removes the use from single-family dwelling districts. The use will continue to be allowed in the multiple-family and commercial districts of the city with the issuance of a conditional use permit.

On November 18, 2015, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment for Article IV. Summary of Uses by District, Section 45-402, Summary of Uses by District.

CPC RECOMMENDATION

On January 6, 2016, the City Planning Commission voted unanimously (9:0) to recommend adoption of the zoning text amendment to the City Council.

APPENDIX

**A-1 ARTICLE IV. SUMMARY OF USES BY DISTRICT, SECTION 45-402,
SUMMARY OF USES BY DISTRICT**

**A-2 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF
JANUARY 6, 2016**

sdm13867

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT, BY AMENDING USE "B" ENTITLED RESIDENTIAL.

WHEREAS, Section 45-402 of the Code of the City of Newport News, Virginia, contains a comprehensive listing of uses permitted by the Zoning Ordinance of the City of Newport News, Virginia, in a "matrix" format; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment, identified as ZT-16-_____, to Section 45-402, Summary of Uses by District, which would amend use "B.9. Halfway House" by removing such use from the R1 Single-Family Dwelling District, R2 Single-Family Dwelling District, R3 Single-Family Dwelling District and R4 Single-Family Dwelling District; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, by amending permitted use "B.9. Halfway House" by removing such uses from the R1 Single-Family Dwelling District, R2 Single-Family Dwelling District, R3 Single-Family Dwelling District and R4 Single-Family Dwelling District.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained by amending use "B.9. Halfway House" by removing such use from the R1 Single-Family Dwelling District, R2 Single-Family Dwelling District, R3 Single-Family Dwelling District and R4 Single-Family Dwelling District.

2. The rest and remainder of Section 45-402 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein and shall be deemed reordained hereby.

EXCERPTS FROM PLANNING COMMISSION MINUTES

January 6, 2016

ZT-16-375 City of Newport News Requests an amendment to the Zoning Ordinance to remove halfway house as a permitted use in the R1 Single-Family Dwelling, R2 Single-Family Dwelling, R3 Single-Family Dwelling and R4 Single-Family Dwelling districts. Article IV, Section 45-402.

Claudia Cotton, Manager of Current Planning, presented the staff report (copy attached to record minutes).

Ms. Willis asked in which districts halfway houses will continue to be permitted. Ms. Cotton stated C1, C2, and C3.

Mr. Long asked if the intent of a halfway house is to allow the participants to live in neighborhoods to integrate back into the community. Ms. Cotton stated it is more to get them back to work in the community. She stated group homes, which are sometimes confused with halfway houses, are centered in residential neighborhoods.

Ms. Spratley stated a halfway house is not to be confused with recovery homes which are single-family homes where residents are living and recovering from drug or alcohol addictions. She stated halfway houses are on a larger scale with the number of residents. Ms. Spratley stated there is a provision in the state code 15.2-2283.1 which prohibits the knowing provision of sex offender treatment services to a convicted sex offender in a facility located in a residentially zoned subdivision. She stated a lot of treatment goes on in halfway houses and our state code prohibits the treatment of sex offenders in residentially zoned neighborhoods, so we would be in compliance. Ms. Spratley stated we understand that not all halfway houses house convicted sex offenders, but many do.

There being no questions or comments, Mr. Carpenter opened and closed the public hearing.

Mr. Roberts made a motion to recommend approval of zoning text amendment ZT-16-375 to City Council, as recommended by staff. The motion was seconded by Mr. Long.

Vote on Roll Call

For: Groce, Long, Roberts, Jones, Simmons, Mulvaney, Austin, Willis, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of zoning text amendment ZT-16-375 to City Council.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT, BY AMENDING USE “B” ENTITLED RESIDENTIAL.

WHEREAS, Section 45-402 of the Code of the City of Newport News, Virginia, contains a comprehensive listing of uses permitted by the Zoning Ordinance of the City of Newport News, Virginia, in a “matrix” format; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment, identified as ZT-16-375, to Section 45-402, Summary of Uses by District, which would amend use “B.9. Halfway House” by removing such use from the R1 Single-Family Dwelling District, R2 Single-Family Dwelling District, R3 Single-Family Dwelling District and R4 Single-Family Dwelling District; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, by amending permitted use “B.9. Halfway House” by removing such uses from the R1 Single-Family Dwelling District, R2 Single-Family Dwelling District, R3 Single-Family Dwelling District and R4 Single-Family Dwelling District.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained by amending use “B.9. Halfway House” by removing such use from the R1 Single-Family Dwelling District, R2 Single-Family Dwelling District, R3 Single-Family Dwelling District and R4 Single-Family Dwelling District.

2. The rest and remainder of Section 45-402 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein and shall be deemed reordained hereby.

F. Consent Agenda

1. Minutes of the Special Meeting of January 12, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Special Meeting of January 12, 2016

MINUTES OF SPECIAL MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE
JANUARY 12, 2016
4:30 P.M.

PRESENT: Herbert H. Bateman, Jr.; Saundra N. Cherry, D. Min.; Robert S. Coleman;
McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P.
Woodbury-----7

ABSENT: None-----0

OTHERS PRESENT: James M. Bourey; Collins L. Owens, Jr.; Alan K. Archer; Cynthia Rohlf;
Mabel Washington Jenkins; Darlene Bradberry; Florence Kingston; Bryan Witt;
Carol Meredith; and Jennifer Walker.

After ascertaining that proper meeting notice had been provided to each member
of City Council, Mayor Price called the meeting to order and stated the meeting was being held
for the following purposes:

- (1) To call a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia, 1950, as amended, subsections: (1) a discussion, consideration or interview of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of any public body, the subjects of which are a discussion or consideration of prospective candidates for appointments to boards and commissions and evaluation of Council appointees; (3) a discussion or consideration of the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City, the subject of which is the acquisition of real property in the southern, central, and northern sections of the City; (5) a discussion of a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating a facility in the community, the subject of which is a prospective new business in the southern, central and northern sections of the City; and (7) a consultation with legal counsel pertaining to actual and probable litigation, where such consultation in open meeting would adversely affect the negotiating posture of the public body, the subjects of which are cases involving allegations of civil rights violations, contractual claims and tort claims.
- (2) To make appointments to fill vacancies on the City's various boards, commissions, and committees.

Vice Mayor Coleman moved for a closed meeting under sections and reasons cited above; seconded by Councilwoman Vick.

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Minutes of Special Meeting
January 12, 2016

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

Councilman Bateman excused himself from the meeting during the discussion about a prospective business' or industry's interest in locating a facility in the community in the central section of the City.

(Closed Session 4:35 p.m. – 6:03 p.m.)

City Council engaged in a discussion to make appointments to fill vacancies on the following boards:

1. Commemoration Advisory Commission – Mr. James Bourey (City Manager) for appointment to an unlimited term of office. The Honorable Sandra Cherry, D. Min. (South District) and Ms. Amy Reineri (North District) each for reappointment to serve a three-year term of office. Mr. Frederick Mays (Central District) for appointment to serve a three-year term of office. Ms. Lynne C. Allen (South District) to fill the unexpired term of Ms. Flora Crittenden, term will expire March 9, 2017.

2. Newport News Arts Commission – Ms. Courtney B. Gilmore (General Public Representative), Mr. Gerald T. DeForge (General Public Representative), Mr. Christopher Beal (General Public Representative), and Ms. Michelle Gilliam (General Public Representative) each for reappointment to serve a three-year term of office. Mr. Charles Harper (General Public Representative) for appointment to serve a three-year term of office. Ms. Allison Clock (General Public Representative) for appointment to fill the unexpired term of Mr. Henry Robertson, term will expire March 31, 2018.

3. Newport News Occasions, Inc. – Ms. Beatrice V. Dahlen (General Public Representative) for reappointment to serve a three-year term of office. Mr. Frederick Tench (General Public Representative) for appointment to fill the unexpired term of Mr. David A. Litzinger, term will expire March 1, 2019. Ms. Casey Paffrath (City Personnel Representative) to fill the unexpired term of Ms. Kay Sumner, term will expire March 1, 2017. Ms. Mary Stewart (General Public Representative) for appointment to serve at three-year term of office.

4. Newport News Planning Commission – Ms. Elizabeth W. Willis (General Public Representative) for reappointment to serve a four-year term of office. Ms. Sharyn Fox (General Public Representative) and Pastor Willard Maxwell, Jr. (General Public Representative) each for appointment to serve a four-year term of office.

5. Newport News Redevelopment and Housing Authority – Mr. Mark Hager (General Public Representative) and Ms. Mary Lou Call (General Public Representative) each for reappointment to serve a four-year term of office.

6. Transportation Safety Commisison – Ms. Peyton Bolling (Student Representative) for appointment to fill the unexpired term of Ms. Rocsanna Cavone, term will expire October 13, 2017.

7. USS Newport News Liaison Committee – Two appointments (General Public Representatives) deferred.

8. Virginia Alcohol Safety Action Program Board – One appointment (City Employee) deferred. The Honorable Sandra Cherry, D. Min., would consider serving in the Citizen Representative Position.

9. Cultural Alliance of Greater Hampton Roads – One appointment (City Council Representative) deferred.

10. Hampton Roads Transportation District (HRT) – Mr. James Bourey (Alternate Member) for appointment to serve an indefinite term of office.

After reconvening in open session, Vice Mayor Coleman moved to certify that to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the Council. Motion seconded by Councilwoman Vick.

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

Councilwoman Dr. Patricia Woodbury moved that appointments discussed in the closed meeting be ratified pursuant to receipt of notification that a favorable background check was conducted; seconded by Councilwoman Vick.

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 6:03 P.M.



Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

CERTIFICATE OF CLOSED MEETING

MEETING DATE: January 12, 2016
MOTION: Vice Mayor Robert S. Coleman
SECOND: Councilwoman Tina L. Vick

WHEREAS, the City Council of the City of Newport News has convened a closed meeting on this date pursuant to an affirmative recorded vote as required under the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia, 1950, as amended, requires a certification by this City Council that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newport News does hereby certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the City Council.

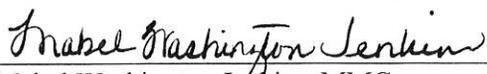
VOTE

AYES: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury
NAYS: None
ABSTENTION: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

ATTEST:



Mabel Washington Jenkins, MMC
City Clerk

F. Consent Agenda

2. Minutes of the Work Session of January 12, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Work Session of January 12, 2016

DRAFT

**MINUTES OF WORK SESSION
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE**

January 12, 2016

4:30 p.m.

PRESENT: Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Robert S. Coleman; McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P. Woodbury ----- 7

ABSENT: None ----- 0

OTHERS PRESENT: James M. Bourey; Collins L. Owens; Mabel Washington Jenkins; Cynthia Rohlf; Alan Archer; Wanda Pierre; Darlene Bradberry; Lisa Cipriano; Florence Kingston; Carol Meredith; Reed Fowler; Sheila McAllister; Everett Skipper; Jennifer Walker; and Theresa Clift

I. Closed Meeting

(4:35 p.m. – 6:03 p.m.)

II. Comments/Ideas/Suggestions

Mr. James M. Bourey, City Manager, advised that progress continued to be made in obtaining New Market Tax Credits for Jim’s Local Market in the Southeast Community. He commended Mrs. Florence Kingston, Director, and staff, Department of Development, for their work on the project. The credits would provide a \$2 million benefit to the City.

Councilwoman Cherry inquired about the KSE Youth Development Basketball League sponsored by Kevin Swann Enterprises. Assistant City Manager Alan Archer replied that the Basketball League began in January, with their first game commencing the weekend of January 2, 2016.

Councilwoman Cherry asked that she be provided with a game schedule with noted locations. She inquired about the number of children from the City of Newport News who participated in the Basketball League. Assistant City Manager Archer stated he would look into the matter and report back to City Council.

Councilwoman Cherry questioned who was responsible for maintaining the gateway sign and landscaping at 39th Street and Chestnut Avenue. Assistant City Manager Rohlf believed it was a project initiated by the Green Foundation and the Chestnut Avenue Association. She stated she would look into the matter and report back to City Council.

Councilwoman Cherry inquired about an e-mail sent to City Council regarding the logo change for the Department of Waterworks. She recalled that the name change from the Department of Public Utilities to Waterworks did not facilitate the need to change the department’s logos on its vehicles,

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Minutes of Work Session
January 12, 2016

stationery and uniforms. City Manager Bourey replied that the e-mail was totally fallacious, ridiculous, and absurd. He stated the City was not spending millions of dollars to change the Department of Waterworks logo. Ultimately, one logo was desired for the City, and staff was looking at ways to transition to a unified logo. Millions of dollars would not be spent to replace the Waterworks logo.

Councilwoman Cherry inquired about the need for the change, and indicated she needed clarity.

Councilwoman Woodbury indicated that she had asked the City Manager about the matter in September 2015, but had never received a response. She advised that she had heard that Waterworks staff members had been told, by the City Manager, that their logo would be changed.

Councilwoman Woodbury asked for a background on the Department of Waterworks. She understood that Waterworks was a separate entity under the umbrella of the City. She voiced concern about what an enterprise meant, what it had been, and the City's commitment to Waterworks as they provided services to surrounding jurisdictions.

City Manager Bourey replied that Waterworks was owned by the City of Newport News, although they sold water to surrounding jurisdictions. He stated Waterworks operated as a separate Enterprise Fund that was owned by the City.

Councilwoman Cherry inquired about the purpose for changing the logo. City Manager Bourey replied that consistency was needed citywide.

Councilwoman Cherry inquired whether the City Manager made the decision to change the logo. City Manager Bourey replied that the decision to change the logo was decided many years ago but was never implemented. He stated the change would normally be an operational decision; however, City Council's input was welcome, and he would be happy to share the information.

Councilwoman Scott inquired whether it was an operational decision to change the City logo. City Manager Bourey replied that it was an operational decision to establish a City logo.

Vice Mayor Coleman stated that he had witnessed several different logos and lettering on City vehicles. He stated older vehicles had the standard seal on the side, while newer vehicles had different logos and lettering. He agreed with the City Manager that consistency was needed.

Councilwoman Woodbury stated the logo for the Department of Waterworks had always been the same. City Manager Bourey disagreed that the logo for the Department of Waterworks had always been the same.

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January 12, 2016

Councilwoman Scott stated that it had been her experience, since being a member of City Council, that it was not an administrative decision to change the City's logo. She stated such matters came before City Council and there was discussion. It should not be a decision that was arbitrarily made, with City Council hearing about the issue from the public. City Manager Bourey assured that staff would not arbitrarily make such a decision, without sharing the information with City Council.

Councilwoman Scott voiced concern that City Council heard about the logo change from the public, rather than from the City Manager. City Manager Bourey replied that he could not help that City Council received misinformation from the public.

Councilwoman Scott disagreed, as the City Manager did not share such information with members of City Council. She reiterated her concern that the public was contacting City Council and providing them with information that they should have received from the City Manager.

Councilwoman Woodbury stated she became aware of the matter from staff of the Department of Waterworks; however, she would not disclose the names of the employees. City Manager Bourey stated that the staff members had communicated misinformation, pure and simple.

Councilwoman Woodbury asked that the City Manager share the correct information. City Manager Bourey replied that there was no logo; staff had an idea that they would share with City Council as to the need for consistency citywide, as related to a logo. There were no plans towards implementation of a new logo.

Councilwoman Cherry inquired whether there was potential for the logo to be the City seal. City Manager Bourey replied that would be something that could be discussed.

Councilwoman Scott noted that the logo, "Where Great Things Are Happening", had not been out very long. She inquired whether the proposed new logo would replace that. City Manager Bourey explained that the "Where Great Things Are Happening" logo was developed with the intention of replacing everything in the City, although he was not a part of the City when it was developed. He was not sure of City Council's involvement with the logo. He inquired whether it was presented to City Council.

Councilwoman Scott replied that she was a member of City Council when the logo was developed; however, nothing was said that it would replace everything in the City.

Councilwoman Woodbury recalled that the logo had something to do with promoting economic development.

Councilwoman Scott agreed that the logo had something to do with promoting economic development.

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January 12, 2016

Councilwoman Woodbury stated she would like to have a City Council discussion about an issue this dramatic, in light of everything that Waterworks owned. She felt a discussion was needed about what the Enterprise System was, when it was set-up, when a logo was proposed, and background information.

Councilman Bateman pointed out that the Enterprise System had been part of the budget since he had been a member of City Council; however, he understood what Councilwoman Woodbury was saying.

Councilwoman Cherry appreciated being able to ask a question. She believed it was alright to ask a question for clarification, and she was open to hearing other opinions as to whether all were in agreement or not. Internal communication needed to continue to be worked on.

City Clerk Mabel Washington Jenkins reminded about the Special Meeting of City Council, for the purpose of holding a one-day Council Retreat for the discussion of the five-year budget forecast, scheduled for Tuesday, January 19, 2016, 8:30 a.m. – 5:00 p.m., at the Mariner's Museum.

Vice Mayor Coleman reminded about his prior suggestion to have the Work Sessions of City Council televised, in light of the concern that internal communication needed to be improved, as expressed by Councilwoman Cherry. He felt that a lot of important information was discussed at a Work Session that required the City Council to begin discussion in the early afternoon before most people got off work. This would allow an opportunity for people to experience and see what City Council was talking about, rather than just obtaining information by reading the minutes. He asked that City Council brainstorm the issue for discussion at a future City Council Work Session.

Councilwoman Woodbury advised that the suggestion was not new as she had brought the matter up when she first became a member of City Council, but the idea never got off the ground. She indicated that she would certainly support the issue.

Councilwoman Scott stated she made the suggestion 13 years ago and was told that the video of the meeting could not be done due to the configuration of the City Council Conference Room. She was told that City Council would have to have their Work Sessions in the City Council Chambers.

Councilwoman Woodbury stated she was told the same thing. She stated that technology had advanced over the years, and perhaps, the meeting could now be televised in the City Council Conference room.

City Manager Bourey indicated there were two different issues that could be considered: 1) a live broadcast of the meeting; or 2) a video-tape of the meeting. He advised that video-taping the meeting was much easier to do and it would be shown at a later date, as opposed to a live broadcast. He stated staff would investigate both to see which would work better for City Council.

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January 12, 2016

Councilwoman Scott pointed out that no one saw City Council when they actually hashed out matters; they only saw City Council when they voted on an issue at the Regular Meeting. She stated the public believed that there was never any disagreement among City Council. She was in support of televising the Work Session.

Councilwoman Vick stated she was not in support of televising the City Council Work Sessions. She believed that there would be times that members of City Council would become over dramatic when they were televised. She inquired about the reason behind proving that City Council did not sometimes disagree.

Councilwoman Scott inquired whether staff had received any information about the noise complaint at City Center. Assistant City Manager Cynthia Rohlf replied that she and staff looked into the matter and believed the matter had been resolved. They continued to monitor the issue.

Councilwoman Scott stated it was unfortunate that the New Year began with murders. She understood that the Police Department was doing all they could, but she believed that the Chief of Police needed to be out front to address the public when such heinous offenses were committed. It was encouraging for the public to hear from their Chief of Police. There was no reason that the Chief of Police should not be speaking to such issues, by stating that the Police were on top of matters and doing all they could. The public needed to hear from the Chief of Police in order to have a sense of comfort. She wanted to see the Police Department do a better job of communicating with the public when such crimes occurred, and the Chief of Police should be at the forefront.

City Manager Bourey stated that conversations had taken place about the need for the presence of the Chief of Police or his designee. He believed that part of the problem was that the Chief of Police was out of town.

Councilwoman Scott understood, but indicated that the Chief of Police had assistants to cover in his absence. Councilwoman Vick agreed with Councilwoman Scott.

City Manager Bourey stated that long conversations had been held with the Chief of Police about communication. He advised that one of the challenges faced by the Police was 1) an internal investigation might be going on; and 2) situations where the victim(s) of a shooting may be involved in gang activity. There were situations where it would not be wise to discuss criminal activity before obtaining factual information. He understood Councilwoman Scott and indicated that he had been encouraging the Police to offer the public a better picture of what was going on.

Councilwoman Scott suggested that the Chief of Police or his designee talk about the actions taken by the City in relation to a crime and offer empathy to the families of victims of crime. She stated that no one deserved to die. City Manager Bourey stated the Police was very aggressive about

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January 12, 2016

crime and understood the concerns voiced by Councilwoman Scott. He would encourage the Police to provide better communication to the public.

Councilwoman Scott suggested that the Police talk about what they were going to do from a Police and safety standpoint. When someone was killed in one's neighborhood or next to one's residence, they did care what the victim was involved in; their only concern was that they would not be the next victim. City Manager Bourey stated it was an unfortunate domestic violence incident that occurred in the North district at the beginning of the New Year. Unfortunately, there was nothing that the City could have done to stop a domestic incident such as that, with so many guns on the street.

Councilman Bateman asked for an update on the Youth and Gang Violence Initiative. He stated he would like staff to be more proactive and provide a monthly report.

Councilwoman Woodbury agreed with Councilwoman Scott that the Chief of Police needed to be proactive. She stated someone in the community may come forward with information if they were informed at the onset of a crime.

Vice Mayor Coleman pointed out the Police Department's Public Information Officer usually issued a Press Release.

Councilwoman Woodbury agreed, but indicated that many people did not receive e-mail and did not get the information. City Manager Bourey stated that staff needed to send e-mail out to supplement the Press Release.

Councilwoman Woodbury questioned how the City became one of the seven to eight "Welcoming Cities," as reported in a Daily Press newspaper article, when City Council never voted on the matter. She was pro-legal immigration, but, at this point, there were some real concerns and she had received many calls from citizens regarding the designation.

Vice Mayor Coleman stated the reason was that there had been much misinformation passed out in the community.

Councilwoman Woodbury felt that City Council should clarify the matter.

Vice Mayor Coleman disagreed and stated that those reporting the information out should be called out. He stated the information was fear monger.

Councilwoman Woodbury asked whether Vice Mayor Coleman really believed that. She stated that the Cities of Roanoke, Richmond, Newport News, etc., were noted as "Welcoming Cities."

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Minutes of Work Session
January 12, 2016

Vice Mayor Coleman advised that the Cities of Roanoke, Richmond and Newport News had always been known as “Welcoming Cities,” as previously discussed.

Councilwoman Woodbury questioned who designated such localities as “Welcoming Cities.”

Vice Mayor Coleman replied that the federal and state government had designated such areas as “Welcoming Cities.” As discussed before, the Catholic Charities had been in the City for more than 40 years doing resettlements and bringing immigrants to the area, without ever facing any kind of issues.

Councilwoman Woodbury pointed out that times were now different.

Vice Mayor Coleman agreed, but stated decisions needed to be based on evidence and facts and not based on comments made by a “blowhard” on the television every night, who needed to deal with facts.

Councilwoman Woodbury agreed that decisions needed to be based on evidence and facts; however, she voiced concern about how the City of Newport News became a “Welcoming City” when no one voted on the matter.

Vice Mayor Coleman stated that Newport News had not become a “Welcoming City”.

Councilwoman Woodbury reiterated that the City had been designated as a “Welcoming City,” and asked how it was done when there had not been a vote to do so. She asked for answers.

Mayor Price shared a PowerPoint presentation by the Mayor’s Youth Commission (attached and made a part of these minutes) noting what they wanted to do in 2016. He stated several members had asked about the reason that members of City Council did not attend their programs. He wanted to ensure that the members of City Council were aware of their plans for 2016.

Mayor Price advised that the members of the Mayor’s Youth Commission were a great group of youth. He questioned whether the name of the Committee caused the reluctance of City Council to participate or become involved with the group. If so, he suggested that they change the name of the Commission. The name was there when he was elected as the Mayor. He believed that City Council should support the Commission, not only physically, but financially. He stated they were a diverse group of youth who represented all the City’s public and private high schools. They had great ideas, energy, and wanted to do something and be appreciated. They were asking for the support of City Council. If there was some reluctance among City Council to participate, because of the name, then he asked that they change the name.

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Minutes of Work Session
January 12, 2016

Councilwoman Scott stated she did not recall being notified about events or programs held by the Mayor's Youth Commission, as she was very supportive of youth. Mayor Price stated that all of the members of City Council received notices.

Councilwoman Cherry stated she had not received any invitations or notices from the Mayor's Youth Commission. She was not aware of the activities that the Mayor's Youth Commission had, and inquired when City Council received information from the Commission. Mayor Price replied that they had annual basketball tournaments that were publicized throughout the entire City.

Councilwoman Vick stated that she had not received any invitations and/or notices from the Mayor's Youth Commission.

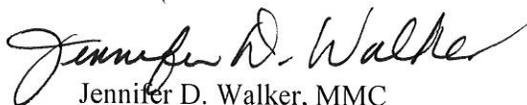
Councilwoman Cherry hoped that the Mayor was not assuming that the members of City Council were not supportive of the Mayor's Youth Commission.

Mayor Price stated he was not assuming anything; this was a request by him for City Council to help a talented and appreciative group of youth who were trying to improve the City. He felt they deserved the support of City Council.

The members of City Council were in agreement with Mayor Price to support the Mayor's Youth Commission.

Mayor Price requested that the City Attorney prepare a Resolution of Recognition to the Honorable Mamy E. BaCote, representing the 95th District of the Virginia General Assembly, in honor of her retirement effective December 31, 2015. City Attorney Owens stated that the resolution was underway.

THERE BEING NO FURTHER BUSINESS
ON MOTION, COUNCIL ADJOURNED AT 6:49 P.M.



Jennifer D. Walker, MMC
Chief Deputy City Clerk

McKinley L. Price
Mayor
Presiding Officer

A true copy, teste:

City Clerk

F. Consent Agenda

3. Minutes of the Regular Meeting of January 12, 2016

ACTION: N/A

BACKGROUND: N/A

FISCAL IMPACT: N/A

ATTACHMENTS:

Description

Minutes of the Regular Meeting of January 12, 2016

MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
JANUARY 12, 2016
7:00 P.M.

PRESENT: Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Robert S. Coleman;
McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P.
Woodbury-----7

ABSENT: None -----0

A. Call to Order

Mayor Price stated the City Code identified the procedure for citizen participation regarding items on the Council agenda, as well as the opportunity for citizens to address City Council on matters germane to the business of the Council. He explained matters that were germane to the business of Council meant matters that the City Council, by law, were empowered to act upon. This did not include announcements that were personal to an individual, business, or organization. He pointed out copies of the ordinance highlighting citizen participation and encouraged citizens to review the document.

Mayor Price requested that cell phones and/or pagers be silenced or turned off.

B. Invocation

The invocation was rendered by Reverend Syntheia N. Newby, Gethsemane Baptist Church.

C. Pledge of Allegiance to the Flag of the United States of America

The Pledge of Allegiance to the Flag of the United States of America was led by Councilman Herbert H. Bateman, Jr.

D. Presentations

- 1. Proclamation: American Cancer Society – Relay for Life: Paint the Town Purple Day – January 16, 2016

Ms. Dianne Howard, 2016 Relay for Life of Newport News Event Chair, accepted the proclamation.

Mayor Price stated that an estimated 41,170 Virginia residents were diagnosed with cancer each year, and 14,830 would not survive. He stated that the City of Newport News joined over 5,200 communities worldwide to host the American Cancer Society’s Relay for Life, an event to celebrate cancer survivors, and remember those who were no longer with us. He reminded that Relay for Life was the signature activity of the American Cancer Society, and announced the official kick-off would be held on Friday, January 16, 2016, 10:00 a.m., at Gildersleeve Middle School (1 Minton Drive), with the theme “Paint Your World Purple.”

D. Presentations Continued

1. Proclamation: American Cancer Society – Relay for Life: Paint the Town Purple Day – January 16, 2016 Continued

Mayor Price, on behalf of his colleagues on the Newport News City Council, proclaimed January 16, 2016 as the American Cancer Society's "Paint the Town Purple Day," and encouraged all citizens to join the official kick-off event, and celebrate cancer survivorship by remembering loved ones lost to the disease, honoring caregivers, and joining the fight against cancer.

E. Public Hearings

1. Ordinance Authorizing Conditional Use Permit No. CU-15-357, to Bowditch on Jefferson, LLC, for the Operation of an Automobile Gasoline Supply Station in Conjunction with a 7-Eleven Convenience Store at 11060 and 11072 Warwick Boulevard and Zoned C2 General Commercial with Proffers

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-15-357 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF PERMITTING THE OPERATION OF AN AUTOMOBILE GASOLINE SUPPLY STATION ON A SITE ZONED C2 GENERAL COMMERCIAL DISTRICT. This ordinance granted Conditional Use Permit No. CU-15-357 to Bowditch Ford on Jefferson, LLC., for the operation of an automobile gasoline supply station in conjunction with a 7-Eleven Convenience Store located at 11060 and 11072 Warwick Boulevard and zoned C2 General Commercial with proffers. The proposed automobile gasoline supply station would occupy the vacant vehicle storage lot of Bowditch Ford. The new building and landscaping would improve the appearance of the site and was compatible with surrounding uses and the Framework for the Future 2030 Comprehensive Plan land use map. On December 2, 2015, the City Planning Commission voted 6:0, with one abstention, to recommend approval of this request with conditions. The City Manager recommended approval.

Mr. Stephen R. Romine, Attorney for the applicant, 999 Waterside Drive, Norfolk, was accompanied by Mr. Derek Hopkins, Vertical Construction Management, Mr. Bryant Goodloe, PC, Traffic Engineer, as well as Mr. Gary Franks, Civil Engineer with the Blakeway Corporation. Mr. Romine indicated the application included a vacant storage lot for Bowditch Ford, on Warwick Boulevard and Logan Place, in a C2 General Commercial District. The applicant included 29 conditions, for a project on 1.28 acres, and was consistent with the Comprehensive Plan. He displayed a drawing for the site, which showed the orientation, right-in and right-out, on Warwick Boulevard, as well as access on Logan Place and Colonial Place; the 7-Eleven would face Logan with a canopy and four multi-product dispensers; a 20-foot transitional landscape buffer between commercial and multi-family zoning districts, which would require a six-foot fence along the eastern property line. Landscape buffers would be on both the east and west side of the site, and along Warwick Boulevard. The proposed store, a modern-

E. Public Hearings

1. Ordinance Authorizing Conditional Use Permit No. CU-15-357, to Bowditch on Jefferson, LLC, for the Operation of an Automobile Gasoline Supply Station in Conjunction with a 7-Eleven Convenience Store at 11060 and 11072 Warwick Boulevard and Zoned C2 General Commercial with Proffers Continued

looking brick structure, with brick-wrapped canopy supports, would replace an existing store on the south-bound side of Warwick Boulevard, two blocks away on Cedar Lane.

Mr. Romine indicated there would be substantial conditions with traffic improvements, and would provide better convenience and healthy merchandise to the neighbors. He further stated that 7-Eleven was a good corporate citizen, and would increase the tax-base. This project represented a significant investment, substantial enhancement on Warwick Boulevard, and would have a significant positive impact for the community, as well as the City. He thanked members of Council for their consideration and urged approval of Conditional Use Permit No. CU-15-357, allowing the operation of an automobile gasoline supply station in conjunction with a 7-Eleven Convenience Store at 11060 and 11072 Warwick Boulevard.

Councilman Bateman inquired about the landscape design, and the sidewalk, or bike path. Mr. Romine replied there would be sidewalks, with ADA compliant handicapped ramps for the entire site frontage on all three public streets. Councilman Bateman inquired about the lighting, whether they were hooded, and facing down. Mr. Romine responded that the canopies would be recessed, with no lights spilling off the site.

Councilwoman Vick inquired whether there was a possibility of the overhead wiring being relocated underground. Mr. Romine replied there were no plans to relocate electrical lines underground.

Mr. Gary Franks, Civil Engineer, Blakeway Corporation, 770 Independence Circle, Virginia Beach, stated there were no plans to relocate electrical wiring underground.

Councilman Bateman inquired about the requirement to define the beginning and ending of Colonial Place. Mr. Franks responded that Blakeway Corporation was required to increase Colonial Place to 30 feet in width, including new curb and gutter.

Councilwoman Cherry inquired about parking. She questioned whether there were four fueling islands. Mr. Romine responded there were four fueling islands, and would be a total of 20 parking spaces.

Mr. Bryant B. Goodloe, 8809 Adams Drive East, Suffolk, was available for questions.

E. Public Hearings

1. Ordinance Authorizing Conditional Use Permit No. CU-15-357, to Bowditch on Jefferson, LLC, for the Operation of an Automobile Gasoline Supply Station in Conjunction with a 7-Eleven Convenience Store at 11060 and 11072 Warwick Boulevard and Zoned C2 General Commercial with Proffers Continued

Councilwoman Scott moved closure of the public hearing; seconded by Vice Mayor Coleman.

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

Councilwoman Woodbury moved adoption of the above ordinance; seconded by Councilwoman Vick.

Councilman Bateman filed a declaration in accordance with Section 2.2-3115H of the Virginia Code, that stated, pursuant to Subdivision A3 of Section 2.2-3112 of the Virginia Conflict of Interest Act, that for the City Council Agenda of January 12, 2016, (i) the City Manager recommended to the Newport News City Council that they approve a conditional use permit by ordinance (CU-15-357, “the transaction”); (ii) that the applicants for the said conditional use permit were Bowditch on Jefferson, LLC and 7-Eleven, Inc.; (iii) that TowneBank was a lender for the project; (iv) that he was an employee of TowneBank, and one or more of the applicants were clients of the bank; however, he did not personally represent or provide services to either; (v) that he had no personal interest affected by the transaction; and (vi) that he was able to participate in the transaction fairly, objectively, and in the public interest (a signed written declaration was filed with the City Clerk prior to the City Council Meeting at which the transaction was considered – January 12, 2016; and is attached and made a part of these minutes).

Councilman Bateman thanked City Manager Bourey, and Mr. Everett Skipper, Director, Department of Engineering, for reviewing this application beyond the 7-Eleven Convenience Store, because this corridor, without Bowditch Ford on the site, would create more traffic, making sure there was an eye toward the safety of the corridor with the new projects being added.

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

F. Consent Agenda

Councilman Bateman moved adoption of the Consent Agenda, Items 1 through 4, both inclusive, as shown below; seconded by Vice Mayor Coleman.

F. Consent Agenda Continued

1. Minutes of the Work Session of December 8, 2015

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

2. Minutes of the Special Meeting of December 8, 2015

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

3. Minutes of the Regular Meeting of December 8, 2015

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

4. Ordinance Approving the Number of Meeting Days at Twenty-One (21) for the Board of Review of Real Estate Assessments – Commissioner of the Revenue’s Office

AN ORDINANCE SETTING THE NUMBER OF DAYS SUFFICIENT FOR COMPLETION OF THE SEPTEMBER-NOVEMBER 2015 TERM OF SERVICE OF THE BOARD OF REVIEW OF REAL ESTATE ASSESSMENTS. This ordinance set the number of days at 21 for the completion of work of the Board of Review of Real Estate Assessments for the September through November 2015 term of service. The Commissioner of Revenue’s Office staffed the Board of Review and recommended that 21 days be allotted the Board for completion of its work. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

G. Other City Council Actions

1. Resolution Authorizing the City Manager to Execute Two (2) Cost Sharing Agreements By and Between the City of Newport News and the Hampton Roads Sanitation District (HRSD) for the Warwick Boulevard to James River Influent Force Main – Section 2 and Interceptor Force Main Section 2 Projects

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN (1) AGREEMENT FOR COST SHARING BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND HAMPTON ROADS SANITATION DISTRICT (HRSD) FOR THE WARWICK BOULEVARD TO JAMES RIVER INFLUENT FORCE MAIN SECTION 2 (JR-010820) AND (2) AGREEMENT FOR COST SHARING BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND HAMPTON ROADS SANITATION DISTRICT (HRSD) FOR THE WARWICK BOULEVARD TO JAMES RIVER INTERCEPTOR FORCE MAIN SECTION 2 (JR-010802). This resolution authorized the City Manager to execute two (2) Cost-Sharing Agreements by and between the City of Newport News and the Hampton Roads Sanitation District (HRSD) for the Warwick Boulevard to James River Influent Force Main-Section 2 and Interceptor Force Main Section 2 Projects. The first Agreement committed HRSD to reimburse the City for costs incurred by the City for construction of a future HRSD connection to the City's Pump Station No. 060. The second Agreement provided for City compensation of \$101,000 to HRSD for additional HRSD milling and paving on Boxley Boulevard beyond the requirements of the HRSD project road restoration limits. The second Agreement also provided for HRSD reimbursement of costs associated with the City's installation of a traffic signal video system at the intersection of Menchville Road and Boxley Boulevard. Funding for the City's contribution for additional HRSD milling and paving on Boxley Boulevard was programmed in the City's annual Street Resurfacing Program. The City Manager recommended approval.

(No registered speakers)

Councilwoman Vick moved adoption of the above resolution; seconded by Councilman Bateman.

Councilwoman Cherry inquired about the agreement providing for City compensation of \$101,000 to HRSD for additional milling and paving of Boxley Boulevard, plus \$13,126 to install a new traffic signal video detection system at the intersection of Menchville Road and Boxley Boulevard, totaling approximately \$114,000. City Manager Bourey responded that City compensation to HRSD amounted to \$101,000. HRSD would reimburse the City \$13,126 – the cost to install the traffic video detection system. Councilwoman Cherry referenced the City and HRSD's responsibility to hold a public hearing or meeting regarding the above-mentioned projects. She inquired whether the public hearing was held for the residents on Boxley Boulevard and Menchville Road. City Manager Bourey responded the public hearing was held for the residents.

G. Other City Council Actions Continued

1. Resolution Authorizing the City Manager to Execute Two (2) Cost Sharing Agreements By and Between the City of Newport News and the Hampton Roads Sanitation District (HRSD) for the Warwick Boulevard to James River Influent Force Main – Section 2 and Interceptor Force Main Section 2 Projects Continued

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

H. Appropriations

Vice Mayor Coleman moved adoption of Appropriations, Items 1 through 7, as shown below; seconded by Councilwoman Vick.

1. Department of Engineering – FY 2016 Bond Authorization, Public Buildings Category: City Hall Second Floor Renovations

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED (\$350,000.00) TO CITY HALL SECOND FLOOR RENOVATION PROJECT (\$350,000.00). This resolution appropriated \$350,000.00 from the FY 2016 Bond Authorization, Public Buildings Category, for the City Hall second floor renovations project. The renovations planned for the second floor entailed the upgrading of existing offices of the Department of Planning, created additional offices, and a conference room. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

2. Department of Engineering – Virginia Department of Environmental Quality Stormwater Local Assistance Fund (SLAF): Construction of Glen Allen and Turnberry Stream Restoration Projects

A RESOLUTION APPROPRIATING FUNDS FROM STATE REVENUE (\$379,358.00) TO GLEN ALLEN AND TURNBERRY STREAM RESTORATION PROJECTS (\$379,358.00). This resolution appropriated \$379,358.00 from the Virginia Department of Environmental Quality Stormwater Local Assistance Fund (SLAF) for the construction of Glen Allen and Turnberry Stream Restoration Projects. The Glen Allen Stream Restoration Project was in the Carleton Falls Subdivision, in the north section of the City. The Turnberry Stream Restoration Project was along the north branch of Lucas Creek between Loch

H. Appropriations Continued

2. Department of Engineering – Virginia Department of Environmental Quality Stormwater Local Assistance Fund (SLAF): Construction of Glen Allen and Turnberry Stream Restoration Projects Continued

Ness Drive and the Jefferson Commons Shopping Plaza. Both channels experienced severe erosion, degradation and instability, and presented significant risk exposure to existing structures. The proposed improvements would enhance the structural integrity of both channels, increase flood plain connectivity, and provide stormwater attenuation. Both projects were considered critical because they provided pollutant reductions that assisted in the City's ability to meet the threshold requirements delegated from the Environmental Protection Agency (EPA). Due to the reduction of pollutant loading, the City successfully obtained a matching SLAF Grant in the amount of \$379,358.00. The remaining \$576,642.00 was available from previously appropriated funds. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

3. Department of Engineering – FY 2016 Bond Authorization, Stormwater Drainage Category: Citywide Drainage Projects

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED (\$497,500.00) TO CITYWIDE DRAINAGE STORMWATER MANAGEMENT PROGRAM (\$497,500.00). This resolution appropriated \$497,500.00 from the FY 2016 Bond Authorization, Stormwater Drainage Category for Citywide Drainage projects. Citywide drainage was an annual stormwater initiative to improve and maintain the drainage systems throughout the City by providing a funding source for emergency or minor work, and was included in the Stormwater Drainage Capital Improvements Plan (CIP). This program provided City staff the ability to address specific drainage related issues, in a timely manner, to address stormwater management issues and citizens' concerns. Drainage problems ranged from cave-ins, structure repairs and installations, as well as ditch re-grading and repair. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

H. Appropriations Continued

4. Department of Public Works - FY 2016 Additional State Revenue for Street and Highway Maintenance: Residential Street Reconstruction/Resurfacing Contracts

A RESOLUTION APPROPRIATING REVENUE TO FORCE ACCOUNT-STREET/HIGHWAY MAINTENANCE GENERAL FUND REVENUE (\$694,643.00) AND STREET/HIGHWAY MAINTENANCE FUND (\$694,643.00) AND APPROPRIATING EXPENDITURES TO CONTRACTUAL PAVING/PUBLIC WORKS DEPARTMENT (\$694,643.00) AND STREET/HIGHWAY MAINTENANCE FUND QUALIFIED ASPHALT/RESURFACING (\$694,643.00). This resolution appropriated \$694,643.00 of additional FY 2016 Street and Highway Maintenance State Revenue to the Department of Public Works for residential streets reconstruction/resurfacing contracts. The City was notified that FY 2016 State Revenue for street and highway maintenance would be \$694,643.00 more than estimated. The additional funds would be appropriated to Public Works' General Fund Operating Budget, which was the Department that would oversee the contracts. Subsequently, the funds would be moved to the Street/Highway Maintenance Fund, which was required by State Accounting Policies to be in a separate fund. No other local funds were required for this resolution. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

5. Department of Engineering – FY 2016 Bond Authorization, Sanitary Sewer Rehabilitation Category: 25th Street Sanitary Sewer Replacement Project (1100 Block)

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED (\$800,000.00) TO 25TH STREET 1100 BLOCK SANITARY SEWER REPLACEMENT (\$800,000.00). This resolution appropriated \$800,000.00 from the FY 2016 Bond Authorization, Sewer Rehabilitation Category Fund for the construction of the 25th Street Sanitary Sewer Replacement (1100 block). The scope of this project would include the replacement of existing sanitary sewer service laterals and failing sanitary sewer pipe that ran along the 1100 block of 25th Street between Roanoke Avenue and Chestnut Avenue. In addition, the scope of work would include the replacement of sanitary sewer service laterals and relining of sanitary sewer main along the 2400 block of Chestnut Avenue. The City Manager recommended approval.

(No registered speakers)

H. Appropriations Continued

5. Department of Engineering – FY 2016 Bond Authorization, Sanitary Sewer Rehabilitation Category: 25th Street Sanitary Sewer Replacement Project (1100 Block) Continued

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

6. Department of Public Works – Capital Improvements Plan (CIP): FY 2016 Public Buildings Major Renovations and Repairs

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED (\$1,100,000.00) TO PUBLIC BUILDINGS MAJOR RENOVATIONS AND REPAIRS (\$1,100,000.00). This resolution appropriated \$1.1 million from the FY 2016 Bond Authorization, Public Buildings Category, for major renovations and repairs. Public Works Building Services was assigned the responsibility for the maintenance and repairs of City-owned buildings. The Department identified major components in need of repairs and maintenance, which included roofs, building exteriors, windows, HVAC systems, boilers, and parking lots. The projects would ensure continued structural and operational integrity of City buildings, improve energy efficiency, and maintain and improve interior environmental conditions and occupant comfort levels. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

7. Department of Engineering – Virginia Department of Transportation (VDOT) State Revenue Sharing Program and FY 2016 Bond Authorization, Streets and Bridges Category: Warwick Boulevard over Lake Maury Bridge Replacement Project

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED (\$2,550,000.00) AND STATE REVENUE (\$2,550,000.00) TO WARWICK BOULEVARD OVER LAKE MAURY BRIDGE REPLACEMENT (\$2,550,000.00). This resolution appropriated \$5.1 million from the Virginia Department of Transportation (VDOT) State Revenue Sharing Program and the FY 2016 Bond Authorization, Bridges and Streets Category for the Warwick Boulevard over Lake Maury Bridge Replacement Project. The purpose of the projects was to replace the existing Warwick Boulevard over Lake Maury Bridge with a new bridge, and to improve safety at the Riverside Regional Medical Center entrance on Warwick Boulevard. The new 150-foot long bridge would accommodate three lanes of traffic in each direction. The City implemented design changes to reduce the construction costs, as well as combining the bridge of the Mariners' Museum Multi-purpose Trail with this

H. Appropriations Continued

7. Department of Engineering – Virginia Department of Transportation (VDOT) State Revenue Sharing Program and FY 2016 Bond Authorization, Streets and Bridges Category: Warwick Boulevard over Lake Maury Bridge Replacement Project Continued

project to eliminate an additional bridge, and save costs overall. Re-design would be completed in the Summer of 2016, advertisement was scheduled for the Fall of 2016, and construction would begin in the Spring of 2017. Additional funding was requested from the FY 2017 Revenue Sharing and House Bill Two (HB2) sources, and was expected to be available in July 2016. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Coleman, Price, Scott, Vick, Woodbury

Nays: None

I. Citizen Comments on Matters Germane to the Business of City Council

Mr. Antonio Thompson, 1211-25th Street, Newport News, addressed City Council on the topic of public safety and security, as well as the importance of recycling. He stated that treasury enrichment would be “pumped up” as the City progressed into future. He further stated the alchemy of scrap metaling would lead to silver and gold. Scrap metal opened the door for the green revolution.

Regarding public safety and security, Mr. Thompson asked citizens to pray for the United States Navy and military men and women around the world.

Mr. Thompson suggested that City Council consider the legalization of marijuana. He stated it was time to invest in the “marijuana gold rush.”

(Mayor Price cautioned Mr. Pulliam about the use of his language based on correspondence submitted to members of City Council regarding the City Manager. He advised that name calling would not be permitted).

Mr. A. C. Pulliam, Jr., 239 Falcon Drive, Newport News, addressed members of City Council regarding a rumor that Newport News Waterworks would be changing its logo on all of the Department’s vehicles, uniforms, and the water towers (in phases). Mr. Pulliam felt this suggestion was ridiculous and unnecessary. He stated the person instigating the change was not taking care of Newport News citizens. Mr. Pulliam stated the money spent to implement the changes should be spent on reducing taxes. He expressed opposition to this change in Waterworks, which would cost an estimated five to eight million dollars.

I. Citizen Comments on Matters Germane to the Business of City Council
Continued

Mr. Pulliam advised that he had been riding near the Newport News-Williamsburg International Airport. He noted the citizens/business owners with airplanes had been given a break on their taxes (See Ordinance No. 7223-15 and Ordinance No. 7226-15, amending the City Code, Chapter 40, Taxation; Article XII). He suggested citizens be given tax breaks on campers, boats, company vehicles, and real estate.

Mr. Pulliam suggested that City Council meetings be rotated around the City, i.e. City Center. He reminded that City Manager Bourey had Middle Ground Boulevard renamed to City Center Boulevard, to which he did not agree and expressed opposition. The change cost the City a great deal of money.

Mr. Pulliam reminded that the City Farm had been closed (July 2015) and the City Manager proposed spending \$300,000 for an architectural study. He called the College of William and Mary, who indicated that most studies were done by the individuals that would develop the property. Mr. Pulliam felt that City Manager Bourey was having the study done to pave the way for a developer to work on the City Farm property.

Mr. Pulliam referenced Police Checkpoints administered to determine whether a driver had been drinking too much. He suggested cars be pulled over that had a number of teenagers who were out at the wrong time of night, and to check the vehicle for gun possession. Two or three police officers around the pulled car full of teenagers would not lead to the officers being shot.

Mr. Pulliam expressed opposition to the installation of speed bumps on Maxwell Lane as a traffic calming measure. He stated the City had recently repaved Maxwell Lane. He drew up a petition with 122 signatures of individuals opposed to the installation of speed bumps on Maxwell Lane.

Mr. Pulliam stated that BAE Norfolk Shipyard had announced the lay-off of 500 plus employees. He suggested that the City Council be considerate of the people out of work who needed savings on their taxes and homes. This lay-off would affect the City of Newport News.

Mr. Pulliam thanked Councilmembers Scott, Bateman, and Woodbury for responding to his questions.

Mr. David Niesel, 178 Normandy Lane, Newport News, addressed City Council regarding the traffic calming initiative underway on Maxwell Lane. He advised that he lived in Maxwell Gardens and was a member of the Citizen Task Force that helped come up with the idea of the speed bumps on Maxwell Lane. He shared that Maxwell Lane was 0.5 miles long from Warwick Boulevard to the Normandy Lane intersection. Some wanted the speed limit increased to 35 mph. According to the City's traffic engineers, the 85 percentile of individuals travelling on

I. Citizen Comments on Matters Germane to the Business of City Council
Continued

Maxwell Lane traveled at a speed of 35-40 mph. Ninety percent (90%) traveled approximately 10-20 miles over the speed limit. He had witnessed school buses passed with their stop sign extended, and had almost been run into and broadsided entering and exiting his driveway. Neighbors that opposed the change had expressed their displeasure by driving through the neighborhood honking their horns at 6:30 a.m. Some drivers blocked him from exiting his driveway and extended not-so-neighborly hand gestures. Mr. Niesel stated that traffic on Maxwell Lane was out of the control for the posted speed limit. He urged members of City Council to approve a traffic-calming initiative on Maxwell Lane when the opportunity was presented.

Ms. Kimberly Niesel, 178 Normandy Lane, Newport News, addressed City Council regarding the traffic calming initiative underway on Maxwell Lane. She stated that she lived on the corner of Maxwell and Normandy Lanes, but was not allowed to participate in the Maxwell Gardens Neighborhood Watch. The residents on Maxwell Lane were not involved in the Maxwell Gardens Neighborhood Watch Program, and asked that members of City Council not accept recommendations from the Program. Ms. Niesel wanted members of City Council to understand what she and her neighbors were experiencing. It had become a neighbor against neighbor scenario.

Mr. Curtis Harris, 1904 Jefferson Avenue, Newport News, Director and Founder of the Original B.R.O.T.H.A.S Mentoring Outreach Program, thanked City Council for their support at their new facility (1904 Jefferson Avenue). He expressed appreciation to Mayor Price for his ongoing support; and advised that he looked forward to working with and assisting Councilwoman Cherry with her neighborhood events and initiatives. Mr. Harris thanked, and expressed appreciation to Councilwoman Tina Vick for recognizing the Original B.R.O.T.H.A.S to the Department of Human Services, who presented the group with an award. Mr. Harris further thanked Councilwoman Woodbury for her ongoing support. He thanked Chief Richard Myers, Newport News Police Department, for his support and working with the Original B.R.O.T.H.A.S. Mr. Harris also thanked and expressed appreciation to Mr. Alan Archer, Assistant City Manager, for imparting his wisdom. The Original B.R.O.T.H.A.S had worked in the East End of Newport News for approximately eight years. He announced they were on the front line and were available whenever needed.

Councilwoman Woodbury advised that she had visited the new facility at 1904 Jefferson Avenue and indicated that she was very impressed with the services offered. She commended Mr. Harris for the wonderful mentoring program being provided to the youth in Newport News.

J. New Business and Councilmember Comments

Clarifying an earlier comment by Mr. Pulliam, City Manager Bourey advised that millions of dollars would not be spent to change the logo for Waterworks. A discussion was held earlier in the City Council Work Session (January 12, 2016), about the idea of working on getting

J. New Business and Councilmember Comments Continued

a unified City logo, but it had gone no farther. He assured that the concept would be brought to City Council before proceeding.

City Manager Bourey advised that the Ribbon Cutting and Grand Opening Ceremony for the new South Precinct of the Newport News Police Department was held on Tuesday, January 5, 2016 (3303 Jefferson Avenue). He stated it was about the people that were in it, and all of the employees engaged in the Southeast Community and throughout the City. He mentioned that he had many conversations with Police Chief Richard Myers about ramping up that engagement. City Manager Bourey advised that 2016 had begun on a down note with two homicides – one was a domestic violence situation; the second was not a random act and was under investigation. He stated there were too many guns, too much drugs, and too many gangs. Everything was being done to attack that. A briefing on the Youth and Gang Violence Initiative would be presented within the next two City Council meetings. A briefing was held with Mayor Price about the homicides. Every concerted action was being taken to ensure everything possible was being done to engage the community, and to ensure that the homicides were limited. The NNPD had a remarkable record for solving the cases, apprehending those responsible, and bringing people to justice.

With regard to violence, youth and gang violence, and the crimes that were committed in Newport News, Councilman Bateman stated that it behooved the citizens to ask the State Legislators to support additional funding for public safety for such programs that existed in Newport News. Additional officers on the street, and more resources from the federal government, through support from the FBI and other agencies, would help Newport News. He encouraged citizens to communicate this with their Delegates and Senators in an effort to help Newport News.

Councilwoman Cherry thanked all of the citizens for their attendance and participation at the meeting and to express their points of view. She reiterated that their voices mattered. She stated that City Council was committed and they did care.

Councilwoman Cherry congratulated Delegate Mamye BaCote on her retirement from the Virginia House of Delegates, as she had served the Newport News community well.

Councilwoman Cherry expressed her excitement about the new South Precinct Police Station (3303 Jefferson Avenue). This new facility would be recognized as a place of safety, and a place where residents would be welcomed with the use of the Community Room. The facility would provide an opportunity for residents to meet and get to know the officers that served the South Precinct.

Councilwoman Cherry thanked Ms. Karen Joyner, Executive Director, Virginia Peninsula Foodbank, for their support of the City for the Mobile Food Pantry. She advised the final Mobile Food Pantry was held at the Farmer's Market on Monday, December 21, 2015. The Pantry had met a great food need for the residents in the community, providing food and services for more than 160 individuals.

J. New Business and Councilmember Comments Continued

Councilwoman Cherry announced that the musical production of “The Wiz,” a Broadway hit, was scheduled for February 18 – 20, 2016, and February 25 - 27, 2016, at the Downing-Gross Cultural Arts Center (2410 Wickham Avenue), in the Ella Fitzgerald Theater, in celebration of its 40th Anniversary. She encouraged citizens to purchase their tickets. Tickets were available at the Downing Gross Cultural Arts Center’s box office.

Councilwoman Cherry reminded residents in the South District, that the South District “Your Voice Matters” Town Hall Meetings would convene, beginning Thursday, January 14, 2016, 6:00 – 7:30 p.m., at the Brittingham-Midtown Community Center (570 McLawhorne Drive) for residents that lived from Mercury Boulevard North to Harpersville Road; and Thursday, January 21, 2016, 6:00 – 7:30 p.m., at the Downing-Gross Cultural Arts Center (2410 Wickham Avenue) for residents from Mercury Boulevard South to the waterfront. All residents were invited to attend. These meetings were a collaborative effort of the Newport News Police Department, the Newport News School Board, and the Newport News City Council.

Councilwoman Cherry asked citizens to continue to pray for the recovery of Mr. Kofi Boateng, Director, Newport News Waterworks.

Vice Mayor Coleman and his colleagues participated in the Ribbon Cutting and Grand Opening Ceremony of “Nothing bundt Cakes, a new bakery, on January 12, 2016, located in the Marketplace at Tech Center. He encouraged citizens to stop by and sample the cakes.

Vice Mayor Coleman expressed his excitement about the new South Precinct Police Station (3303 Jefferson Avenue). He stated the facility would be an asset for not only the South District, but for the entire City.

Vice Mayor Coleman attended a Public Hearing for Atkinson Way, the new connector between Warwick Boulevard and Jefferson Avenue, in the Stoneybrook community, on Thursday, January 7, 2016, 5:00 – 7:00 p.m. The Public Hearing was held in an Open Forum style meeting in the cafeteria of Mary Passage Middle School (400 Atkinson Way). The Atkinson Boulevard Project would provide a four-lane divided roadway, a distance of approximately 6,450 feet, with a five-foot wide sidewalk on the north side, and a ten-foot wide multi-purpose trail on the south side. He announced that the approximately \$67 million project could be advertised for construction in the summer of 2016.

Vice Mayor Coleman advised that there were a number of road projects in the making in the North District that would cause a few traffic headaches – aside from Atkinson Way, the Replacement of the Denbigh overpass was slated for 2018, the second part of the Ft. Eustis Bridge would be done in 2020, in addition to the continuation of the expansion of Interstate 64. In the end, he stated these projects were needed to help the City grow as a community and to grow economically.

J. New Business and Councilmember Comments Continued

Mayor Price announced that he and his colleagues unveiled the newest addition to the City's museum without walls – a magnificent piece of artwork which symbolized the beautiful deer that once called Deer Park their home. The sculpture is located at the entrance to Deer Park, along the busy Jefferson Avenue/J. Clyde Morris Boulevard corridor.

Mayor Price announced that he and his colleagues, sponsors, members, and guests participated in a Time Capsule Ceremony on Thursday, December 31, 2015, at the Virginia Living Museum, which would celebrate its 50th Anniversary in 2016. The time capsule was buried 12 paces beyond the black bear's nose in the Conservation Garden. The time capsule was scheduled to be opened December 31, 2065. Among the items inside were memories of the past, tokens of the present, and hopes for the future. Mayor Price advised that he planned to be present.

Mayor Price reiterated remarks about the opening of the new South Precinct Police Station (3303 Jefferson Avenue). He shared that a NNTV crew was present, and would replay the Opening Ceremony and look inside the new facility. The program would air January 12, 2016, and every day during this week, at 6:00/8:00/10:00 p.m.; and was available on-line at www.nnva.gov/NNTV.

Councilwoman Scott expressed thanks and appreciation to the City Manager, City's Department Heads, and everyone who did what was necessary to ensure that the City ran smoothly.

Councilwoman Scott commended Ms. Paula Hersh, General Manager, Newport News TV, and the crew, for their hard work. She stated they did a tremendous job on the television programming, and indicated there was a noticeable improvement.

Councilwoman Scott thanked everyone for their attendance and participation in the North District 14th Annual Holiday Food Drive, held December 16 – 21, 2015, which was very impactful to the community. It began with a Spay and Neuter Clinic, followed by a Job Fair, a Zumbathon, and the actual Food Drive and Distribution. The outpouring of support from the community was too much to measure to ensure that others could have food for the holiday season. A video created by NNTV captured the essence of the event. The diversity of the North District, and the City, was noticeable, and highlighted some of the fiscal challenges that citizens experienced in their homes. She stated that citizens did not have to wait until December to begin donating to the North District Holiday Food Drive. Donations could be made to the Full Circle Foundation, a non-profit organization, that accepted donations year-long. A monthly Zumbathon was held at the Denbigh Community Center (15198 Warwick Boulevard) and citizens were welcome to bring their donations to the community center monthly on every third Friday. The Zumbathon would resume on Friday, February 19, 2016.

Councilwoman Scott announced the next North District Town Hall Meeting would be held Monday, January 25, 2016, at the Denbigh Community Center (15198 Warwick Boulevard). Dr. Telly Whitfield would be present to share information about the Second

J. New Business and Councilmember Comments Continued

Annual One City Marathon, scheduled for March 13, 2016. She encouraged citizens to attend to ask questions or share their concerns. A Volunteer Recognition Reception at 6:00 p.m. would be held prior to the Town Hall Meeting. All Volunteers of the 14th Annual Holiday Food Drive were asked to attend to be acknowledged and thanked for their service to the North District.

Councilwoman Scott expressed concern about the violence throughout the City. She had received numerous calls from citizens. City Council wanted everyone to feel safe in their neighborhoods. She was pleased to hear about some of the upcoming initiatives, i.e., more police officers in the communities, and on foot, would make an immeasurable impact on what happened in the City. She continued to encourage citizens to get involved – if they heard, saw, or knew something, they should call and let someone know to possibly help solve some of the crimes resolved. She had also received calls about trash in various communities, but advised that members of City Council did not have an opportunity to ride through every community. She suggested that citizens contact 3-1-1 (757-933-2311) should they have issues in their community. Staff in the 3-1-1 Call Center would contact the Department to take care of the matter. Councilwoman Scott stated “together we could all make a difference.”

Councilwoman Vick wished everyone a Happy New Year. She thanked the citizens for their attendance and participation and for providing their comments, particularly regarding Maxwell Lane. She appreciated receiving the information.

Regarding crime in the City, Councilwoman Vick stated that the City could have a police presence, and other initiatives in place, but encouraged citizens, particularly the youth, to have other alternatives other than getting involved in gangs and participating in dangerous behavior, which would not lead to success. She encouraged youth to be strong, and to utilize available hot-lines, particularly if feeling threatened at school. Even with increased police presence, a great deal of the responsibility was in making a personal choice to put the guns down and not choose gun violence as an option. Councilwoman Vick encouraged all young people to talk to their peers to let them know that gang activity and gun violence would lead them down a dead-end street.

Councilwoman Vick reiterated the remarks made by her colleagues about the opening of the new South Precinct Police Station (3303 Jefferson Avenue). She stated that it was her preference to open the South Precinct along with another business. The 7-Eleven Convenience Store, with gas pumps was opened nearby (2600 Jefferson Avenue), in December 2015, which was a plus. Residents were thrilled with the opening of the 7-Eleven with gas pumps, which was much needed in the Southeast Community. Hundreds of citizens attended the opening of the store.

Councilwoman Vick, who served as Interim Director of the Newport News Office of Human Affairs (OHA), a community action agency, announced that OHA was approaching 50 years of service to the community. She announced that the 1st Poverty in Hampton Roads Economic Symposium, scheduled for Thursday, February 18, 2016, 8:00 a.m. - 1:00 p.m., at the

J. New Business and Councilmember Comments Continued

Downing-Gross Cultural Arts Center (2410 Wickham Avenue). All citizens were invited to attend.

Councilwoman Woodbury wished everyone a Happy New Year.

Councilwoman Woodbury joined her colleagues in the Ribbon Cutting and Grand Opening Ceremony of “Nothing bundt Cakes,” on January 12, 2016, located in the Marketplace at Tech Center. She encouraged citizens to stop by. She added if citizens submitted their name, address, and phone number to the owner, they would receive a free bundt cake on their birthday.

Councilwoman Woodbury joined her colleagues at the opening of the new South Precinct Police Station (3303 Jefferson Avenue) on January 5, 2016.

Councilwoman Woodbury reiterated remarks made by Mayor Price about the City’s museum without walls – a magnificent piece of artwork which symbolized the beautiful deer that once called Deer Park their home. She encouraged everyone to visit the new sculpture. The sculpture is located at the entrance to Deer Park, along the busy Jefferson Avenue/J. Clyde Morris Boulevard corridor. She reminded the citizens about an article on the City’s Public Art Program in the January 2012 issue of “Virginia Town & City,” the magazine of the Virginia Municipal League (VML). A presentation was also held at the VML Annual Conference in 2012 on the City’s Public Art Program, which many localities in Virginia were emulating, particularly since most of the art was completed with private funds.

Councilwoman Woodbury shared that she attended the 2016 Finance Forum on Wednesday, January 6, 2016, at the Hilton Richmond Downton Hotel (501 East Broad Street, Richmond). The Forum was co-sponsored by the VML and the Virginia Association of Counties. The Forum provided an excellent opportunity for local elected officials and staff to be brought up-to-date on a number of important issues. Topics included: (1) State Revenues and 2016 Budget; (2) Local Finance Trends and Perspectives; (3) VRS Local Budget Pressures; (4) Assessment of Local Revenues; and (5) Education.

Councilwoman Woodbury shared that she attended a symposium held by Delegate Brenda Pogge, representing the 96th District, who was championing a number of bills in the 2016 General Assembly Session. One of the bills, HB 699, would be on economic development for non-intoxicating marijuana. She urged citizens to follow that bill, which could be a lucrative economic development project for the State of Virginia. Delegate Pogge would also sponsor a bill proposing that the State Reptile be the Garter Snake. She urged citizens to follow along. Councilwoman Woodbury further announced that she and her colleagues would attend the VML’s Legislative Day at the Capitol, scheduled for Wednesday, January 27, 2016, 3:00 – 7:00 pm., at the Library of Virginia (800 East Board Street, Richmond).

Vice Mayor Coleman thanked David and Kimberly Niesel for briefing members of City Council about Maxwell Lane. He stated it was refreshing when citizens were prepared

J. New Business and Councilmember Comments Continued

and presented facts and statistics. Vice Mayor Coleman also thanked the Niesels for their service on the Citizen Task Force to discuss traffic calming measures on Maxell Lane. He appreciated their time and effort. With reference to those being bullied based on their support, Vice Mayor Coleman urged them to get the make and model of the vehicles, and a license plate number, and report it to the Newport News Police Department. No one in the community should be bullied in that fashion when doing a community service. This was totally unacceptable.

K. Adjourn

Mayor Price adjourned the meeting by addressing the citizens. He stated, "May what you say and do uplift the City of Newport News."

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 7:58 P.M.



Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

F. Consent Agenda

4. Resolution of Recognition: The Honorable Mamye E. BaCote on her Retirement as a Member of the Virginia House of Delegates

ACTION: A REQUEST TO APPROVE A RESOLUTION OF RECOGNITION FOR THE HONORABLE MAMYE E. BACOTE ON HER RETIREMENT AS A MEMBER OF THE VIRGINIA HOUSE OF DELEGATES.

BACKGROUND:

- Mayme E. BaCote was born in Halifax, Virginia and received her Bachelors degree from Virginia Union University and her Masters degrees from Hampton University.
- Delegate BaCote has had a successful career as an educator in the Newport News Public School system and most recently as an Adjunct Professor of Political Science at Hampton University.
- First elected in 2003, Delegate BaCote served the citizens of the 95th District from 2004 to 2016, and after completing her 6th full-term she decided not to run for re-election.
- This Resolution of Recognition recognizes Delegate BaCote on her retirement from the Virginia House of Delegates and expresses appreciation for her many valuable contributions to the City, the Hampton Roads region, and the Commonwealth of Virginia.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

sdm14040 Recognition re Mamye E. BaCote

RESOLUTION NO. _____

RESOLUTION OF RECOGNITION

WHEREAS, the Council of the City of Newport News, Virginia, wishes to honor and recognize the Honorable Mayme E. BaCote upon the conclusion of her distinguished service as a member of the Virginia House of Delegates; and

WHEREAS, Mayme E. BaCote was born in Halifax, Virginia, and attended Virginia Union University receiving her B.A. degree in 1960. Delegate BaCote went on to receive her M.A. degree from Hampton Institute (now Hampton University) in 1967. Since that time she has engaged in a successful career as an educator in the Newport News Public School system and most recently as an Adjunct Professor of Political Science at Hampton University.

WHEREAS, first elected in 2003, Mayme E. BaCote served the citizens of the 95th District as Delegate from 2004 to 2016. Previous to her election to the Virginia House of Delegates, Delegate BaCote served as a Member of the Newport News City Council from 1996 to 2004. During her most recent term in the Virginia House of Delegates, Delegate BaCote served as a Member of the Appropriations Committee, the Health, Welfare and Institutions Committee, and the Transportation Committee. She also most recently served on the Appropriations-Elementary and Secondary Education Subcommittee, the Appropriations-Health and Human Resources Subcommittee, the Transportation-Subcommittee No. 1, the Elementary and Secondary Education Funding Joint Subcommittee, the Board of Veterans Services, and the Commission on Youth. She was a member of the National Council of State Legislators, the Virginia House Democratic Caucus, the Virginia Progressive Caucus, the Women's Reproductive Rights Caucus, and the Virginia Legislative Black Caucus; and

WHEREAS, in addition to serving as a dedicated advocate for the citizens of her district and Virginia, Mamy E. BaCote has been active in several civic and community organizations. Some of these include the NAACP, Boys and Girls Club of the Virginia Peninsula, the Newport News Chapter of The Links, Inc., Alpha Kappa Alpha Sorority, Inc. , and the YWCA. Her leadership skills have been recognized, and she has served in leadership positions in several organizations, to include serving as President of the Women in Municipal Government constituency group of the National League of Cities, Vice Chairman of the Hampton Roads Regional Jail Authority, Vice Chairman of the Peninsula Airport Commission, a Member of the Board of Directors of the Newport News Public Art Foundation, a Member of the Board of Directors of Project Discovery of Virginia, and a Member of the Advisory Council of Habitat for Humanity Peninsula and Greater Williamsburg; and

WHEREAS, Mayme E. BaCote was married to the late Theodore E. BaCote, Jr. and they have three children: Theodore III, Derek and Marlon. She is an active member of St. Vincent de Paul Catholic Church; and

WHEREAS, Mayme E. BaCote completed her sixth full-term in the Virginia House of

Delegates, and decided not to run for re-election; and

WHEREAS, Mayme E. BaCote has made many valuable contributions to the City, the Hampton Roads region, and the Commonwealth of Virginia which this Council wishes to recognize.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News, Virginia:

1. That it hereby recognizes the Honorable Mayme E. BaCote on the conclusion of her twelve years as a member of the Virginia House of Delegates.
2. That it expresses its heartfelt appreciation for her many contributions to the City, the Hampton Roads region, and the Commonwealth of Virginia.
3. That a copy of this resolution be spread upon the records of this body and that a copy be delivered to the Honorable Mayme E. BaCote as a token of respect and warm appreciation of this Council and the citizens of Newport News.
4. That this resolution shall be in effect on and after the date of its adoption, January 26, 2016.

F. Consent Agenda

5. Resolution to Comply with the Virginia Department of Transportation (VDOT) Requirement to Formally Add to the City's Street Maintenance Inventory an Increase in Lane Mileage for Street Maintenance Payments

ACTION: A REQUEST TO APPROVE A RESOLUTION COMPLYING WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) REQUIREMENT TO FORMALLY ADD TO THE CITY'S STREET MAINTENANCE INVENTORY AN INCREASE IN LANE MILEAGE OF IDENTIFIED STREETS FOR STREET MAINTENANCE PAYMENTS.

BACKGROUND:

- The City's street maintenance inventory is reported to VDOT for state payment to the locality for maintenance purposes and requires a resolution of Council.
- The streets have been constructed to the standards required by the State and are eligible for State maintenance funds.
- This resolution will comply with VDOT's request and will formally add the lane mileage additions.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Add Streets for VDOT Pymts

sdm14038 Requesting Addition to City' Street Maintenance Inventory to VDOT

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Additions to City's Street Maintenance Inventory to VDOT

This resolution will authorize changes to the City's street maintenance inventory with the Virginia Department of Transportation (VDOT).

VDOT requires a resolution of City Council in order to make changes to the City's inventory for street maintenance payment purposes.

This request is to increase the lane mileage for streets recently accepted by City Council.

The net change requested in this resolution will increase the inventory by 4.6 lane miles which will increase revenue \$53,907.40, assuming the state does not alter the formula. These changes will be effective as of July 1, 2016.

I recommend approval.


James M. Bourey

JMB:jrc

cc: H. Reed Fowler, Jr., Director, Department of Public Works

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, REQUESTING THAT THE VIRGINIA DEPARTMENT OF TRANSPORTATION INCLUDE FOR MAINTENANCE PAYMENT PURPOSES THOSE STREETS LISTED HEREIN.

WHEREAS, the Virginia Department of Transportation requires a resolution of the Council in order to add and delete streets to the City’s inventory for street maintenance payment purposes; and

WHEREAS, the City Manager has reported to the Council that the streets listed herein have been constructed to the standards required by the State and that the streets are, therefore, eligible for state maintenance funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News, Virginia:

1. That the Virginia Department of Transportation is hereby requested to include the streets listed below within those eligible to receive annual maintenance payments:

<u>NAME</u>	<u>LANE MILES</u>
Dorothy’s Drive	.32
Minnie Circle	.08
Timber Drive	.26
Reddick Road	.28
Cheeseman Court	.22
Trumble Lane	.16
Rivers Ridge Circle	.90
Town Center Drive	.86
Lakefront Commons	.56
Merchant’s Walk	.30
Fountain Way	.18
Charlotte Drive	.16
Gallery Court	.12
Merrimac Court	.20

2. That the streets listed herein to be added meet the construction standards required by the Virginia Department of Transportation.

3. That this resolution shall be in effect on and after the date of its adoption, January 26, 2016.

F. Consent Agenda

6. Resolution Authorizing the City Manager to Execute the Statement of Agreement by and between the City and the Virginia Department of Health (Peninsula Health District)

ACTION: A REQUEST TO APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE STATEMENT OF AGREEMENT BY AND BETWEEN THE CITY AND THE VIRGINIA DEPARTMENT OF HEALTH FOR SERVICES PROVIDED BY THE PENINSULA HEALTH DISTRICT.

BACKGROUND:

- The City enters into an agreement annually with the Virginia Department of Health (VDH) for the provision of public health services.
- The Statement of Agreement begins July 1, 2015 and covers Fiscal year 2016.

FISCAL IMPACT:

- For FY2016, VDH will provide \$2,786,335 in state funds to support public health services.
- The FY 2016 local share for the City of Newport News is \$1,974,190, which is included in the FY 2016 General Fund Operating Budget.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re Health Agrmnt

sdm14010 Authorizing re Statement of Agreement between City and VDH

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

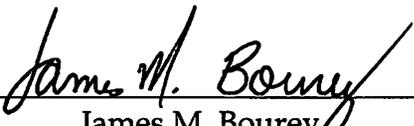
January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: FY 2016 Agreement for Public Health Services

The City of Newport News and the Virginia Department of Health (VDH) annually enter into an agreement that delineates the specific services that will be provided to the City for public health. The annual agreement outlines the responsibilities of each party and includes the amount the City will pay in return for the services rendered.

Public health services are provided by the Peninsula Health District. The total approved FY 2016 Peninsula Health District Operating Budget is \$7,370,046. It is estimated that \$786,345 fee for service revenue will be generated, reducing the net budget to \$6,583,701. Of this amount, the State share is \$3,816,898. The participating localities in the Peninsula Health District are Newport News, Williamsburg, Poquoson, James City County, and York County. They are apportioned respective amounts of the net budget on a percentage basis. The FY 2016 Local Share for the City of Newport News is \$1,974,190.

The funds to support this agreement are included as part of the FY 2016 General Fund Operating Budget. I recommend your approval of this annual agreement with the Virginia Department of Health.


James M. Bourey

JMB:LJC:wmp

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN STATEMENT OF AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND THE COMMONWEALTH OF VIRGINIA, DEPARTMENT OF HEALTH (PUBLIC HEALTH SERVICES PROVIDED TO THE CITY).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Statement of Agreement by and between the City of Newport News, Virginia and the Commonwealth of Virginia, Department of Health (Public Health Services Provided to the City).
2. That a copy of the said Statement of Agreement is attached hereto and made a part hereof.
3. That this resolution shall be in effect on and after the date of its adoption, January 12, 2016.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH**

STATEMENT OF AGREEMENT WITH the City Council of Newport News

Under this agreement, which is created in satisfaction of the requirements of § 32.1-31 of the *Code of Virginia* (1950), as amended, the Virginia Department of Health, over the course of one fiscal year, will pay an amount not to exceed \$2,786,335, from the state general fund to support the cooperative budget in accordance with appropriations by the General Assembly, and in like time frame, the City Council of Newport News will provide by appropriation and in equal quarterly payments a sum of 1,974,190 local matching funds and \$0 one-hundred percent local funds for a total of \$1,974,190 local funds. These joint funds will be distributed in timely installments, as services are rendered in the operation of the Peninsula Health Department, which shall perform public health services to the Commonwealth as indicated in Attachment A(1.), and will perform services required by local ordinances as indicated in Attachment A(2.). Payments from the local government are due on the third Monday of each fiscal quarter.

The term of this agreement begins July 1, 2015. This agreement will be automatically extended on a state fiscal year to year renewal basis under the terms and conditions of the original agreement unless written notice of termination is provided by either party. Such written notice shall be given at least 60 days prior to the beginning of the fiscal year in which the termination is to be effective. Any increase or decrease in funding allocation shall be made by an amendment to this agreement.

The parties agree that:

1. Under this agreement, as set forth in paragraphs A, B, C, and D below, the Commonwealth of Virginia and the Virginia Department of Health shall be responsible for providing liability insurance coverage and will provide legal defense for state employees of the local health department for acts or occurrences arising from performance of activities conducted pursuant to state statutes and regulations.
 - A. The responsibility of the Commonwealth and the Virginia Department of Health to provide liability insurance coverage shall be limited to and governed by the Self-Insured General Liability Plan for the Commonwealth of Virginia, established under § 2.2-1837 of the Code of Virginia. Such insurance coverage shall extend to the services specified in Attachments A(1.) and A(2.), unless the locality has opted to provide coverage for the employee under the Public Officials Liability Self-Insurance Plan, established under § 2.2-1839 of the Code or under a policy procured by the locality.
 - B. The Commonwealth and the Virginia Department of Health will be responsible for providing legal defense for those acts or occurrences arising from the performance of those services listed in Attachment A(1.), conducted in the performance of this contract, as provided for under the Code of Virginia and as provided for under the terms and conditions of the Self-Insured General Liability Plan for the Commonwealth of Virginia.

- C. Services listed in Attachment A(2.), any services performed pursuant to a local ordinance, and any services authorized solely by Title 15.2 of the Code of Virginia, when performed by a state employee, are herewith expressly exempted from any requirements of legal defense or representation by the Attorney General or the Commonwealth. For purposes of assuring the eligibility of a state employee performing such services for liability coverage under the Self-Insured General Liability Plan of the Commonwealth of Virginia, the Attorney General has approved, pursuant to § 2.2-507 of the Code of Virginia and the Self-Insured General Liability Plan of the Commonwealth of Virginia, the legal representation of said employee by the city or county attorney, and the City Council of Newport News hereby expressly agrees to provide the legal defense or representation at its sole expense in such cases by its local attorney.
- D. In no event shall the Commonwealth or the Virginia Department of Health be responsible for providing legal defense or insurance coverage for local government employees.
2. Title to equipment purchased with funds appropriated by the local government and transferred to the state, either as match for state dollars or as a purchase under appropriated funds expressly allocated to support the activities of the local health department, will be retained by the Commonwealth and will be entered into the Virginia Fixed Asset Accounting and Control System. Local appropriations for equipment to be locally owned and controlled should not be remitted to the Commonwealth, and the local government's procurement procedures shall apply in the purchase. The locality assumes the responsibility to maintain the equipment and all records thereon.
3. Amendments to or modifications of this contract must be agreed to in writing and signed by both parties.

 Marissa J. Levine, MD MPH, FAAFP
 State Health Commissioner
 Virginia Department of Health

 Local authorizing officer signature

James M. Bourey
 Authorizing officer printed name

City Manager
 Authorizing officer title

 Date

 Date

Approved as to form by the Office of the Attorney General on August 29, 2011.

ATTEST:

Attachments: Local Government Agreement, Attachment A(1.)
 Local Government Agreement, Attachment A(2.)

 City Clerk

APPROVED AS TO FORM:

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT (32.1-11)

For Each Service Provided, Check Block for Highest Income Level Served			
COMMUNICABLE DISEASE SERVICES	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Immunization of patients against certain diseases, including Childhood Immunizations As provided for in 32.1-46 Code Link-32.1-46			X
Sexually transmitted disease screening, diagnosis, treatment, and surveillance 32.1-57, Districts may provide counseling Code Link-32.1-57			X
Surveillance and investigation of disease 32.1-35 and 32.1-39 Code Links-32.1-35, 32.1-39, 32.1-43			X
HIV/AIDS surveillance, investigation, and sero prevalence survey 32.1-36, 32.1-36.1, 32.1-39 Code Links-32.1-36, 32.1-36.1, 32.1-39			X
Tuberculosis control screening, diagnosis, treatment, and surveillance 32.1-49, 32.1-50.1, and 32.1-54 Code Links-32.1-49, 32.1-50, 32.1-54			X
CHILD HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Children Specialty Services; diagnosis, treatment, follow-up, and parent teaching 32.1-77, 32.1-89 and 32.1-90 Code Links-32.1-77, 32.1-89, 32.1-90			X
Screening for genetic traits and inborn errors of metabolism, and provision of dietary supplements Code Links-32.1-65, 32.1-69			X
Well child care up to age __ (enter year) Board of Health Code Link-32.1-77	X		
WIC Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link-32.1-351.2		X	
EPSDT DMAS MOA Social Security Act section 1905(r) (5) Code Link-32.1-11			X
Blood lead level testing Code Link-32.1-46.1, 32.1-46.2			X
Outreach, Patient and Community Health Education Code Link-32.1-11, 32.1-11.3,			X
Community Education Code Link-32.1-11, 32.1-23			X
Pre-school Physicals for school entry Code Link-22.1-270			X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT (32.1-11)

Disabled disability Waiver Screenings DMAS MOA Code Link- <u>32.1-330</u>			X
Services for Children with Special health care needs Title V, Social Security Act Code Link- <u>32.1-77</u>			X
Child restraints in motor vehicles Code Link- <u>46.2-1095, 46.2-1097</u>			X
Babycare DMAS MOA			X
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Prenatal and post partum care for low risk and intermediate risk women , Title V, Social Security Act Code Link- <u>32.1-77</u>		X	
Babycare Services DMAS MOA		X	
WIC Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link- <u>32.1-351.2</u>		X	
FAMILY PLANING SERVICES	Income A only	Defined by Federal Regulations	All
Clinic services including drugs and Contraceptive supplies Family Planning Population Research Act of 1970, Title X Code Link- <u>32.1-77, 32.1-325</u>		X	
Pregnancy testing and counseling Family Planning Population Research Act of 1970, Title X Code Link- <u>32.1-77, 32.1-325</u>		X	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES
BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS

<p>The following services performed in accordance with the provisions of the Code of Virginia, the regulation of the Board of Health and/or VDH agreements with other state or federal agencies.</p>	
<p>Ice cream/frozen desserts: Under the agency's Memorandum of Agreement (MOA) with the Virginia Department of Agriculture and Consumer Services (VDACS), the local health department is responsible for initiating the issuance, suspension, reinstatement and revocation of permits for all frozen desserts plants which are an integral part of any premises, including Grade "A" milk plants, hotels, restaurants, and mobile units where frozen desserts are frozen or partially frozen or dispensed for retail sale.</p>	X
<p>Investigation of communicable diseases: Pursuant to §§ 32.1-35 and 32.1-39 of the Code of the Code of Virginia, the local health director and local staff are responsible for investigating any outbreak or unusual occurrence of a preventable disease that the Board of Health requires to be reported. Code Links-32.1-35, 32.1-39</p>	X
<p>Marinas: Pursuant to §32.1-246 of the Code of Virginia, local health department staff are responsible for permitting marinas and other places where boats are moored and is responsible for inspecting them to ensure that their sanitary fixtures and sewage disposal facilities are in compliance with the Marina Regulations (12VAC5-570-10 et seq.) Code Link-32.1-246</p>	X
<p>Migrant labor camps: Pursuant to §§ 32.1-203-32.1-211 of the Code of Virginia, local health departments are responsible for issuing, denying, suspending and revoking permits to operate migrant labor camps. Local health departments also must inspect migrant labor camps and ensure that the construction, operation and maintenance of such camps are in compliance with the Rules and Regulations Governing Migrant Labor Camps (12VAC5-501-10 et seq.). Code Links-32.1-203, 32.1-211</p>	X
<p>Milk: Pursuant to §§ 3.2-5130, 3.2-5206, 3.2-5208 of the Code of Virginia and the agency's MOA with VDACS, the local health department is responsible for issuing, denying, suspending and revoking permits for Grade "A" milk processing plants which offer milk and or milk products for sale in Virginia. Local health department are also responsible for the inspection of Grade "A" milk plants for compliance with the Regulations Governing Grade "A" Milk (2VAC5-490-10). Code Links-3.2-5130, 3.2-5206, 3.2-5208</p>	X
<p>Alternative discharging sewage systems: Pursuant to § 32.1-164(A) of the Code of Virginia, local health department are responsible for issuing, denying and revoking construction and operation permits for alternative discharging systems of less than 1000 gallons per day serving single family dwellings. Local health departments are also required to conduct regular inspections of alternative discharging systems in order to ensure that their construction and operation are in compliance with the Alternative Discharging Regulations (12VAC5-640-10 et seq.). Code Link-32.1-164</p>	X
<p>Onsite sewage systems: Pursuant to §32.1-163 et seq. of the Code of Virginia, local health department staff is responsible for assuring that site evaluations and designs of onsite sewage systems are performed in accordance with applicable state regulations and may perform such evaluations and designs as required. Local health department staff is also responsible for issuing, denying and revoking construction and operation permits for conventional and alternative onsite sewage systems. Local health department staff are responsible for assuring that onsite sewage systems are inspected at time of construction for compliance with the Sewage Handling and Disposal Regulations (12VAC5-610-20 et seq.,"SHDR") and the Alternative Onsite Sewage System Regulations (12VAC5-613-10 et seq.,"AOSS Regulations"); local health department staff may perform such inspections as required. Local health department staff is also responsible for assuring the performance, operation, and maintenance of onsite sewage systems are in compliance with the SHDR and AOSS Regulations. Code Link-32.1-163</p>	X
<p>Rabies: Pursuant to §3.2-6500 et seq. of the Code of Virginia, the local health department is responsible for investigating complaints and reports of suspected rabid animals exposing a person, companion animal, or livestock to rabies. Code Link- 3.2-6500</p>	X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

<p>Restaurants/eating establishments: Pursuant to §35.1-14 of the Code of Virginia, local health departments are responsible for issuing, denying, renewing, revoking and suspending permits to operate food establishments. In addition, local health departments are required to conduct at least one annual inspection of each food establishment to ensure compliance with the requirements of the Food Regulations (12VAC5-421-10 et seq.). These regulations include requirements and standards for the safe preparation, handling, protection, and preservation of food; the sanitary maintenance and use of equipment and physical facilities; the safe and sanitary supply of water and disposal of waste and employee hygiene standards. Code Link- 35.1-14</p>	<p>X</p>
<p>Sanitary surveys: The local health department is responsible for assuring that surveys are conducted of properties which include soil evaluations and identification of potential sources of contamination; local health department staff may perform such inspections as required. Local health department staff is also responsible for assuring the performance, operation, and maintenance of onsite sewage systems are in compliance with the SHDR and AOSS Regulations. The surveys are conducted in order to determine site suitability for onsite sewage systems, alternative discharging systems and wells. Code Link-32.1-11</p>	<p>X</p>
<p>Single home sewage discharge Code Link-32.1-164</p>	<p></p>
<p>Hotels/Motels: In accordance with §35.1.13 of the Code of Virginia, local health department staff is responsible for issuing, denying, revoking and suspending permits to operate hotels. The local health department is responsible for conducting inspections of hotels to ensure compliance with the Hotel Regulations (12VAC5-431-10 et seq.). These regulations include requirements and standards for physical plant sanitation; safe and sanitary housekeeping and maintenance practices; safe and sanitary water supply and sewage disposal and vector and pest control. Code Link-35.1-13</p>	<p>X</p>
<p>Water supply sanitation-Inspection of Water Supplies Code Link- 15.2-2144</p>	<p>X</p>
<p>Wells: Pursuant to §32.1-176.2, local health departments are responsible for issuing, denying and revoking construction permits and inspection statements for private wells. Local health departments are also responsible for inspecting private wells to ensure that their construction and location are in compliance with the Private Well Regulations. (12VAC5-630-10 et seq.) Code Link-32.1-176.2</p>	<p>X</p>
<p>Homes for adults: The local health department, at the request of the Department of Social Services (DSS) will inspect DSS-permitted homes for adults to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))</p>	<p>X</p>
<p>Juvenile Justice Institutions: Pursuant to §35.1-23 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of juvenile justice institutions in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link-35.1-23</p>	<p>X</p>
<p>Jail inspections: Pursuant to § 53.1-68 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of correction facilities in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link-53.1-68</p>	<p>X</p>
<p>Daycare centers: At the request of DSS will inspect DSS-permitted daycare centers to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))</p>	<p>X</p>
<p>Radon Pursuant to §32.1-229 local health department may assist VDH Central Office with Radon testing and analysis. Code Link-32.1-229.</p>	<p>X</p>
<p>Summer camps/ Campgrounds: Pursuant to 35.1-16 and 35.1-17 of the Code of Virginia, local health departments are responsible for issuing, denying, revoking and suspending permits to operate summer camps and campgrounds. The local health department is responsible for conducting inspections of summer camps and campgrounds not less than annually to ensure that their construction, operation and maintenance are in compliance with the Regulations for Summer Camps (12VAC5-440-10 et seq.) and the Rules and Regulations for Campgrounds (12VAC5-450-10 et seq.). Code Links-35.1-16, 35.1-17</p>	<p>X</p>

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OTHER PUBLIC HEALTH SERVICES
BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS

The following services performed in accordance with the provisions of the Code of Virginia, the regulations of the Board of Health and/or the policies and procedures of the State Department of Health	
Medicaid Nursing Home Screening DMAS MOA Code Link- 32.1-330	X
Comprehensive Services Act 2.2-5201-2.2-5211 Code Link- 2.2-5201, 2.2-5211	X
Vital Records (Death Certificates) Code Link- 32.1-254, 32.1-255, 32.1-272	X
Early Intervention Services Community Policy and Management Teams (CPMT) Interagency Coordinating Council (Infants/Toddlers) Code Link- 2.2-5305, 2.2-5306	X
Immunizations for maternity and post-partum patients Code Link-32.1-11, 32.1-325, 54.1-3408.	
AIDS Drug Assistance Program (ADAP) Code Link-32.1-11,32.1-330	
Emergency Preparedness and Response Code Link-32.1-42, 32.1-43, 32.1-229,	
HIV Counseling, Testing and Referral Code Link-32.1-37.2	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
	Income A only	Defined by Federal Regulations	All
COMMUNICABLE DISEASE SERVICES			
Foreign Travel Immunizations			
Other:			
CHILD HEALTH SERVICES			
School health services			
Sick child care			
Other:			
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Funds for deliveries			
Funds for special tests and drugs			
Diagnosis, treatment, and referral for gynecological problems			
Other:			
FAMILY PLANNING SERVICES	Income A only	Defined by Federal Regulations	All
Nutrition Education			
Preventive Health Services			
Pre-Conception Health Care			
Other:			

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
GENERAL MEDICAL SERVICES	Income A only	Defined by Federal Regulations	All
Activities of Daily Living			
Community Education			X
General Clinic Services (100% Locally Funded)			
Outreach			
Occupational health services			
Personal care			
Pharmacy services-Alternate Drug Delivery Site			X (up to G income)
Hypertension screening, referral, and counseling			X
Respite care services			
Other:			
SPECIALTY CLINIC SERVICES (List)	Income A only	Defined by Federal Regulations	All
DENTAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Preventive Clinic Services - Children			
Preventive Clinic Services - Adults			
Restorative Clinic Services			
Community Education			X
Other: Acute/Emergent Clinical Services – Adult with 100% Locality Funding			X (up to C income)

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(2.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

PUBLIC HEALTH SERVICES PROVIDED
UNDER LOCAL ORDINANCE

Neither the <i>Code of Virginia</i> nor Regulations of the Board of Health requires the following services to be provided by the local health department	Place an X in this column if service is provided for locality	Local ordinance code cite	Provide a brief description of local ordinance requirements
Accident Prevention			
Air Pollution			
Bird Control			
Employee Physicals			
General Environmental	X	Nuisance Chapter 20	
Housing - BOCA & local building codes			
Insect control	X	Nuisance Chapter 20	
Noise			
Plumbing			
Radiological Health			
Rodent Control	X	Nuisance Chapter 20	Consultation by Code of Virginia
Solid Waste	X	Nuisance Chapter 20	
Swimming facilities	X	Local Pools Chapter 39	Tourists establishments by state regulation and local ordinance
Weeds			
Smoking Ordinances	X		Statewide for restaurants
Other environmental services (identify)			
Body Art – tattoo and piercing	X	Chapter 20	
Food Handlers	X	Chapter 17	Training and certificate of completion
Administration of Septic Pump-out Program (per CBLAB)	X	Mutual Agreement	

G. Other City Council Actions

1. Ordinance Amending City Code, Chapter 40.2, Enterprise Zones, Technology Zones and Tourism Zones, by Adding New Article IV., Defense Production Zones

ACTION: A REQUEST TO ADOPT AN ORDINANCE AMENDING CITY CODE, CHAPTER 40.2, ENTERPRISE ZONES, TECHNOLOGY ZONES AND TOURISM ZONES, BY ADDING NEW ARTICLE IV., DEFENSE PRODUCTION ZONES.

BACKGROUND:

- Section 58.1-3853 of the *Code of Virginia* enables localities to establish Defense Production Zones (DPZ).
- Within these zones a locality may grant incentives and provide certain regulatory flexibility to defense production businesses.
- Establishment of a DPZ, bounded generally by Warwick Boulevard, Huntington Avenue, 34th Street and 42nd Street is being recommended.
- As is the case in our already established Enterprise Zone & Tourism Zone programs, before incentives are delivered on any project, a performance agreement will be negotiated and put in place.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Defense Production Zones

Defense Production Zone Map

sdm14035 Adding Article IV, Defense Production Zones to Chapter 40.2

CITY OF NEWPORT NEWS

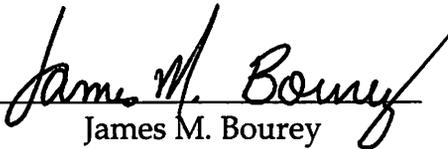
OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Ordinance to Establish a Defense Production Zone

Section 58.1-3853 of the *Code of Virginia* enables localities to establish Defense Production Zones (DPZ). Within these zones a locality may grant incentives and provide certain regulatory flexibility to defense production businesses. I am proposing establishing a DPZ over the highlighted area on the attached map. This initial step serves to create the DPZ. As is the case in our already established Enterprise Zone and Tourism Zone programs, before incentives are delivered on any project, a performance agreement will be negotiated and put in place. I will, of course, keep you abreast on any specific projects in the DPZ and material terms of any performance agreement related to any such project.

I recommend that City Council adopt the Ordinance, prepared and provided to you by the City Attorney's Office, to establish a Defense Production Zone.


James M. Bourey

JMB:bcw

Attachment

cc: Florence G. Kingston, Director, Department of Development
Carol U. Meredith, Assistant Director, Department of Development

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40.2, ENTERPRISE ZONES, TECHNOLOGY ZONES AND TOURISM ZONES, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, BY ADDING THERETO A NEW ARTICLE, NAMELY, ARTICLE IV., DEFENSE PRODUCTION ZONES.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 40.2, Enterprise Zones, Technology Zones and Tourism Zones, of the Code of the City of Newport News, Virginia, be, and the same hereby is, amended and reordained, by adding thereto a new article, namely: Defense Production Zones, as follows:

CHAPTER 40.2

**ENTERPRISE ZONES, TECHNOLOGY ZONES,
~~AND TOURISM ZONES~~ AND DEFENSE PRODUCTION ZONES**

ARTICLE IV. DEFENSE PRODUCTION ZONES

Sec. 40.2-30. Purpose.

The City Council of the City of Newport News finds that the further development of its defense production tax base requires incentives and regulatory flexibility, and determines that an appropriate method of offering incentives for the areas described below is to create a defense production zone as guided and authorized by Section 58.1-3853 of the Code of Virginia, 1950, as amended. The City Council finds that the establishment of a defense production zone will create a more business-friendly environment and will foster development of defense production related businesses to the benefit of public health, safety, welfare and convenience through the enhancement of public revenues and the creation of employment opportunities.

Sec. 40.2-31. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the following meanings:

Defense production business means a business engaged in the design, development, or production of materials, components, or equipment required to meet the needs of national defense, or a business that performs functions ancillary to or in support of the design, development, or production of such materials, components or equipment.

Sec. 40.2-32. Administration.

This article shall be administered and enforced by the City Manager or his designee. The City Manager or his designee shall develop criteria and guidelines for the level of investment required for any particular range of tax incentives and regulatory flexibility. The City Manager or his designee is authorized to enter into Performance Agreements with defense production businesses.

Sec. 40.2-33. Boundaries of defense production zone.

The boundaries of the City's defense production zone are hereby established as shown on the "Defense Production Zone Map." The Defense Production Zone Map is hereby declared to be a part of this Article and to have the same force and effect as if they were fully set forth and described herein. The Defense Production Zone Map shall be kept on file in the office of the Department of Development.

Sec. 40.2-34. Incentives and regulatory flexibility.

(a) The City Manager or his designee, through a Performance Agreement, may provide incentives to a defense production business located in a defense production zone for up to twenty (20) years. Such incentives may include, but are not limited to (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipt tax, and (iv) economic development incentive grants with payment of the grants conditioned upon the defense production business making certain real property or capital investments, creating and maintaining new jobs, or performing or meeting other economic development objectives.

(b) The City Manager or his designee, through a Performance Agreement, may also provide for regulatory flexibility in a defense production zone that may include, but is not limited to (i) special zoning for the district, (ii) permit process reform, (iii) exemption from city ordinances, and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to twenty (20) years.

Secs. 40.2-35–40.2-39. Reserved.

2. That the map entitled "City of Newport News, Virginia Defense Production and Support Services Zone" attached hereto and made a part hereof, is adopted as the "Defense Production Zone Map" set forth in Sec. 40.2-33 above.

3. That this ordinance shall be in effect on and after the date of its adoption, January 26, 2016.



CITY OF NEWPORT NEWS, VIRGINIA

**DEFENSE PRODUCTION AND
SUPPORT SERVICES ZONE**



G. Other City Council Actions

2. Resolution Authorizing the Issuance of up to \$145,000,000 General Obligation General Improvement (GOGI) Refunding Bonds and/or Water Refunding Bonds

ACTION: A REQUEST TO APPROVE A RESOLUTION THAT PROVIDES A STANDING AUTHORIZATION FOR THE DURATION OF CALENDAR YEAR 2016 TO ISSUE UP TO \$145 MILLION FOR GENERAL OBLIGATION GENERAL IMPROVEMENT (GOGI) REFUNDING BONDS AND /OR WATER REFUNDING BONDS.

BACKGROUND:

- The proposed resolution will allow the City to refund certain outstanding issues of General Improvement Bonds and/or Water Bonds in advance of their stated maturities.
- The City's financial advisor, Public Financial Management, Inc. (PFM) has advised this proposed action in response to potential low interest rates in the municipal bond market.

FISCAL IMPACT:

- This resolution restricts the issue of Refunding bonds to market conditions that would result in a net present value savings to the City of not less than three percent (3%).
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re GOGI & Water Refunding Bonds

sdm14036 Auth Issuance of \$145,000,000 GOGI Refunding and or GO Water Bonds

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Authorization to Issue General Obligation/Water Bond Refunding Bonds

I am requesting that City Council approve a calendar year 2016 Refunding Bond Authorization. The refunding authorization will allow the City to refinance up to \$145 million of outstanding General Obligation (GOB) Bonds and/or Water Bonds if market conditions are favorable. City Council approved a \$110 million Refunding Bond Authorization in October 2014 for calendar year 2015.

The City's financial advisor, Public Financial Management (PFM), performs refunding analyses on the City's outstanding bonds to identify opportunities to generate debt service savings of at least three percent (3%) of refunded par. PFM's recommendation of \$145 million GOB Bonds and/or Water Revenue Bond in refunding par amount will position the City to take advantage of any favorable interest rate environment that may materialize during calendar year 2016.

The City only refunds bonds that will result in a net present value savings of at least 3%. I will keep City Council informed if market conditions change sufficiently to generate debt service savings that would warrant the City refunding any of its outstanding debt.


James M. Bourey

JMB:LJC

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED ONE HUNDRED FORTY-FIVE MILLION DOLLARS (\$145,000,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATIONS OF THE CITY OF NEWPORT NEWS, VIRGINIA, IN THE FORM OF CITY OF NEWPORT NEWS, VIRGINIA, GENERAL OBLIGATION GENERAL IMPROVEMENT REFUNDING BONDS AND/OR GENERAL OBLIGATION WATER REFUNDING BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND AND REDEEM CERTAIN OUTSTANDING GENERAL OBLIGATION GENERAL IMPROVEMENT BONDS AND/OR GENERAL OBLIGATION WATER BONDS OR OTHER GENERAL OBLIGATIONS OF SUCH CITY; AUTHORIZING THE SALE OF SUCH BONDS; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE CITY MANAGER CERTAIN POWERS WITH RESPECT THERETO; AUTHORIZING THE PREPARATION AND DELIVERY OF THE PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT RELATING TO SUCH BONDS; AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER A CONTINUING DISCLOSURE CERTIFICATE OR A CONTINUING DISCLOSURE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT BY AND BETWEEN THE CITY AND SUCH ESCROW AGENT AND THE PURCHASE OF THE SECURITIES TO BE HELD THEREUNDER; AND AUTHORIZING THE DESIGNATION OF THE REFUNDED BONDS FOR REDEMPTION.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA:

SECTION 1. The Council (the "Council") of the City of Newport News, Virginia (the "City"), hereby finds and determines as follows:

(a) The City has been advised by the City's Financial Advisor that the refunding in advance of their stated maturities of all or a portion of certain currently outstanding issues of General Obligation General Improvement Bonds and/or General Obligation Water Bonds of the City or other general obligations of the City for which the City is responsible for payment may result in debt service cost savings to the City.

(b) The Council desires to authorize the issuance and sale of General Obligation General Improvement Refunding Bonds and/or General Obligation Water Refunding Bonds to provide for the refunding and redemption of all or a portion of such outstanding General Obligation General Improvement Bonds and/or General Obligation Water Bonds of the City or other general obligations of the City for which the City is responsible for payment, the

refunding of which shall be recommended by the City's Financial Advisor (such bonds or other obligations to be refunded being referred to hereinafter as the "Refunded Bonds").

(c) In the judgment of the Council, it is desirable to authorize the issuance and sale of not to exceed One Hundred Forty-Five Million Dollars (\$145,000,000) aggregate principal amount of General Obligation General Improvement Refunding Bonds and/or General Obligation Water Refunding Bonds, the same to be known and designated as the "City of Newport News, Virginia, General Obligation General Improvement Refunding Bonds" (the "General Improvement Refunding Bonds") and/or the "City of Newport News, Virginia, General Obligation Water Refunding Bonds" (the "Water Refunding Bonds" and, collectively with the General Improvement Refunding Bonds, the "Refunding Bonds"), for the purpose of providing funds to refund and redeem all or a portion of the Refunded Bonds and to pay the costs of issuing the Refunding Bonds.

(d) In the further judgment of the Council, it is desirable to authorize the sale of the Refunding Bonds in one or more series under one or more Preliminary Official Statements and final Official Statements.

SECTION 2. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, the same being the Public Finance Act of 1991, for the purpose of providing funds to refund and redeem certain outstanding General Obligation General Improvement Bonds and/or General Obligation Water Bonds of the City or other general obligations of the City for which the City is responsible for payment, there are authorized to be issued in one or more series not to exceed One Hundred Forty-Five Million Dollars (\$145,000,000) aggregate principal amount of general obligation bonds of the City, to be designated and known as the "City of Newport News, Virginia, General Obligation General Improvement Refunding Bonds" (hereinbefore defined as the "General Improvement Refunding Bonds") and/or the "City of Newport News, Virginia, General Obligation Water Refunding Bonds" (hereinbefore defined as the "Water Refunding Bonds", and, collectively with the General Improvement Refunding Bonds, as the "Refunding Bonds").

SECTION 3. (a) The Refunding Bonds of each issue shall be issued and sold in their entirety at one time, or from time to time in part in series, as shall be determined by the City Manager. Any series of the Refunding Bonds may be sold contemporaneously with any other bonds of the City, either as a separate series or as a combined series with any other bonds of the City. There shall be added to the designation of the Refunding Bonds a series designation determined by the City Manager of the City. All such Refunding Bonds shall be issued in fully registered form and shall be in the denomination of \$5,000 or any integral multiple thereof. The Refunding Bonds of a given series shall be numbered from R-1 upwards in order of issuance and shall have such other series prefix or suffix or numbering system as shall be determined by the City Manager; shall mature in such years and in such amounts in each year as shall be determined by the City Manager; and shall bear interest, calculated on the basis of a 360-day year comprised of twelve 30-day months, at such rate or rates per annum as shall be determined by the City Manager in accordance with the provisions of Section 10, such interest to be payable semiannually; *provided* the first interest payment date may be any date within one (1) year from the date of the Refunding Bonds as determined by the City Manager. The City Manager is

authorized to determine, in accordance with and subject to the provisions of this Ordinance: the date or dates of the Refunding Bonds; the interest payment dates thereof; the maturity dates thereof; the amount of principal maturing on each maturity date; the place or places of payment thereof and the paying agent or paying agents therefor; the place of registration, exchange or transfer thereof and the registrar therefor; and whether or not the Refunding Bonds shall be subject to redemption prior to their stated maturity or maturities and, if subject to such redemption, the premiums, if any, payable upon such redemption and the respective periods in which such premiums are payable. In the event the Refunding Bonds of any series shall be dated as of a date other than the first day of a calendar month or the dates on which interest is payable on such series are other than the first days of calendar months, the provisions of Section 5 with regard to the authentication of such Refunding Bonds and of Section 14 with regard to the forms of such Refunding Bonds shall be modified as the City Manager shall determine to be necessary or appropriate.

(b) (i) If the Refunding Bonds of any series are subject to redemption and if any Refunding Bonds (or portions thereof in installments of \$5,000 or any integral multiple thereof) are to be redeemed, notice of such redemption specifying the date, numbers and maturity or maturities of the Refunding Bond or Refunding Bonds to be redeemed, the date and place or places fixed for their redemption and if less than the entire principal amount of a Refunding Bond called for redemption is to be redeemed, that such Refunding Bond must be surrendered in exchange for payment of the principal amount thereof to be redeemed and the issuance of a new Refunding Bond or Refunding Bonds equalling in principal amount that portion of the principal amount of such Refunding Bond not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the registered owner of such Refunding Bond at the address of such registered owner as it appears on the books of registry kept by the registrar and paying agent as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If any Refunding Bond shall have been called for redemption and notice thereof shall have been given as hereinabove set forth, and payment of the principal amount of such Refunding Bond (or the principal amount thereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest on such Refunding Bond (or the principal amount thereof to be redeemed) shall cease to accrue from and after the date so specified for the redemption thereof.

(ii) Any notice of the optional redemption of the Refunding Bonds may state that it is conditioned upon there being on deposit with the City, or with the registrar and paying agent on behalf of the City, on the date fixed for the redemption thereof an amount of money sufficient to pay the redemption price of such Refunding Bonds, together with the interest accrued thereon to the date fixed for the redemption thereof, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of such Refunding Bonds, together with the interest accrued thereon, is due and payable if any such condition so specified is not satisfied. If a redemption of any Refunding Bonds does not occur after a conditional notice is given due to there not being on deposit with the City, or with the registrar and paying agent on behalf of the City, a sufficient amount of money to pay the redemption price of such Refunding Bonds, together with the interest accrued thereon to the date fixed for the redemption thereof, the corresponding notice of redemption shall be deemed to be revoked.

(iii) So long as the Refunding Bonds are in book-entry only form, any notice of redemption shall be given only to The Depository Trust Company, New York, New York ("DTC"), or to its nominee. The City shall not be responsible for providing any beneficial owner of the Refunding Bonds any notice of redemption.

SECTION 4. (a) The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the General Improvement Refunding Bonds as the same become due. In each year while the General Improvement Refunding Bonds, or any of them, are outstanding and unpaid, the Council is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on the General Improvement Refunding Bonds to the extent other funds of the City are not lawfully available and appropriated for such purpose.

(b) The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the Water Refunding Bonds as the same become due to the extent the income and revenues of the waterworks system of the City are or will be insufficient to provide for the payment of the principal of and interest on the Water Refunding Bonds. In each year while the Water Refunding Bonds, or any of them, are outstanding and unpaid, the Council is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on the Water Refunding Bonds to the extent other funds of the City are not lawfully available and appropriated for such purpose.

SECTION 5. (a) The Refunding Bonds shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor of the City and shall have a facsimile of the corporate seal of the City imprinted thereon, attested by the manual or facsimile signature of the City Clerk of the City.

(b) The City Manager shall direct the registrar and paying agent for the Refunding Bonds of a given series to authenticate such Refunding Bonds and no such Refunding Bond shall be valid or obligatory for any purpose unless and until the certificate of authentication endorsed on such Refunding Bond shall have been manually executed by an authorized officer of the registrar and paying agent. Upon the authentication of any Refunding Bonds the registrar and paying agent shall insert in the certificate of authentication the date as of which such Refunding Bonds are authenticated as follows: (i) if the Refunding Bond is authenticated prior to the first interest payment date, the certificate shall be dated as of the date of the initial issuance and delivery of the Refunding Bonds of the series of Refunding Bonds of which such Refunding Bond is one, (ii) if the Refunding Bond is authenticated upon an interest payment date, the certificate shall be dated as of such interest payment date, (iii) if the Refunding Bond is authenticated after the fifteenth (15th) day of the calendar month next preceding an interest payment date and prior to such interest payment date, the certificate shall be dated as of such

interest payment date, and (iv) in all other instances the certificate shall be dated as of the interest payment date next preceding the date upon which the Refunding Bond is authenticated.

(c) The execution and authentication of the Refunding Bonds in the manner above set forth is adopted as a due and sufficient authentication of the Refunding Bonds.

SECTION 6. (a) The principal of the Refunding Bonds shall be payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts, at the option of the registered owner thereof, at the place or places of payment and through the paying agent or paying agents for the Refunding Bonds determined by the City Manager in accordance with Section 3. Interest on the Refunding Bonds shall be payable by check mailed by the registrar and paying agent to the registered owners of the Refunding Bonds at their respective addresses as such addresses appear on the books of registry kept pursuant to this Section 6; *provided, however*, that so long as the Refunding Bonds are in book-entry form and registered in the name of Cede & Co., as nominee of DTC, or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on the Refunding Bonds shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer.

(b) At all times during which any Refunding Bond of any series remains outstanding and unpaid, the registrar and paying agent for such series shall keep or cause to be kept at its designated corporate trust office books of registry for the registration, exchange and transfer of the Refunding Bonds of such series. Upon presentation at its designated corporate trust office for such purpose, the registrar and paying agent, under such reasonable regulations as it may prescribe, shall register, exchange or transfer, or cause to be registered, exchanged or transferred, on the books of registry the Refunding Bonds as hereinbefore set forth.

(c) The books of registry shall at all times be open for inspection by the City or any duly authorized officer thereof.

(d) Any Refunding Bond may be exchanged at the designated corporate trust office of the registrar and paying agent for such series of Refunding Bonds for a like aggregate principal amount of such Refunding Bonds in other authorized principal sums of the same series, interest rate and maturity.

(e) Any Refunding Bond of any series may, in accordance with its terms, be transferred upon the books of registry by the person in whose name it is registered, in person or by such person's duly authorized agent, upon surrender of such Refunding Bond to the registrar and paying agent for such series for cancellation, accompanied by a written instrument of transfer duly executed by the registered owner in person or by such registered owner's duly authorized attorney, in form satisfactory to the registrar and paying agent.

(f) All transfers or exchanges pursuant to this Section 6 shall be made without expense to the registered owner of such Refunding Bonds, except as otherwise herein provided, and except that the registrar and paying agent for such series of Refunding Bonds shall require the payment by the registered owner of the Refunding Bond requesting such transfer or exchange

of any tax or other governmental charges required to be paid with respect to such transfer or exchange. All Refunding Bonds surrendered pursuant to this Section 6 shall be cancelled.

(g) (i) The Refunding Bonds shall be issued in full book-entry form. One Refunding Bond representing each maturity of each series of the Refunding Bonds will be issued to and registered in the name of Cede & Co., as nominee of DTC, as registered owner of the Refunding Bonds and each such Refunding Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Refunding Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. Purchasers will not receive physical delivery of certificates representing their interest in the Refunding Bonds purchased.

(ii) Principal and interest payments on the Refunding Bonds will be made by the registrar and paying agent to DTC or its nominee, Cede & Co., as registered owner of the Refunding Bonds, which will in turn remit such payments to the DTC participants for subsequent disbursement to the beneficial owners of the Refunding Bonds. Transfers of principal and interest payments to the DTC participants will be the responsibility of DTC. Transfers of such payments to beneficial owners of the Refunding Bonds by DTC participants will be the responsibility of such participants and other nominees of such beneficial owners. Transfers of ownership interests in the Refunding Bonds will be accomplished by book entries made by DTC and, in turn, by the DTC participants who act on behalf of the indirect participants of DTC and the beneficial owners of the Refunding Bonds.

(iii) The City will not be responsible or liable for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants or for transmitting payments to, communicating with, notifying, or otherwise dealing with any beneficial owner of the Refunding Bonds.

SECTION 7. (a) CUSIP identification numbers may be printed on the Refunding Bonds, but no such number shall constitute a part of the contract evidenced by the particular Refunding Bond upon which it is printed; no liability shall attach to the City or any officer or agent thereof (including any paying agent for the Refunding Bonds) by reason of such numbers or any use made thereof (including any use thereof made by the City, any such officer or any such agent) or by reason of any inaccuracy, error or omission with respect thereto or in such use; and any inaccuracy, error or omission with respect to such numbers shall not constitute cause for failure or refusal by a purchaser of the Refunding Bonds to accept delivery of and pay for such Refunding Bonds. All expenses in connection with the assignment and printing of CUSIP numbers on the Refunding Bonds shall be paid by the initial purchasers of the Refunding Bonds.

(b) A copy of the final legal opinion with respect to the Refunding Bonds, with the name of the attorney or attorneys rendering the same, together with a certification of the City Clerk, executed by a facsimile signature of that officer, to the effect that such copy is a true and complete copy (except for letterhead and date) of the legal opinion which was dated as of the date of delivery of and payment for the Refunding Bonds, may be printed on the Refunding Bonds.

SECTION 8. The proceeds of sale of the Refunding Bonds shall be applied as follows:

(a) Such portion of the proceeds of the Refunding Bonds as shall be required shall be deposited with an Escrow Agent under an Escrow Deposit Agreement and applied as provided therein to pay when due (i) the interest on the Refunded Bonds to the respective maturity dates or dates of redemption thereof and (ii) the principal or the redemption prices of the Refunded Bonds on the respective maturity dates or dates of redemption thereof.

(b) The balance of the proceeds of the Refunding Bonds shall be applied to the payment of the costs of issuing the Refunding Bonds to the extent payable from the proceeds of the Refunding Bonds.

SECTION 9. To the extent it shall be contemplated at the time of their issuance that the interest on any Refunding Bonds issued hereunder shall be excludable from gross income for purposes of federal income taxation, the City covenants and agrees to comply with the provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 and the applicable Treasury Regulations promulgated thereunder throughout the term of the Refunding Bonds.

SECTION 10. (a) Pursuant to the authority of and for the purposes specified herein, the Council hereby authorizes the City Manager, without further action of the Council, to sell the Refunding Bonds in one or more series in accordance with the provisions of Section 3 at competitive or negotiated sale at not less than ninety-seven percent (97%) of the principal amount thereof, plus accrued interest from their date to the date of delivery thereof and payment therefor, and on such other terms and conditions as are provided in the Official Notice of Sale thereof or in the Purchase Contract or Bond Purchase Agreement relating thereto; *provided* that a series of the Refunding Bonds may be sold, whether at competitive or negotiated sale, only if the refunding of the Refunded Bonds will result in net present value savings to the City of not less than three percent (3%), based on the principal amount of the related Refunded Bonds. The Refunding Bonds shall bear interest at such rates per annum as shall be approved by the City Manager; *provided, however*, in no event shall the true interest cost for the Refunding Bonds of any series exceed six percent (6%) and *provided further* in no event shall the premium payable by the City upon the redemption of the Refunding Bonds exceed two percent (2%) of the principal amount thereof.

(b) If the Bonds are sold at competitive sale, they may be sold contemporaneously with other bonds of the City under a combined Official Notice of Sale. If the Refunding Bonds are sold at competitive sale, the City Manager is hereby authorized to cause to be prepared and distributed (via electronic dissemination or otherwise) an Official Notice of Sale of the Refunding Bonds in such form and containing such terms and conditions as he may deem advisable, subject to the provisions hereof.

(c) If the Refunding Bonds are sold at negotiated sale, the City Manager is hereby authorized to select the underwriters for the Refunding Bonds of each series (the "Underwriters") and to sell the Refunding Bonds of each series at a negotiated sale to the Underwriters selected by the City Manager, and to execute and deliver to the Underwriters one

or more Purchase Contracts or Bond Purchase Agreements relating to the sale of the Refunding Bonds by the City to such Underwriters.

(d) The actions of the City Manager and other City officials, employees and agents of the City in connection with the authorization, issuance, sale and delivery of the Refunding Bonds and the refunding of the Refunded Bonds are hereby authorized, approved, ratified and confirmed.

SECTION 11. The City Manager is hereby authorized to cause to be prepared and distributed (via electronic dissemination or otherwise) a Preliminary Official Statement and a final Official Statement relating to each series of the Refunding Bonds. The City Manager is hereby further authorized to certify that the Preliminary Official Statement for the Refunding Bonds of each series authorized hereunder is "deemed final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 ("Rule 15c2-12"). The City Manager is hereby further authorized to execute and deliver to the purchasers of the Refunding Bonds of each series authorized hereunder a Continuing Disclosure Certificate or a Continuing Disclosure Agreement evidencing the City's undertaking to comply with the continuing disclosure requirements of Paragraph (b)(5) of Rule 15c2-12 to the extent applicable to the Refunding Bonds, such Continuing Disclosure Certificate or Continuing Disclosure Agreement to be in such form as shall be approved by the City Manager upon the advice of counsel (including the City Attorney or Bond Counsel to the City), such approval to be conclusively evidenced by the execution of such Continuing Disclosure Certificate or Continuing Disclosure Agreement by the City Manager. The Mayor is hereby authorized to execute and deliver the final Official Statement for the Refunding Bonds of each series authorized hereunder, and the City Manager, the Director of Budget and Evaluation and the City Attorney are hereby authorized to execute and deliver to the purchasers of the Refunding Bonds of each series certificates in the forms provided for in the Official Statement for the Refunding Bonds of such series.

SECTION 12. (a) The City Manager is hereby authorized to appoint an escrow agent (the "Escrow Agent") for the City in connection with the refunding of the Refunded Bonds.

(b) The City Manager is hereby authorized to execute and deliver an Escrow Deposit Agreement in connection with each series of Refunding Bonds by and between the City and the Escrow Agent in such form as shall be approved by the City Manager upon the advice of counsel (including the City Attorney or Bond Counsel), such approval to be conclusively evidenced by the execution of the Escrow Deposit Agreement by the City Manager.

(c) Either the City Manager or the Director of Budget and Evaluation, or their respective designees, are hereby authorized from time to time to execute, on behalf of the City, subscriptions for United States Time Deposit Securities - State and Local Government Series, if any, or purchase agreements for open market obligations, if any, to be purchased by the Escrow Agent as Government Securities (as defined in the Escrow Deposit Agreement) from moneys deposited in the Escrow Deposit Fund created and established under any Escrow Deposit Agreement and from time to time to authorize the sale of such United States Time Deposit Securities - State and Local Government Series and the purchase of other United States Time

Deposit Securities - State and Local Government Series or open market obligations of the United States in lieu of and in substitution therefor. Such United States Time Deposit Securities - State and Local Government Series, if any, and open market obligations so purchased shall be held by the Escrow Agent under and in accordance with the provisions of the related Escrow Deposit Agreement. Either the City Manager or the Director of Budget and Evaluation, or their respective designees, are hereby authorized to enter into such purchase agreements as shall be required in connection with the purchase by the Escrow Agent, from moneys deposited in the Escrow Deposit Fund created and established under any Escrow Deposit Agreement, of Government Securities (as defined in the Escrow Deposit Agreement) other than United States Time Deposit Securities - State and Local Government Series.

SECTION 13. Subject to the issuance, sale and delivery of the Refunding Bonds pursuant to this Ordinance, the Council hereby designates the Refunded Bonds to be redeemed, together with the interest accrued thereon to the respective dates fixed for the redemption thereof, plus the applicable premium, if any. The City Manager is hereby authorized and directed to deliver to the escrow agent under the Escrow Deposit Agreement, irrevocable written instructions to give notices of such redemption of the Refunded Bonds, in the name and on behalf of the City, to the holders thereof, such notices to be given in the manner and at the time or times provided in the respective proceedings authorizing the issuance of the respective bonds and to be in substantially the form to be set forth as an exhibit to the Escrow Deposit Agreement.

SECTION 14. The Refunding Bonds, the certificate of authentication of the registrar and paying agent and the assignment endorsed on the Refunding Bonds, shall be in substantially the forms set forth in Exhibit A.

SECTION 15. The City Clerk is hereby directed to file a copy of this Ordinance, certified by such City Clerk to be a true copy hereof, with the Circuit Court of the City of Newport News, Virginia.

SECTION 16. All ordinances and proceedings in conflict herewith are, to the extent of such conflict, repealed.

SECTION 17. In the event any Refunding Bonds authorized for issuance under this Ordinance shall not have been issued on or before December 31, 2016, such authorization to issue such Refunding Bonds shall terminate and shall be of no further force and effect.

SECTION 18. That this ordinance shall be in effect on and after the date of its adoption, January 26, 2016.

EXHIBIT A

**UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
CITY OF NEWPORT NEWS
GENERAL OBLIGATION [GENERAL IMPROVEMENT]
[WATER] REFUNDING BOND
SERIES __ OF ____**

REGISTERED

REGISTERED

No. [GR-__] [WR-__]

\$ _____

MATURITY DATE: INTEREST RATE: DATE OF BONDS: CUSIP NUMBER:

REGISTERED OWNER:

PRINCIPAL SUM:

DOLLARS

THE CITY OF NEWPORT NEWS, IN THE COMMONWEALTH OF VIRGINIA (THE "CITY"), FOR VALUE RECEIVED, ACKNOWLEDGES ITSELF INDEBTED AND HEREBY PROMISES TO PAY to the Registered Owner (named above), or registered assigns, on the Maturity Date (specified above) (unless this Bond shall be subject to prior redemption and shall have been duly called for previous redemption and payment of the redemption price duly made or provided for), the Principal Sum (specified above), and to pay interest on such Principal Sum on _____, ____ and semiannually on each _____ and _____ thereafter (each such date is hereinafter referred to as an "interest payment date"), from the date hereof or from the interest payment date next preceding the date of authentication hereof to which interest shall have been paid, unless such date of authentication is an interest payment date, in which case from such interest payment date, [or unless such date of authentication is within the period from the sixteenth (16th) day to the last day of the calendar month next preceding the following interest payment date, in which case from such following interest payment date, such interest to be paid until the maturity or redemption hereof at the Interest Rate (specified above) per annum, by check mailed by the Registrar and Paying Agent hereinafter mentioned to the Registered Owner hereof in whose name this Bond is registered upon the books of registry, as of the close of business on the fifteenth (15th) day (whether or not a business day) of the calendar month next preceding each interest payment date] [or unless such date of authentication is within the period from the first (1st) day to the fourteenth (14th) day of the calendar month in which the following interest payment date shall occur, in which case from such following interest payment date, such interest to be paid until the maturity or redemption hereof at the Interest Rate (specified above) per annum, by check mailed by the Registrar and Paying Agent hereinafter mentioned to the Registered Owner hereof in whose name this Bond is registered upon the books of registry, as of the close of business on the last day (whether or not a business day) of the calendar month next preceding each interest payment date]; *provided, however,* that so long as this Bond is in book-entry only form and registered in the name of

Cede & Co., as nominee of The Depository Trust Company ("DTC"), or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on this Bond shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer. Interest on this Bond shall be calculated on the basis of a three hundred and sixty (360) day year comprised of twelve (12) thirty (30) day months.

The principal of this Bond is payable on presentation and surrender hereof, at the designated corporate trust office of _____, the Registrar and Paying Agent, in the City of _____, _____. Principal of and interest on this Bond are payable in any coin or currency of the United States of America which, on the respective dates of payment thereof, shall be legal tender for public and private debts.

[*General Improvement Refunding Bonds:* This Bond is one of a series of Bonds of like date, denomination and tenor except as to number, interest rate and maturity issued for the purpose of providing funds to refund in advance of their stated maturities certain outstanding general obligation general improvement bonds of the City, under and pursuant to and in full compliance with the Constitution and statutes of the Commonwealth of Virginia, including Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), and ordinances and other proceedings of the Council of the City duly adopted and taken under the Public Finance Act of 1991.]

[*Water Refunding Bonds:* This Bond is one of a series of Bonds of like date, denomination and tenor except as to number, interest rate and maturity issued for the purpose of providing funds to refund in advance of their stated maturities certain outstanding general obligation water bonds of the City, under and pursuant to and in full compliance with the Constitution and statutes of the Commonwealth of Virginia, including Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), the Charter of the City, and ordinances and other proceedings of the Council of the City duly adopted and taken under the Public Finance Act of 1991.]

The Bonds of the series of which this Bond is one (or portions thereof in installments of \$5,000) maturing on and after _____ 1, ____ are subject to redemption at the option of the City prior to their stated maturities on or after _____ 1, _____, in whole or in part from time to time on any date, in such order as may be determined by the City (except that if at any time less than all of the Bonds of a given maturity are called for redemption, the particular Bonds or portions thereof in installments of \$5,000 of such maturity to be redeemed shall be selected by lot), upon payment of a redemption price equal to the principal amount of the Bonds to be redeemed, together with the interest accrued thereon to the date fixed for redemption thereof.

The Bonds of the series of which this Bond is one maturing on _____ 1, _____ are subject to mandatory sinking fund redemption on _____ 1, _____ and on _____ 1 of each year thereafter and to payment at maturity in the principal amounts in each year set forth below, in the case of redemption with the particular Bond or Bonds maturing on _____ 1, _____ or portions thereof to be redeemed to be selected by lot, upon payment of the principal amount of

the Bonds maturing on _____ 1, ____ to be redeemed, together with the interest accrued on the principal amount to be redeemed to the date fixed for the redemption thereof:

<u>Year</u>	<u>Principal Amount</u>
-------------	-------------------------

The City, at its option, may credit against such mandatory sinking fund redemption requirement the principal amount of any Bonds maturing on _____ 1, ____ which have been purchased and cancelled by the City or which have been redeemed and not theretofore applied as a credit against such mandatory sinking fund redemption requirement.

If this Bond is redeemable and this Bond (or any portion of the principal amount hereof in installments of \$5,000) shall be called for redemption, notice of the redemption hereof, specifying the date, number and maturity of this Bond, the date and place or places fixed for its redemption and if less than the entire principal amount of this Bond is to be redeemed, that this Bond must be surrendered in exchange for the portion of the principal amount hereof to be redeemed and a new Bond or Bonds issued equalling in principal amount that portion of the principal amount hereof not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the Registered Owner hereof at such Registered Owner's address as it appears on the books of registry kept by the Registrar and Paying Agent as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If notice of the redemption of this Bond (or the portion of the principal amount hereof to be redeemed) shall have been given as aforesaid, and payment of the principal amount of this Bond (or the portion of the principal amount hereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest hereon shall cease to accrue from and after the date so specified for the redemption hereof.

Any notice of the optional redemption of this Bond may state that it is conditioned upon there being on deposit with the City, or with the Registrar and Paying Agent on behalf of the City, on the date fixed for the redemption hereof an amount of money sufficient to pay the redemption price of this Bond, together with the interest accrued thereon to the date fixed for the redemption hereof, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of this Bond, together with the interest accrued thereon, is due and payable if any such condition so specified is not satisfied. If a redemption of this Bond does not occur after a conditional notice is given due to there not being on deposit with the City, or with the Registrar and Paying Agent on behalf of the City, a sufficient amount of money to pay the redemption price of this Bond, together with the interest accrued thereon to the date fixed for the redemption hereof, the corresponding notice of redemption shall be deemed to be revoked.

Subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the series of which this Bond is one, this Bond may be exchanged at the designated corporate trust office of the Registrar and Paying Agent for a like aggregate principal amount of Bonds of other authorized principal amounts and of the same

series, interest rate and maturity. This Bond is transferable by the Registered Owner hereof, in person or by such Registered Owner's attorney duly authorized in writing, on the books of registry kept by the Registrar and Paying Agent for such purpose at the designated corporate trust office of the Registrar and Paying Agent, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the series of which this Bond is one, and upon the surrender hereof for cancellation. Upon such transfer a new Bond or Bonds of authorized denominations and of the same aggregate principal amount, issue, interest rate and maturity as the Bond surrendered, will be issued to the transferee in exchange herefor.

[*General Improvement Refunding Bonds*: The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on this Bond as the same become due. In each year while this Bond is outstanding and unpaid, the Council of the City is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on this Bond to the extent other funds of the City are not lawfully available and appropriated for such purpose.]

[*Water Refunding Bonds*: The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on this Bond as the same become due to the extent the income and revenues of the waterworks system of the City are or will be insufficient to provide for the payment of the principal of and interest on the Bonds of the issue of Bonds of which this Bond is one. In each year while this Bond is outstanding and unpaid, the Council of the City is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes in the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on this Bond to the extent other funds of the City are not lawfully available and appropriated for such purpose.]

This Bond shall not be valid or obligatory unless the certificate of authentication hereon shall have been manually signed by an authorized officer of the Registrar and Paying Agent.

It is certified, recited and declared that all acts, conditions and things required to exist, happen or be performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City does not exceed any limitation of indebtedness prescribed by the Constitution or statutes of the Commonwealth of Virginia or the Charter of the City.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City; a facsimile of the corporate seal of the City to be imprinted hereon attested by the manual or facsimile signature of the City Clerk of the City; and this Bond to be dated first above written.

CITY OF NEWPORT NEWS, VIRGINIA

Mayor

[SEAL]

Attest:

City Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds delivered pursuant to the within-mentioned proceedings.

[_____] ,
Registrar and Paying Agent

By: _____
Authorized Officer

Date of Authentication: _____

ASSIGNMENT

For value received the undersigned hereby sell(s), assign(s) and transfer(s) unto

(Please print or type name and address, including postal zip code, of Assignee)

PLEASE INSERT SOCIAL SECURITY OR
OTHER TAX IDENTIFYING NUMBER OF ASSIGNEE

the within Bond and all rights hereunder, hereby irrevocably constituting and appointing _____, Attorney, to transfer such Bond on the books kept for the registration thereof, with the full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of The New York Stock Exchange, Inc. or a commercial bank or trust company.

(Signature of Registered Owner)
NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Bond in every particular, without alteration, enlargement or any change whatsoever.

G. Other City Council Actions

3. Resolution Authorizing a Five (5) Year License Agreement for the Maintenance and Use of East Boundary Road and Directing the City Manager to Execute the License Agreement By and Between the City and Mariners' Museum

ACTION: A REQUEST TO APPROVE A RESOLUTION AUTHORIZING A FIVE (5) YEAR LICENSE AGREEMENT FOR THE MAINTENANCE AND USE OF EAST BOUNDARY ROAD AND DIRECTING THE CITY MANAGER TO EXECUTE THE LICENSE AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS AND THE MARINERS' MUSEUM.

BACKGROUND:

- East Boundary Road is a private street owned by the Mariners' Museum and serves as a key portion of the One City Marathon race route.
- In a review of the proposed race route, East Boundary Road was observed by the City to have a number of potholes and other surface deficiencies.
- This resolution will authorize the City Manager to execute a five (5) year agreement that supports the provision of street repair and materials, and labor prior to the annual Marathon.

FISCAL IMPACT:

- The total cost of the repair materials is estimated by the City to be approximately no more than \$5,000 per year.
- Material costs would come from the General Fund annual operating budget and installation costs would be absorbed by Public Works as an operating budget expense.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re License Agrmnt for E. Boundary Rd

Attachment-Location Map License Agmt E Boundary Road Repairs

sdm14058 Reso Approving a 5 Year License Agmt with The Mariners' Museum

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: License Agreement: Road Repairs on East Boundary Road

City Council is requested to approve a resolution authorizing the City Manager to execute a license agreement between the City of Newport News and the Mariners' Museum regarding road repairs on East Boundary Road.

East Boundary Road is a private street owned by the Mariners' Museum and is located on the southern side of Lake Maury running between Warwick Boulevard and Museum Drive. East Boundary Road serves as a key portion of the One City Marathon race route. In a review of the proposed race route, East Boundary Road was observed by the City to have a number of potholes and other surface deficiencies. Therefore, it is requested to authorize the City Manager to execute a five (5) year agreement that supports the provision of street repair materials and labor to patch the potholes and perform other repairs prior to the annual One City Marathon.

The total cost of the repair materials is estimated by the City to be approximately no more than \$5,000 per year. The costs would be the General Fund annual operating budget, with expenses associated with the cost of materials. Installation costs would be absorbed by Public Works as an operating budget expense.

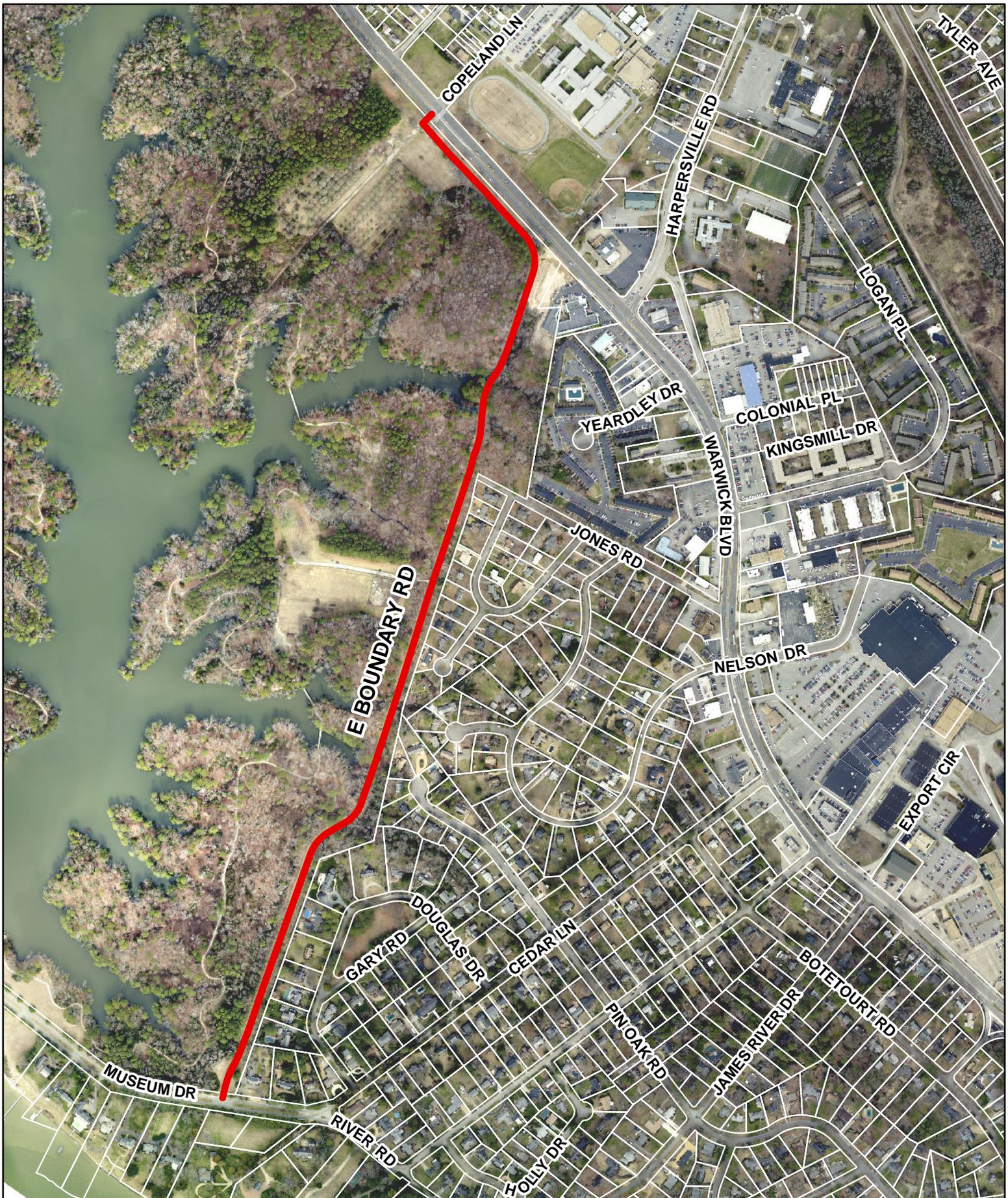
I recommend City Council approve the agreement.


James M. Bourey

JMB:DTW:wjr

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA

License Agreement for Road Repairs E Boundary Road



RESOLUTION NO. _____

A RESOLUTION APPROVING A FIVE YEAR LICENSE AGREEMENT CONCERNING STREET REPAIRS AND USE OF EAST BOUNDARY ROAD (A/K/A E. BOUNDARY ROAD) IN NEWPORT NEWS, VA AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN LICENSE AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND THE MARINERS' MUSEUM DATED THE 26TH DAY OF JANUARY, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby approves a five year license agreement which the City will donate the street repair materials and labor to repair potholes on East Boundary Road (a/k/a E. Boundary Road) in Newport News, Virginia, in exchange for The Mariners' Museum allowing the City to utilize E. Boundary Road for the annual marathon, pursuant to the terms of that certain License Agreement by and between the City of Newport News, Virginia, and The Mariners' Museum dated the 26th day of January, 2016, hereinafter referred to as the License Agreement.
2. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest the License Agreement on behalf of the City of Newport News.
3. That a copy of the Agreement is attached hereto and made a part hereof.
4. That this resolution shall be in effect on and after the date of its adoption, January 26, 2016.

**LICENSE AGREEMENT BETWEEN
THE CITY OF NEWPORT NEWS, VIRGINIA AND THE MARINERS' MUSEUM
REGARDING ROAD REPAIRS ON EAST BOUNDARY ROAD**

THIS License Agreement (this "Agreement") is dated January 26, 2016 and is entered into by and between the **City of Newport News, Virginia** (the "City") and **The Mariners' Museum** (the "Museum") and is based on the following premises:

- A. The City has advised the Museum that the City will hold the "One City Marathon" (the "Marathon") on Sunday, March 13, 2016 and each subsequent year during the month of March on a date to be announced, and desires to utilize East Boundary Road (a/k/a E. Boundary Road) as a part of the race route.
- B. East Boundary Road is a private street owned by the Museum and is located on the southern side of Lake Maury running between Warwick Boulevard and Museum Drive.
- C. The City has requested permission from the Museum to utilize East Boundary Road (a/k/a E. Boundary Road) as a part of the race route.
- D. In a review of the proposed race route, East Boundary Road was observed by the City to have a number of potholes and other surface deficiencies.
- E. The City Council has indicated their support for the provision of street repair materials and labor to patch the potholes and perform other repairs prior to the annual Marathon. The total cost of the repair materials is estimated by the City to be approximately no more than \$5,000 per year.

NOW, THEREFORE, WITNESETH: that as an accommodation to the City, and for and in consideration for the following provisions, the City and the Museum agree as follows:

- 1. The City agrees to donate the street repair materials (estimated by the City to cost approximately no more than \$5,000 per year) and labor to patch the potholes and perform other street repairs on East Boundary Road as necessary to eliminate the potholes and other surface deficiencies such that East Boundary Road shall be a safe running surface for participants in the Marathon (the "Repair Work"). The parties acknowledge that the Museum has no expertise in determining the repairs required to Boundary Road to provide such a safe running surface and are relying on the experience and expertise of the City to accomplish the required repairs to provide such a safe running surface.
- 2. The Museum agrees to make East Boundary Road available for the Repair Work to occur at the City's convenience.

APPROVED AS TO FORM:

Collins L. Owens, Jr., City Attorney Date

G. Other City Council Actions

4. Item 1 of 2: Department of Engineering – Additional Funds from the Virginia Department of Environmental Quality Stormwater Local Assistance Fund (SLAF): Construction of Glen Allen and Turnberry Stream Restoration Projects – \$55,036

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING AN ADDITIONAL \$55,036 FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY STORMWATER LOCAL ASSISTANCE FUND (SLAF) FOR THE CONSTRUCTION OF GLEN ALLEN AND TURNBERRY STREAM RESTORATION PROJECTS.

BACKGROUND:

- The Glen Allen Stream Restoration Project is in the Carleton Falls Subdivision in the north section of the City.
- The Turnberry Stream Restoration Project is along the north branch of Lucas Creek between Loch Ness Drive and the Jefferson Commons Shopping Plaza.
- Both channels are experiencing severe erosion, degradation, instability and present significant risk exposure to existing structures.
- The proposed improvements will enhance the structural integrity of both channels, increase flood plain connectivity and provide stormwater attenuation.

FISCAL IMPACT:

- Council previously appropriated SLAF funds of \$379,358, the City's original grant award.
- Based on construction bids received, the City has received an additional \$55,036 in SLAF funds bringing the total grant fund award to \$434,394.
- The City match of \$521,000 is available from previously appropriated stream restoration project funds.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re Glen Allen & Turnberry Stream Projects

Location Map

sdm14041 Appropriation re Glen Allen and Turnberry Stream Restoration Projects

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Glen Allen and Turnberry Stream Restoration Projects

City Council is requested to approve a resolution for the appropriation of an additional Virginia Department of Environmental Quality (DEQ) Stormwater Local Assistance Fund (SLAF) award in the amount of \$55,036 for construction of the Glen Allen and Turnberry Stream Restoration projects and to authorize the City Manager to execute a grant agreement and to further execute any subsequent agreements needed to complete these projects.

The Glen Allen project is in the Carleton Falls Subdivision along an unnamed tributary of Skiffes' Creek in the north section of the City, and the Turnberry project is along the north branch of Lucas Creek adjacent to the Turnberry Wells Apartment Complex and Jefferson Commons Shopping Plaza in the central area of the City.

The existing natural channels at both locations are experiencing degradation of the streambed and severe erosion of the embankments. The migration of sediment has significantly degraded the channel, and there is instability of the banks in close proximity to existing structures adjacent to the streams. The proposed improvements are being developed to enhance the structural integrity of the channels, increase floodplain connectivity, and provide stormwater attenuation. These enhancements range from stone riprap for energy dissipation to channel benching, wetlands vegetation, in-channel grade changes, and creating bends in the streambed to more effectively conduct stormwater runoff.

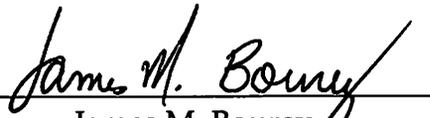
These projects are considered critical because their implementation provides pollutant reductions to assist the City's ability to conform to the requirements of the Total Maximum Daily Load (TMDL) limits set by the

The Honorable City Council
Page 2
Glen Allen and Turnberry Stream Restoration Projects
January 20, 2016

Virginia Department of Environmental Quality (DEQ) delegated from the Environmental Protection Agency (EPA).

The total combined project cost is \$956,489. Council previously appropriated SLAF funds of \$379,358, the City's original grant award. Based on construction bids received, the City has received an additional \$55,036 in SLAF funds bringing the total grant fund to award \$434,394 with the City match of \$522,095 available from previously appropriated stream restoration project funds.

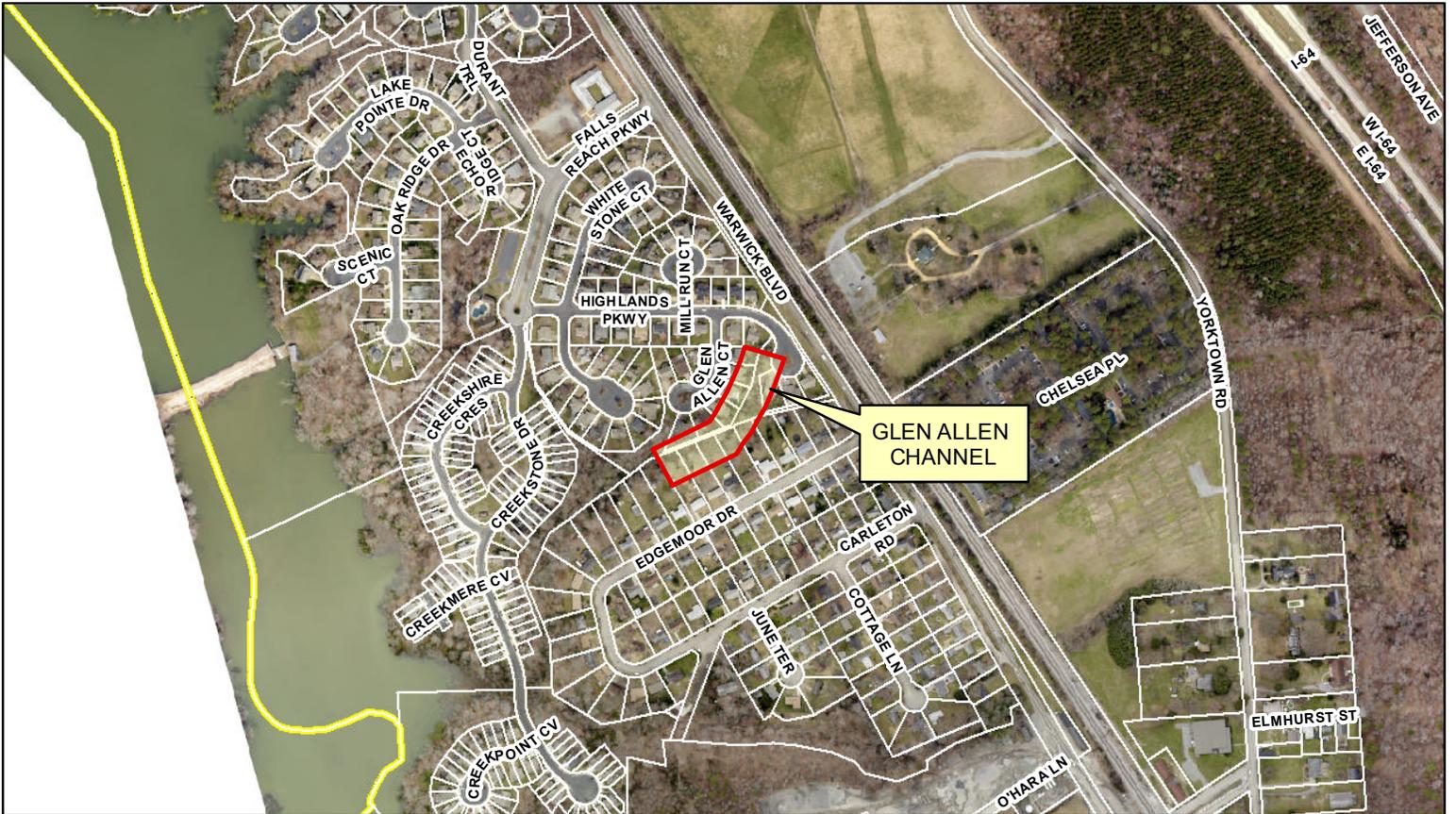
I recommend City Council approve the resolution.


James M. Bourey

JMB:ERB:me

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA

GLEN ALLEN COURT/TURNBERRY CHANNEL IMPROVEMENTS - STREAM RESTORATION



RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM STATE REVENUE TO GLEN ALLEN AND TURNBERRY STREAM RESTORATION PROJECTS.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

That it hereby appropriates funds from State Revenue to Glen Allen and Turnberry Stream Restoration Projects, as follows:

Appropriation From:

State Revenue	
4300-000-00-0000-482000-000000-0000-	
N5002-N5002	\$ 55,036.00

Appropriation To:

Glen Allen and turnberry Stream	
Restoration Projects	
4300-250-70-700N-579420-000000-0000-	
00000-N5002	\$ 55,036.00

G. Other City Council Actions

5. Part 2 of 2: Resolution Authorizing the City Manager to Execute a Grant Agreement between the City and the Virginia Department of Environmental Quality (DEQ)

ACTION: A REQUEST TO APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT BETWEEN THE CITY AND THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) FOR THE GLEN ALLEN AND TURNBERRY STREAM RESTORATION PROJECTS.

BACKGROUND:

- The City has competed for and successfully secured a Stormwater Local Assistance Fund (SLAF) matching grant from DEQ to support the construction of the Glenn Allen and Turnberry Stream Restoration projects.
- The DEQ requires the City to execute a grant agreement for use of the SLAF funding.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

sdm14037 Authorizing re Grant Agreement between DEQ and City

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN GRANT AGREEMENT BY AND BETWEEN THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF NEWPORT NEWS, VIRGINIA, DATED THE 26TH DAY OF JANUARY, 2016, FOR STORMWATER PROJECTS.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Grant Agreement by and between the Virginia Department of Environmental Quality and the City of Newport News, Virginia, dated the 26th day of January, 2016, for stormwater projects.

2. That a copy of the said Agreement is attached hereto and made a part hereof.

**STORMWATER LOCAL ASSISTANCE FUND
GRANT AGREEMENT
SLAF Grant No.: 14-10**

THIS AGREEMENT is made as of this 26th day of January, 2016 by and between the Virginia Department of Environmental Quality (the "Department"), and City of Newport News, Virginia (the "Grantee").

Pursuant to Item 360 in Chapter 860 of the 2013 Acts of Assembly (the Commonwealth's 2013-14 Budget) (the "Act"), the General Assembly created the Stormwater Local Assistance Fund (the "Fund"). The Department is authorized pursuant to Item C-39.40 in Chapter 1 of the 2014 Acts of Assembly, Special Session I, to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads.

The Grantee has been approved by the Department to receive a Grant from the Fund subject to the terms and conditions herein to finance fifty percent (50%) of the cost of the Eligible Project, which consists of the planning, design and implementation of best management practices for stormwater control as described herein. The Grantee will use the Grant to finance that portion of the Eligible Project Costs not being paid for from other sources as set forth in the Total Project Budget in Exhibit B to this Agreement. Such other sources may include, but are not limited to, the Virginia Water Facilities Revolving Fund, Chapter 22, Title 62.1 of the Code of Virginia (1950), as amended.

This Agreement provides for payment of the Grant, design and construction of the Eligible Project, and development and implementation by the Grantee of provisions for the long-term responsibility and maintenance of the stormwater management facilities and other techniques installed under the Eligible Project. This Agreement is supplemental to the State Water Control Law, Chapter 3.1, Title 62.1 of the Code of Virginia (1950), as amended, and it does not limit in any way the other water quality restoration, protection and enhancement, or enforcement authority of the State Water Control Board (the "Board") or the Department.

ARTICLE I
DEFINITIONS

1. The capitalized terms contained in this Agreement shall have the meanings set forth below unless the context requires otherwise:

(a) "Agreement" means this Stormwater Local Assistance Fund Grant Agreement between the Department and the Grantee, together with any amendments or supplements hereto.

(b) "Authorized Representative" means any member, official or employee of the Grantee authorized by resolution, ordinance or other official act of the governing body of the Grantee to perform the act or sign the document in question.

(c) "Capital Expenditure" means any cost of a type that is properly chargeable to a capital account (or would be so chargeable with (or but for) a proper election or the application of the definition of "placed in service" under Treasury Regulation Section 1.150-2(c)) under general federal income tax principles, determined at the time the expenditure is paid.

(d) "Eligible Project" means all grant eligible items of the particular stormwater project described in Exhibit A to this Agreement to be designed and constructed by the Grantee with, among other monies, the Grant, with such changes thereto as may be approved in writing by the Department and the Grantee.

(e) "Eligible Project Costs" means costs of the individual items comprising the Eligible Project as permitted by the Act with such changes thereto as may be approved in writing by the

Department and the Grantee. All Eligible Project Costs shall be Capital Expenditures and no Eligible Project Costs shall be Working Capital Expenditures.

(f) "Extraordinary Conditions" means unforeseeable or exceptional conditions resulting from causes beyond the reasonable control of the Grantee such as, but not limited to fires, floods, strikes, acts of God, and acts of third parties that singly or in combination cause material breach of this Agreement.

(g) "Grant" means the particular grant described in Section 4.0 of this Agreement, with such changes thereto as may be approved in writing by the Department and the Grantee.

(h) "Total Eligible Project Budget" means the sum of the Eligible Project Costs as set forth in Exhibit B to this Agreement, with such changes thereto as may be approved in writing by the Department and the Grantee.

(i) "Total Project Budget" means the sum of the Eligible Project Costs (with such changes thereto as may be approved in writing by the Department and the Grantee) plus any ineligible costs that are solely the responsibility of the Grantee, as set forth in Exhibit B to this Agreement.

(j) "Project Engineer" means the Grantee's engineer who must be a licensed professional engineer registered to do business in Virginia and designated by the Grantee as the Grantee's engineer for the Eligible Project in a written notice to the Department.

(k) "Project Schedule" means the schedule for the Eligible Project as set forth in Exhibit C to this Agreement, with such changes thereto as may be approved in writing by the Department and the Grantee. The Project Schedule assumes timely approval of adequate plans and specifications and timely reimbursement in accordance with this Agreement by the Department.

(l) "Working Capital Expenditure" means any cost that is not a Capital Expenditure. Generally, current operating expenses are Working Capital Expenditures.

(m) "VPBA" means the Virginia Public Building Authority, a political subdivision of the Commonwealth of Virginia.

(n) "VPBA Bonds" means (i) the Virginia Public Building Authority Public Facilities Revenue Bonds, Series 2013A, which were issued by VPBA on February 21, 2013, (ii) any other bonds issued by VPBA, the proceeds of which are used in whole or in part to provide funds for the making of the Grant, and (iii) any refunding bonds related thereto.

ARTICLE II **SCOPE OF PROJECT**

2. The Grantee will cause the Eligible Project to be designed, constructed and placed in operation as described in Exhibit A to this Agreement.

ARTICLE III **SCHEDULE**

3. The Grantee will cause the Eligible Project to be designed, constructed and placed in operation in accordance with the Project Schedule in Exhibit C to this Agreement.

ARTICLE IV **COMPENSATION**

4.0. **Grant Amount.** The total Grant award from the Fund under this Agreement is up to **\$434,394.00** and represents the Commonwealth's fifty percent (50%) share of the Total Eligible Project

Budget. Any material changes made to the Eligible Project after execution of this Agreement, which alters the Total Eligible Project Budget, will be submitted to the Department for review of grant eligibility. The amount of the Grant award set forth herein may be modified from time to time by agreement of the parties to reflect changes to the Eligible Project or the Total Eligible Project Budget.

4.1. Payment of Grant. Disbursement of the Grant will be in accordance with the payment provisions set forth in Section 4.2 herein and the eligibility determinations made in the Total Project Budget (Exhibit B).

4.2. Disbursement of Grant Funds. The Department will disburse the Grant to the Grantee not more frequently than once each calendar month for approved eligible reimbursement of a minimum of one thousand (\$1,000.00) dollars, excluding the final payment, upon receipt by the Department of the following:

(a) A requisition for approval by the Department, signed by the Authorized Representative and containing all receipts, vouchers, statements, invoices or other evidence that costs in the Total Eligible Project Budget, including the applicable local share for the portion of the Eligible Project covered by such requisition, have been incurred or expended and all other information called for by, and otherwise being in the form of, Exhibit D to this Agreement.

(b) If any requisition includes an item for payment for labor or to contractors, builders or material men, a certificate, signed by the Project Engineer, stating that such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the construction of the Eligible Project.

Upon receipt of each such requisition and accompanying certificate(s) and schedule(s), the Department shall request disbursement of the Grant to the Grantee in accordance with such requisition to the extent approved by the Department.

Except as may otherwise be approved by the Department, disbursements shall be held at ninety-five percent (95%) of the total Grant amount to ensure satisfactory completion of the Eligible Project. Satisfactory completion includes the submittal to the Department the Responsibilities & Maintenance Plan required by Section 5.1 herein. Upon receipt from the Grantee of the certificate specified in Section 4.5 and a final requisition detailing all retainage to which the Grantee is then entitled, the Department, subject to the provisions of this section and Section 4.3 herein, shall request disbursement to the Grantee of the final payment from the Grant.

4.3 Application of Grant Funds. The Grantee agrees to apply the Grant solely and exclusively to the reimbursement of Eligible Project Costs. The Grantee represents and warrants that the average reasonably expected economic life of the assets to be financed with the Grant is set forth in Exhibit E attached hereto.

4.4. Agreement to Complete Project. The Grantee agrees to cause the Eligible Project to be designed and constructed, as described in Exhibit A to this Agreement, and in accordance with (i) the schedule in Exhibit C to this Agreement and (ii) plans and specifications prepared by the Project Engineer and approved by the Department.

4.5 Notice of Substantial Completion. When the Eligible Project has been completed, the Grantee shall promptly deliver to the Department a certificate signed by the Authorized Representative and by the Project Engineer stating (i) that the Eligible Project has been completed substantially in accordance with the approved plans and specifications and addenda thereto, and in substantial compliance with all material applicable laws, ordinances, rules, and regulations; (ii) the date of such completion; (iii) that all certificates of occupancy and operation necessary for start-up for the Eligible Project have been issued or obtained; and (iv) the amount, if any, to be released for payment of the final Eligible Project Costs.

4.6 Source of Grant Funds; Reliance. The Grantee represents that it understands that the Grant funds are derived from the proceeds of the VPBA Bonds, the interest on which must remain excludible from gross income for federal income tax purposes (that is, "tax- exempt") pursuant to contractual covenants made by VPBA for the benefit of the owners of the VPBA Bonds. The Grantee further represents that (a) the undersigned Authorized Representative of the Grantee has been informed of the purpose and scope of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended, as they relate to the VPBA Bonds and the Grant, and (b) the representations and warranties contained in this Agreement can be relied on by VPBA and bond counsel to VPBA in executing certain documents and rendering certain opinions in connection with the VPBA Bonds.

ARTICLE V

RESPONSIBILITIES AND MAINTENANCE PLAN

5.0 Plan Submittal. No later than thirty (30) days from the date of the Notice of Substantial Completion, the Grantee shall submit to the Department a Responsibilities and Maintenance Plan for the Eligible Project.

5.1 Plan Elements. The plan required by Section 5.0 shall include a description of the project type, a recommended schedule of inspection and maintenance, and the identification of a person, persons or position within an organization responsible for administering and maintaining the plan for the useful service life of the installed facilities. If the Eligible Project includes construction on private property, the plan shall document the Grantee's right to access the Eligible Project for purposes of implementing the plan required by Section 5.0.

5.2 Recordation. Long-term responsibility and maintenance requirements for stormwater management facilities located on private property shall be set forth in an instrument recorded in the local land records and shall be consistent with 9VAC25-870-112 of the Virginia Stormwater Management Program (VSMP) Permit Regulations.

ARTICLE VI

MATERIAL BREACH

6.0. Material Breach. Any failure or omission by the Grantee to perform its obligations under this Agreement, unless excused by the Department, is a material breach.

6.1. Notice of Material Breach. If at any time the Grantee determines that it is unable to perform its obligations under this Agreement, the Grantee shall promptly provide written notification to the Department. This notification shall include a statement of the reasons it is unable to perform, any actions to be taken to secure future performance and an estimate of the time necessary to do so.

6.2. Monetary Assessments for Breach. In case of Material Breach, Grant funds will be re-paid into the State Treasury and credited to the Fund. Within 90 days of receipt of written demand from the Department, the Grantee shall re-pay the Grant funds for the corresponding material breaches of this Agreement unless the Grantee asserts a defense pursuant to the requirements of Section 6.3 herein.

6.3 Extraordinary Conditions.

(a) The Grantee may assert and it shall be a defense to any action by the Department to collect Grant funds or otherwise secure performance of this Agreement that the alleged non-performance was due to Extraordinary Conditions, provided that the Grantee:

(1) takes reasonable measures to effect a cure or to minimize any non-performance with the Agreement, and

(2) provides written notification to the Department of the occurrence of Extraordinary Conditions, together with an explanation of the events or circumstances contributing to such Extraordinary Conditions, no later than 10 days after the discovery of the Extraordinary Conditions.

(b) If the Department disagrees that the events or circumstances described by the Grantee constitute Extraordinary Conditions, the Department must provide the Grantee with a written objection within sixty (60) days of Grantee's notice under paragraph 6.3(a)(2), together with an explanation of the basis for its objection.

6.4 Resolution and Remedy. If no resolution is reached by the parties, the Department may immediately bring an action in the Circuit Court of the City of Richmond to recover part or all of the Grant funds. In any such action, the Grantee shall have the burden of proving that the alleged noncompliance was due to Extraordinary Conditions. The Grantee agrees to venue to any such action in the Circuit Court of the City of Richmond, either north or south of the James River in the option of the Department.

6.5 Indemnification. To the extent permitted by law and without waiving sovereign immunity, and subject to legally available funds lawfully appropriated for such purpose, the Grantee shall indemnify and hold the Department, the Fund, VPBA and the owners of the VPBA Bonds, and their respective members, directors, officers, employees, attorneys and agents (the "Indemnitees"), harmless against any and all liability, losses, damages, costs, expenses, penalties, taxes, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with any misrepresentation, breach of warranty, noncompliance or default by or on behalf of the Grantee under this Agreement, including, without limitation, all claims or liability (including all claims of and liability to the Internal Revenue Service) resulting from, arising out of or in connection with the loss of the excludability from gross income of the interest on all or any portion of the VPBA Bonds that may be occasioned by any cause whatsoever pertaining to such misrepresentation, breach, noncompliance or default, such indemnification to include the reasonable costs and expenses of defending itself or investigating any claim of liability and other reasonable expenses and attorneys' fees incurred by any of the Indemnitees in connection therewith. This paragraph shall not constitute an express or implied waiver of any applicable immunity afforded the Grantee.

ARTICLE VII GENERAL PROVISIONS

7.0. Effect of the Agreement on Permits. This Agreement shall not be deemed to relieve the Grantee of its obligations to comply with the terms of its Virginia Pollutant Discharge Elimination System (VPDES) and/or Virginia Water Protection (VWP) permit(s) issued by the Board. This Agreement does not obviate the need to obtain, where required, any other State or Federal permit(s).

7.1. Disclaimer. Nothing in this Agreement shall be construed as authority for either party to make commitments which will bind the other party beyond the covenants contained herein.

7.2. Non-Waiver. No waiver by the Department of any one or more defaults by the Grantee in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default or defaults of whatever character.

7.3. Integration and Modification. This Agreement constitutes the entire Agreement between the Grantee and the Department. No alteration, amendment or modification of the provisions of this Agreement shall be effective unless reduced to writing, signed by both the parties and attached hereto.

This Agreement may be modified by agreement of the parties for any purpose, provided that any significant modification to this Agreement must be preceded by public notice of such modification.

7.4. Collateral Agreements. Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements which are made a part of this Agreement by reference, the provisions of this Agreement shall control.

7.5. Non-Discrimination. In the performance of this Agreement, the Grantee warrants that it will not discriminate against any employee, or other person, on account of race, color, sex, religious creed, ancestry, age, national origin or other non-job related factors. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

7.6. Conflict of Interest. The Grantee warrants that it has fully complied with the Virginia Conflict of Interest Act as it may apply to this Agreement.

7.7. Applicable Laws. This Agreement shall be governed in all respects whether as to validity, construction, capacity, performance or otherwise, by the laws of the Commonwealth of Virginia. The Grantee further agrees to comply with all laws and regulations applicable to the Grantee's performance of its obligations pursuant to this Agreement.

7.8. Records Availability. The Grantee agrees to maintain complete and accurate books and records of the Eligible Project Costs, and further, to retain all books, records, and other documents relative to this Agreement for three (3) years after final payment. The Department, its authorized agents, and/or State auditors will have full access to and the right to examine any of said materials during said period. Additionally, the Department and/or its representatives will have the right to access work sites during normal business hours, after reasonable notice to the Grantee, for the purpose of ensuring that the provisions of this Agreement are properly carried out.

7.9. Severability. Each paragraph and provision of this Agreement is severable from the entire Agreement; and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

7.10. Notices. All notices given hereunder shall be in writing and shall be sent by United States certified mail, return receipt requested, postage prepaid, and shall be deemed to have been received at the earliest of: (a) the date of actual receipt of such notice by the addressee, (b) the date of the actual delivery of the notice to the address of the addressee set forth below, or (c) five (5) days after the sender deposits it in the mail properly addressed. All notices required or permitted to be served upon either party hereunder shall be directed to:

Department: Virginia Department of Environmental Quality
Clean Water Financing and Assistance Program
P.O. Box 1105
Richmond, VA 23218
Attn: CWFAP Program Manager

Grantee: City of Newport News, Virginia
2400 Washington Avenue
10th Floor, City Hall
Newport News, VA 23607
Attn: Mr. James M. Bourey

7.11. Successors and Assigns Bound. This Agreement shall extend to and be binding upon the parties hereto, and their respective legal representatives, successors and assigns.

7.12. Exhibits. All exhibits to this Agreement are incorporated herein by reference.

7.13. Termination. The Agreement shall terminate upon final reimbursement to the Grantee.

**ARTICLE VIII
COUNTERPARTS**

8. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**ARTICLE IX
CREDIT GENERATION**

9. Any land area generating stream or wetland mitigation credits from the Eligible Project is not eligible for the generation of any other environmental credits. Any project designs approved by the Department under the Grant may not meet the design requirements for approval from other State or Federal water programs. The Grantee is responsible for obtaining information on design and permit requirements for the type of environmental credit they are seeking.

WITNESS the following signatures, all duly authorized.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____

Its: _____

Date: _____

GRANTEE'S AUTHORIZED REPRESENTATIVE

By: _____

Its: City Manager _____

Date: _____

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

EXHIBIT A

ELIGIBLE PROJECT DESCRIPTION

Grantee: City of Newport News, Virginia

SLAF Grant No.: 14-10

Project Description:

Turnberry Wells: 790 linear feet of stream restoration.

Glen Allen Court: 1050 linear feet of stream restoration.

EXHIBIT B

TOTAL PROJECT BUDGET

Grantee: City of Newport News, Virginia

SLAF Grant No.: 14-10

The following budget reflects the estimated costs associated with eligible cost categories of the project.

Project Category / Project Name	Project Cost	SLAF Eligible	Grant %	Grant Amount
Design Engineering				
Turnberry Wells	\$130,515.00	\$ -		\$0.00
Glen Allen Court	\$31,545.00	\$ -		\$0.00
				\$0.00
				\$0.00
Sub-Total	\$162,060.00			\$0.00
Construction				
Turnberry Wells	\$492,243.25	\$ 492,244.00	50.00%	\$246,122.00
Glen Allen Court	\$464,245.80	\$ 351,932.00	50.00%	\$175,966.00
				\$0.00
				\$0.00
Sub-Total	\$956,489.05	\$ 844,176.00	50.00%	\$422,088.00
Other				
Contingency-Turnberry Wells	\$24,612.00	\$ 24,612.00	50.00%	\$12,306.00
				\$0.00
				\$0.00
				\$0.00
Sub-Total	\$24,612.00	\$ 24,612.00	50.00%	\$12,306.00
TOTALS	\$1,143,161.05	\$ 868,788.00	50.00%	\$434,394.00

City of Newport News, Virginia

EXHIBIT C

PROJECT SCHEDULE

Grantee: City of Newport News, Virginia

SLAF Grant No.: 14-10

The Grantee has proposed the following schedule of key activities/milestones as a planning tool which may be subject to change. Unless authorized by a grant modification, it is the responsibility of the Grantee to adhere to the anticipated schedule for the Eligible Project as follows:

Project Name	Project Description / Milestone	Schedule / Timeline	Note
Turnberry Wells	Start Construction	2/1/2016	
	Complete Construction	6/30/2016	
Glen Allen Court	Start Construction	2/1/2016	
	Complete Construction	6/30/2016	

1. Project notes (if any).

City of Newport News, Virginia

EXHIBIT D

REQUISITION FOR REIMBURSEMENT
(To be on Grantee's Letterhead)

Department of Environmental Quality
Clean Water Financing and Assistance Program
P.O. Box 1105
Richmond, VA 23218
Attn.: CWFAP Program Manager

RE: Stormwater Local Assistance Fund Grant

SLAF Grant No.: 14-10

Dear Program Manager:

This requisition, Number _____, is submitted in connection with the referenced Grant Agreement, dated as of [*insert date of grant agreement*] between the Virginia Department of Environmental Quality and _____. Unless otherwise defined in this requisition, all capitalized terms used herein shall have the meaning set forth in Article I of the Grant Agreement. The undersigned Authorized Representative of the Grantee hereby requests disbursement of grant proceeds under the Grant Agreement in the amount of \$_____, for the purposes of payment of the Eligible Project Costs as set forth on Schedule I attached hereto.

Copies of invoices relating to the items for which payment is requested are attached.

The undersigned certifies that the amounts requested by this requisition will be applied solely and exclusively to the reimbursement of the Grantee for the payment of Eligible Project Costs that are Capital Expenditures.

This requisition includes (if applicable) an accompanying Certificate of the Project Engineer as to the performance of the work.

Sincerely,

(Authorized Representative of the Grantee)

Attachments

City of Newport News, Virginia

SCHEDULE 1
STORMWATER LOCAL ASSISTANCE FUND
FORM TO ACCOMPANY REQUEST FOR REIMBURSEMENT

REQUISITION # _____
 Grantee: City of Newport News, Virginia

SLAF Grant No.: 14-10 CERTIFYING SIGNATURE: _____ TITLE: _____

Cost Category	Total Project Budget	SLAF Eligible Project Budget	SLAF 50% Grant Budget	Eligible Expenditures This Period	Current Grant Payment	Previous Grant Payment	Total Grant Payments to Date	SLAF Grant Balance
Engineering								
Turnberry Wells	\$0.00	\$0.00	\$0.00					
Glen Allen Court	\$0.00	\$0.00	\$0.00					
Sub-Total	\$0.00	\$0.00	\$0.00					
Construction								
Turnberry Wells	\$492,243.25	\$492,244.00	\$246,122.00					
Glen Allen Court	\$464,245.80	\$351,932.00	\$175,966.00					
Sub-Total	\$956,489.05	\$844,176.00	\$422,088.00					
Other								
Contingency (5%) Turnberry	\$24,612.00	\$24,612.00	\$12,306.00					
Sub-Total	\$24,612.00	\$24,612.00	\$12,306.00					
Totals	\$981,101.05	\$868,788.00	\$434,394.00					

Total Grant Amount: \$ 434,394.00
 Previous Disbursements: \$ _____
 This Request: \$ _____
 Grant Proceeds Remaining: \$ _____

City of Newport News, Virginia

CERTIFICATE OF THE PROJECT ENGINEER
FORM TO ACCOMPANY REQUEST FOR REIMBURSEMENT

Grantee: City of Newport News, Virginia

SLAF Grant No.: 14-10

This Certificate is submitted in connection with Requisition Number _____, dated _____, 20____, submitted by the _____ (the "Grantee") to the Virginia Department of Environmental Quality. Capitalized terms used herein shall have the same meanings set forth in Article I of the Grant Agreement referred to in the Requisition.

The undersigned Project Engineer for _____ hereby certifies that insofar as the amounts covered by this Requisition include payments for labor or to contractors, builders or material men, such work was actually performed or such materials, supplies, or equipment were actually furnished to or installed in the Eligible Project.

(Project Engineer)

(Date)

EXHIBIT E

DETERMINATION OF AVERAGE REASONABLY EXPECTED ECONOMIC LIFE OF PROJECT ASSETS

Grantee: City of Newport News, Virginia

SLAF Grant No.: 14-10

The Internal Revenue Code of 1986, as amended, limits the length of average maturity for certain tax-exempt bonds, such as the VPBA Bonds, to no more than 120% of the average reasonably expected economic life of the assets being financed with the proceeds of such bonds. This life is based on Revenue Procedure 62-21 as to buildings and Revenue Procedures 83-35 and 87-56 as to equipment and any other assets. In this Exhibit, the Grantee will certify as to the average reasonably expected economic life of the assets being financed by the Grant.

Please complete the attached chart as follows:

Step 1. Set forth in Column II the corresponding total cost of each type of asset to be financed with the Grant.

Step 2. Set forth in Column III the economic life of each type of asset listed in accordance with the following:

Land. Exclude the acquisition of any land financed with a portion of the Grant funds from the economic life calculation.

Land Improvements. Land improvements (i.e., depreciable improvements made directly to or added to land) include sidewalks, roads, canals, waterways, site drainage, stormwater retention basins, drainage facilities, sewers (excluding municipal sewers), wharves and docks, bridges, fences, landscaping, shrubbery and all other general site improvements, not directly related to the building. Buildings and structural components are specifically excluded. 20 years is the economic life for most stormwater projects.

Buildings. Forty years is the economic life for most buildings.

Equipment. Please select an Asset Depreciation Range ("ADR") midpoint or class life for each item of equipment to be financed. The tables of asset guideline classes, asset guideline periods and asset depreciation ranges included in IRS Revenue Procedures 83-35 and 87-56 may be used for reference. To use the tables, you should first determine the asset guideline class in which each item of equipment falls. General business assets fall into classes 00.11 through 00.4 to the extent that a separate class is provided for them. Other assets, to the extent that a separate class is provided, fit into one or more of classes 01.1 through 80.0. Subsidiary assets (jigs, dies, molds, patterns, etc.) are in the same class as are the other major assets in an industry activity unless the subsidiary assets are classified separately for that industry. Each item of equipment should be classified according to the activity in which it is primarily used. If the equipment is not described in any asset guideline class, its estimated economic life must be determined on a case by case basis.

Contingency. Any amounts shown on the Project Budget as "contingency" should be assigned to the shortest-lived asset. For example, contingency for a stormwater project should likely be given an economic life of 20 years.

Step 3. Set forth in Column IV the date each asset is expected to be placed in service. An asset is first placed in service when it is first placed in a condition or state of readiness and available for a specifically assigned function. For example, the placed in service date for a stormwater project is likely the project's expected completion date.

Step 4. Determine the adjusted economic life of the asset in Column V by adding the amount of time between February 21, 2013 (the earliest date upon which the VPBA Bonds were issued) and the specified placed in service date from Column IV. For example, if a stormwater project with an economic life of 20 years will be placed in service 2 years after February 21, 2013, then the adjusted economic life for such stormwater project should be 22.

City of Newport News, Virginia

Step 5. For Column VI, multiply the Total Costs Financed with the Grant from Column II by the Adjusted Economic Life from Column V for each type of asset.

Step 6. Total all the entries in Column II and in Column VI.

Step 7. Divide the total of Column VI by the total of Column II. The quotient is the average reasonable expected economic life of the assets to be financed with the Grant.

AVERAGE REASONABLY EXPECTED ECONOMIC LIFE OF PROJECT ASSETS

Column I	Column II	Column III	Column IV	Column V	Column VI
<u>Asset</u>	<u>Total Cost Financed with Grant</u>	<u>Economic Life</u>	<u>Date Asset Placed in Service</u>	<u>Adjusted Economic Life</u>	<u>Column II x Column V</u>
Land Improvements					
Building					
Equipment					
Contingency					
TOTAL	\$ _____				\$ _____

Average Reasonably Expected Economic Life: Total of Column VI ÷ Total of Column II = _____

H. Appropriations

ACTION:

A REQUEST FOR A MOTION OF CITY COUNCIL TO APPROVE AS A BLOCK THE FOLLOWING APPROPRIATIONS.

1. Department of Engineering - FY 2016 Bond
Authorization, Sanitary Sewer Rehabilitation Category:
Construction of 34th Street Sanitary Sewer - \$800,000

H. Appropriations

1. Department of Engineering - FY2016 Bond Authorization, Sanitary Sewer Rehabilitation Category: Construction of 34th Street Sanitary Sewer - \$800,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$800,000 FROM THE FY2016 BOND AUTHORIZATION, SANITARY SEWER REHABILITATION CATEGORY FOR THE CONSTRUCTION OF THE 34TH STREET SANITARY SEWER PROJECT.

BACKGROUND:

- The scope of the project consists of the rehabilitation and replacement of the existing deteriorating sanitary sewer mains that currently run along 34th Street, from Madison Avenue to Marshall Avenue and along Marshall Avenue and 33rd Street between Marshall Avenue to Wickham Avenue.
- Portions of the multiple sewer mains along 34th Street will be consolidated and re-routed to improve operations and maintenance.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re 34th St Sanitary Sewer Rehab

Attachment-Location Map 34th Street Sanitary Sewer Rehabilitation

sdm14056 Appropriation re 34th Street Sanitary Sewer Rehabilitation

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

January 20, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Appropriation of 34th Street Sanitary Sewer Rehabilitation Project

City Council is requested to approve a resolution appropriating \$800,000 for the construction of the 34th Street Sanitary Sewer Rehabilitation Project.

The project scope consists of the rehabilitation and replacement of the existing deteriorating sanitary sewer mains that currently run along 34th Street, from Madison Avenue to Marshall Avenue and along Marshall Avenue and 33rd Street between Marshall Avenue to Wickham Avenue. Portions of the multiple sewer mains along 34th Street will be consolidated and re-routed to improve operations and maintenance.

The required budget for this effort is \$800,000. Funding is available from the FY 2016 Bond Authorization, Sanitary Sewer Rehabilitation Category.

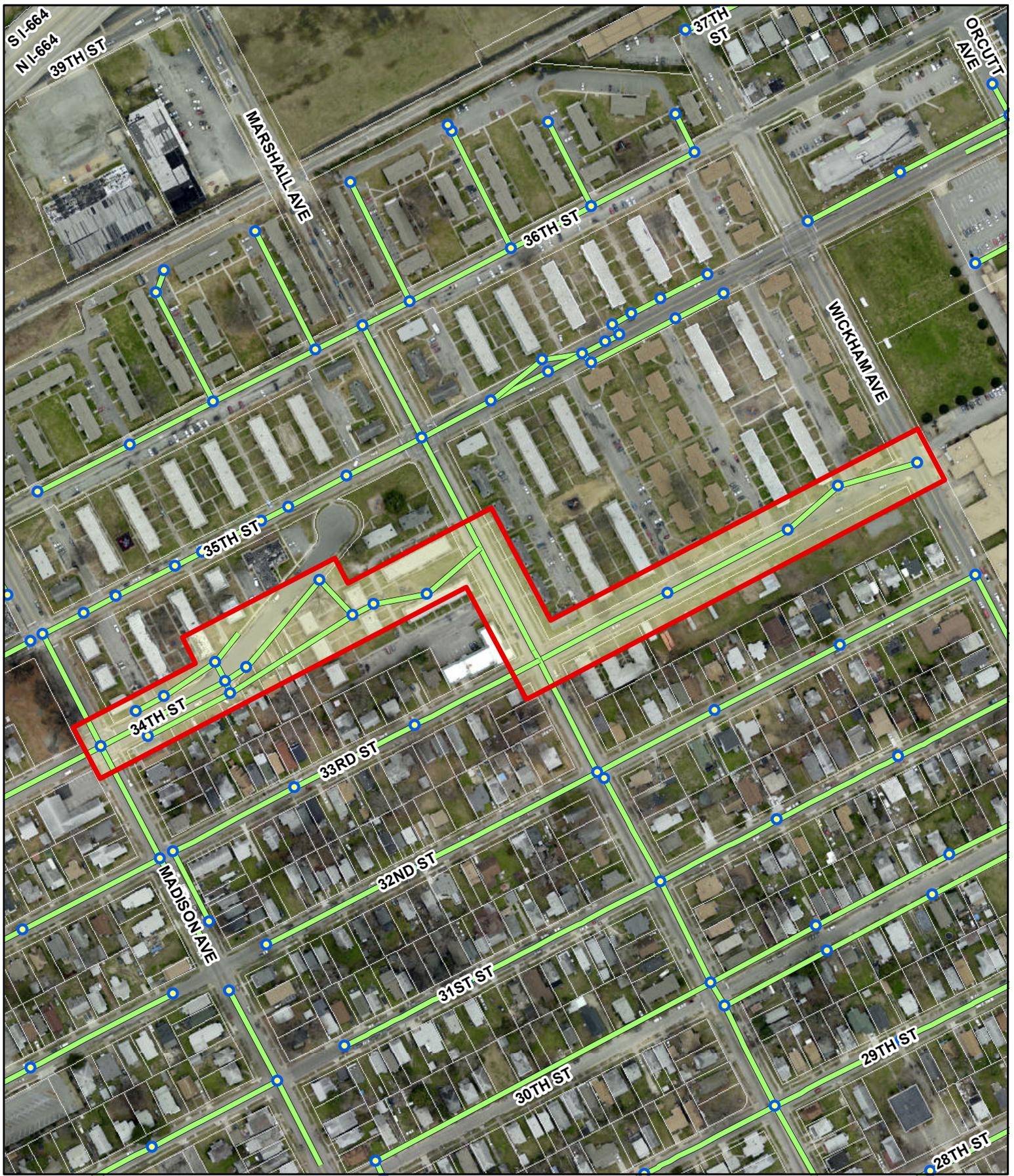
I recommend City Council approve the resolution.


James M. Bourey

JMB:CSS:wjr

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA

34TH STREET SANITARY SEWER REHABILITATION



RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED TO 34TH STREET SANITARY SEWER REHABILITATION.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

That it hereby appropriates funds from Bonds Authorized and Unissued to 34th Street Sanitary Sewer Rehabilitation, as follows:

Appropriation From:

Bonds Authorized and Unissued

4104-250-70-700L-579000-000000-2016-
00000-L0000

\$ 800,000.00

Appropriation To:

34th Street Sanitary Sewer Rehabilitation
4104-250-70-700L-579420-000000-2016-
00000-L6020

\$ 800,000.00

*I. Citizen Comments on Matters Germane to the Business of City Council

J. New Business and Councilmember Comments

City Manager
City Attorney
City Clerk

Cherry
Coleman
Price
Scott
Vick
Woodbury
Bateman

K. Adjourn

***THE BUSINESS PORTION OF THE MEETING WILL BE CONCLUDED NO LATER THAN 10:00 P.M. TO ALLOW PERSONS TO ADDRESS CITY COUNCIL UNDER "CITIZEN COMMENTS ON MATTERS GERMANE TO THE BUSINESS OF CITY COUNCIL."**