



SHOWN LIVE ON NEWPORT NEWS TELEVISION
COX CHANNEL 48
VERIZON CHANNEL 19
www.nnva.gov

AGENDA

NEWPORT NEWS CITY COUNCIL
REGULAR CITY COUNCIL MEETING

MAY 24, 2016

City Council Chambers

7:00 p.m.

A. Call to Order

B. Invocation

- Rev. Terry Williams, Hilton Christian Church

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

D. Presentations

1. Resolution in Memoriam: Virginia State Police Trooper Chad P. Dermeyer
2. Resolution of Recognition: Paul S. Triple, Jr., on his 20th Anniversary as President of Christopher Newport University (CNU)
3. Resolution of Recognition: On the 50th Anniversary of Newport News Park

E. Public Hearings

1. Ordinance Authorizing Conditional Use Permit No. CU-15-353, to Centre Court Racquet Club, for the Operation of a Mini-Storage Warehouse, Single-Entrance, Interior Storage Facility on Two (2) Parcels Located at 12445 and 12447 Warwick Boulevard and Zoned C1 Retail Commercial
2. Ordinance Granting Conditional Use Permit No. CU-16-364, to the Lloyd Allyn Julien Jr., Revocable Trust for the Construction and Operation of a Small Motor Vehicle Repair and Service Facility on Property Located at 12011 and a Portion of 12001 Jefferson Avenue and Zoned C2 General Commercial
3. Ordinance Authorizing Conditional Use Permit No. CU-16-365, to John M. Harris and Jerry W. Harris & the Digges Co., for the Construction and

Operation of a Restaurant with Drive-through Service on Property Located at 13921 Jefferson Avenue and a Portion of 14523 Jefferson Avenue and Zoned C1 Retail Commercial

4. Ordinance Approving an Easement to Lumos Networks, Inc. for a 10-foot Wide Utility Easement for the Installation of Fiber Optic Cable on City-owned Property Located at 100 City Farm Road

F. Consent Agenda

1. Minutes of the Work Session of May 10, 2016
2. Minutes of the Special Meeting of May 10, 2016
3. Minutes of the Regular Meeting of May 10, 2016
4. Resolution of Recognition: On the 25th Anniversary of the Newport News Public Schools-Television (NNPS-TV) *Sports Highlights*
5. Resolution Authorizing the City Manager to Execute the Hampton Roads Peninsula Drug Initiative Reciprocal Agreement, formerly called the Peninsula Narcotics Task Force Memorandum of Understanding (MOU)

G. Other City Council Actions

1. 1 of 2: Resolution Authorizing and Directing the City Manager to Execute Any and All Agreements and Documents Necessary to Purchase Property Located in the Harwood's Mill Reservoir Watershed in York County
2. 2 of 2: Resolution Appropriating \$370,000 from the Waterworks Restricted Land Fund for the Acquisition of Property Located in the Harwood's Mill Reservoir Watershed in York County
3. Resolution Granting Permission for the Use of the City's Rights-of-Way for Telecommunications Purposes and Authorizing the City Manager to Execute a Temporary Non-Revocable License Agreement (TNRLA) by and between the City and CenturyLink Communications, LLC

H. Appropriations

1. Department of Engineering – FY 2016 Bond Authorization, Sewer Rehabilitation Category: Construction of the 28th Street Sanitary Sewer Rehabilitation Project – \$130,000
2. Department of Public Works – FY 2016 Bond Authorization, Environmental Category: Citywide Environmental Sustainability Program – \$210,000
3. Department of Engineering – FY 2016 Bond Authorization, Sewer Rehabilitation Category: Construction of the Roanoke Avenue Sanitary Sewer Rehabilitation Phase V Project – \$1,500,000

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. Coleman
5. Price
6. Scott
7. Vick
8. Woodbury
9. Bateman
10. Cherry

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 – Rev. Terrye Williams, Hilton Christian Church

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

D. Presentations

E. Public Hearings

1. Ordinance Authorizing Conditional Use Permit No. CU-15-353, to Centre Court Racquet Club, for the Operation of a Mini-Storage Warehouse, Single-Entrance, Interior Storage Facility on Two (2) Parcels Located at 12445 and 12447 Warwick Boulevard and Zoned C1 Retail Commercial

ACTION: A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-15-353 FOR THE OPERATION OF A MINI-STORAGE WAREHOUSE, SINGLE-ENTRANCE, INTERIOR STORAGE FACILITY ON 1.64 ACRES LOCATED AT 12445 AND 12447 WARWICK BOULEVARD AND ZONED C1 RETAIL COMMERCIAL.

BACKGROUND:

- The applicant proposes to adaptively re-use the former indoor tennis facility and add a new addition for a climate controlled mini-storage warehouse facility.
- The request is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map and compatible with surrounding uses.
- On May 4, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of this request with conditions.

Vote on Roll Call

For: Austin, Carpenter, Fox, Groce, Jones, Maxwell, Mulvaney, Simmons, Willis

Against: None

Abstention: None

- The City Manager is not making a recommendation.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CU-15-353

Staff Report and CPC Minute Excerpts

rag1079 CU-15-353 re Centre Court Racquet Club

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Conditional Use Permit No. CU-15-353, Centre Court Racquet Club

Centre Court Racquet Club requests a conditional use permit to allow for the operation of a mini-storage warehouse, single-entrance interior storage facility on parcels totaling 1.64 acres located at 12445 and 12447 Warwick Boulevard and zoned C1 Retail Commercial.

The new use will adaptively re-use a recently vacated 1970's utilitarian cinder block building that housed indoor tennis courts for over 40 years. An addition will be added to the existing building, as well as new landscaping. The proposed use does not generate the traffic volume of a typical commercial or office use permitted by right.

The request is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map and compatible to the surrounding uses.

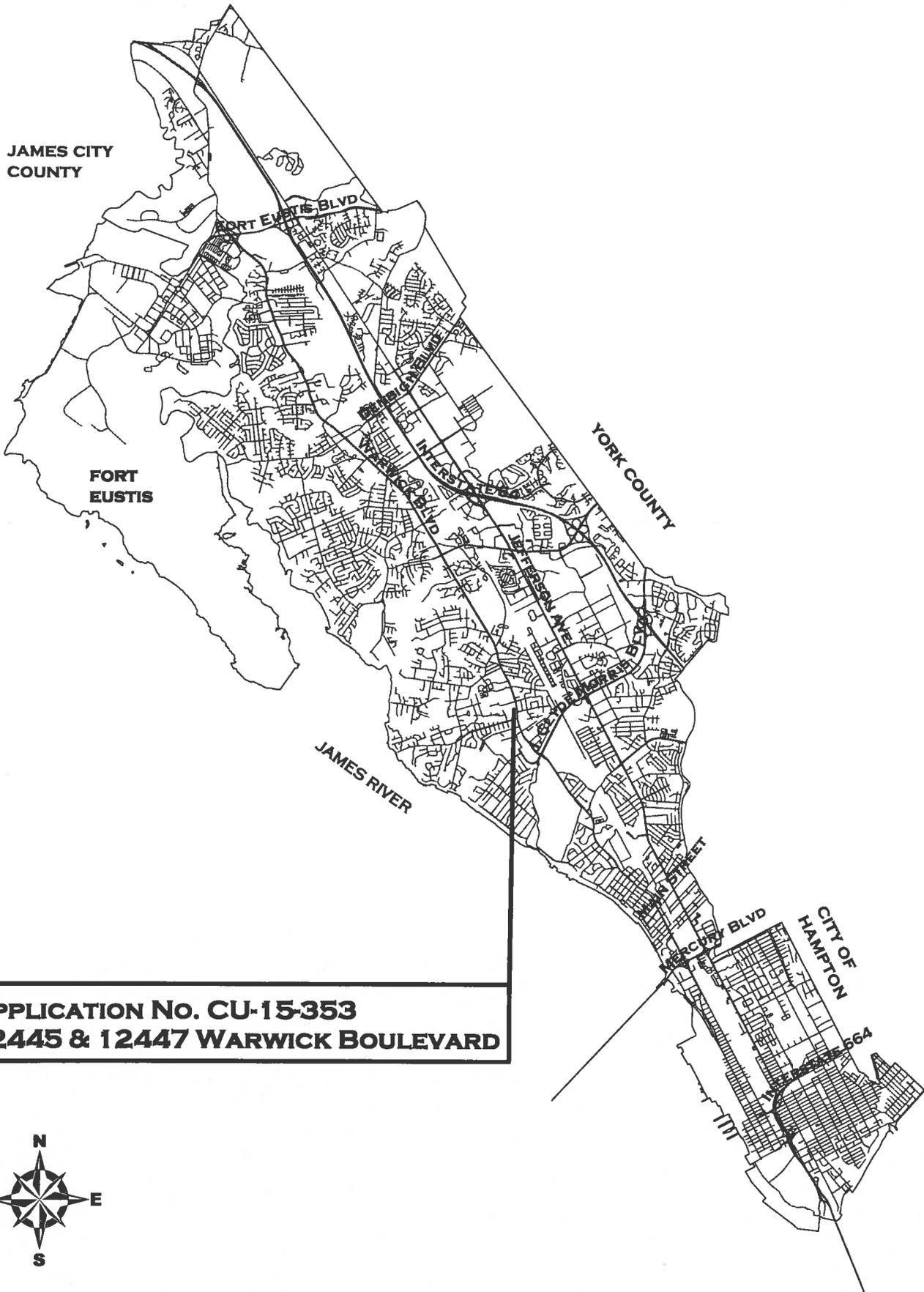
On May 4, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of the request to City Council with conditions. I am not making a recommendation since I had attempted to keep this property maintained as a Tennis Club and feel my recommendation would be perceived as a conflict of interest.


James M. Bourey

JMB:sgd

**CITY OF NEWPORT NEWS
CITY COUNCIL
MAY 24, 2016**

**CONDITIONAL USE PERMIT
APPLICATION NO. CU-15-353
CENTRE COURT RACQUET CLUB**



**APPLICATION No. CU-15-353
12445 & 12447 WARWICK BOULEVARD**

CONDITIONAL USE PERMIT NO. CU-15-353

CENTRE COURT RACQUET CLUB

APPLICANT/OWNER Centre Court Racquet Club

LOCATION 12445 & 12447
Warwick Boulevard

PRESENT USE Indoor tennis center

ZONING C1 Retail Commercial
(Appendix A-1)

FRAMEWORK Neighborhood Commercial
and Community
Facility(Appendix A-4)

ACREAGE 1.64 acres

REQUEST Mini-Storage Warehouse-Single Entrance Interior Storage Facility



BACKGROUND

At the April 6, 2016 meeting the Commission considered the applicant's request for deferral of review of the application to the May 4, 2016 meeting and voted to defer action as requested. (See Appendix A-7.)

FACTS

- North** Newport News Fire Station No. 10 and Telecommunications Center NNPSTV on properties zoned C1 Retail Commercial
- South** Hidenwood Shopping Center on property zoned C1 Retail Commercial
- East** Bojangles restaurant and shopping center on properties zoned C1 Retail Commercial
- West** Single-family homes on properties zoned R3 Single-Family Dwelling

Zoning History C1 Retail Commercial since the citywide comprehensive rezoning became effective August 1, 1997

Regulatory Review The Zoning Ordinance requires a conditional use permit to operate a mini-storage warehouse-single entrance interior storage facility in the C1 Retail Commercial zoning district. The Zoning Ordinance requires a 30-foot transitional buffer area between commercial and single-family zoning, which occurs on the property's western boundary. The preliminary site plan appropriately identifies the required transitional buffer areas. (See Appendix-A-2.)

The Zoning Ordinance requires 3 parking spaces for every 1,000 square feet of office space plus 1 parking space per employee. Based on the proposed operation, 4 parking spaces are required. The site plan submitted indicates 9 parking spaces will be provided. (See Appendix A-2.)

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 and community facility uses for the property. The proposed use is consistent with the commercial designation. (See Appendix A-4.)

The *Framework* also recommends the visual improvement of the city's corridors and encourages the reduction of visual blight on properties to be redeveloped. The proposal re-uses a building that will be vacated in May of this year and adds a building of an appropriate scale which conforms to this recommendation.

ANALYSIS

There is a 1970's utilitarian cinder block building on the property that has housed indoor tennis courts for over 40 years. The building's visibility from the street is limited and obscured by a restaurant building and the fire station that are at either side of the access driveway fronting Warwick Boulevard.

The building is in need of major repairs and the owners have found that the operation of the center is not economically or commercially viable to allow for the upkeep of the structure. Given that efforts to find a buyer that will continue to operate the racquet club have not been successful, the owners have decided that they can no longer continue the operation. Notice of the closure of the center effective May 1, 2016 appeared on the March 25th and March 27th editions of the Newport News Town Square and the Daily Press, respectively. (See Appendix A-6.)

After exhausting all avenues to find a new owner that would maintain the property as an indoor tennis center, the owners started to contemplate offers for other uses and decided that the most benign alternative to a tennis center would be the proposed interior, climate controlled self-storage operation. The applicant proposes to refurbish the existing building to accommodate an office as well as a variety of storage units ranging from 50 to 300 square feet. There will also be a two-story addition that will share a single entrance with

the rehabilitated building. No unit will be accessed directly from outside of the building.

Although the building will retain its utilitarian character, the addition of windows, awnings and other decorative treatments will enhance the look of the building. In addition, new landscaping throughout the site will further enhance the site as it is viewed from Warwick Boulevard. (See Appendix A-3.)

The proposed use does not generate the traffic volume that any of the typical commercial or office uses permitted by right would generate. Moreover, the use will provide a low impact storage facility within proximity to a residential neighborhood and the university. Its location will provide a service that may be sought by students that are only on campus during the academic year within walking distance. Further, in addition to the required buffer along the western boundary where the property abuts single-family residential zoning, the applicant is proposing to retain the existing green area with its mature vegetation assuring that there will be no impacts on the adjacent residential neighbors.

Given the limited frontage of the property directly on Warwick Boulevard and due to side yard setback requirements, freestanding signs cannot be accommodated at the site frontage. Therefore, signage will be limited to a building sign.

Although climate controlled warehouse facilities sometimes may morph into other commercial uses, the limitations of the site, including limited visibility, access and parking precludes it from accommodating most other commercial uses.

CONCLUSION

The proposed development will introduce architectural elements that in conjunction with new extensive landscaping will enhance the appearance of the site's frontage and entryway off of Warwick Boulevard.

The proposed use is consistent with the adopted *Framework for the Future 2030* comprehensive plan land use map and is compatible to the surrounding uses within the immediate vicinity due to its minimal concentration of people, noise and traffic.

STAFF RECOMMENDATION

Recommend approval of conditional use permit CU-15-353 to allow for the operation of a mini-storage warehouse-single entrance interior storage facility located at 12445 & 12447 Warwick Boulevard with the following conditions:

1. The applicant shall submit a class 1 Site Plan to the Department of Engineering for review by the Site Plan Review Committee and approval by the Director of Engineering. This site plan shall be in general conformance

with the Conceptual Site Plan prepared by Alfonso & Associates, Inc. dated April 18, 2016, found in Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.

2. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated September 1, 2015 prepared by Michael Henry Architect and found in Appendix A-3 to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.

3. The applicant shall submit a landscape plan, which is consistent with the requirements of the Site Regulations and this permit, to be approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance to the conceptual plan prepared by Alfonso & Associates dated April 18, 2016, found in Appendix A-2. 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.

4. The applicant shall cause a 30-foot transitional buffer area to be installed and maintained in perpetuity along the property's western boundary. The applicant shall retain and maintain in perpetuity the additional approximately 60-foot open area adjacent to the buffer.

5. The applicant shall provide fire access to the site in accordance with applicable code requirements. The proposed fire access shall be submitted to the City's Fire Marshall's Office for review and approval prior to final site plan approval and shall be consistent with the conceptual plan prepared by Alfonso & Associates dated April 18, 2016, found in Appendix A-2.

6. All new building sign placement, design and materials shall be reviewed and approved by the Director of Planning prior to the issuance of a sign permit.

7. No temporary or portable signs shall be permitted on the Property. Signage placed in or on any window of a building shall be limited to no more than 25 percent of each window.

8. No businesses shall be located or operated out of units within the facility. All business and other use of the units shall be for storage use only.

9. 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.

10. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

11. 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.

12. 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.

13. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

14. 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.

15. 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.

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 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 May 4, 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 applicant shall submit a class 1 Site Plan to the Department of Engineering for review by the Site Plan Review Committee and approval by the Director of Engineering. This site plan shall be in general conformance with the Conceptual Site Plan prepared by Alfonso & Associates, Inc. dated April 18, 2016, found in Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.
2. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated September 1, 2015 prepared by Michael Henry Architect and found in Appendix A-3 to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.
3. The applicant shall submit a landscape plan, which is consistent with the requirements of the Site Regulations and this permit, to be approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance to the conceptual plan prepared by Alfonso & Associates dated April 18, 2016, found in Appendix A-2. 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.
4. The applicant shall cause a 30-foot transitional buffer area to be installed and maintained in perpetuity along the property's western boundary. The applicant shall retain and maintain in perpetuity the additional approximately 60-foot open area adjacent to the buffer.
5. The applicant shall provide fire access to the site in accordance with applicable code requirements. The proposed fire access shall be submitted to the City's Fire Marshall's Office for review and approval prior to final site plan approval and shall be consistent with the conceptual plan prepared by Alfonso & Associates dated April 18, 2016, found in Appendix A-2.

6. All new building sign placement, design and materials shall be reviewed and approved by the Director of Planning prior to the issuance of a sign permit.

7. Temporary signs shall be permitted on the Property in accordance with the city's sign ordinance. No portable signs shall be permitted on the Property. Signage placed in or on any window of a building shall be limited to no more than 25 percent of each window.

8. No businesses shall be located or operated out of units within the facility. All business and other use of the units shall be for storage use only.

9. 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.

10. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

11. 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.

12. 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.

13. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

14. 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.

15. 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.

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 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 ELEVATIONS**
- A-4 *FRAMEWORK FOR THE FUTURE 2030 LAND USE MAP***
- A-5 AERIAL MAP**
- A-6 CLOSURE NOTICE**
- A-7 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF APRIL 6, 2016**
- A-8 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF MAY 4, 2016**



R3

GAY DR

7-11

SHOPPING CENTER

WARWICK BLYD

O1

CU-15-353

C1

FIRE STATION
No 10

BOJANGLES

FIRESTONE

TELECOMMUNICATIONS CENTER
NNPS TV

HIDENWOOD SHOPPING CENTER

MINTON DR

VACANT

SINGLE FAMILY

SINGLE FAMILY

BOOTH RD

SINGLE FAMILY

SINGLE FAMILY

SINGLE FAMILY

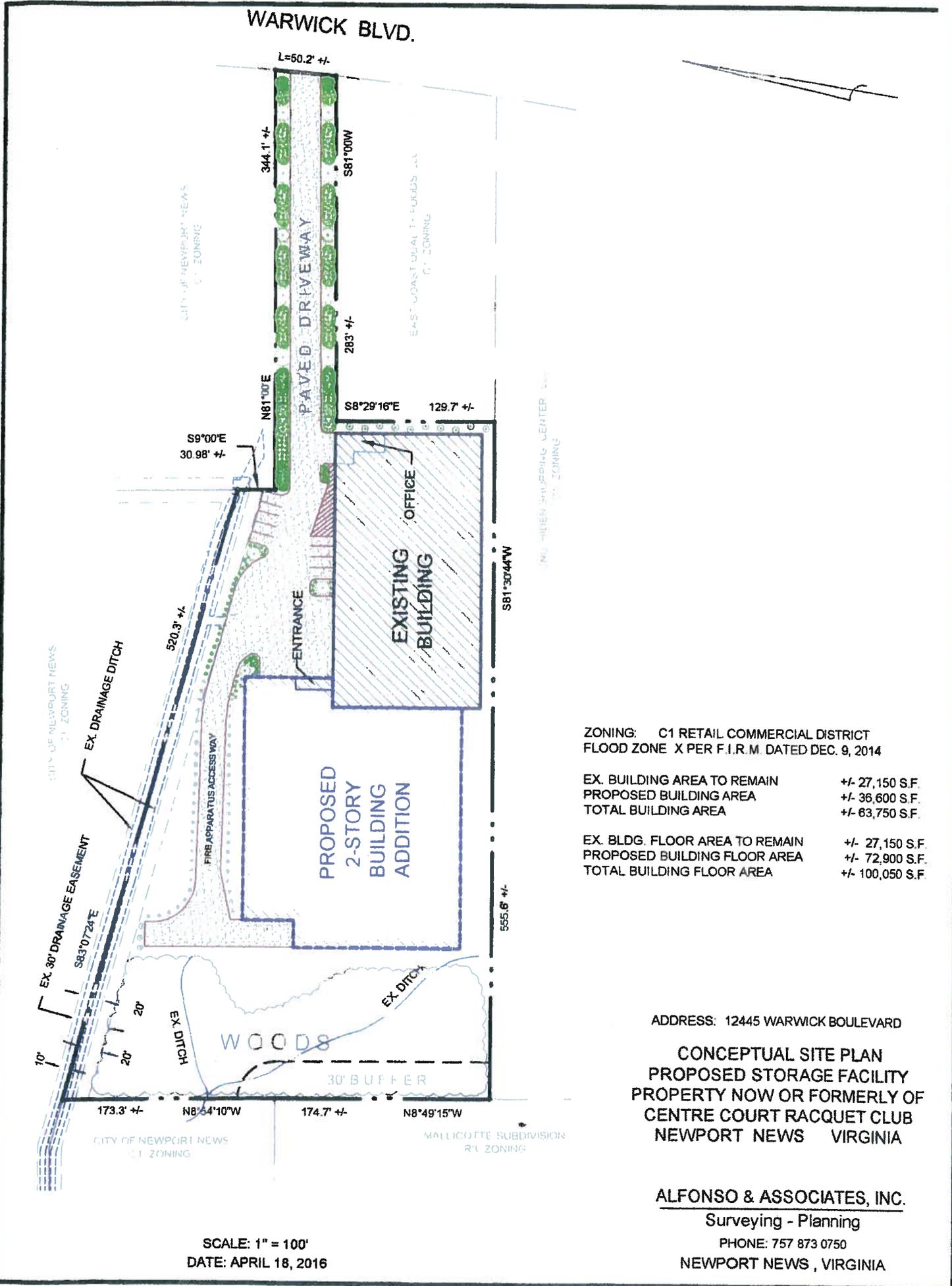
GARLAND DR

SINGLE FAMILY

P1

R3

**CENTRE COURT
RACQUET CLUB**



ZONING: C1 RETAIL COMMERCIAL DISTRICT
 FLOOD ZONE X PER F.I.R.M. DATED DEC. 9, 2014

EX. BUILDING AREA TO REMAIN	+/- 27,150 S.F.
PROPOSED BUILDING AREA	+/- 36,600 S.F.
TOTAL BUILDING AREA	+/- 63,750 S.F.

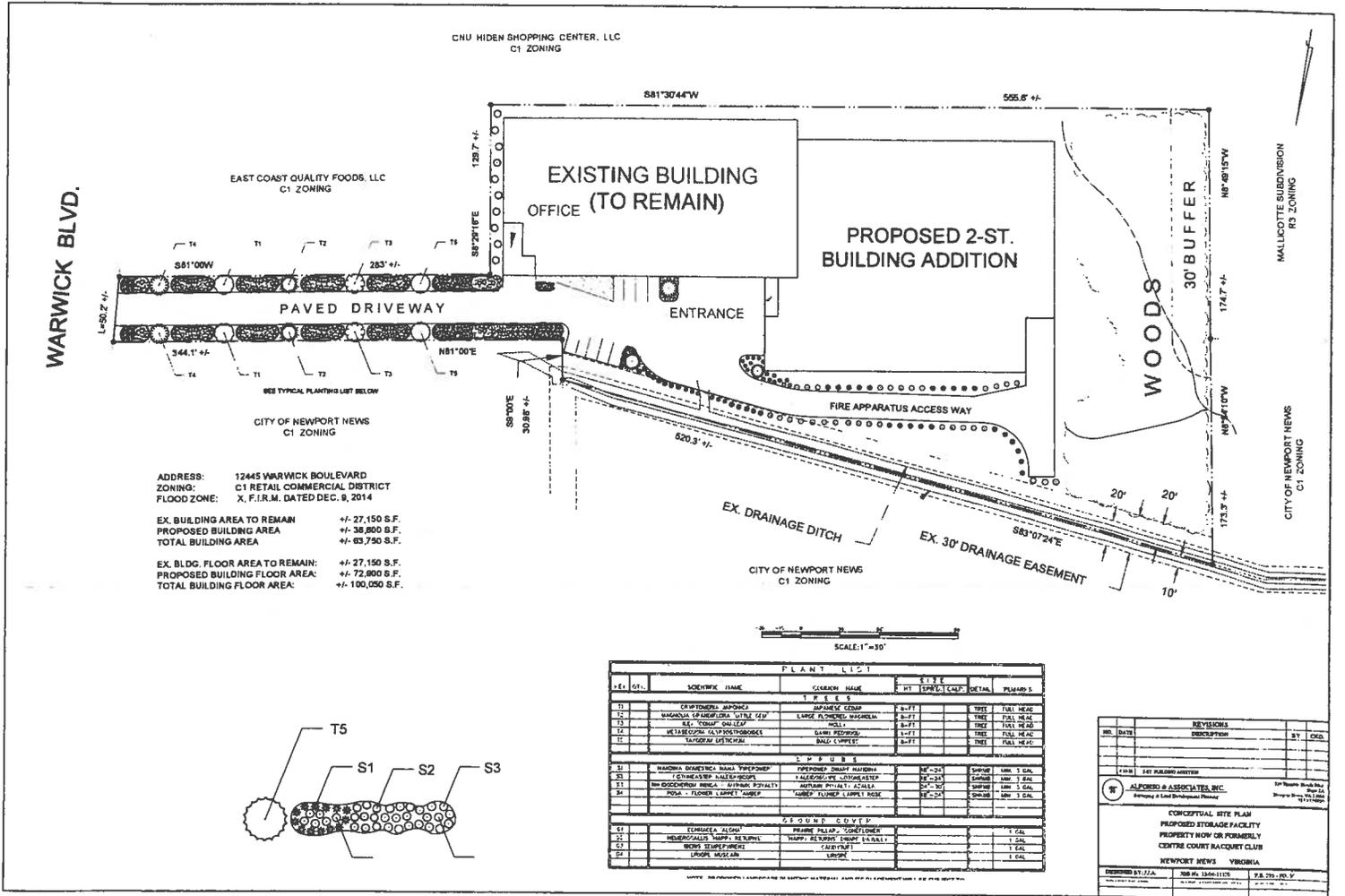
EX. BLDG. FLOOR AREA TO REMAIN	+/- 27,150 S.F.
PROPOSED BUILDING FLOOR AREA	+/- 72,900 S.F.
TOTAL BUILDING FLOOR AREA	+/- 100,050 S.F.

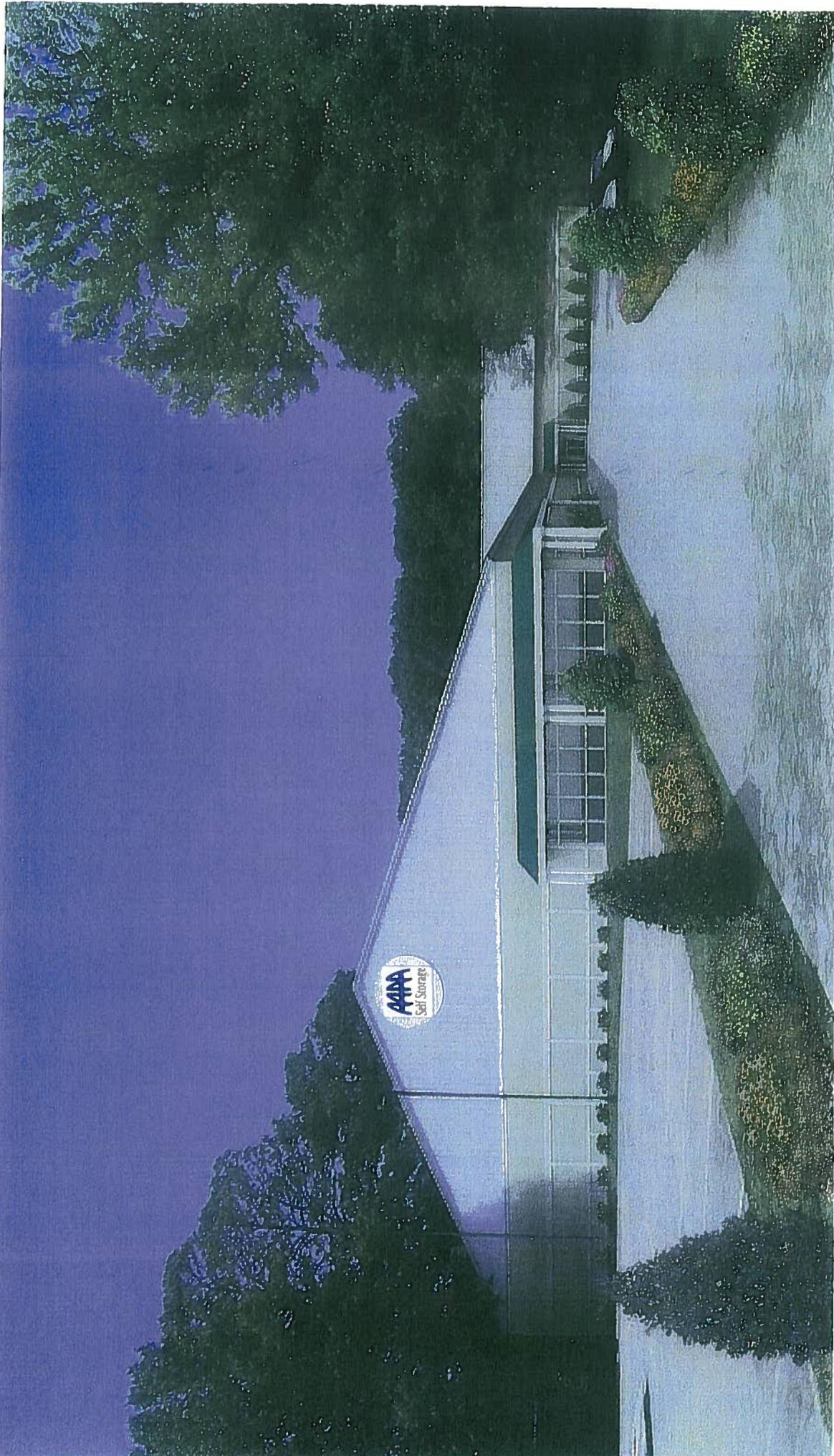
ADDRESS: 12445 WARWICK BOULEVARD

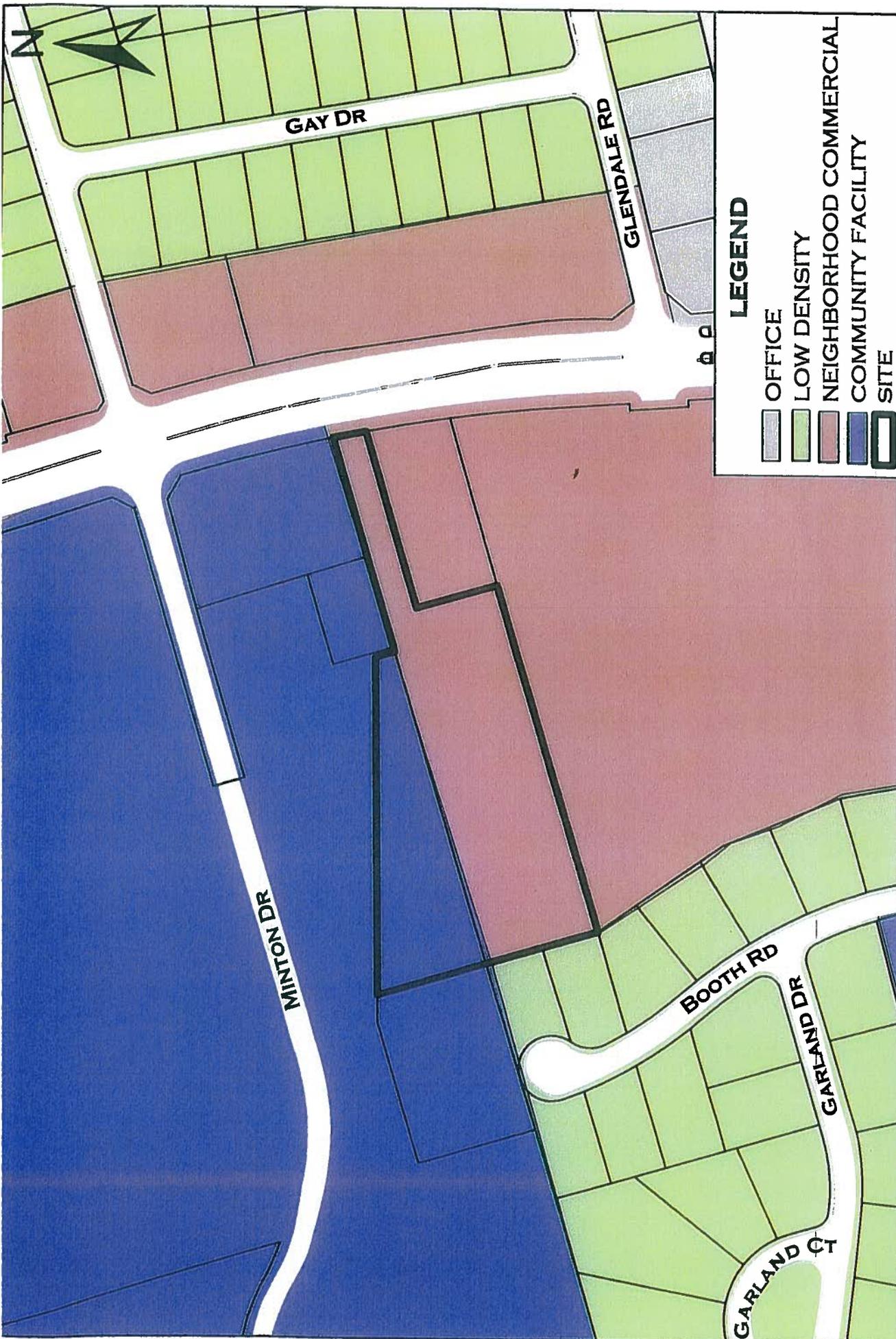
CONCEPTUAL SITE PLAN
 PROPOSED STORAGE FACILITY
 PROPERTY NOW OR FORMERLY OF
 CENTRE COURT RACQUET CLUB
 NEWPORT NEWS VIRGINIA

ALFONSO & ASSOCIATES, INC.
 Surveying - Planning
 PHONE: 757 873 0750
 NEWPORT NEWS , VIRGINIA

SCALE: 1" = 100'
 DATE: APRIL 18, 2016







LEGEND

-  OFFICE
-  LOW DENSITY
-  NEIGHBORHOOD COMMERCIAL
-  COMMUNITY FACILITY
-  SITE

**FRAMEWORK FOR
THE FUTURE 2030**

**CENTRE COURT
RACQUET CLUB**



CENTRE COURT RACQUET CLUB

Closing Effective May 1, 2016

The facility will close and cease operations at the conclusion of the Winter Season on April 30, 2016. The Centre Court Limited Partnership wishes to extend its heartfelt thanks and deep gratitude to all of our patrons for 43 enjoyable years and also to our loyal staff. Alternative indoor tennis facilities in the immediate area are already in the planning for the fall at James River Country Club and also at other sites on the Peninsula. In addition, with existing facilities at Riverside's Wellness Center on Jefferson Ave., year round tennis will continue to thrive in our locality.

Thank you again,
Col. William H. Shivar
General Partner

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

CU-15-353, Centre Court Racquet Club. Requests a conditional use permit to allow for the operation of a mini-storage warehouse-single entrance interior storage facility on two (2) parcels totaling 3.73 acres located at 12445 & 12447 Warwick Boulevard and zoned C1 Retail Commercial. The Parcel Nos. are 220.00-02-03 & 211.00-01-83.

Mr. Carpenter stated the Planning Commission received a letter from the applicant requesting a deferral.

Ms. Fox made a motion to defer the application to the May 4, 2016 public hearing. Ms. Austin seconded the motion. The Planning Commission voted by acclamation.

EXCERPTS FROM PLANNING COMMISSION MINUTES

May 4, 2016

CU-15-353, Centre Court Racquet Club. (Deferred from Planning Commission meeting of April 6, 2016) Requests a conditional use permit to allow for the operation of a mini-warehouse, single-entrance interior storage facility on two (2) parcels totaling 3.73 acres located at 12445 & 12447 Warwick Boulevard and zoned C1 Retail Commercial. The Parcel Nos. are 220.00-02-03 & 211.00-01-83.

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

Ms. Austin asked if any portion of the storage facility would be climate controlled. Mr. Gleiser stated it is all climate controlled.

Ms. Austin asked if cars or trucks would be able to drive into the facility. Mr. Gleiser stated you cannot drive into the facility. He stated you can only access the facility through the single entrance.

Ms. Austin asked if there would be smoke detectors in the facility. Mr. Gleiser stated the facility will meet all fire code requirements and there will be emergency exits.

Mr. Carpenter opened the public hearing.

Mr. Tim Trant, 11815 Fountain Way, representative for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Trant gave a brief presentation of the application.

Mr. Trant stated the applicant is comfortable with all of the conditions in the staff report except for one. He stated Condition No. 7 proposes to prohibit the use of temporary signage on the property. Mr. Trant stated that, given the narrow frontage on Warwick Boulevard, it is too narrow to accommodate both a proper entrance and a freestanding sign per city code. He stated the visibility of the property is limited by the narrow entrance to the facility and proposed enhanced landscaping which will obscure the building. Mr. Trant stated the applicant requests removal of the temporary sign limitation in the proposed conditions. He stated the applicant would like the ability to apply, in accordance with the sign ordinance, for a sign permit to utilize temporary signage during periods of low occupancy.

Ms. Fox asked if Mr. Trant is asking that a portable sign be brought out any time the applicant needs higher occupancy rates. Mr. Trant stated we are not asking for portable signage, but temporary signage, such as flags or balloons that are used to denote a promotion or a particular event that is occurring on that site. He stated you have to apply for a sign permit to be allowed to do that. Mr. Trant stated this kind of signage is temporary in nature and there is a specific duration of time in which you can do it.

Ms. Willis asked if the proposed addition will be set back any farther than the existing building. Mr. Trant stated that is correct. He stated the existing building will be partially demolished to make room for the proposed two-story addition. Mr. Trant stated the proposed two-story addition will not extend or protrude any further back on the property than the existing building. He stated the buffer area, which is mature and substantial, will remain.

Ms. Willis asked if they anticipate exterior lighting for safety. Mr. Trant stated there will be exterior lighting required by code that will include the rear of the property. He stated the lighting ordinance requirements within the city code limit glare and light onto adjacent properties. Mr. Trant stated the existing mature trees and growth that is in the rear of the property will also prohibit light from emanating onto the adjacent residences. He stated the applicant operates a similar facility in Hampton and had a complaint from an adjacent property owner about the lighting. Mr. Trant stated the applicant worked with the adjacent property owner to identify which light was generating a glare and installed a shield on that light to comply with code but still protect the interests of that adjacent property owner. Mr. Trant stated the applicant is committed to offering a similar approach on this project.

Mr. Trant stated that, in regard to Ms. Austin's questions about fire safety, the facility will be fully sprinkled with a fire suppression system throughout the building and there will be emergency access points, per code.

Mr. Mulvaney asked what the sign ordinance allows for temporary signage. Ms. McAllister stated she would not remove the entire condition. She stated the Planning Commission may want to take out the temporary portion of that condition and just add that temporary signage will be approved by the Department of Codes Compliance in accordance with the sign ordinance, which allows for 30-day temporary signs. Mr. Trant stated that the applicant is agreeable to that change. He stated they do not want the entire condition removed because it also contains some limitations on window signage, with which the applicant agrees.

Mr. Mulvaney stated that, with such a small footprint on Warwick Boulevard and where the entrance is, it seems that the signage would be extremely limited anyway. He stated that, with this being the only facility of its kind in the area, how important is the temporary signage for this facility if you are going to become a commodity. Mr. Trant stated the applicant has indicated, from their experience, that you would be amazed at the fairly dramatic impact proportionate to the very limited temporary signage that you get in lease-up and promotional periods. He stated it is very valuable. Mr. Trant stated the temporary signs would be very limited in both duration and its physical appearance given the nature of the entrance.

Mr. Mulvaney asked if the applicant can apply for a temporary sign every 30 days if they want to or is there a blackout period. Ms. McAllister stated the sign ordinance does not speak to that, so you can reapply every 30 days for a new temporary sign.

Ms. Fox asked if there is no permanent fixed sign due to the landscaping and the only signage is the building. Mr. Trant stated the only permanent signage that would be permitted on the property in its current configuration would be the building signage that you see proposed on the gable end.

Ms. Willis asked if there is ever a problem with trash with a facility like this. She asked if there is a dumpster available on the site. Ms. Willis asked when people are moving things in and out and possibly having their storage units emptied out for not paying rent, how is that trash disposed. Mr. Trant stated there is no on-site dumpster. He stated the site will be staffed by on-site management at all times when patrons have access to the building. Mr. Trant stated it is in the lease agreement that they are obligated to remove all rubbish from the property and the front office will be able to monitor that. He stated there is also a security gate beyond the office that would further help them to monitor the flow of traffic in and out, with video surveillance. Mr. Trant stated the applicant does not have rubbish disposal problems at their other facilities.

Mr. Groce asked how many people would be employed at this facility. Mr. Trant stated we anticipate that there will be two people: an on-site manager and an assistant manager. He stated there may be a third person that is on-site from time to time, to help in peak periods of leasing activity or maintenance.

Mr. Richard Vanderzee, 475 Cheshire Court, stated it was his understanding that this building was scheduled for storage or warehousing. Mr. Vanderzee stated he would like to know if a tenant has been identified, and if so, if that name could be divulged. Mr. Carpenter stated the property is proposed to be a self-storage development. He stated the developer is present and leases the building to an operator. Mr. Carpenter stated that, based upon the signage, the facility will be AAAA Self-Storage, which is a local operator based in Norfolk, Virginia.

Mr. Carpenter stated he is involved in the ownership of a piece of property directly across the street, and in a brief discussion with Ms. McAllister, it was determined that he has no conflict of interest, but he felt it was appropriate to disclose that information.

Mr. Carpenter closed the public hearing.

Ms. Fox made a motion to recommend approval of conditional use permit CU-15-353 to City Council, with Condition No. 7 amended to read "Temporary signs shall be permitted on the property in accordance with the city's sign ordinance." The motion was seconded by Mr. Jones.

Vote on Roll Call

For: Maxwell, Fox, Jones, Simmons, Mulvaney, Austin, Willis, Groce, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-15-353 to City Council, as amended.

ORDINANCE NO. _____

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-15-353 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF PERMITTING THE CONSTRUCTION AND OPERATION OF A MINI-STORAGE WAREHOUSE - SINGLE ENTRANCE IN A C1 RETAIL COMMERCIAL DISTRICT.

WHEREAS, application number CU-15-353 has been made by **CENTRE COURT RACQUET CLUB, applicant**, for a conditional use permit for the hereinafter described property for the purpose of permitting the construction and operation of a mini-storage warehouse - single entrance in a C1 Retail Commercial 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-15-353 is hereby granted for the property described in paragraph (b) hereof for the purpose of permitting the construction and operation of a mini-storage warehouse - single entrance in a C1 Retail Commercial District; and

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

Parcel I

All that certain lot, piece or parcel of land, situate, lying and being in the City of Newport News, Virginia, known and designated as Parcel "B", containing 114,153 square feet, as shown on that certain plat entitled, "SUBDIVISION OF THE PROPERTY OF JOHN MALLICOTTE, CITY OF NEWPORT NEWS, VIRGINIA", made by C. K. Tudor, Engineers, dated June 22, 1972, and recorded in the Clerk's Office of the Hustings Court for the City of Newport News, Virginia, in Plat Book 8, page 138, to which reference is here made.

Parcel II

All that certain lot, piece or parcel of land, situate, lying and being in the City of Newport News, Virginia, containing 1.1728 acres, more or less, as shown on that certain plat of survey entitled "Plat

of the Property to be Conveyed to Centre Court Racquet Club, 1.1728 Acres, Part of Parcel B, Property of Newport News School Board, Newport News, Virginia” dated June 20, 1991 and prepared by C. K. Tudor Engineers, Inc.

The Property has a common street address of 12445 and 12447 Warwick Boulevard and a Real Estate Assessor’s Tax I.D.’s #220.00-02-03 and 211.00-01-83.

(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 applicant shall submit a class 1 Site Plan to the Department of Engineering for review by the Site Plan Review Committee and approval by the Director of Engineering. This site plan shall be in general conformance with the Conceptual Site Plan prepared by Alfonso & Associates, Inc. dated April 18, 2016, found in 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. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated September 1, 2015 prepared by Michael Henry Architect and found in Appendix A-3, which is attached hereto and made a part hereof, to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.
3. The applicant shall submit a landscape plan, which is consistent with the requirements of the Site Regulations and this permit, to be approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance with the conceptual plan prepared by Alfonso & Associates dated April 18, 2016, found in Appendix A-2. 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.
4. The applicant shall cause a 30-foot transitional buffer area to be installed and maintained in perpetuity along the property’s western boundary. The applicant shall retain and maintain in perpetuity the additional approximately 60-foot open area adjacent to the buffer.
5. The applicant shall provide fire access to the site in accordance with applicable code requirements. The proposed fire access shall be submitted

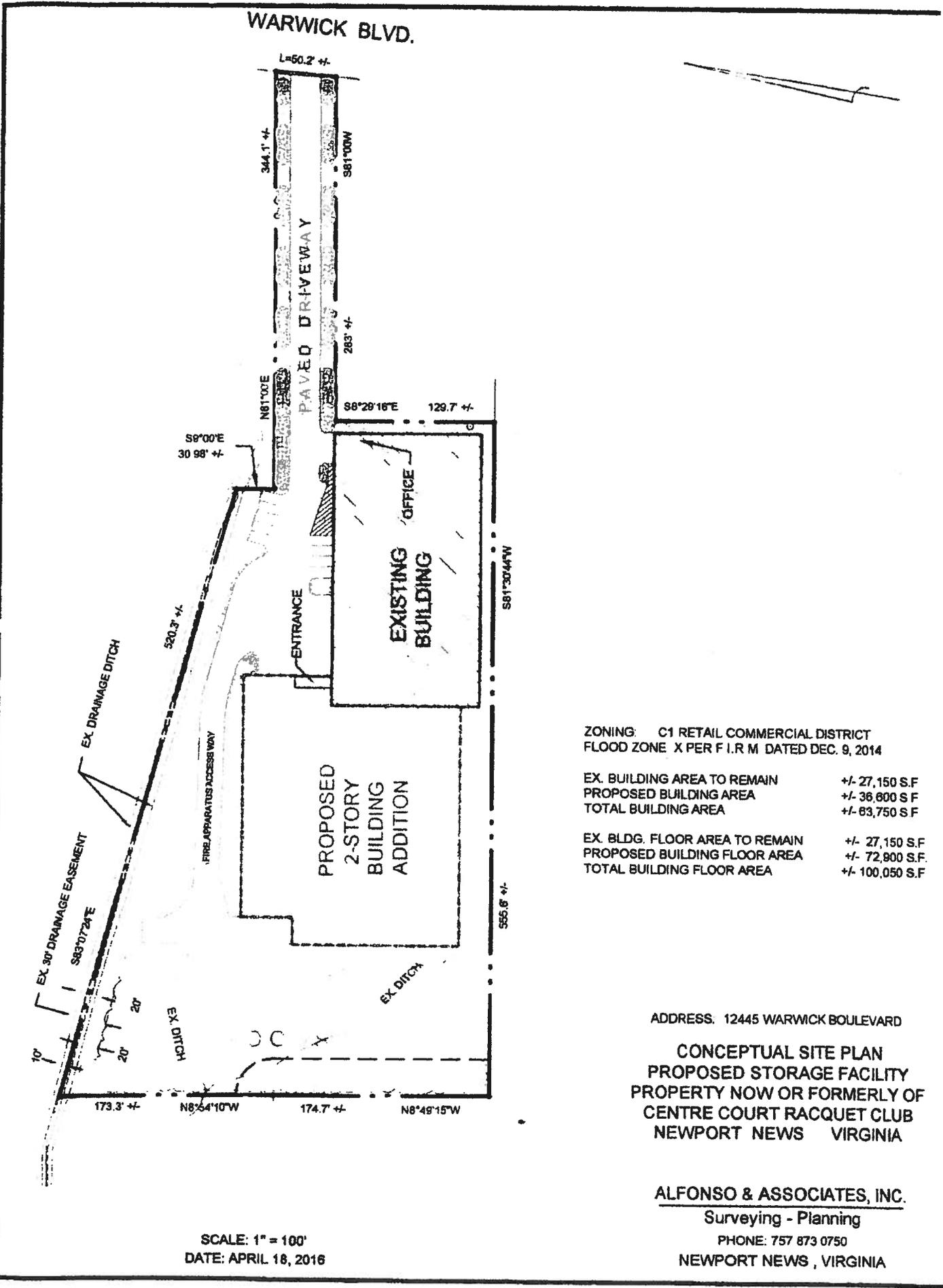
to the City's Fire Marshall Office for review and approval prior to final site plan approval and shall be consistent with the conceptual plan prepared by Alfonso & Associates dated April 19, 2016, found in Appendix A-2.

6. All new building sign placement, design and materials shall be reviewed and approved by the Director of Planning prior to the issuance of a sign permit.
7. Temporary signage shall be permitted on the property in accordance with the City's sign ordinance. No portable signs shall be permitted on the Property. Signage placed in or on any window of a building shall be limited to no more than 25 percent of each window.
8. No businesses shall be located or operated out of units within the facility. All business and other use of the units shall be for storage use only.
9. 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.
10. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
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 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 May 24, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.



ZONING: C1 RETAIL COMMERCIAL DISTRICT
 FLOOD ZONE X PER F.I.R.M DATED DEC. 9, 2014

EX. BUILDING AREA TO REMAIN	+/- 27,150 S.F
PROPOSED BUILDING AREA	+/- 36,600 S.F
TOTAL BUILDING AREA	+/- 63,750 S.F

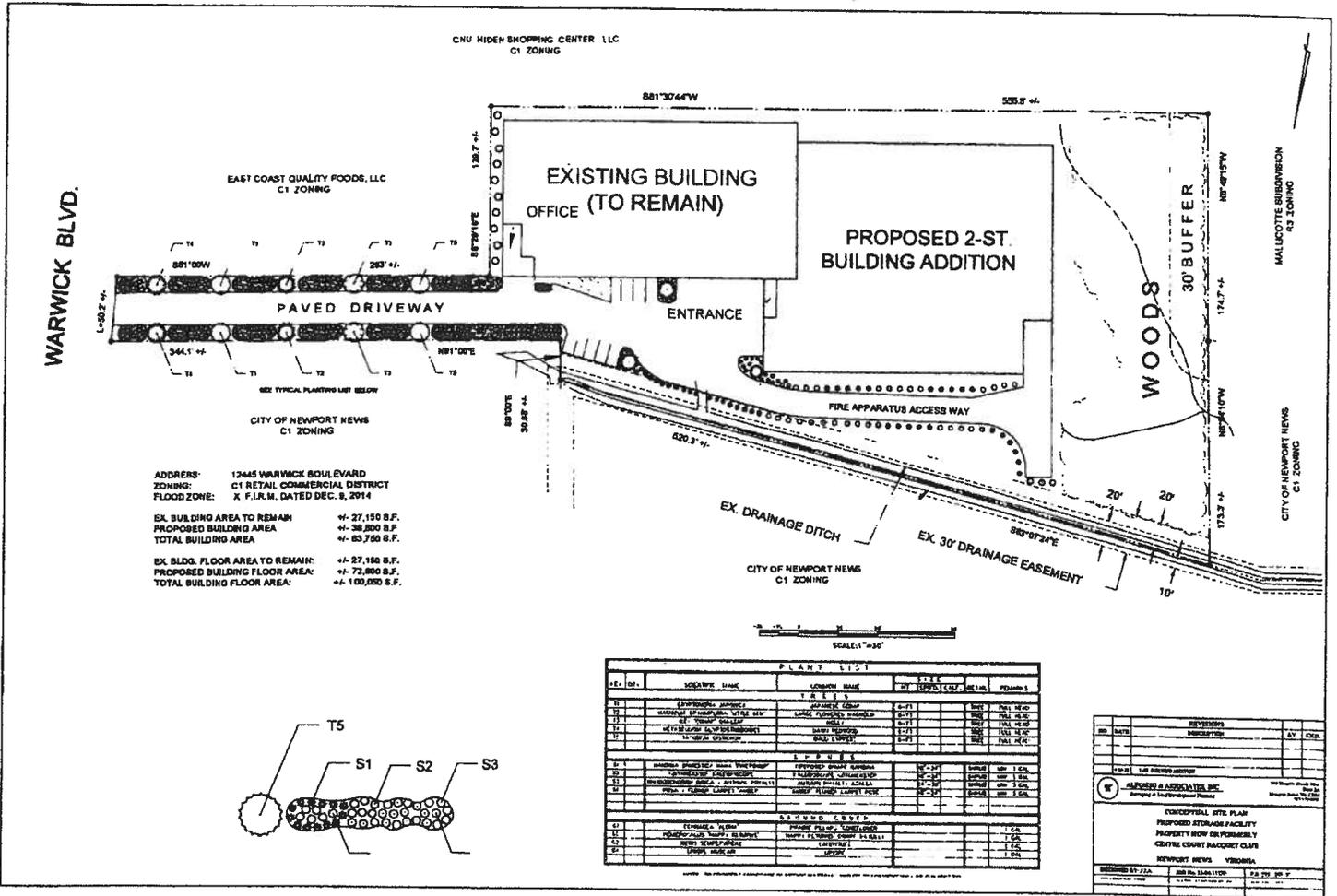
EX. BLDG. FLOOR AREA TO REMAIN	+/- 27,150 S.F
PROPOSED BUILDING FLOOR AREA	+/- 72,900 S.F
TOTAL BUILDING FLOOR AREA	+/- 100,050 S.F

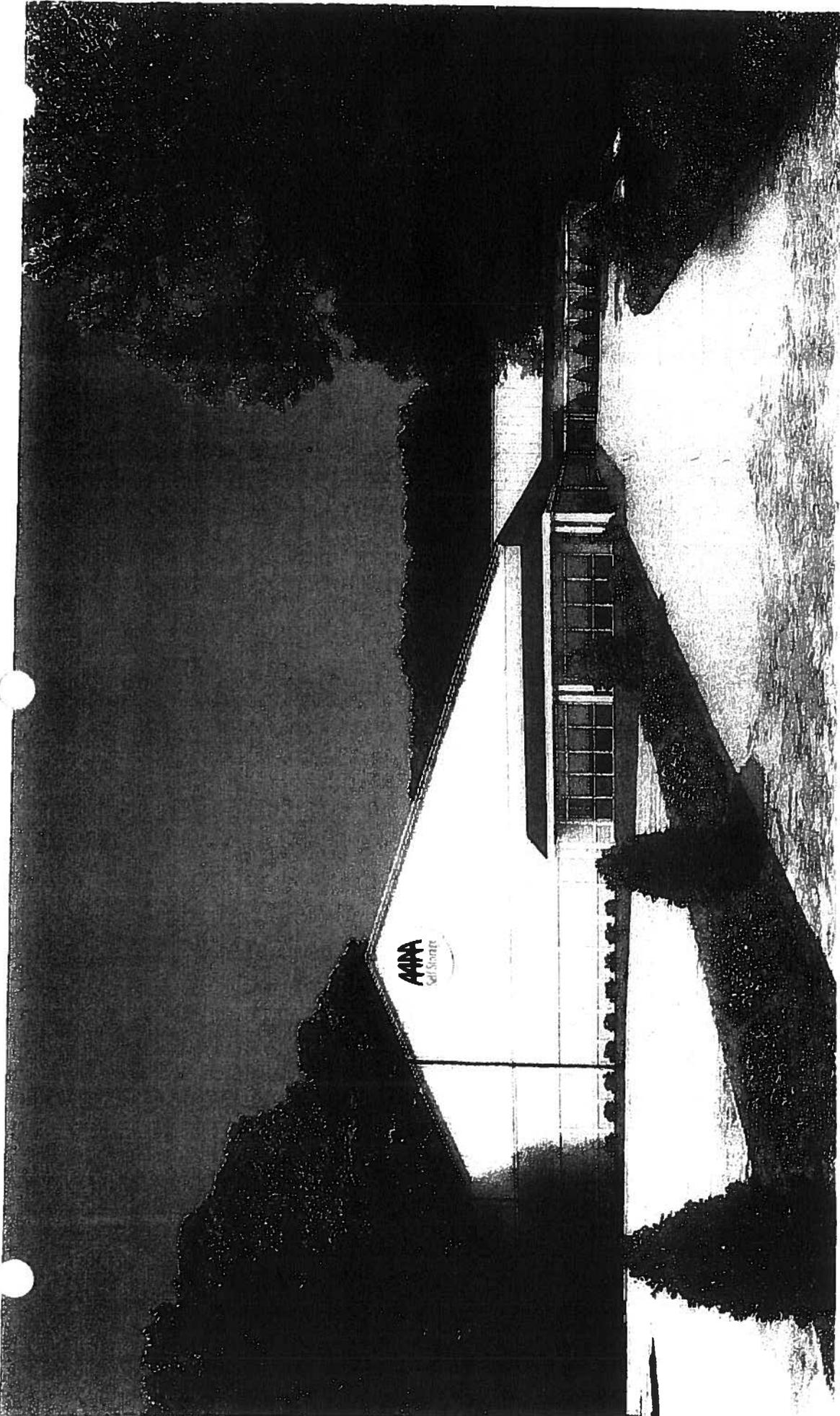
ADDRESS: 12445 WARWICK BOULEVARD

CONCEPTUAL SITE PLAN
 PROPOSED STORAGE FACILITY
 PROPERTY NOW OR FORMERLY OF
 CENTRE COURT RACQUET CLUB
 NEWPORT NEWS VIRGINIA

ALFONSO & ASSOCIATES, INC.
 Surveying - Planning
 PHONE: 757 873 0750
 NEWPORT NEWS, VIRGINIA

SCALE: 1" = 100'
 DATE: APRIL 18, 2016

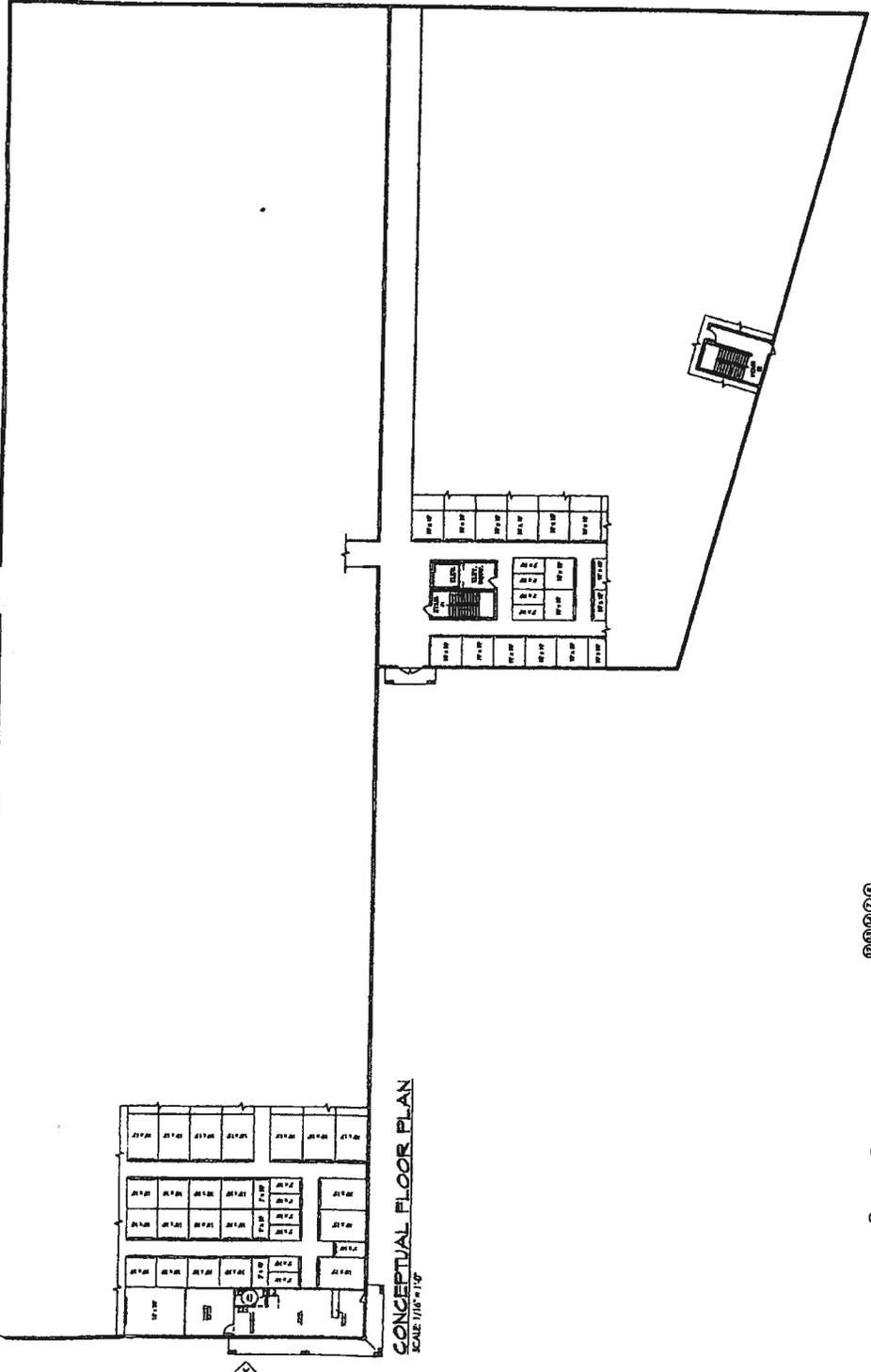




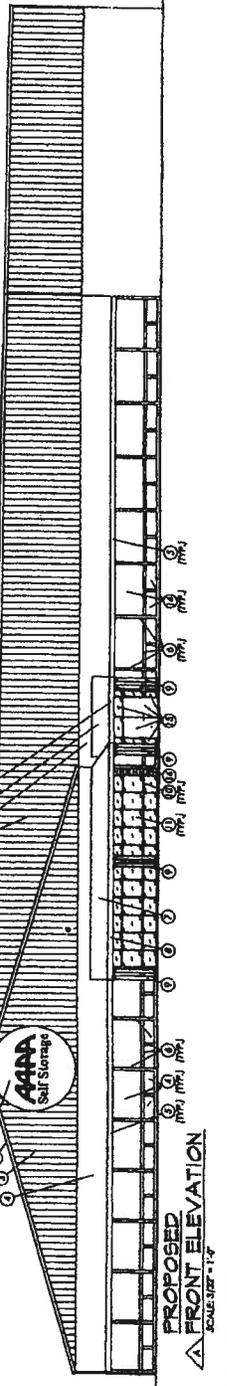
ARCHITECT
 1775 N. ...
 ...
 ...

NO. 1	CONCEPTUAL FLOOR PLAN
NO. 2	CONCEPTUAL FLOOR PLAN
NO. 3	CONCEPTUAL FLOOR PLAN
NO. 4	CONCEPTUAL FLOOR PLAN
NO. 5	CONCEPTUAL FLOOR PLAN
NO. 6	CONCEPTUAL FLOOR PLAN
NO. 7	CONCEPTUAL FLOOR PLAN
NO. 8	CONCEPTUAL FLOOR PLAN
NO. 9	CONCEPTUAL FLOOR PLAN
NO. 10	CONCEPTUAL FLOOR PLAN
NO. 11	CONCEPTUAL FLOOR PLAN
NO. 12	CONCEPTUAL FLOOR PLAN
NO. 13	CONCEPTUAL FLOOR PLAN
NO. 14	CONCEPTUAL FLOOR PLAN
NO. 15	CONCEPTUAL FLOOR PLAN
NO. 16	CONCEPTUAL FLOOR PLAN
NO. 17	CONCEPTUAL FLOOR PLAN
NO. 18	CONCEPTUAL FLOOR PLAN
NO. 19	CONCEPTUAL FLOOR PLAN
NO. 20	CONCEPTUAL FLOOR PLAN
NO. 21	CONCEPTUAL FLOOR PLAN
NO. 22	CONCEPTUAL FLOOR PLAN
NO. 23	CONCEPTUAL FLOOR PLAN
NO. 24	CONCEPTUAL FLOOR PLAN
NO. 25	CONCEPTUAL FLOOR PLAN
NO. 26	CONCEPTUAL FLOOR PLAN
NO. 27	CONCEPTUAL FLOOR PLAN
NO. 28	CONCEPTUAL FLOOR PLAN
NO. 29	CONCEPTUAL FLOOR PLAN
NO. 30	CONCEPTUAL FLOOR PLAN
NO. 31	CONCEPTUAL FLOOR PLAN
NO. 32	CONCEPTUAL FLOOR PLAN
NO. 33	CONCEPTUAL FLOOR PLAN
NO. 34	CONCEPTUAL FLOOR PLAN
NO. 35	CONCEPTUAL FLOOR PLAN
NO. 36	CONCEPTUAL FLOOR PLAN
NO. 37	CONCEPTUAL FLOOR PLAN
NO. 38	CONCEPTUAL FLOOR PLAN
NO. 39	CONCEPTUAL FLOOR PLAN
NO. 40	CONCEPTUAL FLOOR PLAN
NO. 41	CONCEPTUAL FLOOR PLAN
NO. 42	CONCEPTUAL FLOOR PLAN
NO. 43	CONCEPTUAL FLOOR PLAN
NO. 44	CONCEPTUAL FLOOR PLAN
NO. 45	CONCEPTUAL FLOOR PLAN
NO. 46	CONCEPTUAL FLOOR PLAN
NO. 47	CONCEPTUAL FLOOR PLAN
NO. 48	CONCEPTUAL FLOOR PLAN
NO. 49	CONCEPTUAL FLOOR PLAN
NO. 50	CONCEPTUAL FLOOR PLAN
NO. 51	CONCEPTUAL FLOOR PLAN
NO. 52	CONCEPTUAL FLOOR PLAN
NO. 53	CONCEPTUAL FLOOR PLAN
NO. 54	CONCEPTUAL FLOOR PLAN
NO. 55	CONCEPTUAL FLOOR PLAN
NO. 56	CONCEPTUAL FLOOR PLAN
NO. 57	CONCEPTUAL FLOOR PLAN
NO. 58	CONCEPTUAL FLOOR PLAN
NO. 59	CONCEPTUAL FLOOR PLAN
NO. 60	CONCEPTUAL FLOOR PLAN
NO. 61	CONCEPTUAL FLOOR PLAN
NO. 62	CONCEPTUAL FLOOR PLAN
NO. 63	CONCEPTUAL FLOOR PLAN
NO. 64	CONCEPTUAL FLOOR PLAN
NO. 65	CONCEPTUAL FLOOR PLAN
NO. 66	CONCEPTUAL FLOOR PLAN
NO. 67	CONCEPTUAL FLOOR PLAN
NO. 68	CONCEPTUAL FLOOR PLAN
NO. 69	CONCEPTUAL FLOOR PLAN
NO. 70	CONCEPTUAL FLOOR PLAN
NO. 71	CONCEPTUAL FLOOR PLAN
NO. 72	CONCEPTUAL FLOOR PLAN
NO. 73	CONCEPTUAL FLOOR PLAN
NO. 74	CONCEPTUAL FLOOR PLAN
NO. 75	CONCEPTUAL FLOOR PLAN
NO. 76	CONCEPTUAL FLOOR PLAN
NO. 77	CONCEPTUAL FLOOR PLAN
NO. 78	CONCEPTUAL FLOOR PLAN
NO. 79	CONCEPTUAL FLOOR PLAN
NO. 80	CONCEPTUAL FLOOR PLAN
NO. 81	CONCEPTUAL FLOOR PLAN
NO. 82	CONCEPTUAL FLOOR PLAN
NO. 83	CONCEPTUAL FLOOR PLAN
NO. 84	CONCEPTUAL FLOOR PLAN
NO. 85	CONCEPTUAL FLOOR PLAN
NO. 86	CONCEPTUAL FLOOR PLAN
NO. 87	CONCEPTUAL FLOOR PLAN
NO. 88	CONCEPTUAL FLOOR PLAN
NO. 89	CONCEPTUAL FLOOR PLAN
NO. 90	CONCEPTUAL FLOOR PLAN
NO. 91	CONCEPTUAL FLOOR PLAN
NO. 92	CONCEPTUAL FLOOR PLAN
NO. 93	CONCEPTUAL FLOOR PLAN
NO. 94	CONCEPTUAL FLOOR PLAN
NO. 95	CONCEPTUAL FLOOR PLAN
NO. 96	CONCEPTUAL FLOOR PLAN
NO. 97	CONCEPTUAL FLOOR PLAN
NO. 98	CONCEPTUAL FLOOR PLAN
NO. 99	CONCEPTUAL FLOOR PLAN
NO. 100	CONCEPTUAL FLOOR PLAN

A-1



- ① EXTERIOR MATERIALS LIST:
1. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING
 2. EXISTING FADE TRIM PAINT WHITE
 3. EXISTING VERTICAL METAL SIDING PAINT WHITE
 4. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT COLOR
 5. NEW 1/2" COMPOSITE TRIM PAINT WHITE
 6. NEW 1/2" COMPOSITE TRIM PAINT WHITE
 7. NEW 1/2" COMPOSITE TRIM PAINT WHITE
 8. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE
 9. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE
 10. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE
 11. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE
 12. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE
 13. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE
 14. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE
 15. NEW 1/2" HIGH DENSITY FIBER CEMENT SIDING PAINT WHITE



E. Public Hearings

2. Ordinance Granting Conditional Use Permit No. CU-16-364, to the Lloyd Allyn Julien Jr., Revocable Trust for the Construction and Operation of a Small Motor Vehicle Repair and Service Facility on Property Located at 12011 and a Portion of 12001 Jefferson Avenue and Zoned C2 General Commercial

ACTION: A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-16-364 TO JULIEN LLOYD ALLYN JR., TRUSTEE OF THE LLOYD ALLYN JULIEN, JR. REVOCABLE TRUST TO ALLOW FOR THE CONSTRUCTION AND THE OPERATION OF A SMALL MOTOR VEHICLE REPAIR AND SERVICE FACILITY ON PROPERTY LOCATED AT 12011 AND A PORTION OF 12001 JEFFERSON AVENUE AND ZONED C2 GENERAL COMMERCIAL.

BACKGROUND:

- The proposed new use, Discount Tires, will be built on a vacant parking lot. Property improvements include a new full-brick structure with bays oriented to the rear of the property as well as new landscaping.
- The request is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map.
- On May 4, 2016, the Planning Commission voted unanimously 9:0 to recommend approval of this request with conditions.

Vote on Roll Call

For: Austin, Carpenter, Fox, Groce, Jones, Maxwell, Mulvaney, Simmons, Willis

Against: None

Abstention: None

- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CU-16-364

Staff Report and CPC Minute Excerpts

rag1077 re CU-16-364 re Lloyd Allyn Julien Jr., Revocable Trust

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: CU-16-364, Lloyd Allyn Julien Jr. Revocable Trust

The Lloyd Allyn Julien Jr. Revocable Trust requests a conditional use permit for the operation of a small motor vehicle repair and service facility that will specialize in the sale and installation of tires on property located at 12011 and a portion of 12001 Jefferson Avenue. The 0.84 acre property is zoned C2 General Commercial.

The request is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map recommendation of community commercial uses and is compatible with surrounding uses.

The redevelopment of this property will help improve the appearance of the Jefferson Avenue corridor in this area by providing a new full-brick building and landscaping that will help screen the warehouse uses on the property adjacent to the east. The appearance of the building on Jefferson Avenue will not indicate its use as a service facility due to the location of the bay doors.

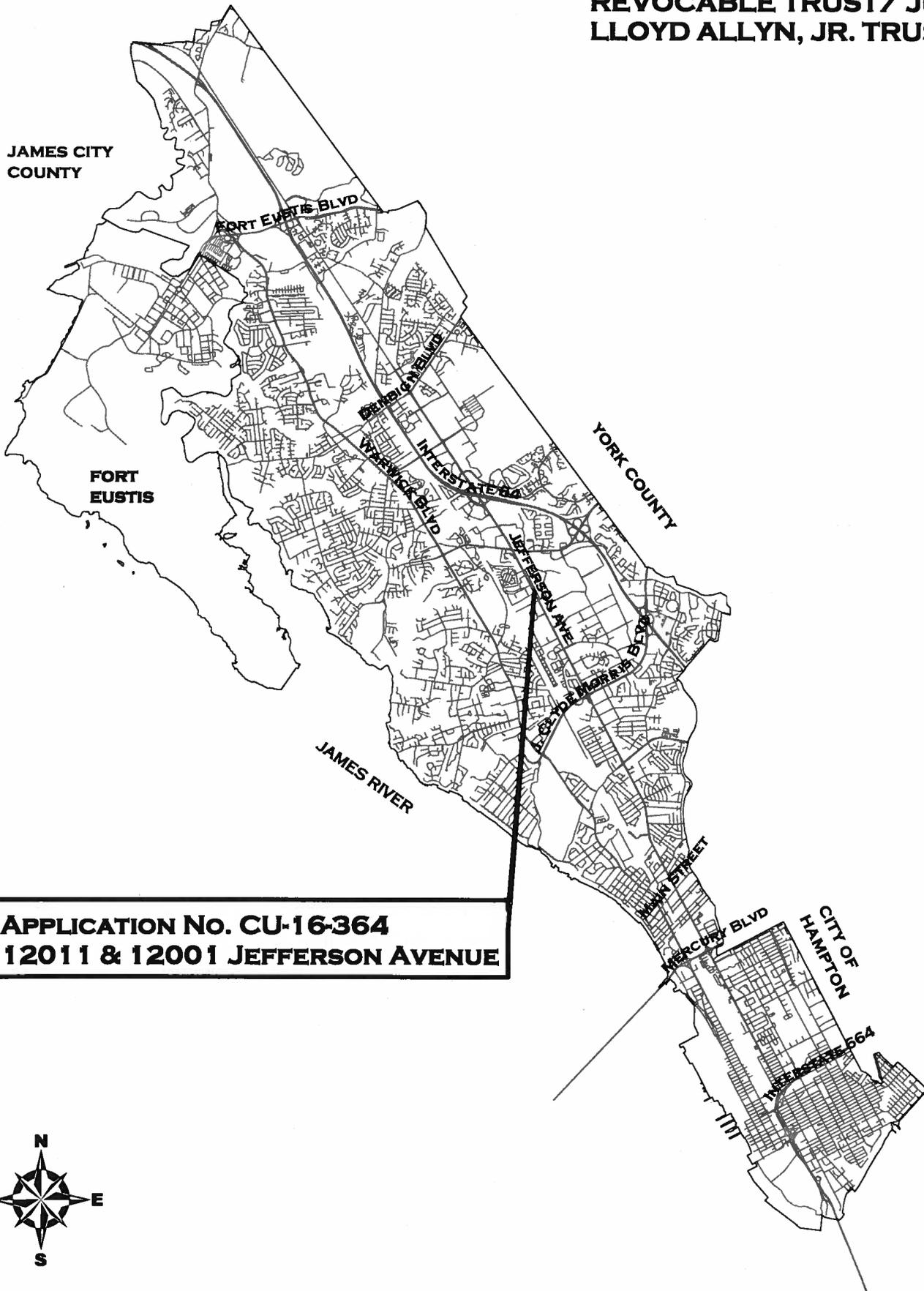
On May 4, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of the request to City Council with conditions. I concur with the City Planning Commission's recommendation.


James M. Bourey

JMB:dfw

**CITY OF NEWPORT NEWS
CITY COUNCIL
MAY 24, 2016**

**CONDITIONAL USE PERMIT
APPLICATION NO. CU-16-364
LLOYD ALLYN JULIEN JR
REVOCABLE TRUST/ JULIEN
LLOYD ALLYN, JR. TRUSTEE**



**APPLICATION No. CU-16-364
12011 & 12001 JEFFERSON AVENUE**



CONDITIONAL USE PERMIT NO. CU-16-364

LLOYD ALLYN JULIEN, JR. REVOCABLE TRUST

OWNER/APPLICANT	Lloyd Allyn Julien, Jr. Revocable Trust / Julien Lloyd Allyn, Jr. Trustee	ZONING	C2 General Commercial (Appendix A-1)
LOCATION	12011 and a portion of 12001 Jefferson Avenue	FRAMEWORK	Community Commercial (Appendix A-5)
PRESENT USE	Parking lot	ACREAGE	0.84 acres

REQUEST Operate a small motor vehicle repair and service facility specializing in the sale and installation of tires.



FACTS

North InTown Suites extended stay hotel on property zoned C1 Retail Commercial
South Former car dealership, now vacant on property zoned C2 General Commercial
East Thomas Jefferson National Accelerator Facility on property zoned O3 Office/Research and Development
West American Classic Self Storage facility on property zoned C2 General Commercial (See Appendix A-1 and A-6.)

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

Regulatory Review The zoning ordinance allows small motor vehicle repair and service facilities in the C2 General Commercial district with the approval of a conditional use permit.

Parking for this use is required at a ratio of one (1) space for every 250 square feet of floor area. Parking is limited to a maximum of one (1) space per 200 square feet of floor area. The site plan indicates a structure with 7,373 square feet of floor area and will require a minimum of 30 parking spaces and a maximum of 37 parking spaces. The site plan shows 26 parking spaces and 6 service bays for a total provision of 32 parking spaces.

On November 25, 2014 conditional use CU-14-337 was approved by city council to allow the operation of a car wash on the site. A conditional use permit will expire if no action is taken toward implementation within two years from the date of approval.

The departments of Codes Compliance, Engineering, Public Works, Public Utilities, Fire, Police, Parks, Recreation and Tourism and Development have no objection to the request. However, the Department of Engineering notes that as part of the site plan review process, the developer must provide an analysis of traffic patterns in order to determine the entrance placement and type. (See Appendix A-7.)

Comprehensive Plan Review The *Framework for the Future 2030* comprehensive plan land use map designates community commercial uses for the property. A small motor vehicle repair and service facility is consistent with this designation. (See Appendix A-5.)

The *Framework for the Future* recommends approving the appearance of the city's major corridors. The redevelopment of the property will entail the construction of a new structure parallel to Jefferson Avenue with finished elevations on all sides that are visible from the right-of-way. New landscaping will be installed between the building and Jefferson Avenue.

ANALYSIS

Automobile related uses are appropriate for this site and are complimentary to the other automotive uses already in the area. Previously the site contained a used automobile dealership. After this used car dealership closed, a conditional use permit that would have allowed the operation of a car wash was approved for this site. The property owner decided not to move forward with the plans for the car wash in favor of requesting a conditional use permit for the operation of a small motor vehicle service and repair facility that will sell and install tires.

The site will encompass all of 12011 Jefferson Avenue and a portion of 12001 Jefferson Avenue. Prior to the issuance of a building permit the property line will be relocated and the entire development will be designated as 12011 Jefferson Avenue.

The proposed use will be housed in a new contemporary building that will be oriented parallel to Jefferson Avenue and set back behind a fourteen (14) foot landscape strip and an existing fifteen (15) foot utility easement. (See Appendix A-3.) The placement of the building close to the front property

line is consistent with other retail development along the city's corridors. The north, south and east elevations that are visible from Jefferson Avenue will have finished elevations. The service bay entrances will be located facing the rear and will not be visible from Jefferson Avenue. The finished building facade and accompanying landscaping will help screen the warehouse storage facility located on the adjacent property to the west. (See Appendix A-4.)

The existing pole sign on the site will be removed. There will be no freestanding signs located on the property. The dumpster enclosure will be sited in the rear of the property and fully enclosed with masonry walls that will match the building and screened with evergreen landscaping. The hours of operation for the business will be 8:00AM until 6:00PM Monday through Friday and 8:00AM until 5:00PM on Saturday.

CONCLUSION

The redevelopment of the property with a new building and landscaping will be an improvement to the appearance of the site, as well as to the Jefferson Avenue corridor in this area. The small motor vehicle repair and service facility is consistent with the *Framework for the Future 2030* comprehensive plan and is compatible with the surrounding uses.

STAFF RECOMMENDATION

Recommend approval of conditional use permit CU-16-364 to allow for the operation of a small motor vehicle repair and service facility at 12011 Jefferson Avenue and a portion of 12001 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 Preliminary Site Plan dated February 19, 2016 prepared by Kimley-Horn and identified as Appendix A-2, and shall conform to this conditional use permit, the City's site regulations and the zoning ordinance.
2. The property owner shall file a boundary line adjustment plat with the Department of Engineering to vacate existing property lines and create two new parcels to be reviewed and approved by the Director of Engineering. The plat shall provide for a shared access on Jefferson Avenue in general conformance to the site plan shown in Appendix A-2.
3. Building elevations and exterior building materials for the property shall be consistent with the drawings prepared by Architectural Resource Team dated March 23, 2016 as identified in Appendix A-4. Full brick construction 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.

4. A landscape plan in conformance with the requirements of the site regulations and conditional use permit 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.
5. The dumpster shall be screened from adjacent properties and rights-of-way with masonry materials that complement the exterior materials of the building on the site. The materials, style and design of the enclosure shall be subject to review and approval by the Director of Planning. The dumpster shall be maintained in good condition in perpetuity.
6. No freestanding signs shall be permitted on the Property.
7. All outdoor storage and displays of saleable items shall be prohibited.
8. 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.
9. Lighting shall be directed inward and downward on the Property so that such lighting does not spillover onto adjacent properties.
10. Tire disposal shall be contracted exclusively to tire haulers that are certified by the Virginia Department of Environmental Quality (DEQ) as a waste tire hauler. A copy of the waste tire certification form, or manifest, provided by the tire hauler shall be kept on site for a period of no less than one year and shall be made accessible to city staff upon request.
11. 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.

12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

13. 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.

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 May 4, 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 Preliminary Site Plan dated February 19, 2016 prepared by Kimley-Horn and identified as Appendix A-2, and shall conform to this conditional use permit, the City's site regulations and the zoning ordinance.
2. The property owner shall file a boundary line adjustment plat with the Department of Engineering to vacate existing property lines and create two new parcels to be reviewed and approved by the Director of Engineering. The plat shall provide for a shared access on Jefferson Avenue in general conformance to the site plan shown in Appendix A-2.
3. Building elevations and exterior building materials for the property shall be consistent with the drawings prepared by Architectural Resource Team dated March 23, 2016 as identified in Appendix A-4. Full brick construction 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.
4. A landscape plan in conformance with the requirements of the site regulations and conditional use permit 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.
5. The dumpster shall be screened from adjacent properties and rights-of-way with masonry materials that complement the exterior materials of the building on the site. The materials, style and design of the enclosure shall be subject to review and approval by the Director of Planning. The dumpster shall be maintained in good condition in perpetuity.
6. No freestanding signs shall be permitted on the Property.
7. All outdoor storage and displays of saleable items shall be prohibited.
8. 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.
9. Lighting shall be directed inward and downward on the Property so that such lighting does not spillover onto adjacent properties.
10. Tire disposal shall be contracted exclusively to tire haulers that are certified by the Virginia Department of Environmental Quality (DEQ) as a waste tire hauler. A copy of the waste tire certification form, or manifest, provided by the tire hauler shall be kept on site for a period of no less than one year and shall be made accessible to city staff upon request.

11. 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.

12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

13. 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.

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 LANDSCAPE PLAN

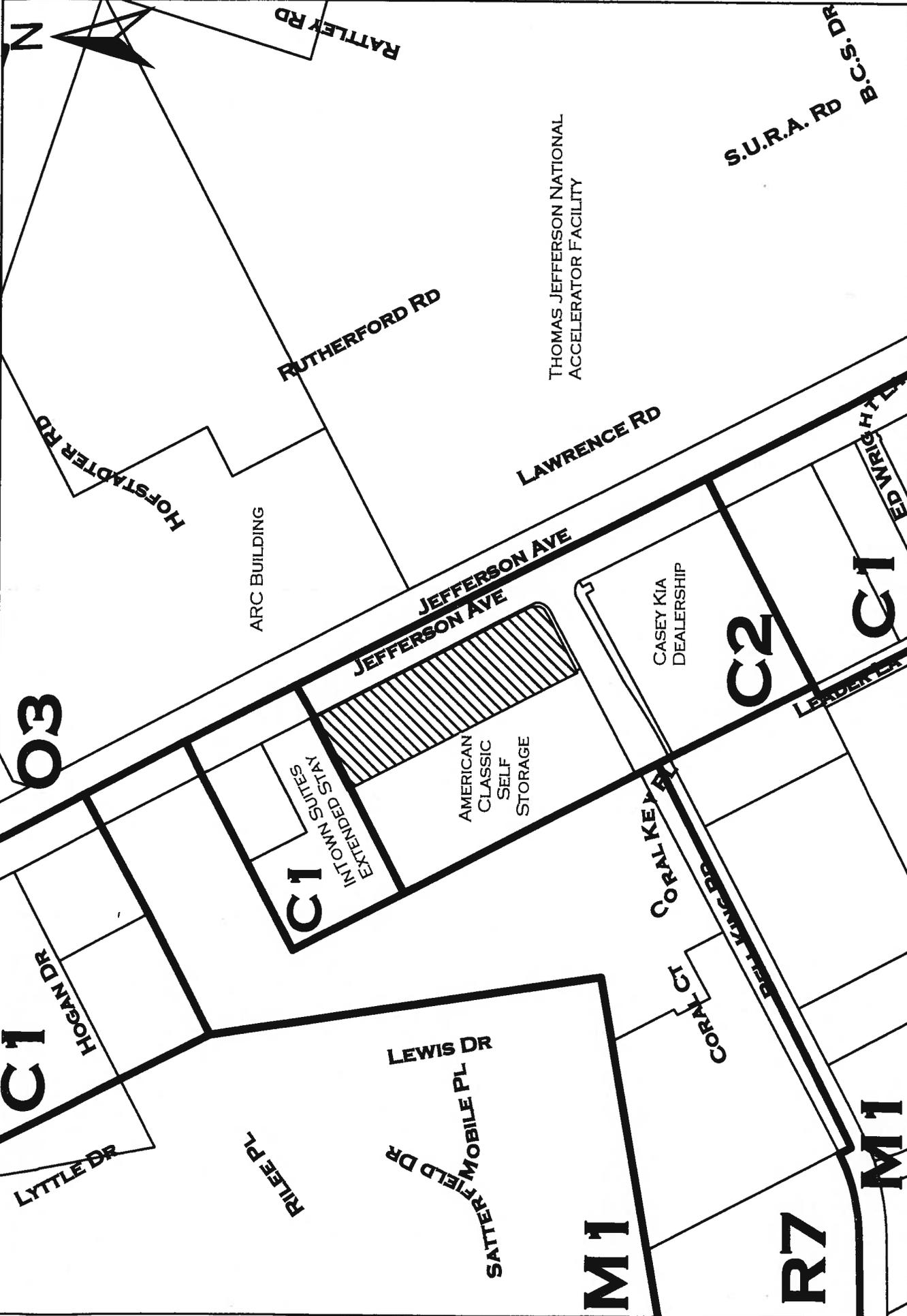
A-4 BUILDING ELEVATIONS

A-5 *FRAMEWORK FOR THE FUTURE 2030* LAND USE MAP

A-6 AERIAL MAP

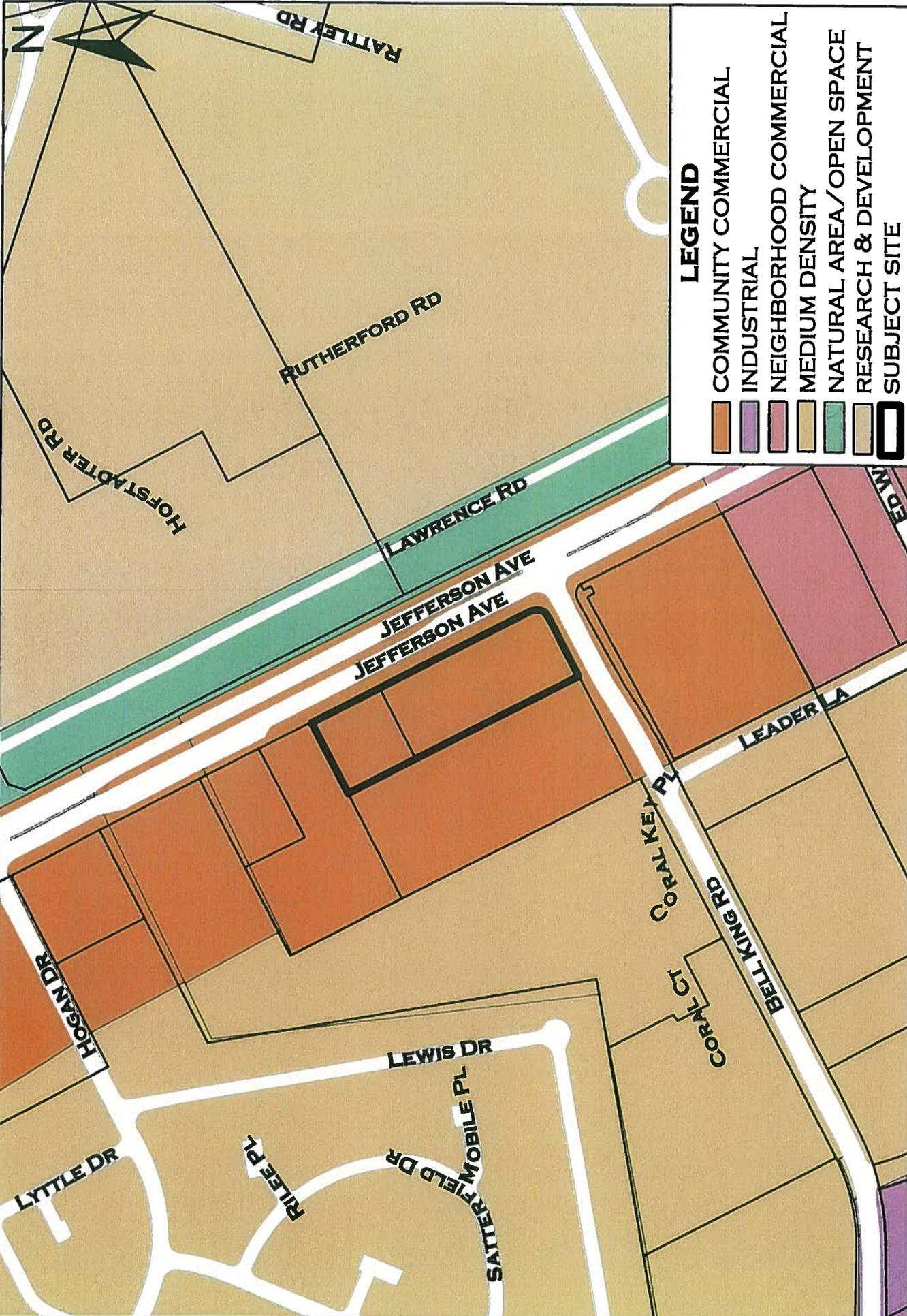
A-7 ENGINEERING COMMENTS

A-8 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF MAY 4, 2016



CU-16-364

JULIEN LLOYD ALLEN JR.

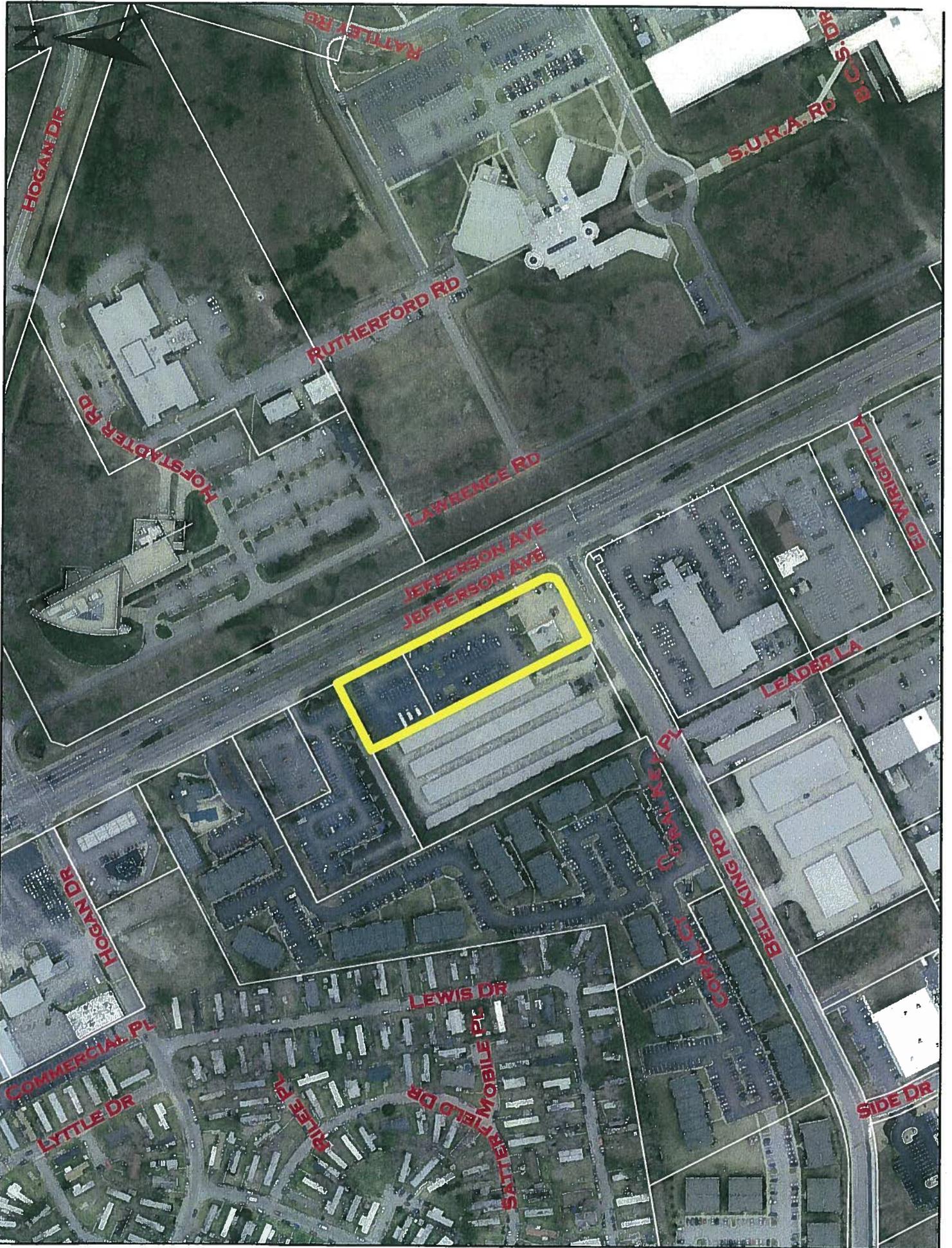


LEGEND

- COMMUNITY COMMERCIAL
- INDUSTRIAL
- NEIGHBORHOOD COMMERCIAL
- MEDIUM DENSITY
- NATURAL AREA/OPEN SPACE
- RESEARCH & DEVELOPMENT
- SUBJECT SITE

**FRAMEWORK FOR
THE FUTURE 2030**

JULIEN LLOYD ALLEN JR.



City of Newport News

Department of Engineering

April 20, 2016

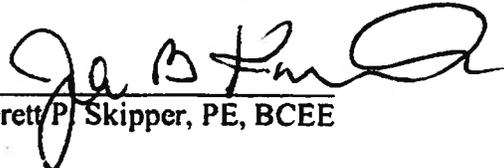
To: Director of Planning
From: Director of Engineering
Subject: Comments for Planning Commission Case for May 4, 2016

Application No. CU-16-364, Julien Lloyd Allen Jr. The Department of Engineering has no objection to the request for a conditional use permit to allow for a small motor vehicle repair and service facility at 12011 Jefferson Avenue and a portion of the property located at 12001 Jefferson Avenue totaling 0.84 acres and zoned C2 General Commercial.

Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if the standard entrance, taper entrance or an entrance with a full width right turn lane would be justified.

Application No. CU-16-365, Jerry and John Harris and The Diggs Co. The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a restaurant with a drive through on a 1.12 acre parcel located at 13921 Jefferson Avenue and a portion of 14523 Jefferson Avenue within the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial. Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if a standard entrance, taper entrance or an entrance with a full width right turn lane would be justified. Further, the analysis must also examine the number of proposed left-turns into the site to determine if a left turn lane is justified. An 8' wide sidewalk will be required along Jefferson Avenue along the full length of the properties to be developed.

Application No. CU-16-366, City of Newport News and YM Devco – 10. The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a multi-modal transportation center located on portions of 550 Youngs Mill Lane, 490 Youngs Mill Lane, 13020 Mitchell Point Road, 199 & 201 Motoka Drive and 500 B Bland Boulevard on six parcels totaling 40.44 acres. Please advise the applicant that a site plan and a subdivision plat will be required. A Traffic Impact Study for the station and associated maintenance facility has been approved by the Department of Engineering. No additional roadway improvements are required beyond what is proposed for the site development.


 Everett P. Skipper, PE, BCEE

EPS/SDK

EXCERPTS FROM PLANNING COMMISSION MINUTES

May 4, 2016

CU-16-364, Julien Lloyd Allyn Jr. Trustee of The Lloyd Allyn Julien Jr. Revocable Trust. Requests a conditional use permit to allow for the construction of a small motor vehicle repair and service facility on property located at 12011 Jefferson Avenue and a portion of the property located at 12001 Jefferson Avenue totaling 0.84 acres and zoned C2 General Commercial. The Parcel Nos. are 172.00-01-36 & 02.

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

Ms. Fox asked how long would the used tires be left on the site and where would they be stored. Mr. Watson stated the tires are not generally stored on-site. He read Condition No. 10: Tire disposal shall be contracted exclusively to tire haulers that are certified by the Virginia Department of Environmental Quality (DEQ) as a waste tire hauler. A copy of the waste tire certification form, or manifest, provided by the tire hauler shall be kept on site for a period of no less than one year and shall be made accessible to city staff upon request. Mr. Watson stated the DEQ program is a voluntary program and requires the tire hauler to pass a DEQ records check, have a local business license, and have a viable destination for these tires, as well as a valid tax identification number. Ms. Fox asked how often the tires would be picked up. Mr. Watson stated it will depend on how much business they are doing. He stated if they are doing a lot of business, the tire hauler will come every day. Mr. Watson stated the applicant has an area on-site, but the tires would not be stored outside. He stated the Fire Department does not want the used tires on the property any longer than necessary. Ms. Fox asked if the used tires could be sitting on-site for weeks at a time. Mr. Watson stated no.

Mr. Carpenter asked if the used tires would be stored indoors. Mr. Watson stated yes, from the time it comes off the rim to the time the used tire is hauled away, it will remain indoors.

Mr. Mulvaney stated there is a minimum of 30 parking spaces noted in the staff report, but there are 26 actual lined spaces and 4 service bays. He asked if the four service bays serve as the additional parking spaces. Mr. Watson stated yes, the code defines the service bays as parking spaces.

Mr. Carpenter opened the public hearing.

Mr. Joe Frank, 2 Madison Circle, representative for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Frank gave a brief presentation of the application.

Mr. Carpenter closed the public hearing.

Ms. Austin made a motion to recommend approval of conditional use permit CU-16-364 to City Council, as recommended by staff. The motion was seconded by Mr. Simmons.

Vote on Roll Call

For: Fox, Jones, Simmons, Mulvaney, Austin, Willis, Groce, Maxwell, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-16-364 to City Council, as amended.

ORDINANCE NO. _____

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-364 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF ALLOWING THE OPERATION OF A SMALL MOTOR VEHICLE REPAIR SERVICE FACILITY ON A SITE ZONED C2 GENERAL COMMERCIAL DISTRICT.

WHEREAS, application number CU-16-364 has been made by **LLOYD ALLYN JULIEN, JR., REVOCABLE TRUST, and JULIEN LLOYD ALLYN, JR., TRUSTEE, owners and applicants**, for a conditional use permit for the hereinafter described property for the purpose of allowing the operation of a small motor vehicle repair facility on a site zoned C2 General Commercial 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-16-364 is hereby granted for the property described in paragraph (b) hereof for the purpose of allowing the operation of a small motor vehicle repair facility on a site zoned C2 General Commercial District; 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, with the appurtenances thereunto belonging, situate in the City of Newport News, Virginia, and designated as Lot 2B-1 as shown on that certain plat entitled "BOUNDARY LINE ADJUSTMENT PLAT FOR LOT 1 (P.B. 10, PG. 34) TAX PARCEL 172000102 AND LOT 2B (INST. #140009780) TAX PARCEL 172000136, CITY OF NEWPORT NEWS, VIRGINIA, APRIL 27, 2015", and made by MSA, P.C. , Environmental Sciences · Planning · Surveying · Civil & Environmental Engineering · Landscape Architecture, said plat of boundary line adjustment recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, on May 18, 2015 as Instrument No.: 150006605.

PARCEL 2

A portion of all that certain lot, piece or parcel of land, with the appurtenances thereunto belonging, situate in the City of Newport News, Virginia, and mor particularly bounded and described as follows:

Beginning at a point in the western line of the right of way of Jefferson Avenue (State Highway #143) distant 424.96 feet northerly as measured along said western right of way of Jefferson Avenue from a pin marking the northern line of the property of Peninsula Twin Drive-in Theatres, Incorporations; and from said point running along a curve with an arc 39.23 feet in a southwesterly direction until it intersects the northern line of future street known as Horne Lane at a point distant 24.96 feet as measured along a course South 62 degrees 18 minutes 48 seconds West from the western line of Jefferson Avenue; thence along the northern line of Horne Lane (80 feet wide), South 62 degrees 18 minutes 48 seconds West 375.04 feet to a point; thence North 27 degrees 35 minutes 48 seconds West, 120.00 feet to a point; thence North 62 degrees 18 minutes 48 seconds East 400.00 feet to a point in the western line of Jefferson Avenue; thence along the western line of Jefferson Avenue, South 27 degrees 35 minutes 48 seconds East 95.04 feet to the point of beginning.

LESS AND EXCEPT: All that certain lot, piece or parcel of land, with the appurtenances thereunto belonging, situate in the City of Newport News, Virginia, and more particularly bounded and described as follows:

Beginning at a point in the northern line of Horne Lane (80 feet wide) distant 160 feet as measured along a course South 62 degrees 18 minutes 48 seconds (sic) West from the point of intersection of the said northern line of Horne Lane (sic) with the western line of Jefferson Avenue (said point (sic) of intersection being 400 feet northerly as measured along the western line of Jefferson Avenue from the northern line of the property now or formerly Peninsula Twin Drive-in Theatres, Incorporated); and from the point of beginning on Horne Lane thus established, running 62 degrees 18 minutes 48 seconds West 240 feet to a point; thence North 27 degrees 35 minutes 48 seconds West 120 feet to a point; thence North 62 degrees 18 minutes 48 seconds East 240 feet to a point; thence south 27 degrees 35 minutes 48 seconds East 120 feet to the point of beginning, said parcel containing 0.66 acre of land, more or

less.

The Property has a common street address of 12011 and a portion of 12001 Jefferson Avenue and is assigned Real Estate Assessor's Tax I.D.#s 172.00-01-02 and 172.00-01-36.

(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 Preliminary Site Plan dated February 19, 2016 prepared by Kimley-Horn and 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. The property owner shall file a boundary line adjustment plat with the Department of Engineering to vacate existing property lines and create two new parcels to be reviewed and approved by the Director of Engineering. The plat shall provide for a shared access on Jefferson Avenue in general conformance to the site plan shown in Appendix A-2.
3. Building elevations and exterior building materials for the property shall be consistent with the drawings prepared by Architectural Resource Team dated March 23, 2016 as identified in Appendix A-4, which is attached hereto and made a part hereof. Full brick construction 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.
4. A landscape plan in conformance with the requirements of the site regulations and conditional use permit 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.
5. The dumpster shall be screened from adjacent properties and rights-of-way with masonry materials that complement the exterior materials of the building on the site. The materials, style and design of the enclosure shall be subject to review and approval by the Director of Planning. The dumpster shall be maintained in good condition in perpetuity.
6. No freestanding signs shall be permitted on the Property.

7. All outdoor storage and displays of saleable items shall be prohibited.
8. 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.
9. Lighting shall be directed inward and downward on the Property so that such lighting does not spillover onto adjacent properties.
10. Tire disposal shall be contracted exclusively to tire haulers that are certified by the Virginia Department of Environmental Quality (DEQ) as a waste tire hauler. A copy of the waste tire certification form, or manifest, provided by the tire hauler shall be kept on site for a period of no less than one year and shall be made accessible to city staff upon request.
11. 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.
12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
13. 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.
14. 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.

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 May 24, 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 Authorizing Conditional Use Permit No. CU-16-365, to John M. Harris and Jerry W. Harris & the Digges Co., for the Construction and Operation of a Restaurant with Drive-through Service on Property Located at 13921 Jefferson Avenue and a Portion of 14523 Jefferson Avenue and Zoned C1 Retail Commercial

ACTION: A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-16-365, TO JERRY W. HARRIS AND JOHN M. HARRIS & THE DIGGES COMPANY TO ALLOW FOR THE CONSTRUCTION AND THE OPERATION OF A BURGER KING RESTAURANT WITH DRIVE-THROUGH SERVICE AT 13921 AND A PORTION OF 14523 JEFFERSON AVENUE AND ZONED C1 RETAIL COMMERCIAL.

BACKGROUND:

- The property is located in the Lee Hall Corridor Overlay District which requires a conditional use permit for a restaurant with drive-through service and review of proposed improvements by its review committee.
- On March 30, 2016, the Lee Hall Corridor Overlay District review committee approved the proposed building and site improvements by a 6:1 vote.
- The request is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map and compatible with surrounding uses.
- On May 4, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of the request with conditions.

Vote on Roll Call

For: Austin, Carpenter, Fox, Groce, Jones, Maxwell, Mulvaney, Simmons Willis

Against: None

Abstention: None

- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CU-16-365

Staff Report and CPC Minute Excerpts

rag1078 CU-16-365 re John M. Harris and Jerry W. Harris and The Digges Co

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council

FROM: City Manager

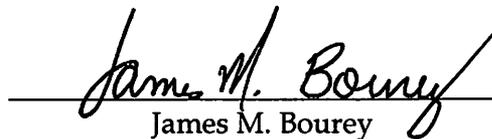
SUBJECT: Conditional Use Permit No. CU-16-365, John M. Harris & Jerry W. Harris and The Digges Co.

John M. Harris & Jerry W. Harris and The Digges Co. request a conditional use permit to allow for the operation of a Burger King restaurant with drive-through service on a parcel containing 0.95 acres located at 13921 and a portion of 14523 Jefferson Avenue. The property is within the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial.

The zoning ordinance requires a conditional use permit for all drive-through services within the Lee Hall Corridor Overlay District, and requires a committee review and approval of any development and redevelopment within the overlay district. On March 30, 2016, the Committee approved, by a vote of 6:1, the design for the proposed restaurant.

The proposed restaurant will introduce an architecturally interesting building in conjunction with new extensive landscaping that will enhance the appearance of the site's frontage on Jefferson Avenue. The request is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map and compatible to the surrounding uses.

On May 4, 2016, the City Planning Commission voted unanimously 9:0 to recommend approval of the request to City Council with conditions. I concur with the City Planning Commission's recommendation.

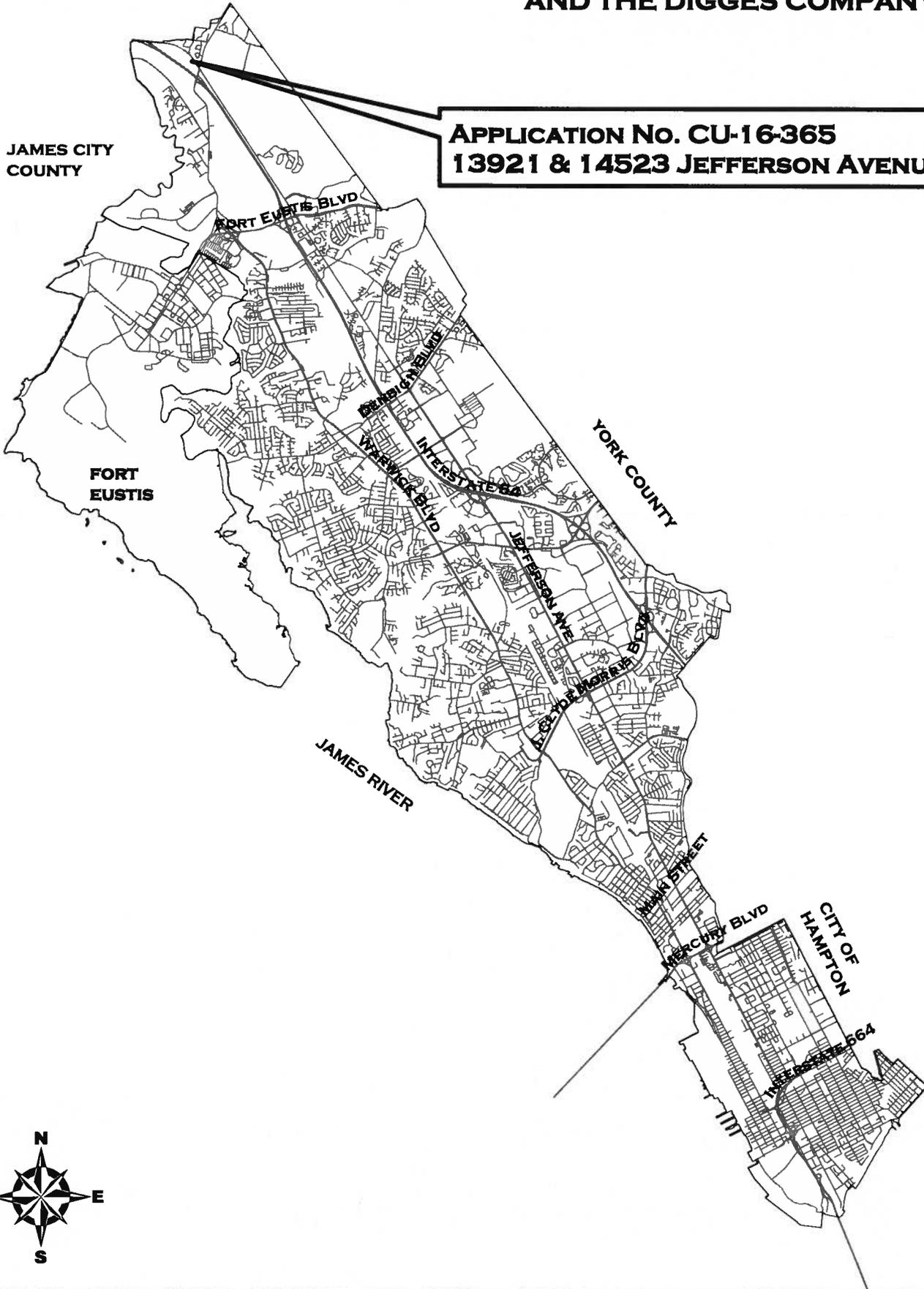

James M. Bourey

JMB:sgd

**CITY OF NEWPORT NEWS
CITY COUNCIL
MAY 24, 2016**

**CONDITIONAL USE PERMIT
APPLICATION NO. CU-16-365
JERRY HARRIS & JOHN M. HARRIS
AND THE DIGGES COMPANY**

**APPLICATION No. CU-16-365
13921 & 14523 JEFFERSON AVENUE**



CONDITIONAL USE PERMIT NO. CU-16-365

JOHN M. HARRIS & JERRY W. HARRIS AND THE DIGGES CO.

APPLICANT/OWNER	John M. Harris & Jerry W. Harris and The Digges Co.	ZONING	C1 Retail Commercial (Appendix A-1)
LOCATION	13921 and a portion of 14523 Jefferson Avenue	FRAMEWORK	Community Commercial (Appendix A-5)
PRESENT USE	Vacant	ACREAGE	0.95 acres
REQUEST	Burger King Restaurant with drive-through		



FACTS

- North** Yorktown Naval Weapons Station Housing Complex on properties zoned R8 High Density Multiple-Family Dwelling
- South** Interstate I-64 and Dominion Virginia Power substation on property zoned C1 Retail Commercial
- East** Single-Family structure on property zoned C1 Retail Commercial
- West** Vacant property zoned C1 Retail Commercial

Zoning History C1 Retail Commercial since the citywide comprehensive rezoning became effective August 1, 1997
 Within the Lee Hall Corridor Overlay District since its adoption September 26, 2006

Regulatory Review The property is located within Lee Hall Corridor Overlay District. The zoning ordinance requires a conditional use permit for all drive-through services within the district.

In anticipation of potential development of the Endview Plantation, on September 26, 2006, City Council approved the creation of the Lee Hall Corridor Overlay District. The overlay is intended to improve the entrance corridors into the Lee Hall area and protect the area from incompatible development and redevelopment. Further, the overlay district protects the aesthetic and visual character of the Lee Hall area. Design guidelines and development standards were also created and adopted to govern any development and redevelopment within the overlay district. The Lee Hall Corridor Overlay District Committee, consisting of 8 members that include a representative of the Planning Commission, 2 citizens at-large that own property or reside in the overlay district and city staff, was then created and tasked with the review of any such projects within the overlay.

On March 30, 2016 the Committee approved, by a vote of 6:1, the design for the proposed restaurant, including a free standing sign.

The zoning ordinance requires a 20-foot transitional buffer area between commercial and multiple-family zoning, which occurs along the property's Jefferson Avenue frontage. The preliminary site plan appropriately identifies the required transitional buffer areas. (See Appendix-A-2.)

The proposed restaurant will occupy a 2,866 square feet building. The required parking ratio is 1 parking space for each 100 square feet of floor area or 29 spaces. The site plan submitted indicates the required parking spaces will be provided.

Although the Department of Engineering does not object to the request it was noted that a site plan is required for the proposed project. Further, it should be noted that as part of the site plan requirements the applicant shall be responsible for the installation of an 8-foot wide sidewalk. In addition, as part of the site plan submission the developer must provide an analysis of traffic patterns in order to determine the entrance placement and type. (See Appendix A-7.)

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 uses for the property. The proposed use is consistent with the commercial designation. (See Appendix A-5.)

The *Framework* also recommends the visual improvement of the city's corridors. The property is located along a major corridor and at a gateway to the city. The proposed development is consistent with these goals introducing an architecturally interesting building and extensive landscaping enhancing the appearance of the site.

ANALYSIS

The site location with its adjacency to Interstate I-64 and the Dominion Virginia Power substation limits greatly the type of development that can

occur. Although this is a gateway to the corridor as well as the city, the existing buildings fronting Jefferson Avenue predate the creation of the overlay district. The new proposed restaurant has the potential to inspire some change to the area and its success may pave the way for other development to occur.

The proposed building and site development is in keeping with the guidelines provided in the zoning ordinance as it applies to the Lee Hall Corridor Overlay District. The guidelines deal with architectural design, materials and landscaping. Although the proposed building is part of a franchise, the applicant has taken the initiative to provide a design that is responsive to the Lee Hall corridor guidelines, limiting materials to full brick with stone accents which are compatible with traditional commercial buildings in the area. The design also limits the signage to a "button" at the corner tower. In keeping with the approval by the Lee Hall Committee, the applicant will be limited to one freestanding sign no taller than 8-feet to be located at the entrance to the site. (See Appendix A-4.)

The applicant will be preserving most of the trees in the front of the property and adding new ones to comply with the requirements of the transitional buffer area, resulting in a natural screening of the building and parking areas.

Although the site is adjacent to the Yorktown Naval Weapons Station and its housing component, as well as an exit ramp off of Interstate 64, services for residents, workers and motorists in the immediate vicinity are very limited. The proposed restaurant will provide a service within walking distance that is not readily available to station personnel as well as to motorists that may want to stay close to the exit ramp.

CONCLUSION

The proposed restaurant has been deemed to be in keeping with the Lee Hall Corridor Overlay District guidelines and development standards as stipulated in the zoning ordinance. It will introduce an architecturally interesting building that in conjunction with new extensive landscaping will enhance the appearance of the site's frontage on Jefferson Avenue. Further, the proposed project may encourage future development and appropriate renovations of adjacent buildings further improving the visual character of the corridor and this gateway to the city.

The proposed restaurant with drive-through service is consistent with the adopted *Framework for the Future 2030* comprehensive plan land use map and is compatible with the adjacent commercial uses. It will also provide a service that is currently not available to both commuting motorists as well as residents of the area.

STAFF RECOMMENDATION

Recommend approval of conditional use permit CU-16-365 to allow for the operation of a restaurant with drive-through service within the Lee

Hall Corridor Overlay District located at 13921 and a portion of 14523 Jefferson Avenue with the following conditions:

1. The applicant shall submit a class 1 Site Plan to the Department of Engineering for review by the Site Plan Review Committee and approval by the Director of Engineering; this site plan shall be in general conformance with the Conceptual Plan prepared by The Bush Companies, dated March 7, 2016, found in Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance. The site plan shall address traffic improvements as noted by the Department of Engineering in Appendix A-7.
2. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated February 24, 2016 prepared by Arie Kohn Architects, PC and found in Appendix A-3 to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.
3. The applicant shall submit a landscape plan, which is consistent with the requirements of the Site Regulations and this permit, to be approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance to the conceptual plan prepared by The Bush Companies, dated March 7, 2016, found in Appendix A-2. 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.
4. The applicant shall cause a 20-foot transitional buffer area to be installed and maintained in perpetuity along the property's Jefferson Avenue frontage.
5. The applicant shall install an 8-foot wide sidewalk along the Jefferson Avenue frontage in accordance with the City's requirements.
6. No more than one freestanding sign shall be installed on the Property. The sign shall be a monument style not to exceed eight (8) feet in height, including the base, and the size limited to fifty (50) square feet. The sign shall be located within the Property. The freestanding sign shall be in substantial conformance with the sign identified in Appendix A-4. The design of the freestanding sign and all building signs shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a sign permit. No portable signs shall be permitted on the Property.
7. Signage placed in or on any window of a building shall be limited to no more than 25 percent of each window.

8. The applicant shall submit the proposed elevations and exterior surface materials for a masonry dumpster enclosure to the Department of Planning to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The applicant shall construct the dumpster enclosure in substantial conformance with the approved elevations and materials. The container within the enclosure shall be a closed container.

9. The applicant shall screen all heating, ventilation, and air conditioning equipment from view from the public rights-of-way and adjacent properties in a manner reviewed and approved by the Director of Planning.

10. The exterior of the restaurant including the buffer area shall be patrolled by the operator at the close of business each day and all debris, litter and graffiti identified during this process must be removed immediately.

11. 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.

12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

13. 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.

14. 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.

15. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

16. 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.

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 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.

18. 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 May 4, 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 applicant shall submit a class 1 Site Plan to the Department of Engineering for review by the Site Plan Review Committee and approval by the Director of Engineering; this site plan shall be in general conformance with the Conceptual Plan prepared by The Bush Companies, dated March 7, 2016, found in Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance. The site plan shall address traffic improvements as noted by the Department of Engineering in Appendix A-7.

2. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated February 24, 2016 prepared by Arie Kohn Architects, PC

and found in Appendix A-3 to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.

3. The applicant shall submit a landscape plan, which is consistent with the requirements of the Site Regulations and this permit, to be approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance to the conceptual plan prepared by The Bush Companies, dated March 7, 2016, found in Appendix A-2. 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.

4. The applicant shall cause a 20-foot transitional buffer area to be installed and maintained in perpetuity along the property's Jefferson Avenue frontage.

5. The applicant shall install an 8-foot wide sidewalk along the Jefferson Avenue frontage in accordance with the City's requirements.

6. No more than one freestanding sign shall be installed on the Property. The sign shall be a monument style not to exceed eight (8) feet in height, including the base, and the size limited to fifty (50) square feet. The sign shall be located within the Property. The freestanding sign shall be in substantial conformance with the sign identified in Appendix A-4. The design of the freestanding sign and all building signs shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a sign permit. No portable signs shall be permitted on the Property.

7. Signage placed in or on any window of a building shall be limited to no more than 25 percent of each window.

8. The applicant shall submit the proposed elevations and exterior surface materials for a masonry dumpster enclosure to the Department of Planning to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The applicant shall construct the dumpster enclosure in substantial conformance with the approved elevations and materials. The container within the enclosure shall be a closed container.

9. The applicant shall screen all heating, ventilation, and air conditioning equipment from view from the public rights-of-way and adjacent properties in a manner reviewed and approved by the Director of Planning.

10. The exterior of the restaurant including the buffer area shall be patrolled by the operator at the close of business each day and all debris, litter and graffiti identified during this process must be removed immediately.

11. 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.

12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

13. 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.

14. 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.

15. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

16. 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.

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 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.

18. 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 ELEVATIONS

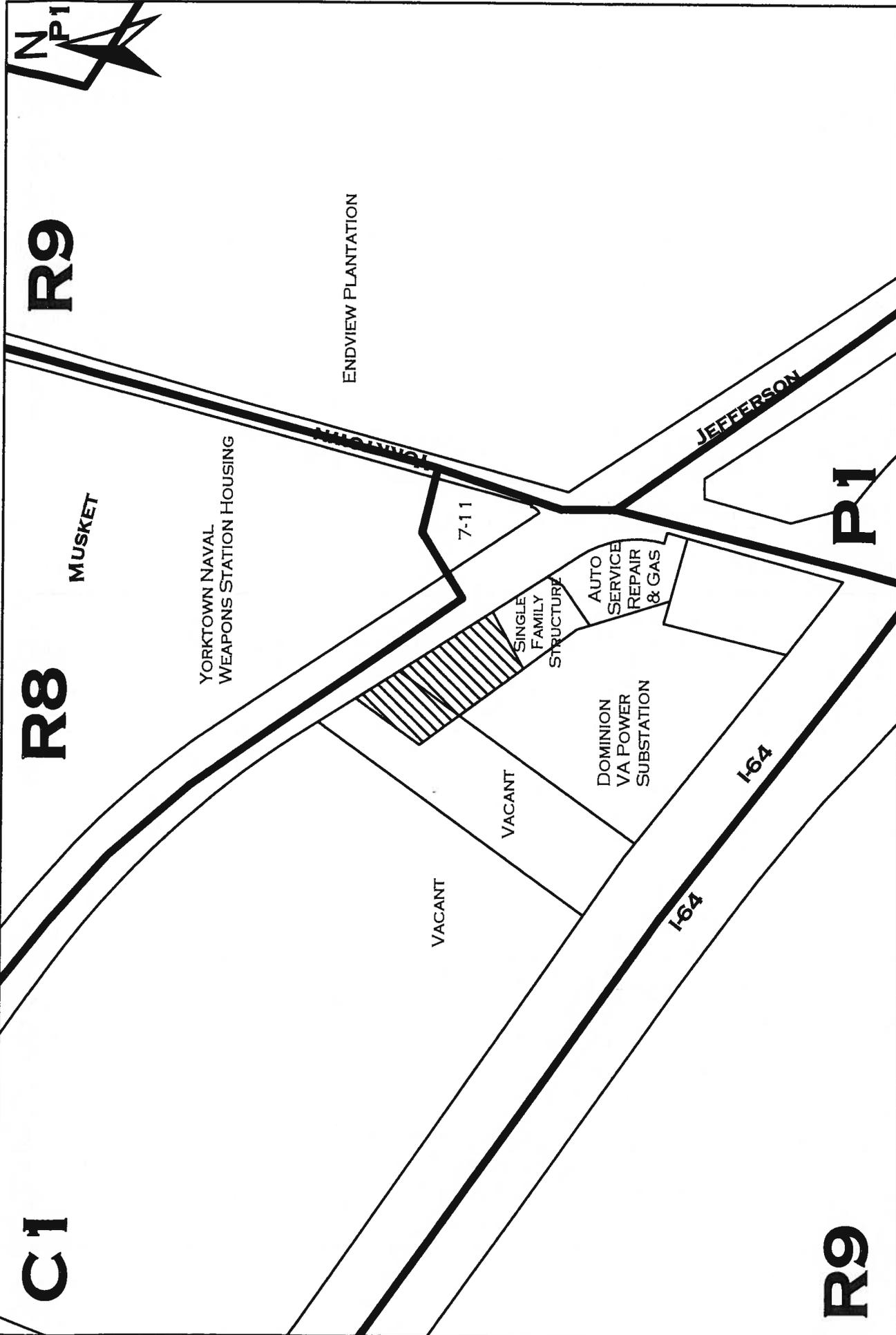
A-4 SIGN

A-5 *FRAMEWORK FOR THE FUTURE 2030 LAND USE MAP*

A-6 AERIAL MAP

A-7 DEPARTMENT OF ENGINEERING COMMENTS

A-8 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF MAY 4, 2016



**JERRY HARRIS & JOHN M.
HARRIS & THE DIGGES COMPANY**

CU-16-365

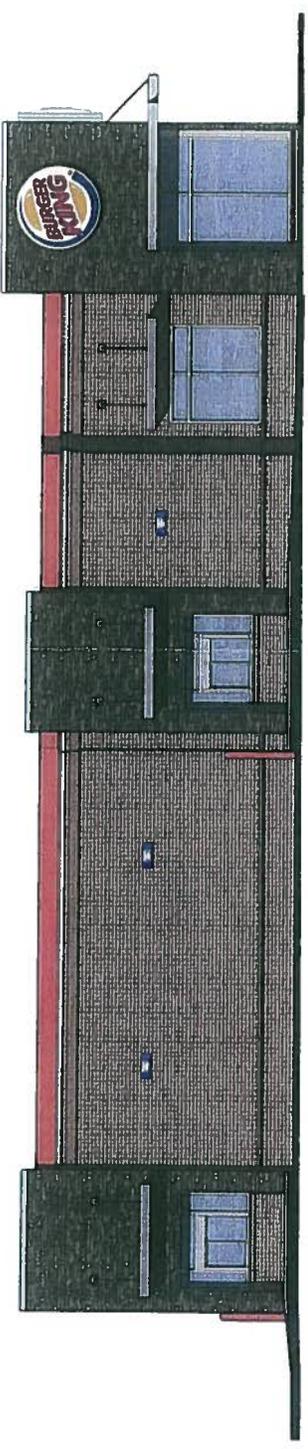


NO.	DATE	DESCRIPTION	BY
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			

RENOVATION DRAWINGS FOR:
N AND R DINING
 423 N. Boundary St., Suite 100
 Williamsburg, Va. 23182
 Office 757-664-9175
 Perry Dunford, cell 670-690-6632

AKA
AKA KOHN ARCHITECTS, P.C.
 74 WOODROCK ROAD, NORFOLK, VA. 23502
 TEL: (757) 642-8829 FAX: (757) 642-7723
 EMAIL: info@akarchitects.com

PROJECT: 8115
 DATE: 02/24/2016
BURGER KING RESTAURANT
 BK#
 1ST FLOOR, VA



4 DRIVE THRU - LEFT ELEVATION
 SCALE: 1/4" = 1'-0"

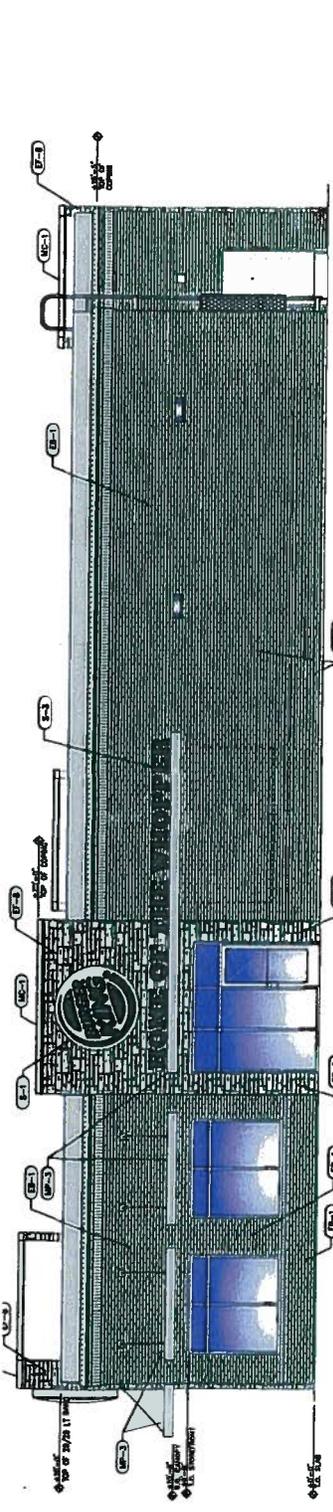
03.04.2016

NO.	DATE	DESCRIPTION
1	03.04.2016	ISSUED FOR PERMIT
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		
34		
35		
36		
37		
38		
39		
40		
41		
42		
43		
44		
45		
46		
47		
48		
49		
50		

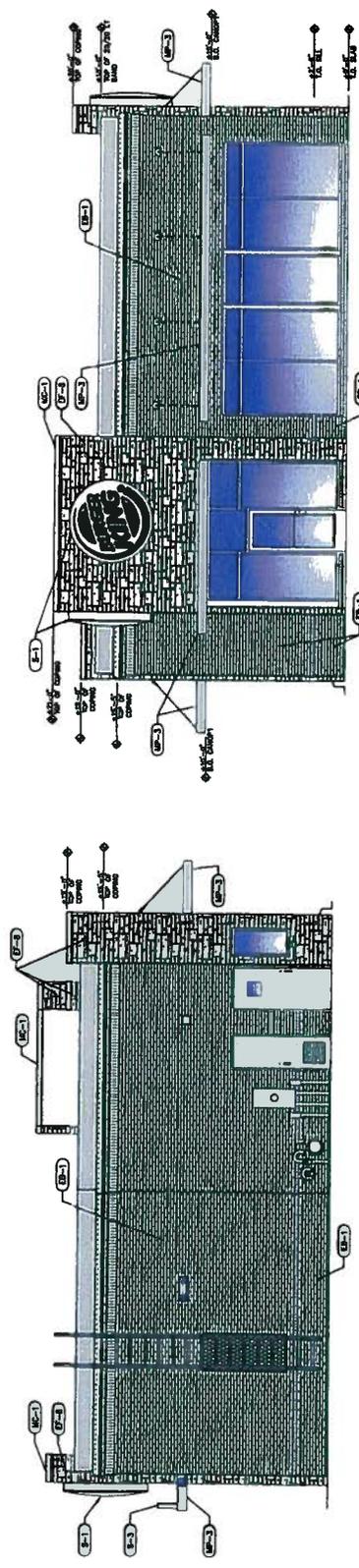
RENOVATION DRAWINGS FOR:
 N AND R DINING
 423 N. Boundary St., Suite 100
 Williamsburg, Va. 23182
 Office 757-564-3175
 Ferry Dunford, cell 570-690-6632

THE KOHN ARCHITECTS, PC
 74 WOODSTOCK ROAD, ROSELLE, VA 23185
 TEL: (757) 443-4030 FAX: (757) 443-3735
 EMAIL: info@kohnarch.com

BK BURGER KING RESTAURANT
 PROJECT #1618
 DATE: 03/24/2016
 1ST FLOOR PLAN

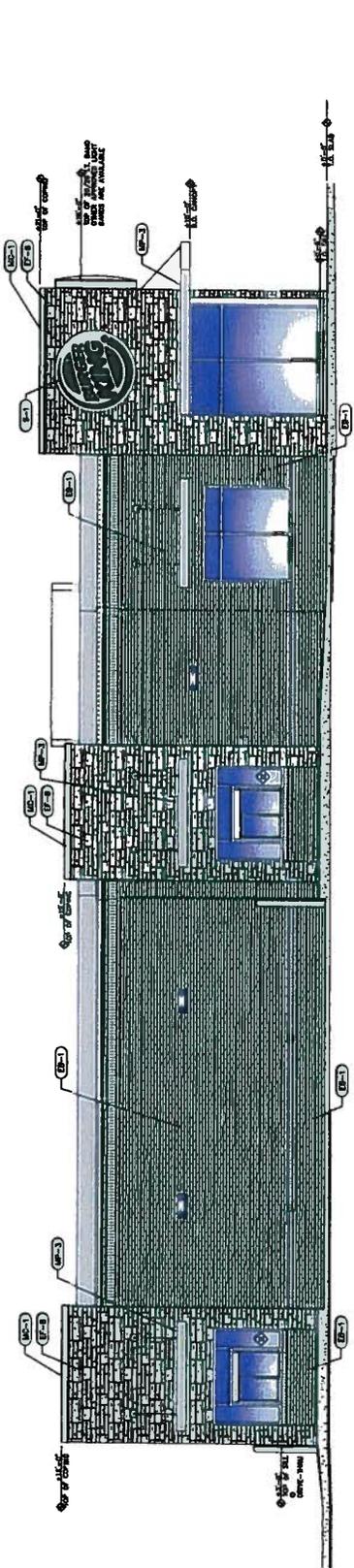


1 MAIN ENTRANCE - RIGHT ELEVATION
 SCALE: 1/4" = 1'-0"



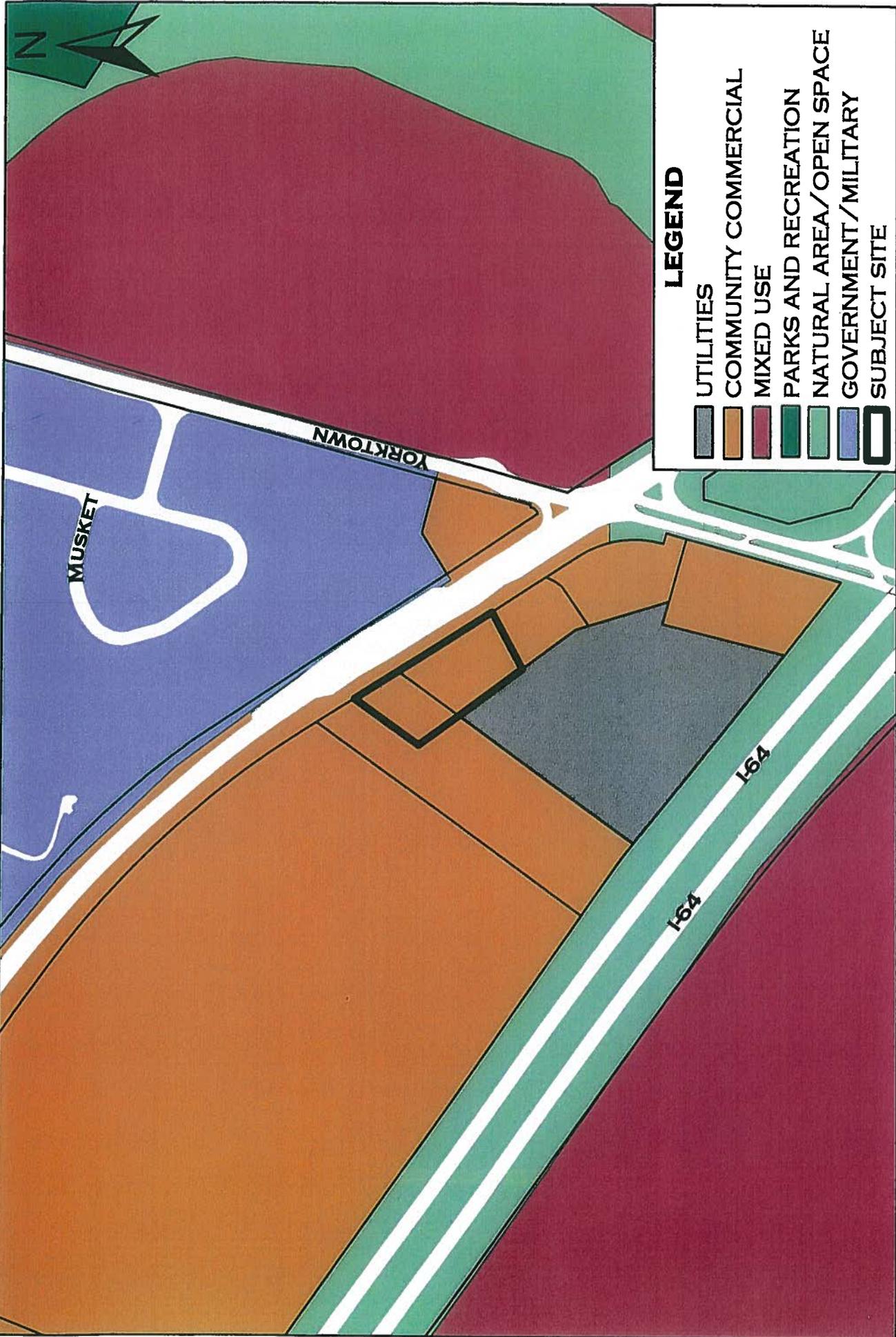
2 REAR ELEVATION
 SCALE: 1/4" = 1'-0"

3 FRONT ELEVATION
 SCALE: 1/4" = 1'-0"



4 DRIVE THRU - LEFT ELEVATION
 SCALE: 1/4" = 1'-0"

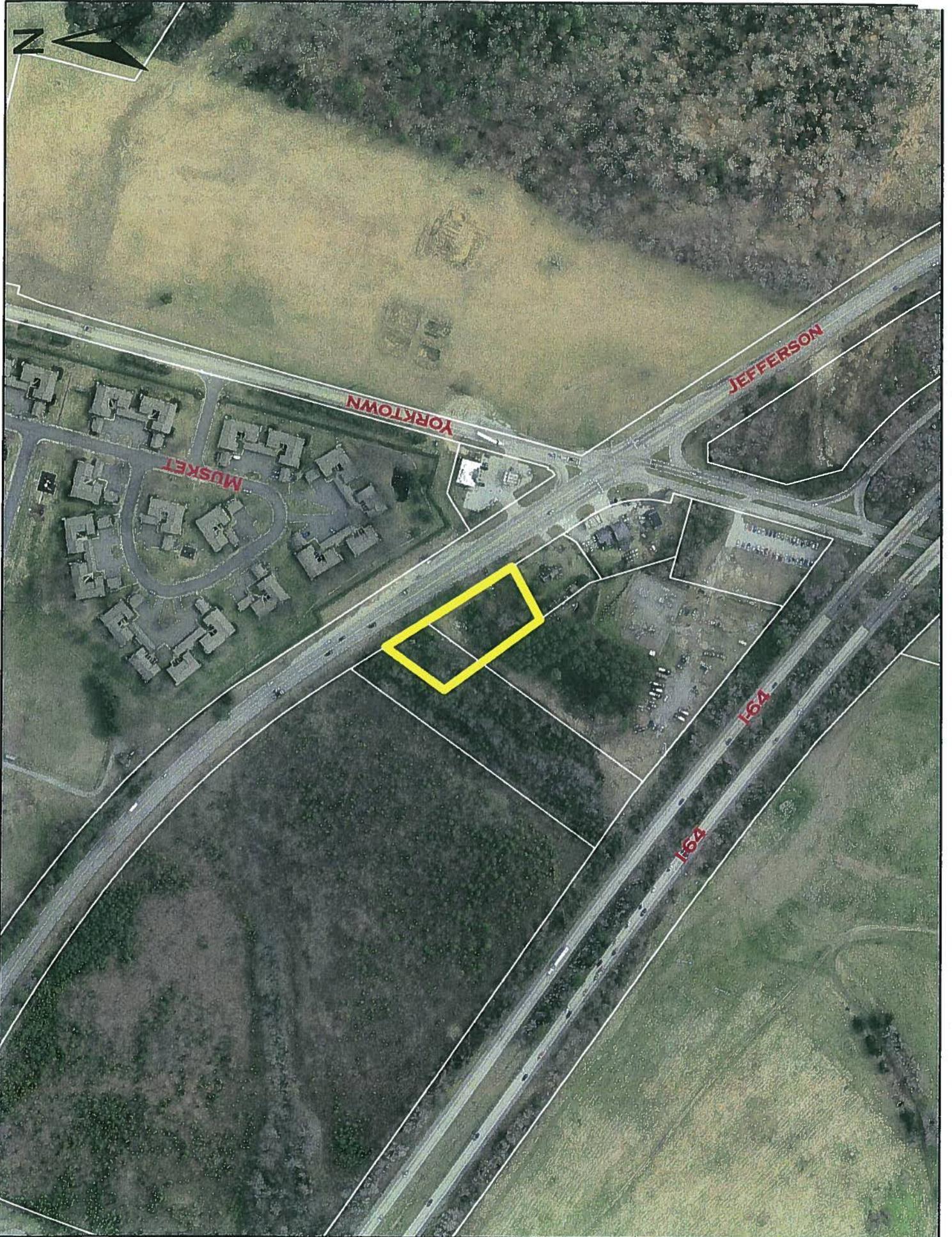
03.04.2016



JERRY HARRIS & JOHN M.

HARRIS & THE DIGGES COMPANY

**FRAMEWORK FOR
THE FUTURE 2030**



City of Newport News
Department of Engineering

April 20, 2016

To: Director of Planning

From: Director of Engineering

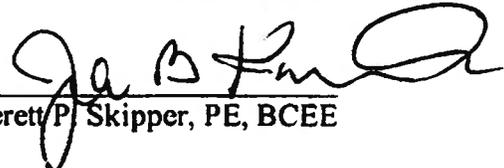
Subject: Comments for Planning Commission Case for May 4, 2016

Application No. CU-16-364, Julien Lloyd Allen Jr. The Department of Engineering has no objection to the request for a conditional use permit to allow for a small motor vehicle repair and service facility at 12011 Jefferson Avenue and a portion of the property located at 12001 Jefferson Avenue totaling 0.84 acres and zoned C2 General Commercial.

Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if the standard entrance, taper entrance or an entrance with a full width right turn lane would be justified.

Application No. CU-16-365, Jerry and John Harris and The Diggs Co. The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a restaurant with a drive through on a 1.12 acre parcel located at 13921 Jefferson Avenue and a portion of 14523 Jefferson Avenue within the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial. Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if a standard entrance, taper entrance or an entrance with a full width right turn lane would be justified. Further, the analysis must also examine the number of proposed left-turns into the site to determine if a left turn lane is justified. An 8' wide sidewalk will be required along Jefferson Avenue along the full length of the properties to be developed.

Application No. CU-16-366, City of Newport News and YM Devco - 10. The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a multi-modal transportation center located on portions of 550 Youngs Mill Lane, 490 Youngs Mill Lane, 13020 Mitchell Point Road, 199 & 201 Motoka Drive and 500 B Bland Boulevard on six parcels totaling 40.44 acres. Please advise the applicant that a site plan and a subdivision plat will be required. A Traffic Impact Study for the station and associated maintenance facility has been approved by the Department of Engineering. No additional roadway improvements are required beyond what is proposed for the site development.


Everett P. Skipper, PE, BCEE

EPS/SDK

EXCERPTS FROM PLANNING COMMISSION MINUTES

May 4, 2016

CU-16-365, Jerry W. Harris & John M. Harris & The Digges Company. Requests a conditional use permit to allow for the construction of a restaurant with a drive-through service on a 1.12 acre parcel located at 13921 Jefferson Avenue and a portion of 14523 Jefferson Avenue and zoned C1 Retail Commercial. The Parcel Nos. are 008.00-01-03 & 11.

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

Mr. Mulvaney stated on April 20, 2016, Mr. Everett Skipper, Director of Engineering, wrote a note about the traffic and the traffic analysis and the impacts in the subject area. He stated there are no conditions about traffic improvement in the staff report. Mr. Mulvaney asked if the Planning Commission approves this application and the traffic impact analysis comes back that it is not favorable, is it upon the city to make traffic improvements or on the developer. Mr. Gleiser stated the city is not asking for a traffic impact analysis, but a traffic study, which is less than an analysis. He stated the traffic study talks about a potential entry lane into the property, which will be dealt with during site plan review. Mr. Mulvaney asked if the entry lane is required, will the city be paying for it or the developer. Mr. Gleiser stated it would be the developer's responsibility.

Ms. Austin asked for clarification on where the eight foot sidewalk and the monument sign are located on the conceptual plan. Mr. Gleiser stated the sidewalk is not shown on the conceptual plan, but it will be located on the right-of-way. He stated the sign will be located within the property at the entrance.

Mr. Carpenter asked if the exterior materials would be a brick. Mr. Gleiser stated the building will have a brick and stone veneer.

Mr. Carpenter asked if the enclosure for the dumpster will be a masonry brick that matches the building. Mr. Gleiser stated yes, it will match the building.

Ms. Willis stated she attended the Lee Hall Corridor Overlay District Committee meeting and some of the concerns in the area were with the subject location being an entrance into Newport News that consideration be given to the visual effect it has and the landscaping. She stated they wanted some serious consideration put into the visual effect because of the buildings that will come along afterward, so they all have a good amount of landscaping. Ms. Willis stated there was a lot of concern about trash, and Condition No. 10 says the applicant would be cleaning it up every day. She stated the residents in Lee Hall were concerned about trash being created from people coming on and off the interstate and throwing things as they went, but if there are places for them to put their trash before they leave, it would be wonderful.

Mr. Mulvaney stated noise is not addressed in the conditions and the subject property is right across the street from the Navy housing complex. He asked if there has been consideration for the location of the outdoor speakers and time frames for operation. Mr. Gleiser stated that is the reason that you have the buffer between residential and commercial properties. He stated the buffer lessens any impact that the use will have on adjacent housing.

Mr. Carpenter opened the public hearing.

Mr. Bobby Singley, 423 N. Boundary Street, Williamsburg, representative for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Singley gave a brief presentation of the application.

Mr. Carpenter closed the public hearing.

Ms. Fox made a motion to recommend approval of conditional use permit CU-16-365 to City Council, as recommended by staff. The motion was seconded by Mr. Mulvaney.

Vote on Roll Call

For: Jones, Simmons, Mulvaney, Austin, Willis, Groce, Maxwell, Fox, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-16-365 to City Council.

ORDINANCE NO. _____

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-365 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF PERMITTING THE CONSTRUCTION AND OPERATION OF A RESTAURANT WITH DRIVE THROUGH SERVICE IN THE LEE HALL CORRIDOR OVERLAY DISTRICT AND ZONED C1 RETAIL COMMERCIAL.

WHEREAS, application number CU-16-365 has been made by **JOHN M. HARRIS and JERRY W. HARRIS and THE DIGGES COMPANY, owners and applicants**, for a conditional use permit for the hereinafter described property for the purpose of permitting the construction and operation of a restaurant with drive through service in the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial; 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-16-365 is hereby granted for the property described in paragraph (b) hereof for the purpose of permitting the construction and operation of a restaurant with drive through service in the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial; 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 piece, parcel or lot of land situate, lying and being in the City of Newport News, Virginia, being more particularly described as follows: Beginning at a point in the westerly right of way line of Virginia State Highway Route 143, formerly Virginia State Highway Route 168, at which said point an abandoned U. S. Government right of way, said Virginia State highway Route 143 right of way and the property herein conveyed converge; thence proceeding in a clockwise direction along said Virginia State Highway Route 143 right of way South 32° 06' East 251.23 feet to a point thence proceeding South 62° 47' 10" West to a point; at which said point land herein conveyed, land now or formerly owned by Virginia Electric and Power Company, and remaining land of the grantor converge; thence 35° 47' 06" West 179.49 feet to a point; at

which said point property herein conveyed, said abandoned U. S. Government right of way, and land now or formerly owned by Virginia Electric and Power Company converge; thence North 37° 03' 30" East a distance of 168.23 feet to a point, the point and place of beginning. The property herein described being bounded on the North by said abandoned U. S. Government right of way; on the East by said Virginia State Highway Route 143 right of way; on the South by remaining land of the grantor herein, and on the West by property now or formerly owned by Virginia Electric and Power Company.

The Property has a common street address of 13921 and a portion of 14523 Jefferson Avenue. The parcel is assigned Real Estate Assessor's Tax I.D.#s 008.00-01-03 and 008.00-01-11.

(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 applicant shall submit a class 1 Site Plan to the Department of Engineering for review by the Site Plan Review Committee and approval by the Director of Engineering; this site plan shall be in general conformance with the Conceptual Plan prepared by The Bush Companies, dated March 7, 2016, found in 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. The site plan shall address traffic improvements as noted by the Department of Engineering in Appendix A-7, which is attached hereto and made a part hereof.
2. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated February 24, 2016 prepared by Arie Kohn Architects, PC and found in Appendix A-3, which is attached hereto and made a part hereof, to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.
3. The applicant shall submit a landscape plan, which is consistent with the requirements of the Site Regulations and this permit, to be approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance to the conceptual plan prepared by The Bush Companies, dated March 7, 2016, found in Appendix A-2. 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.

4. The applicant shall cause a 20-foot transitional buffer area to be installed and maintained in perpetuity along the property's Jefferson Avenue frontage.
5. The applicant shall install an 8-foot wide sidewalk along the Jefferson avenue frontage in accordance with City Code requirements.
6. No more than one freestanding sign shall be installed on the Property. The sign shall be a monument style not to exceed eight (8) feet in height, including the base, and the size shall be limited to fifty (50) square feet. The sign shall be located within the boundaries of the Property. The freestanding sign shall be in substantial conformance with the sign identified in Appendix A-4, which is attached hereto and made a part hereof. The design of the freestanding sign and all building signs shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a sign permit. No portable signs shall be permitted on the Property.
7. Signage placed in or on any window of a building shall be limited to no more than 25 percent of each window.
8. The applicant shall submit the proposed elevations and exterior surface materials for a masonry dumpster enclosure to the Department of Planning to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The applicant shall construct the dumpster enclosure in substantial conformance with the approved elevations and materials. The container within the enclosure shall be a closed container.
9. The applicant shall screen all heating, ventilation, and air conditioning equipment from view from the public rights-of-way and adjacent properties in a manner reviewed and approved by the Director of Planning.
10. The exterior of the restaurant including the buffer area shall be patrolled by the operator at the close of business each day and all debris, litter and graffiti identified during this process must be removed immediately.
11. 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.

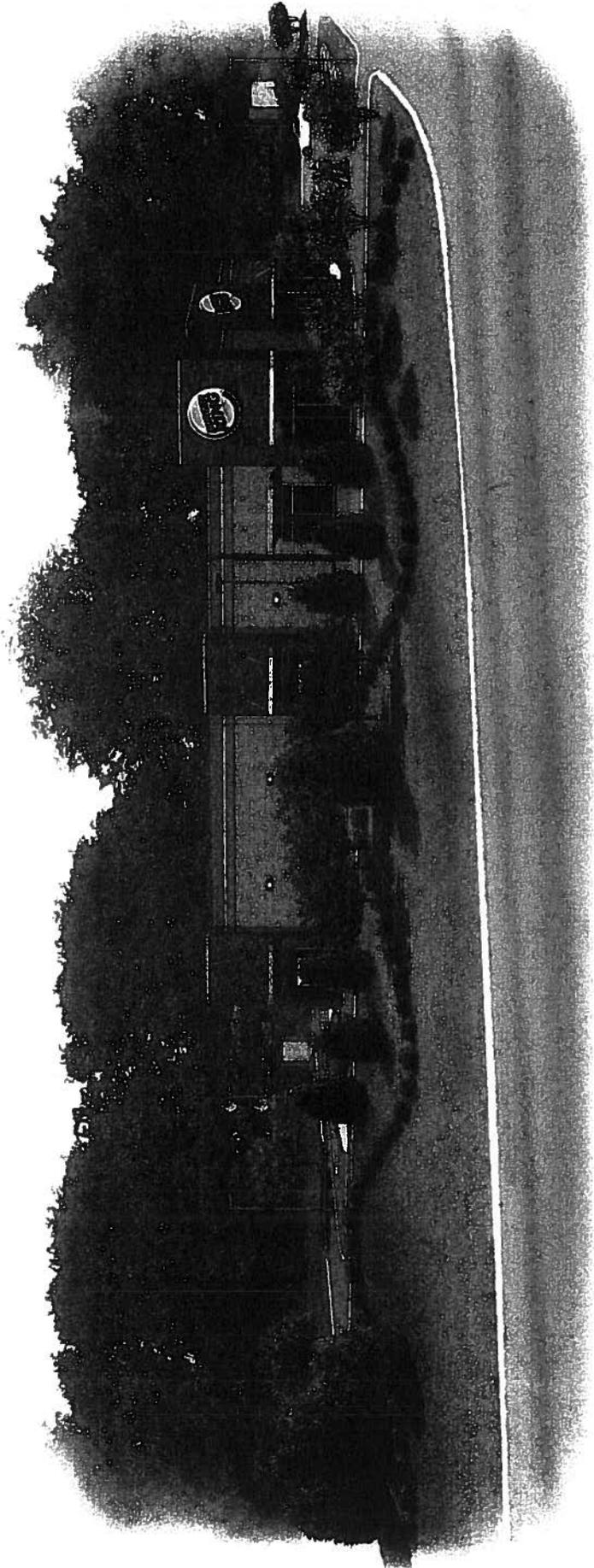
12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
13. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
14. 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.
15. 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.
16. 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.
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 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.

18. 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 May 24, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months, 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.

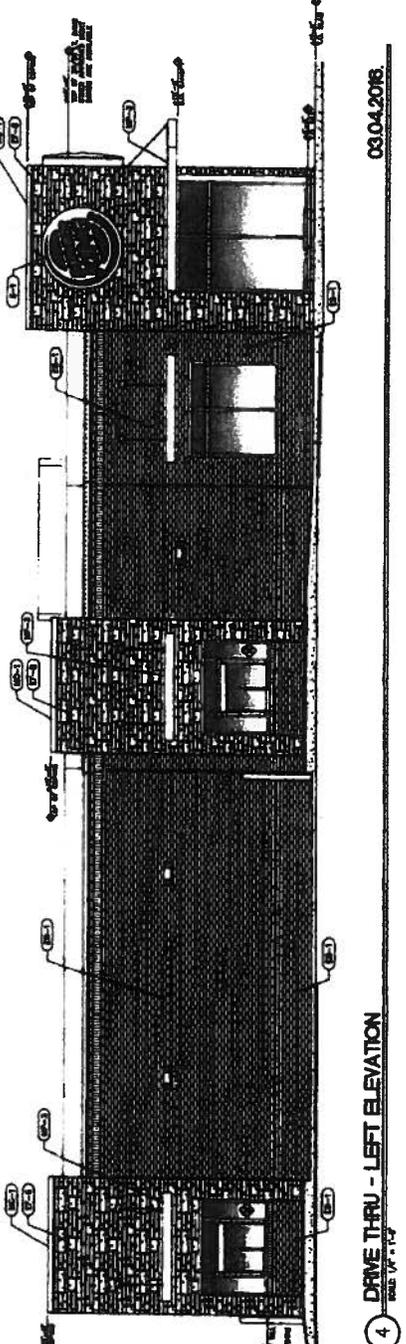
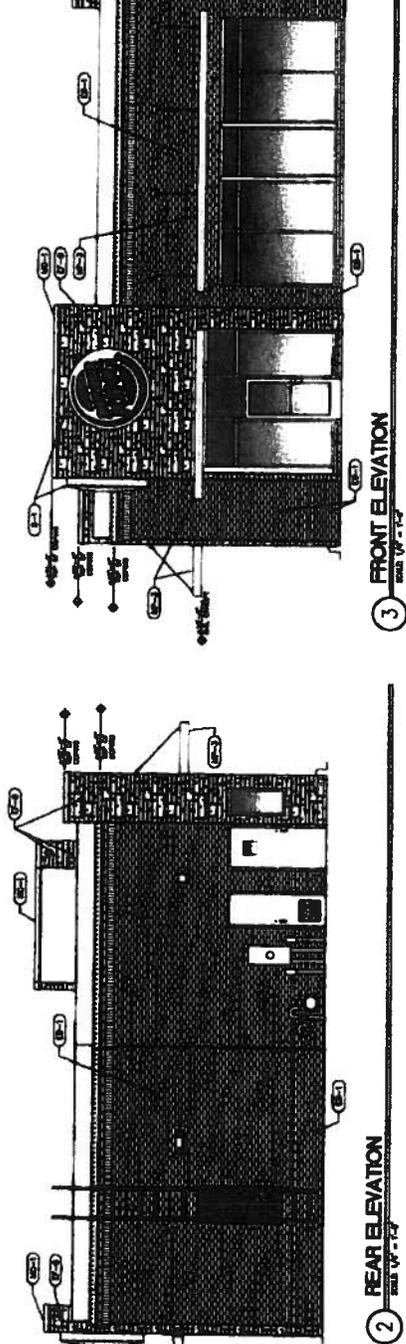
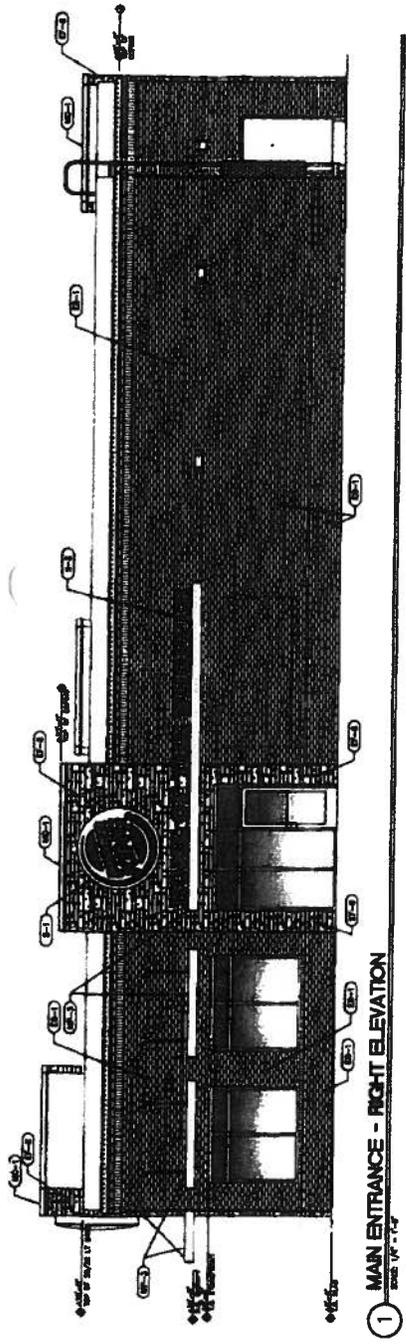


NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			

RENOVATION DRAWINGS FOR:
N AND R DINING
 423 N. Boundary St., Suite 100
 Williamsburg, VA, 23182
 Office 757-694-3178
 Perry Dunford, cell 570-690-6832

AKA
 ARCHITECTS, P.C.
 75 WOODSTOCK ROAD, NORFOLK, VA 23502
 TEL: 757-694-3178
 EMAIL: info@akarch.com

03.04.2016
 10:15 AM
BURGER KING
 RESTAURANT



3 FRONT ELEVATION
 SCALE 1/4" = 1'-0"

03.04.2016

Manufacturing Facilities:
Channahon, IL - 815-433-1111
Cincinnati, OH - 513-233-1111
Columbus, OH - 614-292-1111
Dallas, TX - 972-242-1111
Denver, CO - 303-292-1111
Detroit, MI - 313-292-1111
Houston, TX - 281-292-1111
Indianapolis, IN - 317-292-1111
Jacksonville, FL - 904-292-1111
Las Vegas, NV - 702-292-1111
Los Angeles, CA - 310-292-1111
Miami, FL - 305-292-1111
Minneapolis, MN - 612-292-1111
New York, NY - 212-292-1111
Orlando, FL - 407-292-1111
Phoenix, AZ - 602-292-1111
Portland, ME - 603-292-1111
San Antonio, TX - 214-292-1111
Seattle, WA - 206-292-1111
Tampa, FL - 813-292-1111
Wichita, KS - 316-292-1111

Building Quality Signage Since 1961

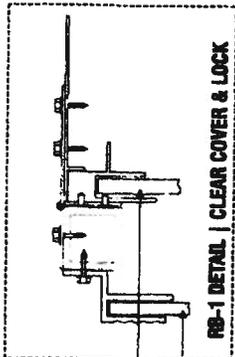
Residence:
1. 10000 W. 100th St. #100
2. 10000 W. 100th St. #100
3. 10000 W. 100th St. #100
4. 10000 W. 100th St. #100
5. 10000 W. 100th St. #100
6. 10000 W. 100th St. #100

Account Rep: FRANK PAUL
Project Manager: MATE SCHROEDER
Drawn By: J. CARPENTER

Project / Location:
BURGER KING
LOCATION # 473
221 FOX HILL ROAD
HAMPTON, VA 23065

Client: **King of the Hill**
Job Number: 73 16899-10
Date: FEBRUARY 20, 2013
Sheet Number: 1 of 1
Design Number: 73 16899-10R6

Standard Approval Date:
The client hereby certifies that the information provided in this proposal is true and correct to the best of their knowledge and belief. The client understands that the information provided in this proposal is for informational purposes only and does not constitute an offer of any financial product or service. The client agrees to hold the provider harmless for any and all claims, damages, losses, and expenses, including reasonable attorneys' fees, arising out of or from the use of the information provided in this proposal.



FLAT ACRYLIC FACES W/ HIGH IMPACT CLEAR TRACK
.177 CLEAR POLYCARBONATE COVER WITH LOCK

NOTE: DETAIL CONCEPTUAL. EXACT MANUFACTURING SPECIFICATIONS AS PER ENGINEERING REQUIREMENTS.



STANDARD INSTALLATION TO BE DIRECT PIPE EMBEDMENT INTO CONCRETE FOOTING PER PER ENGINEERING SPEC.

MANUFACTURER WILL PROVIDE 1/2\"/>

35 SQ. FT. SIGN AREA
D/F MONUMENT SIGN
SCALE: 1/2\"/>

City of Newport News
Department of Engineering

April 20, 2016

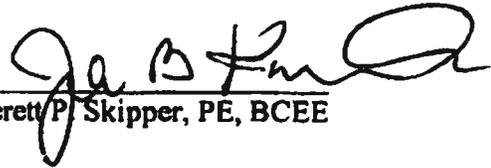
To: Director of Planning
From: Director of Engineering
Subject: Comments for Planning Commission Case for May 4, 2016

Application No. CU-16-364, Julien Lloyd Allen Jr. The Department of Engineering has no objection to the request for a conditional use permit to allow for a small motor vehicle repair and service facility at 12011 Jefferson Avenue and a portion of the property located at 12001 Jefferson Avenue totaling 0.84 acres and zoned C2 General Commercial.

Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if the standard entrance, taper entrance or an entrance with a full width right turn lane would be justified.

Application No. CU-16-365, Jerry and John Harris and The Diggs Co. The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a restaurant with a drive through on a 1.12 acre parcel located at 13921 Jefferson Avenue and a portion of 14523 Jefferson Avenue within the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial. Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if a standard entrance, taper entrance or an entrance with a full width right turn lane would be justified. Further, the analysis must also examine the number of proposed left-turns into the site to determine if a left turn lane is justified. An 8' wide sidewalk will be required along Jefferson Avenue along the full length of the properties to be developed.

Application No. CU-16-366, City of Newport News and YM Devco - 10. The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a multi-modal transportation center located on portions of 550 Youngs Mill Lane, 490 Youngs Mill Lane, 13020 Mitchell Point Road, 199 & 201 Motoka Drive and 500 B Bland Boulevard on six parcels totaling 40.44 acres. Please advise the applicant that a site plan and a subdivision plat will be required. A Traffic Impact Study for the station and associated maintenance facility has been approved by the Department of Engineering. No additional roadway improvements are required beyond what is proposed for the site development.


 For Everett P. Skipper, PE, BCEE

EPS/SDK

E. Public Hearings

4. Ordinance Approving an Easement to Lumos Networks, Inc. for a 10-foot Wide Utility Easement for the Installation of Fiber Optic Cable on City-owned Property Located at 100 City Farm Road

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE A DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA AND LUMOS NETWORKS, INC. (LUMOS) FOR A 10-FOOT WIDE UTILITY EASEMENT FOR THE INSTALLATION OF FIBER OPTIC CABLE ON CITY-OWNED PROPERTY LOCATED AT 100 CITY FARM ROAD.

BACKGROUND:

- A request has been received from Lumos to grant a utility easement to accommodate the installation of fiber optic cable to the privately-owned telecommunications tower located on the parcel.
- The expiration of the easement (April 30, 2020) coincides with the City's land lease to the owner of the telecommunications tower to ensure the City has maximum flexibility should the land lease not be renewed.

FISCAL IMPACT:

- Lumos has agreed to the fair market value of \$300 for the short-term utility easement.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re Utility Easement at 100 City Farm Rd

Easement Plat for Lumos Networks

sdm14322 Authorizing re Deed of Easement - Lumos Networks Inc

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Utility Easement Over City-Owned Property at 100 City Farm Road

A request has been received from Lumos Networks, Inc. (Lumos) to grant a utility easement located on City property at 100 City Farm Road as shown on the attached plat entitled "EASEMENT PLAT SHOWING A 10' LUMOS NETWORKS EASEMENT ACROSS THE LANDS OF THE CITY OF NEWPORT NEWS, PARCEL ID.: 190000101 CITY OF NEWPORT NEWS, VIRGINIA". The proposed easement has been placed in the City's preferred location on the site.

This easement request is to accommodate installation of fiber optic cable to the privately-owned telecommunications tower located on the parcel. As such, the expiration date of the easement coincides with the City's land lease to the owner of the telecommunications tower to ensure the City has maximum flexibility should the land lease not be renewed. The current renewal period for the land lease expires April 30, 2020. Lumos has agreed to the fair market value of \$300 for the short-term utility easement.

I recommend Council adopt the Ordinance, prepared and provided to you by the City Attorney's Office, authorizing the execution of a Deed of Easement between the City and Lumos for a utility easement over City-owned property located at 100 City Farm Road, and authorize me to execute any documents necessary to effectuate the transaction.


James M. Bourey

JMB:tcf

Attachment

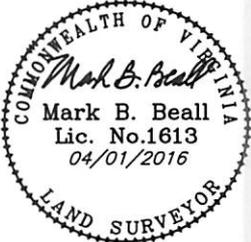
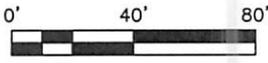
cc: Collins L. Owens, Jr., City Attorney
Florence G. Kingston, Director, Department of Development

NAD 83, VA. SOUTH ZONE
(MA RTK-GPS WITH SMARTNET CORRECTIONS)

THIS EASEMENT PLAT WAS PREPARED FROM AN ACTUAL LIMITED GROUND SURVEY WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY BE SUBJECT TO ITEMS DISCLOSED BY SUCH. NOT ALL IMPROVEMENTS OR EASEMENTS MAY BE SHOWN. NOT ALL SUBSURFACE ITEMS MAY BE SHOWN. THIS EASEMENT PLAT IS NOT A BOUNDARY SURVEY AS REGULATED BY THE COMMONWEALTH OF VIRGINIA.

CHARLIE M. FAULK ET. UX.
PARCEL ID: 190000118
INSTRUMENT NO:
0012841218
#435 MENCHVILLE ROAD

CITY OF NEWPORT NEWS
PARCEL ID: 190000101
INSTRUMENT NO: 0000390430
#100 CITY FARM ROAD



DATE: 04/01/2016
SCALE: 1"=40'
JOB NO.: 55160003.01
REF: LUMOS NETWORKS

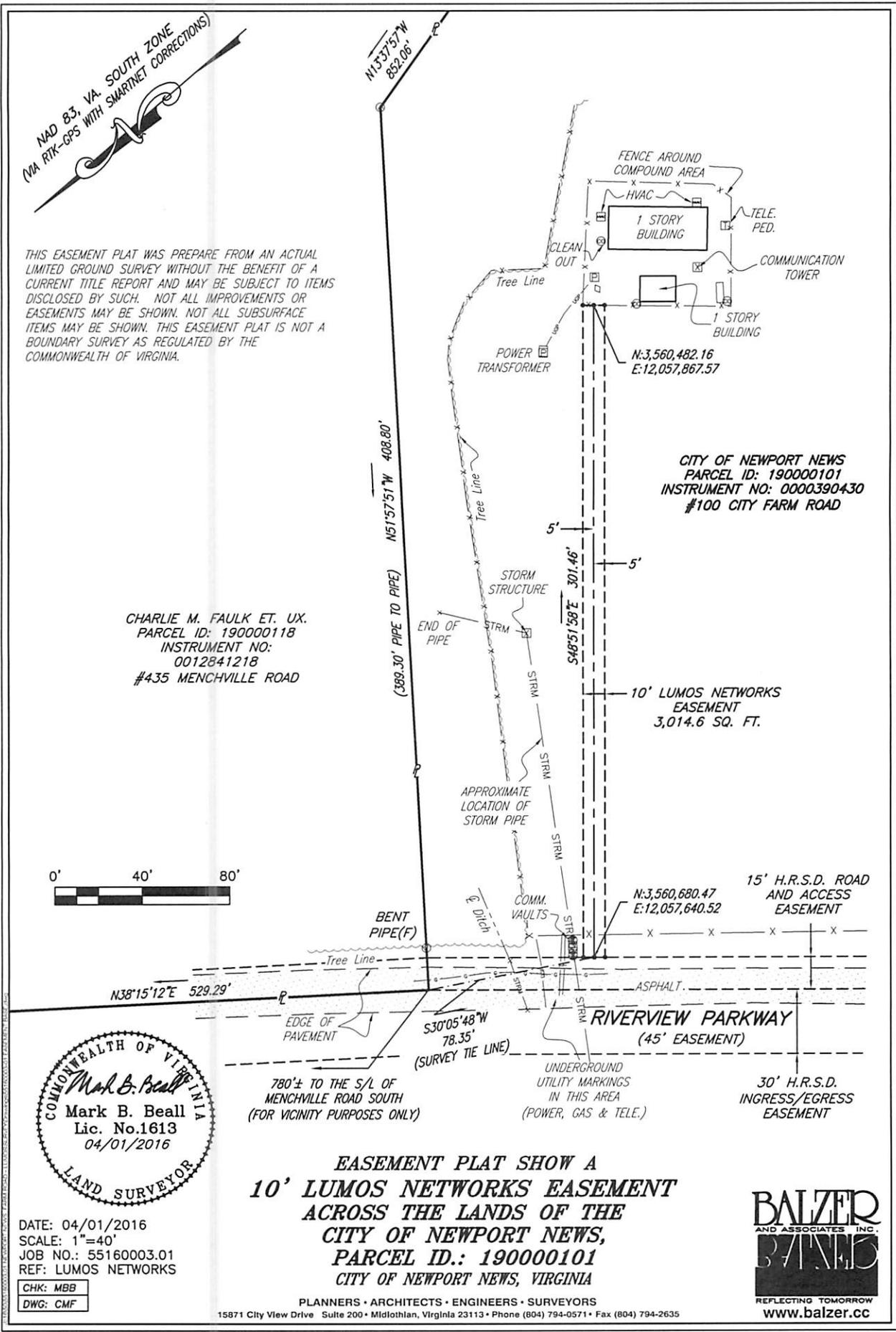
CHK: MBB
DWG: CMF

**EASEMENT PLAT SHOW A
10' LUMOS NETWORKS EASEMENT
ACROSS THE LANDS OF THE
CITY OF NEWPORT NEWS,
PARCEL ID.: 190000101
CITY OF NEWPORT NEWS, VIRGINIA**

PLANNERS • ARCHITECTS • ENGINEERS • SURVEYORS
15871 City View Drive Suite 200 • Midlothian, Virginia 23113 • Phone (804) 794-0571 • Fax (804) 794-2635



REFLECTING TOMORROW
www.balzer.cc



ORDINANCE NO. _____

AN ORDINANCE 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 DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS AND LUMOS NETWORKS, INC., DATED THE 24TH DAY OF MAY, 2016, FOR AN EASEMENT TO INSTALL FIBER OPTIC CABLE ON CERTAIN CITY-OWNED PROPERTY LOCATED AT 100 CITY FARM ROAD IN THE CITY OF NEWPORT NEWS.

NOW, THEREFORE, BE IT ORDAINED 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 Deed of Easement by and between the City of Newport News and the Lumos Networks, Inc., dated the 24th day of May, 2016, for an easement to install fiber optic cable on certain City-owned property located at 100 City Farm Road in the City of Newport News.

2. That a copy of the said Deed is attached hereto and made a part hereof.

Easement Across Portion of Tax Map No. 190.0001-01
100 City Farm Road

Consideration: \$300.00

Prepared By:
City Attorney's Office
2400 Washington Avenue, 9th Fl.
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: Unknown
Deed prepared without benefit of title examination

THIS DEED OF EASEMENT made this 24th day of May, 2016, by and between the **CITY OF NEWPORT NEWS**, a Municipal Corporation in the Commonwealth of Virginia, Grantor, and **LUMOS NETWORKS, INC.**, a Virginia corporation, Grantee.

WITNESSETH

That for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to it in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, the Grantor does hereby grant, unto Grantee, for a term to expire on April 30, 2020, the non-exclusive right, privilege, and easement of right-of-way to install, operate, maintain, inspect, repair, replace and remove fiber optic cable and conduit across and under property of the Grantor, and more particularly described as follows:

All that 10' wide easement, containing 3,014.6 Square Feet, more or less, identified as "10' LUMOS NETWORKS EASEMENT 3,014.6 SQ. FT." on that certain easement plat entitled "EASEMENT PLAT SHOW A 10' LUMOS NETWORKS EASEMENT ACROSS THE LANDS OF THE CITY OF NEWPORT NEWS, PARCEL ID: 190000101, CITY OF NEWPORT NEWS, VIRGINIA," dated April 1, 2016, and prepared by Balzer and Associates, Inc., which said plat is attached hereto and made a part hereof for a more complete description of said easement.

With the right of ingress and egress over lands of Grantor adjacent to the above described easement for purposes of exercising the rights herein granted, in such a manner as shall occasion the least practicable damage and inconvenience to Grantor.

GRANTEE shall promptly repair any damage to GRANTOR'S property resulting from the exercise of GRANTEE'S rights herein granted, and shall restore the surface of the easement to its original condition as nearly as reasonably possible. Should GRANTEE encounter any historical or archaeological artifacts in the exercise of its rights granted herein, it shall immediately cease any activity that could disturb or damage such artifacts and notify GRANTOR.

TO HAVE AND TO HOLD the said easement unto the Grantee, it successors and assigns for the purposes and under the conditions set out herein.

[Signature Page Follows]

WITNESS the following signatures and seals:

CITY OF NEWPORT NEWS, VIRGINIA

By: _____
James M. Bourey
City Manager

ATTEST:

Mabel Washington Jenkins, MMC
City Clerk

COMMONWEALTH OF VIRGINIA

City of Newport News, to-wit:

I, _____, a Notary Public in and for the City and Commonwealth aforesaid, whose commission expires on the ___ day of _____, _____, do hereby certify that the CITY OF NEWPORT NEWS, by its City Manager, and attested by its City Clerk, whose names are signed to the foregoing writing, hereto annexed, have each acknowledged to the same before me in my City and Commonwealth aforesaid.

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

Notary Public

Registration No. _____

MAD 83, VA SOUTH ZONE
(VA RTK-GPS WITH SMARTNET CORRECTIONS)

THIS EASEMENT PLAT WAS PREPARE FROM AN ACTUAL LIMITED GROUND SURVEY WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY BE SUBJECT TO ITEMS DISCLOSED BY SUCH. NOT ALL IMPROVEMENTS OR EASEMENTS MAY BE SHOWN. NOT ALL SUBSURFACE ITEMS MAY BE SHOWN. THIS EASEMENT PLAT IS NOT A BOUNDARY SURVEY AS REGULATED BY THE COMMONWEALTH OF VIRGINIA.

CHARLIE M. FAULK ET. UX.
PARCEL ID: 190000118
INSTRUMENT NO: 0012841218
#435 MENCHVILLE ROAD

CITY OF NEWPORT NEWS
PARCEL ID: 190000101
INSTRUMENT NO: 0000390430
#100 CITY FARM ROAD

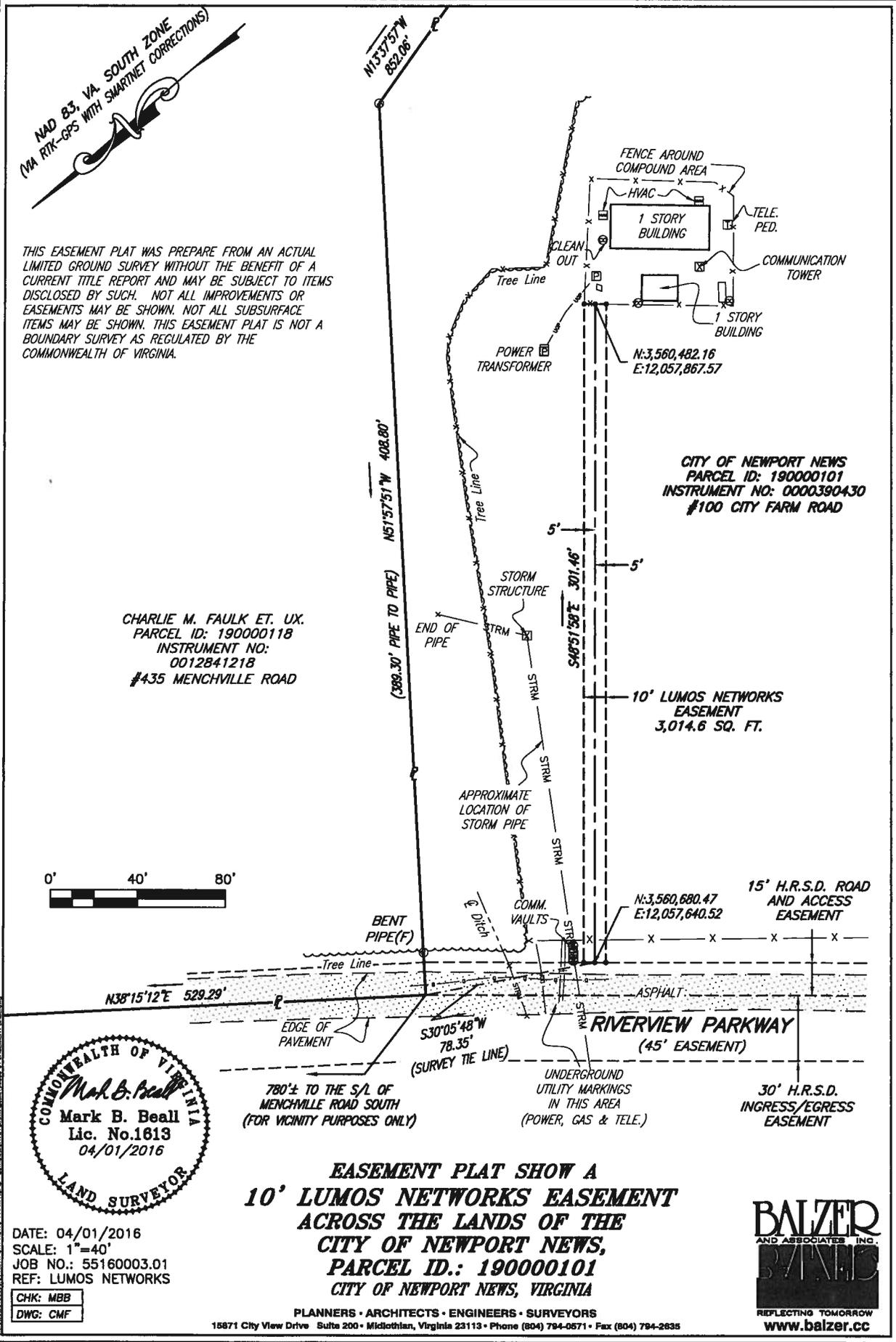


DATE: 04/01/2016
SCALE: 1"=40'
JOB NO.: 55160003.01
REF: LUMOS NETWORKS

CHK: MBB
DWG: CMF

**EASEMENT PLAT SHOW A
10' LUMOS NETWORKS EASEMENT
ACROSS THE LANDS OF THE
CITY OF NEWPORT NEWS,
PARCEL ID.: 190000101
CITY OF NEWPORT NEWS, VIRGINIA**

PLANNERS • ARCHITECTS • ENGINEERS • SURVEYORS
15871 City View Drive Suite 200 • Midlothian, Virginia 23113 • Phone (804) 794-0571 • Fax (804) 794-2835



F. Consent Agenda

1. Minutes of the Work Session of May 10, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Work Session of May 10, 2016

DRAFT

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

May 10, 2016

4:00 p.m.

PRESENT: Robert S. Coleman; McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick (arrived at 4:14 p.m.); Dr. Patricia P. Woodbury; and Herbert H. Bateman, Jr.-----6

ABSENT: Sandra N. Cherry, D. Min.-----1

OTHERS PRESENT: James M. Bourey; Collins L. Owens; Mabel Washington Jenkins; Cynthia Rohlf; Alan Archer; Councilman-Elect Marcellus Harris, III; Wanda Pierre; Darlene Bradberry; Telly Whitfield; Lisa Cipriano; Sherry Crocker; Reed Fowler; Alan Diamonstein; Delegate David Yancey; Sam Workman; Florence Kingston; Sarah McCoy; Dave Harriss, Kim Lee; Cleder Jones; Jennifer Walker; and Teresa Clift

I. Port of Virginia Briefing

Mr. James E. Bourey, City Manager, introduced Ms. Sarah McCoy, Manager, Government & Community Affairs, The Port of Virginia, to provide the presentation.

Ms. McCoy reminded that the Port of Virginia underwent an organizational restructuring in 2014 under their new CEO and Executive Director, Mr. John F. Reinhart. What was once three separate entities (the Virginia Port Authority (VPA), the Virginia International Terminals (VIT), and the Hampton Roads Chassis Pool II [HRCP]) had consolidated into one organization– the Port of Virginia (Port). She advised that the Port had to be engaged with local, state and federal governments (a copy of the presentation, “The Port of Virginia – A Catalyst for Commerce & Collaboration”, is attached and made a part of these minutes).

Ms. McCoy noted the terminals of the Port:

- Newport New Marine Terminal (NNMT)
- Norfolk International Terminals (NIT)
- Virginia International Gateway (VIG)
- Portsmouth Marine Terminal (PMT)
- Richmond Marine Terminal (RMT)
- Virginia Inland Port (VIP)

Ms. McCoy advised that the Port experienced a 9% increase in cargo in FY 2015, over FY 2014, which resulted in the following measurements:

- 2.5 million 20-Foot Equivalent Units (TEUs) handled
 - Rail containers: +4.2%
 - Truck containers: +12%
 - Barge containers: +10.9%

Ms. McCoy stated the Port had experienced steady growth in operating revenue from FY 2009 through April 2016, which resulted in an annual growth rate of 11.3% from 2011 – 2014. The Port had to reinvest their revenue back into their infrastructure to facilitate the need for increased capacity. While the Port's revenue was increasing, they were not making the needed investments, which was not good business sense. The Port began to evaluate and undergo an internal capital prioritization process by noting the items that they needed, the funding available, and prioritizing the most beneficial projects.

Councilwoman Woodbury inquired about the projects that the Port prioritized. Ms. McCoy replied that human capital (people and training) was one priority.

Ms. McCoy reiterated that the Port's stakeholders had to work together to establish the goal of a safe, sustainable and successful economy. She noted the specific initiative of the Port:

- Strengthening Security Through Partnerships and Training (Maritime Response Team)
- Providing Aid to Local Ports - The Port was contributing \$683,292 to the estimated \$2.6 million project for repairs to the Newport News Seafood Industrial Park
- Working with Newport News Public Schools to host the 2016 STEM competition for 2nd and 3rd grade students (Competition June 12, 2016)

Ms. McCoy noted the FY 2013 Economic Impacts of Virginia's Maritime Industry as reported by the College of William and Mary's Raymond A. Mason School of Business:

- 79,000,000 Tons of Cargo Moved
- 530,800 jobs in Virginia
- \$88.4 billion in spending
- 10.1% of VA Gross State Product (GSP)

Ms. McCoy stated the Port partnered with the City's Economic Development team to market the port. She noted the 2016 Calendar Year Economic Development Totals:

- 13 Business Announcements
- Invested more than \$280 million
- Developed 1.6 million Square Feet of Space
- Created 1,482 jobs

Ms. McCoy advised of the top ten Newport News Port users (see list of users on page 15 in the presentation attached to these minutes). She stated \$3.5 million worth of cargo flowed from Newport News through the Port. Over 8,000 tons of cargo flowed from Newport News.

Ms. McCoy stated the Port was part of a rapidly changing industry. She noted three industry hot topics and issues:

- A lack of investment
- Increasing ship sizes
- The ability to serve discretionary markets

She stated to remain competitive, ports had to be able to attract and move cargo swiftly, safely and sustainably.

Ms. McCoy noted the major comparisons of U.S. East Coast Ports (see information on page 18 of the presentation attached to these minutes). She stated the Port of Virginia experienced a 6.5% growth rate which was the least of all major East Coast ports. The East Coast competitors of the Port moved at a faster pace, which resulted in the capture of the competitive/discretionary market share at a quicker rate. The Port was at capacity, and had to change their dynamics to improve capacity.

Ms. McCoy advised that the VPA grew up as a containerized terminal. In order to remain competitive and capture the market share, the Port had to diversify its portfolio of offerings. Not all cargo moved by container and that's where NNMT was strategically positioned, which would help to capture and diversify the Port's offerings. Ms. McCoy noted the strategy and critical investments for the NNMT in CY 2016:

Page 4
Minutes of Work Session
May 10, 2016

- Human Capital – Breakbulk Specialist
- Rail Repairs
- Crane Maintenance and Improvements
- Warehouse Improvements
- Cargo Handling Equipment

Ms. McCoy stated with the help of the Newport News Legislators the Port received \$350 million to assist with the build out of the NNMT. The funding would help to increase the capacity of the NNMT by 40% to handle more cargo. The 40% increase in capacity gave the NNMT breathing room and the Economic Development teams of the City and the Port the leverage to go out and offer companies the cargo room they needed.

Councilwoman Vick inquired whether the \$350 million was already awarded. Ms. McCoy replied it was awarded during the 2016 General Assembly Session. She stated that Delegate David Yancey was very instrumental in helping to secure the funding sources, which would be awarded to NIT.

Ms. McCoy noted additional projects of the Port included:

- Phase I of NIT South Conversion
 - \$350 million investment
 - Increased capacity by 400,000 containers
 - First stacks completed in 2017
 - All 30 stacks completed in 2019
- Phase II of Virginia International Gateway
 - \$320 million investment
 - Increased designed capacity to 1.2 million containers
 - Expanded Rail Operation
 - Extended Berth
 - Four new Ship-to-Shore Cranes

Ms. McCoy stated the ports needed to be dredged to become deeper, wider and safer. The Port began a project with the Army Corps of Engineers to study their channels for three years in order to become deeper. She noted the milestones of the study:

Page 5
Minutes of Work Session
May 10, 2016

- June 2015: Cost-Sharing Agreement Signed
- December 2015: Alternatives Milestone met to dredge the channel (different channel routes within the waterway)
- January 2017: Selected Plan and Economic Development Plan identified
- August 2017: Agency Decision on the Selected Plan
- June 2018: Chief's Report Issued to dredge deeper

Ms. McCoy stated the Port had a clear path forward and a plan was in place. They were carefully making investments and were starting to execute on those investments. They wanted to see growth and diversification. The City of Newport News was vital to the Ports diversification efforts.

Mayor Price thanked Mr. Alan Diamonstein, Newport News/Hampton Representative, Virginia Port Authority Board (VPA) of Commissioners, for accepting the brunt of the conversations, regarding funding for the NNMT, to ensure that they received their fair share of the \$350 million. He and Mr. Diamonstein tried to emphasize the need for needed improvements to the NNMT. They wanted to ensure that NNMT was a part of the plans for the region. He was happy about the \$350 million award from the State, but wanted to make sure that NNMT was part of the process.

Mr. Diamonstein commended the staff of the Port, but he differed with some of the information provided by Ms. McCoy regarding the \$350 million award. He stated that not one dime of the \$350 million would come to the NNMT.

Councilman Bateman inquired whether the Port's barge traffic always went to Richmond and whether there was a possibility for any additional barge traffic to unload and upload at the NNMT. Mr. Dave Harriss, Director, Breakbulk & Ro-Ro Sales, the Port of Virginia, replied yes, there was a possibility for additional barge traffic to unload and upload at the NNMT. The Port was courting a glass company that would move approximately 12,000 containers per year. A barge stop would be added to NNMT should the glass company choose Newport News as their East Coast distribution center. The barge traffic usually went to NIT, VIG, PMT, and RMT.

Mayor Price advised that part of the discussion centered on whether to build it and then they would come or whether to wait until a contract was awarded to build it. The

infrastructure had to be on hand in order to recruit deals and have a “chip” in the stake. He was in support of dredging the NNMT channel in order to be a team player in the process of negotiation. He would continue to push to make sure that Newport News was represented and had a voice at the Regional meetings so that they were part of the core system. Mayor Price reiterated that the \$350 million was great; however, it did not affect the NNMT. He wanted to ensure that there was a future plan and timeframe for improvements to the NNMT.

Mr. Harriss agreed that not one cent of the \$350 million would be used for the NNMT; however, there was a significant amount of funding earmarked for the NNMT. There was a winning strategy implemented in 2015 and 2016 to diversify the Port’s portfolio to strengthen their ports. Many projects were in place.

Councilman Bateman stated the NNMT was in the middle of everything and he believed the water was deep enough to handle barge traffic. He would like to see the Port lean that way and take a hard look at the issue as it seemed there could be much business that could locate to the NNMT in relation to where they were located. Mr. Harriss advised that there was some discussion about Wilmington, North Carolina barge traffic extending to the NNMT. The barge traffic competed with trucking. When transporting containers from the Port’s container terminals to NNMT, the cost equation became a factor, wherein the longer the distance, the barge made sense. Any chance they had to take trucks off the road was a good idea.

Councilwoman Scott stated that she occasionally received a Facebook post of truckers stuck in line for hours at the NNMT. She understood and was glad to hear that they were talking about infrastructure, but inquired what the NNMT would do in the interim to ensure that truck traffic would be able to get in and out of the port in a reasonable timeframe. Some of the truckers stated that they were waiting up to five hours. They believed it was cute to send Facebook posts to her since she represented the City of Newport News. Mr. Harriss replied that truckers stuck in line just did not happen at the NNMT. NNMT turnaround times were approximately 15 minutes and truckers loved the NNMT. He advised that she was receiving a legacy complaint. Several years ago, truckers were waiting in line at the NIT and the NNMT for two to three hours; however, part of the leadership’s goal was to improve turnaround times in order to grow.

Councilwoman Scott advised that her last complaint was received over the past 60 days and inquired what caused the back-up of truck traffic into the NNMT. Mr. Harriss replied he was not aware of such recent incidents, but stated if cargo had not been taken off ships, then

Page 7
Minutes of Work Session
May 10, 2016

the truckers would have to wait. Ms. McCoy replied that the issue did arise at NIT and Portsmouth from time-to-time because they were at capacity. Sometimes they had to move three to four boxes to get to the fifth box. That was the reason it was imperative that they added the additional capacity to the terminals.

Councilwoman Vick inquired whether the City would be required to assist with the repair to the CSX Railroad. Ms. McCoy replied no; that was part of the investment that the Port was making to the City of Newport News. Mr. Harriss replied that CSX was the rail provider, but the Port owned the rail-line. Ms. McCoy replied that the Port had to maintain the CSX and keep it in good repair to have ingress and egress onto the facility.

Councilwoman Vick inquired about a tour of the facility. Mr. Harriss replied he would be happy to provide a tour of the facility to Councilwoman Vick.

Mr. Diamonstein commended Ms. McCoy and Mr. Harriss for the outstanding jobs they were doing in representing the Port. He stated that he chaired a Committee of truckers in the City of Norfolk to determine the reason for the port delays. The truckers were very upset because of the volumes and gate system in Norfolk and stated that the turnaround time was not competitive. NIT had made improvements. Mr. Diamonstein advised that he had received a small number of complaints about delays at the NNMT, which he agreed with Councilwoman Scott, but indicated that most of the complaints were about delays that truckers experienced at the NIT. He reminded, in regards to funding, that during a period of time there was an administration that wanted to sell the ports. During such time, funding was not being spent on the ports. The goal of the port changed since the hiring of Mr. John Reinhardt. Mr. Diamonstein stated that he differed with Mr. Harriss that the NNMT was a major part of the growth in the region. He asked Mr. Harriss to show proof that part of the \$350 million was going to be spent at the NNMT. Mr. Reinhardt and members of the Legislature advised that none of the \$350 million would be spent at the NNMT. NNMT was a great port and could return to its big days. The VPA Board of Commissioners and Mr. Reinhardt understood that and were trying to do their best to grow the port.

Mayor Price advised that the City of Newport News wanted the NNMT to be part of the team, growth and resources that came to the Port.

The Honorable David E. Yancey, Delegate, Virginia House of Delegates, advised that there was legislative action taken during the 2016 General Assembly session that helped the

Page 8
Minutes of Work Session
May 10, 2016

Port. He encouraged everyone to read HB 186 (attached to these minutes) which extended the expiration date of the international trade facility, barge and rail usage, and Virginia port volume increase tax credits from January 1, 2017 to January 1, 2022. This legislation would continue to grow the Port of Virginia and make it competitive with other ports, such as Savannah, Georgia. The Legislature would continue to work with the Port to gain funding to assist them in becoming one of the best port facilities on the East Coast.

Councilwoman Woodbury questioned how the NNMT was going to acquire funding from the State. Delegate Yancey replied that he and members of the Legislature would continue to work with the Chair of Appropriations of the House and the Senate and Mr. Diamonstein, and the VPA Board of Commissioners would continue to propose legislation and budget amendments to ensure that the NNMT received funding.

Mr. Diamonstein advised that Delegate Yancey and the Delegates and Senators of our region understood the problems of the VPA Board of Commissioners as they had a huge battle to fight with the Southside.

Mayor Price agreed with Mr. Diamonstein and asked if there was a ten year plan for the ports that there be funding with NNMT's name on it.

II. Comments/Ideas/Suggestions

Councilwoman Vick recalled that the City imposed a restriction on the amount of time that makeshift memorials, in honor of deceased citizens, could remain erected. Assistant City Manager Cynthia Rohlf replied that the Department of Codes Compliance tried to enforce such restriction when they were made aware of makeshift memorials.

Councilwoman Vick stated she noticed two memorials on Jefferson Avenue along Bellwood Road. City Manager Bourey stated he would have staff follow-up on the matter.

Councilwoman Scott reminded about her request made at the April 26, 2016 City Council Work Session, for a one-time \$10,000 grant for the STAR program. The STAR program was a program in Denbigh that offered a homework tutorial to youth who had been suspended or expelled from school. She advised that she provided information about the program to the City Clerk. The head of the program had been providing the service with another program since

Page 9
Minutes of Work Session
May 10, 2016

2013. The STAR Program was a non-profit 501(C)3 organization. There was consensus among City Council to provide \$10,000 of FY 2016 City Council Contingency funding to the STAR Program. Mayor Price asked that Assistant City Manager Alan Archer check out the organization to ensure that they qualified before the funding was awarded.

Councilman Bateman reminded about Vice Mayor Coleman's concern voiced at the April 26, 2016 City Council Work Session, regarding Newport News citizens who went to the Lackey Free Clinic, but had no transportation. He asked for \$10,000 for the Lackey Free Clinic.

Vice Mayor Coleman agreed, and stated he supported Councilman Bateman's recommendation to provide \$10,000 of FY 2016 City Council Contingency funding to the Lackey Free Clinic. He stated that 60% of the patients at the Lackey Free Clinic were residents of the City of Newport News.

Councilwoman Scott voiced support to provide \$10,000 to the Lackey Free Clinic. She agreed that the Lackey Free Clinic provided a needed service to the residents of Denbigh.

Councilwoman Woodbury reminded about her suggestion that the City compose a plan to help elderly citizens who had Reverse Mortgages and were unable to pay their real estate taxes. She understood that the City of Hampton had frozen their amount. She had asked the City Manager and the Director of Budget and Evaluation to come up with a real estate tax exemption plan to help elderly citizens who had lived in the City for many years and were at risk of losing their homes. She stated City Council was providing funding to organizations throughout the City (\$25,000 here and \$10,000 there) and felt a creative program needed to be implemented to help the elderly who could not afford to pay their real estate taxes.

Councilwoman Scott stated that she liked the suggestion made at a prior meeting by the Vice Mayor to offer real estate tax relief to senior citizens based on their age and years of residency.

Vice Mayor Coleman agreed that it should be a program based on years of residency, as the City did not want to become a magnet for senior citizens who were looking for tax relief. City Attorney Collins Owens advised that a State Code amendment would be required to put stipulations on a real estate tax exemption program, such as the amount of years that a

resident lived in the City. He also had researched the issue of Reverse Mortgages, and there was nothing that the City could do to, individually, to help such seniors. The City would have to reinstate a general exemption program to provide real estate tax relief.

Councilwoman Woodbury believed the matter needed to be addressed no matter what process had to be taken.

City Manager Bourey stated that he and staff had been in conversations about a real estate tax exemption program that would help elderly citizens who really needed assistance, without negatively impacting the economic wellbeing of the City.

Councilman Bateman stated he was interested in a tax abatement program to encourage citizens to invest in home improvements. City Manager Bourey stated that staff had been in conversations about such, as well. He stated the current program posed difficult requirements for citizens to qualify for funding from the City. He and staff would continue to work on the matter.

Councilman Bateman thanked Assistant City Manager Rohlf and City staff for their help in alleviating the graffiti in the City. Councilwoman Vick agreed.

City Manager Bourey announced that the City refinanced its 2016 Series Bond issue and received a reduced interest rate of 2.01%, which generated a net savings of \$2.5 million. He thanked Ms. Cipriano and staff for their assistance.

THERE BEING NO FURTHER BUSINESS
ON MOTION, COUNCIL ADJOURNED AT 4:50 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

2. Minutes of the Special Meeting of May 10, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Special Meeting of May 10, 2016

DRAFT

MINUTES OF SPECIAL MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE
MAY 10, 2016
4:55 P.M.

PRESENT: Sandra N. Cherry, D. Min. (arrived at 5:08 p.m.); Robert S. Coleman; McKinley L. Price; DDS; Sharon P. Scott; Tina L. Vick; Dr. Patricia P. Woodbury; and Herbert H. Bateman, Jr.-----7

ABSENT: None-----0

OTHERS PRESENT: James M. Bourey; Collins L. Owens, Jr.; Mabel Washington Jenkins; Darlene Bradberry; Alan K. Archer; Cynthia Rohlf; Florence Kingston; Scott Dewhirst; 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.

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

Vote on Roll Call:

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

Nays: None

(Closed Session 4:55 p.m. – 6:05 p.m.)

Councilman Bateman recused himself from the meeting during the discussion about consideration of the acquisition/disposition of real property for a public purpose, and during discussion about a prospective business' or industry's interest in locating a facility in the community in the southern and central sections of the City.

City Council engaged in a discussion to make an appointment to fill a vacancy on the following board:

1. Peninsula Airport Commission – One appointment (General Public Representative) deferred for appointment to fill the unexpired term of The Honorable Herbert H. Bateman, Jr., the term will expire May 23, 2018.

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

Nays: None

Councilwoman Scott moved to reconsider the appointment of Councilwoman Patricia Woodbury, made on April 26, 2016, per the Constitution of Virginia, Article VII, Section 6, which prohibits sitting members of local governing bodies from serving simultaneously on any other board, commission, etc, appointed by that local governing body; seconded by Councilman Bateman.

Vote on Roll Call:

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

Nays: None

Councilwoman Scott moved to rescind the appointment of Councilwoman Patricia Woodbury, to the Peninsula Airport Commission, made on April 26, 2016, per the Constitution of Virginia, Article VII, Section 6, which prohibits sitting members of local governing bodies from serving simultaneously on any other board, commission, etc, appointed by that local governing body; seconded by Councilman Bateman.

Vote on Roll Call:

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

Nays: None

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 6:05 P.M.

DRAFT

Page 3
Minutes of Special Meeting
May 10, 2016

Mabel Washington Jenkins

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

DRAFT

CERTIFICATE OF CLOSED MEETING

MEETING DATE: May 10, 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.

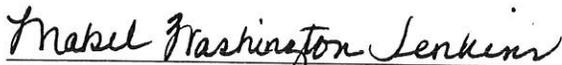
VOTE

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

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

ATTEST:



Mabel Washington Jenkins, MMC
City Clerk

F. Consent Agenda

3. Minutes of the Regular Meeting of May 10, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Regular Meeting of May 10, 2016

**MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
MAY 10, 2016
7:00 P.M.**

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

ABSENT: None-----0

A. Call to Order

Mayor Price called the meeting to order and welcomed all. He 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 Mayor McKinley L. Price, DDS.

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 Councilwoman Saundra N. Cherry.

D. Presentations

1. Presentation: Commission on Accreditation for Law Enforcement Agencies (CALEA)

Mayor Price invited Chief Richard Myers, Newport News Police Department (NNPD), to the podium. Chief Myers advised that he was not representing the NNPD, but was present as a representative of CALEA. He advised that he had served on the Commission for eight years, amongst 21 commissioners throughout the United States. He was in his second year serving as Chairman and President of the CALEA, and was pleased to present accreditation certificates to the City of Newport News. Chief Myers stated that CALEA was first created in 1979 when the founding organizations of the International Association of Chiefs of Police, the National Sheriff's Association, the National Organization of Black Law Enforcement Executives, and the Police Executive Research Forum, recognized a need within the country to develop professional standards. Since its inception, CALEA had accredited agencies under the standards developed and maintained by many of the best practitioners and leaders in the United States.

D. Presentations Continued

1. Presentation: Commission on Accreditation for Law Enforcement Agencies (CALEA) Continued

Chief Myers advised that there was a comprehensive review of all of the standards in the law enforcement program to ensure that the standards continued to address contemporary issues. The standards covered a wide range of administrative, operational, and logistical issues. He shared the goals of CALEA, which included (1) strengthen crime prevention and crime control capabilities; (2) formalize essential management procedures; (3) establish fair and non-discriminatory personnel practices; (4) improve service delivery; (5) to solidify interagency cooperation and coordination; and (6) increase community and staff confidence in the agency. The certificates represented the agencies efforts to achieve accredited status, thereby demonstrating the department's willingness to change in order to effectively address contemporary public safety concerns in a responsible manner; represented a commitment to doing the right thing and doing it the right way; and represented an adherence to a professional code, and an ongoing dedication to ensuring the agency's resources were appropriately developed, effectively deployed, and constantly managed in the name of a safer community. On December 6-9, 2015, four professionally trained Assessors visited Newport News and reviewed the files, activities, functional impacts, and management strategies. This followed an electronic file review covering many of the mission essential standards. The Assessors determined that the agency was in compliance with all applicable mandatory standards. The Assessors noted that the personnel were supportive of the Accreditation process, and that leadership applied accreditation as a management tool. They indicated that the agency supplied tremendous resources to ensure that employees of the agency received high quality and professional training. The Assessors learned that the agency was continuously working to maintain a highly competent workforce to provide the best possible services to the citizens of Newport News. The public hearings, held in conjunction with their arrival, resulted in the receipt of numerous public comments regarding the agencies compassion in dealing with victims, and sensitivity to community concerns. At the full commission meeting held in St. Louis, on April 2, 2016, the CALEA commissioners reviewed the Assessor's Report, concurred with the findings, and unanimously voted to accredit the agency with excellence. On behalf of the CALEA Commission, and the entire Board of Governing Commissioners, Chief Myers presented the Accreditation Award to the Newport News Police Department. He pointed out that the NNPD was one of less than 12 agencies enrolled in the CALEA process that received the TRI-ARC Award, which meant the Police Department was accredited under the Law Enforcement Accreditation; the Communications Center was accredited under the Public Safety Communications Accreditation; and the Police Academy was accredited under the Public Safety Training Academies Accreditation; all three distinct processes, which meant it was quite noteworthy for the City of Newport News. Officers receiving awards were Assistant Chief Joseph Moore, Assistant Chief Stacy Kelly, Assistant Chief Michael Grinstead, Communications Division Administrator Manager Carol Render, and Accreditation Manager, Mr. Nathan Miller.

E. Public Hearings Continued

1. Public Comments on the Effective Real Property Tax Rate Related to the Recommended Fiscal Year 2017 Operating Budget

Mayor Price advised that this item allowed an opportunity for City Council to receive public comments on the effective real property tax rate as it related to the Recommended Fiscal Year 2017 Operating Budget. This public hearing was required by State Code when a locality proposed an increase in property tax levies. The current tax rate was \$1.22 per \$100 of assessed value. The lowered tax rate necessary to offset increased assessments would be \$1.1984 per \$100 of assessed value. The difference between the lowered tax rate and the proposed tax rate was \$0.0216 per \$100 of assessed value. The difference was 1.80% and was known as the effective tax rate increase. The City Manager recommended approval.

Mayor Price stated that an action item to set the real estate tax rate for FY 2017 appeared later in the agenda under Other City Council Actions.

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Councilwoman Vick.

Vote on Roll Call:

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

Nays: None

2. Ordinance Authorizing and Directing the City Manager to Execute a Deed of Easement for an Easement Across City-owned Property Located at 15402 Warwick Boulevard

AN ORDINANCE 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 DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION VIRGINIA POWER, DATED THE 10TH DAY OF MAY, 2016, FOR AN EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 15402 WARWICK BOULEVARD, NEWPORT NEWS, VIRGINIA. This ordinance authorized and directed the City Manager to execute a Deed of Easement for an Easement across City-owned property located at 15402 Warwick Boulevard. This easement request was part of a larger project of improvements for the Atkinson Boulevard and Bridge Project. A request to receive bids was properly advertised in the Daily Press on April 11, 2016 and on April 18, 2016. City Council received bids for this easement at its April 26, 2016 Regular Meeting. The City Manager recommended approval.

(No registered speakers)

E. Public Hearings Continued

2. Ordinance Authorizing and Directing the City Manager to Execute a Deed of Easement for an Easement Across City-owned Property Located at 15402 Warwick Boulevard Continued

Councilwoman Scott moved closure of the public hearing; seconded by Councilwoman Woodbury.

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

3. Ordinance Authorizing and Directing the City Manager to Execute a Deed of Easement for an Easement Across City-owned Property Located at 13141 Jefferson Avenue

AN ORDINANCE 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 DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION VIRGINIA POWER, DATED THE 10TH DAY OF MAY, 2016, FOR AN EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 13141 JEFFERSON AVENUE, NEWPORT NEWS, VIRGINIA. This ordinance authorized and directed the City Manager to execute a Deed of Easement for an Easement across City-owned property located at 13141 Jefferson Avenue. This easement request was part of a larger project of improvements for the Atkinson Boulevard and Bridge Project. A request to receive bids was properly advertised in the Daily Press on April 11, 2016 and on April 18, 2016. City Council received bids for this easement at its April 26, 2016 Regular Meeting. The City Manager recommended approval.

(No registered speakers)

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

E. Public Hearings Continued

3. Ordinance Authorizing and Directing the City Manager to Execute a Deed of Easement for an Easement Across City-owned Property Located at 13141 Jefferson Avenue Continued

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

4. Ordinance Authorizing and Directing the City Manager to Execute a Deed of Easement and Agreement by and between the City and Deer Run 3, LLC, for Landscaping of City-owned Property, Located Across a Portion of 791 Industrial Park Drive and Woodside Lane

AN ORDINANCE 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 DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA AND DEER RUN 3, LLC, DATED THE 10TH DAY OF MAY, 2016. This ordinance authorized and directed the City Manager to execute a Deed of Easement and Agreement by and between the City and Deer Run 3, LLC. In 1999, City Council approved a Deed of Easement and Agreement between the City and Luck Stone Corporation (now Deer Run 3, LLC). In exchange for the right of ingress and egress over the City-owned easement area to access its property located at 781 Industrial Park Drive, Luck Stone Corporation agreed to construct and maintain a landscaped berm. The Deed of Easement and Agreement was extended in accordance with its terms three times, and the current extension would expire May 23, 2016. Deer Run 3, LLC requested that the Deed of Easement and Agreement be extended again under the same terms and conditions in order to continue maintenance of the landscaped berm and access to its property. The City Manager recommended approval.

(No registered speakers)

Councilwoman Woodbury moved closure of the public hearing; seconded by Councilwoman Vick.

Vote on Roll Call:

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

Nays: None

E. Public Hearings Continued

4. Ordinance Authorizing and Directing the City Manager to Execute a Deed of Easement and Agreement by and between the City and Decr Run 3, LLC, for Landscaping of City-owned Property, Located Across a Portion of 791 Industrial Park Drive and Woodside Lane Continued

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

Vote on Roll Call:

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

Nays: None

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard

A RESOLUTION APPROVING PLN-16-14 AN AMENDMENT TO THE COMPREHENSIVE PLAN, *FRAMEWORK FOR THE FUTURE 2030*, FOR THE CITY OF NEWPORT NEWS. This resolution authorized Plan Amendment PLN-16-14, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a 33.37 acre portion of property located at 900 Bland Boulevard. The area under consideration was identified as transportation, natural area/open space and parks and recreation on the *Framework for the Future 2030* Comprehensive Plan land use map. The plan amendment recommended community commercial uses as recommended in the Newport News/Williamsburg International Airport's 2014 Master Plan. On April 6, 2016, the City Planning Commission voted 5:4 to recommend approval of the plan amendment to City Council. The City Manager recommended approval.

Mayor Price announced that the applicant had requested a continuation of this matter until the June 14, 2016 Regular Meeting of City Council. In an effort to reach City Council consensus prior to opening the Public Hearing. Mayor Price asked members of Council whether they agreed with the request to continue Item E-5 (Amendment to the Comprehensive Plan) and Item E-6 (Change of Zoning).

Councilman Bateman recused himself from the vote due to the fact that his employer, Towne Bank, had a security interest in the collateral land that may be a part of the re-routing of the road on the project.

There was no consensus reached to allow the deferral of the matter until the June 14, 2016 Regular Meeting of City Council.

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

Councilwoman Woodbury stated that she wanted to be gracious, but did not think it was fair to keep the citizens in such an uproar and in such a state of chaos which she had observed in the past few weeks. She did not see anything changing before June 14, 2016.

Mayor Price expressed disappointment in City Council. He thought there was a consensus because information had been requested of staff and the people involved were prepared to address any concerns, but were not allowed to have the opportunity to do so, particularly on a project of this magnitude, which had been done in the past.

Councilwoman Vick understood, but advised, with the volume of citizen comments, which she valued, those comments should be taken into consideration.

Mr. David Coffey, 804 Holbrook Drive (Lake Cambridge, Kiln Creek), Newport News, expressed opposition to Plan Amendment PLN-16-14, to the Framework for the Future 2030, Comprehensive Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a 33.37 acre portion of property located at 900 Bland Boulevard, as the City did not have much green space, and yet it gets torn down. This was seen with the Tech Center project, where all of the woods were cut down at Jefferson Avenue and Oyster Point Road. There was a lot of green area near the Newport News/Williamsburg International Airport (900 Bland Boulevard). He was concerned that if the City continued to do these types of projects and amendments, any greenspace remaining, would be lost. Green space was needed for their children. He stated that Newport News was a great city, he loved it, and had seen a great deal of development; but felt this amendment was a bad idea. The amendment was to facilitate the development for Wegmans, but reiterated his opposition to the Plan Amendment.

Mr. Wesley Kalhn, 807 Bacon Court, Newport News, stated the Plan Amendment PLN-16-14, to the Framework for the Future 2030, Comprehensive Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a 33.37 acre portion of property located at 900 Bland Boulevard, was not a good amendment, nor was it good law. The Comprehensive Plan currently provided for open space at the entrances to neighborhoods, such as Kiln Creek. This change would enable the destruction of one of the few remaining open spaces along Jefferson Avenue. This area had been referred to as the "Gateway to the City," and he encouraged City Council to let it be the Gateway to the City – a free and open space that looked nice. The green space made some citizens smile. Mr. Kalhn indicated that more smiles were needed in Newport News. He urged City Council to

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

vote against this change, and retain the green area, despite the recommendation to destroy this space.

Ms. Cheri Chambers, 756 Doral Drive, Newport News, expressed opposition to Plan Amendment PLN-16-14, to the Framework for the Future 2030, Comprehensive Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a 33.37 acre portion of property located at 900 Bland Boulevard. She indicated that she did not want to live in a "concrete jungle." She advised that there were benefits to green spaces. She felt at peace driving through the Kiln Creek area, seeing the beauty of the space. This area was not just the entranceway to her neighborhood, it was a beautiful space. She hoped that it would be retained, for the wildlife.

Mr. Al Riutort, 29 Langhorne Road, Newport News, former Director, Newport News Department of Planning, stated that making more revenue without evaluating cost and accounting for the negative risky consequences of plan changes and being the first locality in Hampton Roads to have a Wegmans were not good enough reasons to change the Plan and zoning. The Plan change should not be approved for the following reasons: (1) the 2014 Airport Master Plan showed a small cluster of commercial buildings in the area being considered, and would be put in between the existing alignment of Brick Kiln Boulevard and Jefferson Avenue; (2) Big box stores that generate lots of traffic and attract large concentrations of people did not belong at the ends of runways and between runway protection zones and approach zones. Mr. Riutort displayed a diagram of the land that would be affected by the rezoning, and the existing alignment of Brick Kiln Boulevard and the airport master plan, which showed the cluster of buildings, referred to as non-aviation development; (3) the extension of Habersham had not yet been approved; and (4) putting large scale commercial development east of Jefferson was not a good idea.

Mr. Chris Henderson, 12350 Jefferson Avenue, Newport News, addressed City Council on the proposed change and land use designation for the property at Jefferson Avenue and I-64. He advised, in 1997, that he had the pleasure of serving as a member of the Steering Committee for the Comprehensive Plan Update for the Framework for the Future. It was an award-winning plan. The Committee was thoughtful about opportunities for development presented to the City for airport interchange locations. The Committee identified the location as being gateways to the City, and keys to its economic development for the future. There was language in the Comprehensive Plan that addressed interchange development, and it was the City's intention to maximize development at interchange locations. The proposed change to the Comprehensive Plan was consistent, and had been consistent with the Comprehensive Plan Framework for the Future with respect to development of interstate interchange locations. Mr.

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

Henderson advised that this property would be developed. He advised that there was a directive from the Federal Aviation Administration (FAA) that non-aviation land be developed by airports to reduce government subsidies. He asked City Council to consider that directive from the FAA. He inquired whether it would be developed in a responsible manner as proposed, or whether it would be developed in a by-right manner, which was inconsistent with the objective of preserving neighborhoods and maximizing development at interstate interchange locations.

Mr. Steve Leaty, 600 Wegmans Market Street, Rochester, NY, provided background information about Wegmans. He advised that Wegmans received thousands of requests inviting them to build in a community. Newport News was chosen and Wegmans looked forward to the opportunity to develop a store in the City. Wegmans was a privately owned company, started in 1916 as a fruit and vegetable stand. He was proud to announce that Wegmans was celebrating its 100th Anniversary. Wegmans had 88 stores in six states. Mr. Leaty invited members of City Council to join Wegmans at the opening of its new store on Midlothian Turnpike in Richmond. Wegmans touted 44,000 employees with \$8 billion in sales. They were named as the #1 supermarket by Consumer Reports. As far as hiring, Wegmans would be a major contributor to the community, investing back in the community, donating to food pantries and providing scholarship assistance, providing approximately \$85 million in scholarships awarded in the past 15 years. Wegmans planned to provide 200 full-time, 300 part-time career opportunities, with the opportunity for employees to be promoted.

Mr. Ken Spirito, 900 Bland Boulevard, Newport News, indicated that he was in favor of the Comprehensive Plan designation. He stated it was unfortunate to hear opposition to the change. He advised that the property was airport property, not City property, and not green space. It just happened to be space not yet developed. Mr. Spirito further advised that the Airport would pursue development on the property. By right, it was industrial. The airport would pursue the opportunity to provide industrial uses on the property whether or not City Council moved forward with the designation change.

Mr. Thomas Hall, 838 Holbook Drive, Newport News, urged members of City Council to consider strongly opposing Plan Amendment PLN-16-14. He and his wife were drawn to Kiln Creek seven years ago because of its beauty. There had been many vehicular incidents, whether between cars or pedestrians, and had increased. Increasing the vehicular traffic through the neighborhood would increase the risk of those incidents, and in severity, as well as increase delays in travel. Residents were also concerned about the value of their homes. He reiterated asking City Council to oppose this amendment which would facilitate the development for Wegmans.

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

Mr. Will Shewmake, 919 West Main Street, Richmond, Attorney with LeClair-Ryan, representing the Board of Directors of the Kiln Creek Homeowners Association, advised that he would reserve his comments on the Board's position under the zoning portion.

Mr. Will Holt, 622 Claire Lane, Newport News, expressed his support for the Comprehensive Plan Amendment. He moved to this location to be near development and the many shopping opportunities available. He was pleased to see Wegmans seeking to come to Newport News and felt the citizens should embrace them. This would create a unique opportunity in the City. He urged members of City Council to support the Comprehensive Plan amendment.

Mr. Thomas P. Herbert, Professional Engineer and member of the City's Economic Development Authority, 707 Riverside Drive, Newport News, expressed support for the change in the Comprehensive Plan and subsequent rezoning. He advised that he had studied the Traffic Impact Analysis for this project. He advised there was an innovative solution that was proposed for re-routing the traffic in the area of the proposed development. Eliminating left turns from the main flow of traffic would increase capacity through the entire portion of the traffic network. The level of service would be improved in that area. He reiterated the comment by Mr. Spirito that this property could be developed by right as an industrial use, which would have its peak traffic at rush hour. He pointed out there was a pro and a con. He also pointed out that grocery stores were clustering in other cities, not just in Newport News. He stated that it was not the role of government to be telling grocery stores that they could not be located on a site because there were others in the vicinity. In the industry of Engineering/Architecture/Design, competition was based on past performance. Wegmans had been approved to develop their facility in every other City in the United States where they applied, which was a winner, and was the type of winner wanted in Newport News. The Economic Development Authority was in favor of this project, as was he.

Mr. George Harrison, P. O. Box 6061, Newport News, expressed opposition to the project. He was not opposed to the project because of the number of grocery stores. He was a believer of free market. He was opposed because he did not believe the City should be taking land that had been designated in the Comprehensive Plan as green space and move it to commercial. He stated that he was opposed to the project because of traffic, and because of the proximity to the runway. Mr. Harrison mentioned that the FAA had not yet given approval to the project. He stated, should City Council move to approve the change in the Comprehensive Plan, and to give the project its zoning, it was his hope that tax dollars would not be used for the required infrastructure improvements. If the developer wanted infrastructure improvements, the developer should pay for the improvements. Mr. Harrison urged members of City Council to vote against the project.

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

Mr. George Harrison, P. O. Box 6061, Newport News, expressed opposition to the project. He was not opposed to the project because of the number of grocery stores. He was a believer of free market. He was opposed because he did not believe the City should be taking land that had been designated in the Comprehensive Plan as green space and move it to commercial. He stated that he was opposed to the project because of traffic, and because of the proximity to the runway. Mr. Harrison mentioned that the FAA had not yet given approval to the project. He stated, should City Council move to approve the change in the Comprehensive Plan, and to give the project its zoning, it was his hope that tax dollars would not be used for the required infrastructure improvements. If the developer wanted infrastructure improvements, the developer should pay for the improvements. Mr. Harrison urged members of City Council to vote against the project.

Ms. Meredith Holt, 622 Claire Lane, Newport News, a first grade teacher with the Newport News Public Schools, expressed approval for the Wegmans project. She had heard many great things about Wegmans stores, and looked forward to shopping there.

Mr. Tim Trant, Attorney with Kaufman & Canoles, 11815 Fountain Way, Suite 400, Newport News, representing the applicant, stated the plan amendment presented an exciting opportunity for the City, for the Newport News/Williamsburg International Airport, and the Kiln Creek community. He stated, regardless of what City Council decided with regard to the underlying zoning case, he implored City Council to support the change and the Comprehensive Plan designation. The change acknowledged that the highest and best use of the property was commercial; it acknowledged that the commercial use for the property was compatible with surrounding land uses than the current industrial zone designation; and opened the door to a proposal that reflected the importance of the property as a gateway to the City, and to the Kiln Creek community. It set the stage for a proposal that would solve an existing and worsening traffic problem, and it set the stage for a proposal with a high quality aesthetic that was complementary to that of the Kiln Creek community. Mr. Trant stated it was not a question of whether the property remained green space or not, but whether it was an industrial site or whether there was an opportunity to do something better there. The Comprehensive Plan was meant to be a living document that embraced the evolution of land use in the City. It spoke of support for the airport, and the protection of neighborhoods. He respectfully submitted that this Amendment did both. He stated the Comprehensive Plan stated "the City values and protects its residential neighborhoods by ensuring compatible, infill development, and preventing incompatible industrial intrusions." Mr. Trant advised, to deny the Plan Amendment would condemn the property to its by right industrial use, which was not in the best interest of anyone.

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

Ms. Christina Teece, 929 Willow Point, Newport News, advised that the property was zoned light industrial, which was very different than industrial. She stated the Newport News/Williamsburg International Airport received zero supplements. Ms. Teece expressed her opposition to the Plan Amendment. As a small business owner and private citizen, Ms. Teece had presented many points of concern about the rezoning of this property and how it would negatively impact her ability to conduct business and enjoy the simple quality of life. She referenced the petition submitted at the April 26, 2016 Regular Meeting of City Council, where 251 other citizens agreed with her, where 15 were also small business owners. She stated, to date, they were negatively impacted by traffic problems. They were told that Mr. Dexter Williams was the best traffic expert in the nation. Mr. Williams stated that his traffic plan would improve the flow of traffic in the corridor. Their ability to adequately address the citizens and other concerns regarding the impact of this project was unacceptable, and did not warrant another deferral. This project had turned the City upside down. Ms. Teece stated that not one taxpayer dime should be spent that could not have simple points adequately addressed. The citizens deserved consistency and stability, as well as a plan about which direction the City would choose to turn in the future. Ms. Teece urged members of City Council to vote no on the request to amend the Comprehensive Plan.

Mr. Miklos Kiss, 921 Willow Point, Newport News, expressed opposition to the change to the Comprehensive Plan, and re-zoning to allow Wegmans to locate in the City at the property located at 900 Bland Boulevard. He sympathized that the Newport News/Williamsburg International Airport needed revenue, but suggested they get more airlines instead of setting up a shopping center at the end of the runway and jeopardizing the community.

Mr. Joe Leming, 377 DeShazor Drive, Newport News, shared that he attended the meeting of the Planning Commission on April 6, 2016, when there was a 5:4 vote not to do this. He worked in the aviation field, and stated after looking at the proposed plans, he saw a "crash site." He advised the City Council that City officials were not following their own procedures. He served on the Citizen's Advisory Committee member roster, and at their meeting in December 12, 2013, and again in January 2014, they were told they represented the public on the Committee. The Comprehensive Plan Advisory Committee (CPAC) never saw the proposal, nor were they allowed to provide comments. Had procedures been followed, and the CPAC allowed to provide comments, there would be fewer attorneys.

City Manager Bourey stated there had been a great deal of public interest in this application and the land use application. Both the Planning and Engineering staff had a difficult job, but had done their jobs professionally. He advised that the City had the responsi-

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

bility to look out for the best interest of the citizens. They attempted to do so in an appropriate manner. Staff attempted to weigh the impacts and the benefits of the developments to the community.

City Manager advised that Wegmans had conducted a market study and felt that this market would support them. He advised, if Wegmans did not receive \$100 million in projected sales, they would not proceed with the development. They were aware of the existing stores in the City. Wegmans did not have an effect of putting people out of business. There were potential uses for the property, i.e. mini warehouses, and other uses that were not appropriate for a gateway to Kiln Creek. There were substantial traffic improvements proposed. The City's engineer did a thorough study of those improvements and it was clear that those traffic improvements would improve traffic conditions along Jefferson Avenue. Additionally, there would be some traffic increase along Brick Kiln and Kiln Creek Boulevards, which would operate at a service level A, which was the highest level, and would continue to do so. To date, the intersection at Brick Kiln Boulevard and Jefferson Avenue operated at a service level D, which was unacceptable. The City engineers and the Airport would join together to construct improvements at the intersection, in the public interest, and would operate at a service level C, which was critically important. This development was anticipated, and included in the Airport Master Plan. City Manager Bourey stated that the airport was not developing this property because they were broke. The Newport News/Williamsburg International Airport was not broke. The Federal government encouraged airports to develop their land. This would be of value to the Airport and to the City as they sought to develop additional air service. This development was not in the runway protection zone. There was an issue that the roadway realignment had not been approved by the FAA to date. City Manager Bourey advised that he did wear a hat as the Chairman of the Peninsula Airport Commission, on how the Airport might proceed. There was no conflict of interest based on conversations held with the City Attorney. Wegmans would provide approximately 500 jobs in this community – 200 full-time, 300 part-time, with 90% being hired locally. Wegmans would also provide greater than \$1 million annually to the City's revenue, and \$.5 million to the airport. Wegmans was a regional draw and would provide a significant level of visibility, and draw young adults, to help fill the City's knowledge base. Wegmans was a wonderful community partner and donated millions locally, with over 13 million tons of food donated to local foodbanks. There had been comments about City money being spent to realign the roadway, which would have a major, positive benefit for the community. The money would be returned in less than two years. These were reasons the staff and the airport supported the project.

Councilwoman Vick moved closure of the public hearing; seconded by Councilwoman Woodbury.

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property Located at 900 Bland Boulevard Continued

Vote on Roll Call:

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

Nays: None

Abstention: Bateman (his employer, TowneBank, had a security interest in collateral land that may be a part of the re-routing of a road on the project).

Vice Mayor Coleman moved adoption of the above resolution; seconded by Councilwoman Scott.

Mayor Price stated that City Council had received numerous e-mail messages, both for and against, most against. They had heard about the traffic and the traffic improvements, the Newport News/Williamsburg International Airport, and the changes in the flight patterns. He stated when he mentioned the possibility of a Wegmans coming to Newport News, citizens from out of town shared nothing but elation. City Council had to do what was best for the entire City, not for any one neighborhood who may have the loudest voice in opposition, but what would be best for the entire City for the future. Considering the number of people speaking, Mayor Price observed that those in favor of the project were young, who represented the future, and saw what amenities would be brought back to the City. He would support the Comprehensive Plan Amendment and subsequent rezoning because he was doing what was best for the entire City.

Councilwoman Cherry advised that she would not vote in favor of the Comprehensive Plan Amendment and subsequent rezoning. She advised that her first Wegmans experience was in Fredericksburg five years prior, and she was amazed and felt it was a great store. It had everything in it and she felt it was exactly what was needed in the Southeast Community. She enjoyed, and learned a great deal, at the City Council Work Session of April 26, 2016. She understood capitalism, retail clusters, studied market penetration, economic development, etc. Councilwoman Cherry stated that she wanted to see a Wegmans in Newport News, but not at the proposed location. She was told no, when she asked at the April 26, 2016 Council Work Session whether other locations were considered. The decision was based on demographics and income levels of this particular location. Wegmans was considered a regional store, located at a gateway. She stated there were other gateways in the City of Newport News that she had hoped would be considered for a location in the South or the North, which was not of interest. City Council heard about the relocation of the roadway, and she also asked who would pay for this infrastructure improvement, and suggested Wegmans pay. She was told that Wegmans did not want the road, but the City wanted the road. Councilwoman Cherry stated, if

E. Public Hearings Continued

5. Resolution Authorizing Plan Amendment No. PLN-16-14, City of Newport News, to the Framework for the Future 2030 Comprehensive Plan Land Use Map Designation from Transportation, Natural Area/Open Space and Parks and Recreation to Community Commercial for a Portion of Property located at 900 Bland Boulevard Continued

that were the case, and the City was trying to mitigate the traffic coming off of Interstate 64 at Jefferson Avenue the road should be built, whether Wegmans would come or not, the traffic should still be mitigated. Councilwoman Cherry advised that she read and answered each and every e-mail message. Citizens voices mattered to her, whether in favor or in opposition. Her heart was heavy because she believed that Wegmans could be a good corporate citizen and bring jobs to the City, and would be an asset to the airport, but did not believe this was the right location. For this reason, she would vote against the Comprehensive Plan and re-zoning.

Councilwoman Woodbury advised that she too had read and responded to e-mail messages. She too felt Wegmans was a beautiful project, but not at this location, and would vote no.

Vote on Roll Call:

Ayes: Coleman, Price, Scott,

Nays: Cherry, Vick, Woodbury

6. Ordinance Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development

AN ORDINANCE TO AMEND AND REORDAIN ORDINANCE NO. 5028-97 BY AMENDING THAT CERTAIN MAP ENTITLED, "ZONING DISTRICT MAP" (CONSISTING OF REAL ESTATE TAX ASSESSMENT MAPS 001 THROUGH 322 AND KEPT ON FILE IN THE OFFICES OF THE DEPARTMENTS OF CODES COMPLIANCE AND PLANNING) DATED THE 10TH DAY OF JUNE, 1997, WHICH SAID MAP IS MADE A PART OF THE SAID ORDINANCE NO. 5028-97. This ordinance amended Ordinance No. 5028-97, by amending the zoning district map for Change of Zoning Application No. CZ-16-379, by the Peninsula Airport Commission, for a 33.37 acre portion of property located at 900 Bland Boulevard, zoned M1 Light Industrial to C1 Retail Commercial, with proffers, to allow for retail development. The proposed zoning would allow a combination of uses including a grocery store and other commercial uses not allowed under the current zoning. The proffers provided by the applicant would guide the design and development of the property. The proposed change of zoning was compatible with the Framework for the Future 2030 Comprehensive Plan land use map amendment PLN-16-14. On April 6, 2016, the City Planning Commission voted 5:4 to recommend approval of the request to City Council. The City Manager recommended approval.

E. Public Hearings Continued

6. Ordinance Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

Mr. William Pope, 806 Vantage Court (Players Choice), Newport News, advised that he moved to this location because it was a nice and well-maintained neighborhood and provided a great lifestyle. It was convenient to everything needed and desired. His concern was not with Wegmans, as he had heard nothing but good things about the store. His concern was with the location, which would cause a severe traffic impact within the Villages of Kiln Creek. The traffic study showed 8,000 vehicles travelled on Tuesday, Wednesday, and Thursday, and half of the day on Saturday. No traffic study was conducted on Sunday, Monday, or Friday. Residents of Kiln Creek never envisioned a supermarket in their back yard. He stated it was not needed. He concurred with Councilwoman Cherry, that Wegmans was a great store, but was not in the right place. He stated that no Council member resided in Kiln Creek and had no "skin in the game." Residents envisioned the value of their property decreasing. They respectfully requested that members of the Newport News City Council deny the application to rezone the property located at 900 Bland Boulevard, zoned M1 Light Industrial to C1 Retail Commercial, with proffers, to allow for retail development.

Ms. Karen Mikulski, 721 Lelefont Commons, Newport News, shared from personal experience, when a Wegmans opened in a market, the area improved drastically. Retailers, grocery stores, and restaurants, all stepped up their game. Customer Service was improved, and stores were cleaner – she inquired why City Council would not want this for Newport News. This one store would create 500 new jobs. Most that she knew that worked at Wegmans, loved their jobs and were happy to go to work. Ms. Mikulski expressed support for the rezoning and asked that City Council vote in favor of the rezoning of the property located at 900 Bland Boulevard, zoned M1 Light Industrial to C1 Retail Commercial, with proffers, to allow for retail development.

Mr. Gerry Smelt, 811 Lancaster Lane (South Lake Village), Newport News, retired regional and local planner with 35 years of experience, expressed opposition to Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to allow for retail development. Mr. Smelt advised that his opposition to the rezoning was based on the following: (1) failure of the staff report to address the proposed development's compliance, consistency, and implementation with 14 relevant policies and strategies contained in the future land use transportation and economic development elements of the City's adopted Framework for the Future 2030 Comprehensive Plan. This lack of analysis was surprising given the potential negative effect of the development on the Kiln Creek community; (2) failure of the staff report to acknowledge the impact of the increased pass-through traffic on Kiln Creek. This silence was evidenced by the fact that the limited scope of the traffic impact analysis (TIA), in that it did not take into account the entire length of Brick Kiln Boulevard or Kiln Creek Parkway and its two intersections with Victory Boulevard; (3) failure of the staff report to reference the

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

findings of a comprehensive impact study which accessed the benefits and ramifications of the proposed development; (4) failure of the staff report to analyze the development's impact pursuant to the land use plan's neighborhood organizing principle which stated, "the City values, and by its actions, will protect and enhance its residential neighborhoods;" and (5) the fast tracking of the rezoning was evidence of bias as a direct consequence of the City Manager serving in his dual role as Chairman of the Peninsula Airport Commission, applicant for the zoning request, as Chief Executive Officer, City Council representation on the Commission. If approved, it could only be concluded that this City Council was willfully disregarding its responsibility to protect and maintain the quality of life, and health safety and welfare of the households within Kiln Creek's 31 villages in favor of financial gains. He urged City Council to deny Change of Zoning request, No. CZ-16-379.

Mr. Edward J. Nemie, Jr., Engineer Supervisor at NASA Langley, 934 Foxboro Drive (Lake Cambridge), Newport News, stated he found it hard to believe the City would entertain allowing a development on this property as the City would forever change the entrance to Kiln Creek by making this just another neighborhood confined within commercial buildings and parking lots. Of the 304 homes petitioned within Lake Cambridge, only three percent (3%) were in favor of this development. The remaining saw this as an enemy invasion on their homeland, a threat to their family lifestyle, and a creator of headaches for their day-to-day travel to and from their homes. Data indicated difficulty in making left turns onto Brick Kiln Boulevard due to increased traffic, creating an accessibility issue for 304 residences in Lake Cambridge. He advised, currently, ten percent (10%) of residents in Lake Cambridge had to park at Kiln Creek Elementary School because their homes were inaccessible as a consequence of Friday traffic cutting through Kiln Creek to avoid the interstate exit at Jefferson Avenue. The traffic impact study for the Plaza Impact Study data did not account for the high traffic days such as Sunday, Monday, and Friday. The impact on the Jefferson Avenue commercial corridor was also of importance. He inquired whether other local grocery and retail stores would be impacted. Mr. Nemie stated, any fiscal gain would be offset by the creation of more empty commercial buildings or of storefronts and the loss of jobs within the Jefferson commercial corridor and the willingness of the City and the Airport Authority to accept the possibility of a higher death count by placing a large concentration of retail establishments and customers in close proximity to the runway protection zones. The 28-year Kiln Creek neighborhood was one of the nicer communities due to careful planning by the City and the Homeowners Association. City Council's decision could have a detrimental impact on Kiln Creek and the Jefferson Avenue Commercial corridor, and he reiterated his opposition to the rezoning of this property.

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

Ms. Rona Altschuler, 951 Edgewater Drive, Newport News, expressed her opposition to the rezoning of this property. She advised that she cared about all parts of the City but happened to reside in the part where it would be a disaster to see a giant grocery store in its midst. She loved Newport News and did not want to leave it. She appreciated Councilwoman Cherry looking at this from the entire City's perspective. It was about quality of life for everybody, not just Kiln Creek. Ms. Altschuler urged members of City Council to consider the option of saying no.

Ms. Diana Mason-Smelt, 811 Lancaster Lane, Newport News, presented a petition with 1,209 signatures of individuals opposed to the Change of Zoning, CZ-16-379 (attached and made a part of these minutes). These signatures were in addition to the 251 names that were presented to City Council at its April 26, 2016 Regular Meeting. The Homeowners Association provided no assistance in this effort, nor in acknowledging the concerns of its residents. Ms. Mason-Smelt agreed with Councilwoman Cherry regarding the traffic improvements. She did not understand why money could not be put into making improvements on Jefferson Avenue without the Wegmans development. She urged City Council to disregard the applicant's request to defer the matter, and proceed with a vote to deny the request. It was her understanding that this had been in the works for more than two years, which was enough time to present a complete report.

Mr. David Coffey, 809 Holbrook Drive, Newport News, urged members of City Council to vote against the rezoning of the property at 900 Bland Boulevard. He indicated the extension of the road to Habersham would not change matters and would not help the City or the Kiln Creek community. He stated he loved Kiln Creek and he loved Newport News. He implored members of City Council to vote against the change of zoning.

Mr. Rudy Schlosser, 946 Foxboro Drive (Lake Cambridge), Newport News, advised that he and his wife moved to Newport News in 2004 because they believed this was a solid place to live. He stated the residents in Newport News could only consume so much food. Wegmans would contribute tax dollars, but would take away from the other grocery stores. Money would be spent to reconstruct the roadway. He inquired where the additional revenue would come from to sustain the other stores. It made no sense to bring in Wegmans when there was no way to recoup the additional money spent.

Ms. Jan Stringer, 919 Holbrook Drive, Newport News, advised that she had seen many changes in Newport News over the past 50 years. She expressed opposition to the rezoning for the following reasons: (1) increased traffic on Jefferson Avenue between Denbigh Boulevard and Oyster Point Road; (2) increased traffic in Kiln Creek; and (3) use of taxpayer dollars.

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

Mr. Kevin Stringer, 919 Holbrook Drive, Newport News, advised that he was a fan of Wegmans, but expressed opposition to the rezoning of the property at 900 Bland Boulevard. His opposition was not with the store, but with the location. The extension of the roadway would not cure the traffic ills. One cannot travel through the area during peak hours. Adding thousands of vehicles per day would make travel intolerable. He implored members of City Council to vote against the change of zoning. He thanked Councilwoman Cherry for her remarks. He stated that Councilwoman Cherry provided citizens with hope and faith in elected officials.

Ms. Janet Moore, 721 Lakefront Commons, Newport News, expressed support for the proposed rezoning. She stated rezoning the property at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to allow for retail development, would be an improvement. Wegmans would employ 500-600 people with average wages of \$12-\$20.00 per hour, plus benefits, and much higher wages for managers. Wegmans was a great employer that paid great wages, and was a significant corporate contributor in communities where they were located. Wegmans was ranked in the top ten for 19 years by Fortune Magazine. She questioned how City Council could say no to a business like Wegmans wanting to locate in the Newport News market. The proffered road improvements would make traffic conditions that were a "D" on Jefferson Avenue, at least a "C." The ongoing widening of Interstate 64 would provide much needed relief to all area drivers. Development and relocation of Brick Kiln Boulevard was a part of the Airport Master Plan and the FAA mandated that airports across the country develop non-aviation land to generate revenue and reduce government subsidized airports. She felt this was needed. Home and property values consistently improved in areas where Wegmans located. Wegmans stated there was no other suitable location in Newport News. The proposed plan with proffered road improvements, would enhance the traffic flow in the area, provide much needed well-paying quality jobs, provide enhanced revenue to the City, and given Wegmans' strong support, the neighborhoods would be strengthened, food for the needy would be provided, scholarship funds made available, and the local United Way supported. The result would be a better development than the existing by-right industrial area. She urged members of City Council to vote YES for the requested rezoning.

Ms. Anna M. Lloyd, 928 Holbrook Drive, Newport News, stated that Wegmans was a wonderful store. Existing stores could not keep people employed, and questioned where Wegmans would find the additional employees. As a small business employer, expressed opposition to the rezoning and urged City Council to vote NO for the requested rezoning.

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

Mr. Wesley Kalhn, 807 Bacon Court, Newport News, questioned why Wegmans needed to be located at the corner of Brick Kiln Boulevard and Jefferson Avenue if it were such a destination store. He stated that Wegmans needed to be located where there were food deserts. They would have people that needed the store, the food, and the jobs. Surrounding stores would also benefit. He suggested City Council think about the City, not the Airport.

Ms. Cheri Chambers, 756 Doral Drive, Newport News, thought it was great to get Jim's Local Market in the Southeast Community. It cost \$6 million to get Jim's located in one community, in one neighborhood, in one area. Addressing Mayor Price's earlier comments, she felt Jim's Local Market was needed, but stated if that could be done for one neighborhood, City Council should listen to the residents of Kiln Creek and what they were saying about their neighborhood. She admitted that she had not been in a Wegmans. While it may be a great store, she stated that Jefferson Avenue did not need any more stores. It was doing fine with its development. There were other areas of the City that desperately needed development. The Southeast Community needed it. Wegmans should be located where it could draw other retailers to increase the economy of the particular area. Five hundred jobs would be great, but Wegmans should be put where people needed it the most. If Wegmans truly cared about the communities in which they located, and cared about the people, they should know they did not need to build where there was plenty. They should build where development was needed and where people needed help. If they did not want to be located in the Southeast, Ms. Chambers surmised it was because of the income level of the residents or the ethnicity of the residents in the Southeast; and if that was the case, she would never visit a Wegmans. Regarding traffic, Ms. Chambers stated the City streets could not handle the traffic currently. Better roads were needed if there would be increased traffic, especially if heavy industrial vehicles would travel on the roads.

Mr. Pete Paine, 10 Sir Francis Wyatt Place, Newport News, stated there was passion exhibited on both sides of the debate. He commended Wegmans for assembling a top notch team together. They were dominant in any location. He would love to see a Wegmans, but did not buy into the traffic impact analysis. There were 400 apartments that had to come on-line, and a property one mile away, that was rezoned for a Lidl's. He questioned why the infrastructure could not be put in place prior to talking about the developments. He could not be convinced that traffic would be improved. Mr. Paine expressed opposition to the rezoning of the property at 900 Bland Boulevard.

Ms. Gail Brown, 907 Miblik Way (Glen Eagles community), Newport News, stated that she and her husband relocated to Newport News from New York because of the quiet, secured, and well-manicured community. They had seen many changes over the years.

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

They were now inundated with retail stores, housing, and car dealerships along Victory Boulevard, Jefferson Avenue, and Oyster Point Road. As a result, traffic had significantly increased for all residents of Newport News. Many used Kiln Creek as a short cut to Jefferson Avenue. Ms. Brown stated that residents were surrounded by numerous grocery stores, restaurants, and retail, and Newport News was losing its green space to retail. There was increased congestion and pollution. Ms. Brown shared some of her concerns for the proposed project. She stated the safety, integrity, and serenity of the community would be destroyed, with many homeowners threatening to relocate because they felt their property values would decline. There was increased traffic throughout the Villages of Kiln Creek, which would only add to additional congestion and a higher incidence of accidents. She cited several of the traffic incidents occurring within the past year. Many residents used the trails for walking, biking, and visiting the playgrounds. She reminded that there was an elementary school in the Kiln Creek community, with children being picked up and dropped off often. Many of the children must cross the neighborhood streets. Panhandling would certainly come to the Wegmans project if the project were approved as was the case at Walmart, Kroger, Farm Fresh, and the Tech Center. Residents anticipated increased trash, free roaming shopping carts, and the possibility of increased crime. The beautiful entrance to Kiln Creek would be destroyed. Residents' homeowner dues paid for maintaining the beauty of that entranceway. The rerouting of traffic to Habersham would deny direct access to Sam's Club and Walmart and would infringe on the residents travel to and from their homes. Ms. Brown questioned why taxpayer's money should be used to fund a road improvement project to accommodate the Wegmans project. Kiln Creek residents wanted the airport to survive, but not through this venture. The undertaking of this project would disrupt the Kiln Creek community and that of the Newport News residents. Ms. Brown asked that City Council deny this proposed rezoning.

Mr. Chris Henderson, 12350 Jefferson Avenue, Newport News, advised that he was embarrassed by the way a corporate citizen like Wegmans was being treated, and was embarrassed by the way his partners were treated, and by the undignified conduct exhibited in the City Council Chambers. Citizens could disagree but should remain respectful of one another's position. He listened respectfully to others opinions and viewpoints and heard comments from primarily Kiln Creek residents who were attempting to drive the agenda for the City, and it was this point of view that was overwhelming City Council's actions. Mr. Henderson indicated that much information had been spread about the project. The traffic study complied with the technical terms, industry standard of traffic impact assessments, and had been evaluated and accepted by the City's Chief Engineer. There had been concerns expressed about property values. Zillow completed a study which showed there were positive impacts on areas within a one-mile radius of where high end grocery stores were located. People choose their living destinations based upon access to amenities, and Wegmans was an amenity to this City and to this

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

region. It would improve the quality of life for the citizens of Newport News, and of the entire region. The market will tell you that this proposed site was the right location for Wegmans and for retail. When word got out, tenants contacted him who wanted to locate near Wegmans in that location. The City experienced significant vacancy loss on properties where Farm Fresh was located. Tenants will fill the space when Wegmans comes to the market. Mr. Henderson asked that the public hearing not be closed, and this matter be continued.

Mr. Al Riutort, 29 Langhorne Drive, Newport News, displayed a copy of the Comprehensive Plan for the City, which was not changed. He pointed out that everything located to the west of Jefferson Avenue was commercial, and everything to the east was office or industrial. The Plan showed the Runway Approach Zones. He questioned which looked better when driving down Jefferson Avenue – the big box stores, gas stations, storage units, or the side where the airport was located, along with a well-landscaped Ferguson, and Continental. He stated that Light Industrial was less impactful, more attractive, and worked better along the airport. The property was, and had been zoned Light Industrial. Mr. Riutort showed a copy of the site plan for the proposed development, with roadway improvements. In order to make the space for a Wegmans and 1,300 parking spaces, 1,700 feet, or three acres, must be abandoned, and moved closer to a Runway, which was a large part of the cost. The Habersham extension had not yet been approved. The proposal was not in accord with the Airport Master Plan.

Mr. Brian Mello, 28 West Governor Drive, Newport News, expressed support for the rezoning. Retailers wanted to be located in the proposed corridor with the highest traffic counts. The Patrick Henry corridor was the best retail location with 91,000 cars per day. He understood why Wegmans would want to locate on this site. It was one of the few retailers that could draw from all of Hampton Roads. As Jefferson Avenue filled up, it would bring up other areas, i.e. Denbigh, the Southeast Community. The amenities that the City had were great for young people. In order to continue to attract young people, these amenities were a must. Wegmans wanted to locate in the best area of the City. There is access on this corridor to everything in Hampton Roads. To reject this proposal, a bad precedent would be set for other retailers moving forward. Newport News would be the only City that would reject a Wegmans coming to the area.

Mr. Steve Leaty, Rochester, NY (was not available when his name was called).

Mr. Ken Spirito, 900 Bland Boulevard, Newport News, spoke about respect and civility. He indicated that he respected all of the comments made by the public. He stated they were spirited and passionate, and defended what they believed was right. He did not respect the comments made against the airport. Mr. Spirito indicated the airport was not out to

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

devalue homes, or disrupt the quality of life of the residents of Kiln Creek. The Newport News/Williamsburg International Airport was a business and was charged by the FAA and the Commonwealth of Virginia to operate the airport as sustainable as possible. Fewer airlines exist to date, and a better job should have been done in diversifying revenues. The airport had a diversified portfolio and would continue to diversify its portfolio. The airport should not be laughed at, as this was a very important tool for the City to move forward. The airport respected its citizens and the development plans for the future.

Mr. Philip Hatchett, 17 Museum Drive, Newport News, extended congratulations to City Council for the success in getting Jim's Local Market. Bold steps were taken that required the City's planners to take an initiative that required a step out from the ordinary. It was ironic to be speaking about another grocery store. Without doubt, Wegmans was an incredible corporate citizen. Mr. Hatchett pointed out that there were over 4,000 employees on scholarship, or 45 young people who had an opportunity to work and go to school because of Wegmans. This corporate citizen was unsurpassed. Newport News had a great opportunity. Every year, the City's inventory of taxable land was slowly taken away. This was one of the few opportunities to turn that around and bring in more taxable land to help the citizens, to work on the potholes, to create the jobs, by a corporation that was privately owned who respected the people who worked and bought their foods. Wegmans was an impeccably well-run company. He urged City Council to be as bold tonight, as they were when they opened the new Jim's Local Market. They would do the entire community a great service.

Mr. Will Holt, 672 Claire Lane, Newport News, expressed support for the Wegmans project. He respected all of the comments made by the citizens on both sides – for and against. Everyone recognized Wegmans as a good corporate citizen, but he opposed this location at the corner of Brick Kiln Boulevard and Jefferson Avenue. Jefferson Avenue was the City's primary commercial corridor, and was the place where any unique retailer sought to locate. Jefferson Avenue would be heavily travelled no matter what. Mr. Holt urged City Council to weigh all of the information presented if a decision would be made. He encouraged members to support the rezoning request.

Ms. Michelle Reisel, 972 Holbrooke Court, Newport News, expressed opposition to the Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a portion of property located at 900 Bland Boulevard that would permit a Wegmans grocery store. Newport News did not need any more grocery stores, and wanted to see those we had, stay in business. Wegmans sounded wonderful, but Newport News did not need additional strip shopping centers. Current malls and centers included Patrick Henry Mall, Jefferson Commons, and the Tech Center. Over time, the traffic on Jefferson and Brick Kiln had become a parking lot. Ms. Reisel indicated that emergency vehicles would find it difficult to access her neighborhood.

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

It was important to receive medical attention in the event of a heart attack, stroke, seizure, which could all lead to death if not attended to in time.

Mr. William Shewmake, 919 E. Main Street, Richmond, representing the Villages of Kiln Creek Homeowners Association, stated the board was not in favor or in opposition to this rezoning proposal. They understood that there would be a number of important real estate and property interests dealing with the association that would need to be addressed should this resolution be adopted, i.e. easements, signage, drainage, etc. A Memorandum of Agreement had been prepared, but would not alter the board's position in this case.

Mr. James Leach, 1801 SW 3rd Avenue, Miami, FL, highlighted a few points previously mentioned. He stated the proposed property was zoned industrial, and if not rezoned, industrial uses would be permitted by right. Wegmans was charged with bringing new retailers to the market and felt they had brought the best in class. Wegmans would be a catalyst to this retail corridor, with new retailers filling dark boxes by increasing the level of service and quality in the selection of goods and services for the community. Regarding traffic, the level of service would be improved along Jefferson Avenue. He kindly asked, awaiting FAA approval, that City Council would grant the deferral to the June 14, 2016 Regular Meeting of City Council as they work to finalize some the open issues being discussed.

Mr. Thomas P. Herbert, 7074 Riverside Drive, Newport News, (was not available to speak when his name was called).

Ms. Meredith Holt, 622 Claire Lane, Newport News, expressed support for the Wegmans project.

Mr. Tim Trant, Kaufman & Canoles, 11815 Fountain Way, Suite 400, Newport News, representing the applicant, stated that economic opportunity was the cornerstone of a safe, healthy and prosperous community. Mr. Trant stated the Change of Zoning Application, No. CZ-16-379, represented 500 economic opportunities. It was hard to fathom the magnitude of that impact. Wegmans was a family-owned business that hired locally, promoted from within, paid above average wages, and offered generous benefits and college scholarships to their employees. Wegmans shared our values. He stated one could solve traffic problems and create green space, but could not create the kind of economic opportunity associated with 500 good paying jobs, and the ripple effect that would be felt throughout the community associated with a good corporate citizen like Wegmans. This application solved existing traffic problems, supported the airport, which was a community asset, expanded the City's tax base, and secured high quality aesthetics. Mr. Trant asked members of City Council to consider the voices of those not present, not heard, and those that put their faith in their elected officials to create economic

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

opportunities on their behalf.

Ms. Christina Teece, 929 Willow Pt., Newport News, stated it would be irresponsible to approve the rezoning of the property at 900 Bland Boulevard. Traffic on Jefferson Avenue in this area had been at a punitive level and rising. She felt it would be irresponsible to add to this on any level. She questioned what percentage would the additional 8,000 cars on Brick Kiln Parkway contribute should this rezoning be approved. She inquired whether the increase in revenue would be worth the price if it were their neighborhood or family member that would be affected by this project. The depth of her feelings was shared in her personal story about her father that had a heart attack, but was in need of an ambulance when sent home from the hospital. It took 25 minutes for the ambulance to reach him. His body survived, but his brain did not. No matter the benefit, this was an example of the cost.

Mr. M. Kiss, 921 Willow Point, Newport News, praised Wegmans, but stated "not in my backyard." Wegmans would invade his neighborhood. They would bring a traffic misery that City Council would not be able to solve. If the infrastructure had been invested in first, Wegmans would be more than welcome. Until then, he asked City Council to keep them out of town.

Councilwoman Vick moved closure of the public hearing; seconded by Councilwoman Woodbury.

Councilwoman Scott stated that she had read all of her e-mail messages, and heard from both sides. They were all very compelling and she respected the opinions of all of the citizens and had been for open government for the 14 years that she served on City Council. She heard that citizens loved Wegmans and thought traffic would be a problem, not Wegmans. Traffic situations could be mitigated. She understood the traffic problems and shared that she was stuck in traffic snarls daily. She felt that Planning and Engineers should be given the opportunity to go back to the table and come up with something that would be plausible. The same outcry occurred with the Tech Center project. Tech Center was open and roads were improved, lanes were added, and traffic was moving. There had not been any additional fatalities as a result. She stated that Wegmans would be a golden opportunity for the City, and was too golden of an opportunity to turn our backs to them. If at all possible, City Council should find a way to make the Wegmans project work. She addressed the comment that she not be allowed to vote. Based on an opinion from the City Attorney, she was okay to vote because she would not benefit from being on the Peninsula Airport Commission. Her appointment would not begin until May 24, 2016. People were saying that she traded her vote for a position on the Airport. She publically dispelled that myth.

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

Addressing comments made by a citizen than said members of City Council did not “have skin in the game,” Councilwoman Scott stated when citizens elected members of City Council to represent them, they did “have skin in the game” as their representatives. Buying a home was a big investment and she knew the residents of Kiln Creek valued their investment made in their home.

Councilwoman Woodbury advised the citizens that she represented their “skin in the game.” The neighborhood and citizens had been in chaos and a state of confusion for long enough. She stated it was time to move on, and did not feel anything would change.

Vote on Roll Call:

Ayes: Coleman, Price, Scott, Woodbury

Nays: Cherry, Vick

Abstention: Bateman recused himself from the vote due to the fact that his employer, Towne Bank, had a security interest in the collateral land that may be a part of the re-routing of the road on the project.

City Attorney Owens advised that City Council could not move forward with any action. The Public Hearing remained open. City Council was at an impasse.

Mayor Price thanked the citizens for their attendance and their input. He advised that the public hearing would remain open.

(RECESS: (9:30 p.m. – 9:40 p.m.)

Mayor Price advised that City Council was at an impasse, but had reached a solution.

Vice Mayor Coleman moved to continue the Public Hearing until the June 14, 2016 Regular Meeting of City Council; seconded by Councilwoman Scott.

Vote on Roll Call:

Ayes: Coleman, Price, Scott, Woodbury

Nays: Cherry, Vick

Abstention: Bateman recused himself from the vote due to the fact that his employer, Towne Bank, had a security interest in the collateral land that may be a part of the re-routing of the road on the project.

E. Public Hearings Continued

6. Resolution Authorizing Change of Zoning No. CZ-16-379, to Peninsula Airport Commission, for a Portion of Property Located at 900 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow for Retail Development Continued

Councilwoman Scott moved to continue action on the item until the June 14, 2016 Regular Meeting of City Council; seconded by Vice Mayor Coleman.

Vote on Roll Call:

Ayes: Coleman, Price, Scott, Woodbury

Nays: Cherry, Vick

Abstention: Bateman recused himself from the vote due to the fact that his employer, Towne Bank, had a security interest in the collateral land that may be a part of the re-routing of the road on the project.

F. Consent Agenda

Councilwoman Scott moved adoption of the Consent Agenda, Items 1 through 5, both inclusive, as shown below; seconded by Councilwoman Vick.

1. Minutes of the Budget Public Hearing of April 14, 2016

(No registered speakers)

Vote on Roll Call:

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

Nays: None

Absent During Vote: Woodbury

2. Minutes of the Work Session of April 26, 2016

(No registered speakers)

Vote on Roll Call:

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

Nays: None

Absent During Vote: Woodbury

3. Minutes of the Special Meeting of April 26, 2016

(No registered speakers)

F. Consent Agenda Continued

3. Minutes of the Special Meeting of April 26, 2016

Vote on Roll Call:

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

Nays: None

Absent During Vote: Woodbury

4. Minutes of the Regular Meeting of April 26, 2016

(No registered speakers)

Vote on Roll Call:

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

Nays: None

Absent During Vote: Woodbury

5. Resolution of Appreciation: Colonel William S. Galbraith on his Retirement as the Commander, 733d Mission Support Group Army Element-Joint Base Langley – Eustis from June 15, 2013 to June 28, 2016

A Resolution of Appreciation for Colonel William S. Galbraith. This Resolution recognized and honored Colonel William S. Galbraith on his retirement as the Commander, 733d Mission Support Group Army Element – Joint Base Langley – Eustis, from June 15, 2013 to June 28, 2016. Colonel Galbraith served as the Commander, 733d Mission Support Group Army Element – Joint Base Langley – Eustis (JBLE) since June 15, 2013, and was scheduled to transfer command on June 28, 2016. Colonel Galbraith was commissioned in 1990. His service included various logistics positions at the platoon, company, battalion, and division levels. He had participated in contingency operations twice in Iraq and twice in Afghanistan. Colonel Galbraith oversaw facility maintenance, environmental and cultural resource programs, base security, housing installation supply, transportation, and personnel support services for a post community hosting over 22,000 active duty, civilian, and retired personnel. As Commander of the 733d Mission Support Group, Colonel Galbraith served the City of Newport News and the Hampton Roads area by providing leadership and support to the military members at all levels and their families assigned to JBLE. This Resolution of Appreciation recognized Colonel Galbraith for his service to the citizens of Newport News, the Virginia Peninsula, and to the United States of America. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

Absent During Vote: Woodbury

G. Other City Council Actions

1. City Code Related Ordinances to Enact the City Manager's Fiscal Year 2017 Operating Budget

City Manager Bourcy advised that this was a City Code related action to enact the City Manager's Recommended Operating Budget for Fiscal Year 2017. He reminded that the Budget was introduced to City Council on March 22, 2016, and was made available on-line, and in public libraries. The Recommended FY 2017 Operating Budget was published in the Daily Press on March 27, 2016 and April 4, 2016. The effective tax rate advertisement was published in the Daily Press on April 8, 2016 in line with the State Code. City Council held Work Sessions on March 22, 2016, April 13, 2016, and April 26, 2016, on the Recommended FY 2017 Operating Budget. There were also Public Hearings on April 12, 2016 and April 14, 2016. He indicated that only one Public Hearing was required by State Code, but Newport News followed the practice of holding two public hearings, held in different parts of the City. The action was a request to adopt nine ordinances, listed below, to enact the City Manager's Recommended FY 2017 Operating Budget. The City Manager recommended approval of the ordinances.

- (1) Ordinance Amending and Reordaining City Code, Chapter 40, Taxation; Article II., Real Estate Taxes; Division 1.; Generally; Section 40-12, Levied; Amount

AN ORDINANCE TO REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., REAL ESTATE TAXES, DIVISION 1., GENERALLY, SECTION 40-12, LEVIED; AMOUNT. This ordinance, for the calendar year beginning January 1, 2016, and ending December 31, 2016, and for each calendar year thereafter, unless changed, and for the fiscal year beginning July 1, 2016, and ending June 30, 2017, and for each and every fiscal year thereafter, unless changed, there was a levied tax on all lands, lots and improvements thereon, and all other taxable real estate of public service corporations at the rate of \$1.22 on every \$100.00 of the assessed value thereof.

(No registered speakers)

Councilwoman Vick moved adoption of the above ordinance; seconded by Vice Mayor Coleman.

Vote on Roll Call:

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

Nays: None

G. Other City Council Actions Continued

- 1. City Code Related Ordinances to Enact the City Manager’s Fiscal Year 2017 Operating Budget Continued
 - (2) Ordinance Amending and Reordaining City Code, Chapter 42, Water Supply; Article II., Water System Capacity Expansion and Extension; Section 42-23, Waterworks System Capacity Expansion; and Article III., Water Rates and Fees; Section 42-33, Rates and Fees

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 42, WATER SUPPLY, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II, WATER SYSTEM CAPACITY EXPANSION AND EXTENSION, SECTION 42-23, WATERWORKS SYSTEM CAPACITY EXPANSION; AND ARTICLE III., WATER RATES AND FEES, SECTION 42-33, RATES AND FEES. Effective July 1, 2016, the System Development Fee for a 5/8” meter would increase to \$2,520.00. The rates and fees in Section 42-33 remained the same, effective July 1, 2016.

follows:

Single metered residential customer usage fees would increase as follows:

- R1 – lifeline tier - 0 – 4 HCF, increased to \$3.21/HCF
- R2 – normal tier – greater than 4 – 50 HCF, increased to \$3.69/HCF
- R3 – conservation tier – greater than 50 HCF, increased to \$7.38/HCF

Industrial customer usage fees would increase as follows:

- I1 – first tier – 0 – 40,000 HCF, increased to \$3.69/HCF
- I2 – second tier – greater than 40,000 HCF, increased to \$3.21/HCF

General customer usage fees would increase to \$3.39/HCF

(No registered speakers)

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

Vote on Roll Call:
 Ayes: Cherry, Coleman, Price, Scott, Vick, Woodbury, Bateman
 Nays: None

- (3) Ordinance Amending and Reordaining City Code, Chapter 19, Solid Waste, Litter and Recycling; Article IV., Residential Solid Waste Fees; Section 19-41, Residential Solid Waste Collection Fees

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SOLID WASTE, LITTER AND RECYCLING, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE IV., RESIDENTIAL SOLID WASTE FEES, SECTION 19-41,

G. Other City Council Actions Continued

1. City Code Related Ordinances to Enact the City Manager's Fiscal Year 2017 Operating Budget Continued
 - (3) Ordinance Amending and Reordaining City Code, Chapter 19, Solid Waste, Litter and Recycling; Article IV., Residential Solid Waste Fees; Section 19-41, Residential Solid Waste Collection Fees Continued

RESIDENTIAL SOLID WASTE COLLECTION FEES. This ordinance allowed an incremental increase in the solid waste fee for the basic garbage collection and recycling function provided by the City so that the solid waste fund would remain in balance. Regarding Residential solid waste collection fees, on and after July 1, 2016, residential solid waste fees would be collected by the City in accordance with the following schedule based upon the size of the authorized container.

This ordinance specifically increased the fee for each standard residential trash container to \$7.05 per week per container.

This ordinance specifically increased the fee for each medium residential trash container to \$5.64 per week per container.

This ordinance specifically increased the fee for each 300 gallon or larger container to \$7.05 per week per unit times eighty percent of the number of units.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (4) Ordinance Amending and Reordaining City Code, Chapter 33, Sewers and Sewage Disposal; Article III., Sewer Use Charges; Section 33-33, Rate

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 33, SEWERS AND SEWAGE DISPOSAL OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE III., SEWER USE CHARGES, SECTION 33-33, RATE. This ordinance increased the sewer user charge for all users of the City's sewerage system from \$3.27 to \$3.37 for each 100 or fraction thereof, of metered water consumption. The City Manager recommended approval.

(No registered speakers)

G. Other City Council Actions Continued

1. City Code Related Ordinances to Enact the City Manager's Fiscal Year 2017 Operating Budget Continued
 - (4) Ordinance Amending and Reordaining City Code, Chapter 33, Sewers and Sewage Disposal; Article III., Sewer Use Charges; Section 33-33, Rate Continued

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

Vote on Roll Call:

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

Nays: None

- (5) Ordinance Amending and Reordaining City Code, Chapter 33, Sewers and Sewage Disposal; Article II., Connection to Public Sewer; Section 33-19, Charges

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 33, SEWERS AND SEWAGE DISPOSAL OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., CONNECTIONS TO PUBLIC SEWER, SECTION 33-19, CHARGES. This ordinance increased the connection charge for connection with sewers to the City for each lot or parcel of land served by such sewer. For single-family units, when the lot or parcel had not been assessed, the charge increased from \$3,256.00 to \$3,290.00 plus a fee of \$1,315 for the installation of a lateral. If a lateral had been previously installed to serve the property, no installation fee would be charged.

For other than single-family units when the lot or parcel of land had not been assessed, the charge would be computed by multiplying the actual frontage of the lot or parcel by \$56.00 and adding thereto the applicable charge specified in (b)(4) of this section. Other than single-family, if a lot or parcel of land which had been assessed is subdivided to create additional lots or parcels for development of other than single-family units, the charge for each lot or parcel not already connected to the sewer system shall be computed by multiplying the actual frontage of the lot or parcel of land by \$9.00 and adding thereto, the applicable charge specified in (b)(4) of this section.

For a single-family unit, when the lot or parcel has been assessed, a charge according to the following shall be paid: (1) \$327.00 if paid in a single payment within the first twelve months after the sewer involved was certified for connection. If paid after the first twelve months, the fee would be \$657.00. For property other than single-family, a charge based on the following shall be paid: (1) For each mutli-family unit, \$460.00 per family unit; (2) For sewers serving commercial units, \$657.00 for the first lateral exiting the structure plus \$460.00 for each additional lateral; (3) For sewers serving parcels zoned Light Industrial District (M1) or Heavy Industrial District (M2), \$657.00; (4) For sewers serving mobile home parks: \$460 per mobile

G. Other City Council Actions Continued

1. City Code Related Ordinances to Enact the City Manager's Fiscal Year 2017 Operating Budget Continued
 - (5) Ordinance Amending and Reordaining City Code, Chapter 33, Sewers and Sewage Disposal; Article II., Connection to Public Sewer; Section 33-19, Charges Continued

home site; and (5) For sewers serving hotels and/or similar establishments: \$460.00 per unit. The City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (6) Ordinance Amending and Reordaining City Code, Chapter 37.1, Stormwater Management; Article II., Service Charge; Section 37.1-14, Service Charge, Billing, Payment, Interest, Fee and Lien

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 37.1, STORMWATER MANAGEMENT, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., SERVICE CHARGE, SECTION 37.1.-14, SERVICE CHARGE, BILLING, PAYMENT, INTEREST, FEE AND LIEN. This ordinance allowed for an incremental increase in the stormwater management service charge due to the City from property owners for stormwater management based on the ERU rate of \$135.00 per ERU per year. When applicable, the service charge would be prorated at \$11.25 per ERU per month.

(No registered speakers)

Councilwoman Vick moved adoption of the above ordinance; seconded by Vice Mayor Coleman.

Vote on Roll Call:

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

Nays: None

G. Other City Council Actions Continued

1. City Code Related Ordinances to Enact the City Manager's Fiscal Year 2017 Operating Budget Continued

- (7) Ordinance Amending and Reordaining City Code, Chapter 38, Streets and Sidewalks; Article II., Work On, Over, Under or Affecting Streets; Division 2., Permit Generally; Section 38-50, Issuance and Term Generally; Section 38-59, Contents of Permits; Division 3., Permit, Inspection and Guarantee Fees; Section 38-67, Schedule; and Section 38-68, Amount of Inspection Fees

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 38, STREETS AND SIDEWALKS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., WORK ON, OVER, UNDER OR AFFECTING STREETS, DIVISION 2., PERMIT GENERALLY, SECTION 38-50, ISSUANCE AND TERM GENERALLY; SECTION 38-59, CONTENTS OF PERMITS; DIVISION 3., PERMIT, INSPECTION AND GUARANTEE FEES, SECTION 38-67, SCHEDULE AND SECTION 38-68, AMOUNT OF INSPECTION FEES. This ordinance permitted the Director of Engineering to prescribe a limit for the duration of such permit and to extend the same, so long at the time limitation of extension was based upon reasonable standards prevailing in the industry at the time, taking into consideration whether, availability of material and labor, as well as the applicant's own estimation of the time period needed to complete the project. In no event shall the permit exceed one year though the permit may be extended for good cause shown. The Director of Engineering may establish a limited period of work during the term of the permit.

Minimum permit and inspection fees for work for which a permit is required by this article shall be required in accordance with the following schedule, except as otherwise specifically established by franchise agreement: Residential Apron, \$50.00; Test Pit /Core, \$50.00; Multiple Family/Commercial/Industrial/Utility, \$50.00 plus \$2.00 per linear foot of disturbance measured along the longest dimension of the cut; Blanket permit for tree trimming, \$200.00; Renewal Fee-Residential, \$50.00; Residential Fee – MF/Comm/Ind/UTIL, \$1,000.00 per month or fraction thereof of extension work.

In lieu of separate permits for each tree trimming, utilities regularly performing tree trimming within the various rights-of-way and easements of the City may apply for and be issued a blanket permit.

For work requiring more than four (4) hours of inspection time, a fee of \$50.00 per hour shall be charged in addition to the minimum fee.

(No registered speakers)

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

G. Other City Council Actions Continued

1. City Code Related Ordinances to Enact the City Manager's Fiscal Year 2017 Operating Budget Continued

- (7) Ordinance Amending and Reordaining City Code, Chapter 38, Streets and Sidewalks; Article II, Work On, Over, Under or Affecting Streets; Division 2., Permit Generally; Section 38-50, Issuance and Term Generally; Section 38-59, Contents of Permits; Division 3., Permit, Inspection and Guarantee Fees; Section 38-67, Schedule; and Section 38-68, Amount of Inspection Fees Continued

Vote on Roll Call:

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

Nays: None

- (8) Ordinance to Adopt the Budget and Appropriate Funds to Operate the City of Newport News for the Fiscal Year Beginning July 1, 2016 and Ending June 30, 2017

AN ORDINANCE TO APPROVE THE BUDGET AND APPRIATE FUNDS TO OPERATE THE CITY OF NEWPORT NEWS FOR THE FISCAL YEAR BEGINNING JULY 1, 2016 AND ENDING JUNE 30, 2017 INCLUSIVE. This ordinance adopted the Budget and appropriated funds to operate the City of Newport News for the Fiscal Year beginning July 1, 2016, and ending June 30, 2017. The City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (9) Ordinance Providing for the Adoption of a Classification and Pay Plan for the Employees of the City of Newport News

AN ORDINANCE PROVIDING FOR THE ADOPTION OF A CLASSIFICATION AND PAY PLAN FOR THE EMPLOYEES OF THE CITY OF NEWPORT NEWS. This ordinance approved the FY 2017 Classification and Pay Plan, which the City was required to adjust annually consistent with the other budget actions. This established a salary increase for the City workforce, based on merit, and adjusted the salary ranges for the various positions in the Pay and Classification Plan. The City Manager recommended approval.

G. Other City Council Actions Continued

1. City Code Related Ordinances to Enact the City Manager's Fiscal Year 2017 Operating Budget Continued

- (9) Ordinance Providing for the Adoption of a Classification and Pay Plan for the Employees of the City of Newport News

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

H. Appropriations

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

1. Newport News Public School District (NNPD) – FY 2016 Capital Project Funding

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED (\$5,186,000.00) TO ROOF REPLACEMENT DESIGN (\$486,000.00), HVAC REPLACEMENT (\$4,430,595.00) AND SCHOOL IMPROVEMENTS – OTHER (\$269,405.00). This resolution appropriated \$5,186,000.00 from FY 2016 Authorized and Unissued to the Newport News Public School (NNPS) District for capital projects. The request for \$5,186,000.00 would be used by the NNPS to fund critical capital projects. \$4,430,595.00 was programmed for HVAC projects at Carver Elementary and Lee Hall Elementary Schools. \$486,000.00 would fund the design of roof projects to be bid for replacement in FY 2017. \$269,405.00 would reconcile City funding provided to NNPS for ongoing capital projects. The net amount available for use by NNPS would total \$4,916,595.00. The funding source for this appropriation was FY 2016 Bonds Authorized and Unissued. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

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

Mr. Antonio Thompson, 1211-25th Street, Newport News, addressed City Council on the topic of the City's treasury enrichment, public safety and security, as well as the importance of recycling. He indicated that 2017 would be a prosperous year in recycling. He encouraged everyone to get involved in the Green Revolution of Recycling.

Mr. Thompson encouraged citizens to support the Newport News Police Foundation.

Mr. Thompson discussed the legalization of marijuana and prostitution in an effort to help build up the City's treasury.

Mr. Thompson offered congratulations to Council members Vick and Woodbury on being reelected to City Council on May 3, 2016.

Ms. Shabazz Branch, Newport News, was not available to speak when her name was called.

Mr. John Gergely, 449 Winterhaven Drive, Newport News, advised that he served on the Newport News Transportation Safety Commission, and had a lengthy conversation regarding the Wegmans issue. Each commissioner expressed concern about the increased traffic and aircraft safety should Wegmans be allowed. He advised that he received a copy of the Traffic Analysis Study, and the suggested improvements should the Wegmans project be approved. Roundabouts would not help the matter. He advised that the study was conducted by the Developer for Wegmans, not the City's engineers, which had to be biased.

J. New Business and Councilmember Comments

City Manager Bourey announced that the City had a very successful bond refinancing earlier during the day of May 10, 2016. He thanked Ms. Lisa Cipriano, Director, Department of Budget and Evaluation and her staff, as well as Mr. Tom Mitchell, Director, Department of Finance. The City did refund a 2016 issue in the amount of \$33 million. The City saved approximately \$2.5 million in the process. The interest rate was a little more than two percent (2%). This was an outstanding effort.

City Manager Bourey thanked members of the Newport News City Council, as well the staff of the Department of Development, and many others for the Ribbon Cutting and Grand Opening Celebration of Jim's Local Market, held May 10, 2016, 2:00 p.m. The continuous unanimous support of City Council to provide the funding and the support for that supermarket made it a reality for the residents of the Southeast Community.

J. New Business and Councilmember Comments Continued

Councilwoman Cherry extended condolences to the family of Mr. Arthur Keyes, who died on May 10, 2016. Mr. Keyes was known as “the Mayor of North Newport News,” and was a faithful presence at meetings of the Newport News City Council until his illness.

Councilwoman Cherry stated today was an exciting day for the City particularly the Southeast Community, with the Ribbon Cutting and Grand Opening Celebration of Jim’s Local Market (3101 Jefferson Avenue). She extended thanks to all of the City staff that made it happen. She extended a special thanks to Mr. Jim Scanlon, who believed in the City enough to come into the Southeast Community and bring a quality grocery store to the community.

Councilwoman Cherry extended congratulations to the City’s Department of Parks, Recreation, and Tourism on the 50th Anniversary of Newport News Park.

Councilwoman Cherry extended congratulations to those law enforcement officers and civilians who received awards during the Newport News Police Department Awards/Promotion Ceremony held on Thursday, May 5, 2016 at the Marriott Hotel (740 Town Center Drive.

Councilwoman Cherry extended congratulations to her nephew, Mr. L. A. Britt, who was the welder chosen to weld the initials of the ship’s sponsor to a plate at the Keel Laying Ceremony of the Virginia class submarine, Delaware, SSN 791, at the Newport News Shipyard, on Saturday, April 30, 2016. Mrs. Jill Biden, wife of Vice President Joe Biden served as the ship’s sponsor. The highlight of the ceremony came when her initials were welded to a plate that would remain in place for the life of the ship. Congratulations to the welder, Mr. L. A. Britt. The keel laying celebrated the marriage of a soon-to-be finished ship and its maiden crew.

Councilwoman Cherry announced that the South District “Your Voice Matters” Town Hall Meetings would be held on Thursday, May 12, 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, May 19, 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 extended congratulations to Councilmembers Tina L. Vick and Dr. Patricia Woodbury on their re-election to the Newport News City Council on May 3, 2016.

Vice Mayor Coleman thanked all of the citizens for their attendance and participation at tonight’s meeting and providing their opinions and comments about the proposed project at Jefferson Avenue and Brick Kiln Boulevard. He looked forward to the continued discussion at the June 14, 2016 Regular Meeting of City Council.

J. New Business and Councilmember Comments Continued

Vice Mayor Coleman extended condolences to the family of Mr. Arthur Keyes, who died on May 10, 2016. Mr. Keyes was a good man. He was very active and informed, always present at meetings of the Newport News City Council until his illness.

Vice Mayor Coleman congratulated the winners in the May 3, 2016 Local Election – Councilwoman Tina Vick and Councilwoman Patricia Woodbury, who were both re-elected to City Council. He also congratulated Councilman-Elect Marcellus “B2” Harris on his victory to the Newport News City Council. He looked forward to helping with the transition to elected office.

Mayor Price also extended condolences to the family of Mr. Arthur Keyes, who died on May 10, 2016. Mr. Keyes was much respected in the community and would be missed by all.

Mayor Price extended congratulations to his wife, Mrs. Valerie Price, and the members of the Alpha Kappa Alpha Sorority, Inc. Lambda Omega Chapter, on the 8th Annual Community Empowerment Fair, held on Saturday, April 30, 2016, at Newsome Park Elementary School (4200 Marshall Avenue). The attendance was great with approximately 500 in attendance. He expressed appreciation to everyone that participated and helped make this endeavor successful.

Mayor Price reiterated comments made by Councilwoman Sandra Cherry regarding the Ribbon Cutting and Grand Opening Celebration of Jim’s Local Market (3101 Jefferson Avenue). He congratulated his Council members on their belief in private/public partnerships, Mr. Scanlon, and the Southeast Community. Mayor Price wished Mr. Jim Scanlon much success.

Mayor Price and colleagues attended the Teachers of the Year Awards Banquet, on Wednesday, May 4, 2016, 6:00 p.m. at the Newport News Marriott at City Center (740 Town Center Drive). He extended congratulations to all the teachers who were honored. The Teachers of the Year, Ms. Katie Morgan, a sixth grade counselor at Dozier Middle School was named Division and Middle School Teacher of the Year; Ms. Jacky Barber, a mathematics interventionist at Newsome Park Elementary School was named Elementary School Teacher of the Year; and Mr. Eric Tyson, a military science teacher at Heritage High School was named High School Teacher of the Year. The aforementioned winners would compete for Virginia Teachers of the Year. He wished them well.

Councilwoman Scott also extended condolences to the family of Mr. Arthur Keyes, who died on May 10, 2016. Mr. Keyes was much respected in the community and would be missed by all. Mr. Keyes had a reserved seat in the chambers for many years. She asked that the seat be covered for one meeting in Mr. Keyes honor. There was consensus among City Council to have the seat covered in honor of Mr. Keyes.

J. New Business and Councilmember Comments Continued

Councilwoman Scott expressed excitement to be in attendance at the Ribbon Cutting and Grand Opening Celebration of Jim's Local Market (3101 Jefferson Avenue). She did not get to shop in the store, but had the opportunity to mix and mingle with many of the residents in the Southeast Community that were present to shop for the first time at a quality market. They were honored to be there and grateful to the City Council for doing this on their behalf.

Councilwoman Scott had the opportunity to attend the Open House at Jefferson Lab (12000 Jefferson Avenue) on Saturday, April 30, 2016. It was an amazing experience, with the impact felt not only in Newport News, but around the world because of all of the research done on the site. She extended a special thanks to Jefferson Lab for opening their doors to the community. Over 10,000 were in attendance.

Councilwoman Scott extended a welcome to the incoming President and Chief Executive Officer of the Mariner's Museum, Mr. Howard Hoega, and his wife Cinda. The Mariners' Museum is a vital part of the Newport News community.

For history buffs, Councilwoman Scott announced that the Warwick County Historical Society would host a lunch and informational session on May 18, 2016, 11:30 a.m. – 2:00 p.m., at the Endview Plantation (362 Yorktown Road). There would be discussion about the history of Warwick County. She encouraged the citizens to get involved and attend.

Councilwoman Scott expressed appreciation and thanks to all of the citizens for their attendance and participation at tonight's meeting and sharing their thoughts about the possibility of a Wegmans coming to Newport News. Their thoughts mattered to the City Council. City Council was tasked with doing what was best for the citizens and the City.

Councilwoman Scott congratulated her colleagues, Councilwoman Tina Vick and Councilwoman Patricia Woodbury on their re-election to the Newport News City Council. She congratulated Councilman-Elect Marcellus "B2" Harris on being newly elected to the Newport News City Council. She welcomed him and advised that she looked forward to working with him.

Councilwoman Vick thanked all of the citizens for exercising their right to vote on Tuesday, May 3, 2016 and re-electing her to City Council.

Councilwoman Vick congratulated Councilwoman Patricia Woodbury on her re-election to the Newport News City Council, and to Councilman-Elect Marcellus "B2" Harris on being newly elected to the Newport News City Council.

Councilwoman Vick stated that the Ribbon Cutting and Grand Opening of Jim's Local Market was also special to her. It was great to see so many citizens in attendance. She stated if that was any indication of its success, City Council would know they were on the cusp of doing something even greater. She thanked everyone that participated and helped make Jim's Local Market a reality.

J. New Business and Councilmember Comments Continued

Councilwoman Vick announced that the Hampton Roads Community Action Program, formerly the Office of Human Affairs, would have its 50th Annual Awards Banquet on Thursday, May 19, 2016, 7:00 p.m., at the Hampton Roads Convention Center (1610 Coliseum Drive, Hampton). The Honorable Matthew James, representing the Virginia House of Delegates 80th District, would serve as Guest Speaker.

Councilwoman Woodbury also extended condolences to the family of Mr. Arthur Keyes, who died on May 10, 2016. Mr. Keyes was a vital part of this community. He would be missed by all.

Councilwoman Woodbury congratulated her colleague, Councilwoman Tina Vick on her re-election to the Newport News City Council, and to Councilman-Elect Marcellus "B2" Harris on being newly elected to the Newport News City Council. She welcomed him and advised that she looked forward to working with him. Councilwoman Woodbury thanked all the citizens that supported them during the election on May 3, 2016. It was an honor to be a servant leader.

Councilman Bateman also extended condolences to the family of Mr. Arthur Keyes, who died on May 10, 2016. Mr. Keyes was a vital part of this community. He was a wonderful man that got things done and would be missed by all. He advised that Mr. Keyes was in City Council Chambers long before he was elected to the Newport News City Council.

Councilman Bateman thanked all of the members of City Council for working together to bring Jim's Local Market to the Southeast Community. The Ribbon Cutting and Grand Opening Celebration of Jim's Local Market made for a great day.

Councilman Bateman thanked City Manager Bourey for his hard work and service to the City of Newport News.

Councilman Bateman commended his colleague, Vice Mayor Rob Coleman for his hard work and service to the City of Newport News.

Councilman Bateman congratulated his colleagues, Councilwoman Tina Vick and Councilwoman Patricia Woodbury on their re-election to the Newport News City Council, and congratulated Councilman-Elect Marcellus "B2" Harris on being newly elected to the Newport News City Council. He welcomed him and advised that he looked forward to working with him.

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."

DRAFT

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 10:20 P.M.

Mabel Washington Jenkins
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: On the 25th Anniversary of the Newport News Public Schools-Television (NNPS-TV) *Sports Highlights*

ACTION: A REQUEST TO APPROVE A RESOLUTION OF RECOGNITION FOR THE 25TH ANNIVERSARY OF THE NEWPORT NEWS PUBLIC SCHOOLS-TELEVISION (NNPS-TV) *SPORTS HIGHLIGHTS*

- BACKGROUND:
- Since its debut on NNPS-TV in February 1992, *Sports Highlights* has featured more than 500 guests including many athletic legends and public figures.
 - The show was created by Paul Cummings who served as the first executive producer and who oversaw the program from 1992 to 2004.
 - Through his interviews, *Sports Highlights'* host Greg Bicouvaris encourages guests to share insight and perspective on their backgrounds, sports, family lives and success.
 - Executive Producer and Director Ray Price leads a team of student-videographers from NNPS to help capture images to illustrate guests stories.
 - The team of Greg Bicouvaris and Ray Price have taped shows in studio and on location throughout Virginia, Washington D.C. and North Carolina interviewing and connecting their audience to notable sports figures.
 - *Sports Highlights* earned a Communicator Award in 1999 and in 2005, and has been recognized by the Peninsula Sports Club.
 - The longest running show on NNPS-TV, *Sports Highlights* is produced 11 times a year, and have made over 230 episodes.
 - This Resolution recognizes *Sports Highlights*, that as of February, 2017, its cast and crew will have provided 25 years of quality programming to the City of Newport News.
 - The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

sdm14337 Recognition re Sports Highlights

RESOLUTION NO. _____

RESOLUTION OF RECOGNITION

WHEREAS, since its debut on NNPS-TV in February 1992, *Sports Highlights* has featured more than 500 guests including many athletic legends and public figures; and

WHEREAS, the show was created by Paul Cummings who served as the first executive producer who oversaw the program from 1992 to 2004; and

WHEREAS, host Greg Bicouvaris and Executive Producer and Director Ray Price combine personal interviews and sports trivia with video elements resulting in an engaging and fact-filled program; and

WHEREAS, through his interviews, *Sports Highlights*'s host Greg Bicouvaris encourages guests to share insight and perspective on their backgrounds, sports, family lives and success. Executive Producer and Director Ray Price leads a team of student-videographers from Newport News Public Schools to help capture images to illustrate the guest's stories. This combined with Ray Price's editing, production and directing skills help create an entertaining and educational show; and

WHEREAS, the team of Greg Bicouvaris and Ray Price have taped shows in studio and on location throughout Virginia, Washington D.C. and North Carolina interviewing and connecting their audience with such notable sports figures such as Aaron Brooks, Michael Vick, David Macklin, Ronald Curry, Allen Iverson, Terry Holland, Boo Williams, Lefty Drisell, Bruce Smith, Mike London, George Welsh, Frank Beamer, and Serena Williams; and

WHEREAS, *Sports Highlights* has earned a Communicator Award in 1999 and again in 2005 and has also been recognized by the Peninsula Sports Club and;

WHEREAS, the longest-running show on NNPS-TV, *Sports Highlights* is produced 11 times a year, and over 230 episodes have been made; and

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

1. That it hereby recognizes *Sports Highlights*, and that as of February, 2017, its cast and crew will have provided 25 years of quality programming to the citizens of the City of Newport News, and extends its best wishes for continued success into the future.
2. That a copy of this resolution be spread upon the records of this body and that a copy be delivered to the cast and crew of *Sport Highlights*.

3. That this resolution shall be in effect on and after the date of its adoption, May 24, 2016.

F. Consent Agenda

5. Resolution Authorizing the City Manager to Execute the Hampton Roads Peninsula Drug Initiative Reciprocal Agreement, formerly called the Peninsula Narcotics Task Force Memorandum of Understanding (MOU)

ACTION: A REQUEST TO APPROVE A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THE HAMPTON ROADS PENINSULA DRUG INITIATIVE RECIPROCAL AGREEMENT (AGREEMENT) BY AND BETWEEN THE CITY OF HAMPTON, VIRGINIA; THE CITY OF NEWPORT NEWS, VIRGINIA; AND THE VIRGINIA STATE POLICE, BUREAU OF CRIMINAL INVESTIGATION.

BACKGROUND:

- For several years the City has been a member of the Peninsula Narcotics Enforcement Task Force, which will be dissolved on June 30, 2016, and replaced by the Hampton Roads Peninsula Drug Initiative.
- With the dissolution of this named Task Force a new Agreement is required to replace the Peninsula Narcotics Task Force Memorandum of Understanding (MOU) and recognize the agency's new name.
- The Hampton Roads Peninsula Drug Initiative Reciprocal Agreement will replace the existing MOU.
- The purpose of the Agreement is to combine the member agencies' resources, with the intent to target the most prolific local, multi-state and international drug trafficking and money laundering organization operating in the Peninsula area of Hampton Roads.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re HR Peninsula Drug Initiative Agrmnt

sdm14304 Authorizing re HR Peninsula Drug Initiative Reciprocal Agmt

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

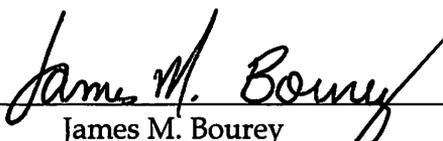
TO: The Honorable City Council
FROM: City Manager
SUBJECT: Hampton Roads Peninsula Drug Initiative Reciprocal Agreement

City Council is requested to approve The Hampton Roads Peninsula Drug Initiative Reciprocal Agreement, formerly the Peninsula Narcotics Task Force, Memorandum of Understanding (MOU). The Agreement delineates the responsibilities of the Task Force participants, formalizes the relationships between the agencies for policy guidance pertaining to task force operations and maximizes interagency cooperation.

The purpose of the Hampton Roads Peninsula Drug Initiative is to combine the member agencies' resources with the intent to target the most prolific local, multi-state and international drug trafficking and money laundering organization operating in the Peninsula area of Hampton Roads. The lead federal enforcement partner is the U.S. Immigration and Customs Enforcement Homeland Security Investigations Norfolk office, along with the U.S. Attorney's Office for the Eastern District of Virginia. Partner agencies include the Virginia State Police, the Cities of Hampton and Newport News, and the Commonwealth's Attorney's offices for the City of Hampton and Newport News.

Funds are allocated annually in the Police Department's budget for our participation in the Task Force. The operating budget covers personnel expenses for a secretary and a Financial Analyst. It also delineates the sharing of seized assets. The Task Force has been in existence since 1987; the Agreement has been updated periodically as changes are needed. The current revision was necessary to change the name of the organization.

Approval of the resolution is recommended.


James M. Bourey

JMB:LBT:slr

cc: Richard W. Myers, Chief, Newport News Police Department (NNPD)

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 HAMPTON ROADS PENINSULA DRUG INITIATIVE RECIPROCAL AGREEMENT BY AND BETWEEN THE CITY OF HAMPTON, VIRGINIA; THE CITY OF NEWPORT NEWS, VIRGINIA; AND THE VIRGINIA STATE POLICE, BUREAU OF CRIMINAL INVESTIGATION.

WHEREAS, for several years the City has been a member of the Peninsula Narcotics Enforcement Task Force; and

WHEREAS, the Peninsula Narcotics Enforcement Task Force is to be dissolved on June 30, 2016, and replaced by the Hampton Roads Peninsula Drug Initiative.

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 Hampton Roads Peninsula Drug Initiative Reciprocal Agreement by and between the City of Hampton, Virginia; the City of Newport News, Virginia; and the Virginia State Police, Bureau of Criminal Investigation.

2. That the City Manager is hereby authorized and directed to execute any and all documents, including amendments to this Agreement, after such documents have been reviewed and approved by the City Attorney, and take such further actions as shall be necessary to finalize this Agreement.

3. That a copy of the said 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, May 24, 2016.



Hampton
Roads
Peninsula
Drug
Initiative

Reciprocal Agreement

HAMPTON ROADS PENINSULA DRUG INITIATIVE RECIPROCAL AGREEMENT

This Reciprocal Agreement (hereinafter referred to as "Agreement") shall be made effective on the _____ day of _____, **2016** by and between the City of Hampton, City of Newport News, and Virginia State Police, Bureau of Criminal Investigation (hereinafter referred to as "VSP").

WHEREAS, the Hampton Police Division (hereinafter referred to as "HPD"), Newport News Police Department (hereinafter referred to as "NNPD"), and VSP wish to enter into this Agreement pursuant to §15.2-1724, §15.2-1726, and §15.2-1736 for the purpose of combining the member agencies' resources with the intent to target the most prolific local, multi-state, and international drug Trafficking and Money Laundering Organizations (DTOs/MLOs) operating in the Peninsula area of the Hampton Roads.

WHEREAS, the Initiative is an investigative body sanctioned by the participating members without the authority to hire, fire, discipline or own property unto itself.

NOW THEREFORE, for and in consideration of the undertakings of the parties to this Agreement, the HPD, NNPD, and VSP covenant and agree, each with the other as follows:

Definitions: As used in this Agreement:

"Command Board" is the Initiative's governing body. The Command Board membership will be comprised of the Chiefs of Police of Hampton and Newport News Police Departments and the VSP Division Commander, of the Bureau of Criminal Investigation (BCI), Chesapeake Field Office. The purpose of the Command Board is to set goals and objectives for the Initiative, and to establish policies and procedures under which the Initiative will operate. Each member of the Command Board or their designated representative shall have one vote in matters that pertain to the Initiative and all matters shall require a quorum of three members and a majority decision of those present and voting, before any action is taken, unless otherwise agreed upon in writing as indicated in an attached Addendum. The Command Board will meet no less than four times each year to review the activities and policies of the Initiative. Any member of the Command Board may call a special meeting through coordination with all Command Board members being duly notified. The same rules that apply to the regular Command Board meetings shall apply to all special meetings. The lead federal law enforcement partner/sponsor is the U.S. Customs and Immigration Homeland Security Investigations Norfolk, VA; hereinafter referred to as "ICE/HSI"). ICE/HSI along with the U.S. Attorney's Office for the Eastern District of Virginia and the Commonwealth Attorney's Offices for the Cities of Hampton and Newport News will be active partners in the Initiative.

"Coordinator" is the Initiative's supervisor who is employed by a member agency of the Initiative and appointed and acts under the direction of the Command Board.

"Criminal Investigation" shall mean investigation of any local, multi-state, and international drug Trafficking and Money Laundering Organizations (DTOs/MLOs) with a nexus to any aforementioned crimes occurring in the Peninsula area of the Hampton Roads.

HIDTA (High Intensity Drug Trafficking Area) refers specifically to the Washington/Baltimore HIDTA, in which the Hampton Roads Peninsula Drug Initiative or HRPDI (hereinafter referred to as "Initiative") is included. The Washington/Baltimore HIDTA is one of 28 HIDTAs throughout the country designated by the Director of the Office of National Drug Control Policy (ONDCP). ONDCP is a component of the Office of the President. The Initiative shall have the primary investigative responsibility for Criminal Investigations.

Use of office space, equipment, and support staff: Subject to funding (October 1 to September 30), ICE/HSI will provide financial support (up to \$70,000) to HPD for office space to co-locate Initiative personnel. HPD, NNPD and VSP will contribute, at their discretion, existing surveillance equipment, vehicles, office equipment, office supplies, intelligence information, and administrative support staff currently assigned to the respective agencies. These assets will remain the property of the respective agencies. Equipment purchased by HIDTA shall remain the property HIDTA.

Expenditures: ICE/HSI will serve as the HIDTA's fiscal agent for the Initiative. The Finance Department for the City of Hampton shall have fiscal responsibility for the Initiative's operating budget. The City of Hampton will account, audit, and monitor the Initiative. Should the Initiative be discontinued, the City of Hampton will retain access to the Initiative's funds for a period of twelve (12) months to ensure that all bills and obligations are met. After that time, the remaining funds will be returned to the participating Initiative agencies according to the same formula they were contributed. The Initiative shall be responsible and pay for any special audit or financial statements requested. The Coordinator is authorized to expend Initiative funds to support the routine operation of the Initiative. Expenditures outside of the scope of this agreement will not be made without the approval of the Command Board. Approval, via telephone, is authorized in the case of investigative necessity. Travel outside the Initiative's geographic area of responsibility shall be approved in advance by the Coordinator.

HPD, NNPD and VSP shall provide annually (July 1), contributions to fund specific annual operating expenses (July 1 to June 30) of the Initiative. VSP agrees to pay only for the pre-approved annual Initiative's operating expenses, subject to annual appropriations. The City of Hampton and the City of Newport News agree to pay salary, taxes, and benefits for a Staff Assistant and salary and taxes for a Financial Analyst, subject to annual appropriations by the Hampton City Council and the Newport News City Council. A detailed annual Initiative operating budget and revenue summary will be prepared by the Coordinator and approved annually by the Command Board each fiscal year (July 1 to June 30). Approved annual contributions from HPD, NNPD and VSP will fund:

- A. **Personnel Expenses:** Salary, taxes, and benefits for a secretary and salary and taxes for a Financial Analyst. (HPD & NNPD)
- B. **Office Facilities:** Fire extinguisher service and office security. (VSP)
- C. **Telecommunications:** Office telephone local and long distance service, cellular telephone service, and internet access. (VSP)
- D. **Office Equipment:** Copy machine lease. (VSP)
- E. **Office Space:** (HPD)

ICE/HSI, the lead federal law enforcement partner/sponsor, will assist with the dispersal of HIDTA funds to the Initiative. Subject to funding guidelines and annual funding (January 1 to December 31), HIDTA may appropriate funds for:

- A. **Travel:** Training and case related travel to include lodging, per diem, and transportation. (HIDTA)
- B. **Equipment:** Office furniture, computers, printers, scanners, shredders, etc. (HIDTA)

- C. **Supplies:** General office supplies to perform work duties. (*HIDTA*)
- D. **Services:** Computer software subscription/maintenance fees. (*HIDTA*)

Provisions of 31 USC 9703, the Treasury Forfeiture Fund Act of 1992, provides for reimbursement of certain expenses incurred by local, county and state law enforcement agencies during participation in joint operations and task forces. Subject to annual funding, ICE/HSI may appropriate funds for expenditures such as:

- A. **Rent:** Up to \$70,000 for office space for Initiative personnel. (*ICE/HSI*)
- B. **Overtime:** Overtime expenses related to Initiative investigations. (*ICE/HSI*)
- C. **Operational Equipment:** Radios, cameras, binoculars, video cameras. (*ICE/HSI*)

Assignment: Member agencies will provide the following personnel at their discretion:

- HPD: One Sergeant, one Detective, and two support staff (Financial Analyst and Staff Assistant)
- NNPD: One Detective
- VSP: One Special Agent

The VSP Field Office Division Commander agrees to seek Special State Police Officer (SSPO) Authority (hereinafter referred to as "Authority") for Task Force Officers assigned on a full-time basis to the Initiative. In order to obtain Authority, the parent agency of each newly assigned Task Force Officer must certify the following statements: 1) He/she is not currently the subject of any kind of disciplinary action, nor are there any disciplinary actions pending that would adversely affect or compromise his/her involvement in Initiative matters; 2) He/she has not been the subject of any disciplinary or criminal actions involving domestic violence or the officer lying in an official capacity; 3) He/she has never been convicted of a criminal violation; 4) He/she possesses a valid Virginia Operator's License 5) He/she is currently certified by the Virginia Department of Criminal Justice Services as a Law Enforcement Officer and has been for no less than 24 months. This certification by new Task Force Officers must also be duly signed by that officer's agency head. Such Authority will be used only as specified below:

- A. Except as required by state and federal law, Task Force Officers shall not, in their capacity as Task Force Officers, become involved with matters other than those pertaining to possible violations of local, multi-state, and international drug Trafficking and Money Laundering Organizations (DTOs/MLOs) operating in the Peninsula area of the Hampton Roads. Task Force Officers shall not use their Authority to make arrests outside their individual jurisdictions when conducting general investigative activities not affiliated with an Initiative investigation.
- B. Authority shall remain in effect only during the time the Task Force Officer remains a full-time member of the Initiative.
- C. Authority is only valid for Criminal Investigations being conducted and sanctioned by the Initiative.
- D. Authority expires upon the Task Force Officer's transfer from the Initiative or the withdrawal of the Task Force Officer's agency from the Initiative.
- E. Authority shall expire upon termination of the Initiative and all credentials shall be turned in to VSP.
- F. If a Task Force Officer's conduct adversely affects the Initiative or violates the General Orders of the VSP, Authority may be removed by VSP. The State Police reserves the right to terminate Authority as necessary.

In addition to receiving Authority, pursuant to Title 19, United States Code (U.S.C.), Section 1401(i); 19 U.S.C. § 1589a, ICE/HSI Assistant Special Agent in Charge will seek cross-designation status for Task Force Officers assigned to the Initiative. Upon receiving standardized ICE/HSI training, each cross-

designated officer shall have the authority to enforce U.S. customs laws and to perform the duties of ICE/HSI Special Agents to include the following:

1. Authorization to execute and serve search or arrest warrants, subpoenas and summonses in compliance with customs laws;
2. Authorization to conduct customs searches at the border for merchandise being imported into or exported from the U.S. and to effect seizures and arrests of persons or articles in violation of U.S. law; and
3. Authorization to carry firearms in compliance with the ICE/HSI firearms policy.
4. Cross-designation can be revoked at any time by ICE/HSI Assistant Special Agent in Charge.

Operational Policies: Initiative personnel shall comply with the policies and procedures of their respective agencies. The member agencies maintain control over its respective personnel. In all instances, the member agencies agree to hold their own personnel responsible and accountable for compliance with operational policies and procedures.

Command Protocol: The Coordinator shall act as the principal liaison and facilitator between the Command Board and the Task Force Officers. The Coordinator will exercise command and control of all members of the Initiative only in relation to operational decisions involving Initiative cases. In the event that a complaint is received against a member of the Initiative, the Coordinator shall immediately make notification to the Chief Executive Officer of the individual member's agency. Such notification shall be documented by the Coordinator making such notification.

Informants/Confidential Informants: Each participating agency will be responsible for the recruitment and documentation of any informant, confidential or otherwise, hereinafter referred to as "CI" pursuant to each agency's policies. Each agency recruiting a CI is responsible for managing that CI throughout the CI's tenure with the Initiative. The VSP through its Drug Trust Account and criminal investigation funds agrees to provide money to aid in investigations as follows:

- A. VSP agrees to provide assistance for payments to informants for information, services, and expenses in Initiative cases. The payment method and amount to informants shall be in accordance with VSP policy.
- B. VSP agrees to provide assistance for the purchase of contraband for evidence in Initiative cases. The payment amount for these purchases shall be in accordance with VSP policy. VSP agrees to provide flash rolls for the furtherance of Initiative investigations, on an as-needed basis, in keeping with VSP policy.
- C. The VSP will account for, audit, and monitor the use of criminal investigation funds. The receipt and disbursement of funds will be reported in the same method and on the same forms as prescribed by VSP policies. The Bureau of Criminal Investigation, Chesapeake Field Office shall maintain all such records and reports until all audits and examinations are completed and resolved, or for a period of three (3) years after termination of this agreement, whichever is later.
- D. The Initiative, in cooperation with the appropriate Commonwealth's Attorney shall use its best efforts to seek payment of restitution for costs and expenditures incurred by the Initiative, as a condition of the sentencing of a defendant in an investigation. Payments of restitution should be made to the agency incurring the cost or expenditure.
- E. All monies provided by VSP or any other agency shall be reimbursed as an expense from Asset Forfeiture proceeds, before any distribution is made if applicable.

The use of VSP Confidential Informants (CIs) shall be consistent with VSP policy and disclosure of the identity of a CI shall be limited to those situations where it is essential to the effective performance of the Initiative, or when directed by the Commonwealth's Attorney or ordered by a judge. No documents which identify, tend to identify, or indirectly identify CIs may be released without prior VSP approval.

Documentation: All Initiative forms shall be compliant with Commission on Accreditation for Law Enforcement (CALEA) and Virginia Law Enforcement Professional Standards Commission (VLEPSC) standards and pre-approved by the Command Board prior to their use. The Initiative will utilize the Case Explorer system provided by HIDTA.

Case Explorer is a web-based law enforcement program focused toward information sharing among different agencies in the law enforcement and intelligence community. Investigators use the case management aspect as a tactical tool for case and subject deconfliction. Case Explorer also offers a critical officer safety component where police, watch centers, or law enforcement agencies can enter vital information about their operation and complete event deconfliction. Law enforcement officers will receive immediate feedback about any potential conflicts with other planned event operations in their geographic proximity.

Reports shall also be written by members in respective agency's reporting system. The original copy of the report will remain in the RMS system of the initiating agency. Each individual agency shall maintain dominion and control over any and all original reports or forms. Each member agency shall be responsible, pursuant to § 52-30, 1950 Code of Virginia as amended, to report under their assigned Originating Agency Identifier (ORI) any crime committed in their jurisdiction. Case information will be entered into Case Explorer under a unique Initiative case number. Case information entered into Case Explorer will be retained in a secured office within a locked filing cabinet. The Initiative will remain custodian of case information entered into Case Explorer and access to the case information will be through the Coordinator who will maintain documentation of issuance. No records will be released outside of law enforcement for any purpose other than intended without the written permission of the primary law enforcement agency and in accordance with the VA Freedom of Information Act and agency policy.

Evidence Handling: Evidence will be cataloged, documented and tracked by and to the agency in which the evidence was seized. Per VSP policy, all drugs purchased with VSP contributing funding will be submitted to the Division of Forensic Science or appropriate Federal Laboratory for laboratory testing.

Prosecution: Criminal offense prosecution will occur in the jurisdiction in which the offense occurred. The exception to this will occur if the federal government adopts an offense for prosecution. In that case, prosecution will occur in the federal court system.

Radio Communications: The Initiative will provide radios to the HPD, NNPd and VSP. The radios will permit secure, encrypted communications.

Intelligence: The participating agencies will utilize a shared intelligence system in Case Explorer. Intelligence from the participating agencies entered into Case Explorer will be available to all members of the Initiative. In the event that the operation, safety or welfare of a participating agency, a member of a participating agency or a CI of a participating agency conflicts with Initiative operations, the Initiative will cease the investigation of the incident in question until the Chief Executive Officer of the member

agency is notified by the Coordinator. The notification shall be documented. The Initiative will only commence the investigation under question after consultation with the member agencies Chief Executive Officer.

Disclosure of Information Related to Criminal Investigative Records and Reports: Press releases will be conducted with the consent of all member agencies. The disclosure of information related to the activities conducted by the Initiative will not be released unless otherwise required by law and in accordance with the Code of Virginia 1950, as amended, § 52-8.3 and 2.2-3700 et seq of the VA FOIA and agency policy.

Responsibility of the Parties: To the extent permitted by applicable law, each party to this Agreement will be responsible for the actions, inactions or violations of its officers, employees and agents in connection with scope of services described herein, but nothing contained herein shall be construed as a waiver of the sovereign immunity of any participating agency.

No Effect on Existing Powers: This Agreement shall not supersede, restrict, limit or otherwise impair or affect any agreement already existing pursuant to Code of Virginia, 1950 as amended and other sections of the State Code or any authority or power existing under federal law.

Rights of Officers: While acting under or pursuant to this Agreement, any officer, agent or employee shall have all the immunities of his parent agency from liabilities and exemptions from laws, ordinances and regulations and shall have all the salary, pension, relief, disability, Workers' Compensation and other benefits enjoyed by him while performing his respective duties.

Immunities: This Agreement shall not be construed to impair or affect any sovereign or governmental immunity or official immunity that may otherwise be available to the member agencies or any officer, agent or employee of the member agency. All of the immunities from liability enjoyed by the member agencies shall be enjoyed by them.

Termination: This Agreement shall remain in effect unless terminated by the parties hereto, upon written notice, setting forth the date of such termination. Withdrawal from this Agreement by one party hereto shall be made by written notice to the other parties, 30 days prior to the date of the intended withdrawal. The withdrawal by one party shall not terminate the Agreement among the other signatories hereto.

Seized Assets: The guidelines set forth in the Department of Justice's *A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies* must be followed for federal asset forfeitures and must take into account the following, including but not be limited to: the amount of participation of each law enforcement agency and Commonwealth's Attorney's Office, to determine the percentage of sharing, in the investigation of those forfeited assets; the eligibility and compliance to share and the permissible uses of forfeited assets. The Coordinator shall be responsible for filing the appropriate documents to facilitate federal asset forfeitures.

The guidelines set forth in the Department of Criminal Justice Service's *Forfeited Asset Sharing Program Manual* will govern state forfeitures. The Coordinator shall be responsible for filing the appropriate documents to facilitate the award of assets through the Department of Criminal Justice Services (DCJS). The guidelines set forth in the Virginia Department of State Police's *Asset Seizure and Forfeiture Procedures Guide* will also be utilized when filing for forfeitures.

The Command Board shall resolve any determinations for equitable distribution of assets for general purposes and shall reduce it to writing, and attach it to this Agreement as Addendum "A". At a minimum, the Asset Forfeiture Sharing Agreement shall state whether the Initiative will file for forfeitures if they do not meet the DCJS minimum standards and how that amount will be distributed; and how the federal and state asset forfeitures proceeds are to be distributed and how other tangible real and personal property is to be distributed. Any deviations from the standard Asset Sharing Agreement shall be in writing and submitted to DCJS with the appropriate forms.

The Coordinator, in conjunction with the case agent, will be responsible for filing, submitting and tracking the appropriate documents to facilitate the award of assets through the Department of Criminal Justice Services.

Completeness of Agreement: This Agreement represents the entire and integrated Agreement between the member agencies and supersedes all prior negotiations, representations or agreements either oral or written. This Agreement will stay in force until such time as the Agreement is presented by one or the other signing parties for modification. At any time, as needed, this Agreement may be reviewed but may be modified or revised only by written instrument signed by authorized representatives of the member agencies.

IN WITNESS HEREOF, the parties hereto acknowledge that they are familiar with and agree to comply with the terms and conditions of this Agreement and Addendum "A" consisting of 19 pages, including the cover page and signature pages herewith.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF STATE POLICE**

BY: _____
**Colonel W. Steven Flaherty
Superintendent**

Date: _____

**CITY OF HAMPTON,
VIRGINIA**

BY: _____
Mary B. Bunting
Hampton City Manager

Date: _____

BY: _____
Terry L. Sult
Chief of Police

Date: _____

BY: _____
Finance Department

Date: _____

BY: _____
City Attorney Office

Date: _____

**CITY OF NEWPORT NEWS,
VIRGINIA**

BY: _____
James M. Bourey
Newport News City Manager

Date: _____

BY: _____
Richard W. Myers
Chief of Police

Date: _____

ATTEST:

Newport News City Clerk

Date: _____

APPROVED AS TO FORM:

Newport News City Attorney

Date: _____

ADDENDUM "A"

Asset Forfeiture Agreement

This Asset Forfeiture Agreement is entered into between the Hampton Commonwealth Attorney's Office, Newport News Commonwealth Attorney's Office, and the member agencies of the Initiative. The parties hereby agree that for the following forfeitures:

- A. State and Local:** All State and Local drug-related asset forfeiture property seized by the Initiative will be in accordance with Virginia Code Sections 19.2-386.1 *et seq.*, and DCJS regulations. After all proper documents have been filed and all expenses have been paid pursuant to Virginia Code Section 19.2-386.14, asset forfeitures will be shared in accordance with this agreement. If there are any non-drug-related asset forfeitures, then the proceeds of all property accruing to the Commonwealth by forfeiture shall revert to the Literary Fund in accordance with Article VII, Section 8 of the Constitution of Virginia or other applicable statutes.
- B. Federal:** All federal drug-related asset forfeiture property seized by the Initiative will be in accordance with federal law and federal asset forfeiture regulations. After all proper documents have been filed and all expenses have been paid in accordance with federal law, asset forfeitures will be shared in accordance with this agreement.

Minimum equity guidelines are applied after all liens and encumbrances have been subtracted from the gross value of the property. These equity guidelines do not preclude the seizure of lesser amounts for evidentiary purposes nor do they preclude an action designed to deprive a drug dealer of the means to continue the illegal activity.

No asset shall be processed unless it meets the following minimum thresholds:

State and Local:

US Currency	\$ 500.00	Vehicles	\$ 2,500.00
Real Estate	\$10,000.00	All other property	\$ 2,500.00

Federal:

US Currency	\$ 2,000.00	Vehicles	\$ 5,000.00
Real Estate	\$20,000.00 (or 20% whichever is greater)	All other property	\$10,000.00

Forfeiture Agreement Page One of Seven

Before any real or personal property is seized, an analysis shall be conducted to determine if there will be any considerable equity involved to meet the minimum sharing threshold, after all expenses are paid (security, maintenance, title searches, DMV searches, etc.). In kind, use of vehicles may be granted by the Command Board by majority vote. Otherwise, real or personal property and vehicles will be sold and the money distributed as indicated in this sharing agreement.

Of the monies returned for asset sharing (through the courts of the Commonwealth in the City of Hampton or City of Newport News) following the deduction of 10% by DCJS, participating agencies will receive a share as follows:

Funds returned for asset sharing:

Hampton Police Division	28.75%
Newport News Police Department	28.75%
Virginia Department of State Police	23.75%
Hampton or Newport News Commonwealth Attorney's Office	18.75%

Funds remaining from the disposition and sale of vehicles (after expenses):

Hampton Police Division	28.75%
Newport News Police Department	28.75%
Virginia Department of State Police	23.75%
Hampton or Newport News Commonwealth Attorney's Office	18.75%

Funds remaining from the disposition and sale of personal property (after expenses):

Hampton Police Division	28.75%
Newport News Police Department	28.75%
Virginia Department of State Police	23.75%
Hampton or Newport News Commonwealth Attorney's Office	18.75%

Funds remaining from the disposition and sale of real property (after expenses):

Hampton Police Division	28.75%
Newport News Police Department	28.75%
Virginia Department of State Police	23.75%
Hampton or Newport News Commonwealth Attorney's Office	18.75%

Forfeiture Agreement Page Two of Seven

Pursuant to participation and federal regulation, of the monies returned for asset sharing (through the U.S. Department of Justice Equitable Sharing Program) following the deduction of 30% by U.S. Department of the Treasury, **agencies will receive a share as follows:**

Hampton Police Division	35.00%
Newport News Police Department	35.00%
Virginia Department of State Police	30.00%

Funds remaining from the disposition and sale of vehicles (after expenses):

Hampton Police Division	35.00%
Newport News Police Department	35.00%
Virginia Department of State Police	30.00%

Funds remaining from the disposition and sale of personal property (after expenses):

Hampton Police Division	35.00%
Newport News Police Department	35.00%
Virginia Department of State Police	30.00%

Funds remaining from the disposition and sale of real property (after expenses):

Hampton Police Division	35.00%
Newport News Police Department	35.00%
Virginia Department of State Police	30.00%

Forfeiture Agreement Page Three of Seven

This Asset Forfeiture Agreement shall be continuing in nature and renewed automatically each year unless one of the parties gives a thirty (30) days notice prior to the automatic renewal date of one year from the date of the last signature.

Date: _____

**Colonel W. Steven Flaherty, Superintendent
Commonwealth of Virginia
Department of State Police**

Forfeiture Agreement Page Four of Seven

Date: _____

**Mary B. Bunting, City Manager
Hampton, Virginia**

Date: _____

**Terry L. Sult, Chief of Police
Hampton, Virginia**

Forfeiture Agreement Page Five of Seven

James M. Bourey, City Manager
Newport News, Virginia

Date: _____

ATTEST:

City Clerk

Richard W. Myers, Chief of Police
Newport News, Virginia

Date: _____

APPROVED AS TO FORM:

City Attorney

Date: _____

**Anton A. Bell, Commonwealth's Attorney
Hampton, Virginia**

Date: _____

Howard E. Gwynn, Commonwealth's Attorney
Newport News, Virginia

G. Other City Council Actions

1. 1 of 2: Resolution Authorizing and Directing the City Manager to Execute Any and All Agreements and Documents Necessary to Purchase Property Located in the Harwood's Mill Reservoir Watershed in York County

ACTION: A REQUEST TO APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL AGREEMENTS AND DOCUMENTS NECESSARY TO IMPLEMENT A PURCHASE OF AN INTEREST IN PROPERTY LOCATED WITHIN THE HARWOOD'S MILL RESERVOIR WATERSHED IN YORK COUNTY.

BACKGROUND:

- This two-part item is required to authorize the City Manager to execute the necessary documents for this transaction and allocate the funds for the purchase.
- Acquisition of this property is desired to improve protection of the reservoir, the headwaters of the Poquoson River and an unnamed tributary within the reservoir watershed.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Harwoods Reservoir Property Purchase
sdm14318 Authorizing Purchase of Real Estate - Harwood's Mill

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

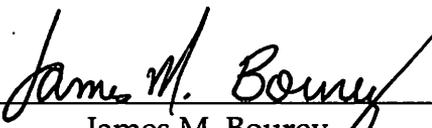
TO: The Honorable City Council
FROM: City Manager
SUBJECT: Harwood's Mill Reservoir Property Purchase - York County

A strategic piece of land has been offered for purchase by an adjacent property owner that will benefit the Waterworks Department in its operation and maintenance of the Harwood's Mill Reservoir. The David Pickett Estate has agreed to sell 11.71 acres to the City for \$370,000. Acquisition of this property is desired to improve protection of the reservoir, the headwaters of the Poquoson River and an unnamed tributary within the reservoir watershed. The property value was established by a fair market appraisal. The current York County assessment for this property is also \$370,000. City Council is requested to appropriate \$370,000 for the acquisition of this property.

It is further requested that the City Manager be authorized to execute any and all documents necessary to acquire the 11.71 acres located in York County near the Harwood's Mill Reservoir.

Funding for this critical land purchase is from the Waterworks Restricted Land Fund which is reserved solely for the acquisition of strategic watershed lands to further protect the City's drinking water reservoirs. Location maps are attached for reference.

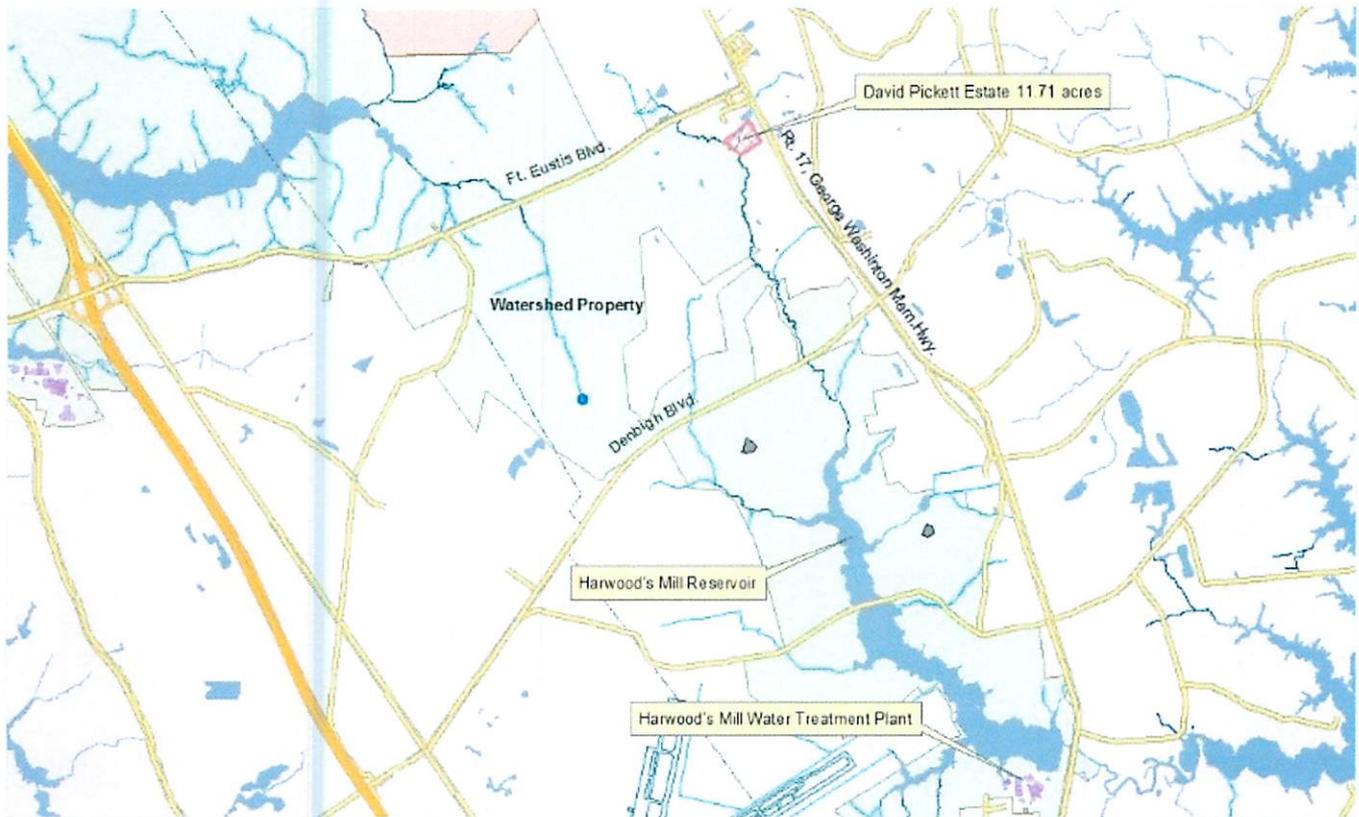
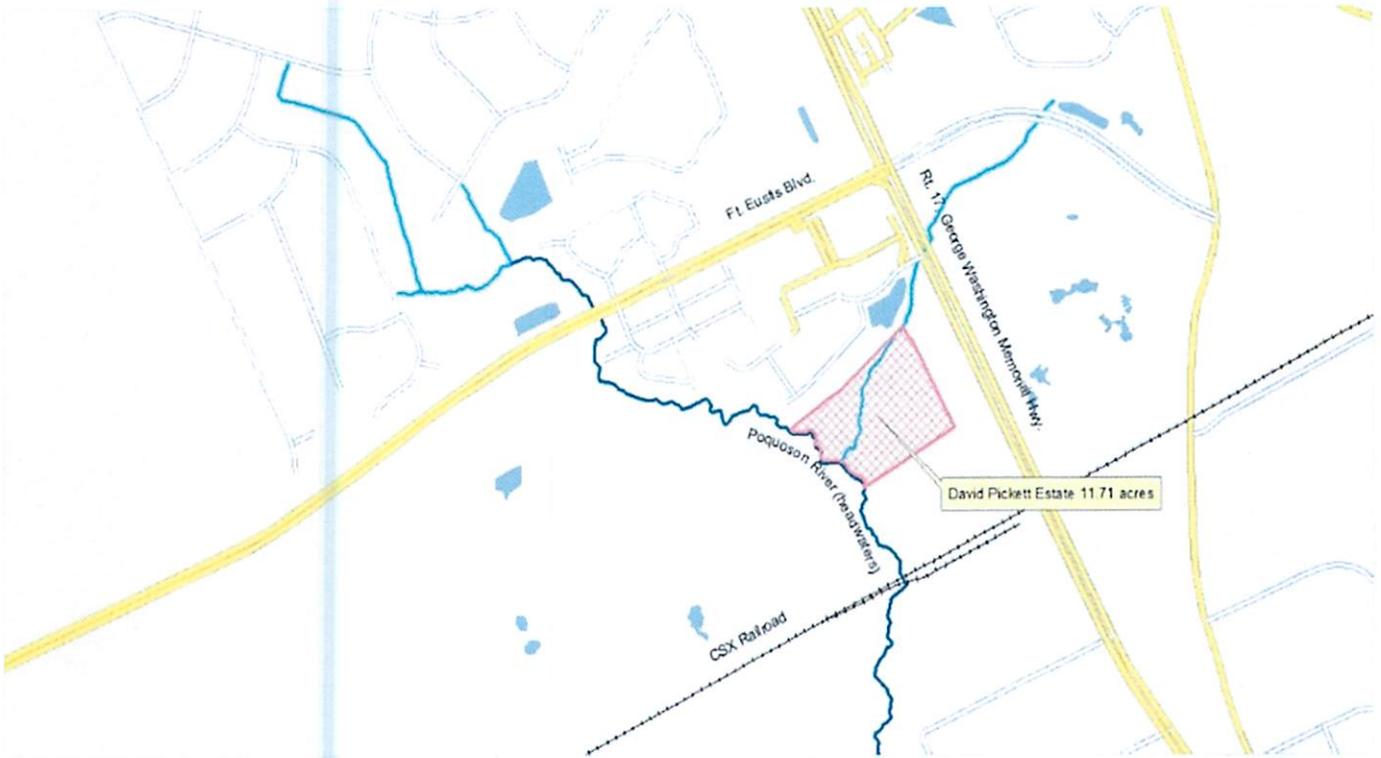
Approval of the resolution is recommended.


James M. Bourey

JMB:WW

Attachment

HARWOOD'S MILL RESERVOIR AREA



ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, ANY AND ALL AGREEMENTS AND DOCUMENTS TO IMPLEMENT A PURCHASE OF AN INTEREST IN REAL ESTATE WITHIN THE HARWOOD'S MILL RESERVOIR WATERSHED IN THE COUNTY OF YORK, VIRGINIA.

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

1. That the Council hereby authorizes the City Manager, or his designee, to make an offer to purchase a parcel of land located in the County of York, Virginia, commonly known as 7801 George Washington Memorial Highway, GPIN # Q08d-4022-2454, comprised of 11.71 acres, more or less.

2. That the City Manager is hereby authorized and directed to act for and on behalf of the City of Newport News in offering to purchase the property for \$370,000.00, which is the assessed value of the property, provided that any outstanding claims against the property for taxes or other liens shall be paid by the seller.

3. The City Manager is hereby authorized to execute and the City Clerk attest on behalf of the City of Newport News all documents, permits, or authorizations necessary to effectuate the acquisition of the property described herein after same have been reviewed and approved by the City Attorney, and the City Manager is further authorized to take all actions necessary to acquire clear title to this property.

4. That this ordinance shall be in effect on and after the date of its adoption, May 24, 2016.

G. Other City Council Actions

2. 2 of 2: Resolution Appropriating \$370,000 from the Waterworks Restricted Land Fund for the Acquisition of Property Located in the Harwood's Mill Reservoir Watershed in York County

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$370,000 FROM THE WATERWORKS RESTRICTED LAND FUND FOR THE ACQUISITION OF 11.71 ACRES IN THE HARWOOD'S MILL RESERVOIR WATERSHED IN YORK COUNTY, VIRGINIA.

BACKGROUND:

- The acquisition of this property will allow Waterworks to improve protection of the reservoir, the headwaters of the Poquoson River and an unnamed tributary within the reservoir watershed.

FISCAL IMPACT:

- The current York County assessment for this property is \$370,000.
- The owners of the property have offered to sell the property to the City for \$370,000.
- The \$370,000 appropriation is available in the Waterworks Restricted Land Fund, which is reserved solely for the acquisition of strategic watershed lands.
- The City Manager recommends approval.

ATTACHMENTS:

Description

sdm14348 Appropriation re Purchase of Property Located Near Harwood's Mill

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM WATERWORKS LAND FUND BALANCE TO PURCHASE OF PROPERTY LOCATED NEAR HARWOOD'S MILL RESERVOIR - YORK COUNTY.

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

That it hereby appropriates funds from Waterworks Land Fund Balance to Purchase of Property Located Near Harwood's Mill Reservoir - York County, as follows:

Appropriation From:

Waterworks Land Fund Balance 6000-000-00-0000-110612-000000- 0000-00000	\$ 370,000.00
---	---------------

Appropriation To:

Purchase of Property Located Near Harwood's Mill Reservoir - York County 6000-000-00-0000-151000-000000- 0000-00000	\$ 370,000.00
---	---------------

G. Other City Council Actions

3. Resolution Granting Permission for the Use of the City's Rights-of-Way for Telecommunications Purposes and Authorizing the City Manager to Execute a Temporary Non-Revocable License Agreement (TNRLA) by and between the City and CenturyLink Communications, LLC

ACTION: A REQUEST TO APPROVE A RESOLUTION GRANTING PERMISSION TO USE THE CITY'S RIGHTS-OF-WAY FOR TELECOMMUNICATIONS PURPOSES, AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE A TEMPORARY, NONEXCLUSIVE, REVOCABLE LICENSE AGREEMENT (TNRLA) BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA AND CENTURYLINK COMMUNICATIONS, LLC.

BACKGROUND:

- The existing TNRLA between the City and Qwest Communications Company, LLC (now CenturyLink Communications, LLC, "CenturyLink"), approved by City Council in 2011, will expire on June 30, 2016.
- CenturyLink has requested that the TNRLA be renewed for an additional five-year term.
- CenturyLink has agreed that the provisions of the new instrument should be consistent with that which was previously approved.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re TNRLA Renewal w-CenturyLink

sdm14320 re Authorizing re TNRLA - CENTURYLINK Communications, LLC

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Temporary, Nonexclusive, Revocable License Agreement with CenturyLink Communications, LLC (formerly Qwest Communications Company, LLC)

A Temporary, Nonexclusive, Revocable License Agreement (TNRLA) is an agreement between a private company or public entity and the City of Newport News for the purpose of granting said company/entity the ability to own and maintain telecommunication systems and/or facilities within the City's rights-of-way.

The existing TNRLA between the City and Qwest Communications Company, LLC (now CenturyLink Communications, LLC, "CenturyLink"), approved by City Council in 2011, will expire on June 30, 2016. CenturyLink has requested that the TNRLA be renewed for an additional five-year term and agreed that the provisions of the new instrument should be consistent with that which was previously approved.

I recommend Council approve the Resolution and TNRLA, prepared and provided to you by the City Attorney's Office, granting CenturyLink the right to use the City's rights-of-way as defined in the Agreement, and authorize me to execute any documents necessary to effectuate the transaction.


James M. Bourey

JMB:tcf

cc: Collins L. Owens, Jr., City Attorney
Florence G. Kingston, Director, Department of Development

RESOLUTION NO. _____

A RESOLUTION GRANTING PERMISSION TO USE THE CITY'S RIGHTS-OF-WAY FOR TELECOMMUNICATIONS PURPOSES, AND 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 TEMPORARY, NONEXCLUSIVE, REVOCABLE LICENSE AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND CENTURYLINK COMMUNICATIONS, LLC, DATED THE 1ST DAY OF JULY, 2016.

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

1. That it hereby grants to CenturyLink Communications, LLC the right to use the City's rights-of-way, pursuant to the terms of that certain Temporary, Nonexclusive, Revocable License Agreement by and between the City of Newport News, Virginia, and CenturyLink Communications, LLC, dated the 1st day of July, 2016, hereinafter referred to as the Agreement, for the placement, use and maintenance of its facilities to be used for telecommunications purposes.
2. That satisfaction by CenturyLink Communications, LLC, of all federal, state and local laws, rules, and regulations affecting the use of the City's rights-of-way are conditions precedent to the use of such rights-of-way pursuant to the Agreement.
3. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest the Agreement on behalf of the City of Newport News.
4. That a copy of the said License Agreement is attached hereto and made a part hereof.
5. That this resolution shall be in effect on and after the date of its adoption, May 24, 2016.

CITY OF NEWPORT NEWS, VIRGINIA

CENTURYLINK COMMUNICATIONS, LLC

TEMPORARY, NONEXCLUSIVE, REVOCABLE LICENSE AGREEMENT

This Temporary, Nonexclusive, Revocable License Agreement (hereinafter "Agreement") dated this 1st day of July, 2016, by and between **CITY OF NEWPORT NEWS, VIRGINIA**, a Virginia municipal corporation (hereinafter "City") and **CENTURYLINK COMMUNICATIONS, LLC**, hereinafter "CenturyLink", a Delaware limited liability company, having its principal office at 100 CenturyLink Drive, Monroe, Louisiana 71203.

WHEREAS, on July 1, 2006, Qwest Communications Company, LLC, was granted a temporary, nonexclusive, revocable license to install and maintain HDPE underground conduit containing fiber optic cable in the City's rights-of-way as part of its nationwide long distance telecommunications system, which said license expired on June 30, 2011; and

WHEREAS, the license was renewed by Council Resolution 12158-11 for a period beginning on July 1, 2011, which said license expired on June 30, 2016; and

WHEREAS, On April 1, 2014, Qwest Communications Company, LLC changed its name to CenturyLink Communications, LLC; and

WHEREAS, CenturyLink has requested the right to install and maintain HDPE underground conduit containing fiber optic cable in City's rights-of-way as part of its nationwide long distance telecommunications system; and

WHEREAS, the Commonwealth of Virginia has adopted legislation regarding public rights-of-way and telecommunication facilities; and

WHEREAS, CenturyLink desires to use City's rights-of-way at its own risk; and

WHEREAS, City is agreeable to allowing CenturyLink to use City's rights-of-way subject to certain terms and conditions hereinafter set out and subject to any regulatory ordinances affecting telecommunications facilities and this Agreement that may be adopted by City in the future.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, City and CenturyLink agree as follows:

Section 1: Grant of Authority. CenturyLink is hereby granted a temporary nonexclusive revocable License to construct and maintain telecommunications facilities in, over, under, and across the public ways, as indicated on the route diagram attached as Exhibit 1, within City for the sole purpose to provide conduit within which shall be located a fiber optic telecommunication system for providing long distance telecommunications services. CenturyLink will provide with its right-of-way permit application(s) pursuant to Section 17.4 of this Agreement a detailed route diagram and detailed description of all proposed facilities, appliances, their location, and construction

requirements. This License does not include any provisions for public cable television or public information services facilities, or any public wireless services facilities. City specifically reserves the right to grant other licenses, permits, and rights to others for the use of its rights-of-way as it, in its sole discretion, deems appropriate for any purpose.

Section 2: Definitions. For the purpose of this Agreement, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

"Affiliate" means a person that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person.

"Cable Act" shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. §521, *et seq.* as now and hereafter amended.

"CenturyLink" means CenturyLink Communications, LLC, or its employees, officers and agents.

"City" means the City of Newport News, Virginia, and where appropriate its officers, agents, employees and volunteers.

"City property" means and includes all real property owned by City, other than public streets and utility easements, as those terms are defined herein, and all property held in a proprietary capacity by City, which are not subject to right-of-way franchising as provided by law.

"Communications Act" means the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, and as it may be amended from time to time.

"Federal Communications Commission" means the Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"HDPE" means High Density Polyethylene underground conduit to be utilized by CenturyLink pursuant to this Agreement.

"Maintenance" means any effort or expenditure taken or made by CenturyLink to preserve, repair, or improve existing telecommunications facilities or infrastructure in accordance with generally accepted industry standards.

"Other ways" means the highways, streets, alleys, utility easements or other rights-of-way within City, but under the jurisdiction and control of a governmental entity other than City.

"Person" means any natural person, corporation, company, association, joint stock company or association, firm, partnership, limited liability company, joint venture, trust, individual and any other legally recognized entity, private or public, whether for profit or not-for-profit, and includes the

officers, agents, employees, or representatives of such entity where appropriate.

"Public street" means the surface of and the space above and below any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including non-paved surfaces, now or hereafter held by City for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer easements or similar public use.

"Public Utility" or "Utility" shall be defined in accordance with applicable Virginia laws regarding public utilities.

"Public way" means and includes all public streets, as those terms are defined herein, now or hereafter held or controlled by City, but only to the extent of City's right, title, interest or authority to grant a License to occupy and use such streets and easements for telecommunications facilities.

"State" or "Commonwealth" means the Commonwealth of Virginia.

"State Corporation Commission" means the State administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers in the Commonwealth of Virginia.

"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the State Corporation Commission or other regulatory entity, to allow its use by a telecommunications carrier for a pole attachment.

"Telecommunications facilities" means the plant, equipment and property, including but not limited to, fiber optic cables, cables, lines, wires, conduits, ducts, circuits, pedestals, antennae, electronics and other appurtenances or technology used or to be used to transmit, receive, distribute, provide or offer long distance telecommunications services.

"Telecommunications service" means the providing or offering for rent, sale or lease, or in exchange for other value received, the transmittal of signals, including but not limited to voice, data, image, graphic or video or other programming information between or among points by wire, lines cable, fiber optics, circuits, laser or infrared, microwave, radio, satellite or other telecommunications facilities.

"Telecommunications system," same as "Telecommunications facilities."

Section 3: Compliance with Applicable Law. City and CenturyLink shall at all times comply with all applicable federal, state, and local laws, ordinances, and regulations, including but not limited to the Communications Act.

Section 4: Permits. CenturyLink, including its contractors and consultants, prior to any construction or work will obtain all appropriate permits therefor, including any application and

permit for street opening if any streets will be disturbed.

Section 5: CenturyLink's Authority. CenturyLink warrants and represents that it has obtained all necessary and appropriate authority and approval from all applicable federal and state agencies or authorities to provide the fiber optic telecommunications system link it intends to provide within City, and upon request by City will provide evidence of such authority.

Section 6: License Only. CenturyLink acknowledges and agrees that all it is granted by this Agreement is a temporary nonexclusive revocable license and that no other rights of any kind are granted by this Agreement.

Section 7: Application of Telecommunications Regulatory Ordinance. CenturyLink acknowledges and agrees that City may develop a regulatory ordinance that will affect telecommunications facilities in City. CenturyLink acknowledges and agrees that it will be subject to any final regulatory ordinance affecting telecommunications facilities that City may adopt in accordance with state and federal law, and that CenturyLink will comply with the terms of such regulatory ordinance, specifically including compensation due to City in accordance with local, state and federal laws.

Section 8: Compensation. CenturyLink acknowledges and agrees that the compensation CenturyLink will owe City, if any, for the use of City's public ways or other areas has not yet been determined, but will be determined upon City's adoption of a regulatory ordinance affecting telecommunications facilities.

Section 9: Term.

9.1: The term of this Agreement shall commence on July 1, 2016, and terminate on June 30, 2017, or upon the adoption of a regulatory ordinance affecting telecommunications facilities by City, at which time all rights of the License under this Agreement shall terminate, except as provided herein. If such adoption does not occur by June 30, 2017, the term of this Agreement shall automatically extend for one (1) year, or until such ordinance and license takes effect, whichever occurs first, and from year to year thereafter; however, the terms of this Agreement shall not exceed five (5) years in the aggregate from the commencement date of the first term. If this Agreement is not otherwise terminated and automatically renews itself from year to year, on June 30, 2021, this Agreement shall expire by its own terms.

9.2: If prior to June 30, 2021, either party desires to enter into a new agreement, they may do so by providing written notice thereof to the other party at the address contained in the then current version of Section 53. Upon receipt of such a notice, the receiving party shall determine if it desires to renegotiate a new agreement. If so, the parties may begin negotiations toward a new agreement; if not, no new negotiations will commence and the termination of this Agreement on June 30, 2021, shall be final.

Section 10: Other Remedies. Nothing in this Agreement shall be construed as waiving or

limiting any rights or remedies that City or CenturyLink may have, at law or in equity, for enforcement of this Agreement.

Section 11: Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Section 12: Transfer of Ownership. CenturyLink shall not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, either voluntarily or by force or involuntary sale, or ordinary sale, consolidation, or otherwise any (except to a parent or affiliate, or in connection with financing by CenturyLink in the ordinary course of business) of the rights or privileges granted by this Agreement without the prior written consent of City Council, which consent shall not be unreasonably withheld. Notwithstanding any other provision of this Agreement, no consent from City shall be required for a transfer in trust, mortgage, collateral, assignment or other instrument of hypothecation, in whole or in part, to secure an indebtedness, or for a *pro forma* transfer to a person controlling, controlled by or under common control with CenturyLink.

Section 13: Costs. CenturyLink will pay to City, upon submission of itemized invoices, the costs and expenses incurred by City related to the grant of this License Agreement.

Section 14: Location of Facilities. All telecommunications facilities shall be constructed, installed and located in accordance with City's Design Criteria Manual, 2nd Edition dated August 1997, as amended, and the following terms and conditions, unless otherwise specified by City:

14.1: CenturyLink shall install its telecommunications facilities underground in locations and in such a manner as first approved by City. CenturyLink may not install any above ground facilities within City's rights-of-way without the prior written consent of City's Department of Engineering.

14.2: In the event City determines, in its sole discretion, that it is necessary for CenturyLink to locate or relocate its telecommunications facilities, such location or relocation shall be at the sole expense of CenturyLink and shall be underground unless otherwise approved in writing by City's Department of Engineering.

Section 15: Permits. CenturyLink is required to obtain, at its sole cost and expense, all applicable permits for telecommunications facilities as required by law and this Agreement. However, nothing herein shall prohibit City and a CenturyLink from agreeing to an alternative plan to review permit and construction procedures provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

Section 16: Public Works. The rights and privileges granted by this Agreement shall not be in preference or hindrance to the rights of City and any other lawful governmental authorities having jurisdiction to perform or carry out any public works or public improvements. Should the

telecommunications system interfere with the construction, maintenance or repair of such public works or improvements, CenturyLink, at its expense, shall protect or relocate the telecommunications system, or any applicable part thereof, as directed by City or other governmental authorities having jurisdiction so long as such directions are in compliance with the §56-468.2 of the Code of Virginia, 1950, as amended.

Section 17: Use of Public Ways.

17.1: CenturyLink, in any opening it shall make in the public ways of City, shall be subject to the provisions of this Agreement and to all applicable ordinances, codes and regulations of City. CenturyLink shall locate its telecommunications system so as not to interfere with the public safety or with the convenience of persons using the public ways.

17.2: City reserves the right by resolution of City Council or otherwise through proper representatives of City to specifically designate the location of CenturyLink's telecommunications system with reference to municipal facilities, such sewer and water mains, drainage facilities, fiber optic cables, signal poles, lines, and other similar facilities; other facilities, such as public telephone utilities, public electric utilities, public cable television utilities; and railway communication and power lines, in such a manner as to protect the public safety and public and private property. Failure by City to so designate does not relieve CenturyLink of its responsibilities in matters of public safety as provided in this Agreement. CenturyLink shall construct, maintain and locate its telecommunications system so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities of City.

17.3: Except in the cases of emergencies, CenturyLink shall not move, alter, change or extend any of its telecommunications system in any public way unless prior written notice of its intention to do so is given to the City Manager and permission in writing to do so is granted by the City Manager or such requirement is waived in writing by the City Manager. Such permission shall be conditioned upon compliance with the terms and conditions of this Agreement, with such other terms and conditions as will preserve, protect and promote the safety of the public using the public ways, and as will prevent undue interference with or obstruction of the use of the public ways by the public, City or by any other public utility or public service corporation for their respective purposes and functions. Such work by CenturyLink shall also be specifically coordinated with City's annual paving program through the Office of the City Engineer.

17.4: City may require that written permits, in any and all cases, be obtained by CenturyLink whenever it becomes necessary for CenturyLink to excavate in the public ways in order to install, construct, maintain or extend the telecommunications system. Such permits, if required, may be made applicable to any and all types of excavations in the public ways, as prescribed by City, and City may establish a fee for each excavation made in a public way by CenturyLink. Such permits may require the particular part or point of the public ways where construction or excavation is to be conducted, the length of time in which such permit shall authorize such work to be done and the hours of each day during which such work shall be undertaken. A single permit may be issued for multiple excavations to be made in public ways; provided, however, any public way opening fee

established by City shall apply to each excavation made in public ways of City. Exceptions to the requirement for a written permit may be allowed in cases of emergencies involving public safety or restoration of service. In the case of emergency excavations made in the public ways without permit, CenturyLink shall make a good faith attempt to immediately notify the Director of Engineering, or his designee, to obtain appropriate guidance and authority, however, in the event CenturyLink is unable to make such contact after making a good faith effort to do so, CenturyLink may make a report of each such excavation to City within two (2) working days and pay such fee as may be established by City for excavations in public ways by CenturyLink. Any permit applications and inspections related to repair of excavations shall be promptly acted upon by City so as not to unreasonably delay CenturyLink in efficiently discharging its public service obligation.

17.5: Immediately after installation, repair or extension of the telecommunications system or any portion thereof or any pavement cut by CenturyLink in any public way of the City, the incidental trenches or excavations shall be refilled by CenturyLink in a manner acceptable to City Manager and City's Design Criteria Manual. Pavement, sidewalks, curbs, gutters or any other portions of public ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former condition by CenturyLink at its own expense; however, where it is necessary, and if authorized by City, in order to achieve the former conditions, CenturyLink shall use materials whose type, specification and quantities exceed or are different from those used in the installation, then CenturyLink at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, CenturyLink shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Engineer and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the City Engineer. CenturyLink shall maintain, repair and keep in good condition for a period of one (1) year following such disturbance all portions of public ways disturbed by CenturyLink, provided such maintenance and repair shall be necessary because of defective workmanship or materials supplied by CenturyLink.

17.6: CenturyLink shall promptly remove or correct any obstruction, damage, or defect in any public way which may have been caused by CenturyLink in the installation, operation, maintenance or extension of CenturyLink's telecommunications system. Any such obstruction, damage, or defect which is not promptly removed, repaired or corrected by CenturyLink after proper notice so to do, given by City to CenturyLink, may be removed or corrected by City, and the cost thereof shall be charged against CenturyLink and may be enforced as a lien upon any of CenturyLink's properties or assets. Any expense, cost, or damages incurred for repair, relocation, or replacement to City water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction or maintenance of telecommunications system shall be borne by and any and all expense and cost incurred in connection therewith by City shall be fully reimbursed by the CenturyLink to City.

(a) If weather or other conditions do not permit the complete restoration required by this Section, CenturyLink shall temporarily restore the affected public ways or property. Such temporary restoration shall be at the CenturyLink's sole expense and the CenturyLink shall promptly

undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(b) CenturyLink or any other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including the Virginia Department of Transportation flagging requirements.

17.7: CenturyLink shall not open, disturb or obstruct, at any one time, any more of the public ways than reasonably may be necessary to enable it to proceed in laying or repairing its telecommunications system. Neither shall CenturyLink permit any public ways so opened, disturbed or obstructed by it in the installation, construction, repair or extension of its telecommunications system to remain open or the public way disturbed or obstructed for a longer period of time than reasonably shall be necessary. In all cases where any public ways shall be excavated, disturbed or obstructed by CenturyLink, CenturyLink shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals and other devices necessary or proper to adequately give notice, protection and warning to the public of the existence of all actual conditions present.

17.8: Whenever City shall widen, reconstruct, realign, pave or re-pave, or otherwise work on any public ways, or shall change the grade or line of any public ways, or shall construct or reconstruct any water, sanitary sewer, storm sewer, drainage or communications facility of City, it shall be the duty of CenturyLink to move, alter or relocate its telecommunications system or any part thereof as requested by City. Upon written notice by the City Manager of City's intention to perform work as specified above, CenturyLink shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of City for such construction, reconstruction or improvements. Should CenturyLink fail, refuse or neglect to comply with such notice, the telecommunications system or any part hereof may be removed, altered or relocated by City and City shall not be liable to CenturyLink for any damages resulting from such removal, alteration or relocation. All relocation costs shall be handled in accordance with the §56-468.2 of the Code of Virginia, 1950, as amended.

Section 18: Damage to Property. Neither CenturyLink nor any person acting on CenturyLink's behalf shall take any action or permit any action to be done which may impair or damage any City property or public ways of the City; or any other ways or property located in, on or adjacent thereto.

Section 19: Unexpected Repair and Emergency Work. In the event of an unexpected repair or emergency, CenturyLink may commence such repair and emergency response work as required under the circumstances, provided CenturyLink shall notify City as promptly as possible, before such repair or emergency work is started or as soon thereafter as possible if advance notice is not practicable.

Section 20: Maintenance of Facilities. CenturyLink shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements, laws, ordinances, and regulations.

Section 21: Safety Standards. CenturyLink shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries or nuisances to the public.

Section 22: Police Power. All rights and privileges granted hereby are subject to the lawful exercise of the police power of the City to adopt and enforce local laws, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to City is the right to adopt, in addition to the provisions of this Agreement and existing laws, such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public.

Section 23: Relocation or Removal of Facilities. Within one hundred and twenty (120) days following written notice from City, CenturyLink shall temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public ways whenever City shall have determined that such removal, relocation, change or alteration is reasonable necessary for:

23.1: The construction, repair, maintenance or installation of any City facilities or other public improvement in or upon the public ways.

23.2: The operations of the City or other governmental entity in or upon the public ways.

23.3: The costs associated with any such relocation shall be handled in accordance with the §56-468.2 of the Code of Virginia, 1950, as amended.

Section 24: Emergency Removal or Relocation of Facilities. City retains the right and privilege to cut or move any telecommunications facilities located within the public ways or other areas of the City as City may determine to be necessary, appropriate or useful in response to any life-threatening emergency. City will endeavor to notify CenturyLink of such emergencies that may impact their telecommunications facilities. Nothing herein shall create any duties or obligations on City to so notify CenturyLink nor shall City, its officers, agents, employees, or volunteers in any way be liable for any failure to notify CenturyLink.

Section 25: Damage to CenturyLink's Facilities. Except for acts of gross negligence or willful misconduct, City, its officers, agents, employees, or volunteers who give of their time in the performance of City functions, shall not be liable for any damage to or loss of any CenturyLink's telecommunications services or telecommunications facilities within the public ways or any other areas of the City as a result of or in connection with any public works, public improvements,

construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of City.

Section 26: Facilities Maps. CenturyLink shall provide City with "as built" drawings and an accurate map or maps to include a digitized map(s) in both printed and electronic form readable by the current version of Auto CAD and tied to the Virginia State Plane Coordinate System and tied to City's Survey Control monuments and geographic information system certifying the location of all telecommunications facilities within the City within sixty (60) days after completion of the installation of the backbone for CenturyLink's telecommunications system. CenturyLink shall, upon request, provide updated maps annually.

Section 27: Duty to Provide Information. Within fourteen (14) days of a written request from City, CenturyLink shall furnish City with information sufficient to demonstrate:

27.1: That CenturyLink has complied with all requirements of this Agreement.

27.2: That all municipal sales, telecommunications taxes, utility taxes or any other taxes or charges due City in connection with the telecommunications services or facilities provided by the CenturyLink have been properly collected and/or paid by CenturyLink.

27.3: All books, records, maps, and other documents maintained by CenturyLink with respect to its facilities within City's public ways shall be made available for inspection by representatives of City at least every six (6) months and at other reasonable times and intervals.

Section 28: Insurance and Bond Requirements.

28.1: Requirement of Insurance. CenturyLink shall, at its expense, obtain and maintain during the life of this Agreement the insurance and bond required by law and this Agreement. Any required insurance and bond shall be effective prior to the beginning of any work by CenturyLink within the City.

28.2 Commercial General Liability. CenturyLink shall maintain during the life of this Agreement Commercial General Liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of any of the work or activity under or by virtue of this Agreement. The minimum limits of liability for this coverage shall be \$2,000,000 combined single limit for any one occurrence.

28.3: Contractual Liability. CenturyLink shall maintain during the life of this Agreement broad form Contractual Liability insurance including the indemnification obligation set forth in this Agreement.

28.4: Workers' Compensation. CenturyLink shall maintain during the life of this Agreement Workers' Compensation insurance covering CenturyLink's statutory obligation under the

laws of the Commonwealth of Virginia and Employer's Liability insurance for all its employees engaged in work under this Agreement.

28.5: Automobile Liability. CenturyLink shall maintain during the life of this Agreement Automobile Liability insurance. The minimum limit of liability for such insurance shall be \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.

28.6: Umbrella Coverage. The insurance coverages and amounts set forth in the preceding subsections of this Section may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of \$5,000,000. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by the preceding subsections, and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by CenturyLink to City.

28.7: Pollution Liability Insurance. CenturyLink shall maintain during the life of this Agreement Pollution Liability insurance in the amount of \$1,000,000 each occurrence. Coverage shall be provided for bodily injury and property damage resulting from pollutants, which are discharged suddenly and accidentally. Also the insurance will provide coverage for cleanup costs.

28.8: Evidence of Insurance. All insurance shall meet the following requirements:

(a) CenturyLink shall furnish City a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles, the amount of such deductible being subject to approval by City.

(b) The required certificate or certificates of insurance shall include substantially the following statement: "The insurance covered by this certificate shall not be canceled or materially altered, except after thirty (30) days written notice has been received by the City of Newport News, Virginia."

(c) The required certificate or certificates of insurance shall name the City of Newport News, its officers, agents, employees and volunteers as additional insureds.

(d) Insurance coverage shall be in a form and with an insurance company approved by City which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Agreement granted shall be authorized to do business in the Commonwealth of Virginia.

Section 29: Liability. Except for gross negligence or wilful misconduct committed by City or its officers, agents, employees or volunteers, CenturyLink agrees and binds itself to indemnify, keep and hold City, its officers, agents, employees and volunteers who give of their time in the

performance of City functions, free and harmless from any and all claims, causes of action, damages or any liability on account of any injury or damage of any type to any persons or property growing out of or directly or indirectly resulting from any act or omission of CenturyLink, including but not limited to: (a) CenturyLink's use of the public ways or other property in the City; (b) the acquisition, construction, reconstruction, erection, installation, operation, maintenance, repair or extension of CenturyLink telecommunications facilities; (c) the exercise of any right or privilege granted by or under this Agreement; or (d) the failure, refusal or neglect of CenturyLink to perform any duty imposed upon or assumed by CenturyLink by or under this Agreement. In the event that any suit or proceeding shall be brought against City at law or in equity, either independently or jointly with CenturyLink on account thereof, CenturyLink, upon notice given to it by City, will defend City in any such action or other proceeding at the cost of the CenturyLink. In the event of any settlement or final judgment being awarded against City, either independently or jointly with CenturyLink, then CenturyLink will pay any such settlement or judgment or will comply with such decree, pay all costs and expenses of whatsoever nature and hold City, its officers, agents, employees and volunteers who give of their time in the performance of City functions, harmless therefrom.

Section 30: Hazardous Materials.

30.1 While on or near City's property or easements or in its performance of this Agreement CenturyLink shall not transport, dispose of or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Agreement; and in any event CenturyLink shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances or waste. Regardless of City's acquiescence, CenturyLink shall indemnify and hold City, its officers, agents, employees and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines or penalties, including reasonable attorney's fees, resulting from CenturyLink's violation of this paragraph and agrees to reimburse City for all costs and expenses incurred by City in eliminating or remedying such violations. CenturyLink also agrees to reimburse City and hold City, its officers, agents, employees and volunteers harmless from any and all costs, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of CenturyLink use or release of any hazardous substance or waste onto the ground, or into the water or air from, near or upon City's premises.

30.2 CenturyLink shall protect, indemnify, and hold harmless City from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any telecommunication facilities or the provision of telecommunication service.

Section 31: Performance and Labor and Material Surety. Before this Agreement is effective, and as necessary thereafter, CenturyLink shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to City as may be required by law or this Agreement.

Section 32: Bond. Within 10 consecutive calendar days after the effective date of this Agreement but before any construction is commenced, CenturyLink shall furnish to City a performance bond made payable to City in the amount required by City Code. The Performance Bond is to guarantee that the project is done in a proper manner without damage to the public ways or other areas of City. The bonds shall be written by a corporate surety acceptable to City and authorized to do business in the Commonwealth of Virginia. This bond shall remain in place until ninety (90) days after completion of construction of the backbone for CenturyLink's telecommunications facilities.

The bond shall guarantee, to the satisfaction of City:

- (a) timely completion of construction;
- (b) construction in compliance with applicable plans, permits, technical codes and standards;
- (c) proper location of the facilities as specified by City;
- (d) restoration of the public ways and other property affected by the construction;
- (e) the submission of "as-built" drawings after completion of the work as required by this Agreement; and
- (f) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.

Section 33: Coordination of Construction Activities. CenturyLink is required to cooperate with City.

33.1: Anytime CenturyLink plans expansion of its backbone system, CenturyLink shall provide City with a schedule of its proposed construction activities in, around or that may affect the public ways.

33.2: CenturyLink shall meet with City staff and other users of the public ways annually, or as otherwise determined by City, to schedule and coordinate construction in the public ways.

33.3: All construction locations, activities and schedules shall be coordinated, as ordered by the City Engineer, to minimize public inconvenience, disruption or damages.

Section 34: Non-enforcement by City. CenturyLink shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of City, upon any one or more occasions, to insist upon CenturyLink's performance or to seek CenturyLink's compliance with any one or more of such terms or conditions of this Agreement.

Section 35: Construction Codes. Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations, specifically including the National Electrical Safety Code or other electrical code adopted by or mandated on City.

Section 36: Engineer's Certification. All permit applications shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

Section 37: Traffic Control Plan. All permit applications which involve work on, in, under, across or along any public ways shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent applicable local, state and federal laws and regulations, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.

Section 38: Issuance of Permit. Within forty-five (45) days after submission of all plans and documents required of the applicant, including the detailed route diagram and description of facilities required by Section 1 of this Agreement, and payment of any fees required by this Agreement, and compliance with the provisions of the Code of Virginia, 1950, as amended, City, if satisfied that the applications, plans and document comply with all requirements of this Agreement, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as may be deemed necessary or appropriate.

Section 39: Construction Schedule. CenturyLink shall submit a written construction schedule to the City Engineer not less than ten (10) working days before commencing any work in or about the public ways. CenturyLink shall further notify the City Engineer not less than five (5) working days in advance of any excavation or work in the public ways and shall comply with the provisions of the Virginia Underground Utility Damage Prevention Act, § 56-265.14 et. seq. of the Code of Virginia, 1950, as amended, regardless of whether CenturyLink is required to do so by law.

Section 40: Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. City and its representatives shall be provided access to the work and such further information as it may reasonably require to ensure compliance with such requirements.

Section 41: Display of Permit. CenturyLink shall maintain a copy of the right-of-way construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by City at all times when construction work is occurring.

Section 42: Survey of Facilities. CenturyLink shall supply and specify the location of all facilities by depth, line, grade, proximity to other facilities or other standard. CenturyLink shall cause the location of such facilities to be verified, to the extent required, by a registered state surveyor. CenturyLink shall relocate, at its expense, any facilities which are not located in

compliance with permit requirements.

Section 43: Noncomplying Work. Upon order of City, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Agreement, shall be removed forthwith at the sole expense of CenturyLink.

Section 44: Completion of Construction. CenturyLink shall promptly complete all construction activities so as to minimize disruption of City ways and other public and private property. All construction work authorized by a permit within City ways, including restoration, must be completed within ninety (90) days of the date of issuance of the right-of-way construction permit.

Section 45: Landscape Restoration.

45.1: All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation maintenance, repair or replacement of telecommunications facilities by CenturyLink shall be replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of work.

45.2: All restoration work within the public ways or other areas shall be done in accordance with landscape plans approved by the City Engineer.

Section 46: Responsibility of Owner. The owner of the facilities to be constructed and, if different, CenturyLink are responsible for performance of and compliance with all provisions of this Agreement.

Section 47: Controlling Law. This Agreement shall be construed and enforced in accordance with the substantive law of the City of Newport News, Virginia, the Commonwealth of Virginia and the United States of America, as well as any applicable local, state or federal regulations.

Section 48: Captions. The paragraph Captions and Headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 49: Nondiscrimination. CenturyLink shall not discriminate on the basis of race, religion, color sex or national origin in its employment practices, contacting or provision of services.

Section 50: Commencement of Work. CenturyLink will not commence work within the City until detailed plans have been provided to and approved by the City Engineer.

Section 51: Forum Selection. By virtue of entering into this Agreement, CenturyLink agrees and submits itself to a court of competent jurisdiction in the City of Newport News, Virginia, or in the United States District Court for the Eastern District of Virginia, Newport News Division, and further agrees that this Agreement is controlled by the laws of the Commonwealth of Virginia

or any applicable federal laws and that all claims, disputes and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia or any applicable federal laws or by any regulatory body with jurisdiction including the Federal Communications Commission.

Section 52: Removal of CenturyLink's Facilities. If City adopts a regulatory ordinance affecting telecommunications facilities, and if CenturyLink is awarded a license or otherwise has or is granted authority pursuant thereto, then on the effective date of any such award or authority, the terms and conditions of that regulatory ordinance shall supersede the terms and conditions of this Agreement to the extent they are inconsistent, and to that extent, this Agreement shall be automatically and immediately terminated. However, if CenturyLink is not awarded a subsequent license or otherwise granted rights by any future ordinance adopted or license granted by City, or if the term of this Agreement expires or the rights granted to CenturyLink by this Agreement are revoked by City, subject to applicable laws, CenturyLink shall immediately cease operations within the City and shall not be permitted to operate, maintain or repair its existing encroachments or facilities and shall promptly remove any and all of CenturyLink's facilities and equipment within the City, all at the sole cost of CenturyLink.

Section 53: Notices. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed as follows:

If to City to: City Manager
 2400 Washington Avenue
 Newport News, Virginia 23607

With copy to: City Attorney
 2400 Washington Avenue
 Newport News, Virginia 23607

If to CenturyLink to: CenturyLink Communications, LLC
 Attn: Gary Pace
 3TCW083
 100 CenturyLink Drive
 Monroe, Louisiana 71203

With copy to: CenturyLink Communications, LLC
 Attn: Jack Shives
 700 West Mineral Ave
 Littleton, Colorado 80120

City or CenturyLink may from time to time designate any other address for this purpose by written notice to the other party.

CenturyLink and City, as evidenced by the execution of this Agreement by the undersigned agents, each having been first duly authorized, do hereby agree to abide by its terms, conditions, and obligations.

Witness the following signatures:

CITY OF NEWPORT NEWS, VIRGINIA

**CENTURYLINK COMMUNICATIONS,
LLC**

By: _____
City Manager

By: _____

ATTEST:

City Clerk

Approved as to form:

City Attorney

Reviewed:

Senior Assistant City Attorney

sdm14319

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, Sewer Rehabilitation Category: Construction of the 28th Street Sanitary Sewer Rehabilitation Project – \$130,000
2. Department of Public Works – FY 2016 Bond Authorization, Environmental Category: Citywide Environmental Sustainability Program – \$210,000
3. Department of Engineering – FY 2016 Bond Authorization, Sewer Rehabilitation Category: Construction of the Roanoke Avenue Sanitary Sewer Rehabilitation Phase V Project – \$1,500,000

H. Appropriations

1. Department of Engineering – FY 2016 Bond Authorization, Sewer Rehabilitation
Category: Construction of the 28th Street Sanitary Sewer Rehabilitation Project – \$130,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$130,000 FROM THE FY 2016 BOND AUTHORIZATION, SEWER REHABILITATION CATEGORY FOR CONSTRUCTION OF THE 28TH STREET SANITARY SEWER REHABILITATION PROJECT.

BACKGROUND:

- The project scope includes the rehabilitation of an existing sanitary sewer main, abandonment of an existing 6-inch sanitary sewer pipe and replacement of sanitary sewer service laterals along 28th Street from 225 28th Street to Huntington Avenue and Huntington from 28th Street to 27th Street.
- These improvements will eliminate an ongoing Public Works maintenance issue and improve the flow of sanitary sewer in the area.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re 28th St Sanitary Sewer Rehab

Location Map

sdm14350 Appropriation re 28th St Sanitary Sewer Rehab

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: 28th Street Sanitary Sewer Rehabilitation

City Council is requested to approve a resolution appropriating \$130,000 for the construction of the 28th Street Sanitary Sewer Rehabilitation Project.

The scope of this project will include the rehabilitation of an existing sanitary sewer main, abandonment of an existing six (6) inch sanitary sewer pipe and replacement of sanitary sewer laterals along 28th Street from 225 28th Street to Huntington Avenue and Huntington Avenue from 28th Street to 27th Street.

These improvements will eliminate an ongoing Public Works maintenance issue and improve the flow of sanitary sewer in the area.

Funding is available from the FY 2016 Bond Authorization, Sewer Rehabilitations category.

I recommend City Council approve the resolution.


James M. Bourey

JMB:VPU:mjd

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA



28TH STREET SANITARY SEWER REHABILITATION



RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED TO 28TH 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 28th Street Sanitary Sewer Rehabilitation, as follows:

Appropriation From:

Bonds Authorized and Unissued

4104-250-70-700L-579000-000000-2016-
00000-L0000

\$ 130,000.00

Appropriation To:

28th Street Sanitary Sewer Rehabilitation

4104-250-70-700L-579420-000000-2016-
00000-L6021

\$ 130,000.00

H. Appropriations

2. Department of Public Works – FY 2016 Bond Authorization, Environmental Category: Citywide Environmental Sustainability Program – \$210,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$210,000 FROM THE FY 2016 BOND AUTHORIZATION, ENVIRONMENTAL CATEGORY FOR THE CITYWIDE ENVIRONMENTAL SUSTAINABILITY PROGRAM.

BACKGROUND:

- The Environmental Sustainability program is related to the initial acquisition of EnergyCAP, the city-wide energy management software tool for continual, measurable and verifiable energy usage.
- This phase of the program leads to direct and indirect improvements in energy usage, water usage, waste generation, and reductions in greenhouse gas emissions.
- The comprehensive, city-wide Environmental Sustainability program provides staff the ability to enhance the performance of building systems and generate utility and operational savings.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Citywide Environmental Program

sdm14351 Appropriation re Citywide Environmental Sustainability Program

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: City-Wide Environmental Sustainability Program

City Council is requested to approve a resolution appropriating \$210,000 for the city-wide Environmental Sustainability Program.

This funding supports implementation of the Citywide EnergyCAP Energy Management software Retro Commissioning Project that requires a four-phase process including database setup, reformatting and development of billing and workflow. The project will result in a paperless utility billing system that will streamline both billing and payment processes. The utility bill management includes maintaining a comprehensive energy history of the City's utility consumption and greenhouse gas emissions. This comprehensive energy management system includes energy efficiency retrofits such as upgrading existing HVAC (Heating, Ventilation, Air Conditioning) equipment in order to enhance the performance of the building systems and generate utility and operational savings.

Emphasis areas include:

- Reduction of city-wide energy usage by 2% annually
- Contractor services with commercial, technical, financial, and regulatory expertise to integrate the city's complex energy management program tools to realize maximum value, savings, and efficiency
- Program supports the initial acquisition of EnergyCAP, the energy management software tool

Funding is available from the FY2016 Bond Authorization, Environmental Category.

I recommend City Council approve the resolution.


James M. Bourey

JMB:jop

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

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED TO CITYWIDE ENVIRONMENTAL SUSTAINABILITY PROGRAM.

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 Citywide Environmental Sustainability Program, as follows:

Appropriation From:

Bonds Authorized and Unissued 4104-250-70-700B-579000-000000-2016- 00000-B0000	\$ 210,000.00
--	---------------

Appropriation To:

Citywide Environmental Sustainability Program 4104-250-70-700B-579400-000000-2016- 00000-B0004	\$ 210,000.00
---	---------------

H. Appropriations

3. Department of Engineering – FY 2016 Bond Authorization, Sewer Rehabilitation
Category: Construction of the Roanoke Avenue Sanitary Sewer Rehabilitation Phase V
Project – \$1,500,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$1.5 MILLION FROM THE FY 2016 BOND AUTHORIZATION, SEWER REHABILITATION CATEGORY FOR THE CONSTRUCTION OF THE ROANOKE AVENUE SANITARY SEWER REHABILITATION PHASE V PROJECT.

BACKGROUND:

- The project scope includes the rehabilitation or replacement of the existing deteriorated sanitary sewer mains that currently run along Roanoke Avenue from 22nd Street to Garden Drive.
- This effort is the final phase of the ongoing rehabilitation of sanitary sewers on Roanoke Avenue.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Roanoke Ave Sanitary Sewer Rehab

Location Map

sdm14352 Appropriation re Roanoke Ave Sanitary Sewer Rehb

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

May 18, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Roanoke Avenue Sanitary Sewer Rehabilitation Phase V

City Council is requested to approve a resolution appropriating \$1.5 million for the construction of the Roanoke Avenue Sanitary Sewer Rehabilitation Project, Phase V.

The scope of the project includes the rehabilitation or replacement of the existing deteriorating sanitary sewer mains that currently run along Roanoke Avenue from 22nd Street to Garden Drive. This effort is the final phase of the ongoing rehabilitation program which brings the Roanoke Avenue sanitary sewer system into compliance with the Consent Order.

Funding is available from the FY 2016 Bond Authorization, Sewer Rehabilitations category.

I recommend City Council approve the resolution.


James M. Bourey

JMB:CSS:mjd

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA

ROANOKE AVENUE SANITARY SEWER REHABILITATION PHASE V



RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED TO ROANOKE AVENUE SANITARY SEWER REHABILITATION PHASE V.

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 Roanoke Avenue Sanitary Sewer Rehabilitation Phase V, as follows:

Appropriation From:

Bonds Authorized and Unissued 4104-250-70-700L-579000-000000-2016- 00000-L0000	\$ 1,500,000.00
--	-----------------

Appropriation To:

Roanoke Avenue Sanitary Sewer Rehabilitation Phase V 4104-250-70-700L-579420-31655A-2016- 00000-L6002	\$ 1,500,000.00
--	-----------------

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

J. New Business and Councilmember Comments

City Manager
City Attorney
City Clerk

Coleman
Price
Scott
Vick
Woodbury
Bateman
Cherry

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."**