

1. Planning Commission Meeting Documents

Documents:

[CPC AGENDA 10.5.16.PDF](#)
[CPC MINUTES 9.7.16.PDF](#)
[ZT-16-383.PDF](#)
[ZT-16-384.PDF](#)
[ZT-16-385.PDF](#)



NEWPORT NEWS CITY PLANNING COMMISSION
2400 WASHINGTON AVENUE
NEWPORT NEWS, VIRGINIA 23607

MICHAEL F. CARPENTER
Chairman

(757) 926-8761

SHEILA W. McALLISTER
Executive Secretary

MARK W. MULVANEY
Vice-Chairman

- A G E N D A -

NEWPORT NEWS CITY PLANNING COMMISSION
OCTOBER 5, 2016
4:00 P.M.
CITY COUNCIL CHAMBERS

- A. CALL TO ORDER**
- B. INVOCATION**
- C. MINUTES OF SEPTEMBER 7, 2016**
- D. PUBLIC HEARING**

ZONING TEXT AMENDMENTS

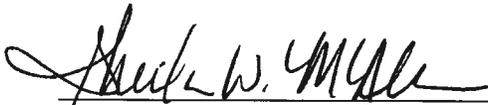
ZT-16-383, City of Newport News. Requests an amendment to the Zoning Ordinance regarding real estate ownership disclosure for change of zoning, conditional use permit, special exception and variance applications. (Sections 45-2703, 45-3203, 45-3204, and 45-3404). **(Contact Planner: Claudia Cotton at 926-8075)(To be heard by City Council on October 25, 2016)**

ZT-16-384, City of Newport News. Requests an amendment to the Zoning Ordinance redesignating amusement arcade as amusement establishment and amending the permitted uses in the Oyster Point Urban Core Overlay District. (Sections 45-402 and 45-3139). **(Contact Planner: Claudia Cotton at 926-8075)(To be heard by City Council on October 25, 2016)**

ZT-16-385, City of Newport News. Requests an amendment to the Zoning Ordinance adding nightclubs as a permitted use in the C3 Regional Business zoning district and amending the general regulations for adult uses regarding how distances are measured. (Sections 45-402 and 45-524). **(Contact Planner: Claudia Cotton at 926-8075)(To be heard by City Council on October 25, 2016)**

- E. EXECUTIVE SECRETARY REPORT**

- F. COMMITTEE REPORTS**
- G. UNFINISHED BUSINESS**
- H. NEW BUSINESS**
- I. ADJOURN MEETING**



Sheila W. McAllister, AICP
Executive Secretary

MINUTES OF THE PLANNING COMMISSION MEETING
Wednesday, September 7, 2016
City Council Chambers
2400 Washington Avenue
Newport News, Virginia

PRESENT: Michael F. Carpenter, Chairman; Mark Mulvaney, Vice-Chairman; Willard G. Maxwell, Jr.; Sharyn L. Fox; Robert B. Jones; Daniel L. Simmons, Jr.; Elizabeth W. Willis; N. Steve Groce; (Staff: Sheila W. McAllister, Director of Planning; Claudia Cotton, Manager of Current Planning; Flora Chioros, Planning Coordinator; Saul Gleiser, Senior Planner; David Watson, Planner; Johnnie Davis, Planner; Sandy Hitchens, Planner; Jonathan Herman, Landscape Planner; Lynn Spratley, Deputy City Attorney; Everett Skipper, Director of Engineering; Craig Galant, Assistant Director of Engineering; Jackie Kassel, Chief of Transportation Engineering; Bryan Stilley, Engineer II; Chris Morello, Administrator of Development Projects; Christine Mignogna, Zoning Administrator)

ABSENT: Lorraine P. Austin

CALL TO ORDER

Mr. Groce read the Planning Commission's purpose as stated in Section 15.2-2210 of the Code of Virginia. He made a motion to adopt the agenda before the Planning Commission. Ms. Fox seconded the motion. The City Planning Commission voted to adopt the agenda by acclamation.

INVOCATION

Mr. Maxwell presented the invocation.

MINUTES

The minutes of the August 3, 2016 public hearing were approved as presented.

PRESENTATION OF RESOLUTION

Mr. Carpenter read and presented a resolution to former Commissioner Mr. H. Eugene Roberts. Mr. Roberts thanked the Commissioners and city staff and stated his appreciation to the current Commissioners for their willingness to serve. He stated he has enjoyed a combined 16 years of service on the Planning Commission.

PUBLIC HEARING

CHANGE OF ZONING

CZ-16-382, Port Jefferson, LLC. Requests a change of zoning from C2 General Commercial with proffers to C1 Retail Commercial with proffers on a 14.93 acre parcel located at 591 City Center Boulevard to allow for the development of a health center. The *Framework for the Future 2030* comprehensive plan recommends Neighborhood Commercial and Regional Commercial for the site. The Parcel No. is 183.00-01-29.

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

Ms. Willis stated she is concerned about the right turn entrance from Jefferson Avenue. She asked if there was another place the applicant could look for an entrance into the property. Mr. Gleiser stated he was not aware of another place for the entrance. Ms. Willis asked if the entrance is required. Mr. Gleiser stated they are required to have two means of access by the Fire Department.

Mr. Carpenter asked if there has been a conversation with Haverty's furniture store about sharing their entrance. Mr. Gleiser stated he was not aware if that conversation occurred. He stated it is a recommendation that they pursue sharing the entrance.

Ms. Fox asked if this is an urgent care facility and if there would be ambulances going in to the facility. Mr. Gleiser stated he was not sure if there would be ambulances coming to the facility. Ms. Fox stated this will be a great resource for us because we do not really have any type of urgent care facilities for children. She asked if the facility will be providing hospital care for children, because as of right now we do not have that on the Peninsula. Mr. Gleiser stated it is his understanding that the development will have an urgent care facility and medical offices.

Mr. Carpenter opened the public hearing.

Mr. R.J. Nutter, 222 Central Park Avenue, Virginia, Attorney for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Nutter gave a brief description of the application. He stated they plan to have pediatric outpatient surgeries at this facility, which will be scheduled like many other doctors' offices; however, the site is large enough to accommodate future expansion. Mr. Nutter stated that, in regard to concerns about the access on Jefferson Avenue, the original shared access concept was put there before City Center Boulevard became a reality. He stated it was originally intended to be the access back to utilities and facilities in the back of the property. Mr. Nutter stated they have approached Haverty's furniture store and sharing their entrance is not likely to occur. He stated they have already designed their

infrastructure around their existing access and their stormwater drainage system was developed from that system. Mr. Nutter stated that right now they have an independently approved access from Jefferson Avenue, which they are not willing to relinquish. He stated their access is located where it is because Engineering staff wanted it as far away from the intersection as possible and with a certain amount of separation from Haverty's entrance. Mr. Nutter stated we positioned the access as best we could, and when we went through the review process with city departments, Police and Fire asked for a second access into the site on City Center Boulevard. He stated there are plans to have a connecting bridge between the two buildings on the second or third floor so emergency vehicles can get under it and clearly have another way into the site. Mr. Nutter stated with 15 acres of property, we are only looking at having two access ways.

Mr. Carpenter stated he thinks the facility is a great addition to the Peninsula. He stated he hopes they will continue to work with Haverty's to share an entrance that would make more sense. Mr. Carpenter stated there are two fairly large stormwater management components: one on City Center Boulevard and one behind the city owned stormwater location, he stated he would have put the stormwater management facility on City Center Boulevard and taken the parking to the back, with a nice berm on City Center Boulevard and behind it, a retention pond would have been more attractive to people on City Center Boulevard than having the parking lot. Mr. Nutter stated there is a long narrow piece along City Center Boulevard at Jefferson Avenue. He stated it is almost deceiving as it is too narrow to put a building in and have enough circulation around it for handicapped parking. Mr. Nutter stated as a result, we could not get the building there, which is why we worked with the city to install a major feature at the intersection. He stated an open space in that area is just as significant as a building. Mr. Nutter stated city staff asked us to put berming along City Center Boulevard. He stated the stormwater requirements have almost doubled since the previous plan was approved in 2003, and it would have taken the entire length of that feature to put in the stormwater and we would have had no place for a building or parking there, so we decided to put it behind the existing city stormwater facility and use it as a buffer from the adjacent residential.

Mr. Carpenter closed the public hearing.

Ms. Fox made a motion to recommend approval of change of zoning CZ-16-382 to City Council, as recommended by staff. The motion was seconded by Mr. Simmons.

Vote on Roll Call

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

Against: None

Abstention: None

The Planning Commission voted unanimously (8:0) to recommend approval of change of zoning CZ-16-382 to City Council.

CONDITIONAL USE PERMITS

CU-16-370, Mishorim Gold Newport News, LP. Requests a conditional use permit to allow for the operation of an amusement arcade located at 14346 Warwick Boulevard, Suite 416 (Denbigh Village Shopping Center) on a 27 acre parcel zoned C1 Retail Commercial. The Parcel No. is 108.00-04-07.

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

Ms. Fox asked if this application is nearly identical to the application approved in June in the adjacent unit. Mr. Watson stated the application approved in June was for a larger space or a go-kart track, which too is an arcade use. He stated the breakout room occupies a smaller footprint.

Mr. Carpenter asked how the breakout game is done. Mr. Watson stated it is like the board game Clue brought to life. He stated there will be eight people enclosed in a room and when the timer starts, they are given various clues to solve a mystery. Mr. Watson stated that as each mystery is solved they move to another room.

Mr. Mulvaney asked if the parking requirements take the adjacent arcade uses into account. Mr. Watson stated yes. He stated he took the total that was given when the go-kart track was approved and added this application's requirements. Mr. Watson stated that, as more arcade uses come in, we have asked the applicant to do an overall schematic of the floor space and parking. He stated the shopping center has ample parking, and when we figure the parking requirements, we look at how much building space is actually used for people. Mr. Watson stated you do not need to account for storage space and equipment rooms when calculating parking.

Mr. Carpenter opened the public hearing.

Mr. Emil Goduti, 12 Digges Drive, Agent for the applicant, spoke in favor of the application. He stated he was available for questions.

Mr. Carpenter closed the public hearing.

Ms. Fox made a motion to recommend approval of conditional use permit CU-16-370 to City Council, as recommended by staff. The motion was seconded by Mr. Jones.

Vote on Roll Call

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

Against: None

Abstention: None

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The Planning Commission voted unanimously (8:0) to recommend approval of conditional use permit CU-16-370 to City Council.

CU-16-372, Stoney Run Village, LLC. Requests a conditional use permit for off-premises sale of alcohol in an establishment of less than 1,600 square feet located at 620 Stoney Creek Lane, Suite 20 on a 10.67 acre parcel zoned R9 Mixed Use. The Parcel No. is 090.00-01-23.

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

Mr. Mulvaney asked if there is a limit on the amount of floor space they can make available for alcohol sales or could this be the bulk of their sales. Mr. Watson stated the store is an international grocery store. He stated the applicant would like to expand to sell import beer and wine. Mr. Watson stated he does not believe the beer and wine sales will be a big part of the business. Mr. Mulvaney stated that right now it is a grocery store and with approval of this conditional use permit there is no limitation to say that only 20% of the gross sales store area will be used for this type of use. Mr. Watson stated Alcohol Beverage Control (ABC) regulations come into play with this application.

Mr. Jones asked if they would be selling bottled beer or draft beer. Mr. Watson stated the permit is for off-premises alcohol sales, and it would need to be in a sealed container, bottle or can. He stated the permit will not allow the opening of containers on-premises.

Mr. Carpenter stated R9 zoning allows for the grocery store, but because this tenant has less than 1,600 square feet, a conditional use permit is required. Mr. Watson stated yes, and that is true anywhere in the city. He stated there are two solutions for the applicant: she could come forward with a conditional use permit, or she can lease the unit next to her and become 2,000 square feet and have a by-right use. Mr. Watson stated the zoning ordinance specifically states that anything under 1,600 square feet requires a conditional use permit for the sale of alcohol. Mr. Carpenter asked why is that requirement in place. Ms. McAllister stated it was added for properties within the Southeast Community because there were small lots and it was the intent to make sure that someone would not build a small store with their profit based on alcohol sales.

Mr. Carpenter opened the public hearing.

Ms. Michelle Himes, 8035 Fairmont Drive, Williamsburg, applicant, stated she was available for questions.

Mr. Carpenter closed the public hearing.

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Mr. Mulvaney made a motion to recommend approval of conditional use permit CU-16-372 to City Council, as recommended by staff. The motion was seconded by Mr. Jones.

Vote on Roll Call

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

Against: None

Abstention: None

The Planning Commission voted unanimously (8:0) to recommend approval of conditional use permit CU-16-372 to City Council.

EXECUTIVE SECRETARY REPORT

Ms. McAllister stated the cases from the August 3, 2016 public hearing will be heard by City Council next Tuesday, September 13, 2016. She stated those cases include a communications tower at Denbigh High School and two zoning text amendments. Ms. McAllister stated today's cases will be heard by City Council on September 27, 2016.

Ms. McAllister stated on October 5, 2016, the Planning Commission will have a retreat with Mr. Michael Chandler, who is the Director of Education for the Virginia Tech's Land Use Education Program. She stated we have several zoning text amendments that need to be heard on the same day. Ms. McAllister stated we are hoping to schedule a late lunch so the work session would run into the public hearing that afternoon. She asked that the Planning Commissioners clear their calendars for the entire afternoon of October 5, 2016.

Ms. McAllister stated we have no cases for the September 21, 2016 meeting.

Ms. Fox made a motion to cancel the September 21, 2016 meeting. The motion was seconded by Mr. Groce. The Planning Commission voted by acclamation.

Ms. McAllister introduced Mr. Jonathan Herman, our new Landscape Planner. She stated he will be replacing Ms. Flora Chioros, who was recently promoted to Planning Coordinator. Ms. McAllister stated Mr. Herman comes to us with 10 years of experience with a private consulting firm in Williamsburg. She stated he hails from North Carolina and has a Landscape Architecture degree from North Carolina State and has his landscape certification.

Ms. McAllister stated a community meeting for the Choice Neighborhood Initiative grant will be held on September 20, 2016 at 6:00 P.M. She stated it will be held at the Dunbar Erwin Achievable Dream Academy on 16th Street. Ms. McAllister stated if any of the Planning Commissioners want to come and listen to see what the grant is about,

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we would love to see you there. Mr. Carpenter asked that a reminder be emailed to the Planning Commission.

There being no further business, the meeting adjourned at 4:54 P.M.



Recording Secretary



Executive Secretary

ZONING TEXT AMENDMENT NO. ZT-16-383

CITY OF NEWPORT NEWS

BACKGROUND

The request is to amend Article XXVII., Conditional Use Permits, Section 45-2703, Application Requirements; Article XXXII., Board of Zoning Appeals, Section 45-3203, Procedure for Review and Approval of Variances; Section 45-3204, Procedure for Review and Approval of Special Exceptions; and Article XXXIV., Change of Regulations, Section 45-3404, Procedure.

Members of the Planning Commission, Board of Zoning Appeals and City Council must abstain from voting on matters presented to them if they have a financial or business interest with the applicant and/or owner involved in the case. The City Attorney requests this text amendment to require the applicant of a change of zoning, conditional use permit, special exception and variance to disclose all owners in interest of the property in question. For many years, the Code of Virginia, Section 15.2-2289, has given localities the authority to require an applicant to make complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 stockholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

By requiring full disclosure of ownership, this amendment will enable appointed and elected officials to clearly determine conflicts of interest.

On September 21, 2016, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment ZT-16-383.

APPENDIX

A-1 ARTICLE XXVII., CONDITIONAL USE PERMITS, SECTION 45-2703, APPLICATION REQUIREMENTS; ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3203, PROCEDURE FOR REVIEW AND APPROVAL OF VARIANCES; SECTION 45-3204, PROCEDURE FOR REVIEW AND APPROVAL OF SPECIAL EXCEPTIONS; AND ARTICLEXXXIV., CHANGE OF REGULATIONS, SECTION 45-3404

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXVII., CONDITIONAL USE PERMITS, SECTION 45-2703, APPLICATION REQUIREMENTS; ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3203, PROCEDURE FOR REVIEW AND APPROVAL OF VARIANCES; SECTION 45-3204, PROCEDURE FOR REVIEW AND APPROVAL OF SPECIAL EXCEPTIONS; AND ARTICLE XXXIV., CHANGE OF REGULATIONS, SECTION 45-3404, PROCEDURE.

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

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXVII., Conditional Use Permits, Section 45-2703, Application requirements; Article XXXII., Board of Zoning Appeals, Section 45-3203, Procedure for review and approval of variances; Section 45-3204, Procedure for review and approval of special exception and Article XXXIV., Change of Regulations, Section 45-3404, Procedure, be, and the same hereby is, amended and reordained as follows:

CHAPTER 45

ZONING ORDINANCE

ARTICLE XXVII. CONDITIONAL USE PERMITS

Sec. 45-2703. Application requirements.

Applications for a conditional use permit shall meet the following requirements:

- (1) An application for a conditional use permit shall be filed with the director of planning.
- (2) Such applications shall be made in the name of, and signed by, the owner of the property or a person having power of attorney from the owner.
- (3) Such applications shall completely disclose the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500

shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

- (34) The application shall be accompanied by:
- a. A written description of the nature and extent of the specific use for which a conditional use permit is being requested and a written explanation of how the conditions of section 45-2702 have been satisfied in order to warrant approval of the requested permit.
 - b. A legal description of the property for which the conditional use is requested.
 - c. Ten (10) copies and one (1) eight and one-half (8 ½) inch by eleven (11) inch reproducible copy of a site plan including a drawing or drawings of the proposed conditional use; such drawing shall be drawn to scale and in such manner as to show clearly the following information:
 1. The actual dimensions and shape of the property;
 2. The exact size and location on the property of existing and proposed structures;
 3. The existing and proposed uses of all structures and open areas;
 4. The name of the owner, as well as the name of any other person preparing the plan, together with the north point, scale and number of sheets of the plan;
 5. Such additional supporting information as may be deemed necessary by the director of planning to perform the evaluations required herein, including but not limited to: topography, ingress and egress, traffic impact, vegetation, surrounding land uses, proposed connections to existing or proposed water, sewer and drainage facilities, and landscaping.
- (45) Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

ARTICLE XXXII. BOARD OF ZONING APPEALS

Sec. 45-3203. Procedure for review and approval of variances.

(a) An application for a variance may be made by any property owner, tenant, government official, department, board or bureau and shall be filed with the zoning administrator. Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

(b) Such application shall completely disclose the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

(bc) The board shall conduct a hearing on said application subsequent to the notice requirements contained in section 45-3202(e).

(cd) “Variance” means, in the application of this chapter, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land; or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

- (1) The board shall not authorize a variance unless it finds:
 - a. That the strict application of this ordinance would unreasonably restrict utilization of the property or the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance and the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
 - b. That the authorization of such variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that

geographical area.

- c. That the condition or situation of the property concerned is not so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- d. That the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.
- e. That the relief or remedy sought by the variance application is not available through a special exception process or through modification of a zoning ordinance, both of which are authorized in this chapter.

(~~de~~) In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinances. The use or the structure permitted by the variance may not be expanded, unless the expansion is within an area of the site or part of the structure for which no variance is required. Where expansion is proposed within an area of the site or part of the structure for which a variance is required, the expansion may not occur unless an additional variance is obtained.

Sec. 45-3204. Procedure for review and approval of special exceptions.

(a) Applications for special exceptions may be made by any property owner, tenant, government official, department, board or bureau and shall be filed with the director of planning or his authorized representative. Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

(b) The board shall refer all special exception applications to the city planning commission for its recommendation. The city planning commission shall review the referred application and submit its recommendation to the board within sixty (60) days of the first meeting of the planning commission subsequent to referral. The planning commission report shall state whether the proposed special exception is in harmony with the intent of the applicable regulations in this zoning ordinance. In making its report, the planning commission may recommend to the board any conditions which should be attached to the special exception as to make it compatible with surrounding development. Failure of the planning commission to report within the prescribed

sixty-day period shall be construed as an affirmative recommendation.

(c) Prior to action by the planning commission on any special exception, the applicant must meet with the director of planning, or his representative, to determine the appropriateness of the application and who may require such supporting information as he may deem to be necessary, including:

- (1) A legal description of the property for which the special exception is requested.
- (2) Complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

(23) Ten (10) copies and one (1) eight and one-half (8 ½) inch by eleven (11) inch reproducible copy of a plan, including a drawing or drawings of the proposed special exception. Such drawing shall be drawn to scale in such manner as to show clearly the following information:

- a. The actual dimensions and shape of the property.
- b. The exact size and location on the property of existing and proposed structures.
- c. The existing and proposed uses of all structures and open areas.
- d. The name of the owner, as well as the name of any other person preparing the plan, together with the north point, scale and number of sheets of the plan.
- e. Such additional supporting information as may be deemed necessary by the director of planning to perform the evaluations required herein, including but not limited to topography, ingress and egress, vegetation, surrounding land use, proposed connections to existing or proposed water, sewer and drainage facilities.

(d) After notice as specified in section 45-3202(e), the board shall conduct a hearing on the application. The board may approve or deny the application and may impose such conditions relating to the use for which a special exception is granted as it may deem necessary in the public

interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

(e) The board shall be authorized to hear and decide only those special exceptions listed below:

(1) The board may grant a special exception increasing the height and or floor area of accessory buildings and structures provided that:

- a. The height or floor area increase is in harmony with the appearance of surrounding properties and does not create a harmful effect to the neighborhood; and
- b. The accessory building and structure shall have at least the same required rear and side yard setbacks as the main building.
- c. The board, as a condition of approval, may require additional side and rear yard setbacks for the accessory building and structure to be heightened or enlarged.

(2) A nonconforming lot of record having less than fifty (50) feet of frontage may be improved with a single-family detached dwelling provided that:

- a. The single-family dwelling shall be two (2) stories or of similar design to abutting structures.
- b. The front yard setback of the single-family dwelling shall be the average of the setbacks of existing buildings on the block, but not less than fifteen (15) feet.
- c. The minimum side yard setback shall be five (5) feet.
- d. An attached or detached garage shall be provided. However, if the garage is attached, it shall be attached on the side of the dwelling and recessed eighteen (18) feet from the front of the dwelling or attached in the rear of the dwelling.
- e. The proposed dwelling is in harmony with the appearance of surrounding properties and does not create a harmful effect to the neighborhood.

(3) The board may grant as a special exception in the C1, C2 or C3 zoning districts the construction of a driveway for ingress and egress to any use permitted in the C2, C3, M1 or M2 zoning districts subject to the following provisions:

- a. Access to the site does not otherwise exist over a public street.
 - b. A report is obtained from the director of planning to the effect that a public street is not essential to serve the special use being developed or other lands in the same proximity.
 - c. It is the judgment of the board that the proposed use and the potential vehicular traffic produced will not adversely affect the general character and development of the immediate area.
- (4) The board may grant as a special exception a reduction of the required number of offstreet parking spaces provided that:
- a. Any such reduction is limited to:
 - 1. Community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial, and heavy industrial uses as specified in Article IV, section 45-402 Summary of Uses by District;
 - 2. Commercial and related uses listed in section 45-3004(d);
 - 3. Uses authorized by and located within the Neighborhood Conservation District as defined by Article XXXI;
 - 4. Multiple-family housing for disabled persons or the elderly.
 - b. Applications for parking space reductions using off-site parking plans shall meet the following criteria:
 - 1. The proposed development of the premises shall be for the following uses:
 - a. Commercial and related uses listed in section 45-3004(d).
 - b. Community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial and heavy industrial uses as specified in Article IV, Section 45-402, Summary of Uses by District
 - 2. Off-site parking plans shall meet the following criteria:

- a. The applicant shall demonstrate that off-site spaces are available to serve the uses proposed for the premises and such off-site spaces are within eight hundred (800) feet walking distance of a building entrance or use on the premises proposed for the parking reduction. The applicant shall demonstrate that safe and convenient pedestrian access is provided from the designated use to the off-site parking facility or that transportation is available from the off-site parking site to the premises.
 - b. The applicant shall demonstrate that the off-site parking spaces are available on a long-term basis of not less than twenty (20) years.
 - c. After approval of an off-site parking plan, the city zoning administrator shall approve no changes which would increase the parking needs of the affected premises served by that plan unless additional parking spaces are made available to serve the premises and the new off-site parking plan is approved by the zoning administrator.
3. A parking reduction which was granted based on an off-site parking plan shall be void in the event that said off-site parking plan is terminated in whole or in part.
 4. This ordinance shall not be interpreted to prevent parking reductions employing both on-premises shared parking plans and off-site parking plans in appropriate circumstances.
- c. The applicant proposing an on-site parking reduction for uses of community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial, and heavy industrial uses as specified in Article IV, section 45-402, Summary of Uses by District, or for any use in a neighborhood conservation district, shall clearly show that the proposed use:
 1. Requires a lesser amount of parking than specified in this chapter; and
 2. Provides an adequate amount of parking to accommodate employee and customer needs.
 - d. The applicant proposing on-site parking reductions for multiple-family

housing for disabled persons or the elderly shall show that the proposed use:

1. Requires a lesser amount of parking than specified in this chapter; and
 2. Provides an adequate amount of parking to accommodate employee and customer needs.
 3. Provided that the reduction shall not be to less than seventy-five (75) percent of a space per unit.
- e. The authorization of parking space reductions shall be limited to the specified use or uses for which the special exception is requested. Any enlargement of a building or change in use or uses shall be subject to the parking requirement as specified in this ordinance or as otherwise approved for increase or reduction as provided in this ordinance.
- (5) The board may grant as a special exception, in any district where such use is not permitted as a matter of right, facilities for the keeping of horses, ponies, or similar animals provided that:
- a. Such animals are exclusively kept for the recreational purposes of the family living on the premises.
 - b. The minimum area of any parcel used for the keeping of not more than two (2) such animals shall be five (5) acres. One-half (½) acre addition to the minimum lot area shall be required for each additional animal kept thereon.
 - c. Any building, structure or animal yard used for the housing of such animals shall be located not less than one hundred (100) feet from any property line and not less than one hundred seventy-five (175) feet from any adjacent dwelling.
 - d. Such use will not be detrimental to the character of the neighborhood and provided further that other conditions which are imposed to protect the character of the neighborhood shall be observed.
- (6) The board may grant an enlargement of nonconforming uses; provided that:
- a. All yards, height, and other applicable dimensional regulations of the district in which the use is located shall be observed.
 - b. Any enlargement of a use shall be made in conformity with the regulations

- of the most restrictive district in which such use would ordinarily be permitted.
- c. Any enlargement shall be limited to the same premises on which the use existed at the time it became nonconforming; provided, that in no case shall the nonconforming use be expanded across a zoning district boundary into a more restrictive district.
 - d. No enlargement of a building or use shall be made to create an entirely new use or to occupy more than one hundred (100) percent additional land area or floor space that was used at the time the use became nonconforming.
 - e. Such enlargement is in harmony with the surrounding neighborhood and such reconstruction or enlargement is in the general welfare of the public.
- (7) The board may authorize the outdoor storage of goods and materials when located in the C2 district; provided, that:
- a. Such storage is established as an accessory to a permitted use in the C2 district.
 - b. Materials so stored shall not be visible from any public right-of-way.
 - c. The storage of such goods or materials is screened or fenced in such manner so as not to detract from the character of the neighborhood.
 - d. Appropriate conditions in the form of screening and/or buffer area requirements shall be included to assure the protection of any adjacent residential district or development.
- (8) The board shall authorize as a special exception the use and/or reduction of any buffer area for uses associated with the higher intensity district and not otherwise permitted within the buffer area whenever the board finds the buffer area is screened or fenced in a manner that insures that any authorized concentration of people, cars, noise or associated activities will not adversely affect any use permitted in the abutting lower intensity district and the granting of such special exception is:
- a. Necessary for the reasonable use of the property;
 - b. Not detrimental to uses in or permitted in the abutting lower intensity district; and,

- c. Any reduction shall not reduce the required number of trees for the remaining buffer area.

The board in authorizing such special exceptions may impose reasonable conditions as may be required to insure compliance with this provision.

- (9) The board may grant a special exception for a kennel to be located in any residential district for no more than six (6) domesticated animals; provided;
 - a. All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.
 - b. Animal pens shall be large enough (within recognized standards) to provide freedom of movement for each animal contained therein.
 - c. Any animal pen must be located in the rear yard and at least ten (10) feet away from any property line.
 - d. Litter and bedding material shall be changed to prevent odor that could adversely affect or impact neighboring properties.
 - e. No person shall utilize any space for the keeping of animals in any manner that is detrimental to the use of the adjacent property or that, because of odor, noise or attraction of flies or other pests, reduces or otherwise unreasonably restrict the rights of adjacent property owners to enjoy the use of their property.
 - f. No person shall permit the drainage from any space devoted to animals to contaminate or pollute any stream, watercourse or drainageway, natural or manmade.
 - g. No person shall store, stockpile or permit any accumulation of animal waste in any manner whatsoever that, due to odor, attraction of flies or other pests or for any other reason, diminishes the rights of adjacent property owners to enjoy reasonable use of their property.
 - h. Such kennel will not adversely affect or impact neighboring properties.
- (10) The board may grant a special exception reducing or eliminating privacy fencing or treed buffers provided all of the following are met:
 - a. Any such reduction or elimination is limited to:

1. Community facilities as specified in Article IV., section 45-402, Summary of Uses by District.
 2. Uses authorized by and located within the Neighborhood Conservation district as defined by Article XXXI.
- b. That the applicant shall clearly show that the proposed surface lot:
1. Requires a lesser amount of fencing or tree screening or no fencing or tree screening; and
 2. The applicant shall clearly demonstrate that the reduction or elimination of the fencing or tree screening is necessary by reason of surface lot location, location of existing fencing, location of adjacent residences and other special circumstances as may warrant such reduction or elimination.

(11) The board may grant as a special exception an increase to the maximum required number of off street parking spaces permitted for a retail store or personal service establishment, a furniture or appliance store, wholesale establishment or service shop and an enclosed mall building, provided that:

- a. Such increase will not be detrimental to the general character and development of the immediate area.
- b. Satisfactory evidence is provided that additional parking cannot be provided through sharing arrangements with adjoining properties.
- c. Any such increase in parking also shall meet the following criteria:
 1. If the site is wooded, a tree survey shall be conducted on the site prior to land clearance or work being conducted on the site and all trees of six (6) inch caliper or greater shall be saved within all green areas;
 2. Twenty-five percent (25%) of the total site shall be landscaped in accord with a plan developed by the applicant for the special exception and approved by the director of planning. The approved landscaping shall be installed and maintained by said applicant;
 3. A twenty-five foot landscape strip shall be installed and maintained along the site's existing or planned street frontage;

4. Notwithstanding any other provision in the City Code, the only freestanding sign on an undeveloped site shall be a ground sign; and
5. Notwithstanding any other provision in the City Code, if the site is already developed, any existing freestanding signs on site shall be removed and replaced with ground signs.

ARTICLE XXXIV. CHANGE OF REGULATIONS

Sec. 45-3403. Procedure.

(a) The petition for an amendment to the zoning ordinance shall be filed with the director of planning, who shall transmit one (1) copy to the director of codes compliance. At the time of such filing, the director of planning shall be consulted as to the appropriateness of the proposed amendments. Such petition shall include:

- (1) For a proposed amendment to the zoning ordinance text:
 - a. A suggested wording of the proposed revision properly referenced to the existing ordinance by article and section number;
 - b. The nature and extent of the amendment desired, together with an explanation of the reasons for seeking such change.
- (2) For a proposed amendment to the zoning map:
 - a. A legal description of the property for which the change of zoning is requested.
 - b. Three (3) plats showing the property drawn at a scale with sufficient references to existing streets and subdivisions to enable said property to be located on city maps, along with the area of proposed zoning change, in square feet or acres.
 - c. Complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In

the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

- c.d. The names and addresses as far as practicable of property owners abutting the property of which said change is requested. For this purpose, property separated from the petitioned property by a street shall be considered to abut said property.
- d.e. A statement indicating the intended use of the property under the proposed zoning classification.
- e.f. A statement signed by the property owner giving consent to the submission of the application when the property owner is not the applicant.
- f.g. A conditioned or unconditioned proffer statement.
- g.h. Ten (10) copies and one eight and one-half (8½) inch by eleven (11) inch reproducible copy of a more detailed plan as may be deemed necessary by the director of planning to perform the required evaluation. Such additional information may include, but need not be limited to: Topography, ingress and egress, location of buildings and improvements vegetations, surrounding land use, proposed connections to existing or proposed water, sewer and drainage facilities.

(b) All applications shall be annotated with either of the following statements:

- (1) "I hereby proffer that the development of the subject property of this application shall be in accordance with the conditions set forth in this submission." or
- (2) "I hereby proffer that the development of the subject property of this application shall not be subject to any additional conditions not otherwise provided for the requested zoning district by ordinance."

(c) The director of planning shall place the proposed amendment on the agenda of the planning commission for public hearing at a regular meeting to be held no later than sixty (60) days after the proposed amendment is filed. When the property under consideration drains into any of the city's reservoirs, comments from the director of waterworks shall be solicited prior to planning commission action. The planning commission shall transmit its report and recommendation to the city council within one hundred (100) days from the date of the first meeting of the planning

commission at which the proposed amendment first appears on the agenda for consideration. After such time, the council shall conduct its public hearing and take final action upon the petition. For the purpose of this article, the proposed amendment is deemed to be referred to the planning commission on the date the matter is to be first considered at a meeting by the planning commission.

ZONING TEXT AMENDMENT NO. ZT-16-384

CITY OF NEWPORT NEWS

BACKGROUND

The request is to amend Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District; and Article XXXI., Overlay Zoning Districts and Regulations, Division 5., Special Zoning Regulations for the Oyster Point Urban Core, Section 45-3139, Permitted Uses.

The amendment proposes to rename the use, 'amusement arcade', to 'amusement establishment'. The term 'arcade' typically refers to an establishment with many games that can be played by putting coins in them. This terminology is outdated given today's amusement/entertainment venues that are seeking to operate in the city.

The second purpose of the amendment is to allow amusement establishments in the Oyster Point Urban Core overlay district. This district encompasses City Center. The original vision for City Center included an upscale mixed use environment combining civic and community space with employment, shopping, living and entertainment creating a unique urban development for social and business activities. Since its original development, City Center has contained a variety of high-end retailers, offices, restaurants and residential uses. The new owners wish to include more amusement/entertainment uses in their new tenant mix for the center. Amusement/entertainment uses, while contemplated in the original master plan, were not specifically allowed in the overlay as stand-alone uses.

The original vision contemplated amusement/entertainment uses having a smaller presence in City Center. Therefore, the amendment also deletes the requirement that some uses may only be allowed as accessory to a nightclub, motel/hotel or restaurant so that they can be stand-alone uses. Finally, the amendment also adds skating rink as a permitted use in the overlay.

On September 21, 2016, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment ZT-16-384.

APPENDIX

A-1 ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT; ARTICLE XXXI., OVERLAY ZONING DISTRICTS AND REGULATIONS, DIVISION 5., SPECIAL ZONING REGULATIONS FOR THE OYSTER POINT URBAN CORE, SECTION 45-3139, PERMITTED USES

sdm14677

ORDINANCE NO. _____

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

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

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment, identified as ZT-16-_____, to Section 45-402, Summary of Uses by District, which would amend use “I.5. Amusement Arcade”; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, use “I.5. Amusement Arcade” to “I.5. Amusement Establishment” which shall be permitted by right in the C2 General Commercial and C3 Regional Business Districts and permitted by conditional use permit in the R9 Mixed Use and C1 Retail Commercial Districts.

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

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained to “I.5. Amusement Establishment” which shall be permitted by right in the C2 General Commercial and C3 Regional Business Districts and permitted by conditional use permit in the R9 Mixed Use and C1 Retail Commercial Districts.

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXXI., OVERLAY ZONING DISTRICTS AND REGULATIONS, DIVISION 5., SPECIAL ZONING REGULATIONS FOR THE OYSTER POINT URBAN CORE, SECTION 45-3139, PERMITTED USES.

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

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXXI., Overlay Zoning District and Regulations, Division 5., Special Zoning Regulations for the Oyster Point Urban Core, Section 45-3139, Permitted uses, be, and the same hereby is, amended and reordained as follows:

CHAPTER 45

ZONING ORDINANCE

ARTICLE XXXI. OVERLAY ZONING DISTRICTS AND REGULATIONS

DIVISION 5. SPECIAL ZONING REGULATIONS FOR THE OYSTER POINT URBAN CORE

Sec. 45-3139. Permitted uses.

(a) *Permitted uses:* In the Urban Core, buildings or premises may be used for any use normally permitted in the underlying zoning district regulations set forth in Article IV, Section 45-402. The real estate in the Urban Core is all subject to covenants and restrictions, and no use may be made of such real estate that is inconsistent with or violates those covenants or restrictions. In addition to those covenants and restrictions and those uses permitted in the underlying zoning district, the following uses shall also be permitted by right within the Urban Core (Sec. 45-402 matrix listing shown in parenthesis):

Amusement establishment (I.5)

Bicycle sales and service (J.5)

Billiard parlor (I.2) ~~as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Bowling alley (I.4) ~~as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Car wash (K.8); provided that the building housing the car wash use shall be located wholly within a parking garage

~~Coin-operated amusement arcade (I.5) as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Coin-operated commercial laundry (H.4) as an accessory use to a multiple family residential use

Commercial parking lot or garage (L.3)

Convenience store without gasoline (J.12); provided that the convenience store without gasoline use shall not be permitted in a separate freestanding building

Food preparation, storage & distribution (M.5); provided that such use shall occupy less than 7,500 sq. ft.

Garden supply store (J.19); provided that such use shall occupy less than 15,000 sq. ft.

Grocery store (J.21); provided that such use shall occupy less than 10,000 sq. ft.

Hardware store (J.22); provided that such use shall occupy less than 10,000 sq. ft.

Home accessory store (J.23)

Medical center complex (C.2)

Motel/hotel (J.32)

Multiple-family (B.3); provided that the building housing this use shall be a minimum of four (4) stories in height

Nightclub as defined in this chapter

Off-site parking lot or garage (L.6)

Off-premise sale of alcohol in an establishment of less than 1,600 sq. ft. in size (J.35)

Other educational/group instruction (E.4)

Skating rink (I.12)

Theatre or stage (I.14)

Toy or hobby store (J.45)

Variety store (J.47)

(b) *Accessory uses*: Any use customarily incidental or accessory to any permitted use is permitted in this district when clearly established as an accessory use to a permitted use.

(c) *Signs*: Signs permitted in the Urban Core shall be those set forth in City Code Chapter 33.01, Sec. 33.01-4(e). Such signs shall be compatible with the Urban Core architecture and concept.

ZONING TEXT AMENDMENT NO. ZT-16-385

CITY OF NEWPORT NEWS

BACKGROUND

The request is to amend Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District and Article V., General Regulations, Section 45-524, Adult Uses.

The purpose of the amendment is to add nightclub as a separate use in the zoning ordinance's summary of uses table, to change the measurement of adult uses from structure to unit in the regulation, and to add nightclubs as a by-right use in the C3 Regional Business zoning district.

In 1996, the City performed a study to determine how best to regulate adult uses. At the time, residents and business associations expressed concerns over the lack of controls over adult uses, including nightclubs. Careful consideration was given to impacts on nearby property and the protection of neighborhoods. The study also took into account legal challenges that other cities faced over the violation of First and 14th amendment rights if ordinances were arbitrarily restrictive on free speech, on business location and operation or not based on fact. Most cities were either dispersing the uses throughout their city or concentrating the adult uses in a distinct area or district to succeed in any court challenge.

It was decided to prevent location of the adult uses in a manner that would create adverse effects. This resulted in distance requirements for the use from any school, church, park, playground or library property; from any other adult use; and from any residentially zoned property. The regulation currently requires the distance to be measured from the 'structure' containing the use. In cases where a large structure, a strip shopping center for instance, has multiple tenants, the measurement is made from the exterior edge of the entire structure rather than from the unit or space within the structure that is occupied by the use. Therefore, the amendment recommends the measurement to be made from the unit or space within the structure that is occupied by the use.

Recent trends in urban lifestyles include places to eat, drink, listen to music, dance, etc.; attracting a diversity of people to meet and socialize. We are seeing an increase in existing restaurateurs and potential new restaurants who would like to be able to provide nightly entertainment. Currently our code considers a nightclub as an adult use and defines it as follows:

Nightclub. An establishment, excluding motion picture theaters, which provides entertainment (including but not limited to live bands, floor shows, comedians, solo artists, and/or a dance floor for patrons), more than two (2) times per month, stays open after 11:00 p.m., and has a capacity exceeding one hundred (100) patrons.

While this definition allows smaller restaurants the ability to provide

nightly entertainment, any venue with more than 100 patrons is limited to providing entertainment only twice per month. Changing the measurement location from structure to unit may assist those restaurants occupying space in larger structures. The change does not delete the requirement to obtain a conditional use permit, therefore, the ability to review and condition nightclubs will continue to be provided to the Planning Commission and City Council.

In addition to the above change to the regulation, the amendment also proposes to add nightclubs as a by-right use in the C3 Regional Commercial zoning district. The regulations currently allow nightclubs as a by-right use in the C4 Oyster Point Business zoning district. The largest C3 Regional Commercial district identifies the downtown area. The intent for this change is to make downtown more attractive for restaurants with entertainment amenities, to add vibrancy and interest to downtown to attract and encourage urban lifestyle reinvestment in downtown.

On September 21, 2016, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment ZT-16-385.

APPENDIX

A-1 ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT; AND ARTICLE V., GENERAL REGULATIONS, SECTION 45-524, ADULT USES

sdm14710

ORDINANCE NO. _____

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

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

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment, identified as ZT-16-____, to Section 45-402, Summary of Uses by District, which would add use “J.1.a. Nightclub” to allow such use in the C1 Retail Commercial District and the C2 General Commercial District by right, and in the C3 Regional Business District and C4 Oyster Point Business District by conditional use permit; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, by adding use “J.1.a. Nightclub” to allow such use in the C1 Retail Commercial District and the C2 General Commercial District by right, and in the C3 Regional Business District and C4 Oyster Point Business District by conditional use permit.

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

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained by adding use “J.1.a. Nightclub” to allow such use in the C1 Retail Commercial District and the C2 General Commercial District by right, and in the C3 Regional Business District and C4 Oyster Point Business District by conditional use permit.

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE V., GENERAL REGULATIONS, SECTION 45-524, ADULT USES.

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

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article V., General Regulations, Section 45-524, Adult uses, be, and the same hereby is, amended and reordained as follows:

CHAPTER 45

ZONING ORDINANCE

ARTICLE V. GENERAL REGULATIONS

Sec. 45-524. Adult uses.

(a) Within the city, it is acknowledged that there are some uses, often referred to as adult uses, which because of their nature can have a negative impact on nearby property, particularly when several of them are concentrated under certain circumstances or located in direct proximity to a residential neighborhood, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse effects. The definition of adult uses is found in section 45-201 of this chapter.

(b) No adult use shall be permitted except in; C1; and C2; ~~and C3~~ districts, the exception being that a nightclub, as defined in this chapter, shall also be permitted in the C3 and C4 districts. A conditional use permit, as provided for in Article XXVII of this chapter, is necessary for the establishment of an adult use. A conditional use permit may be issued by the city council after recommendation by the planning commission and finding that the location, size, design and operating characteristics of the proposed adult use will be compatible with and will not adversely affect or be materially detrimental to neighboring uses.

(c) No ~~structure~~unit containing an adult use in the C1; and C2 ~~or C3~~ districts shall be located nearer than five hundred (500) feet to:

- (1) Any school, church, park, playground or a library property;
- (2) Any other adult use;
- (3) Any residentially zoned property which fronts on the same street or which contains any school, church, park, playground or library; otherwise, the minimum distance from such structuresunits to a residential zone shall be two hundred (200) feet.

For the purposes of this subsection, distances shall be measured on a straight line (1) from the structureunit containing the adult use to the nearest point of the property named in (c)(1) or (c)(3) above, or (2) between the structureunit containing the adult use and the structureunit containing any other adult use.

(d) Notwithstanding the above regulations, a nightclub as defined in this chapter shall be permitted in the C3 and C4 district without a conditional use permit.

(e) For purposes of this section, unit means a self-contained section within a larger structure or a freestanding structure containing a single use.