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AGENDA

NEWPORT NEWS CITY COUNCIL
REGULAR CITY COUNCIL MEETING

FEBRUARY 14, 2017

City Council Chambers

7:00 p.m.

A. Call to Order

B. Invocation

- Rabbi Gershon Litt, Adath Jeshurun and Hillel at Christopher Newport University

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

D. Presentations - None

E. Public Hearings

1. Ordinance Authorizing Change of Zoning No. CZ-2016-0001, to Bland Boulevard, LLC., for Property Located at 615 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow Retail Development
2. Ordinance Authorizing Conditional Use Permit No. CU-2016-0003, to William David Moore for the Construction and Operation of a Small Motor Vehicle Repair and Service Facility on Property Located at 12543 Warwick Boulevard and Zoned C2 General Commercial

F. Consent Agenda

1. Minutes of the Work Session of January 24, 2017
2. Minutes of the Special Meeting of January 24, 2017
3. Minutes of the Regular Meeting of January 24, 2017
4. Resolution in Memoriam: The Honorable Robert M. Yacobi

G. Other City Council Actions

1. Receipt of Bids for Granting a 300-Square-Foot Easement over City-Owned Property Located at 305 Hammond Street
2. Ordinance Authorizing the City Manager to Execute the First Amendment to the In Building Radio Distribution Agreement

H. Appropriations

1. Court Appointed Special Advocate (CASA) – Donations – \$8,101
2. Court Appointed Special Advocate (CASA) – Federal and State Revenue (\$107,372) and FY 2017 General Fund Operating Budget: Community Support (\$78,000) – \$185,372
3. Newport News Public Schools (NNPS) – General Obligation Bond Fund: HVAC Replacement Projects for Gildersleeve and Hines Middle Schools – \$4,400,000

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

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 – Rabbi Gershon Litt, Adath Jeshurun and Hillel at Christopher Newport University

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

D. Presentations

E. Public Hearings

1. Ordinance Authorizing Change of Zoning No. CZ-2016-0001, to Bland Boulevard, LLC., for Property Located at 615 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow Retail Development

ACTION: A REQUEST TO ADOPT AN ORDINANCE AMENDING ORDINANCE NO. 5028-97, AMENDING THE ZONING DISTRICT MAP FOR CHANGE OF ZONING APPLICATION NO. CZ-2016-0001, BY BLAND BOULEVARD, LLC., FOR PROPERTY LOCATED AT 615 BLAND BOULEVARD AND ZONED M1 LIGHT INDUSTRIAL TO C1 RETAIL COMMERCIAL WITH PROFFERS, TO ALLOW FOR RETAIL DEVELOPMENT.

- BACKGROUND:**
- The request includes revised proffers that limit the use of the property to retail uses allowed by-right or with conditional use permit in the C1 Retail Commercial district.
 - The Change of Zoning is inconsistent with the *Framework for the Future 2030* Comprehensive Plan and the *Patrick Henry Commercenter Plan*.
 - On January 4, 2017, the City Planning Commission voted 5:3 to recommend approval of the request with proffers.

Vote on Roll Call

For: Austin, Carpenter, Fox, Groce, Maxwell

Against: Jones, Mulvaney, Willis

Abstention: None

- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CZ-2016-0001 to Bland Blvd LLC

Staff Report and CPC Minute Excerpts

Revised Proffer Statement

sdm15166 CZ-2016-0001 re Bland Boulevard, LLC

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

February 8, 2017

TO: The Honorable City Council

FROM: City Manager

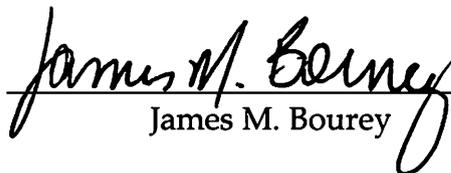
SUBJECT: Change of Zoning No. CZ-2016-0001, Bland Boulevard, LLC

Bland Boulevard, LLC requests a change of zoning for a 3.395 acre property located at a newly created parcel from a portion of 615 Bland Boulevard from M1 Light Industrial to C1 Retail Commercial with proffers.

The *Framework for the Future 2030* Comprehensive Plan land use map identifies industrial uses for the property. The *Framework's* economic development chapter lists the highest and best use for this particular area as being industrial as does *Patrick Henry Commercenter Plan*, adopted by City Council in January, 1992. Adding new commercial uses in the area is inconsistent with the adopted plans' recommendations.

The applicant revised the proffer statement presented to the Planning Commission by adding a proffer that reads as follows: *The Property shall be limited to the following principal uses and their accessory uses and structures: all uses permitted by-right or conditionally that are classified as "Retail Services" in the Code of Ordinances, City of Newport News, Virginia ("Zoning Ordinance"), or similar classification should the Zoning Ordinance be amended to retitle "Retail Services"*.

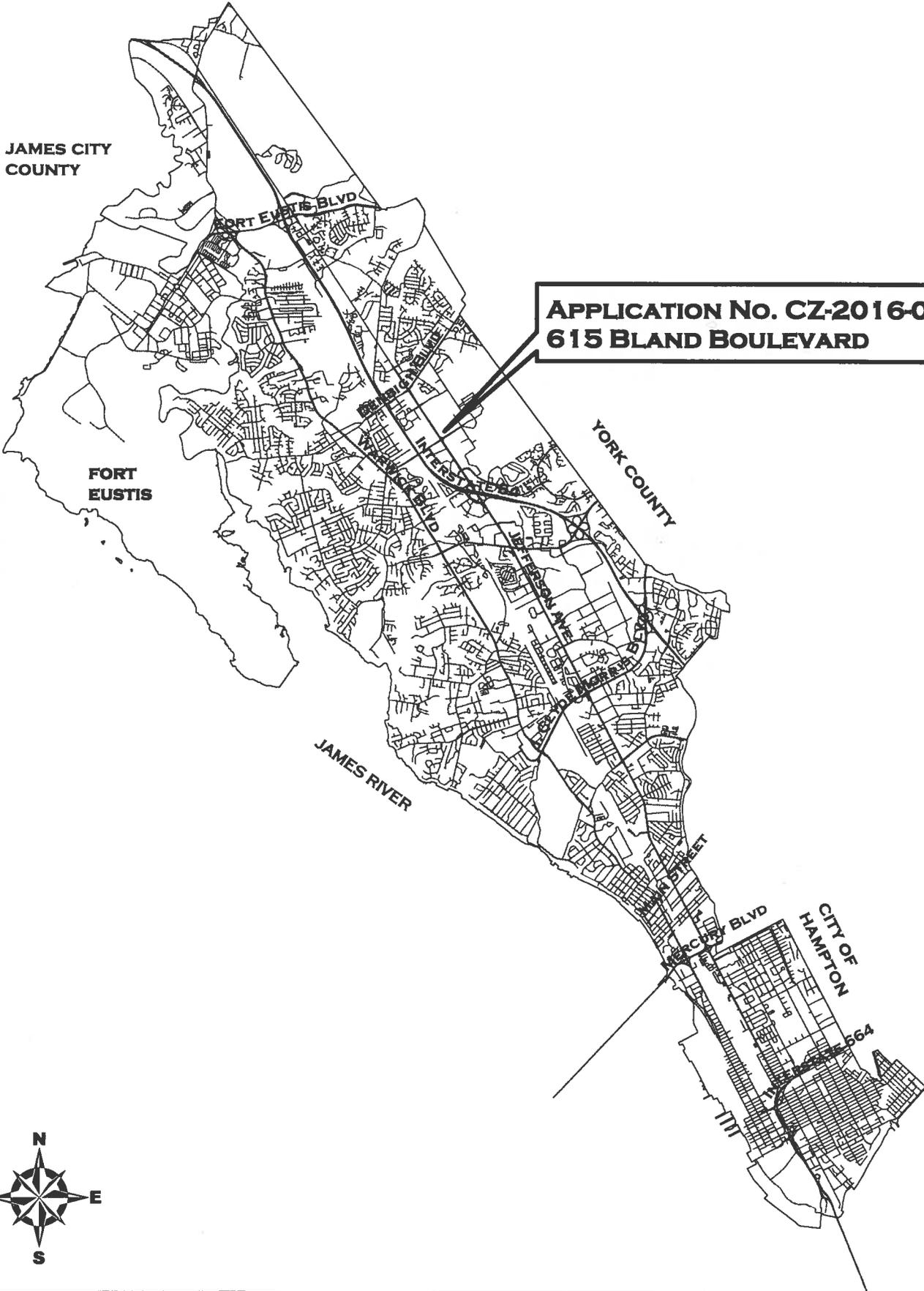
On January 4, 2017, the City Planning Commission voted 5:3 to recommend approval of the request to City Council. I recommend approval of CZ-2016-0001 with the revised proffers.


James M. Bourey

JMB:sgd

**CITY OF NEWPORT NEWS
CITY COUNCIL
JANUARY 24, 2017**

**CHANGE OF ZONING
APPLICATION NO. CZ-2016-0001
BLAND BOULEVARD, LLC**



**APPLICATION No. CZ-2016-0001
615 BLAND BOULEVARD**



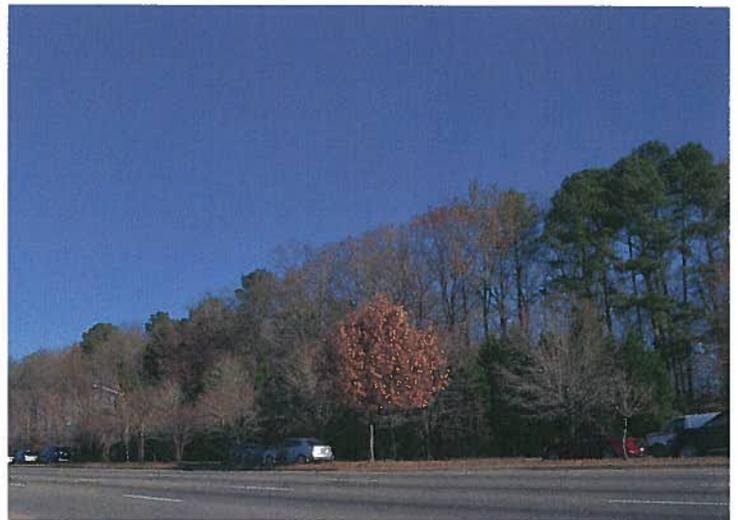
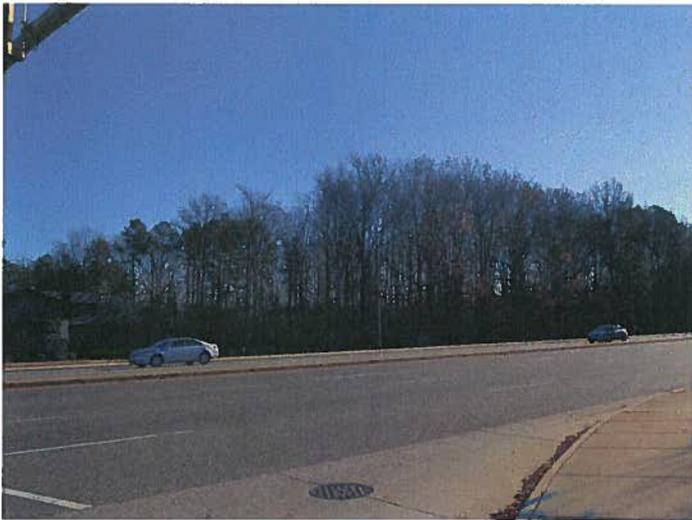
CHANGE OF ZONING APPLICATION NO. CZ-2016-0001 BLAND BOULEVARD, LLC

APPLICANT/OWNER Bland Boulevard, LLC
LOCATION Portion of 615 Bland Boulevard
PRESENT USE Vacant

ZONING M1 Light Industrial
FRAMEWORK Industrial (Appendix A-2)

ACREAGE 3.395 acres

REQUEST Change of zoning from M1 Light Industrial to C1 Retail Commercial with proffers to allow for retail development



FACTS

- North** Hotel and restaurant on properties zoned C1 Retail Commercial and M1 Light Industrial, respectively
- South** Continental Corporation on property zoned M1 Light Industrial
- East** Continental Corporation on property zoned M1 Light Industrial
- West** Jefferson Commons shopping center and a car dealership on properties zoned C1 Retail Commercial and C2 General Commercial, respectively

Zoning History M1 Light Industrial since 1969 and unchanged when the citywide comprehensive rezoning became effective August 1, 1997

Regulatory Review A change of zoning from M1 Light Industrial to C1 Retail Commercial is being requested for a 3.395 acre portion of a 30.79 acre parcel, to allow retail uses. (See Appendix A-5.)

The conceptual site plan proposes a 39,744 square feet commercial building to be occupied by a furniture store. Vehicular access will be provided from a right-in right-out access point on Jefferson Avenue.

Section 45-3405 of the zoning ordinance permits a property owner to offer proffers at the time of application for a change of zoning. If accepted by City Council, these

proffers will govern the development and use of the property. (See Appendix-A-4.)

The Site Regulations require that a 16 foot landscape strip be located along Jefferson Avenue.

The zoning ordinance requires a minimum of 1 parking space for every 250 square feet of floor area and a maximum of 1 parking space for every 200 square feet of floor area dedicated to retail uses which translates to a minimum of 159 and a maximum of 199 parking spaces for a 39,744 square feet retail building. However, for a furniture store, the zoning ordinance requires no more than 1 parking space for every 500 square feet of floor area or a maximum of 80 spaces for the proposed building. The conceptual plan submitted indicates 168 parking spaces will be provided. (See Appendix A-5.)

The ordinance requires a 20 foot landscaped transitional buffer area between commercial and industrial zones which currently occurs along Jefferson Avenue for the 30.79 acre property. If the change of zoning is approved, the existing buffer will be removed exposing the back of the existing industrial operation. Although the proposed site plan identifies a transitional buffer area on the industrial property, the building code requires a 60 foot unobstructed perimeter adjacent to the industrial building.

A subdivision plat to create the 3.39 acre parcel has been submitted for review and must be approved prior to the change of zoning.

The site is located within the airport overlay district. The purpose of the district is to regulate the use of property in the vicinity of Newport News/Williamsburg International Airport. The overlay district requirements limit the height and location of any buildings within the property. The Peninsula Airport Commission expressed their support for the change of zoning while pointing out that “the subject request lacks substantial proffers that would address very important information like traffic improvements.”

The Department of Engineering does not object to the application; however, they note that there are significant wetland systems on the parcel per a recent preliminary jurisdictional determination from U.S. Army Corps Of Engineers (USACOE). (See Appendix A-8.) A permit to fill wetlands will be needed from USACOE and Department of Environmental Quality (DEQ) to develop the site. Further, the parcel is adjacent to federally confirmed wetlands and will discharge untreated stormwater into those wetlands. The applicant is proffering that there shall be mitigation in conformance with the requirements of DEQ and the USACOE. (See Appendix A-4.)

Engineering also notes that the proposed, but not proffered, use is within acceptable traffic impact limits, however should the use change, the traffic impact would need to be reevaluated. (See Appendix A-7.)

The Department of Development acknowledged the need to preserve manufacturing uses in certain areas of Newport News. They pointed out that acreage devoted to manufacturing in the city is not increasing and efforts should be made to protect areas currently devoted to manufacturing uses. By doing so, they stated, the city will continue to have the opportunity to enhance the sustainable mix of uses and employment that has benefitted the city’s economy.

The departments of Codes Compliance, Public Works, Public Utilities, Fire, Police,

Parks and Recreation and Tourism have no objection to the request.

**Comprehensive Plan
Review**

The *Framework for the Future 2030* comprehensive plan land use map identifies industrial uses for the property. (See Appendix A-2.) The proposed change of zoning is not consistent with this recommendation.

The subject property is located within the *Patrick Henry Commercenter Plan*, adopted by City Council in January, 1992. As stated in the *Patrick Henry Commercenter Plan*, one of the objectives guiding the plan was to recommend and arrange land uses to minimize traffic congestion. Expanding commercial property on this side of Jefferson Avenue would set a precedent that could result in more intense retail uses requiring direct access from Jefferson Avenue, within proximity to a congested intersection. This would create the potential for increased traffic conflicts as both customers as well as distributors try to get in and out of these parcels from Jefferson Avenue.

The original *Framework for the Future*, adopted by City Council in November, 1993 identified commercial uses for the land directly across Jefferson Avenue. Based on that recommendation, the 1997 citywide comprehensive rezoning changed the zoning for the area today occupied by Jefferson Commons, from M1 Light Industrial to C1 Retail Commercial.

The 2008 *Framework for the Future 2030* comprehensive plan's economic development chapter lists the highest and best use for this particular area as being industrial. Moreover, Strategy 7.1.2 specifically states that the area should develop for light industrial, office, and/or medical related development. Adding new commercial uses in the area is inconsistent with this strategy. Moreover, any change of zoning at this site will reduce the existing buffer and expose the back of an active industrial use to Jefferson Avenue. Any future expansion to the current industrial site would be minimized.

In discussing the city's responsibilities regarding private land holdings, the *Framework* states that the city can preserve critical parcels for their highest and best use through such mechanisms as careful zoning and rezoning. It is evident that the land use designations for the area continued to recognize the need to preserve industrial uses in proximity to the airport while still allowing commercial uses elsewhere on the corridor.

The *Framework* envisioned the Bland Regional Center across Jefferson Avenue from the site as the area to contain retail development. To achieve that goal that area was identified in the land use map for commercial uses allowing for changes of zoning from industrial to commercial. This was implemented with the 2008 rezoning of the Jefferson Market Place at the southwest corner of the intersection from M1 Light Industrial to C1 Retail Commercial.

Further, the *Framework* speaks to the importance of better landscaping at all four corners of the Bland Boulevard and Jefferson Avenue intersection as well as limiting signage as this intersection marks the entrance to the airport. Allowing a commercial development on the east side of the intersection jeopardizes the current buffering and landscaping as well as introduces the potential for obtrusive signage and additional traffic conflicts.

The *Framework's* recommendations are reinforced by *The Newport News/Williamsburg International Airport Master Plan Update (2014)*, which analyzes existing conditions and facility needs and identifies congestion issues at its

primary access from Bland Boulevard. The plan finds that congestion at the entrance to the airport is due to its use by non-airport traffic. In order to solve this issue, the plan recommends studying a way to segregate airport traffic from local roadways as well as creating a more direct access from I-64. Increasing non-airport traffic conflicts by allowing new commercial development on Jefferson Avenue in proximity to the entrance would only exacerbate the existing congestion issues pointed out in the plan.

ANALYSIS

The proposed change of zoning is being requested to allow for commercial uses that are not possible under the current industrial zoning. Although the application is for a 39,744 square foot furniture store, that particular use is not being proffered. Therefore, if the change of zoning is approved, any commercial use allowed within the C1 Retail Commercial zoning district could occupy the building in the future.

The applicant has voluntarily provided eight proffers that assure compliance with existing code, zoning and state regulations including all site plan requirements and wetlands mitigation. Substantial conformance with elevations prepared by CASCO, dated October 31, 2016 that show a contemporary brick and glass commercial building to be reviewed and approved by the Director of Planning is also being proffered. (See Appendix A-4 & A-6.)

The creation of a commercially zoned parcel abutting light industrial zoned properties on three of the four sides would impose the requirement for a 20 foot landscape buffer on those surrounding sites if they are developed in a different manner in the future. The applicant is not proposing any landscaping on the new parcel that will buffer it from those properties. Of special concern is the fact that the rear of an existing industrial operation that is currently buffered from view from Jefferson Avenue would be exposed with this development. Moreover, the building code requirement to maintain a 60 foot unobstructed perimeter around the buildings prevents any landscaping from being installed in the area denoted as a 20 foot buffer on the proffered site plan. Other conflicts also exist in this area, such as a picnic area that services the existing industrial operation.

A memorandum prepared by AES Consultant Engineers and dated November 7, 2016, addresses the traffic generation by the proposed furniture store. (See Appendix A-7.) The Department of Engineering reviewed the memorandum and was satisfied that the traffic generation is such that no other traffic studies are required at this time. If the use becomes a more intensive commercial use in the future, it is expected a new review will be triggered.

The creation of the new parcel requires an entrance directly from Jefferson Avenue as the new parcel is not accessible from any other roads. This has the potential to exacerbate existing traffic congestion at the main airport access which as pointed out in the *Newport News/Williamsburg International Airport Master Plan Update (2014)*, is a major concern with no short term solutions.

CONCLUSION

The proposed change of zoning is not consistent with the *Framework for the Future 2030* comprehensive plan land use map. The proposed zoning is in direct conflict with the *Framework's* economic development recommendations to preserve the area for light industrial use as well as with recommendations to provide better landscaping along Jefferson Avenue and an attractive entrance to a regional asset, Newport News/Williamsburg International Airport.

Further, reducing the area dedicated to industrial uses is contrary to the recommendations in the adopted *Patrick Henry Commercenter Plan* and could have negative impacts on the capacity for expansion of existing or future industrial operations at this location.

**STAFF
RECOMMENDATION**

It is recommended that the City Planning Commission recommend to City Council denial of change of zoning CZ-2016-0001 for a 3.395 acre portion of the property located at 615 Bland Boulevard from M1 Light Industrial to C1 Retail Commercial with proffers.

**CPC
RECOMMENDATION**

On January 4, 2017, the Planning Commission voted 5:3 to recommend approval of the change of zoning to the City Council.

APPENDIX

A-1 VICINITY/ZONING MAP

A-2 *FRAMEWORK FOR THE FUTURE LAND USE PLAN MAP*

A-3 AERIAL

A-4 PROFFERS

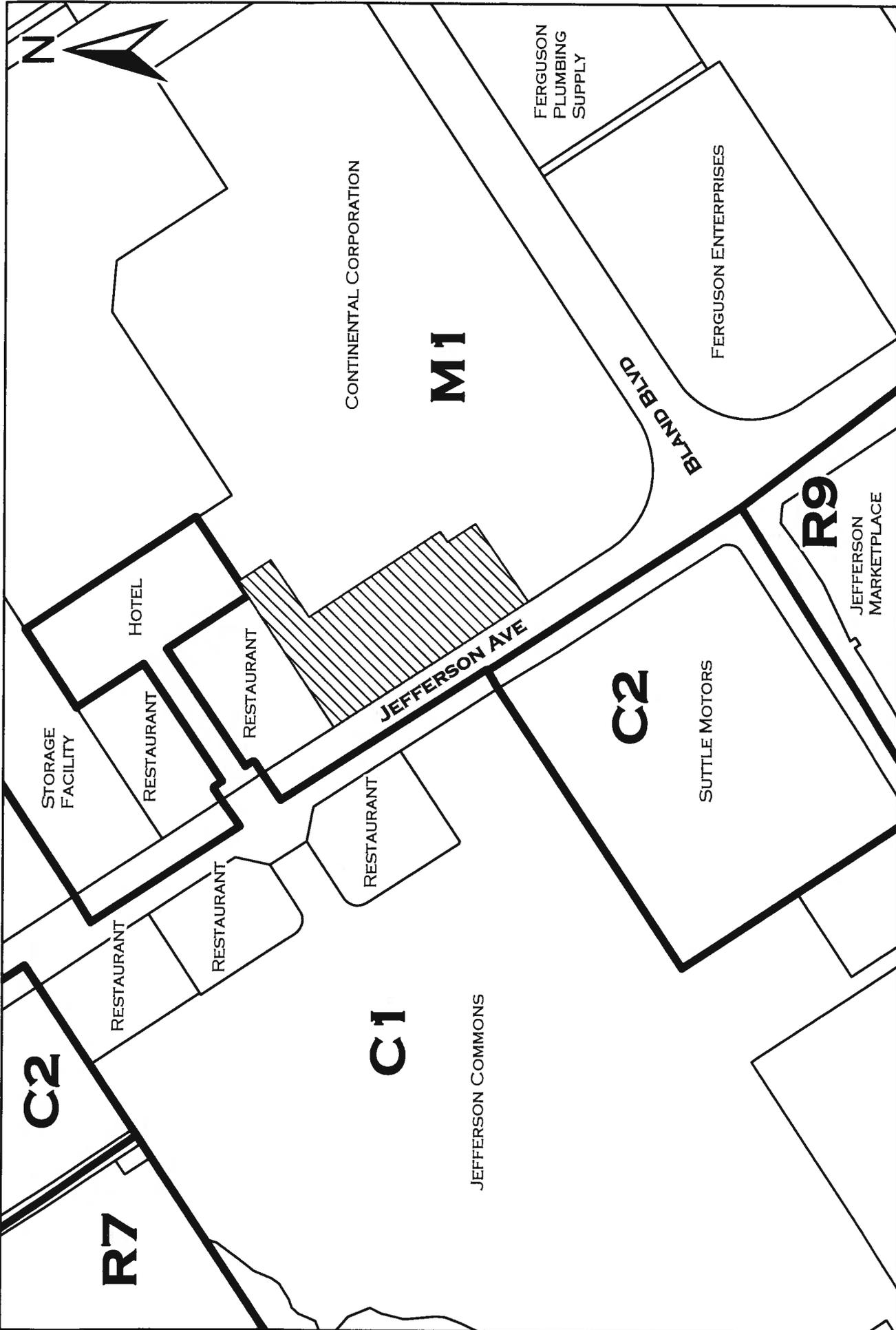
A-5 CONCEPTUAL SITE PLAN

A-6 ELEVATIONS

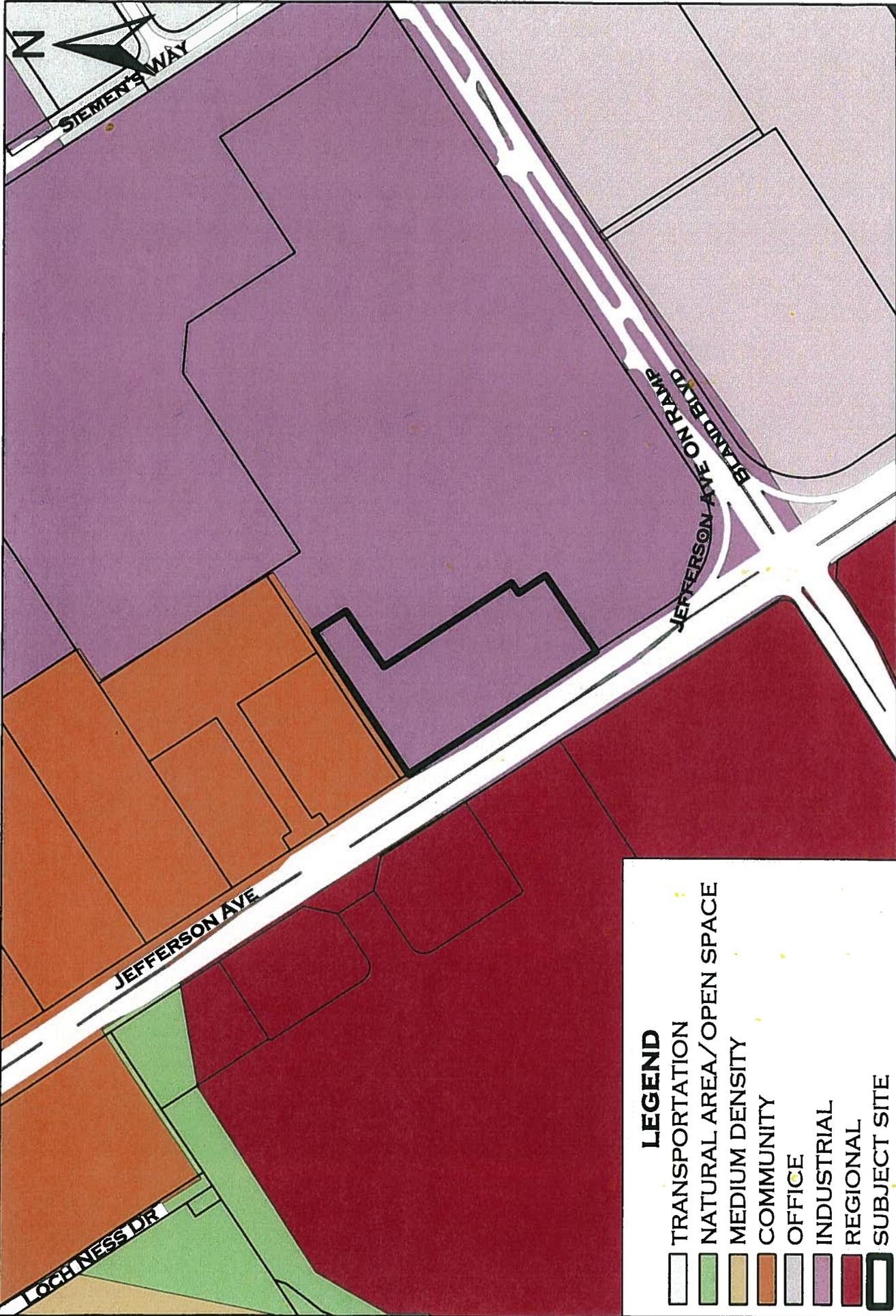
A-7 TRAFFIC GENERATION MEMORANDUM

A-8 WETLANDS DELINEATION

A-9 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF JANUARY 4, 2017



BLAND BOULEVARD, LLC CZ-2016-0001



LEGEND

- TRANSPORTATION
- NATURAL AREA/OPEN SPACE
- MEDIUM DENSITY
- COMMUNITY
- OFFICE
- INDUSTRIAL
- REGIONAL
- SUBJECT SITE

**FRAMEWORK FOR
THE FUTURE 2030**

BLAND BOULEVARD, LLC



BLAND BOULEVARD, LLC CZ-2016-0001

CONDITIONED
PROFFER STATEMENT FOR CHANGE OF ZONING

TO: The Honorable Newport News City Council

Date: November 7, 2016
Revised: December 9, 2016
Application Number: CZ-2016-0001

In reference to the above request for a change of zoning:

Conditioned: Bland Boulevard, LLC hereby proffers the development of a 3.395 acre tract (A portion of Tax Id: 111000101) located at 615 Bland Boulevard in the City of Newport News (the "City"), as more particularly described on the attached Exhibit A (the "Property") shall be in accordance with the conditions set forth in this submission.

1. The Property shall be developed in substantial conformance with the conceptual site plan drawings entitled "PRELIMINARY SUBDIVISION PLAN FOR PARCEL A-2 PROPERTY OF BLAND BOULEVARD LLC – CITY OF NEWPORT NEWS", sealed on December 8, 2016 which is prepared by AES Consulting Engineers (the "Conceptual Site Plan"), and is attached hereto as Appendix A-2. The site plan that is submitted to and reviewed by the Site Plan Review Committee and subject to approval by the Director of Engineering shall be in substantial conformance with the Conceptual Site Plan and reviewed and approved by the Director of Planning prior to site plan approval. Minor changes are permitted as long as they do not change the character or basic concept of the development.
2. The building constructed on the Property shall be constructed in substantial conformance to the elevations entitled, "Building Elevations and Exterior Building Materials" prepared by CASCO, dated October 31, 2016, which Building Elevations and Exterior Building Materials are attached hereto as Appendix A-3. All final building elevations, including design, materials and colors shall be reviewed and approved by the Director of Planning prior to issuance of a building permit.
3. The applicant shall submit a Landscape Plan which shall be in conformance with the requirements of the Site Regulations, subject to the review and approval of the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan.
4. The applicant shall submit a Lighting Plan, to include the design, color and materials of all lighting fixtures, subject to the review and approval of the Director of Planning prior to site plan approval. All lighting on the Property shall be in conformance with those standards recommended by the Illumination Engineering Society of North America (IESNA). Lighting shall be installed and operated as shown on the approved plan. All exterior lighting on the

Property shall be downward and inward to the site and include full cutoff fixtures to minimize glare on public roads and adjacent properties.

5. All outdoor storage and displays of saleable items shall be prohibited.
6. All dumpsters and HVAC systems shall be screened from adjacent properties and right-of-way with materials and design approved by the Director of Planning prior to site plan approval.
7. The applicant shall submit a Traffic Memo, dated November 7, 2016, which was prepared by AES Consulting Engineers, which Traffic Memo is attached hereto as Appendix A-4.
8. There shall be mitigation of designated wetland areas reflected on the Jurisdictional Determination, made by the US Army Corps of Engineers dated December 2, 2016, which is attached hereto as Appendix A-5. Mitigation shall be in conformance with the requirements of the Department of Environmental Quality of the State of Virginia and the US Army Corps of Engineers.

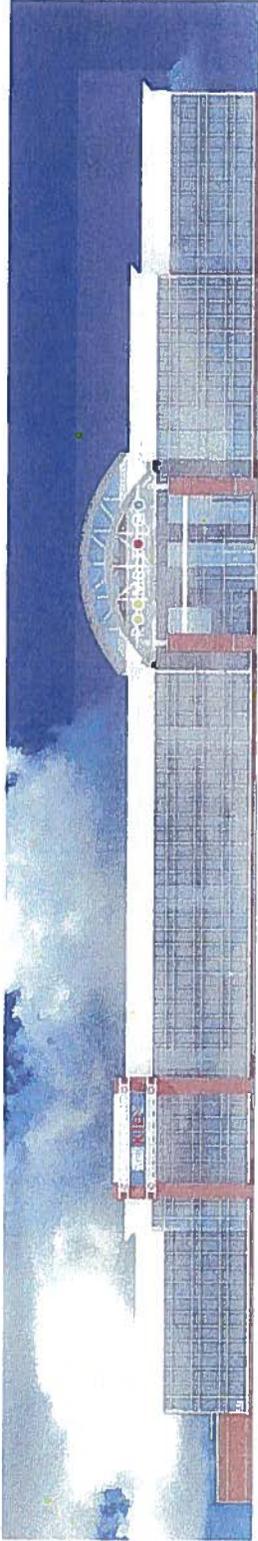
Legal Description of Property
A Portion of 11850 Jefferson Avenue, Newport News, Virginia

All that certain piece or parcel of land situate and lying in the city of Newport News, Virginia being a portion of Tax Parcel number 111000101, identified as Parcel A-2C on that certain plat (unrecorded) entitled Plat of Subdivision, Parcel A-2A, Property of Bland Boulevard, LLC, dated September 30, 2016 prepared by AES Consulting Engineers and more particularly described as follows:

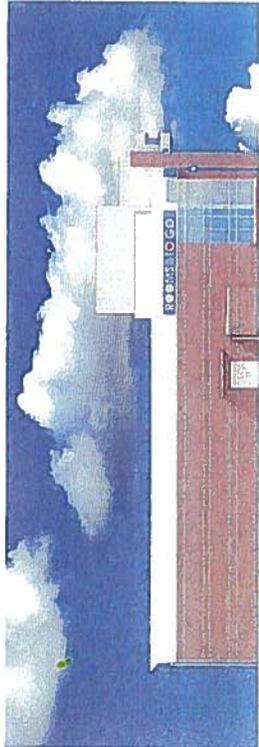
Beginning at a point the easterly right-of-way line of Jefferson Avenue, State Route 143 whose Northing is 3577162.54 and whose Easting is 12061996.26; Said point marking a corner common to the parcel herein described and the land of FCPT Restaurant Properties, LLC ;

Thence bearing N 56° 37' 30" E a distance of 418.94 feet ;
Thence bearing S 33° 21' 54" E a distance of 100.00 feet ;
Thence bearing S 56° 37' 30" W a distance of 170.19 feet ;
Thence bearing S 33° 22' 30" E a distance of 352.42 feet ;
Thence bearing S 56° 34' 57" W a distance of 31.37 feet ;
Thence bearing S 33° 22' 30" E a distance of 84.23 feet ;
Thence bearing S 56° 37' 30" W a distance of 217.37 feet ;
Thence bearing N 33° 22' 30" W a distance of 536.67 feet to the point of beginning.

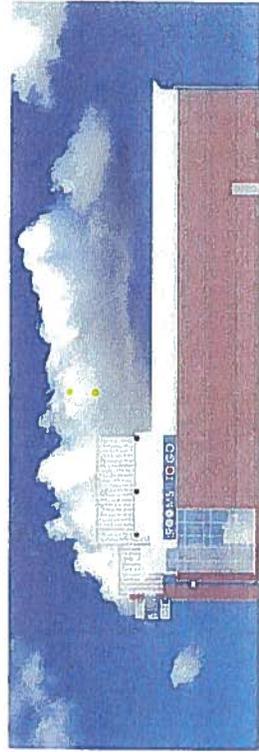
Containing 147,866 square feet or 3.395 acres, more or less



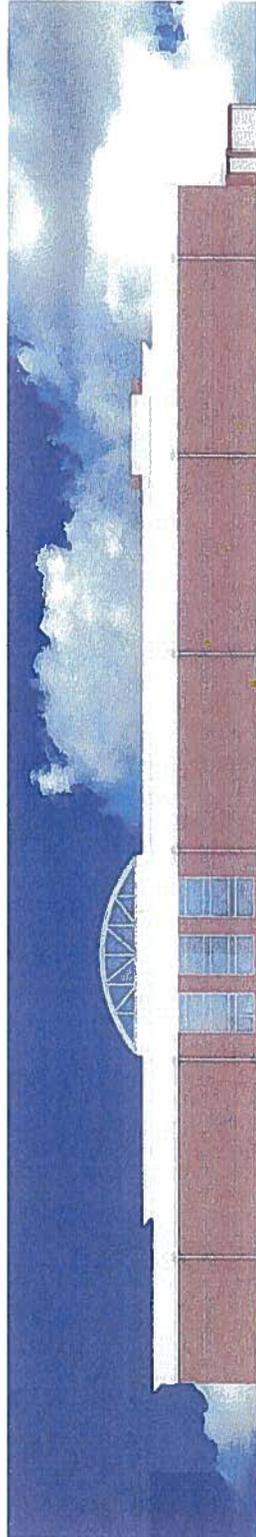
ELEVATION FRONT



ELEVATION LEFT



ELEVATION RIGHT



ELEVATION BACK



NEWPORT NEWS, VA
OCT 31ST 2016





Memorandum

DATE: November 7, 2016
FROM: Jason Grimes, P.E.
SUBJECT: Traffic Generation – Rooms to Go Jefferson Avenue
 Newport News, VA

The following traffic generation data is based on the ITE Trip Generation Manual, 9th Edition copyright 2012.

The proposed furniture store is proposed to have a floor area of approximately 39,745 square feet.

Weekday

AM Peak Traffic Generation is 0.40 per 1000 square feet of building
 = 0.40×39.75

AM Peak = 16 trips

PM Peak Traffic Generation is 0.53 per 1000 square feet of building
 = 0.53×39.75

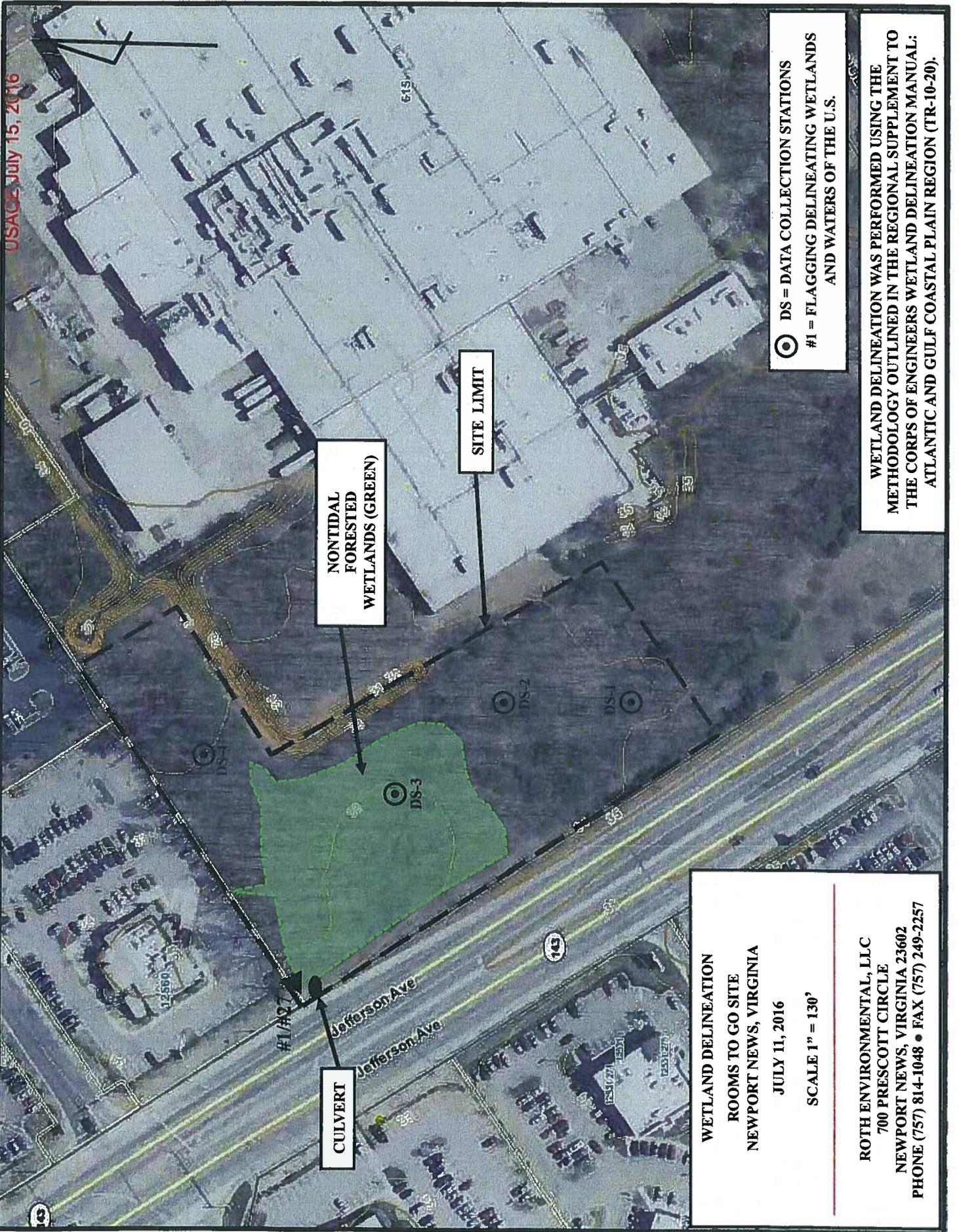
PM Peak = 22 trips

Weekend

Peak Traffic Generation is 0.95 per 1000 square feet of building
 = 0.95×39.75

Weekend Peak = 38 trips

USACE July 15, 2016



(●) DS = DATA COLLECTION STATIONS
 #1 = FLAGGING DELINEATING WETLANDS AND WATERS OF THE U.S.

WETLAND DELINEATION WAS PERFORMED USING THE METHODOLOGY OUTLINED IN THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: ATLANTIC AND GULF COASTAL PLAIN REGION (TR-10-20).

WETLAND DELINEATION
ROOMS TO GO SITE
NEWPORT NEWS, VIRGINIA
 JULY 11, 2016
 SCALE 1" = 130'
 ROTH ENVIRONMENTAL, LLC
 700 PRESCOTT CIRCLE
 NEWPORT NEWS, VIRGINIA 23602
 PHONE (757) 814-1048 • FAX (757) 249-2257

NONTIDAL FORESTED WETLANDS (GREEN)

SITE LIMIT

CULVERT

DS-3

DS-2

DS-1

Jefferson Ave

#1/#27

143

13

EXCERPTS FROM PLANNING COMMISSION MINUTES

January 4, 2017

CZ-2016-0001, Bland Boulevard, LLC Requests a change of zoning from M1 Light Industrial to C1 Retail Commercial with proffers on a 3.395 acre portion of a parcel located at 615 Bland Boulevard. The *Framework for the Future 2030* comprehensive plan recommends industrial uses for the site. The Parcel No. is 111.00-01-01.

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

Ms. Fox asked if the two restaurants and hotel adjacent to the subject property are located in an M1 zone. Mr. Gleiser stated the restaurants are permitted uses in an M1 zone and the hotel is not. Ms. Fox asked if this is a change to C1, what uses would be allowed. Mr. Gleiser stated most retail commercial uses are allowed by-right or with a conditional use permit. He stated if the rezoning is approved, a restaurant would be allowed by-right. Ms. Fox asked what would be allowed with the rezoning without a conditional use permit. Mr. Gleiser stated most retail uses would not require a conditional use permit in C1 because the property is not adjacent to residential uses. He stated many of the commercial uses that are allowed by conditional use permit require a conditional use permit because they are adjacent to residential uses, such as fast food restaurants with a drive-through. Ms. Fox asked if M1 zoning allows restaurants. Mr. Gleiser stated yes. Mr. Gleiser stated a restaurant in M1 would require a conditional use permit.

Ms. Willis stated she has concerns with the amount of impervious surface needed for 168 parking spaces. She asked why the building would require so many parking spaces. Mr. Gleiser stated they calculated the spaces needed for any retail commercial use. Ms. Willis asked if the applicant is planning for a furniture store or looking ahead for other uses. Mr. Gleiser stated he could not answer that. He stated the amount of parking they are proposing is the amount of parking that would be allowed for a retail use.

Ms. Willis asked if the non-tidal wetlands are due to water runoff from Jefferson Avenue or the impervious area from the restaurant. She asked where will the runoff go if you add more concrete. Mr. Gleiser stated he could not answer that question. Ms. Willis asked if there are proffers to handle the runoff. Mr. Gleiser stated the applicant included a proffer for mitigating the wetlands. Ms. Willis stated she is concerned about the possible flooding onto Jefferson Avenue, if that could happen, due to more parking spaces. Mr. Gleiser stated it might have an effect on other wetlands close by.

Mr. Mulvaney asked if under C1, because a furniture store has a reduced parking space requirement, are there any uses within C1 that would exceed the parking requirement currently being provided at 168 spaces. He stated a furniture store has a minimal parking space requirement, and other C1 uses have parking requirements up to 199

spaces. Mr. Mulvaney asked if there is any use currently where they denote 168 spaces, such a restaurant or high use grocery store that would require a greater use than 168 or 199. Mr. Gleiser stated a very large restaurant or series of restaurants might require more parking.

Mr. Mulvaney stated if this stays Light Industrial and Continental develops the subject property, what would be their restrictions for the portion that is fronting Jefferson Avenue, such as setbacks and landscaping, if they expand their current facility. Mr. Gleiser stated if they decided to expand within the site on the side, they would have to provide a 20 foot landscape buffer. Ms. Cotton stated the building can only be within 60 feet of the property line. She stated there is also a transitional buffer of 20 feet required. Ms. Cotton stated those two requirements would be constraining issues.

Mr. Mulvaney asked if the traffic analysis was done specifically for ingress and egress in and out of the furniture store with a specific use of the property and does not take into account anything past it or before it, or off Bland Boulevard. Mr. Gleiser stated that is correct.

Mr. Carpenter asked if the Rooms to Go building is built, Continental cannot extend their existing building toward Jefferson Avenue. Mr. Gleiser stated that is correct. Ms. Cotton stated if the Rooms to Go building is not built, then there is space for Continental to move toward Jefferson Avenue. Ms. Fox asked if that scenario could happen even with a buffer. Ms. Cotton stated she thinks there is more than 20 feet of distance there with which to work.

Ms. Willis asked if the subject property stays industrial, what size of an industrial building can go in there if you have 60 feet between each industrial building. Mr. Gleiser stated that measurement is independent of whether or not the building is industrial, you have to have that separation. Ms. Willis asked if there is space there where an industrial building can be built. Mr. Gleiser stated if it is an addition to the Continental building yes, but he does not think another building could go there.

Mr. Carpenter opened the public hearing.

Ms. Lindsey Carney, 12350 Jefferson Avenue, Attorney for the applicant, spoke in favor of the application. She thanked Planning staff for their assistance. Ms. Carney gave a brief presentation of the application.

Mr. Jones asked where the proposed ingress and egress would be made between the subject property and the adjacent restaurants and hotel. Ms. Carney stated we have negotiated with the hotel owner and the owners of the Red Lobster and Olive Garden, because you will have to cross all three parcels to get to the stoplight that currently exists. Mr. Jones asked if they are agreeable to creating an access way with Rooms to Go. Ms. Carney stated that as recently as January 3, 2017, she received word that everyone had approved the access way; however, they are currently waiting to have it in writing.

Ms. Willis asked if the ingress and egress, proposed landscaping, are things that could be proffered. Ms. Spratley stated proffers are voluntary and it is up to the applicant to voluntarily bring proffers to the Planning Commission. Ms. Carney stated that the proposed landscape plan that shows the screening will be part of the landscape plan that has already been proffered. She stated the landscape plan remains subject to approval of the Director of Planning; however it will be included in our proffered landscape plan. Ms. Carney stated once we have approval for the ingress and egress with the adjacent hotel and restaurants finalized, it will go on the site plan, which also has to be approved by the city.

Ms. Austin asked for more information on the wetlands and wetlands mitigation. Ms. Carney stated Roth Engineering and Environmental performed a wetlands delineation, which was submitted to the Army Corps of Engineers (ACE) and it has been confirmed that there is 1.4 acres of non-tidal forested wetlands on the subject property. She stated we have applied for a permit to disturb those wetlands. Ms. Carney stated that permit will have to come from the ACE and from Department of Environmental Quality. She stated what we have proposed is to mitigate off-site, which means we will have to buy credits off-site, at a ratio of 2:1 in order to disturb the wetlands on-site. Ms. Carney stated those credits are going to cost the developer \$30 to \$40,000 per credit. Ms. Austin asked if that means we will disturb the wetlands on the property, but preserve wetlands somewhere else. Ms. Carney stated yes, we will have to purchase them out of the mitigation bank. Ms. Austin asked what happens to the runoff water from the parking lot. She asked if any part of the parking lot would be pervious. Ms. Carney stated it is not going to be pervious, but we will have to comply with the new stormwater regulations regarding quantity and quality, and our final plans for on-site stormwater also have to be approved as part of the site plan regulations. Ms. Austin asked if the best practice may be a small retention pond. Ms. Carney stated that, because there is not a BMP on the conceptual site plan, they are still exploring the best way to handle the runoff. She stated it will be part of the site plan approval process. Ms. Austin asked if Ms. Carney knew about the storm sewer situation along Jefferson Avenue and if it is capable of handling the additional load. Ms. Carney stated her engineers tell her it is capable of handling it.

Ms. Fox asked why there is so much parking specified. Ms. Carney stated our parking was not based on a projection of any future use. She stated they used a calculation for a superstore, such as a Costco, because of the size of the building. Ms. Carney stated they plan to apply for a 30% administrative approval, which is allowed after the application goes through. She stated administratively, the Zoning Administrator can approve a 30% increase of the maximum amount. Mr. Carpenter stated the city requirements are 80 parking spaces and you are requesting 168 so you would end up with 30% more than the 80, at approximately 104 parking spaces. Ms. Carney stated yes.

Ms. Fox asked if Continental has expressed any concerns about the rezoning of this site. Ms. Carney stated the property owner has approached both Continental and

Ferguson to make sure that there were no objections from either of them, and neither of them expressed any objection to the proposed use or the rezoning.

Ms. Fox asked if Newport News traffic engineers have had an opportunity to weigh in on the crossover discussed from the furniture store and the restaurants. Ms. Carney stated they have not looked at the access easement. Ms. Fox stated it is important that they weigh in on its feasibility. Ms. Carney stated she does not know if Engineering would get involved because it is between private parties.

Mr. Jones asked if the ingress and egress would allow delivery trucks to go through the stoplight instead of the entrance on Jefferson Avenue. Ms. Carney stated the idea is that people that are coming out of the furniture store, if they needed to go left to travel south on Jefferson Avenue, rather than go out the right-in right-out and go across three lanes of traffic to make a U-turn at the Smokey Bones, they could instead use the cross-access easement and turn left at the stoplight. She stated it would really only be utilized by those people coming out of the furniture store to travel south on Jefferson Avenue. Mr. Jones stated it will still create more traffic at that stoplight. Ms. Carney stated it can, but people who are going to travel north are going to use the right-in right-out access. Ms. Fox stated this cross-over traffic would primarily be used for people who are traveling south or east. Ms. Carney stated yes, that is correct.

Mr. Mulvaney asked, if we do the change of zoning from M1 Light Industrial to C1 Retail Commercial, when the rezoning is in effect, you can put anything on the subject property and Rooms to Go does not have to go into that spot. He stated there have been a lot of references to tax base employment, but it can become any of the other uses allowed in C1. Ms. Carney stated after the rezoning, no, because that would be a breach of contract. She stated but if we sell it to Rooms to Go and they turn around and sell it to another retail user, there is no restriction on that.

Mr. Mulvaney stated that he is conflicted on whether or not the airport agrees or disagrees with this application. He stated on one hand it does not go with the master plan, but on the other hand the airport is saying they are okay with it. Ms. Carney stated the only clarification she has is that they would have liked to have seen traffic improvements proffered, but based on our use, our user is not going to proffer traffic improvements because of the minimal trip generation.

Mr. Mulvaney stated you are specific to this use, but you are abutting other high impact uses, and you are only feet away from two other intersections. He asked if there are any plans to do an additional traffic analysis or survey to determine the access going through the cross-access easement with the adjacent restaurants and hotel, and what those combined would do further up on Jefferson Avenue and Denbigh Boulevard. Ms. Carney stated that at this point there is no plan because based on our discussions with the Engineering Department for the city, they felt a traffic memo with just trip generations for this use was sufficient.

Mr. Jeff Finkel, 400 Perimeter Center Terrace NE, Atlanta, Georgia, Senior Vice-President of Rooms to Go, applicant, gave a brief history of the application. Mr. Finkel stated that, in regard to the question about the parking, it is a company policy to always try to do general retail parking for two reasons. He stated we need to get mortgage financing on the property, and if we need to change the use in the future, we need flexibility or the real estate loses its value tremendously. Mr. Finkel stated this is a real estate investment for us and our company always buys these properties with cash, without financing to begin with, and then we mortgage them when we open the store. He stated we own 95% of our properties, as we are self-developers who buy the property and ensure it gets built. Mr. Finkel stated we love this area and would love to be in the city, and this is the location for us. He stated that, as policy, we always take the best locations and it is our hope that our application is approved so we can move forward. Mr. Finkel stated he will proffer that we will use this property for retail, and will not replace it with any of the C1 uses that might be objectionable.

Mr. Mulvaney asked if that is an official proffer Mr. Finkel just put on the record. Mr. Finkel stated yes, we will proffer that we will use this site for retail and not for non-retail purposes. Ms. Spratley stated it would be inappropriate for the proffers to be changed orally. She stated there would need to be some type of resubmission. Mr. Carpenter asked Ms. Carney to put something in writing with regard to Mr. Finkel's statement. Ms. Carney agreed to do so.

Mr. Finkel stated that he wants the city to be assured that we have the best intentions here and for us, the highest and best use of the property is commercial retail.

Mr. Carpenter closed the public hearing.

Mr. Groce made a motion to recommend approval of change of zoning CZ-2016-0001 to City Council. The motion was seconded by Dr. Maxwell.

Dr. Maxwell stated he is from Atlanta and he believes in Rooms to Go and thinks it is a great place and he thinks great things are going to come to city. He stated he would rather see that in that particular spot instead of an industrial building because he is all about aesthetics.

Mr. Mulvaney stated he does not disagree and thinks that Rooms to Go is a great use; however, he thinks that there was something orally presented as a proffer that needs to be resubmitted and he thinks we would be doing an injustice to go ahead and approve the application without that opportunity. He stated that in his opinion, he will have to go against the current motion and would suggest a deferral if the motion does not pass.

Mr. Jones stated that another factor is the cross-access easement traffic and he thinks it is a rather important proffer.

Mr. Carpenter asked if we can accept something in writing at the public hearing. Ms. Spratley stated she would not recommend that.

Mr. Carpenter stated when this case first came forward he found it to be a difficult one because he always talks about how important and how strong the comprehensive plan is, but in this instance, his vision for this piece of property is that is a good spot for retail use.

Vote on Roll Call

For: Maxwell, Fox, Austin, Groce, Carpenter

Against: Jones, Mulvaney, Willis

Abstention: None

The Planning Commission voted 5:3 to recommend approval of change of zoning CZ-2016-0001 to City Council.

CONDITIONED
PROFFER STATEMENT FOR CHANGE OF ZONING

TO: The Honorable Newport News City Council

Date: November 7, 2016
Revised: December 9, 2016
Revised: January 11, 2017
Application Number: CZ-2016-0001

In reference to the above request for a change of zoning:

Conditioned: **Bland Boulevard, LLC hereby proffers the development of a 3.395 acre tract (A portion of Tax Id: 111000101) located at 615 Bland Boulevard in the City of Newport News (the "City"), as more particularly described on the attached Exhibit A (the "Property") shall be in accordance with the conditions set forth in this submission.**

1. The Property shall be developed in substantial conformance with the conceptual site plan drawings entitled "PRELIMINARY SUBDIVISION PLAN FOR PARCEL A-2 PROPERTY OF BLAND BOULEVARD LLC – CITY OF NEWPORT NEWS", sealed on December 8, 2016 which is prepared by AES Consulting Engineers (the "Conceptual Site Plan"), and is attached hereto as Appendix A-2. The site plan that is submitted to and reviewed by the Site Plan Review Committee and subject to approval by the Director of Engineering shall be in substantial conformance with the Conceptual Site Plan and reviewed and approved by the Director of Planning prior to site plan approval. Minor changes are permitted as long as they do not change the character or basic concept of the development.

 2. The building constructed on the Property shall be constructed in substantial conformance to the elevations entitled, "Building Elevations and Exterior Building Materials" prepared by CASCO, dated October 31, 2016, which Building Elevations and Exterior Building Materials are attached hereto as Appendix A-3. All final building elevations, including design, materials and colors shall be reviewed and approved by the Director of Planning prior to issuance of a building permit.

 3. The applicant shall submit a Landscape Plan which shall be in conformance with the requirements of the Site Regulations, subject to the review and approval of the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan.

 4. The applicant shall submit a Lighting Plan, to include the design, color and materials of all lighting fixtures, subject to the review and approval of the Director of Planning prior to site plan approval. All lighting on the Property shall be in conformance with those standards recommended by the Illumination Engineering Society of North America (IESNA). Lighting
-

shall be installed and operated as shown on the approved plan. All exterior lighting on the Property shall be downward and inward to the site and include full cutoff fixtures to minimize glare on public roads and adjacent properties.

5. All outdoor storage and displays of saleable items shall be prohibited.

6. All dumpsters and HVAC systems shall be screened from adjacent properties and right-of-way with materials and design approved by the Director of Planning prior to site plan approval.

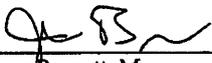
7. The applicant shall submit a Traffic Memo, dated November 7, 2016, which was prepared by AES Consulting Engineers, which Traffic Memo is attached hereto as Appendix A-4.

8. There shall be mitigation of designated wetland areas reflected on the Jurisdictional Determination, made by the US Army Corps of Engineers dated December 2, 2016, which is attached hereto as Appendix A-5. Mitigation shall be in conformance with the requirements of the Department of Environmental Quality of the State of Virginia and the US Army Corps of Engineers.

9. The Property shall be limited to the following principal uses and their accessory uses and structures: all uses permitted by-right or conditionally that are classified as "Retail Services" in the Code of Ordinances, City of Newport News, Virginia ("Zoning Ordinance"), or similar classification should the Zoning Ordinance be amended to retitle "Retail Services".

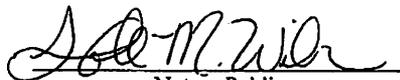
WITNESS the following signatures and seals:

Bland Boulevard, LLC,
a Virginia limited liability company

By: 
James Burnett, Manager

COMMONWEALTH OF VIRGINIA
CITY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me, January, 2017, by James Burnett, as Manager for and on behalf of Bland Boulevard, LLC, a Virginia limited liability company. He is personally known to me or has produced _____ as identification.


Notary Public

My commission expires: 11/30/2020

Notary Registration Number: 7522923

[Affix Notary Seal]

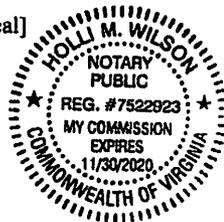


EXHIBIT A
Legal Description

Legal Description of Property
A Portion of 11850 Jefferson Avenue, Newport News, Virginia

All that certain piece or parcel of land situate and lying in the city of Newport News, Virginia being a portion of Tax Parcel number 111000101, identified as Parcel A-2C on that certain plat (unrecorded) entitled Plat of Subdivision, Parcel A-2A, Property of Bland Boulevard, LLC, dated September 30, 2016 prepared by AES Consulting Engineers and more particularly described as follows:

Beginning at a point the easterly right-of-way line of Jefferson Avenue, State Route 143 whose Northing is 3577162.54 and whose Easting is 12061996.26; Said point marking a corner common to the parcel herein described and the land of FCPT Restaurant Properties, LLC ;

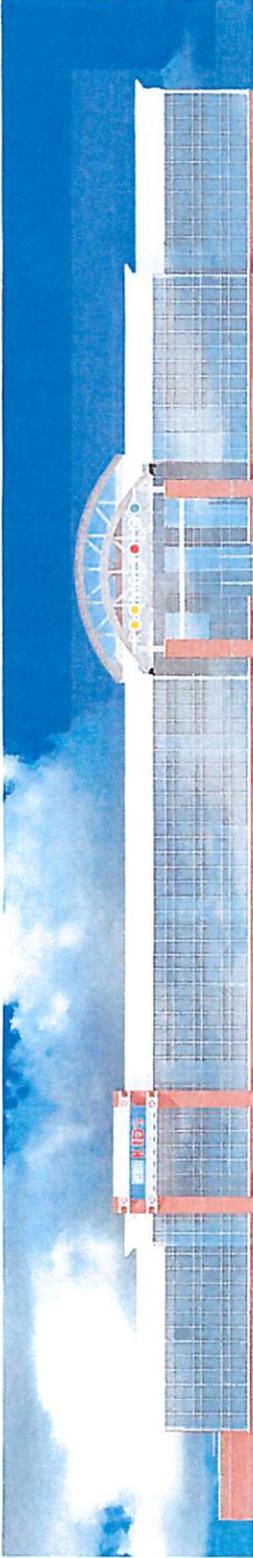
Thence bearing N 56° 37' 30" E a distance of 418.94 feet ;
Thence bearing S 33° 21' 54" E a distance of 100.00 feet ;
Thence bearing S 56° 37' 30" W a distance of 170.19 feet ;
Thence bearing S 33° 22' 30" E a distance of 352.42 feet ;
Thence bearing S 56° 34' 57" W a distance of 31.37 feet ;
Thence bearing S 33° 22' 30" E a distance of 84.23 feet ;
Thence bearing S 56° 37' 30" W a distance of 217.37 feet ;
Thence bearing N 33° 22' 30" W a distance of 536.67 feet to the point of beginning.

Containing 147,866 square feet or 3.395 acres, more or less

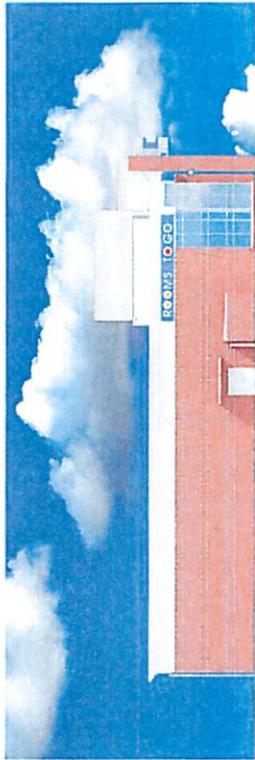
APPENDIX A-2

Preliminary Subdivision Plan

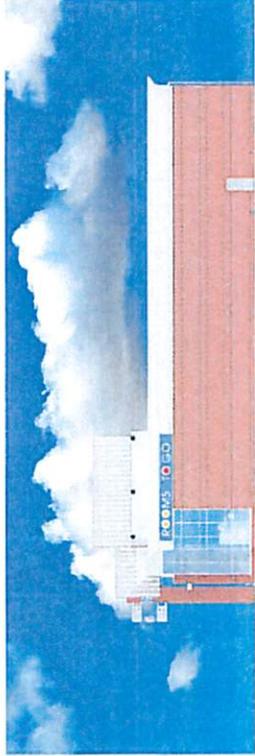
APPENDIX A-3
Building Elevations



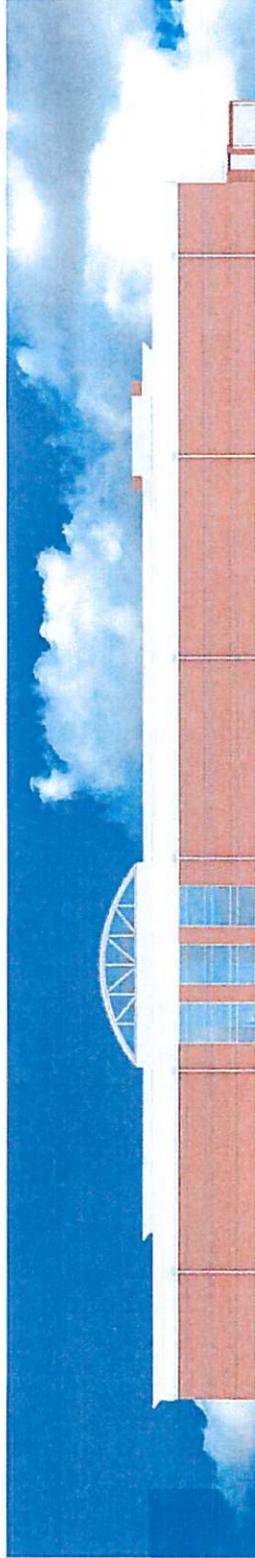
ELEVATION FRONT



ELEVATION LEFT



ELEVATION RIGHT



ELEVATION BACK



NEWPORT NEWS, VA
OCT 31ST 2016





APPENDIX A-4

Traffic Memo

Memorandum

DATE: November 7, 2016
FROM: Jason Grimes, P.E.
SUBJECT: Traffic Generation – Rooms to Go Jefferson Avenue
Newport News, VA

The following traffic generation data is based on the ITE Trip Generation Manual, 9th Edition copyright 2012.

The proposed furniture store is proposed to have a floor area of approximately 39,745 square feet.

Weekday

AM Peak Traffic Generation is 0.40 per 1000 square feet of building

$$= 0.40 \times 39.75$$

AM Peak = 16 trips

PM Peak Traffic Generation is 0.53 per 1000 square feet of building

$$= 0.53 \times 39.75$$

PM Peak = 22 trips

Weekend

Peak Traffic Generation is 0.95 per 1000 square feet of building

$$= 0.95 \times 39.75$$

Weekend Peak = 38 trips

S:\Jobs\W1044700-Rooms to Go Newport News\ For Others\Trip Generation Memo.docx



APPENDIX A-5

Confirmation of Jurisdictional Delineation



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

December 2, 2016

PRELIMINARY JURISDICTIONAL DETERMINATION

Southern Virginia Regulatory Section
NAO-2016-1303 (Lukas Creek, tributary to Warwick River)

Charles Amott, Rooms to Go
c/o Matt Roth, Roth Environmental, LLC
700 Prescott Circle
Newport News, VA 23602

Dear Mr. Amott:

This letter is in regard to your request for a preliminary jurisdictional determination for waters of the U.S. (including wetlands) on the approximately 4 acre site located immediately south of the Olive Garden restaurant on Jefferson Avenue and just north of the Bland Boulevard/Jefferson Avenue intersection in central Newport News, Virginia.

The map entitled "Wetland Delineation, Rooms To Go Site, Newport News, VA" by Roth Environmental, LLC dated July 11, 2016 and stamped as received by this office on July 15, 2016 (*copy enclosed*) provides the locations of waters and wetlands on the property listed above. The basis for this delineation includes application of the Corps' 1987 Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region and the positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation.

Discharges of dredged or fill material, including those associated with mechanized landclearing, into waters and/or wetlands on this site may require a Department of the Army permit and authorization by state and local authorities including a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ), a permit from the Virginia Marine Resources Commission (VMRC) and/or a permit from your local wetlands board. This letter is a confirmation of the Corps preliminary jurisdiction for the waters and/or wetlands on the subject property and does not authorize any work in these areas. Please obtain all required permits before starting work in the delineated waters/wetland areas.

This is a preliminary jurisdictional determination and is therefore not a legally binding determination regarding whether Corps jurisdiction applies to the waters or wetlands in question. Accordingly, you may either consent to jurisdiction as set out in this preliminary jurisdictional determination and the attachments hereto if you agree with the determination, or you may request and obtain an approved jurisdictional determination. This preliminary jurisdictional determination and associated wetland delineation map may be submitted with a permit application.

Enclosed is a copy of the "Preliminary Jurisdiction Determination Form". Please review the document, sign, and return one copy to me at nancy.d.hankins@usace.army.mil or via standard mail to US Army Corps of Engineers, Regulatory Office, and ATTN: Nancy Hankins, 803 Front Street Norfolk, Virginia 23510 within 30 days of receipt and keep one for your records. This delineation of waters and/or wetlands is valid for a period of five years from the date of this letter unless new information warrants revision prior to the expiration date.

If you have any questions, please contact me at (757)201-7044 or nancy.d.hankins@usace.army.mil

Sincerely,

HANKINS.NANCY.D.1367
109730

Digitally signed by HANKINS.NANCY.D.1367109730
DN: cn=HANKINS.NANCY.D.1367109730, o=USACE, ou=USACE, email=hankins.nancy.d@usace.army.mil, c=US

Nancy D. Hankins
Project Manager, Southern Virginia
Regulatory Section

Enclosures: Drawing, Preliminary Jurisdiction Determination Form, Supplemental Form, Administrative Appeals Form

cc: Virginia Department of Environmental Quality

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

| | | |
|---------------------------------------|--|-------------------|
| Applicant: Charles Amott, Rooms to Go | File Number: NAO-2016-1303 | Date: 12/2/2016 |
| Attached is: | | See Section below |
| <input type="checkbox"/> | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | A |
| <input type="checkbox"/> | PROFFERED PERMIT (Standard Permit or Letter of permission) | B |
| <input type="checkbox"/> | PERMIT DENIAL | C |
| <input type="checkbox"/> | APPROVED JURISDICTIONAL DETERMINATION | D |
| <input checked="" type="checkbox"/> | PRELIMINARY JURISDICTIONAL DETERMINATION | E |

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

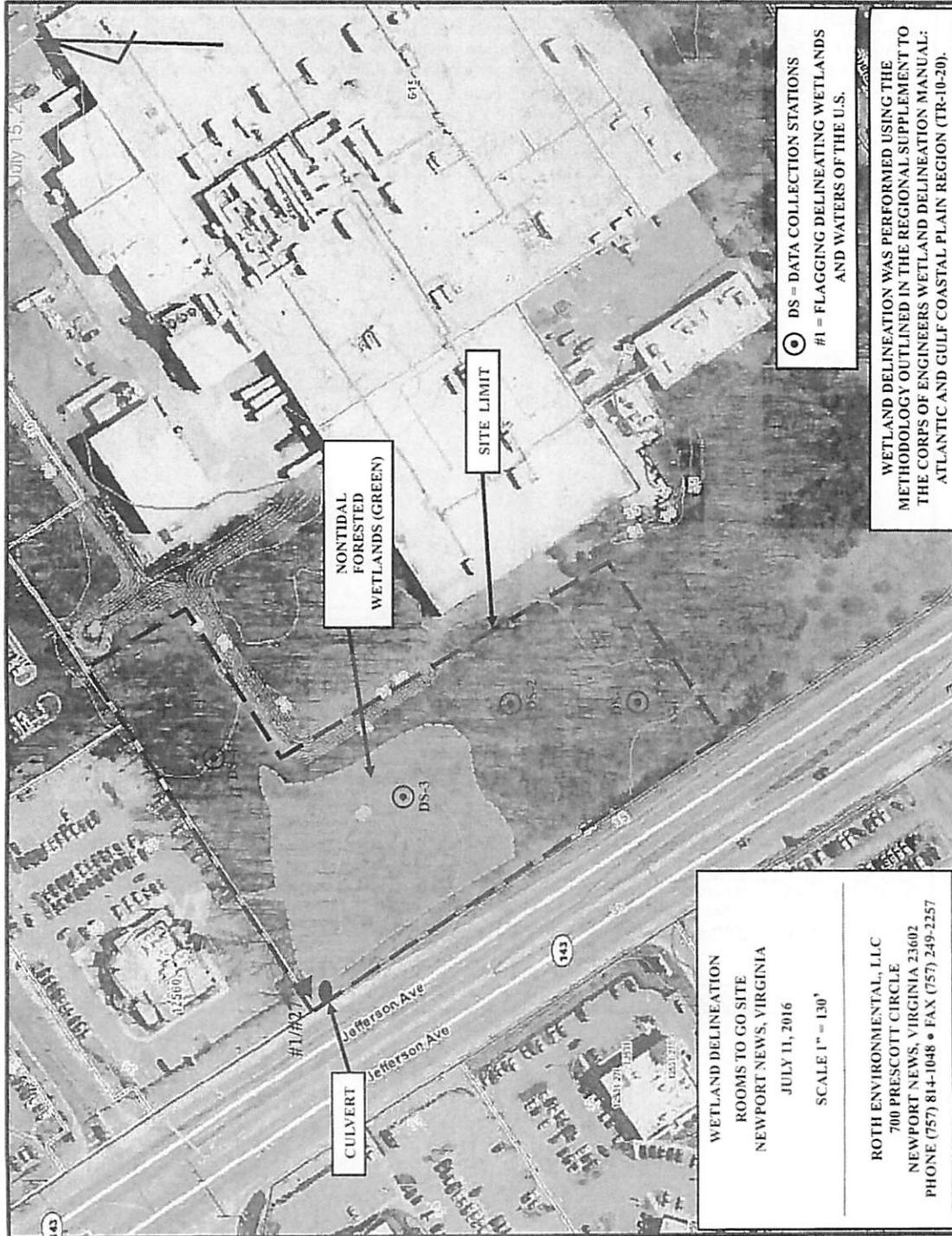
POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Ms. Nancy D. Hankins
U.S. Army Corps of Engineers
Fort Norfolk
803 Front Street
Norfolk, VA 23510
Telephone number: 757-201-7044

If you only have questions regarding the appeal process you may also contact:
Mr. James W. Haggerty
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700
Telephone number: 347-370-4650

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

| | | |
|---|-------|-------------------|
| <hr/> Signature of appellant or agent. | Date: | Telephone number: |
|---|-------|-------------------|



DS = DATA COLLECTION STATIONS
 #1 = FLAGGING DELINEATING WETLANDS
 AND WATERS OF THE U.S.

WETLAND DELINEATION WAS PERFORMED USING THE
 METHODOLOGY OUTLINED IN THE REGIONAL SUPPLEMENT TO
 THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL:
 ATLANTIC AND GULF COASTAL PLAIN REGION (TR-10-20).

WETLAND DELINEATION
 ROOMS TO GO SITE
 NEWPORT NEWS, VIRGINIA
 JULY 11, 2016
 SCALE 1" = 130'

ROTH ENVIRONMENTAL, LLC
 700 PRESCOTT CIRCLE
 NEWPORT NEWS, VIRGINIA 23602
 PHONE (757) 814-1048 • FAX (757) 249-2257



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

December 2, 2016

Supplemental Preapplication Information

Project Number: NAO-2016-1303

Applicant: Charles Arnott-Rooms to Go (Agent: Roth Environmental, LLC)

Project Location: The project area is located immediately south of the Olive Garden restaurant on Jefferson Avenue and just north of the Bland Boulevard/Jefferson Avenue intersection in central Newport News.

1. A search of the Virginia Department of Historic Resources data revealed the following:

- No known historic properties are located on the property.
- The following known architectural resources are located on the property:
- The following known archaeological resources are located on the property:
- The following known historic resources are located in the vicinity of the property (potential for effects to these resources from future development):

NOTE:

- 1) *The information above is for planning purposes only. In most cases, the property has not been surveyed for historic resources. Undiscovered historic resources may be located on the subject property or adjacent properties and this supplemental information is not intended to satisfy the Corps' requirements under Section 106 of the National Historic Preservation Act (NHPA).*
- 2) *Prospective permittees should be aware that Section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.*

2. A search of the data supplied by the U.S. Fish & Wildlife Service, the Virginia Department of Conservation and Recreation and the Virginia Department of Game and Inland Fisheries revealed the following:

- No known populations of threatened or endangered species are located on or within the vicinity of the subject property.
- The following federally-listed species may occur within the vicinity of the subject property: Northern long-eared Bat (*Myotis Septentrionalis*)
- The following state-listed (or other) species may occur within the vicinity of the subject property:

Please note this information is being provided to you based on the preliminary data you submitted to the Corps relative to project boundaries and project plans. Consequently, these findings and recommendations are subject to change if the project scope changes or new information becomes available and the accuracy of the data.

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: December 2, 2016

B. NAME AND ADDRESS OF PERSON REQUESTING PJD: Charles Amott, 400 Perimeter Center Terrace, Ste 800, Atlanta, GA 30346

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Norfolk District, Rooms to Go PJD, NAO-2016-1303

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: **Virginia** County/parish/borough: City: **Newport News**

Center coordinates of site (lat/long in degree decimal format):

Lat.: **37.1299** Long.: **-76.5128**

Universal Transverse Mercator:

Name of nearest waterbody: **Lukas Creek, tributary to Warwick River**

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: **October 24, 2016**

Field Determination. Date(s): **October 18, 2016**

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

| Site number | Latitude (decimal degrees) | Longitude (decimal degrees) | Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable) | Type of aquatic resource (i.e., wetland vs. non-wetland waters) | Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404) |
|-------------|----------------------------|-----------------------------|--|---|---|
| 1 | 37.1299 | -76.5128 | 1.4 acres | PFO | 404 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
 - 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:
-

ORDINANCE NO. _____

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.

WHEREAS, zoning application CZ-2016-0001 has been made by **BLAND BOULEVARD, LLC, owner and applicant**, for the rezoning of the hereinafter described property from the present M1 Light Industrial District to C1 Retail Commercial District with written and voluntarily proffered conditions; and

WHEREAS, the application has been considered by the Planning Commission for 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, Virginia:

Section 1. That Ordinance No. 5028-97 is hereby amended and reordained 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 Ordinance No. 5028-97 by changing the following described property from the present M1 Light Industrial District to C1 Retail Commercial District with written and voluntarily proffered conditions:

Legal Description:

All that certain piece or parcel of land situate and lying in the City of Newport News, Virginia, being a portion of Tax Parcel number 111000101, identified as Parcel A-2C on that certain plat (unrecorded) entitled Plat of Subdivision, Parcel A-2A, Property of Bland Boulevard, LLC, dated September 30, 2016 prepared by AES Consulting Engineers and more particularly described as follows:

Beginning at a point the easterly right-of-way of Jefferson Avenue, State Route 143 whose Northing is 3577162.54 and whose Easting is 12061996.26; said point marking a corner common to the parcel

herein described and the land of FCPT Restaurant Properties, LLC,

Thence bearing N 56° 37' 30" E a distance of 418.94 feet;
Thence bearing S 33° 21' 54" E a distance of 100.00 feet;
Thence bearing S 56° 37' 30" W a distance of 170.19 feet;
Thence bearing S 33° 22' 30" E a distance of 352.42 feet;
Thence bearing S 56° 34' 57" W a distance of 31.37 feet;
Thence bearing S 33° 22' 30" E a distance of 84.23 feet;
Thence bearing S 56° 37' 30" W a distance of 217.37 feet;
Thence bearing N 33° 22' 30" W a distance of 536.67 feet to the point
of beginning;

Containing 147,866 square feet or 3.395 acres, more or less.

The property has a Real Estate Assessor Tax ID number 111.00-01-01. The property has a common street address of 615 Bland Boulevard.

Section 2. That the rezoning approved hereby is conditioned by written and voluntarily proffered conditions contained in the application and binding the development of the property as set forth in the exhibit, consisting of 3 pages and labeled "Exhibit A-4" attached hereto and made a part hereof. These conditions shall continue in effect until a subsequent amendment to the zoning of the property described in Section 1 hereof is adopted; provided, however, that the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

Section 3. 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.

CONDITIONED
PROFFER STATEMENT FOR CHANGE OF ZONING

TO: The Honorable Newport News City Council

Date: November 7, 2016
Revised: December 9, 2016
Revised: January 11, 2017
Application Number: CZ-2016-0001

In reference to the above request for a change of zoning:

Conditioned: **Bland Boulevard, LLC hereby proffers the development of a 3.395 acre tract (A portion of Tax Id: 111000101) located at 615 Bland Boulevard in the City of Newport News (the "City"), as more particularly described on the attached Exhibit A (the "Property") shall be in accordance with the conditions set forth in this submission.**

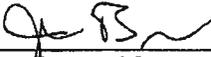
1. The Property shall be developed in substantial conformance with the conceptual site plan drawings entitled "PRELIMINARY SUBDIVISION PLAN FOR PARCEL A-2 PROPERTY OF BLAND BOULEVARD LLC – CITY OF NEWPORT NEWS", sealed on December 8, 2016 which is prepared by AES Consulting Engineers (the "Conceptual Site Plan"), and is attached hereto as Appendix A-2. The site plan that is submitted to and reviewed by the Site Plan Review Committee and subject to approval by the Director of Engineering shall be in substantial conformance with the Conceptual Site Plan and reviewed and approved by the Director of Planning prior to site plan approval. Minor changes are permitted as long as they do not change the character or basic concept of the development.
 2. The building constructed on the Property shall be constructed in substantial conformance to the elevations entitled, "Building Elevations and Exterior Building Materials" prepared by CASCO, dated October 31, 2016, which Building Elevations and Exterior Building Materials are attached hereto as Appendix A-3. All final building elevations, including design, materials and colors shall be reviewed and approved by the Director of Planning prior to issuance of a building permit.
 3. The applicant shall submit a Landscape Plan which shall be in conformance with the requirements of the Site Regulations, subject to the review and approval of the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan.
 4. The applicant shall submit a Lighting Plan, to include the design, color and materials of all lighting fixtures, subject to the review and approval of the Director of Planning prior to site plan approval. All lighting on the Property shall be in conformance with those standards recommended by the Illumination Engineering Society of North America (IESNA). Lighting
-

shall be installed and operated as shown on the approved plan. All exterior lighting on the Property shall be downward and inward to the site and include full cutoff fixtures to minimize glare on public roads and adjacent properties.

5. All outdoor storage and displays of saleable items shall be prohibited.
6. All dumpsters and HVAC systems shall be screened from adjacent properties and right-of-way with materials and design approved by the Director of Planning prior to site plan approval.
7. The applicant shall submit a Traffic Memo, dated November 7, 2016, which was prepared by AES Consulting Engineers, which Traffic Memo is attached hereto as Appendix A-4.
8. There shall be mitigation of designated wetland areas reflected on the Jurisdictional Determination, made by the US Army Corps of Engineers dated December 2, 2016, which is attached hereto as Appendix A-5. Mitigation shall be in conformance with the requirements of the Department of Environmental Quality of the State of Virginia and the US Army Corps of Engineers.
9. The Property shall be limited to the following principal uses and their accessory uses and structures: all uses permitted by-right or conditionally that are classified as "Retail Services" in the Code of Ordinances, City of Newport News, Virginia ("Zoning Ordinance"), or similar classification should the Zoning Ordinance be amended to retitle "Retail Services".

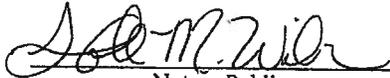
WITNESS the following signatures and seals:

Bland Boulevard, LLC,
a Virginia limited liability company

By: 
James Burnett, Manager

COMMONWEALTH OF VIRGINIA
CITY OF Newport News, to-wit:

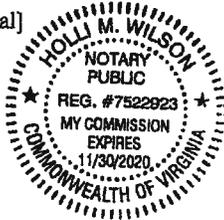
The foregoing instrument was acknowledged before me, January, 2017, by James Burnett, as Manager for and on behalf of Bland Boulevard, LLC, a Virginia limited liability company. He is personally known to me or has produced _____ as identification.


Notary Public

My commission expires: 11/30/2020

Notary Registration Number: 7522923

[Affix Notary Seal]



E. Public Hearings

2. Ordinance Authorizing Conditional Use Permit No. CU-2016-0003, to William David Moore for the Construction and Operation of a Small Motor Vehicle Repair and Service Facility on Property Located at 12543 Warwick Boulevard and Zoned C2 General Commercial

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING CONDITIONAL USE PERMIT NO. CU-2016-0003 TO WILLIAM DAVID MOORE TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF A SMALL MOTOR VEHICLE REPAIR AND SERVICE FACILITY ON PROPERTY LOCATED AT 12543 WARWICK BOULEVARD AND ZONED C2 GENERAL COMMERCIAL.

- BACKGROUND:**
- The proposed new use, Take 5 Oil Change, is proposed for a vacant lot at the entrance to a neighborhood.
 - Property improvements include a new full-brick structure with bays oriented to Warwick Boulevard as well as new landscaping.
 - The *Framework for the Future 2030* Comprehensive Plan recommends protecting the entrances to neighborhoods by discouraging the location of automobile repair uses. Therefore, this request is inconsistent with the *Framework for the Future 2030* Comprehensive Plan.
 - On January 4, 2017, the City Planning Commission voted 6:2 to recommend approval of this request with conditions.

Vote on Roll Call

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

Against: Austin, Carpenter

Abstention: None

- The City Manager recommends denial.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CU-2016-003 to WDMoore

Staff Report and CPC Minute Excerpts
sdm15165(2) CU-2016-0003 re Take 5 Oil Change

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

February 8, 2017

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Conditional Use Permit No. CU-2016-0003, William David Moore and Take 5 Oil Change

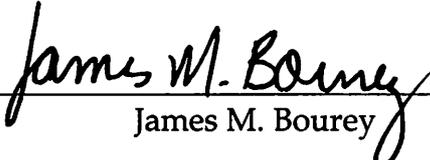
William David Moore requests a conditional use permit to allow for the operation of a Small Motor Vehicle Repair and Service Facility (Take 5 Oil Change) at 12543 Warwick Boulevard and zoned C2 General Commercial.

The applicant proposes to construct a 1,634-square-foot building on the 0.39 acre property. The structure will have three bays open on both sides and fronting on Warwick Boulevard.

The request is not consistent with the *Framework for the Future 2030* Comprehensive Plan. The use is in direct conflict with the *Framework's* recommendation against auto related uses at the entrance to a residential neighborhood.

On January 4, 2017, the City Planning Commission voted 6:2 to recommend approval of the request to City Council with conditions.

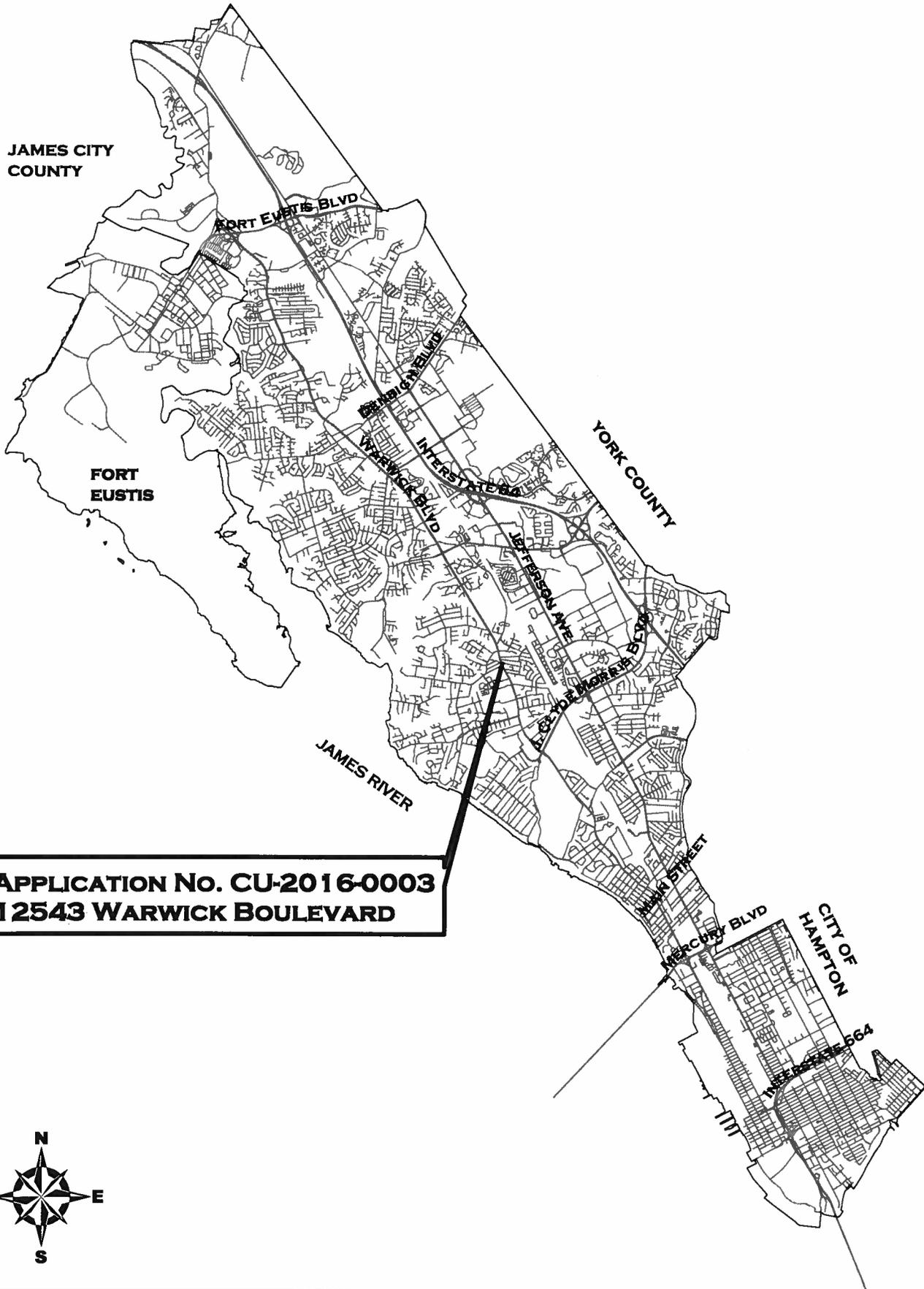
I concur with the City Planning Department staff recommendation for denial.


James M. Bourey

JMB:sgd

**CITY OF NEWPORT NEWS
CITY COUNCIL
JANUARY 24, 2017**

**CONDITIONAL USE PERMIT
APPLICATION NO. CU-2016-0003
WILLIAM DAVID MOORE**



CONDITIONAL USE PERMIT NO. CU-2016-0003

WILLIAM DAVID MOORE

| | | | |
|------------------------|--|------------------|---|
| APPLICANT/OWNER | Take 5 Oil Change William David Moore | ZONING | C2 General Commercial (Appendix A-1) |
| LOCATION | 12543 Warwick Boulevard | FRAMEWORK | Neighborhood Commercial (Appendix A-4) |
| PRESENT USE | Vacant | ACREAGE | 0.39 acres |

REQUEST Small Motor Vehicle Repair and Service Facility



FACTS

North Office building on properties zoned C2 General Commercial
South Car repair shop on property zoned C2 General Commercial
East Seafood market on property zoned C2 General Commercial
West Church on property zoned R4 Single-Family Dwelling

Zoning History C2 General Commercial since the citywide comprehensive rezoning became effective August 1, 1997

Regulatory Review The zoning ordinance requires a conditional use permit for the operation of a small motor vehicle repair and service facility in the C2 General 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 site plan appropriately identifies the required transitional

buffer area. (See Appendix-A-2.)

The applicant proposes to construct a 1,634 square foot building. The required parking ratio is one (1) space for each 500 square feet of floor area, or four (4) parking spaces. The submitted site plan for the property indicates six (6) parking spaces in addition to the three (3) bays for a total of nine (9) spaces. (See Appendix A-2.)

Site Regulations require an 11-foot landscape strip in the area adjacent to Warwick Boulevard and a 10-foot landscape strip on Deep Creek Road. The appropriate landscape strips on both frontages are indicated in the submitted site plan. (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 uses for the property. The proposed use is not consistent with this designation. A small motor vehicle repair and service facility of the type proposed, which is a destination business that promises the convenience of a fast service, has more of a community reach. (See Appendix A-4.)

The *Framework* also recommends protecting residential uses from incompatible commercial and industrial intrusions. The plan specifies that special attention should be paid to neighborhood entrances. The entrances should be attractive and appealing. Further the plan specifically states that incompatible uses such as auto related uses should not be permitted at entrances to residential neighborhoods.

ANALYSIS

Take 5 Oil Change is a drive through oil change service. The proposal calls for three bays open on both sides. The driver drives the vehicle into the bay and remains in the vehicle while the oil change is performed exiting on the other side of the bay once the service is completed.

The business model could work well in a small site such as this one. However, the proposed use will not be consistent with conditions typically applied to this type of use. Those conditions include the requirement for bays to be oriented away from the corridor and that the bays be closed at all times to minimize noise.

Although the Take 5 Oil Change proposal limits the work to quick service oil change, if approved, the conditional use permit would allow for any small motor vehicle repair and service. Even if the use was limited to oil change, the precedent for a service and repair shop would be set and it would be difficult to deny a new owner the use of the property built specifically for that purpose.

Further, it has been recognized that automobile related uses can have a

negative impact on adjoining residential neighborhoods. The size of the property, at 0.39 acres, potentially can compound the problems associated with the use such as clutter, noise and limited maneuverability space. In addition, the limited amount of parking could result in employees parking on the street as vehicles being worked on would be stored in the available spaces. Consideration should also be given to a potential future need to accommodate tow trucks towing vehicles to the site. Given the small site, it would be very difficult for large vehicles to maneuver around the property. This is also true for any large vehicles servicing the proposed business operation.

Until 2005, automobile related uses were permitted by right in the C2 General Commercial zoning district. Because the city's main corridors had and continue to have an abundance of such uses, in 2005, City Council amended the Zoning Ordinance to require a conditional use permit for all automobile related uses in all zoning districts where they were once permitted. The amendment recognized that automobile related uses created visual clutter along the city's major corridors. The limitations imposed were also a way to protect the residential neighborhoods that abut the uses along the corridors from the nuisances created by these uses. The zoning ordinance changes were consistent with the goals of the city's original *Framework for the Future* comprehensive plan and subsequent updates. By limiting the uses through the conditional use permit process, the zoning ordinance ensures a careful evaluation of the impacts of such uses.

For more than a decade the city has focused on the redevelopment of the Warwick Boulevard corridor, heavily investing in the beautification of the corridor with new lighting, sidewalks and landscaping. These efforts have been matched in the vicinity by Christopher Newport University as well as private investors. The corridor now has areas that are flanked by attractive residential, institutional and commercial buildings making it a pleasant pedestrian and vehicular environment.

Most recently, in keeping with the *Framework's* recommendations, and only a block away from the proposed use, a private investor redeveloped a former repair shop into a very attractive commercial building that houses a popular restaurant and provides space for other commerce geared to the students and residents of the neighborhood.

Allowing a new repair and service facility in the vicinity will begin to erode some of the progress that has been made along the corridor in relation to reducing the abundance of automobile repair uses since 2005.

The property abutting on the south of the proposed development houses one of the pre-2005 grandfathered automobile repair shops, allowing a new repair shop will continue to repeat the existing land use patterns by creating concentrations of auto repair uses in the area.

CONCLUSION

The proposed small vehicle repair and service facility is not consistent with the *Framework for the Future 2030* comprehensive plan. The proposed use is

in direct conflict with the *Framework's* recommendation against auto related uses at the entrances to residential neighborhoods. Given the size of the site, an auto repair use could result in negative impacts to the adjoining neighborhood.

STAFF RECOMMENDATION

Recommend denial of conditional use permit CU-2016-0003 to allow for the operation of a Small Motor Vehicle Repair and Service Facility located at 12543 Warwick Boulevard.

CPC RECOMMENDATION

On January 4, 2017, the Planning Commission voted 6:2 to recommend approval of conditional use permit CU-2016-0003 to allow for the operation of a Small Motor Vehicle Repair and Service Facility located at 12543 Warwick Boulevard, 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 Conditional Use Permit Plan prepared by American Engineering dated September 30, 2016, identified as Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.
2. Building elevations for the Property shall be consistent with the drawings prepared by CRA Architecture dated November 3, 2014 and identified as Appendix A-3. Full bricks shall be used to construct all facades. Final drawings shall be reviewed and approved by the Director of Planning prior to the issuance of a building permit.
3. The applicant shall cause a 30 foot transitional buffer area to be installed and maintained in perpetuity along the property's western boundary.
4. The applicant shall install a six (6) foot tall privacy fence or wall along the western property line. The design of the fence or wall shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a fence permit.
5. Parking and storage of vehicles is only permitted in marked parking spaces. Parking and storage of vehicles is prohibited within the property's designated green areas and the city's right-of-way.
6. A landscape plan in conformance with the requirements of the Site Regulations shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.

7. Only one freestanding sign shall be permitted on the Property. The sign shall be a monument style sign no taller than eight (8) feet measured from the highest point of the sign area structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.
8. All signs, including directional signs, location, design and materials shall be reviewed and approved by the Director of Planning.
9. No temporary or portable signs shall be permitted on the Property. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
10. Automobile repair is prohibited outside of the work bays.
11. Storage of cars in a state of obvious disrepair shall be screened from public view.
12. All outdoor storage and displays of saleable items shall be prohibited.
13. All dumpsters and HVAC systems shall be screened from adjacent properties and rights-of-way with materials and design to match the building and shall be approved by the Director of Planning prior to site plan approval, and shall be maintained in such condition in perpetuity.
14. The playing of music on any outdoor speakers shall be prohibited.
15. 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.
16. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

17. 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.
18. 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.
19. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.
20. 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.

APPENDIX

A-1 VICINITY/ZONING MAP

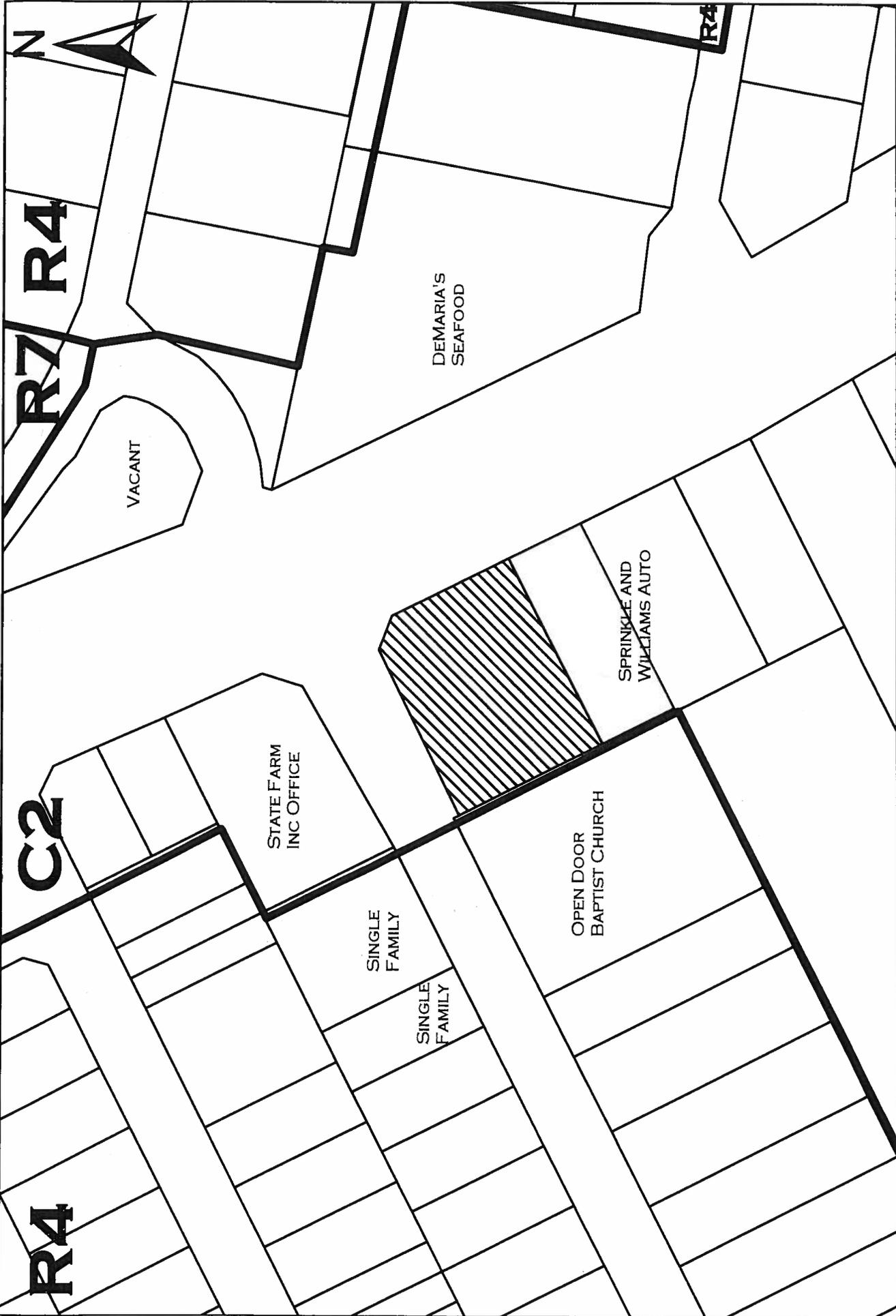
A-2 SITE PLAN

A-3 ELEVATIONS

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

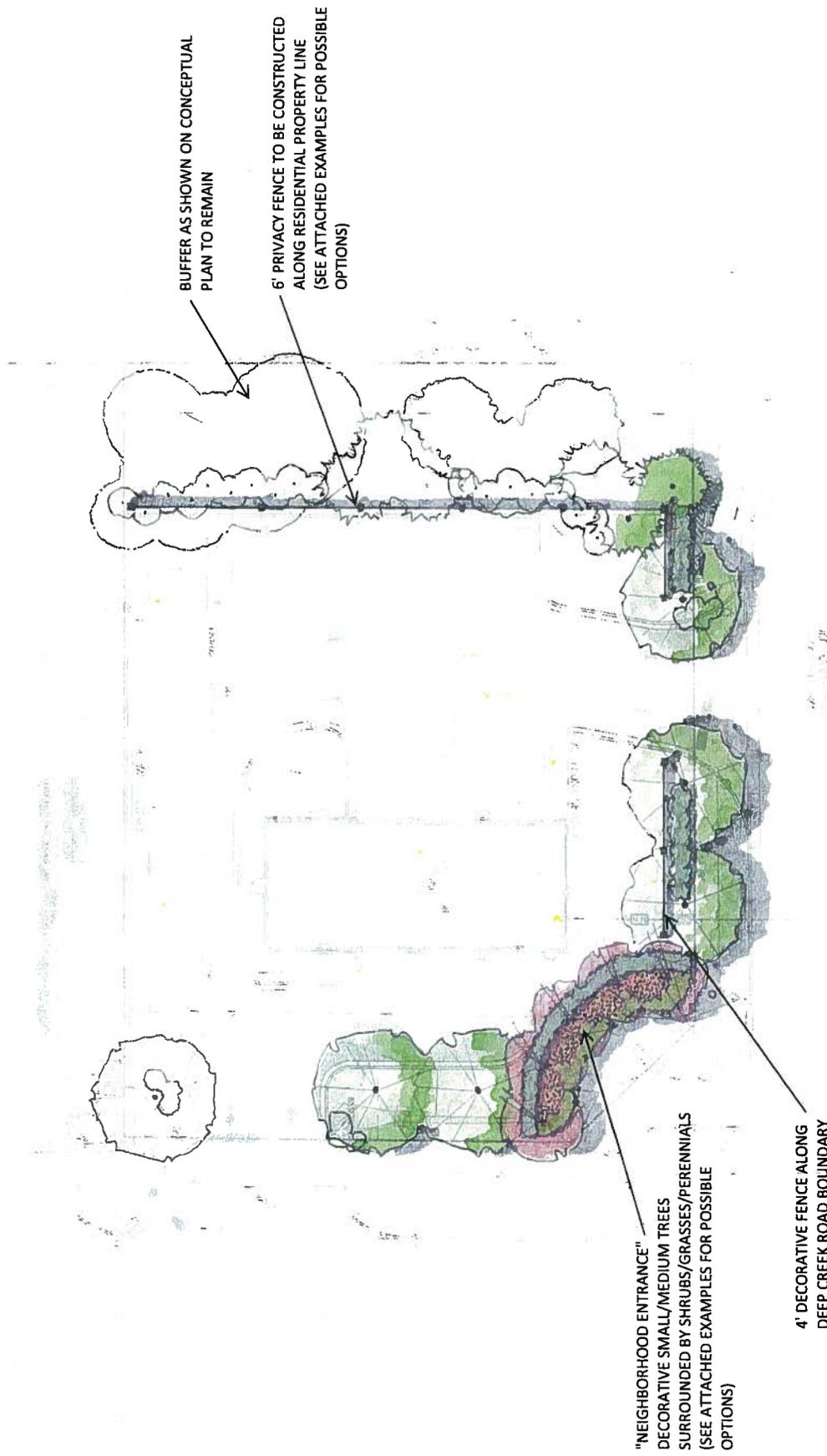
A-5 AERIAL MAP

A-6 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF JANUARY 4, 2017



WILLIAM DAVID MOORE

CU-2016-0003



BUFFER AS SHOWN ON CONCEPTUAL PLAN TO REMAIN

6' PRIVACY FENCE TO BE CONSTRUCTED ALONG RESIDENTIAL PROPERTY LINE (SEE ATTACHED EXAMPLES FOR POSSIBLE OPTIONS)

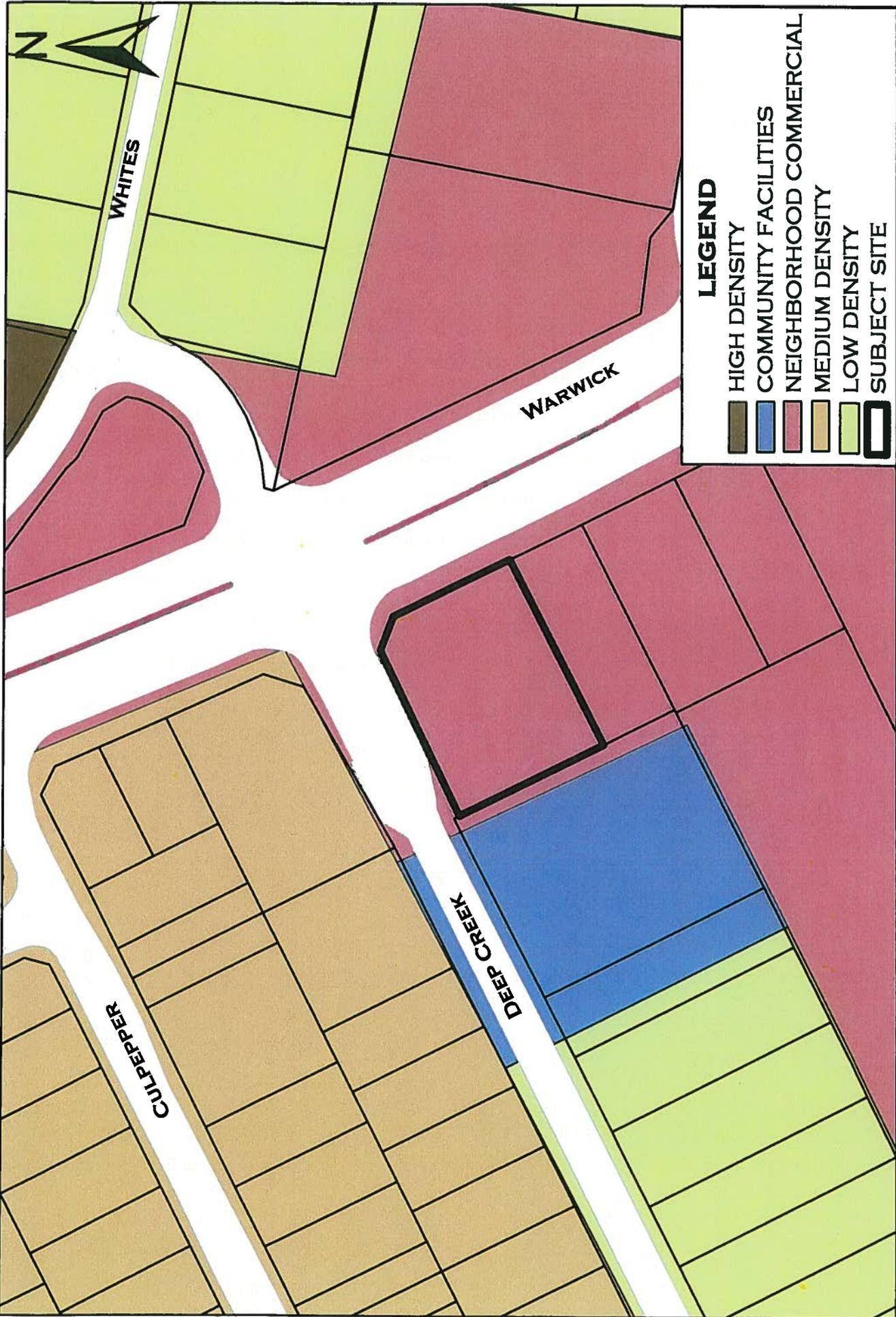
"NEIGHBORHOOD ENTRANCE"
DECORATIVE SMALL/MEDIUM TREES SURROUNDED BY SHRUBS/GRASSES/PERENNIALS (SEE ATTACHED EXAMPLES FOR POSSIBLE OPTIONS)

4' DECORATIVE FENCE ALONG DEEP CREEK ROAD BOUNDARY (SEE ATTACHED EXAMPLES FOR POSSIBLE OPTIONS)

NEIGHBORHOOD ENTRANCE ENHANCEMENT PLAN



PROPOSED STREETSCAPE - VIEW FROM DEEP CREEK ROAD AND WARWICK BOULEVARD



LEGEND

- HIGH DENSITY
- COMMUNITY FACILITIES
- NEIGHBORHOOD COMMERCIAL
- MEDIUM DENSITY
- LOW DENSITY
- SUBJECT SITE

WILLIAM DAVID MOORE

FRAMEWORK FOR THE FUTURE 2030



EXCERPTS FROM PLANNING COMMISSION MINUTES

January 4, 2017

CU-2016-0003, William David Moore. Requests a conditional use permit to allow for the construction and operation of a small motor vehicle repair and service facility on a 0.39 acre parcel located at 12543 Warwick Boulevard and zoned C2 General Commercial. The Parcel No. is 202.00-14-68.

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

Ms. Fox stated Mr. Gleiser is referring to the application as an automotive repair shop, but when she reads the description of the business, it is clearly an oil change and lube shop where you can get in and out with an oil change in a matter of minutes. She stated she understands that a conditional use permit would, in the future, allow for any other automotive repair options. She asked if the conditional use permit for other possible automotive repair options is the concern and not the current application. Mr. Gleiser stated the concern is with the specific business because it is a repair shop by the definition of the ordinance. He stated the conditional use permit would be for a repair shop, and there are many repair shops that do only oil changes, and shops that only do tire repairs and replacement, and they are all under the same definition. Ms. Fox asked if Jiffy Lube is referred to as an auto repair shop even though they do not use tow trucks or any other type of equipment to perform those services. Mr. Gleiser stated yes. He stated it might be that Take 5 does not use any tow trucks, but a future use that would be permitted under the conditional use permit could have tow trucks.

Ms. Fox asked what other uses would be a good fit for this site. She stated when she looks at the size of the site and its location, she has a hard time imagining what would work there other than a 7-Eleven, which used to be there. Mr. Gleiser stated he could think of many other uses that would work there, but he does not think that is the question. He stated it is a neighborhood entrance and an area that is changing. Mr. Gleiser stated it is becoming more of a pedestrian oriented area, and a small business such as a bakery or an office building like the one across the street from the property would thrive.

Mr. Mulvaney asked what are the hours of the establishment. It was stated 7:00 A.M. to 8:00 P.M. Monday through Friday, 7:00 A.M. to 7:00 P.M. on Saturday, and 9:00 A.M. to 5:00 P.M. on Sunday.

Mr. Mulvaney asked how do we see this development on this site. He stated he knows what the regulations call for, but what specifically were they looking at. Mr. Gleiser stated they were looking at oil changes and working on cars as noisy activities. He stated they are also not clean activities. Mr. Gleiser stated they bring a lot of cars in and out of the establishment, and it is right next to single family residential, right at the entrance to a neighborhood. He stated the *Framework for the Future*, in its

recommendations, was trying to have something that was more in keeping with the neighborhood than a repair shop, that will be bringing cars from all around the city. Ms. McAllister stated this is based on past experience. She stated we have situations where you have a use that is automobile related and the impact to the neighborhood is that the site becomes too small for whatever that use is, and there is parking along the street within the neighborhood. Ms. McAllister stated that because it starts out as Take 5, the building itself is designed, because of the bays, for auto repair, so it would be very difficult for us, in the future, even if we conditioned it, to limit any automobile repair from coming into this site. She stated because of the size of the site and the experience we have had with other sites this size, is one reason why we would recommend denial.

Mr. Mulvaney asked if we have seen a drop in property values or vacancy rates in those subdivisions because of the conditions that have been noted when the analysis was done. Ms. McAllister stated we have had to deal with complaints in those neighborhoods, but we have not evaluated property values. She stated just the complaints alone is enough for us to realize that this is not something we want to entertain. Mr. Gleiser stated this is compounded by the fact that there is another established auto related use right next door that is grandfathered. He stated if you allow for this conditional use permit, you are basically saying it is okay to continue with that use. Mr. Mulvaney asked if we approve this conditional use permit, the current one that is grandfathered would not need to come before the Planning Commission if there was a change of ownership and it would just continue as auto repair. Mr. Gleiser stated yes, the use is grandfathered.

Mr. Jones asked what are the complaints based on. He asked if it is noise or the use itself. Ms. McAllister stated noise and cars parking in the neighborhood, cars in need of repair, and employee cars parking in the neighborhood. Dr. Maxwell asked if there are complaints for this type of oil change business. Mr. Gleiser stated even if the business does not morph into something else and continues to operate as Take 5, one of the conditions that we typically impose on these types of uses is that all work is done inside behind closed doors. He stated their use requires that they have bay doors open at all times, so the noise from what they are doing is going to be heard no matter what. Mr. Gleiser stated you are also going to have the noise of all of the cars coming in and out of the business. Ms. McAllister stated that she understands what you have before you today may not be as impactful as what could go there, but because this use falls under auto repair, just like the previous applicant stated, they do not want to limit what that use could be in the future if they do decide to sell this piece of property in the future.

Mr. Carpenter asked if they want to accomplish what they want to accomplish, they have to have the bay doors open and the city wants the bay doors closed. Mr. Gleiser stated yes, that is a typical condition for repair shops.

Ms. Fox asked if this use is like a car wash. Mr. Gleiser stated it is more intense than a car wash.

Mr. Carpenter asked why the bay doors need to be open for the applicant to accomplish what they want to accomplish. He asked if when a car pulls in the bay doors cannot come down. Mr. Gleiser stated he would defer to the applicant to answer that question. Ms. Willis stated the Planning Commission received a list of proposed conditions from the applicant. She stated one of the conditions limits the conditions to a quick-service oil change facility, for the applicant and any successors. Ms. Willis stated that even if we have this conditional use permit for the property and building, a future applicant would need to come before the Planning Commission to change that conditional use permit. Ms. McAllister stated it would be very hard for you to deny any other auto repair use if the building is built for auto repair. She stated if it has bay doors, and that is all they have, it is an auto repair shop even though it is only Take 5 now.

Ms. Willis stated there are 8 parking spaces on the site, and she knows parking on the street is a concern, but there is no place to park on the street on Deep Creek Road or Warwick Boulevard. She stated this type of facility would not be parking and storing vehicles overnight.

Mr. Mulvaney stated he did not see any information on containment for potential spillage of contaminants or oil that could go either into stormwater or the subdivision behind it. Mr. Gleiser stated that is not in the report, but they would have to comply with those recommendations. Mr. Carpenter asked if that would be covered in site plan review. Mr. Gleiser stated yes, and other regulations that are directly related to the use.

Ms. Fox asked if this use is conditioned, and the use limited to a quick-service oil change facility, then nothing else could be used at this facility without them having to come back through the conditional use permit process. She stated right now any use on that site would still require a conditional use permit at some point. Ms. Fox asked what would go on the site without a conditional use permit. Mr. Gleiser stated any retail use that does not require a conditional use permit, which is most of them, could go in there by right. Ms. Fox asked if we granted this conditional use permit for the quick-service oil change facility, could something else retail related go in there by right if this property is sold or does not work out. Mr. Gleiser stated yes, but you can have another repair shop. Ms. Fox stated that is only if they apply for another conditional use permit. Mr. Gleiser stated no, because there is no definition for quick-service oil change, only auto repair. He stated we had another case in another location where they came in and were allowed certain repairs to cars and not others, and then they came back and said things had changed and that is why it is all about interpretation. Mr. Gleiser stated someone can come in and say they offer quick oil change, where you drop off your car and then come and pick it up.

Mr. Carpenter asked if the city has a definition for what a quick-service oil change is. Ms. McAllister stated it falls under the definition of auto repair service facility. Mr. Carpenter stated according to the city, a Jiffy Lube is a quick-service oil change facility that is auto repair because they do more than just change the oil. Mr. Gleiser stated that is correct.

Ms. Fox stated this is similar to a car wash because you do not get out of your car. She stated you drive in and stay in your car while they change your oil and then you drive off a few minutes later. Mr. Gleiser stated it is not a conditional use permit for Take 5 the applicant, it is a conditional use permit for an auto repair shop.

Ms. Cotton read the definition for motor vehicle repair and service facility: Buildings and premises where minor and major mechanical or maintenance on any motor vehicle is undertaken, including, but not limited to, general repair garages, muffler shops, tire stores, oil change facilities, and vehicle upholstery shops. This excludes car washes and any body repair and/or painting facility.

Ms. McAllister stated the reason why it is defined in that way, is because even though the buildings may be used for a specific service, they can easily be used for any other type of auto repair because of the bay doors.

Mr. Carpenter opened the public hearing.

Mr. Timothy Trant, 11815 Fountain Way, Suite 400, Attorney for the applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Trant gave a brief history of the application. He stated the Zoning Ordinance imposes certain restrictions upon uses of the property through C2 zoning and site plan regulations. Mr. Trant stated the property is zoned C2, which is arguably the city's most liberal zoning district and many uses are allowed there by right without any legislative scrutiny. He stated this use triggers a legislative review for a conditional use permit, as it is a use thought to be generally consistent with the zoning designation but requires a heightened level of sensitivity. Mr. Trant stated that through the statutory regiment that enables localities to enact zoning and establish uses as conditionally permitted uses also permits the city to impose conditions that go beyond the basic requirements of the ordinance. He stated while this is a conditional use permit for an automotive repair facility, we have proposed and are committed to agree to, conditions that go beyond that basic limitation that further define beyond the ordinance definition of an automotive repair use, to the satisfaction of the City Attorney's office. Mr. Trant stated what we are proposing to do there is something more limited than general automotive repair, as a subset of those uses. He stated a quick-service oil change is all we would be permitted to do there, and not broader automotive vehicle repair. Mr. Trant stated that becomes an extension of the zoning ordinance, binding on and enforceable on the use of that property going forward as long as that conditional use permit is in place. He stated it is his opinion that if the Planning Commission were to accept the proposed condition or something similar to it that limits the use on this property to a subset of automotive repair uses, those specifically limited to quick-service oil changes, it is something more restrictive and only quick-service oil change facilities could operate on that property. Mr. Trant stated he does not know of a quick-service oil change facility that uses tow trucks or things Planning staff is appropriately concerned about. He stated if Take 5 did not prevail on the site, and a future user came to occupy this property and they were interested in doing something other than quick-service oil change, a subset of automotive repair uses, and wanted to do more broader automotive repair service on

that site, they would have to come back before the Planning Commission to seek an amendment of that conditional use permit or an entirely new conditional use permit, to be allowed a more liberal automotive repair use. Mr. Trant stated the city has broad legislative discretion in approving or denying rezoning and conditional use permit applications for the protection, health, welfare and sanctity of its residents. He stated there is a presumption on the part of the legislative body, and if the city wanted to deny some expansion of automotive repair use at some later date at this facility, they would be well justified in doing so and it would likely be a decision that the city would be able to make.

Mr. Carpenter stated Mr. Trant was trying to differentiate the term "quick-service oil change" and the city using "automotive repair facility." He stated the applicant would only do that which a quick-service oil change facility normally does; however, there is no definition of what a quick-service oil change does. Mr. Carpenter stated you are not saying "we will only change oil", you are saying "we are a quick-change oil facility". He stated when he thinks of Jiffy Lube, he is amazed at what they do now because it is not just replacing windshield wiper blades and lightbulbs. Mr. Carpenter stated they are rotating tires and cleaning and flushing your radiator. Mr. Trant stated if Jiffy Lube is doing all of those other services, they are not a quick-service oil change. He stated they are a quick-service oil change and automotive service facility. Mr. Trant stated what Take 5 is proposing to be, and limit as a use on that site, is just quick-service oil change.

Ms. Spratley stated that from a legal perspective there is some subjectivity in terms of interpreting the conditional use permit that is being proposed because there is no definition for quick-service oil change. She stated Mr. Gleiser's argument is a valid one, that someone could begin to do repair type work under the guise of being a quick-service oil change facility, and they may, depending on the level of repair work they are doing, have a valid argument because we do not have a definition for that. Ms. Spratley stated we really need to look at how the conditional use permit is crafted and how narrow or broad the conditions are concerning what could be done in the future without the conditional use permit coming back seeking an amendment.

Mr. Mulvaney asked what does a quick-service oil change do within the confines of the facility. Mr. Trant stated Ms. Brittany Willis would be giving a presentation on Take 5 that would answer that question and offer photographs of the interior of the facility. He stated if it is the inclination of the Planning Commission to support the use with the limitation of quick-service oil change, perhaps better defined, that it be a condition of their recommendation that it be better defined to the satisfaction of the City Attorney's office between now and the City Council public hearing.

Mr. Mulvaney asked if Planning staff agrees with Mr. Trant's analysis that if the Take 5 oil change facility changes ownership, another applicant would need to come back to Planning Commission to change the conditional use permit. Ms. McAllister stated once the conditional use permit is approved for auto repair, it is very difficult to deny another conditional use permit for auto repair on this site. She stated you set the precedent

when you say auto repair is permitted at this site and, even if the new applicant is doing more intensive auto repair, it would be very difficult to deny it at that point. Ms. McAllister stated it is very easy for these uses to morph into something else. She stated in the past, prior to 1997, we did separate service facility until they started becoming more like auto repair, and that is why it is now under one definition.

Mr. Jones stated you need to have a conditional use permit if you were to change the use in the future, but you would still be seeing the same criteria in evaluating that. He stated the same scrutiny would have to be used.

Mr. Trant stated the physical size of the site has been a challenge for its development, which is probably why it has sat in its current condition for as long as it has, and that limits the viability of the site for any number of commercial uses. He stated that, being located on a corner lot, this is a low traffic generating use. Mr. Trant stated a more expansive automotive repair facility would potentially produce overnight vehicle storage, which this facility does not use nor propose. He stated how you manage that, and screen vehicles that would be in obvious states of disrepair would be a challenge to accomplish on this site. Mr. Trant stated traffic and other congestion issues would also be another concern. He stated all of those would be important considerations for anybody who sought to expand the use beyond what we have proposed in our application.

Ms. Brittany Willis, 448 Viking Drive, Virginia Beach, Civil Engineer, spoke in favor of the application. She gave a brief presentation of the application.

Ms. Fox asked if Ms. Brittany Willis foresees the business as a community centered activity rather than a commercial activity for the whole city. She stated this is something that will be open to residents and people that live in the area. Ms. Brittany Willis stated yes, it is a service people are going to utilize as a convenience, so they do not have to drive someplace and drop their car off or wait in a waiting room for two hours. Ms. Fox stated people are not going to drive from 10 miles away just to come here. Ms. Brittany Willis stated yes, unless it is quicker for them to drive 10 miles away to get a 5 minute oil change. She stated the overall intent, what it is marketed to, is the consumer who can roll an oil change into their daily activities.

Mr. Mulvaney asked how Ms. Brittany Willis came up with the analytics about 7 vehicles per hour on 3 bays. He asked if that is only for the open times or a 24 hour period. Ms. Brittany Willis stated it is a corporate average.

Ms. Fox asked how stacking would be handled if there are more than 7 cars waiting. Ms. Brittany Willis stated there are 3 cars for 3 bays and enough space for a car to stack up. She stated there is a two-lane drive coming in and out of the building so there may be another car waiting in the drive-in lane, but we still have sufficient distance between that point and our entrance off of Deep Creek Road.

Ms. Austin asked how the spent oil would be handled. Ms. Brittany Willis stated it is a self-contained oil system, but beyond that she would need to defer to Mr. Henry Robert, the representative from Take 5 corporate.

Ms. Austin asked if there would be a pit. Ms. Brittany Willis stated there are no hydraulic lifts, which would cut down substantially on the noise, and there is a 3 foot pit that they go in to make the oil changes. Ms. Austin asked if the employees would be on a cart to roll under the vehicle. Ms. Brittany Willis stated no, they crawl under on their knees. She stated that only oil changes will be performed, there will not be the noise associated with other car repair activities.

Ms. Austin asked if anything spills into the pits, how that would be cleaned, and if any of the cleaning solutions would enter the city sewers. Ms. Brittany Willis stated there are no floor drains in this facility, and deferred to Mr. Robert. Mr. Robert stated the oil goes into a big pan under the car and any splashes are cleaned up with a rag. He stated we mop our floors, and rinse out the mops in mop sink which is connected to an oil separator.

Ms. Austin asked if the car engine would be turned off when being serviced. Ms. Brittany Willis stated she would defer to Mr. Robert. Mr. Carpenter stated having the bay doors open signifies it is open for business. Ms. Brittany Willis stated our competitors do exactly the same thing by maintaining open bay doors.

Ms. Austin asked if business supplies would be delivered by an 18-wheeler or UPS type delivery truck. Ms. Brittany Willis stated we can accommodate large emergency vehicles who need a greater turn radius with the site's design. Mr. Robert stated UPS would be delivering supplies.

Mr. Groce stated there are 6 parking spaces for employees. He asked how many employees are projected to work at the facility. Ms. Brittany Willis stated 8 people can be employed, but they would not all work at the same time.

Mr. Rob Heavner, 910 Marlbank Drive, Yorktown, Realtor, spoke in favor of the application. He stated having the bay doors open is a sign of being open for business. Mr. Heavner stated if the bay doors are closed, consumers will assume the business is closed and will not stop. He stated a customer will drive into a bay and turn the car off. Mr. Heavner stated the instrument used to remove the oil filter is an oil filter wrench and pouring the oil into the car is the only noise that is going to be heard. He stated any type of use that can go onto this site would have the same noise. Mr. Heavner stated he has worked with Take 5 since they entered the Hampton Roads market. He stated there are many properties that have been victim to condemnation or eminent domain. He stated they are useless because of their size or the setbacks. Mr. Heavner stated Take 5 has developed many of those properties on the Southside and across the United States. He stated Take 5's competition has a waiting room for customers who do not use the option to drop their vehicle off and get it later in the evening or the next day. Mr. Heavner stated Take 5 does not do that and a majority of their customers are women

who do not have to drag their kids out of the car to go into a waiting room or have some salesperson up-sell other products such as air freshener or windshield wiper or headlight fluid. He stated we chose this market based on the needs of the immediate community. Mr. Heavner stated we chose this property because it does not need rezoning. He stated Take 5 has promised to meet the conditions placed upon the property by the Planning Department staff. Mr. Heavner stated since the property has been on the market for over a decade, no prospect has been able to fit on the site. He stated the properties Take 5 has developed on the Southside are the same scenario, all this size or smaller, and had been on the market for at least a decade. Mr. Heavner stated he has represented office developers and small retailers and looked at these properties and they can never fit on them so they sit dormant for a long time. He stated they are not asking for a variance and meet the zoning ordinance for development. Mr. Heavner stated that, compared to Take 5's competition, he can attest that their building elevation is far superior. He asked that the Planning Commission request approval for the conditional use permit.

Mr. Mulvaney asked what exactly Take 5 does other than oil changes. Mr. Heavner stated they may top off some fluids, but their goal is to get their customer on the road after an 8 minute oil change. Mr. Mulvaney asked if there are any other services being performed. Mr. Heavner stated he would defer to Mr. Henry Robert.

Mr. Carpenter stated he does not know the exact year VDOT came through and widened and partially changed the arc of the bend in the road on Warwick Boulevard, but they did take from many properties. He stated he believes that take took place and the building was demolished prior to the present owner purchasing the property. Mr. William Moore, property owner, stated that is correct.

Ms. Austin asked is a corner location a requirement of your business model. Mr. Heavner stated it is extremely ideal. He stated convenience is extremely important and the goal is to find these small corner sites. Ms. Brittany Willis stated from a site planning perspective, the corner property allows for two entrances modeling a drive through concept from both streets.

Mr. Tommy Garner, 12535 Warwick Boulevard, spoke in favor of the application. He stated he was born and raised in Newport News, within a mile from the subject location. Mr. Garner stated there has always been an auto repair place right next door to this location. He stated their doors are open Monday through Saturday and a lot of Sundays. Mr. Garner stated 16 years ago he bought the building he runs a heating and air conditioning company out of next door and the building directly next door to the auto repair place which is an auto-marine repair. He stated with doors being open and noise being a concern for the neighborhood, he has been listening to it for 16 years. Mr. Garner stated the neighborhood supports us and we support them. He stated he can see Take 5 helping with fundraising and car washes. Mr. Garner stated he is pro-business and supports this application. He stated they want to develop a site that has a very limited use and he cannot see why there are so many questions. Mr. Garner stated auto repair is a necessity and we need auto repair places. He stated the

university is down the street and there are not enough service places to get your oil changed now that do not have a wait and have to have your vehicle dropped off. Mr. Garner stated he has a fleet of 30 vehicles he has to have serviced on Jefferson Avenue and they have to drop their vehicles off. He stated he sees nothing negative for this business wanting to develop this corner.

Mr. Henry Robert, 107 Pleasant Ridge Drive, Belle Chasse, Louisiana, Take 5 Representative. Mr. Robert gave a brief history of Take 5 Oil Change Company. He stated we have a limited menu of services, on purpose. Mr. Robert stated we offer oil changes, coolant and transmission fluid exchanges, wiper blades and air filters. He stated we have no interest in adding anything that is going to extend our bay time because that is negative for us. Mr. Robert stated we do not have a lift, or impact wrench, so there is no noise. He stated when a customer comes in they drive over a 30 inch shallow trench that is 10 feet long and our employee jumps down there on their knees, lines up an oil pan, pulls the plug, drains the oil and changes the filter. Mr. Robert stated very few cars these days even take grease. He stated on the process, the pan itself is connected by a hose to a tank in the storage room, and those tanks sit in a depressed area. Mr. Robert stated those tanks have a vacuum with a diaphragm pump connected to it and when the oil pan fills up in the trench, we flip a switch and that pump sucks the oil out into the tank in the back room. He stated it is not a pressurized system, it is under vacuum. Mr. Robert stated on the other wall side, the tanks are also in a back room, in a two-inch depressed area, and that is all stainless steel tubing that goes to the oil guns. He stated we do not have a drain in our shop, but there is a drain in the bathroom. Mr. Robert stated our floors are mopped, connected to a mop sink in the back room, directly connected to an oil separator.

Dr. Maxwell thanked Mr. Robert for the background information. Mr. Robert stated we are very good at what we do and are very successful and we do not have an interest in changing our model.

Dr. Maxwell stated he knows Take 5 has been around for 30 years. He asked if there are any stores that have closed or had to go out of business during that time. Dr. Maxwell stated he would like to know how stable the business is financially. Mr. Robert stated the business is very stable. He stated if we build this we will not be financing anything. Mr. Robert stated we have closed three stores over the years and it has been a very long time since we have done that. He stated that is how you learn to pick those nice corner locations at red lights.

Mr. Mulvaney asked how the lubrication guns are powered. Mr. Robert stated they are powered by air compressors in a back room so there is no noise outside in the bays. He stated we also use the air compressor to fill air in tires.

Mr. Carpenter asked if Take 5 will check your brake fluid. Mr. Robert stated no, brake fluid is the only fluid under the hood we will not check for you. He stated we will change your oil and fill your coolant and transmission fluid. Mr. Robert stated we just drain and fill and do not take anything apart.

Mr. Travis Ortner, 835 Low Country Boulevard, Mount Pleasant, South Carolina, Developer, spoke in favor of the application. He stated he wanted to speak on other uses for the site. Mr. Ortner stated the site has sat there for 10 years. He stated he is with a commercial and development company that buys sites and develops them, such as retail buildings and strip centers, and we rent them out. Mr. Ortner stated this site is less than a half-acre with fairly large setbacks on all three sides. He stated in looking at this site we may be able to put up a 2,500 square foot building if we could get enough parking spaces to support that. Mr. Ortner stated he would have to strip the site, build the building and do all of the design, and his per square foot rent would be around \$20. He stated a bakery or any kind of mom and pop place cannot foot that bill, which is why places like this do not get developed. Mr. Ortner stated you need a larger area where you can get a smaller gross return on your income for building these things. He stated Take 5 being the size that they are works great for these little half-acre sites. Mr. Ortner stated he just wanted to give everyone a little more background as to why with a small site, while there are a ton of permitted uses, the reality is there is not a lot we can actually do without throwing money out the window. He stated we will be the landlords for Take 5.

Mr. Carpenter asked if the developer purchases the site, develops it and rents it to Take 5. Mr. Ortner stated yes.

Dr. Maxwell asked how long the lease will be. Mr. Ortner stated 10 years with four to five-year options.

Ms. Fox asked if after the 10 year period and Take 5 does not renew their lease, could this conditional use permit then revert to the concern with it becoming a general auto repair facility. Mr. Ortner stated 10 years down the road if they do not renew the lease it becomes a vacant parcel and would go back to the point where unless we have another very specific Jiffy Lube or someplace that only operates within those requirements, yes. He stated Planning Commission would still have to approve it if it comes back through the conditional use permit process.

Mr. Carpenter closed the public hearing.

Mr. Jones made a motion to recommend approval of conditional use permit CU-2016-0003 to City Council. The motion was seconded by Mr. Mulvaney.

Ms. McAllister stated there are no conditions tied to the conditional use permit, and you need conditions in order to approve the application. Mr. Jones stated he thought the conditions submitted by Mr. Trant were sufficient.

Ms. McAllister stated she would recommend that, if Planning Commission would like to approve the application, to defer the application and let Planning staff come back with conditions.

Mr. Carpenter asked if we can have an appropriate definition for quick-service oil change facility. Ms. McAllister stated she would not recommend limiting it to quick oil change. She stated this is auto repair, and if you would like to recommend approval for auto repair then you have to evaluate it based on that. Ms. McAllister stated she would not want to come back to Planning Commission 10 years from now and say that it has been auto repair for 10 years and now you need to reevaluate it for another type of auto repair.

Ms. Elizabeth Willis stated she had received 21 proposed conditions. She stated Condition No. 3 for quick-service oil change would need a better definition. Ms. Cotton stated those conditions were proposed by the applicant. Mr. Trant stated the proposed conditions were drafted by Mr. Gleiser, and the only modification we added was Condition No. 3 to address the concern that we heard from the Planning Commission. Ms. Fox stated these are the standard conditions. Mr. Trant stated yes. Ms. Cotton stated they are the typical conditions that we have placed on other similar uses and Mr. Trant took our list of typical conditions and massaged them to fit their business interests. Mr. Mulvaney asked if the proposed conditions were part of the agenda package. Ms. Cotton stated Planning Commission did not receive them in their agenda package, they were sent via email from Mr. Trant. She stated we provided Planning Commission a paper copy for today's meeting, as is standard practice when additional information comes in after the package has been sent out.

Mr. Trant stated all of the conditions but Condition No. 3 were conditions emailed to him and he made no changes to them other than to add Condition No. 3, which was the only change he made to the standard conditions sent to him by Planning staff. He stated he believes the quick-service oil change definition that is sufficient to cover and protect the city. Mr. Trant stated automotive repair services are not the enemy of the city or corridor or this property and limiting them further than limiting those uses to those that would be defined and under the moniker quick-service oil change is sufficient protection. He stated the applicant has expressed clarity on exactly what they do there and what they deem to be their quick-service oil change or fluid change if it requires further clarity, he would respectfully request that it be something we are able to accomplish with Planning staff and the city between now and City Council.

Ms. Fox stated she is not sure how this site would accommodate any kind of vehicle repair facility. She stated this is a challenged site and she does not know what could go in there that would be of concern. Ms. Fox stated this seems like a nice fit based on the size and layout.

Mr. Carpenter stated he thinks the concern expressed by Planning staff is not that it does not fit. He stated he thinks it is a good fit and a nice looking building with nice landscaping, but the problem is what happens next. Mr. Carpenter stated once it has been approved for auto repair, it might not be ideal for another type of automotive repair. Ms. McAllister stated we have other auto repair uses within the city on sites this size and even smaller.

Mr. Jones stated a future conditional use permit applicant would have to go through the same rigorous process and we have analyzed it like we are supposed to do as a commission. He stated future Planning Commissions will do the same thing. Mr. Jones stated originally he was not inclined to approve the application but now he is.

Mr. Mulvaney asked if these proposed conditions for conditional use permit CU-2016-0003 are not part of the current application that was presented to us. Ms. Cotton stated no. She stated that, because we recommended denial, there were no conditions presented in the report. Ms. Cotton stated that Planning staff, in consult with the applicant, and in the event the Planning Commission had an opinion to approve the application, we were prepared with conditions in the event the application was recommended for approval. She stated we prepared a list of conditions that are the typical conditions you see on all of the approvals for this type of use in the city and shared that with the applicant. Ms. Cotton stated they made a couple of changes and added the use stipulation. Mr. Trant stated the stipulation about the bay doors being closed during work hours is a standard condition but it was omitted knowing it was not a condition to which the applicant would have agreed. Mr. Mulvaney asked if the Planning Commission is able to approve the proposed conditions without having to withdraw the motion and request a deferral. Ms. McAllister stated she would suggest that if Planning Commission wants to recommend approval, they can recommend approval with the proposed conditions but eliminating Condition No. 3. She stated it is auto repair whether it is for oil changes or not, in an auto repair building with an auto repair business and what you are saying by recommending approval for the use is this site is acceptable for auto repair.

Ms. Spratley stated she agrees there is nothing to prevent Planning Commission from recommending the conditions you wish to and it is your choice to revise or remove any of the proposed conditions. She stated they were suggested by Planning staff to the applicant but this is different than a change of zoning with voluntary proffers. Ms. Spratley stated you determine the conditions. Mr. Mulvaney asked if Mr. Jones would need to modify his motion to include these proposed conditions. Ms. Spratley stated he can do that if he so chooses.

Mr. Carpenter asked why Ms. McAllister would want to remove Condition No. 3. Ms. McAllister stated because quick-service oil change facility is not defined in our zoning ordinance and any other use coming in that is auto repair could argue that there is no real definition for it so why would their automobile repair use not be allowed. Mr. Carpenter stated it creates a cloud. Ms. McAllister stated yes.

Ms. Elizabeth Willis asked if we could add a definition. Mr. Carpenter stated if we want to add a definition we need to ask for a deferral. Ms. Spratley stated yes. She stated if you want to tweak Condition No. 3 and try to define what you are allowing and what you are not allowing to the best of your ability; however, now is probably not the best time to do that. Ms. Fox stated she is fine with accepting the proposed conditions as they are presented.

Mr. Mulvaney stated there is a facility on Shields Road on a much smaller site with several cars on the outside; however, he can identify himself as a quick-service oil change because that is his primary business. He stated the primary business is changing the oil and if they do anything ancillary to that, there is no control over it. Mr. Mulvaney stated he is not in disagreement with removing Condition No. 3 because it is ambiguous and there is no way of controlling or restraining it. He stated it is an automotive repair facility we are choosing to put there, no matter how minimal or maximum it is to that component. Mr. Mulvaney stated he thought the proposed conditions were included. He stated he is in favor of removing Condition No. 3 because it does not change the applicant's ability to operate, and leave all of the other conditions and renumbering them as noted to approve this application. Mr. Carpenter stated if you remove Condition No. 3 you are clearly approving an automotive repair facility and not a quick-service oil change facility. He stated if Take 5 goes out of business, the next tenant who wants to operate as a tire dealership is in.

Dr. Maxwell asked if there is any way to keep Condition No. 3 if it is approved and we get the definition for quick-service oil change prepared before City Council. He stated if the applicant is willing to impose limitations on themselves, why would we want to take the condition out. Ms. McAllister stated the conditions need to be enforceable by the Department of Codes Compliance, and if Take 5 leaves and some other use comes there, they can argue that whatever they are doing falls under that particular condition. She stated we have to look beyond the specific use that is before us today. Ms. McAllister stated this is an auto repair shop that you are saying is appropriate at this location.

Mr. Mulvaney stated he thinks he understands what the purpose is if they are only going to be there for a 10 year period. He stated why handcuff the city in the ability to regulate this arbitrary definition of a quick-service oil change facility. Mr. Mulvaney stated his preference would be to accept the conditions with Condition No. 3 eliminated as it does not impact the application, or their ability to do business, but it eases the burden on the city to try to regulate it.

Mr. Carpenter stated that with Condition No. 3 being removed, Take 5 can go away when they walk out the door and after it has been approved by City Council, any operator who wants to do any sort of auto repair can go in there. He asked if Planning Commission is okay with approving an auto repair facility on that corner regardless of what they do. Mr. Mulvaney stated that is exactly what they are looking at without a definition for quick-service oil change.

Mr. Carpenter stated he agrees with the comprehensive plan that states we are going to protect our communities and what Planning staff has said that it could be Take 5 today and then become another automotive repair facility later down the road. He stated he does not think that site works for a general automotive repair facility. Mr. Carpenter stated he thinks it works fine for Take 5, with a great looking building and good landscaping, but he does not think it fits there and the comprehensive plan backs that up. He stated we want Take 5 in Newport News, just not at that location.

Ms. Fox stated the conditional use permit is just for this particular applicant. Ms. Spratley stated a conditional use permit can be specific and can limit or allow certain activities under the conditions that the Planning Commission proposes. Ms. Fox stated we have a list of 21 proposed conditions and they are for this specific application. Ms. Spratley stated yes, but they live on with the land in that if another owner purchases the land, they would need to abide by those specific conditions.

Ms. McAllister stated the conditional use permit that they are applying for is for a small motor vehicle repair and service facility.

Mr. Mulvaney asked Mr. Trant what was the purpose of inserting Condition No. 3. Mr. Trant stated the purpose was to address the concern that the property could be used in the future for a broader automotive repair facility by restricting the automotive repair use to a smaller subset of uses. Mr. Mulvaney stated this does not do that. Mr. Trant stated a simple solution would be to say "Use of the Property pursuant to this conditional use permit shall be limited to that of a quick service oil change facility, which shall be defined as and limited to the following uses..." and then we could enumerate the very specific uses Mr. Robert listed, such as oil change, coolant change, transmission change, air filter change, oil filter change, wiper blade change and adding air to tires. Ms. Spratley asked if we could change "uses" to "activities". Mr. Mulvaney stated he thinks that is perfect and there is an enforceable component to that. Mr. Carpenter stated it is not enforceable because you have to have someone from Codes Compliance go to enforce that and they need to have the staff to do that.

Ms. Christine Mignogna, Zoning Administrator, Codes Compliance, stated she agrees it is very difficult to enforce. She stated we have met with similar circumstances on two occasions and at that point, even though it was electric repair in the vehicle, and it was some sort of engine repair, it was very specific from a very old conditional use permit and it was very difficult for us to prove what exactly the company was doing and for us to deny what they wanted to do as they had already been operating as such. Ms. Mignogna stated she agrees with Ms. McAllister that if Planning Commission approves this application, it should be for auto repair and service facility. She stated it is going to be very difficult for us to enforce the conditions otherwise.

Ms. Fox asked how often this is a problem. Ms. Mignogna stated we have seen this on a few occasions. She stated the burden of proof is on us. Ms. Mignogna stated all of our cases are criminal cases and we have to witness a violation to be able to deal with it. Ms. Fox asked if Ms. Mignogna would have to witness someone pulling an engine at the quick-service oil change facility. Ms. Mignogna stated yes, or someone who has seen it and we obtain a warrant from the magistrate because someone else saw it when we did not.

Mr. Mulvaney asked if what Mr. Trant noted would give Codes Compliance any more enforceable capabilities because it is limited to liquid and air. Ms. Mignogna stated she would prefer that we drop that particular condition.

Mr. Jones asked if it would be better if we deferred the application and allowed Planning staff to put some conditions together. Mr. Carpenter stated he thinks that would be best. He stated if we choose to defer the application we can send it back to Planning staff and request them to write better conditions.

Ms. Mignogna stated she spoke with the Building Official and according to the building code it does not make any difference if it is a Take 5 or an engine repair shop. She stated it is the same use as far as the building code is concerned, which is pretty much the same as our definition for auto repair and service facility. Ms. Spratley stated the building code is different from the conditional use permit in the zoning ordinance. She stated this conditional use permit would have to be enforced by its ordinance.

Mr. Carpenter stated he will be voting against the application because he does not think that motor vehicle repair is appropriate at this location, as per our comprehensive plan. He asked Mr. Jones if he would like to modify his motion, and if so, how.

Mr. Jones withdrew his motion.

Mr. Mulvaney made a motion to recommend approval of conditional use permit CU-2016-0003 to City Council, with the proposed conditions, removing Condition No. 3. The motion was seconded by Ms. Fox.

Vote on Roll Call

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

Against: Austin, Carpenter

Abstention: None

The Planning Commission voted 6:2 to recommend approval of conditional use permit CU-2016-0003 to City Council.

ORDINANCE NO. _____

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2016-0003 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF ALLOWING THE OPERATION OF A SMALL MOTOR VEHICLE REPAIR AND SERVICE FACILITY ON A SITE ZONED C2 GENERAL COMMERCIAL DISTRICT.

WHEREAS, application number CU-2016-0003 has been made by **TAKE 5 OIL CHANGE, applicant, and WILLIAM DAVID MOORE, owner**, for a conditional use permit for the hereinafter described property for the purpose of allowing the operation of a small motor vehicle repair and service 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-2016-0003 is hereby granted for the property described in paragraph (b) hereof for the purpose of allowing the operation of a small motor vehicle repair and service 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:

ALL THAT certain lot, piece or parcel of land situate, lying and being in the City of Newport News, Virginia, known and designated as Lots Numbered THREE (3) and FOUR (4) in Block Numbered ONE (1) as shown on that certain plat entitled, "CHAPEL PARK", made by C. R. McIntire, Civil Engineer, and dated March, 1928 and recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, in Plat Book 1, pages 62 and 63.

LESS AND EXCEPT that certain portion of the property acquired by the Commonwealth of Virginia by instruments recorded at Deed Book 1893, page 1386 and Deed Book 742, page 259.

The Property has a common street address of 12543 Warwick Boulevard and is assigned Real Estate Assessor's Tax I.D. #202.00-14-68.

(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 Conditional Use Permit Plan prepared by American Engineering dated September 30, 2016, identified as Appendix A-2 and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance.
2. Building elevations for the Property shall be consistent with the drawings prepared by CRA Architecture dated November 3, 2014 and identified as Appendix A-3. Full bricks shall be used to construct all facades. Final drawings shall be reviewed and approved by the Director of Planning prior to issuance of a building permit.
3. Use of the Property pursuant to this conditional use permit shall be limited to that of a quick service oil change facility, which shall be limited to: the changing of oil, oil filters, air filters, coolant, transmission fluid, windshield wiper blades and/or fluid and the filling of automobile tires with air.
4. The applicant shall cause a 30 foot transitional buffer area to be installed and maintained in perpetuity along the property's western boundary.
5. The applicant shall install a six (6) foot tall privacy fence or wall along the western property line. The design of the fence or wall shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a fence permit.
6. Parking and storage of vehicles is only permitted in marked parking spaces. Parking and storage of vehicles is prohibited with the property's designated green areas and the city's right of way.
7. A landscape plan in conformance with the requirements of the Site Regulations shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
8. Only one freestanding sign shall be permitted on the Property. The sign shall be a monument style sign no taller than eight (8) feet measured from the highest point of the sign area structure to the top of the curb. The sign shall be no more than 50 square feet. All sign design and materials shall be reviewed and approved by the Director of Planning.

9. All signs, including direction signs, location, design and materials shall be reviewed and approved by the Director of Planning.
10. 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.
11. Automobile repair is prohibited outside of the work bays.
12. Storage of cars in a state of obvious disrepair shall be screened from the public view.
13. All outdoor storage and displays of saleable items shall be prohibited.
14. All dumpsters and HVAC systems shall be screened from adjacent properties and rights-of-way with materials and design to match the building and shall be approved by the Director of Planning prior to site plan approval and shall be maintained in such condition in perpetuity.
15. The playing of music on any outdoor speakers shall be prohibited.
16. 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.
17. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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 February 14, 2017, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

F. Consent Agenda

1. Minutes of the Work Session of January 24, 2017

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Work Session of January 24, 2017

MINUTES OF WORK SESSION
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE
January 24, 2017
2:10 p.m.

PRESENT: Marcellus L. Harris III; McKinley L. Price, DDS; Tina L. Vick; Patricia P. Woodbury;
and Herbert H. Bateman, Jr.-----5

ABSENT: Sandra N. Cherry, D. Min.; and Sharon P. Scott -----2

OTHERS PRESENT: James M. Bourey; Collins L. Owens; Mabel Washington Jenkins; Alan Archer;
Cynthia Rohlf; Darlene Bradberry; Wanda Pierre; Lisa Cipriano; Chad Pritchett; Sherry Crocker; Corey
Cloud; Dawn Barber; Florence Kingston; Chris Morello; William Harrell; Ray Amoroso, Samantha Sink;
Bryan Stille; Richard Myers; Ted Roese; Joseph Moore; Lillian Taylor; Howard Gwynn; RoShaundra
Ellington; MaRhonda Echols; Telly Whitfield; Cleder Jones; Jennifer D. Walker; and Reema Amin

I. Hampton Roads Transit (HRT) Peninsula Fixed Guideway Study Briefing

Mr. James M. Bourey, City Manager, introduced Mr. William E. Harrell, President and
CEO, Hampton Roads Transit (HRT), and Ms. Samantha Sink, HRT Project Manager, to provide the
briefing on the Hampton Roads Transit Peninsula Fixed Guideway Study. City Manager Bourey advised
that the Study would lead to a transformational change in how transit flowed on the Peninsula. He
commended the efforts of City staff that assisted the representatives of HRT in moving the study forward.

Mr. Harrell advised that Hampton Roads Transit had been pursuing high capacity transit
in various corridors throughout the region. He stated that an unfavorable decision in the City of Virginia
Beach would not limit the importance of high capacity transit on the Peninsula. HRT had launched a
program entitled “Connect Hampton Roads” to implement projects that would be important to advancing
high-capacity transit and improving mobility throughout the region. The Peninsula Fixed Guideway
Study was one of those projects.

Mr. Harrell understood that Councilwoman Cherry had concerns about the Study, and
several individual briefings were held with her. He asked members of City Council to contact him should
they have any questions or concerns about the Study. He would be happy to meet independently. HRT
needed City Council to weigh-in on the corridor that made the most sense for the future of the region as
their approval was needed. Mr. Harrell introduced Ms. Sink to offer details of the Study, to be followed
by Mr. Ray Amoroso, HRT Chief Planning and Development Officer, to summarize key
recommendations and issues with the Study.

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Ms. Sink advised that the Peninsula Corridor Study was being managed by HRT in cooperation with the Cities of Newport News and Hampton. She noted the Study process included:

- Defining the Purpose & Need – What was the transportation need and how was the need being solved
- Tier 1 Alternatives & Screening – What were the set of options that would be evaluated
- Tier 2 Alternatives & Evaluation – two to three further alternatives
- Recommendations & Next Steps to begin the next phase of Study

Ms. Sink noted the status of the Peninsula Corridor Study:

- Finalization of the Purpose & Needs Statement would
 - Provide Travel Choices
 - Support Growth in Accordance with Plans of the Cities
 - Mitigate Increase in Congestion by Attracting Riders
 - Contribute to Desirable Place & Attract New Residents
 - Effectively Compete for Federal Funding

Ms. Sink advised that HRT, elected officials, community leaders and business owners developed Tier 1 Alternatives. Tier 1 Alternatives included three broad corridors - the North/South that connected Fort Eustis to downtown Newport News and the Shipyard, a diagonal corridor that paralleled the I-64 corridor, and the East/West corridor that connected the Cities of Hampton and Newport News. Tier 1 included 18 screening principles. The 18 Tier 1 Alternatives were reduced to a manageable set of six alternatives, which resulted in Tier 2 Alternatives. Ms. Sink stated Tier 1 Alternatives were finalized and ranked by an evaluation score of whether to dismiss, retain, or modify (a copy of the presentation, "Peninsula Corridor Study – Newport News City Council Briefing," is attached and made a part of these minutes).

Ms. Sink noted the six Tier 2 Alternatives that were realized from Tier 1 Alternatives research and screening reports (see information about each in the presentation attached to these minutes):

- **Alternative 2c Easement** (Incorporated City Center to the Southeast Community)
- **Alternative 3 Jefferson** (Stretched along Jefferson Avenue)
- **Alternative 5a Pembroke** (Pembroke Avenue to downtown Hampton and Newport News)
- **Alternative 6 Mercury** (Downtown Newport News to Mercury Boulevard to Hampton)

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- **Alternative 8 - I-64** (Along I-64)
- **9 HR Center/Armistead** (Hit a number of major activity generators such as Patrick Henry, Tech Center, Peninsula Town Center, Downtown Hampton, etc.)

Councilwoman Woodbury inquired about Alternative 10b, which scored high, and the reason it was eliminated. Ms. Sink replied that Alternative 10b was eliminated because its segments were included in Alternative 6 and 9, which offered the most bang-for-the-buck.

Ms. Sink explained that Tier 2 Alternatives were analyzed to determine whether they would effectively compete for federal funding. She introduced Mr. Amoroso to discuss the requirements of the federal program.

Mr. Amoroso stated HRT was working with two municipalities, the Cities of Newport News and Hampton. He stated that both Cities faced limitations in terms of capital and infrastructure investments. HRT did not have many opportunities through the Hampton Roads Transportation Planning Organization (HRTPO) for capital projects as their main focus was on roads, bridges and tunnels. The only funding available to assist with transit projects was through the Federal Transit Administration (FTA) Capital Investment Grant (CIG) Program, Section 5309.

Mr. Amoroso advised that the CIG program provided funding for fixed guideway investments, such as bus rapid transit. He stated the CIG program was discretionary and highly competitive. Approximately, \$2.3 billion was appropriated annually by the U.S. Congress for the program. The average cost for a typical fixed-guideway project was approximately \$1 billion. The historical federal share for projects in the program totaled 50%. The FTA looked for states and localities to make up the other 50%. The CIG program included a multi-year, multi-step process, with evaluation and rating by the FTA at specific points, which could take many years. There were two categories of eligible projects under the CIG 5309 program: 1) New Starts; and 2) Small Starts projects.

Mr. Amoroso explained that New Starts projects were new fixed-guideway projects or extensions to existing fixed-guideway systems with a total estimated capital cost of \$300 million or more, or that were seeking \$100 million or more in Section 5309 CIG program funds. Small Starts projects were new fixed-guideway projects, extensions to existing fixed-guideway systems, or corridor-based bus rapid transit projects with a total estimated capital cost of less than \$300 million and that were seeking less than \$100 million in Section 5309 CIG program funds.

Mr. Amoroso noted two types of FTA Bus Rapid Transit Eligible projects:

- Corridor Based Bus Rapid Transit
 - Operates in mixed traffic

- Frequent bi-directional service (weekdays)
- Traffic signal priority required
- Fixed Guideway Bus Rapid Transit
 - Operates in exclusive lane on 50% of alignment during peak periods
 - Frequent bi-directional service (including weekends)
 - Traffic signal priority required

Mr. Amoroso noted the FTA New and Small Starts Process included:

- New Starts Process
 - Project Development
 - Complete environmental review process including developing and reviewing alternatives, selecting a locally preferred alternative (LPA), and adopting it into the fiscally constrained long range transportation plan

Mr. Amoroso advised that HRT was in the planning phase of project development. HRT would begin the Environmental Impact Statement once they received permission from the FTA to proceed.

- Engineering
 - Gain commitments of all non-New Starts funding
 - Complete sufficient engineering and design
- Full Funding Grant Agreement
 - Construction
- Small Starts Process
 - Project Development
 - Complete environmental review process including developing and reviewing alternatives, selecting a locally preferred alternative (LPA) and adopting it into a fiscally constrained long range transportation plan
 - Gain commitments of all non-Small Starts funding
 - Complete sufficient engineering and design
 - Small Starts Grant Agreement
 - Construction

Mr. Amoroso advised the CIG projects must be evaluated and rated with statutorily defined criteria at various points in the development process. To be eligible for a construction grant, all projects must go through a multi-step, multi-year process and receive at least a “Medium” overall rating, in addition to other requirements (see FTA Project Evaluation & Rating Criteria in the presentation attached to these minutes).

Mr. Amoroso reported that CIG New Starts projects were eligible for a maximum of 60% federal funding and Small Starts projects were eligible for a maximum of 80% federal funding. He noted 65 CIG projects underway throughout the United States under the following categories:

Mr. Amoroso stated the program had grown by 70% since FY 2014. He stated most of the projects were Small Starts projects. He believed that many compromises were made to transit projects to qualify for funding, and it was his job to ensure that the project would qualify for federal funding.

Mr. Amoroso noted the next steps in the Peninsula Corridor Study:

- Tier 2 Evaluation
 - Corridor Definition
 - Evaluation
 - Concept Design and Cost Estimation
- Engagement
 - Committee Meetings
 - Public Workshops and Pop-up Meetings
 - Online Engagement
- Develop Recommendations

Mr. Amoroso noted the Alternatives Definition Process (see Tier 2 Corridor Definition Process in the presentation attached to these minutes):

1. Define Transit-way Alternatives
2. Ensure FTA Funding Eligibility Requirements were met
3. Assess preliminary ridership and costs
4. Evaluate Cost Effectiveness against the FTA criteria
5. If necessary, redefine alternatives to meet a supportable cost

Councilwoman Woodbury inquired whether the geography of Newport News helped in a positive way when it came to scoring. Mr. Amoroso replied that Newport News was a long lean City and the longer the corridor, the more the project would cost. The ridership also determined the scoring for a project. A project from Fort Eustis to downtown Newport News might not be affordable if the route did

not generate a certain amount of ridership. They had to decide where the strongest investment was. Ridership at the least capital cost versus operating cost was the key.

Councilman Harris, on behalf of Councilwoman Cherry, questioned how going through the Tech Center, in relation to Alternative 2C, increased the cost of the project. Mr. Amoroso replied that the information was not finalized; however, deviating from a straight alignment to enter into the Tech Center would incur additional cost. He did not have the numbers yet. HRT had to determine the benefit of going through the Tech Center and how much additional ridership would be generated to offset the cost.

Vice Mayor Vick inquired whether there was a formula to increase the frequency of bus service for passengers waiting an hour or more for a bus. Mr. Amoroso replied that the more buses that were put on a route, the more frequent service became. HRT was unable to increase frequency due to funding limitations. It would cost approximately \$14 million annually to increase the service frequency by 15 minute intervals.

Mr. Harrell advised that the frequency of bus service in Hampton Road took several hours compared to bus transit companies in other localities. Many localities had implemented a dedicated funding source for transit. The Cities funded the pro-rider share of most of HRT's budget (42%). Transit agencies across the country had a dedicated funding source, which assisted with the cost to increase frequency. He stated the "Connect Hampton Roads" project was the ultimate solution for the region.

Councilman Harris, on behalf of Councilwoman Cherry, questioned the reason that the Lee Hall area was considered to be the starting point, in relation to ridership. Mr. Amoroso replied that Lee Hall ridership was relative to some other areas of the City. The purpose of the Study was to document the potential of an investment in bus rapid transit to a higher capacity system. HRT would determine whether it was a difference and report back to City Council with the results.

Councilman Harris, on behalf of Councilwoman Cherry, inquired about the proposed distance into the Southeast Community for Alternative 2C, and the current ridership for the Southeast community. Ms. Sink replied that HRT did not have ridership information. She replied that Tier 2 Alternative 2C would travel down to 14th Street from 35th Street.

City Manager Bourey stated that two issues had to be considered such as how the Southeast Community would be served, beyond just a single alignment. He stated that the challenge was having a major bus corridor through a residential area.

Mr. Harrell advised that HRT would return to City Council in the summer of 2017 to offer an additional briefing on the Peninsula Corridor Study.

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II. Police Crime Briefing

City Manager Bourey introduced Mr. Richard Myers, Chief of Police, to explain where the City, region and country was on the issue of violent crime. He stated that there was aggressive activity on the part of the Newport News Police Department (NNPD) to make a difference in the community. The NNPD was working to build upon that community relationship, which sometimes took time.

Chief Myers advised that crime rates, compared to 20 years ago, were lower locally and nationally. He recognized that feeling safe was just as important as being safe. Violent crimes were not about numbers, but about people - those who were victimized, the community, the families and the offenders.

Chief Myers noted homicide statistics for 2016:

- 31 Victims in 29 incidents were killed
 - 15 victims had some type of relationship with the offender
 - Two of the 29 incidents were “Double Homicides”
 - North Precinct = 9 incidents
 - Central Precinct = 8 incidents
 - South Precinct = 12 incidents

Chief Myers stated that homicide victims in the City of Newport News were disproportionately African American and male. More than half were between the ages of 17 – 30. The Police Department had solved 15 out of 29 homicides that had been reported in 2016. Homicides were the most complex criminal investigations and required tremendous effort to make a case. Out of the 14 remaining active cases, many were solvable if additional information, investigations and lab results were received. The NNPD was well above the national average for clearing homicide cases. They put everything they had into the cases.

Chief Myers advised that there had been a significant increase in non-fatal shootings in 2016. The 121 victims hit by gunfire through 113 incidents was a statistically significant increase over the prior year. Shootings were much more centralized in the South Precinct. Of the 113 incidents, eight involved multiple victims. The most victims hit in a single incident amounted to three.

Councilman Harris inquired whether statistics were available for gunshot victims who survived due to the efforts made by area hospitals. Chief Myers stated that no such statistics were available.

Chief Myers advised that of the 123 citizens shot in 2016, 26 had been identified as members and/or associated with known gangs. In 70% of the cases, suspect(s) had been identified, and the victim and suspect knew each other. He introduced Mr. Ted Roese, Supervisory Senior Resident Agent, Federal Bureau of Investigation (FBI), to advise how NNPD worked with the Bureau.

Agent Roese stated that the NNPD partnered with the FBI to leverage additional manpower, focus on the worst offenders, and assist with major conspiracy cases. He agreed that gangs were a problem and a high percentage of shooting victims were known gang affiliates and/or had an established connection with a gang.

Agent Roese credited the NNPD for their efforts in reducing crime. He advised that fourteen gang members had been indicted through the sharing of knowledge and intelligence. The FBI enjoyed a tremendous and effective partnership with the NNPD.

Chief Myers noted the age of possessors and the total number of firearms traced in 2016:

- Possessors less than 17 years old - 28 firearms
- Possessors between 18 - 21 years old - 78 firearms
- Possessors between 22 - 30 years old - 176 firearms
- Possessors between 31 - 40 years old - 57 firearms
- Possessors over 40 - 41 firearms
- Age unknown - 136 firearms

Chief Myers noted the time between the commission of a crime and when a firearm was purchased (see information in presentation attached to these minutes). He stated a shortened length of time to the commission of a crime could indicate that the gun was purchased to commit a crime; however, a longer length of time when the firearm was purchased could mean that the firearm was stolen during a burglary.

Chief Myers noted the top ten dealers of Firearms and the top Firearms traced in 2016 (see list in presentation attached to these minutes).

Chief Myers reported that vehicle theft was one of the fastest growing crimes in the City of Newport News. He stated approximately 179 vehicles were reported stolen in 2016 in the North, Central and South Precincts. Autos were stolen to conduct other crimes, such as robberies and/or shootings. Increasingly, more and more juveniles were driving around in stolen vehicles (see informational chart as part of the presentation attached to these minutes). Of the 179 vehicles stolen in 2016, the car was known to be locked in only 8 cases. The keys were in the ignition or elsewhere in the passenger compartment of the vehicle in over 82 cases. These were preventable crimes. Virginia was

the only state, out of the six that he had worked for, where it was not illegal to leave one's key in a car on private property.

Chief Myers provided violent crime statistics in Newport News compared to other communities for part of 2016 (see information in the presentation attached and made a part of these minutes).

Councilwoman Woodbury questioned what the Cities of Suffolk, Chesapeake and Virginia Beach were doing to lower their crime rates. Chief Myers replied that crime was less in the City of Suffolk because it was more rural in nature. He did not have an answer for the City of Virginia Beach, which was the largest City in the State of Virginia.

Chief Myers stated that the North, Central and South Precinct Uniform Patrol Divisions remained the Police Department's Frontline of Enforcement. Additionally, specialized enforcement units were deployed, to include the Gang Unit, the Fugitive Unit, Street Level Teams, Motor Unit for Traffic Enforcement, etc. During the fall of 2016, the Police Department piloted a unit to focus specifically on hotspot and known offender locations. The results of this pilot program were impressive.

Chief Myers advised that the Violent Crime Reduction Task Force went into effect with the mission to thwart criminal activity in the identified hotspots and gain valuable intelligence in identifying, locating and apprehending violent offenders. The following hotspot areas were identified:

- Marshall Courts
- Aqueduct
- 26th Street and Chestnut Avenue
- Dresden Drive
- Courthouse Green

Chief Myers stated the Violent Crime Reduction Task Force was a short pilot program that ran from November 1, 2016 thru January 16, 2017. He noted the following results of the Task Force:

- 71 Arrests
- 169 Felony Charges
- 87 Misdemeanor Charges
- 29 Fugitives Apprehended
- 29 Firearms Recovered
- 23 Search Warrants Executed

Chief Myers stated in several cases, Task Force Officers who were on duty and working at the time that a shooting or homicide was reported, were able to assist the responding investigators. More importantly,

officers were able to take information out of the initial investigation to conduct surveillance, and gather further intelligence that resulted in a quicker arrest and recovery of evidence.

Chief Myers advised that five community meetings were held to announce the Violent Crime Reduction Task Force initiative to residents of the targeted areas. He stated firearms, and drugs were seized during the pilot program (see the amount of firearms and drugs that were confiscated in the presentation attached to these minutes).

Councilwoman Woodbury inquired whether the Violent Crime Reduction Task Force was similar to the prior HIP (High Intensity Patrol/Policing) Team. Chief Myers replied the Task Force was similar to the HIP Team. He stated the HIP Team was smaller and the Precincts used them at the micro-level. The Violent Crime Reduction Task Force was a substantially larger unit that could engage in challenging types of surveillance and follow-up and were not concerned about Precinct boundaries.

Councilwoman Woodbury questioned what happened to the HIP Team which she understood had been very effective. Chief Myers replied the HIP Team was disbanded before he began employment with the City. He too understood that the HIP Team was effective. He believed staffing became an issue.

Vice Mayor Vick inquired whether Assistant Police Chief Joseph Moore recalled the reason that the HIP Team was disbanded. Assistant Chief Moore replied the HIP Team was disbanded due to manpower issues. The Officers were rolled back to their Precincts as Patrol Officers to handle regular calls and to staff shifts.

Vice Mayor Vick recalled that the HIP Team was helping to eliminate gang activity in the City.

Chief Myers stated the Precinct Captains were provided a set number of manpower, and were granted latitude on how to use the same. It was not uncommon that officers were given different tasks during shifts, such as bike detail in high crime areas, or surveying problem crime areas. The Precincts had a problem with manpower and, at times, never had a full shift to handle tasks. The Violent Crime Reduction Task Force was created to assist Precinct Captains with a tool that they never had.

Councilwoman Woodbury inquired about the number of vacancies in the NNPD. Chief Myers replied, up until the new Police Academy began a week ago, there were 30 to 40 vacancies. A number of new recruits were in the Police Academy and should graduate by June 2017. Chief Myers believed the hiring of Lateral Police Officers (Police officers from other localities who were already State Certified) was the key to help eliminate the vacancies in the NNPD.

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Minutes of Work Session
January 24, 2017

Vice Mayor Vick felt that getting new Police Officers on board should be at the top of Chief Myers list. She felt the Police Department was in a State of Emergency with 30 to 40 Police Officer vacancies. She mentioned a crime that took place on Jefferson Avenue in the proximity of Ivy Avenue. She understood that crime was everywhere, but should not be used as a reason to not strategize at the top level of high functioning. She felt that funding needed to be found to assist with the hiring of Police Officers. This was a critical problem that needed to be addressed.

Councilwoman Woodbury questioned what caused such a large number of vacancies in the Police Department. Chief Myers replied that some of the vacancies were due to the City's Attrition Rate. It had been that way for years. They were only hiring at the Attrition Rate, and could not close the vacancy gap. Police Officer vacancies were a national crisis. The Virginia State Police had a vacancy rate of approximately 220 troopers. The Police Department was conducting three Police Academies in 2017 to help put more police on the force. They overhauled their Recruiting Team and had talked about non-traditional ways to hire Lateral Officers.

City Manager Bourey stated that the vacancy rate was not a funding issue. He encouraged the Police Chief to over subscribe his Police Academy with new Police recruits. This would help eliminate the vacancies. He stated the NNPD had to ramp up its recruiting efforts.

Vice Mayor Vick inquired whether an incentive, such as a bonus, could be offered to Lateral Police Officers to entice them to relocate to Newport News. Chief Myers replied that they had always been able to hire Lateral Police Officers with a salary over and above entry level. An internal survey of employees had recently been done. Due to the feedback from the survey, Chief Myers advised that his FY 2017 – 2018 budget request included incentive and retention funding. This information would be provided as part of the NNPD budget process.

Councilman Bateman inquired about a Tuition Reimbursement Program specifically geared for law enforcement training. City Manager Bourey replied that the City's Tuition Reimbursement Program had been reinstated since he became the City Manager. Also, the City increased what was paid to Police Officers who had degrees.

Councilman Bateman inquired whether the City partnered with Old Dominion University, Hampton University, and others to suggest a Pathway to Learning program for Police Officer recruits with opportunities for tuition reimbursement.

Chief Myers stated that the Police Department created a new position, with help from the City Manager, called Police Cadet. He explained that to be eligible, a candidate had to be enrolled in college. The NNPD was recruiting Newport News high school seniors to work two to three shifts per week as Police Aides. The Police Aides were the only part-time positions in the City that were eligible

for tuition reimbursement. The Police Aides were trained to provide a service while attending college. Once the cadets graduated, they would become full-time Police Officers.

City Manager Bourey stated he would review the above-noted incentive programs to be implemented immediately. He stated that the City had to do whatever it could to increase the Police force.

Councilman Bateman recalled a federal program that offered an incentive for a Police Officer to live in the community in which they served. Chief Myers was not familiar with the federal program, but stated the City did have a Courtesy Officer Program in Newport News where a rental property provided an apartment to a Police Officer if the officer agreed to a certain amount of security in the apartment complex.

Mayor Price cautioned that Police officer standards should not be lowered in order to fill positions. City Manager Bourey and Chief Myers assured that the standards would not be lowered.

Chief Myers stated that the Violent Crime Reduction Task Force would be a permanent unit within the Organized Crime Division. It would expand its focus to include:

- Community Partnerships and Participation
- Technology
- Street Suppression Activities
- Work closely with the Narcotics and Gang Units and Federal partner agencies

Chief Myers advised that the Violent Crime Reduction Task Force new operational period would begin on February 20, 2017 and operate seven days per week. The staffing would include:

- 1 Lieutenant
- 2 Sergeants
- 6 Organized Crime Detectives
- 4 Uniformed Patrol Officers
- 1 Canine Officer

Chief Myers introduced Mr. Ken Rogers, Sergeant, NNPD, Gang Enforcement Unit, to offer an overview of the status of gangs in the City of Newport News and how the issue would be addressed.

Sergeant Rogers stated, the Code of Virginia, Section 18.2-46.1, clearly defined what constituted a gang/gang membership in Virginia:

- Three or more people
- Primary objective or activity was crime
- Identifiable by name, sign, or symbol
- Members committed or attempted, conspired or solicited others to commit two or more predicate acts, of which one had to be an act of violence

Sergeant Rogers stated the Code of Virginia, Section 18.2-46.2, noted identifiable indicators of gang participation:

- Use hand or sign signal
- Association with known gang members
- Self-admitted
- Adorned with Tattoos
- Receive information from reliable sources or informants

Sergeant Rogers noted there were 63 active street gangs within the City of Newport News which included:

- Hybrid Gangs (Neighborhood Gangs) – the ones that NNPD dealt with.
- National Sets (Bloods, Crips, etc.)
- Outlaw Motorcycle Gangs (OMG's) – starting to show its face more

Sergeant Rogers stated that the City had documented 166 gang members but there were a total of 1,300 known gang members and associates. He noted areas that gangs frequented in the North, Central, and South Districts (see maps depicting the gang activity in the presentation attached and made a part of these minutes).

Chief Myers stated a key to securing more citizen involvement was protecting the reporters of crime. He stated the NNPD relied on the Crime Line. He was encouraged that a 24% increase in tips was realized in 2016. That was a very positive trend that he felt reflected increased citizen engagement (see Crime Line statistics in the presentation attached to these minutes).

Chief Myers noted ongoing enforcement efforts to reduce crime:

- NIBIN (National Integrated Ballistic Information Network) – Linking guns to offenders
- N.E.A.T. – Neighborhood Enforcement Action Teams
- Manpower Study & Reallocation
 - Patrol – “Fourth Shift”

- Investigations – Reallocation
- Dispatch – Shift configuration & Staffing
- Continuous Recruitment
- Multiple Academy Classes

Chief Myers advised that the NNPD was continuously working to engage the Community through the:

- Citizen Police Academy
- Citizen Police Academy for Seniors
- Citizen Police Academy for Youth
- Department Tours
- Ride-Along Program
- Volunteer Program
- Neighborhood Watch Coalition
- National Night Out Program
- Youth Engagement Summer Program
- Youth Explorers POST #224 Program
- School-Based Criminal Justice Clubs
- Faith-Based Communications Plan and Outreach Community Education
- STANCE – working with Apartment managers
- Homeless Outreach Project
- “Every 15 Minutes” Program – DUI education program for schools
- Community Work Alternative Program
- SRO Program

Chief Myers advised that the Creating Responsibility in My Environment (C.R.I.M.E.) initiative became more autonomous in 2016, and experienced numerous successful projects. He stated Police Officers surveyed NNPS students, held resource fairs, set-up a Facebook page, assisted the homeless, and initiated an Asset-Based Community Development project in Courthouse Green.

Chief Myers stated that the Police were beginning to see more homicides and shootings. He stated crime was not only affecting the City of Newport News, but it was nationwide (see headlines noting crime in other Cities in the United States as part of the presentation attached to these minutes). Chief Myers wanted to assure City Council that the Police Department understood the significant impact that violent crime had on the community. Crime was unpredictable and the Police Department was not letting up. He wanted to provide a comprehensive overview of how the Police Department was tackling crime.

Councilman Harris questioned what could legally be done to combat gang activity in the City, in light of the information that the Police Department had on gangs.

Vice Mayor Vick stated that the people who needed to attend the programs that the Police had in place were not coming. She understood it was difficult to deal with people in the community. She felt a different strategy was needed, such as what was done in Marshall Courts.

Chief Myers pointed out that Street Outreach Workers, supervised by Ms. MaRhonda Echols, Youth and Gang Violence Coordinator, Office of the City Manager, had the ability to establish credibility and rapport with the youth in the community. He believed in the value of the STEP program, and felt additional Street Outreach Workers were needed for the program.

City Manager Bourey agreed that trained and skilled individuals were needed to make a difference with the youth in the community.

Chief Myers stated that the Street Outreach Worker had a challenging position, but could make a huge difference in the City.

City Manager Bourey stated that he would like to have an individual briefing with members of City Council regarding confidential efforts associated with initiatives geared at reducing violent crime. He reassured members of City Council that there were extensive efforts underway to deal with crime.

Mayor Price recalled, several years ago, at a meeting he attended, an FBI Special Agent stated that the mission of the FBI was terrorism and gangs. He inquired whether gangs still were the priority of the FBI. Agent Roese replied that criminal enterprises continued to be the FBI's priority. He did not believe that there would ever be a time when the FBI did not consider counter terrorism as their highest priority. Within their work in criminal enterprises, transnational organized crime was their highest focal point, followed closely by public corruption and civil unrest.

Mayor Price inquired whether there was anything that the City could do to encourage citizens to lock their automobiles and not leave the keys inside unattended. Chief Myers indicated that many crimes and robberies could be avoided if citizens kept their car doors locked and avoided leaving their keys in their car ignitions. City Manager Bourey believed that a public media campaign was something that might help.

Councilwoman Woodbury voiced concern about a lack of consequences for inappropriate behavior by youth, such as the incident that happened at the Patrick Henry Mall in December 2016. The incident was dismissed as if nothing ever happened. Getting away with such sent a message to youth that they could get away with more. Additionally, Councilwoman Woodbury mentioned that two youth did \$30,000 in damage to Warwick High School, but were released to their parents after the incident. Chief Myers explained that there was a Virginia law that used an Assessment tool to determine when youth should be detained for a crime. He stated that the youth who had damaged Warwick High School were in Juvenile Detention. They had been charged with a list of felonies that qualified them for Detention.

Councilwoman Woodbury indicated that Learning Theory stated that youth had to suffer the consequences for their actions. She did not understand the reason that the Assessment Tool allowed a number of felonies actions before youth were required to be detained in Juvenile Detention. Chief Myers agreed; however, it was a State law.

Councilwoman Woodbury inquired whether the Police Department had canines that were able to detect narcotics and firearms. Chief Myers replied yes. He stated that one canine was assigned to the Violent Crime Reduction Task Force for narcotic detection.

Councilwoman Woodbury inquired whether the Police Department had a canine that could detect firearms. Sgt. Rogers replied that there were legal issues that had to be considered before allowing a canine to search a vehicle for a firearm, which was different than narcotics. Narcotics were illegal; however, a person may have a permit to carry a firearm. He stated the next canine that the Police Department planned to purchase would be dual purpose to detect both narcotics and firearms.

Councilwoman Woodbury inquired whether additional canines could be purchased. Chief Myers replied that the Police Department had a sufficient number of canines, but could consider purchasing an additional one or two per year as the Police force increased in manpower.

Councilwoman Woodbury invited the Police Chief and his department, along with fellow law enforcement officers to Saint Andrews Episcopal Church on Sunday, January 29, 2017, 10:30 a.m., for a meal. The event was held annually to recognize Police and Fire Department personnel.

IV. Bond Authorization Briefing

Ms. Cipriano explained the FY 2017 Bond Authorization was a legal instrument that allowed City Council to appropriate funds for projects identified in the approved FY 2016 – 2017 Capital Improvements Plan (CIP), and to issue bonds to pay for capital projects appropriated by City Council (a copy of the presentation, “FY 2017 Bond Authorization,” is attached and made a part of these minutes).

Ms. Cipriano reported the Recommended FY 2017 Bond Authorization was \$66,870,000. She stated the FY 2017 Bond Authorization was divided by \$53,325,000 or 80% of General Fund Supported Debt, and \$13,545,000 or 20% of User Fee Supported Debt (see a list of projects in the presentation attached to these minutes):

General Fund Supported Debt

| | |
|--------------------------|--------------|
| 1. Community Development | \$35,850,000 |
| 2. Parks & Recreation | \$ 750,000 |
| 3. Public Buildings | \$ 1,500,000 |
| 4. Schools | \$ 6,140,000 |

| | |
|--------------------------------|--------------|
| 5. Streets and Bridges | \$ 9,085,000 |
| User Fee Supported Debt | |
| 6. Sewer Rehabilitation | \$ 5,150,000 |
| 7. Stormwater Drainage | \$ 8,395,000 |

Ms. Cipriano noted the FY 2017 CIP General Obligation Bond Projects and the yet-to-be appropriated FY 2016 CIP projects, from General and Self-Supporting Funds, were the basis of the Authorization (see the list of project allocations as a part of the presentation attached and made a part of these minutes).

Ms. Cipriano noted the actual projects that would be funded from the FY 2017 Bond Authorization (see the list of projects as part of the presentation attached and made a part of these minutes).

Ms. Cipriano stated staff anticipated the FY 2017 Bond sale for April/May 2017, if market conditions were favorable. She advised should current bond cash last through end of FY 2017, staff would anticipate a bond sale in early FY 2018. The Department of Waterworks would have a separate bond sale during the spring of 2017 to replenish their bond cash. The City would also have a small Refunding of existing Bonds if market conditions were favorable.

Ms. Cipriano stated, in addition to the above-noted FY 2017 Bond Authorization, an Ordinance authorizing the issuance of General Obligation/Water Bond Refunding Bonds was on the Regular Meeting Agenda of January 24, 2017. She explained that the Refunding authorization would allow the City to refinance up to \$42,000,000 of outstanding General Obligation Bonds (GOB) and/or Water Bonds if market conditions were favorable. She advised that City Council approved a \$145,000,000 Refunding Bond Authorization in January 2016 for calendar year 2016. The City only refunded bonds that would result in a net present value savings of at least 3%. Only two General Obligation Bonds were eligible to fall within the criteria. The City had been very aggressive with refinancing all other debt, which resulted in a better rate.

Ms. Cipriano reiterated that two items were on the Regular Meeting Agenda of January 24, 2017, for adoption by City Council: 1) FY Bond Authorization to move the FY 2017 Capital Improvement Plan process forward; and 2) Authorization over the FY 2017 calendar year to refund the two bond issues should market conditions be favorable.

IV. Comments/Ideas/Suggestions

City Manager Bourey stated that he had sent an email to members of City Council in reference to meeting with them. He received several responses and asked those who had not responded to let him know a convenient time to meet.

City Manager Bourey thanked City Council for attending the Ella's Place, Pop-Up Jazz Club event held on Saturday, January 14, 2017, at the former Toby Keith's Venue (711 Thimble Shoals Boulevard). He stated the event was a success. Staff was going to look into additional dates to continue the Pop-Up Club in celebration of Ella Fitzgerald's 100th Birthday.

Vice Mayor Vick commended the City Manager for a successful event. She advised that she had received positive comments about the event as well. She felt the space was accommodating as well.

City Manager Bourey reminded members of City Council about a Police Briefing scheduled for Thursday, January 26, 2017, at 10:30 a.m., with Police Chief Myers to offer information about crime. He stated that Chief Myers planned to schedule a bi-monthly briefing so that City Council could be better informed and understand that the Police Department was working hard to alleviate crime in the area.

Councilman Harris inquired whether the Newport News School Board provided an annual budget presentation to City Council during budget negotiations. City Manager Bourey replied yes.

Councilman Harris inquired whether the City had received any updates about the new Kroger Marketplace planned for the Oriana Shopping Center in Denbigh. Ms. Florence Kingston, Director, Department of Development, responded that staff was still awaiting word from Kroger. She stated that she would contact Kroger for an update and provide the information to the City Manager to share with members of City Council.

Councilwoman Woodbury stated that she received an email from Ms. Kimberly Wynn, Executive Director of the Virginia Municipal League, about whether the city had a project that could be featured in the VML Magazine. City Manager Bourey asked that Councilwoman Woodbury have Ms. Wynn contact him directly. He felt the celebrations planned to commemorate Ella Fitzgerald's 100th Birthday (April 2017) were unique projects. He stated he would be happy to assist Ms. Wynn.

Councilwoman Woodbury stated that she would refer Ms. Wynn to the City Manager.

City Clerk Mabel Washington Jenkins reminded about the Legislative Day on Wednesday, January 25, 2017, and the Hampton Roads Economic Development Authority's (HREDA) Annual meeting that was scheduled for Thursday, January 26, 2017.

City Clerk Jenkins reminded about the Peninsula Fine Arts Center (PFAC) hosted Artini event, scheduled for February 10, 2017, 7:00 p.m. to 10:00 p.m., at Ella's Place (711 Thimble Shoals Boulevard). She advised that an email about the event had been forwarded to members of City Council. She asked that they her know whether they would be attending the event.

City Manager Bourey advised Traditions Brewery was doing a special beer for the One City Marathon and the Artini Event, scheduled for February 10, 2017, was a tasting event hosted by the PFAC.

City Attorney Owens advised that the Resolution in Memoriam for Charles C. Allen, former Vice Mayor and Member of City Council, would be available for vote at the evening meeting. He asked that a member of City Council make a motion under New Business for adoption of the resolution.

City Manager Bourey stated that because two members of City Council would not be at the evening meeting and one member of City Council had to abstain, the applicant for Public Hearing (Item E2 – Ordinance Authorizing a Change of Zoning for property located at 615 Bland Boulevard to allow Retail Development) asked that the matter be continued to the February 14, 2017 Regular Meeting of City Council. In addition, the applicant for Public Hearing (Item E3 – Ordinance Authorizing a Conditional Use Permit to William David Moore for the Construction of a Small Motor Vehicle Repair and Service Center at 12543 Warwick Boulevard) was unable to attend the meeting due to travel delays and asked that that matter be continued to February 14, 2017, as well.

THERE BEING NO FURTHER BUSINESS
ON MOTION, COUNCIL ADJOURNED AT 5:30 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 January 24, 2017

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Special Meeting of January 24, 2017

MINUTES OF SPECIAL MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE
JANUARY 24, 2017
5:30 P.M.

PRESENT: Marcellus L. Harris III; McKinley L. Price, DDS; Tina L. Vick; Dr. Patricia P. Woodbury; and Herbert H. Bateman, Jr.-----5

ABSENT: Sharon P. Scott, MPA; and Sandra N. Cherry, D. Min.-----2

OTHERS PRESENT: James M. Bourey; Collins L. Owens, Jr.; Mabel Washington Jenkins; Darlene Bradberry; Alan Archer; Cynthia Rohlf; Florence Kingston; 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: (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 central section 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 subject of which was a probable case involving allegations of a civil rights violation.

Vice Mayor Vick moved for a closed meeting under section and reasons cited above; seconded by Councilman Bateman.

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

(Closed Session 5:30 p.m. – 5:40 p.m.)

After reconvening in open session, Vice Mayor Vick 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 Councilman Harris.

DRAFT

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Minutes of Special Meeting
January 24, 2017

Vote on Roll Call:
Ayes: Harris, Price, Vick, Woodbury, Bateman
Nays: None

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 5:40 P.M.

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: January 24, 2017
MOTION: Vice Mayor Tina Vick
SECOND: Councilman Marcellus L. Harris III

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: Harris, Price, Vick, Woodbury, Bateman
NAYS: None
ABSTENTION: None

ABSENT DURING VOTE: Scott, Cherry

ABSENT DURING MEETING: Scott, Cherry

ATTEST:



Mabel Washington Jenkins, MMC
City Clerk

F. Consent Agenda

3. Minutes of the Regular Meeting of January 24, 2017

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of the Regular Meeting of January 24, 2017

MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
JANUARY 24, 2017
7:00 P.M.

PRESENT: Marcellus L. Harris III; McKinley L. Price, DDS; Tina L. Vick; Dr. Patricia P. Woodbury; and Herbert H. Bateman, Jr.-----5

ABSENT: Sharon P. Scott, MPA; and Sandra N. Cherry D. Min.-----2

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 Mr. Caleb McClure, Hidenwood Presbyterian Church.

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

The Pledge of Allegiance to the Flag of the United States of America was led by members of Boy Scout Troop #316, Moose Lodge. Members in attendance included: Andrew Warren, Nick Ayers, Alexander Ng, Ethan Herber, and Bryson Monk.

MOTION MADE BY COUNCILWOMAN WOODBURY; SECONDED BY VICE MAYOR VICK; AND CARRIED UNANIMOUSLY, TO EXCUSE COUNCILMEMBERS SCOTT AND CHERRY FROM THIS MEETING.

D. Presentations

None

E. Public Hearings

- 1. Ordinance Authorizing the City to Contract a Debt and Issue General Obligation General Improvement (GOGI) Bonds of the City in the Principal Amount of \$66,870,000

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SIXTY-SIX MILLION EIGHT HUNDRED SEVENTY THOUSAND DOLLARS (\$66,870,000) AGGRE-

E. Public Hearings Continued

1. Ordinance Authorizing the City to Contract a Debt and Issue General Obligation General Improvement (GOGI) Bonds of the City in the Principal Amount of \$66,870,000 Continued

GATE PRINCIPAL AMOUNT OF CITY OF NEWPORT NEWS, VIRGINIA GENERAL OBLIGATION GENERAL IMPROVEMENT BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF VARIOUS PUBLIC IMPROVEMENT PROJECTS OF AND FOR THE CITY; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE CITY MANAGER CERTAIN POWERS WITH RESPECT THERETO; AUTHORIZING THE PREPARATION AND DELIVERY OF A PRELIMINARY OFFICIAL STATEMENT AND A FINAL OFFICIAL STATEMENT RELATING TO THE BONDS; AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER A CONTINUING DISCLOSURE CERTIFICATE OR A CONTINUING DISCLOSURE AGREEMENT RELATING TO THE BONDS; AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF GENERAL OBLIGATION GENERAL IMPROVEMENT BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS; AND SPECIFYING MORE PARTICULARLY THE PURPOSES TO WHICH THE PROCEEDS SHALL BE APPLIED. This ordinance authorized the City to contract a debt and issue General Obligation General Improvement (GOGI) Bonds in the amount of \$66,870,000 to finance the costs of various public improvement projects. The bond ordinance of \$66,870,000 would allow the City flexibility to issue bonds if market conditions at the time of a bond sale provided the best financing option for the City. The ordinance was in support of the projects in the City's Adopted FY2017 Capital Improvements Plan (CIP). This ordinance included the customary authorization to issue Bond Anticipation Notes (BANS) prior to a bond sale, should cash flow or market conditions dictate the use of such notes. This ordinance repealed any outstanding bond authorizations. The net bond proceeds were allocated to be spent in the seven categories identified in the CIP. The City Manager recommended approval.

(No registered speakers)

Councilman Bateman moved closure of the public hearing; seconded by Councilman Harris.

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

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

E. Public Hearings Continued

1. Ordinance Authorizing the City to Contract a Debt and Issue General Obligation General Improvement (GOGI) Bonds of the City in the Principal Amount of \$66,870,000 to Finance the Costs of Various Public Improvement Projects of and for the City Continued

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

2. Ordinance Authorizing Change of Zoning No. CZ-2016-0001, to Bland Boulevard, LLC, for Property Located at 615 Bland Boulevard and Zoned M1 Light Industrial to C1 Retail Commercial with Proffers, to Allow 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, amending the Zoning District Map for change of Zoning Application No. CZ-2016-0001, by Bland Boulevard, LLC., for property located at 615 Bland Boulevard and zoned M1 Light Industrial to C1 Retail Commercial, with proffers, to allow for retail development. The request included revised proffers that limited the use of the property to retail uses allowed by-right, or with conditional use permit, in the C1 Retail Commercial district. The Change of Zoning was consistent with the Framework for the Future 2030 Comprehensive Plan and the Patrick Henry Commercenter Plan. On January 4, 2017, the City Planning Commission voted 5:3 to recommend approval of the request with proffers. The City Manager recommended approval.

Ms. Lindsey Carney, Attorney for the Applicant, 12350 Jefferson Avenue, Newport News, requested that the public hearing be continued and that action on this matter be deferred to the February 14, 2017 Regular Meeting of City Council.

Councilwoman Woodbury moved to continue the public hearing; and to defer this matter to the February 14, 2017 Regular Meeting of City Council; seconded by Councilman Harris.

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury

Nays: None

Abstention: Bateman (One of the Principals of Bland Boulevard, LLC had a customer relationship with his employer, TowneBank, which he managed)

E. Public Hearings Continued

3. Ordinance Authorizing Conditional Use Permit No. CU-2016-0003, to William David Moore for the Construction and Operation of a Small Motor Vehicle Repair and Service Facility on Property Located at 12543 Warwick Boulevard and Zoned C2 General Commercial

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2016-0003 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF ALLOWING THE OPERATION OF A SMALL MOTOR VEHICLE REPAIR AND SERVICE FACILITY ON A SITE ZONED C2 GENERAL COMMERCIAL DISTRICT. This ordinance authorized the Conditional Use Permit No. CU-2016-0003 to William David Moore to allow for the construction and operation of a small motor vehicle repair and service facility on property located at 12543 Warwick Boulevard and zoned C2 General Commercial. The proposed use, Take 5 Oil Change, was proposed for a vacant lot at the entrance to a neighborhood. Property improvements included a new full-brick structure with bays oriented to Warwick Boulevard, as well as new landscaping. The Framework for the Future 2030 Comprehensive Plan recommended protecting the entrances to neighborhoods by discouraging the location of automobile repair uses. This request was inconsistent with the Framework for the Future 2030 Comprehensive Plan. On January 4, 2017, the City Planning Commission voted 6:2 to recommend approval of this request with conditions. The City Manager recommended denial.

Mr. Tim Trant, Attorney for the Applicant, Kaufman & Canoles, 11815 Fountain Way, Suite 400, Newport News, requested that the public hearing be continued and that action on this matter be deferred to the February 14, 2017 Regular Meeting of City Council.

Councilwoman Woodbury moved to continue the public hearing; and to defer this matter to the February 14, 2017 Regular Meeting of City Council; seconded by Councilman Harris.

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

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

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

F. Consent Agenda

Councilman Bateman moved adoption of the Consent Agenda, Items 1 through 5, both inclusive, as shown below; seconded by Vice Mayor Vick.

F. Consent Agenda Continued

1. Minutes of the Special Meeting of January 10, 2017

(No registered speakers)

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

2. Minutes of the Work Session of January 10, 2017

(No registered speakers)

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

3. Minutes of the Regular Meeting of January 10, 2017

(No registered speakers)

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

4. Resolution Authorizing the Formation of Lassiter Courts, LLC, Lassiter Courts Development Corporation for the Newport News Redevelopment and Housing Authority (NNRHA)

RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, AUTHORIZING THE FORMATION OF THE LASSITER COURTS, LLC AND THE LASSITER COURTS DEVELOPMENT CORPORATION BY THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY (NNRHA). This resolution authorized the formation of the Lassiter Courts, LLC and the Lassiter Courts Development Corporation by the Newport News Redevelopment and Housing Authority (NNRHA). The NNRHA participated in a HUD program known as the Rental Assistance Demonstration Program that enabled renovation of existing public complexes utilizing various funding sources, to include low-income housing tax credit. To take advantage of the financing package and accept the tax credits, a separate development corporation and a limited liability company needed to be established. This was done to limit any liability specific to these projects and protect other Housing Authority assets, and for tax purposes. To comply with Title 36 of the Code of Virginia, which enumerated the activities of redevelopment and housing authorities, it was necessary that City Council approve the formation of the proposed development entities. The City Manager recommended approval.

F. Consent Agenda Continued

4. Resolution Authorizing the Formation of Lassiter Courts, LLC, Lassiter Courts Development Corporation for the Newport News Redevelopment and Housing Authority (NNRHA) Continued

(No registered speakers)

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

5. Resolution Authorizing the Formation of Spratley House, LLC and Spratley House Development Corporation for the Newport News Redevelopment and Housing Authority (NNRHA)

RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS AUTHORIZING THE FORMATION OF THE SPRATLEY HOUSE, LLC AND THE SPRATLEY HOUSE DEVELOPMENT CORPORATION BY THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY (NNRHA). This resolution authorized the formation of the Spratley House, LLC and the Spratley House Development Corporation by the Newport News Redevelopment and Housing Authority. As with the formation of the Lassiter Court entities, NNRHA requested the same action on its existing Spratley House property. City Council was required to vote separately to form the entities. The memo attached to the Lassiter Courts agenda item served to provide the background for both. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

G. Other City Council Actions

1. Ordinance Authorizing the Issuance of up to \$42,000,000 General Obligation General Improvement (GOGI) Refunding Bonds and/or Water Refunding Bonds

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FORTY-TWO MILLION DOLLARS (\$42,000,000) AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATIONS OF THE CITY OF NEWPORT NEWS, VIRGINIA, IN THE FORM OF CITY OF NEWPORT NEWS, VIRGINIA, GENERAL OBLIGATION GENERAL IMPROVEMENT REFUNDING BONDS AND/OR GENERAL OBLIGATION WATER REFUNDING BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND

G. Other City Council Actions Continued

1. Ordinance Authorizing the Issuance of up to \$42,000,000 General Obligation General Improvement (GOGI) Refunding Bonds and/or Water Refunding Bonds Continued

AND REDEEM CERTAIN OUTSTANDING GENERAL OBLIGATION GENERAL IMPROVEMENT BONDS AND/OR GENERAL OBLIGATION WATER BONDS OR OTHER GENERAL OBLIGATIONS OF SUCH CITY; AUTHORIZING THE SALE OF OTHER SUCH BONDS; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE CITY MANAGER CERTAIN POWERS WITH RESPECT THERETO; AUTHORIZING THE PREPARATION AND DELIVERY OF THE PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT RELATING TO SUCH BONDS; AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER A CONTINUING DISCLOSURE CERTIFICATE OR A CONTINUING DISCLOSURE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT BY AND BETWEEN THE CITY AND SUCH ESCROW AGENT AND THE PURCHASE OF THE SECURITIES TO BE HELD THEREUNDER; AND AUTHORIZING THE DESIGNATION OF THE REFUNDED BONDS FOR REDEMPTION. This ordinance provided a standing authorization for the duration of Calendar Year 2017 to issue up to \$42,000,000 for General Obligation General Improvement (GOGI) Refunding Bonds and/or Water Refunding Bonds. The ordinance allowed the City to refund certain outstanding issues of GOGI Bonds and/or Water Bonds in advance of their stated maturities. The City's financial advisor, Public Financial Management, Inc. (PFM), had advised this proposed action in response to potential low interest rates in the municipal bond market. This ordinance restricted the issue of Refunding bonds to market conditions that would result in a net present value savings to the City of not less than three percent (3%). The City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

H. Appropriations

Vice Mayor Vick moved adoption of Appropriations, Item 1, as shown below; seconded by Councilman Harris.

H. Appropriations Continued

1. Newport News Sheriff's Office (NNSO) – Asset Forfeiture Funds Account

A RESOLUTION APPROPRIATING FUNDS FROM FUND BALANCE (\$15,772.00) TO MACHINERY & EQUIPMENT (\$15,772.00). This resolution appropriated \$15,772.00 from the Newport News Sheriff's Office Asset Forfeiture Funds Account. Asset Forfeiture Funds were funds that were transferred to the Sheriff's Office as a result of officers participating in state and federal criminal cases where the defendant's assets were seized. The Sheriff's Office would use the funds to purchase cell phone detection equipment for use in the courthouses. The Sheriff's Office balance in unappropriated Asset Forfeiture Funds was \$132,626.00. This appropriation would reduce the asset forfeiture account by \$15,772.00, leaving a balance of \$116,854.00. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

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

Ms. Rena Crabill, 422 Eastwood Drive, Newport News, addressed City Council regarding Riverview Farm Park. She recalled hearing about Council members devising a process for accepting ideas from the citizens about the Park. Ms. Crabill requested that the process be developed soon to allow citizens to share their thoughts.

Ms. Crabill read letters received from Menchville High School students. Their Environmental Studies teacher, Ms. Gretchen DeWall, had shared a Daily Press article regarding the possible rezoning of Riverview Farm Park. The students decided to take action – 75 wrote letters. Ms. DeWall hoped that City Council was encouraged by the students' efforts to reconsider selling the City Farm land to a private developer. She advised that the students were the future of Newport News and Riverview Farm Park was important to them. Selling the property could change their continual and personal investment in the great City of Newport News.

A ninth grader at Menchville wrote that she had seen this scenario unfold in the past, where land was bought and cleared for development, recalling the property adjacent to Jefferson Lab, cleared for the Tech Center Development, where trees were cut down and the ground reduced to dust. The waterfront land was very attractive for land developers for real estate, but felt all citizens deserved to share this natural area. Taking a piece of natural land and turning it into a jungle of paved roadways and homes, was not beneficial. She stated the beautiful natural environment should never be taken for granted. The freshman, named "Laura," asked the City Council not allow the land to be developed.

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

Ms. Crabill pointed out that the Red Barn on the City Farm property was to represent the agrarian roots of the working farms in the Denbigh/Menchville area, but was taken down without citizen consent or citizen involvement. She advised that citizens would like to be involved, and urged members of City Council to develop a process so that citizens could share their ideas in a dignified and organized way (a copy of Ms. Crabill's comments, and letters shared, are attached and made a part of these minutes).

Ms. Carolyn Ramsey, 200 Haven Court, Newport News, addressed City Council regarding Riverview Farm Park/City Farm property. She expressed opposition to the property being developed for housing as it was a resource that could not be replaced, particularly access to the water. Ms. Ramsey further asked that a series of public hearings be scheduled in an effort to hear citizens' ideas. Ms. Ramsey read a letter from a high school student that was also concerned about Riverview Farm Park. The student (Jan) asked that Riverview Farm Park remain a park. It should be zoned as park land for public use. Riverview Farm Park had a high ecological value, meant a great deal to many citizens, and should remain a part of Newport News for years to come.

Mr. Michael R. Crichlow, 962 Hollymeade Circle, Newport News, reminded that he had addressed Council in 2016 regarding the pre-trial services program funded by the City and the State.

Mr. Crichlow addressed City Council regarding the rate of DWI incidents (driving while intoxicated) in the City of Newport News. As a bail bondsman, he indicated that he had a front row seat to the criminal justice system, with magistrates releasing individuals on unsecured bonds. He referenced an incident in Dayton, Ohio, when 33 hours after being released on an unsecured bond, a suspect got drunk again, and killed a 61-year old man, and four others (in their 20s). Family then were called to bail the individual out. He felt pre-trial services should be eliminated in Hampton Roads, and that taxpayers should not have to fund the program. If an alcoholic can get repeat DWI offenses, they had enough money.

Mr. Robert E. Deans, 33 Indian Springs Drive, Newport News, advised that he was raised in Newport News and had vested interest in the City. He expressed concern for the lack of security coming into the City Council Chambers (2400 Washington Avenue). Recent events in the country called for a need to be vigilant. He suggested that officials look at and evaluate the security system.

Mr. Deans applauded City Council on their concern for the homeless. He referenced two (2) editorials – from January 2010 from the Senior Chaplain at the Newport News City Jail calling for an interest to the homeless, and a picture of a homeless gentleman sitting near St. Paul Vincent DePaul Catholic Church (230-33rd Street), which was a reason to show compassion for the less fortunate.

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

Mr. Deans stated that the layout of Newport News was unique, being 26 miles long, and suggested holding Council Meetings in the North, Central, and Downtown areas of the City.

Mr. Deans advised that he wore the color “red” as a flag to further examine keeping the City Farm and adjacent property green. He stated that City Council’s Special Meeting of November 22, 2016, listening to proposed investors on the use of public property (Riverview Farm Park), behind closed doors, before the public had input, was arbitrary and capricious. He further stated the unilateral decision to destroy the City Farm barn was despicable. He shared copies of the publication, “Endless Harbor,” showing what the earth was like prior to people inheriting it (a copy of Mr. Deans comments are attached and made a part of these minutes).

Mr. A. C. Pulliam, Jr., 239 Falcon Drive, Newport News, addressed City Council regarding Riverview Farm Park/City Farm property. He stated there was 3,853 feet of waterfront from CNU Sailing property to the Sanitation Plant, which would make a wonderful boardwalk. He stated there was only one restaurant in Newport News from which one could see the water. Newport News would be a great place with a restaurant, the boardwalk, and perhaps a few stores along this waterfront property. Mr. Pulliam stated, since the City Manager had no problem demolishing the red barn on the City Farm property, that he should also demolish the fence, allowing citizens to walk the entire property. Mr. Pulliam recalled City Manager Bourey advising that it would cost \$8.5 million to fix the facilities at City Farm, and questioned what was done with the \$8.5 million saved. Mr. Pulliam stated the \$8.5 million would have reduced his real estate taxes by at least \$0.10. He stated that Newport News citizens needed Riverview Farm Park/City Farm property to remain a park. He indicated the Park did not have to be developed now, but City Council should commit to the citizens that they would have the Park. He warned that citizens would continue to rally for the Park with signs, petitions, and would continue to call, e-mail, and come to City Council meetings.

Mr. Joshua Nichols, 36 Stratford Road, Newport News, an 11-year old member of the first LEGO League robotics team – the Ruling Robot Falcons. He advised that the team won first place in the Virginia State Championship, making them the first in the Hampton Roads area. He advised that the team had been invited to compete in the first World Festival Championship in St. Louis, Missouri, on April 26-29, 2017. The team requested community support, in the form of financial contributions and/or a connection to potential community sponsors to help make this trip to St. Louis a reality. To participate, the Ruling Robot Falcons needed to raise a total of \$7,500.00 (\$2,000 for tournament fees, \$4,500 for travel expenses, and \$1,000 for project supplies). A copy of the letter of request and an article are attached and made a part of these minutes. Interested sponsors should send an e-mail to the Ruling Robot Falcons at rulingrobotfalcons@gmail.com.

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

Ms. Lucy Welch Van Tine, 105 Cannon Drive, Newport News, addressed City Council regarding Riverview Farm Park/City Farm property. She asked City Council to commit to keeping the property a park. The property was zoned as parkland and she wanted City Council to publicly affirm that it would be kept as a park for the people of Newport News, to enable them to have wonderful riverfront property. Children had no idea that the James River and the Warwick River ran along the City. The property was needed for the children to enjoy, and would help them learn their history. Ms. Van Tine stated that Newport News was a magnificently historical City, with the river, and children needed to be able to make the connection. They needed to learn about the beautiful birds throughout – blue heron, egret, etc. Ms. Van Tine recalled a teacher addressing Council months prior, sharing that she took her students out in kayaks in the marina. Students were oftentimes reluctant, but by the time the trip was over, they did not want to get out of the kayak. Ms. Van Tine would love for all children to have similar experiences. She reiterated her request for City Council to affirm that the Riverview Farm Park/City Farm property would be given to the citizens of Newport News. She stated that Newport News was underserved in terms of the available riverfront for the citizens. For Newport News to become a first-class city, the riverfront should be available for the citizens.

Mr. John LaDue, 444 Eastwood Drive, Newport News, read letters from Menchville High School students who were concerned about Riverview Farm Park. Holly R. wrote that City Council should not sell the land because it was one of the last beautiful places on the water. She further stated that the gymnastic center would be in danger, and the dreams of 900 children would be crushed if the property was destroyed. Kate H. wrote that Riverview Farm Park should be kept open to the public as it was very important to the community. The Park benefited the families in the community by allowing them to spend time in an open space and have fun.

Mr. LaDue shared that he was not from Newport News, but stated that Newport News could be a beautiful City with a little care, and trust. He advised that he was nearing retirement, and having a park like Riverview Farm Park would go a long way towards a decision to remain in the area rather than relocate (a copy of the letters are attached and made a part of these minutes).

Captain Patrick Wright, 11 Elm Avenue, Newport News, wished the citizens and the members of City Council a Happy and Prosperous New Year.

Captain Wright advised that he had researched how plans for the City Farm property had evolved over the years, from the late 1960s to 2009. He advised that most of his data came from the archives of the Daily Press. He stated in May, 1968, City Manager W. E. Lawson, submitted a proposal to City Council for a 70-acre park, including a 2,000 ft. beachfront with other amenities. In a 1971 Editorial, the Daily Press pushed for public access to the waterfront. In 1980, City Council adopted plans for James River Park, to include tennis courts, jogging and bike trails, a skate board area, an amphitheater, and a boat ramp. In 1987, Peter Eckert with Drucker and Falk, spoke of turning the area into a first-class residential development.

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

Menchville Road residents strongly opposed turning the area over to private developers. Former Mayor Harry Atkinson, backed the residents, stating the Council's 1980 action for a James River Park was a moral commitment to keep the land public. In December 1991, more than 100 community leaders gathered at the Groundbreaking Ceremony for the new City-owned park – Riverview Farm Park. Since that time, the Park had been enjoyed by thousands of citizens and visitors annually. Between 2000-2009, City Manager Randy Hildebrandt made relocating the City Farm and redeveloping the waterfront land one of the two dozen strategic priorities; but the plan was never presented to City Council. Captain Wright indicated, for almost 50 years, despite the desires of some developers, the overwhelming sentiment of the citizens of Newport News had been to turn the City property into a public park. He asked members of City Council to heed the wishes of the citizens.

Mr. Jan M. Gray, 17 Digges Drive, Newport News, stated that a great City needed a great Park. He indicated that it was in the best interest of the citizens of Newport News that City Council move forward quickly to complete Riverview Farm Park by adding the former City Farm park property and the marina park property into one park. He asked that City Council establish a firm date to commence development of this park, and to establish funding to do the same. Mr. Gray stated there would be many benefits when the Park was opened to the citizens, to include public access to the water, a beautiful scenic venue, increased recreation and sports opportunities, the attraction and attention of homeowners and businesses, historic preservation and interpretation, increased tourism, educational opportunities for school children, preservation of open greenspace, there would be docks and seafood facilities for the watermen, continued use of the Christopher Newport University Sailing School at the marina, and generally improved quality of life for all. A first-class City needed a first-class Park. Mr. Gray stated there was no justification for developing residential and commercial buildings on the citizen's park land. He stated it was time to say "NO" to any and all proposals to develop the Park residentially and commercially, and time to say "YES" to moving forward to complete the park and bring many benefits to the City, citizens, visitors and tourists for many decades to come. He reiterated that a first-class City needed a first-class Park.

Mr. Adrian Whitcomb, President, Citizens for Riverview Farm Park, 316 – 54th Street, Newport News, addressed City Council regarding Riverview Farm Park/City Farm property. He stated that until he could drive, the only Park he visited was Huntington Park, which was 1.5 miles from his home. He expressed support for Riverview Farm Park as it was good for the entire City. If Newport News truly wanted to be "One City," it should ensure that all citizens could enjoy access to the river. He urged City Council to save the Riverview Farm Park/City Farm property as a Park. Mr. Whitcomb hoped that City Council appreciated the "Citizens to Save Riverview Farm Park" coming to City Council meetings to share their thoughts and concerns. There were many that had no trust in government. They came, pleaded their case, and hoped the City Council would listen and act for the benefit of all of the citizens in Newport News.

J. Old Business, New Business and Councilmember Comments

City Manager Bourey, thanked everyone that was involved in “Ella’s Place,” a pop-up jazz club at the former Toby Keith’s Venue (711 Thimble Shoals Boulevard) for a celebration of music with Ella Fitzgerald. It was a great success. This was one event in a series of events to celebrate the anniversary of what would have been Ella Fitzgerald’s 100th Birthday, on April 25, 2017.

City Clerk Mabel Washington Jenkins extended condolences to the family of former Vice Mayor, Charles C. Allen. She advised that Mr. Allen would be greatly missed by all. Charles C. Allen died on January 20, 2017. He served the City of Newport News as Deputy Planning Director in 1968, was elected to the Newport News City Council in 1992, and became Vice Mayor in 1996, serving in that capacity until his retirement from office on June 30, 2008.

City Clerk Jenkins extended congratulations to Ms. Zina Middleton, Deputy City Clerk in the Clerk’s Office, who was awarded the esteemed Master Municipal Clerk designation by the International Institute of Municipal Clerks (IIMC). She advised that the Newport News City Clerk’s Office was the only larger municipality in the State of Virginia with the entire staff of Clerks being Master certified.

Councilman Harris thanked the citizens for their attendance and participation and for sharing their concerns.

Councilman Harris offered congratulations to Ms. Zina Middleton, Deputy City Clerk, Newport News City Clerk’s Office, who was awarded the esteemed Master Municipal Clerk designation by the International Institute of Municipal Clerks (IIMC). He further commented the entire staff in the Newport News City Clerk’s Office and thanked them for the assistance offered to him.

Councilman Harris congratulated the Ruling Robot Falcons on winning first place in the Virginia State Championship, making them the first LEGO League robotics team in the Hampton Roads area to win. Councilman Harris offered to meet with the group in an effort to help them connect with community sponsors to raise the needed finances to advance to the first World Festival Championship in St. Louis, Missouri, on April 26-29, 2017.

Councilman Harris extended condolences to the family of former Vice Mayor, Charles C. Allen. He advised that Mr. Allen served the City of Newport News for 16 years - elected to the Newport News City Council in 1992, became Vice Mayor in 1996, and served in that capacity until his retirement from office on June 30, 2008. Councilman Harris recalled meeting Mr. Allen, fondly called, “Mr. Chuck,” who tended a garden near the home of his grandmother. Mr. Allen shared his wisdom and knowledge with a young Marcellus Harris, and continued to share his knowledge whenever he visited Newport News. Councilman Harris advised that he would cherish his conversations with Mr. Allen, who would be missed greatly.

J. Old Business, New Business and Councilmember Comments Continued

Councilman Harris extended condolences to the family of Dr. Paul D. McLean, long-time educator in the City of Newport News, who died on January 15, 2017. Dr. McLean once served as the Career Tech Education Supervisor in Gloucester. Councilman Harris indicated that Dr. McLean was another intelligent individual who always showed support of his endeavors.

Councilman Harris advised that the Southern Christian Leadership Conference (SCLC) coordinated The Dr. Martin Luther King, Jr. Parade, Banquet, and Andrew Shannon Gospel Music Celebration, to commemorate the birthday of Reverend Dr. Martin Luther King, Jr. The parade was held on Sunday, January 15, 2017, at New Beech Grove Baptist Church (326 Tabbs Lane). Pastors, members of clergy, business and community leaders, and marching bands participated in the event. The Pastor of New Beech Grove was Reverend Willard Maxwell. Councilman Marcellus "B2" Harris III served as keynote speaker and Parade Grand Marshall. The Gospel Music Celebration was held on Saturday, January 21, 2017, 3:00 – 5:00 p.m., at the United House of Prayer for All People (1811 Ivy Avenue), where a banquet followed the music celebration. Reverend Ray L. Bynum, Pastor of Pentecost Followers of Christ in Suffolk, was the banquet keynote speaker. The events recognized the legacy of Reverend Dr. Martin Luther King for all he did to allow citizens equitable rights and to live the dream that he wanted all to be a part of.

Councilman Harris announced that he would begin having mobile hours throughout the North District, beginning Monday, February 6, 2017, 4:00 – 7:00 p.m. He would be at Belgian Waffle and Steakhouse (14700 Warwick Boulevard). He invited all citizens to come and have a conversation. He advised that he would love to get to know the citizens, and in turn, they could get to know him on a more personal basis. The mobile hours would be held twice each month.

Councilman Harris thanked his colleague, Councilwoman Sharon Scott, for allowing him to host her North District Town Hall Meeting, in her absence, on Monday, January 23, 2017. He advised that Councilwoman Scott was under the weather, and allowed him to stand in for her. He thanked the citizens for their attendance and participation, as well as Ms. Brita Ayers, Manager of Comprehensive Planning, Department of Planning, who provided a presentation, and Dr. Telly Whitfield who also helped answer questions from the group.

Councilman Harris stated that members of City Council would continue to push and strive for the safety and security of all Newport News citizens. He shared that City Council had a presentation by Chief Richard Myers, Newport News Police Department (NNPD), at the Council Work Session. He assured that Chief Myers and the NNPD were doing all they could to keep the residents safe.

Mayor Price extended condolences to Dr. Sallie Tucker Allen and the entire family of former Vice Mayor, Charles C. Allen. Mr. Allen served the City of Newport News for 16 years - elected to the Newport News City Council in 1992, became Vice Mayor in 1996, and served in that capacity until his retirement from office on June 30, 2008. Mayor Price advised that he had served on City Council when Mr. Allen was Vice Mayor. Mayor Price filled the

J. Old Business, New Business and Councilmember Comments Continued

unexpired term of Delegate Mamyé Bacote, when she was elected to the State Legislature. Mayor Price stated that Vice Mayor Allen served as his Mentor, and always had good advice. Mr. Allen would tell you what was on his mind whether you wanted to hear it or not. He would miss his phone calls through the years, and wished the family well. Mr. Allen's obituary appeared in the Monday, January 23, 2017 edition of the Daily Press.

Mayor Price thanked everyone who participated in the Dr. Martin Luther King, Jr. Day of Service Food Drive, on Monday, January 16, 2017, at the Foodbank of the Virginia Peninsula. Over 7,000 pounds of food was collected, and thousands of dollars in donations for the Foodbank was collected. Mayor Price stated that Dr. King would have been proud of the volunteers, churches, and families who took time out of their day to contribute. He looked forward to making the Dr. Martin Luther King Jr. Day of Service Food Drive bigger and better in 2018.

Vice Mayor Vick expressed sincere condolences to the family of former Vice Mayor, Charles C. Allen. She advised that Chuck Allen was a very hardworking and intelligent Councilmember and Vice Mayor and did a great deal to help the Southeast Community.

Vice Mayor Vick presented A RESOLUTION IN MEMORIAM – THE HONORABLE CHARLES C. ALLEN, FAICP. This resolution remembered the Honorable Charles C. Allen. Mr. Allen graduated from Huntington High School in 1953, and earned his Bachelor of Science Degree in Architecture from Hampton Institute (now University) in 1958. He served in the United States Army at Fort Hood, Texas, leaving the service as a Captain. Mr. Allen then earned a Master of Science in Urban Planning from Columbia University School of Architecture in 1963.

Mr. Allen's experience in local government began in 1968, when he became the Director of the Department of Planning and Development in Gary, Indiana, becoming the first African-American to hold such a position in a major American City. He worked to develop the prototype for the Community Development Block Grant. He was appointed Deputy Director for Planning in the City of Newport News' Department of Planning and Development in 1988. Mr. Allen worked to develop citizen input into the planning process by incorporating the City's comprehensive land use plan, which became known as the Framework for the Future, adopted in 1993 and received numerous awards and honors.

Mr. Allen was elected to the Newport News City Council in 1992, and became Vice Mayor in 1996, serving in that capacity until his retirement from office on June 30, 2008.

Mayor Price and the members of the Newport News City Council recognized Mr. Allen for all he did to serve the City of Newport News and for his many contributions to the quality of life in the City of Newport News.

J. Old Business, New Business and Councilmember Comments Continued

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

Vote on Roll Call:

Ayes: Harris, Price, Vick, Woodbury, Bateman

Nays: None

Vice Mayor Vick thanked the citizens for their attendance and participation, particularly those who shared comments about Riverview Farm Park. She advised that she was supportive of some form of development, but could not entertain what could be on the site without City Council's development of a process. She vowed that any process chosen would be inclusive of public meetings to receive the input of the citizens.

Vice Mayor Vick commended Mayor Price, Delegate Marcia Price, and Sheriff Gabe Morgan for the Dr. Martin Luther King, Jr. Day of Service Food Drive, held on Monday, January 16, 2017, at the Foodbank of the Virginia Peninsula. It was a wonderful event. She stated that citizens were excited to give. The donations translated into items that went to children and families in need, and was truly a spirit-filled day. People of all ages were very committed to bring food, realizing the importance of giving to help others less fortunate. She looked forward to the 2018 Dr. Martin Luther King, Jr. Day of Service Food Drive.

Vice Mayor Vick announced that she may be off at the next Regular Meeting of City Council, scheduled for Tuesday, February 14, 2017. She indicated that she would be one-year older, having celebrated her 55th birthday on Saturday, February 3, 2017.

Councilwoman Woodbury thanked the citizens for their attendance and participation, particularly those who shared comments about Riverview Farm Park. She thanked Captain Patrick Wright for sharing the history of the property. She stated City Council should recruit Mr. Joshua Nichols, and the LEGO League robotics team – the Ruling Robot Falcons, to develop a robot for the City Farm.

Councilwoman Woodbury extended condolences to the family of former Vice Mayor, Charles C. Allen. She stated that she got to know “Chuck” when she visited Taizhou, China, as a member of the Newport News School Board and Mr. Allen led the delegation. She indicated Mr. Allen was a great guy. He shared a birthday with her husband, Mr. Gerard Woodbury.

Councilwoman Woodbury, addressing the citizens who spoke about Riverview Farm Park, stated together, they could come up with a project that would be revenue producing for the City, yet above what 200 families could bring in; and may bring in more if the City had a first-class Park or a first-class City.

Councilwoman Woodbury shared that she would celebrate her birthday on Friday, January 27, 2017.

J. Old Business, New Business and Councilmember Comments Continued

Councilman Bateman extended condolences to the family of former Vice Mayor, Charles C. Allen. He advised that Mr. Allen served the City of Newport News for 16 years - elected to the Newport News City Council in 1992, became Vice Mayor in 1996, and served in that capacity until his retirement from office on June 30, 2008. Councilman Bateman had the good fortune of working with him. He was great to work with. He first met Mr. Allen when he served as Deputy Director in the City's Department of Planning, and Townebank was attempting to build a new branch. Mr. Allen wanted it to be the greatest bank. He held out so that everything that was done had integrity. Councilman Bateman would seek his wisdom and advice often. Mr. Allen was very passionate, was rational, and had good thoughts. He was a great member of the Newport News City Council, and would be missed.

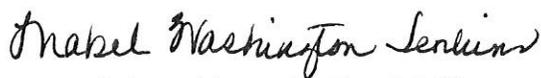
Councilman Bateman thanked the citizens for their attendance and participation, and for sharing their concerns, particularly related to Riverview Farm Park/City Farm property. He stated the City had a great opportunity to make a great public policy decision, seeking consensus to legitimize making this a Park. City Council needed to formulate a process to hear the citizens input to decide what would go into a Park and what the implications were. City Council could design a process and seek input. He stated the impact of the archeological study could be great. Councilman Bateman stated that the City could look at best practices across the country, but needed to look at this as an opportunity to make the Park all it could be.

Councilwoman Woodbury extended condolences to the family of the Honorable Robert M. Yacobi. Judge Yacobi, a former Newport News Juvenile and Domestic Relations Judge, and Williamsburg resident, died on January 17, 2017. He was known as someone who found innovative ways to help troubled youth during his 30-year tenure. He retired in 1992.

K. Adjourn

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

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 8:06 P.M.



Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

F. Consent Agenda

4. Resolution in Memoriam: The Honorable Robert M. Yacobi

ACTION: A REQUEST TO APPROVE A RESOLUTION IN MEMORIAM FOR THE HONORABLE ROBERT M. YACOBI

- BACKGROUND:
- Robert M. Yacobi was born on October 10, 1931 in Newport News, Virginia.
 - He graduated from St. Vincent High School in 1949, attended Belmont Abbey College in North Carolina, served in the U.S. Army Security Agency where he received a number of awards, and attended the T.C. Williams School of Law at the University of Richmond, where he graduated in 1959.
 - Judge Yacobi, ascended to the bench of the Newport News Juvenile and Domestic Relations District Court in July, 1975, and served until his retirement in January 1992.
 - He was committed to bettering the legal community and dedicated countless hours to philanthropic endeavors, serving with numerous Organizations, Boards and Associations.
 - Judge Yacobi received many awards and recognitions for his service in civic and professional activities which touched the lives of many.
 - His death creates a void in this community which City Council wishes to recognize.
 - The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

sdm15191 Memoriam re Honorable Robert M. Yacobi

RESOLUTION NO. _____

RESOLUTION IN MEMORIAM

THE HONORABLE ROBERT M. YACOBI

WHEREAS, the Council of the City of Newport News, Virginia, records with deep and profound sadness the death of the Honorable Robert M. Yacobi; and

WHEREAS, Robert M. Yacobi was born on October 10, 1931, in Newport News, Virginia. He graduated from St. Vincent High School (now Peninsula Catholic High School) in 1949, before attending Belmont Abbey College in North Carolina; and

WHEREAS, Robert M. Yacobi served in the United States Army Security Agency from 1952 until 1955, during which time he received the National Defense Ribbon, Korean Campaign Ribbon, Good Conduct Ribbon and Sharpshooters Award. After his honorable discharge from the United States Army, Robert M. Yacobi returned to Belmont Abbey College for one year to finish his undergraduate studies before attending the T.C. Williams School of Law at the University of Richmond, from which he graduated in 1959; and

WHEREAS, in July of 1975, Robert M. Yacobi ascended to the bench of the Newport News Juvenile and Domestic Relations District Court, serving as a Judge until his retirement in January of 1992; and

WHEREAS, Robert M. Yacobi was dedicated to bettering the legal community, and served with numerous organizations, including the American Bar Association, American Trial Lawyer's Association, Virginia Trial Lawyer's Association, Virginia Bar Association, Newport News Bar Association, Virginia District Court Judges Association, National Council of Juvenile and Family Court Judges, and Blue Ridge Institute of Juvenile and Family Court Judges; and

WHEREAS, Robert M. Yacobi also dedicated countless hours to philanthropic endeavors, and served as National President of the Leukemia Society of America; Board of Trustees, Leukemia Society of America; Board of Directors of Peninsula Boys Club; Lifetime Member, Fraternal Order of Police (Honorary) W.E. Nesbitt Lodge # 25; President and Board Member of Virginia Marine Institute; Peninsula Catholic School Board; a 4th degree Sir Knight of Columbus (PGK, PDD); Chairman of the Board of Youth Challenge of Hampton Roads; and on numerous other Boards and Associations; and

WHEREAS, Robert M. Yacobi received many awards and recognitions for his service, including the Certificate of Outstanding Achievement from the Leukemia Society of America; the Spiral of Life Award from the Leukemia and Lymphoma Society of America; and the National Brotherhood Award from the National Conference of Christians and Jews; and

WHEREAS, Robert M. Yacobi is survived by his loving wife Peggy; daughter, Karen Y.

Warren and her husband Jim; son Robert Mark Yacobi, Jr. and his wife Michelle; son Christopher Sean Yacobi and his wife, Nora; grandchildren Joshua, Matthew, Sophia and Liam; many nieces, nephews, and other loving family members and friends. He was predeceased by his daughter Kelly Anne Yacobi; and

WHEREAS, the product of his civic and professional activities touched the lives of many, and the death of the Honorable Robert M. Yacobi creates a void in this community which this Council wishes to recognize.

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

1. That it hereby recognizes all that Robert M. Yacobi has done to serve the City of Newport News and for his many contributions to the quality of life of this community.
2. That it is ordered that the City Clerk shall record this resolution in the minutes of this body and that a copy be presented to the family of the late Robert M. Yacobi.
3. That this resolution shall be in effect on and after the date of its adoption, February 14, 2017.

G. Other City Council Actions

1. Receipt of Bids for Granting a 300-Square-Foot Easement over City-Owned Property Located at 305 Hammond Street

ACTION: A REQUEST TO CITY COUNCIL TO RECEIVE AND OPEN BIDS FOR GRANTING A 300 SQUARE-FOOT EASEMENT OVER CITY-OWNED PROPERTY LOCATED AT 305 HAMMOND STREET.

(After the receipt and opening of the bids, City Council is requested to refer the bids to the City Manager for review and the presentation of a recommendation at Council's February 28, 2017 regular meeting).

BACKGROUND:

- A request to receive bids for a utility easement over City owned property at 305 Hammond Street was properly advertised in the *Daily Press*.

- A public hearing has been advertised for the February 28, 2017 City Council meeting for consideration of the Ordinance which will grant the easement to the successful bidder.

- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Receipt of Bids for 305 Hammond St

Attachment-Location Map Bids for Easement-305 Hammond Street

sdm15180 Authorizing re Utility Easement Over City Owned Property

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

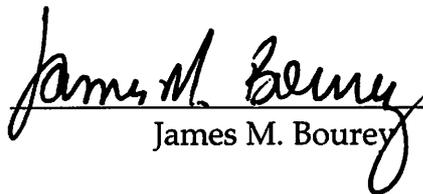
February 8, 2017

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Receipt of Bids for Easement at 305 Hammond Street

The proposed easement is 300-square-feet and is located at 305 Hammond Street, on City-owned property. The easement lies along the frontage of Hammond Street.

A Notice of Public Hearing has been published in the *Daily Press* for the required four consecutive weeks. Bids will be received for this project at City Council's February 14th meeting and will be referred to the City Manager for review.

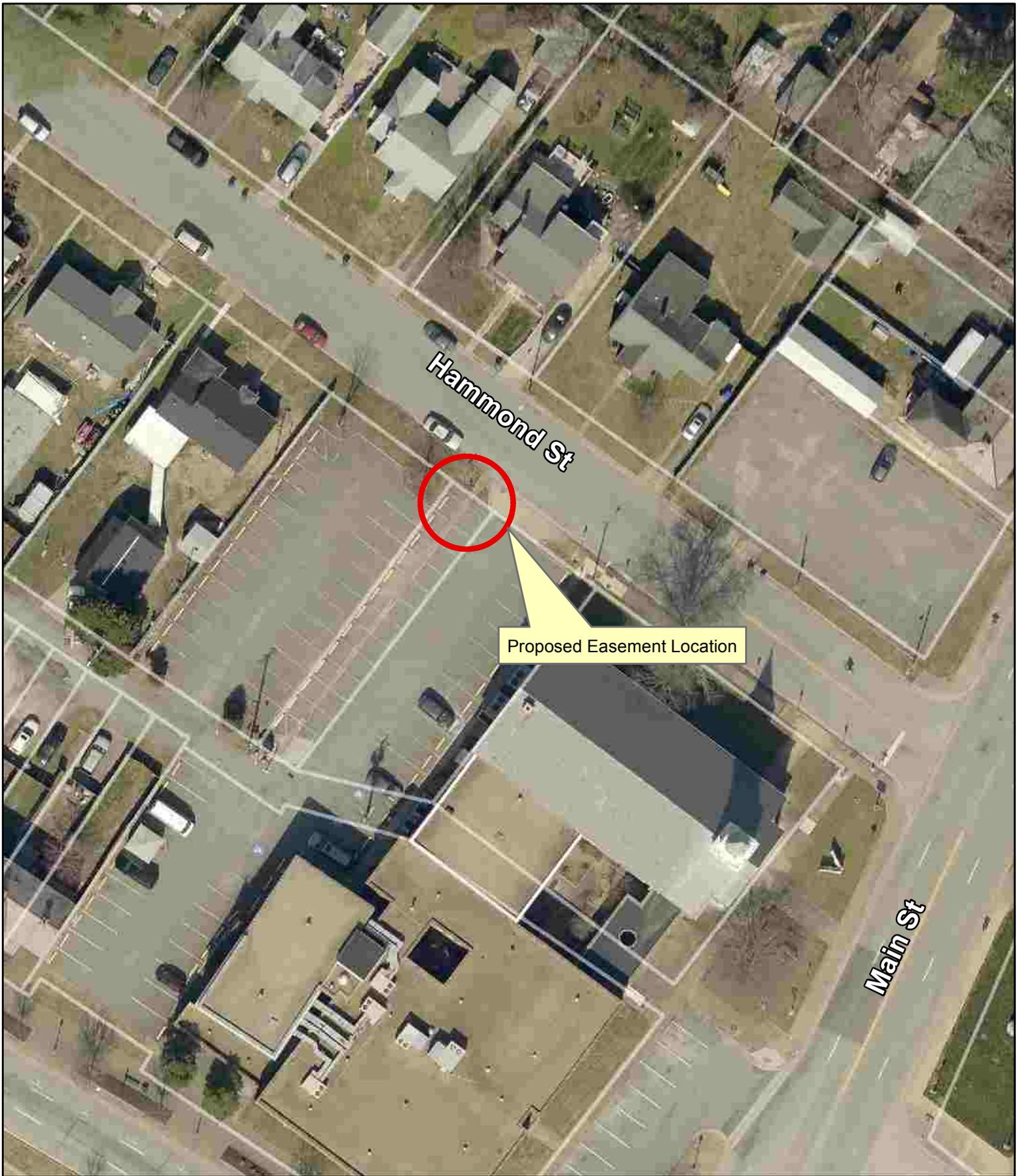
In addition, another Notice of Public Hearing has been advertised in the *Daily Press* for the February 28, 2017 City Council meeting for consideration of the Ordinance that will grant the easement to the successful bidder.


James M. Bourey

JMB:BMM:wjr

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA
**Easement Acquisition at
305 Hammond Street**



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, VIRGINIA, AND _____, DATED THE 28TH DAY OF FEBRUARY, 2017, FOR AN EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 305 HAMMOND STREET, NEWPORT NEWS, VIRGINIA.

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

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Deed of Easement by and between the City of Newport News, Virginia, and _____, dated the 28th day of February, 2017, for an easement across City-owned property located at 305 Hammond Street, Newport News, Virginia.

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

Easement Across Portion of
Parcel #263.0006-49
305 Hammond Street

Consideration: \$0

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

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

Title Insurance: Unknown

THIS DEED OF EASEMENT, made this 28th day of February, 2017, between the **CITY OF NEWPORT NEWS**, a municipal corporation of the Commonwealth of Virginia, hereinafter called "GRANTOR" and _____, hereinafter called "GRANTEE," whose mailing address is 902 G. Street, Hampton, Virginia 23661.

NOTICE TO LANDOWNER: YOU ARE CONVEYING RIGHTS TO A PUBLIC SERVICE CORPORATION. A PUBLIC SERVICE CORPORATION MAY HAVE THE RIGHT TO OBTAIN SOME OR ALL OF THESE RIGHTS THROUGH EXERCISE OF EMINENT DOMAIN. TO THE EXTENT THAT ANY OF THE RIGHTS BEING CONVEYED ARE NOT SUBJECT TO EMINENT DOMAIN, YOU HAVE THE RIGHT TO CHOOSE NOT TO CONVEY THOSE RIGHTS AND YOU COULD NOT BE COMPELLED TO DO SO. YOU HAVE THE RIGHT TO NEGOTIATE COMPENSATION FOR ANY RIGHTS THAT YOU ARE VOLUNTARILY CONVEYING.

WITNESSETH:

That for the sum of One Dollar (\$1.00), cash in hand paid, and other valuable consideration, the receipt whereof is hereby acknowledged, GRANTOR grants unto GRANTEE, its successors and assigns, for a period of forty (40) years from the date of recordation of this deed of easement, the non-exclusive right, privilege and easement, approximately fifteen (15) feet in width, to construct, operate and maintain one or more underground lines, and one or more lighting supports and lighting fixtures, as GRANTEE may from time to time deem expedient or advisable, located on the easement hereinafter described, for the purpose of transmitting and distributing electric power by one or more

circuits to GRANTOR, for provision of electric power to its facilities and for lighting and such other purposes as requested by GRANTOR; together with all wires, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, ground connections, meters, attachments, equipment, accessories and appurtenances desirable in connection therewith (hereinafter referred to as "facilities").

The said rights, privilege and easement extends over, under, through and across certain lands of GRANTOR, situated in the City of Newport News, Virginia, as shown on Plat No. 22-16-0111 attached hereto and made a part of this Deed of Easement; the location of said easement being shown in broken lines on said Plat, to which plat reference is made for a more particular and accurate description of the easement.

The facilities constructed hereunder shall remain the property of GRANTEE. GRANTEE shall have the right to inspect, rebuild, remove, repair, improve, relocate on the easement, and make such changes, alterations, substitutions, additions to or extensions of its facilities as GRANTEE may from time to time deem advisable.

GRANTEE shall at all times have the right to keep the easement clear of all buildings, structures, and other obstructions (except fences), trees, roots and undergrowth. All trees and limbs cut by GRANTEE shall, except as hereinafter provided, remain the property of GRANTOR. Trees cut by GRANTEE with merchantable trunks six (6) inches or more in diameter will be cut into lengths of not less than four (4) feet when requested by GRANTOR and will be placed in piles separate from other trees, limbs, and undergrowth cut by GRANTEE. All trees, limbs, roots and other growth removed during the periodic maintenance of the easement by GRANTEE shall be

disposed of by GRANTEE, and after which GRANTEE shall restore the surface area affected by the removal to a level grade safe for pedestrian travel.

For the purpose of constructing, inspecting, maintaining or operating its facilities on the easement on the property of GRANTOR or on its easement on any other property, GRANTEE shall have the right of ingress and egress over, upon and along such easement. If GRANTEE is unable reasonably to exercise the right of ingress and egress over, upon and along the easement on the property of GRANTOR, GRANTEE shall have such right of ingress and egress over the property of GRANTOR adjacent to the easement. GRANTEE shall have the further right of ingress to and egress from the easement over such private roads as may now or hereafter exist on the property of GRANTOR. The right, however, is reserved to GRANTOR to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, GRANTEE shall have such right of ingress and egress over the lands of GRANTOR adjacent to the easement and lying between public and private roads and the easement in such manner as shall occasion the least practicable damage and inconvenience to GRANTOR.

GRANTEE shall repair damage to roads, fences or other improvements and shall pay GRANTOR for other damage done in the process of the construction, inspection, or maintenance of GRANTEE's facilities, or in the exercise of its right of ingress and egress; GRANTEE shall be liable for all damages resulting from its exercise of the right of ingress and egress across such adjacent lands, provided GRANTOR gives written notice thereof to GRANTEE within sixty (60) days after any property damage occurs.

GRANTOR, its successors and assigns, may use the easement for any purpose not inconsistent with the rights hereby granted, provided such use does not interfere with or endanger

the construction, operation and maintenance of GRANTEE's facilities and provided that no buildings, structures or other obstructions (except fences) may be constructed on the easement.

In the event that GRANTOR sells or conveys the property on which the easement is located, GRANTOR shall provide that such sale or conveyance be conditioned upon the purchaser granting to GRANTEE a suitable easement across such property for GRANTEE's facilities.

In the event that GRANTEE fails or ceases to use the entire easement for a continuous period of two (2) or more years, then all rights and privileges hereby granted to GRANTEE shall forever cease and revert to GRANTOR by operation of law.

The rights, privileges, and easement conveyed pursuant to this Deed of Easement are in addition to, and not in substitution of, any other rights which may be available to GRANTEE to install its facilities on the property.

GRANTOR covenants that it is seized of and has the right to convey the said easement, rights and privileges; that GRANTEE shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that GRANTOR shall execute such further assurances thereof as may be required.

IN WITNESS WHEREOF, GRANTOR has caused its corporate name to be signed hereto by its City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk.

CITY OF NEWPORT NEWS

ATTEST:

By: _____
City Manager

By: _____
City Clerk

COMMONWEALTH OF VIRGINIA
City of Newport News, to wit:

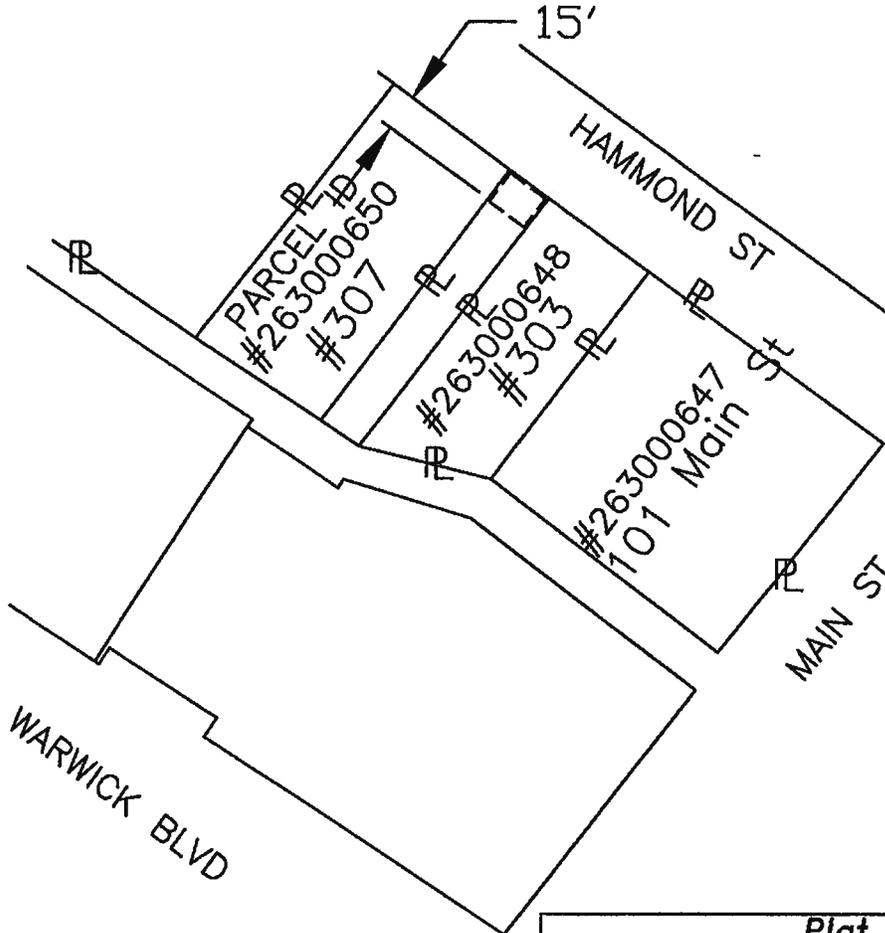
I, _____, a Notary Public in and for the City and Commonwealth
aforesaid, whose commission expires on the ___ day of _____, _____, do hereby
certify that the CITY OF NEWPORT NEWS, by James M. Bourey, its City Manager, and attested
by Mabel Washington Jenkins, its City Clerk, whose names are signed to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

GIVEN under my hand this ___ day of _____, 2017.

Notary Public
Registration No.: _____

sdm15181

Property Of:
 THE CITY OF NEWPORT NEWS,
 a municipal corporation of the
 Commonwealth of Virginia
 305 Hammond Street
 Parcel ID 263000649



**Plat to Accompany
 DEED OF EASEMENT**

| | | |
|-----------------------------|---------------------------|-------|
| District PENINSULA | | |
| NORTH HILTON EAST | County-City | State |
| | NEWPORT NEWSVA | |
| Office PENINSULA | Plat Number 22-16-0111 | |
| Estimate Number 10022236 | Grid Number N0025 | |
| Date Nov 14, 2016 | By Packard/Rountree | |

Legend

- Location of Boundary Lines of Easement
FIFTEEN FEET IN WIDTH
- ==P== Indicates Property Line is Easement
Boundary
FIFTEEN FEET IN WIDTH

G. Other City Council Actions

2. Ordinance Authorizing the City Manager to Execute the First Amendment to the In Building Radio Distribution Agreement

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE IN BUILDING RADIO DISTRIBUTION AGREEMENT (IBRD) BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA AND CELLCO PARTNERSHIP, D/B/A VERIZON WIRELESS, FOR FIRE STATION NO. 5.

BACKGROUND:

- In February 2012, Verizon Wireless entered into an agreement with the City to install and maintain an IBRD System at Fire Station No. 5, located at 17300 Warwick Boulevard.
- The proposed amendment to the original agreement dated February 23, 2012 seeks to allow for the automatic extension of five additional one-year terms at the end of the fourth renewal term.
- Any future amendments must be made in writing and be signed and approved by all parties.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re InBuilding Radio Agrmnt Amdmnt

sdm15185 Authorizing re FirstAmend to In Building Radio Dist Agmt- Cellco

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

February 8, 2017

TO: The Honorable City Council
FROM: City Manager
SUBJECT: First Amendment to In Building Radio Distribution Agreement

The City entered into an Agreement with Cellco Partnership d/b/a Verizon Wireless to allow for the installation of in-building radio-distribution (IBRD) devices, antennas, cables, fibers and other associated equipment at Fire Station 5 and Training Facility located at 17300 Warwick Boulevard. The devices and materials installed are the property of Verizon Wireless who also maintains the responsibility of all maintenance and repair of the IBRD equipment. The City supplies electrical power for the operation of the equipment; and in consideration of the property and electricity supplied, receives the benefits of enhanced wireless communications arising from the operation of the IBRD System.

The original agreement was dated February 23, 2012. The new amendment seeks to modify the Term - Section 7 to allow for the automatic extension of five additional one-year terms at the end of the fourth renewal term. The amendment also sets forth that any future amendments may only be made in writing, signed by all parties.

I recommend approval.


James M. Bourey

JMB:blwk

cc: R.B. Alley, III, Chief, Newport News Fire Department (NNFD)

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 FIRST AMENDMENT TO IN BUILDING RADIO DISTRIBUTION AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND CELLCO PARTNERSHIP, D/B/A VERIZON WIRELESS, FOR FIRE STATION NO. 5.

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 First Amendment to In Building Radio Distribution Agreement by and between the City of Newport News, Virginia, and Cellco Partnership, d/b/a Verizon Wireless, for Fire Station No. 5.
2. That a copy of the said First Amendment is attached hereto and made a part hereof.
3. That this Ordinance shall be in effect on and after the date of its adoption, February 14, 2017.

**FIRST AMENDMENT TO IN BUILDING RADIO DISTRIBUTION
AGREEMENT**

This First Amendment to In Building Radio Distribution Agreement ("Amendment") is made as of February 14, 2017 ("Effective Date") between City of Newport News, whose principal location is 2400 Washington Avenue, Newport News, VA 23607 ("Licensor"), and Cellco Partnership d/b/a Verizon Wireless, a Delaware general partnership, whose principal place of business is One Verizon Way, Mail Stop 4AW100, Basking Ridge, NJ 07920, ("Licensee").

WHEREAS, Licensor and Licensee entered into an In Building Radio Distribution Agreement dated February 23, 2012 ("Agreement"); pursuant to the Agreement, Licensee licenses from Licensor certain spaces on and within Licensor's premises at City of Newport News Fire Department, 17300 Warwick Blvd., Newport News, VA 23603 (the "Premises"), as further described in that certain Agreement;

WHEREAS, Licensor and Licensee desire to amend the Agreement to extend the term.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree to be legally bound to this First Amendment as follows:

1. This Amendment shall be effective upon full execution.
2. **Term – Section 7.** Section 7 of the Agreement is hereby amended and supplemented to provide the following language at the end of said Section 7:

At the end of the fourth (4th) renewal term, this Agreement shall automatically be extended for five (5) additional one-year terms ("Additional Terms") unless either Party terminates it at any time provided that one hundred twenty (120) days prior notice is given to the other.

3. **Miscellaneous.** This Agreement and this Amendment contain all agreements, promises and understandings between the Licensor and the Licensee regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the Licensor or the Licensee in any dispute, controversy or proceeding. The Agreement and this Amendment may not be amended or varied except in a writing signed by all parties. The Agreement and this Amendment shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of the Agreement or this Amendment or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The Agreement and this Amendment and the performance thereof shall be governed interpreted, construed and regulated by the laws of the state in which the Premises is located without reference to its choice of law rules.

IN WITNESS WHEREOF, the parties hereto have set their hands, intending to be bound, as of the Effective Date.

LICENSOR
City of Newport News

ATTEST:

By: _____
Name: Mabel Washington Jenkins
Title: City Clerk

By: _____
Name: James M. Bourey
Title: City Manager

APPROVED AS TO FORM:

Collins L. Owens, Jr.
City Attorney

LICENSEE
Cellco Partnership
d/b/a Verizon Wireless

WITNESS
By: _____
Name: _____

By: _____
Name: Thomas O'Malley
Title: Director – Network Field Engineering

H. Appropriations

ACTION: A REQUEST FOR A MOTION OF CITY COUNCIL TO APPROVE AS A BLOCK THE FOLLOWING APPROPRIATIONS.

1. Court Appointed Special Advocate (CASA) - Donations - \$8,101
2. Court Appointed Special Advocate (CASA) - Federal and State Revenue (\$107,372) and FY 2017 General Fund Operating Budget: Community Support (\$78,000) - \$185,372
3. Newport News Public Schools (NNPS) - General Obligation Bond Fund: HVAC Replacement Projects for Gildersleeve and Hines Middle Schools - \$4,400,000

H. Appropriations

1. Court Appointed Special Advocate (CASA) – Donations – \$8,101

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$8,101 OF IN-KIND DONATIONS FOR THE CITY’S COURT APPOINTED SPECIAL ADVOCATE PROGRAM (CASA).

BACKGROUND:

- CASA has received \$8,101 in donations, which City Council is requested to appropriate at this time.
- The funds will be used to train CASA volunteers, to organize special activities for CASA children, and fundraising events.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re CASA Program - Donations

sdm15188 Appropriation re CASA Program - Donations

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

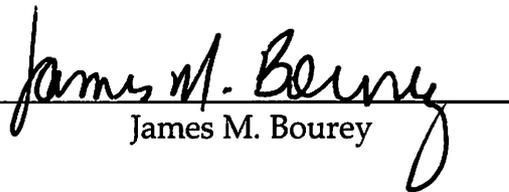
February 8, 2017

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Court Appointed Special Advocate (CASA) Program Donations

The Court Appointed Special Advocate (CASA) program trains community volunteers to serve as advocates for children found by the Juvenile and Domestic Relations Court to have been abused or neglected, or who are at risk of being abused or neglected. Volunteers advocate for placement in safe, permanent, and nurturing homes.

CASA has received \$8,101 in donations, which City Council is requested to appropriate at this time. These funds will be used to train CASA volunteers, to organize special activities for CASA children such as picnics and camp scholarships, and fundraising events.

Approval of this appropriation resolution is recommended.


James M. Bourey

JMB:kmf

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM CASA DONATIONS TO CASA PROGRAM.

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

That it hereby appropriates funds from CASA Donation to CASA Program, as follows:

Appropriation From:

| | |
|---|-------------|
| CASA Donations 2660-000-49-4910-481010- 49A17-49A17 | \$ 8,101.00 |
|---|-------------|

Appropriation To:

| | |
|---|-------------|
| CASA Program 2660-000-49-4910-555042- 49A17-49A17 | \$ 8,101.00 |
|---|-------------|

H. Appropriations

2. Court Appointed Special Advocate (CASA) – Federal and State Revenue (\$107,372) and FY 2017 General Fund Operating Budget: Community Support (\$78,000) – \$185,372

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$185,372 IN STATE GRANT REVENUE (\$56,044), FEDERAL GRANT REVENUE (\$51,328), AND THE FY 2017 GENERAL FUND OPERATING BUDGET, COMMUNITY SUPPORT FUND (\$78,000), FOR THE COURT APPOINTED SPECIAL ADVOCATE PROGRAM (CASA).

BACKGROUND:

- The State grant represents annual funding received from the Virginia Department of Criminal Justice Services for the CASA Program.
- The source of Federal grant funds is the Victims of Crime Act Program.

FISCAL IMPACT:

- In addition to the \$107,372 in State and Federal grant funds, this transaction includes Community Support (local funds) in the amount of \$78,000, bringing the total amount of this appropriation to \$185,372.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re CASA Program Funding

sdm15192 Appropriation re CASA Program - Funding and Comm Support

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

February 8, 2017

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Court Appointed Special Advocate (CASA) Program

The Court Appointed Special Advocate (CASA) program trains community volunteers to serve as advocates for children found by the Juvenile and Domestic Relations Court to have been abused or neglected, or who are at risk of being abused or neglected. Volunteers advocate for placement in safe, permanent, and nurturing homes.

In addition to the \$78,000 of local funds approved as part of the FY 2017 General Fund Operating Budget, the CASA program has been awarded a grant from the Virginia Department of Criminal Justice Services in the amount of \$56,044 and the Victims of Crime Act (VOCA) Program grant in the amount of \$51,328. The City's match was included in the approved FY 2017 annual operating budget. The total CASA funding for FY 2017 is \$185,372.

These funds will be used to enhance volunteer coordination and training, to support the daily operations of the CASA program, to organize special activities for CASA children such as picnics and camp scholarships, and fundraising events.

Approval of this appropriation resolution is recommended.


James M. Bourey

JMB:kmf

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM STATE REVENUE - DCJS, FEDERAL REVENUE - VOCA AND LOCAL REVENUE - COMMUNITY SUPPORT TO CASA PROGRAM.

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

That it hereby appropriates funds from State Revenue - DCJS, Federal Revenue - VOCA and Local Revenue - Community Support to CASA Program, as follows:

Appropriation From:

| | | |
|--|----|-----------|
| State Revenue - DCJS 2660-000-49-4910-482000- 49A17-49A17 | \$ | 56,044.00 |
| Federal Revenue - VOCA 2660-000-49-4910-483000- 49A17-49A17 | \$ | 52,328.00 |
| Local Revenue - Community Support 2660-000-49-4910-481000- 49A17-49A17 | \$ | 78,000.00 |

Appropriation To:

| | | |
|---|----|------------|
| CASA Program 2660-000-49-4910-512331- 49A17-49A17 | \$ | 185,372.00 |
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H. Appropriations

3. Newport News Public Schools (NNPS) – General Obligation Bond Fund: HVAC Replacement Projects for Gildersleeve and Hines Middle Schools – \$4,400,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$4.4 MILLION FROM THE GENERAL OBLIGATION BOND FUND TO NEWPORT NEWS PUBLIC SCHOOLS (NNPS) FOR HVAC REPLACEMENT PROJECTS AT GILDERSLEEVE AND HINES MIDDLE SCHOOLS.

BACKGROUND:

- The funds will be used for HVAC replacement projects for Gildersleeve and Hines Middle Schools.
- This is the first replacement of these systems since the schools both opened over 26 years ago.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re NNPS HVAC Replacements

sdm15189 Appropriation re NNPS HVAC Replacements

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

February 8, 2017

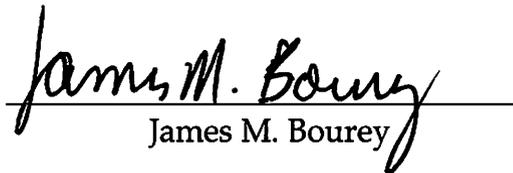
TO: The Honorable City Council
FROM: City Manager
SUBJECT: FY 2017 Capital Improvements Plan Appropriation for Schools' HVAC

Through this action, City Council is being asked to appropriate \$4.4 million to Newport News Public Schools (NNPS) from the General Obligation Bond Fund at your February 14, 2017 regular meeting.

The funds will be used for HVAC replacement projects for Gildersleeve and Hines Middle Schools. This is the first replacement of these systems since the schools both opened over 26 years ago. There still remains a total of \$736,000 yet to be appropriated for roof replacements and mobile classroom replacements to complete the appropriation for the NNPS FY 2017 Capital Improvements Plan (CIP).

This \$4.4 million appropriation will be transferred into the School's City Fund 2002 account.

I recommend approval.


James M. Bourey

JMB:NNPS:wmp

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED TO FY 2017 CAPITAL IMPROVEMENTS PLAN - SCHOOLS HVAC.

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 FY 2017 Capital Improvements Plan - Schools HVAC, as follows:

Appropriation From:

Bonds Authorized and Unissued

4104-650-70-700H-579000-000000-2017-
00000-H0000

\$ 4,400,000.00

Appropriation To:

FY 2017 Capital Improvements Plan -
Schools HVAC

4104-650-70-700H-579519-000000-2016-
00000-H4002

\$ 4,400,000.00

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

J. Old Business, New Business and Councilmember Comments

City Manager
City Attorney
City Clerk

Price
Scott
Vick
Woodbury
Bateman
Cherry
Harris

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."**