

ORDINANCE NO. 7311-16

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-370 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING AN AMUSEMENT ARCADE ON A SITE ZONED C1 RETAIL COMMERCIAL DISTRICT.

WHEREAS, application number CU-16-370 has been made by **MIRSHORIM GOLD NEWPORT NEWS, LP, owner, and BREAKOUT, LLC, applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating an amusement arcade on a site zoned C1 Retail Commercial District; and

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

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

(a) That conditional use permit number CU-16-370 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating an amusement arcade on a site zoned C1 Retail Commercial District; and

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

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, State of Virginia, shown and designated as "Denbigh Village Centre", containing 27.0005 acres as shown on Subdivision Plat entitled "The Remaining Portion of Parcel 1 and Parcel 2, Denbigh Mall Shopping Center, City of Newport News, Virginia", dated June 1991 and recorded in the Clerk's Office of the Circuit Court for the City of Newport News, on July 9, 1991 in Deed Book 1265, page 1085 to which reference is here made. However, this conditional use permit only applies to a 49,971 square foot area of the aforesaid Property designated as Suite 416 as shown on Exhibit A-2, which is attached hereto and made a part hereof.

The Property has a common street address of 14346 Warwick Boulevard, Suite 416 and a Real Estate Assessor's Tax I.D. #108.00-04-07.

(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. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
2. All outdoor storage shall be prohibited.
3. All shopping center landscaping shall be installed in accordance with the landscape plan prepared by Land Studio dated March 25, 2016 and approved by the Department of Engineering on March 31, 2016 noted as Appendix A-3, which is attached hereto and made a part hereof. All landscaping shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed. Any proposed changes shall be reviewed and approved by the Director of Planning.
4. 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.
5. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
6. 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.
7. 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.

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

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

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of September 27, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

Ordinance No. 7311-16
Page Four

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON SEPTEMBER 27, 2016

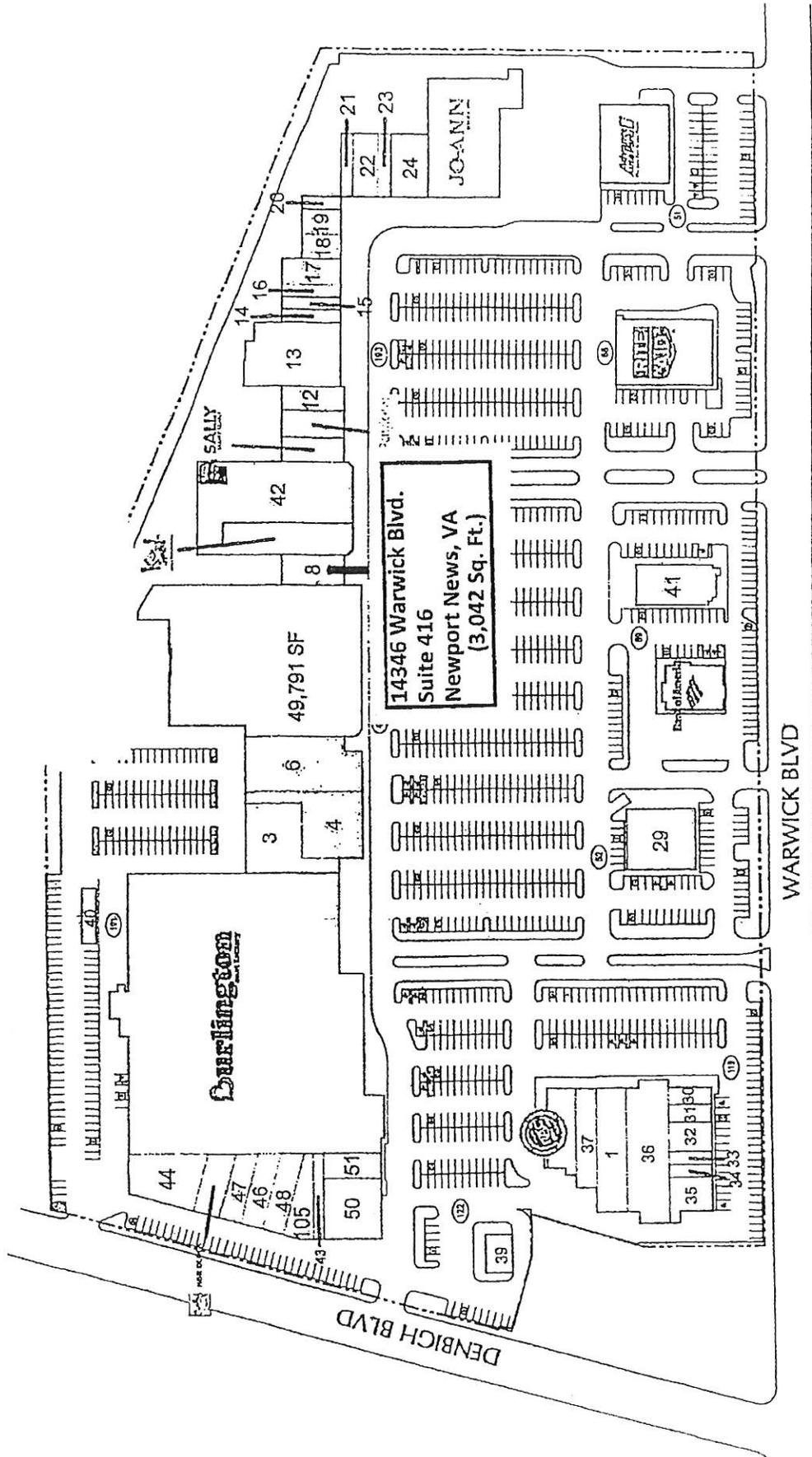
Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

Denbigh Village Shopping Center
Newport News, VA



Property Location

DENBIGH VILLAGE CENTRE
LANDSCAPE SCHEMATIC

NEWPORT NEWS VIRGINIA
 WARWICK BOULEVARD
 DENBIGH VILLAGE CENTRE
 NEWPORT NEWS, VIRGINIA

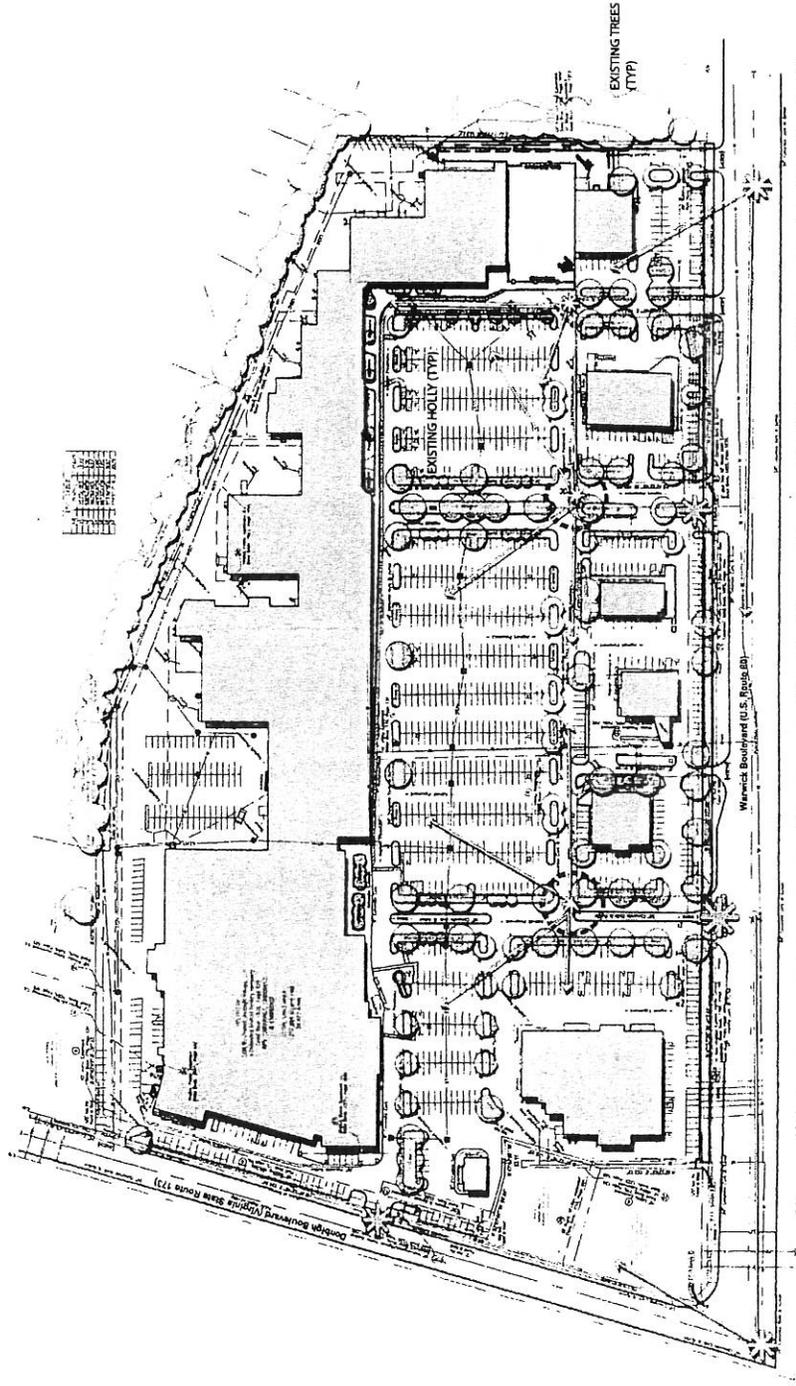
LANDSCAPE ARCHITECTURE
 1001 EAST MAIN STREET
 SUITE 100
 NEWPORT NEWS, VA 23601
 PHONE (804) 241-1111
 FAX (804) 241-1111
 WWW.LANDSCAPEARCHITECT.COM

P.O. BOX 5001
 NEWPORT NEWS, VA 23601
 PHONE (804) 241-1111
 FAX (804) 241-1111
 WWW.LANDSCAPEARCHITECT.COM

DATE: 11/11/11
 DRAWN BY: J. HARRIS
 CHECKED BY: J. HARRIS
 PROJECT NO.: 11-010

L-010
 2 OF 8

NOTE
 BASE LAMP SARKTY PROVIDED BY CLIENT/OTHERS



PARAMETERS PER CITY OF NEWPORT NEWS CITY ORDINANCES	PRELIMINARY COST ESTIMATE
- TREES REMOVED - 85	AVERAGE COST
- TREES REPLACED	APPROXIMATELY \$500 PER/TREE
- LARGE TREE (4" CALIPER MIN.)	AT +106 = \$53,000
- MEDIUM TREE (3" CALIPER MIN.)	
- SMALL TREE ORNAMENTAL (2" CALIPER MIN.)	
- TOTAL	

