

ORDINANCE NO. 7312-16

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-372 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF THE OFF-PREMISES SALE OF ALCOHOL FOR AN ESTABLISHMENT OF LESS THAN 1,600 SQUARE FEET ON A SITE ZONED R9 MIXED USE DISTRICT.

WHEREAS, application number CU-16-372 has been made by **STONEY RUN VILLAGE, LLC, owner, and TAMARIND INTERNATIONAL MARKET, applicant**, for a conditional use permit for the hereinafter described property for the purpose of the off-premises sale of alcohol for an establishment of less than 1,600 square feet on a site zoned R9 Mixed Use 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-16-372 is hereby granted for the property described in paragraph (b) hereof for the purpose of the off-premises sale of alcohol for an establishment of less than 1,600 square feet on a site zoned R9 Mixed Use 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, with the appurtenances thereunto belonging, situate in the City of Newport News, Virginia, and designated as a portion of Parcel A, as the same is shown on that certain plat entitled "SUBDIVISION PLAT OF THE VILLAGES OF STONEY RUN, CITY OF NEWPORT NEWS, VIRGINIA," prepared by Thomas Land Surveying, P.C. dated December 10, 2004, which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Newport News, Virginia, (the "Clerk's Office") as Plat Book 2039, at pages 1615 – 1619, as corrected by that plat entitled "Plat of Correction Subdivision Plat of Village of Stoney Run, Newport News, Virginia", dated December 10, 2004 and revised through September 16, 2005, prepared by Thomas Land Surveying, P.C. and which plat is duly recorded in the Clerk's Office as Plat Book 2072, at pages 631 through 635.

However, this conditional use permit only applies to a 1,065 square

foot area, being more particularly described as 620 Stoney Creek Lane, Suite 20, Newport News, VA 23608, as shown on Exhibit A2. The Property has a Real Estate Assessor's Tax ID# 090-00.01-21.

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

1. The applicant shall adhere to the regulations set forth by the Virginia Department of Alcohol and Beverage Control (ABC) and the licensee guidelines established by the Code of Virginia.
2. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
3. 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.
4. 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.
5. 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.

6. 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.
7. 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.
8. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition 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.

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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

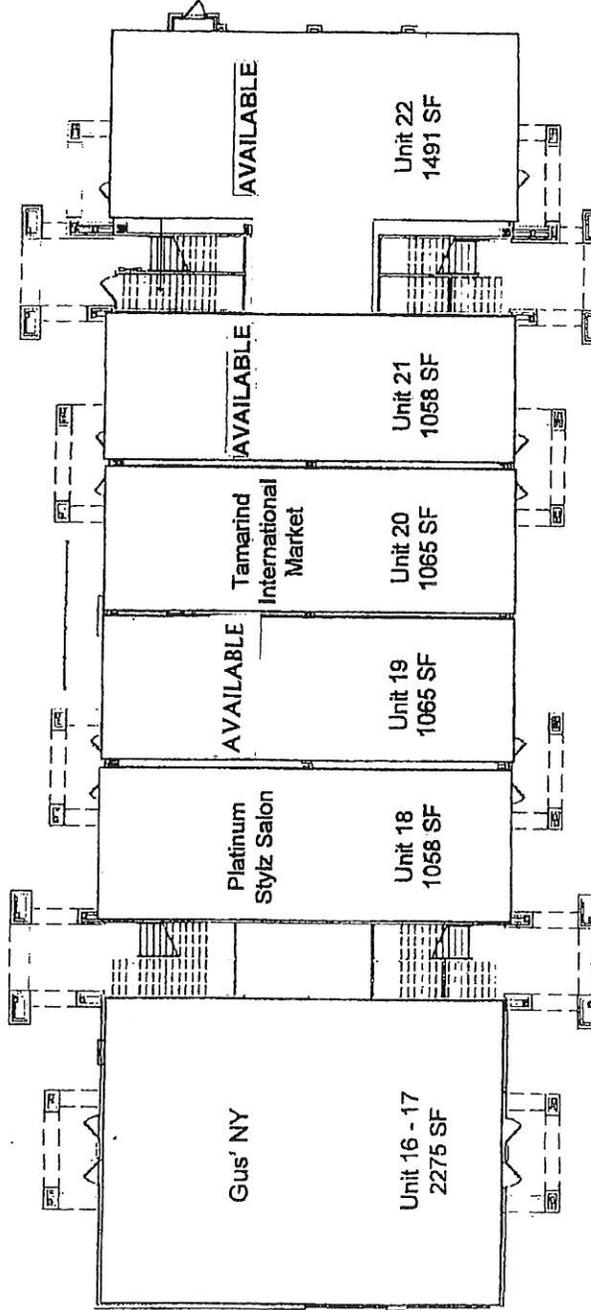
A true copy, teste:

City Clerk

VILLAGES OF

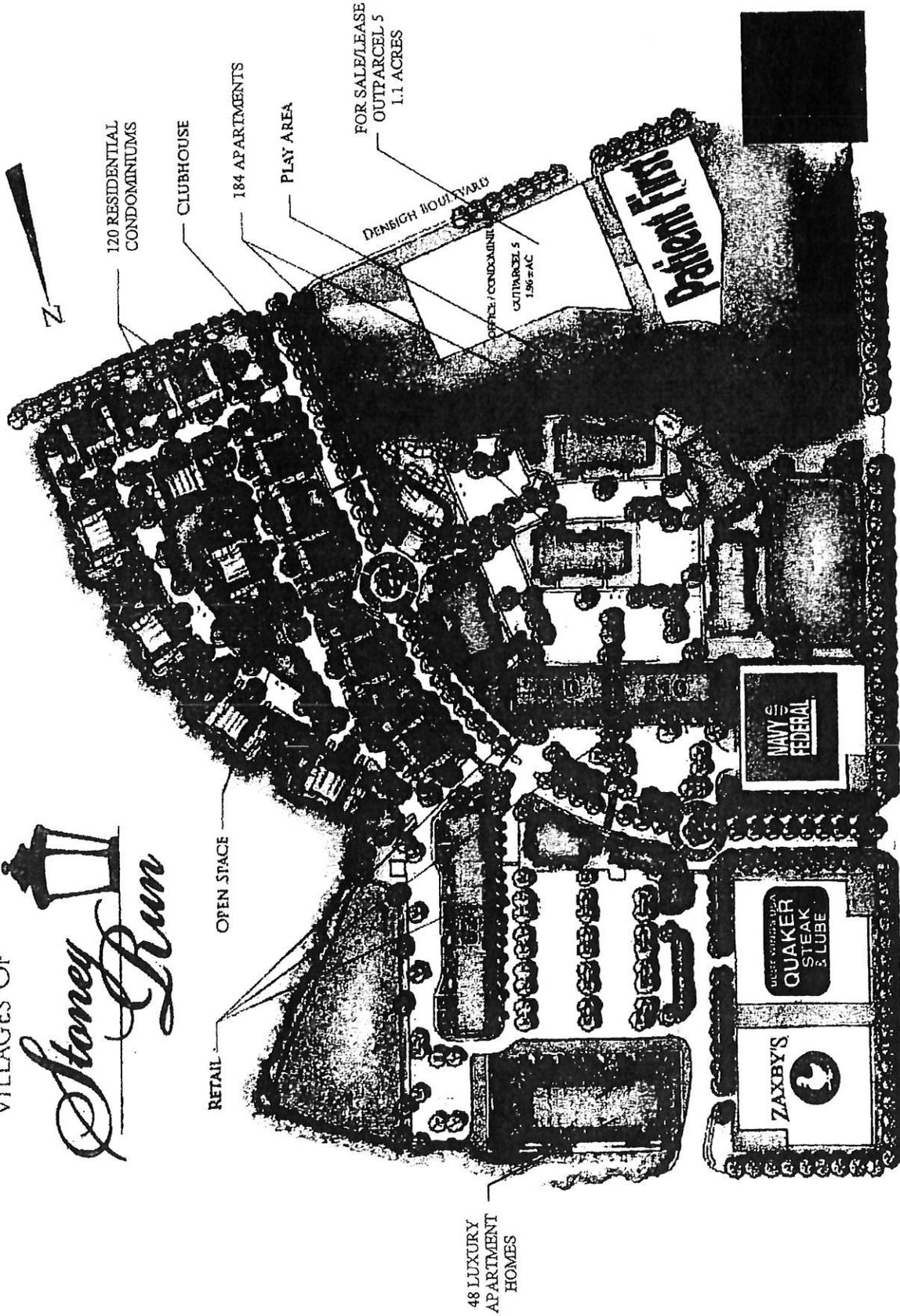


620 Stoney Creek Lane



VILLAGES OF

Stoney Run



www.villagesofstoneyrun.com