

ORDINANCE NO. 7911-23

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2023-0008 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A FITNESS CENTER ON A SITE ZONED M1 LIGHT INDUSTRIAL DISTRICT.

WHEREAS, application number CU-2023-0008 has been made by **UNION FLEX, LLC, owner, and VERTEX PERFORMANCE LLC, applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating a fitness center on a site zoned M1 Light Industrial 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-2023-0008 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating a fitness center on a site zoned M1 Light Industrial District; and

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

Starting at a point on the west R/W line of Jefferson Avenue and the south R/W line of ED WRIGHT LANE; thence S62° 24' 12" W 606.00' to the point of beginning; thence S27° 35' 48" E 350.952"; thence S62° 18' 48" W 494.37; thence N27° 41' 12" W 332.16' to the south side of ED WRIGHT LANE; thence N62° 24' 27" E 56.14'; thence 126.34' along a curve (R=835.61') to the left; thence 133.25' along a curve (R=881.75') to the right; thence N62° 24' 12" E 180.15' along the south side of ED WRIGHT LANE to the point or place of beginning, containing 170,183.86 square feet, 3.907 acres.

The Property has a common street address of 311 Ed Wright Lane, Suites C and D, and a Real Estate Assessor's Tax I.D. #172.00-01-29.

(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 provide plans in general conformance with the plan entitled, "Proposed Layout for Vertex Performance Center," dated March

2, 2023 and as found in Appendix A-6, which is attached hereto and made a part hereof, for review and approval by the Department of Codes Compliance.

2. The applicant shall comply with all Fire Department regulations as stipulated by the Fire Official and Building Official. All requirements mandated by the Fire Department shall be completed prior to the issuance of a Certificate of Use and Occupancy permit.
3. Proposed building sign placement, design and materials shall be reviewed and approved by the Director of Planning prior to the issuance of a sign permit by the Department of Codes Compliance.
4. Signage placed in or on any window of the building shall be limited to no more than twenty-five (25) percent of each window.
5. 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 (30) days.
6. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
7. 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.
8. 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 government.

9. 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.
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 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.
11. 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.
12. 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.

(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 June 27, 2023, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twenty-four (24) months.

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PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON JUNE 27, 2023

Mabel Washington Jenkins,
MMC City Clerk

Phillip D. Jones
Mayor

A true copy, teste:

City Clerk

