

ORDINANCE NO. 7274-16

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-364 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF ALLOWING THE OPERATION OF A SMALL MOTOR VEHICLE REPAIR SERVICE FACILITY ON A SITE ZONED C2 GENERAL COMMERCIAL DISTRICT.

WHEREAS, application number CU-16-364 has been made by **LLOYD ALLYN JULIEN, JR., REVOCABLE TRUST, and JULIEN LLOYD ALLYN., JR., TRUSTEE, owners and applicants**, for a conditional use permit for the hereinafter described property for the purpose of allowing the operation of a small motor vehicle repair 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-16-364 is hereby granted for the property described in paragraph (b) hereof for the purpose of allowing the operation of a small motor vehicle repair 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:

PARCEL 1

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 Lot 2B-1 as shown on that certain plat entitled "BOUNDARY LINE ADJUSTMENT PLAT FOR LOT 1 (P.B. 10, PG. 34) TAX PARCEL 172000102 AND LOT 2B (INST. #140009780) TAX PARCEL 172000136, CITY OF NEWPORT NEWS, VIRGINIA, APRIL 27, 2015", and made by MSA, P.C. , Environmental Sciences · Planning · Surveying · Civil & Environmental Engineering · Landscape Architecture, said plat of boundary line adjustment recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, on May 18, 2015 as Instrument No.: 150006605.

PARCEL 2

A portion of all that certain lot, piece or parcel of land, with the appurtenances thereunto belonging, situate in the City of Newport News, Virginia, and mor particularly bounded and described as follows:

Beginning at a point in the western line of the right of way of Jefferson Avenue (State Highway #143) distant 424.96 feet northerly as measured along said western right of way of Jefferson Avenue from a pin marking the northern line of the property of Peninsula Twin Drive-in Theatres, Incorporations; and from said point running along a curve with an arc 39.23 feet in a southwesterly direction until it intersects the northern line of future street known as Horne Lane at a point distant 24.96 feet as measured along a course South 62 degrees 18 minutes 48 seconds West from the western line of Jefferson Avenue; thence along the northern line of Horne Lane (80 feet wide), South 62 degrees 18 minutes 48 seconds West 375.04 feet to a point; thence North 27 degrees 35 minutes 48 seconds West, 120.00 feet to a point; thence North 62 degrees 18 minutes 48 seconds East 400.00 feet to a point in the western line of Jefferson Avenue; thence along the western line of Jefferson Avenue, South 27 degrees 35 minutes 48 seconds East 95.04 feet to the point of beginning.

LESS AND EXCEPT: All that certain lot, piece or parcel of land, with the appurtenances thereunto belonging, situate in the City of Newport News, Virginia, and more particularly bounded and described as follows:

Beginning at a point in the northern line of Horne Lane (80 feet wide) distant 160 feet as measured along a course South 62 degrees 18 minutes 48 seconds (sic) West from the point of intersection of the said northern line of Horne Lane (sic) with the western line of Jefferson Avenue (said point (sic) of intersection being 400 feet northerly as measured along the western line of Jefferson Avenue from the northern line of the property now or formerly Peninsula Twin Drive-in Theatres, Incorporated); and from the point of beginning on Horne Lane thus established, running 62 degrees 18 minutes 48 seconds West 240 feet to a point; thence North 27 degrees 35 minutes 48 seconds West 120 feet to a point; thence North 62 degrees 18 minutes 48 seconds East 240 feet to a point; thence south 27 degrees 35 minutes 48 seconds East 120 feet to the point of beginning, said parcel containing 0.66 acre of land, more or

less.

The Property has a common street address of 12011 and a portion of 12001 Jefferson Avenue and is assigned Real Estate Assessor's Tax I.D.#s 172.00-01-02 and 172.00-01-36.

(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 Preliminary Site Plan dated February 19, 2016 prepared by Kimley-Horn and identified as Appendix A-2, which is attached hereto and made a part hereof, and shall conform to this conditional use permit, the City's site regulations and the zoning ordinance.
2. The property owner shall file a boundary line adjustment plat with the Department of Engineering to vacate existing property lines and create two new parcels to be reviewed and approved by the Director of Engineering. The plat shall provide for a shared access on Jefferson Avenue in general conformance to the site plan shown in Appendix A-2.
3. Building elevations and exterior building materials for the property shall be consistent with the drawings prepared by Architectural Resource Team dated March 23, 2016 as identified in Appendix A-4, which is attached hereto and made a part hereof. Full brick construction 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.
4. A landscape plan in conformance with the requirements of the site regulations and conditional use permit 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.
5. The dumpster shall be screened from adjacent properties and rights-of-way with masonry materials that complement the exterior materials of the building on the site. The materials, style and design of the enclosure shall be subject to review and approval by the Director of Planning. The dumpster shall be maintained in good condition in perpetuity.
6. No freestanding signs shall be permitted on the Property.

7. All outdoor storage and displays of saleable items shall be prohibited.
8. 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.
9. Lighting shall be directed inward and downward on the Property so that such lighting does not spillover onto adjacent properties.
10. Tire disposal shall be contracted exclusively to tire haulers that are certified by the Virginia Department of Environmental Quality (DEQ) as a waste tire hauler. A copy of the waste tire certification form, or manifest, provided by the tire hauler shall be kept on site for a period of no less than one year and shall be made accessible to city staff upon request.
11. 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.
12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
13. 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.
14. 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.

15. 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.
16. 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.
17. 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 May 24, 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 MAY 24, 2016

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

