

Director of Media

**SUFFOLK CITY COUNCIL**  
**MEETING OF NOVEMBER 18, 2015**



**WORK SESSION**

**Begins at 4:00 p.m.**

**REGULAR SESSION**

**Begins at 7:00 p.m.**

**SUFFOLK CITY COUNCIL  
WORK SESSION  
November 18, 2015  
4:00 p.m.  
City Council Chamber**

1. Atlantic Coast Pipeline Project Update
2. Holiday Events Update
3. Overview of the Real Estate Assessment Process
- 4.\* Economic Development Proposal
- 5.\* Appointments

\* Proposed Items for Closed Session

**AGENDA: November 18, 2015, Work Session**

**ITEM: Atlantic Coast Pipeline Project Update**

Representatives for the Atlantic Coast Pipeline Project will provide an update on the project and the most recent information on the pipeline route proposal.

**AGENDA: November 18, 2015, Work Session**

**ITEM: Holiday Events Update**

Staff from Parks and Recreation, along with Tourism, will provide an overview of the upcoming holiday events.

**AGENDA: November 18, 2015, Work Session**

**ITEM: Overview of the Real Estate Assessment Process**

City Assessor, Jean Jackson, will provide City Council with an overview of the real estate assessment process.

**SUFFOLK CITY COUNCIL AGENDA**  
**November 18, 2015**  
**7:00 p.m.**  
**City Council Chamber**

- 1. Call to Order**
- 2. Nonsectarian Invocation**
- 3. Approval of the Minutes**
- 4. Special Presentations**
- 5. Removal of Items from the Consent Agenda and Adoption of the Agenda**
- 6. Agenda Speakers**
- 7. Consent Agenda** – An ordinance to accept and appropriate funds from the Commonwealth of Virginia Department of Aviation for the Suffolk Executive Airport
- 8. Consent Agenda** – An ordinance to accept and appropriate grant funds from the Obici Healthcare Foundation for the Lake Meade Park Trail
- 9. Consent Agenda** – An ordinance to accept and appropriate funds from the Virginia E-911 Services Board for the Suffolk Police Department
- 10. Public Hearing** – An ordinance to rezone and amend the official zoning map of the City of Suffolk to change the zoning from RM, Residential Medium Density district to M-2, Heavy Industrial district, for properties located at 616, 618 and 620 Madison Avenue, Zoning Map 34G25(2)28, Parcels 7\*8, and 208, 210 and 212 Mulberry Street, Zoning Map 34G25(2)28, Parcel(s) 4\*5\*6; RZ06-15
- 11. Public Hearing** – An ordinance to grant a Conditional Use Permit to establish a nightclub with outdoor entertainment on property located at 425 East Pinner Street, Zoning Map 34G13, Block (4), Parcel 3A\*10; C11-15
- 12. Public Hearing** – An ordinance to grant a Conditional Use Permit to establish a school, dance/art/music school on property located at 6550 Hampton Roads Parkway, Zoning Map 6, Parcel 13A\*2; C14-15
- 13. Public Hearing** – An ordinance to grant a Conditional Use Permit to establish a day care (family day home, six (6) to twelve (12) children), on property located at 2035 Regency Drive, Zoning Map 27H, Parcel(s) 2\*6; C15-15

14. **Public Hearing** – A resolution to amend the Fairgrounds Revitalization Plan, a component of *Suffolk 2035: A Vision for the Future, City of Suffolk Comprehensive Plan*; CPA01-15
15. **Public Hearing** – An ordinance to amend Chapter 31, Unified Development Ordinance of the Code of the City of Suffolk by amending Article 4, Zoning, Section 31-403(a), Purpose Statement for General Zoning Districts; OA5-15
16. **Ordinance** – An ordinance to accept a Deed Open-Space Easement over the common passive open-space within Phase 2B of the Graystone Reserves Cluster Subdivision, Tax Map Number 26, Parcels 65 and 66, Suffolk Voting Borough; FS2015-02
17. **Ordinance** – An ordinance to authorize the transfer of funds from the Central Library/W. Washington Street Project to the Market Street Fire Station 1 Renovation Project
18. **Resolution** – A resolution releasing as a school site that certain parcel of land designated as Parcel 6\*3\*15 located on Harbourview Boulevard
19. **Resolution** – A resolution adopting the 2016 Legislative Agenda for the City of Suffolk
20. **Staff Reports**
21. **Motion** – A motion to initiate a street name change for Kenyon Court
22. **Motion** – A motion to schedule a Work Session for December 2, 2015, at 4:00 p.m., unless cancelled
23. **Non-Agenda Speakers**
24. **New Business**
25. **Announcements and Comments**
26. **Adjournment**

Work Session of the Suffolk City Council was held in was held in the City Council Chamber, 442 West Washington Street, on Wednesday, November 4, 2015, 4:00 p.m.

**PRESENT**

Council Members -  
Linda T. Johnson, Mayor, presiding  
Leroy Bennett, Vice Mayor  
Michael D. Duman  
Roger W. Fawcett  
Donald Z. Goldberg  
Timothy J. Johnson  
Curtis R. Milteer, Sr.  
Lue R. Ward, Jr.

Patrick G. Roberts, City Manager  
Helivi L. Holland, City Attorney  
Erika S. Dawley, City Clerk

**ABSENT**

None

**2016 LEGISLATIVE AGENDA**

Utilizing a PowerPoint presentation, Rob Catron, Managing Partner, Alcalde and Fay, Virginia, LLC, the City's legislative consultant, provided a review of the above referenced item.

Vice Mayor Bennett advised City Council that he wanted to include a request in the City's 2016 Legislative Agenda to the General Assembly to change City Charter Section 3.07 that requires an incumbent member of City Council to resign from office in order to run for Mayor.

Members of City Council opined about the matter of including the aforementioned item in the City's 2016 Legislative Agenda.

Council Member Johnson solicited information about the practices of other localities as it relates to incumbent members of City Council running for Mayor. Mr. Catron said other localities have a variety methods of addressing this matter.

Council Member Ward asked about the other jurisdictions in the region as it relates to incumbent members of City Council running for Mayor. Mr. Catron advised he could obtain that information from surrounding cities.

Vice Mayor Bennett requested a synopsis from City Attorney Holland on City Charter Section 3.07. City Attorney Holland reviewed the provisions of City Charter Section 3.07, Mayor.

Referring to the presentation, Vice Mayor Bennett asked about the date the General Assembly convenes its session. Mr. Catron advised the General Assembly session begins on January 13, 2016.

Council Member Duman queried about the deadline for the City's 2016 Legislative Agenda. Mr. Catron said a meeting with the City's legislators is planned for early December.

Council Member Duman asked City Attorney Holland about the feasibility of the timeline to research the proposed charter change and provide the requested information before the adoption of the City's 2016 Legislative Agenda. City Attorney Holland indicated that it would be feasible to provide the information within the timeframe.

Council Member Duman inquired about the method of filling vacant seats on City Council. City Attorney Holland explained that City Charter Section 3.04, Filling Vacancies, requires that any vacancy created by a resignation of a member of City Council shall be filled within 60 days for the unexpired portion of the term by majority vote of the remaining members of City Council. She added the individual appointed to fill said vacancy must be a resident of the same borough. City Attorney Holland concluded that a vacancy in the Office of Mayor shall be filled by special election conducted as provided by general law.

Council Member Ward asked whether it was possible to change the City Charter to allow all incumbent members of City Council to maintain their seats should they decide to run for Mayor. City Attorney Holland replied that would be a matter to be determined by City Council, but she could provide more information at a future date.

Council Member Fawcett asked about the impact of the proposed charter change on the incumbent members whose terms are concurrent with the Mayor's term. City Attorney Holland advised that currently it is only permissible to run for one seat at a time.

City Attorney Holland summarized the requests from City Council: a report addressing change to City Charter Section 3.07 requiring incumbent members of City Council to resign their seats in order to run for Mayor; the filling of vacancies; and the practices of other localities as it relates to incumbent members of City Council running for Mayor.

Utilizing a PowerPoint presentation, Mr. Catron resumed his report on the 2016 Legislative Agenda.

Referring to the presentation, Council Member Duman asked for clarification on apportionment for teacher retirement. Mr. Catron said the City's Legislative Agenda supports the Virginia Department of Education to pay its share of teacher retirement costs directly to the Virginia Retirement System so that these payments do not show as unfunded liabilities against localities.

## **CAPITAL IMPROVEMENTS PROJECTS UPDATE**

Utilizing a PowerPoint presentation, Public Work Director Eric Nielsen and Capital Programs and Buildings Director Gerry Jones provided a report on the above referenced item.

Referring to the presentation, Council Member Duman asked about the renovation of Fire Station #1 in relation to energy performance contracting standards being considered by the City. Capital Programs and Buildings Director Jones answered that the energy performance contract is still in the process of selecting a vendor, and the proposals are due back on December 1<sup>st</sup>. City Manager Roberts added staff will provide a comparative schedule at the next City Council meeting and concluded if the schedules differ by more than a few months, staff will recommend moving forward with renovations as presented.

Utilizing a PowerPoint presentation, Parks and Recreation Director Lakita Watson resumed providing information regarding the capital improvement projects update.

Referring to the presentation, Council Member Fawcett inquired about the completion date for the canoe/kayak launch at Sleepy Hole Park. Parks and Recreation Director Watson estimated the project will be finished by the end of November.

Referring to the presentation, Council Member Goldberg solicited information on the feasibility of installing flashing signs in the vicinity of railroad crossings downtown to warn drivers of a train crossing in progress, allowing the driver to take a detour around the railroad crossing. Public Works Director Nielsen offered to look into the possibility of installing such signs.

Referring to the presentation, Vice Mayor Bennett queried about the anticipated installation of directional signs at the Wilroy Road and Nansemond Parkway intersection. Public Works Director Nielsen expected to install the signs in the near future.

Referring to the presentation, Vice Mayor Bennett asked about advertisement of the programs in the Parks and Recreation Department. Parks and Recreation Director Watson advised that the department uses a variety of methods to inform the public of offerings.

Vice Mayor Bennett requested handouts on the department's programs for public information. Parks and Recreation Director Watson said she would supply the information.

## **CLOSED MEETING**

City Clerk Dawley presented the Closed Meeting motion for City Council's consideration:

1. Pursuant to Virginia Code Sections 2.2-3711(A)(7) and (A)(1), the consultation with legal counsel employed by a public body regarding specific legal matters requiring the legal advice of such counsel, and the discussion, consideration, or interviews of prospective candidates for appointment and the assignment, appointment, and performance of specific public officers or appointees of the City, specifically the appointments as shown on the attached list for vacancies or term expirations for Fine Arts Commission, Historic Landmarks Commission, Human Services Advisory Board, Library Advisory Board, Local Board of Building Code Appeals, Parks and Recreation Advisory Commission, Planning Commission, Planning Council, Sister Cities Commission, Suffolk Clean Community Commission, Suffolk Clean Community Commission Keep Suffolk Beautiful Executive Board, Western Tidewater Community Services Board and Wetlands Board.
2. Pursuant to Virginia Code Section 2.2-3711(A)(5) and (7), the discussion of a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically concerning an EDIP proposals regarding Project Master, Project Corner and Project Reed.

Council Member Fawcett, on a motion seconded by Council Member Milteer, moved that City Council convene in a closed meeting for the above referenced purposes, by the following roll call vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

City Council convened in Closed Meeting at 5:59 p.m. The Closed Meeting concluded at 6:45 p.m.

Teste: \_\_\_\_\_  
Erika S. Dawley, MMC, City Clerk

Approved: \_\_\_\_\_  
Linda T. Johnson, Mayor

# **Special Presentations**

## **Removal of Items from the Consent Agenda and Adoption of the Agenda**

# **Agenda Speakers**

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Consent Agenda** – An ordinance to accept and appropriate funds from the Commonwealth of Virginia Department of Aviation for the Suffolk Executive Airport

The City has received \$3,143.27 in funding from the Commonwealth of Virginia Department of Aviation for repair and maintenance projects at the Suffolk Executive Airport including:

- \$1,993.54 to replace WAV Wind Sensor Board and Temperature/Dew Point Aspirator Blower assembly
- \$1,149.73 to purchase PAPI bulbs for Runway 4-22 PAPI's

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the appropriate line item in the Aviation Facilities Fund for Fiscal Year 2015-16.

**BUDGET IMPACT:**

Adoption of the ordinance will increase the planned revenues and expenditures of the Aviation Facilities Fund budget by \$3,143.27 for the above noted purpose and requires \$392.5 in local fund support which is provided for in the FY 2015-16 Aviation Facilities Fund budget.

**RECOMMENDATION:**

Adopt the attached ordinance

**ATTACHMENTS:**

Ordinance  
Grant Award Notifications

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE TO ACCEPT AND APPROPRIATE FUNDS FROM THE COMMONWEALTH OF VIRGINIA DEPARTMENT OF AVIATION FOR THE SUFFOLK EXECUTIVE AIRPORT**

WHEREAS, the City has received funds in the amount of \$3,143.27 from the Commonwealth of Virginia Department of Aviation in support of the Suffolk Executive Airport; and,

WHEREAS, the funds received need to be accepted and appropriated to the Aviation Facilities Fund budget for Fiscal Year 2015-16 to assist with various maintenance projects at the Suffolk Executive Airport including replacing WAV Wind Sensor Board and Temperature/Dew Point Aspirator and to purchase PAPI bulbs for Runway 4-22 PAPI's.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

1. The sum of \$3,143.27 shall be reflected as budget in the following accounts in the Fiscal Year 2015-16 Aviation Facilities Fund budget:

<u>Revenue</u>		
220_424140.110	Categorical Aid-State Airport Maintenance Funds	\$1,993.54
220_424140.110	Categorical Aid-State Airport Maintenance Funds	<u>1,149.73</u>
		<u>\$3,143.27</u>
 <u>Expenditure</u>		
220-150000_53300.110	Maintenance Service – State	\$1,993.54
220-150000_53300.110	Maintenance Service - State	<u>1,149.73</u>
		<u>\$3,143.27</u>

2. The fund amount totaling \$3,143.27 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager be, and is hereby authorized and directed to do all things necessary to effectuate this action.

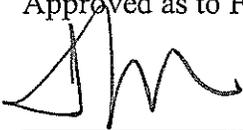
3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

# Department of Aviation Commonwealth of Virginia

## Project Information Summary

**Suffolk Executive Airport**

**Project Title:** PAPI Bulbs

**Program Year:** 2016

**Request Year:**

**Project Type:** Maintenance

**Project Category:** Construction

**Project Number:** MT0050-35

**Contract Number:**

**Item Number:**

**AIP Grant Number:**

**Project Status:** Granted

**Federal Priority Score:** 0

**State Priority Score:** 80

**Project Description:** Purchase of PAPI bulbs for Rwy 4-22 PAPI's.

**Project Notes:** Please contact DOAV to coordinate any costs above the allocation amount before the costs are incurred. Costs incurred before DOAV approval can't be reimbursed.

**Budget Summary by Budget Item:**

Budget Item	Original Budget	Current Budget
Administrative Increase	\$0.00	\$0.00
Allocation Adjustment	\$0.00	\$0.00
Allocation Change	\$0.00	\$0.00
Allocation Return	\$0.00	\$0.00
Balance of TA	\$0.00	\$0.00
Close-out Return	\$0.00	\$0.00
Eligibility Return	\$0.00	\$0.00
Expiration Return	\$0.00	\$0.00
Merged Allocation	\$0.00	\$0.00
Partial Under Grant	\$0.00	\$0.00
Request	\$0.00	\$1,437.16
VAB Increase	\$0.00	\$0.00
Withdrawal Return	\$0.00	\$0.00
<b>Project Total:</b>	<b>\$0.00</b>	<b>\$1,437.16</b>

**Budget Summary by Funding Source:**

Funding Source	Original Budget	Current Budget
FAA	\$0.00	\$0.00
Local	\$0.00	\$287.43
State\AC/R Discretionary	\$0.00	\$0.00
State\AC/R Discretionary\2016	\$0.00	\$0.00
State\Air Service Development	\$0.00	\$0.00
State\Aviation Promotion	\$0.00	\$0.00
State\F&E	\$0.00	\$0.00
State\GA Discretionary	\$0.00	\$0.00
State\GA Discretionary\2016	\$0.00	\$0.00
State\Maintenance	\$0.00	\$1,149.73
State\Security	\$0.00	\$0.00
<b>Project Total:</b>	<b>\$0.00</b>	<b>\$1,437.16</b>

Project Miscellaneous Items:		
Miscellaneous Item	Date	Comment
VAB Remarks		
TA approved		
application received		
grant offer date		
effective date	10/27/2015	
expiration date	06/15/2016	
project closed		
process closeout		

# Department of Aviation Commonwealth of Virginia

## Project Information Summary

**Suffolk Executive Airport**

**Project Title:** AWOS Wind Sensor Board

**Program Year:** 2016

**Project Number:** MT0050-36

**Federal Priority Score:** 0

**Request Year:**

**Contract Number:**

**State Priority Score:** 80

**Project Type:** Maintenance

**Item Number:**

**Project Category:** Construction

**AIP Grant Number:**

**Project Status:** Granted

**Project Description:** Replace WAV Wind Sensor Board and Temperature/Dew Point Aspirator Blower assembly

**Project Notes:** Please contact DOAV to coordinate any costs above the allocation amount before the costs are incurred. Costs incurred before DOAV approval can't be reimbursed.

**Budget Summary by Budget Item:**

Budget Item	Original Budget	Current Budget
Allocation Adjustment	\$0.00	\$0.00
Allocation Change	\$0.00	\$0.00
Request	\$0.00	\$2,098.46
Withdrawal Return	\$0.00	\$0.00
Project Total:	<b>\$0.00</b>	<b>\$2,098.46</b>

**Budget Summary by Funding Source:**

Funding Source	Original Budget	Current Budget
FAA	\$0.00	\$0.00
Local	\$0.00	\$104.92
State\AC/R Discretionary	\$0.00	\$0.00
State\AC/R Discretionary\2016	\$0.00	\$0.00
State\Air Service Development	\$0.00	\$0.00
State\Aviation Promotion	\$0.00	\$0.00
State\F&E	\$0.00	\$0.00
State\GA Discretionary	\$0.00	\$0.00
State\GA Discretionary\2016	\$0.00	\$0.00
State\Maintenance	\$0.00	\$1,993.54
State\Security	\$0.00	\$0.00
Project Total:	<b>\$0.00</b>	<b>\$2,098.46</b>

**Project Miscellaneous Items:**

Miscellaneous Item	Date	Comment
VAB Remarks		
TA approved		
application received	10/28/2015	
grant offer date		
effective date	10/30/2015	
expiration date	06/15/2016	
project closed		
process closeout		

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Consent Agenda** – An ordinance to accept and appropriate grant funds from the Obici Healthcare Foundation for the Lake Meade Park Trail

The City has received \$44,296.80 in grant funding from the Obici Healthcare Foundation for the construction of the north and connector trails at Lake Meade Park. This payment represents 40% of the total grant amount of \$110,742 that has been awarded for this project. An ordinance was previously accepted and appropriated for 50% in November 2014 and the remaining 10% is scheduled for December 2015.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the appropriate line item in the Capital Projects Fund budget for Fiscal Year 2015-16.

**BUDGET IMPACT:**

Adoption of the ordinance will increase the planned revenues and expenditures of the Capital Projects Fund by \$44,296.80 for the above noted purpose and does not require local fund support.

**RECOMMENDATION:**

Adopt the attached ordinance

**ATTACHMENTS:**

Ordinance  
Award Letter

**ORDINANCE NUMBER** \_\_\_\_\_

**AN ORDINANCE TO ACCEPT AND APPROPRIATE GRANT FUNDS FROM THE OBICI HEALTHCARE FOUNDATION FOR THE LAKE MEADE PARK TRAIL**

WHEREAS, the City has been awarded grant funds in the amount of \$44,296.80 from the Obici Healthcare Foundation for the construction of the north and connector trails at Lake Meade Park; and,

WHEREAS, the funds need to be accepted and appropriated to the Capital Projects Fund budget for Fiscal Year 2015-16 to assist with the construction of the Lake Meade Park Trail.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

1. The sum of \$44,296.80 shall be reflected as budget in the following accounts in the Fiscal Year 2015-16 Capital Projects Fund budget:

Revenue

310-71100-3069_424140.110	Lake Meade Park Trail Project	<u>\$44,296.80</u>
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Expense

310-71100-3069_53850.110	Lake Meade Park Trail Project	<u>\$44,296.80</u>
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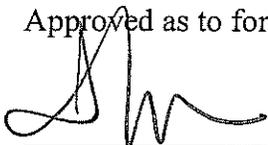
2. The fund amount totaling \$44,296.80 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager is hereby authorized and directed to do all things necessary to effectuate this action.

3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
Erika S. Dawley, City Clerk

Approved as to form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney



June 15, 2015

Ms Lakita S Watson  
Parks and Recreation Director  
City of Suffolk  
134 South 6th Street  
Suffolk, VA 23434

Re: Grant #665

Dear Ms Watson:

The Obici Healthcare Foundation has reviewed and approved your recent program and expenditure report and is pleased to send City of Suffolk a payment in the amount of \$44,296.80. Funds are to be used solely for line items in the approved budget for Lake Meade Park Multiuse Trail.

A nine month Activity and Expense update will be due July 15, 2015. The final program and expenditure reports are due in our office October 30, 2015. The Activity and Expense update along with the final report will be sent to you via email utilizing our online reporting system.

The Foundation reserves the right to make site visits throughout the grant period as well as request additional information from grantees after reviewing progress reports.

If you have any questions, please call the office at 539-8810. We wish you continued success with your project.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina L. Pitrone", written over a horizontal line.

Gina L. Pitrone  
Executive Director

Enclosure

Copy to: Helen Gabriel (w/o enclosure)

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Consent Agenda** - An ordinance to accept and appropriate funds from the Virginia E-911 Services Board for the Suffolk Police Department

The City has received \$2,000 in funding from the FY 16 Public Safety Answering Point (PSAP) Grant Program to provide 911/public safety communication, education, and training for emergency communication operators in the Suffolk Police Department.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the appropriate line item in the Consolidated Grants Fund budget for Fiscal Year 2015-16.

**BUDGET IMPACT:**

Adoption of the ordinance will increase the planned revenues and expenditures of the Consolidated Grants Fund budget by \$2,000 for the above noted purpose and requires no local fund support.

**RECOMMENDATION:**

Adopt the attached ordinance

**ATTACHMENT:**

Ordinance  
Board Approved List

ORDINANCE NUMBER \_\_\_\_\_

**AN ORDINANCE TO ACCEPT AND APPROPRIATE FUNDS FROM THE VIRGINIA E-911 SERVICES BOARD FOR THE SUFFOLK POLICE DEPARTMENT**

WHEREAS, the City has received funds in the amount of \$2,000 from the Virginia Services Board Public Safety Answering Point (PSAP) Grant Program for the Suffolk Police Department; and,

WHEREAS, the funds received need to be accepted and appropriated to the Consolidated Grants Fund budget for Fiscal Year 2015-16 to assist in the education and training of emergency communications operators of the Suffolk Police Department.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

1. The sum of \$2,000 shall be reflected as budget in the following accounts in the Fiscal Year 2015-16 Consolidated Grants Fund budget:

<u>Revenue</u>		
211-31400-1638_424011	PubSafComVAE911ServcBoard PSAP16;6/16	<u>\$2,000</u>
<u>Expenditure</u>		
211-31400-1638_55500	PubSafComVAE911ServcBoard PSAP16;6/16 Travel & Training	<u>\$2,000</u>

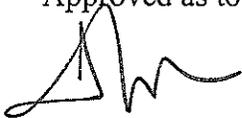
2. The fund amount totaling \$2,000 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager is hereby authorized and directed to do all things necessary to effectuate this action.

3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
Erika S. Dawley, City Clerk

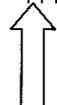
Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

**FY16 PSAP GRANT APPLICATIONS - BOARD APPROVED (January 8, 2015)**

Region	PSAP Name	Grant ID	Project Title (SIS Fall/Spring/Other for WEP)	Client Type	Prog. Type	Ter.	Project Phase (Prob/F)	Amount Requested	Project Cost	Bank Other Funds (Amount)	Amount Approved
1	Prince George	24	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
2	Prince William	119	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
1	Richmond City	25	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
1	Baltimore County	36	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
6	Rockville City	131	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
6	Rockville City	132	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
5	Rockville City	133	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
2	Sheppard	46	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
5	Sheppard	47	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
5	Sheppard	48	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
2	Stafford	120	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	N/A	0	\$2,000.00
3	Stanton	73	WEP - Other	IND	WEP	N/A	WEP	\$2,000.00	\$2,000.00	0	\$2,000.00
3	Sydney	117	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	\$2,000.00	0	\$2,000.00
3	Sydney	118	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	\$2,000.00	0	\$2,000.00
5	Sutton	143	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	\$2,000.00	0	\$2,000.00
4	Towson	141	WEP - Fall - Spring	IND	WEP	N/A	WEP	\$2,000.00	\$2,000.00	0	\$2,000.00



**AGENDA: November 18, 2015, Regular Session**

**ITEM: Public Hearing** – An ordinance to rezone and amend the official zoning map of the City of Suffolk to change the zoning from RM, Residential Medium Density district to M-2, Heavy Industrial district, for properties located at 616, 618 and 620 Madison Avenue, Zoning Map 34G25(2)28, Parcels 7\*8, and 208, 210 and 212 Mulberry Street, Zoning Map 34G25(2)28, Parcel(s) 4\*5\*6; RZ06-15

Attached for your consideration is information pertaining to Rezoning Request, RZ06-15, submitted by Whitney G. Saunders, of Saunders and Ojeda, P.C., applicant(s), on the behalf of Birdsong Corporation, property owner(s), to rezone and amend the official zoning map of the City of Suffolk to change the zoning from RM, Residential Medium Density zoning district to M-2, Heavy Industrial zoning district, for properties located at 616, 618 and 620 Madison Avenue, Zoning Map 34G25(2)28, Parcels 7\*8, and 208, 210 and 212 Mulberry Street, Zoning Map 34G25(2)28, Parcel(s) 4\*5\*6. The affected areas are further identified as being located in the Whaleyville Voting Borough, zoned RM, Residential Medium Density zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Core Support Use District.

The Planning Commission, at their meeting of October 20, 2015, voted 8 to 0 to approve a resolution, recommending **approval** of this request.

**ATTACHMENTS:**

- Staff Report
- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Zoning/Land Use Map

# STAFF REPORT

## DESCRIPTION

**REZONING REQUEST:** Rezoning Request, RZ06-15, submitted by Whitney G. Saunders, of Saunders and Ojeda, P.C., applicant(s), on the behalf of Birdsong Corporation, property owner(s), to rezone and amend the official zoning map of the City of Suffolk to change the zoning from RM, Residential Medium Density zoning district to M-2, Heavy Industrial zoning district.

**APPLICANT:** Submitted by Whitney G. Saunders, of Saunders and Ojeda, P.C., applicant(s), on the behalf of Birdsong Corporation, property owner(s).

**LOCATION:** The property affected is located at 616, 618 and 620 Madison Avenue, Zoning Map 34G25(2)28, Parcels 7\*8, and 208, 210 and 212 Mulberry Street, Zoning Map 34G25(2)28, Parcel(s) 4\*5\*6, Whaleyville Voting Borough.

**PRESENT ZONING:** The property is currently zoned RM, Residential Medium Density District.

**EXISTING LAND USE:** The parcels previously contained single family homes, however, these structures have now been demolished and the parcels are currently vacant.

**PROPOSED LAND USE:** The applicant has indicated that the parcels involved in the proposed rezoning will be a part of an expansion to the Birdsong Peanuts corporate headquarters and will be utilized as part of additional parking and a stormwater management facility.

### **SURROUNDING LAND USES:**

North – Single family residential homes, zoned RM

South – Madison Avenue right-of-way and single family residential homes, zoned M-2

East – Single family residential homes, zoned RM

West – Birdsong office building, zoned M-2

**COMPREHENSIVE PLAN:** The *2035 Comprehensive Plan* map designates this property as being within the Central Growth Area, Core Support Use District.

**CHESAPEAKE BAY PRESERVATION AREA DESIGNATION:** The property is located within the City's Chesapeake Bay Preservation Area Overlay District and is designated as an Intensely Developed Area (IDA) and a Resource Management Area (RMA).

**CERTIFICATION OF PUBLIC NOTICE:** The request has been duly advertised in accordance with the public notice requirements set forth in Section 15.2-2204 of the Code of Virginia, as amended, and with the applicable provisions of the Unified Development Ordinance.

**CASE HISTORY:** Associated with this request was SV05-15 which vacated a portion of Mulberry

Street and was approved by City Council on September 16, 2015 by ordinance number 15-O-101. Also, there was a quitclaim deed between the City and Birdsong Peanuts associated with the street vacation request that was approved by City Council on September 16, 2015 by ordinance number 15-O-102.

## STAFF ANALYSIS

### ISSUE

The applicant is requesting to rezone two parcels of land consisting of a little over one acre of land and also a portion of unimproved right-of-way which was recently vacated by City Council in September. The land under consideration is located adjacent to the corporate headquarters of Birdsong Peanuts, the current property owner of the parcels under consideration. The applicant would like to rezone these parcels from RM to M-2. These parcels are proposed to be included in a future expansion of Birdsong Peanuts and will be ultimately utilized as future parking and a stormwater management facility for the proposed building expansion to the Birdsong Peanuts building.

### CONSIDERATIONS AND CONCLUSIONS

In accordance with Appendix B, Section B-4 of the Unified Development Ordinance, rezoning applications must include a statement of the reasons for seeking an amendment to the zoning maps of the City of Suffolk. Supplemental information provided by the applicant indicates that the reason for this rezoning is that all of the adjacent properties owned by the applicant are located within the M-2 district and this request is to allow for the expansion of the existing headquarters of Birdsong Peanuts. The applicant has also stated that the Comprehensive Plan's Core Support designation for this historically industrially zoned portion of the City would match the existing zoning of the surrounding properties.

#### **1. Comprehensive Plan**

The subject property is located within the Central Growth Area. Under the focused growth approach outlined in the 2035 Comprehensive Plan, the property falls within the Core Support, Use District. The district provides a significant level of residential and ancillary retail and business activity to support the high density found in the Mixed Use Core district. Per Table 2-3 of the Comprehensive Plan, *Core Support Development Characteristics Table*, light manufacturing uses are allowed in the Core Support Use District. The proposed use of the site for the expansion of an existing manufacturing business would be compatible with the Comprehensive Plan. Also, this use is a permitted use within the M-2 zoning district.

#### **2. Adequate Public Facilities**

The purpose and intent of the adequate public facilities ordinance is to ensure that public facilities are available to support new development and associated impacts and that each public facility meets or exceeds the Level of Service standards established by the 2035 Comprehensive Plan and the Unified Development Ordinance. No rezoning request should be approved which

would cause a reduction in the levels of service standards for any public facility impacted. The public facilities impacted by the proposed development are discussed individually below:

#### Public Water and Sanitary Sewer

City water and sewer service are available along Mulberry Street. The Department of Public Utilities has indicated that public water and sewer utilities are located within the former Mulberry Street right-of-way. A public utility easement was dedicated to the City of Suffolk over top of all existing utilities located within this area. The need to relocate these public facilities will be considered during the future site plan review and approval process. The Department of Public Utilities recommends approval of the request.

#### Stormwater Management

The subject property is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Preservation Area Overlay District (CBPA) and is subject to the applicable provisions of the stormwater management regulations. Future expansion or site improvements which increase impervious area may require stormwater to be addressed for quality and quantity. A public drainage easement was dedicated to the City over top of existing storm pipes located within the former Mulberry Street right-of-way. The need to relocate or remove these pipes will be considered during the future site plan review and approval process. The Department of Public Works recommends approval of the request.

#### Streets

The Department of Public Works, Traffic Engineering Division has indicated it has no concerns at this time regarding the proposed change in zoning.

#### Schools

No additional students are expected to be generated from this rezoning request; therefore, there will not be any impacts to public schools.

### RECOMMENDATION

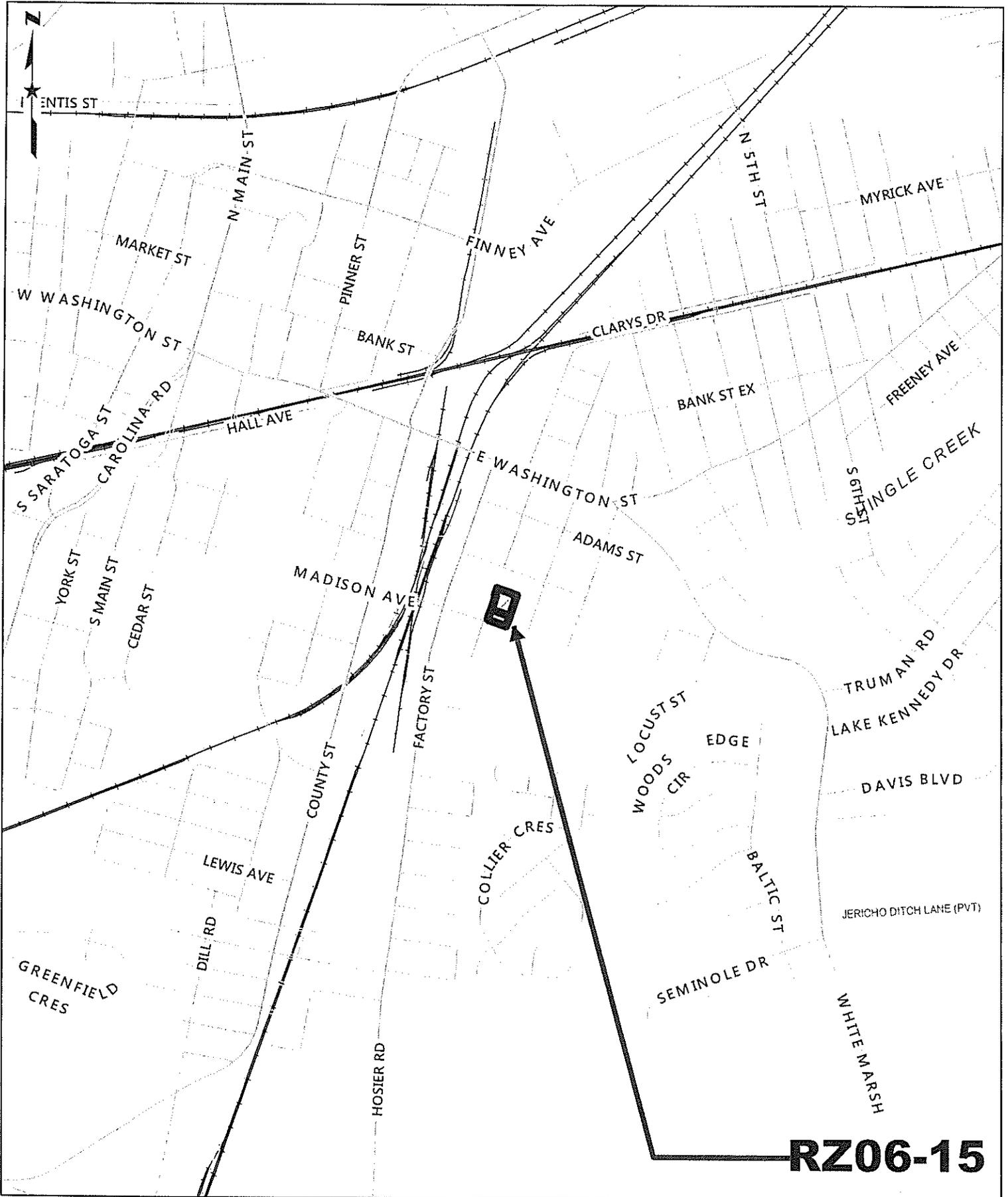
Based upon the above findings-of-fact, staff recommends **approval** of Rezoning Request RZ06-15 as requested.

The Planning Commission, at their meeting of October 20, 2015, voted 8 to 0 to approve a resolution, recommending **approval** of this request.

Attachments

- Proposed Ordinance
- Exhibit A – Planning Commission recommendation
- Exhibit B – Zoning/Land Use Map

# General Location Map



## NARRATIVE

8/31/2015

Birdsong Corporation is the owner of the City of Suffolk block which is defined by the south side of Jefferson Street, the east side of Factory Street, the north side of Madison Avenue and the west side of Mulberry Street. Birdsong Corporation's corporate offices, from which it administers its peanut shelling operations in the mid-atlantic, southeast and southwestern states, is currently contained within an 11,000 square foot building which fronts on Madison Avenue. The company's management and operations staff have grown so that a portion of its employees are housed at other buildings on the extended site of the operations. As a result; conference rooms and general purpose rooms have been turned into offices to accommodate business growth. The resultant crowding within the existing building has created a need for additional space in which to house existing corporate personnel and to accommodate potential employee growth.

In order to accommodate the expansion of their existing building to 22,700 square feet, Birdsong Corporation has acquired ownership of 208, 210, 212 Mulberry Street and 616, 618 and 620 Madison Avenue. These parcels have contained five one-story frame dwellings which have now been demolished and are separated by a 20ft alley which will serve as a buffer to the residential properties to the east. The recently acquired parcels will be used for parking and for a storm water management facility. A minimum 10ft landscaping buffer will be required adjacent to the 20ft alley and along the frontage of Maddison Avenue. The requested rezoning also includes a 30ft X 150ft segment of Mulberry Street which has been abandoned by the City of Suffolk and for which a Quit claim Deed has been issued to Birdsong Corporation and the remaining 60ft right of way of Mulberry Street extending southward to Madison Avenue. The vacation of this second segment of Mulberry Street is scheduled to be heard by the City of Suffolk City Council in September of 2015.

The parking lot to be constructed on the parcel for which rezoning is requested will consist of approximately 45 parking spaces and will be used solely for office staff. There will be no parking of large commercial vehicles on this site. The current block on which the Birdsong Corporation offices exist and the surrounding property on which they conduct their operations are zoned M-2. The requested rezoning would match the existing zoning and is consistent with the Comprehensive Plan's Core Support designation for this historically industrially zoned portion of the City.

Handwritten notes in the bottom right corner, including the word "PLANNING" and other illegible scribbles.

**RZ06-15**

DATE	
REVISIONS	
NO.	

**Kimley»Horn**  
 10200 W. WASHINGTON AVENUE, SUITE 200  
 DENVER, COLORADO 80231  
 PHONE: 303.733.8800 FAX: 303.733.8801  
 © 2014 KIMLEY-HORN AND ASSOCIATES, INC.

DATE	03/28/2015
SCALE	1" = 25'
PROJECT	BIRDSONG HEADQUARTERS EXPANSION
CLIENT	BIRDSONG CORPORATION
DESIGNED BY	FRS
CHECKED BY	ENV

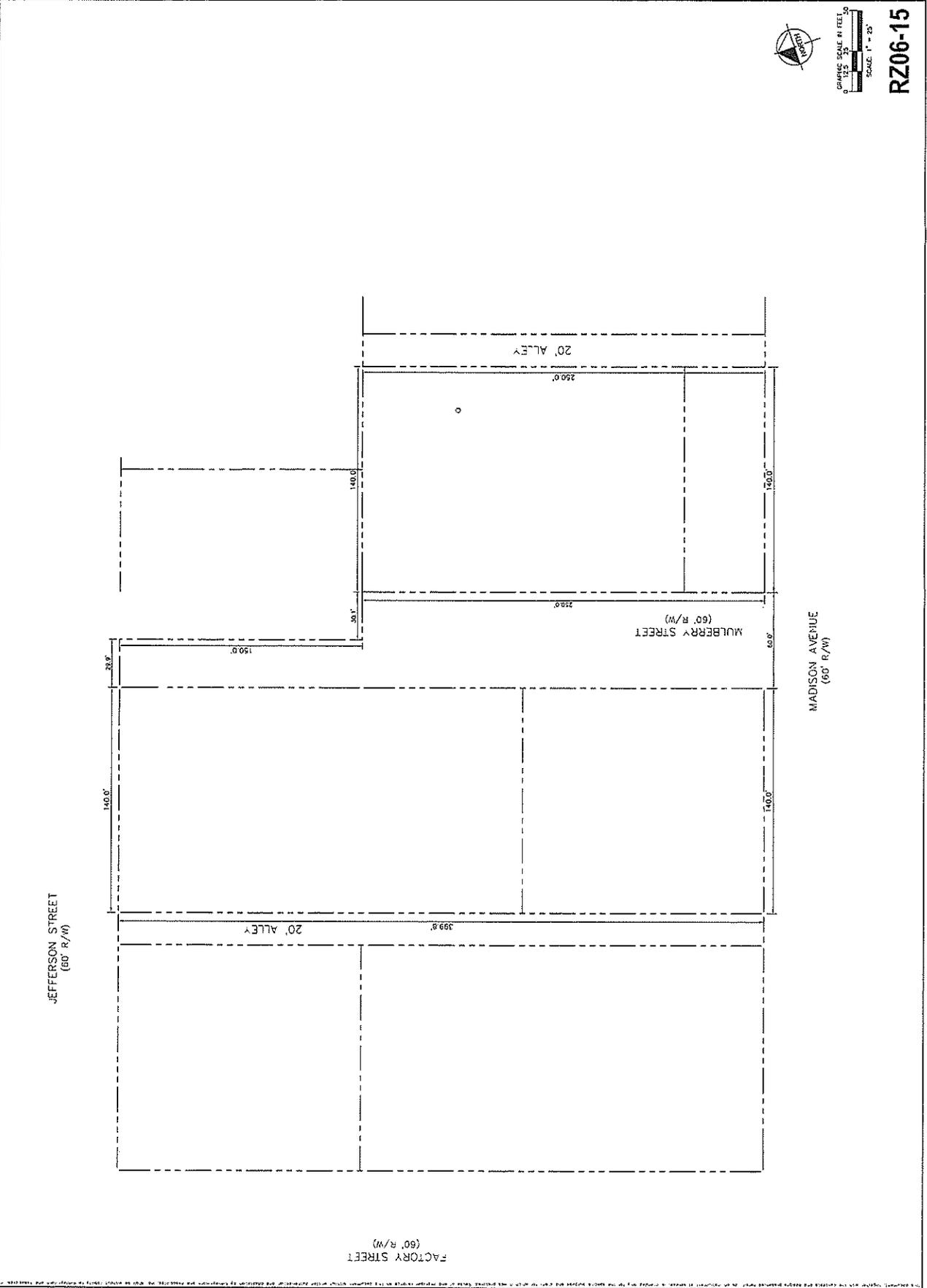
**EXISTING CONDITIONS EXHIBIT**

**BIRDSONG HEADQUARTERS EXPANSION**  
 BIRDSONG CORPORATION

SHEET NUMBER  
**FIGURE 4**



**RZ06-15**



NO.	REVISIONS	DATE

**Kimley»Horn**  
 4225 W. 12th Street, Suite 200, Lincoln, NE 68502  
 402.478.1100  
 www.kimley-horn.com

DATE	DESCRIPTION

**REZONING EXHIBIT**

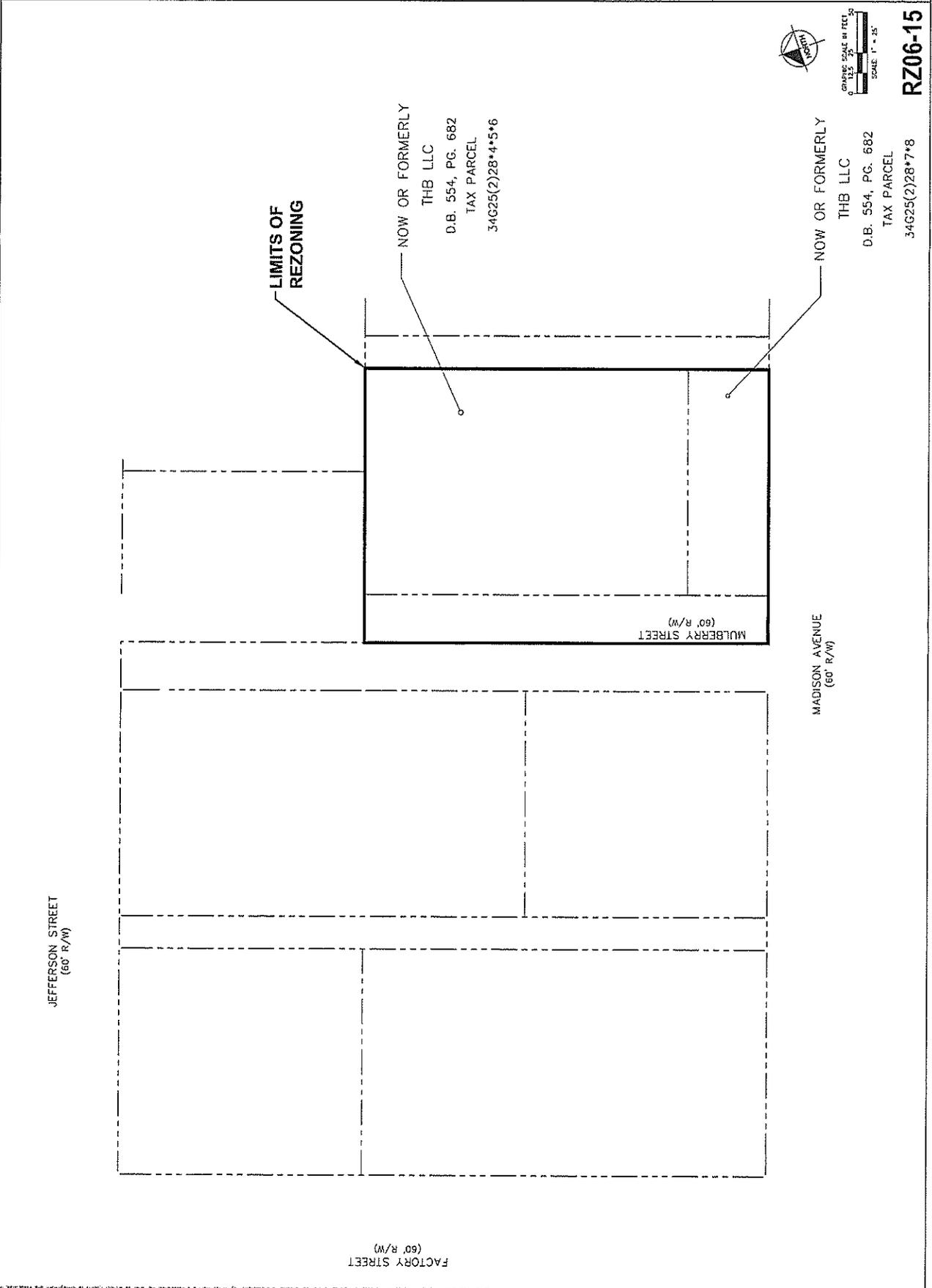
**BIRDSONG**  
 EXPANSION  
 HEADQUARTERS  
 BIRDSONG CORPORATION

PROJECT NUMBER  
**FIGURE 3**



GRAPHIC SCALE IN FEET  
 0 10 20  
 SCALE: 1" = 25'

**RZ06-15**



**LIMITS OF REZONING**

NOW OR FORMERLY  
 THB LLC  
 D.B. 554, PG. 682  
 TAX PARCEL  
 34625(2)28\*4\*5+6

NOW OR FORMERLY  
 THB LLC  
 D.B. 554, PG. 682  
 TAX PARCEL  
 34625(2)28\*7\*8

JEFFERSON STREET  
 (60' R/W)

MULBERRY STREET  
 (60' R/W)

MADISON AVENUE  
 (60' R/W)

FACTORY STREET  
 (60' R/W)

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE TO REZONE AND AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SUFFOLK, TO CHANGE ZONING FROM RM, RESIDENTIAL MEDIUM DENISTY DISTRICT, TO M-2, GENERAL INDUSTRIAL DISTRICT, FOR PROPERTY LOCATED AT 616, 618, AND 620 MADISON AVENUE, ZONING MAP 34G25(2)28, PARCELS 7\*8 AND 208, 210, AND 212 MULBERRY STREET, ZONING MAP 34G25(2)28, PARCEL(S) 4\*5\*6; RZ06-15**

WHEREAS, Whitney G. Saunders, of Saunders and Ojeda, P.C., applicant(s), on the behalf of Birdsong Corporation, property owner(s), has requested a change in zoning from RM, Residential Medium Density zoning district to M-2, Heavy Industrial zoning district for Tax Map 34G25(2)28, Parcel(s) 4\*5\*6\*7\*8, which land is depicted on Exhibit "B"; and,

WHEREAS, the proposed rezoning and amendment to the official zoning map have been advertised and reviewed by the Planning Commission in compliance with the requirements of state law; and,

WHEREAS, the Planning Commission has made a recommendation as stated in Exhibit "A"; and,

WHEREAS, a public hearing before City Council was duly advertised as required by law and held on the 18th day of November, 2015, at which public hearing the public was presented with the opportunity to comment on the proposed rezoning.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

Section 1. Exhibits.

Exhibit "A", "Planning Commission Recommendation" and Exhibit "B" "Zoning/Land Use Map", which are attached hereto, are hereby incorporated as part of this ordinance.

Section 2. Findings.

A. Council finds that the proposed rezoning is reasonable and warranted due to change in circumstances affecting the property, and has considered the following factors and finds that the proposed rezoning does not conflict with:

1. the existing use and character of property within the City;
2. the Comprehensive Plan;
3. the suitability of the property for various uses;
4. the trends of growth or change;

5. the current or future requirements of the community as to land for various purposes as determined by the population and economic studies and other studies;
6. the transportation requirements of the community;
7. the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services;
8. the conservation of natural resources;
9. the preservation of flood plains;
10. the preservation of agricultural and forestal land;
11. the conservation of properties and their values;
12. the encouragement of the most appropriate use of land throughout the City; and,
13. the expressed purpose of the City's Unified Development Ordinance as set out in Section 31-102 of the Unified Development Ordinance, 1998, as amended, and Section 15.2-2283 of the Code of Virginia, (1950), as amended.

Section 3. Rezoning.

1. The property, as shown on the attached Exhibit B, be, and is hereby, rezoned and the official zoning map be, and is hereby, amended.

Section 4. Recordation.

A certified copy of this ordinance shall be recorded, by the applicant, in the name of the property owner as grantor in the office of the Clerk of Circuit Court.

This ordinance shall be effective upon passage and shall not be published or codified.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

EXHIBIT A

RESOLUTION NO. 15-10-02

CITY OF SUFFOLK PLANNING COMMISSION  
A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO REZONING REQUEST  
RZ06-15

TO CHANGE ZONING FROM RM, RESIDENTIAL MEDIUM DENSITY DISTRICT,  
TO M-2, GENERAL INDUSTRIAL DISTRICT, FOR PROPERTY LOCATED AT 616,  
618, AND 620 MADISON AVENUE AND 210 AND 212 MULBERRY STREET, TAX  
MAP 34G25(2)28 PARCEL(S) 4\*5\*6\*7\*8

**WHEREAS**, Whitney G. Saunders, of Saunders and Ojeda, P.C., applicant(s), on the behalf of Birdsong Corporation, property owner(s), has requested a change in zoning from RM, Residential Medium Density District, to M-2, General Industrial District; and

**WHEREAS**, the procedural requirements for the consideration of this request by the Planning Commission have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Suffolk, Virginia, that:

Section 1. Findings.

- A. The Suffolk Planning Commission finds that the proposed rezoning is reasonable, and warranted due to change in circumstances affecting the property, and has considered the following factors and finds that the proposed rezoning does not conflict with:
1. the existing use and character of property within the City;
  2. the Comprehensive Plan;
  3. the suitability of the property for various uses;
  4. the trends of growth or change;
  5. the current or future requirements of the community as to land for various purposes as determined by the population and economic studies and other studies;
  6. the transportation requirements of the community;
  7. the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services;
  8. the conservation of natural resources;
  9. the preservation of flood plains;

10. the preservation of agricultural and forestal land;
11. the conservation of properties and their values;
12. the encouragement of the most appropriate use of land throughout the City;
13. the expressed purpose of the City's Unified Development Ordinance as set out in Section 31-102 of the Code of the City of Suffolk (1998), as amended, and Section 15.2-2283 of the Code of Virginia (1950), as amended ("Va. Code").

Section 2. Recommendation to Council.

The Planning Commission recommends to City Council that the request, RZ06-15, be:

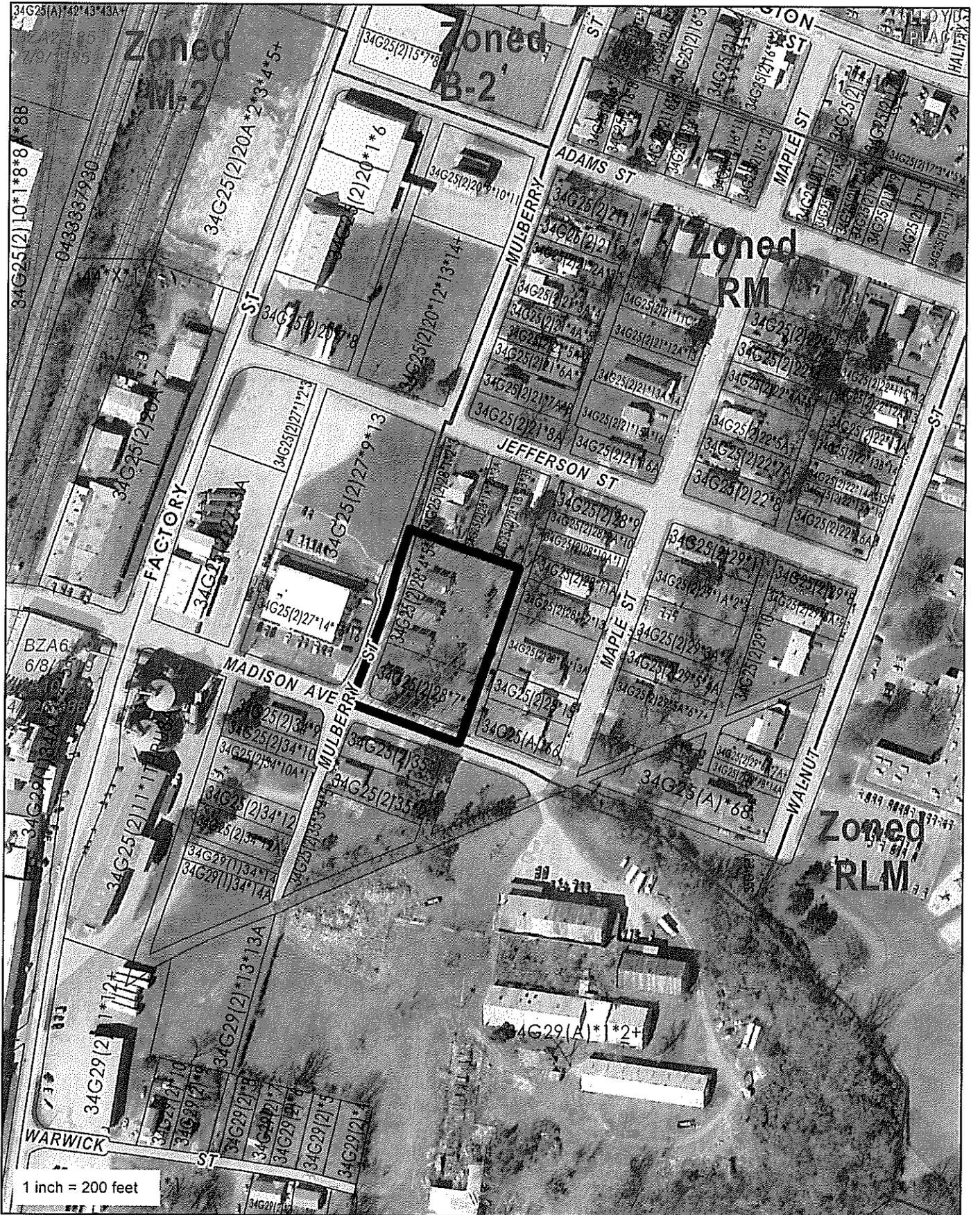
- a. Granted as submitted, and that the City Council adopt the proposed Ordinance without modification.
- b. Denied, and that Council not adopt the proposed Ordinance.
- c. Granted with the modifications set forth on the attached listing of specific recommendations, and that Council adopt the proposed Ordinance with such modifications.

READ AND ADOPTED:  \_\_\_\_\_

TESTE: 10/20/15



# RZ06-15 ZONING / LAND USE MAP



**AGENDA: November 18, 2015, Regular Session**

**ITEM: Public Hearing** – An ordinance to grant a Conditional Use Permit to establish a nightclub with outdoor entertainment on property located at 425 East Pinner Street, Zoning Map 34G13, Block (4), Parcel 3A\*10; C11-15

Attached for your consideration is information pertaining to Conditional Use Permit Request, C11-15, Derl'z Restaurant and Pub (formerly Route 106), submitted by Donna Perry, applicant, on the behalf of Michael Justice, property owner, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish a nightclub (outdoor entertainment) on property located at 425 East Pinner Street, Zoning Map 34G13, Block (4), Parcel 3A\*10A. The affected area is further identified as being located in the Suffolk Voting Borough, zoned B-1, Neighborhood Commercial zoning district. The 2035 Comprehensive Plan designates this area as a part of Central Growth Area, Core Support Use District.

The Planning Commission, at the meeting of October 20 2015, voted on a motion to approve the Conditional Use request which failed by a vote of 3 to 5, thus resulting in a **denial** of this application.

**ATTACHMENTS:**

- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Zoning/Land Use Map
- Exhibit C – Site Plan

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** Conditional Use Permit Request, C11-15, Derl'z Restaurant and Pub (formerly Route 106), submitted by Donna Perry, applicant, on the behalf of Michael Justice, property owner, in accordance with Section(s) 31-306 and 31-406 of the Unified Development Ordinance.

**APPLICANT:** Donna Perry, on the behalf of Michael Justice, property owner.

**LOCATION:** The affected property is located at 425 East Pinner Street, Zoning Map 34G13, Block (4), Parcel 3A\*10A, Suffolk Voting Borough.

**PRESENT ZONING:** The zoning of the property is B-1, Neighborhood Commercial.

**EXISTING LAND USE:** The applicant currently operates a restaurant and nightclub (indoor establishment) currently known as Derl'z Restaurant and Pub previously operated as Madigan's and Shucker's. Live entertainment is currently performed within the existing building. The existing indoor live entertainment use is considered legally conforming because the use was permitted prior to the adoption of the Unified Development Ordinance (UDO).

**PROPOSED LAND USE:** The applicant proposes to continue operating the restaurant and a nightclub, adding outdoor entertainment.

### **ADJACENT LAND USES:**

North – B-1 and B-2, commercial businesses and RM district, residential (Kingsboro Heights neighborhood);

South – M-2 district, undeveloped (wooded, railroad tracks);

East – B-1 district, commercial businesses;

West – M-2 district, commercial business.

**COMPREHENSIVE PLAN:** The City's 2035 Comprehensive Plan identifies this property as a part of the Central Growth Area, Core Support Use District.

**CHESAPEAKE BAY PRESERVATION AREA DESIGNATION:** The property is located within the City's Chesapeake Bay Preservation Area Overlay District and is designated as an Intensively Developed Area (IDA).

**CERTIFICATION OF PUBLIC NOTICE:** This request has been duly advertised in accordance with the public notice requirements set forth in Section 15.2-2204 of the Code of Virginia, as amended, and with the applicable provisions of the UDO.

**CASE HISTORY:** The establishment is currently operated as a restaurant and nightclub (indoor entertainment). The indoor entertainment use was legally established prior to the adoption of the UDO. In 2011, an outdoor patio/bar area was constructed. In 2013, a fenced outdoor smoking/seating area was added. The applicant is requesting to expand the existing use to permit live entertainment to be performed outdoors within the fenced area.

On August 18, 2015, at the request of the applicant, the Planning Commission tabled the scheduled public hearing pertaining to this request to October 20, 2015. In the meantime, Ms. Perry, the current applicant, purchased the business from the initial applicant.

Since purchasing the business, Ms. Perry notified staff that it is her desire to continue forward with consideration of this request to establish a nightclub (outdoor entertainment) as originally submitted.

## STAFF ANALYSIS

### ISSUE

The applicant is requesting approval to utilize the existing fenced area adjoining the building at 425 Pinner Street for outdoor live entertainment in conjunction with the existing restaurant and nightclub. The establishment currently offers a full service restaurant in addition to the nightclub use. Live entertainment is currently conducted within the existing building. An outdoor patio/bar area was constructed in 2011 with a fenced outdoor smoking/seating area added in 2013. The applicant has provided a site layout plan indicating potential locations for the band/DJ performance area within the fenced area.

According to the applicant, Derl'z Restaurant and Pub (formerly Route 106) will provide entertainment in the form of amplified live music and a DJ. The narrative submitted with the application states that outdoor entertainment would be provided Monday through Wednesday from 4pm to 10pm, Thursday through Saturday from 4pm to 11pm, and on Sunday from 3pm to 8pm. Holidays and Special Events may involve earlier start times but the entertainment would not continue past 11pm.

### CONSIDERATIONS AND CONCLUSIONS

1. ***Use Regulations*** – A nightclub is defined in the Unified Development Ordinance (UDO) as a bar, restaurant or similar establishment where a dance floor or live entertainment is provided. Based on this definition, the existing establishment is considered a nightclub. The existing nightclub use with indoor live entertainment is considered legally conforming since the use was permitted prior to the adoption of the UDO. The applicant proposes to expand the live entertainment use to include the enclosed patio area. In accordance with Table 406-1 of the UDO, nightclubs are permitted within the B-1, Neighborhood Commercial District with approval of a Conditional Use Permit.
2. ***Public Facilities*** – The purpose and intent of adequate public facilities is to ensure that public facilities are available to support the new use and the associated impacts and that each public facility meets or exceeds the Level of Service standards established by the 2035 Comprehensive Plan and the Unified Development Ordinance. Public utilities are available in the area and are sized adequately for the proposed use.
3. ***Parking*** – The off-street parking requirements outlined in the UDO requires a minimum of one space per 2 seats. Parking for this business is on-site within the existing gravel parking area. The parking area provides adequate parking for approximately 75 vehicles.

No improvements are required to the parking area given the existing establishment is not proposing to expand floor area.

4. ***Building Code*** - The subject property contains an existing one-story structure with an outdoor bar and seating area. The Building Official has advised that based on establishment of the outdoor live entertainment use the Maximum Occupancy Load of the outdoor area and the existing building will need to be reevaluated.
5. ***Conditional Use Permit Approval Criteria (Section 31-306)*** - Pursuant to Section 31-306 of the UDO, a Conditional Use Permit recognizes uses that, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right. Rather, such uses are permitted through the approval of a Conditional Use Permit by City Council when the right set of circumstances and conditions are found acceptable.

As may be specified within the zoning district, uses permitted subject to conditional use review shall be permitted only after review by the Planning Commission and approval by the City Council only if the applicant demonstrates that:

- a) *The proposed conditional use shall be in compliance with all regulations of the applicable zoning district, the provisions of Article 6 of the ordinance and any applicable supplemental use standards as set forth in Article 7 of the Ordinance.*

The request to permit outdoor live entertainment as an expansion of a component of an existing business may be permitted as a conditional use in the B-1 zoning district per the City's Unified Development Ordinance (UDO). No supplemental standards have been established for the proposed use.

- b) *The proposed conditional use shall conform to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety or comfort of persons living or working in or driving through the neighborhood, or shall be no more injurious to property or improvements in the neighborhood, than would any other use generally permitted in the same district. In making such a determination, consideration should be given to the location, type and height of buildings or structures, the type and extent of landscaping and screening on the site and whether the proposed use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities.*

The intent of the B-1 (Neighborhood Commercial) District is to provide neighborhood services in scale with and serving nearby residential uses. The proposed use would be located outside of an existing business which currently conducts live entertainment indoors. The operation of outdoor live entertainment at this location should have little impact on adjacent commercial properties. However, the Kingsboro Heights neighborhood may be negatively impacted by the increase in intensity associated with conducting live entertainment outdoors. The nearest residential dwelling, in the Kingsboro Heights neighborhood, is approximately 350 feet from the proposed use. While, this distance is separated by East Pinner Street

and a row of commercial building the music and ambient noise projecting from the outdoor entertainment will enter into the residential neighborhood.

- c) *Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.*

The request for a nightclub with outdoor live entertainment has been reviewed by the City's Traffic Engineering Department who expressed no concerns regarding parking or traffic for the proposed use and location. The existing site was developed prior to the adoption of the Unified Development Ordinance (UDO). While the scope of the existing use is proposed to expand, no expansion of floor area is proposed. Therefore, the existing traffic generation and level of service standards are not forecasted to increase. Accordingly, no related site improvements are necessary.

- d) *The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.*

The applicants are proposing to expand the nightclub component to include outdoor live entertainment consisting of live music and DJ. The applicant states that outdoor entertainment would be provided Monday through Wednesday from 4pm to 10pm, Thursday through Saturday from 4pm to 11pm, and on Sunday from 3pm to 8pm. Holidays and Special Events may involve earlier start times but the entertainment would not continue past 11pm. Adjacent land uses consist primarily of industrial and commercial businesses in addition to active railroad tracks. However, the residential Kingsboro neighborhood is in close proximity (350 feet) of the proposed outdoor entertainment area. While, the exiting tree buffer and row of commercial buildings may serve to reduce offensive noise the low fence height and lack of vegetative screening will not eliminate the potential for music and sound from traveling into the adjacent neighborhood.

- e) *The proposed use shall not be injurious to the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.*

The existing restaurant and nightclub use with indoor live entertainment has been operating for over two decades. The indoor use as it currently exists meets the intent of the B-1, Neighborhood Commercial, which is to provide neighborhood services in scale with and serve nearby residential uses. The proposal to expand the use to provide outdoor live entertainment will have little to none adverse impact on the surrounding commercial and industrial land uses to the north, east, and west. However, the proposed outdoor entertainment aspect introduces greater concern for adverse impacts on the nearby neighborhood due to the greater intensity of activity and the potential for music and noise to diminish enjoyment of the residential properties.

- f) *The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.*

The use of this property as a nightclub with outdoor live entertainment may provide an additional and unique entertainment option for the residents of Suffolk. However, the increase in the intensity and the level of activity may not be appropriate at this location with its close proximity to an established residential neighborhood.

- g) *The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.*

The use should not be a detriment or an endangerment to the public safety when typically confined indoors. However, the proposed outdoor entertainment aspect introduces greater concern for adverse impacts on the nearby neighborhood due to the reduced ability to regulate and control the level and intensity of music and noise originating from the outdoor location.

- h) *The public interest and welfare supporting the proposed conditional use shall be sufficient to outweigh the individual interests which are adversely affected by the establishment of the proposed use.*

The applicant is proposing to expand the nightclub component to include outdoor live entertainment consisting of live music and DJ. The anticipated public benefit from the proposed expansion of the existing establishment may not be significant enough to compensate the potential adverse impact on nearby residences from noise originating from the proposed outdoor live entertainment.

### **RECOMMENDATION**

The intent of the B-1, Neighborhood Commercial, is to provide neighborhood services in scale with and serving nearby residential uses. The existing restaurant and nightclub use with indoor live entertainment has been operating for over two decades and may continue to successfully operate. However, the proposed expansion of the use to include outdoor live entertainment and the associated increase in intensity is not appropriate for this specific location. Furthermore, the establishment of outdoor live entertainment will adversely impact the nearby residential neighborhood and the limited public benefit potentially generated by expanding the use does not outweigh the potential adverse impacts.

Based on the guidance provided by the above cited provisions of the Unified Development Ordinance and the analysis and findings-of-fact set forth in the preceding staff report, staff recommends **denial** of Conditional Use Permit request C11-15.

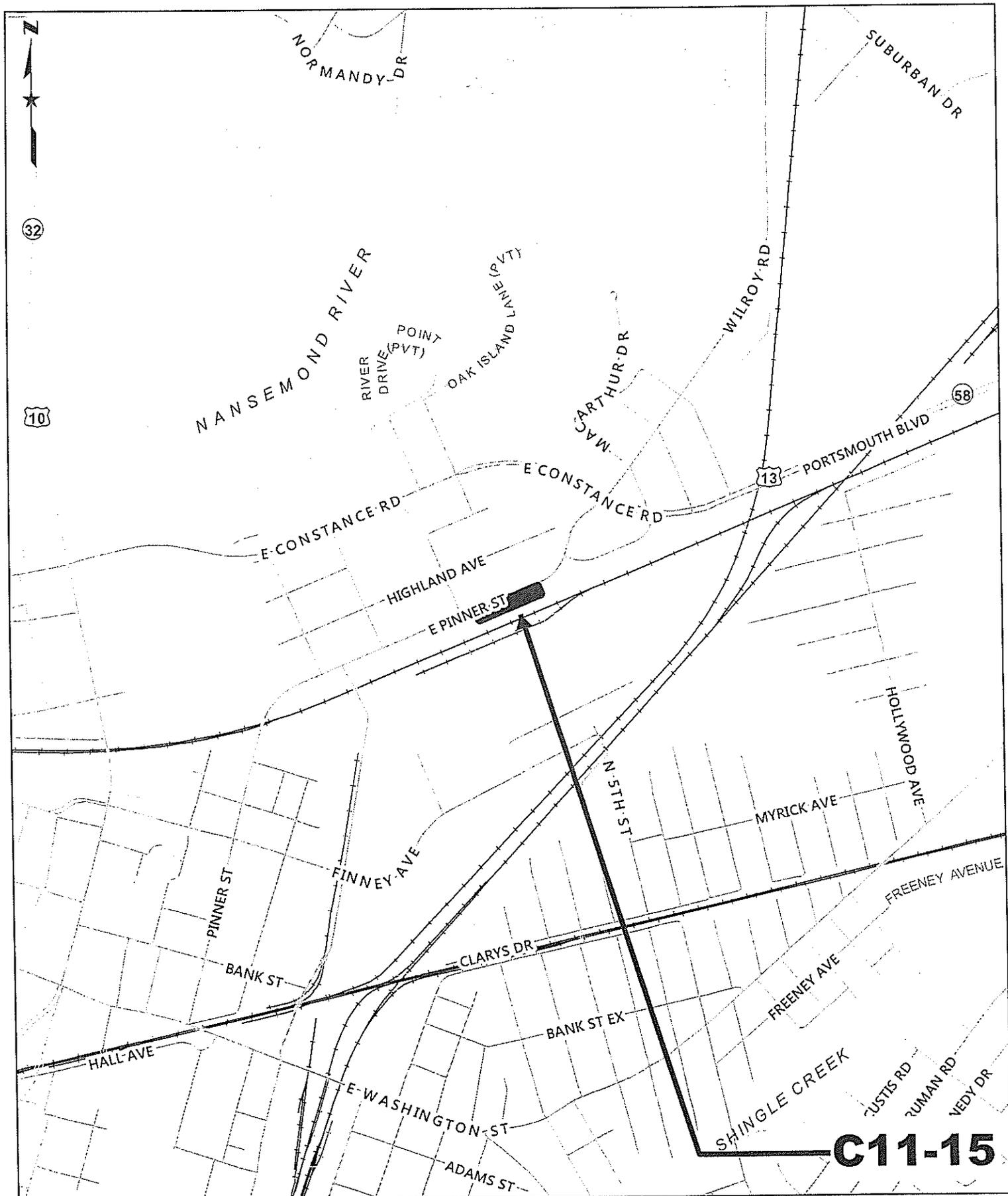
The Planning Commission, at the meeting of October 20 2015, voted on a motion to approve the Conditional Use request which failed by a vote of 3 to 5, thus resulting in a **denial** of this application.

#### Attachments:

- Proposed Ordinance
- Exhibit A – Planning Commission recommendation

- Exhibit B – Zoning/Land Use Map
- Exhibit C – Site Plan

# General Location Map



**C11-15**

T & T Hospitality, LLC  
T/A Route 106  
425 East Pinner St  
Suffolk, VA 23434

RECEIVED  
JUN 11 2015  
PLANNING

City of Suffolk, VA  
Department of Planning and Community Development  
Division of Planning  
442 West Washington St  
Suffolk, VA 23439

May 29, 2015

Attn: Scott Mills and Division of Planning

This is the narrative for why we need the ability to have outdoor entertainment at what will become Route 106 in the coming weeks.

Hours of operation for live music and DJ's outside: Monday through Wednesday we would potentially play from 4pm to 10pm although we are not looking to have live music on those nights, Thursday through Saturday we would potentially play from 4pm to 11pm, and Sundays we would potentially play from 3pm to 8pm. Holidays and Special Events we would have to work together on any early times for a St. Patrick's Day, etc. but there would no times later than we are requesting.

Name: We are naming this operation Route 106 with two thoughts in mind: First, the radio stations of 106.1 and 106.9 the Fox give us two outlets to promote live music while blending in our name. Second, we need to create a destination point for Suffolk that includes greater Portsmouth, Western Branch of Chesapeake, and all of Western Tidewater; we believe a name change along with the proper entertainment and promotion could turn this operation into a real success that Suffolk can be proud of.

Purpose: Live music, smaller menu but really good food, affordable drinks, and somewhere people of all beliefs, colors, shapes, and sizes can have a good time. A place we can have a business after-hours event, parties, and live music. Imagine this; if this becomes a destination then the Suffolk Garden Inn becomes a potential destination which can bring even more tax revenue to Suffolk.

Types of Bands: Focusing on Country and Southern Rock but not limited to DJ's playing anything and everything (I have very small limitations on a DJ). Music is ever-changing and we will change with culture and trends.

Amplified Music/Neighborhood: When you look at this spot there is no neighborhood that is not covered by commercial buildings or trees behind the building. Even with amplified music

we feel that the building itself along with the surrounding areas will serve as a strong blockage for too much noise and our limits on evening times should make us a reasonable operation without causing too much commotion.

Summary: We have a chance to create a true destination for Suffolk, VA and an operation that can bring a lot of people to the city. My sister Jamie and I are looking to move to Suffolk when the success of the operation warrants it. I am a community person and I hope we can make this operation community friendly in terms of potential fundraisers and community awareness. I have been past President of the Portsmouth Clean Community Foundation, Portsmouth Sports Club, and other organizations.

If this is delayed or turned down then this idea is dead and we have to either go back to the drawing board or face the harsh reality that this spot will not work. I hope we can move this forward in a quick fashion and work together in creating a destination that Suffolk can be proud of for the long-term.

#### Rules of the Road (Route 106 rules)

1. If your act appropriately and your money spends well then you are always welcome here
2. Always have fun
3. Come here like you just bought it
4. Leave like you just sold it
5. Tell em' where you got it!

Thank you,



Jason Tashoty  
President, T & T Hospitality, LLC

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH A NIGHTCLUB WITH OUTDOOR ENTERTAINMENT ON PROPERTY LOCATED AT 425 EAST PINNER STREET, ZONING MAP 34G13, BLOCK (4), PARCEL 3A\*10A; C11-15**

WHEREAS, Donna Perry, applicant, on the behalf of Michael Justice, property owner, has requested a conditional use permit for a nightclub with outdoor live entertainment in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance on a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 34G13, Block (4), Parcel 3A\*10A which land is depicted on Exhibit "B"; and

WHEREAS, the procedural requirements of Article 3, Section 31-306 of the Code of the City of Suffolk, Virginia, 1998 (as amended), have been followed; and

WHEREAS, in acting upon this request, the Planning Commission and City Council have considered the matters enunciated in Section 15.2-2284 of the Code of Virginia (1950), as amended, and Article 1, Section 31-102 and Article 3, Section 31-306(c)(1 through 8) of the Code of the City of Suffolk, 1998 (as amended), with respect to the purposes stated in the Code of Virginia (1950), as amended, Sections 15.2-2200 and 15.2-2283; and

WHEREAS, the Planning Commission has made a recommendation as stated in Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

Section 1. Exhibits.

Exhibit "A", "Planning Commission Recommendation", Exhibit "B", "Zoning/Land Use Map", and Exhibit "C", "Site plan", which are attached hereto, are hereby incorporated as part of this ordinance.

Section 2. Findings.

Council finds that the proposal for a conditional use permit, as submitted or modified with conditions herein, the expressed purpose of which is permit a nightclub with outdoor live entertainment, is in conformity with the standards of the Unified Development Ordinance of the City of Suffolk and that it will have no more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood, and will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, taking into consideration the location, type and height of buildings or structures, the type and extent of landscaping and screening on site and whether the use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities with the conditions set forth below.

These findings are based upon the consideration for the existing use and character of property, the Comprehensive Plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, the preservation of agricultural and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the City.

These findings are based upon a determination that the most reasonable and limited way of avoiding the adverse impacts of a nightclub with outdoor live entertainment is by the imposition of the conditions provided herein.

Section 3. Permit Granted.

The conditional use permit for the Property be, and it is hereby, approved for the Property, subject to the following conditions and the general conditions set forth in Section 4 hereof. The conditional use permit specifically permits a nightclub with outdoor live entertainment in compliance with Exhibit "C" (the "Site Plan"), and Sections 31-306 and 31-406 of the Code of the City of Suffolk.

Section 4. General Conditions.

- (a) The conditional use permit may be revoked by City Council upon failure to comply with any of the conditions contained herein, after ten days written notice to Michael Justice, property owner, or their successors in interest, and a hearing at which such persons shall have the opportunity to be heard.
- (b) To the extent applicable, the requirements set forth in Section 31-306 of the Code of the City of Suffolk, Virginia shall be met.
- (c) The commencement of the use described in Section 3 of this ordinance shall be deemed acceptance by Michael Justice, property owner, or any party undertaking or maintaining such use, of the conditions to which the conditional use permit herein granted is subject.

Section 5. Severability.

It is the intention of the City Council that the provisions, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable; and if any phrase, clause, sentence, paragraph, section and provision of this ordinance hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections and provisions of this ordinance, to the extent that they can be enforced notwithstanding such determination.

Section 6. Recordation.

A certified copy of this ordinance shall be recorded, by the applicant, in the name of the property owner as grantor in the office of the Clerk of Circuit Court.

Section 7. Effective Date.

This ordinance shall be effective upon passage and shall not be published or codified. The conditional use authorized by this permit shall be implemented within two (2) years from the date of approval by the City Council and shall terminate if not initiated within that time period.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
Erika Dawley, City Clerk

Approved as to Form:

  
Helivi L. Holland, ~~City~~ Deputy City Attorney

**CITY OF SUFFOLK PLANNING COMMISSION  
A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT  
C11-15  
TO ESTABLISH A NIGHTCLUB WITH OUTDOOR ENTERTAINMENT ON  
PROPERTY LOCATED AT 425 EAST WASHINGTON STREET, ZONING MAP 34G13,  
BLOCK (4), PARCEL 3A\*10A**

**WHEREAS**, Donna Perry, applicant, on the behalf of Michael Justice, property owner, has requested the issuance of a conditional use permit for a certain tract of land situated in the City of Suffolk, Virginia, which land is described and depicted on the proposed Ordinance attached hereto and incorporated herein by reference; and

**WHEREAS**, the specific request is to permit a nightclub with outdoor live entertainment in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Suffolk, Virginia, that:

Section 1. Findings.

The Suffolk Planning Commission finds that the proposal for a conditional use permit, as submitted or modified herein:

- a. Will have no more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood,
- b. Will have more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood,
- c. Will be no more injurious to property or improvements in the neighborhood, or
- d. Will be more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, taking into consideration the location, type and height of buildings or structures, the type and extent of landscaping and screening on site and whether the use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities.

Section 2. Recommendation to Council.

The Planning Commission recommends to City Council that the request, C11-15, be:

- a. Granted as submitted, and that the City Council adopt the proposed Ordinance without modification.
- b. Denied, and that Council not adopt the proposed Ordinance.

- \_\_\_c. Granted with the modifications set forth on the attached listing of specific recommendations, and that Council adopt the proposed Ordinance with such modifications.

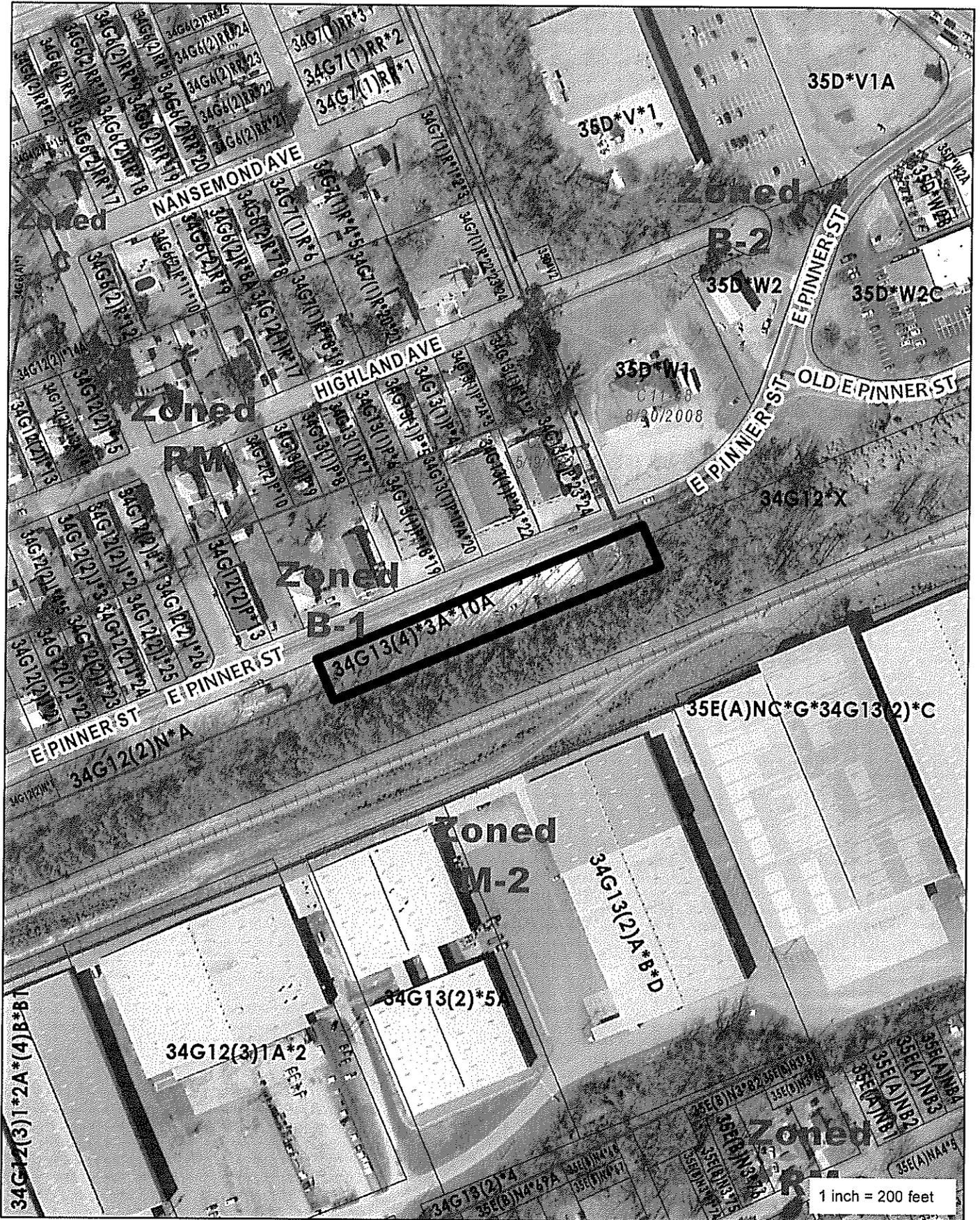
The Planning Commission, at the meeting of October 20 2015, voted on a motion to approve the Conditional Use request which failed by a vote of 3 to 5, thus resulting in a **denial** of this application.

READ AND ADOPTED: \_\_\_\_\_

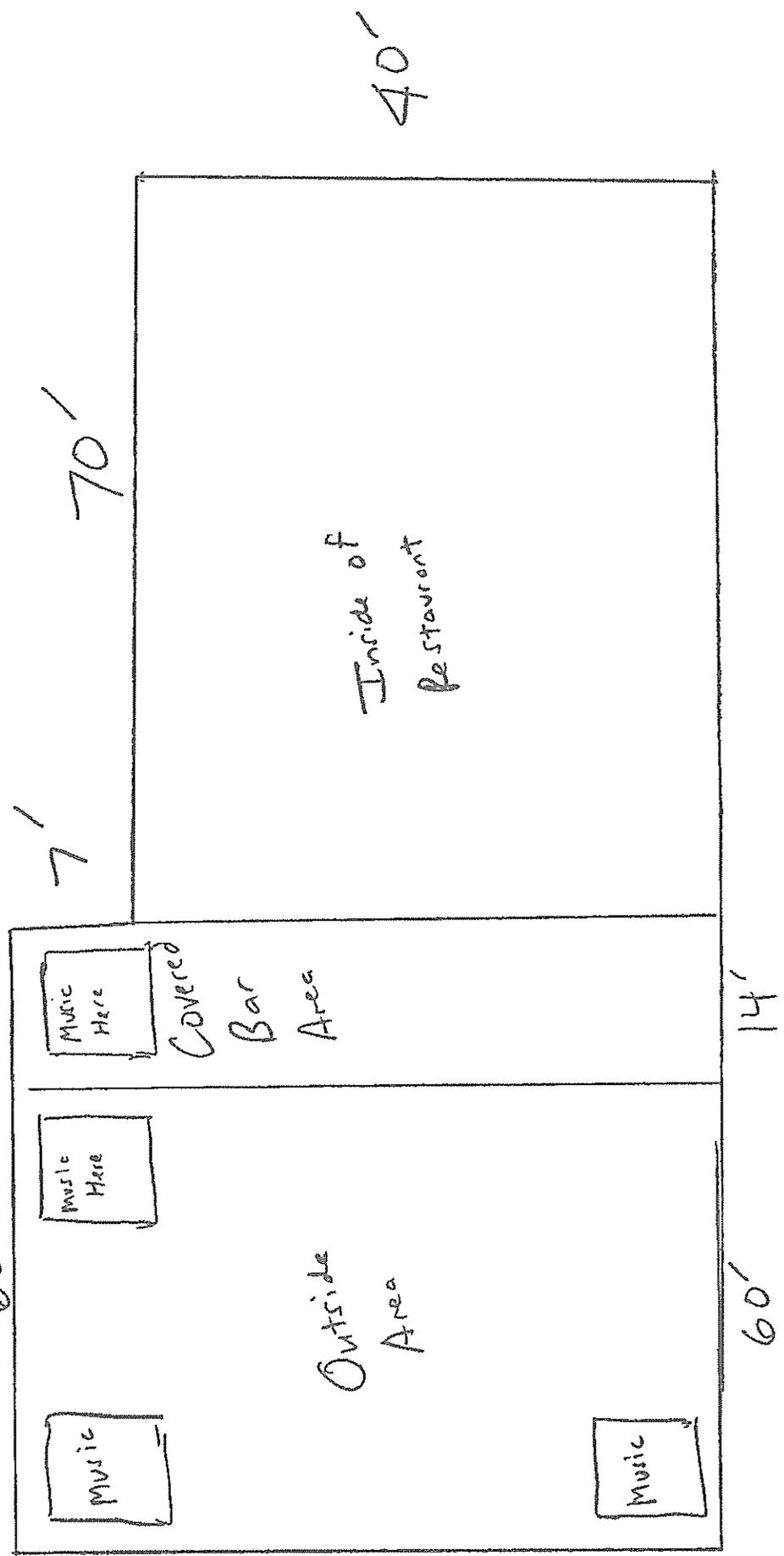
TESTE: \_\_\_\_\_

NO ACTION TAKEN BY PLANNING COMMISSION

C11-15 ZONING / LAND USE MAP

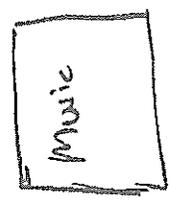


*Handwritten scribbles and text:*  
Trees / Forest



- Parking 75 cars at least,  
Can Expand

425 East Pinner St  
Suffolk, VA 23434



Potential Spot for  
Band / DJ

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Public Hearing** – An ordinance to grant a Conditional Use Permit to establish a school, dance/art/music school on property located at 6550 Hampton Roads Parkway, Zoning Map 6, Parcel 13A\*2; C14-15

Attached for your consideration is information pertaining to Conditional Use Permit Request C14-15, Studio 2C, submitted by Cathy L. Benton and Tou Kue, applicants, on behalf of CRT Associates, L.L.P., property owner, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish a school, dance/art/music school, on property located at 6550 Hampton Roads Parkway, Suite 106, Zoning Map 6, Parcel(s) 13A\*2. The affected area is further identified as being located in the Nansemond Voting Borough, zoned B-2, General Commercial zoning district. The 2035 Comprehensive Plan designates this area as a part of the Northern Growth Area, Mixed Use Core Use District.

The Planning Commission, at the meeting of October 20 2015, voted 8 to 0 to approve a resolution recommending **approval** of this request with a condition.

**ATTACHMENTS:**

- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Zoning/Land Use Map
- Exhibit C – Floor Plan

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** C14-15, Studio 2C, submitted by Cathy L. Benton and Tou Kue, applicants, on behalf of CRT Associates, L.L.P., property owner, in accordance with Section(s) 31-306 and 31-406 of the Unified Development Ordinance.

**APPLICANT:** Submitted by Cathy L. Benton and Tou Kue, applicants, on behalf of CRT Associates, L.L.P., property owner.

**LOCATION:** The affected property is located at 6550 Hampton Roads Parkway, Suite 106 in the College Parkway Crossing at Harbourview Shopping Center and is further identified as Zoning Map 6, Parcel(s) 13A\*2.

**PRESENT ZONING:** B-2, General Commercial.

**EXISTING LAND USE:** Shopping Center.

**PROPOSED LAND USE:** Dance school.

### **SURROUNDING LAND USES:**

North – Single-family residential, zoned PD;  
South – Multi-family residential, zoned MUD;  
East – Shopping center, zoned B2;  
West – Shopping center, zoned B2.

**COMPREHENSIVE PLAN:** 2035 Comprehensive Plan designates this area as a part of the Northern Growth Area, Mixed Use Core Use District.

**CHESAPEAKE BAY PRESERVATION AREA DESIGNATION:** The property is located within the City's Chesapeake Bay Preservation Area Overlay District and is designated as a Resource Management Area (RMA).

**PUBLIC NOTICE:** This request has been duly advertised in accordance with the public notice requirements set forth in Section 15.2-2204 of the Code of Virginia, as amended, and with the applicable provisions of the Unified Development Ordinance.

## **STAFF ANALYSIS**

### **ISSUE**

The applicant is requesting approval of a conditional use permit to utilize a unit within the shopping center at 6550 Hampton Roads Parkway for a dance school. The proposed facility is located in a shopping center along with retail/commercial uses. The dance floor would occupy approximately 1820 sq. ft. of the 3075 sq. ft. lease unit. The school is proposed to operate from noon to 9:30 p.m., Monday to Friday. The anticipated dance class size is 8 students, or fewer.

## CONSIDERATIONS AND CONCLUSIONS

1. Section 31-406 of the Unified Development Ordinance (UDO) requires that a conditional use permit be obtained for a dance school within the B-2, General Commercial Zoning District.
2. This site is currently served by public water and sewer.
3. The off-street parking requirements outlined in the UDO requires a minimum of one space per 200 square feet of gross floor area and a maximum of 1 space per 150 square feet of gross floor area for schools of private instruction. The shopping center provides adequate off-street parking to serve this proposed use.
4. The Department of Public Works has indicated it has no concerns regarding stormwater since this proposed use is utilizing an existing unit within the shopping center with no building or impervious area expansion proposed. No impact to water quality is anticipated. Traffic Engineering has indicated that this is an existing site and this use presents no traffic concerns
5. The applicant will be required to address any issues regarding occupancy of the proposed space pertaining to the Building Code with the Division of Community Development. Occupancy limits will be established by the Building Official.
6. The applicant has indicated that this use is planned for Suite 106 within the College Parkway Crossing at Harbourview Shopping Center.
7. Pursuant to Section 31-306 of the Unified Development Ordinance (UDO), a Conditional Use Permit recognizes uses that, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right. Rather, such uses are permitted through the approval of a Conditional Use Permit by City Council when the right set of circumstances and conditions are found acceptable.

Conditional Use Permit Approval Criteria (31-306(c)) - As may be specified within each zoning district, uses permitted subject to conditional use review criteria shall be permitted only after review by the Planning Commission and approval by the City Council and only if the applicant demonstrates that:

*a) The proposed conditional use shall be in compliance with all regulations of the applicable zoning district, the provisions of Article 6 of the ordinance and any applicable supplemental use standards as set forth in Article 7 of the Ordinance.*

The proposed use of a dance school is a listed conditional use in the B-2 zoning district per the City's Unified Development Ordinance. Supplemental standards are not established for a dance school.

*b) The proposed conditional use shall conform to the character of the neighborhood*

*within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety or comfort of persons living or working in or driving through the neighborhood, or shall be no more injurious to property or improvements in the neighborhood, than would any other use generally permitted in the same district. In making such a determination, consideration should be given to the location, type and height of buildings or structures, the type and extent of landscaping and screening on the site and whether the proposed use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities.*

The proposed conditional use is located in an existing shopping center. The operation of a dance school is not inconsistent with other uses currently operating within the shopping center or other uses within the B-2 district.

- c) Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.*

The request for a dance school has been reviewed by the City's Traffic Engineer who expressed no concerns regarding parking or traffic for the proposed use and location.

- d) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.*

The proposed use is a dance school should not produce excess vibration, noise, odor, dust, smoke or gas. It is not anticipated that there will be any use attached with their activity which would impact the surrounding residences or adjacent commercial uses.

- e) The proposed use shall not be injurious to the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.*

The property is located in an established shopping center. The operation of this establishment should not be injurious to the uses in the immediate vicinity. The adjacent residences are buffered from the existing shopping center by a solid fence and landscape screening.

- f) The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.*

The property is located in an existing commercial space within an existing shopping center. The use of this property for a dance school should not impede the orderly development and improvement of surrounding properties.

- g) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.*

The use of a dance school should not be a detriment or endangerment to the public. The adjacent residences are buffered from the existing shopping center by a solid fence and landscape screening.

*h) The public interest and welfare supporting the proposed conditional use shall be sufficient to outweigh the individual interests which are adversely affected by the establishment of the proposed use.*

The public interest and welfare should not be compromised by the proposed use of this facility.

### **RECOMMENDATION**

It is staff's opinion that the site in question is appropriate for the proposed use of the facility and will not adversely impact the surrounding neighborhood. Therefore, staff recommends **approval** of Conditional Use Permit request C14-15 with the following condition.

1. This permit is granted to establish a school, dance/art/music school as defined in the Unified Development Ordinance at 6550 Hampton Roads Parkway, Suite 106 consisting of 3,075 square feet, as shown on Exhibit B, Zoning/Land Use Map and Exhibit C, Site Plan.

The Planning Commission, at their meeting of October 20 2015, voted 8 to 0 to approve a resolution recommending **approval** of this request with a condition.

#### Attachments

- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Zoning/Land Use Map
- Exhibit C – Floor Plan



Cathy Benton and Tou Kue  
Studio 2C  
757-439-4482

RECEIVED  
MAY 17 2015  
PLANNING

Mailing address:  
5000 Leslie Drive –Portsmouth,VA 23703

Physical address of business:  
6550 Hampton Roads Pkw. Suite 106  
Suffolk, VA 23435

We would like to bring a ballroom dance studio which will provide ballroom dance instruction to students to the city of Suffolk.

Our hours of operation would be Noon – 9:30 Monday through Friday.

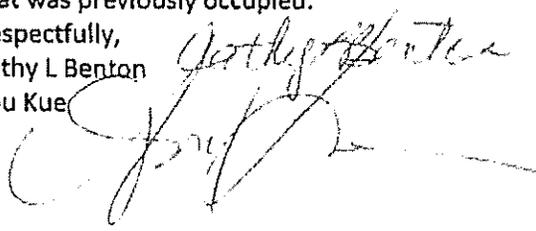
Our instructors would work one on one with the students.

We would not anticipate more than 8 people in the facility at any one time for dance instruction.

Ballroom dance will bring a sense of elegance and culture and fitness to the area. Something that everyone would enjoy.

We are also requesting a waiver for the supplemental requirements. This is going in an existing building that was previously occupied.

Respectfully,  
Cathy L Benton  
Tou Kue



**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH A SCHOOL, DANCE/ART/MUSIC SCHOOL ON PROPERTY LOCATED AT 6550 HAMPTON ROADS PARKWAY, ZONING MAP 6, PARCEL 13A\*2; C14-15**

WHEREAS, Cathy L. Benton and Tou Kue, applicants, on behalf of CRT Associates, L.L.P., property owner, has requested a conditional use permit for a school, dance/art/music school a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 6, Parcel 13A\*2 which land is depicted on Exhibit "B"; and,

WHEREAS, the procedural requirements of Article 3, Section 31-306 of the Code of the City of Suffolk, Virginia, 1998 (as amended), have been followed; and,

WHEREAS, in acting upon this request, the Planning Commission and City Council have considered the matters enunciated in Section 15.2-2284 of the Code of Virginia (1950), as amended, and Article 1, Section 31-102 and Article 3, Section 31-306(c)(1 through 8) of the Code of the City of Suffolk, 1998 (as amended), with respect to the purposes stated in the Code of Virginia (1950), as amended, Sections 15.2-2200 and 15.2-2283; and,

WHEREAS, the Planning Commission has made a recommendation as stated in Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

Section 1. Exhibits.

Exhibit "A", "Planning Commission Recommendation", Exhibit "B", "Zoning/Land Use Map", and Exhibit "C", "Floor Plan", which are attached hereto, are hereby incorporated as part of this ordinance.

Section 2. Findings.

Council finds that the proposal for a conditional use permit, as submitted or modified with conditions herein, the expressed purpose of which is to permit a school, dance/art/music school is in conformity with the standards of the Unified Development Ordinance of the City of Suffolk and that it will have no more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood, and will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, taking into consideration the location, type and height of buildings or structures, the type and extent of landscaping and screening on site and whether the use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities with the conditions set forth below.

These findings are based upon the consideration for the existing use and character of

property, the Comprehensive Plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, the preservation of agricultural and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the City.

These findings are based upon a determination that the most reasonable and limited way of avoiding the adverse impacts of a school, dance/art/music school is by the imposition of the conditions provided herein.

Section 3. Permit Granted.

The conditional use permit for the Property be, and it is hereby, approved for the Property, subject to the following conditions and the general conditions set forth in Section 4 hereof. The conditional use permit is specifically for a school, dance/art/music school in compliance with Sections 31-306 and 31-406 of the Code of the City of Suffolk.

Conditions

1. This permit is granted to establish a school, dance/art/music school as defined in the Unified Development Ordinance at 6550 Hampton Roads Parkway, Suite 106 consisting of 3,075 square feet, as shown on Exhibit B, Zoning/Land Use Map and Exhibit C, Site Plan.

Section 4. General Conditions.

- (a) The conditional use permit may be revoked by City Council upon failure to comply with any of the conditions contained herein, after ten days written notice to Cathy L. Benton and Tou Kue, applicants and CRT Associates, L.L.P., property owner, or their successors in interest, and a hearing at which such persons shall have the opportunity to be heard.
- (b) To the extent applicable, the requirements set forth in Section 31-306 of the Code of the City of Suffolk, Virginia shall be met.
- (c) The commencement of the use described in Section 3 of this ordinance shall be deemed acceptance by Cathy L. Benton and Tou Kue, applicants and CRT Associates, L.L.P., property owner, or any party undertaking or maintaining such use, of the conditions to which the conditional use permit herein granted is subject.

Section 5. Severability.

It is the intention of the City Council that the provisions, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable; and if any phrase, clause, sentence, paragraph, section and provision of this ordinance hereby adopted shall be declared

unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections and provisions of this ordinance, to the extent that they can be enforced notwithstanding such determination.

Section 6. Recordation.

A certified copy of this ordinance shall be recorded, by the applicant, in the name of the property owner as grantor in the office of the Clerk of Circuit Court.

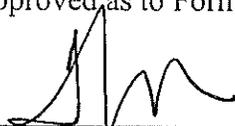
Section 7. Effective Date.

This ordinance shall be effective upon passage and shall not be published or codified. The conditional use authorized by this permit shall be implemented within two (2) years from the date of approval by the City Council and shall terminate if not initiated within that time period.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
Erika Dawley, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Helivi L. Holland, City Attorney

**CITY OF SUFFOLK PLANNING COMMISSION  
A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT  
C14-15**

**WHEREAS** Cathy L. Benton and Tou Kue, applicants, on behalf of CRT Associates, L.L.P., property owner, has requested the issuance of a conditional use permit for a certain tract of land situated in the City of Suffolk, Virginia, which land is described and depicted on the proposed Ordinance attached hereto and incorporated herein by reference; and

**WHEREAS**, the specific request is to permit a dance school in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Suffolk, Virginia, that:

Section 1. Findings.

The Suffolk Planning Commission finds that the proposal for a conditional use permit, as submitted or modified herein:

- a. Will have no more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood,
- b. Will have more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood,
- c. Will be no more injurious to property or improvements in the neighborhood, or
- d. Will be more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, taking into consideration the location, type and height of buildings or structures, the type and extent of landscaping and screening on site and whether the use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities.

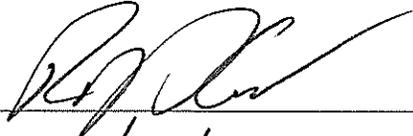
Section 2. Recommendation to Council.

The Planning Commission recommends to City Council that the request, C14-15, be:

- a. Granted as submitted, and that the City Council adopt the proposed Ordinance without modification.
- b. Denied, and that Council not adopt the proposed Ordinance.
- c. Granted with the modifications set forth on the attached listing of specific

recommendations, and that Council adopt the proposed Ordinance with such modifications.

READ AND ADOPTED:

A handwritten signature in black ink, appearing to be "R. J. [unclear]", written over a horizontal line.

TESTE:

10/20/15

**CONDITIONAL USE PERMIT  
C14-15**

**CONDITIONS**

1. This permit is granted to establish a school, dance/art/music school as defined in the Unified Development Ordinance at 6550 Hampton Roads Parkway, Suite 106 consisting of 3,075 square feet, as shown on Exhibit B, Zoning/Land Use Map and Exhibit C, Site Plan.

C14-15 ZONING / LAND USE MAP

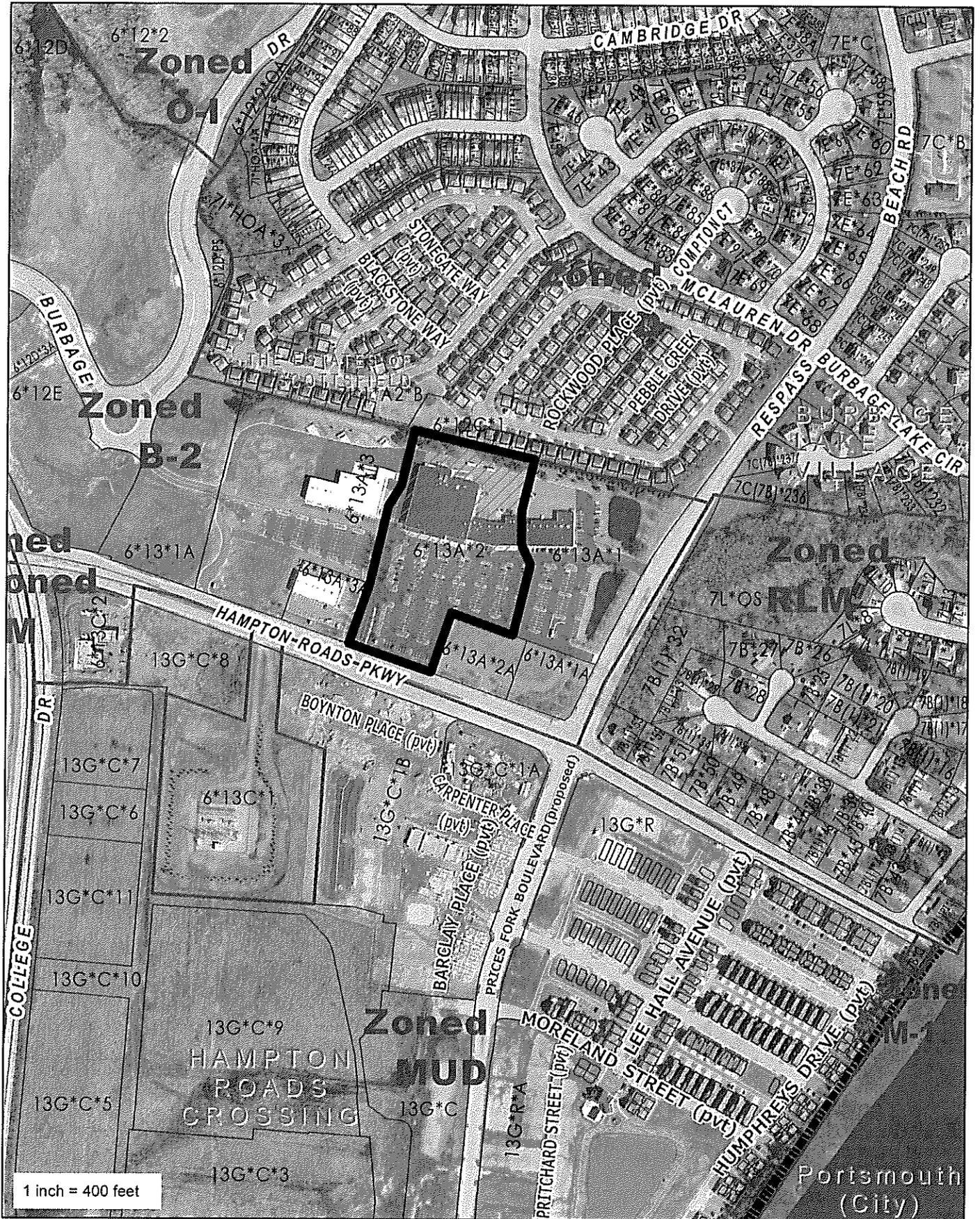
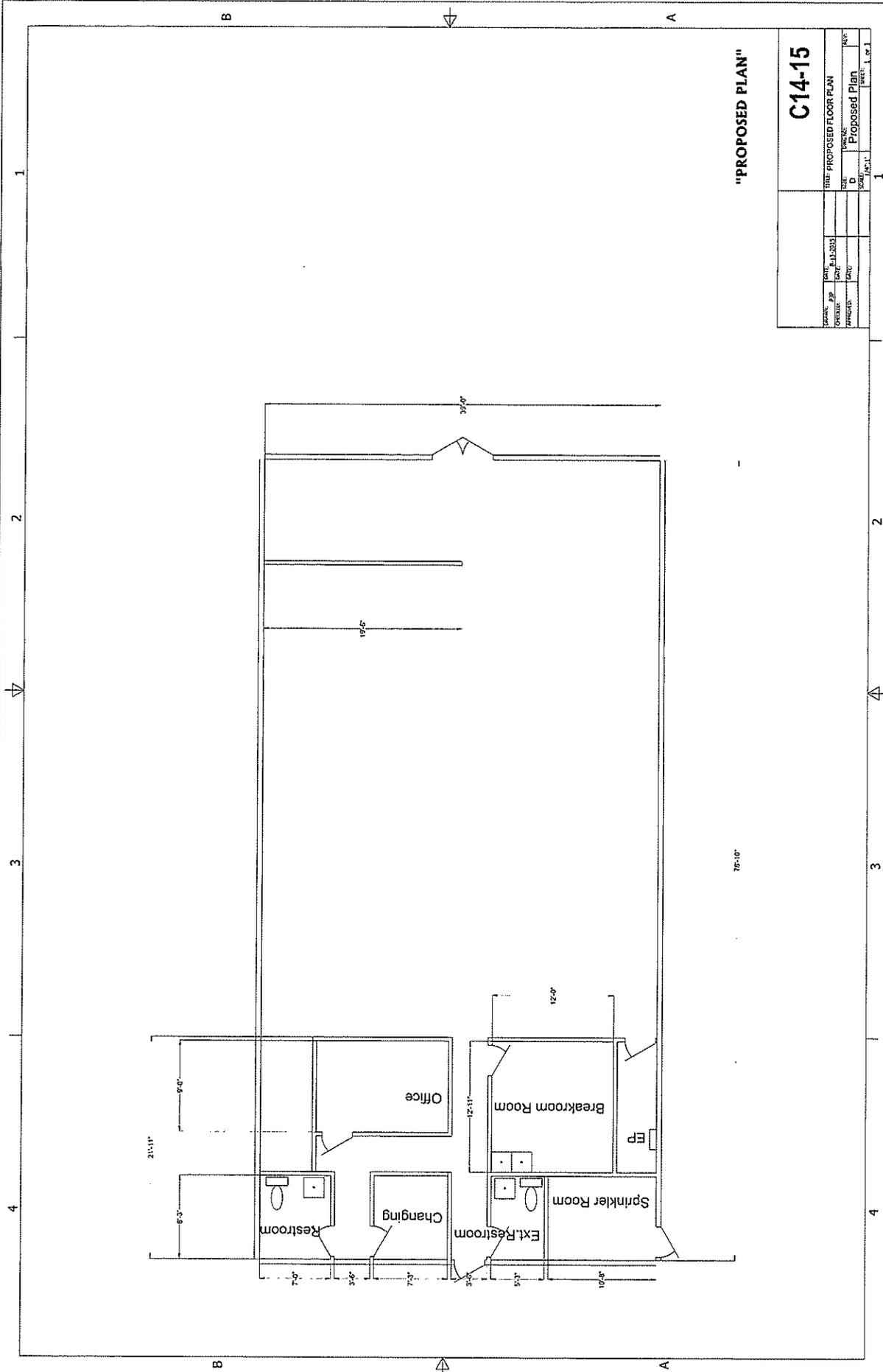




EXHIBIT C



"PROPOSED PLAN"

DATE: _____		DATE: _____	
DRAWN BY: _____		DATE: _____	
CHECKED BY: _____		DATE: _____	
APPROVED BY: _____		DATE: _____	
PROJECT: _____		DATE: _____	
SHEET: _____		DATE: _____	
TITLE: PROPOSED FLOOR PLAN		DATE: _____	
PROJECT: PROPOSED PLAN		DATE: _____	
SHEET: _____		DATE: _____	

C14-15

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Public Hearing** – An ordinance to grant a Conditional Use Permit to establish a day care (family day home, six (6) to twelve (12) children), on property located at 2035 Regency Drive, Zoning Map 27H, Parcel(s) 2\*6; C15-15

Attached for your consideration is information pertaining to Conditional Use Permit Request C15-15, submitted by Carlena Scott, applicant(s) and property owner(s), in accordance with Section(s) 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish a day care (family day home, six (6) to twelve (12) children) on property located at 2035 Regency Drive, Zoning Map 27H, Parcel(s) 2\*6. The affected area is further identified as being located in the Cypress Voting Borough, zoned RLM, Residential Low Medium Density zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

The Planning Commission, at their meeting of October 20, 2015, voted 8 to 0 to approve a resolution recommending **approval** of this request with conditions.

**ATTACHMENTS:**

- Staff Report
- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Zoning/Land Use Map
- Exhibit C – Site Plan/Floor Plan

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** Conditional Use Permit Request C15-15, submitted by Carlena Scott applicant(s) and property owner(s), to permit a day care (family day home, six (6) to twelve (12) children), in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance.

**APPLICANT:** Submitted by Carlena Scott, property owner.

**LOCATION:** The affected property is located at 2035 Regency Drive and is furthered identified as Zoning Map 27H, Parcel(s) 2\*6, Cypress Voting Borough.

**PRESENT ZONING:** RLM, Residential Low-Medium Density zoning district.

**EXISTING LAND USE:** Single family home in addition to a family home day care (permitted up to a maximum of five (5) children) within the Regency Estates subdivision, located off the Nansemond Parkway.

**PROPOSED LAND USE:** Single family home with a home day care (family day home, six (6) to twelve (12) children).

## **SURROUNDING LAND USES:**

North – RLM district, Open space

South – RLM district, Single family home

East – RLM district, Open space

West – RLM district, Single family home

**COMPREHENSIVE PLAN:** The City's 2035 Comprehensive Plan identifies this property as being located within the Central Growth Area, Suburban Use District.

**CHESAPEAKE BAY PRESERVATION AREA DESIGNATION:** The property is within the City's Chesapeake Bay Preservation Area Overlay District and is designated as a Resource Management Area (RMA).

**PUBLIC NOTICE:** This request has been duly advertised in accordance with the public notice requirements set forth in Section 15.2-2204 of the Code of Virginia, as amended, and with the applicable provisions of the Unified Development Ordinance.

**CASE HISTORY:** In 2012 the applicant obtained a Home Occupation Permit to operate a family home day care for up to five children, with hours of operation between 8:00 a.m. and 5:00 p.m.

## STAFF ANALYSIS

### ISSUE

The applicant is requesting a conditional use permit to expand the current family home day care to accommodate up to twelve (12) children. Currently, Mrs. Scott operates a family home day care which has been in operation since 2012. This existing home occupation permit issued through the City of Suffolk limits the amount of children to five (5) on site. Mrs. Scott has stated she is currently registering with the Department of Social Services for a Family Day Home day care for up to twelve (12) children. Acquisition of the conditional use permit will allow Mrs. Scott to be in compliance with both state and local requirements pertaining to home day cares.

Mrs. Scott is proposing to increase the amount of children enrolled to the maximum of twelve (12) children. The ages will range from two (2) to five (5) years old. There are presently five (5) children enrolled. Under the home occupation permit the hours of operation are from 8:00 a.m. to 5:00 p.m. Monday through Friday; however, the hours will change to 6:30 a.m. until 6:00 p.m. Monday through Friday with approval of this request. Mrs. Scott currently has an assistant caretaker, therefore Social Services will not require additional staff.

This is a two-story residence and the day care will utilize approximately 1,000 square feet on the first floor of the home's overall 1,850 square feet. The layout of the family home day care has two points of ingress and egress from the building. The home contains existing off-street parking in the form of a paved driveway approximately 36 feet long by 22 feet wide with room for four (4) vehicles. This parking area is currently used for the drop off and pick up area for the day care. There also is available on-street parking in front of the residence; however, all parking requirements must be met on site per the requirements of the Unified Development Ordinance (UDO). The applicant has notified staff that pick up and drop off times are staggered.

### CONSIDERATIONS AND CONCLUSIONS

1. Section 31-406 of the Unified Development Ordinance (UDO) requires that a conditional use permit be obtained to establish a day care (family day home, six (6) to twelve (12) children) within the RLM, Residential Low Medium Density zoning district.
2. The proposed hours of operation for the day care are 6:30 a.m. until 6:00 p.m. Monday through Friday. The applicant does not operate during overnight hours.
3. The house is currently served by public water and sewer. Food preparation will be conducted on site by the applicant for the children enrolled. The Health Department does not regulate an in home day care with twelve (12) or fewer children as a food establishment.
4. Based on the UDO parking requirements for commercial day cares that are contained within Section 31-606, the minimum parking requirement is one (1) parking space for every 375 square feet of gross floor area and the maximum parking requirement is 1.5 spaces for every 375 square feet of gross floor area. The area of the home that will be

utilized for operation of the day care is approximately 1,000 square feet. Based on this area, the applicant will be required to provide a minimum of three (3) parking spaces and a maximum of four (4) parking spaces. Since this day care also operates as a residence the applicant will also be required to maintain at least two (2) parking spaces for the residence. The total amount of parking required would be a minimum of five (5) parking spaces. The residence currently can accommodate four (4) off-street parking spaces. The additional off-street parking space is unaccounted for, but the applicant has stated she is willing to construct a parking surface to accommodate additional vehicles.

5. The location of the home at the end of the cul-de-sac on Regency Drive allows for the convenient use of ample, existing on-street parking. That, in combination with staggered arrival and departure times of the children, could provide for cueing of vehicles to use the existing driveway without creating safety or congestion concerns.
6. Mrs. Scott currently maintains a home occupation permit through the City of Suffolk for a day care for up to five (5) children. The day care currently has five (5) children enrolled and Mrs. Scott is the primary caregiver in addition to another caretaker. The applicant is requesting to expand care to provide for up to twelve (12) children. The Department of Social Services requires a license once the enrollment is greater than five (5) children. Mrs. Scott has stated that she is working towards registering as a Family Day Home day care.
7. Mrs. Scott has noted that the outdoor play area associated with the residence, situated in the side yard, is over 1,000 square feet. The outdoor space of the residence is not currently fenced, though there is a 6 feet high fence separating the lot from the forested open space to the property's northern and eastern edges. Social Services require a Family Day Home to have a fenced outdoor play area or to provide a transportation plan for accessing a public park or playground. It should be noted that staff has concerns regarding the care of up to twelve (12) children in an unfenced outdoor play area. However, this is a matter regulated by the Virginia Department of Social Services under their licensure requirements. As a condition of approval, prior to expanding the family home day care, the applicant shall provide evidence from Social Services that they have obtained the required licensure and are able to operate as a registered Family Day Home.
8. Pursuant to Section 31-306 of the Unified Development Ordinance (UDO), a Conditional Use Permit recognizes uses that, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right. Rather, such uses are permitted through the approval of a Conditional Use Permit by City Council when the right set of circumstances and conditions are found acceptable.

Conditional Use Permit Approval Criteria, Section 31-306(c)– As may be specified within each zoning district, uses permitted subject to conditional use review criteria shall be permitted only after review by the Planning Commission and approval by the City Council and only if the applicant demonstrates that:

- a) *The proposed conditional use shall be in compliance with all regulations of the applicable zoning district, the provisions of Article 6 of the ordinance and any*

*applicable supplemental use standards as set forth in Article 7 of the Ordinance.*

The proposed use of a day care (family day home, six (6) to twelve (12) children) is a listed conditional use in the RLM zoning district per the City's Unified Development Ordinance. Article 6, Section 31-606 of the UDO requires that parking requirements be met for the residential use as well as the day care use. The applicant is required to provide at a minimum five (5) off-street parking spaces to accommodate the day care and the residential use. Currently, the applicant's residence cannot accommodate the necessary five (5) parking spaces.

- b) *The proposed conditional use shall conform to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety or comfort of persons living or working in or driving through the neighborhood, or shall be no more injurious to property or improvements in the neighborhood, than would any other use generally permitted in the same district. In making such a determination, consideration should be given to the location, type and height of buildings or structures, the type and extent of landscaping and screening on the site and whether the proposed use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities.*

This property is located within the Regency Estates subdivision and is designated by the Comprehensive Plan as Suburban. The Suburban Use District is characterized as the least dense area inside the Growth Areas and is primarily composed of traditional residential subdivisions. The current operation of a family home day care limited to five (5) children in this area is consistent with the Comprehensive Plan. The request to increase the use of the day care to provide care for up to twelve (12) children could have potential effects on this residential subdivision and adjacent properties in terms of traffic and noise. However, due to staggered drop off and pick up times these possible impacts should be mitigated.

- c) *Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.*

The request for the home child day care facility has been reviewed by the City's Traffic Engineering Department who expressed no concerns regarding parking or traffic for the proposed use and location. Mrs. Scott noted in her application that the location of her home on the end of a cul-de-sac on Regency Drive allows for the cueing of cars during drop off and pick up times, which are also staggered; however, it has to be acknowledged that with the increase in children there will also be an associated increase in traffic within the neighborhood.

- d) *The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.*

The proposed use is for a home child day care facility and should not produce excess vibration, odor, dust, smoke or gas.

- e) *The proposed use shall not be injurious to the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.*

The proposed family day home day care is located within an established residential subdivision with lot layouts between 10,000 and 21,000 total square feet. The subject property is approximately 20,950 square feet in size, and is only one of two residences on the cul-de-sac. The proposed home day care should not be injurious to the use and enjoyment of neighboring properties.

- f) *The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.*

The property is located in an established single-family dwelling neighborhood; therefore surrounding properties have already been developed. The site is currently served by city water and sewer and the Public Utilities Department has no objections to the proposed use.

- g) *The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.*

If approved, the family day home day care will be subject to certain conditions pertaining to its operation to help protect the existing surrounding neighborhood. These conditions will ensure that this operation will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the area.

- h) *The public interest and welfare supporting the proposed conditional use shall be sufficient to outweigh the individual interests which are adversely affected by the establishment of the proposed use.*

The proposed play area, currently unfenced, may pose certain safety risks though this issue will be overseen by Social Services during the application process to become a Family Day Home day care. The public interest and welfare will not be compromised by the proposed use of this family home day care.

### **RECOMMENDATION**

It is staff's opinion that the site in question is appropriate for the proposed use and given the size of the existing lot, the hours of operation, and the proposed enrollment of the day care, the use will not adversely impact the surrounding neighborhood. Therefore, staff recommends **approval** of Conditional Use Permit request C15-15 with the following conditions.

1. This Conditional Use Permit is granted specifically in order to establish a day care (family day home, six (6) to twelve (12) children) at 2035 Regency Drive, Zoning Map 27H, Parcel(s) 2\*6.
2. The maximum number of children to be served by this family home day care shall be

twelve (12).

3. The hours of operation for the family home day care shall be limited to no earlier than 6:30 a.m. and no later than 6:00 p.m. Monday through Friday.
4. The applicant shall construct an additional parking space as generally shown on Exhibit C, Site Plan, attached hereto.
5. Activities within the outdoor play area shall be limited to the hours between 8:00 a.m. and 6:00 p.m.
6. The applicant shall provide documentation from the Virginia Department of Social Services that shows that this day care is properly licensed to operate prior to expanding enrollment.

The Planning Commission, at their meeting of October 20, 2015, voted 8 to 0 to approve a resolution recommending **approval** of this request with conditions.

#### Attachments

- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Zoning/Land Use Map
- Exhibit C – Site Plan/Floor Plan

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH A DAY CARE (FAMILY DAY HOME, SIX (6) TO TWELVE (12) CHILDREN), ON PROPERTY LOCATED AT 2035 REGENCY DRIVE, ZONING MAP 27H, PARCEL(S) 2\*6; C15-15**

WHEREAS, Carlena Scott, applicant(s) and property owner(s), has requested a conditional use permit to establish a day care (family day home, six (6) to twelve (12) children) on a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 27H, Parcel(s) 2\*6, which land is depicted on Exhibit "B"; and,

WHEREAS, the procedural requirements of Article 3, Section 31-306 of the Code of the City of Suffolk, Virginia, 1998 (as amended), have been followed; and,

WHEREAS, in acting upon this request, the Planning Commission and City Council have considered the matters enunciated in Section 15.2-2284 of the Code of Virginia (1950), as amended, and Article 1, Section 31-102 and Article 3, Section 31-306(c)(1 through 8) of the Code of the City of Suffolk, 1998 (as amended), with respect to the purposes stated in the Code of Virginia (1950), as amended, Sections 15.2-2200 and 15.2-2283; and,

WHEREAS, the Planning Commission has made a recommendation as stated in Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

Section 1. Exhibits.

Exhibit "A," "Planning Commission Recommendation," Exhibit "B," "Zoning/Land Use Map," and Exhibit "C," "Site Plan/Floor Plan," which are attached hereto, are hereby incorporated as part of this ordinance.

Section 2. Findings.

Council finds that the proposal for a conditional use permit, as submitted or modified with conditions herein, the expressed purpose of which is to permit a day care (family day home, six (6) to twelve (12) children) is in conformity with the standards of the Unified Development Ordinance of the City of Suffolk and that it will have no more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood, and will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, taking into consideration the location, type and height of buildings or structures, the type and extent of landscaping and screening on site and whether the use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities with the conditions set forth below.

These findings are based upon the consideration for the existing use and character of

property, the Comprehensive Plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, the preservation of agricultural and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the City.

These findings are based upon a determination that the most reasonable and limited way of avoiding the adverse impacts of a day care (family day home, six (6) to twelve (12) children) is by the imposition of the conditions provided herein.

Section 3. Permit Granted.

The conditional use permit for the Property be, and it is hereby, approved for the Property, subject to the following conditions, if any, and the general conditions set forth in Section 4 hereof. The conditional use permit specifically permits a day care (family day home, six (6) to twelve (12) children) in compliance with Exhibit "C" (the "Site Plan"), and Sections 31-306 and 31-406 of the Code of the City of Suffolk.

Conditions

1. This Conditional Use Permit is granted specifically in order to establish a day care (family day home, six (6) to twelve (12) children) at 2035 Regency Drive, Zoning Map 27H, Parcel(s) 2\*6.
2. The maximum number of children to be served by this family home day care shall be twelve (12).
3. The hours of operation for the family home day care shall be limited to no earlier than 6:30 a.m. and no later than 6:00 p.m. Monday through Friday.
4. The applicant shall construct an additional parking space as generally shown on Exhibit C, Site Plan, attached hereto.
5. Activities within the outdoor play area shall be limited to the hours between 8:00 a.m. and 6:00 p.m.
6. The applicant shall provide documentation from the Virginia Department of Social Services that shows that this day care is properly licensed to operate prior to expanding enrollment.

Section 4. General Conditions.

- (a) The conditional use permit may be revoked by City Council upon failure to comply with any of the conditions contained herein, after ten days written notice to Carlena Scott, property owner, or their successors in interest, and a hearing at which such persons shall have the opportunity to be heard.

- (b) To the extent applicable, the requirements set forth in Section 31-306 of the Code of the City of Suffolk, Virginia shall be met.
- (c) The commencement of the use described in Section 3 of this ordinance shall be deemed acceptance by Carlena Scott, property owner, or any party undertaking or maintaining such use, of the conditions to which the conditional use permit herein granted is subject.

Section 5. Severability.

It is the intention of the City Council that the provisions, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable; and if any phrase, clause, sentence, paragraph, section and provision of this ordinance hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections and provisions of this ordinance, to the extent that they can be enforced notwithstanding such determination.

Section 6. Recordation.

A certified copy of this ordinance shall be recorded, by the applicant, in the name of the property owner as grantor in the office of the Clerk of Circuit Court.

Section 7. Effective Date.

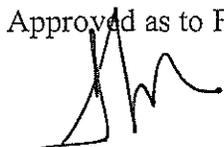
This ordinance shall be effective upon passage and shall not be published or codified. The conditional use authorized by this permit shall be implemented within two (2) years from the date of approval by the City Council and shall terminate if not initiated within that time period.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika Dawley, City Clerk

Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

**CITY OF SUFFOLK PLANNING COMMISSION  
A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT  
C15-15  
TO ESTABLISH A DAY CARE (FAMILY DAY HOME, SIX (6) TO TWELVE (12)  
CHILDREN), ON PROPERTY LOCATED AT 2035 REGENCY DRIVE, ZONING  
MAP 27H, PARCEL(S) 2\*6**

WHEREAS, Carlena Scott, applicant(s) and property owner(s), has requested the issuance of a conditional use permit for a certain tract of land situated in the City of Suffolk, Virginia, which land is described and depicted on the proposed Ordinance attached hereto and incorporated herein by reference; and

WHEREAS, the specific request is to permit a day care (family day home, six to twelve children) in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Suffolk, Virginia, that:

Section 1. Findings.

The Suffolk Planning Commission finds that the proposal for a conditional use permit, as submitted or modified herein:

- a. Will have no more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood,
- b. Will have more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood,
- c. Will be no more injurious to property or improvements in the neighborhood, or
- d. Will be more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, taking into consideration the location, type and height of buildings or structures, the type and extent of landscaping and screening on site and whether the use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities.

Section 2. Recommendation to Council.

The Planning Commission recommends to City Council that the request, C15-15, be:

- a. Granted as submitted, and that the City Council adopt the proposed Ordinance without modification.

b. Denied, and that Council not adopt the proposed Ordinance.

  X   c. Granted with the modifications set forth on the attached listing of specific recommendations, and that Council adopt the proposed Ordinance with such modifications.

READ AND ADOPTED:  \_\_\_\_\_

TESTE: 10/20/15 \_\_\_\_\_

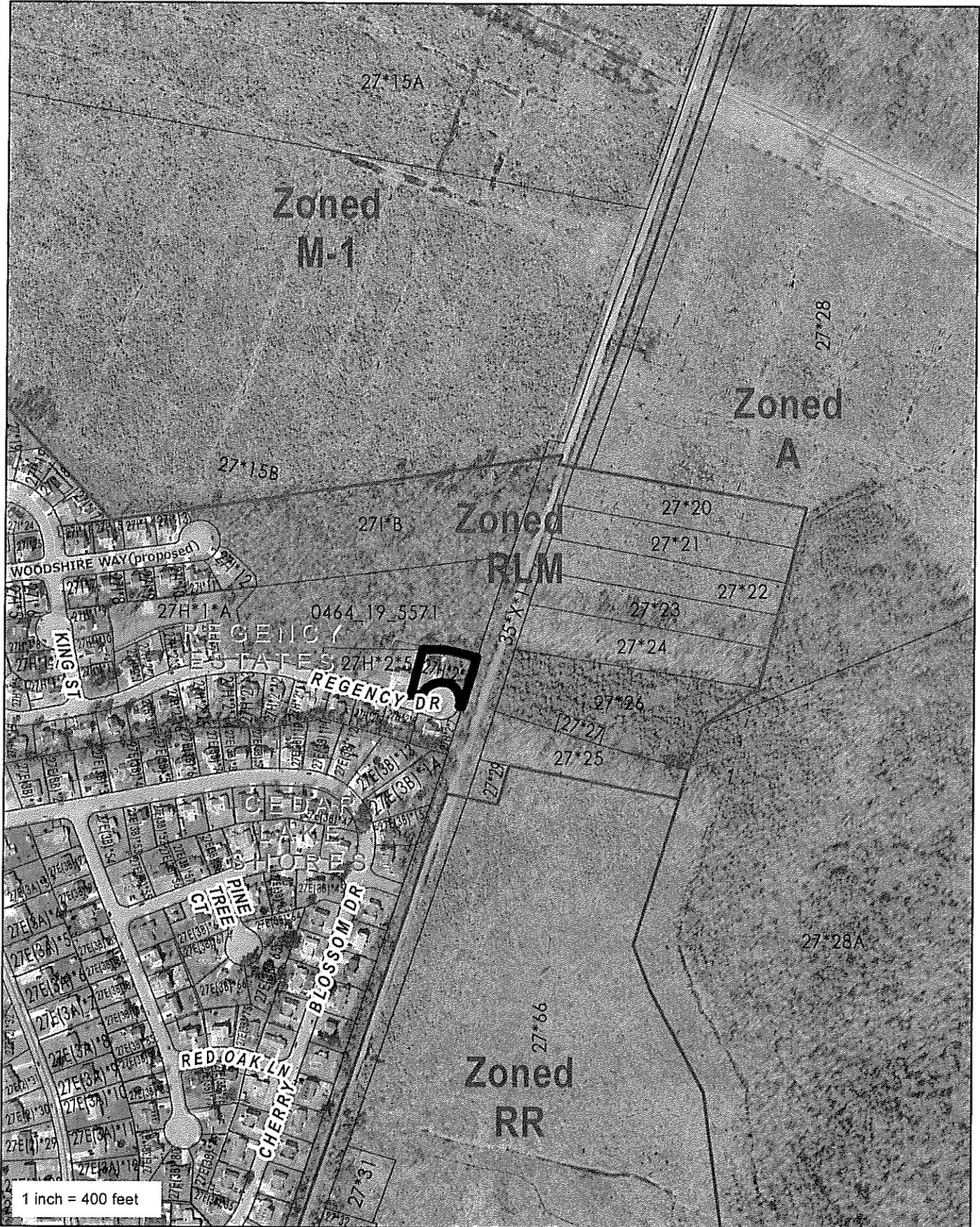
## CONDITIONAL USE PERMIT

C15-15

### CONDITIONS

1. This Conditional Use Permit is granted specifically in order to establish a day care (family day home, six (6) to twelve (12) children) at 2035 Regency Drive, Zoning Map 27H, Parcel(s) 2\*6.
2. The maximum number of children to be served by this family home day care shall be twelve (12).
3. The hours of operation for the family home day care shall be limited to no earlier than 6:30 a.m. and no later than 6:00 p.m. Monday through Friday.
4. The applicant shall construct an additional parking space as generally shown on Exhibit C, Site Plan, attached hereto.
5. Activities within the outdoor play area shall be limited to the hours between 8:00 a.m. and 6:00 p.m.
6. The applicant shall provide documentation from the Virginia Department of Social Services that shows that this day care is properly licensed to operate prior to expanding enrollment.

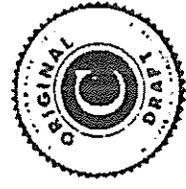
C15-15 ZONING / LAND USE MAP





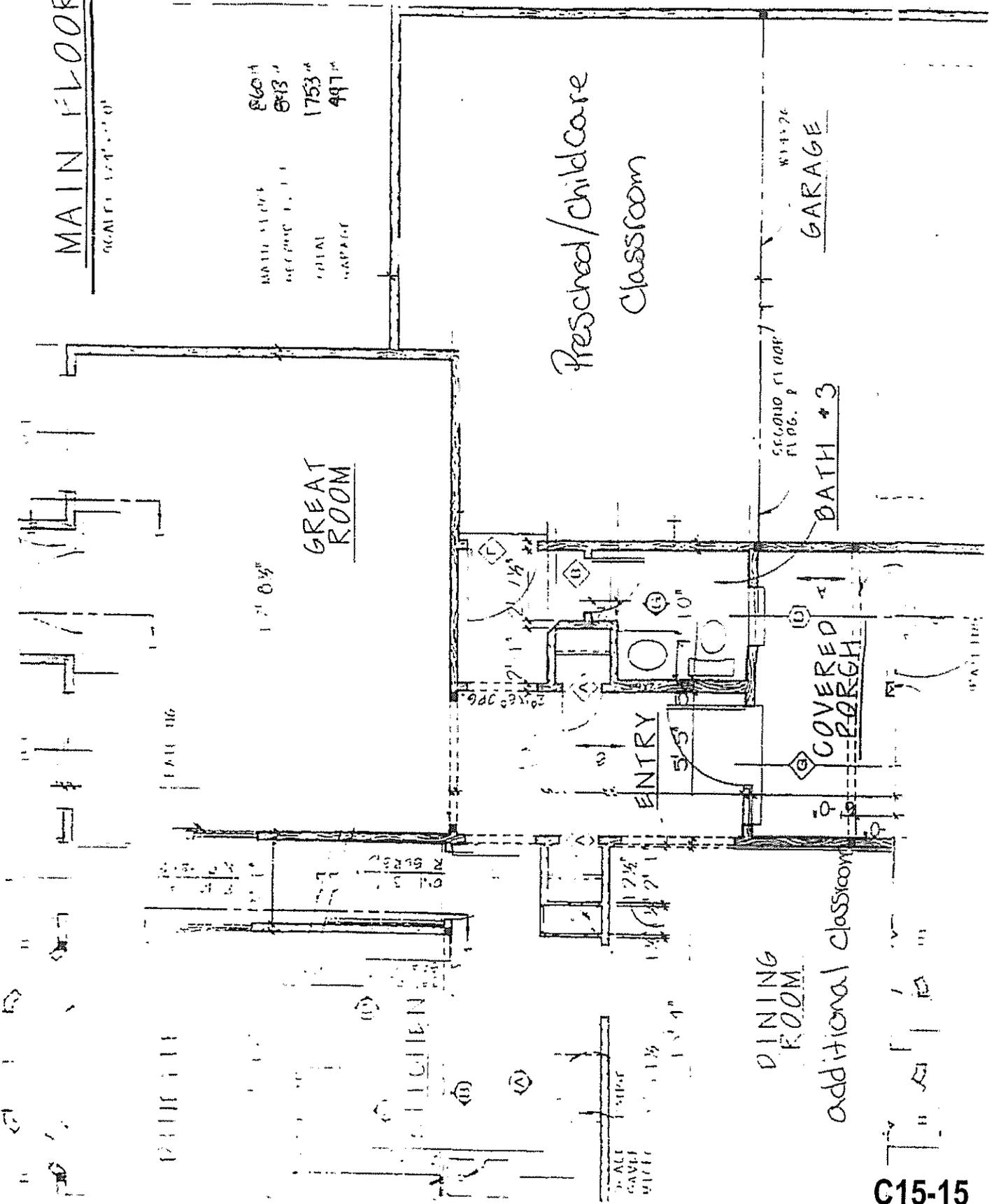
MAIN FLOOR PLAN

SCALE: 1/4" = 1'-0"

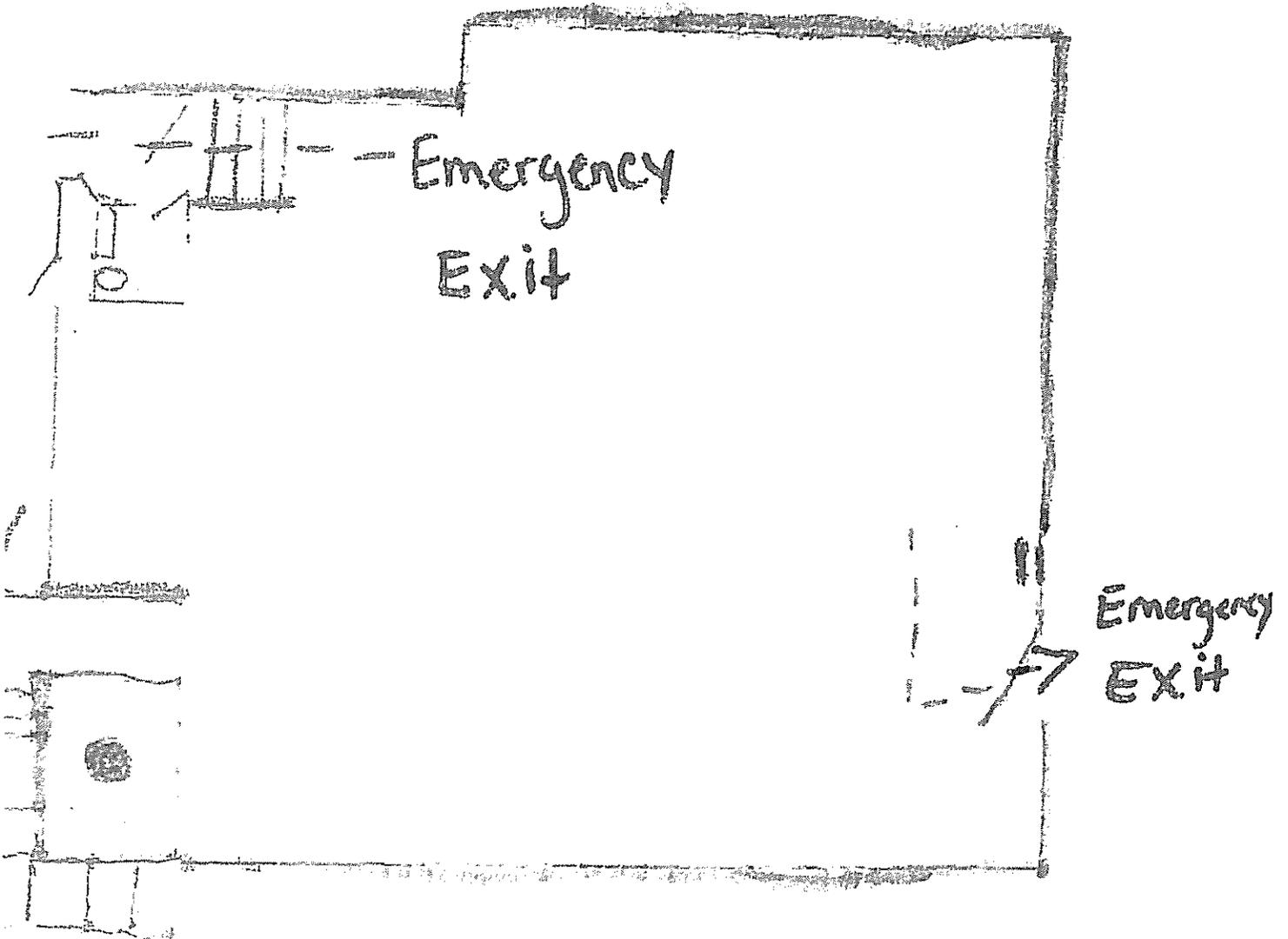


IF THIS IS NOT REBUILT BY THE CITY

BATH 5'60" x 8'13"  
REAR PORCH 17'53" x 4'97"



# Emergency Exit



RECEIVED

SEP 01 REC'D

PLANNING

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Public Hearing** – A resolution to amend the *Fairgrounds Revitalization Plan*, a component of *Suffolk 2035: A Vision for the Future, City of Suffolk Comprehensive Plan*; CPA01-15

Enclosed for your review and consideration is a proposed amendment to the *Fairgrounds Revitalization Plan*, a component of *Suffolk 2035: A Vision for the Future, City of Suffolk Comprehensive Plan*. This plan amendment is necessitated by changing circumstances in the Fairgrounds, and will allow the City to accommodate more diverse and dynamic uses in the Fairground Revitalization Plan area.

It is staff's recommendation to City Council that, after careful and thorough review and consideration, the City Council approve the attached resolution and that the *Fairgrounds Revitalization Plan* be amended as proposed.

The Planning Commission, at its meeting of October 20, 2015, voted 8 to 0 to approve a resolution to recommend **approval** of the amendment as presented.

**ATTACHMENTS:**

- Proposed Resolution
- Amendment to the *Fairgrounds Revitalization Plan*; Exhibit A
- A Resolution to Present a Report and Recommendation to the City Council Relating to a Resolution to Amend the *Fairgrounds Revitalization Plan*, a component of *Suffolk 2035: A Vision for the Future, City of Suffolk Comprehensive Plan*; Exhibit B

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION TO AMEND THE FAIRGROUNDS  
REVITALIZATION PLAN, A COMPONENT OF SUFFOLK 2035:  
A VISION FOR THE FUTURE, CITY OF SUFFOLK  
COMPREHENSIVE PLAN; CPA01-15**

WHEREAS, the City Council of the City of Suffolk, Virginia, unanimously adopted *Suffolk 2035: A Vision for the Future*, the City of Suffolk Comprehensive Plan on April 1, 2015; and,

WHEREAS, twelve neighborhood and initiative plans were readopted as part of *Suffolk 2035: A Vision for the Future* and remain intact, unaltered, and in force; and,

WHEREAS, the *Fairgrounds Revitalization Plan*, one of the twelve neighborhood and initiative plans, provides for a mix of residential, commercial, and institutional uses in four distinct areas in accordance with the *Fairgrounds Master Redevelopment and Revitalization Plan*; and,

WHEREAS, consideration of changing circumstances in the Fairgrounds indicate a need for modification to the *Fairgrounds Revitalization Plan* and the *Fairgrounds Master Redevelopment and Revitalization Plan* to accommodate more commercial development in the Fairgrounds while retaining area for future residential uses; and,

WHEREAS, the *Fairgrounds Revitalization Plan* has been advertised and reviewed by the Planning Commission in compliance with the requirements of State Law; and,

WHEREAS, the Planning Commission has made a recommendation as stated in Exhibit "B"; and,

WHEREAS, a public hearing before the City Council was duly advertised as required by law and held on the 18<sup>th</sup> day of November, 2015, at which public hearing the public was presented with the opportunity to comment on the proposed *Fairgrounds Revitalization Plan*; and following which City Council considered the above-stated issues.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Suffolk, Virginia, that:

- Section 1. Exhibit "A", "*Fairgrounds Revitalization Plan*"; and Exhibit "B", the Planning Commission Recommendation are attached hereto and are hereby incorporated as part of this resolution.

Section 2. Findings.

The City Council finds that the proposed *Fairgrounds Revitalization Plan* is reasonable and warranted due to changes in circumstances; and has considered the following factors and finds that the proposed *Fairgrounds Revitalization Plan* is consistent with:

1. The existing use and character of property within the City;
2. The suitability of the property for various uses;
3. The trends of growth or change;
4. The current or future requirements of the community as to land for various purposes as determined by population and economic studies and other studies;
5. The transportation requirements of the community;
6. The requirements of airports, housing, schools, parks, playgrounds, recreation areas and other public services;
7. The conservation of natural resources;
8. The preservation of flood plains;
9. The preservation of agricultural and forestal land;
10. The conservation of properties and their values;
11. The encouragement of the most appropriate use of land throughout the City; and

Section 3. Action.

The *Fairgrounds Revitalization Plan*, a component of *Suffolk 2035: A Vision For The Future, City of Suffolk Comprehensive Plan* is hereby amended and readopted as, to read as provided in Exhibit A.

Section 4. This resolution shall be effective upon adoption and shall not be published or codified.

READ AND ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
Erika S. Dawley, City Clerk

Approved as to form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

**Exhibit A**

**Amendment to the**

# **Fairgrounds Revitalization Plan**

**A Component of the 2035 Comprehensive Plan  
for the City of Suffolk**

**CPA01-15**

**Adopted:**

## 10. Health and Human Service Building

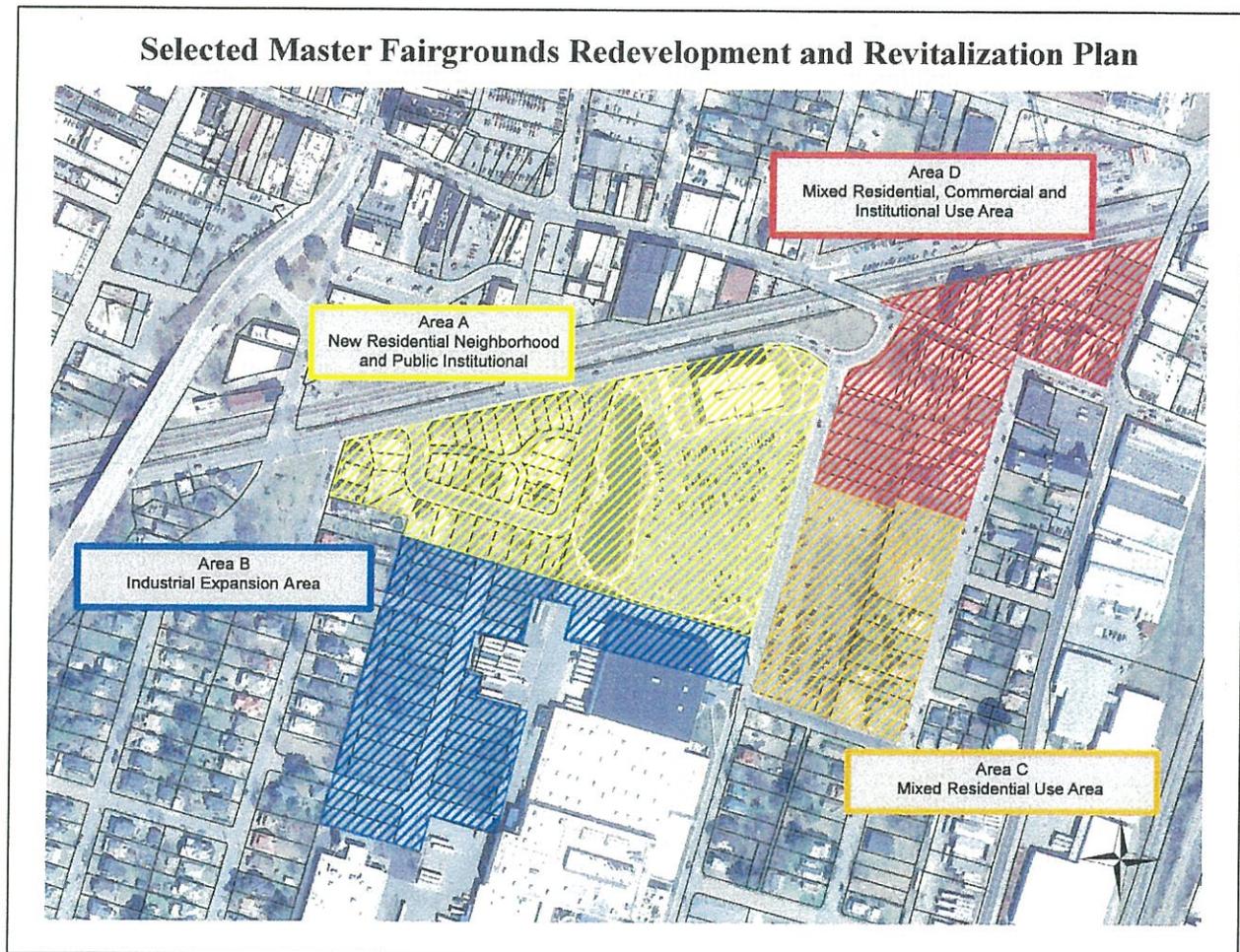
As an alternative to the Master Development Plan discussed earlier, the following Master Redevelopment and Revitalization Plan and the associated Conceptual Master Development Plan and Conceptual Master Schematic Plan were presented for consideration. These alternative plans address two-several important matters pertaining to the successful redevelopment and revitalization of the Fairgrounds area:

1. The alternative plans incorporate a new Health and Human Service building ; **and**

2. The alternative plans address site development concerns for the property on which the former Planters Peanut processing facility was located.;

3. The alternative plans address the need to provide additional commercial uses the opportunity to locate in the Fairgrounds, promoting revitalization and job creation; and

- 2.4. The alternative plans continue to address the need to provide a location for future residential uses south of the mixed use commercial core area as opportunities arise.



The revitalization plan presented earlier proposes the construction of a new residential neighborhood on the former Planters Peanut processing site at the corner of Hall Avenue and Culloden Street. This site was acquired by the City of Suffolk in April 1995 after the former peanut processing facility was demolished and cleared to a depth of two feet. This redevelopment scenario likely requires placing underground utilities and homes on or through sub-surface debris. The concern, of course being, that this may have an adverse impact on the development and construction of the neighborhood. Therefore, it was determined that consideration be given to identifying other potential uses that would be more suitable for this site.

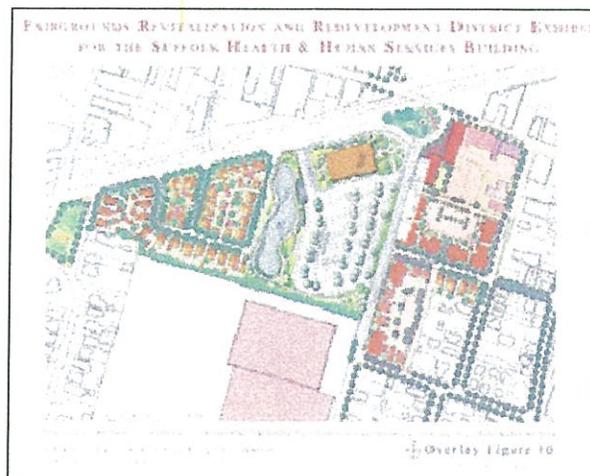
After thorough consideration and much deliberation, the City Council selected this location as the preferred site for the new Health and Human

The incorporation of the Health and Human Service building into Fairgrounds has received substantial support from the community, service providers, business, and City leaders. The “selected alternative” will continue to serve those in the low to moderate income levels and promote a vibrant mixed use community in the City of Suffolk

Locating this specific use on the subject property is consistent with the frameworks and principals guiding the redevelopment and revitalization of the Fairgrounds area and efforts will be made to mitigate potential adverse impact to individual components of the plan, most notably the adjacent new low and moderate income residential neighborhood. The density of the redesigned neighborhood is consistent with the previous configuration. A storm water management facility has been included with this redevelopment scenario to serve both the Health and Human Service building

Service building as identified in Area A of the “Selected Alternative” Master Fairgrounds Redevelopment and Revitalization Plan. This facility will house the Suffolk Health Department and the Department of Social Services.

### Conceptual Master Development Plan



and the new adjacent residential neighborhood. This needed feature was omitted from the previously presented alternative Mater Plan.

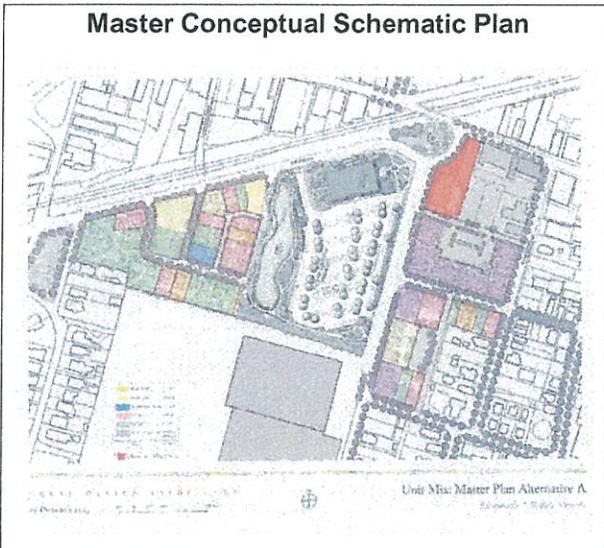
Locating the Health and Human Service building in the Fairgrounds area is logical choice supported by the following guiding principals:

- Close proximity to the population to be served;
- Centrally located within the greater downtown Suffolk;
- A system of streets, sidewalks and parking lots allow safe and convenient access to the site;
- Sidewalks and public transportation provide safe ways to reach the site without a car;
- The storm water BMP not only manages storm water, but will also serve as a visual buffer and recreational and passive open space for the Fairgrounds community; and

- Encourages non-residential uses and activities during daytime hours in the East Washington Street Corridor.

Additional modifications to Areas C and D in the Fairgrounds will also provide a number of benefits. The redevelopment of the Fairgrounds has successfully attracted new residential development in Areas A and D. Area C should be retained to accommodate future residential needs; however, changing circumstances indicate that additional opportunity should also be provided for commercial development in Area D. Adjustment of the boundary between these areas will allow for expanded economic opportunity, retention of the existing park as a neighborhood amenity, and flexibility to accommodate future residential and mixed use development.

### Master Conceptual Schematic Plan



**EXHIBIT "B"**

**RESOLUTION NO. 15-10-6**

**CITY OF SUFFOLK PLANNING COMMISSION A RESOLUTION TO PRESENT A  
REPORT AND RECOMMENDATION TO CITY COUNCIL TO AMEND THE  
FAIRGROUNDS REVITALIZATION PLAN, A COMPONENT OF SUFFOLK 2035: A  
VISION FOR THE FUTURE, CITY OF SUFFOLK COMPREHENSIVE PLAN;  
CPA01-15**

WHEREAS, the City Council of the City of Suffolk, Virginia, unanimously adopted *Suffolk 2035: A Vision for the Future*, the City of Suffolk Comprehensive Plan on April 1, 2015; and,

WHEREAS, twelve neighborhood and initiative plans were readopted as part of *Suffolk 2035: A Vision for the Future* and remain intact, unaltered, and in force; and,

WHEREAS, the *Fairgrounds Revitalization Plan*, one of the twelve neighborhood and initiative plans, provides for a mix of residential, commercial, and institutional uses in four distinct areas in accordance with the *Fairgrounds Master Redevelopment and Revitalization Plan*; and,

WHEREAS, consideration of changing circumstances in the Fairgrounds indicate a need for modification to the *Fairgrounds Revitalization Plan* and the *Fairgrounds Master Redevelopment and Revitalization Plan* to accommodate more commercial development in the Fairgrounds while retaining area for future residential uses; and,

WHEREAS, the procedural requirements for the consideration of this request by the Planning Commission have been met.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Suffolk, Virginia, that:

Section 1. Findings.

The City Council finds that the proposed *Fairgrounds Revitalization Plan* is reasonable and warranted due to changes in circumstances; and has considered the following factors and finds that the proposed *Fairgrounds Revitalization Plan* is consistent with:

1. The existing use and character of property within the City;
2. The suitability of the property for various uses;
3. The trends of growth or change;

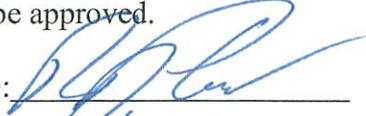
4. The current or future requirements of the community as to land for various purposes as determined by population and economic studies and other studies;
5. The transportation requirements of the community;
6. The requirements of airports, housing, schools, parks, playgrounds, recreation areas and other public services;
7. The conservation of natural resources;
8. The preservation of flood plains;
9. The preservation of agricultural and forestal land;
10. The conservation of properties and their values;
11. The encouragement of the most appropriate use of land throughout the City; and

Section 2. Recommendation to City Council.

The Planning Commission recommends to City Council: 1) that the *Fairgrounds Revitalization Plan* be amended and readopted as presented; and 2) that the proposed "A Resolution to Amend the *Fairgrounds Revitalization Plan*, a component of *Suffolk 2035: A Vision For The Future, City Of Suffolk Comprehensive Plan*", be approved.

READ AND ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

  
10/20/15

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Public Hearing** – An ordinance to amend Chapter 31, Unified Development Ordinance of the Code of the City of Suffolk by amending Article 4, Zoning, Section 31-403(a), Purpose Statement for General Zoning Districts; OA5-15

Attached for your consideration is information pertaining to Ordinance Text Amendment OA5-15; initiated by the Suffolk City Council, for amendments to the Code of the City of Suffolk, Chapter 31, Unified Development Ordinance, Article 4, Zoning, Section 31-403(a), Purpose Statement for General Zoning Districts, pertaining to the regulation of permitted uses and development in the Fairgrounds Revitalization and Redevelopment District (FRRD). The 2035 Comprehensive Plan designates the affected area as part of the Central Growth Area, Mixed Use Core Use District.

The proposed amendment is needed in order to bring the regulation into conformity with the Fairgrounds Revitalization Plan, a component of the 2035 Comprehensive Plan.

The Planning Commission, at their meeting of October 20, 2015, voted 8 to 0 to approve a Resolution recommending **approval** of the text amendment as proposed.

**ATTACHMENTS:**

- Proposed Ordinance
- Exhibit A - Planning Commission Recommendation

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND CHAPTER 31, UNIFIED DEVELOPMENT ORDINANCE OF THE CODE OF THE CITY OF SUFFOLK BY AMENDING ARTICLE 4, ZONING, SECTION 31-403(a), PURPOSE STATEMENT FOR GENERAL ZONING DISTRICTS; OA5-15**

WHEREAS, the specified amendments to Chapter 31, Article 4, Zoning are in compliance with the Fairgrounds Revitalization Plan, a component of the 2035 Comprehensive Plan for the City of Suffolk, as amended; and,

WHEREAS, the proposed text amendment has been advertised and reviewed by the Planning Commission in compliance with the requirement of state law; and,

WHEREAS, the Planning Commission has made recommendation as stated in Exhibit "A"; and,

WHEREAS, a public hearing before City Council was duly advertised as required by law and held on November 18, 2015, at which public hearing the public was presented with the opportunity to comment on the proposed ordinance text amendment.

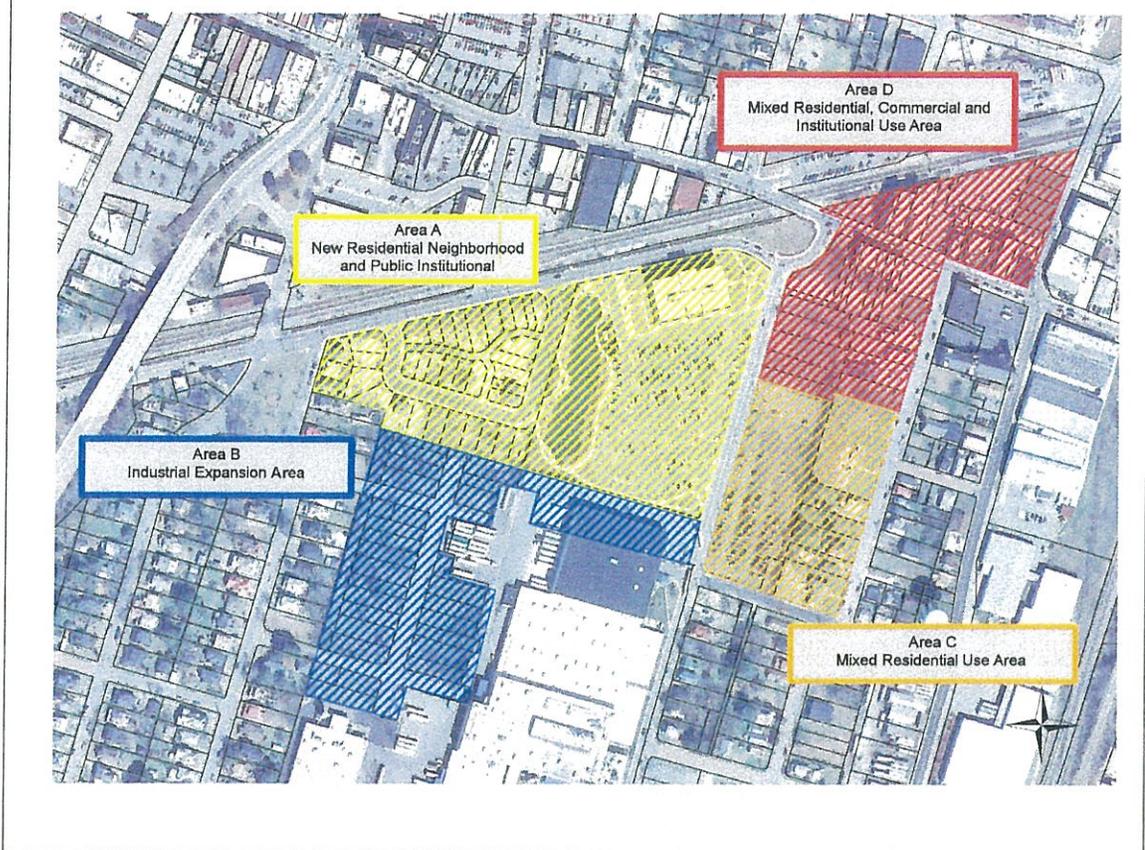
NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Suffolk, Virginia:

Section 1. That Chapter 31, Article 4, Zoning, Section 31-403(a), Purpose Statement for General Zoning Districts of the Unified Development Ordinance of the City of Suffolk, Virginia, be and is hereby amended as follows:

31-403(a) PURPOSE STATEMENT FOR GENERAL ZONING DISTRICTS.

~~Replace illustration with amended *Fairgrounds Master Redevelopment and Revitalization Plan*.~~

### Selected Master Fairgrounds Redevelopment and Revitalization Plan



This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:

*Helvi L. Holland*  
Helvi L. Holland, City Attorney

“Exhibit A”

RESOLUTION NO. 15-10-7

CITY OF SUFFOLK PLANNING COMMISSION

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION TO CITY COUNCIL RELATING TO AN ORDINANCE TO AMEND CHAPTER 31, UNIFIED DEVELOPMENT ORDINANCE OF THE CODE OF THE CITY OF SUFFOLK BY AMENDING ARTICLE 4, ZONING, SECTION 31-403(a), PURPOSE STATEMENT FOR GENERAL ZONING DISTRICTS; – OA5-15**

**WHEREAS**, the City of Suffolk City Council has initiated an amendment to the Unified Development Ordinance in order to address amendments to the Fairgrounds Revitalization Plan, a component of the 2035 Comprehensive Plan for the City of Suffolk; and

**WHEREAS**, the specific request is that Article 4, Zoning, Section 31-403(a), Purpose Statement for General Zoning Districts pertaining to the regulation of permitted uses and development in the Fairgrounds Revitalization and Redevelopment District (FRRD), be amended as referenced on the attached Ordinance; and

**WHEREAS**, the procedural requirements for the consideration of this request by the Planning Commission have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Suffolk, Virginia, that:

Section 1. Findings

The Suffolk Planning Commission finds that the proposed ordinance amendment is reasonable and warranted.

Section 2. Recommendation to Council

The Planning Commission recommends to City Council that the ordinance amendment be:

- a. Granted as submitted and that the City Council adopt the proposed Ordinance without modification.
- b. Denied, and that Council not adopt the proposed ordinance.
- c. Granted with the modifications set forth on the attached listing of specific recommendations, and that Council adopt the proposed Ordinance with such modifications.

READ AND ADOPTED: 10/20/15

TESTE: [Signature]

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Ordinance** – An ordinance to accept a Deed Open-Space Easement over the common passive open-space within Phase 2B of the Graystone Reserves Cluster Subdivision, Tax Map 26, Parcels 65 and 66, Suffolk Voting Borough; FS2015-02

Under the Cluster Development Use Pattern, passive open-space shall be preserved as open-space by a Conservation Easement which complies with the Virginia Conservation Easement Act (VC 10.1-1009-10.1-1016) or an open-space easement which complies with the Virginia Open-Space Land Act (VC 10.1-1700-10.1-1705). Under the Virginia Conservation Easement Act, the holder of the easement is a charitable corporation, charitable association, or charitable trust. Under the Virginia Open-Space Land Act, the open-space easement is held by a public body which includes any state agency having authority to acquire land for a public use, or any county or municipality, any park authority, any public recreational facilities authority, any soil and water conservation district or any community development authority formed pursuant to Article 6 (15.2-5152 et. seq) of Chapter 51 of Title 15.2, or the Virginia Recreational Facilities Authority.

In that the easements over passive common open-space in cluster development subdivisions preserve that land as open-space in perpetuity, it is recommended that the City accept such an easement in accordance with the Virginia Open-Space Land Act over the common passive open-space within Phase 2B of the Graystone Reserves Cluster Subdivision located the Suffolk Voting Borough.

Attachments:

- Ordinance
- Exhibit A – Deed Open-Space Easement

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE TO ACCEPT A DEED OPEN-SPACE EASEMENT OVER THE COMMON PASSIVE OPEN-SPACE WITHIN PHASE 2B OF THE GRAYSTONE RESERVES CLUSTER SUBDIVISION, TAX MAP 26 PARCELS 65 AND 66, SUFFOLK VOTING BOROUGH; FS2015-02**

WHEREAS, Phase 2B of the Graystone Reserves Cluster Subdivision has been approved utilizing the cluster development use pattern as allowed under the Unified Development Ordinance; and,

WHEREAS, in accordance with Section 31-411(d)(2) of the Unified Development Ordinance, the passive common open-space shall be preserved as open-space by a conservation easement that complies with the Virginia Open-Space Land Act; and,

WHEREAS, the Virginia Open-Space Land Act authorizes municipalities to accept conservation easements over passive common open-space.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

Section 1.     Exhibits.

Exhibit A, “Deed – Open-Space Easement”, which is attached hereto, is hereby incorporated as part of this ordinance.

Section 2.     Findings.

City Council finds that the open-space easement satisfies the requirements of the Unified Development Ordinance and the Virginia Open-Space Land Act and hereby accepts the easement.

Section 3.     Recordation.

A certified copy of this ordinance shall be recorded, by the applicant, in the name of the property owner in the office of the Clerk of the Circuit Court of the City of Suffolk, Virginia.

This ordinance shall be effective upon passage and shall not be published or codified.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

This Deed is exempt from taxation pursuant to Virginia Code Sections 58.1-811A.3. and D.

ACCOUNT NO. 306003063  
306003064  
306003065  
306003066  
306003067  
306003068

**DEED**  
**OPEN SPACE EASEMENT**  
**Passive – Common Open Space – Cluster Development Use Pattern**

THIS DEED OF EASEMENT is entered into \_\_\_\_\_,  
20\_\_\_\_ by Sandler at Graystone, L.L.C. (herein referred to as “Grantor”) and the CITY OF SUFFOLK, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the “City”).

WITNESSETH:

WHEREAS, Grantor is the fee simple owner of the tract or tracts of land designated “Passive Common Open Space”, Account Numbers 306003063, 306003064, 306003065, 306003066, 306003067 and 306003068 located in Suffolk Borough, City of Suffolk, Virginia, described in Exhibit A attached to and recorded with this Deed; and

WHEREAS, the Passive Common Open Space owned by the Grantor has environmental, scenic, natural and recreational value in its present state as a passive open space area; and

WHEREAS, in furtherance of the purposes of the Open Space Land Act, Title 10.1, Chapter 17 of the Virginia Code, and as required by the City of Suffolk Unified Development Ordinance, the Grantor is willing to grant a perpetual Open Space Easement applicable to the Passive Common Open Space, restricting and limiting the use

of the land, on the terms and conditions and for the purposes set forth below, and the City is willing to accept the Easement; and

WHEREAS, the Grantor and the City recognize the value of the Passive Common Open Space in its present state, and have a common purpose of conserving the Passive Common Open Space, preserving the natural character of the Passive Common Open Space, and preventing the use of development of the Passive Common Open Space for any purpose or in any manner which would conflict with maintenance in accordance with purposes of the Open Space Act and the City of Suffolk Unified Development Ordinance; and

WHEREAS, the City is authorized by the Open Space Land Act to accept, hold and administer the Passive Open Space Easement, and the City possesses the authority to accept and is willing to accept the Passive Open Space Easement under the terms and conditions described below, and the Grantor, for itself, its successors and assigns waives any objection to the perpetual nature of this easement.

NOW THEREFORE, for good and valuable consideration, receipt of which all parties acknowledge, and in consideration of the mutual covenants and restrictions set forth below, the Grantor conveys to the City and its successors and assigns forever and in perpetuity an Open Space Easement of the nature and character and to the extent set forth below, applicable to the Passive Common Open Space more particularly described in Exhibit A, for the purposes of preserving the important features of the Passive Common Space and maintaining permanently the natural character of the Passive Common Open Space; and

The commitments, conditions and restrictions applicable to the Passive Common Open Space, for the purpose of achieving these goals are set forth below:

1. This Easement shall be perpetual. It is an easement in gross, and shall run with the land as an incorporeal interest in the Passive Common Open Space enforceable by the City against the Grantor and its heirs, successors and assigns. The Grantor for itself, its heir's successors and assigns waives any objection to the perpetual nature of the Easement.

2. There shall be no dumping of soil, trash, ashes, garbage, waste or offensive material. There shall be no dumping or filling in of any pond, wetlands, waterway, or other area except as may be permitted by applicable laws for the purpose of combating erosion. Accumulation or application of trash, refuse, junk, sludge or other unsightly material is not permitted on the Passive Common Open Space. There shall be no dumping, storage or placement on the Passive Common Open Space of any stumps, brush, grass or other land clearing debris from off-site.

3. Mining, dredging and removal of loam, gravel, soil, rock, sand, coal and other materials are prohibited, except as necessary for:

a. Maintenance of existing accesses; and

b. Construction and maintenance of accesses to uses and structures permitted within the provisions of this Deed of Easement. Accesses shall be designed and constructed to cause a minimum of interference with the existing topography, drainage, vegetation, wildlife, recreation and conservation purposes of the Passive Common Open Space.

4. Removal, destruction and cutting of trees, shrubs, or other vegetation is prohibited except as indicated on the Conceptual Plan and for:

- a. Reasonable maintenance of existing accesses or construction and maintenance of accesses permitted by this Deed of Easement; or
- b. Application of good management practices including the prevention or treatment of disease; or
- c. Removal of only such vegetation as is reasonably necessary for construction and improvements in substantial conformity with the Conceptual Plan and in accordance with this Deed of Easement.

5. There shall be no activities or uses detrimental or adverse to water conservation, erosion control, soil conservation and, subject to the permitted uses, the preservation of wildlife habitat.

6. Use, development and improvement of the Passive Common Open Space shall be permitted only in accordance with the City of Suffolk Unified Development Ordinance and as depicted on the Conceptual Plan approved by the City of Suffolk and referred to in Exhibit A. The Passive Common Open Space shall not be further divided, subdivided, or conveyed in fee except as depicted in the Conceptual Plan, and shall be maintained as open space.

7. There shall be no alteration of the topography of the Passive Common Open Space, except as required for the construction of structures, trails or other improvements in substantial conformity with the Conceptual Plan or reasonably necessary to provide for permitted uses.

8. The features designated on the Conceptual Plan for preservation, including all woodlands and wetlands shall be maintained and preserved by the Grantor, its heirs, successors or assigns substantially as depicted on the Conceptual Plan, and in substantially the same condition as exists on the date of execution of this Deed.

9. The Grantor expressly reserves to itself, its successors and assigns the right to:

a. Continue the scenic, recreational and naturalistic uses of the Passive Common Open Space.

b. Improve, repair, restore, alter, remodel or replace the permitted structures depicted on the Conceptual Plan with structures of similar size and purpose and construct any other improvements depicted on the Conceptual Plan provided that the changes are compatible with the conservation purposes of the Passive Common Open Space and all other provisions of this Easement.

c. Continue the use of the Passive Common Open Space for all purposes not inconsistent with this Easement.

10. The parties agree that monetary damages would not be an adequate remedy for the breach of any of the terms, conditions and restrictions of this Easement, and therefore, in the event that the Grantor, its heirs, successors or assigns, violate or breach any of these terms, conditions and restrictions, the City and its successors and assigns, may institute a suit and shall be entitled to enjoin by ex parte temporary and/or permanent injunction such violation and to require the restoration of the Passive Common Open Space to a condition in compliance with this Easement. The City, its successors and assigns, by any prior failure to act do not waive or forfeit the right to take any action as may be necessary to insure compliance with the terms, conditions and restrictions of this Easement.

11. The City, its successors and assigns, have the right, with reasonable notice, to enter the Passive Common Open Space for the purpose of inspection to determine whether the Grantor, or its successors or assigns, are complying with the terms, conditions and restrictions of this Easement. This right of inspection does not include the interior of any dwellings.

12. The City may assign its rights under this Easement to any State or federal agency charged with the responsibility of conservation of natural areas, or open space, or to any non-profit, tax-exempt organization engaged in promoting conservation of natural areas; and if such assignee shall be dissolved or shall abandon this Easement, or the rights and duties of enforcement or if proceedings are instituted for condemnation of this Easement, the Easement and rights of enforcement shall revert to the City; and if the City shall be dissolved and if the terms of the dissolution fail to provide a successor, then the City of Suffolk Circuit Court shall appoint an appropriate successor.

13. The Grantor agrees for itself, its heirs, successors and assigns to give notice in writing to the City of the names and addresses of any parties to whom the Passive Common Open Space is to be transferred, at the time of transfer.

14. The City agrees to hold this Easement exclusively for conservation purposes, and will not transfer the Easement in exchange for money, other property, or services, except as provided in and permitted by the Open Space Land Act.

15. This Easement shall be construed to promote the purposes of the Virginia Open Space Land Act, to promote the Comprehensive Plan and Unified Development Ordinance of the City of Suffolk, and to promote the conservation purposes of this Easement, including such purposes are defined in the Internal Revenue Code.

16. Although this Easement in gross will benefit the public in ways recited above by encouraging and requiring elements of good land management, it shall not be construed to convey a right to the public of access or use of the Passive Common Open Space, and the Grantor, its heirs, successors and assigns shall retain exclusive rights to access and use.

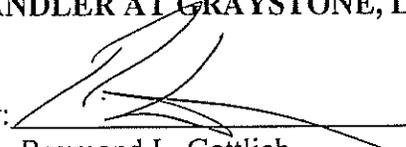
The covenants agreed to and the terms, conditions, restrictions and purposes imposed shall be binding not only upon the Grantor, but also its agents, personal representatives, heirs, assigns, and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the above described land, notwithstanding any restrictions at common law on the terms of easements in gross, or their enforcement.

17. Notwithstanding any other provisions of this Deed of Easement, the City of Suffolk Unified Development Ordinance and other applicable statues, ordinances and regulations shall apply to the Property and shall take precedence over this Easement to the extent that those requirements are more restrictive than the terms of this Easement.

18. The invalidity or unenforceability of any provision of this Easement shall not affect the validity or enforceability of any provision of this Easement or any ancillary or supplementary agreement relating to the subject of this Easement.

Authorized representatives are set out below in acknowledgement of this conveyance.

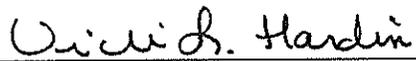
SANDLER AT GRAYSTONE, L.L.C.

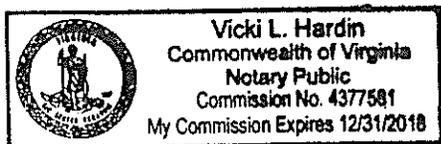
By:   
Raymond L. Gottlieb  
Manager

COMMONWEALTH OF VIRGINIA  
CITY OF VIRGINIA BEACH, to wit:

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of October, 2015, by Raymond L. Gottlieb, Manager of Sandler at Graystone, L.L.C., Grantor.

My Commission expires: 12-31-18

  
Notary Public



Approved as to form:

Approved to substance:

\_\_\_\_\_  
City of Suffolk Attorney's Office

\_\_\_\_\_  
Director of Planning

Acceptance of this Deed by City of Suffolk, a political subdivision of the Commonwealth of Virginia, pursuant to Va. Code Section 15.2-1803, is evidenced by the signature below.

Date: \_\_\_\_\_

\_\_\_\_\_  
City Manager  
Pursuant to Ordinance No. \_\_\_\_\_

COMMONWEALTH OF VIRGINIA,  
CITY OF SUFFOLK, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, on behalf of the City of Suffolk.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

COMMONWEALTH OF VIRGINIA,  
CITY OF SUFFOLK, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, on behalf of the City of Suffolk.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

EXHIBIT "A"

All that certain lot, piece or parcel of land located in Suffolk Borough, City of Suffolk, State of Virginia, known as Open Space S, Area = 40,211 SF or 0.923 Ac., Open Space T, Area = 7,743 SF or 0.178 Ac., Open Space U, Area = 70,401 SF or 1.616 Ac., Open Space V, Area = 145,375 SF or 3.337 Ac., Open Space W, Area = 138,377 SF or 3.177 Ac. And Open Space X, Area = 175,897 SF or 4.038 AC., as shown on a certain plat entitled, "Final Subdivision Plat of Graystone Reserves, Phase 2B", dated \_\_\_\_\_, 2015, prepared by MSA, P.C. and duly recorded in the Clerk's Office of the Circuit Court of the City of Suffolk, Virginia, in Plat Cabinet \_\_\_\_\_, Slides \_\_\_\_\_.

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Ordinance** - An ordinance to authorize the transfer of funds from the Central Library/W. Washington Street Project to the Market Street Fire Station 1 Renovation Project

Funds in the amount of \$1,100,000 are needed to complete the Market Street Fire Station 1 Renovation Project. Funds are available to transfer from the Central Library/W. Washington Street Project to the Market Street Fire Station 1 Renovation Project.

The additional funding for the Market Street Fire Station 1 Renovation Project will provide for a higher level of fit and finish for the interior renovation to include the upgrade of all apparatus bays safety systems, bay doors, lighting, and climate control. Additional funds will also facilitate a more extensive exterior facade renovation along with main apron, parking and site security improvements.

Funds are available to transfer from the Central Library/W. Washington Project due to the delay of the project that was adopted in the current FY 2016-2025 Capital Improvement Plan. Due to this delay it is not feasible to continue with the design phase of the project at this time.

Attached for Council's consideration is an ordinance to authorize the transfer of Central Library/W. Washington Street Project funds in the amount of \$1,100,000 to the Market Street Fire Station 1 Renovation Project.

**RECOMMENDATION:**

Adopt the attached ordinance

**ATTACHMENT:**

Ordinance

ORDINANCE NUMBER \_\_\_\_\_

**AN ORDINANCE TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE CENTRAL LIBRARY/W. WASHINGTON STREET PROJECT TO THE MARKET STREET FIRE STATION 1 RENOVATION PROJECT**

WHEREAS, the Council of the City of Suffolk has appropriated and committed funds in the previous year's Capital budget for the Central Library/W. Washington Street Project; and,

WHEREAS, the Central Library/W. Washington Street Project has funds available for transfer in the amount of \$1,100,000, and;

WHEREAS, the Market Street Fire Station 1 Renovation Project currently has an identified additional cost of approximately \$1,100,000 and requires funding in order to complete the project.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Suffolk, Virginia that:

1. The sum of \$1,100,000 be, and is hereby, transferred as follows:

Revenue Transfers (From)/To:

310-73100-3036_461020.100	Central Library/W. Washington Street Project	\$ (1,100,000)
310-32100-4105_461020.100	Market Street Fire Station 1 Renovation Project	<u>1,100,100</u>
		<u>\$ _____ 0</u>

Expenditure Transfers (From)/To:

310-73100-3036_53850.100	Construction Contracts Bond Funds	\$(1,100,000)
310-32100-4105_53850.100	Construction Contracts Bond Funds	<u>1,100,000</u>
		<u>\$ _____ 0</u>

2. The transfer totaling \$1,100,000 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager is hereby authorized and directed to do all things necessary to effectuate this action.

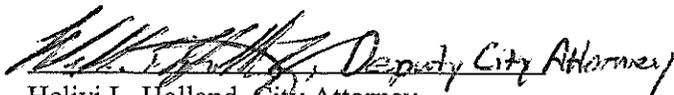
3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to form:

  
Helivi L. Holland, City Attorney

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Resolution** – A resolution releasing as a school site that certain parcel of land designated as Parcel 6\*3\*15 located on Harbourview Boulevard

Parcel 6\*3\*15, located on Harbourview Boulevard, was a portion of property zoned to PD-H, Planned Development Housing in 1987, as a part of the Harbour View Planned Development Housing District. Parcel 6\*3\*15 was also a portion of property that was further rezoned from PD-H, Planned Development Housing to B-2, General Commercial, without conditions, through Rezoning Request RR-2-92. The properties B-2, General Commercial zoning designation was reaffirmed in the City-wide rezoning in 1999, to implement the City's Comprehensive Plan. A master development plan for the Harbourview Development identified Parcel 6\*3\*15 as an elementary school site. Through consultation with school administration, it has been determined that Parcel 6\*3\*15 is not desirable for an elementary school site.

The attached resolution releases and relinquishes any and all claims for school or other public purposes.

**RECOMMENDATION:**

Adopt the attached resolution

**ATTACHMENT:**

Resolution

**A RESOLUTION RELEASING AS A SCHOOL SITE THAT CERTAIN PARCEL OF LAND DESIGNATED AS PARCEL 6\*3\*15 LOCATED ON HARBOURVIEW BOULEVARD**

WHEREAS, Parcel 6\*3\*15 located on Harbourview Boulevard was a portion of property zoned to PD-H, Planned Development Housing in 1987 as part of the Harbour View Planned Development Housing District; and,

WHEREAS, Parcel 6\*3\*15 was a portion of property that was rezoned from PD-H, Planned Development Housing to B-2, General Commercial without conditions through Rezoning Request RR-2-92; and,

WHEREAS, the properties B-2, General Commercial zoning designation was reaffirmed in the City-wide rezoning in 1999 to implement the City's Comprehensive Plan; and,

WHEREAS, a master development plan for the Harbourview Development identified Parcel 6\*3\*15 as an elementary school site; and,

WHEREAS, it has been determined that Parcel 6\*3\*15 is not desirable for an elementary school site.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Suffolk, Virginia that:

Section 1. Exhibits.

Exhibit "A" attached hereto is hereby incorporated as part of this Resolution.

Section 2. Findings.

Council affirms and agrees that Parcel 6\*3\*15 is not desirable as an elementary school site and may be developed under its B-2, General Commercial zoning designation for any permitted uses, and the City releases and relinquishes any and all rights and claims to use said parcel of land for a school site or for other public purposes. The aforementioned parcel is further identified as "Parcel 15" on that certain plat entitled "Subdivision Plat of Parcels 15 and 16, Harbour View, Sleepy Hole Borough, Suffolk, Virginia, dated March 7, 2003, and prepared by Rouse-Sirine Associates, Ltd. and recorded in the Clerk's Office of the Circuit Court of the City of Suffolk, Virginia in Plat Cabinet 3 at Slides 231E and 232A.

Section 3. Effective Date.

This Resolution shall be effective upon adoption and shall not be published or codified.

READ AND ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
Erika Dawley, City Clerk

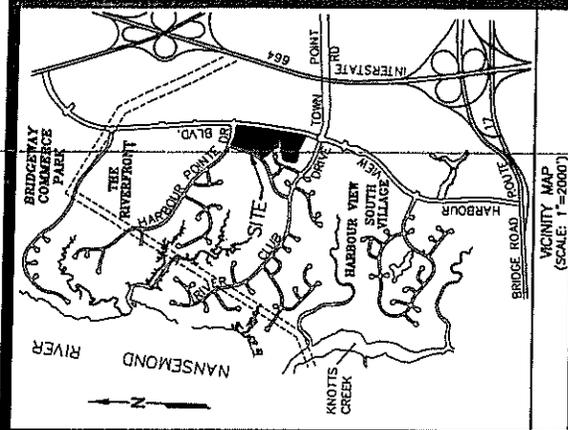
Approved as to Form:



\_\_\_\_\_

Helivi L. Holland, City Attorney

# Exhibit A



I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT WAS MADE BY ME AT THE DIRECTION OF THE OWNERS AND THAT THIS SUBDIVISION IS ENTIRELY WITHIN THE BOUNDARIES OF LAND OWNED BY HARBOURVIEW PARTNERS FROM FARMAC REALTY CORPORATION, BY DEED DATED MAY 1, 1987 AND RECORDED OCTOBER 31, 1988 IN DEED BOOK 238 AT PAGE 800 FROM HUGH A. WEST, SPECIAL COMMISSIONER, BY DEED DATED JUNE 30, 1997 AND RECORDED IN DEED BOOK 339 AT PAGE 301, IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF SUFFOLK, UNDER VC § 42.1-82 OF THE VIRGINIA PUBLIC RECORDS ACT (§ 42.1-76 et. seq.).

SIGNED: Jerrold W. Hutton  
 JERROLD W. HUTTON  
 L.S. NO. 1729

PARCELS 15 AND 16 AS SHOWN HEREON WERE CONVERTED TO HARBOURVIEW PARTNERS FROM FARMAC REALTY CORPORATION, BY DEED DATED MAY 1, 1987 AND RECORDED OCTOBER 31, 1988 IN DEED BOOK 238 AT PAGE 800 FROM HUGH A. WEST, SPECIAL COMMISSIONER, BY DEED DATED JUNE 30, 1997 AND RECORDED IN DEED BOOK 339 AT PAGE 301, IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF SUFFOLK, VIRGINIA.



THE SUBDIVISION OF PROPERTY, AS IT APPEARS ON THIS PLAT, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S).

OWNER: HARBOURVIEW PARTNERS AN ILLINOIS GENERAL PARTNERSHIP BY FARMAC REALTY CORPORATION (GENERAL PARTNER)

SIGNED: John E. Gorman, PRESIDENT  
 DATE: 6/17/03

STATE OF VIRGINIA  
 CITY/COUNTY OF Suffolk TO WIT:

Stacy D. Ezzell, A NOTARY PUBLIC IN AND FOR THE CITY/COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT JOHN E. GORMAN, PRESIDENT OF FARMAC REALTY CORPORATION, WHO IS PERSONALLY KNOWN TO ME, HAS REQUESTED THAT I SIGN TO THE FOREGOING WRITING TAG ACKNOWLEDGED THE SAME BEFORE ME IN MY CITY/COUNTY AND STATE AFORESAID, GIVEN UNDER MY HAND THIS 17th DAY OF June, 2003.

SIGNED: Stacy D. Ezzell NOTARY PUBLIC  
 MY COMMISSION EXPIRES: 1-3-03

**NOTES:**

1. BEARINGS SHOWN HEREON ARE BASED ON THOSE RECORDED IN P.C. 2, SL. 1556-1578. THE COORDINATE VALUES SHOWN ARE BASED ON VIRGINIA COORDINATE SYSTEM OF 1983, SOUTH ZONE (NAO 83) (1993 VIRGINIA HARN). SUFFOLK GEODETIC CONTROL SYSTEM. THE COORDINATE VALUES SHOULD NOT BE USED TO RE-ESTABLISH THE BOUNDARY LINE. REFER TO THE NORTH ARROW FOR ANGULAR RELATIONSHIP BETWEEN PLAT MERIDIAN AND VIRGINIA COORDINATE SYSTEM OF 1983, SOUTH ZONE (NAO 83). SUFFOLK GEODETIC CONTROL SYSTEM. CITY OF SUFFOLK VERTICAL DATUM IS NAVD 88.
2. FLOOD ZONE INFORMATION: THIS PROPERTY APPEARS TO FALL IN ZONE X (UNSHADED) AREA OUTSIDE FLOOD PLAIN. FLOOD ZONE WAS SCALED FROM FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 51D156 0004-B, EFFECTIVE DATE: NOVEMBER 16, 1990.
3. THIS PROPERTY IS ZONED B-2 (BUSINESS) AND IS IN THE CHESAPEAKE BAY PRESERVATION OVERLAY DISTRICT AND SPECIAL CORRIDOR OVERLAY DISTRICT (SCOD). USE COMMERCIAL/OFFICE.
4. REFERENCE PLAT: "SUBDIVISION OF PORTION OF NORTH AND WEST VILLAGES OF HARBOUR VIEW," RECORDED IN PLAT CABINET 2, AT SLIDES 155E THROUGH 157B.
5. BUILDING SETBACKS FOR PARCEL 15 AND 16: FRONT: 30' MINIMUM (SCOD) - HARBOUR VIEW BLVD.  
 SIDE: 10' MINIMUM  
 REAR: 30' MINIMUM (ADJACENT TO RESIDENTIAL ZONING)
6. ADJACENT TO R/W 20' MINIMUM (ADJACENT TO RESIDENTIAL ZONING)
7. LOTS TO BE SERVED BY PUBLIC WATER AND SEWER SYSTEMS.
8. THE PROPERTY ENCOMPASSED WITHIN THE LIMITS OF THIS SUBDIVISION FALLS IN TAX MAP 6, PARCEL 3.

THE UNDERSIGNED CERTIFY THAT THIS SUBDIVISION, AS IT APPEARS ON THIS PLAT, CONFORMS TO THE APPLICABLE REGULATIONS RELATING TO THE SUBDIVISION OF LAND AND IS ACCORDINGLY APPROVED.

BY SUCH APPROVAL, THE UNDERSIGNED DO NOT CERTIFY AS TO THE CORRECTNESS OF THE STREETS, BOUNDARIES OR OTHER LINES SHOWN ON THIS PLAT.

SIGNED: Jerrold W. Hutton, AGENT, CITY OF SUFFOLK, VIRGINIA  
 DATE: 6-30-03

SIGNED: Stacy D. Ezzell, AGENT, CITY OF SUFFOLK, VIRGINIA  
 DATE: 6-30-03

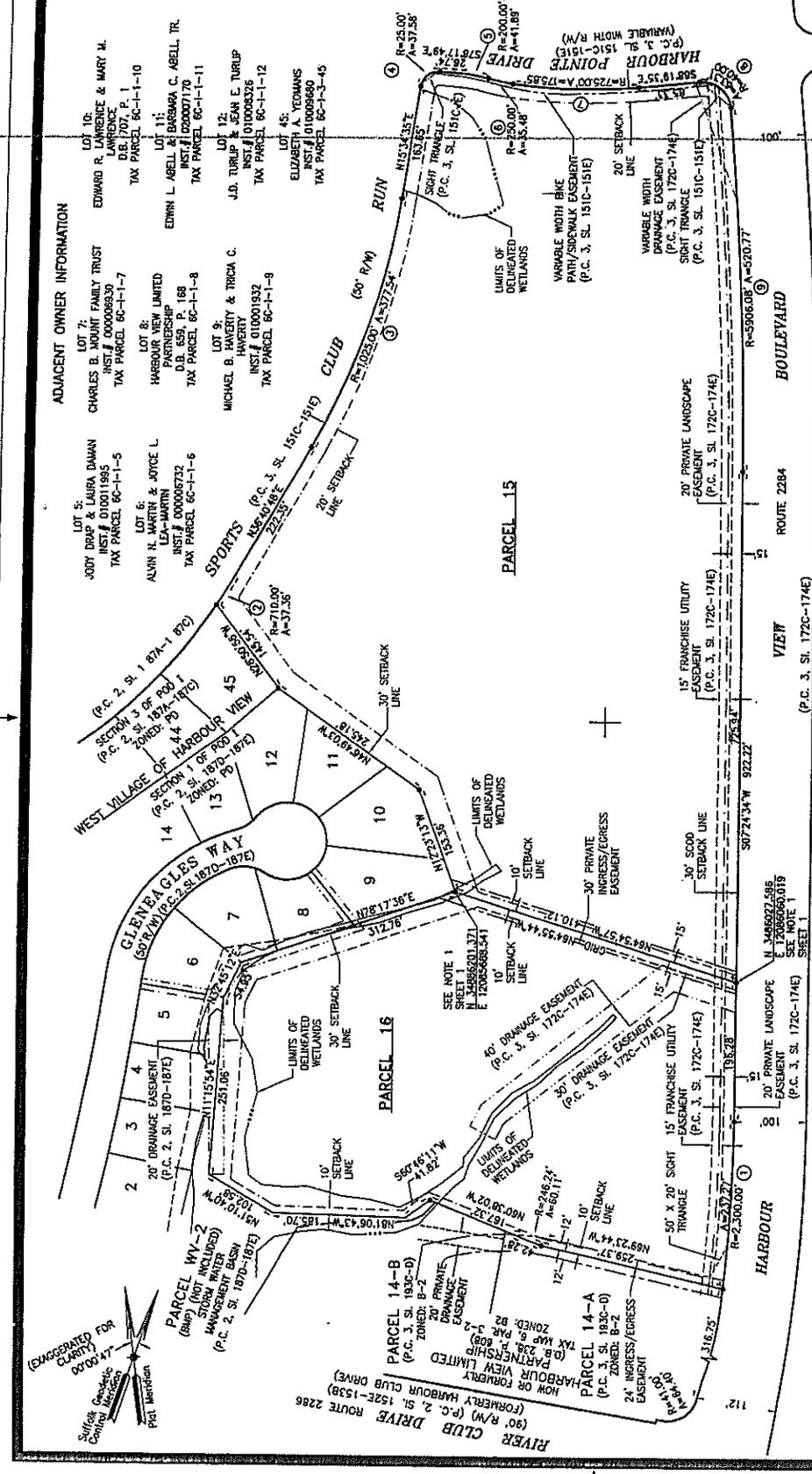
OWNER:  
 HARBOURVIEW PARTNERS  
 6801 HARBOUR VILLAGE LANE  
 SUFFOLK, VIRGINIA 23435  
 PHONE: 757-483-9800

VIRGINIA  
 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF SUFFOLK, ON THE 23rd DAY OF June, 2003, THIS PLAT WAS RECEIVED AND ADMITTED TO RECORD IN PLAT CABINET 3, AT SLIDES 231E AND 232E, AT 12:11 P.M.

TESTE: Kayne P. Davenport, CLERK  
 BY: Shirley A. Knight, D.C.



SLEEPY HOLE BOROUGH - SUFFOLK, VIRGINIA  
 SCALE: AS SHOWN  
 MARCH 7, 2003  
 ROUSE-SIRINE ASSOCIATES, LTD.  
 333 OFFICE SQUARE LANE  
 VIRGINIA BEACH, VIRGINIA 23462  
 TEL: (757) 480-2303 • www.rouse-sr.com



**ADJACENT OWNER INFORMATION**

LOT 10: EDWARD R. LAWRENCE & MARY M. LAWRENCE, JR. TAX PARCEL 6C-1-1-10

LOT 11: EDWIN L. ABELL & BARBARA C. ABELL, TR. INST. # 020007170 TAX PARCEL 6C-1-1-11

LOT 12: J.D. TURKUP & EARL E. TURKUP INST. # 010006154 TAX PARCEL 6C-1-1-12

LOT 45: ELIZABETH A. YEDAMAS INST. # 010009460 TAX PARCEL 6C-1-3-45

LOT 7: CHARLES B. MOUNT FAMILY TRUST INST. # 000049330 TAX PARCEL 6C-1-1-7

LOT 8: HARBOUR VIEW LIMITED PARTNERSHIP INST. # 000007373 TAX PARCEL 6C-1-1-8

LOT 9: MICHAEL B. HAVERTY & TRICA C. HAVERTY INST. # 010001932 TAX PARCEL 6C-1-1-9

LOT 5: JODY DRAPE & LAURA DAMAN INST. # 010011995 TAX PARCEL 6C-1-1-5

LOT 6: ALVIN K. LEWIS & JOYCE L. LEWIS INST. # 000007373 TAX PARCEL 6C-1-1-6

NOW OR FORMERLY  
DOMINION LANDS, INC.  
(O.B. 187, P. 574)  
(P.C. 1, S.I. 960-870)  
TAX MAP 6, PARCEL 2  
ZONED: M1

NOW OR FORMERLY  
HARBOURVIEW PARTNERS  
(O.B. 238, P. 608)  
(P.C. 2, S.I. 540-5)  
TAX MAP 6, PARCEL 3  
ZONED: M1

NOW OR FORMERLY  
HARBOURVIEW PARTNERS  
(O.B. 238, P. 608)  
(P.C. 2, S.I. 540-5)  
TAX MAP 6, PARCEL 3  
ZONED: M1

NOW OR FORMERLY  
HARBOURVIEW PARTNERS  
(O.B. 238, P. 608)  
(P.C. 2, S.I. 540-5)  
TAX MAP 6, PARCEL 3  
ZONED: M1

**SUBDIVISION PLAT**  
OF  
**PARCELS 15 AND 16**  
**HARBOUR VIEW**  
SLEEPY HOLE BOROUGH - SUFFOLK, VIRGINIA  
SCALE: 1"=100'

MARCH 7, 2003

**ROUSE-SIRINE ASSOCIATES, L.T.D.**  
SURVEYORS AND MAPPING CONSULTANTS  
333 OFFICE SQUARE LANE  
FARMINGHAM, VIRGINIA 23042  
TEL: (757) 896-2308 www.rouse-sirine.com

TESTE: *Kary P. Davenport* CLERK  
BY: *Walter J. Knight* D.C.

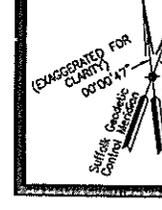
IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF SUFFOLK, ON THE 3rd DAY OF MARCH, 2003, THIS PLAT WAS RECEIVED AND ADMITTED TO BE RECORDED IN PLAT CABINET 3, AT SLIDES 231E AND 232E AT 12:11 P.M.

**CURVE TABLE**

NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	CH. BEARING
1	2,300.00'	05°54'38"	237.27'	116.74'	510°21'53"W	
2	710.00'	03°02'55"	37.36'	18.88'	N48°11'15"E	
3	1025.00'	2°10'13"	377.54'	190.93'	N26°07'42"E	
4	25.00'	86°07'36"	37.58'	23.36'	N56°30'23"E	
5	200.00'	12°00'00"	41.89'	21.02'	41.81'	572°17'48"E
6	250.00'	09°07'37"	35.46'	17.77'	35.46'	570°21'47"E
7	725.00'	13°53'19"	175.85'	88.35'	175.42'	S81°22'41"E
8	40.00'	89°41'01"	83.31'	40.48'	58.91'	S42°59'04"E
9	5906.08'	05°03'07"	520.77'	260.55'	520.60'	S04°53'00"W

**AREA SUMMARY**

PARCEL	NON-WETLAND	WETLAND	TOTAL AREA
	ACRE(S)	ACRE(S)	SQ. FT. ACRE(S)
15	14.586	0.404	653,400 15,000
16	6.455	0.533	302,285 6,840
TOTAL	21.041	0.937	955,685 21,840



**AGENDA: November 18, 2015, Regular Session**

**ITEM: Resolution** – A resolution adopting the 2016 Legislative Agenda for the City of Suffolk

The 2016 General Assembly Session for the Commonwealth of Virginia will convene on January 13, 2016. On November 4, 2015, City Council was presented with a proposed Legislative Agenda for the City of Suffolk. Adoption of the attached 2016 Legislative Agenda is necessary as we prepare to meet with our state legislators, prior to the start of the General Assembly Session, to discuss the matters of importance to Suffolk.

Attached, for Council's consideration, is a resolution to adopt the 2016 Legislative Agenda for the City of Suffolk.

**RECOMMENDATION:**

Adopt the attached resolution

**ATTACHMENT:**

Resolution

## RESOLUTION NUMBER

### A RESOLUTION ADOPTING THE 2016 LEGISLATIVE AGENDA FOR THE CITY OF SUFFOLK

WHEREAS, the City Council was presented with a proposed package of Legislative Priorities for the City of Suffolk on November 4, 2015, for their consideration in determining a Legislative Agenda for the upcoming General Assembly Session; and,

WHEREAS, the upcoming General Assembly Session will convene on January 13, 2016; and,

WHEREAS, adoption of the attached 2016 Legislative Agenda is necessary as we prepare to meet with our state legislators, prior to the start of the General Assembly Session, to discuss the matters of importance to the City of Suffolk.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Suffolk, Virginia, that the following legislative requests, policy positions, and funding requests should be advanced for the City of Suffolk, in the upcoming General Assembly Session:

#### Legislative Requests and Policy Positions

- Ground Water Withdrawal Conservation Incentive and Regulatory Certainty Program Legislation

The Western Tidewater Water Authority, City of Suffolk, and Isle of Wight County supports legislation that will reduce current water withdrawal permits to protect the sustainability of the aquifers, so long as each of the major permittees who voluntarily take a sufficient permit reduction, are granted an adequate transition period followed by a reasonable regulatory certainty period.

- Education Funding

The City asks that public education remain a top priority of the General Assembly and that State spending on K-12 be significantly increased during the 2016 Session of the General Assembly.

- Commonwealth Rail Line Safety Relocation

The City of Suffolk appreciates and supports the positive action taken by the Suffolk delegation to move this important initiative forward. The current rail alignment in the City of Suffolk has a negative impact on existing businesses, impacts emergency response times and traffic patterns. Suffolk supports finding and implementing a funding solution to this State problem.

- Western Tidewater Regional Jail (WTRJ) Federal Recovery Request for Exemption

The WTRJ is requesting a full exemption from the federal overhead recovery policy to allow it to keep the full federal per diem it receives for each federal inmate. The taxpayers in WTRJ's member localities should not be required to make up the difference in cost for housing federal inmates as their federal taxes already paid to house these federal prisoners. The City of Suffolk supports this request.

- Historic Preservation Tax Credit

The City of Suffolk strongly endorses the Historic Preservation Tax Credit program and opposes any effort to end the program.

- Business, Professional and Occupational License tax (BPOL)

The City of Suffolk opposes the repeal or restriction of BPOL, machinery and tools, or excise taxes unless, at a minimum, suitable revenue-neutral replacement sources are provided.

- Apportionment of Liability for Teacher Retirement Plan

The City of Suffolk supports legislation that would provide for the Virginia Department of Education to pay its share of retirement costs directly to the Virginia Retirement System in order to facilitate the sharing of these liabilities.

- Chesapeake Bay TMDL

The City of Suffolk requests that plans to restore the Chesapeake Bay include funding to enact regulations.

- PCB TMDL

The City of Suffolk requests that our legislators monitor this TMDL process and work closely with state agencies to provide reasonable reductions for industries that are the primary contributors of PCBs, while limiting the responsibilities of municipalities to control a load from sources that are legally permissible.

- Mandates

The City of Suffolk opposes the shifting of costs to local governments through continued underfunding, reduction or elimination of programs and services. Any legislation having a fiscal impact on local governments should also be accompanied with State appropriations adequate to cover the full cost of such mandates.

Funding Requests

In order to address significant transportation deficiencies and to foster future major economic development initiatives, funding is desperately needed for the following categorized projects:

- Primary Roadway  
Route 58 – Holland Road (widening from a four-lane road to that of a six-lane roadway)
- Godwin Bridge Capacity Expansion  
The construction of a bridge over the Nansemond River, parallel to the Godwin Bridge
- Railroad Crossing
- Improvements related to increased rail traffic from recent and projected expansion to port facilities in the Commonwealth
- Funding for safety upgrades and/or grade separation at existing at-grade rail crossings throughout the City
- Bridge Replacement  
Replacement of the Kings Highway Bridge
- Dredging Project  
Continued Maintenance Dredging of Bennett’s Creek

The City Manager be, and is hereby, authorized and directed to do all things necessary to put into action the attached 2016 Legislative Agenda for the City of Suffolk.

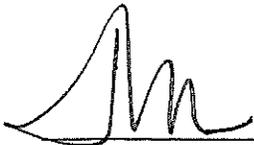
This resolution shall be effective upon adoption.

READ AND ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

# **Staff Reports**

**AGENDA: November 18, 2015, Regular Session**

**ITEM: Motion - A motion to initiate a street name change for Kenyon Court**

**RECOMMENDATION:**

Approve the motion

## **Motion to Schedule a Work Session**

## **Non-Agenda Speakers**

# **New Business**

# **Announcements and Comments**