

**SUFFOLK PLANNING COMMISSION  
AGENDA FOR  
JULY 7, 2020**



**PREPARED BY THE CITY OF SUFFOLK DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT  
DAVID HAINLEY, DIRECTOR**

**THE REGULAR MEETING WILL BE HELD AT 2:00 P.M. IN  
THE SUFFOLK CITY COUNCIL CHAMBERS OF THE CITY HALL BUILDING**

**IF YOU CANNOT ATTEND OR NEED SPECIAL ACCOMODATIONS AT THE  
MEETING, PLEASE CALL THE CITY OF SUFFOLK DEPARTMENT OF PLANNING  
& COMMUNITY DEVELOPMENT AT (757) 514-4060  
PRIOR TO 12:00 NOON ON FRIDAY, JULY 3, 2020.**

**HOWARD C. BENTON  
CHAIRMAN**

**Suffolk**  
V I R G I N I A  
*It's a good time to be in Suffolk*



## AGENDA

### SUFFOLK PLANNING COMMISSION

July 7, 2020

2:00 P.M.

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1. Call to Order
  - A. Invocation
  - B. Roll Call
2. Approval of minutes from previous meeting
3. Family Transfer Subdivision Plats:
  - A. **FAMILY TRANSFER SUBDIVISION PLAT FTR2020-00001**, submitted by Whitney G. Saunders, applicant, on behalf of Bennie L. Williams Sr., and Carole C. Williams, property owners, requesting a family transfer subdivision pursuant to Section 31-514 of the Unified Development Ordinance. The affected property is identified as Zoning Map 32, Parcel 7A\*6, Holy Neck Voting Borough, zoned A, Agricultural Zoning District. The City's 2035 Comprehensive Plan identifies this property as being located within the Rural Agriculture Use District.
  - B. **FAMILY TRANSFER SUBDIVISION PLAT FTR2020-00003**, submitted by Frank M. Rawls, applicant, on behalf of Barbara Lowe Copeland, property owner, requesting a family transfer subdivision pursuant to Section 31-514 of the Unified Development Ordinance. The affected property is identified as Zoning Map 31, Parcel 7, Holy Neck Voting Borough, zoned A, Agricultural Zoning District. The City's 2035 Comprehensive Plan identifies this property as being located within the Rural Agriculture Use District.
4. Public Hearings:
  - A. **REZONING REQUEST, RZN2018-009, (Conditional), Turlington Woods**: submitted by Whitney G. Saunders, Saunders and Ojeda P. C., agent, on behalf of Bobby Glenn Johnson, Turlington Road Associates, applicant and property owner, in accordance with Sections 31-304 and 31-305 of the Unified Development Ordinance, to rezone and amend the official zoning map of the City of Suffolk to change the zoning from A, Agricultural zoning district, to RLM, Residential Low Medium Density zoning district, for property located on the south side of Turlington Road, Zoning Map 43, Parcel 19. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned A, Agricultural zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

- B. REZONING REQUEST, RZN2020-004, (Conditional), Sam's Express Car Wash,** submitted by Whitney G. Saunders, Saunders & Ojeda P.C., agent, on behalf of Chris Morgan, SXCW Properties II, LLC, applicant, on behalf of HVS East LLC, property owner, in accordance with Sections 31-304 and 31-405 of the Unified Development Ordinance, to rezone and amend the previously approved proffered conditions, for property located at 6460 and 6472 Hampton Roads Parkway, Zoning Map 6, Parcels 27C\*1\*A and 27C\*1\*B. The purpose of this request is to modify the prohibited uses stated in the Land Use Design Standards pertaining to the development of Harbour View East. The affected area is further identified as being located in the Nansemond Voting Borough, zoned B-2, General Commercial Zoning District and O-I, Office Institutional Zoning District. The 2035 Comprehensive Plan designates this area as part of the Northern Growth Area, Mixed Use Core Use District.
- C. REZONING REQUEST, RZN2020-003, (Conditional), Somerton Auto Auction:** submitted by Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Ram Adar, BHT Properties Group, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners, in accordance with Sections 31-304 and 31-405 of the Unified Development Ordinance, to rezone and amend the official zoning map of the City of Suffolk to change the zoning from O-I, Office-Institutional zoning district to M-2, Heavy Industrial zoning district, for property located on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned O-I, Office-Institutional zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.
- D. CONDITIONAL USE PERMIT REQUEST, CUP2020-004, Somerton Auto Auction:** submitted by Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Ram Adar, BHT Properties Group, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish an automobile auction, automobile graveyard, and automobile storage yard, Zoning Map 44, Parcels 92A, 92D, and 94. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned O-I, Office-Institutional zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.
- E. CONDITIONAL USE PERMIT REQUEST, CUP2020-003, CrossPointe Freewill Baptist Church:** submitted by David Sexton, applicant and property owner, CrossPointe Freewill Baptist Church, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, in order to amend the previously approved conditions pertaining to the establishment of a Day care, child (as accessory use to a permitted place of worship or school), and to expand an existing place of worship, large, at least 6,000 square feet in main sanctuary, on property located at 2460 Pruden Boulevard, Zoning Map 25A, Parcel 1\*A. The purpose of this request is to increase maximum permitted enrollment from 50 to 100 children pertaining to the daycare use at CrossPointe Freewill Baptist Church and to expand the allowable capacity in the main sanctuary from 177 seats to 210 seats. The affected area is further identified as being located in the Suffolk Voting Borough, zoned B-2, General Commercial zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Inner Ring Suburban Use District.

- F. CONDITIONAL USE PERMIT REQUEST, CUP2020-007, Mini-Farm:** submitted by Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, 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 Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B and Zoning Map 64A, Parcel 70C. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned VC, Village Center Zoning District. The 2035 Comprehensive Plan designates this area as part of the Whaleyville Village Use District.
- G. CONDITIONAL USE PERMIT REQUEST, CUP2020-006, Stable, commercial:** submitted by Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, 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 Stable, commercial, on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B and Zoning Map 64A, Parcel 70C. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned VC, Village Center Zoning District. The 2035 Comprehensive Plan designates this area as part of the Whaleyville Village Use District.
- H. CONDITIONAL USE PERMIT REQUEST, CUP2020-009, Building Resilient Solutions:** submitted by Marcus and Paige Pollard, 139 North Main Street LLC, property owners, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish Research and development, laboratories, on property located at 147 and 149 North Main Street, Zoning Map 34G18(A), Parcels 317\*16 and 317\*17. The affected area is further identified as being located in the Suffolk Voting Borough, zoned CBD, Central Business District. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Mixed Use Core Use District.

5. Old Business
6. New Business
  - A. Status Report – City Council Meeting, June 17, 2020
  - B. Status Report - Preliminary Plats Approved
7. Commissioner’s Comments
8. Adjournment



## MINUTES

### SUFFOLK PLANNING COMMISSION

June 16, 2020

2:00 P.M.

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The meeting of the Suffolk Planning Commission was held on Tuesday, June 16, 2020, at 2:00 p.m., in the Council Chambers of the Municipal Building, 442 W. Washington Street, Suffolk, Virginia, with the following persons present:

MEMBERS:

Howard Benton, Chairman  
Arthur Singleton  
Oliver Creekmore  
John Rector  
Kittrell Eberwine  
Mills Staylor

STAFF:

Helvi Holland, City Attorney  
David Hainley, Dir. of Planning & Com. Dev.  
Robert P. Goumas, Assistant Dir. of Planning  
Grace Braziel, Planner I  
Amy Bocchicchio, Principal Planner  
Kevin Wyne, Current Planning Manager  
Catina Myrick, Administrative Analyst

The meeting was called to order by Chairman Benton and Commissioner Rector opened with a prayer. The roll was called by Mr. Hainley and the Chairman was informed that a quorum was present.

**APPROVAL OF MINUTES:**

The minutes of the previous meeting were approved as written.

**PUBLIC HEARINGS:**

**REZONING REQUEST, RZN2019-010, (Conditional), Harbour View Parcel 11:** submitted by Melissa Venable, Land Planning Solutions, agent, on behalf of Scott Overton, Suffolk Towers LLC, applicant and property owner, in accordance with

Sections 31-304 and 31-305 of the Unified Development Ordinance, to rezone and amend the official zoning map of the City of Suffolk to change the zoning from O-I, Office-Institutional zoning district, to RU-12, Residential Urban-12 zoning district, for property located at 6808 Harbour View Boulevard, Zoning Map 6, Parcel 2J\*C. The affected area is further identified as being located in the Nansemond Voting Borough, zoned O-I, Office-Institutional Zoning District. The 2035 Comprehensive Plan designates this area as part of the Northern Growth Area, Mixed Use Core Use District.

The first item of business was introduced by the Chairman followed by a staff report by Grace Braziel, Planner I. Mrs. Braziel stated that this request is to rezone a portion of the property from OI, Office Institutional zoning district, to RU-12, Residential Urban-12 zoning district, to construct a residential age restricted development. The applicant stated that the reason for seeking the proposed rezoning is to rezone a portion of the site to high density residential to establish and enhance economic diversity and vitality, and create a more efficient pattern of development, and provide an urban Active Adult neighborhood to support the surrounding commercial uses. Commercial parcels have been proposed to remain as O-I fronting Harbour View Blvd. and the main entrance into the site. Additionally, the narrative provided by the applicant stated that research has indicated that leaving this site in its entirety as O-I would create a vehicle dependent site with no opportunity for place making. As proffered, the development would yield no more than 237 residential units, which equates to a density of 10.4 units per acre, a little less than the maximum of 12 units per acre permitted in the RU-12 zoning district and a significantly lower density than the

recommendation of 25-40 dwelling units per acre recommended in the 2035 Comprehensive Plan for the Mixed Use Core. To address the concern of the overall density of the residential development, the applicant proffered an exhibit that designates a density for the different unit types in the proposed age-restricted development and has dedicated acreage for the town green and the conservation area that consist of wetlands. The Proposed Land Use Plan, proffers a density of 6.3 dwelling units per acre for townhomes, a density of 5.5 dwelling units per acre for 4-plex units, and a density of 31.1 dwelling units per acre for multi-family units. The overall density for the proposed development of 237 units is not compatible with the Mixed Use Core District; however, broken down by unit type the portion of the property that is to consist of a multi-family building would meet the recommended density with a proposed density of 31.1 units per acre. The proffered Land Use Plan shows the multi-family building being street oriented and it also designates 2.3 acres for a town green which is encouraged within an urban neighborhood. The front portion of the property to remain O-I zoning district would be followed by a high density multi-family building oriented to the street and would provide a natural transition from Harbour View Blvd. to the rear of the property that would have lower density 4-plex units and townhomes. The front portion of the property to remain O-I has the opportunity to be developed into office, medical office, research and development, and

civic uses, which is beneficial for the continuation of this part of the commercial and office corridor. Given a total of approximately 6 developable acres to remain O-I has the potential to accommodate approximately 156,816 square feet of non-residential uses. The residential development would serve to support the commercial and office related uses in the front. According to the traffic impact study provided by the applicant, as currently proposed, the development would generate significantly less traffic than the current by-right zoning. The applicant proffered the recommendations made in the study, which consist of constructing a shared left-through lane and an exclusive right turn lane along Harbor View Blvd. and the site entrance. Additionally, the traffic impact study recommended to construct a northbound right-turn lane and provide a pedestrian area for a future transit stop along Harbour View Blvd. and the site entrances. The Traffic Engineering Division reviewed the study and has no objections to the proposed change in zoning. In summary, staff found that this rezoning application meets the intent of the provisions of the 2035 Comprehensive Plan and the UDO. The proposed development would offer a variety of age restricted housing types at different densities. The front portion of the property to remain O-I zoning district followed by a high density multi-family building would provide a natural transition from Harbour View Blvd. to the rear of the property that would have lower density 4-plex units and townhomes at the rear. Additionally, the proposed development has the

potential to generate significantly less traffic than the current by-right zoning as outlined in the submitted TIA. Although the overall density falls below the recommended density for the Mixed Use Core established in the Comprehensive Plan, the applicant proffered densities by unit type and a portion of the development would meet the recommended density for the Use District. Overall the proposal provides for both commercial and residential uses in this location and contributes toward maintaining the balance of residential and non-residential uses. Staff recommended approval of this application with the proffers noted in the staff report.

The public hearing was opened and speaking in favor of this application was Melissa Venable, Land Planning Solutions, 5857 Harbourview Blvd., Suffolk, VA.

There being no speakers in opposition, the public hearing was closed.

Commissioner Creekmore noted that he is in the process of purchasing a Welden Field and Rowe property at Retreat @ Bennett's Creek, but has nothing to do with this application.

Commissioner Singleton made a motion to approve this application with the proffers, seconded by Commissioner Rector and passed by a recorded vote of 6 to 0.

**CONDITIONAL USE PERMIT REQUEST, CUP2019-016, Commercial Stable, 4200 Lake Point Road:** submitted by Pamela W. and Scott Troutman, Sr., applicants and property owners, in accordance with Sections 31-306 and 31-406 of the Unified

Development Ordinance, to grant a Conditional Use Permit to establish a Stable, commercial, on property located at 4200 Lake Point Road, Zoning Map 16, Parcel 24. The affected area is further identified as being located in the Holy Neck Voting Borough, zoned RE, Rural Estate zoning district. The 2035 Comprehensive Plan designates this area as part of the Rural Agricultural Use District.

The next item of business was introduced by the Chairman followed by a staff report by Grace Braziel, Planner I. Mrs. Braziel stated that this conditional use permit is to establish commercial stables. The property currently has horses on it and has been used in the past as a private stable. The applicant proposed to utilize an existing horse stable and pastures to commercially board up to 15 horses not including their own. The existing horse stable has a total of 7 stalls allowing for 7 horses to be boarded. The remaining 8 horses are proposed to be pasture boarded. The applicant is not proposing riding lessons or shows at this time. The property is accessed from a private drive that leads to a public road. The applicant provided documentation that shows there is an existing ingress/egress easement to the property. Maintenance of the gravel drive is currently the responsibility of the adjacent property owners under a maintenance agreement. The housing of horses shall be constructed so as to facilitate maintenance in a clean and sanitary environment. There are currently no run-ins or structures that provide shelter to the horses in the pasture. Therefore, staff recommended that the number of horses to be commercially boarded be limited to the number of stalls in the stable and run-ins or structures in the pastures to ensure shelter is provided for the

horses. The requested number of horses to be commercially boarded does not exceed the number of horses permitted for the property. The property owners currently use the property for their personal horses and requesting to board horses other than their own for profit. The proposed commercial stable use is consistent with the existing character and surrounding land uses and should not be injurious to the use or enjoyment of properties in the immediate area. The Nutrient Management Plan, and a Conservation Plan Report that was submitted with this application provided management procedures for rotational grazing and spreading of manure for the four existing pastures on site to address increases in waste that could be produced by the proposed use. The plans recommended that soil samples be taken once a rotation or every three years to maximize utilization of soil nutrients and that fertilizer not be spread on windy days or on frozen or saturated soils to prevent potential runoff. The Conservation Plan Report stated that the existing 100-foot resource protection area buffer is currently functioning and is fully vegetated around the entire pasture area and outlines management procedures for prescribed grazing land management to reduce the risk of surface and groundwater contamination from nonpoint source pollution from the pastures by managing stocking rates and grazing periods. To ensure that the proposed use shall not be detrimental to or endanger the public health, or general welfare, staff recommended that the procedures outlined in the Nutrient Management Plan, and the Conservation

Plan Report are met. Overall the proposed use of a commercial stable is consistent and compatible with the existing uses in the surrounding area. Staff recommended approval of this application with the conditions noted in the staff report.

The public hearing was opened and speaking in favor of this application was Scott Troutman, property owner. He asked for the Commission's approval of this request. Also, speaking in favor of this application was David Pest, 4069 Lake Point Rd., Suffolk, VA. He stated that he is in support of this application.

There being no speakers in opposition, the public hearing was closed.

Commissioner Staylor made a motion to approve this application with the conditions, seconded by Commissioner Creekmore and passed by a recorded vote of 6 to 0.

**CONDITIONAL USE PERMIT REQUEST, CUP2020-001, 126 W. Washington Street Indoor Amusement Center:** submitted by Christopher Mayes, Party Time Entertainment LLC, applicant, on behalf of Cynthia Ives, SVN Lead Commercial, agent, on behalf of Washington Lofts, LLC, property owner, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish an Amusement/entertainment/recreation center, indoor, on property located at 126 W. Washington Street, Zoning Map 34G18(A), Parcel 303. The affected area is further identified as being located in the Suffolk Voting Borough, zoned CBD, Central Business District. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Mixed Use Core Use District.

The next item of business was introduced by the Chairman followed by a staff report by Grace Braziel, Planner I. Mrs. Braziel stated that this conditional use permit is to

establish an indoor amusement center. The applicant proposed to utilize the rear portion of the first floor to rent the space for small gatherings and birthday parties. The rental space is proposed to have an area for video game equipment, a play area that will have games such as table tennis, board games, arts and crafts, and an area for seating. The applicant stated there will be no alcoholic beverages allowed on the premises to provide an environment that is family friendly; however, if alcoholic beverages are served on the property the applicant will be responsible for obtaining all licenses and approvals from the Virginia Department of Alcoholic Beverage Control. The proposed hours of operation for the rental space will be from 12 pm to 8 pm on weekdays and 12 pm to 9 pm on weekends, which is consistent with the hours of operation for similar uses that have been approved. The space will not be open to the public and will only be available for private parties during the proposed hours of operation. The rental space in the back will not be open to the public and will be private to whoever is renting the space and the front rental and retail business will be open to the public. The proposed indoor amusement center will be located within an existing building located in an established commercial area located in the downtown core which has a mix of different commercial uses such as retail stores, restaurants, and office spaces. The proposed use will be compatible with existing uses and will not be injurious and should not impede the orderly development and improvement of the surrounding area. Additionally, to

protect the use and enjoyment of the neighboring properties, staff recommended a condition to limit the hours of operation. The requested indoor amusement use is similar to and compatible with the existing uses in the surrounding area. In addition, given the existing available infrastructure and location in an established commercial district, the use will not adversely impact the surrounding neighborhood. Accordingly, staff recommended approval of this application with the conditions noted in the staff report.

The public hearing was opened and speaking in favor of this application was Christopher Mayes, applicant. He asked for the Commission's approval of this request.

There being no speakers in opposition, the public hearing was closed.

Commissioner Singleton made a motion to approve this application with the conditions, seconded by Commissioner Eberwine and passed by a recorded vote of 6 to 0.

**CONDITIONAL USE PERMIT REQUEST, CUP2020-002, 153 W. Washington Street Indoor Amusement Center:** submitted by Brian S. Stewart, 153 West Washington LLC, applicant and property owner, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish an Amusement/entertainment/ recreation center, indoor, on property located at 153 W. Washington Street, Zoning Map 34G18(2), Parcel 9\*9A. The affected area is further identified as being located in the Suffolk Voting Borough, zoned CBD, Central Business District. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Mixed Use Core Use District.

The next item of business was introduced by the Chairman followed by a staff report by Amy Bocchicchio, Principal Planner. Mrs. Bocchicchio stated that this application is to establish the Will-O-Wisp Family Game Store and Café on the property. The proposed business would include tabletop games, board games, card games, a café offering meals and refreshments, as well as a toddler play area and a private event/classroom area in the rear. The business would offer games, cards, books, toys, décor, and artwork items for sale, in addition to a library of items for patrons to rent and return for small fees. The applicant indicated that there will be no gambling or cash prizes involved with the business. The projected hours of operation will be from 2 p.m. – 8 p.m. Tuesday through Friday, 12 p.m. - midnight on Saturday, 12 p.m. – 8 p.m. on Sunday, and closed on Mondays. The applicant would like the opportunity to vary their hours of operation based on the desires of their customers and special events. The hours of operation that have consistently been approved for similar uses in the downtown area include: Sunday to Thursday 9:00 a.m. – 11 p.m., and Friday and Saturday 9:00 a.m. – 12:00 a.m./midnight; thus, the proposed hours for the subject business would fall within the range of hours approved for similar uses. The business is designed to be family-friendly and no alcohol is proposed to be served at this time. In the case that the business owner would like to serve alcohol, they will be responsible

for obtaining all licenses and approvals from the Virginia Department of Alcoholic Beverage Control. The applicant proposed a maximum occupancy of forty-nine (49) patrons including staff and customers; however, this would ultimately be determined by the Suffolk Building Official and Fire Marshall. There will be cafeteria style seating that allows customers to play games and enjoy refreshments at the same time. There are currently two restrooms and no major physical changes are proposed to the building. Staff reviewed this application for compliance as set forth in the UDO and determined the proposed indoor amusement use is appropriate at this location. This application also complies with the goals of the 2035 Comprehensive Plan and the Downtown Master Plan. Therefore, staff recommended approval of this application with the conditions noted in staff report.

The public hearing was opened and speaking in favor of this application was Brian Stewart, property owner. He asked for the Commission's approval of this application. There being no speakers in opposition, the public hearing was closed.

Commissioner Staylor made a motion to approve this application with the conditions, seconded by Commissioner Rector and passed by a recorded vote of 6 to 0.

**EXCEPTION REQUEST, CEX2020-001, 2882 Cross Landing Drive:** submitted by Bobby Reed, Parker Crossing, Inc., applicant, on behalf of Robert A. and Donna Park, property owners, in accordance with Section 31-415 of the Unified Development

Ordinance, to grant an Exception to the development criteria and buffer area requirements of the Chesapeake Bay Preservation Area to permit a black aluminum fence to encroach into the 100-foot Resource Protection Area buffer, on property located at 2882 Cross Landing Drive, Zoning Map 26F, Parcel RB\*88. The affected area is further identified as being located in the Chuckatuck Voting Borough, zoned PD, Planned Development Overlay District. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

The next item of business was introduced by the Chairman followed by a staff report by Grace Braziel, Planner I. Mrs. Braziel stated that the applicant requested an exception from the regulations of the CBPA Overlay District to encroach into the 100-foot Resource Protection Area Buffer for the construction of a black aluminum fence 48 inches in height. The proposed fencing will extend a total of 220 linear feet and encroach approximately 40 feet within the 50-foot landward portion of the 100-foot RPA buffer. The applicant proposed to install the black aluminum fence to extend from an existing white vinyl fence to enclose the rear yard. The current white vinyl fence is located outside of the RPA buffer and the proposed extension of aluminum fencing would encroach into the 50-foot landward portion of the buffer. The applicant stated that no portion of the buffer inside or outside of the proposed fencing will be cleared. The proposed aluminum fence would not interrupt any surface flow; however, the installation of fencing to enclose a rear yard gives the appearance that the area within the fence can be cleared for a grass yard. The installation of fencing within the 100-foot RPA buffer consequently results in the clearance of the buffer located within the

fenced area. Similar requests have consistently been denied, as such, this request would confer special privileges that have been denied to other property owners. The subject lot was created in 2013 and the residential structure on the property was constructed in 2016 after the adoption of the Chesapeake Bay Preservation Area regulations. Staff does believe that this request is based upon conditions that are self-imposed. Staff also believes this request adversely impacts the 100-foot RPA buffer and as such the encroachment exceeds the threshold of the minimum necessary to afford relief. Staff found that the applicants' request does not satisfy the criteria outlined in the UDO to grant an exception to the requirements of the CBPA Overlay District. The applicants request for the encroachment of a fence within the 100-foot RPA Buffer is inconsistent with the intent and purpose of the Chesapeake Bay Overlay. Additionally, the request is not the minimum necessary to afford relief because the proposed fencing is able to be placed outside of the buffer and be installed to provide an enclosed rear yard. In that regard, staff recommended denial of this application. The public hearing was opened and speaking in favor of this application was Bobby Reed, Parker Crossing, Inc. He stated that the property owners are more than willing to sign an agreement stating that they are not pushing their yard further out into the RPA and will not be taking down trees. They are also willing to add more trees or bushes for mitigation. He advised that the reason for the extension into the RPA is to

allow the property owners to have a larger back yard in order to walk with their animals in an enclosed area.

Also, speaking in favor of this application was Donna Park, property owner. She advised that they have no intentions of altering any aspects of the wooded area. She asked for the Commission's approval of this application.

Speaking in opposition was Bruce Russell, Vice President of the Architectural Committee of Riverbluff. He asked for the Commission's denial of this application because the Homeowner's Association covenants prohibits anyone putting a fence into the RPA.

There being no more speakers, the public hearing was closed.

Commissioner Rector made a motion to deny this application, seconded by Commissioner Singleton and passed by a recorded vote of 5 to 1.

#### **STATUS REPORT:**

Mr. Hainley reported on the results of the February 5<sup>th</sup> and 19<sup>th</sup> City Council meeting.

Mr. Hainley also reported on the preliminary plats approved.

#### **OTHE BUSINESS:**

Due to the delay of backlog cases, Commissioner Staylor made a motion to have a special called Planning Commission meeting on July 7<sup>th</sup> at 2:00 p.m., seconded by Commissioner Singleton and passed by a recorded vote of 6 to 0.

Helivi Holland, City Attorney, gave a brief discussion on the 2020 Legislative Update.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned.



PLANNING COMMISSION  
MEETING

June 16, 2020

MT: Singleton

2<sup>ND</sup>: Rector

TO: Approve  
w/proffers

MT: Staylor

2<sup>ND</sup>: Creekmore

TO: Approve  
w/conditions

MT: Singleton

2<sup>ND</sup>: Eberwine

TO: Approve  
w/conditions

MT: Staylor

2<sup>ND</sup>: Rector

TO: Approve  
w/conditions

		VOTE: 6-0		VOTE: 6-0		VOTE: 6-0		VOTE: 6-0		
		RZN2019-010		CUP2019-016		CUP2020-001		CUP2020-002		
	PRESENT	ABSENT	YES	NO	YES	NO	YES	NO	YES	NO
Benton, Howard C.	X		X		X		X		X	
Creekmore, Oliver	X		X		X		X		X	
Eberwine, Kittrell	X		X		X		X		X	
Edwards, Johnnie		X								
Hicks, Anita		X								
Rector, John	X		X		X		X		X	
Singleton, Arthur	X		X		X		X		X	
Staylor, Mills	X		X		X		X		X	



PLANNING COMMISSION  
MEETING

June 16, 2020

MT: Rector

2<sup>ND</sup>: Singleton

TO: Deny

MT:

2<sup>ND</sup>:

TO:

MT:

2<sup>ND</sup>:

TO:

MT:

2<sup>ND</sup>:

TO:

VOTE: 5-1

CEX2020-001

VOTE:

VOTE:

VOTE:

PRESENT

ABSENT

YES

NO

YES

NO

YES

NO

YES

NO

Benton, Howard C.

X

X

Creekmore, Oliver

X

X

Eberwine, Kittrell

X

X

Edwards, Johnnie

X

Hicks, Anita

X

Rector, John

X

X

Singleton, Arthur

X

X

Staylor, Mills

X

X

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# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT  
*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Family Transfer Subdivision Plat FTR2020-00001, submitted by Whitney G. Saunders, applicant, on behalf of Bennie L. Williams Sr., and Carole C. Williams, property owners, requesting a family transfer subdivision pursuant to Section 31-514 of the Unified Development Ordinance. The affected property is identified as Zoning Map 32, Parcel 7A\*6, Holy Neck Voting Borough, zoned A, Agricultural Zoning District. The City's 2035 Comprehensive Plan identifies this property as being located within the Rural Agriculture Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Holly Steele, the staff planner handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

David Hainley  
Director of Planning and Community Development

/hps

Attachments

# STAFF REPORT

## DESCRIPTION

**FAMILY TRANSFER SUBDIVISION PLAT FTR2020-00001:** Family Transfer Subdivision Plat, FTR2020-00001, submitted by Whitney G. Saunders, applicant, on behalf of Bennie L. Williams Sr., and Carole C. Williams, property owners, requesting a family transfer subdivision to create one (1) new parcel for their son, Victor L. Williams, pursuant to Section 31-514 of the Unified Development Ordinance.

**APPLICANT:** Whitney G. Saunders, Saunders & Ojeda, P.C. A copy of this staff report was sent to the applicant on July 2, 2020.

**LOCATION:** The subject property is located on the south side of Indian Trail and is further identified as Zoning Map 32, Parcel 7A\*6.

**PRESENT ZONING:** The property is currently zoned A, Agricultural zoning district.

**EXISTING LAND USE:** The property consists of fields, forested land and agricultural buildings and it measures 23.867 acres in size. There is currently a dwelling on the property along with several accessory structures.

**PROPOSED LAND USE:** This family transfer subdivision is a proposal to create one (1) new lot comprised of 10.2934 acres for Mr. and Mrs. Williams's son, Victor Williams. Mr. and Mrs. Williams would retain 13.5396 acres as their residue parcel after the dedication of 0.034 acres of right of way along the proposed new parcel.

### **SURROUNDING LAND USES:**

North: Single-family dwellings, fields and forested land zoned Agricultural.

East: Single-family dwellings, fields and forested land zoned Agricultural.

West: Single-family dwellings, fields and forested land zoned Agricultural.

South: Single-family dwellings, fields and forested land zoned Agricultural.

**COMPREHENSIVE PLAN:** The City's 2035 Comprehensive Plan identifies this property as being located within the Rural Agriculture Use District.

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

**CASE HISTORY:** Bennie L. Williams, Sr. and Carole C. Williams purchased the subject property in 2011 from Bennie L. Williams, Jr. and Vickie L. Williams (Instrument #1109000187190), and their son, Victor Lee Williams, has not previously received a family transfer parcel; therefore, they are eligible for the requested family transfer.

Bennie L. Williams, Sr. and Carole C. Williams also executed a family transfer on Tax Map Parcel 32\*7A\*6 on a plat dated October 18, 2000. The plat titled "Family Transfer Plat Showing Subdivision of Property Owned by Bennie L. Williams, Jr. and Vickie L. Williams" created three new lots, Tax Map 32 Parcels 7A\*6\*1, 7A\*6\*2, and 7A\*6\*3. This plat was recorded on October

15, 2001 (Instrument #015395105 and Plat Cabinet 3, Slide 113B and C).

## STAFF ANALYSIS

### ISSUE

Mr. Bennie L. Williams, Sr. and Carole C. Williams own a parcel of land on Indian Trail Road comprised of 23.867 acres from which they propose to subdivide a 10.2934-acre parcel to their son, Victor Lee Williams, pursuant to Section 31-514 of the Unified Development Ordinance (UDO). Half of the ultimate street right of way width must be dedicated along the frontage of the proposed new lot only, which is about 0.034 acres; thus, as a result of the plat, Mr. and Mrs. Williams would retain 13.5396 acres as their residue parcel.

### CONSIDERATIONS AND CONCLUSIONS

1. Pursuant to the provisions of Section 31-514(a) of the Unified Development Ordinance (UDO), it is the purpose and intent of a Family Transfer Subdivision to keep the family estate within the immediate family and not for the purpose of short term investment for sale after division to those outside of the immediate family. It is the further intent to provide family members the ability to remain in close proximity as housing needs change, to provide mutual opportunities for support and care of family members, and to allow the preservation of family land holdings which might otherwise be fragmented for economic reasons.
2. Lot dimensions and building setback lines for the proposed new lots are consistent with the A, Agricultural zoning district, as set forth in Table 407-1 of the UDO. There is adequate area on the new proposed lots for the son to have his own dwelling and the necessary drain field.
3. Pursuant to the provisions of Section 31-514(a) of the UDO and Virginia Code Section 15.2-2244 (A), the property owner requests a subdivision of property for the purpose of a gift to a member of the immediate family. Victor Lee Williams is the son of the grantor and has not previously received a family transfer parcel; therefore, he is eligible for this family transfer subdivision.
4. The plat is accompanied by a Deed of Gift conveying fee simple title in the proposed parcel of land with a restrictive covenant that prohibits the transfer of the property within ten (10) years of its receipt except in conformity with Sections 31-514(b)(3)(A) and (B) of the UDO. The deed shall be executed and recorded simultaneously with the plat.
5. Pursuant to Section 31-514(b)(2) of the UDO, the property owner requesting the family transfer subdivision shall have held fee simple title to the subject property for a minimum of three (3) years prior to the filing of an application unless the owner(s) thereof has established his or her primary domicile on such lot or parcel to be divided. The three (3) year prior holding period shall not apply to property obtained by inheritance from an immediate family member as defined in Section 15.2-2244 of the Code of Virginia so long as the property inherited was held by a qualified immediate family member for at

least three (3) years. Mr. and Mrs. Williams have owned the subject property since 2011 (Instrument #1109000187190).

6. Pursuant to the provisions of Section 31-514(b)(3) of the UDO, by sworn affidavit and covenants provided in the Deed of Gift, the Grantee, has acknowledged that the subject lot created under this Section shall be titled only in the name of the immediate family member for whom the subdivision is made for a period of not less than 10 years except that the Grantee may hold title with their spouse during such period.
7. Pursuant to Sections 31-514(b)(5) and (6) of the UDO, the Grantor(s) and the Grantee(s) executed a Family Transfer Subdivision Sworn Affidavit acknowledging that the transfer of property is not for the purpose of circumventing any section or sections of the UDO, but is instead intended to provide separate places of residence for the Grantee(s) exclusive of the residence of the Grantor(s), and is intended to keep the family estate within the immediate family.

In the event the Director determines that a family transfer subdivision has been used to circumvent the Subdivision Ordinance, the Director shall initiate the vacation of all or part of the plat of the original lot or parcel to the extent necessary to correct the violation.

8. Pursuant to Section 31-514(b)(9) of the UDO, each lot or parcel created by the family transfer subdivision shall front on a right-of-way not less than fifty (50) feet in width providing ingress and egress to the new parcel(s). The proposed new parcel has a 50-foot ingress egress easement providing access to the proposed parcel from Indian Trail Road.
9. Pursuant to Sections 31-514(b)(10) and (12) of the UDO, the applicant has provided a letter from the City of Suffolk Health Department for the proposed family transfer parcel.

### **RECOMMENDATION**

Staff finds that this request meets the criteria for a family transfer subdivision, and the proposed parcel meets all zoning requirements as set forth in the Unified Development Ordinance. Therefore, staff recommends **approval** of the applicant's family transfer subdivision request, FTR2020-0001, as stated in the attached resolution.

#### Attachments

- General Location Map
- Zoning/Land Use Map
- Family Transfer Affidavit
- Deed of Gift
- Health Department Letter
- Resolution
- Exhibit A – Family Transfer Subdivision Plat

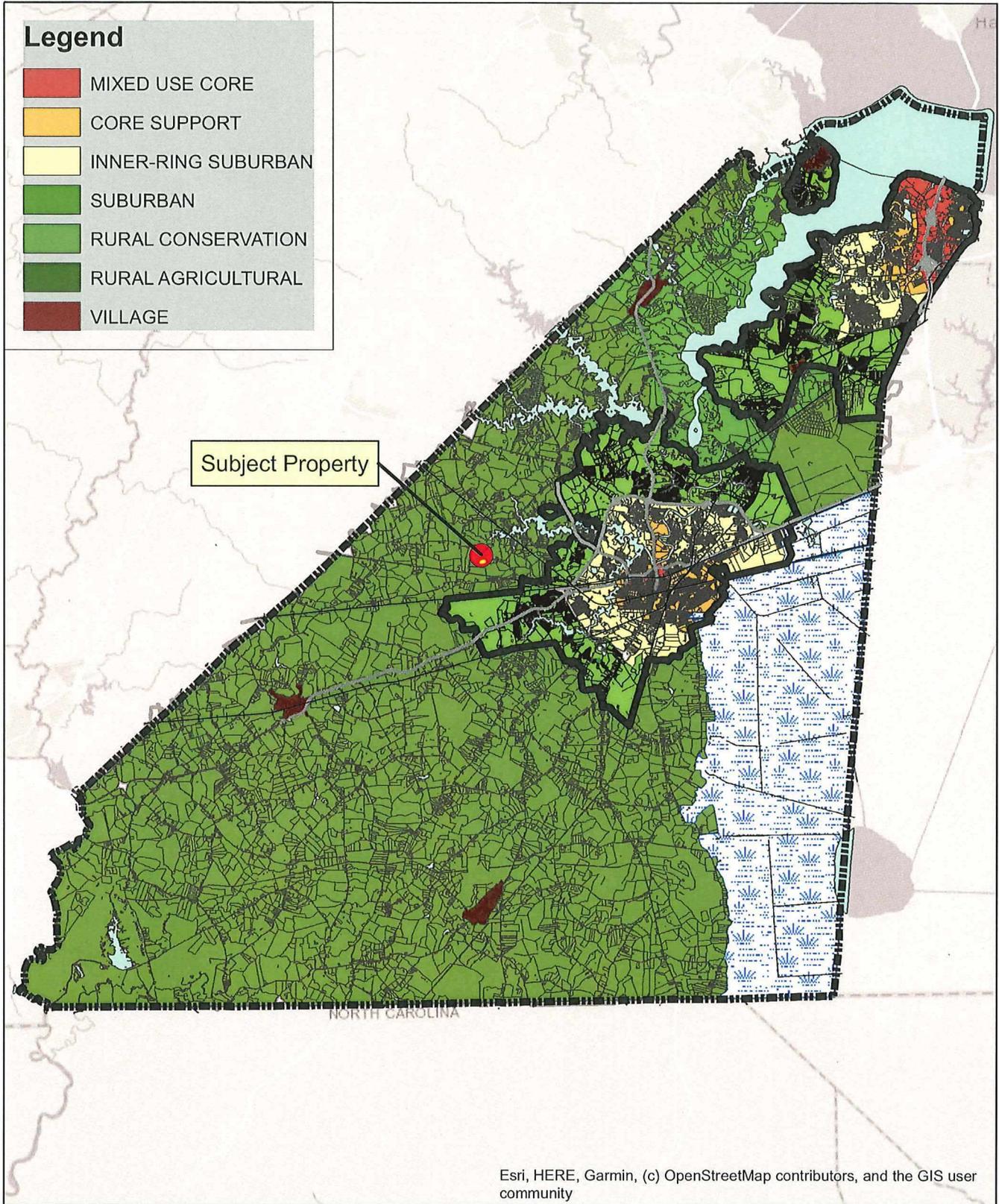


# GENERAL LOCATION MAP

## FTR2020-00001

### Legend

-  MIXED USE CORE
-  CORE SUPPORT
-  INNER-RING SUBURBAN
-  SUBURBAN
-  RURAL CONSERVATION
-  RURAL AGRICULTURAL
-  VILLAGE

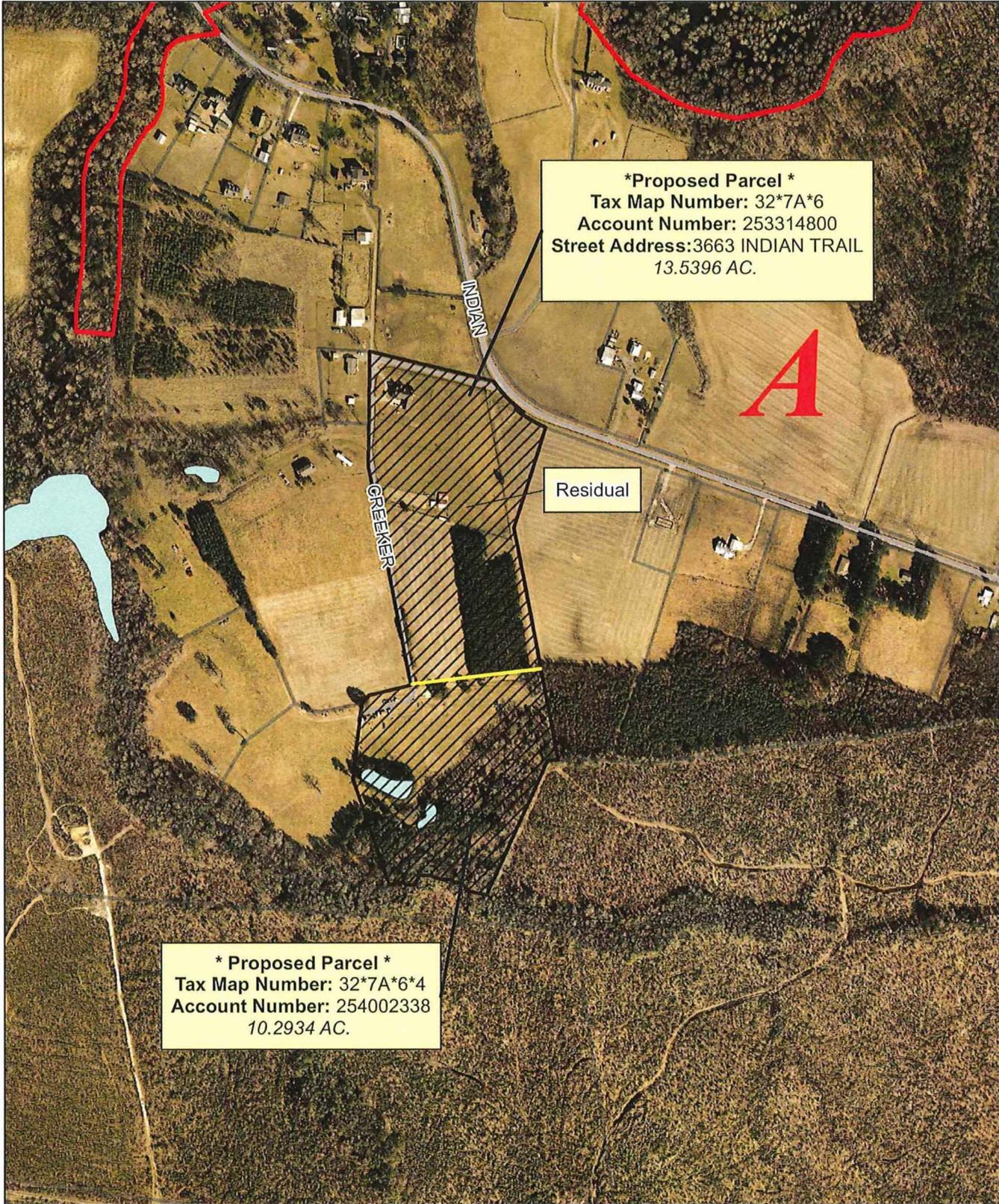


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



# ZONING / LAND USE MAP

## FTR2020-00001



**\*Proposed Parcel \***  
Tax Map Number: 32\*7A\*6  
Account Number: 253314800  
Street Address: 3663 INDIAN TRAIL  
13.5396 AC.

Residual

**\* Proposed Parcel \***  
Tax Map Number: 32\*7A\*6\*4  
Account Number: 254002338  
10.2934 AC.





## FAMILY TRANSFER SUBDIVISION AFFIDAVIT

We, **Bennie L. Williams, Sr. and Carole C. Williams**, are the owners of a parcel of land identified on the tax records of the City of Suffolk as **Tax Map 32, Parcel No. 7A\*6**, acquired by deed, record evidence of which appears as City of Suffolk, Instrument Number 1109000187190, recorded November 1, 2011, and do hereby request the division of this parcel under the provisions of Section 31-514 of the Unified Development Ordinance, as shown on a plat prepared by H. Wayne Courtney of Courtney & Associates, P.C., revised November 12, 2019, a copy of which is attached.

We, **Bennie L. Williams and Carole C. Williams**, (Grantors), and **Victor L. Williams** (Grantee) having been first duly sworn, upon oath do hereby certify that this division of land is made for the purpose of keeping the family estate within the immediate family, in conformance with Section 15.2-2244(C) of the Code of Virginia and Section 31-514 of the City of Suffolk Unified Development Ordinance, and is not for the purpose of short-term investment or for sale after division to those outside of the immediate family.

We further certify that this division is not for the purpose of circumventing any section or sections of the Unified Development Ordinance, but is instead intended to provide a separate place of residence for the Grantee exclusive of the residence of the Grantors within the boundary of the original parcel.

**Victor L. Williams** is the natural or legally defined son of the Grantor and with **Bennie L. Williams and Carole C. Williams** as the current property owners of record. Further, no other conveyance has previously been made to the Grantee through a family transfer conveyance under the said Section 15.2-2244(C) nor the said Section 31-514 nor under the former Virginia Code Sections 15.1-466(G), 15.1-466(a)(12) or (13) nor any predecessor section of the Virginia Code or the City of Suffolk Unified Development Ordinance.

We understand that the Grantee has a minimum holding period of ten (10) years for this lot before it can be transferred by gift or sale to another person and that the City of Suffolk will not grant building permits for development of such parcels conveyed except to the original Grantee for that same period.

The attached deed from the Grantors to the Grantee submitted to the City of Suffolk for a Family Transfer Subdivision under the name **Family Transfer Plat Showing Subdivision of a Portion of Property Owned by Bennie L. Williams, Sr. & Carole C. Williams, Located on Indian Trail Road, Holy Neck Borough, City of Suffolk, Virginia, Revised November 12, 2019**, is a true and accurate copy of the instrument that will be duly executed and recorded at our expense by the City upon the approval of the plat by the City of Suffolk.

We understand that if the City determines that the purpose of the division was to circumvent the Subdivision Ordinance, the City may pursue all such administrative, civil, and criminal remedies available at law.

We certify that the statements made are true and sign our names under the PENALTY OF PERJURY this 15 day of June, 2020.

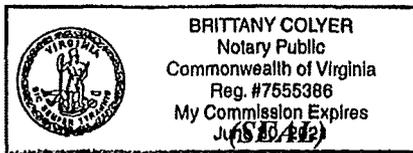
Bennie Williams  
(Grantor)

Carole C. Williams  
(Grantor)

Victor Z. Williams  
(Grantee)

Commonwealth of Virginia  
City of Suffolk

The foregoing document was subscribed and sworn to (or affirmed) before me this 15<sup>th</sup> day of June, 2020, by Carole C. Williams



[Signature]  
Signature of Notary

Planning Technician  
Title

Commonwealth of Virginia  
City of Suffolk

The foregoing document was subscribed and sworn to (or affirmed) before me this 15<sup>th</sup> day of June, 2020, by Victor Williams.

(SEAL)

[Signature]  
Signature of Notary

Planning Technician  
Title

Commonwealth of Virginia  
City of Suffolk

The foregoing document was subscribed and sworn to (or affirmed) before me this 15<sup>th</sup> day of June, 2020, by Bennie Williams.

(SEAL)

[Signature]  
Signature of Notary

Planning Technician  
Title

**Prepared By and Return To:**  
Whitney G. Saunders, VSB 18947  
Saunders & Ojeda, P.C.  
705 West Washington Street  
Suffolk, VA 23434

**Account No.: 254002338**

**THIS CONVEYANCE IS MADE PURSUANT TO VIRGINIA CODE  
SECTION 58.1-811(D) TO AVOID SUBSEQUENT TAXATION**

**THE EXISTANCE OF TITLE INSURANCE IS UNKNOWN TO THE  
PREPARER OF THIS INSTRUMENT**

THIS DEED OF GIFT, Made this \_\_\_\_ day of \_\_\_\_\_, 2020, and between **BENNIE L. WILLIAMS, SR. and CAROLE C. WILLIAMS,** parents, Grantees, parties of the first part; and **VICTOR LEE WILLIAMS,** son, unmarried, Grantee, party of the second part whose mailing address is 3636 Indian Trail, Suffolk VA 23434.

WITNESSETH: That for and in consideration of the natural love and affection which the parties have for one another, and other good and valuable consideration, the receipt of which is hereby acknowledged, the said parties of the first part does hereby grant, and convey unto the said party of the second part, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, the following described property, to-wit:

**ALL THAT** certain lot, piece or parcel of land, with the appurtenances thereto, situated in the City of Suffolk, Virginia, known, numbered and designated as PARCEL "A", containing 10.2934 Acres, as shown on that plat entitled: "Family Transfer Plat Showing Subdivision of a Portion of Property Owned by Bennie L. Williams, Sr. and Carole C. Williams, Holy Neck Borough, Suffolk, Virginia", dated November 12, 2019, and prepared by Courtney & Associates, P.C., 98 Kilby Shores Drive, Suffolk, Virginia 23434, which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Suffolk, Virginia as Instrument Number \_\_\_\_\_, reference to which plat is hereby made for a more particular description of the subject property.

**IT BEING** a part of the same property conveyed to Bennie L. Williams, Sr. and Carole C. Williams, by deed dated July 10, 1996 and duly recorded in the Clerk's Office of the Circuit Court of Suffolk, Virginia as Deed Book 496, at Page 149.

This deed is made subject to the all easements, conditions, restrictions and reservations of record.

The Lot created by this Family Transfer Plat shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than ten (10) years unless such lot is subject to involuntary transfer such as by Foreclosure, Death, Judicial Sale, Condemnation or Bankruptcy. Any Structures erected or placed on this property conveyed by this Family Transfer Subdivision shall have the Grantee residing in said structure and shall not be leased or rented to any other individual within ten (10) years from the conveyance of the parcel by this Family Transfer Subdivision Plat.

The parties to this deed have directed the attorney drafting the deed to so draft it without having to go to the expense of having said attorney do a title examination search of the records of the Clerk of the Circuit Court of Suffolk, Virginia, and so this deed was drafted without the benefit of a title examination search.

[SIGNATURES TO APPEAR ON THE FOLLOWING PAGE]

WITNESS the following signatures and seals:

\_\_\_\_\_ (Seal)  
Bennie L. Williams, Sr.

\_\_\_\_\_ (Seal)  
Carole C. Williams

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_  
2020 by Bennie L. William, Sr. and Carole C. Williams.

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

My Commission Expires: \_\_\_\_\_.

My Notary Registration is: \_\_\_\_\_



**COMMONWEALTH OF VIRGINIA  
VIRGINIA DEPARTMENT OF HEALTH**

Suffolk Health Department  
135 Hall Ave., Suite A  
Suffolk, Virginia 23434  
(757) 514-4751

August 5, 2011

Bennie L. Williams, Sr.  
3663 Indian Trail  
Suffolk, Virginia 23434

Re: Certification Letter Approval  
Location: Indian Trail, Tax Map No.: 32-7A-6 (vacant lot)  
Lot Size: 21.85 Acre(s)  
HDID#: 800-11-0050

Dear Mr. Bennie L. Williams, Sr.:

This letter is issued in lieu of a sewage disposal system construction permit in accordance with §32.1-163, et seq., of the Code of Virginia. The Board of Health hereby recognizes that the soil and site conditions acknowledged by this correspondence, and documented by additional records on file at the local health department, are suitable for the installation of an onsite sewage disposal system. The attached plat shows the approved area for the sewage disposal system. This letter is valid until a permit for construction is issued and the system is installed, inspected and approved. This letter is void if there is any substantial physical change in the soil or site conditions where the sewage disposal system is to be located.

A permit to construct the sewage disposal system must be issued before construction of the system. If the property owner (current or future) applies for a construction permit within 18 months of the date of this letter, the application fee paid for this letter shall be applied to any state fees for a permit to construct a system. After 18 months, the applicant is responsible for paying all state fees for a permit application.

This letter, and accompanying plat of survey showing the specific location of the sewage disposal system area and well area (if applicable), may be recorded in the land records by the clerk of the circuit court in the jurisdiction where all or part of the site or proposed site of the system is to be located. The site shown on the plat is specific and must not be disturbed or

encroached upon by any construction. To do so voids this letter. Upon the sale or transfer of the land that is the subject of this letter, the letter shall be transferred with the title to the property.

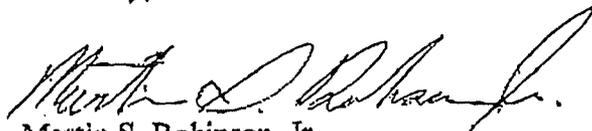
Future owners are advised to review the plat for the location of the onsite sewage disposal area to make sure their building plans do not interfere with the area. If they have any questions regarding the location of the area, they should contact the local health department for assistance.

The area evaluated, and certified by this letter, is suitable to accommodate a 4 bedroom house using a system design of 600 gallons per day. The property will be served by a private water supply as shown on the attached plat.

This letter is an assurance that a sewage disposal system construction permit will be issued (provided there have been no substantial physical changes in the soil or site conditions where the system would be located); however, it is not a guarantee that a permit for a specific type of system will be issued. The design of the sewage system will be determined at the time of application for a building permit and sewage system construction permit. The design will be based on the site and soil conditions certified by this letter, structure size and location, water well location (final determination to be made at time of permit issuance), the regulations in effect at the time, and any off-site impacts that may have occurred since the date of the issuance of this letter. In some cases, engineered plans may be required prior to issuance of the construction permit. In accordance with § 32.1-164.1:1 of the Code of Virginia, owners are advised to apply for a sewage disposal construction permit only when ready to begin construction.

This certification letter may be subject to and must comply with any applicable local ordinances.

Sincerely,



Martin S. Robinson, Jr.  
Environmental Health Specialist



Brandon Applewhite  
Environmental Health Supervisor

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION APPROVING A FAMILY TRANSFER SUBDIVISION  
ON PROPERTY LOCATED ON INDIAN TRAIL, ZONING MAP 32,  
PARCEL 7A\*6; FTR2020-00001**

**WHEREAS**, Bennie L. Williams, Sr. and Carole C. Williams, property owners, have submitted an application for a Family Transfer Subdivision for review pursuant to the provisions of Section 31-514 of the Unified Development Ordinance (UDO) of the City of Suffolk, which plat is attached hereto as Exhibit “A” and incorporated herein and hereafter referred to as the Plat; and

**WHEREAS**, this specific request is to grant permission under Section 31-514 of the Unified Development Ordinance for a transfer of property to an immediate family member to hold title to the subject property for a period of not less than 10 years from the date of recording of the Plat;

**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:

- \_\_\_ a. Finds,
- \_\_\_ b. Does not find,

- (1) Granting this Family Transfer Subdivision will be for the purpose of providing separate places of residence to an immediate family member over the age of eighteen (18) years old for a period of ten (10) years;
- (2) This Family Transfer Subdivision is not created to circumvent the subdivision ordinance;
- (3) Lot dimensions and building setbacks for the lot(s) created by this Family Transfer Subdivision will be consistent with the Agricultural zoning district as set forth in Table 407-1 of the City of Suffolk UDO.
- (4) The proposed parcel(s) have received Health Department approval for a septic system as noted on the plat.

- (5) The Sworn Family Transfer Subdivision Affidavit has been executed by the Grantor(s) and the Grantee(s). The Deeds of Gift for this Family Transfer shall be executed and recorded simultaneously with the plat.

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

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

THIS SUBDIVISION OF PROPERTY AS IT APPEARS ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS.

OWNER \_\_\_\_\_ DATE \_\_\_\_\_

OWNER \_\_\_\_\_ DATE \_\_\_\_\_

STATE OF \_\_\_\_\_  
CITY OF \_\_\_\_\_ TO WIT:

I, \_\_\_\_\_ A NOTARY PUBLIC IN AND FOR THE CITY AND STATE AFORESAID DO HEREBY CERTIFY THAT THE ABOVE PERSON(S) WHOSE NAME(S) IS(ARE) SIGNED TO THE FOREGOING WRITING HAVE ACKNOWLEDGED THE SAME BEFORE ME IN MY CITY AND STATE AFORESAID.

GIVEN UNTO MY HAND THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020  
MY COMMISSION EXPIRES: \_\_\_\_\_

NOTARY PUBLIC: \_\_\_\_\_

BENNIE L. WILLIAMS, SR., FATHER  
(NAME & RELATIONSHIP TO BE PRINTED)  
CAROLE C. WILLIAMS, MOTHER  
(NAME & RELATIONSHIP TO BE PRINTED)

WE HEREBY CERTIFY THAT PARCEL 32\*7A\*6A AS SHOWN ON THIS PLAT IS FOR THE PURPOSE OF SALE OR GIFT TO:

VICTOR LEE WILLIAMS, SON  
(NAME & RELATIONSHIP TO BE PRINTED)

WHO IS A MEMBER OF OUR IMMEDIATE FAMILY AS DEFINED IN SECTION 15.2-2244 OF THE CODE OF VIRGINIA AS AMENDED.

THE UNDERSIGNED CERTIFY THAT THIS SUBDIVISION AS IT APPEARS ON THIS PLAT CONFORMS TO THE APPLICABLE REGULATIONS RELATING TO THE SUBDIVISION OF PROPERTY AND IS ACCORDINGLY APPROVED. BY SUCH APPROVAL, THE UNDERSIGNED DO NOT CERTIFY AS TO THE CORRECTNESS OF STREETS, BOUNDARIES, OR OTHER LINES AS SHOWN ON THIS PLAT.

DATE \_\_\_\_\_ AGENT, CITY OF SUFFOLK \_\_\_\_\_

DATE \_\_\_\_\_ AGENT, CITY OF SUFFOLK \_\_\_\_\_

**TAX PARCEL 32\*7A\*6**

BENNIE L. WILLIAMS, SR. AND CAROLE C. WILLIAMS APPEAR AS THE GRANTEES IN A DEED DATED JULY 16, 1996 AND RECORDED AUGUST 14 1996 IN THE CITY OF SUFFOLK CLERK'S OFFICE IN DEED BOOK 496, PAGE 149. SAID DEED CITES BENNIE L. WILLIAMS, JR. AND VICKIE L. WILLIAMS AS THE GRANTORS.

ALSO, BENNIE L. WILLIAMS, SR. AND CAROLE C. WILLIAMS APPEAR AS THE GRANTEES IN A DEED DATED NOVEMBER 1, 2011 AND RECORDED NOVEMBER 9, 2011 IN THE CITY OF SUFFOLK CLERK'S OFFICE AS INSTRUMENT NO. 20111109000187190. SAID DEED CITES BENNIE L. WILLIAMS, JR. AND VICKIE L. WILLIAMS AS THE GRANTORS.

SUBJECT PARCELS: TAX PARCEL 32\*7A\*6

LEGAL REFERENCE: INSTRUMENT NO. 20111020000174640 (RESUBDIVISION PLAT)  
INSTRUMENT NO. 20111109000187190 (DEED IN CONJUNCTION WITH RESUBDIVISION PLAT)  
D.B. 496, PG. 149 (SOURCE DEED)  
P.C. 1, SLIDES 155-C & 155-D (PRIOR PLAT)

FAMILY TRANSFER PLAT  
SHOWING SUBDIVISION OF  
A PORTION OF PROPERTY  
OWNED BY  
**BENNIE L. WILLIAMS, SR. &  
CAROLE C. WILLIAMS**

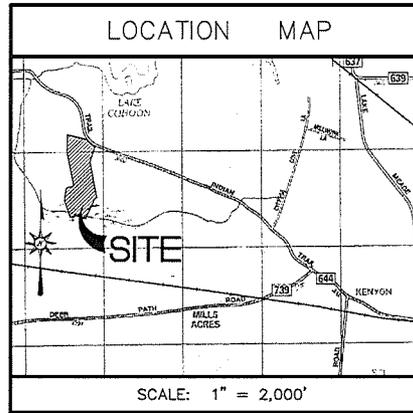
HOLY NECK BOROUGH  
SUFFOLK, VIRGINIA

SCALE: 1" = 100' NOVEMBER 12, 2019

**COURTNEY & ASSOCIATES, P.C.**

SURVEYORS - MAPPING CONSULTANTS  
RIGHT OF WAY ACQUISITION AGENTS - PLANNERS

98 KILBY SHORES DRIVE - SUFFOLK, VIRGINIA 23434  
(757) 539-0036



MAP PROVIDED COURTESY OF ADC "THE MAP PEOPLE" (PUN 20905140)

I HEREBY CERTIFY THAT THIS SUBDIVISION WAS MADE BY ME AT THE DIRECTION OF THE OWNERS, AND THAT THE SUBDIVISION IS ENTIRELY WITHIN THE BOUNDARIES OF LAND OWNED BY THEM, AND THAT THE STEEL PINS, AS SHOWN ON THIS PLAT BY SMALL CIRCLES HAVE ACTUALLY BEEN PLACED AND THEIR LOCATION CORRECTLY SHOWN. THE PLAT DETAILS MEET THE STANDARD FOR PLATS AS ADOPTED UNDER VC§42.1-82 OF THE VIRGINIA PUBLIC RECORDS ACT (§42.1-76 ET SEQ.)

PROPERTY OWNERS:

BENNIE L. WILLIAMS, SR. &  
CAROLE C. WILLIAMS  
3663 INDIAN TRAIL  
SUFFOLK, VA 23434  
(757) 934-2393

NOVEMBER 12, 2019  
DATE



SHEET ONE OF TWO

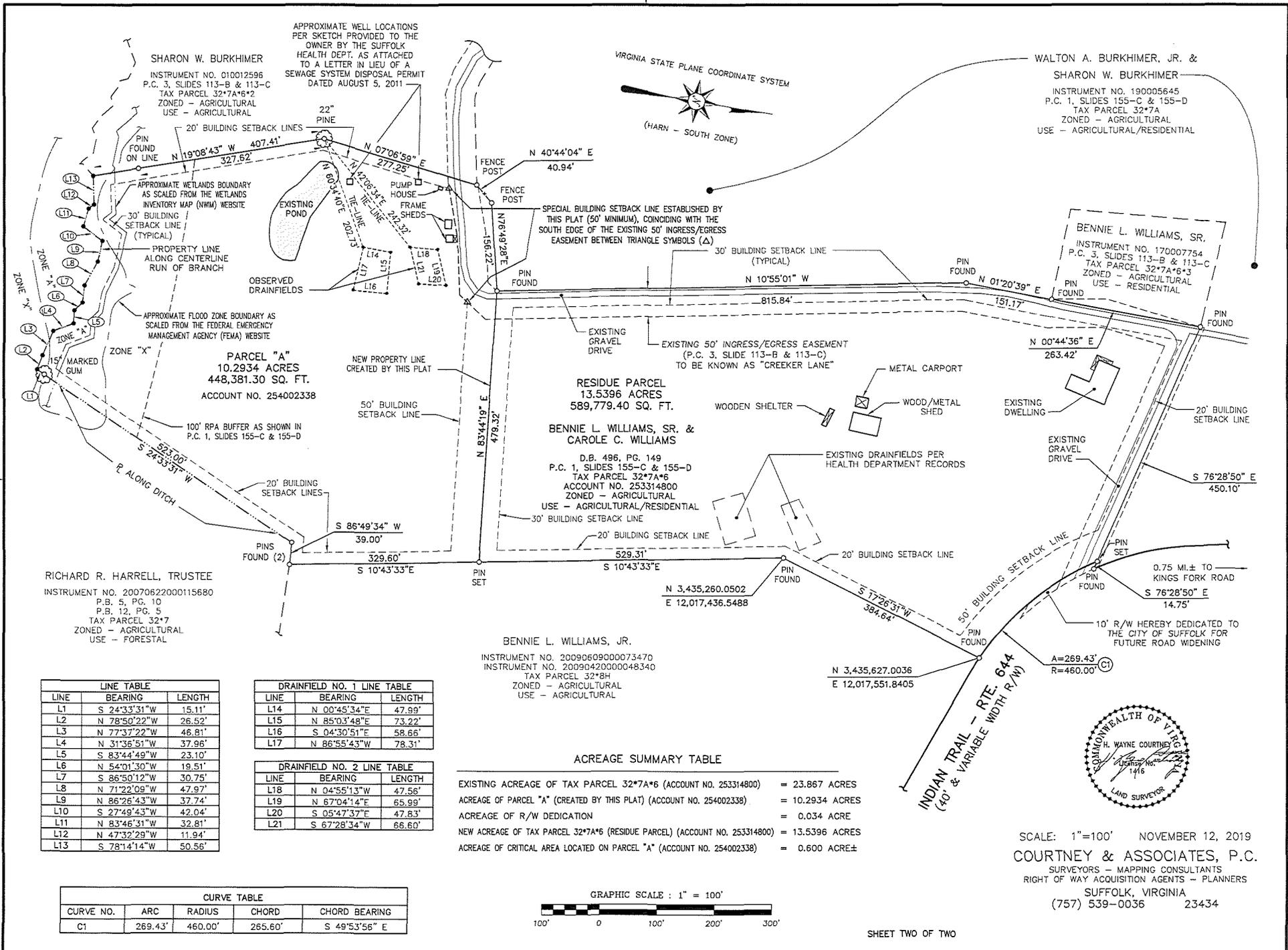
NOTES:

1. THE LOT CREATED BY THIS FAMILY TRANSFER PLAT SHALL BE TITLED IN THE NAME OF THE IMMEDIATE FAMILY MEMBER FOR WHOM THE SUBDIVISION IS MADE FOR A PERIOD OF NO LESS THAN TEN (10) YEARS UNLESS SUCH LOT IS SUBJECT TO INVOLUNTARY TRANSFER SUCH AS BY FORECLOSURE, DEATH, JUDICIAL SALE, CONDEMNATION OR BANKRUPTCY.
2. ALL STEEL PINS SET ARE 5/8" DIAMETER, 2.0' LONG STEEL REBAR DRIVEN FLUSH WITH THE SURFACE OF THE GROUND.
3. THERE SHALL BE A FIVE FOOT EASEMENT ALONG ALL SIDE AND REAR PROPERTY LINES FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES.
4. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
5. THIS SITE WAS TIED TO THE CITY OF SUFFOLK GEODETIC CONTROL USING STATIONS 140 AND 142.
6. THIS PROPERTY APPEARS TO BE LOCATED IN ZONES "X" & "A" AS SHOWN ON FLOOD MAPS SUPPLIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AS SHOWN ON COMMUNITY PANEL NUMBER 510156 0210 D. EFFECTIVE DATE 11/16/2011.
7. THIS PROPERTY LIES WITHIN THE CHEESAPEAKE BAY PRESERVATION AREA (CBPA), AND IS DESIGNATED AS A RESOURCE MANAGEMENT AREA (RMA) AND A RESOURCE PROTECTION AREA (RPA).
8. WHERE SEPTIC TANKS ARE TO BE INSTALLED THERE MUST BE AN APPROVAL ON AN INDIVIDUAL LOT BASIS BY THE LOCAL HEALTH DEPARTMENT AT THE TIME AN APPLICATION IS MADE FOR A SEPTIC TANK PERMIT. APPROVAL OF THIS PLAT BY THE CITY OF SUFFOLK DOES NOT ASSURE THAT THE INDIVIDUAL PARCELS ARE SUITABLE FOR SEPTIC TANK SYSTEMS.
9. ALL LAND DISTURBANCE, USES, DEVELOPMENT AND REDEVELOPMENT IN THE CHEESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT ARE REQUIRED TO RETAIN AN UNDISTURBED VEGETATED 100-FOOT BUFFER AREA AROUND RPA FEATURES, SUCH AS WETLANDS, SHORELINES AND LONG WATERBODIES WITH PERENNIAL FLOW.
10. ON-SITE SEWAGE TREATMENT SYSTEMS SHALL BE PUMPED OUT AT LAST ONCE EVERY FIVE (5) YEARS, SUBJECT TO THE PROVISIONS IN SECTION 31-415(c)(6) OF THE UNIFIED DEVELOPMENT ORDINANCE.
11. FOR NEW CONSTRUCTION, ANY ON-SITE SEWAGE TREATMENT SYSTEM NOT REQUIRING A VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT SHALL HAVE A 100% RESERVE SEWAGE DISPOSAL AREA. BUILDING CONSTRUCTION OF A PERMANENT NATURE IS PROHIBITED WITHIN THE RESERVE SEWAGE TREATMENT SITE.
12. ONLY CERTAIN SPECIFIED ACTIVITIES MAY BE PERMITTED IN THE RESOURCE PROTECTION AREA (RPA) SUCH AS APPROVED WATER DEPENDENT FACILITIES, REDEVELOPMENT, ROADS AND DRIVEWAYS, FLOOD CONTROL AND BONA FIDE AGRICULTURAL ACTIVITIES AND WETLANDS RESTORATION ACTIVITIES.
13. THE FIFTY (50) FOOT EASEMENT SHALL PROVIDE AT A MINIMUM AN ALL WEATHER SURFACE OF ROCK, STONE, OR GRAVEL WITH A MINIMUM DEPTH OF THREE (3) INCHES AND A MINIMUM WIDTH OF TEN (10) FEET.
14. THE REQUIRED SETBACKS FOR THE SUBJECT PROPERTIES ACCORDING TO THE AGRICULTURAL (A) ZONING DISTRICT ARE:
  - FRONT - 50' MINIMUM
  - SIDE - 20' MINIMUM
  - REAR - 30' MINIMUM

FOR USE BY CITY OF SUFFOLK ONLY

FTR2020-00001

EXHIBIT A



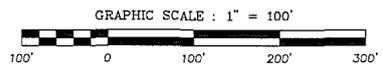
LINE	BEARING	LENGTH
L1	S 24°33'31"W	15.11'
L2	N 78°50'22"W	26.52'
L3	N 77°37'22"W	46.81'
L4	N 31°36'51"W	37.96'
L5	S 83°44'49"W	23.10'
L6	N 54°01'30"W	19.51'
L7	S 86°50'12"W	30.75'
L8	N 71°22'09"W	47.97'
L9	N 86°26'43"W	37.74'
L10	S 27°49'43"W	42.04'
L11	N 83°46'31"W	32.81'
L12	N 47°32'29"W	11.94'
L13	S 78°14'14"W	50.56'

DRAINFIELD NO. 1 LINE TABLE		
LINE	BEARING	LENGTH
L14	N 00°45'34"E	47.99'
L15	N 85°03'48"E	73.22'
L16	S 04°30'51"E	58.66'
L17	N 86°55'43"W	78.31'

DRAINFIELD NO. 2 LINE TABLE		
LINE	BEARING	LENGTH
L18	N 04°55'13"W	47.56'
L19	N 67°04'14"E	65.99'
L20	S 05°47'37"E	47.83'
L21	S 67°28'34"W	66.60'

ACREAGE SUMMARY TABLE	
EXISTING ACREAGE OF TAX PARCEL 32*7A*6 (ACCOUNT NO. 253314800)	= 23.867 ACRES
ACREAGE OF PARCEL "A" (CREATED BY THIS PLAT) (ACCOUNT NO. 254002338)	= 10.2934 ACRES
ACREAGE OF R/W DEDICATION	= 0.034 ACRE
NEW ACREAGE OF TAX PARCEL 32*7A*6 (RESIDUE PARCEL) (ACCOUNT NO. 253314800)	= 13.5396 ACRES
ACREAGE OF CRITICAL AREA LOCATED ON PARCEL "A" (ACCOUNT NO. 254002338)	= 0.600 ACRE±

CURVE TABLE				
CURVE NO.	ARC	RADIUS	CHORD	CHORD BEARING
C1	269.43'	460.00'	265.60'	S 49°53'58" E



SHEET TWO OF TWO

THIS PAGE WAS INTENTIONALLY LEFT BLANK



# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT  
*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Family Transfer Subdivision Plat FTR2020-00003, submitted by Frank M. Rawls, applicant, on behalf of Barbara Lowe Copeland, property owner, requesting a family transfer subdivision pursuant to Section 31-514 of the Unified Development Ordinance. The affected property is identified as Zoning Map 31, Parcel 7, Holy Neck Voting Borough, zoned A, Agricultural Zoning District. The City's 2035 Comprehensive Plan identifies this property as being located within the Rural Agriculture Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Holly Steele, the staff planner handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

David Hainley  
Director of Planning and Community Development

/hps

Attachments

# STAFF REPORT

## DESCRIPTION

**FAMILY TRANSFER SUBDIVISION PLAT FTR2019-003:** Family Transfer Subdivision Plat, FTR2020-00003, submitted by Frank M. Rawls, applicant, on behalf of Barbara Lowe Copeland, property owner, requesting a family transfer subdivision to create one (1) new parcel for her grandson, Michael Thomas Beale, pursuant to Section 31-514 of the Unified Development Ordinance.

**APPLICANT:** Frank M. Rawls, Ferguson, Rawls, & Raines, P.C. A copy of this staff report was sent to the applicant on July 2, 2020.

**LOCATION:** The subject property is located on the north and south sides of Indian Trail and is further identified as Zoning Map 31, Parcel 7.

**PRESENT ZONING:** The property is currently zoned A, Agricultural zoning district.

**EXISTING LAND USE:** The property consists of fields, forested land and agricultural buildings and it measures 66.529 acres in size. There is currently a single family dwelling on the property.

**PROPOSED LAND USE:** This family transfer subdivision is a proposal to create one (1) new lot comprised of 1.644 acres for Ms. Copeland's grandson, Michael Thomas Beale. Ms. Copeland would retain 64.820 acres as their residue parcel after the dedication of 0.065 acres of right of way along the proposed new parcel.

### **SURROUNDING LAND USES:**

North: Single-family dwellings, fields and forested land zoned Agricultural.

East: Single-family dwellings, fields and forested land zoned Agricultural.

West: Single-family dwellings, fields and forested land zoned Agricultural.

South: Single-family dwellings, fields and forested land zoned Agricultural.

**COMPREHENSIVE PLAN:** The City's 2035 Comprehensive Plan identifies this property as being located within the Rural Agriculture Use District.

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

**CASE HISTORY:** Barbara Lowe Copeland inherited the subject property in 1995 from her late husband, Robert Thomas Copeland (Will Book 24, Page 405), and her grandson, Michael Thomas Beale, has not previously received a family transfer parcel; therefore, they are eligible for the requested family transfer.

## STAFF ANALYSIS

### ISSUE

Ms. Barbara Lowe Copeland owns a parcel of land on Indian Trail Road comprised of 66.529 acres from which she proposes to subdivide a 1.644-acre parcel to her grandson, Michael Thomas Beale, pursuant to Section 31-514 of the Unified Development Ordinance (UDO). Half of the ultimate street right of way width must be dedicated along the frontage of the proposed new lot only, which is about 0.065 acres; thus, as a result of the plat, Ms. Copeland would retain 64.820 acres as her residue parcel.

### CONSIDERATIONS AND CONCLUSIONS

1. Pursuant to the provisions of Section 31-514(a) of the Unified Development Ordinance (UDO), it is the purpose and intent of a Family Transfer Subdivision to keep the family estate within the immediate family and not for the purpose of short term investment for sale after division to those outside of the immediate family. It is the further intent to provide family members the ability to remain in close proximity as housing needs change, to provide mutual opportunities for support and care of family members, and to allow the preservation of family land holdings which might otherwise be fragmented for economic reasons.
2. Lot dimensions and building setback lines for the proposed new lots are consistent with the A, Agricultural zoning district, as set forth in Table 407-1 of the UDO. There is adequate area on the new proposed lots for the son to have his own dwelling and the necessary drain field.
3. Pursuant to the provisions of Section 31-514(a) of the UDO and Virginia Code Section 15.2-2244 (A), the property owner requests a subdivision of property for the purpose of a gift to a member of the immediate family. Michael Thomas Beale is the grandson of the grantor and has not previously received a family transfer parcel; therefore, he is eligible for this family transfer subdivision.
4. The plat is accompanied by a Deed of Gift conveying fee simple title in the proposed parcel of land with a restrictive covenant that prohibits the transfer of the property within ten (10) years of its receipt except in conformity with Sections 31-514(b)(3)(A) and (B) of the UDO. The deed shall be executed and recorded simultaneously with the plat.
5. Pursuant to Section 31-514(b)(2) of the UDO, the property owner requesting the family transfer subdivision shall have held fee simple title to the subject property for a minimum of three (3) years prior to the filing of an application unless the owner(s) thereof has established his or her primary domicile on such lot or parcel to be divided. The three (3) year prior holding period shall not apply to property obtained by inheritance from an immediate family member as defined in Section 15.2-2244 of the Code of Virginia so long as the property inherited was held by a qualified immediate family member for at least three (3) years. Ms. Copeland has owned the subject property since 1995 (Will Book 24, Page 405).

6. Pursuant to the provisions of Section 31-514(b)(3) of the UDO, by sworn affidavit and covenants provided in the Deed of Gift, the Grantee, has acknowledged that the subject lot created under this Section shall be titled only in the name of the immediate family member for whom the subdivision is made for a period of not less than 10 years except that the Grantee may hold title with their spouse during such period.
7. Pursuant to Sections 31-514(b)(5) and (6) of the UDO, the Grantor(s) and the Grantee(s) executed a Family Transfer Subdivision Sworn Affidavit acknowledging that the transfer of property is not for the purpose of circumventing any section or sections of the UDO, but is instead intended to provide separate places of residence for the Grantee(s) exclusive of the residence of the Grantor(s), and is intended to keep the family estate within the immediate family.

In the event the Director determines that a family transfer subdivision has been used to circumvent the Subdivision Ordinance, the Director shall initiate the vacation of all or part of the plat of the original lot or parcel to the extent necessary to correct the violation.

8. Pursuant to Section 31-514(b)(9) of the UDO, each lot or parcel created by the family transfer subdivision shall front on a right-of-way not less than fifty (50) feet in width providing ingress and egress to the new parcel(s). The proposed parcel has approximately 283-feet of frontage on Indian Trail, therefore no ingress and egress easement is required.
9. Pursuant to Sections 31-514(b)(10) and (12) of the UDO, the applicant has provided a letter from the City of Suffolk Health Department for the proposed family transfer parcel.

### **RECOMMENDATION**

Staff finds that this request meets the criteria for a family transfer subdivision, and the proposed parcel meets all zoning requirements as set forth in the Unified Development Ordinance. Therefore, staff recommends **approval** of the applicant's family transfer subdivision request, FTR2020-0003, as stated in the attached resolution.

#### Attachments

- General Location Map
- Zoning/Land Use Map
- Family Transfer Affidavit
- Deed of Gift
- Health Department Letter
- Resolution
- Exhibit A – Family Transfer Subdivision Plat

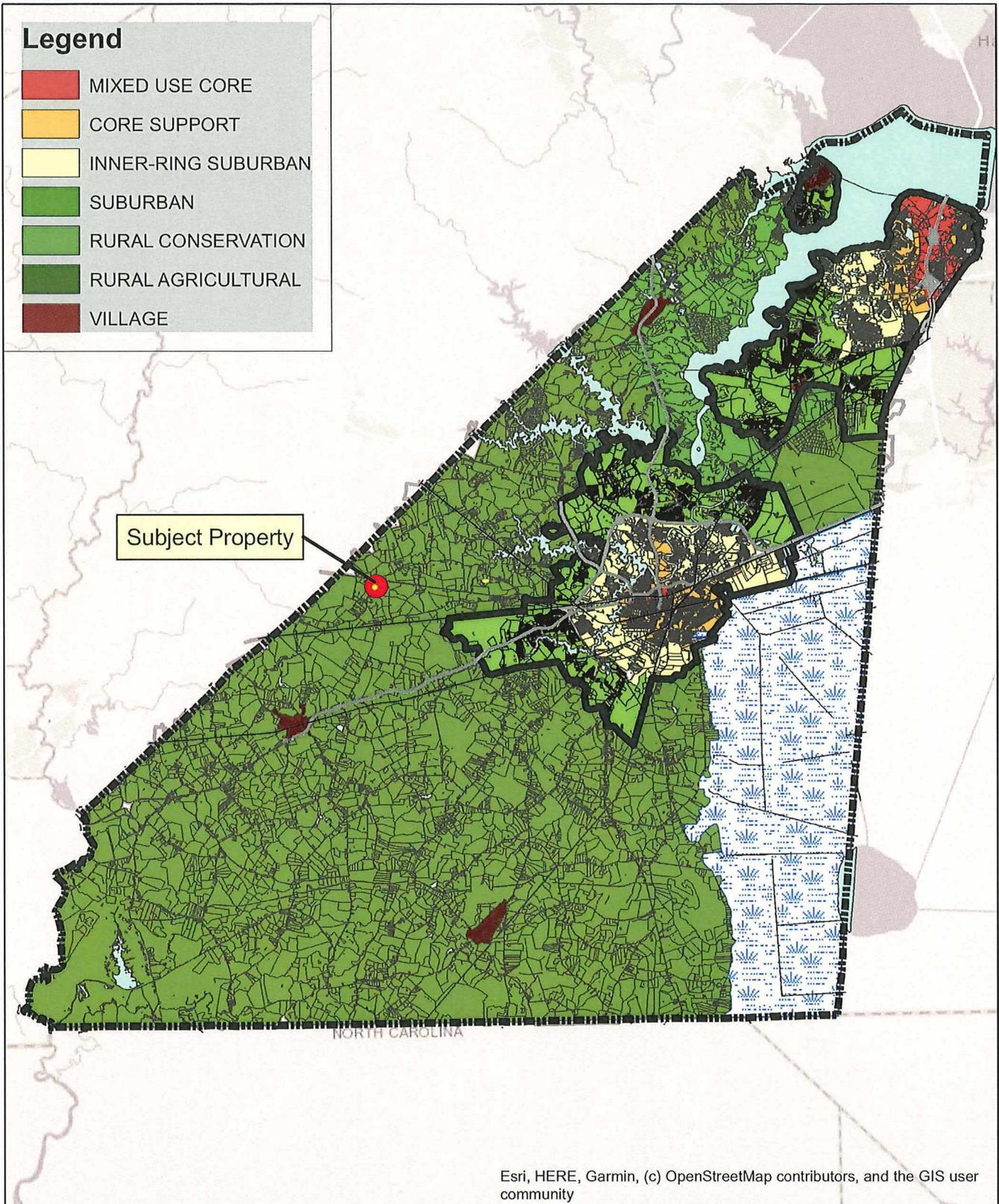


# GENERAL LOCATION MAP

## FTR2020-00003

### Legend

- MIXED USE CORE
- CORE SUPPORT
- INNER-RING SUBURBAN
- SUBURBAN
- RURAL CONSERVATION
- RURAL AGRICULTURAL
- VILLAGE

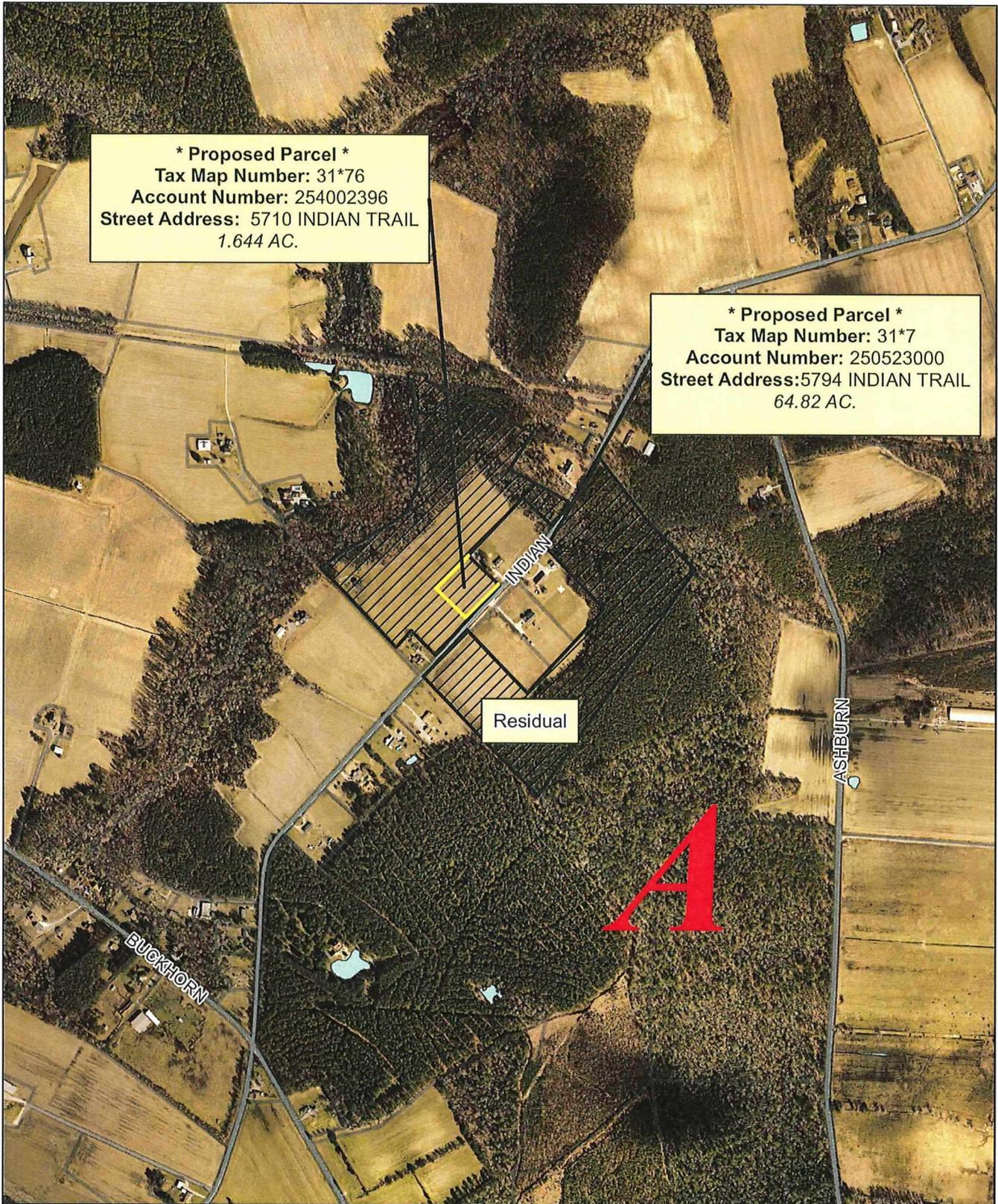


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



# ZONING / LAND USE MAP

## FTR2020-00003





## FAMILY TRANSFER SUBDIVISION AFFIDAVIT

I, **Barbara Lowe Copeland**, am the owner of a parcel of land identified on the tax records of the City of Suffolk as **Tax Map 31, Parcel No. 7**, acquired by deed, record evidence of which appears as City of Suffolk, Instrument Number 180012493, recorded November 13, 2018, and do hereby request the division of this parcel under the provisions of Section 31-514 of the Unified Development Ordinance, as shown on a plat prepared by F. Hunter Walters, Jr. of East Coast Surveying, revised March 12, 2020, a copy of which is attached.

I, **Barbara Lowe Copeland**, (Grantors), and **Michael Thomas Beale** (Grantee) having been first duly sworn, upon oath do hereby certify that this division of land is made for the purpose of keeping the family estate within the immediate family, in conformance with Section 15.2-2244(C) of the Code of Virginia and Section 31-514 of the City of Suffolk Unified Development Ordinance, and is not for the purpose of short-term investment or for sale after division to those outside of the immediate family.

We further certify that this division is not for the purpose of circumventing any section or sections of the Unified Development Ordinance, but is instead intended to provide a separate place of residence for the Grantee exclusive of the residence of the Grantors within the boundary of the original parcel.

**Michael Thomas Beale** is the natural or legally defined **grandson** of the Grantor and with **Barbara Lowe Copeland** as the current property owner of record. Further, no other conveyance has previously been made to the Grantee through a family transfer conveyance under the said Section 15.2-2244(C) nor the said Section 31-514 nor under the former Virginia Code Sections 15.1-466(G), 15.1-466(a)(12) or (13) nor any predecessor section of the Virginia Code or the City of Suffolk Unified Development Ordinance.

We understand that the Grantee has a minimum holding period of ten (10) years for this lot before it can be transferred by gift or sale to another person and that the City of Suffolk will not grant building permits for development of such parcels conveyed except to the original Grantee for that same period.

The attached deed from the Grantors to the Grantee submitted to the City of Suffolk for a Family Transfer Subdivision under the name **Plat Showing Family Transfer of Property Owned by Barbara Lowe Copeland to be Conveyed to Michael Thomas Beale, Located on Indian Trial, Holy Neck Borough, City of Suffolk, Virginia, Revised March 12, 2020**, is a true and accurate copy of the instrument that will be duly executed and recorded at our expense by the City upon the approval of the plat by the City of Suffolk.

We understand that if the City determines that the purpose of the division was to circumvent the Subdivision Ordinance, the City may pursue all such administrative, civil, and criminal remedies available at law.

We certify that the statements made are true and sign our names under the PENALTY OF PERJURY this 15<sup>th</sup> day of June, 2020.

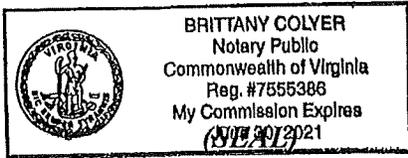
Barbara Louise Copeland  
(Grantor)

\_\_\_\_\_  
(Grantor)

Michael Thomas Beale  
(Grantee)

Commonwealth of Virginia  
City of Suffolk

The foregoing document was subscribed and sworn to (or affirmed) before me this 15<sup>th</sup> day of June, 2020, by Barbara Louise Copeland

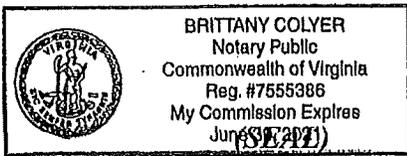


[Signature]  
Signature of Notary

Planning Technician  
Title

Commonwealth of Virginia  
City of Suffolk

The foregoing document was subscribed and sworn to (or affirmed) before me this 15<sup>th</sup> day of June, 2020, by Michael Thomas Beale



[Signature]  
Signature of Notary

Planning Technician  
Title

Commonwealth of Virginia  
City of Suffolk

The foregoing document was subscribed and sworn to (or affirmed) before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary

(SEAL)

\_\_\_\_\_  
Title

*This deed is exempt from recordation taxes pursuant to §58.1-811(D) of the Code of Virginia, 1950, as amended.*

TAX I.D.# 254002396

*Prepared by and return to: Frank M. Rawls, VSB #16828  
332 W. Constance Road, Suffolk, VA 23434*

THIS DEED OF GIFT, made this \_\_\_\_ day of July, 2020 between Barbara Lowe COPELAND, party of the first part, "Grantor", and Michael Thomas BEALE, unmarried, party of the second part, "Grantee", whose address is: 5701 Indian Trail, Suffolk, Virginia 23434.

WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, the receipt of which is hereby acknowledged, the party of the first part does hereby grant, convey and give unto the party of the second part, with General Warranty and English Covenants of Title, the following described property, to-wit:

All that certain lot, piece, or parcel of land designated as "PARCEL G TAX PAR. 31\*7G ACCOUNT #254002396 1.644 Acres ZONE 'A' - Agricultural" on that certain plat entitled "PLAT SHOWING FAMILY TRANSFER OF PROPERTY OWNED BY BARBARA LOWE COPELAND TO BE CONVEYED TO MICHAEL THOMAS BEALE SUFFOLK, VIRGINIA HOLY NECK BOROUGH" dated December 19, 2019, revised March 12, 2020 and made by F. Hunter Walters, Jr. – Land Surveyor. For a more particular description reference is made to said plat which is recorded in the Clerk's Office of the Circuit Court of the City of Suffolk, Virginia as Instrument # \_\_\_\_\_.

It being a part of the same property conveyed to Barbara Lowe Copeland by deed from Barbara Lowe Copeland dated November 13, 2018 and recorded in the Clerk's Office of the Circuit Court of the City of Suffolk, Virginia as Instrument #180012493.

FERGUSON, RAWLS  
& RAINES, P.C.  
332 W. Constance Road  
Suffolk, VA 23434  
(757) 539-2400  
(757) 934-0953 FAX

This conveyance is made expressly subject to all easements, conditions, restrictions and reservations contained in duly recorded deeds, plats, and any other instruments constituting constructive notice in the chain of title to the property hereby conveyed, which have not expired by a limitation of time contained therein or have not otherwise become ineffective.

Parcel identified as "PARCEL G TAX PAR. 31\*7G ACCOUNT #254002396 1.644 Acres ZONE 'A' - Agricultural" as described herein, was created under the family transfer provisions of the Unified Development Ordinance of the City of Suffolk, Virginia in conformity with Section 31-514(3)(a), the Grantor herein, Barbara Lowe Copeland, being the grandmother of Michael Thomas Beale, the Grantee herein.

Further specifically, this family transfer conveyance prohibits the transfer of the property within ten (10) years of its receipt except in conformity with Sections 31-514(3)(a) and (b) of the Unified Development Ordinance of the City of Suffolk, Virginia.

The Grantee joins in signing this deed to acknowledge being bound by all of its conditions.

WITNESS the following signatures and seals:

\_\_\_\_\_(SEAL)  
Barbara Lowe Copeland

\_\_\_\_\_(SEAL)  
Michael Thomas Beale

FERGUSON, RAWLS  
& RAINES, P.C.  
332 W. Constance Road  
Suffolk, VA 23434  
(757) 539-2400  
(757) 934-0953 FAX

STATE OF VIRGINIA  
CITY OF SUFFOLK, to-wit:

I, \_\_\_\_\_, Notary Public in and for the City and State aforesaid, do hereby certify that Barbara Lowe Copeland and Michael Thomas Beale, whose names are signed to the foregoing writing, have acknowledged the same before me in the City and State aforesaid. Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2020.

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



COMMONWEALTH OF VIRGINIA  
WESTERN TIDEWATER ENVIRONMENTAL HEALTH DISTRICT  
**SUFFOLK HEALTH DEPARTMENT**

135 Hall Avenue, Suite A  
SUFFOLK, VIRGINIA 23434  
757-514-4751

March 12, 2020

Holly Steele, Planner I  
City of Suffolk, Planning Department  
P.O. Box 1858  
Suffolk, Virginia 23439-1858

**RE: Transmittal of Plan for Review**  
**Project Name: Copeland Family Transfer**  
**Project Type: Minor Subdivision**  
**Location: 5794 Indian Trail**  
**Tax Map/Parcel: 31\*7**  
**Planning File #: FTR2020-00003**

Dear Ms. Steele:

The Health Department has reviewed the above referenced family transfer. No records were found for the proposed parcel "G". The primary and reserve drainfield shown on the plat may have been plotted by a private sector onsite soil evaluator, and has not been turned into our office for review yet.

If you have any additional questions, please feel free to contact me at the Suffolk Health Department, 514-4757.

Sincerely,

A handwritten signature in cursive script that reads "Jayme Humphrey".

Jayme Humphrey  
Environmental Health Specialist, Sr.

CITY OF SUFFOLK PLANNING COMMISSION

**A RESOLUTION APPROVING A FAMILY TRANSFER SUBDIVISION  
ON PROPERTY LOCATED ON INDIAN TRAIL, ZONING MAP 31,  
PARCEL 7; FTR2020-0003**

**WHEREAS**, Barbara Lowe Copeland, property owner, has submitted an application for a Family Transfer Subdivision for review pursuant to the provisions of Section 31-514 of the Unified Development Ordinance (UDO) of the City of Suffolk, which plat is attached hereto as Exhibit "A" and incorporated herein and hereafter referred to as the Plat; and

**WHEREAS**, this specific request is to grant permission under Section 31-514 of the Unified Development Ordinance for a transfer of property to an immediate family member to hold title to the subject property for a period of not less than 10 years from the date of recording of the Plat;

**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:

- \_\_\_ a. Finds,
- \_\_\_ b. Does not find,

- (1) Granting this Family Transfer Subdivision will be for the purpose of providing separate places of residence to an immediate family member over the age of eighteen (18) years old for a period of ten (10) years;
- (2) This Family Transfer Subdivision is not created to circumvent the subdivision ordinance;
- (3) Lot dimensions and building setbacks for the lot(s) created by this Family Transfer Subdivision will be consistent with the Agricultural zoning district as set forth in Table 407-1 of the City of Suffolk UDO.
- (4) The proposed parcel(s) have received Health Department approval for a septic system as noted on the plat.

- (5) The Sworn Family Transfer Subdivision Affidavit has been executed by the Grantor(s) and the Grantee(s). The Deeds of Gift for this Family Transfer shall be executed and recorded simultaneously with the plat.

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

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

THIS SUBDIVISION OF PROPERTY AS IT APPEARS ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER / TRUSTEE.

DATE \_\_\_\_\_ OWNER.

STATE OF VIRGINIA

I, \_\_\_\_\_, A NOTARY PUBLIC IN AND FOR THE CITY AND THE STATE AFORESAID DO HEREBY CERTIFY THAT THE ABOVE PERSONS WHOSE NAMES ARE SIGNED TO THE FOREGOING WRITING HAVE ACKNOWLEDGED THE SAME BEFORE ME IN MY CITY AND STATE AFORESAID.

GIVEN UNTO MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_.

MY COMMISSION EXPIRES \_\_\_\_\_

NOTARY PUBLIC

I HEREBY CERTIFY THAT THIS SUBDIVISION WAS MADE BY ME AT THE DIRECTION OF THE OWNER(S) AND THAT THIS SUBDIVISION IS ENTIRELY WITHIN THE BOUNDARIES OF LAND OWNED BY THEM. STEEL PINS, AS SHOWN ON THIS PLAT BY SMALL CIRCLES, HAVE ACTUALLY BEEN PLACED AND THEIR LOCATIONS CORRECTLY SHOWN. THE PLAT DETAILS MEET THE STANDARDS FOR PLATS AS ADOPTED UNDER VC 42J-82 OF THE VIRGINIA PUBLIC RECORDS ACT (42J-76, ET. SEQ.).

DATE 03/12/20 F. Hunter Walters LAND SURVEYOR \*2651

THE UNDERSIGNED CERTIFY THAT THIS SUBDIVISION, AS IT APPEARS ON THIS PLAT, CONFORMS TO THE APPLICATION 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 AS SHOWN ON THIS PLAT.

DATE \_\_\_\_\_ AGENT-CITY OF SUFFOLK, VA.

DATE \_\_\_\_\_ AGENT-CITY OF SUFFOLK, VA.

- NOTES:
- WHERE SEPTIC TANKS ARE TO BE INSTALLED, THERE MUST BE AN APPROVAL ON AN INDIVIDUAL LOT BASIS BY THE LOCAL HEALTH DEPARTMENT AT THE TIME AN APPLICATION IS MADE FOR A SEPTIC TANK PERMIT. APPROVAL OF THIS PLAT BY THE CITY OF SUFFOLK DOES NOT ASSURE THAT THE INDIVIDUAL PARCELS ARE SUITABLE FOR SEPTIC TANK SYSTEMS.
  - THERE SHALL BE A 5' EASEMENT ALONG THE REAR & SIDE PROPERTY LINES FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES.
  - THE CURRENT ZONING OF THE SUBJECT PARCEL IS "A - AGRICULTURAL"
  - THIS SITE IS TIED TO AND IS BASED ON THE CITY OF SUFFOLK GEODETIC CONTROL NETWORK USING STATIONS 143 & 144.
  - THIS PROPERTY IS NOT SERVED BY CITY WATER AND SEWER.
  - THE SUBJECT PARCEL IS LOCATED IN THE CHESAPEAKE BAY PRESERVATION (CBPA) AREA OVERLAY DISTRICT AND IS DESIGNATED AS A RESOURCE MANAGEMENT AREA.
  - FOR NEW CONSTRUCTION, ANY ON-SITE SEWAGE TREATMENT SYSTEM NOT REQUIRING A VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT SHALL HAVE A 100% RESERVE SEWAGE DISPOSAL AREA. BUILDING CONSTRUCTION OF A PERMANENT NATURE IS PROHIBITED WITHIN THE SEWAGE TREATMENT SITE.
  - ON-SITE SEWAGE TREATMENT SYSTEMS SHALL BE PUMPED OUT AT LEAST ONCE EVERY FIVE YEARS, SUBJECT TO THE PROVISIONS IN SECTION 31-45(c)(6) OF THE UNIFIED DEVELOPMENT ORDINANCE.

OBSERVED DRAINFIELDS		
#	BEARING	DISTANCE
RESERVE (R)		
1	N 43°03'54" E	30.0'
2	S 47°25'53" E	30.0'
3	S 43°03'54" W	30.0'
4	N 47°25'53" W	30.0'
PRIMARY (P)		
5	N 43°03'54" E	60.0'
6	S 47°25'53" E	39.0'
7	S 43°03'54" W	60.0'
8	N 47°25'53" W	39.0'

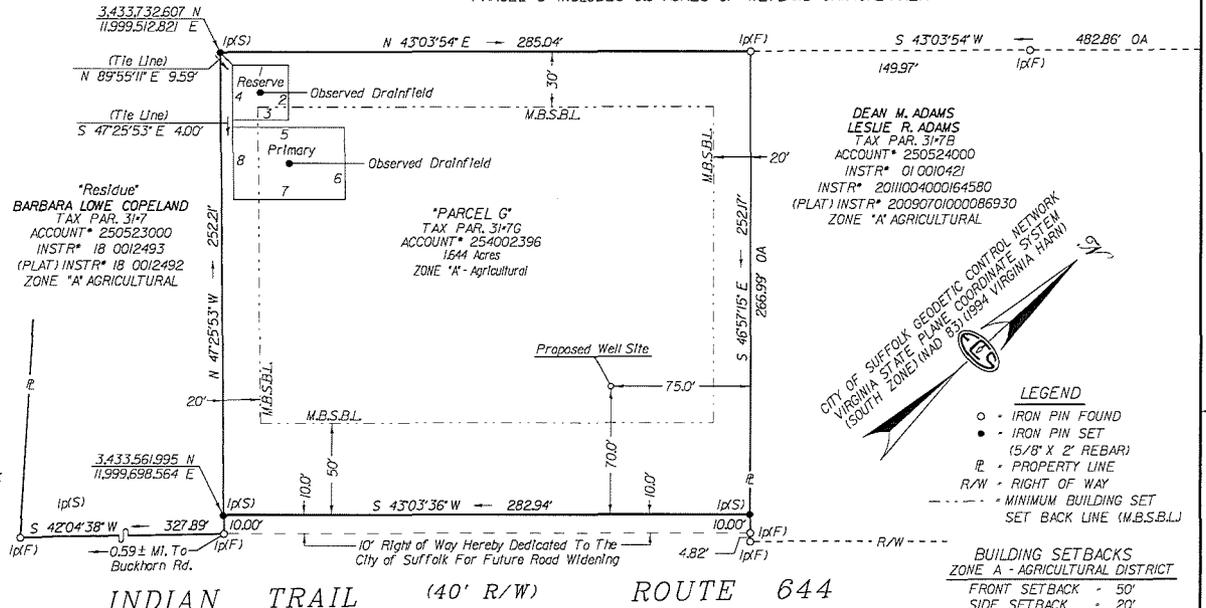
THE LOT(S) CREATED BY THIS FAMILY TRANSFER PLAT SHALL BE TITLED IN THE NAME OF THE IMMEDIATE FAMILY MEMBER FOR WHOM THE SUBDIVISION HAS BEEN MADE FOR A PERIOD OF NO LESS THAN TEN (10) YEARS, UNLESS SUCH LOTS ARE SUBJECT TO AN INVOLUNTARY TRANSFER SUCH AS BY FORECLOSURE, DEATH, JUDICIAL SALE, CONDEMNATION, OR BANKRUPTCY.

"PARCEL G"

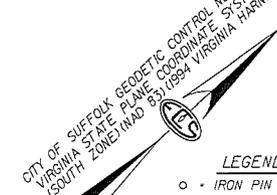
I, BARBARA LOWE COPELAND (GRANDMOTHER) HEREBY CERTIFY THAT THIS SUBDIVISION IS FOR THE PURPOSE OF SALE OR GIFT TO MICHAEL THOMAS BEALE (GRANDSON) WHO IS A MEMBER OF MY IMMEDIATE FAMILY AS DEFINED IN SECTION 15.2-224.4 OF THE CODE OF VIRGINIA.

"ACREAGE SUMMARY TABLE"

ORIGINAL AREA TAX MAP 31 PAR. 7 (ACCOUNT* 250523000)	66.529 AC. (PC 3 SL 367A&B)
PARCEL "G" (ACCOUNT* 254002396) CONVEYING TO MICHAEL THOMAS BEALE	-1.644 AC. (Total)
10' DEDICATION FOR FUTURE ROAD WIDENING	-0.065 AC. (Total)
RESIDUAL AREA TAX MAP 31 PAR. 7 (ACCOUNT* 250523000)	64.820 AC. (Total)
PARCEL "G" INCLUDES 0.0 ACRES OF WETLAND CRITICAL AREA	



DEAN M. ADAMS  
LESLIE R. ADAMS  
TAX PAR. 31+7B  
ACCOUNT\* 250524000  
INSTR\* 01 0010421  
INSTR\* 2011004000164580  
(PLAT) INSTR\* 20090701000086930  
ZONE "A" AGRICULTURAL



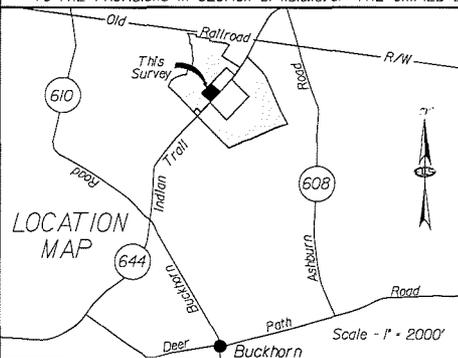
- LEGEND
- o - IRON PIN FOUND
  - o - IRON PIN SET (1 5/8" X 2" REBAR)
  - ℞ - PROPERTY LINE
  - R/W - RIGHT OF WAY
  - - MINIMUM BUILDING SET BACK LINE (M.B.S.B.L.)

- BUILDING SETBACKS  
ZONE A - AGRICULTURAL DISTRICT
- FRONT SETBACK - 50'
  - SIDE SETBACK - 20'
  - REAR SETBACK - 30'

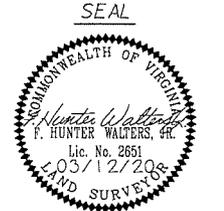
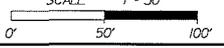
SUBJECT PARCEL: TAX MAP 31 PAR. 7  
OWNERS ADDRESS: BARBARA LOWE COPELAND  
5794 INDIAN TRAIL  
SUFFOLK, VIRGINIA 23434  
TELEPHONE: (757) 539-6681

THE PROPERTY SHOWN HEREON APPEARS TO BE IN FLOOD HAZARD AREA ZONE X AS SHOWN ON COMMUNITY PANEL NO. 5101560205 D  
FLOOD INSURANCE RATE MAP FOR THE CITY OF SUFFOLK, VIRGINIA  
EFFECTIVE NOVEMBER 16, 2011.

SUBJECT PARCEL TAX MAP 31 PAR. 7  
GRANTOR(S): BARBARA LOWE COPELAND  
GRANTEE(S): BARBARA LOWE COPELAND  
DATE OF DEED: NOVEMBER 13, 2018  
DATE RECORDED: NOVEMBER 26, 2018  
LAND RECORD: INSTRUMENT\* 18 0012493



SUBJECT PARCEL: PART OF 31-7  
LEGAL REFERENCE: INSTR\* 18 0012493  
LEGAL REFERENCE: WB 24 PG 405 (BACK REFERENCE)  
DB 188 PG 175 (BACK REFERENCE)



PLAT SHOWING  
FAMILY TRANSFER OF PROPERTY  
OWNED BY  
BARBARA LOWE COPELAND  
TO BE CONVEYED TO  
MICHAEL THOMAS BEALE  
SUFFOLK, VIRGINIA HOLY NECK BOROUGH  
SCALE 1" = 50' DECEMBER 19, 2019  
F. HUNTER WALTERS, JR.  
LAND SURVEYOR #2651  
306 COLLINS RD.  
SUFFOLK, VIRGINIA  
PHONE \* (757) 986-4848  
HUNTER@ECSURVEYORS.COM

PLAT \* 19-150

REV. MARCH 12, 2020

PTR2020-00003  
EXHIBIT A

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# CITY OF SUFFOLK

442 WEST WASHINGTON STREET, P. O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT

*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Rezoning Request, RZN2018-009, (Conditional), Turlington Woods, submitted by Whitney G. Saunders, Saunders and Ojeda P.C., agent, on behalf of Bobby Glenn Johnson, Turlington Road Associates, applicant and property owner, in accordance with Sections 31-304 and 31-305 of the Unified Development Ordinance, to rezone and amend the official zoning map of the City of Suffolk to change the zoning from A, Agricultural zoning district, to RLM, Residential Low Medium Density zoning district, for property located on the south side of Turlington Road, Zoning Map 43, Parcel 19. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned A, Agricultural zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Kevin Wyne, the staff planner for this case, if you have any questions in advance of the meeting.

Respectfully submitted,

David Hainley,  
Director of Planning and Community Development

/kmw

Attachments

# STAFF REPORT

## DESCRIPTION

**REZONING REQUEST:** Rezoning Request, RZN2018-009 (Conditional), Turlington Woods, to request a change in zoning from A, Agricultural zoning district to RLM, Residential Low Medium Density zoning district.

**APPLICANT:** Bobby Glenn Johnson, Turlington Road Associates, applicant and property owner.

**LOCATION:** The subject property is located on the south side of Turlington Road, and is further identified as Zoning Map 43, Parcel 19, Whaleville Voting Borough.

**PRESENT ZONING:** The subject parcel is zoned A, Agricultural zoning district.

**EXISTING LAND USE:** The existing property measures 81.21 acres and largely consists of cultivated farmland. The northeastern portion of the property consists of farm buildings, including a greenhouse, storage buildings, trailers and outbuildings, outdoor composting areas and storage, and a gravel covered parking lot.

**PROPOSED LAND USE:** The proposed use of the property is a 101 lot, single family detached, cluster subdivision.

## **SURROUNDING LAND USES:**

North - Single family detached homes (A, Agricultural)

South - Single family detached homes and cropland (A, Agricultural and RLM, Residential Low Medium)

East - Single family detached homes and a church (RLM, Residential Low Medium Density)

West - Single family detached home and cropland (A, Agricultural)

**COMPREHENSIVE PLAN:** The 2035 Comprehensive Plan designates this area as a part of the Central Growth Area, Suburban 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).

**FLOOD PLAIN:** The property falls within Flood Zone X (areas of minimal risk), as shown on Panel 0230E of the Flood Insurance Rate Map for the City of Suffolk, Virginia, Community No. 510156, dated August 3, 2015.

**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. A notice, containing a copy of the staff report, was also provided to the applicant on July 2, 2020.

## **STAFF ANALYSIS**

### **ISSUE:**

The applicant is requesting a change in zoning from the A, Agricultural zoning district, to the RLM, Residential Low Medium Density zoning district, for a parcel of land located on the south side of Turlington Road. The subject property contains 81.21 acres and contains 34.54 acres of critical area, as the property contains areas of non-tidal wetlands and Chesapeake Bay Preservation Area Resource Protection Area Buffer (RPA). As presented and proffered by the applicant, the development would yield 101 single family detached units, which equates to a density of 2.16 units per acre.

The subject property currently contains buildings and uses associated with farming operations that take place on the property. This use and associated structures are concentrated at the northeastern corner of the property. Surrounding land uses include several single family detached dwellings, farmland, and the Calvary Baptist Missionary Church. The proposed conceptual plan, which is not proffered, shows a 101 lot cluster subdivision utilizing two points of ingress/egress off of Turlington Road.

### **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 request is based on the belief that the RLM zoning district would align with the goals and objectives identified within the 2035 Comprehensive Plan. Additionally, the applicant notes that the property was brought into the Central Growth Area in the 2035 Comprehensive Plan and mentions that existing infrastructure is in place to support growth on the southern side of Turlington Road.

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

The 2035 Comprehensive Plan designates this area as a part of the Central Growth Area, Suburban Use District. The Suburban Use District is the least dense area within the Growth Areas and should be primarily composed of traditional residential subdivisions. Single-family dwellings are the most common use found in this district. The proposed RLM zoning district has a maximum allowable density of 2.9 units per acre, which complies with the recommended 1-5 unit density recommended within the Suburban Use District. When considering the developable acreage, 46.67 acres, the proposed residential density for the subject property will be 2.16 dwelling units per acre, which will fall within the recommended density range of 1 to 5 units per acre for residential uses in the Suburban Use District. Based on the information provided by the applicant, the applicable place type would be Suburban Neighborhood under the 2035 Comprehensive Plan.

The Comprehensive Plan sets specific themes and policies related to land use, transportation, open space, and the environment that should be considered when contemplating a rezoning application. Relevant to this application are the following:

**Policy 2-1: Keep development focused in designated Growth Areas in the City.**

- *Action 2-1A: Ensure that the City's land use regulations support higher density/intensity development in focused Growth Areas.*

The subject parcel is located within the Central Growth Area's Suburban Use District, which is envisioned to accommodate primarily single family residential subdivisions with densities of 1-5 units per acre. The zoning district proposed will allow a maximum density of 2.9 units per acre and appears to be appropriate on the subject parcel.

**Policy 2-4: Promote compatibility in land use patterns.**

While not proffered, the design of the proposed residential development appears to follow a typical suburban layout. The cluster development envisioned is consistent with similar single family subdivisions on Turlington Road, including Turlington Park, Lake Speights Colony, and the proposed Millstone subdivision.

**Policy 4-1: Provide opportunities for residents to adopt a lifestyle that is less dependent on auto travel.**

- *Action 4-1A: Focus development in the two Suburban/Urban Growth Areas based on the densities shown in Chapter 3.*

As previously discussed, the development proposal does align with the recommended density for residential uses within the Suburban Use District. The proposed RLM zoning allows for up to 2.9 units per acre, falling within the Suburban Use District's recommended density range.

**Policy 5-1: Relate the availability of municipal services and facilities to the location and pace of growth.**

- *Action 5-1B: Continue to tie development approval to the adequacy and funding of public facilities.*

This proposal includes on-site improvements to the public water, sewer and street networks, and stormwater management and mitigates anticipated off-site impacts to the school system through the advancement of capacity. Each of these items is discussed in detail below.

**Policy 6-1: Encourage development of a balanced and diverse housing stock throughout the City.**

- *Action 6-1A: Ensure that the City's land use regulations allow for a variety of housing types, such as single-family detached, single-family attached, and multi-family.*

The proposed development would increase the single family detached housing stock within the Central Growth Area in an area where suburban use patterns are appropriate. Change of zonings of this nature work to balance higher density, more multi-family centric rezonings found closer to the Mixed Use Core and Core Support districts. The established

use districts work together to bring balance and diversity to the City's housing stock. This request aligns with Policy 6-1A.

## **2. Unified Development Ordinance**

Under Section 31-406 of the Unified Development Ordinance, single family detached dwellings are permitted as by-right uses in the proposed RLM zoning district. Conventional, hamlet, and cluster use patterns are permitted in this zoning district per Section 31-408 (e). As stated in Section 31-407, conventional lots in the RLM district must be a minimum of 15,000 square feet in area with a minimum frontage of eighty (80) feet and a minimum lot width of one-hundred (100) feet. There is no minimum lot size requirement for cluster development patterns, which is the type proposed for this request.

The proposed RLM zoning, if developed as a cluster subdivision, would require that 45% of the net developable area, or approximately 21 acres, be set aside as open space in a cluster subdivision. Per Section 31-607 (e), five percent (5%) of the total open space must be active open space, which equates to about 1 acre. The balance of required open space may be passive and up to 25% of required open space may be located within critical areas, such as wetlands. Compliance with regard to open space requirements will be verified during development review.

## **3. 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. It is important to note that adequate public facilities must be evaluated based on existing conditions and while anticipated future conditions may factor in consideration of the request overall, such future circumstances cannot be considered when evaluating adequate public facilities.

### Public Water and Sanitary Sewer

City water and sewer is available to this site by means of a 20" water main and 6" force main along Turlington Road. Gravity sewer exists at the intersection of Lake Speight Drive and Turlington Road that should be deep enough to provide sewer service to the site. City Pump Station #109/Lake Speight is the outfall for the sewer service area. The original design calculations for City Pump Station #109 included 75 lots from this parcel. Since this proposed development will have 101 single family residences, a Sewer Pump Station Analysis will need to be done to determine whether pump station upgrades are required. Any upgrades to this pump station as a result of this development will be at development cost. During the design phase, a City Water Model will need to be obtained to determine available flow and pressure at the City connection. Also, an on-site water model will need to be done to verify adequate fire and domestic flows to the site.

### Stormwater Management

The subject property is located within a Chesapeake Bay Preservation Area and is designated as a Resource Management Area which is subject to the applicable provisions of the stormwater management regulations. A detailed stormwater management design will be provided during the development review phase of the project and compliance with state stormwater regulations will be verified at that time. All retention facilities will require a maintenance agreement.

### Transportation

Rezoning the property from A to RLM would result in a significant increase in peak-hour trip generation. Specifically, the proposed use is anticipated to generate 77 total AM trips and 103 total PM. The proposal would utilize two points of ingress/egress to the site from Turlington Road that are spaced a sufficient distance from one another. The proposed entrance includes one area with direct frontage on Turlington Road. It is important to note that the proposed point of ingress/egress in this area is wholly located within a Dominion Energy easement. The applicant has provided documentation from Dominion Energy that states that a formal encroachment request will be required; however, based upon the information submitted, they have no objections at this time. A second point of ingress/egress off of Turlington Road will be installed at the north end of the site and traverse Tax Map Number 43, Parcel 19P\*1. The applicant has supplied the City with a Deed of Easement for access, both ingress/egress to the site. This easement is 100' in width and runs from Turlington Road to the parcel subject to this rezoning request. The documentation provided, for the purposes of this rezoning request, demonstrates that this second point of ingress/egress can be achieved. During preliminary plat review, the applicant must demonstrate that adequate right-of-way for both entrance points can be achieved. Upon approval of any final subdivision plat these rights-of-way must be dedicated to the City.

The Department of Public Works, Traffic Engineering Division has reviewed the request and supporting information and approved the submitted TIA. Left and right turn lanes will be installed on Turlington Road at both site entrances. Traffic Engineering recommends approval of the rezoning application.

### Schools

The proposed development will be served by Kilby Shores Elementary School, Forest Glen Middle School, and Lakeland High School. The property is currently zoned A, Agricultural, and could yield no more than 4 lots through a minor subdivision process, meaning that the by-right yield of the property is 4 lots. The proposed development would yield no more than 101 lots, which when subtracting the maximum by-right yield of 4 lots, leaves a net increase of 97 lots. In accordance with Section 31-601 of the Unified Development Ordinance, a development consisting of 101 single family detached dwellings could reasonably be anticipated to generate 19 elementary school students, 9 middle school students, and 14 high school students. When considering committed development that will be served by the same schools serving the parcel in question, there is sufficient capacity at Forest Glen Middle School and Lakeland High School. Based on

current enrollment, Kilby Shores Elementary School is over capacity before considering committed development. The adopted 2019-2028 Capital Improvements Program and Plan contains a project that would replace Kilby Shores Elementary. Based on the project cost and capacity of the replacement school the cost per student at the elementary level is \$36,250.00.

It is important to note that this number has increased with the subsequent adoption of the 2021-2030 Capital Improvement Plan to \$44,427.50 per student. The applicant has voluntarily proffered to advance capacity for each of the 19 net generated elementary students “subject to level of service requirements in section 31-601 of the Unified Development Ordinance in force at the time of this application.” However, based on information provided to the applicant consistently in this case, \$36,250.00 per student at the elementary school level with satisfactorily advance capacity at this level.

4. **Proffered Conditions**

The applicant has voluntarily proffered the following conditions in support of this rezoning request:

1. The property shall be developed as a single family cluster subdivision of no more than 101 lots.
2. Entrance turn lanes on Turlington Road shall be constructed as required by Suffolk City Code.
3. The property owner will make a cash contribution to the City of Suffolk to increase capacity for additional students at the elementary school level. This Contribution will be based upon the number of students generated by the total number of building units shown on the approved developmental plan, subject to level of service requirements in section 31-601 of the Unified Development Ordinance in force at the time of this application.

**RECOMMENDATION**

In summary, staff finds that this proposal, Rezoning Request RZN2018-009 (Conditional), is consistent with the provisions of the 2035 Comprehensive Plan and the Unified Development Ordinance. This conditional rezoning request is consistent with the policies of the 2035 Comprehensive Plan which encourages residential density yields in the one (1) to five (5) units per acre range in the Suburban Use District. This request is compatible with the surrounding uses contained in the surrounding neighborhood. Based on a technical review of public facilities necessary to serve the development, it has been determined that adequate public facilities are currently available to serve the needs of the development. Accordingly, staff recommends **approval** of Rezoning Request RZN2018-009 (Conditional).

Attachments

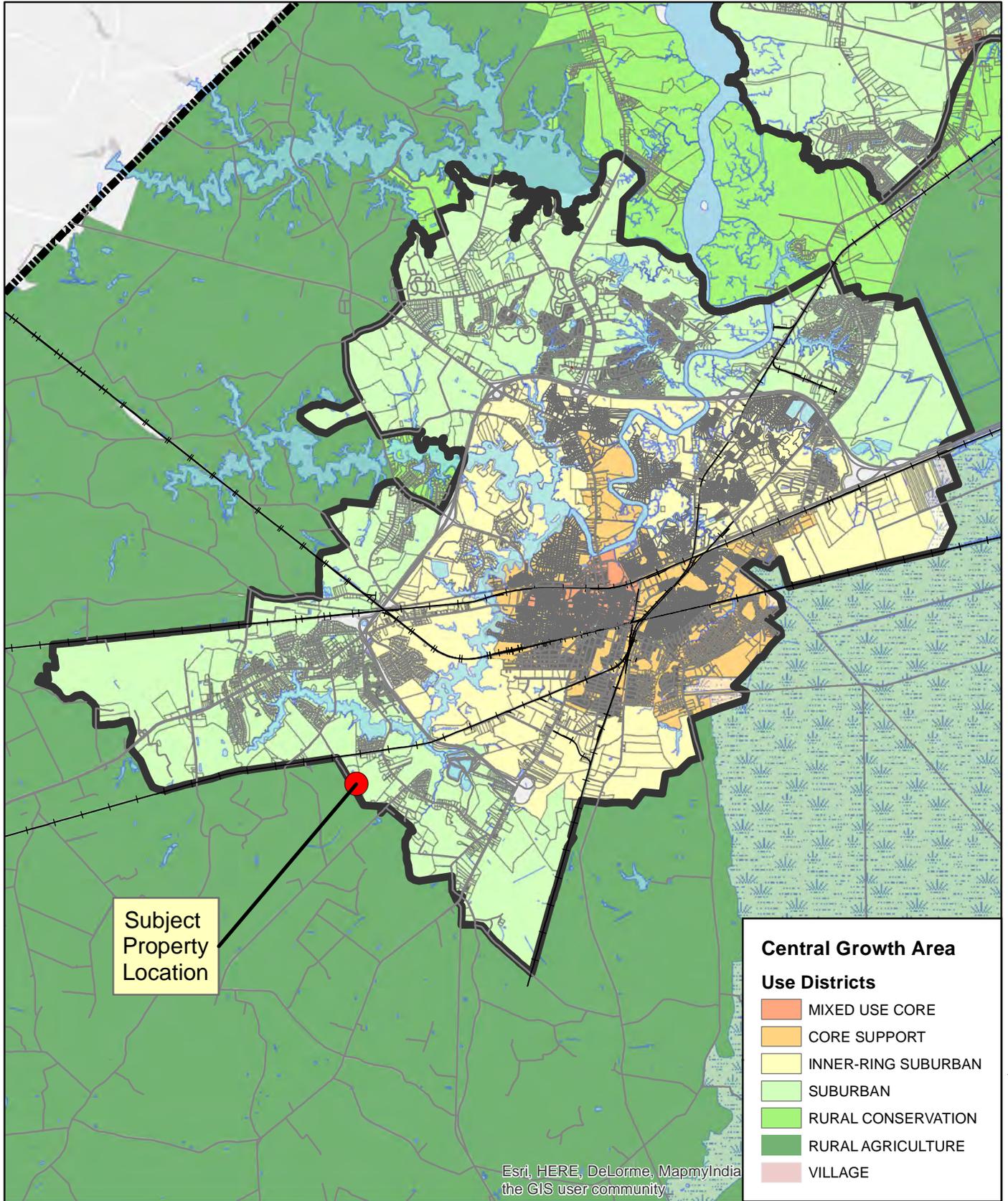
- General Location Map

- Zoning/Land Use Map
- Application Narrative
- Conceptual Layout
- Proposed Ordinance
- Exhibit A - Planning Commission Resolution
- Exhibit B – Rezoning Proffers
- Exhibit C – Property Map
- Exhibit D – Rezoning Exhibit/Survey



# GENERAL LOCATION MAP

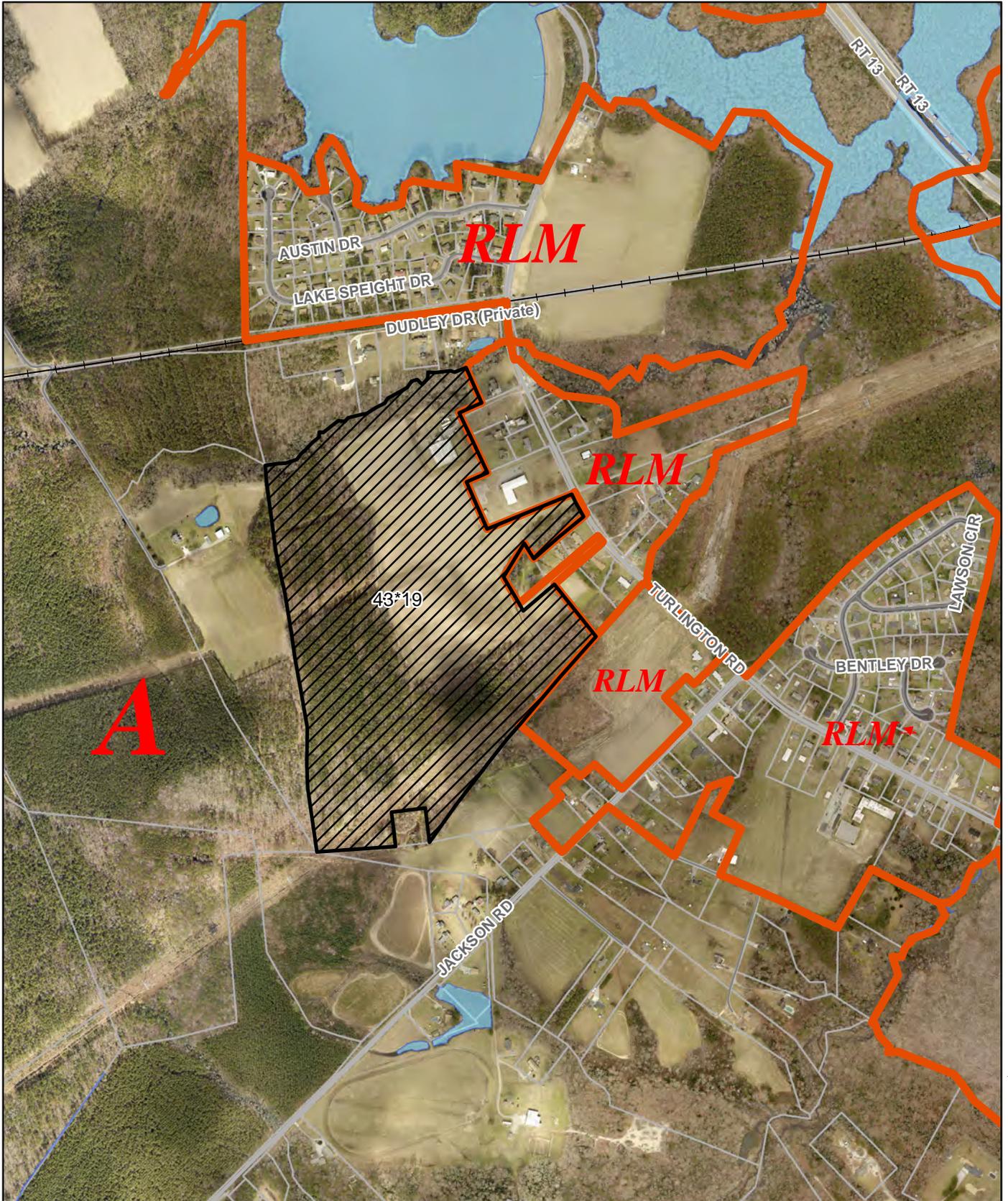
## RZN2018-009





# ZONING / LAND USE MAP

## RZN2018-009



User Name: bsmith  
Date: 8/3/2018

Proposed changing zoning from A, Agricultural to RLM, Residential Low-Medium Density

## Narrative

The Applicant is the owner of City of Suffolk tax parcel 43\*19 which contains approximately 81 acres currently zoned Agricultural. The property fronts on the west side of Turlington Road and is adjacent to residential parcels, a church and property in agricultural use. A Dominion Power transmission line skirts the southern boundary of the property. Parcels on the eastern boundary of the property are zoned RLM and with the exception of a church, these parcels are used for residential purposes. On the southern boundary property has been zoned RLM and Agricultural. The northern boundary is formed by parcel zoned for agriculture, as is the case on the northern boundary. The applicant is requesting no more than 101 single family lots although the RLM zoning category would allow 135 Single family lots.

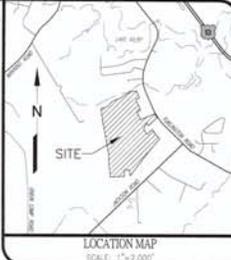
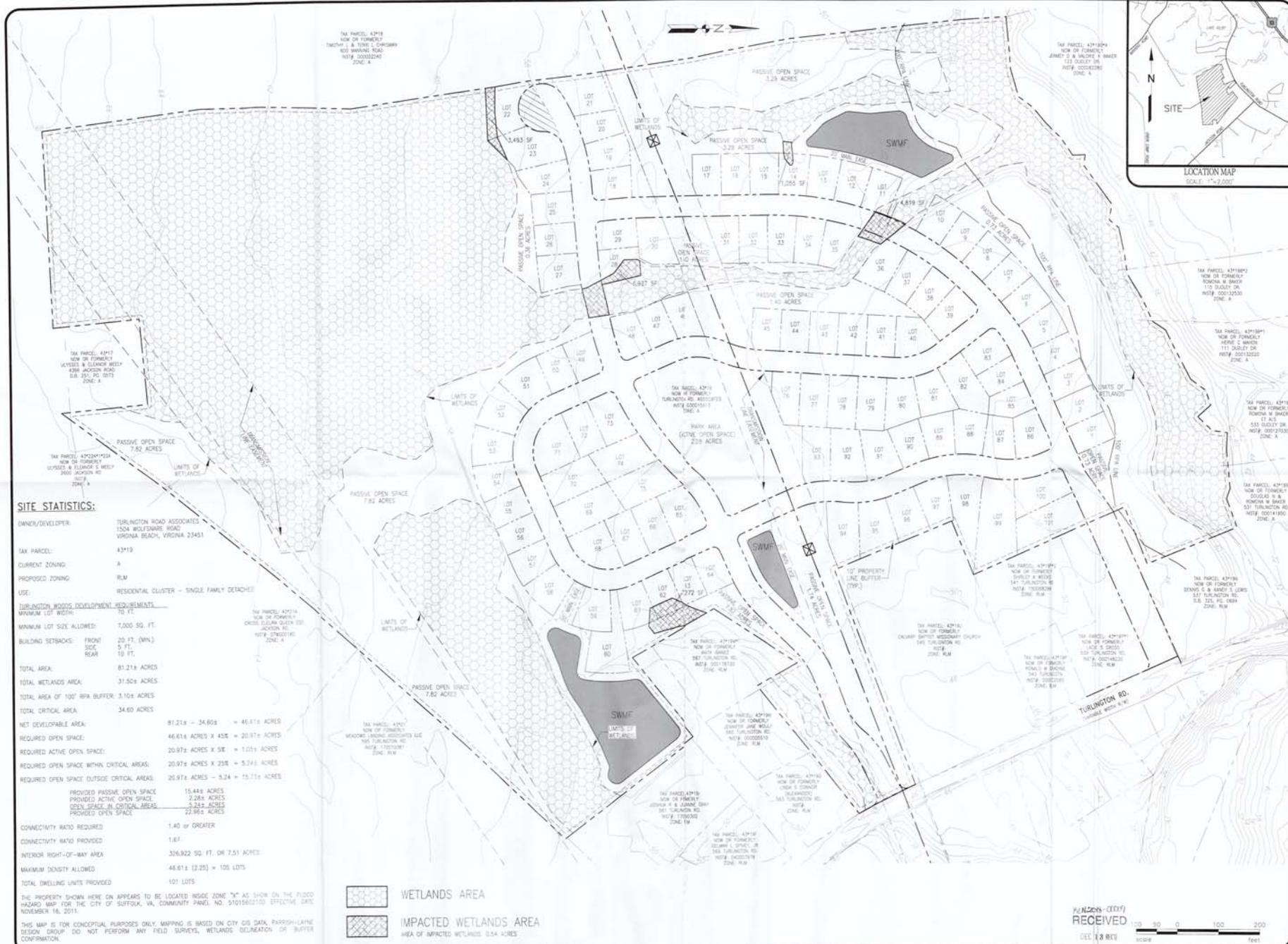
The west side of Turlington Road was included in the Suburban District in the 2035 Comprehensive Plan for the City of Suffolk. The Suburban District is the least dense district within the growth area and supports residential subdivisions, either traditional or clustered. The proposed subdivision would have a density of 2.2 units per acre and would fit within the suburban development density allowance of one to five dwelling units per acre. The neighborhood is set forth in a cluster design and will be subject to the requirements of the cluster ordinance. The applicable place type would be suburban neighborhood.

Tax parcel 43\*19 is within the area specifically brought into the central growth area by the 2035 Comprehensive Plan. The purpose of its inclusion was to encourage the use of existing infrastructure to support growth on the southern side of the central core. The requested zoning is consistent with the surrounding residential parcels and should have no deleterious effect upon neighboring parcels.

**RECEIVED**

**DEC 23 2019**

**PLANNING**



**PARRISH LAYNE**  
**DESIGN GROUP**  
 Engineers • Surveyors • Planners  
 P.O. Box 9164, Chesapeake, VA 23321  
 Phone: 757.686.3345 Fax: 757.686.3348

REV.	DATE	DESCRIPTION
1	10-24-18	PER CITY COMMENTS DATED 9-10-18
2		
3		
4		
5		
6		
7		
8		
9		
10		

**CONCEPTUAL LAYOUT OF TURLINGTON WOODS**  
 TURLINGTON ROAD ASSOCIATES  
 100 PARCEL 48718  
 WHALEYVILLE BOROUGH, SUFFOLK, VIRGINIA  
**CONCEPTUAL LAYOUT**

DRAWN:	JLF, E
DESIGN:	DWP
CHECKED:	DWP
DATE:	07/13/18
SCALE:	1"=100'
FIELD BOOK:	PAGE
APPROVAL DATE:	

C-1

SHEET: 1 of 1

4123.0-17

**SITE STATISTICS:**

OWNER/DEVELOPER:	TURLINGTON ROAD ASSOCIATES 1504 WOLFENDARE ROAD VIRGINIA BEACH, VIRGINIA 23451
TAX PARCEL:	43119
CURRENT ZONING:	A
PROPOSED ZONING:	RLM
USE:	RESIDENTIAL CLUSTER - SINGLE FAMILY DETACHED
TURLINGTON WOODS DEVELOPMENT ACCOUMENTMENTS	
MINIMUM LOT WIDTH:	10 FT.
MINIMUM LOT SIZE ALLOWED:	7,000 SQ. FT.
BUILDING SETBACKS:	FRONT: 20 FT. (MIN.) SIDE: 5 FT. REAR: 10 FT.
TOTAL AREA:	81.214 ACRES
TOTAL WETLANDS AREA:	31.504 ACRES
TOTAL AREA OF 100' RFA BUFFER:	3.101 ACRES
TOTAL CRITICAL AREA:	34.80 ACRES
NET DEVELOPABLE AREA:	81.214 - 34.808 = 46.406 ACRES
REQUIRED OPEN SPACE:	46.614 ACRES X .45E = 20.974 ACRES
REQUIRED ACTIVE OPEN SPACE:	20.972 ACRES X .5E = 10.486 ACRES
REQUIRED OPEN SPACE WITHIN CRITICAL AREAS:	20.972 ACRES X .25E = 5.243 ACRES
REQUIRED OPEN SPACE OUTSIDE CRITICAL AREAS:	20.972 ACRES - 5.24 = 15.732 ACRES
PROVIDED PASSIVE OPEN SPACE:	15.444 ACRES
PROVIDED ACTIVE OPEN SPACE:	2.284 ACRES
OPEN SPACE IN CRITICAL AREAS:	5.243 ACRES
PROVIDED OPEN SPACE:	22.965 ACRES
CONNECTIVITY RATIO REQUIRED:	1.40 OR GREATER
CONNECTIVITY RATIO PROVIDED:	1.67
INTERIOR RIGHT-OF-WAY AREA:	326,922 SQ. FT. OR 7.51 ACRES
MAXIMUM DENSITY ALLOWED:	48.614 (2.25) = 105 LOTS
TOTAL DWELLING UNITS PROVIDED:	101 LOTS

WETLANDS AREA

IMPACTED WETLANDS AREA  
 AREA OF IMPACTED WETLANDS: 0.54 ACRES

PLANNING

RECEIVED

100 0 100 200  
feet

THE PROPERTY SHOWN HERE ON APPEARS TO BE LOCATED WITHIN ZONE "X" AS SHOWN ON THE FLOOD HAZARD MAP FOR THE CITY OF SUFFOLK, VA, COMMUNITY PANEL NO. 51015402100 EFFECTIVE DATE NOVEMBER 14, 2011.

THIS MAP IS FOR CONCEPTUAL PURPOSES ONLY. MAPPING IS BASED ON CITY GIS DATA. PARRISH-LAYNE DESIGN GROUP DOES NOT PERFORM ANY FIELD SURVEYS, WETLANDS DECLARATION OR BUFFER CONTINUATION.

**ORDINANCE NO.**

**AN ORDINANCE TO REZONE AND AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SUFFOLK, TO CHANGE THE ZONING FROM A, AGRICULTURAL ZONING DISTRICT, TO RLM, RESIDENTIAL LOW MEDIUM DENSITY ZONING DISTRICT, FOR PROPERTY LOCATED ON TURLINGTON ROAD, ZONING MAP 43, PARCEL 19; RZN2018-009 (CONDITIONAL)**

WHEREAS, Whitney G. Saunders, of Saunders and Ojeda P.C., agent, on behalf of Bobby Glenn Johnson, Turlington Road Associates, applicant and property owner, has requested a change in zoning from A, Agricultural Zoning District, to RLM, Residential Low Medium Density Zoning District (Conditional), for property located on Turlington Road, Zoning Map 43, Parcel 19, which land is depicted on Exhibit "C"; 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 5<sup>th</sup> day of August, 2020, 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. Exhibit "A", "Planning Commission Recommendation" and Exhibit "B", "Rezoning Proffers", Exhibit "C", "Property Map", and Exhibit "D" "Rezoning Exhibit", 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 a mistake or 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 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 (UDO) as set out in Section 31-102 of the UDO, as amended, and Section 15.2-2283 of the Code of Virginia, (1950), as amended.

B. The Suffolk City Council makes the following specific findings to the conditions of the rezoning:

1. the proposed rezoning itself gives rise to the need for the proffered conditions;
2. the proffered conditions have a reasonable relationship to the rezoning; and
3. the proffered conditions are in conformity with the 2035 Comprehensive Plan as adopted by City Council on April 1, 2015.

Section 3. Rezoning.

1. The conditions proffered in the attached Exhibit "B" be, and they are hereby, accepted.
2. The property as shown on the attached Exhibit "C" is hereby, conditionally rezoned and the official zoning map be, and it is hereby, amended from A, Agricultural Zoning District, to RLM, Residential Low Medium Density Zoning District (Conditional).
3. The foregoing rezoning and amendment to the official zoning map are expressly made subject to the performance of the conditions hereby proffered and accepted and these conditions shall remain in effect until a subsequent amendment changes the zoning of the property; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

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 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

**EXHIBIT "A"**

**RESOLUTION NO. 20-07-3**

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO REZONING REQUEST  
RZN2018-009 (CONDITIONAL)  
TO CHANGE THE ZONING FROM A, AGRICULTURAL ZONING DISTRICT, TO  
RLM, RESIDENTIAL LOW MEDIUM DENSITY ZONING DISTRICT, FOR  
PROPERTY LOCATED ON TURLINGTON ROAD, AND FURTHER IDENTIFIED AS  
ZONING MAP 43, PARCEL 19**

**WHEREAS**, Whitney G. Saunders, of Saunders and Ojeda P.C., agent, on behalf of Bobby Glenn Johnson, Turlington Road Associates, applicant and property owner, has requested a change in zoning from A, Agricultural Zoning District, to RLM, Residential Low Medium Density Zoning District (Conditional); 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 a 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 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 Ordinances 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").

B. The Suffolk Planning Commission makes the following specific findings to the conditions of the rezoning:

1. the proposed rezoning itself gives rise to the need for the proffered conditions;
2. the proffered conditions have a reasonable relationship to the rezoning; and
3. the proffered conditions are in conformity with the 2035 Comprehensive Plan as adopted by City Council on April 1, 2015.

Section 2. Recommendation to Council

The Planning Commission recommends to City Council that the request, RZN2018-009 (Conditional), be:

- \_\_\_a. Granted as submitted, and 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 PASSED: \_\_\_\_\_

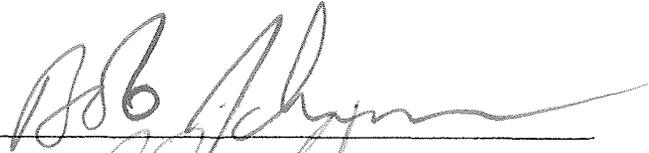
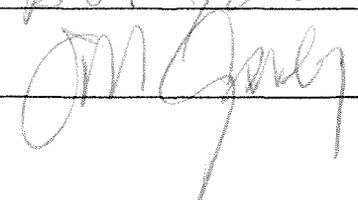
TESTE: \_\_\_\_\_

VOLUNTARY PROFFER STATEMENT

I hereby voluntarily proffer that the development of the property owned by me proposed for reclassification under this application shall be in strict accordance with the conditions set forth below.

The following conditions (add additional sheets if necessary) are voluntarily proffered for the reclassification of property identified as Tax Map Number(s) 43\*19,  
Block Number \_\_\_\_\_, Parcel Number(s) \_\_\_\_\_.

1. The property shall be developed as a single family cluster subdivision of no more than 101 Lots.
2. Entrance turn lanes on Turlington Road shall be constructed as required by Suffolk City Code.
3. The property owner will make a cash contribution to the City of Suffolk to increase capacity for additional students at the elementary school level. This Contribution will be based upon the number or students generated by the total number of building units shown on the approved development plan, subject to level of service requirements in section 31-601 of the Unified Development Ordinance in force at the time of this application.

Applicant Signature:  Date: 4-18-2020  
Property Owner Signature:  Date: 4-18-2020  
Property Owner Signature:  Date: 4-18-2020



# PROPERTY MAP

## RZN2018-009

EXHIBIT C

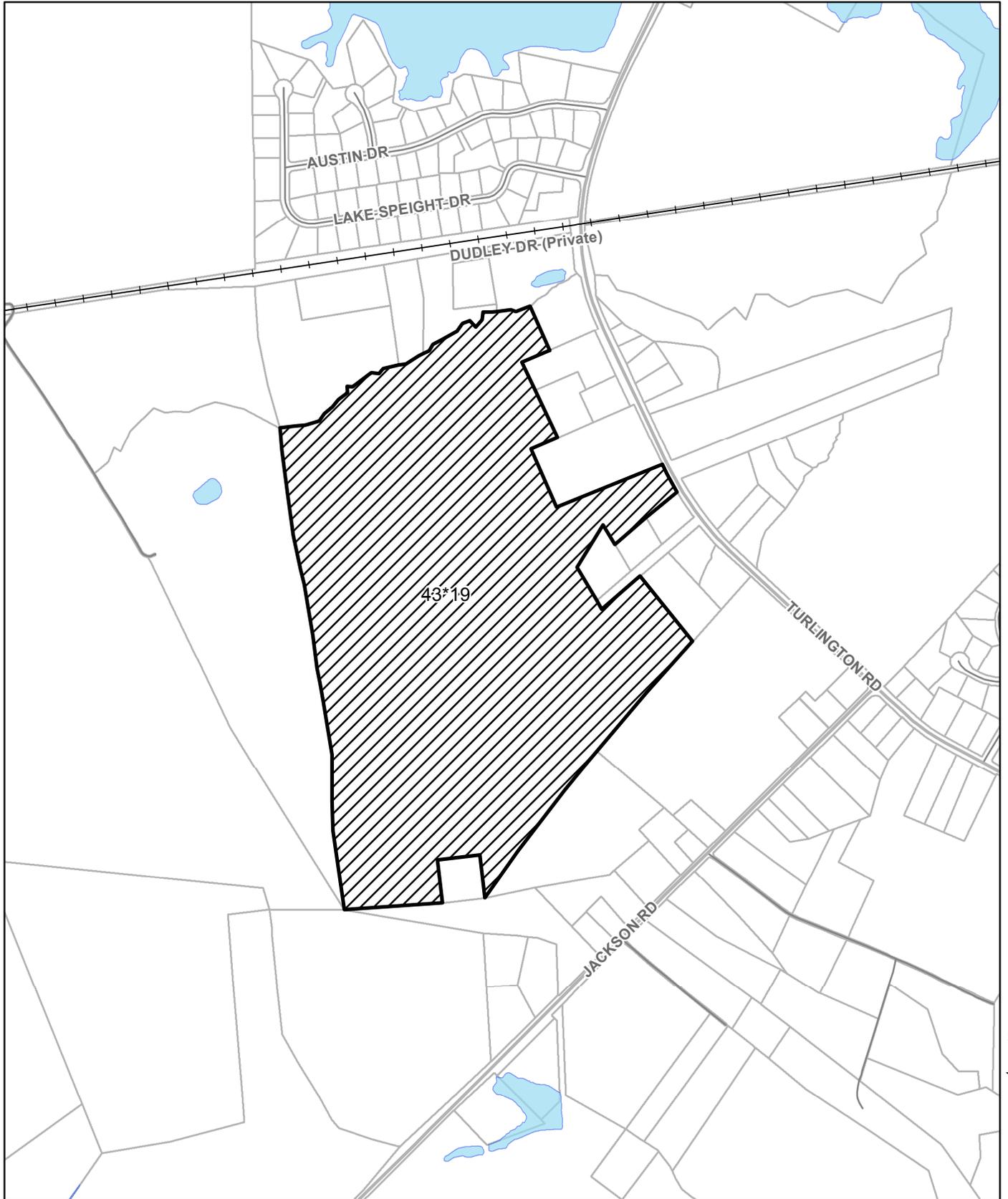
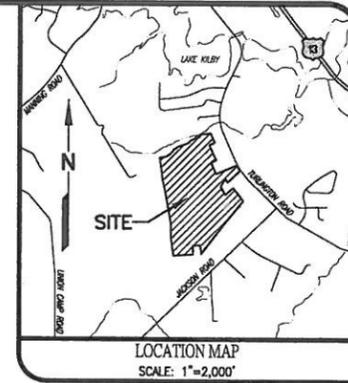
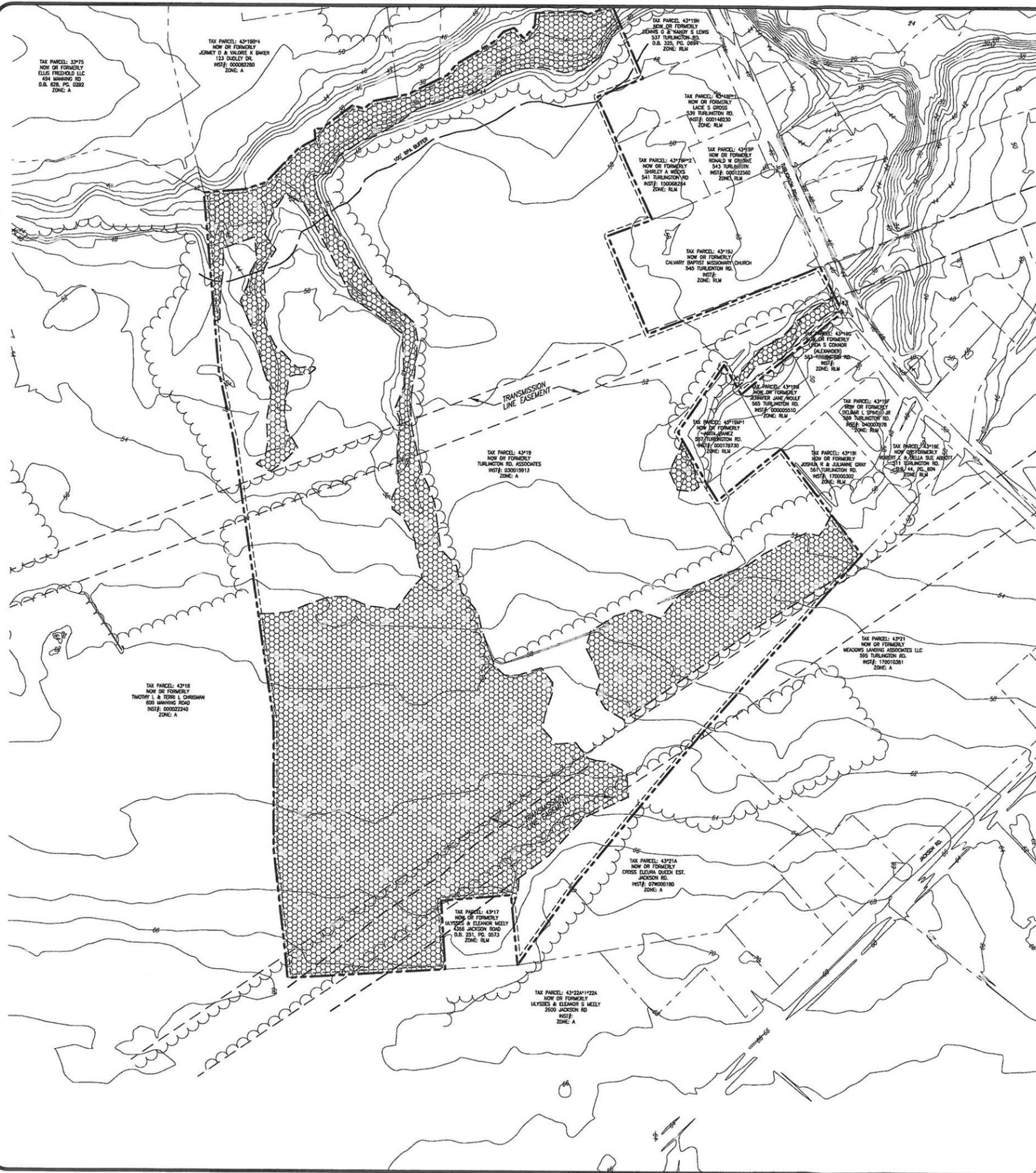


EXHIBIT D



**PARRISH LAYNE**  
**DESIGN GROUP**  
 Engineers • Surveyors • Planners  
 P.O. Box 9164, Chesapeake, VA 23321  
 Phone: 757.686.3345 Fax: 757.686.3348

REV.	DATE	DESCRIPTION	BY



WETLANDS AREA

**SITE STATISTICS**

TAX PARCEL: 43\*19  
 EXISTING ZONING: A  
 PROPOSED ZONING: RLM  
 MAX DENSITY ALLOWED: 2.9 UNITS/ ACRE  
 TOTAL AREA: 3,406,780 SQ. FT. OR 78.209 ACRES  
 AREA OF WETLANDS: 1,288,640 SQ. FT. OR 29.583 ACRES  
 AREA OF 100' RPA BUFFER: 134,744 SQ. FT. OR 3.09 ACRES  
 NET DEVELOPABLE AREA: 1,983,396 SQ. FT. OR 45.536 ACRES  
 TOTAL DWELLING UNITS ALLOWED: 132

THE PROPERTY SHOWN HERE ON APPEARS TO BE LOCATED INSIDE ZONE "X" AS SHOWN ON THE FLOOD HAZARD MAP FOR THE CITY OF SUFFOLK, VA, COMMUNITY PANEL NO. 51015602100 EFFECTIVE DATE NOVEMBER 16, 2011.

THIS MAP IS FOR CONCEPTUAL PURPOSES ONLY. MAPPING IS BASED ON CITY GIS DATA. PARRISH-LAYNE DESIGN GROUP DID NOT PERFORM ANY FIELD SURVEYS, WETLANDS DELINEATION OR BUFFER CONFIRMATION.

CONCEPT PLAN  
 OF  
 TAX MAP 43\*19  
 ALONG TURLINGTON ROAD  
 FOR  
**TURLINGTON ROAD ASSOCIATES**  
 SUFFOLK, VIRGINIA  
 REZONING PROPERTY EXHIBIT

DRAWN:	JLF, II
DESIGN:	CWP
CHECKED:	CWP
DATE:	05/07/18
SCALE:	1"=150'
FIELD BOOK:	PAGE
APPROVAL DATE:	

**C-1**

SHEET: 1 of 1

4123.0-17

RZN2018-009



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# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT  
*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Rezoning Request, RZN2020-004, (Conditional), Sam's Express Car Wash, 6460 and 6472 Hampton Roads Parkway: submitted by Whitney G. Saunders, Saunders & Ojeda P.C., agent, on behalf of Chris Morgan, SXCW Properties II, LLC, applicant, on behalf of HVS East, LLC, property owner, in accordance with Sections 31-304 and 31-405 of the Unified Development Ordinance, to rezone and amend the previously approved proffered conditions, for property located at 6460 and 6472 Hampton Roads Parkway, Zoning Map 6, Parcels 27C\*1\*A and 27C\*1\*B. The purpose of this request is to modify the prohibited uses stated in the Land Use Design Standards pertaining to the development of Harbour View East. The affected area is further identified as being located in the Nansemond Voting Borough, zoned B-2, General Commercial Zoning District and O-I, Office Institutional Zoning District. The 2035 Comprehensive Plan designates this area as part of the Northern Growth Area, Mixed Use Core Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Amy Thurston, the staff planner handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

David Hainley,  
Director of Planning and Community Development

/alt

Attachments

# STAFF REPORT

## DESCRIPTION

**REZONING REQUEST:** Rezoning Request RZN2020-004, (Conditional), Sam's Express Car Wash, in accordance with Sections 31-304 and 31-305 of the Unified Development Ordinance, to rezone and amend the previously approved proffered conditions, for property located at 6460 and 6472 Hampton Roads Parkway, Zoning Map 6, Parcels 27C\*1\*A and 27C\*1\*B. The purpose of this request is to modify the prohibited uses stated in the Land Use Design Standards pertaining to the development of Harbour View East.

**APPLICANT:** Whitney G. Saunders, Saunders & Ojeda P.C., agent, on behalf of Chris Morgan, SXCW Properties II, LLC, applicant, on behalf of HVS East, LLC, property owner.

**LOCATION:** This rezoning request pertains to Zoning Map 6, Parcels 27C\*1\*A and 27C\*1\*B. Tax Map Parcel 6\*27C\*1\*A is the larger of the two (2) properties measuring roughly 3.42 acres in size and fronts directly on Hampton Roads Parkway (formerly Townpoint Road) and is adjacent to the Arby's restaurant leading into the Harbour View East Shopping Center. The second parcel, T.M. 6\*27C\*1\*B, is comprised of 1.6 acres and does not front Hampton Roads Parkway, rather it fronts on the access drive behind the Arby's restaurant. The combined land area subject to this application is approximately 5.02 acres.

**PRESENT ZONING:** The smaller parcel, T.M. 6\*27C\*1\*B, is entirely zoned B-2, General Business zoning district, whereas the larger parcel, T.M. 6\*27C\*1\*A, is mostly zoned B-2 and the south-western corner of the property is zoned O-I, Office-Institutional zoning district.

**EXISTING LAND USE:** Both parcels are currently undeveloped.

**PROPOSED LAND USE:** The applicant proposes to develop the larger parcel fronting on Hampton Roads Parkway as a car wash facility and gasoline service station. The smaller parcel would be developed only as an access road providing a secondary entrance to the car wash and gas station. No change is proposed to the existing zoning classifications.

## **SURROUNDING LAND USES:**

- North – A variety of retail uses, including Kohl's, Dick's, and Walmart, zoned B-2.
- South – The Huntersville single-family residential neighborhood zoned RC, Residential Compact zoning district.
- East – Vacant parcels as well as the 7-11 gas station and McDonald's, zoned B-2 or O-I.
- West – A vacant parcel zoned O-I followed by interstate I-664.

**COMPREHENSIVE PLAN:** The City's 2035 Comprehensive Plan designates this area as 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 (CBPA) and is designated as a Resource Management Area (RMA).

**FLOOD PLAIN:** The property falls within Flood Zone X (areas of minimal risk), as shown on

Panel 0043E of the Flood Insurance Rate Map for the City of Suffolk, Virginia, Community No. 510156, dated August 3, 2015.

**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. A notice, containing a copy of the staff report, was also provided to the applicant on July 2, 2020.

**HISTORY:** The properties in question were previously zoned entirely O-I until January 2008 when they were conditionally rezoned to the B-2 district as part of RZ9-07. One (1) of the approved proffered conditions established design guidelines for the subject parcels, known as the “Harbour View East Outparcels at Townpoint Road”. Within the design guidelines, car washes were explicitly prohibited even though the B-2 zoning district allows car washes by-right. Please note that the design guidelines did not prohibit gasoline service stations.

Subsequent to the approved rezoning, a final plat was recorded in August 2008 to subdivide and adjust the property lines of the parent tracts from the rezoning, which resulted in the current split zoned portion of T.M. 6\*27C\*1\*A.

### **STAFF ANALYSIS**

#### **ISSUE**

The applicant proposes to amend the previously approved proffered conditions for Tax Map Parcels 6\*27C\*1\*A and 6\*27C\*1\*B by modifying the list of prohibited uses contained in the “Harbour View East Outparcels at Townpoint Road” design guidelines that were established by the previous conditional rezoning of the property (RZ9-07). In particular, the applicant requests to modify the language contained within the prohibited uses section to allow car washes on the subject parcels only with ultimate plans to develop a car wash and gasoline service station on the affected properties. As previously stated, the applicant does not propose a change to the existing B-2 and O-I zoning district classifications.

Being that the proposed amendment pertains to land uses and intensity of use, this request must be considered by both the Suffolk Planning Commission and City Council as outlined in Section 31-305 (b) (3) of the Unified Development Ordinance. Also included with this application, the applicant has voluntarily proffered the construction of a full width right turn lane on Hampton Roads Parkway (westbound) that would measure 150 feet in storage length and 150 feet in taper length.

#### **CONSIDERATIONS AND CONCLUSIONS**

Car washes and gasoline service stations are permitted by-right in the existing B-2 zoning district in accordance with Section 31-406 of the Unified Development Ordinance; however, since the property is subject to proffers, this requires an amendment to the approved proffers for the Harbour View East Outparcels. The proposed uses are not permitted within the O-I zoned portion of T.M. 6\*27C\*1\*A. The applicant has confirmed that the facilities will remain outside of the O-I zoned portion of T.M. 6\*27C\*1\*A and they have acknowledged that a Conditional Use Permit would be required if the proposed uses were located in this area. The placement of the uses relative to the zoning boundaries will be verified during site plan review.

Please be advised that the developer intends to fill some of the wetland areas on the property and has acknowledged to City staff that they understand the need to obtain proper permits from the Army of Corp of Engineers, DEQ, and/or Suffolk Wetlands Board depending on the extent of the impacts. Further analysis and approvals for the wetland impacts will be required at the time of site plan review.

## **1. Comprehensive Plan**

According to the 2035 Comprehensive Plan, the subject property is located within the Northern Growth Area, Mixed Use Core Use District. This district is the most dense use district and is intended to provide for high intensity business, retail, residential, and civic uses at a floor area ratio of 2.0-5.0 for non-residential uses. The recommended place types include Downtown/Town Center and Urban Neighborhood.

The Comprehensive Plan sets specific themes and policies related to land use, transportation, open space, and the environment that should be considered when contemplating a rezoning application. It is staff's opinion that the requested modification to the previously approved design guidelines is consistent with the policies of the 2035 Comprehensive Plan. Relevant to this application are the following:

### **Policy 2-1: Keep development focused in designated Growth Areas in the City.**

- *Action 2-1A: Ensure that the City's land use regulations support higher density/intensity development in focused Growth Areas.*

The character and intensity of the proposed car wash and gasoline service station align with the existing character and intensity of uses in the Harbour View East shopping center located within the Northern Growth Area, Mixed Use Core.

### **Policy 2-2: Assure that development occurs in a predictable and orderly manner.**

As previously stated, car washes and gasoline service stations are permitted as by-right uses in the existing B-2, General Business zoning district. The surrounding zoning is B-2 or O-I to the north, east and west of the property. Therefore, the proposed modification to the existing design guidelines to allow these uses on Tax Map Parcels 6\*27C\*1\*A and 6\*27C\*1\*B are not expected to disrupt the predictable or orderly development of the surrounding area.

### **Policy 2-4: Promote compatibility in land use patterns.**

The proposed uses are compatible to the surrounding retail and restaurant uses to the north of the subject properties. An existing 7-11 gas station is also located roughly 900 feet east of the subject properties on the Hampton Roads Parkway. While residential zoning is present to the south, this district is separated from the subject properties by the four (4) lane divided road and the development standards in the Unified Development Ordinance mandate a thirty (30) foot building setback as well as a fifteen (15) foot deep vegetated buffer between the buildings and Hampton Roads Parkway. As a result, there will not be a clear view between the car wash bays and the residences

to the south. This landscape buffer, in addition to the on-site tree canopy requirements, will aid in reducing the effects of noise on the neighborhood to south. Furthermore, the anticipated noise and traffic are very similar to the existing noise and traffic along this corridor. The City also has Performance Standards in Section 31-608 of the UDO that all land uses must abide by with regards to noise, odors, particulates, etc.

**Policy 4-5: Provide facilities and policies that ensure adequate multi-modal access throughout the growth areas of the City.**

Hampton Roads Parkway provides an east-west connection between Huntersville, Hampton Roads Crossing, and the Burbage Lake areas on the eastern side of the Northern Growth Area to the Riverfront/Harbourview areas on the western side of the Northern Growth Area. Thus, a car wash and gasoline service station may be suitable along the east-west connector route. Additionally, they will offer service to the traffic that enters or exits off of I-664.

**Policy 5-1: Relate the availability of municipal services and facilities to the location and pace of growth.**

The applicant voluntarily proffered the construction of a right turn lane on Hampton Roads Parkway (westbound) that would measure 150 feet in storage length and 150 feet in taper length to facilitate safe and efficient entry into the site. A second entrance is proposed on T.M 6\*27C\*1\*B, behind the Arby's restaurant, to allow access from the Harbour View East shopping center and this will provide a connection to the existing traffic light at Hampton Roads Parkway and Hunters Court. The departments of Public Works Engineering, Traffic Engineering, and Public Utilities do not have any concerns related to adequate public facilities for the proposed uses at this location.

**2. Unified Development Ordinance**

Section 31-403 of the Unified Development Ordinance provides a purpose statement for each zoning district to assist in evaluating the compatibility of any rezoning request. The purpose of the B-2, General Commercial zoning district, is to provide general commercial activities such as repair shops, wholesale businesses, warehousing and general commercial sales with some outdoor display of goods. This district promotes a broad range of commercial operations and services necessary for large regions of the City, providing community balance.

The B-2 district also has specific locational criteria as follows: B-2 zones shall be located along arterials and arterial/arterial or arterial/collector intersections. The subject property is located on a major collector road which is comprised of another gasoline service station and auto-oriented uses such that the existing B-2 zoning classification is appropriate. As mentioned, no change is proposed to the zoning of the property.

**3. 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 or proffer amendment 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 are available to this site from an existing 8” water main and 8” gravity sewer main located in a public utility easement adjacent to the Arby’s. A Public Facilities Report was included with the application to address domestic fire water demands and sewer demands. A recent water model shows there should be sufficient fire flows to the site. A pump station analysis will be performed at the time of site plan review and any upgrades will be at the developer’s expense.

Stormwater Management

This project is located within the Matthews Lake Master Plan. The proposed amount of impervious cover can be accommodated by the existing master planned stormwater system. The applicant has been made aware that oil-water separators will be required for the facilities.

Transportation

Traffic Engineering approved the Traffic Impact Analysis submitted with this application and has confirmed that the proposed turn lane design is required by code for this development. Overall, the levels of service for the surrounding intersections are acceptable.

**4. Fiscal Impact Study**

A Fiscal Impact Study was waived for this application as the property is already zoned B-2 and would allow a variety of similar commercial uses by-right. No negative financial impacts are anticipated for the City.

**5. Proffered Conditions**

The applicant has proffered the following conditions in support of this request:

1. The applicant shall construct a full width right turn lane on Hampton Roads Parkway westbound at proposed site Entrance 1, as shown on Figure 1 of the “Sam’s Car Wash, Harbour View East-Traffic Impact Analysis”, with a storage length of 150 feet and a taper length of 150 feet, a copy of Figure 1 being attached hereto.
2. The original design guidelines that were proffered by conditional rezoning request RZ9-07, titled the “Harbour View East Outparcels at Townpoint Road,” will be revised as shown on the attached sheet in order to allow car washes on parcels 6\*27C\*1\*A and 6\*27C\*1\*B only (revision). Approval of the design guidelines revision will be obtained by the Applicant.

## **RECOMMENDATION**

In summary, the proposed modification to the “Harbour View East Outparcels at Townpoint Road” design guidelines for the purpose of allowing a car wash and gasoline service station on Tax Map Parcels 6\*27C\*1\*A and 6\*27C\*1\*B is found to be appropriate for the existing B-2, General Commercial zoning district. Development standards, such as landscape buffers, will assist in mitigating any impacts to the residential neighborhood to the south. Furthermore, this use is consistent in character and intensity of other commercial uses surrounding the subject properties and it is consistent with the 2035 Comprehensive Plan. For these reasons, staff recommends **approval** of Rezoning Request RZN2020-004 (Conditional) and the submitted proffers.

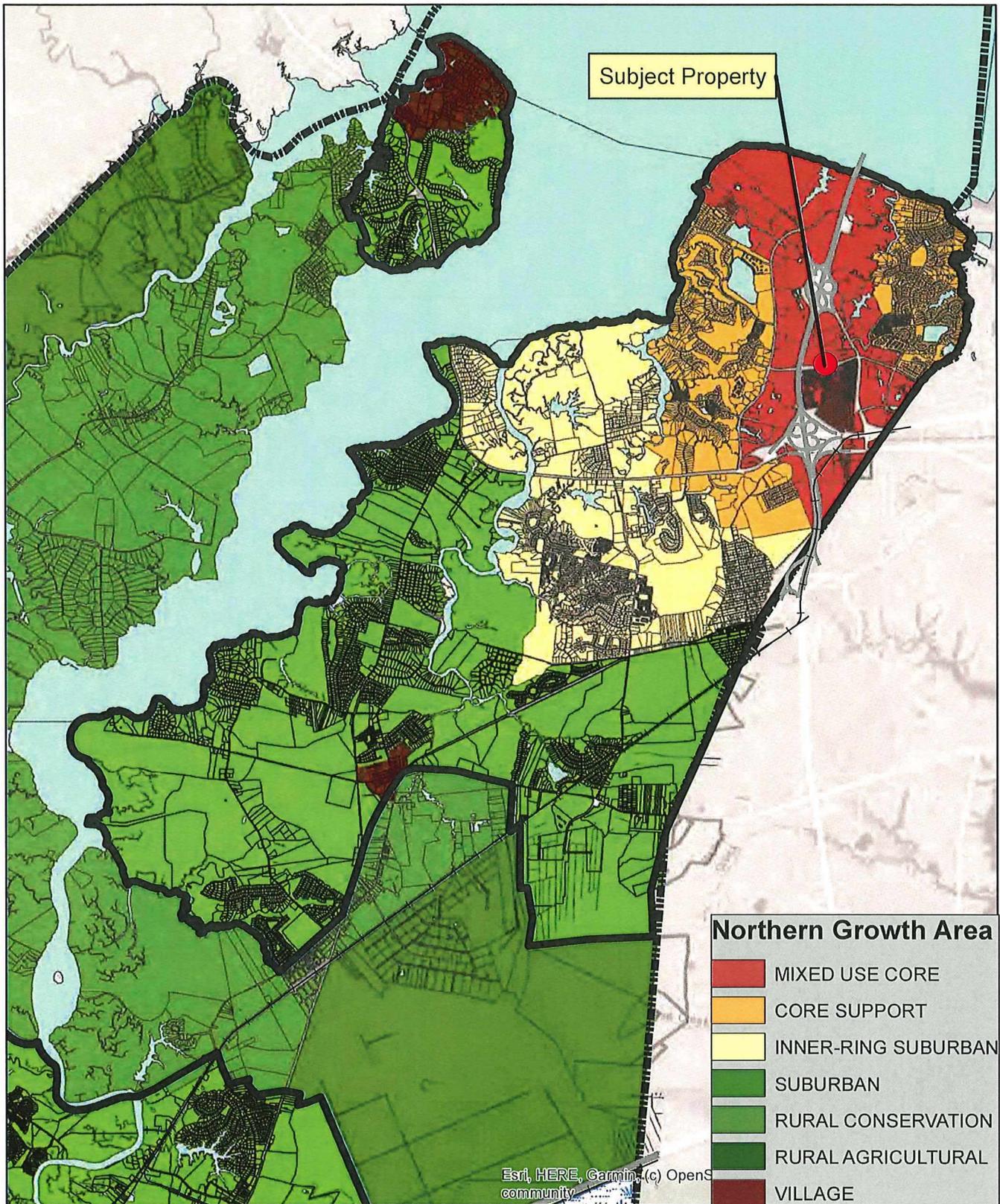
### Attachments

- General Location Map
- Zoning/Land Use Map
- Narrative of Proposed Use
- Proposed Ordinance
- Exhibit A – Planning Commission Resolution
- Exhibit B – Voluntary Proffer Statement (inclusive of the Land Use Design Standards and Figure 1)
- Exhibit C – Property Map
- Exhibit D – Rezoning Exhibit



# GENERAL LOCATION MAP

## RZN2020-004



User Name: BSmith  
Date: 4/2/2020



# ZONING / LAND USE MAP

## RZN2020-004



## **Narrative of Proposed Use**

The applicant, Chris Morgan, representative of Sam's Xpress Car Wash, requests approval of an Amendment of Exhibit B of Ordinance number 08-0-004, passed by Suffolk City Council on January 16, 2008, to allow for a motor vehicle washing facility with adjacent fueling stations. The proposed facility would be located on the northside of Hampton Roads Parkway and would have additional road frontage on the entrance road to Harbor View East Shopping Center. The parcel on the north side of Hampton Roads Parkway bears City of Suffolk map and parcel number 6\*27C\*1\*A and the parcel fronting on the west side of the entrance road to Harbor View East Shopping Center bears City of Suffolk map and parcel number 6\*27C\*1\*B. The surrounding parcels on the west, north and east sides of the subject parcels are all zoned B-2 and all surrounding uses are retail or restaurant facilities. The parcel fronting on Hampton Roads Parkway is separated from a residential area zoned, R-C, by Hampton Roads Parkway.

It is anticipated that the car wash, vacuum spaces and fuel pumps will be located on that parcel with frontage on Hampton Roads Parkway and that the parcel with frontage on the entrance road to Harbor View East Shopping Center will be used solely as a drive isle for ingress and egress to the new business. The car wash will consist of a 105 ft. car wash tunnel with double loaded stacking and an automated pay station. The fueling station will include six pump islands and a total of twenty vacuum spaces, nine of which will be under an all-weather canopy. The pump islands will also be located under an all-weather canopy. Water from the car wash will be reclaimed/recirculated with over 90% of the water used in each wash cycle recaptured and run through an eight-chamber oil/grit separating process. Oil remaining after the eight-step process will be removed from the eighth chamber and transported to a certified reclamation site on an as needed basis.

The car wash and fueling station will employ a total of twenty individuals and it is expected that no more than three to six employees will be on site at any one time. The car wash will operate from 7:30 a.m. until 9:00 p.m. and the fuel dispensing site will operate from 6:00 a.m. until 10:00 p.m.

The parcels for which this Amendment is requested are within the Northern Suburban-Urban Growth Area and the Mixed-Use Core Use District. Hampton Roads Parkway functions as a Corridor place type, transporting people from the Harborview mixed use neighborhood to the east side of I- 664. Both sides of I- 664 are comprised of mixed commercial and residential uses. The subject properties are surrounded by B-2 zoning and B-2 uses which are consistent with the proposed use.

**ORDINANCE NO.**

**AN ORDINANCE TO REZONE AND AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SUFFOLK TO AMEND THE PREVIOUSLY APPROVED PROFFERED CONDITIONS FOR PROPERTY LOCATED AT 6460 AND 6472 HAMPTON ROADS PARKWAY, ZONING MAP 6, PARCELS 27C\*1\*A AND 27C\*1\*B; RZN2020-004 (CONDITIONAL)**

WHEREAS, Whitney G. Saunders, Saunders & Ojeda P.C., agent, on behalf of Chris Morgan, SXCW Properties II, LLC, applicant, on behalf of HVS East, LLC, property owner, has requested to rezone and amend the previously approved proffered conditions, for property located at 6460 and 6472 Hampton Roads Parkway, Zoning Map 6, Parcels 27C\*1\*A and 27C\*1\*B, which land is depicted on Exhibit “C”; 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 5<sup>th</sup> day of August, 2020, 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. Exhibit “A”, “Planning Commission Recommendation”, Exhibit “B”, “Voluntary Proffer Statement”, and Exhibit “C”, “Property Map,” and Exhibit “D,” “Rezoning Exhibit”, 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 a 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 Code of the City of Suffolk (1998), as amended, and Section 15.2-2283 of the Code of Virginia (1950), as amended ("Va. Code").

B. The Suffolk City Council makes the following specific findings to the conditions of the rezoning:

1. the proposed rezoning itself gives rise to the need for the proffered conditions;
2. the proffered conditions have a reasonable relationship to the rezoning; and
3. the proffered conditions are in conformity with the 2035 Comprehensive Plan as adopted by City Council on April 1, 2015.

Section 3. Rezoning.

1. The conditions proffered in the attached Exhibit "B" be, and they are hereby, accepted.
2. The property as shown on the attached Exhibit "C" is hereby, conditionally rezoned and the official zoning map be, and it is hereby, amended to include the revised proffers.
3. The foregoing rezoning and amendment to the official zoning map are expressly made subject to the performance of the conditions hereby proffered and accepted and these conditions shall remain in effect until a subsequent amendment changes the zoning of the property; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning

ordinance.

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 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 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 REZONING REQUEST  
RZN2020-004 (CONDITIONAL)  
TO REZONE AND AMEND THE OFFICIAL ZONING MAP OF THE  
CITY OF SUFFOLK TO AMEND THE PREVIOUSLY APPROVED  
PROFFERED CONDITIONS FOR PROPERTY LOCATED AT 6460 AND  
6472 HAMPTON ROADS PARKWAY, ZONING MAP 6, PARCELS  
27C\*1\*A AND 27C\*1\*B; RZN2020-004 (CONDITIONAL)**

**WHEREAS**, Whitney G. Saunders, Saunders & Ojeda P.C., agent, on behalf of Chris Morgan, SXCW Properties II, LLC, applicant, on behalf of HVS East, LLC, property owner, has requested to rezone and amend the previously approved proffered conditions, for property located at 6460 and 6472 Hampton Roads Parkway, Zoning Map 6, Parcels 27C\*1\*A and 27C\*1\*B, 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; and
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").

B. The Suffolk Planning Commission makes the following specific findings to the conditions of the rezoning:

1. the proposed rezoning itself gives rise to the need for the proffered conditions;
2. the proffered conditions have a reasonable relationship to the rezoning; and
3. the proffered conditions are in conformity with the 2035 Comprehensive Plan as adopted by City Council on April 1, 2015.

Section 2. Recommendation to Council.

The Planning Commission recommends to City Council that the request, RZN2020-004 (Conditional), 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 PASSED: \_\_\_\_\_

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

VOLUNTARY PROFFER STATEMENT

I hereby voluntarily proffer that the development of the property owned by me proposed for reclassification under this application shall be in strict accordance with the conditions set forth below.

The following conditions (add additional sheets if necessary) are voluntarily proffered for the reclassification of property identified as Tax Map Number(s) 6\*27C\*1\*A and 6\*27C\*1\*B,  
Block Number \_\_\_\_\_, Parcel Number(s) \_\_\_\_\_.

1. The Applicant shall construct a full width right turn lane on Hampton Roads Parkway westbound at proposed site Entrance 1, as shown on Figure 1 of the "Sam's Xpress Car Wash, Harbour View East-Traffic Impact Analysis", with a storage length of 150 feet and a taper length of 150 feet, a copy of Figure 1 being attached hereto.
2. The original design guidelines that were proffered by conditional rezoning request RZ9-07, titled the "Harbour View East Outparcels at Townpoint Road," will be revised as shown on the attached sheet in order to allow car washes on parcels 6\*27C\*1\*A and 6\*27C\*1\*B only (revision). Approval of the design guidelines revision will be obtained by the Applicant.

Applicant Signature: *Chris Meyer* Date: 6-29-20

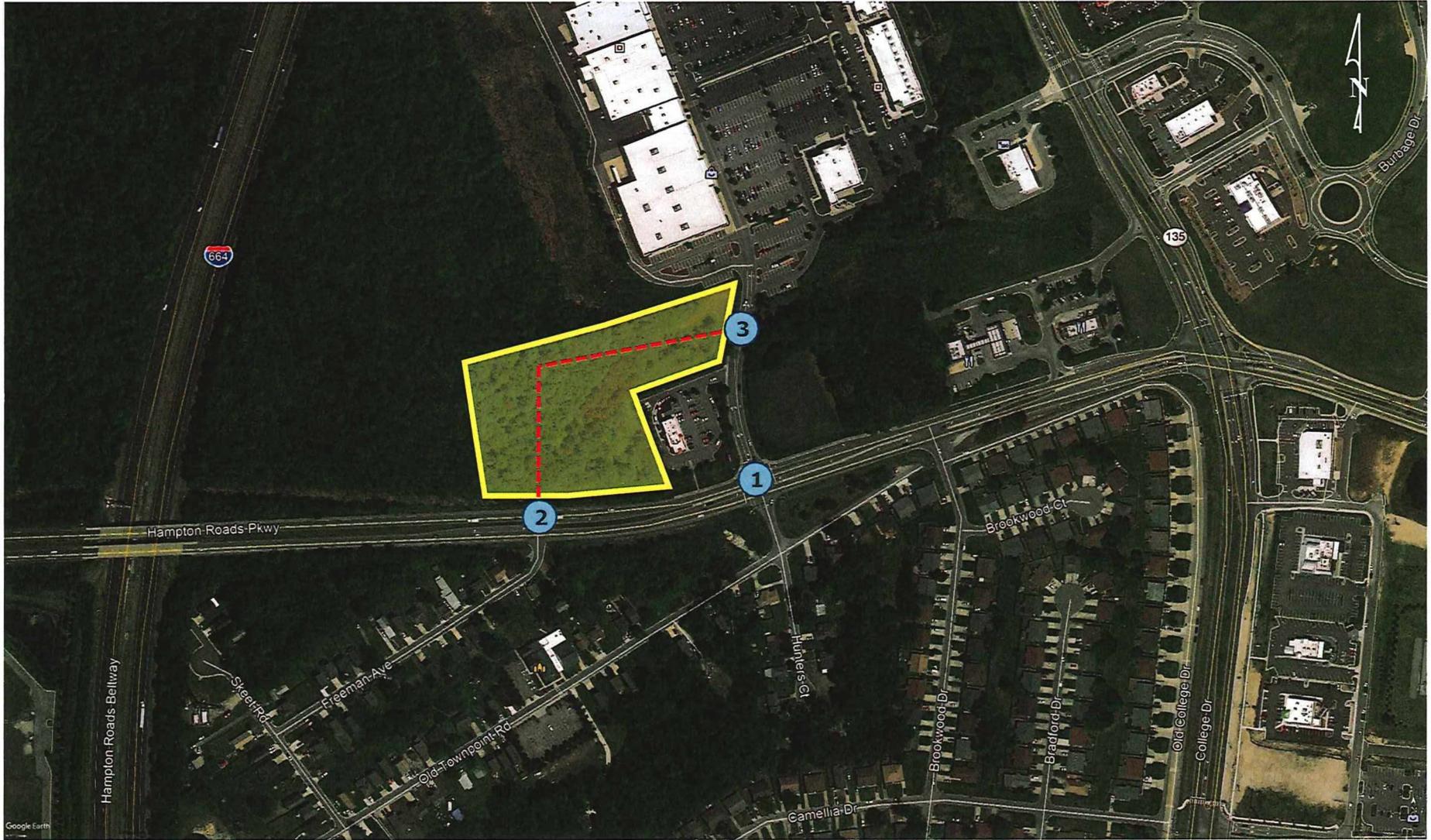
Property Owner Signature: *[Signature]* Date: 6/29/2020

Property Owner Signature: VP OF EZON, INC. THE MANAGER OF HVC EAST Date: \_\_\_\_\_  
*LLC, THE OWNER*

## LAND USE DESIGN STANDARDS

### I. USES PROHIBITED

- Central laundry, dry cleaning plant or Laundromat; provided, however, this prohibition shall not be applicable to on-site service oriented to pickup and delivery by the ultimate consumer, including nominal supporting facilities, as the same may be found in retail shopping districts in the metropolitan area where the Shopping Center is located.
- Big box retail
- Automobile, truck, trailer or recreational vehicles or boat sales, leasing, display or repair (other than the installation of cellular telephones, stereo systems and alarms).
- Car wash is prohibited with the exception of parcels 6\*27C\*1\*A
- Living quarters, sleeping apartments or lodging rooms and 6\*27C\*1\*B
- Mortuary or funeral home
- Flea market or pawn shop
- Training or educational facility, including, but not limited to, beauty schools, barber colleges, libraries, reading rooms, churches, schools, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, this prohibition shall not be applicable to on-site employee training by an Occupant incidental to the conduct of its business at the Shopping Center
- Entertainment or recreational facility, includes but is not limited to, a bowling alley, skating rink, electronic or mechanical games arcade (except as an incidental use to a retail or commercial business, in which such use shall be restricted to less than five percent (5%) of the Floor Area occupied by such business), theater, billiard room or pool hall, health spa or studio or fitness center (in excess of 5,000 square feet) discotheque, dance hall, dance studios, banquet hall, night club, bar, a store specializing in the sale of drug paraphernalia or a "head shop", racquetball court or gymnasium, or other place of public amusement
- Any use which creates a nuisance or materially increases noise of the emission of dust, odor, smoke, gases, or materially increases fire, explosion or radioactive hazards in the Shopping Center
- Veterinary hospital or kennel or animal raising facilities (except that this prohibition shall not prohibit pet shops)
- Gambling facility or operation, including, but not limited to: off-track or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall.
- Adult book store, adult cinema, "peep show", entertainment of an obscene or pornographic nature, any store selling or exhibiting pornographic material including, without limitation, any store displaying for sale or exhibition books, magazines or other publications containing any combination of photographs, drawings or sketches of a sexual nature, which are not primarily scientific or education; a store offering, for exhibition sale or rental, pornographic videos or other pornographic film, the contents of which has been rated "NC-17" or unrated by the Motion Picture Rating Association or any successor thereto, or which is advertised or otherwise designated as being "X" rated or having "X" rated content.



Site Location and Study Intersections  
Traffic Impact Analysis  
Sam's Express Car Wash – Harbour View East

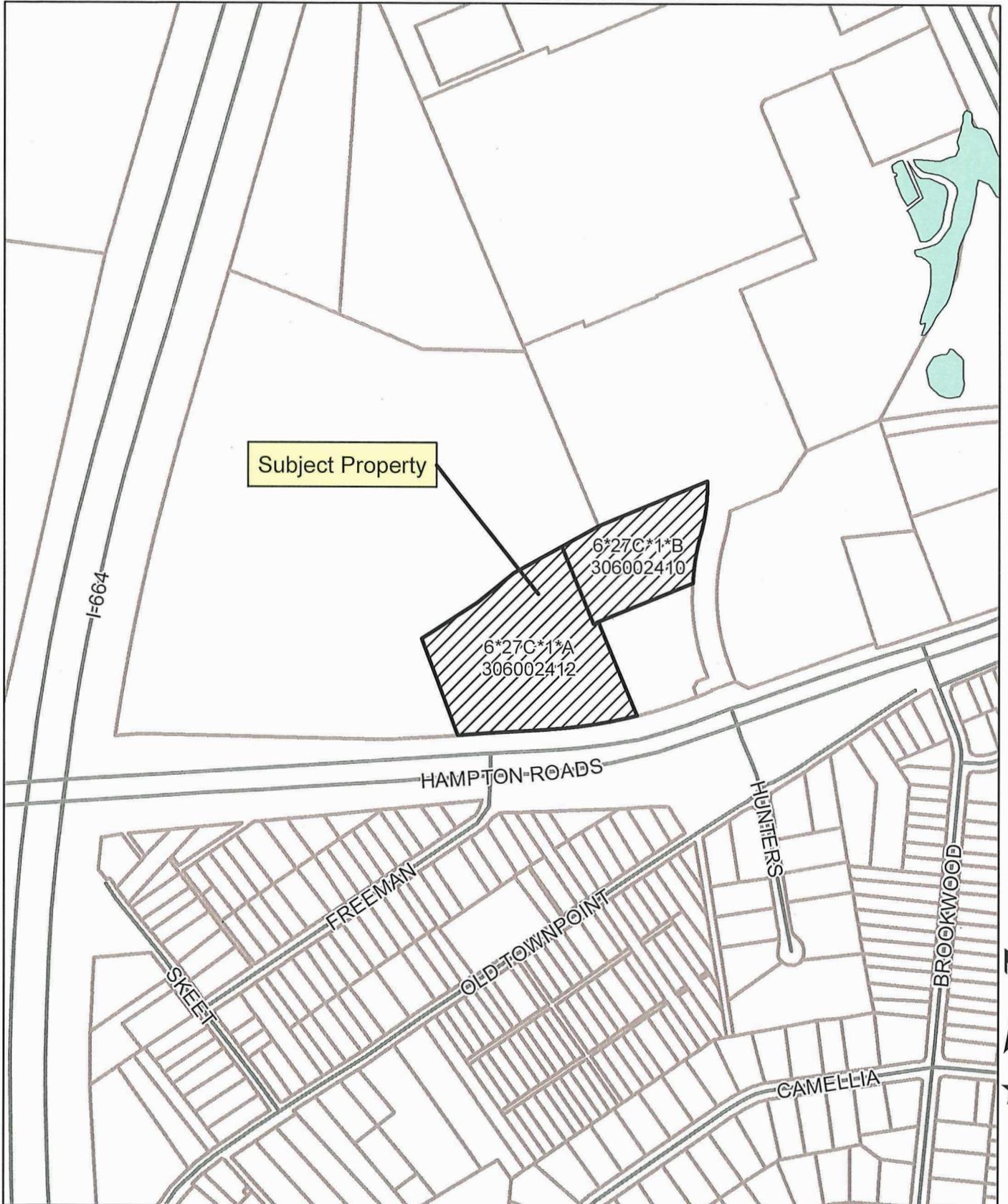
Figure  
1



# PROPERTY MAP

## RZN2020-004

EXHIBIT C



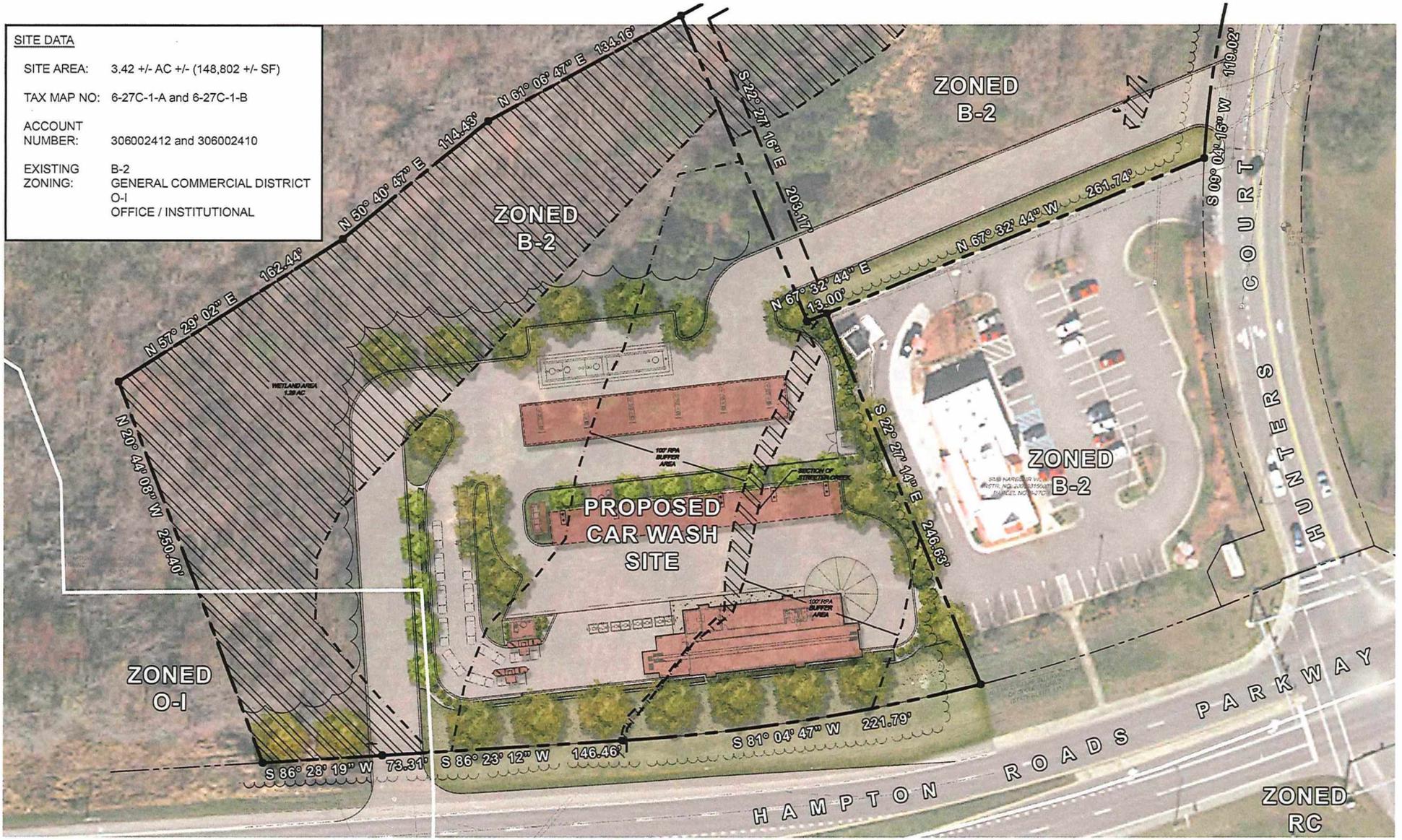
**SITE DATA**

SITE AREA: 3.42 +/- AC +/- (148,802 +/- SF)

TAX MAP NO: 6-27C-1-A and 6-27C-1-B

ACCOUNT NUMBER: 306002412 and 306002410

EXISTING ZONING: B-2  
GENERAL COMMERCIAL DISTRICT  
O-1 OFFICE / INSTITUTIONAL



RZN2020-004

# SAM'S XPRESS CAR WASH - Suffolk, VA

REZONING EXHIBIT FOR RZN2020-004 - REQUEST TO AMEND PROFFERS ONLY (NO CHANGE TO ZONING) - May 20, 2020

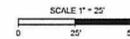


EXHIBIT D

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# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT  
*Division of Planning*

July 7, 2020

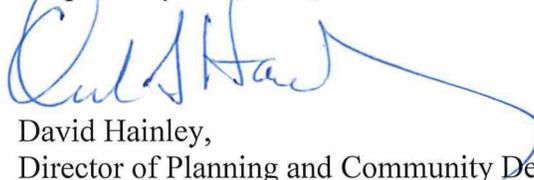
Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Rezoning Request, RZN2020-003, (Conditional), Somerton Auto Auction, Old Somerton Road: submitted by of Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Ram Adar, BHT Properties Group, LLC, applicant, on behalf Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners, in accordance with Sections 31-304 and 31-405 of the Unified Development Ordinance, to rezone and amend the official zoning map of the City of Suffolk to change the zoning from O-I, Office-Institutional zoning district to M-2, Heavy Industrial zoning district, for property located on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned O-I, Office-Institutional zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Holly Steele, the staff planner handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

  
David Hainley,  
Director of Planning and Community Development

/hps

Attachments

# STAFF REPORT

## DESCRIPTION

**REZONING REQUEST:** Rezoning Request RZN2020-003, (Conditional), Somerton Auto Auction, in accordance with Sections 31-304 and 31-305 of the Unified Development Ordinance, to rezone and amend the official zoning map of the City of Suffolk to change the zoning from O-I, Office-Institutional zoning district to M-2, Heavy Industrial zoning district, for property located on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94.

**APPLICANT:** Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Ram Adar, BHT Properties Group, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners.

**LOCATION:** This rezoning request pertains to Zoning Map 44, Parcels 92A, 92D, and 94. Parcel 92A is approximately 45.50 acres and has frontage on C L Langston Road, an adjacent private road, but no frontage on Old Somerton Road. The second parcel, 92D, is comprised of 21 acres, with approximately 600 feet of frontage on Old Somerton Road. The final parcel, 94, is comprised of 53 acres and has approximately 800 feet of frontage on Old Somerton Road. The combined land area subject to this application is approximately 119.84 acres.

**PRESENT ZONING:** O-I, Office-Institutional zoning district.

**EXISTING LAND USE:** The property currently contains open agricultural land, forested land, and several miscellaneous accessory structures. There is one dwelling located on Parcel 92A.

**PROPOSED LAND USE:** The applicants are proposing to establish an automobile auction, automobile graveyard, and automobile storage yard, which is permitted as a conditional use in the M-2, Heavy Industrial zoning district.

## **SURROUNDING LAND USES:**

- North - Residential uses zoned A, Agricultural zoning district.
- South - Vacant land zoned A, Agricultural zoning district.
- East - Residential and commercial uses zoned B-2, General Commercial zoning district.
- West - Vacant land zoned A, Agricultural zoning district.

**COMPREHENSIVE PLAN:** The City's 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

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

**FLOOD PLAIN:** The property falls within Flood Zone X (areas of minimal risk), as shown on Panel 0240D of the Flood Insurance Rate Map for the City of Suffolk, Virginia, Community No. 510156, dated November 16, 2011.

**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. A notice, containing a copy of the staff report, was also provided to the applicant on July 2, 2020.

**HISTORY:** This property was zoned O-I, Office-Institutional in 1999 during the city-wide rezoning. As depicted on the tax maps published in October 1980, prior to the 1999 rezoning, the properties were zoned RR, Rural Residential.

## **STAFF ANALYSIS**

### **ISSUE**

The applicant is requesting a change in zoning from O-I, Office-Institutional zoning district to M-2, Heavy Industrial zoning district, for the purpose of establishing an automobile auction, automobile graveyard, and automobile storage yard. The proposed uses require a Conditional Use Permit within the M-2, Heavy Industrial zoning district. The property is surrounded by a combination of A, Agricultural, O-I, Office-Institutional, and B-2, General Commercial zoned properties. There are several other compatible or automobile-centric uses in the adjoining B-2 parcels such as an industrial repair shop, automobile repair shop, and a tire sales and service shop.

### **CONSIDERATIONS AND CONCLUSIONS**

This property is currently zoned O-I, Office-Institutional zoning district and, in this zoning district, automobile auctions, automobile graveyards, and automobile storage yards are not permitted uses. The applicants are requesting to amend the City of Suffolk zoning map in order to make this property M-2, Heavy Industrial. In the M-2 zoning district, automobile auctions, automobile graveyards, and automobile storage yards require a Conditional Use Permit. The applicants have submitted a request for a Conditional Use Permit that will be heard contingent upon the approval of this rezoning request. As previously stated in the case history, this property has been zoned O-I, Office-Institutional since 1999, yet has remained vacant. The applicants note in their narrative that they are proposing one of the lower intensity uses permitted in the M-2 zoning district in hopes of providing a use to the property that will be compatible with the surrounding neighborhood.

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

The property is located within the Central Growth Area, Suburban Use District. The Suburban Use District is characterized as an area for residential neighborhoods, neighborhood scale retail, and civic buildings and community facilities.

This site is located in the southernmost portion of the Central Growth Area. The purpose of the Northern and Central Growth Areas, per the 2035 Comprehensive Plan, is to provide a focus area for development and reduce sprawl in other areas of the City. This property was rezoned from RR, Rural Residential, to O-I, Office-Institutional in 1999 during the citywide rezoning, with the overall strategy to establish an inventory of appropriately zoned, vacant lands in order to take advantage of opportunities for non-residential development in close proximity to the Suffolk Municipal Airport.

The 2006 Carolina Road Corridor Land Use Strategy, a component of the 2035 Comprehensive Plan, encourages warehouses, distribution, and other one story low density and low intensity economic development should be located in the areas within the airport's flight paths (p. 20). This property is low intensity and is located within the airport's flight path, therefore providing compatibility with the vision of the aforementioned land use strategy. The land use strategy also supports industrial buildings along the Carolina Road Corridor provided that adequate screening is provided (p. 21). As previously stated, the applicants are proposing both fencing and vegetative buffers around the property in an effort to mitigate potential visual impacts.

**Policy 2-1: Keep development focused in designated Growth Areas in the City.**

- *Action 2-1A: Ensure that the City's land use regulations support higher density/intensity development in focused Growth Areas.*

The character and intensity of the proposed automobile auction, automobile graveyard, and automobile storage yard align with the existing character and intensity of uses adjoining the property, which is located within the Central Growth Area, Suburban Use District.

**Policy 2-2: Assure that development occurs in a predictable and orderly manner.**

As previously stated, automobile auctions, automobile graveyards, and automobile storage yards are permitted as conditional uses in the requested M-2, Heavy Manufacturing zoning district. Adjoining properties to the east are zoned B-2, General Commercial, and there other M-2, Heavy Industrial zoned properties on the south side of Carolina Road, approximately 300-feet from the subject property. Therefore, the proposed rezoning from O-I, Office-Institutional to M-2, Heavy Industrial on Tax Map Parcels 44\*92A, 44\*92D, and 44\*94 is not expected to disrupt the predictable or orderly development of the surrounding area.

**Policy 2-4: Promote compatibility in land use patterns.**

The proposed uses are compatible to the surrounding commercial uses to the east of the subject property. The adjoining B-2, General Commercial uses include industrial repair, tire service and sales, storage/warehousing, and vehicle service, which are all compatible with the proposed use and zoning. While agricultural zoning is present to the west and south, these properties will be screened from view of the property and proposed use by a vegetative buffer and heavy gauge metal fence.

**2. Unified Development Ordinance**

The Unified Development Ordinance states that the purpose of the M-2, Heavy Industrial zoning district is to provide an area for heavy and concentrated fabrication, access to transportation routes, and availability of public services and facilities. The proposed use of an automobile auction, automobile graveyard, and automobile storage yard is, relative to many other uses permitted by-right, one of the lower intensity uses permitted in the M-2 zoning district. This use is anticipated to generate less traffic, less noise, and little to no noxious fumes and/or odors, and will generally have less impact on the surrounding area

than many uses that are permitted by-right in the M-2 zoning district, such as miscellaneous manufacturing, assembly, storage, and repair uses. As noted in the narrative submitted in support of this application and the accompanying Conditional Use Permit request, the use will require ten (10) on-site workers and 40% of sales will be conducted online. While on-site auctions will take place on occasion, they are not anticipated to be frequent enough to generate traffic volumes that rival more intense by-right uses permitted in the M-2 zoning district. As noted elsewhere, the applicant will screen the use from adjacent parcels utilizing a combination of fencing and vegetation.

As discussed throughout this report, the proposed use is permitted in the M-2 zoning district with the issuance of a Conditional Use Permit (CUP). Approval of this rezoning request will be required to consider the requested CUP. A Conditional Use Permit request accompanies this application and is being presented concurrently.

### 3. 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 or proffer amendment 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 is available to the proposed site via a 12-inch water main located on Old Somerton Road. Currently, no public sewer is available to the site, but City Code Section 90-478 requires that all new commercial construction within 1,000 feet of City sewer must extend and install a sewer collection system. Being that the property is located 800 feet from the City sewer force main on Carolina Road, the owners will be required to meet this requirement by extending the sewer force main from Carolina Road to the site and installing a private grinder pump on the property. The applicant's representative indicated that all improvements on the property would take place more than 1,000 feet from Carolina Road; however City Code allows for the Director of Public Utilities to make a final determination regarding the connection. It was determined that this site will be required to connect to the existing sewer main on Carolina Road. Beyond these requirements, the Department of Public Utilities has no objections to this Conditional Use Permit request.

#### Stormwater Management

Nutrient load removal for this site will be addressed through purchasing nutrient credits from a nutrient bank approved by the Virginia Department of Environmental Quality.

#### Transportation

The proposed use will have access from Old Somerton Road. The Public Works Traffic Engineering Division has reviewed and approved a Traffic Impact Analysis (TIA) in support of this request. There is an existing enhanced right-turn taper off of Carolina Road onto Old Somerton Road, however the southbound right turn lane on Carolina Road approaching Turlington Road is currently insufficient. Based on this information, the

turning lane approaching Turlington Road must be improved to meet current design standards with a 150-foot storage length, 150-foot taper, and 12-foot full storage lane width.

#### 4. **Fiscal Impact Study**

The Fiscal Impact Study submitted with this application estimated that the construction investment associated with this project would be approximately \$7,000,000. The developer anticipates that approximately 85% of construction materials will be purchased in the City Suffolk, therefore providing average sales of \$7-10 million for City businesses during the construction of this site.

#### 5. **Proffered Conditions**

The applicant has proffered the following conditions in support of this request:

1. The property shall be used solely for the storage and sale of damaged vehicles, from which no parts shall be removed or sold and upon which no repairs or maintenance shall be performed.

### **RECOMMENDATION**

In summary, the proposal to amend the City of Suffolk zoning map from the current zoning of O-I, Office-Institutional, to M-2, Heavy Industrial is generally consistent with the requirements of the Unified Development Ordinance, 2035 Comprehensive Plan, and 2006 Carolina Road Land Use Strategy. Development standards, such as landscape buffers, will assist in mitigating any impacts to the adjoining A, Agriculture zoned parcels to the north, south, and west. Furthermore, this use is consistent in character and intensity of other commercial uses surrounding the subject properties. For these reasons, staff recommends **approval** of Rezoning Request RZN2020-003 (Conditional) and the submitted proffer.

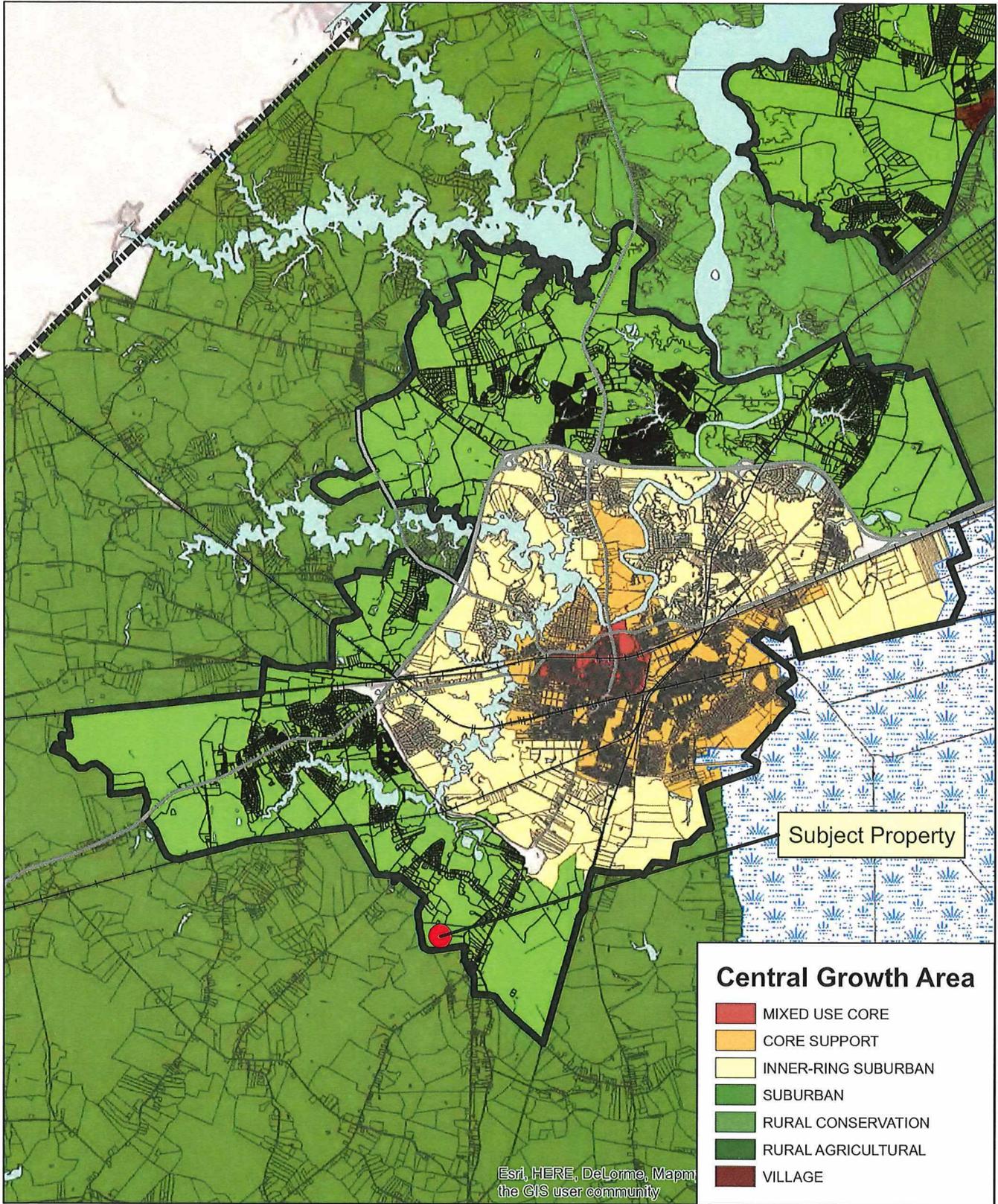
#### Attachments

- General Location Map
- Zoning/Land Use Map
- Narrative of Proposed Use
- Proposed Ordinance
- Exhibit A – Planning Commission Resolution
- Exhibit B – Voluntary Proffer Statement
- Exhibit C – Property Map
- Exhibit D – Rezoning Exhibit



# GENERAL LOCATION MAP

## RZN2020-003

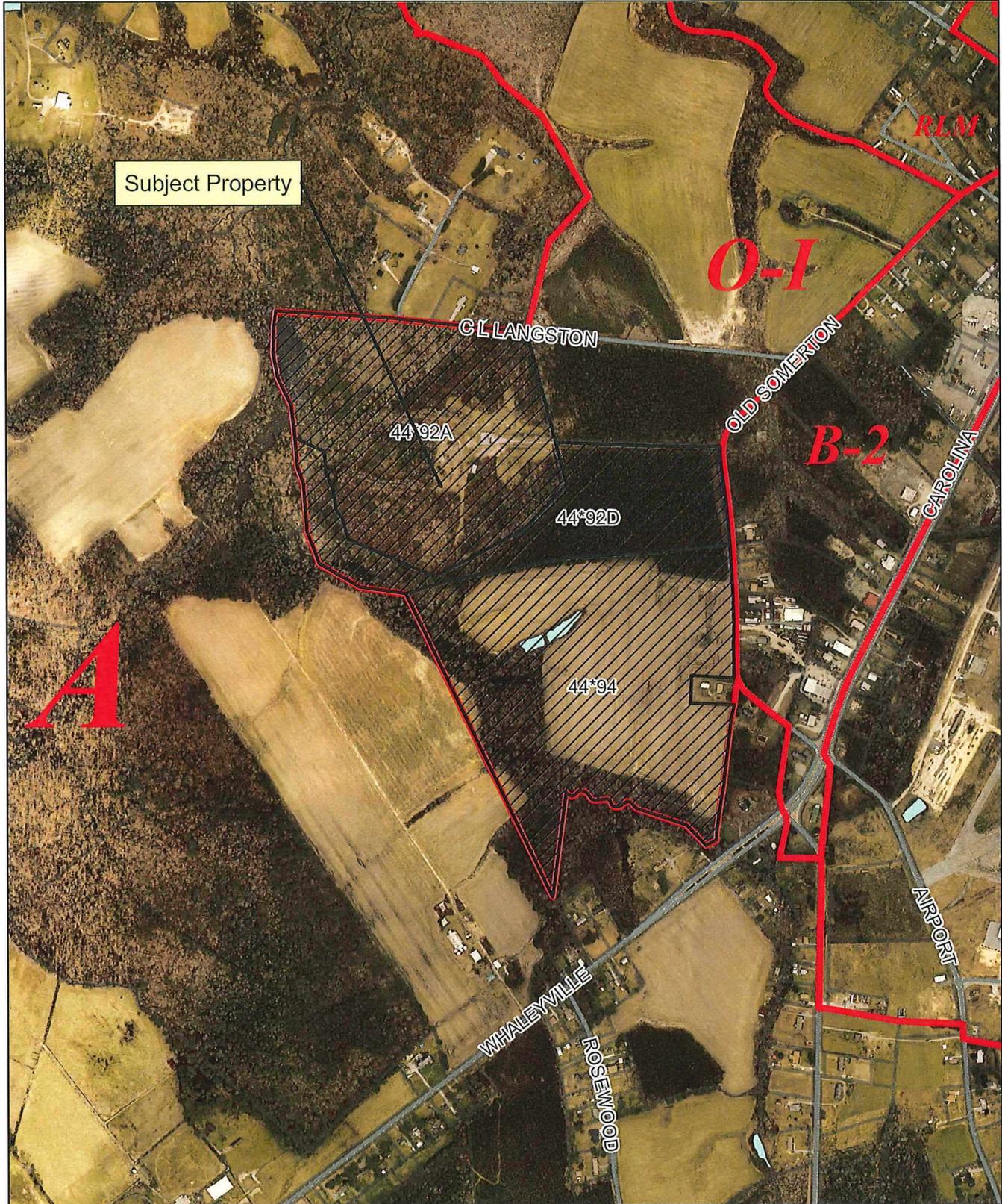


User Name: bsmith  
Date: 2/4/2020



# ZONING / LAND USE MAP

## RZN2020-003



User Name: bsmith  
Date: 2/4/2020

Rezoning from O-1 Office Institutional District, to M-2 Heavy Industrial District

## Narrative

The applicant, BHT Properties Group LLC (BHT) requests a Rezoning of O-I Parcels to M-2 and a Conditional Use Permit to operate an auto auction and automobile storage yard on approximately 120 acres with frontage on Old Somerton Road. The property consists of three parcels, being City of Suffolk Tax Map Parcel Numbers 44\*92A, 44\*92D & 44\*94. The property is depicted on a preliminary site plan prepared by BHT Design Group, which is submitted with this application and bears an issue date of 8/5/19. The property is bounded on the North by property which is zoned O-I and AG, on the East by B-2 parcels and on the South and West parcels which are zoned A. The subject property is located just north of the intersection of route 13, Route 32 (Carolina Road) and Old Somerton Road, where current zoning includes M-2, B-2 and A designations.

BHT works in partnership with a variety of sellers, including insurance companies, dealerships, rental car companies and fleet lease companies to facilitate the efficient sale by auction of total loss and theft recovery vehicles. Vehicles are sold quickly and efficiently, with more than 40% of its business being conducted via the internet. BHT's auto auction business involves receiving and selling vehicles that have been damaged in accidents, recovered after being stolen or damaged in natural disasters. The vehicles are not dismantled; no parts are removed from the vehicles, nor is any maintenance done on the vehicles. The vehicles are sold in the same condition as when they arrive. BHT follows strict regulatory compliance at federal, state and local levels, including regular environmental audits and carries a pollution liability policy which covers all of its locations.

A one-story office building will be constructed at the Old Somerton Road entrance. It is anticipated that the facility will employ approximately 10 office and site workers who would utilize a parking area for employees and customers located adjacent to the office building. Vehicles will be dropped at the site in a drop lot and then moved to the storage area. Vehicles are onsite for 75-120 days until being removed from the site by the ultimate purchaser. Vehicles are auctioned weekly from the sales area where buyers may view vehicles. However, an increasing number of vehicles are sold entirely through internet auctions processes. Approximately 40% of vehicles sold are able to be driven off the sales lot and approximately 40% are sold to overseas buyers. The entire facility will be screened from view and secured by an 8ft solid heavy gauge metal fence. A vegetative buffer will be installed along the frontage of the property parallel and adjacent to Old Somerton Road. The surface of the parking area will be recycled asphalt millings, and a flush concrete perimeter curb will be installed.

The property is within a Suburban District in the Central Growth Area. It is within a segment of the city with extensive M-2 and Commercial Zoning. It was identified as a part of the Industrial Land Use Zone in the 2006 Carolina Road Corridor Land Use Strategy and this proposed use is among less intensive uses possible in the M-2 zoning district. As a less intensive use, it will be compatible with existing neighboring uses and should have minimal effect on surrounding parcels.

**RECEIVED**

JAN 31 2020

**PLANNING**

**ORDINANCE NO.**

**AN ORDINANCE TO REZONE AND AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SUFFOLK, TO CHANGE THE ZONING FROM O-I, OFFICE-INSTITUTIONAL, TO M-2, HEAVY INDUSTRIAL ZONING DISTRICT FOR PROPERTY LOCATED ON OLD SOMERTON ROAD, ZONING MAP 44, PARCELS 92A, 92D, AND 94; RZN2020-003 (CONDITIONAL)**

WHEREAS, Whitney G. Saunders, Saunders & Ojeda P.C., agent, on behalf of Ram Adar, BHT Properties, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC,, property owners, has requested to change the zoning from O-I, Office-Institutional, to M-2, Heavy Industrial zoning district, for property located on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94, which land is depicted on Exhibit “C”; 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 5<sup>th</sup> day of August, 2020, 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. Exhibit “A”, “Planning Commission Recommendation”, Exhibit “B”, “Voluntary Proffer Statement”, and Exhibit “C”, “Property Map,” and Exhibit “D,” “Rezoning Exhibit”, 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 a 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 Code of the City of Suffolk (1998), as amended, and Section 15.2-2283 of the Code of Virginia (1950), as amended ("Va. Code").

B. The Suffolk City Council makes the following specific findings to the conditions of the rezoning:

1. the proposed rezoning itself gives rise to the need for the proffered conditions;
2. the proffered conditions have a reasonable relationship to the rezoning; and
3. the proffered conditions are in conformity with the 2035 Comprehensive Plan as adopted by City Council on April 1, 2015.

Section 3. Rezoning.

1. The conditions proffered in the attached Exhibit "B" be, and they are hereby, accepted.
2. The property as shown on the attached Exhibit "C" is hereby, conditionally rezoned and the official zoning map be, and it is hereby, amended to include the revised proffers.
3. The foregoing rezoning and amendment to the official zoning map are expressly made subject to the performance of the conditions hereby proffered and accepted and these conditions shall remain in effect until a subsequent amendment changes the zoning of the property; however, such conditions shall continue if the subsequent amendment is part of a

comprehensive implementation of a new or substantially revised zoning ordinance.

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 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 Dawley, City Clerk

Approved as to Form:

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

**EXHIBIT "A"**

**RESOLUTION NO. 20-07-05**

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO REZONING REQUEST  
RZN2020-003 (CONDITIONAL)  
TO CHANGE THE ZONING FROM O-I, OFFICE-INSTITUTIONAL, TO  
M-2, HEAVY INDUSTRIAL ZONING DISTRICT FOR PROPERTY  
LOCATED ON OLD SOMERTON ROAD, ZONING MAP 44, PARCELS  
92A, 92D, AND 94**

**WHEREAS**, Whitney G. Saunders, Saunders & Ojeda P.C., agent, on behalf of Ram Adar, BHT Properties, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC,, property owners, has requested to change the zoning from O-I, Office-Institutional, to M-2, Heavy Industrial zoning district, for property located on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94, 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; and
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").

B. The Suffolk Planning Commission makes the following specific findings to the conditions of the rezoning:

1. the proposed rezoning itself gives rise to the need for the proffered conditions;
2. the proffered conditions have a reasonable relationship to the rezoning; and
3. the proffered conditions are in conformity with the 2035 Comprehensive Plan as adopted by City Council on April 1, 2015.

Section 2. Recommendation to Council.

The Planning Commission recommends to City Council that the request, RZN2020-003 (Conditional), 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 PASSED: \_\_\_\_\_

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

VOLUNTARY PROFFER STATEMENT

I hereby voluntarily proffer that the development of the property owned by me proposed for reclassification under this application shall be in strict accordance with the conditions set forth below.

The following conditions (add additional sheets if necessary) are voluntarily proffered for the reclassification of property identified as Tax Map Number(s) 44\*92A,44\*92D & 44\*94

Block Number \_\_\_\_\_, Parcel Number(s) \_\_\_\_\_.

1. The Property shall be used solely for the storage and sale of damaged vehicles, from which no parts shall be removed or sold and upon which no repairs or maintenance shall be preformed.

RECEIVED

JAN 31 REC'D

PLANNING

Applicant Signature: \_\_\_\_\_

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

Property Owner Signature: [Signature]

Date: 1/29/2020

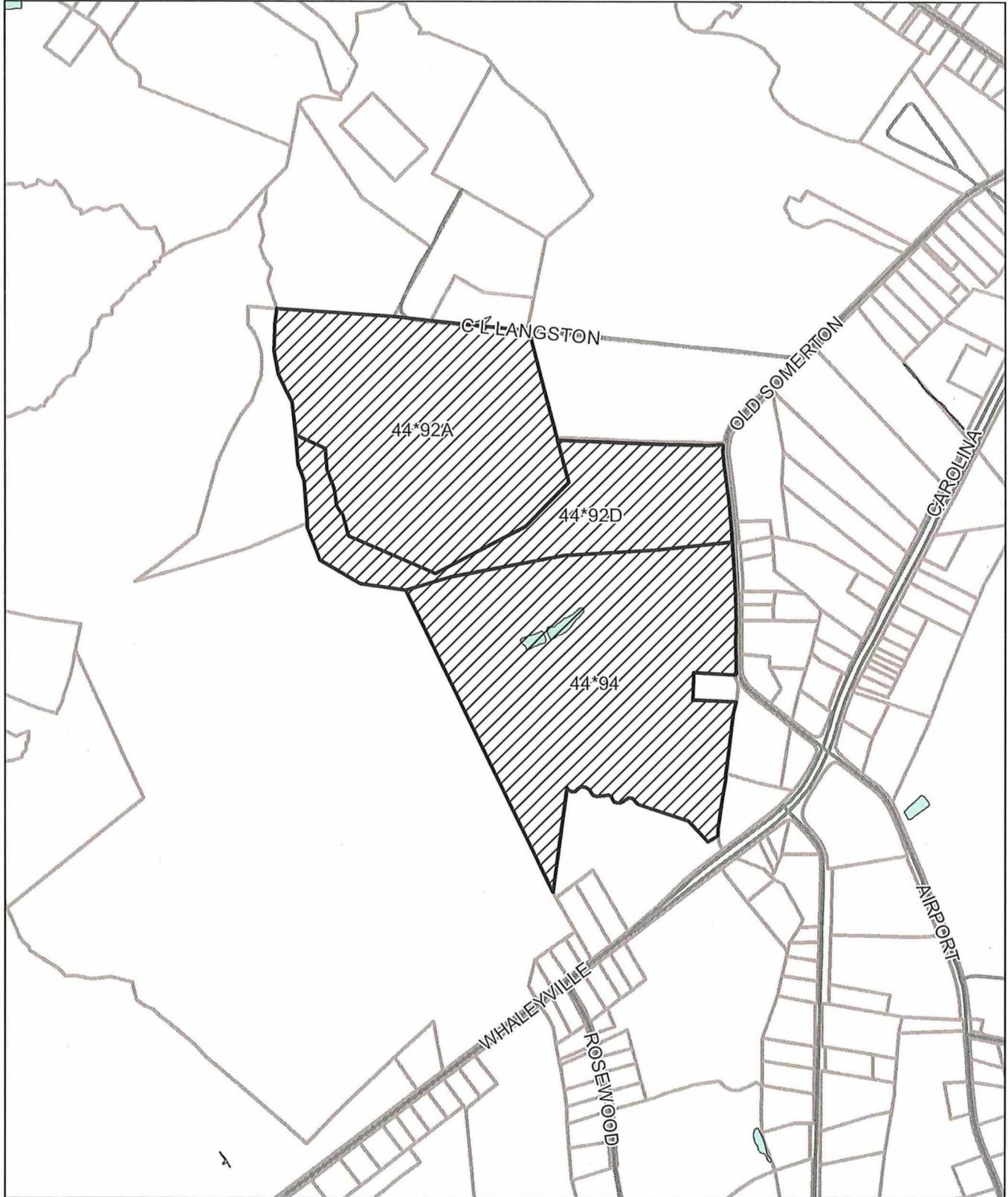
Property Owner Signature: \_\_\_\_\_

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

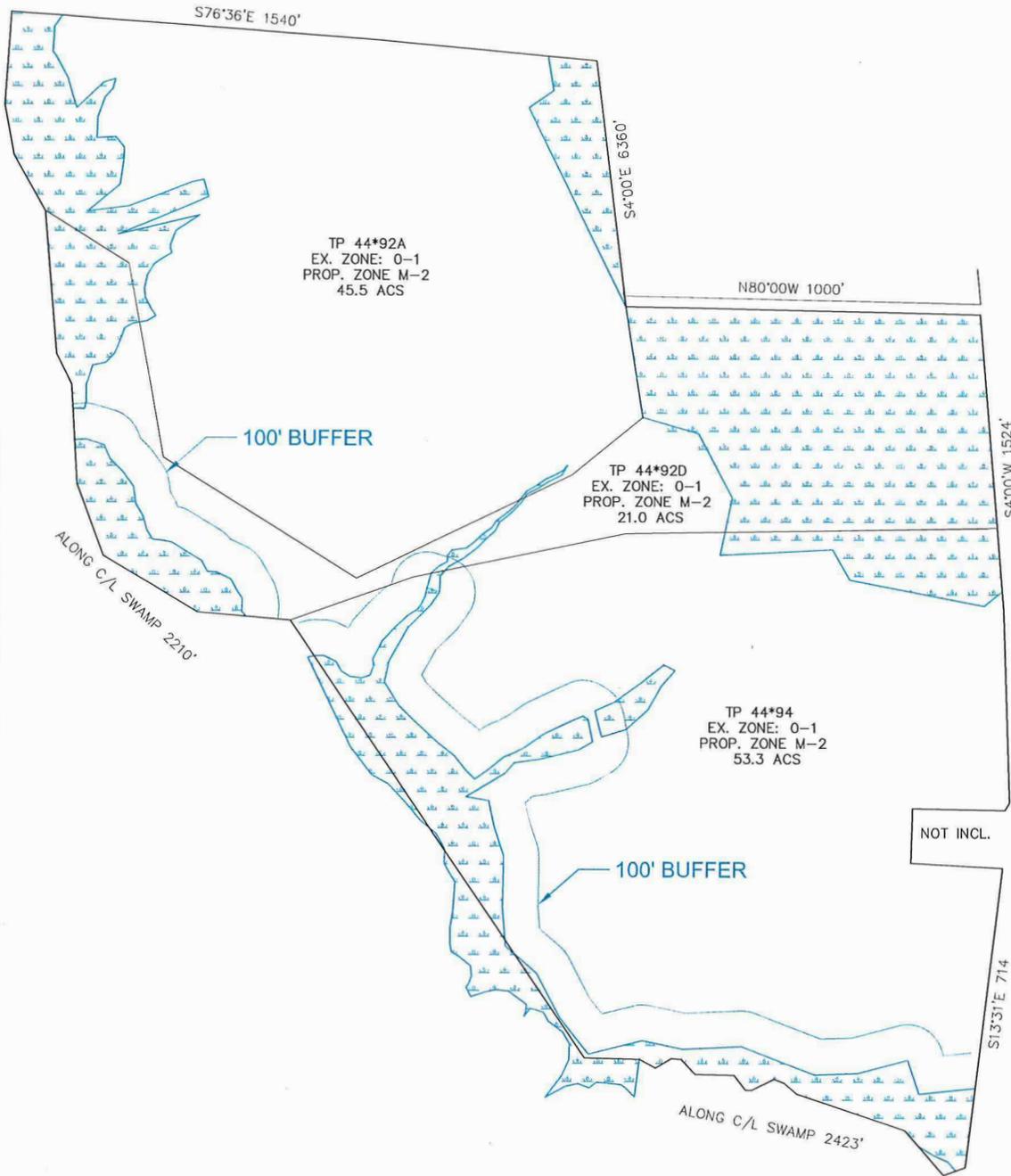


# PROPERTY MAP RZN2020-003

EXHIBIT C



User Name: bsmith  
Date: 2/4/2020



OLD SOMERTON ROAD



# BOUNDARY EXHIBIT

## BHT DESIGN GROUP

NOT FOR PERMIT UNLESS  
SIGNED SEALED & DATED

5555 Anglers Ave., Suite 27 Fort Lauderdale, FL  
954.406.6744 bhtpropertiesgroup.com

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# CITY OF SUFFOLK

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442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT

*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Conditional Use Permit Request CUP2020-004, submitted by Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Ram Adar, BHT Properties Group, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish an automobile auction, automobile graveyard, and automobile storage yard, Zoning Map 44, Parcels 92A, 92D, and 94. The affected area is further identified as being located in the Whaleyville Voting Borough, zoned O-I, Office-Institutional zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Holly Steele, the staff planner handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David Hainley", is written over a horizontal line.

David Hainley  
Director of Planning and Community Development

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** Conditional Use Permit Request CUP2020-004, submitted by Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Ram Adar, BHT Properties Group, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish an automobile auction, automobile graveyard, and automobile storage yard.

**APPLICANT:** Whitney G. Saunders, Saunders & Ojeda, P.C., applicant, on behalf of Ram Adar, BHT Properties Group, LLC, and VCS, LLC., Joshua Pretlow, and Nicole Quinn, property owners.

**LOCATION:** The property is located on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94, in the Whaleyville Voting Borough.

**PRESENT ZONING:** O-I, Office Institutional zoning district. There is a concurrent application, RZN2020-003, to amend the zoning from O-I to M-2, Heavy Industrial.

**EXISTING LAND USE:** The property currently contains open agricultural land, forested land, and several miscellaneous accessory structures. There is one dwelling located on Parcel 92A.

**PROPOSED LAND USE:** The applicants are proposing to establish an automobile auction, automobile graveyard, and automobile storage yard.

## **SURROUNDING LAND USES:**

- North - Residential uses zoned A, Agricultural zoning district.
- South - Vacant land zoned A, Agricultural zoning district.
- East - Residential and commercial uses zoned B-2, General Commercial zoning district.
- West - Vacant land zoned A, Agricultural zoning district.

**COMPREHENSIVE PLAN:** The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Suburban Use District.

**CHESAPEAKE BAY PRESERVATION AREA DESIGNATION:** The property is located within the City's Chesapeake Bay Preservation Area (CBPA) Overlay District and is designated as a Resource Protection Area (RPA) and 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. Notice to the applicant, containing

a copy of the staff report, was also sent on July 2, 2020.

## STAFF ANALYSIS

### ISSUE

The applicant is requesting a Conditional Use Permit to establish an automobile auction, automobile graveyard, and automobile storage yard located on Old Somerton Road. This Conditional Use Permit application is for three separate parcels, two of which are currently vacant and contain no existing buildings. The third parcel, parcel 92A, currently contains an occupied single-family dwelling. The property owners state that the dwelling is currently being rented, but will be vacated once the property has been purchased by the prospective buyers. The prospective buyers stated they would evaluate the home for any potential value it could provide the proposed automobile auction use, but plan to demolish it if no beneficial use can be identified.

### CONSIDERATIONS AND CONCLUSIONS

1. Section 31-406 of the Unified Development Ordinance (UDO) requires that a conditional use permit be obtained for an automobile auction, automobile graveyard, and automobile storage yard within the M-2, Heavy Industrial zoning district. Section 31-402 of the Unified Development Ordinance states that the M-2, Heavy Industrial zoning district is designed to provide an environment for industries that is unencumbered by nearby residential or commercial development. This property is presently zoned O-I, Office Institutional zoning district. The use proposed by this Conditional Use Permit application are not permitted in the present zoning district. This Conditional Use Permit is contingent upon the approval of RZN2020-003 Somerton Auto Auction, which requests a change to the City of Suffolk zoning map from O-I, Office Institutional to M-2, Heavy Industrial zoning district, which will be presented for consideration concurrent to this request.
2. The property is located within the Central Growth Area, Suburban Use District. The Suburban Use District is characterized as an area for residential neighborhoods, neighborhood scale retail, and civic buildings and community facilities.

This site is located in the southernmost portion of the Central Growth Area. The purpose of the Northern and Central Growth Areas, per the 2035 Comprehensive Plan, is to provide a focus area for development and reduce sprawl in other areas of the City. This property was rezoned from RR, Rural Residential, to O-I, Office-Institutional in 1999 during the citywide rezoning, with the overall strategy to establish an inventory of appropriately zoned, vacant lands in order to take advantage of opportunities for non-residential development in close proximity to the Suffolk Municipal Airport.

3. City water is available to the proposed site via a 12-inch water main located on Old Somerton Road. Currently, no public sewer is available to the site, but City Code Section 90-478 requires that all new commercial construction within 1,000 feet of City sewer must extend and install a sewer collection system. Being that the property is located 800 feet from the City sewer force main on Carolina Road, the owners will be required to

meet this requirement by extending the sewer force main from Carolina Road to the site and installing a private grinder pump on the property. The applicant's representative indicated that all improvements on the property would take place more than 1,000 feet from Carolina Road; however City Code allows for the Director of Public Utilities to make a final determination regarding the connection. It was determined that this site will be required to connect to the existing sewer main on Carolina Road. Beyond these requirements, the Department of Public Utilities has no objections to this Conditional Use Permit request.

4. Based on the parking requirements that are outlined in Table 606-2 of the UDO, the minimum parking requirement for outdoor sales is a minimum of one (1) space per 375 square feet of gross floor area and a maximum of one point five (1.5) spaces per 375 square feet of gross floor area. The gross floor area is inclusive of sales and service space. Based on the proposed building plans that were submitted, the office building will be a total of 12, 860 gross square feet; therefore requiring a minimum of thirty-five (35) parking spaces and a maximum of fifty-two (52) parking spaces. The applicant is proposing forty-one (41) standard parking spaces and three (3) ADA parking spaces.
5. 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.*

In accordance with the Unified Development Ordinance, the proposed uses of an automobile auction, automobile storage lot, and automobile graveyard are listed as conditional uses in the M-2, Heavy Industrial zoning district. Furthermore, the proposed automobile graveyard are required to adhere to the following supplemental standards provided in Section 31-708(b) of the Unified Development Ordinance:

(b)PERFORMANCE STANDARDS. No conditional use permit or building permit shall be issued for a junkyards/salvage yard and heavy equipment or industrial storage lot unless all of the following standards and criteria are satisfied:

- (1) *A solid fence or wall not less than five (5) or more than six (6) feet in height or approved vegetative screening shall be provided and maintained in good condition, on or adjacent to the joint lot line.*

*Screening may also be required as appropriate to enclose storage areas from view from street or neighboring property.*

- (2) A fifty-foot (50') buffer between the property lines and storage yards shall be maintained.*
- (3) All sides of any storage yard shall be screened from the view of all surrounding land uses and all streets and rights-of-way.*
- (4) The wall or fence of the outdoor storage yard shall be of solid, one hundred percent (100%) opaque construction of wood, masonry or other similar material approved in writing by the Administrator.*
- (5) All sides of the heavy equipment or industrial storage lot shall be screened from the view of all surrounding land uses and all streets and rights-of-way.*
- (6) All outdoor yards or storage lots shall comply with the following:*
  - A. No yard or storage lot shall be placed or maintained within a required yard setback.*
  - B. Stored items shall not project above the screening.*
  - C. All screening shall be installed in a professional and workmanlike manner, and maintained in good condition.*
- (7) Unusable items shall be disposed of and not be allowed to collect on the premises.*
- (8) All tires not mounted on a vehicle shall be neatly stacked or placed in racks. If stacked, the stacks shall not be stacked over six feet in height. No garbage or other putrescent waste, likely to attract vermin, shall be kept on the premises. Gasoline, oil, or other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state and local regulations. All other regulations of the Commonwealth of Virginia and the City such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.*
- (9) The user subject to this Section (see Subsection (1), above) shall comply with Chapter 18, Article II, of the City Code.*

- 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 property is adjoined by properties zoned O-I, Office-Institutional, A, Agricultural, and B-2, General Commercial. The adjoining O-I parcels are currently

vacant. The adjoining Agricultural properties contain agricultural fields, forested lands, and single family dwellings. The adjoining B-2 properties are primarily residential, but do contain a variety of uses including industrial service repair, vehicle tire and service, and several other automobile related businesses.

Furthermore, the applicants are proposing a one-story office building which is compatible with office buildings in the adjoining B-2 zoning district. In an effort to maintain the privacy of adjoining O-I and Agricultural properties, BHT Auto will be installing an 8-foot solid heavy gauge metal fence around the entire property. The supplemental standards provided in Section 31-708(b) of the Unified Development Ordinance restrict the maximum height of a screening fence to 6-feet; therefore the owners will need to address this change during the site plan process. Additionally, there will be a vegetative buffer both parallel and adjacent to Old Somerton Road which will provide additional screening and reduce impacts on Agricultural properties.

The 2006 Carolina Road Corridor Land Use Strategy, a component of the 2035 Comprehensive Plan, encourages warehouses, distribution, and other one story low density and low intensity economic development should be located in the areas within the airport's flight paths (p. 20). This property is low intensity and is located within the airport's flight path, therefore providing compatibility with the vision of the aforementioned land use strategy. The land use strategy also supports industrial buildings along the Carolina Road Corridor provided that adequate screening is provided (p. 21). As previously stated, the applicants are proposing both fencing and vegetative buffers around the property in an effort to mitigate potential visual impacts.

- 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 proposed use will have access from Old Somerton Road. The Public Works Traffic Engineering Division has reviewed and approved a Traffic Impact Analysis (TIA) in support of this request. There is an existing enhanced right-turn taper off of Carolina Road onto Old Somerton Road, however the southbound right turn lane on Carolina Road approaching Turlington Road is currently insufficient. Based on this information, the turning lane approaching Turlington Road must be improved to meet current design standards with a 150-foot storage length, 150-foot taper, and 12-foot full storage lane width.

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

The proposed use does not entail any dismantling, servicing, or maintenance. The cars are brought onto the lot where they remain until they are sold at auction. This use is low intensity and will not produce noise in excess of what is acceptable in a general commercial zone. Furthermore, BHT Auto remains in compliance with strict

regulatory compliance at the federal, state, and local level and carries its own pollution liability policy. It is not anticipated that there will be any use attached with this activity which would have a noxious or offensive impact on the surrounding community.

- e) The proposed use shall not be injurious to the use and enjoyments 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 automobile auction, automobile graveyard, and automobile storage yard should not diminish or impair the use or property values within this area. The owners are providing full screening, both built and vegetative, along the entirety of the property, therefore eliminating view of the proposed use from adjoining 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.*

It is not anticipated that use of this property as an automobile auction, automobile graveyard, and automobile storage yard will impede the orderly development and improvement of surrounding properties. The commercial use in the adjoining B-2 zoned property are compatible with this use and should not be negatively impacted by an additional automobile-centric use. The applicant is requesting the following hours of operation: Monday through Friday 8:00a.m. to 5:00p.m. The only activity taking place outside of these business hours will be deliveries.

- 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 proposed use of an automobile auction, automobile graveyard, and automobile storage yard should not be a detriment or endangerment to the public health, safety, morals, comfort, or general welfare. As previously stated, BHT Auto plans to implement strict environmental standards and receives regular environmental audits, therefore ensuring environmental protections for the surrounding community. Additionally, BHT Auto carries a pollution liability policy.

- 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 a automobile auction, automobile graveyard, and automobile storage yard. The individual interests of persons within the neighborhood should not be adversely impacted by the proposed use being that it is compatible with other uses in the area.

## **RECOMMENDATION**

The proposed use of an automobile auction, automobile graveyard, and automobile storage yard is similar to and compatible with uses in the surrounding area and should have minimal impacts on the neighborhood. Based on this review, staff has determined that the applicant's request to grant Conditional Use Permit CUP2020-004 will have no adverse impact on the surrounding area and hereby recommends that this request for a Conditional Use Permit be **approved** subject to the following conditions:

1. This Conditional Use Permit is granted to establish an automobile auction, automobile graveyard, and automobile storage yard on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94, as shown on Exhibit "B", "Property Map".
2. Before land disturbance permits are issued, the owners must improve the southbound right turn lane on Carolina Road approaching Turlington Road in order to meet current design standards comprising of a 150-foot storage length, 150-foot taper, and 12-foot full storage lane width.
3. The site plan shall be substantially in accordance with the conceptual layout, as shown on Exhibit "C".
4. BHT Auto shall adhere to the following hours of operation: *Monday through Friday 8:00a.m. to 5:00p.m.* The only business permitted to take place on the property outside of regular business hours is deliveries.
5. This property shall abide by all supplemental requirements as set forth in Section 31-708(b) of the Unified Development Ordinance, which include but are not limited to, screening around the entirety of the property, a vegetated 50-foot buffer between the storage yard and property lines, and no storage lot may encroach into any required yard setback.
6. There shall be no dismantling, servicing, or maintenance services offered on this site.
7. The user shall provide the City of Suffolk with copies of the environmental audits conducted on their behalf on an annual basis.

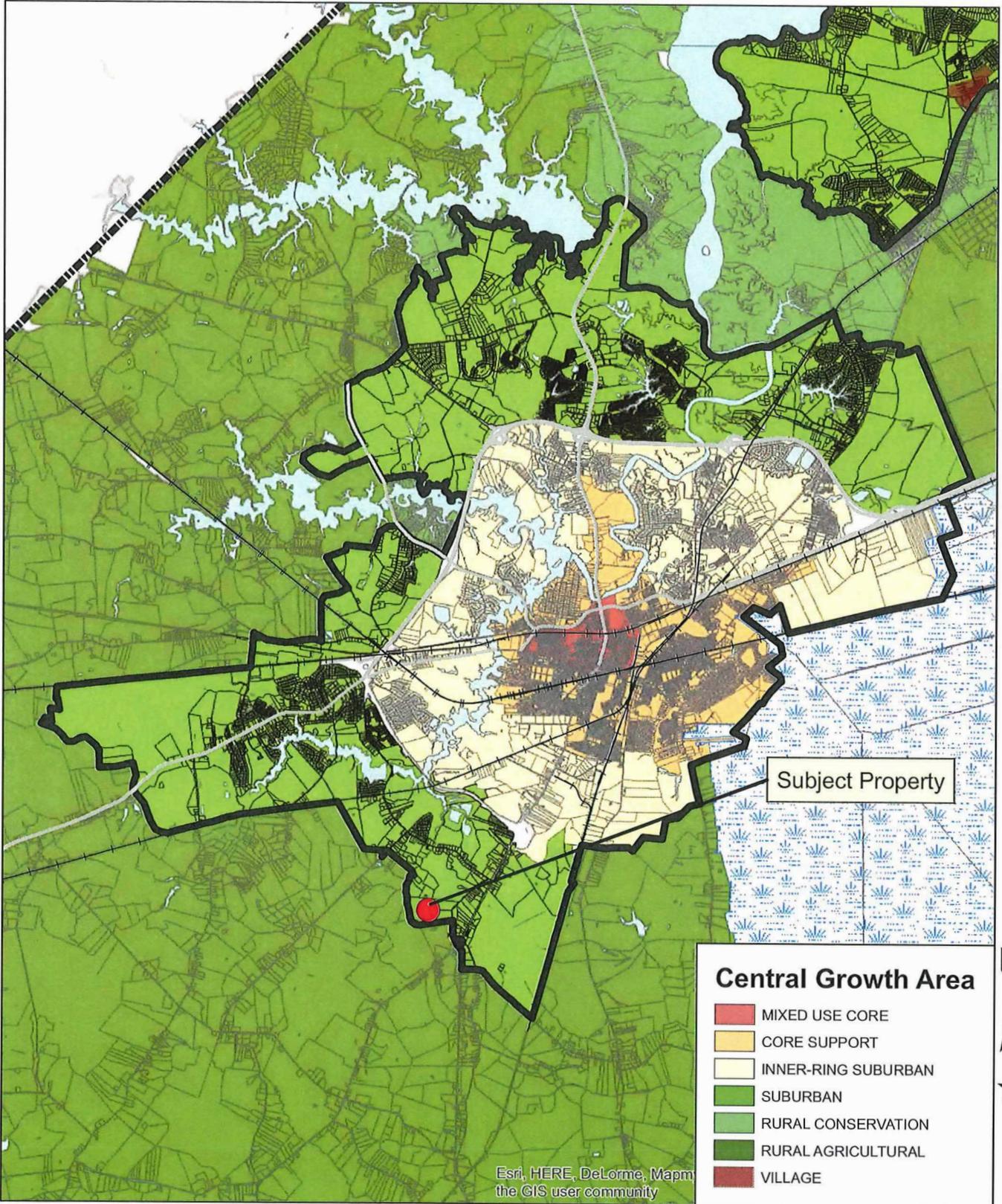
### Attachments

- General Location Map
- Zoning / Land Use Map
- Narrative
- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Property Map
- Exhibit C – Proposed Conceptual Layout



# GENERAL LOCATION MAP

## CUP2020-004

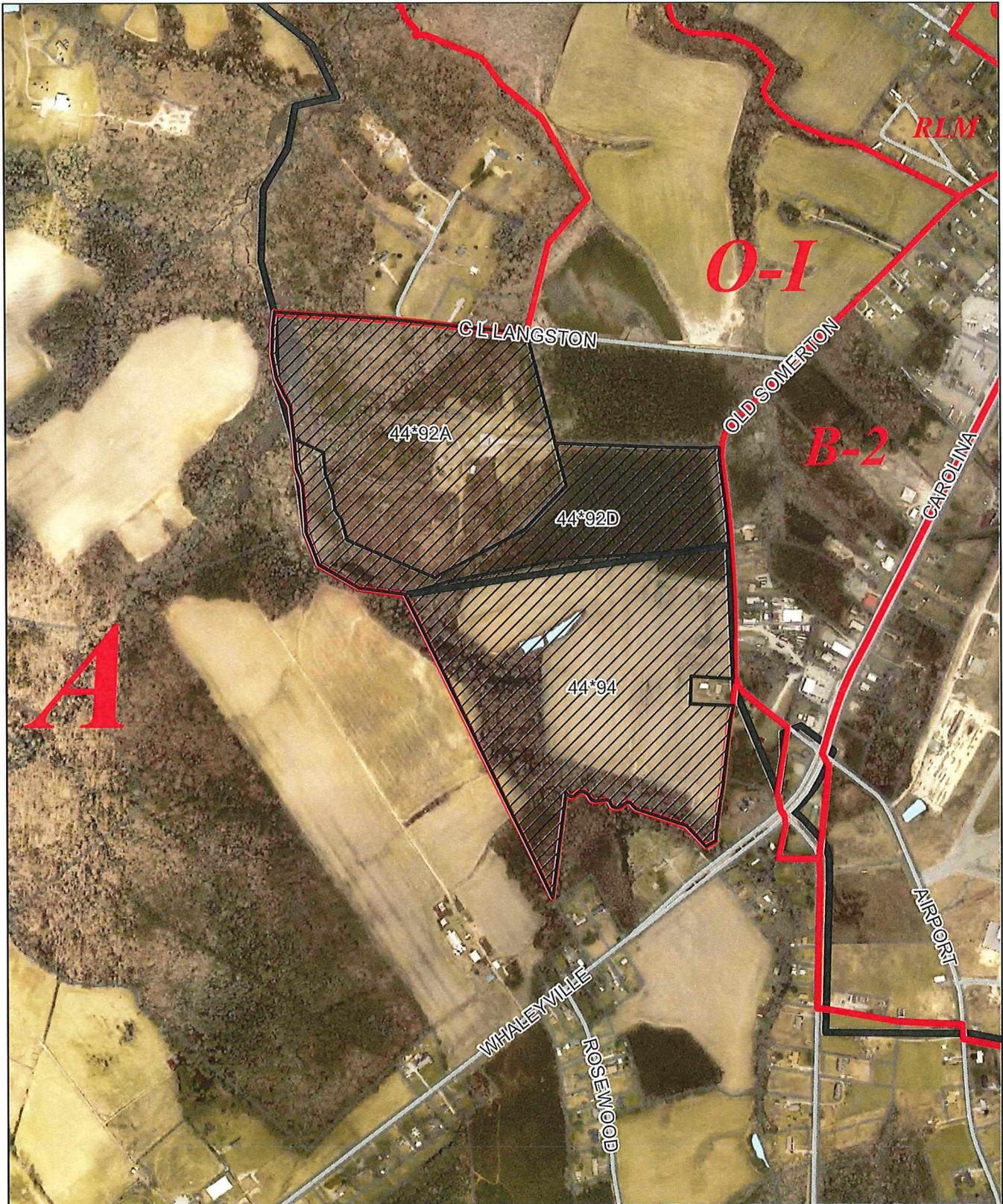


User Name: bsmith  
Date: 2/4/2020



# ZONING / LAND USE MAP

## CUP2020-004



User Name: bsmith  
Date: 2/4/2020

## Narrative

The applicant, BHT Properties Group LLC (BHT) requests a Rezoning of O-I Parcels to M-2 and a Conditional Use Permit to operate an auto auction and automobile storage yard on approximately 120 acres with frontage on Old Somerton Road. The property consists of three parcels, being City of Suffolk Tax Map Parcel Numbers 44\*92A, 44\*92D & 44\*94. The property is depicted on a preliminary site plan prepared by BHT Design Group, which is submitted with this application and bears an issue date of 8/5/19. The property is bounded on the North by property which is zoned O-I and AG, on the East by B-2 parcels and on the South and West parcels which are zoned A. The subject property is located just north of the intersection of route 13, Route 32 (Carolina Road) and Old Somerton Road, where current zoning includes M-2, B-2 and A designations.

BHT works in partnership with a variety of sellers, including insurance companies, dealerships, rental car companies and fleet lease companies to facilitate the efficient sale by auction of total loss and theft recovery vehicles. Vehicles are sold quickly and efficiently, with more than 40% of its business being conducted via the internet. BHT's auto auction business involves receiving and selling vehicles that have been damaged in accidents, recovered after being stolen or damaged in natural disasters. The vehicles are not dismantled; no parts are removed from the vehicles, nor is any maintenance done on the vehicles. The vehicles are sold in the same condition as when they arrive. BHT follows strict regulatory compliance at federal, state and local levels, including regular environmental audits and carries a pollution liability policy which covers all of its locations.

A one-story office building will be constructed at the Old Somerton Road entrance. It is anticipated that the facility will employ approximately 10 office and site workers who would utilize a parking area for employees and customers located adjacent to the office building. Vehicles will be dropped at the site in a drop lot and then moved to the storage area. Vehicles are onsite for 75-120 days until being removed from the site by the ultimate purchaser. Vehicles are auctioned weekly from the sales area where buyers may view vehicles. However, an increasing number of vehicles are sold entirely through internet auctions processes. Approximately 40% of vehicles sold are able to be driven off the sales lot and approximately 40% are sold to overseas buyers. The entire facility will be screened from view and secured by an 8ft solid heavy gauge metal fence. A vegetative buffer will be installed along the frontage of the property parallel and adjacent to Old Somerton Road. The surface of the parking area will be recycled asphalt millings, and a flush concrete perimeter curb will be installed.

The property is within a Suburban District in the Central Growth Area. It is within a segment of the city with extensive M-2 and Commercial Zoning. It was identified as a part of the Industrial Land Use Zone in the 2006 Carolina Road Corridor Land Use Strategy and this proposed use is among less intensive uses possible in the M-2 zoning district. As a less intensive use, it will be compatible with existing neighboring uses and should have minimal effect on surrounding parcels.

**RECEIVED**

JAN 31 2020

**PLANNING**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH AN AUTOMOBILE AUCTION, AUTOMOBILE GRAVEYARD, AND AUTOMOBILE STORAGE YARD, ON PROPERTY LOCATED ON OLD SOMERTON ROAD, ZONING MAP 44, PARCELS 92A, 92D, AND 94; CUP2020-004**

WHEREAS, Ram Adar, BHT Properties Group, LLC, applicant, on behalf of Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners, has requested a conditional use permit for an automobile auction, automobile storage yard, and automobile graveyard 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 44 Parcels 92A, 92D, and 94, and which land is depicted on Exhibit "B", "Property Map"; 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", "Property Map", and Exhibit "C", "Conceptual Layout", 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 establish an automobile auction, automobile graveyard, and automobile storage yard, that 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 an automobile auction, automobile graveyard, and automobile storage yard 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 an automobile auction, automobile graveyard, and automobile graveyard in compliance with Exhibit "C" (the "Conceptual Layout"), and Sections 31-306 and 31-406 of the Code of the City of Suffolk.

#### Conditions

1. This Conditional Use Permit is granted to establish an automobile auction, automobile graveyard, and automobile storage yard on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94, as shown on Exhibit "B", "Property Map".
2. Before land disturbance permits are issued, the owners must improve the southbound right turn lane on Carolina Road approaching Turlington Road in order to meet current design standards comprising of a 150-foot storage length, 150-foot taper, and 12-foot full storage lane width.
3. The site plan shall be substantially in accordance with the conceptual layout, as shown on Exhibit "C".
4. BHT Auto shall adhere to the following hours of operation: *Monday through Friday 8:00a.m. to 5:00p.m.* The only business permitted to take place on the property outside of regular business hours is deliveries.
5. This property shall abide by all supplemental requirements as set forth in Section 31-708(b) of the Unified Development Ordinance, which include but are not limited to, screening around the entirety of the property, a vegetated 50-foot buffer between the storage yard and property lines, and no storage lot may encroach into any required yard

setback.

6. There shall be no dismantling, servicing, or maintenance services offered on this site.
7. The user shall provide the City of Suffolk with copies of the environmental audits conducted on their behalf on an annual basis.

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 the 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 the 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:

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

**Exhibit A**

**RESOLUTION NO. 20-07-06**

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT  
CUP2020-004**

**TO ESTABLISH AN AUTOMOBILE AUCTION, AUTOMOBILE GRAVEYARD, AND  
AUTOMOBILE STORAGE, ON PROPERTY LOCATED ON OLD SOMERTON ROAD,  
ZONING MAP 144, PARCELS 92A, 92D, AND 94**

**WHEREAS**, Whitney G. Saunders, Saunders & Ojeda, P.C., agent, on behalf of Ram Adar, BHT Properties Group, LLC, applicant, on behalf of Nicole Quinn and Joshua Pretlow, Jr., VCS LLC, property owners, 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 an automobile auction, automobile graveyard, and automobile storage yard, 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, CUP2020-004, 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: \_\_\_\_\_

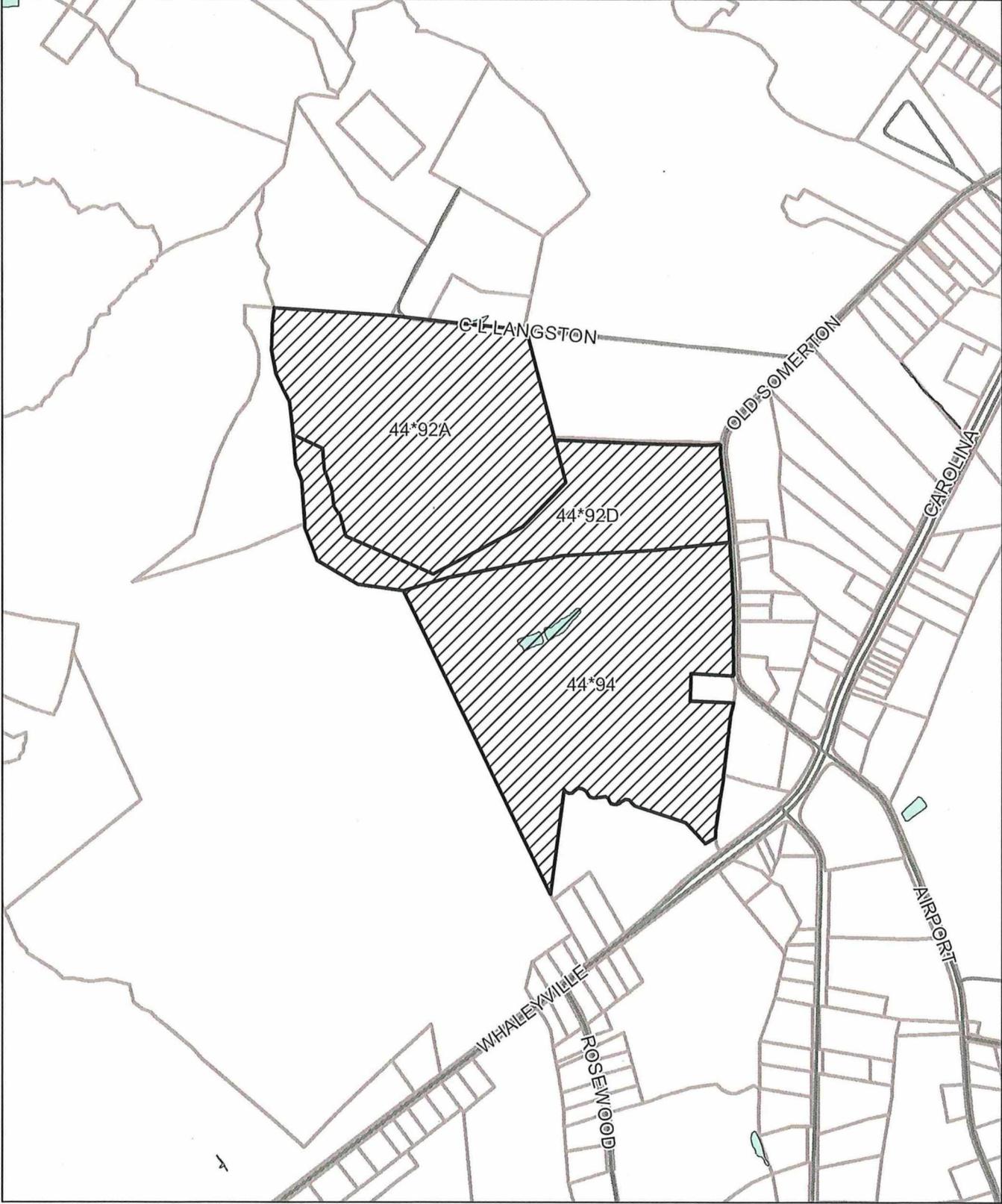
**CONDITIONAL USE PERMIT**  
**CUP2020-004**  
**CONDITIONS**

1. This Conditional Use Permit is granted to establish an automobile auction, automobile graveyard, and automobile storage yard on Old Somerton Road, Zoning Map 44, Parcels 92A, 92D, and 94, as shown on Exhibit "B", "Property Map".
2. Before land disturbance permits are issued, the owners must improve the southbound right turn lane on Carolina Road approaching Turlington Road in order to meet current design standards comprising of a 150-foot storage length, 150-foot taper, and 12-foot full storage lane width.
3. The site plan shall be substantially in accordance with the conceptual layout, as shown on Exhibit "C".
4. BHT Auto shall adhere to the following hours of operation: *Monday through Friday 8:00a.m. to 5:00p.m.* The only business permitted to take place on the property outside of regular business hours is deliveries.
5. This property shall abide by all supplemental requirements as set forth in Section 31-708(b) of the Unified Development Ordinance, which include but are not limited to, screening around the entirety of the property, a vegetated 50-foot buffer between the storage yard and property lines, and no storage lot may encroach into any required yard setback.
6. There shall be no dismantling, servicing, or maintenance services offered on this site.
7. The user shall provide the City of Suffolk with copies of the environmental audits conducted on their behalf on an annual basis.



# PROPERTY MAP CUP2020-004

EXHIBIT B



User Name: bsmith  
Date: 2/4/2020



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# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT

*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Conditional Use Permit Request CUP2020-003, CrossPointe Preschool Academy and CrossPointe Freewill Baptist Church, submitted by David Sexton, applicant and property owner, CrossPointe Freewill Baptist Church, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, in order to amend the previously approved conditions pertaining to the establishment of a Day care, child (as accessory use to a permitted place of worship or school), and to expand an existing place of worship, large, at least 6,000 square feet in main sanctuary, on property located at 2460 Pruden Boulevard, Zoning Map 25A, Parcel 1\*A. The purpose of this request is to increase maximum permitted enrollment from 50 to 100 children pertaining to the daycare use at CrossPointe Freewill Baptist Church and to expand the allowable capacity in the main sanctuary from 177 seats to 210 seats. The affected area is further identified as being located in the Suffolk Voting Borough, zoned B-2, General Commercial zoning district. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Inner Ring Suburban Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Kevin Wyne, the staff planner handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

David Hainley  
Director of Planning and Community Development

DH/kmw  
Attachments

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** CUP2020-003, submitted by David Sexton, applicant and property owner, CrossPointe Freewill Baptist Church, in order to amend the previously approved conditions pertaining to the establishment of a Day care, child (as accessory use to a permitted place of worship or school), and to expand an existing place of worship, large, at least 6,000 square feet in main sanctuary.

**APPLICANT:** David Sexton, Pastor of CrossPointe Freewill Baptist Church.

**LOCATION:** The affected property is located at 2460 Pruden Boulevard, and is further identified as Zoning Map 25A, Parcel 1\*A.

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

**EXISTING LAND USE:** The 1.87 acre site houses an existing church.

**PROPOSED LAND USE:** To expand a child daycare use as an accessory use to the permitted place of worship and to expand an existing place of worship, large, at least 6,000 square feet in main sanctuary.

## **SURROUNDING LAND USES:**

North – RLM, Residential Low Medium Zoning District, Single family homes  
South – B-2, General Commercial Zoning District, Commercial  
          – O-I, Office-Institutional Zoning District, Single family home  
East – B-2, General Commercial Zoning District, Commercial  
West – B-2, General Commercial Zoning District, Commercial

**COMPREHENSIVE PLAN:** The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Inner Ring Suburban 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. Notice to the applicant, containing a copy of the staff report, was also sent on July 2, 2020.

**CASE HISTORY:** The subject property was previously approved for a Conditional Use Permit C04-10, which was granted to CrossPointe Freewill Baptist Church to permit a large religious assembly in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, which was approved June 16, 2010, by Ordinance 10-O-050.

In 2013, a Street Vacation request SV03-13 was approved for the church and the two abutting

private property owners, to vacate a 300 foot portion of Alvah Street between Lida Avenue and Edwards Avenue. The request was approved December 18, 2013, by Ordinance 13-O-116.

On June 21, 2017, a Conditional Use Permit (C05-17) was granted by City Council for the establishment of a child daycare, as an accessory use to a permitted place of worship by Ordinance 17-O-050. This use permit allowed for the daycare use to provide care for up to 50 children.

On August 15, 2018, City Council granted a Conditional Use Permit (CUP2018-003) on an adjoining property, Zoning Map 25A, Parcel 1\*C5 (201 Edward Avenue), for the establishment of a church office and public assembly use with temporary lodging that is associated with operations of CrossPointe Freewill Baptist Church.

On July 23, 2019, a site plan was approved for a 5,800 square foot addition to the existing church building, increasing the total square footage of building space used for church and accessory daycare use to 14,380 square feet. This plan notes that the sanctuary will have a seating capacity for 210 patrons, an increase of 33 over the previously approved 177 seat capacity permitted by under C04-10.

## **STAFF ANALYSIS**

### **ISSUE**

On behalf of CrossePoint Freewill Baptist Church, Pastor David Sexton is requesting to expand an existing child daycare as an accessory use to the church, as well as expand the permitted capacity of the main sanctuary of the place of worship use. As discussed above, the building that serves both uses is approved for expansion from 8,580 square feet, to 14, 380 square feet. The proposed expanded daycare use will be contained to the original 8,580 square feet, while the 5,800 square foot addition will house the majority of operations associated with the place of worship use. The daycare classrooms will be utilized for daycare purposes for church members during normal service times.

The church would utilize the existing space to accommodate up to 100 children, doubling the current allowance of 50 children. The expanded daycare use will provide all day care for children 6 weeks to 5 years old. A before and after school program will provide care for children 6 to 12 years old during the school year and full daycare for these children will be provided during summer months. The church proposes to employ six additional full time teachers to accommodate the anticipated increased enrollment, bringing the total expected staff serving the use to 18, which includes other part time staff such as a janitor and secretary. The proposed hours of operation for the daycare are Monday through Friday, 6:30 a.m. to 6:00 p.m. Parents picking up and dropping off would utilize the existing 53 on-site parking spaces. There is an existing outdoor play area, approximately 1,800 square feet, which is sufficient to serve no more than 24 children per time in accordance with the Unified Development Ordinance. The applicant proposes to stagger use of the area and plans to have no more than 15 children on the playground at any given time.

This application also proposes to expand an existing place of worship use, large, sanctuary greater than 6,000 square feet. As noted above, the applicant is requesting to expand the seating capacity of the sanctuary from 177 seats that is presently permitted in accordance with C04-10, to 210 seats. Church services are held on Sundays during morning and evening hours, with additional service

on Wednesday evenings. The daycare use, that is proposed to be expanded as a part of this application as well, will not operate during these times.

### **CONSIDERATIONS AND CONCLUSIONS**

1. Section 31-406 of the Unified Development Ordinance (UDO) requires that a Conditional Use Permit be obtained for a child daycare and place of worship, large, sanctuary greater than 6,000 square feet, within the B-2, General Commercial Zoning District.
2. Section 31-306 of the UDO requires that major amendments to previously approved Conditional Use Permits be approved in the same manner and under the same procedures as are applicable to the issuance of the original permit. Major amendments include shifts in on-site location and changes in size, or intensity, of greater than five percent, or a five-percent or more increase in either lot coverage or floor area over what was originally approved. The proposed amendments, the expansion of the existing daycare use and expansion of the place of worship use, qualify as major amendments.
3. Proposed hours of operation for the daycare use are Monday through Friday, 6:30 a.m. to 6:00 p.m and will not change from what is currently approved. The applicant is requesting to be allowed an enrollment of 100 children, with a staff of 18.
4. This site is currently served by public water and sewer. The daycare and church use will occupy space approved as a part of site plan SPL2018-00008. The Public Utilities Department has indicated no objections to the conditional use permit amendment.
5. The applicant has indicated that no food preparation will be conducted on the property.
6. Based on the parking requirements that are outlined in Table 606-2 of the UDO, the minimum parking requirement for commercial daycares is a minimum of one space per 375 square feet of gross floor area and a maximum of 1.5 spaces per 375 square feet of gross floor area of the building. Based on the submitted floor plan the daycare will occupy 8,580 square feet of space which will require 23-34 parking spaces to adequately serve the use. There are 53 existing parking spaces. For the church use the minimum required parking is 53 spaces. The proposed daycare is Monday through Friday and therefore should not coincide with the church use, but there is enough parking on site to meet shared parking standards.
7. A turn lane warrant analysis was submitted for review with this request. Traffic Engineering has reviewed the report and has noted that the proposed increase in enrollment to 100 children will not warrant traffic improvements at this time.
8. CrossePointe Freewill Baptist Church currently holds a license through the Virginia Department of Social Services as a religious exempt daycare provider. Their current license allows for providing care to 50 children between 2 ½ years of age and 12 years of age. This license would have to be updated as a proposed condition of this request.
9. Section 31-701(b)(16)(A) establishes additional requirements for daycares which are accessory to a permitted religious assembly or school. A minimum of 1,500 square feet is

required for 20 children or fewer, and 75 square feet for each additional child attending the daycare. This application proposes a child daycare to serve a maximum of 100 children. A total of 7,500 square feet of outdoor play area is required to serve the maximum number of children. However, children may be allowed to utilize the outdoor space in phases, thereby reducing the required outdoor play area. The existing approximately 1,800 square foot is sufficient to meet the minimum requirement of the Unified Development Ordinance, of 1,500 square feet, and play shall be limited to 24 children at a time.

10. The UDO also notes that outdoor play areas shall be located so as to provide maximum peace and tranquility to adjoining residential uses while protecting the safety of the children. Additionally, hours of outdoor play shall be limited to the hours between 8:00 a.m. and 6:00 p.m. The outdoor play area for CrossPointe Church is directly adjacent to two residential homes. Screening landscaping between the homes and the play area would help to meet the intent of not disturbing the surrounding residences.
11. 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 expanded uses are a listed conditional use in the B-2 Zoning District per the City's Unified Development Ordinance (UDO). This development will comply with all applicable requirements of the UDO.

- 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.*

Both the uses have operated without any adverse impacts on the site for several years. Documentation provided by the applicant as reviewed by staff indicates that their proposed expansion should not have any adverse impacts to the surrounding

neighborhood. The property is surrounded by the B-2, RLM, and O-I Zoning Districts.

- 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 has been reviewed by the City's Traffic Engineering Division, who agrees with the findings of left turn lane analysis provided for proposed expansion of the daycare use. The left turn lane analysis submitted with this application indicated there was no need for improvements related to the daycare.

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

It is not anticipated that there will be any uses associated with the expanded daycare or church use which would impact the surrounding community pertaining to vibration, noise, 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 expanded uses will be located on property zoned for commercial use, which allows for by-right uses that could potentially be more impactful than those proposed. The provided hours of operation should not substantially diminish or impair the property values of surrounding parcels. Screening landscaping around the outdoor play area would provide additional buffering for the residences to the north.

- 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 a developed area within an existing structure. The use of this property for proposed expanded uses 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 applicant is required to be licensed by the Virginia Department of Social Services for operation as a child care facility, and as a result will be subject to the criteria set forth in the state code. In that regard, this proposed use should not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

- 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 expanded uses.

## **RECOMMENDATION**

It is staff's conclusion that the site in question, with the establishment of appropriate conditions, is appropriate for the proposed use given the location along a minor arterial, which is bordered by several residential neighborhoods, and the fact the expanded church and daycare uses will be located in an approved building in a developed area. Given the uses have operated within their current scopes without issues, no adverse impact to the surrounding properties is anticipated. Therefore, staff recommends **approval** of Conditional Use Permit request CUP2020-00003 with the following conditions.

1. This Conditional Use Permit is granted specifically in order to establish a place of worship, large, greater than 6,000 square feet, and a child daycare (as an accessory use to a permitted place of worship), for property located 2460 Pruden Boulevard, Zoning Map 25A, Parcel 1\*A; as identified in Exhibit B and Exhibit C.
2. Occupancy for both uses is to be established by the Fire Marshall and Building Official, but shall not exceed a maximum of 100 children for the daycare use and shall not exceed 210 seats in the sanctuary for the church use. At such time that the church use, or the daycare use is expanded, a new traffic impact assessment must be submitted for review to determine any necessary improvements to accommodate the impact from traffic generation related to the uses on this site.
3. The applicant shall be responsible to ensure compliance with all regulations regarding the operation of a child daycare facility as required by the Virginia Department of Social Services.
4. No food preparation may take place without approval from the Suffolk Health Department.
5. In compliance with Section 31-701(b)(16)A, the existing approximately 1,800 square foot outdoor play area shall be limited to 24 children at a time.
6. Outdoor play activities shall be limited to the hours between 8:00 a.m. and 6:00 p.m.
7. In accordance with the screening requirements outlined in Sections 31-412(g) and 31-603(f), screening landscaping behind the outdoor play area will be required to provide a buffer between the residential homes which abut the property and the proposed outdoor play area.

### Attachments

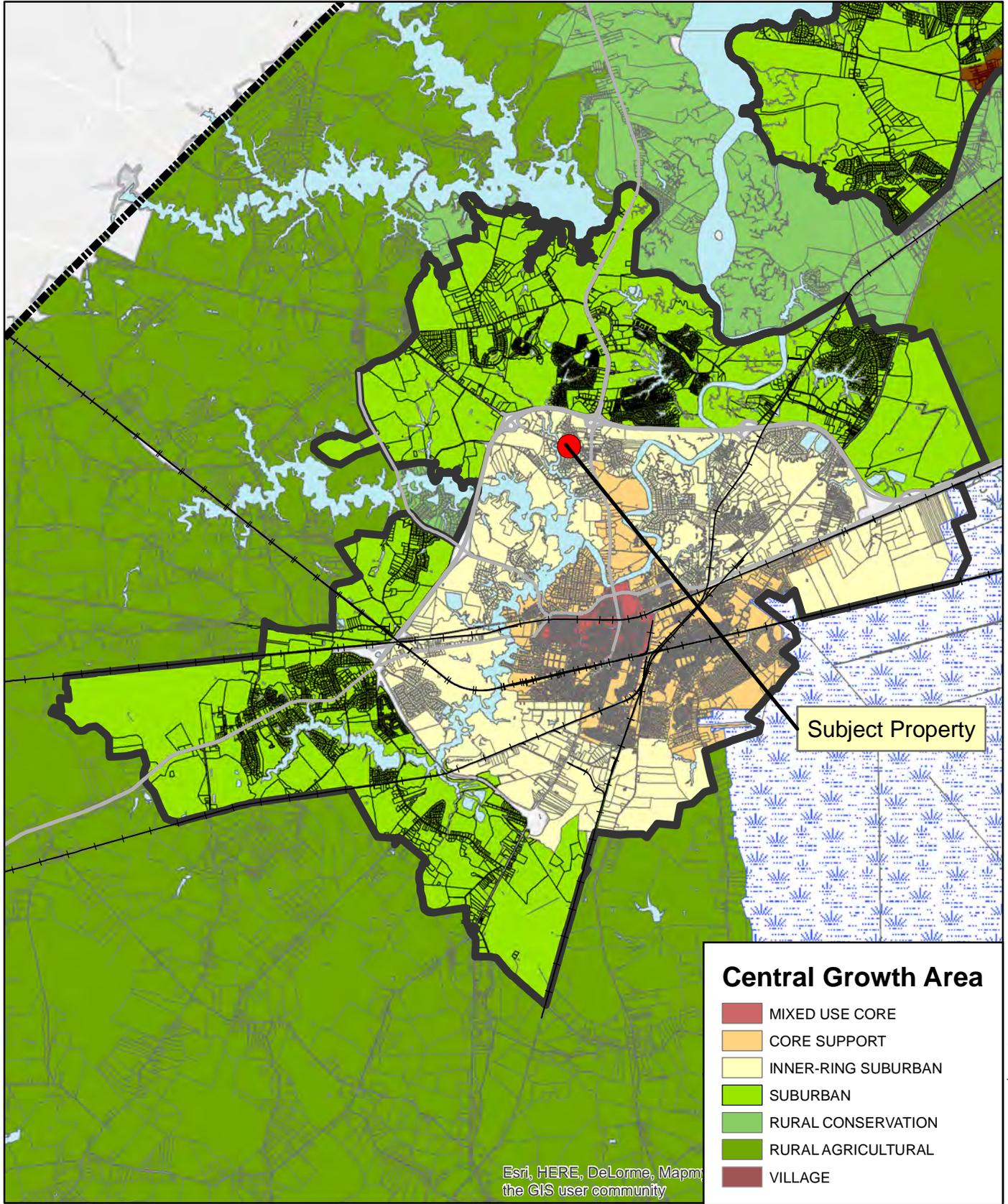
- General Location Map

- Zoning/Land Use Map
- Narrative Description of the Proposed Uses
- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Property Map
- Exhibit C – Fire Prevention Plan



# GENERAL LOCATION MAP

## CUP2020-003





# ZONING / LAND USE MAP

## CUP2020-003



## **CrossPointe Church**

### **A narrative description of the proposed use of property:**

CrossPointe Church, located at 2460 Pruden Blvd in Suffolk VA and designated on the zoning map of the city of Suffolk, Virginia, as zoning map 25A Parcel 1A, would like to expand the number of children enrolled from 50 children to 100 children at CrossPointe Preschool Academy. CrossPointe Church is adding a 5,700+ sq ft addition on to the existing building. The sanctuary of the existing building will be turned into some classrooms and offices. Those classrooms will be used to be able to expand the enrollment of CrossPointe Preschool Academy. All of the preschool academy will be contained in the existing building (which is approximately 8500 sq ft. We would also like to change the ages of the preschool from 6 weeks to 12 years of age. We have taken all of the steps from the fire marshal and DSS that are needed for the infants and toddlers. The school age children (ages 6-12) are before school care and will also be enrolled in our summer program as well. As Suffolk continues to grow, there is a significant need for quality infant/toddler care as well as preschool care. We are attempting to fill that need for our community by requesting the increase in our numbers and the ages of the children who can be enrolled in our program.

**We will also need to amend the CUP to change the seating of the sanctuary from 177 seats to a religious assembly of a seating capacity of 210 seats.**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO AMEND PREVIOUSLY APPROVED CONDITIONS PERTAINING TO THE ESTABLISHMENT OF A DAYCARE, CHILD (AS ACCESSORY USE TO PERMITTED PLACE OF WORSHIP OR SCHOOL), AND TO EXPAND AN EXISTING PLACE OF WORSHIP, LARGE, AT LEAST 6,000 SQUARE FEET IN THE MAIN SANCTUARY, ON PROPERTY LOCATED AT 2460 PRUDEN BOULEVARD, ZONING MAP 25A, PARCEL 1\*A; CUP2020-003**

WHEREAS, David Sexton, applicant and property owner, CrossPointe Freewill Baptist Church, has requested a Conditional Use Permit in order to amend the previously approved conditions pertaining to the establishment of a Day care, child (as accessory use to a permitted place of worship or school), and to expand an existing place of worship, large, at least 6,000 square feet in main sanctuary, 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 25A, Parcel 1\*A, 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", "Property Map", and Exhibit "C", " Fire Prevention 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 expand an existing daycare, as an accessory use to a permitted place of worship use, and expand an existing place of worship, large, greater than 6,000 square feet in the main sanctuary, 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 daycare, accessory to a permitted place of worship, and place of worship, large, greater than 6,000 square feet in the main sanctuary, 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 daycare, as an accessory use to a permitted place of worship, and place of worship, large, greater than 6,000 square feet in the main sanctuary, in compliance with Exhibit "C" (the "Floor 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 place of worship, large, greater than 6,000 square feet, and a child daycare (as an accessory use to a permitted place of worship), for property located 2460 Pruden Boulevard, Zoning Map 25A, Parcel 1\*A; as identified in Exhibit B and Exhibit C.
2. Occupancy for both uses is to be established by the Fire Marshall and Building Official, but shall not exceed a maximum of 100 children for the daycare use and shall not exceed 210 seats in the sanctuary for the church use. At such time that the church use, or the daycare use is expanded, a new traffic impact assessment must be submitted for review to determine any necessary improvements to accommodate the impact from traffic generation related to the uses on this site.
3. The applicant shall be responsible to ensure compliance with all regulations regarding the operation of a child daycare facility as required by the Virginia Department of Social Services.
4. No food preparation may take place without approval from the Suffolk Health Department.
5. In compliance with Section 31-701(b)(16)A, the existing approximately 1,800 square foot outdoor play area shall be limited to 24 children at a time.

6. Outdoor play activities shall be limited to the hours between 8:00 a.m. and 6:00 p.m.
7. In accordance with the screening requirements outlined in Sections 31-412(g) and 31-603(f), screening landscaping behind the outdoor play area will be required to provide a buffer between the residential homes which abut the property and the proposed outdoor play area.

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 David Sexton, applicant and property owner, CrossPointe Freewill Baptist Church, 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 David Sexton, applicant and property owner, CrossPointe Freewill Baptist Church, 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

**Exhibit A**

**RESOLUTION NO. 20-07-7**

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT**

**CUP2020-003**

**AMEND PREVIOUSLY APPROVED CONDITIONS PERTAINING TO THE  
ESTABLISHMENT OF A DAYCARE, CHILD (AS ACCESSORY USE TO PERMITTED  
PLACE OF WORSHIP OR SCHOOL), AND TO EXPAND AN EXISTING PLACE OF  
WORSHIP, LARGE, AT LEAST 6,000 SQUARE FEET IN THE MAIN SANCTUARY,  
ON PROPERTY LOCATED AT 2460 PRUDEN BOULEVARD, ZONING MAP 25A,  
PARCEL 1\*A ON PROPERTY LOCATED AT 2460 PRUDEN BOULEVARD, ZONING  
MAP 25A, PARCEL 1\*A**

**WHEREAS**, David Sexton, applicant and property owner, CrossPointe Freewill Baptist Church, 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 daycare, as an accessory use to a permitted place of worship, 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, CUP2020-003, 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: \_\_\_\_\_

## **CONDITIONAL USE PERMIT**

**CUP2020-003**

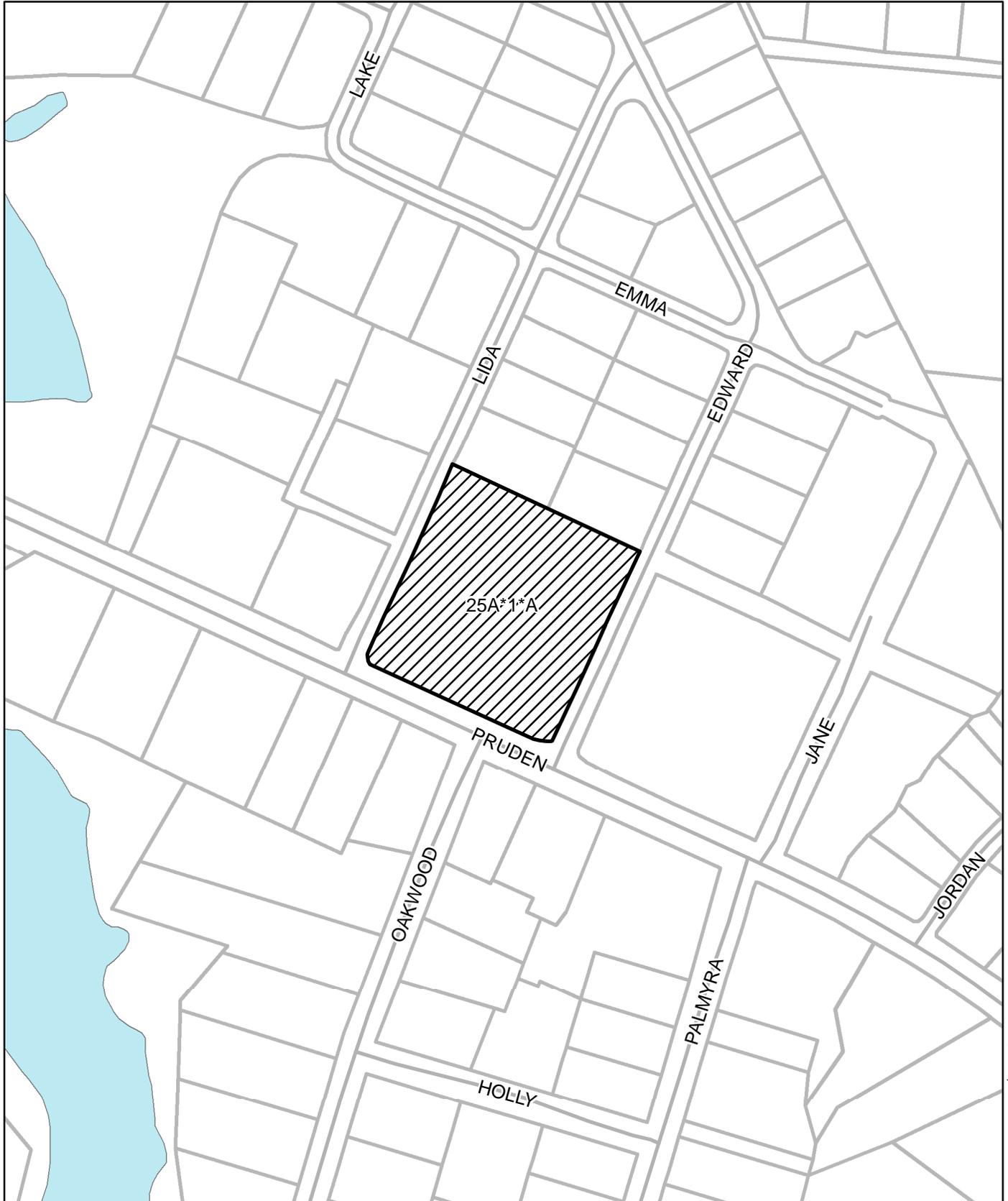
### **CONDITIONS**

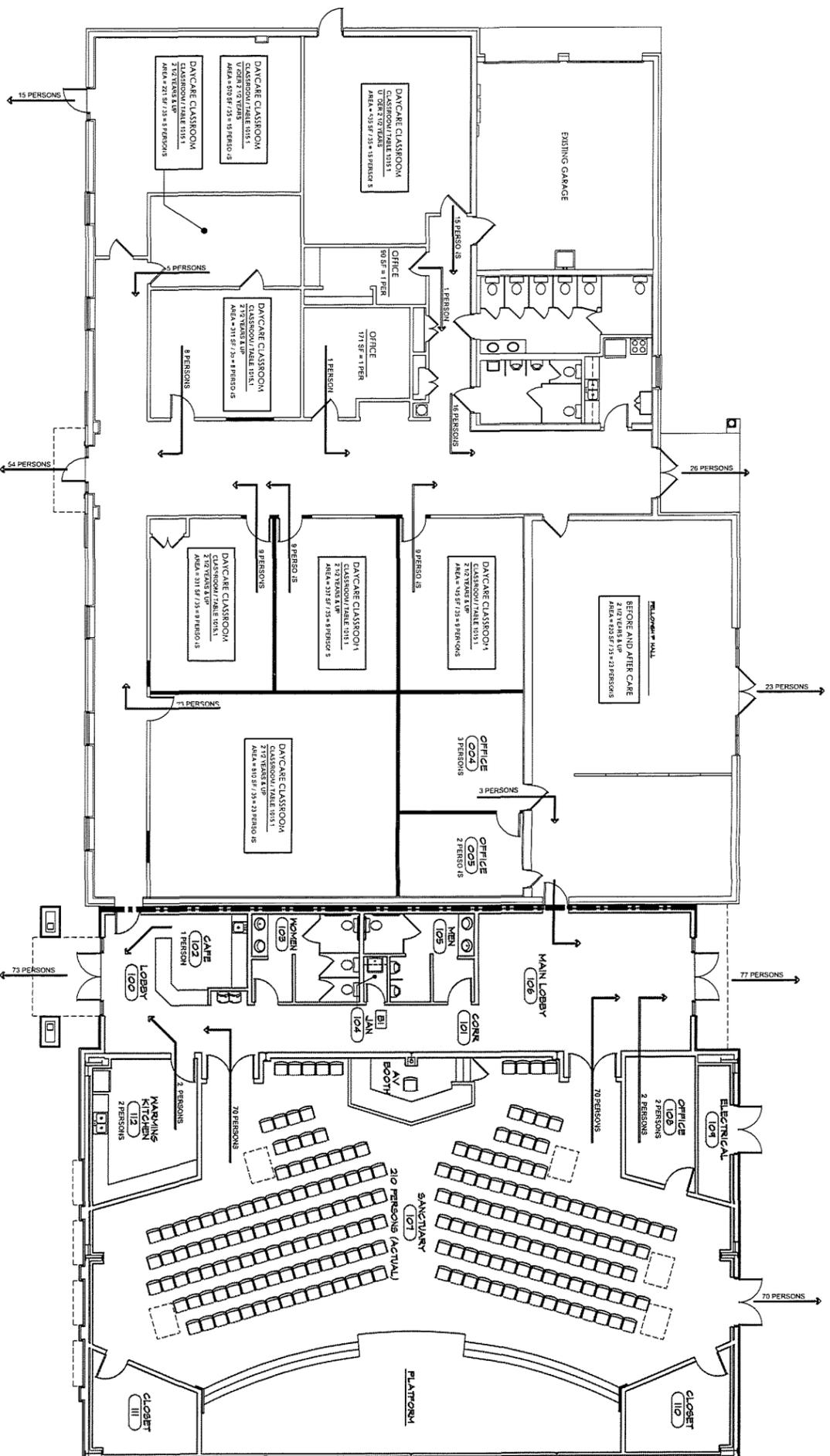
1. This Conditional Use Permit is granted specifically in order to establish a place of worship, large, greater than 6,000 square feet, and a child daycare (as an accessory use to a permitted place of worship), for property located 2460 Pruden Boulevard, Zoning Map 25A, Parcel 1\*A; as identified in Exhibit B and Exhibit C.
2. Occupancy for both uses is to be established by the Fire Marshall and Building Official, but shall not exceed a maximum of 100 children for the daycare use and shall not exceed 210 seats in the sanctuary for the church use. At such time that the church use, or the daycare use is expanded, a new traffic impact assessment must be submitted for review to determine any necessary improvements to accommodate the impact from traffic generation related to the uses on this site.
3. The applicant shall be responsible to ensure compliance with all regulations regarding the operation of a child daycare facility as required by the Virginia Department of Social Services.
4. No food preparation may take place without approval from the Suffolk Health Department.
5. In compliance with Section 31-701(b)(16)A, the existing approximately 1,800 square foot outdoor play area shall be limited to 24 children at a time.
6. Outdoor play activities shall be limited to the hours between 8:00 a.m. and 6:00 p.m.
7. In accordance with the screening requirements outlined in Sections 31-412(g) and 31-603(f), screening landscaping behind the outdoor play area will be required to provide a buffer between the residential homes which abut the property and the proposed outdoor play area.



# PROPERTY MAP CUP2020-003

EXHIBIT B





**FIRE PROTECTION PLAN**  
1/8" = 1'-0"

**PLAN LEGEND**  
 = NEW 3 HOUR RATED WALL - UTM UNIS SYSTEM G  
 = SANCTUARY BUILDING

**GENERAL NOTES**  
 1 DAY CARE = 1 PERSON PER 35 NET S.F. PER TABLE 1004.1.2

**EGRESS DOOR WIDTH (SECTION 1005.1) VUSBC - VCC 2012**  
 NON SPRINKLED BUILDINGS  
 • SINGLE DOOR (3'-0" WIDE) - 34 S.F. / 2" = 172 PERSON CAPACITY  
 • DOUBLE DOOR (3'-0" WIDE PAIR) - 68 S.F. / 2" = 342 PERSON CAPACITY

**CODE DATA**

PROJECT DESIGN INFORMATION  
 USE GROUP CLASSIFICATION 'A3' AND 'E'  
 CONSTRUCTION TYPE '3B'  
 SPRINKLER INFORMATION  
 THIS BUILDING IS NOT SPRINKLED  
 OCCUPANT LOAD = 1116 PERSONS  
 DAY CARE = 1116 PERSONS

**BARNES DESIGN GROUP, P.C.**

ARCHITECTURE  
 MASTER PLANNING  
 3D DIGITAL MODELING  
 VISION CASTING  
 CHURCH SPECIALISTS

101 N LYNNHAVEN ROAD, SUITE 203  
 VIRGINIA BEACH, VA, 23452  
 PHONE 757-340-9800  
 FAX 757-340-8090  
 WWW.BARNESDESIGNGROUP.COM

SHEET CONTENT  
**FIRE PROTECTION PLAN**

ARCHITECT'S JOB NO. 19748.0

JANUARY 30, 2020



FIRE PROTECTION  
**F1.0**

CUP2020-00003  
**RECEIVED**

JAN 31 REC'D

PLANNING



**BARNES DESIGN GROUP**

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# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT  
*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Conditional Use Permit Request CUP2020-007, submitted by Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, 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 Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B and Zoning Map 64A, Parcel 70C. The affected area is further identified as being located in the Whaleyville Voting Borough, VC, Village Center zoning district. The 2035 Comprehensive Plan designates this area as part of the Whaleyville Village Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Grace Braziel, the staff person handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

David Hainley  
Director of Planning and Community Development

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** Conditional Use Permit Request CUP2020-007 to establish a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), in accordance with Section(s) 31-306 and 31-406 of the Unified Development Ordinance.

**APPLICANT:** Submitted by Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, property owner.

**LOCATION:** The affected property is located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B and Zoning Map 64A, Parcel 70C.

**PRESENT ZONING:** VC, Village Center zoning district.

**EXISTING LAND USE:** The property is approximately 29.7 acres in size and features a single family dwelling, a barn, open fields and forested land at the rear of the lot. There are wetlands present on the property consisting of 6.37 acres in total, leaving 23.38 developable acres.

**PROPOSED LAND USE:** The applicant proposes to establish a mini-farm to allow non-intensive livestock which includes horses, cows, goats, sheep, llamas, alpacas, hogs, chickens, ducks, and turkeys.

### **SURROUNDING LAND USES:**

- North - Residential properties and open fields zoned VC, Village Center zoning district.
- South - Residential properties zoned VC, Village Center zoning district.
- East - Open fields and forested land zoned VC, Village Center zoning district.
- West - Residential properties and open fields zoned Village Center zoning district.

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

**CHESAPEAKE BAY PRESERVATION AREA DESIGNATION:** The property is located outside of the City's Chesapeake Bay Preservation Area Overlay District.

**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. Notice to the applicant, containing a copy of the staff report, was also sent on July 3, 2020.

**CASE HISTORY:** In addition to the subject CUP request for a mini-farm, the applicant has also submitted a concurrent request, CUP2020-006, to establish a commercial stable which also is only permitted with the approval of a Conditional Use Permit in the VC, Village Center,

zoning district.

## **STAFF ANALYSIS**

### **ISSUE**

The applicant proposes to have a mini-farm on the subject property. Non-intensive livestock production is permitted with a mini-farm except that the intensity of use for horses, cows, goats, sheep, llamas, alpacas and hogs shall be limited to a collective density of one animal per two net acres and chickens, ducks or turkeys are collectively limited to no more than 20 hens. Roosters are not permitted. The property is approximately 29.7 acres in size and features a single family dwelling, a barn, open fields and forested land at the rear of the lot. There are wetlands on the property consisting of 6.37 acres, leaving 23.38 developable acres. The barn currently does not have any stalls. Different parts of the property will be fenced to properly rotate the pastures. The applicant is proposing to have 7 pastures and a pen to provide separate areas for different animals. Each pasture will have a lean-to shelter and a portable shelter to provide shelter for the animals.

Additionally, a community garden is proposed to be provided to allow the neighboring residential properties to use the garden.

### **CONSIDERATIONS AND CONCLUSIONS**

1. Section 31-406 of the Unified Development Ordinance (UDO) requires that a conditional use permit be obtained for a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), within the VC, Village Center zoning district.
2. Appendix A of the Unified Development Ordinance (UDO) provides a definition for a mini-farm. A mini-farm is defined as a farm not less than ten (10) acres or exceeding one hundred forty (140) acres. In addition to one single family dwelling, non-intensive livestock production is permitted except that the intensity of use for horses, cows, goats, sheep, llamas, alpacas and hogs shall be limited to a collective density of one animal per two net acres and chickens, ducks or turkeys are collectively limited to no more than twenty (20) hens. Roosters are not permitted. The property may include as an accessory use:
  - (1) Plant nursery;
  - (2) Greenhouses;
  - (3) Apiaries;
  - (4) A private stable or coop for the housing of animals constructed so as to facilitate maintenance in a clean and sanitary condition and be set back a minimum of twenty-five (25) feet from the side and rear property lines and fifty (50) feet from all water courses, streams, wetlands and active wells. Stables or coops in front yards must be setback a minimum of fifty (50) feet;
  - (5) A product stand for the sale of agricultural products and agricultural related

- products produced onsite;
- (6) Livestock sales for livestock owned by the property owner;
- (7) Pick-your-own crops;
- (8) Farm home food production of honey, cheese, ham, organic vegetables or meats;
- (9) Sale of gardening or landscaping materials produced on the premises including mulch, compost, potting soil and soil amendments.

The property is approximately 29 acres in size, meeting the minimum of 10 acres and maximum of 140 acres required for a mini-farm. The total number of horses, cows, goats, sheep, llamas, alpacas and hogs collectively allowed on the property is 12, and chickens, ducks or turkeys are collectively limited to 20 hens. Additionally, the proposed community garden is a permitted accessory use.

3. This property is served by City water via a 5/8" water meter and private septic sewer. Establishment of mini-farm will have little impact on the public water system. Therefore, the Department of Public Utilities has no objections to this Conditional Use Permit request.
4. The applicant has provided a Waste Management Plan for Total Maximum Daily Load (TMDL) as part of the narrative to address the concern from the increase in waste from the proposed use. The waste management plan states that any waste accumulated in or near the building or shelters will be removed and spread out into the open pasture. The Department of Public Works, has no objections to this request.
5. The Department of Public Works, Traffic Engineering Division, has no objections to this request.
6. 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 is permitted only with the approval of a conditional use permit in the VC, Village Center zoning district, per the City's Unified Development Ordinance. All requirements as set forth in Articles 6 and 7 of the Unified

Development Ordinance must be met. Appendix A of the Unified Development Ordinance (UDO) provides standards for a mini-farm as part of the definition. The applicant has submitted an additional Conditional Use Permit to establish a commercial stable concurrently with this request.

The property with the proposed use may have on-intensive livestock except that the intensity of use for horses, cows, goats, sheep, llamas, alpacas and hogs shall be limited to a collective density of one animal per two net acres, which is 12 animals. Chickens, ducks or turkeys are collectively limited to no more than twenty hens. Roosters are not permitted. In addition to the subject CUP request for a mini-farm, the applicant has also submitted a concurrent request, CUP2020-006, to establish a commercial stable which also is only permitted with the approval of a Conditional Use Permit in the VC, Village Center, zoning district. Staff recommended that the number of horses to be commercially boarded be limited to the number of animals permitted with a mini-farm.

- 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 property is located within the Whaleyville Village Use District. The Whaleyville Village Initiative Plan provides a long term vision for the development of new traditional neighborhoods and community parks within Whaleyville. The initiative plan envisions 250-300 new residential lots that would be connected neighborhoods each centered on parks. Overall the framework for development may extend 20 to 40 years.

The subject property, as shown in the Whaleyville Initiative Plan, is designated to potentially have 30 residential units. The proposed use of a mini-farm would not necessarily negate the property from being developed in the future into residential lots. Furthermore, residential lots can also be accommodated elsewhere in the village and could be developed in the future to accommodate future demand and opportunities. Additionally, the proposed use of a mini-farm would provide an outdoor amenity to the community.

- 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 proposed use of a mini-farm is not anticipated to generate traffic. The Department of Public Works, Traffic Engineering Division, has no objections to this request.

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

The applicant is required to abide by all city regulations pertaining to sound control and noise in accordance with Section 31-608 of the Unified Development Ordinance (UDO). No vibration, odor, smoke, or gas is anticipated to be generated that would be inconsistent with the other existing land uses in the Rural Agricultural Use District.

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

The subject properties consist of open fields and forested wetlands in the rear of the property. The combined acreage of the two lots is 29.7 acres. The property is sufficient in size to accommodate the proposed uses. The number of animals permitted by a mini-farm for the property is based on the developable acreage, which is a collective total of 12 horses, cows, goats, sheep, llamas, alpacas and hogs, and a collective total of 20 chickens, ducks, or turkeys. The mini-farm should not be injurious to the use or enjoyment of the surrounding 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 mini-farm with limited number of animals, should not impede the orderly development and improvement of the surrounding area.

- 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.*

A Waste Management Plan for TMDL was provided as part of the narrative to address the increase in waste from the proposed use. The waste management plan states that any waste accumulated in or near the building or shelters will be removed and spread out evenly among the pastures. The Waste Management Plan will help to ensure that the proposed use will not be detrimental to or endanger the public health, and comfort or general welfare.

- 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 at this location and individual interests of persons within the neighborhood should not be adversely affected by the proposed use. The proposed community garden will offer an amenity to the residential community.

## **RECOMMENDATION**

The proposed use of a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), at 6148 Whaleyville Boulevard should not be injurious to the use or enjoyment of properties in the immediate area. This application meets the approval criteria for Conditional Use Permits set forth in Section 31-306 of the Unified Development Ordinance. Accordingly, staff recommends **approval** of CUP2020-007 subject to the following conditions:

1. This Conditional Use Permit is granted to establish a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C.
2. The number of animals shall not exceed the total number permitted for a mini-farm in accordance with the Unified Development Ordinance. The total number of horses, cows, goats, sheep, llamas, alpacas and hogs collectively allowed on the property is 12, and chickens, ducks or turkeys are collectively limited to 20 hens.

### Attachments

- General Location Map
- Zoning / Land Use Map
- Narrative
- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Property Map
- Exhibit C – Boundary Survey
- Exhibit D – Schematic Plan

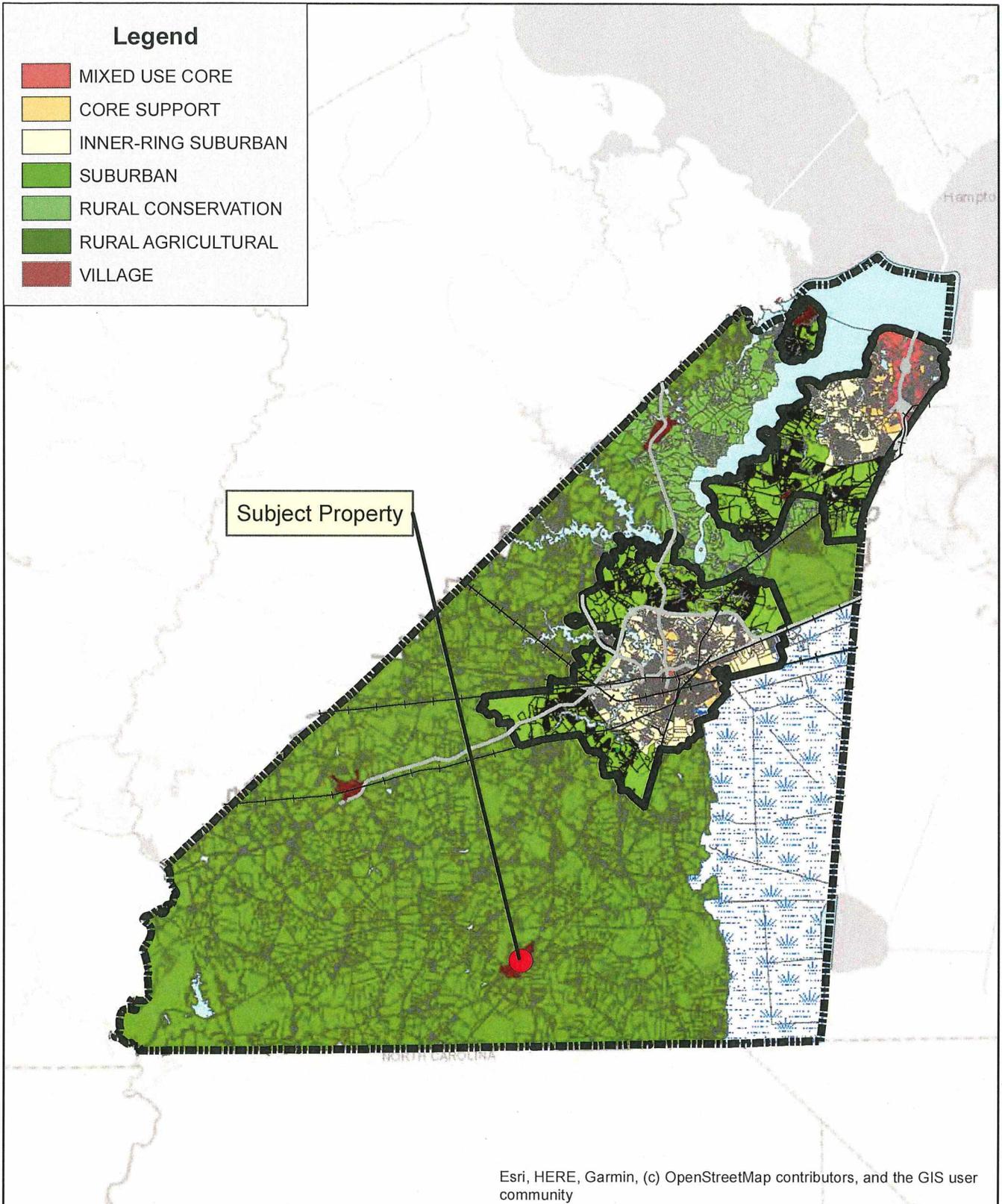


# GENERAL LOCATION MAP

## CUP2020-007

### Legend

-  MIXED USE CORE
-  CORE SUPPORT
-  INNER-RING SUBURBAN
-  SUBURBAN
-  RURAL CONSERVATION
-  RURAL AGRICULTURAL
-  VILLAGE



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



# ZONING / LAND USE MAP

## CUP2020-007

EXHIBIT B



User Name: bsmith  
Date: 3/12/2020

## Narrative – Proposed Use

### Property

6148 Whaleyville Boulevard, Suffolk, VA 23438. T.P. 64 A2\*(2)\*71B is +-29.69 Acres and T.P. 64A\*70C is +- 0.04 Acres from the recorded plat by Canada Land & Marine Surveying dated 9/13/2016.

The above-mentioned property is zoned VC inside the Village Center in the Whaleyville area. The property includes a home and an old barn along with approximately 30 acres. The existing barn has no usable stalls at this time. Approximately, 2/3 of the property is open field and 1/3 are wooded. The approximate usable acres are 23.38+- when excluding the approximate wetlands on the property. No special events associated with the proposed Conditional Uses will take place on the property.

### Proposed Use – Commercial Stable

- a. Charge people to board their animals on the property in the pastures.
- b. Take in and train animals and people for profit.
- c. Adequate Pasture and Shelter will be provided for the animals.

### Proposed Use – Mini Farm

- a. Fence different parts of the property in order to properly rotate pasture and separate the different animals.
- b. Allow neighbors to use a portion of the property for a community style garden on a private scale.
- c. Allow the different uses and animals permitted on a mini-farm by code.

### Both Applications

Waste Management Plan for TMDL: Any waste accumulated in or near the buildings or shelters will be removed and spread out into the open pasture.

All animal counts will remain at the quantity of animals per acre set forth by the code. It is estimated that no more traffic will be generated than typical household operations per conversation with Jason Souders in Traffic Engineering 757-514-7649.

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH A MINI-FARM (EXCLUDING CONCENTRATED ANIMAL FEEDING OPERATION, CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITY, OR CONCENTRATED CONFINED ANIMAL FEEDING OPERATION), ON PROPERTY LOCATED AT 6148 WHALEYVILLE BOULEVARD, ZONING MAP 64A2, PARCEL (2)\*71B, AND ZONING MAP 64A, PARCEL 70C; CUP2020-007**

WHEREAS, Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, property owner, has requested a conditional use permit for a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), 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 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C, and which land is depicted on Exhibit "B", "Property Map"; 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", "Property Map", Exhibit "C", "Boundary Survey", and Exhibit "D", "Schematic 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 establish a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), that 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 Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), 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 Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation) in compliance with Exhibit "C", "Boundary Survey", and Exhibit "D", "Schematic Plan", and Sections 31-306 and 31-406 of the Code of the City of Suffolk.

#### Conditions

1. This Conditional Use Permit is granted to establish a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C.
2. The number of animals shall not exceed the total number permitted for a mini-farm in accordance with the Unified Development Ordinance. The total number of horses, cows, goats, sheep, llamas, alpacas and hogs collectively allowed on the property is 12, and chickens, ducks or turkeys are collectively limited to 20 hens.

### 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 the 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 the 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

**Exhibit A**

**RESOLUTION NO. 20-07-8**

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT  
CUP2020-007**

**TO ESTABLISH A MINI-FARM (EXCLUDING CONCENTRATED ANIMAL  
FEEDING OPERATION, CONCENTRATED AQUATIC ANIMAL PRODUCTION  
FACILITY, OR CONCENTRATED CONFINED ANIMAL FEEDING OPERATION),  
ON PROPERTY LOCATED AT 6148 WHALEYVILLE BOULEVARD, ZONING  
MAP 64A2, PARCEL (2)\*71B, AND ZONING MAP 64A, PARCEL 70C; CUP2020-007**

**WHEREAS**, Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, 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 Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), 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, CUP2020-007, 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: \_\_\_\_\_

**CONDITIONAL USE PERMIT**  
**CUP2020-007**

**CONDITIONS**

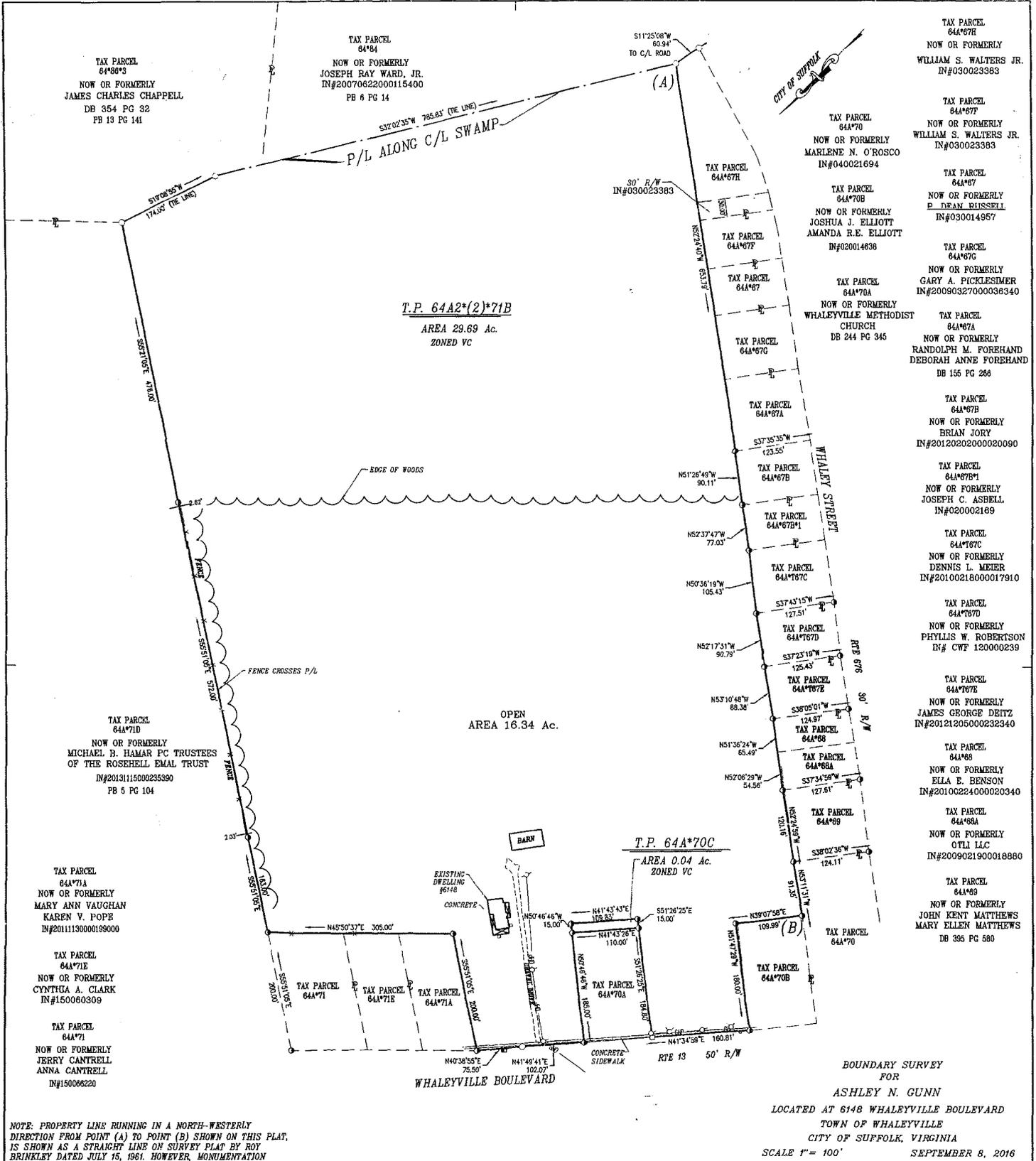
1. This Conditional Use Permit is granted to establish a Mini-Farm (excluding concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation), on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C.
  
2. The number of animals shall not exceed the total number permitted for a mini-farm in accordance with the Unified Development Ordinance. The total number of horses, cows, goats, sheep, llamas, alpacas and hogs collectively allowed on the property is 12, and chickens, ducks or turkeys are collectively limited to 20 hens.



# PROPERTY MAP CUP2020-007

EXHIBIT B





NOTE: PROPERTY LINE RUNNING IN A NORTH-WESTERLY DIRECTION FROM POINT (A) TO POINT (B) SHOWN ON THIS PLAT, IS SHOWN AS A STRAIGHT LINE ON SURVEY PLAT BY ROY BRINKLEY DATED JULY 15, 1961. HOWEVER, MONUMENTATION FOUND IN THE FIELD DOES NOT REFLECT A STRAIGHT LINE. THIS SURVEY SHOWS THE ACTUAL FIELD MEASUREMENTS BETWEEN MONUMENTATION FOUND IN THE FIELD AND THE ACREAGE OF THIS SURVEY IS SHOWN ACCORDINGLY.

THIS SURVEY HAS BEEN COMPLETED WITHOUT THE BENEFIT OF A TITLE SEARCH. THEREFORE, THIS SURVEY IS SUBJECT TO ANY EASEMENT OF RECORD, LAND TRANSACTIONS AND OTHER PERTINENT FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE.

THE PROPERTY SHOWN ON THIS PLAT APPEARS TO BE LOCATED IN ZONE "X" AS SHOWN ON THE FLOOD INSURANCE RATE MAP, COMMUNITY-PANEL NUMBER 510156 0355 D, DATED 11-16-2011.

REFERENCE - IN#0000098750, 0000098740, PLAT BY ROY BRINKLEY DATED JULY 15, 1961

- LEGEND:**
- - DENOTES IRON PIN OR PIPE FOUND
  - - DENOTES COMPUTED POINT
  - OP— - DENOTES OVERHEAD POWER
  - - DENOTES MONUMENT FOUND
  - ⊕ - DENOTES POWER POLE
  - ⊗ - DENOTES WATER METER
  - ⊗ - DENOTES YARD LIGHT
  - - - - - DENOTES FENCE

BOUNDARY SURVEY FOR  
**ASHLEY N. GUNN**  
 LOCATED AT 6148 WHALEYVILLE BOULEVARD  
 TOWN OF WHALEYVILLE  
 CITY OF SUFFOLK, VIRGINIA  
 SCALE 1" = 100' SEPTEMBER 8, 2016

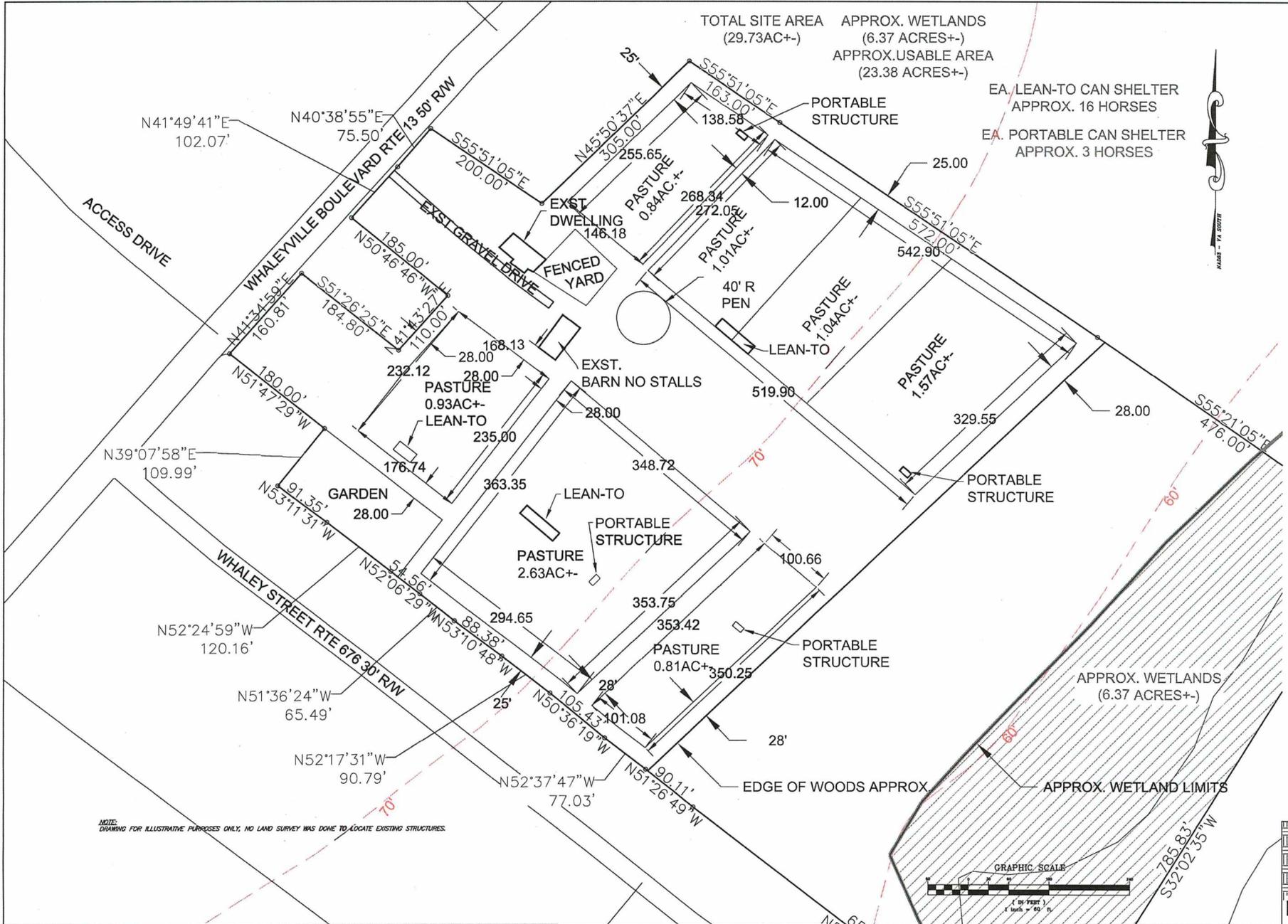


**CANADA LAND & MARINE SURVEYING**

1212 S. Church Street Smithfield, VA 23430  
 PHONE : 757-357-2911

DRAWN BY: ECC JOB #16-236-N

**EXHIBIT D**



**JORDAN CONSULTING ENGINEERS, P.C.**  
2540 Professional Road, Richmond, Virginia 23260  
Telephone: (804) 272-7000 Fax: (804) 272-7008  
E-Mail: jprice@jordan.com

**WILD GROVE MANOR**  
WHALEYVILLE SURFORK COUNTY, VIRGINIA

**CIVIL • HIGHWAY • DRAINAGE • SURVEYING • SITE PLANS • SUBDIVISIONS**

**SCHMATIC PLAN ULTIMATE PHASE**

DATE: MAY 8, 2020  
SCALE: 1" = 60'  
DESIGNED BY: ADU  
DRAWN BY: ADU  
CHECKED BY: J

JCE  
JOB NO: 19005  
SHEET: C2

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DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT  
*Division of Planning*

# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Conditional Use Permit Request CUP2020-006, submitted by Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, 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 Stable, commercial, on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C. The affected area is further identified as being located in the Whaleyville Voting Borough, VC, Village Center zoning district. The 2035 Comprehensive Plan designates this area as part of the Whaleyville Village Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Grace Braziel, the staff person handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

A handwritten signature in blue ink, which appears to read "David Hainley". The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

David Hainley  
Director of Planning and Community Development

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** Conditional Use Permit Request CUP2020-006 to establish a Stable, commercial, in accordance with Section(s) 31-306 and 31-406 of the Unified Development Ordinance.

**APPLICANT:** Submitted by Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, property owner.

**LOCATION:** The affected property is located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B and Zoning Map 64A, Parcel 70C.

**PRESENT ZONING:** VC, Village Center zoning district.

**EXISTING LAND USE:** The request consists of two parcels that total approximately 29.7 acres in size and features a single family dwelling, a barn, open fields and forested land at the rear of the lots. There are wetlands present on the property consisting of 6.37 acres in total, leaving 23.38 developable acres.

**PROPOSED LAND USE:** The applicant proposes to establish a commercial stable in order to commercially board horses. Additionally, the applicant proposes to train horses for a profit and provide lessons to the public.

### **SURROUNDING LAND USES:**

- North - Residential properties and open fields zoned VC, Village Center zoning district.
- South - Residential properties zoned VC, Village Center zoning district.
- East - Open fields and forested land zoned VC, Village Center zoning district.
- West - Residential properties and open fields zoned VC, Village Center zoning district.

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

**CHESAPEAKE BAY PRESERVATION AREA DESIGNATION:** The property is located outside of the City's Chesapeake Bay Preservation Area Overlay District.

**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. Notice to the applicant, containing a copy of the staff report, was also sent on July 3, 2020.

**CASE HISTORY:** In addition to the subject CUP request for a commercial stable, the applicant has also submitted a concurrent request, CUP2020-007, to establish a mini-farm which also is

only permitted with the approval of a Conditional Use Permit in the VC, Village Center, zoning district.

## STAFF ANALYSIS

### ISSUE

The applicant proposes to utilize the subject property to commercially board horses, provide training, and lessons to the public for a profit. No special events are being proposed. The property is approximately 29.7 acres in size and features a single family dwelling, a barn, open fields and forested land at the rear of the lot. There are wetlands present on the property consisting of 6.37 acres in total, leaving 23.38 developable acres. The barn currently does not have any stalls. The applicant is proposing to have 7 pastures to commercially pasture board horses. Each pasture will have a lean-to shelter, which can accommodate approximately 16 horses, and or a portable shelter, which can accommodate 3 horses. The applicant has proposed to provide a community garden toward the southwest of the property for the surrounding residential properties.

In addition to the subject CUP request for a commercial stable, the applicant has also submitted a concurrent request, CUP2020-007, to establish a mini-farm which also is only permitted with the approval of a Conditional Use Permit in the VC, Village Center, zoning district. Please advised that the mini-farm use would exclude a concentrated animal feeding operation, concentrated aquatic animal production facility, or concentrated confined animal feeding operation).

### CONSIDERATIONS AND CONCLUSIONS

1. Section 31-406 of the Unified Development Ordinance (UDO) requires that a conditional use permit be obtained for a Stable, commercial, within the VC, Village Center zoning district.
2. Section 31-702 of the Unified Development Ordinance (UDO) provides supplemental standards for animal regulations. The minimum acreage for keeping one horse is two acres, which may include a homesite. For parcels of three to five acres, three additional horses per acre may be kept. For incremental acreage increases of six through ten acres five horses per additional acre are permitted. The property has 6.37 acres of wetlands in total, leaving 23.38 developable acres. Based on the developable acreage, the subject property may have a total of 100 horses if the proper structures are available to house the horses; however, since the property is requesting an additional Conditional Use Permit for a mini-farm, the number of horses shall be limited to a collective total of 12 horses, cows, goats, sheep, llamas, alpacas and hogs, and a collective total of 20 chickens, ducks, or turkeys.

Appendix A of the Unified Development Ordinance (UDO) provides a definition for a mini-farm. A mini-farm is defined as a farm not less than ten (10) acres or exceeding one hundred forty (140) acres. In addition to one single family dwelling, non-intensive livestock production is permitted except that the intensity of use for horses, cows, goats, sheep, llamas, alpacas and hogs shall be limited to a collective density of one animal per

two net acres and chickens, ducks or turkeys are collectively limited to no more than twenty (20) hens. Roosters are not permitted. The property may include as an accessory use:

- (1) Plant nursery;
- (2) Greenhouses;
- (3) Apiaries;
- (4) A private stable or coop for the housing of animals constructed so as to facilitate maintenance in a clean and sanitary condition and be set back a minimum of twenty-five (25) feet from the side and rear property lines and fifty (50) feet from all water courses, streams, wetlands and active wells. Stables or coops in front yards must be setback a minimum of fifty (50) feet;
- (5) A product stand for the sale of agricultural products and agricultural related products produced onsite;
- (6) Livestock sales for livestock owned by the property owner;
- (7) Pick-your-own crops;
- (8) Farm home food production of honey, cheese, ham, organic vegetables or meats;
- (9) Sale of gardening or landscaping materials produced on the premises including mulch, compost, potting soil and soil amendments.

Since the number of horses allowed for a mini-farm is less intensive than a commercial stable, the number of horses to be commercially boarded shall be limited to the number permitted for a mini-farm. The total number of commercially boarded horses permitted by the mini-farm is a collective total of 12 horses, cows, goats, sheep, llamas, alpacas and hogs.

3. This property is served by City water via a 5/8" water meter and private septic sewer. Establishment of a Commercial Stable will have little impact on the public water system. Therefore, the Department of Public Utilities has no objections to this Conditional Use Permit request.
4. The applicant has provided a Waste Management Plan for Total Maximum Daily Load (TMDL) as part of the narrative to address the concern from the increase in waste from the proposed use. The waste management plan states that any waste accumulated in or near the building or shelters will be removed and spread out into the open pasture. The Department of Public Works, has no objections to this request.
5. The Department of Public Works, Traffic Engineering Division, has no objections to this request.
6. 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 is permitted only with the approval of a conditional use permit in the VC, Village Center zoning district, per the City's Unified Development Ordinance. All requirements as set forth in Articles 6 and 7 of the Unified Development Ordinance must be met. Section 31-702 of the Unified Development Ordinance (UDO) provides supplemental standards for animal regulations. The applicant has submitted an additional Conditional Use Permit concurrently with this request. The number of horses to be commercially boarded shall be determined by the number of horses allowed for a mini-farm since a mini-farm is less intensive than the number of horses allowed by a commercial stable. The total number of horses to be commercially boarded is a collective total of 12 horses, cows, goats, sheep, llamas, alpacas and hogs.

Furthermore, the housing of horses shall be constructed so as to facilitate maintenance in a clean and sanitary environment. A commercial stable and private stable is defined as an accessory building in which horses are kept for commercial use including boarding, hire, and sale. Therefore, staff recommends that the number of horses to be commercially boarded also be limited to the number of stalls in the stable and run-ins or structures in the pastures to ensure shelter is provided for the horses.

- 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 property is located within the Whaleyville Village Use District. The Whaleyville Village Initiative Plan provides a long term vision for the development of new traditional neighborhoods and community parks within Whaleyville. The initiative plan envisions 250-300 new residential lots that would be connected neighborhoods each centered on parks. Overall the framework for development may extend 20 to 40

years.

The subject property, as shown in the Whaleyville Initiative Plan, is designated to potentially have 30 residential units. The proposed use of a commercial stable would not necessarily negate the property from being developed in the future into residential lots. Furthermore, residential lots can also be accommodated elsewhere in the village and could be developed in the future to accommodate future demand and opportunities. Additionally, the proposed use of a commercial stable would provide an outdoor amenity to the community.

- 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 applicant is proposing to take in and train horses for a profit and provide lessons to the public. The proposed use is not anticipated to generate a significant amount of traffic. The Department of Public Works, Traffic Engineering Division, has no objections to this request.

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

The applicant is required to abide by all city regulations pertaining to sound control and noise in accordance with Section 31-608 of the Unified Development Ordinance (UDO). No vibration, odor, smoke, or gas is anticipated to be generated that would be inconsistent with the other existing land uses in the Rural Agricultural Use District.

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

The subject properties consist of open fields and forested wetlands in the rear of the property. The combined acreage of the two lots is 29.7 acres. The property is sufficient in size to accommodate the proposed uses. The maximum number of horses to be commercially boarded shall be limited to the number of horses permitted by a mini-farm, which is 12. The commercial stable in conjunction with the mini-farm is expected to be less intensive than the commercial stable request and should not be injurious to the use or enjoyment of the surrounding 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 commercial stable, when permitted with appropriate conditions such as the limited number of animal, should not impede the orderly development and improvement of the surrounding area.

- 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.*

A Waste Management Plan for TMDL was provided as part of the narrative to address the increase in waste from the proposed use. The waste management plan states that any waste accumulated in or near the building or shelters will be removed and spread out evenly among the pastures. The Waste Management Plan will help to ensure that the proposed use will not be detrimental to or endanger the public health, and comfort or general welfare.

- 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 at this location and individual interests of persons within the neighborhood should not be adversely affected by the proposed use. The proposed community garden will offer an amenity to the residential community.

## **RECOMMENDATION**

The proposed use of a Stable, commercial, at 6148 Whaleyville Boulevard should not be injurious to the use or enjoyment of properties in the immediate area when appropriate conditions are established. This application meets the approval criteria for Conditional Use Permits set forth in Section 31-306 of the Unified Development Ordinance. Accordingly, staff recommends **approval** of CUP2020-006 subject to the following conditions:

1. This Conditional Use Permit is granted to establish a Stable, commercial, for the purpose of boarding, training, and to provide lessons, on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C.
2. The number of horses to be commercially boarded shall be limited to the number of stables and or run-ins in the pastures provided to house the horses, and shall not exceed a maximum of 12 horses in compliance with the permitted mix of livestock in accordance with a mini-farm.
3. No special events shall be allowed unless a special event permit is obtained.

### Attachments

- General Location Map
- Zoning / Land Use Map
- Narrative

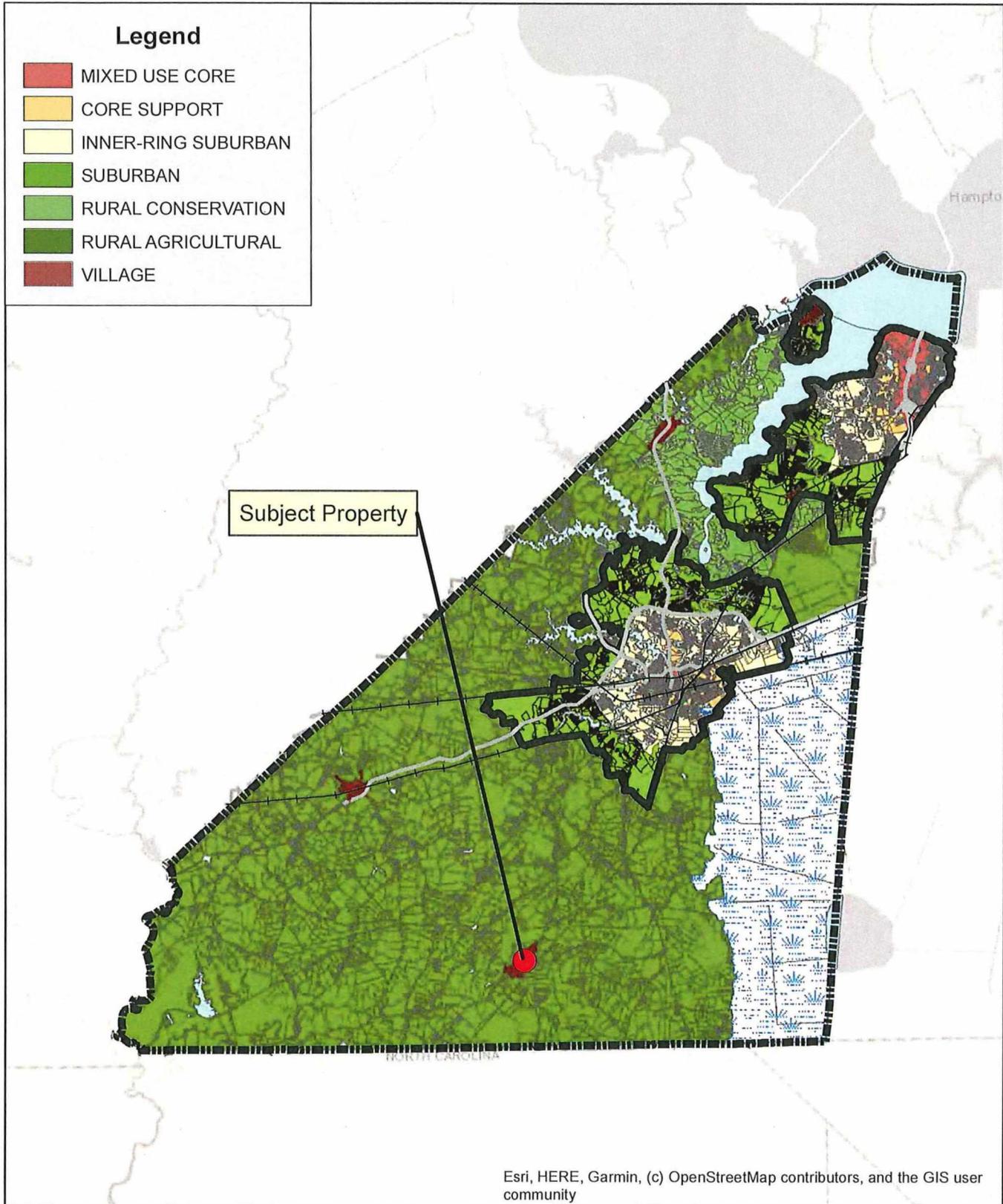
- Proposed Ordinance
- Exhibit A – Planning Commission Recommendation
- Exhibit B – Property Map
- Exhibit C – Boundary Survey
- Exhibit D – Schematic Plan



# GENERAL LOCATION MAP CUP2020-006

## Legend

-  MIXED USE CORE
-  CORE SUPPORT
-  INNER-RING SUBURBAN
-  SUBURBAN
-  RURAL CONSERVATION
-  RURAL AGRICULTURAL
-  VILLAGE



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



# ZONING / LAND USE MAP CUP2020-006

EXHIBIT B



User Name: bsmith  
Date: 3/12/2020

## Narrative – Proposed Use

### Property

6148 Whaleyville Boulevard, Suffolk, VA 23438. T.P. 64 A2\*(2)\*71B is +-29.69 Acres and T.P. 64A\*70C is +- 0.04 Acres from the recorded plat by Canada Land & Marine Surveying dated 9/13/2016.

The above-mentioned property is zoned VC inside the Village Center in the Whaleyville area. The property includes a home and an old barn along with approximately 30 acres. The existing barn has no usable stalls at this time. Approximately, 2/3 of the property is open field and 1/3 are wooded. The approximate usable acres are 23.38+- when excluding the approximate wetlands on the property. No special events associated with the proposed Conditional Uses will take place on the property.

### Proposed Use – Commercial Stable

- a. Charge people to board their animals on the property in the pastures.
- b. Take in and train animals and people for profit.
- c. Adequate Pasture and Shelter will be provided for the animals.

### Proposed Use – Mini Farm

- a. Fence different parts of the property in order to properly rotate pasture and separate the different animals.
- b. Allow neighbors to use a portion of the property for a community style garden on a private scale.
- c. Allow the different uses and animals permitted on a mini-farm by code.

### Both Applications

Waste Management Plan for TMDL: Any waste accumulated in or near the buildings or shelters will be removed and spread out into the open pasture.

All animal counts will remain at the quantity of animals per acre set forth by the code. It is estimated that no more traffic will be generated than typical household operations per conversation with Jason Souders in Traffic Engineering 757-514-7649.

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH A STABLE, COMMERCIAL, ON PROPERTY LOCATED AT 6148 WHALEYVILLE BOULEVARD, ZONING MAP 64A2, PARCEL (2)\*71B, AND ZONING MAP 64A, PARCEL 70C; CUP2020-006**

WHEREAS, Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, property owner, has requested a conditional use permit for a Stable, commercial, 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 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C, and which land is depicted on Exhibit "B", "Property Map"; 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", "Property Map", Exhibit "C", "Boundary Survey", and Exhibit "D", "Schematic 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 establish a Stable, commercial, that 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 Stable, commercial, 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 Stable, commercial in compliance with Exhibit "C", "Boundary Survey", and Exhibit "D", "Schematic Plan", and Sections 31-306 and 31-406 of the Code of the City of Suffolk.

Conditions

1. This Conditional Use Permit is granted to establish a Stable, commercial, for the purpose of boarding, training, and to provide lessons, on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C.
2. The number of horses to be commercially boarded shall be limited to the number of stables and or run-ins in the pastures provided to house the horses, and shall not exceed a maximum of 12 horses in compliance with the permitted mix of livestock in accordance with a mini-farm.
3. No special events shall be allowed unless a special event permit is obtained.

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 the 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 the 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

**Exhibit A**

**RESOLUTION NO. 20-07-9**

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT  
CUP2020-006**

**TO ESTABLISH A STABLE, COMMERCIAL, ON PROPERTY LOCATED AT 6148  
WHALEYVILLE BOULEVARD, ZONING MAP 64A2, PARCEL (2)\*71B, AND  
ZONING MAP 64A, PARCEL 70C; CUP2020-006**

**WHEREAS**, Andrew Jordan, P.E., Jordan Consulting Engineers P.C., applicant, on behalf of Ashley Gunn, 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 Stable, commercial, 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, CUP2020-006,

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: \_\_\_\_\_

**CONDITIONAL USE PERMIT  
CUP2020-006**

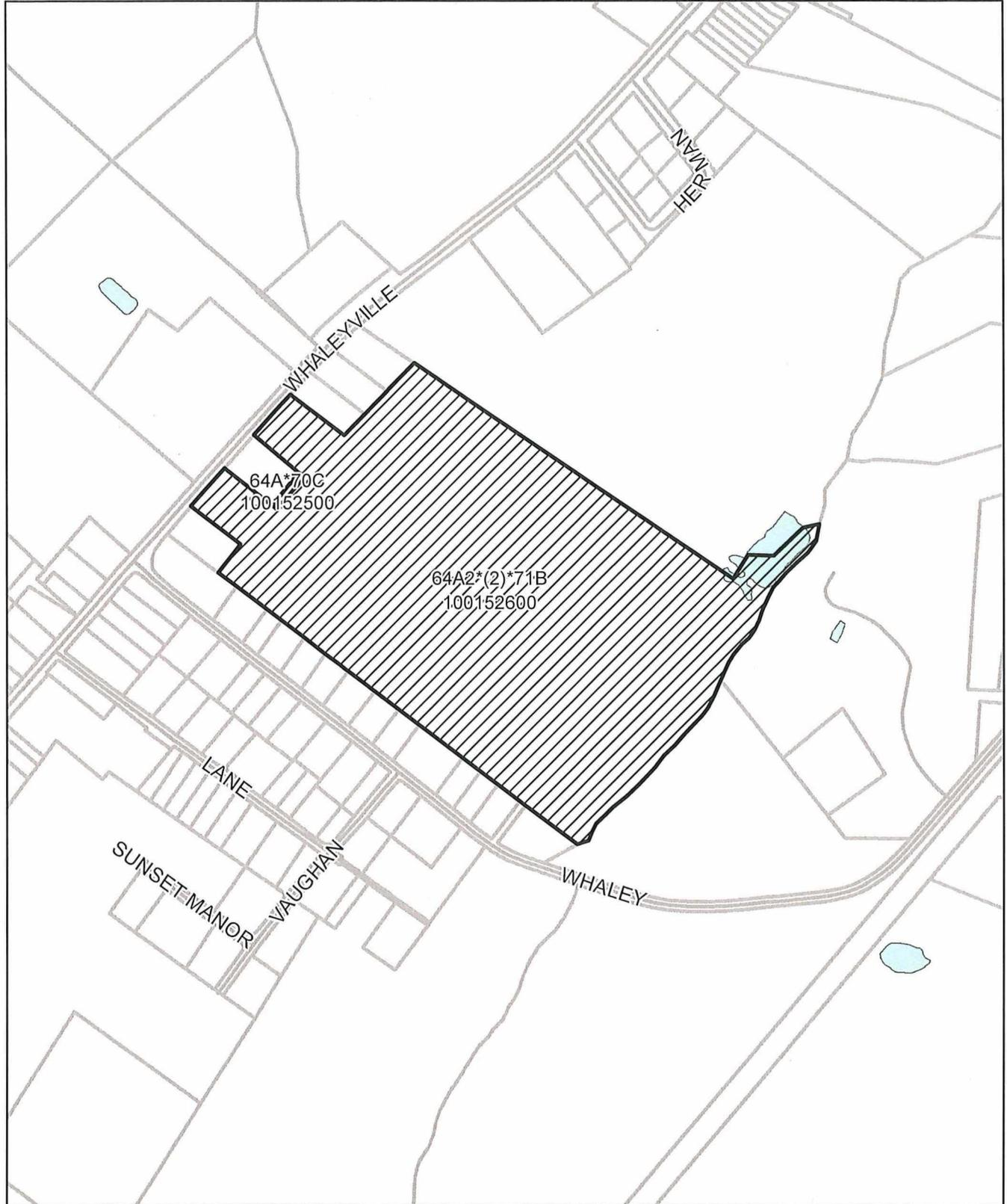
**CONDITIONS**

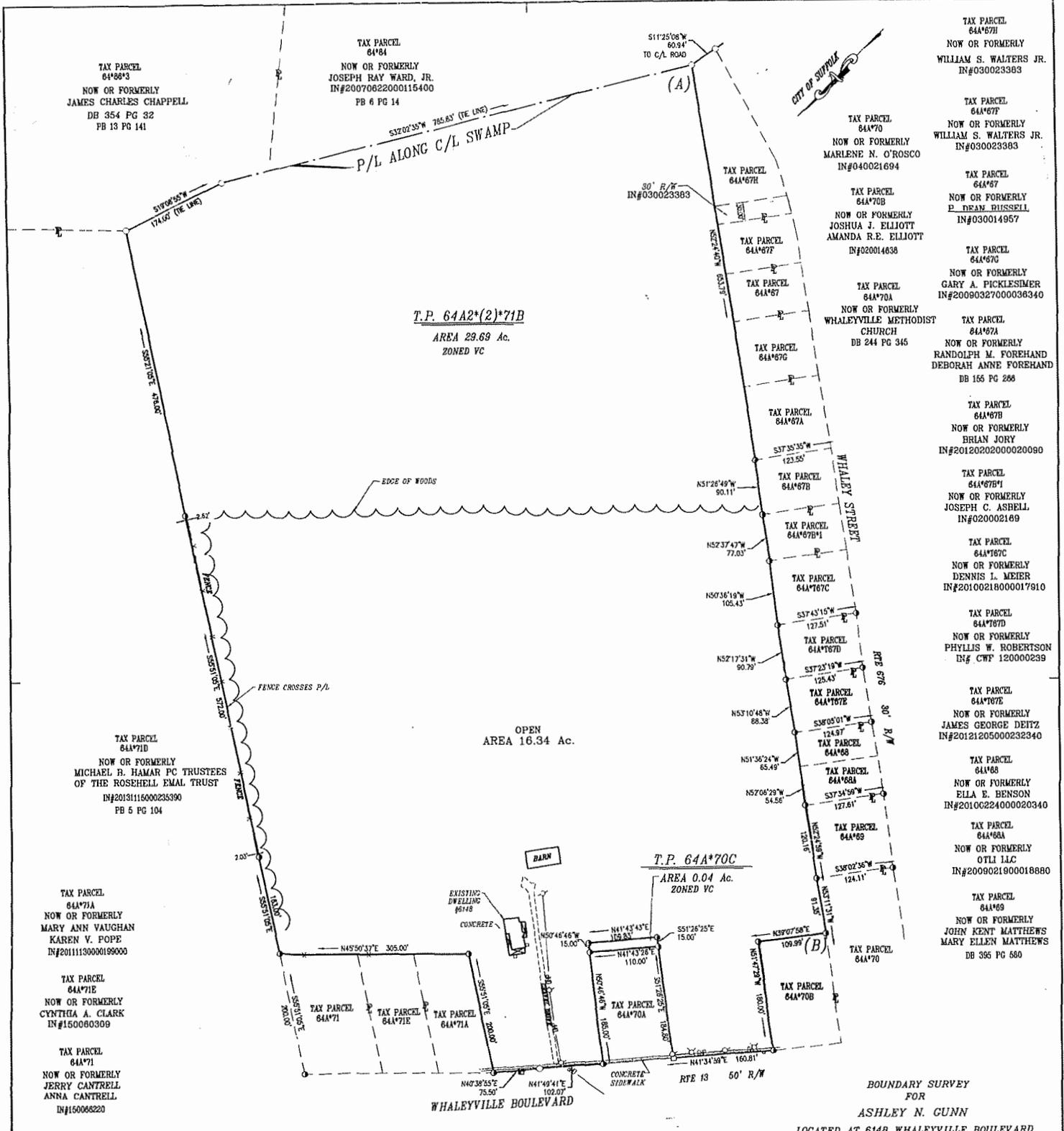
1. This Conditional Use Permit is granted to establish a Stable, commercial, for the purpose of boarding, training, and to provide lessons, on property located at 6148 Whaleyville Boulevard, Zoning Map 64A2, Parcel (2)\*71B, and Zoning Map 64A, Parcel 70C.
2. The number of horses to be commercially boarded shall be limited to the number of stables and or run-ins in the pastures provided to house the horses, and shall not exceed a maximum of 12 horses in compliance with the permitted mix of livestock in accordance with a mini-farm.
3. No special events shall be allowed unless a special event permit is obtained.



# PROPERTY MAP CUP2020-006

EXHIBIT B





NOTE: PROPERTY LINE RUNNING IN A NORTH-WESTERLY DIRECTION FROM POINT (A) TO POINT (B) SHOWN ON THIS PLAT, IS SHOWN AS A STRAIGHT LINE ON SURVEY PLAT BY ROY BRINKLEY DATED JULY 15, 1961. HOWEVER, MONUMENTATION FOUND IN THE FIELD DOES NOT REFLECT A STRAIGHT LINE. THIS SURVEY SHOWS THE ACTUAL FIELD MEASUREMENTS BETWEEN MONUMENTATION FOUND IN THE FIELD AND THE ACREAGE OF THIS SURVEY IS SHOWN ACCORDINGLY.

THIS SURVEY HAS BEEN COMPLETED WITHOUT THE BENEFIT OF A TITLE SEARCH. THEREFORE, THIS SURVEY IS SUBJECT TO ANY EASEMENT OF RECORD, LAND TRANSACTIONS AND OTHER PERTINENT FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE.

THE PROPERTY SHOWN ON THIS PLAT APPEARS TO BE LOCATED IN ZONE "X" AS SHOWN ON THE FLOOD INSURANCE RATE MAP, COMMUNITY-PANEL NUMBER 510166 0335 D, DATED 11-10-2011.

REFERENCE - IN#000098760, 000098740, PLAT BY ROY BRINKLEY DATED JULY 15, 1961

- LEGEND:
- - DENOTES IRON PIN OR PIPE FOUND
  - - DENOTES COMPUTED POINT
  - CHP- - DENOTES OVERHEAD POWER
  - - DENOTES MONUMENT FOUND
  - - DENOTES POWER POLE
  - ⊗ - DENOTES WATER METER
  - ⊕ - DENOTES YARD LIGHT
  - - DENOTES FENCE

BOUNDARY SURVEY FOR ASHLEY N. CUNN LOCATED AT 6148 WHALEYVILLE BOULEVARD TOWN OF WHALEYVILLE CITY OF SUFFOLK, VIRGINIA SCALE 1" = 100' SEPTEMBER 8, 2016



1212 S. Church Street Smithfield, VA 23430 PHONE: 757-357-2911

DRAWN BY: ECC JOB #16-238-N



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# CITY OF SUFFOLK

442 W. WASHINGTON STREET, P.O. BOX 1858, SUFFOLK, VIRGINIA 23439-1858  
PHONE: (757) 514-4060 FAX: (757) 514-4099

DEPARTMENT OF  
PLANNING & COMMUNITY DEVELOPMENT

*Division of Planning*

July 7, 2020

Suffolk Planning Commission  
City of Suffolk, Virginia

Dear Commissioners:

Attached for your consideration is information pertaining to Conditional Use Permit Request CUP2020-009, submitted by Marcus and Paige Pollard, 139 North Main Street LLC, property owners, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish Research and development, laboratories, on property located at 147 and 149 North Main Street, Zoning Map 34G18(A), Parcels 317\*16 and 317\*17. The affected area is further identified as being located in the Suffolk Voting Borough, zoned CBD, Central Business District. The 2035 Comprehensive Plan designates this area as part of the Central Growth Area, Mixed Use Core Use District.

Information and maps pertaining to this request are attached for your consideration. Please contact either myself or Holly Steele, the staff planner handling this case, if you have any questions in advance of the meeting.

Respectfully submitted,

David Hainley  
Director of Planning and Community Development

# STAFF REPORT

## DESCRIPTION

**CONDITIONAL USE PERMIT:** Conditional Use Permit Request CUP2020-009, submitted by Marcus and Paige Pollard, 139 North Main Street LLC, property owners, in accordance with Sections 31-306 and 31-406 of the Unified Development Ordinance, to grant a Conditional Use Permit to establish Research and Development, laboratory.

**APPLICANT:** Marcus and Paige Pollard, 139 North Main Street LLC, property owners.

**LOCATION:** The properties are located at 147 and 149 North Main Street, Zoning Map 34G18(A), Parcels 317\*16 and 317\*17, in the Suffolk Voting Borough.

**PRESENT ZONING:** CBD, Central Business District zoning district.

**EXISTING LAND USE:** Both of the subject buildings are currently vacant, but has been used as an antique shop and bridal shop in the past.

**PROPOSED LAND USE:** Research and development, laboratory.

## **SURROUNDING LAND USES:**

- North - Commercial uses zoned CBD, Central Business District zoning district.
- South - Commercial uses zoned CBD, Central Business District zoning district.
- East - City of Suffolk Courts Building zoned CBD, Central Business District zoning district.
- West - Commercial uses zoned CBD, Central Business District zoning district.

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

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

**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. Notice to the applicant, containing a copy of the staff report, was also sent on July 2, 2020.

## **STAFF ANALYSIS**

### **ISSUE**

The applicant is requesting a Conditional Use Permit to establish Research and development, laboratory, within two existing buildings located at 147 and 149 North Main Street. Building Resilient Solutions tests various traditional building materials such as wood, brick and mortar, flooring, etc. under simulated flooding conditions. The data collected is then used to inform retrofit design in the field. The proposed location, Units 147 and 149, are part of the Montgomery Loft Condos and are currently vacant. The building located at 147 North Main Street is approximately 1,845 square feet. The portion of the building facing North Main Street will be used for Building Resilient Solutions business offices, public outreach, and education space. There will be a small research laboratory in the rear half of Unit 147. The building located at 149 North Main Street is approximately 1,400 square feet and will be used as additional research space in the future as Building Resilient Solutions expands their operation.

### **CONSIDERATIONS AND CONCLUSIONS**

1. Section 31-406 of the Unified Development Ordinance (UDO) requires that a conditional use permit be obtained for Research and development, laboratory within the CBD, Central Business District zoning district. The Unified Development Ordinance states that the purpose of the CBD, Central Business District zoning district is to provide concentrated downtown civic retail, service, office, residential, and other uses.
2. The property is located within the Central Growth Area, Mixed Use Core Use District. The Mixed Use Core Use District is characterized as an area for redevelopment, rehabilitation, and infill types of development. This use district emphasizes high intensity business, retail, residential, and civic uses.
3. The existing building is served with City water and sewer. The building layout, as submitted with the application, shows a reception area, office space, conference room, ADA compliant restroom, observation room, laboratory, and loading/storage room. The Department of Public Utilities has reviewed this application and advised that the applicants coordinate with the Hampton Roads Sanitary District (HRSD) to determine whether a pretreatment system will be required. The applicants have contacted HRSD and are working through the permitting process at this time.
4. Based on the parking requirements that are outlined in Table 606-2 of the UDO, the minimum parking requirement for office spaces is four (4) spaces per 1,000 square feet of gross floor area and a maximum of eight (8) space per 1,000 square feet of gross floor area. Both buildings have a combined square footage of 3,245 square feet, therefore requiring a minimum of sixteen (16) spaces. Unit 147 has two (2) dedicated parking spaces and Unit 149 has one (1) dedicated parking space in the rear of the building. In accordance with Section 31-606(a)(5) of the UDO, the remainder of parking spaces required shall be met by a combination of on-street parking spaces and nearby public parking lots, as permitted in the CBD, Central Business District zoning district.

5. 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 research and development, laboratory, is a listed conditional use in the CBD, Central Business District zoning district per the City's Unified Development Ordinance and shall be in compliance with all applicable regulations. There are no supplemental use standards for research and development, laboratories, set forth in Article 7 of the Ordinance.

- 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 research and development, laboratory, will conform to the character of the neighborhood, as it is not out of character to other permitted uses in the CBD, Central Business District zoning district. Building Resilient Solutions' proposal to test various traditional building materials such as wood, brick and mortar, flooring, etc. under simulated flooding conditions will not adversely affect the health, safety, or comfort of the adjoining neighborhood. The applicants are proposing to use two vacant, existing units and will not be making any changes to the façade of the building. The only exterior changes proposed are improved signage and lighting. Being that this property is located within the Historic Conservation Overlay District; all exterior changes must be reviewed by the Historic Landmarks Commission. This use should not have any adverse impacts to the surrounding neighborhood, as the property is surrounded by other CBD- zoned properties with compatible uses.

- 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.*

This request has been reviewed by the Public Works Traffic Engineering Division which has no concerns regarding the proposed use. There will only be 2-3 staff members frequenting the building each day. Public outreach and training events will take place approximately 4-8 times per year and will have a maximum of fifteen (15) guests. The only other traffic flow to the building will be occasional deliveries of building materials.

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

As described in the application and CUP waiver, this project is not anticipated to create any additional vibration, noise, odor, dust, smoke, or gas outside of the normal amount for the Downtown Core. Operations will consist of computerized equipment that will track humidity and moisture content. Remote monitoring will take place 24 hours per day, but there will be no noise, odor, etc. associated with this monitoring. The only noise associated with this project will be using basic tools to construct building samples for testing. However, these samples will be built during normal business hours and would not create an exorbitant amount of noise. There may be occasional deliveries of building materials at the rear of the building, but again, this would only take place during standard business hours. It is not anticipated that there will be any use attached with this activity which would have a noxious or offensive impact on the surrounding community.

- e) *The proposed use shall not be injurious to the use and enjoyments 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 research and development, laboratory, will not be injurious to the surrounding properties. This use is proposed to take place within two existing buildings. There will be no exterior changes to the subject parcels except for improved lighting and signage and, therefore, will not impair the property values within the neighborhood. The exterior of the buildings will stay largely the same and will not be injurious to the surrounding Downtown Core.

- 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 for research and development, laboratory, should not impede the orderly development and improvement of surrounding properties. The applicant is requesting the following hours of operation: Monday through Friday 7:30a.m. to 7:30p.m. with staff primarily available from 9:00a.m. to 5:00p.m. There will be also occasional weekend trainings. Data collection and monitoring will take place 24

hours per day. However, outside of normal business hours, data collection takes place remotely, therefore minimizing impact to the community.

- 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 proposed use of a Research and development, laboratory, should not be a detriment or endangerment to the public health, safety, morals, comfort, or general welfare. The Department of Public Utilities has reviewed this request and supporting documents and expressed concerns regarding the potential of polluted water infiltrating the City's water and sewer system. The applicant has addressed this concern and stated in the CUP Waiver Application that no other chemicals besides water will be discharged and no hazardous materials will be used.

- 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 a Research and development, laboratory. A large component of the proposed use is education, training, and public outreach which would provide benefit to the community as a whole. The proposed laboratory use represents a small portion of the overall structure and the applicant has demonstrated that the use can operate with little to no impact on the community. The individual interests of persons within the neighborhood should not be adversely impacted by the proposed use.

## **RECOMMENDATION**

The proposed use of research and development, laboratory, is similar to and compatible with uses in the surrounding area and should have minimal impacts on the neighborhood. Based on this review, staff has determined that the applicant's request to grant Conditional Use Permit CUP2020-09 will have no adverse impact on the surrounding area and hereby recommends that this request for a Conditional Use Permit be **approved** subject to the following conditions:

1. This Conditional Use Permit is granted to establish a Research and development, laboratory, at 147 and 149 North Main Street; Zoning Map 34G18(A), Parcels 317\*16 and 317\*17, as shown on Exhibit "B", "Property Map".
2. The interior configuration shall be substantially in accordance with the proposed floor plan, as shown on Exhibit "C".
3. The owners must receive proper permitting and/or approval from the Hampton Roads Sanitary District (HRSD) before applying for any permits from the Community Development Division.

4. All improvements to the exterior of the building must be reviewed by the Historic Landmarks Commission.
5. The hours of operation for the facility shall be Monday through Friday 7:30a.m. to 7:30p.m.; with allowance for a maximum of eight (8) Saturday workshops taking place between the hours of 7:30a.m. and 7:30p.m.

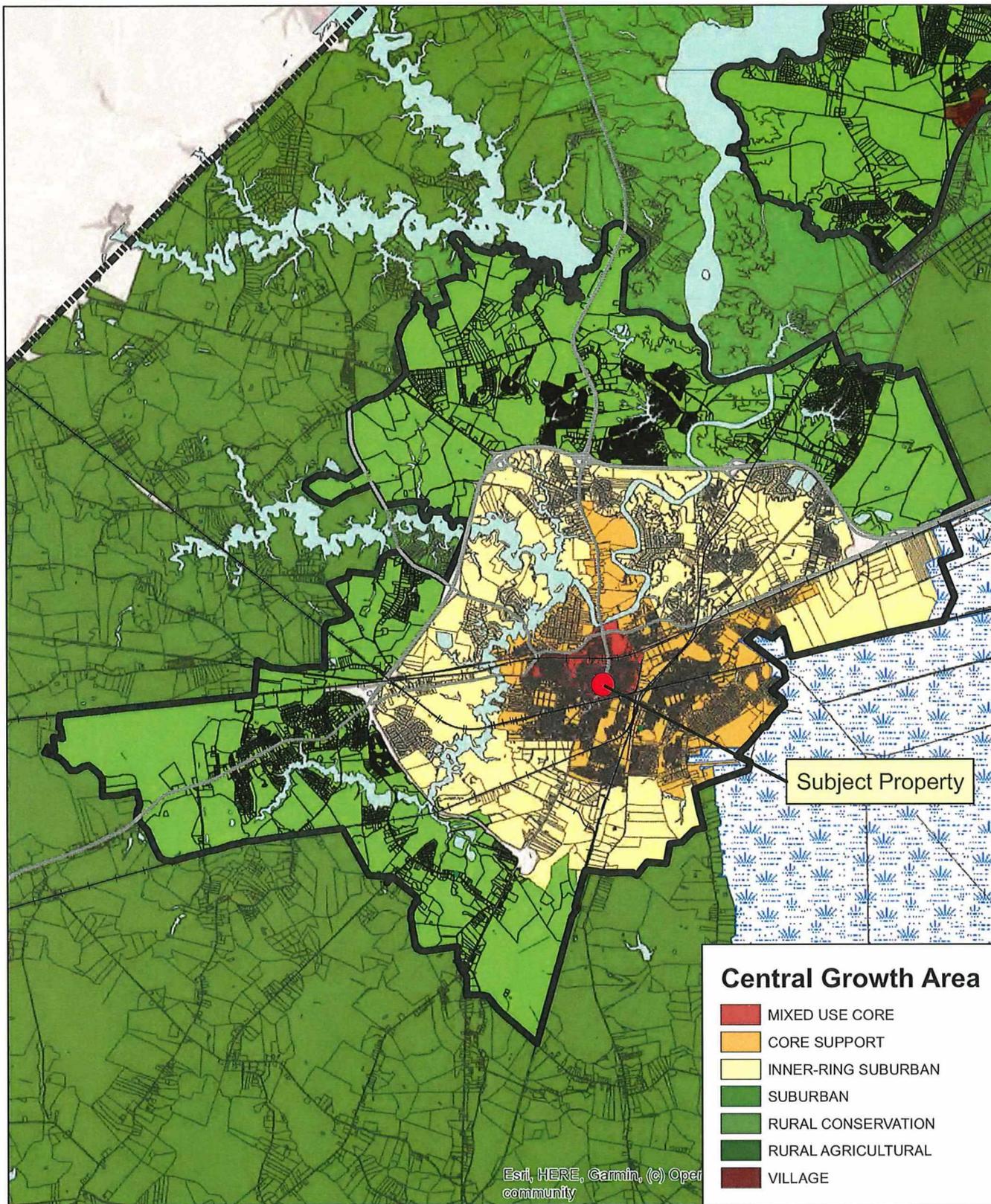
#### Attachments

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



# GENERAL LOCATION MAP

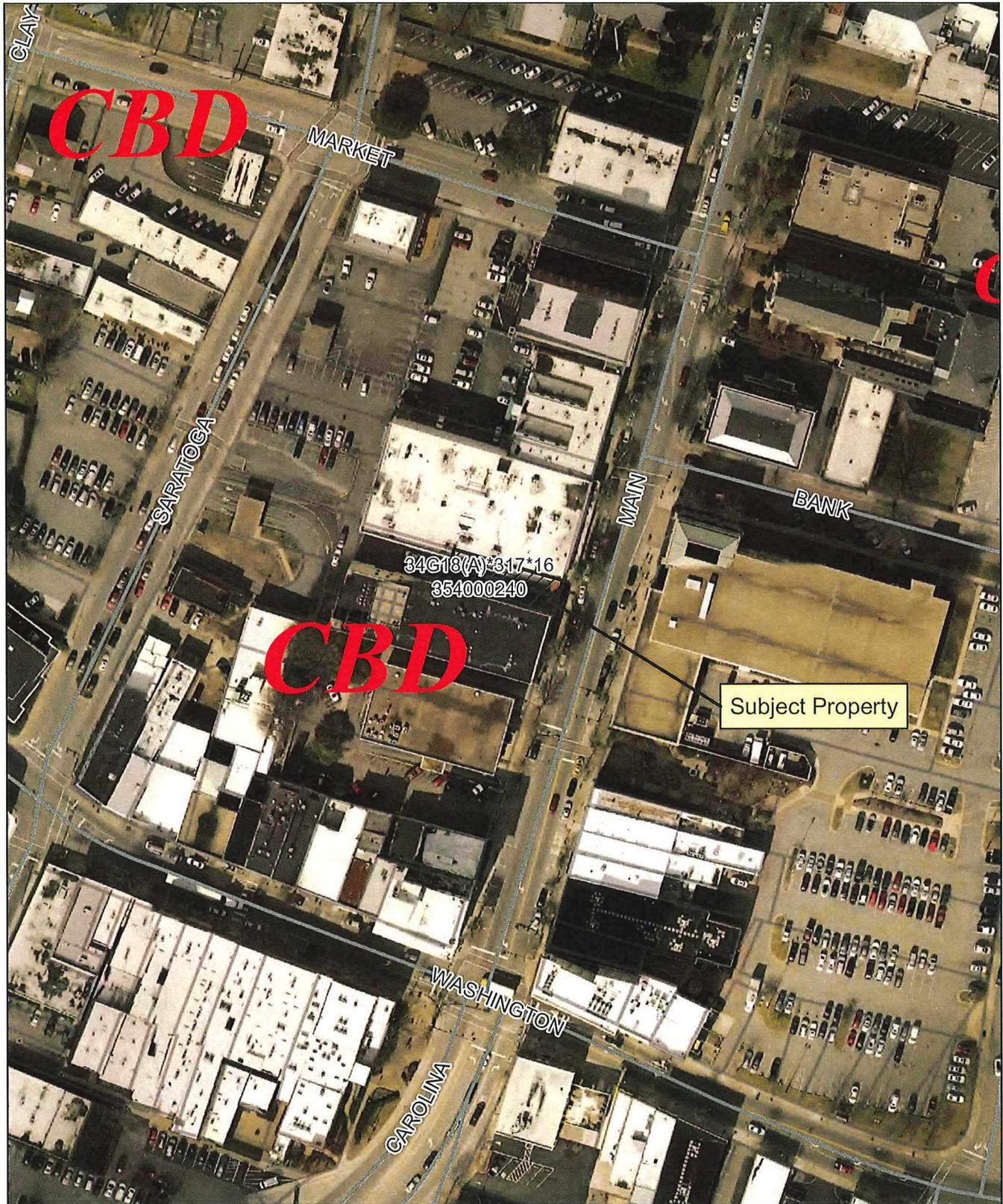
## CUP2020-009





# ZONING / LAND USE MAP

## CUP2020-009





**Conditional Use Permit Application – City of Suffolk, Virginia  
147-149 N. Main Street**

Narrative Description of Proposed Use of the Property (10 copies)

The subject property is 147-149 N. Main Street. There is one existing building on the property, originally constructed as two commercial units. Each commercial unit is a separate condominium unit: Unit 147 and Unit 149 – Montgomery Loft Condos. There are two (2) dedicated parking spaces in the rear for Unit 147 N. Main St., and there is (1) one dedicated parking space in the rear for Unit 149 N. Main St.

Building Resilient Solutions (BRS) will lease Unit 147 to be outfitted for a business office and public outreach/education space in the front half of the unit facing N. Main Street, with a small research lab in the rear half of the unit. The research lab component of the proposed use requires a conditional use permit in the Central Business District (CBD) zoning district.

The research lab will be outfitted with a self-contained, modular testing chamber and data collection/observation station, operated by BRS. The testing chamber is freestanding and enclosed (see attached illustrations). Various traditional building materials assemblies (wood, brick and mortar, flooring, etc.) will be tested under simulated floodwater conditions within the chamber, to analyze how they respond to repetitive inundation and drying out periods for design effectiveness as retrofit solutions for recurrent flooding in existing buildings. Data will be collected from the test module to help inform actual retrofit design in the field. Light fabrication of test units, loading and storage will occur at the rear of the building only. The office space will be utilized for daily operations such as administrative duties, research, client meetings and business development. The public outreach space will be used for test observation, education and training events for those interested in learning about flooding resiliency solutions for the built environment, including homeowners, property owners, building contractors, and government officials (federal, state and local) working in historic preservation, planning and flood management. The walkability of Downtown and public parking makes this an ideal space for public outreach and training events. BRS operations may expand into Unit 149 in the future.

Hours of operation: The office and public outreach space will have hours of operation from 7:30am-7:30pm, with staff on site primarily during the hours of 9am-5pm. The testing module and data collection equipment will operate 24 hours a day, with remote monitoring.

Only minor improvements are proposed for the façade, including new signage and lighting.

Thoughtful, informed retrofit design.

536 W. 35<sup>th</sup> Street, Norfolk, VA 23508 | 757-923-1900 | admin@brs.llc

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH RESEARCH AND DEVELOPMENT, LABORATORY, ON PROPERTY LOCATED AT 147 AND 149 NORTH MAIN STREET, ZONING MAP 34G18(A), PARCELS 317\*16 AND 317\*17; CUP2020-009**

WHEREAS, Marcus and Paige Pollard, 139 N. Main Street, LLC, property owners and applicants have requested a conditional use permit for a Research and development, laboratory, 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 34G18(A), Parcels 317\*16 and 317\*17, and which land is depicted on Exhibit "B", "Property Map"; 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", "Property Map", and Exhibit "C", "Proposed 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 establish a research and development, laboratory, that 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 research and development, laboratory, 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 research and development, laboratory, in compliance with Exhibit "C" (the "Proposed Floor Plan"), and Sections 31-306 and 31-406 of the Code of the City of Suffolk.

Conditions

1. This Conditional Use Permit is granted to establish a place of research and development, laboratory, at 147 and 149 North Main Street; Zoning Map 34G18(A), Parcels 317\*16 and 317\*17, as shown on Exhibit "B", "Property Map".
2. The interior configuration shall be substantially in accordance with the proposed floor plan, as shown on Exhibit "C".
3. The owners must receive proper permitting and/or approval from the Hampton Roads Sanitary District (HRSD) before applying for any permits from the Community Development Division.
4. All improvements to the exterior of the building must be reviewed by the Historic Landmarks Commission.
5. The hours of operation for the facility shall be Monday through Friday 7:30a.m. to 7:30p.m.; with allowance for a maximum of eight (8) Saturday workshops taking place between the hours of 7:30a.m. and 7:30p.m.

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 Marcus and Paige Pollard, 139 N. Main Street, LLC, 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 Marcus and Paige Pollard, 139 N. Main Street, LLC, 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

**Exhibit A**

**RESOLUTION NO. 20-07-10**

**CITY OF SUFFOLK PLANNING COMMISSION**

**A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION  
TO CITY COUNCIL RELATING TO CONDITIONAL USE PERMIT  
CUP2020-009  
TO ESTABLISH RESEARCH AND DEVELOPMENT, LABORATORY, ON  
PROPERTY LOCATED AT 147 AND 149 NORTH MAIN STREET, ZONING MAP  
34G18(A), PARCELS 317\*16 AND 317\*17**

**WHEREAS**, Marcus and Paige Pollard, 139 N. Main Street, LLC, property owner and applicant, have 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 research and development, laboratory, 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, CUP2020-009, 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: \_\_\_\_\_

**CONDITIONAL USE PERMIT  
CUP2020-00009**

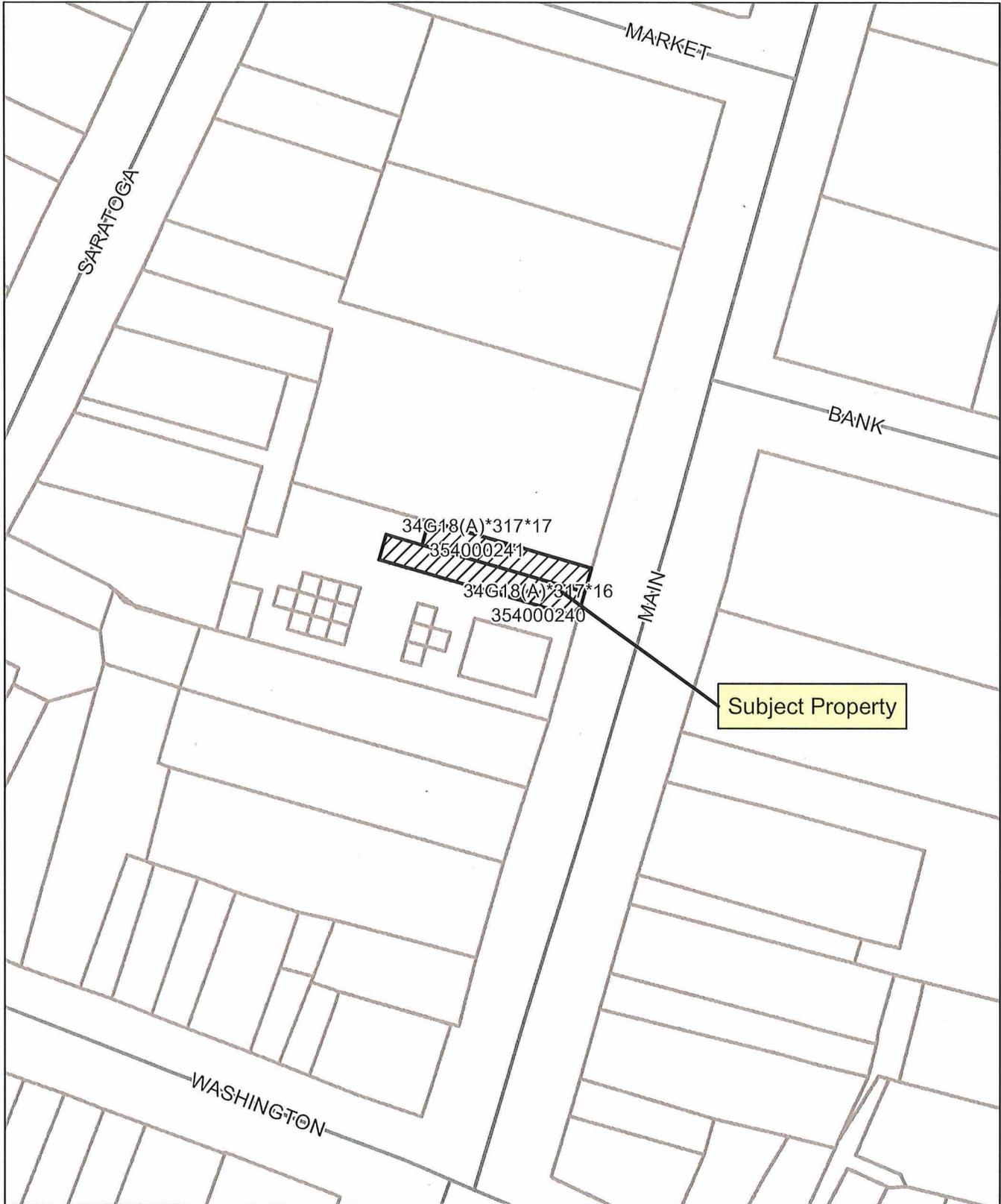
**CONDITIONS**

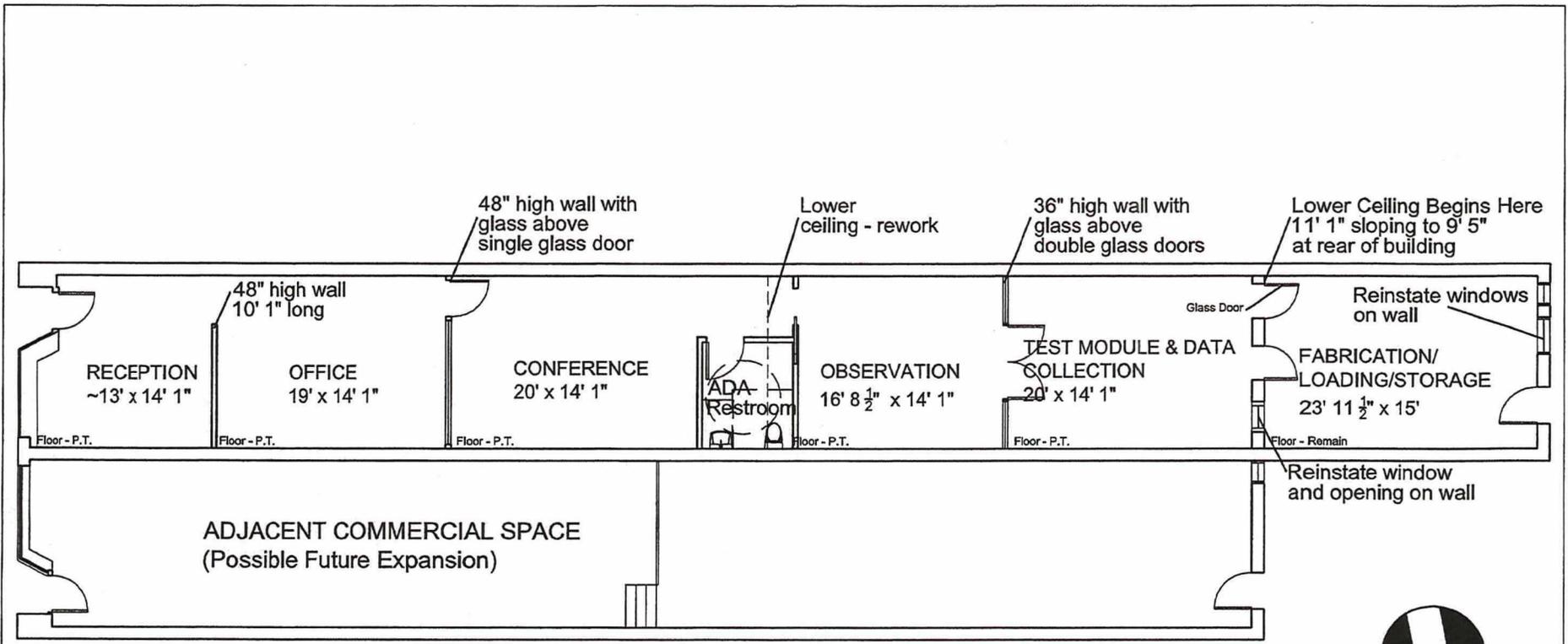
1. This Conditional Use Permit is granted to establish a place of research and development, laboratory, at 147 and 149 North Main Street; Zoning Map 34G18(A), Parcels 317\*16 and 317\*17, as shown on Exhibit “B”, “Property Map”.
2. The interior configuration shall be substantially in accordance with the proposed floor plan, as shown on Exhibit “C”.
3. The owners must receive proper permitting and/or approval from the Hampton Roads Sanitary District (HRSD) before applying for any permits from the Community Development Division.
4. All improvements to the exterior of the building must be reviewed by the Historic Landmarks Commission.
5. The hours of operation for the facility shall be Monday through Friday 7:30a.m. to 7:30p.m.; with allowance for a maximum of eight (8) Saturday workshops taking place between the hours of 7:30a.m. and 7:30p.m.



# PROPERTY MAP CUP2020-009

EXHIBIT B





**NOTES:**

- Main ceiling is 12'11" near front / 12'10" near rear
- Leave plaster/brick where exposed
- Storefront
  - Remove shiplap
  - Restore transom/storefront
- Raise return
- Hanging fixtures in front (Reception/Office) and Conference Room
- LED industrial strip lights in rear (Observation/Lab/Data)
- Electrical - Surface run conduit



**COMMONWEALTH PRESERVATION GROUP**  
 536 W. 35th Street  
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 757-923-1900  
 admin@commonwealthpreservationgroup.com

**Client:** Building Resilient Solutions  
 147-149 Main Street  
 Suffolk, VA 23434

**Drawn By:** JESS ARCHER

**Date:** 2.19.2020

**Scale:** 1/8" = 1"

**Building Name:** BRS OFFICE & OUTREACH SPACE  
 147-149 Main Street  
 Suffolk VA 23434

**Drawing Name:**  
 Floor Plan - 2.19.2020 Revision

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**RESULTS OF THE  
CITY COUNCIL  
MEETING OF  
June 17, 2020**

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- Approved
- A. STREET VACATION REQUEST, STV2019-001, Maple Street, Appleton Avenue, Walnut Street, and Mulberry Street:** to vacate a segment of Maple Street, Appleton Avenue, Walnut Street, and Mulberry Street located between Warwick Street and Madison Avenue. The affected area is contiguous to property located at 645 Madison Avenue, 310 Factory Street, and 304 Mulberry Street, Zoning Map 34G29(A), Parcel 1\*2+, Zoning Map 34G29(2), Parcel A, and Zoning Map 34G25(2), Parcel 35\*2, respectively.
- Approved
- B. STREET VACATION REQUEST, STV2019-002, Mill Street:** to vacate a segment of Mill Street located east of County Street and between Van Buren Avenue and Mill Street. The affected area is contiguous to property located at 426 County Street, Zoning Map 34G29(1), Parcel 12\*2\*7B\*7C.
- Approved
- C. STREET VACATION REQUEST, STV2019-003, Unnamed Alley:** to vacate a segment of an unnamed alley located between Factory Street and Mulberry Street. The affected area is contiguous to property located at 310 Factory Street, Zoning Map 34G29(2), Parcel A.

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