Item #1
Dominion Virginia Power
Conditional Use Permit
2056 Recreation Drive
District 7
Princess Anne
December 10, 2014

CONSENT

An application of Dominion Virginia Power for a Conditional Use Permit (Public Utility Transformer Station / Line) on property located at 2056 Recreation Avenue, District 7, Princess Anne. GPIN: 14848901770000.

CONDITIONS

1. With the exception of any modifications required by any of these conditions or during the formal site plan review process, the site shall be developed, landscaped, and maintained substantially in conformance with the submitted site plan entitled “CONDITIONAL USE PERMIT (SHEET 2) LANDSTOWN SUBSTATION SVC EXPANSION PLAN VIRGINIA BEACH, VIRGINIA”, dated June 3, 2014 and prepared by Dominion.

2. The proposed STATCOM building, identified on the submitted site plan as “PROPOSED 24’ X 114’ X 17’ TALL SVC BUILDING”, when constructed, shall be in substantial conformance with the exhibits entitled, “SVC BUILDING ELEVATIONS SHEET 1 OF 2” and “SVC BUILDING ELEVATIONS SHEET 2 OF 2”, dated April 4, 2014 and prepared by Beta Engineering.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 1.

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By a vote of 10-0, the Commission approved item 1 by consent.
CONSENT

An application of SUL Tranquility Lakes, L.L.C. for a Modification of a Conditional Use Permit for Housing for Seniors and the Disabled approved by the City Council in January 2010 and then modified in March of 2012 on property located 5827 Burton Station Road, District 4, Bayside. GPIN: 14588847390000; 14588849880000.

CONDITIONS

1. All conditions attached to the Conditional Use Permit granted by the City Council on March 13, 2012, are deleted and are replaced with the conditions listed below.

2. With the exception of any modifications required by any of these conditions or as a result of development site plan review, the site shall be developed substantially in conformance with the submitted site layout plan entitled “Site Plan for SUL Tranquility Lakes, LLC,” prepared by SIA, Inc., dated September 22, 2014, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.

3. The proposed building shall be constructed substantially in accordance with the submitted elevation entitled “Tranquility at the Lakes, Burton Station Road Elevation,” prepared by chp Design Studio, November 20, 2014, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.

4. Every effort shall be taken to retain mature trees located within the open space area and along Burton Station Road.

5. A minimum four (4)-foot tall evergreen hedge, branching to the ground, shall be installed along the southeastern property line. The width of the planting area shall be a minimum of three (3) feet.

6. Foundation landscaping shall be required. A minimum of fifty (50) percent of any side of a building facing Burton Station Road shall be planted. A minimum of thirty-three (33) percent of any side of a building facing the proposed road located northwest of site shall be planted. Plantings shall be placed adjacent to building sides or provided in planters near building sides. Planted areas shall be a minimum of three (3) feet in width. One (1) tree or one (1) shrub shall be required for every fifteen (15) square feet of total required landscape area.

7. At least one (1) member of the family living in each unit shall be disabled or age sixty-two (62) or older.
8. If the proposed roadway along the northwestern side of the property has not been constructed by the time of the issuance of the first building permit for the project, the applicant shall seek an Encroachment Agreement with the City of Virginia Beach allowing the applicant to construct a driveway adjacent to the western property line from Burton Station Road to the drive aisle located on the northern side of the building.

9. A brick dumpster enclosure, minimum height six (6) feet, shall be constructed to screen the trash receptacle. The brick used to construct the enclosure shall match that of the senior housing structure. Additional planting shall be installed on the east and north sides of the proposed dumpster enclosure to ensure proper screening from view from the adjacent properties and from the right-of-way. Details of the enclosure and plantings shall be depicted on the final site plan.

10. Trash pick-up for the dumpster shall be prohibited between the hours of 9:00 p.m. and 8:00 a.m.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 2.

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By a vote of 10-0, the Commission approved item 2 by consent.

Mark Ricketts appeared before the Commission on behalf of the applicant.
Item #3
Kenneth Leach
Conditional Use Permit
2545 Sandpiper Road
District 7
Princess Anne
December 10, 2014

CONSENT

An application of Kenneth Leach for a Conditional Use Permit (open air market) on property located at 2545 Sandpiper Road, District 7, Princess Anne. GPIN: 24341046280000.

CONDITIONS

1. There shall be no more than one food service trailer on the site at any one time.

2. Approval from the Health Department is required prior to operation.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 3.

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By a vote of 10-0, the Commission approved item 3 by consent.

The applicant, Kenneth Leach, appeared before the Commission.
An application of Alan Gregor, Jr. for a Subdivision Variance to Section 4.4 of the Subdivision Ordinance, which requires lot shape to be consistent with other lots in the vicinity and that side lot lines have a perpendicular orientation to the street on property located at 1504 Bradford Road, District 4, Bayside. GPIN: 14791287900000.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to defer item 4.

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By a vote of 10-0, the Commission deferred item 4.
An Ordinance to Amend Section 107 of the City Zoning Ordinance Pertaining to the Acceptance by City Council of Proffered Conditions that Deviate from Allowable Lot Coverage.

December 10, 2014

CONSENT

An Ordinance to Amend Section 107 of the City Zoning Ordinance Pertaining to the Acceptance by City Council of Proffered Conditions that Deviate from Allowable Lot Coverage. The proposed amendments will add ‘maximum lot coverage’ to the list of items for which the City Council may allow deviation upon a finding that there will be no significant detrimental effects on surrounding properties, and that the deviation will not conflict with the Comprehensive Plan.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 5.

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By a vote of 10-0, the Commission approved item 5 by consent.

Stephen White appeared before the Commission.
Item #6
Newtown Square Associates, L.L.C.
Change of Zoning
544 Newtown Road & 525 Landfall Arch
District 2
Kempsville
December 10, 2014

REGULAR

Dave Redmond: Mr. Secretary, will you call the next item?

Bob Thornton: The next item Mr. Chairman is Item 6, Newtown Square Associates, L.L.C. This is a Change of Zoning from B-2 and A-18 to Conditional B-4 Mixed Use District on Newtown Road and Landfall Arch. And we have Mr. R.J. Nutter here to speak on this matter.

Dave Redmond: Mr. Nutter.

R.J. Nutter: Mr. Redmond, Mr. Chairman. For the record, my name is R.J. Nutter, and I’m an attorney. I represent the applicant. I wish I could say I appreciate being on the consent agenda, but there are a few items that I heard that you wanted to talk about; so, I will try to address them for you. First and foremost, it is a pleasure to represent this application. Too often, we forget what’s happening around outside contact with a particular piece of paper in front of us. This may be one of them, because this represents the largest private investment along Newtown Road in over 20 years. That is an area that sorely needs of that kind of recapitalization. And it couldn’t begin at a property more appropriate. The shopping center was built in 1980. It is 35 years old. It began as “the next best thing” and it has, over time, unfortunately, been passed by many of the major retailers. Other shopping centers have opened at other locations, and have taken major tenants. And as it often happens, in cases like this, the tenant situation becomes more difficult. Maintenance becomes more expensive, because you have more to clean up, and less revenue from which to do that. It has been a source of crime, as you all know. The Police Department routinely comments on applications, but frankly in this if they were here, they would probably stand up and applaud and urge you to put it on the consent agenda, because this cleanup is considerable, not just from a public perspective and appearance perspective but from their purpose a public safety perspective. So, having told you that, let me tell a little bit about what the redevelopment of this property entails. The property under the rezoning consists of about ten acres, 9.7 acres here. But in addition to that, I would like to talk to you about this piece right here, which is currently an automobile type operation. That is going to be torn down. That is a lease that is currently owned by the applicant on this property. It is leased to this tenant and this tenant is being relocated, and my client will be building a new two-story, very modern, very attractive office building at this location. Relocating their offices, which have been located roughly about here in the retail center to this facility, and building an additional, it is about 12,700 square feet of additional office space here. Many of these spaces are long term leases. They are 99 year leases, so they are effective almost sales. So the out parcels will remain the same. Thus, we were going to clean up this intersection here (pointing to PowerPoint). I’m sorry this location here. And make a major difference to the properties here. The property is currently zoned interestingly enough, unconditional B-2 the bulk of this, and a small portion back here is zoned unconditional A-18. So, we are taking this property to a conditional status from an unconditional status, and investing about 35 to 40 million dollars in this overall development from top to finish. There are a
few tenants that have served the neighborhood well and not presented any problems whatsoever. As a result of that, this portion of the property, which is about 17,000 square feet, if I’m not mistaken, will remain retail. It will be refaced entirely. New roof put on. New fronts put on, brick façade front. As well as a nice roof system that will make it look like this as you see here. It is very attractive. Not the flat roof as we see so often of these. There is a nice signage allowance for each of the tenants and picking up the materials, and the colors of the residential component of this project as we go forward. What is not shown here is the office building that was just submitted for site plan, actually earlier this week, but it is a very attractive two-story office building here. This gets redone, and then, the majority of retail here, largely vacant, gets torn down and redeveloped into two four-story apartment buildings that are very, very expensive to build. And by that I mean, these are all interior courtyards. These are not the three and four story walk ups that we too often see. These are very attractive buildings. They are very nice. These are simply nicer. They are all interior courtyards. They are all fully conditioned space from the interior. A large percentage of brick as you see on this building. Architectural style roofs on this building. They are using, and one of the issues, I understand is the balance of the material, which is this case they are using a high quality vinyl and I point out to you that the folks could choose to use hardieplank here. They could do that. They prefer vinyl. Not just from a cost perspective, as staff points out, but frankly they have a long term history with both of those materials. They do projects here and western Virginia and they are far more comfortable with vinyl as long term maintenance materials that as opposed to hardieplank. I would tell you that many of the applications you just put on your consent agenda consisted of vinyl as well as hardieplank. So it really is, I think it is, up to the developer, if he would, to look to those. I don’t think it is a measure of the quality of this. As you know this is a very, very attractive building. It is very expensive. All the right amenities are being applied here. Do you have a copy Kevin of the interior portion? Okay. Let me show you very briefly. I am not sure why it didn’t make it. Inside these buildings are interior courtyards, and they have interior pools. They have. I am going to show you very quickly. I apologize. I thought it was in there, so that is why I didn’t prepare this earlier. The interior of these buildings, as you see from that shot, these units are designed not just open on the outside, but many of the units open into the interior courtyard features. This is a very, very popular type of structure by the Humphries Architects, with the interior features. I’ll give you some of these photos and I’ll be happy to point around to you. Thank you very much. Ms. Oliver, would you mind if I handed these to you? I am going to show you very quickly. I apologize. I thought it was in there, so that is why I didn’t prepare this earlier. The interior of these buildings, as you see from that shot, these units are designed not just open on the outside, but many of the units open into the interior courtyard features. This is a very, very popular type of structure by the Humphries Architects, with the interior features. I’ll give you some of these photos and I’ll be happy to point around to you. Thank you very much. Ms. Oliver, would you mind if I handed these to you? I am sorry Stephen. I thought they were in there. Okay, this will kind of show you very high quality materials in the inside, pools, walk-through areas so you can walk around throughout these facilities. They haven’t cut any corners. They’ve used high quality architect materials (inaudible), and in doing this in a place where a lot of people, frankly, haven’t put a lot of money. So, we are very, very happy about that. I would like to address a couple of the issues that came up here, and staff reviewed this morning, and first point out by telling you that we had a gentleman here who on the adjacent industrial parcel, which is located right here, this piece right here. It goes like this. Mr. Snyder was here in opposition. We talked to him during the break, and I’m happy to tell you that he authorizing me to relay that he has withdrawn his opposition once he understood where things were going. He did not know about the office building. He did not know how far the construction was from his property, and more importantly, he was concerned about a ditch that runs between the current property, his property here, and on the northern portion of this property, the southern portion of our property. And, so we’ve agreed to fencing in here. Apparently, this area is the subject of a lot of people dropping batteries and tires and so forth into that ditch; so, we agreed to put a fence on our portion as he has done on his half. So he has withdrawn that opposition. The second issue I’m happy to tell you about has to do with the access way off of, and you can leave this one up Stephen, you can go back and forth. It is a major accessway here into the site off Newtown Road. As Traffic Engineering indicated to you
earlier, we thought that was a site plan issue and they were going to hold off and discuss it at that time. Because it was raised this morning, I’ve gotten authorization to tell you that we would agree to a right in/right out only here. There is no room, according to Ric about have a turn lane or putting a median break there, and traffic is apparently backing up into the through-lane, so as to prevent left turn movement out of the center. We could come in with a pork chop type feature as we go through site plan review, and have this a right in/right out only intersection at that location. And finally, if I can address the fencing issue with you because I understand that came up as well. First let me tell you that a little different than other residential projects, because this is residential office and retail isn’t really a mixed use of pieces on this property. So, we haven’t wanted to isolate the residential in the same matter which you might do say as a standalone residential development. As such, what my client was proposing to do was put a fence here along the eastern portion of the property separating it from the other properties here that are older, and I would say much older, and frankly, what we also can agree to do is we can put a fence along Baker Road for appearance perspective. It will give it the appearance that this is more of a secluded enclosed area. But we would like to withhold a decision about whether or not we put a fence along this portion. Primarily because for two reasons, one it is not really visible from the right-of-way; so, it is not an aesthetic issue, and the second is that we hope we can encourage people to go back and forth between and within these properties. We think a fence might prohibit that. I can tell you that if in fact we have a problem with vandals, or other people in the areas around us present a crime problem or a vandalism problem, the you will be the first one to put a fence there and probably elsewhere as well. You’re not going to put $30 million dollars just in these two buildings, and then keep a fence from prohibiting you from doing what you need to do. So, we feel this would solve much needed issues the Commission was looking at earlier. Again, staff is recommending approval. We have no opposition, and I hope you will consider this as things as we can move forward with this application on. I am happy to answer any questions you might have. Ed, I thank you for your patience.

Dave Redmond: Okay. Thank you Mr. Nutter. Are there any questions for Mr. Nutter? Is there anybody? Mr. Hodgson.

Jeff Hodgson: The premium vinyl siding. Is that going to be like a cedar shake like the nailight product where it looks or just flat vinyl.

R.J. Nutter: Sure, I know exactly what you’re saying. Let me ask. It is a great question. I don’t know the answer to.

Dave Redmond: Mr. Rudiger.

David Rudiger: Thank you.

Dave Redmond: Would you state your name please.

David Rudiger: David Rudiger for the applicant. And, the premium vinyl was a thicker gauge of vinyl so it is less acceptable to cupping and warping. Some of it, will in fact, will be of the cedar shake. The design and some of it will be of the plank design.

Jeff Hodgson: Okay.
Dave Redmond: I have a follow up to that. Do you have any idea, and not down to decimal points, but a ball park of what percentage of that is brick and what percentage is the premium vinyl that you’re talking about David.

David Rudiger: No, I don’t.

Dave Redmond: Okay. I’m looking and it looks like something about a quarter or fifty percent to me. So, I don’t want to sell you short or oversell it.

David Rudiger: I’d be guessing it is the same as you. I haven’t done the calculations.

Dave Redmond: Okay. Thank you. Mr. Ripley.

Ron Ripley: Can I ask David a question? The railing systems? What materials will be used for that?

David Rudiger: We use a powdered coated aluminum.

Ron Ripley: Okay. That’s good. How about fascial boards and whatever you’re going to wrap those.

David Rudiger: We use either a PVC material or a wrap material so that everything is low maintenance and it stands up well over time.

Ron Ripley: Good. Thank you.

David Rudiger: We intend to hold these and manage them as well as build them.

Dave Redmond: Other questions for Mr. Rudiger and while he is here, Mr. Nutter. Sorry, I didn’t mean to kick you out of the way.

R.J. Nutter: That’s alright.

Dave Redmond: Questions for Mr. Nutter or Mr. Rudiger? Mr. Thornton.

Bob Thornton: I may have missed it, but in the fencing that you’re proposing along the back and possibly along the western side, one of the comments that we talked about earlier was maybe some brick columns with aluminum rail or what appears to be wrought iron, and I’m not using it as a perfect example but the Springhouse project they did on Northampton and Diamond Springs, it gives it a sense of a community. You can see through it. It is landscaped nicely, and it would probably not make sense to put up white panel fencing around this thing. Do you have anything in mind as to what you are going to do?

David Rudiger: Yes sir. We just are in the process of constructing a project in Hampton where we have done a similar fence design along the road, and that project we put brick columns at the entrances and then used a black powered coated aluminum fence between. It gives it a very nice look.

Bob Thornton: Thank you.
Dave Redmond: Are there any other questions for Mr. Nutter? Mr. Inman.

Mike Inman: Can you clarify where you’re going to put the fencing? Was it proffered?

R.J. Nutter: What we are proposing is along the eastern border line separating. I’ll let you.

David Rudiger: Along Baker Road here and then between the Newport condominiums and the property along that line. There is existing fence here and there is existing fence here.

Mike Inman: Why would you choose not to put it between the retail and the apartment?

David Rudiger: We’re trying to actually encourage motion between the retail and the residential as a mixed use type of community, and we feel like a barrier there would discourage instead of encourage that interaction.

Dave Redmond: I think that’s partly what they are trying to do with regard to the movement between those outparcels and then the retail building. They want to cut down the traffic coming from people who are naturally going to be visiting and today, those are outparcels and the retail component. Are there any other questions for Mr. Nutter and or Mr. Rudiger? Is there anyone?

Bob Thornton: We didn’t talk on it yet. Maybe we will wait until we close the hearing about the hearing. The third concern we had was access.

Dave Redmond: He did talk about it. I think you may have stepped out.

David Rudiger: Mr. Thornton, we agreed to a right-in/right-out.

Bob Thornton: Okay. Thank you.

David Rudiger: I let Ric know that earlier.

Dave Redmond: We have them staring at Dr. White, and we need not deal with that today. I assume that is going to be resolved Mr. Lowman in site plan review and beyond. Okay. Thank you.

Bob Thornton: Sorry, I wasn’t here for that.

Dave Redmond: Alright, is there anybody else? No. Mr. Rudiger, thank you. Mr. Nutter, thank you.

R.J. Nutter: Gentlemen, always a pleasure. My best, and my congratulation to each of you. You got to serve and you served with distinction and made a difference.

Dave Redmond: Thank you Mr. Nutter.

R.J. Nutter: It was my pleasure.
Bob Thornton: Well, we had Mr. Snyder to speak but Mr. Nutter has answered his questions and sent him on back to work; so, we have nobody else to speak. Again, by chance, is Mr. Snyder still here. Did you say he left?

R.J. Nutter: He left.

Bob Thornton: He left. Okay. He is not here. We have no more speakers.

Dave Redmond: Well alright. With that, we will close the public hearing and open it up for discussion. Mr. Ripley.

Ron Ripley: I appreciate the applicant’s consideration. I think the modification that he has agreed to make here will improve the application. The right-in /right-out is a tremendous concession, and the placing of the fencing, of the quality fencing, along those areas, I think will help. I think the comment that the counsel mentioned regarding if issues show up, because security is real important in apartment communities, and owners are very sensitive to that. If there is an element coming into the property they want to try and control, I would think putting a fence up would be the first thing he would do, and so, we know the applicant well, and we know they would take care of their situation. I have no problem with it. I think the concessions he has made are fine. And you know the vinyl itself is. I have properties that are 30 years with vinyl and you have had to replace it. It is a lasting material as well as a hardieplank. Hardieplank might be a little more durable, but you also have to paint it from time to time, probably not going to have to do with the vinyl, and it is up high, and if he is using a light material. It will be fine. I’m okay with the modification.

Dave Redmond: I am too. I think you very adequately and well answered my questions with regard to the materials, and I agree with Mr. Ripley, those are some tangible and some substantial improvements that improve it. As I said this morning, we don’t want to discourage this kind of activity, either in the Newtown Road Corridor or for that matter anywhere in Virginia Beach. You might not have heard this Mr. Nutter or Mr. Rudiger, it is not that we have too much retail in Virginia Beach, but we have, I think, in some places, too many retail properties that have long ago outlived their usefulness. The building themselves, their useful life as structures without an enormous investment in rehabilitation are beyond their years, and this kind of redevelopment, particularly of this kind, quality, and scale in a corridor like this is to be encouraged in my view and not discouraged; so, we do appreciate the activity that you are undertaking. Mr. Rudiger, I think we first met about 9 years ago at this property and it looked the same. And so it is ripe for some sort of redevelopment opportunity, and now that the opportunity has come, I’m glad that you are able to seize on it. And I hope you will be very successful doing it. Does anybody else have questions or comments?

Donald Horsley: I will just make a comment. I am real pleased that somebody has taken interest. This is a sizeable investment to be making in this area. Hopefully, this will continue to help revitalize this area.

Dave Redmond: This area to be clear though this area has seen some investment, not of this scale, but over a little bit farther, and I’m directionally challenged, and I’m going to say to the north as you get closer to Haygood Road. It’s coming. It’s coming. And I think this is a bold and long stroke that will hopefully, will accelerate some of the redevelopment in this area, and I think it is wonderful. As I said before, I hope you are very successful at it. Is there anybody else? If not, I will be looking for a motion.
Mike Inman: Mr. Chairman, I move that we approve the application as modified by the addition of these additional proffers, the right-in/right-out and the fencing.

Dave Redmond: To be clear, they will be addressed in site plan review and not as part of our application today.

Phil Russo: Second.

Dave Redmond: There is a motion by Commissioner Inman, and seconded by Commissioner Russo to approve the application. Is there any further discussion?

David Weiner: Mr. Chairman.

Dave Redmond: Here comes Mr. Weiner again. Buckle up.

David Weiner: You all will have one of these, one day.

Dave Redmond: Mr. Weiner.

David Weiner: In accordance with Virginia Code Sections 2.2-3100 and following, I make the following disclosure. In regard to application #6, Newtown Associates on the December Planning Commission agenda, I am an employee of Batchelder and Collins, and an entity of Newtown Associates, Boyd Homes, is a client of Batchelder and Collins. It is not reasonably forseeable that Batchelder and Collins will benefit from my vote as it is ultimately a decision of City Council for the approval of this application. As such, I am able to participate in the transaction fairly, objectively and in the public interest.

Dave Redmond: Thank you Mr. Weiner.

David Weiner: I’ll share this with everybody.

Dave Redmond: Mr. Ripley.

Ron Ripley: We are adding the fence on those two property lines.

Dave Redmond: As a condition.

Ron Ripley: Yeah. I guess it is the east and the north.

Stephen White: Mr. Chairman, if it will clarify and give you some reassurance, what I plan to do, and I don’t think Mr. Nutter will object to this, is between the Planning Commission and City Council have them add these items to the site plan so it will be included as a proffer.

Dave Redmond: Is that satisfactory Mr. Ripley?

Ron Ripley: Oh yeah.
Dave Redmond: Okay. Great. Is there anything else? Mr. Weeden, it is up to you.

Ed Weeden: The vote is open.

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Ed Weeden: By a vote of 10-0, the Commission has approved item 6 for approval.

Dave Redmond: Thank you very much Mr. Nutter, Mr. Rudiger and everyone involved. Mr. Hodgson, Mr. Thornton, Mr. Russo. Good luck to you. And thank you for your service. All of you thank you very much for your service. It has been a pleasure, and Don and I are not going anywhere. We are not disappearing. We still live here, and we are going to be close at hand. If you ever need any help, and I know I speak for him to in saying, let us know if we can help you in any way. We will be glad to do so. Is there anything else to come before this Commission? Meeting is adjourned.
Item #7
Obedient Paws, L.L.C.
Conditional Use Permit
5013 Madeira Road
District 4
Bayside
December 10, 2014

CONSENT

An application of Obedient Paws, L.L.C. for a Conditional Use Permit (Home Occupation) on property located at 5013 Madeira Road, District 4, Bayside. GPIN: 14699197440000.

CONDITIONS

1. Unless otherwise limited by Animal Control, the maximum number of dogs on the site over six (6) months of age shall be four (4).

2. All onsite dog training shall be conducted within fenced areas of the yard.

3. All dogs shall be housed within the home and garage.

4. The existing rear yard fencing shall be maintained in good condition for perimeter control.

5. All dogs, when outside the residence and garage, shall be supervised at all times.

6. All animal waste shall be collected and disposed of in a lawful manner on a daily basis.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 7.

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By a vote of 10-0, the Commission approved item 7 by consent.
Kevin Martingayle appeared before the Commission on behalf of the applicant.
CONSENT

An application of AH Sandbridge, L.L.C. for a Modification of the Proffers of the Conditional Change of Zoning approved by the City Council on June 11, 2013 on property located at 2101 Princess Anne Road, District 7, Princess Anne. GPIN: 24141298600000.

PROFFERS

PROFFER 1:
The Original Proffers are hereby modified by replacing Section 3 of the Agreement with the following:

“3. No portion of the Property shall be used for any of the following uses: an onsite dry cleaning service whereby the dry-cleaning and any other cleaning processes are performed on the outparcel (pick-up and drop-off only facilities shall be permitted); adult entertainment; adult video or bookstore; nightclub; tavern; lounge; dance hall; funeral home or morgue; pool hall; game parlor; skating rink; bingo games; betting agency; bowling alley; flea market; auto dealership; car rentals or sales; or hazardous or illegal uses.”

PROFFER 2:
All other covenants, conditions, and restrictions proffered as part of the Original Proffers shall remain unchanged and in full force and effect and are hereby incorporated by reference.

The City Attorney’s Office has reviewed the proffer agreement dated September 29, 2014, and found it to be legally sufficient and in acceptable legal form.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 8.

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By a vote of 9-0-1, with the abstention so noted, the Commission approved item 8 by consent. Mike Nuckols appeared before the Commission on behalf of the applicant.
Item #9
City of Virginia Beach
Change of Zoning
East side of London Bridge Road between Potters Road
District 6
Beach
December 10, 2014

CONSENT

An application of the City of Virginia Beach for a Change of Zoning (B-2 Community Business District to Conditional I-1 Light Industrial District) on property located on the East side of London Bridge Road, approximately 1,000 feet north of Potters Road, District 6, Beach. GPIN: 24070486460000.

PROFFERS

PROFFER 1:
The Property may be used for any of the permitted or conditional uses provided for the 1-1 Light Industrial District by Section 1001 of the City Zoning Ordinance, except for the following: airports, heliports, and helistops; animal hospitals, veterinary establishments, pounds, shelters, and commercial kennels; automobile museums; bars or nightclubs; borrow pits; business, medical, financial, nonprofit, professional, and similar office buildings; eating and drinking establishments; and wildlife rehabilitation centers.

PROFFER 2:
The design of the site layout for the Property, as well as the design of any buildings to be constructed on the Property, shall be consistent with the Comprehensive Plan's "Special Area Development Guidelines for Suburban Areas." The Zoning Administrator and Planning Director shall determine compliance with said design guidelines. Review comments from the Department of Economic Development shall be requested and considered prior to such determination.

PROFFER 3:
Further conditions may be required by the Grantee during detailed Site Plan and/or Subdivision review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 9.

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By a vote of 10-0, the Commission approved item 9 by consent.

Randy Royal appeared before the Commission on behalf of the applicant.
An application of Gary Dunnington for a Conditional Use Permit (Motor Vehicle Sales, Automobile Repair Garage, Small Engine Repair Establishment, Bulk Storage) on property located at 6059 Providence Road, District 1, Centerville. GPIN: 14565304170000.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to defer item 10.

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By a vote of 10-0, the Commission deferred item 10.
Item #11
Donald J. Boucher, Jr.
Change of Zoning
Conditional Use Permit
800 South Military Highway
District 2
Kempsville
December 10, 2014

DEFERRED

An application of Donald J. Boucher, Jr. for A. Conditional Change of Zoning (I-1 to B-2); and B. Conditional Use Permit (Motor Vehicle Sales and Service) on property located at 800 South Military Highway, District 2, Kempsville. GPIN: 14562548250000.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to defer item 11.

AYE 10 NAY 0 ABS 0 ABSENT 1

BROCKWELL AYE
HODGSON AYE
HORSLEY AYE
INMAN AYE
OLIVER AYE
REDMOND AYE
RIPLEY AYE
RUCINSKI ABSEN
RUSSO AYE
THORNTON AYE
WEINER AYE

By a vote of 10-0, the Commission deferred item 11.

Eddie Bourdon appeared before the Commission on behalf of the applicant.
Item #12
City of Virginia Beach
An Ordinance to Amend Sections 111 and 401 and add Section 241 of the City Zoning Ordinance Pertaining to a Definition and Conditions Required for a Recreational Resort Community.
December 10, 2014

CONSENT

The proposed amendment creates a new category of use called a “Recreational Resort Community,” which will allow for stationary structures and vacation homes. Recreational Resort Communities are proposed as a conditional use in the Agricultural Districts. The amendment outlines requirements for Recreational Resort Communities to include recreational amenities, environmental features, and utility services.

In order to comply with Floodplain Regulations, some permanent improvements must be made in at least one existing resort development that was formerly approved as a “campground.” ‘Oceanfront Resort’ in Sandbridge (approved as a “campground” in 1976), for example, intends to apply and become a “Recreational Resort Community” so that required permits can be issued to place stationary park model trailers and other more permanent units on foundations meeting the Flood Plain Regulations.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 12.

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By a vote of 10-0, the Commission approved item 12 by consent.

Karen Lasley appeared before the Commission.
Item #13
City of Virginia Beach
An Ordinance to Amend Section 502 of the City Zoning Ordinance Pertaining to Setbacks Adjacent to the Atlantic Ocean in the R-5R Zoning District.
December 10, 2014

CONSENT

The amendment clarifies the setback from the Atlantic Ocean in the R-5R Residential Resort District applicable to the North Beach oceanfront lots from 48th Street to 89th Street. Currently, Section 502 of the City Zoning Ordinance requires a 30-foot setback from the Atlantic Ocean for all structures, except in-ground swimming pools. The proposed amendment makes it clear that the 30-foot setback applies even if there is an unimproved street or bulkhead between the lot and the Atlantic Ocean. There is a 150-foot wide unimproved street that was platted in the 1920’s east of the oceanfront lots from 58th Street to 89th Street, and there has been some confusion regarding the setback from the oceanfront for such lots.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 13.

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By a vote of 10-0, the Commission approved item 13 by consent.

Karen Lasley appeared before the Commission.
Item #14
Enoch Baptist Church
Modification of Conditions
848 Baker Road
District 2
Kempsville
December 10, 2014

CONSENT

An application of Enoch Baptist Church for a Modification of a Conditional Use Permit approved by the City Council on 08/02/2004 on property located at 848 Baker Road, District 2, Kempsville. GPIN: 14681460320000.

CONDITIONS

1. All conditions previously approved by City Council for the parcel identified as 848 Baker Road shall no longer apply.

2. The 3.3726 acre property identified as 848 Baker Road shall be subdivided into two lots substantially as shown on the concept plan titled, “GOOD SAMARITAN EPISCOPAL CHURCH” dated August 23, 2014 and prepared by Gallup Surveyors and Engineers, LTD. The following conditions shall apply to the resulting 2.495 acre parcel. The .878 acre parcel identified as “NEW LOT FOR FAMILY LIFE CENTER is included under the conditions prepared for 5641 Herbert Moore Road.

3. The minimum ten-foot parking lot perimeter landscaping requirement shall be met for all proposed parking lot improvements located within 70 feet of the public right-of-way of Herbert Moore Road or Baker Road.

4. All proposed parking lot improvements are required to be made prior to the issuance of a Certificate of Occupancy for the Family Life Center.

5. A parking agreement shall be prepared and submitted prior to Site Plan approval. Said parking agreement shall arrange for a minimum of 75 parking spaces located on the remaining 2.495 acre site at 848 Baker Road to be available for individuals using the Family Life Center, Monday through Friday.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item 14.

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ABSENT 1

BROCKWELL AYE
HODGSON AYE
HORSLEY AYE
INMAN AYE
OLIVER AYE
By a vote of 10-0, the Commission approved item 14 by consent.

Pastor Michael Daniels appeared before the Commission.
An application of Beach Lawn and Garden, Inc. for a Conditional Use Permit for a Bulk Storage Yard on property located at 1760 Independence Boulevard, District 4, Bayside. GPIN: 14792400820000.

CONDITIONS

1. With the exception of any modifications required by any of these conditions, the site shall be developed and maintained substantially in conformance with the submitted site plan entitled “PARKING PLAN FOR 1760-1776 INDEPENDENCE BLVD.”, dated March 25, 2014 and prepared by Robyn J. Thomas.

2. Category IV landscape screening shall be installed at the exterior of the fence at the west side of the bulk storage area, as shown on the site plan identified by staff as “LANDSCAPE AND IMPROVEMENTS PLAN”. The landscaping shall consist of evergreen trees, five to six feet in height at the time of planting.

3. A gate shall be installed to the east of building, as shown on the site plan, identified by staff as “LANDSCAPE AND IMPROVEMENTS PLAN”. The gate shall be constructed of a solid material, not less than 6 feet in height.

4. Should the fencing located on the adjacent parcels to the north and/or east be removed, the applicant or owner of the subject property shall be required to install new fencing. The new fencing shall be not less than six (6) feet in height, and Category VI landscaping, as per Section 228 of the Zoning Ordinance.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item D1.

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By a vote of 10-0, the Commission approve item D1 by consent.

Clint Porter appeared before the Commission on behalf of the applicant.
CONSENT

An application of Checkered Flag Motor Car Company for A. Conditional Change of Zoning (A-12 Apartment & B-2 Community Business Districts to Conditional B-2 Community Business District) and B. Conditional Use Permit (motor vehicle sales & service) on property located at 324 Nelms Lane, 5232 Virginia Beach Boulevard, 5226 Virginia Beach Boulevard, 5200 Virginia Beach Boulevard, District 4, Bayside. GPIN: 14676699130000; 14676698500000; 14677609820000; 14677617910000; 14677700650000.

PROFFERS

PROFFER 1:
When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, “Conceptual Site Layout and Landscape Plan of Checkered Flag – Land Rover/Jaguar, Virginia Beach, Virginia,” dated August 25, 2014, prepared by MSA, Inc., Virginia Beach, Virginia, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).

PROFFER 2:
When the Property is developed, it shall landscaped substantially as shown on the exhibit entitled, “Conceptual Site Layout and Landscape Plan of Checkered Flag – Land Rover/Jaguar, Virginia Beach, Virginia,” dated August 25, 2014, prepared by MSA, Inc., Virginia Beach, Virginia, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Landscape Plan”).

PROFFER 3:
When the Property is developed, the building elevations will be as depicted on the exhibits entitle, “Checkered Flag Jaguar Land Rover, dated September 24, 2014, prepared by Lyall Design Architects which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter “Elevations”).

PROFFER 4:
When the Property is developed, the design of the signage will be in substantial conformance with the sign exhibits entitled, “Multibrand 8, Jaguar Portico Logo Face Mounted, Land Rover Landmark Tower,” herein exhibited to the Virginia Beach City Council and on file with the Virginia Beach Department of Planning (hereinafter “Signage”).

PROFFER 5:
All exterior lighting shall be low intensity and residential in character and shall overlap and be uniform throughout the parking area. Per Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the auto sales and service premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet. A Lighting Plan and/or Photometric Diagram Plan shall be submitted during detailed site plan review. Said plan shall include the location of all pole-mounted and building-mounted lighting fixtures, and the listing of lamp type, wattage, and type of fixture. All lighting on the site shall be consistent with those standards recommended by the Illumination Engineering Society of North America. The plan shall include provisions for implementing low-level security lighting for non-business hours.

PROFFER 6:
The use of the Property shall be for automobile sales and service, display and showroom, rentals and/or accessory parking.

CONDITIONS

1. With the exception of any modifications required by any of these conditions or as a result of development site plan review, the site shall be developed substantially in conformance with the exhibit entitled, “Conceptual Site Layout & Landscape Plan of Checkered Flag – Land Rover/Jaguar, Virginia Beach, Virginia,” prepared by MSA, P.C., dated 08/25/14, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.

2. The proposed building shall be constructed substantially in accordance with the submitted elevations. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Planning Department.

3. A landscape plan shall be prepared by a landscape professional and submitted for Development Services Center review and shall depict an all-weather solid fence, minimum height of six (6) feet to be installed along all property lines adjacent to the A-12 Apartment District.

4. Any existing “nonconforming” free-standing signs shall be removed. The freestanding sign (pylon sign as identified on the plan referenced in Condition 1 above) shall be as depicted on the exhibit entitled, “Multibrand 8,” and shall be limited to eight feet in height.

5. All garage doors shall remain closed other than for the maneuvering of vehicles in and out of service bays.

6. All parking lot lighting shall be directed inward and shall not reflect toward the adjacent properties and city streets. A photometric plan shall be submitted for Development Services Center review.

7. No loud speakers, outdoor paging system, outdoor speaker system or outdoor sound amplification system shall be permitted on site.

8. No vehicles for sale or rent shall be parked within any portion of the public rights-of-way.
9. No outside storage of parts, equipment, or vehicles wrecked or in a state of obvious disrepair shall be permitted. If vehicles in this condition require storage, such vehicles shall be stored within the building.

10. All automotive repair work shall be conducted inside the building.

11. All existing chain link and barbed wire fencing shall be removed from the property. The use of chain link and/or barbed wire shall be prohibited from use along any property line adjacent to the A-12 Apartment District zoning or if visible from any right-of-way.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item D2.

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   THORNTON   AYE
   WEINER     AYE

By a vote of 9-0-1, with the abstention so noted, the Commission approved item D2 by consent.

Billy Garrington appeared before the Commission on behalf of the applicant.
CONSENT

An application of Enoch Baptist Church for a Modification of a Conditional Use Permit
Approved by the City Council on 08/26/1997 on property located at 5641 Herbert Moore Drive, District 2, Kempsville. GPIN: 14682411340000.

CONDITIONS

1. All conditions previously approved by City Council for the properties located at 5641 Herbert Moore Road and 848 Baker Road shall no longer apply.

2. This Modification of Conditions shall apply to the 2.703 acre parcel located at 5641 Herbert Moore Road and the .878 parcel called out at as “NEW LOT FOR FAMILY LIFE CENTER” on the submitted concept plan titled, “GOOD SAMARITAN EPISCOPAL CHURCH” dated August 23, 2014 and prepared by Gallup Surveyors and Engineers, LTD. Said properties may be referred to as “the site” in the following conditions.

3. Improvements made to the site shall substantially conform to the concept plan titled, “C.U.P EXHIBIT, ENOCH BAPTIST CHURCH,” dated August 1, 2014, and the concept plan titled, “GOOD SAMARITAN EPISCOPAL CHURCH,” dated August 23, 2014, both as prepared by Gallup Surveyors and Engineers, LTD

4. The proposed Family Life Center shall substantially conform to the undated conceptual elevations submitted with this application identified by the titles of, “VIEW FROM BAKER ROAD,” “VIEW FROM ENOCH BAPTIST,” “VIEW FROM HERBERT MOORE ROAD,” and “BACK OF BUILDING.” Additionally, all points of ingress/egress of the Family Life Center shall have a standing seem metal entrance cover, similar to and less pronounced than those shown on the elevation titled, “VIEW FROM BAKER ROAD”. With the exception of the roof, no metal paneling or siding shall be used as an exterior material.

5. As allowed per Section 221(i) of the City Zoning Ordinance, the proposed improvements may deviate from the Zoning Ordinance requirements for the R-10 Residential District with regard to setbacks, as shown on the conditioned site plans referenced in Condition 3.

6. The minimum ten (10)-foot parking lot perimeter landscaping requirement called out in Section 5A.5 of the City Site Plan Ordinance shall be met for all proposed parking lot improvements located within 70 feet of the public right-of-way of Herbert Moore Road or Baker Road.
7. The proposed Family Life Center shall have foundation landscaping for 100% of the width of the northern elevation referred to as “VIEW FROM HERBERT MOORE ROAD” with the exception of points of ingress and egress. Foundation or surrounding landscaping shall be installed around the Family Life Center for substantial portions of each of the remaining façades. Said landscaping should diminish the perceived height of the Family Life Center and be spaced in concert with the architectural features of each façade.

8. With the exception of any requirements of these conditions or as determined through site plan review, landscaping and tree preservation shall substantially conform to the preliminary landscape plan titled, “LANDSCAPE PLAN, ENOCH BAPTIST CHURCH, FOR PARKING LOT ADDITION,” dated November 10, 2014 as prepared by Gallup Surveyors and Engineers LTD. As shown on said plan, no improved parking surface shall be closer than ten (10) feet to the adjacent properties. All trees shown with a dashed drip line are to be preserved. The portion of the western lot line not included in the preliminary landscape plan shall retain the existing 15-foot buffer.

9. The two (2) trees called out as “21” HICKORY,” and “18” OAK,” shall be preserved.

10. Should signage be placed on the proposed Family Life Center, it shall be limited to the ground story only. All signage shall be approved by the City Zoning Administrator.

11. The Family Life Center shall be used only between the hours of 6:00 am and 10:00 pm. To avoid any parking conflicts, the Family Life Center shall not be used during times of worship at Enoch Baptist Church or Good Samaritan Episcopal Church.

12. No outdoor lighting shall be installed in conjunction with the outdoor recreation facility (the combination basketball/tennis court). Play on the court shall not occur after dusk.

13. No public parking is allowed on Herbert Moore Road unless it is improved to meet applicable Public Works standards for on-street parking.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item D3.

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By a vote of 10-0, the Commission approved item D3 by consent.

Pastor Michael Daniels appeared before the Commission.
Item #D4
Atlantic Development Associates, L.L.C.
Variance to Section 4.4.(b) of the Subdivision Regulations
Change of Zoning
Conditional Change of Zoning
401 Birdneck Circle
District 6
Beach
December 10, 2014

CONSENT

An application of Atlantic Development Associates, L.L.C for (a) Variance to Section 4.4(b) of the Subdivision Regulations which requires subdivided lots to meet the requirements of the Zoning Ordinance (lot does not meet lot width); (b) Change of Zoning (A-12 Apartment to R-7.5 Residential); (c) Conditional Change of Zoning (A-12 Apartment to Conditional A-12 Apartment) on property located at 401 Birdneck Circle, District 6, Beach. GPIN: 24175637340000.

PROFFERS

PROFFER 1:
When the Property is subdivided, it will be developed into three (3) townhomes substantially in accordance with the Exhibit entitled, "REZONING EXHIBIT AND PREUMINARY SUBDIVISION PLAT PART OF LOT 3", dated 20 June 2014, pages C-1.0 ("Conceptual Layout") and C-2.0 (Elevations"), prepared by WPL which have been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

PROFFER 2:
When the Property is developed, the townhomes will have the setbacks as depicted on the Conceptual Layout, as well as the architectural features and exterior building materials depicted and designated on the Elevations. The townhomes will have the exterior appearance substantially as depicted on the rendering Exhibit entitled "West 19th Street Place" dated 20 June 2014 ("Rendering") which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

PROFFER 5:
Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City Codes by all cognizant City Agencies and departments to meet all applicable City Code requirements.

A motion was made by Commissioner Hodgson and seconded by Commissioner Horsley to approve item D4.

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BROCKWELL  AYE
HODGSON  AYE
By a vote of 10-0, the Commission approved item D4 by consent.

Eddie Bourdon appeared before the Commission on behalf of the applicant.