Item #1
Norfolk Airport Authority
Change of Zoning
General Vicinity of Burton Station Road
District 4
Bayside
May 11, 2016

CONSENT

An application of Norfolk Airport Authority for Change of Zoning (R-5D Residential Duplex to I-1 Light Industrial) on property located in the vicinity of Burton Station Road, District 4, Bayside. GPIN: 14587809900000, 14587910510000, 14587921240000, 14587922770000, 14587930890000, 14587933380000, 14587935800000, 14587946150000, 14587952720000, 14587956180000, 14587976060000, 14588969080000, 14597054540000, 14597055000000, 14597072400000, 14597073550000, 14597082760000, 14597083910000, 14597095080000, 14598006170000, 14598011230000, 14598018230000, 14598063060000

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

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By a vote of 11-0, the Commission approved item 1 for consent.

Robert Bowen appeared before the Commission on behalf of the applicant.
Item #2
Marvin M. Rollins, Jr. & Gayle B. Rollins, Trustee under the Marvin M. Rollins, Jr. Living Trust
Modification of Proffers
601 Princess Anne Road
District 7
Princess Anne
May 11, 2016

CONSENT

An application of Marvin M. Rollins, Jr. & Gayle B. Rollins, Trustee under the Marvin M. Rollins, Jr. Living Trust for a Modification of Proffers to a Conditional Change of Zoning from B-2 and Conditional B-2 Community Business District approved by City Council on December 10, 2002 on property located at 601 Princess Anne Road, District 4, Bayside. GPIN: 2308-89-6044-0000.

PROFFERS

1. Proffers numbered 1 and 6 as contained in the 2002 Proffers recorded in the above referenced Clerk’s Office as Instrument Number 200212233084230 is hereby deleted and replaced with the following:
   1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, “CONCEPT PLAN CONVENIENCE STORE CONVERSION AT MOTORIST WAYSIDE AT CREEDS, VIRGINIA BEACH, VIRGINIA,” dated February 18, 2016, prepared by Gallup Surveyors & Engineers, Ltd., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).
   6. The Property shall only be utilized for the sale of fuel, convenience store, retail establishment, laundromat and mini-warehouse as depicted on the Site Plan and no other uses described in the Zoning Ordinance as permitted or conditioned shall be allowed on the Property.

2. Except as expressly modified herein, all of the proffers, covenants, restrictions and conditions contained in the 2002 Proffers remain in full force and effect.

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

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Item #2
Marvin M. Rollins, Jr. & Gayle B. Rollins, Trustees under the Marvin M. Rollins, Jr. Living Trust

WEINER AYE

By a vote of 11-0, the Commissioner approved item 2 for consent.

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

An application of Farmhouse, L.L.C. for a Conditional Change of Zoning from O-2 Office to Conditional B-2 Community Business on property located at 1805 Kempsville Road, District 2, Kempsville. GPIN: 1455-92-2961-0000.

PROPOSED PROFFERS

1. When developed, the Property shall be developed in substantial conformity with the conceptual plan entitled “CONDITIONAL USE PERMIT EXHIBIT FARMHOUSE BREWERY, 1805 KEMPsville ROAD, VIRGINIA BEACH, VIRGINIA”, dated March 8, 2016, and prepared by WPL (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

2. When developed, the area the Concept Plan labeled as “Future Parcel for Lease” (the “Outparcel”) shall be developed as an eating or drinking establishment or for retail uses, and the following uses shall be prohibited on the Outparcel: automobile service stations; bars or nightclubs; bicycle and moped rental establishments; boat sales; body piercing establishments; borrow pits; building-mounted antennas other than those meeting the requirements of Section 207 of the City Zoning Ordinance; bulk storage yards and building contractor yards; car wash facilities; commercial parking lots, parking garages, parking structures and storage garages; dormitories for marine pilots; liquor stores; mini-warehouses; mobile home sales; motor vehicle sales and rental; passenger transportation terminals; public utility storage or maintenance installations; radio and television broadcasting stations; satellite wagering facilities; storage garages; and tattoo parlors.

3. Further conditions lawfully imposed by applicable development ordinances 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.

CONDITIONS FOR CRAFT BREWERY

1. The farmhouse building shall be renovated in substantial conformance to the submitted architectural plans and elevations entitled, “NEW FACILITY FOR FARMHOUSE BREWERY 1805 KEMPsville ROAD, VIRGINIA BEACH, VA 23464,” dated January 14, 2016, prepared by Work Program Architects. Said plans and elevations have been displayed to the City Council and are on file with the Planning and Community Development Department.
2. The existing mature trees located on the property in front of the farmhouse shall be preserved to the greatest extent possible. The existing mature vegetation located along the northern property line shall be preserved.

3. All required handicap parking shall be constructed of concrete or asphalt and shall comply with all ADA standards.

4. Bicycle parking for a minimum of five (5) bicycles shall be provided on the site and located within 200 yards of the farmhouse building.

5. All necessary permits shall be obtained from the Planning Department for all site work, renovations to the farmhouse and production hangar, and any new construction of accessory structures.

6. All signage on the site shall conform to the regulations of the City Zoning Ordinance. A permit shall be obtained from the Planning Department, Zoning Office for any signage being added to the site.

7. The operation shall comply with all applicable codes and regulations of both the Commonwealth of Virginia and the City of Virginia Beach pertaining to licensure and control of alcoholic beverages.

8. With the exception of weddings, gatherings and other special events covered in the Conditional Use Permit for Assembly Use, only beer or other fermented malt beverages and non-alcoholic beverages may be served on the premises.

9. There shall be no consumption or sale for on-premises consumption of alcoholic beverages between midnight and 10:00 a.m.

10. With the exception of weddings, parties or other such gatherings or special events, live music shall be performed only inside the farmhouse and doors and windows shall remain closed during such performances.

11. All freestanding and building signage shall be subject to the review and approval of the Planning Director and shall be designed to reflect the historic and farming heritage of the property.

**CONDITIONS FOR ASSEMBLY USE**

1. Two weeks prior to any event held on the property exceeding an attendance of 120 guests, to include but not limited to weddings, parties, gatherings, fundraisers, etc., the applicant shall notify the following City agencies: Police Department, Fire Marshal Bureau, Commissioner of Revenue, the Current Planning and Zoning Divisions of the Planning Department, and the Health Department.

2. Occupancy for any event shall be determined by the Fire Prevention Bureau and the Building Official’s Office.

3. There shall be no amplified music permitted outside between the hours of 9:00 p.m. and 12:00 p.m. (noon), or for more than three (3) hours in any one day.
4. All freestanding and building signage shall be subject to the review and approval of the Planning Director and shall be designed to reflect the historic and farming heritage of the property.

CONDITIONS FOR OPEN-AIR MARKET

1. The use shall not be in operation 10:00 p.m. to 8:00 a.m.

2. The Open-Air Market shall be limited to the areas depicted on the submitted site layout as “Market Area” and “Market Pavilion.”

3. There shall be no less than one (1) trash receptacle per one thousand (1,000) square feet of sales area. All trash receptacles shall be regularly emptied so as not to overflow, and litter and debris shall not be allowed to accumulate.

4. In accordance with the Building Code, all temporary structures and furniture will be appropriately dissembled or removed when winds equal to or greater than 60 miles per hour are expected.

5. All applicable requirements of the Health Department shall be adhered to at all times.

6. Merchandise, stalls, or other materials shall not be stored outdoors when the Open-Air Market is not open for business.

7. All freestanding and building signage shall be subject to the review and approval of the Planning Director and shall be designed to reflect the historic and farming heritage of the property.

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

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By a vote of 11-0, the Commission approved item for consent.

The application Edward Hewitt appeared before the Commission.
An application of Aldi (N.C.), L.L.C. for a Conditional Change of Zoning from R-15 Residential to Conditional B-2 Community Business on property located at 929 First Colonial Road, District 5, Lynnhaven.  GPIN: 2408-60-5805-0000.

A motion was made by Commissioner Thornton and seconded by Commissioner Rucinski to defer item 4.

By a vote of 11-0, the Commission deferred item 4.

R.J. Nutter appeared before the Commission on behalf of the applicant to request the deferral.
Item #5  
BRG Cascades East, L.L.C.  
Modification of Proffers  
2120 Centerville Turnpike  
District 1  
Centerville  
May 11, 2016

CONSENT

An application of BRG Cascades East, L.L.C. for a Modification of Proffers to a Conditional Change of Zoning approved by City Council on September 24, 2013 on property located at 2120 Centerville Turnpike, District 1, Centerville. GPIN: 1464-08-1786-0000.

PROFFERS

1. Proffer Number 2 of the Original Proffers is hereby amended to state in its entirety as follows:

“The freestanding signage located on the Property shall be monument style, be no taller than eight feet (8’) in height with a brick or masonry base, shall comply with the provisions contained in the City Zoning Ordinance, as modified by variance(s) granted by the appropriate authority, and shall be substantially similar in design to that certain exhibit prepared by IDF Pensign, entitled “Centerville Entrance”, a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.”

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

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By a vote of 11-0, the Commission approved item 5 for consent.

R.J. Nutter appeared before the Commission on behalf of the applicant.
Item #6
Sheryl Skord
Subdivision Variance
1217 Princess Anne Road
District 7
Princess Anne
May 11, 2016

CONSENT

An application of Sheryl Skord for a Subdivision Variance on property located at 1217 Princess Anne Road, District 7, Princess Anne. GPIN: 2401-61-3897-0000.

CONDITIONS

1. The final plat, when submitted to the Development Services Center, shall depict a minimum lot width for Parcel C of 20 feet.

A motion was made by Commissioner Thornton and seconded by Commissioner Horsley to approve item 6.

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By a vote of 11-0, the Commission approved item 6 for consent.
Item #7
City of Virginia Beach
Change of Zoning
District 2
Kempsville
May 11, 2016

CONSENT

An application of the City of Virginia Beach for a Change of Zoning (R-10 Residential, B-2 Community Business, O-2 Office, R-5D Residential & AG-1 Agriculture to B-4K Historic Kempsville Area Mixed Use District, District 2, Kempsville. GPIN: 1466774982, 1466881349, 1466881249, 1466881220, 1466881104, 1466882272, 1466882390, 1466788968, 1466789967, 1466691229, 1467707183, 1466880523, 1466883580, 1466795194, 1466796214, 1466796346, 1466797501.

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

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By a vote of 11-0, the Commission approved item 7 for consent.

Kevin Kemp appeared before the Commission.
Item #8  
City of Virginia Beach  
An Ordinance to Amend the official Zoning Map by the designation and incorporation of  
Additional Properties into the Historic Kempsville Area Overlay District.  
May 11, 2016  

CONSENT  

An Ordinance to Amend the official Zoning Map by the designation and incorporation of additional  
properties into the Historic Kempsville Area Overlay District.  

A motion was made by Commissioner Thornton and seconded by Commissioner Horsley to approve item  
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By a vote of 11-0, the Commission approved item 8 for consent.  

Kevin Kemp appeared before the Commission.
Item #9  
Jennifer D. Brown  
Conditional Use Permit  
1405 Rail Avenue  
District 4  
Bayside  
May 11, 2016  

CONSENT  

An application of Jennifer D. Brown for a Conditional Use Permit (Child Care Education Center) on property located at 1405 Rail Avenue, District 4, Bayside. GPIN: 1459-83-3540-0000.  

CONDITIONS  

1. The occupancy load for the daycare operation shall be established by the City of Virginia Beach Building Official’s Office.  

2. A Certificate of Occupancy shall be obtained prior to operation of the child care education facility.  

3. Evergreen shrubs, subject to a species and location determined by the Development Services Center Landscape Architect, shall be installed in the grass area in between the right-of-way and the existing parking lot.  

4. In the event that the play area is fenced, no chain link fence shall be installed parallel to the right-of-way.  

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

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By a vote of 11-0, the Commission approved item 9 for consent.  

The applicant Jennifer Brown appeared before the Commission.
REGULAR

Jeff Hodgson: the next order of business is to hear the next 3 or 4 items. Let me give everyone a second to walk out. Jan, if you would, please call the first item?

Jan Rucinski: The first item to be heard today is item 10, Charles and Kelly Plaza. An application for a Conditional Use Permit (Wildlife Rehabilitation) on property located at 2121 Thackeray lane, District 7, Princess Anne. Would you please state your name for the record?

Kelly Plaza: Hi, I’m Kelly Plaza and this is my husband Charles. Let me put my glasses on. I going to read this because, I get very nervous speaking in front of people.

Jan Rucinski: That is fine.

Kelly Plaza: We were looking for something to volunteer and we had heard that every once in a while life was looking for people to help with yard work. She didn’t want us to help with that but she told us about rehabbing. We began to rehab different species but that was clearly more than we wanted to take on. We just wanted to keep things very low key. Since, we both had our preventative rabies shots already, we decided to only do raccoons. I want to specify here we only do orphan babies. We do not do adults. We do not do wild. We do not do injured, only orphan babies. We do not do wild. We do not do injured, only orphan babies. We turned rooms in our home into a nursery. There are several cages of various sizes along with all the paraphernalia that is necessary to care for them. They stay in this room from the initial intake for feeding, etc., until they are moved to the pre-release enclosure where they stay for several weeks, before we take them to an isolated safe location for their release. Prior to moving them outside, we do Parvo and several vaccinations on them, which is above and beyond state guideline regulations. We do have a wild life vet, Dr. Sean Beck at Beach Pet Hospital that works with us, if needed. If we do need to transport the babies to him, we always do so in carriers. We take them into the nursery. We shut the door. We move them to carriers and they stay in there until they are in the exam room at the vets. We have situated the outdoor enclosure. This was a big thing for us. We situated the upper enclosure at a location which is fairly isolated. We wanted a place that would be the best for everybody, us, the neighbors, all the animals. The neighbors can barely see it. None of the neighbors can see it except for a tiny bit due to a 6-foot privacy fence and probably due to very heavy and tall foliage. That is why we picked that location. We made it aesthetically pleasing with siding that matches our house and our detached garage, and it looks more like a workshop than a cage. We are in the process of completing and adding a secondary security door that will have self-opening hinges and locks. We planned to have that finished before today, but I ended up having emergency surgery and that threw everything off. It will be completed before we go before City Council and we will have pictures of the secondary door, the hinges and the locks. We have no issue in doing this at all for security reasons but I do want people to know that when you take animals like this, especially raccoons which are very intelligent and you raise them from babies, they
think we’re mom and dad. They don’t try to escape. Wild ones will do everything they can to get out. Babies don’t. They will literally follow you around like a puppy dog. So, I just want to point that out because most people don’t know. They think everything is going to try and get out. We have the enclosure that is done with two layers. This is the first layer and then there is a 2 x 2, and there is an additional layer and then it is screened for insects. Sorry, 2 x 4. So, it’s got this one then a 2 x 4, so there is a double layer. And they can’t get through this stuff. Chicken wire is another matter, but this they can’t get through. We have four letters of support here from neighbors. We do understand that two neighbors have concerns regarding their dogs. We do inoculate, which addresses one concern. The other concern is barking dogs. We have the, this thing that someone from the City gave us, and it shows where the houses are. The one neighbor that is opposing, he shares this much of the fence. It is a minute spot. We also have pictures that show that unless he literally comes back and climbs up over, it’s a dual fence, his and ours. And unless he climbs up over it, and even then he can’t see through the foliage. And we have pictures here that show from alternate angles where the enclosure is, and how thick the foliage. And that you cannot see it. We also have a four-foot privacy fence all around the enclosure.

Jeff Hodgson: Can you pass those around?

Kelly Plaza: Sure. Do you want to see the letters of support?

Jeff Hodgson: Sure, you can pass them around.

Kelly Plaza: And one of these letters of support, the house is directly beside what he is opposing, and they share this much fence line with us, as opposed to this minute amount. And the concern about the barking dogs. We have four dogs ourselves. Our dogs do not even bother with raccoons. I know some probably would but people need to keep in mind that we do have everything fenced and as you will see from the pictures, and also raccoons are nocturnal. They will sleep during the day. They are only active at night when the dogs are in the house. The other thing, I debated on whether to talk about this because not knowing better when we started this wildlife and not being trained properly and being told proper procedures. Last summer we had five raccoons in our enclosure the entire summer. Nobody knew. We did not find out until the end of the season that it was not allowed and we immediately removed them and it has been empty ever since. She is laughing at me now. Nobody knew what was going on there because it is quiet and we kept it clean. Raccoons use a litter box. I don’t know if people know that. They use a litter box just like a cat, so it is cleaned every day, sometimes twice a day. And if there are any concerns, we’ll be happy to answer them. That is all that I have.

Jeff Hodgson: Are there any questions for Ms. Plaza? Ms. Oliver.

MULTIPLE CONVERSATIONS AT THE SAME TIME

Dee Oliver: When you referred to the neighbor that wrote the letter, show us where he is.

Kelly Plaza: The one who wrote the letter opposing?

Dee Oliver: Yes ma’am.

Kelly Plaza: Okay. If you see that little corner there that is what he shared with us. I can show you a little better. Our enclosure is in the back part.
Dee Oliver: This one shows it better.
Kelly Plaza: This piece right there. He shares that.

Dee Oliver: And your enclosure is here?
Kelly Plaza: Our enclosure is back over here. It is in the back part and it is the only place where there is foliage all around but he only shares that much fence and in the pictures you can see.

Jeff Hodgson: Sir, there is a pointer here, if you could use the pointer?
Charles Plaza: This house. This is the letter from the neighbor that wrote the supporting letter. And this is the other house that is in opposition.

Bob Thornton: That is where the house is going?
Charles Plaza: That is his privacy fence right here. And you really can’t see his house over there or our house.

Jan Rucinski: Can you speak into the mic so we can hear you? Thank you.

Charles Plaza: I’m sorry. But we chose the area because of isolation. If we move it out in the middle of the yard everybody sees what’s going on. This right here is isolated. We never had a problem with his dogs barking because raccoons won’t play with the dogs in the first place. Second, my wife says raccoons are active in the evening. When we say active, all they do play on their toys that we have there. Swing rope, tire, old tree logs or they nest. During the day, they are all nesting, so I’ve never heard their dogs barking at our raccoons.

Kelly Plaza: They bark at squirrels, possums.

Charles plaza: Their dogs bark at other raccoons. There is wildlife in our area. Does this attract wildlife? We have never had anything attracted to our enclosure since we’ve put it up, even when we heard the raccoons in there last year, no one even knew.

Jeff Hodgson: Mr. Ripley?

Ronald Ripley: Can you readdress why you located in that location because when I look here, I look at the subdivision lot being in that location, it becomes approximate of five other lots. Is it up close to your house, it might be approximate for maybe one lot, so it looks like to me that your location, and I heard what you said about isolating but it looks like to me it conflicts with five other lots located where you’re located it. So, can you kind of justify that for me please?

Kelly Plaza: Well, that is the only place. Basically we wanted to have a separate path to keep our dogs away too because technically they are enemies and we are not supposed to let our dogs associate with the raccoons because when they get release in the wild, they need to know that dogs are natural enemy. It is the only place that had enough room to put a fence against our other fence because our fence goes around like this, and back at the corner is the only place where we could put a 4 foot tall fence from here and across like that if you see how our property is set up. Otherwise, there is really no way.
Charles Plaza: It is a weird layout.

Kelly Plaza: When you come out of the west side of our house, you come in through a 10-foot gate, which is where we have to come do mulch and all that. There is no place over there to do it. We could put on the other side of where it is now, but then everybody can see it. So, we chose where nobody can see anything through the foliage and the raccoons are protected. We have talked to all of our neighbors and nobody except for those two we’ve never met in ten years. But all of the other neighbors know us, and nobody has no opposition and we’re truly never affected, and if anybody had an issue especially when they didn't know they were there last year.

Ronald Ripley: We haven’t heard any opposition yet but when neighbors complain and they have a right too.

Kelly Plaza: Oh yes, yes. We just want to address their concerns and let them know.

Ronald Ripley: The purpose of the Conditional Use Permit is trying to figure out if it is compatible or not compatible.

Kelly Plaza: Right.

Ronald Ripley: So that is what we’re trying to wrestle with here. The closest of the neighbors that don’t like it is a problem.

Kelly Plaza: Just keep in mind they didn’t know last year.

Jeff Hodgson: I assume the structure has electricity running to it.

Kelly Plaza: No. There is no electricity. There is no need for raccoons.

Jeff Hodgson: Okay. Would it be impossible to move it?

Charles Plaza: I would have to dismantle the entire structure.

Kelly Plaza: There really isn’t no other place to put it where.

Charles Plaza: Where it won’t interfere with other people.

Kelly Plaza: With everybody seeing it and the dogs.

Charles Plaza: We are required to keep the dogs away from them.

David Weiner: You’re saying that other people didn’t know it was there?

Kelly Plaza: We have never had any escape. No.

David Weiner: Is that the staff’s suggestion or suggesting to build the secondary screen?
Kelly Plaza: It is not a requirement from the state. We followed all the guidelines for this state and it is not a requirement but it is a recommendation, so we did have that in the process. And again, I think we have most of the wood already, but I had emergency surgery four weeks ago, and then I had a major infection after that, so we just haven’t gotten to it yet.

David Weiner: Do you oppose a time limit on your Conditional Use Permit of a year?
Kelly Plaza: No problem with that.

David Weiner: Okay.

Jeff Hodgson: Mr. Thornton.

Bob Thornton: We’re putting a limit of 5 raccoons that you can have at any one time. And they babies. You get them. Are these that fell out of trees, and somebody finds them and doesn’t quite know what to do with them and you’re a place to park them until they grow up a little bit?

Kelly Plaza: We get them they are usually like. They stay in the house the majority of their rehabilitation

Bob Thornton: You have to put them back in the wild for a certain date or otherwise they almost become tame?

Kelly Plaza: Their wild instincts will kick in. We do not keep them past six months normally. That is the longest we would keep them. If you do it too soon, they are just going to be food for another critter and we wasted our time and our money and our efforts to save their lives, but we don’t want to wait too late. You want to do it, usually in the fall before winter sets in, so we usually have.

Bob Thornton: Now are they usually all the same age? Do you get a crop and then let them go and then get another crop and let them go.

Kelly Plaza: Normally they are the same age. Normally in the Spring, you have your spring babies. Occasionally, you have late babies but for the most part it’s within, depending on when they start with the winter, it can be April or May. It’s the biggest.

Bob Thornton: Are these all in one pen together?
Kelly Plaza: Yes.

Bob Thornton: So you don’t necessarily want a mature grown raccoon in there with a bunch of babies?
Kelly Plaza: No.

Charles Plaza: Babies don’t go out there at all.
Kelly plaza: The young adults.
Bob Thornton: Do you have some in your home?

Kelly Plaza: The babies, yes.

Charles Plaza: We will raise them.

Bob Thornton: In your home and then you put them in a pen in your back yard.

Charles Plaza: About one month.

Kelly Plaza: They are there for about a month or six weeks just to get acclimated to the weather and to the noise and stuff before they get released into the wild.

Charles Plaza: We pull back on our contact with them.

Kelly Plaza: They do wild on their own.

Bob Thornton: How many would you have five total some in the house and some outside?

Kelly Plaza: Usually when we get them they are about the same age, so most of the time they would transfer from the house to the cage in the same time. So they would all be together and become a family unit.

Bob Thornton: I guess my question would be you don’t have five in the house and 5 in the cage?

Kelly Plaza: No.

Bob Thornton: You have a total of five onsite.

Charles Plaza: Right

Bob Thornton: At any time. Then once they reach a certain age, how do you get rid of them or dispose of them or put them back in the wild.

Kelly Plaza: We take them to any place that doesn’t have neighborhoods and cars and traffic. And, again, we don’t want to waste our time putting them some place where they are going to get hit and killed. Usually it is a private residence and if we know somebody or somebody knows somebody that has a place in Pungo, which is a good spot, they’ll say, feel free to bring them and release them on our property because we do have to have permission to do it on private property.

Bob Thornton: Among this crop of Spring babies is gone, you might not have more until there is another crop.

Kelly Plaza: Until next Spring. Yes. But for the most part everything is in the Spring. Occasionally you might have few late stragglers.
Bob Thornton: Okay. Thank you.

Jeff Hodgson: Are there any other questions?

Karen Kwasny: Jeff.

Jeff Hodgson: Karen.

Karen Kwasny: I don’t really have a question. Just to clarify. You understand Ron’s concern about the location of the structure. I just want to clarify that I didn’t realize that part of your reason for positioning it where you did because it will be very hard to seclude that structure from your dogs, so you put it in the back corner of your lot in order to allow for you to put a fencing and provide some seclusion for that structure. Correct.

Kelly Plaza: There is a 4 foot around that and a 6 foot around that.

Charles Plaza: Double sided

Karen Kwasny: Alright.

Jeff Hodgson: Is there anyone else? Mr. Redmond

David Redmond: I had a hard time finding some place that could be better secluded.

Kelly Plaza: That is why we took it. We had the perfect spot to try.

David Redmond: I don’t know if this is well screened or not.

Kelly Plaza: Because if you read the letters from our neighbors, we are good neighbors. We have been there 10 years and we try to be considerate. We’re not private people but we do go to gatherings and at their house. The house has one every October. We are very considerate neighbors, and we’re quiet and we’re clean. We have an immaculate yard. I think the guys that came out and did the inspection can tell you our yard we’re better Homes and Gardens.

David Redmond: If I understand you correctly, because it sounded to me, as I was doing the math in my head, they are actually in that pen a month?

Kelly Plaza: Four to six weeks. Depending on when they go out. Yes.

David Redmond: You typically have one crop a year.

Kelly Plaza: One group.

David Redmond: To be liberal about let’s say six weeks of a year you might have 5 juvenile, let’s call them that.
Kelly Plaza: That is correct.

David Redmond: Okay.

Charles Plaza: They don’t reach adulthood until about two years.

David Redmond: What is that equivalent to men years? What is a four month old raccoon?

Kelly Plaza: The life expectancy is five years basically, so that is the life expectancy.

Jeff Hodgson: Five years

Charles Plaza: Three to five years.

David Redmond: Thank you.

Charles Plaza: The earlier at your briefing you were asking about the age of raccoons. There are brains and scientific stuff. We have a chart

Kelly Plaza: That you can tell what age they are.

Charles Plaza: When we get them their eyes and ears are closed, some still have the umbilical cord. Eyes and ears are still closed, that means they are between one and two weeks of age. Again, when one eye starts to open, it falls into another category. There is a full chart that gives you the physical attributes of the animal at that time. You can age them.

Kelly Plaza: Somebody says if we took in a three year old, how would, we know that one from the other one. But we don’t take in three year olds. We don’t take in wild ones at all. But we do have to keep records for the Department and we keep them for ourselves that shows. The shots are for us because they don’t require but we do the age, so we do know each one because they are color coded so we know each one and how old it is.

David Redmond: When you say Department you mean Department of Game and Inland Fisheries?

Kelly Plaza: Yes, their regulations. We go above and beyond.

Charles Plaza: We have to file a report with them yearly on the animals taken in, and the information on top is what they require they need to know about. All this other information, we want to keep track of our records so when Game and Inland Fishery people come, we can pull the file out and here is your paperwork on this specific animal. Each animal gets their own medical sheets.

Kelly Plaza: It is like a birth certificate.

David Redmond: I think that would be helpful for the record.

Charles Plaza: For identification purposes?
Kelly Plaza: People say how can you tell them apart? Even when they are babies, we have to color code them because they all look the same so we have to use nail polish on their heads or their tails to know which one is which.

Charles Plaza: After about a month or so, you can start picking out, well we can.

Kelly Plaza: Their personalities come out.

Charles Plaza: We stop the color coding.

David Redmond: Thank you.

Jeff Hodgson: Are there any other questions.

Jack Wall: I’ve got one. You’ said you’ve been doing this for a year?

Kelly Plaza: Almost two years.

Charles Plaza: Almost two years.

Jack Wall: This may have been mentioned before but how many have you had?

Kelly Plaza: We had

Charles Plaza: Seven total.

Kelly Plaza: We had seven last year. Prior to that, we had one possum, and we’ve done squirrels before. Like we said, it is just too much. It is supposed to be a hobby, a volunteer thing not to take over our lives.

Jeff Hodgson: Is there anybody else? Thank you very much.

Kelly Plaza: Thank you very much.

Jan Rucinski: There are no other speakers.

Jeff Hodgson: There are no speakers so we will close this and open it up for discussion. Would anyone like to start or make a motion?

David Weiner: After hearing a little bit more about it, how small they come in and they are only there for six months. I think I said this last time this came in front the last time when something like this came in front of us. If this was my neighbor, my wife would probably be there every day helping. So, I don’t have any problem in supporting this.

Jeff Hodgson: A motion made by Commissioner Weiner. Is there a second?
Jan Rucinski: I’ll second it.

Jeff Hodgson: A second by Ms. Rucinski. Mr. Weeden?

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Ed Weeden: By a vote of 11-0, the Commission has approved the application of Charles and Kelly Plaza.

Jeff Hodgson: Thank you for coming down.

Kelly Plaza: Thank you very much.

Donald Horsley: Mr. Chairman, may I make one comment?

Jeff Hodgson: You may.

Donald Horsley: When you get ready to release them, don’t run them down Blackwater. They are a nuisance to me. They do like sweet corn, I believe.
Item #11  
Sanitria Gardner  
Conditional Use Permit  
690 Baal Court  
District 2  
Kempsville  
May 11, 2016  

CONSENT  

An application of Sanitria Gardner for a Conditional Use Permit (Family-Day Care Home) on property located at 690 Baal Court, District 2, Kempsville. GPIN: 1466-55-0996-0000.

CONDITIONS  

1. Arrival and departure times shall be staggered to avoid vehicular congestion.

2. The family day-care home shall be limited to a total of twelve (12) children, other than children living in the home.

3. The applicant shall maintain a license with the Commonwealth of Virginia, Department of Social Services.

4. No more than one (1) person, other than the applicant, shall assist with the operation of the family day-care home at any one time.

5. Any sign identifying the home occupation shall be non-illuminated, not more than one (1) square foot in area and mounted flat against the residence.

6. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official’s Office for use of the house as a family day-care home.

A motion was made by Commissioner Thornton and seconded by Commissioner Horsley to approve item 11.

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By a vote of 11-0, the Commission approved item 11 for consent.

The applicant Sanitria Gardner appeared before the Commission.
CONSENT

An application of Diana Wilson for a Conditional Use Permit (Family Day-Care Home) on property located at 1180 Clydesdale Lane, District 1, Centerville. GPIN: 1456-30-9293-0000.

CONDITIONS

1. The home daycare shall be limited to a total of twelve (12) children, other than children living in the home.

2. The applicant shall maintain a license with the Commonwealth of Virginia, Department of Social Services.

3. No more than one (1) person, other than the applicant, shall assist with the operation of the Family Daycare Home at any one time.

4. Any sign identifying the home occupation shall be non-illuminated, not more than one (1) square foot in area and mounted flat against the residence.

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

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By a vote of 11-0, the Commission approved item 12 for consent.

The applicant Diana Wilson appeared before the Commission.
CONSENT

An application of Phil Bonifant for a Modification of Conditions to a Conditional Use Permit (Country Inn) approved by City Council on December 9, 2003 and a Conditional Use Permit (Assembly Use) on property located at 2244 & 2252 Indian River Road, District 7, Princess Anne. GPIN: 2403-41-9483-0000; 2403-41-8534-0000.

CONDITIONS

1. The conditions of the Conditional Use Permit approved by the City Council on December 9, 2003 shall be replaced with the conditions below.

2. A Certificate of Occupancy and all applicable approvals from the Fire Prevention Bureau must be obtained for the additional guest room and the additional Assembly Use on the site.

3. All applicable permits shall be obtained from the Planning Department, Permits and Inspections Division, for the expansion of the open-air pavilion (labeled “Pole Barn” on the submitted site plan referenced in Condition 6 below).

4. Prior to each event, the applicant shall notify the Police Department, the Fire Prevention Bureau, the Health Department and Emergency Medical Services of the event’s time, size and scope of activities.

5. A Tourist Establishment Permit must be obtained from the Virginia Beach Department of Health.

6. The site shall be developed and operated in substantial adherence to the submitted Site Plan entitled “PHYSICAL SURVEY PARCEL B-1 SUBD. OF PARCEL B A.E. FENTRESS, VIRGINIA BEACH, VIRGINIA,” dated January 17, 2016 and prepared by Bonifant Land Surveys. Said Site Plan has been displayed to the City Council and is on file with the Planning Department.

7. The Country Inn shall be limited to three (3) guest rooms.

8. Food and beverage service shall be full breakfast service seven days per week and complimentary snacks and beverages. Food and beverage service is limited to guests only and in no event shall seating capacity exceed twenty-five persons, including lodging guests.

9. There shall be a parking attendant provided at each wedding, party, or similar gathering being held on site to direct guests where to park and to assist guests entering and exiting the site. All parking shall be on site.

10. There shall be no additional signage permitted on the site.
11. There shall be no weddings, parties, or other similar events between the hours of 9:00 p.m. 10:00 p.m. and 12:00 p.m. (noon). [revised by Planning Commission at May 11, 2016 meeting]

12. There shall be no amplified music permitted outside between the hours of 10:00 p.m. and 12:00 p.m. (noon). [revised by Planning Commission at May 11, 2016 meeting].

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

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By a vote of 11-0, the Commission approved item D1 for consent.

The applicant Phil Bonifant appeared before the Commission.
Item #D2
Beach Borough Development, L.L.C.
Change in Non-Conforming Use
403 33rd Street
District 6
Beach
May 11, 2016

REGULAR

Jan Rucinski: The next item to be heard today is Item D2, Beach Borough Development, L.L.C. The application for a Change in Non-Conformity on property located at 403 33rd Street, District 6, Beach. Do we have a speaker for this item?

Jeff Hodgson: Mr. Bourdon. This is where it gets real easy. The other one was getting tough.

Jan Rucinski: Make sure you state your name for the record.

Eddie Bourdon: For the record, Eddie Bourdon, Virginia Beach attorney. It is my privilege to come before the Commission on this application. I’ve given Mr. Weeden a larger version of the elevation of the proposed duplex on 33rd Street. It is easier to see than the one in your package, as well as a letter from the adjoining property owner on the east side, expressing support for the application. This morning I passed out and gave each of you a two-page handout that includes an index showing the properties on 33rd Street, and a few properties on 34th Street, which I am going to refer too in just a second. But the composite map, as well as a listing of each property, the number of units on the property the properties zoning. These aren’t tax accessed value, broken down per unit. I am going to refer to that in just a couple of minutes. The first thing that I want to say is that the first one of these that the Planning Commission has heard. It’s an application for a non-conforming use modification. As Bill Macali appropriately and correctly pointed out this morning in the informal, the standard is equally or more appropriate use of the property than in the current use. The Staff has recommended approval of this application, which is something that the Commission should not take lightly. If we could put up the composite map or zoning map, either one, the zoning map would be great. I don’t think you all have it up here. There have been two non-conforming use modifications approved by City Council unanimously with no opposition both on 34th Street. It doesn’t look like you’re going to get those up there. One of them is directly behind, well no exactly, caddy corner to this property. This piece of property was Rickman’s property. It had, and I can’t recall five or six units on it. I think it is six. It has been approved for a four-unit condominium that was shown earlier in the informal. Next to it is a piece of property that has seven units on it. These are the same size properties as we are dealing with here. I just want to point that out. And then there is the Zimmerman property to the east, and the next block of 34th Street that also was approved unanimously for a non-conforming use, and that is exactly number 12 on the list that I have provided to each of you. All I want to do is take just a second to go down this list of properties, and where they are located. They start on the north side of 34th Street. They begin with number 1, and they go all the way on the north side to number 8. Also, number 1, the same size as the subject property, same zoning as the subject property, A-12. It has five units on it. They are valued at $590,000. Property number 2, same size as the subject property, it has four units on it. It is zoned A-12. Property number 3, double the size, A-24 zoning and it has nine units on it. And you can look at the valuations on it. Property number one, under its zoning, one unit. Property number two, by-right one unit. Property number 3, by-right four units. It has got nine. Property number 5, at the corner of Arctic
and 34th Street, A-12. It has eight units on it, by-right, it had two. It has A-24 zoning. Our property with four units on it, A-12, can have one unit on it. The property next to us on the west has six units on it, with the same zoning, and by-right, it can have one. Next to us, a three-unit condominium, next to that is a three-unit condominium that by-right can have one. Next to that another three-unit condominium, by-right can have one. Across on the other side of 33rd in our block, the corner, property number 9, same zoning has 6 units on it, and by-right it can have one. At the corner of Arctic and 34th, across the street, caddy corner from us, a piece of property is A-36 zoning has 11 units on it, and by-right it can have five or six. I am not 100 percent sure of the actual square footage of the property. On 34th Street, number 11 and number 12, as shown, both have three units on them, and by-right, number 11 can have one. Number 12, I am not sure because it has split zoning between A-12 and A-18, I think one fraction, possibly two. And number 13, has currently three units on it and by-right, it can have, that is the one that I was talking about, it can have either one or two. The other two, numbers 14 & 15, A-24 zoning with four-units can have possibly two units each on them. Every one of those properties is non-conforming, every single one. The City tried and would very much like to have this property in the Form-Based code, which would be a good way to solve the problems. We can’t up-zone any of these properties. We can’t change the zoning on any of these properties because of the situation with the Navy. The Navy is the reason they are not in the Formed-Based Code. The non-conforming use modification process is the only way these properties are going to redevelop, and that is what needs to happen. It is only through redevelopment that we are going to get road improvements. We’re going to get sidewalks. If this property redevelops, there will be a sidewalk in front of this piece of property. The only way these properties are going to improve is with redevelopment, and that is the non-conforming use process. At least the City has some control in that way. The A-36 piece that can redevelop from 11 units to five or six can develop by-right into a high rise. Anything they want built is pretty much acceptable in A-36. But that is the dilemma we have. But the benefit that we have has clearly been demonstrated. By the redevelopment taking place, organic redevelopment without one penny of taxpayer’s subsidies and the Zimmerman property is the best example. Frankly, the one next to it, I don’t know how it got done without a non-conforming use application. It should have had one. Apparently, it didn’t have to have one. I don’t know how that happened, but those two cases numbers 12 & 13, are perfect case studies on what a great thing, an organic redevelopment occurred. The Zimmerman property was valued at $406,000 before it was redeveloped. Now it is valued at $1,606,900.00. Four fold increase in the value of that piece of property. The one next to it, it is got to be very, very similar. If you look at the per unit values on these properties, they’re basically less than $100,000.00 before redevelopment. Folks, on this application we spent months on it. We’ve applied the Form-Based Code design to this piece of property. We have done everything we know how to do. We went from having four parking spaces on site to having 11 plus the ability to stack three additional parking spaces. We are certainly not going to create a parking problem for anybody. We are reducing the density to a reasonable density, with three units on this piece of property, commensurate with the two properties, not the one adjacent to the west of this that was developed a number of years ago. It is not new. It has been there for quite some time. But the face value, because as they still show that properties number 7 & 8 values of $370,000.00 per unit, rather than the $90,000.00, $50,000.00 and the $75,000.00, the stuff that we see up and down this street and on these old apartment buildings that are all, every single one of them, is non-conforming. So, the idea that we are now, after spending all of these months and getting to the point where we got a very high quality product. It will be valued and today is $370,000.00 tax value, it will be when we are done. When these units are sold to owner occupants, it will be that over a million and half dollars. And, you will have owner occupied units. You will have sidewalks. You will have a much better product than exists there today. And apparently, is are some thought that these should be down-zoned to help you live in a duplex. And folks, that is not going
to happen. We are going to basically freeze in place just what is there now. The cash flow on these properties is going to stand in the way of redevelopment. If we tell all of these people who have properties that are worth a lot more money than with the cash flow they are getting, I’m sorry, if you want to redevelop, you get two units. That is all that you get. Because by-right, with the exception of the A-36 property, and the one A-24 property, a couple of A-24 properties, all they have is the ability to do one, and some two. So, the point here is if you can put a Form-Base Code type of policy in place in this area, which the City wanted to do, and tried to do, and the Navy wouldn’t permit it, and they tried twice, and the Navy still said no, if we had that option, we wouldn’t be here. We would be here with an Alternate Compliance, and this is the consistent with the other Alternate Compliance applications that have been approved in the OR District. This is a reduction in density. A huge increase in value and it’s what the market will take care the necessary redevelopment of the street, if we stand in the way with the solution looking for a problem, we are going to be stuck with what we have on that street for the perceivable future. And that is essentially what this is all about. Now, this building, the duplex, the west unit is set back 12 feet from the property line, and about 18 feet from the edge of pavement, and there will be a sidewalk, as there has to be as a part of redevelopment. They will probably make us put in some curb and gutter as well. The eastern unit is back 18 feet from the property line because that is the driveway and parking and from the street. It is 30 feet from the actual paved section of the street. It is consistent with Form-Based Code. We have the distance in between, consistent with Form-Based Code. The setbacks were not any different and behind us we’ve got, to the north, we got a 4-plex. We showed it this morning, the elevation that was approved by City Council unanimously, on the same size lot.

Jeff Hodgson: Are there any questions for Mr. Bourdon?

Ronald Ripley: I’ve got a question.

Jeff Hodgson: Mr. Ripley.

Ronald Ripley: On the properties you were reciting, the one on 34th Street, 316 & 319.

Eddie Bourdon: Yes sir.

Ronald Ripley: Were they done under a variance like this?

Eddie Bourdon: Number 12 was done exactly and directly at Council, approved unanimously by City Council. Number 13, I do not know how, they did not require that to happen. They did a very similar development. Actually, I think it preceded 316. It has got split zoning, part of the property is zoned A-18, part is zoned A-12. But my math, I don’t know how you get to three units by-right on that piece of property? It should have been a non-conforming use modification, in my view, but regardless it is a beautiful new development with high value units.

Ronald Ripley: The two that’s mentioned, went directly to Council? It did not go to Planning Commission?

Eddie Bourdon: This is the first time. This is due to a non-conforming use application that went south, and I was involved on Lookout Road in Bayside. From that point on, Council decided they should view these applications, that they should come to Planning Commission first.
Ronald Ripley: Yeah.

Eddie Bourdon: Right. That is what brought this one. And the one that is about to begin demolition, and reconstruction of the Richmond property here, and Carolyn had that this morning on this PowerPoint presentation. It has two units off the alley, and two in the middle. It is a 4-plex, again, approved by City Council unanimously with no opposition from any of the property owners in the community. This little section of area is somewhat stuck because of the situation with the MOU, and not be able to and we can’t change the zoning on these properties.

Ronald Ripley: The Commission has seen these types of applications in the former zoning area but they have not had any history of working in this particular type of area, and City Council looks like to me, I’m looking at this on my computer. I’m looking at elevations that were very similar to this. So they have ratified these things in the past is what you’re saying?

Eddie Bourdon: That is absolutely right. The property is not shown to our west. The owner of that property is here, it’s a six-unit building, and I have met with her and talked with her, and I’m not going to put words in her mouth, but she understands the need to have the ability to redevelop these properties, not necessarily today or next year or two years from now. But it would be an absolute. We’re just going to be looking at these apartment buildings because of cash flow for the rest of any of our lives. If none of these properties can redevelop unless they build a duplex, it is just not going to happen.

Ronald Ripley: Okay.

Eddie Bourdon: What has happen with those two units, especially the Zimmerman property, and my clients frankly have built condos across Holly Road. Right here, you can see it on this particular map. And those units have sold for between $570,000 and $640,000 per unit. These three units will undoubtedly sell for a total combined of over one and a half million dollars. And they will be owner occupied versus these small apartments, eleven of them over here, nine down here, eight on this piece of property that have been there for decades and decades and decades. But we don’t meet with the Navy situation. We don’t have the ability to create any incentive for these properties to redevelop and if we take away the market incentive, then we’re going to be stuck with just what we have. And that’s not logical thinking. Most cities would give their right arm for this type of organic redevelopment happening without any values and incentives.

Jeff Hodgson: Mr. Bourdon, and I know you said the number, the Zimmerman project, what number does that represent here?

Eddie Bourdon: That is number 12. It should be highlighted in yellow. It is A-12, with three units, and the pre-development. There was a little apartment building on in there with three units that was torn down and replaced by the one with three units. It went from $406,000 in tax accessed value to $1,607,000 from all interest and purposes.

Ronald Ripley: Can I ask one other question? Maybe it is statement. There was a question about sidewalks. Of course, the sidewalks were never built on the owner’s property. It is built in the right-of-way. Do you anticipate having to build sidewalks in the right-of-way? I thought I heard you mention something?
Eddie Bourdon: The City will require when we come in with a site plan, and in site plan review to redevelop this piece of property they will require the applicant to put in a section of sidewalk on his property.

Ronald Ripley: On his property or the right-of-way?

Eddie Bourdon: No, I’m sorry, you’re right, in the right-of-way in front of his property. It’s my mistake. Within the boundary lines extended on the sides of his property. That’s the way the sidewalk will get built unless the City puts the money in to build the sidewalks. The City has done a lot of that at the oceanfront between Atlantic and Pacific on side streets, but I don’t think there is any money in the budget, but the more of this type of redevelopment that balloons the tax base here, and gets owner occupied units here, the more likely the City is going to open its wallet and make some improvements, but no one is asking for that. That is what the City will require when we come in with a site plan to redevelop this property. They will require that we’re going to have to widen the alley behind the property and put in a sidewalk in front of the property, in the City right-of-way. And, there is about 12-14 feet of excess right-of-way until you get to the edge of the pavement or to you get to the property line. I don’t believe there are any speakers.

Jeff Hodgson: Does anyone else have anything for Mr. Bourdon before we go to the next speaker? Thank you sir.

Eddie Bourdon: Thank you.

Jan Rucinski: I believe we have one official speaker and that is Susan Gorog.

Eddie Bourdon: She is the property owner to our west. It is the six-unit apartment building directly to the west.

Jan Rucinski: So, there are no other speakers.

Jeff Hodgson: Alright. So, we will close the public hearing and open it up for discussion. Who would like to start? Mr. Redmond?

David Redmond: I’m glad that Mr. Bourdon stated things in that way because it was only when he went to his discussion that it occurred to me this is not in Form-Based Code because it looks so much like it. It really does. I think, for me, what it comes down to really is dead right. When you look at the profit, it is big bucks. Big flat wall, flat window, everything is pretty drab. That’s how property owner maximizes value of property. He builds as much as he could with a little articulation. He spent the at least amount of money doing it. In this case, I think what we have is a rare opportunity, hopefully not that rare as we move forward, for someone taking a creative look and just look at this exhibit. This is very uncommon. All of these, you know, the differences in elevation and peaks, and the materials that are used are high quality, which we have seen more particularly in the Form-Based Code, and this is a place where you can do it, and ultimately the product is going to be an awful lot better than if we just say, nope, here you go. Now what? And if there is a duplex built on that lot, it is not going to be very attractive. And, there is going to be far less control over the materials used, and we’re going to regret it. So, I think this is wrong to make the perfect the enemy of the good. This is pretty darn good. I think we’re fortunate to have this kind of development opportunity at the oceanfront, quite frankly. It raises the bar, and can raise the bar
Item #D5
Virginia Beach Travel Soccer
Page 6

for the whole neighborhood. As far as the unit in the back, this morning that seemed to be garnish, so
much not a lot of love, quite frankly. That to me looks like a hell of a place to live. It is an alley to begin
with, so I don’t know how it could be so difficult. I envision some young person with a little bit of money
will have the time of their life living there, and I bet you, you’ll look at this and say “that was one that
was a good opportunity, and thank goodness that we did it the right way.” Because, I think this is the
right way, and it is an alternative to something that we would in the end regret. And come back in 3, 4
or 5 years and kind of check out our work, but I think this is an awful lot better than we would end up
with in another scenario. Thank you.

Jeff Hodgson: Is there anybody else?

Ronald Ripley: I’m just going to speak to the applicant when he first came forth with their plan it was a
little large and oversized. And this is still a large amount of space on this lot. But he has worked pretty
hard to try get the elevations so they are keeping with a lot of the other developments that have
occurred in and around this particular area. We just approved one last month or recommended for
approval, which was at 528 21st Street. I realize that is Form-Based zoning but this is in keeping with
that. If you look at the, fortunately, I have the elevations ups on 34th Street and very similar to what we
just approved around 21st Street. And they were done under the old ordinance where the City Council
heard it directly and we didn’t have any input at all. So, it seems like it is in keeping with the patterns
that are occurring, and I appreciate the applicant working on the elevations because if you take the
property to the left prior to the revisions, the elevation they were looking at was just a huge big blank
wall, and now I think you have character entered into it. There are architectural features, gables, and
more windows and all those type of things that makes it look better so, I think the applicant has done
well. I think staff has done a good job in working with them, and trying to get to the point where we
are, so, I support it.

Jeff Hodgson: I have a question of maybe Carolyn. You just referenced the properties that are on 22nd
Street. What is the setback on those? Do you know which ones I am speaking of?

Mike Inman: Eric Homes properties.

Jeff Hodgson: Yeah.

Dee Oliver: That is Form-Based Code.

Carolyn Smith: Building frontage?

Jeff Hodgson: I’m sorry. I am trying to visualize how close to the road they are. Are they setback more?

Ronald Ripley: Are you talking about 34th Street?
Bob Thornton: No, 21st Street.

Jeff Hodgson: I think 21st Street. 22nd Street. In the meantime, can we see the picture of the structure
that is there now? Do we have one?

Dee Oliver: I agree that the applicant has done a great job with the elevations. I think they are creative
and lovely and add a lot of different elements and style that we need in that area. The purpose of the
Laskin Gateway started out as a huge project at the beginning at the oceanfront working its way west along with Cavalier project. They’re bookmarks for this particular area that we have now designated into “Mid Beach”, for lack of a better name. And because of that and with all the zoning, this particular project by-right, he can build a duplex. There is not a single-family dwelling allowed here at all, and not that I have a problem with it, with a small cottage in the back, most of the north end houses are like that. A lot of them are single-family dwellings in the front with garage apartments in the back. The footprint of this, he never has changed. I mean, he changed the elevations, but his setback is from the front is 30-foot setback, and he I asking for five feet. He is asking for five on the side, which would be then, and he is asking for seven or five on the rear, which requirements are 30, 10 and 10.I think the footprint for this piece of property is too large. I mean, we did this down in the Transition Area. We were careful with that. We were watching and people were coming in and building exceeding the lot size with what they were trying to build, and it is happening again. As far as the apartments on the other side of Holly Road, the townhouses that were built, the brick ones, they are beautiful. I actually looked at one at one time. They are running about $700,000 - $800,000a piece, but they are not built to the edge of the road or to the edge of the property. They are within the boundaries of the setbacks, and I don’t see why that is a problem in asking as we redevelop this area for people to go. That is why we have the zoning laws in effect. I’m not in support of this the way it looks.

Mike Inman: I am going to say I am struggling with this. I am struggling with this because I’ve gone down the street at least seven times since this thing started. It happens to be on a path that I go. So, I’ve gone off Holly Road and driven down there. I’ve looked at the ones that Ron was talking about that were done previously on 34th Street. They are not this close to the road. I was trying to look to see houses now on this lot now. I don’t think anything is this close, no existing structure on this street. I don’t think after looking at it a number of times, I don’t think anything is going to be this close to the right-of-way. I don’t know if we want to be this close to the right-of-way ever. So, I don’t have a problem with the three units. It is a nice layout. I just have a real concern about how close it is to 33rd Street. That is my main concern.

Jan Rucinski: I sort of ditto those same remarks. I’m sitting here on the fence because I believe it looks like it is a good product, but I also agree that it is too big for the lot they are putting it in. I also not opposed to the three units. But I am opposed with how close it is going to be. And everybody on that street builds something that close to each other and the street, than there is no property. There is nothing. There is no open area. There is no grass. Everybody is on the road and you can reach out of our window and shake hands with your neighbor.

Jeff Hodgson: Karen.

Karen Kwasny: I am in agreement with Jan, Dee and Mike in terms of, well actually, I am more in agreement with Dee because I am also in opposition to this mainly because of the size and scale of the building. I think that three units are not a problem at all. It is the absorbing all the space around you in order to get in as much as you can, and I don’t think aesthetics have to be, and it will give you this at the expense of something else, and so we are losing something when we go this large on a lot like that in that area where that’s not in keeping with what’s surrounding it. It takes up too much space in my opinion, and then you lose what you’re looking for in the first place, which is that view from the street.

Jeff Hodgson: Is there anybody else?
Carolyn Smith: Excuse me Mr. Hodgson?

Jeff Hodgson: Yes.

Carolyn Smith: I do have confirmation that the setback on 22nd Street is 5-foot.

Jeff Hodgson: It is 5-foot.

Dee Oliver: Which is form-based code. It is falling under form-based code.

Carolyn Smith: Correct.

Ronald Ripley: How about 21st Street? Do you think it is about 5-feet?

Carolyn Smith: Correct.

Karen Kwasny: Which is the difference between form-based code and not.

Ronald Ripley: That is schematics in my opinion. If its looks the look and Form-Based Code intended to design to a look and that is what this designed to. That is why I am up in the air on that. It looks like to me when you put the 5-feet in front of it, and then the property another 14 feet in the right-of-way, it gets sidewalked and landscaped, then I think you get the same look. It is the same thing.

Dee Oliver: I am not disagreeing with you but form-based code is based more on urban design and I don’t know if that in this particular area, that we’re looking for that. I mean, right here. It’s not a huge area, and granted the apartment building, what is that Linkhorn Oaks, is that the name of the apartment building, west of it. That will be redeveloped. All of it is going to be redeveloped. And most of all it, its time is coming. And so, since we have this opportunity for this and it is a small area, we’re talking two blocks, basically, maybe three. It is a good opportunity to come in and address aesthetically how we want it to be. It doesn’t need to be in this mass. It doesn’t need to go five feet. I think it is too large in scale. I think we can do better. I think he has the capability to do better and scaling it down a little bit and give us a little more space, more connectivity, more walkability, more of a north end look because that is where we are. We are coming from 31st Street and we’re going north. We’ve done it with the Cavalier project. We’re working at the North End to not let this happen in the North End for that particular reason. And, I think he can do a great job, but I think he can make his footprint a little smaller. I would hope he could do that. I would encourage him to do that.

Ronald Ripley: Does the applicant want to do that? Defer and try it again?

Eddie Bourdon: The first application. This is a smaller footprint than the first application. And, under Form-Based Code, which this makes 100 percent, just so there is no ambiguity. This is exactly what, in fact, the only thing that doesn’t is this unit with the access in the front. If we had both of these up here, it would be exactly Form-Based Code. Form-Based Code requires a separation between the units, which we have achieved. The notion that this area with this density existing, it is in the north end. It is not single-family duplex north end. This is an urban area. It’s urban without any doubt whatsoever, and to suggest moving this back 30-feet. They could have one big massive building, which is what I heard the first time was the problem because we had both units on this side, the garage on this side, and basically
the use of the property was one massive building. That doesn't exist anymore in spite of some people's impressions. So, to move this back thirty feet, we eliminate or we substantially squeeze from the east. You wind up with one big massive wall. No matter what you do unless you want to build a small inexpensive units, which defeats the whole purpose of creating a much better, more valuable owner occupied area rather than a renter's area. And that is what Form-Based Code and like I said earlier, the City tried and has tried twice to get the Navy to agree to let us put Form-Based Code here, so the idea that now all of a sudden form-based codes is not a good idea here, I’m just not, I am no understanding where that is coming from. Sorry, I do not understand the thought processing Form-Based Code is now. Call it a slam dunk. Great thing for the City and it will continue to be and this is the perfect place for it, if we can put it there but Form-Based Code doesn’t have limitations on the number of units, and that is what the Navy didn’t like. The argument and try to use that Form-Based Code architecture and separations and putting in sidewalks and putting porches out on the street, the fact that isn’t a good residential look in an area where you got 11 apartments across the street, eight of them on the next corner, nine next to that. I don’t follow. I don’t have that concern. And I have not heard that concern from anybody else in these three blocks or four blocks.

Jeff Hodgson: Dave has been waiting for a while.

Dave Weiner: I just want to say something real quick. I came in here on the fence but after listening to everybody I didn’t realize a couple of things from what Mr. Bourdon said and I am going toward Ron and Dave and the only reason why just because of the fact that Council has tried to get this change in Form-Based Code so I kind of want to move it around and maybe get that same picture. And they tried it a couple of times. Now they can’t do it because of the Navy to have a non-conforming use right to try to get to look like form-based code, it’s going to look a heck of lot better than what is there now.

Jeff Hodgson: Mr. Inman.

Mike Inman: I’m not talking about Form-Based Code. It has nothing to do what I am talking about. If this had the same appearance in terms of setback, as the two projects that Eddie talked about that were done at 316 & 319 34th Street that would be fine. I don’t know what those setbacks are. I don’t know how far back they are from the actual pavement or from the right-of-way. I wish this project was stated and I could go look and see where it was going to be because it so hard to understand since the pavement up there is not up to the edge of the right-of-way. You can’t really figure out how it is going to be situated relative to the street and how imposing or not it is going to be. But, I think it is going to be closer to the pavement, closer to the right-of-way than 316 & 319 34th Street by a number of feet. So, that’s really my whole concern.

Jeff Hodgson: How far is the existing four unit structure setback right now? Do you know that answer?

Eddie Bourdon: 27 feet Mr. Chairman.

Jeff Hodgson: It is 27?

Eddie Bourdon: 27 feet. The western unit will be about 12 feet. The eastern unit will be 18 feet back from the property line, from the edge of pavement the eastern unit will be about 32 feet back, 31 or 32 feet back from the edge of pavement and the western unit will be to the porch will be about 15 or 16 feet from edge of pavement. To the actual enclosed structure, it will be 21 or 22 feet back from the edge of pavement.
Jeff Hodgson: So the first is getting the porch edge?

Eddie Bourdon: On the east side. The west side you have 18 feet of parking pad. There is a second floor porch balcony that would be a little bit closer but you can see it is back beyond the face of the building. I did the Zimmerman application on that other question, and I wish I had brought it with me. I am certain that the setbacks are not 30 feet. But I do agree with Mr. Inman’s characterization that it is setback further than these are setback. I believe the porches are probably at a 18 or a 20 and the building more than that but that’s from the property line. I don’t know how much excess right-of-way exists on 34th Street but that’s from feeble minded memory. I am not getting any younger but that was a few years ago.

Ronald Ripley: The picture looks maybe double or maybe 10 feet or so.

Eddie Bourdon: And it could very well be. I am talking about the one on 34th Street. The one on 21st Street, I know, those are five feet. There is no doubt about that. No doubt whatsoever.

Jeff Hodgson: Carolyn?

Carolyn Smith: On 34th Street setback for the porch is 15 feet.

Eddie Bourdon: So, 15 feet. I’m sorry, I had a memory lapse.

Ronald Ripley: The two garages?

Eddie Bourdon: They have three garages on the alley in the back. They have the benefit of having a wider lot, so the three garages all line up on the back on the alley, and the three units all front equal distance to 34th Street in the front.

Jan Rucinski: What would be the possibility of reducing the interior square footage to allow for a little bit more setback?

Jeff Hodgson: That becomes an economic decision.

Eddie Bourdon: That is ultimately, I hate to say this, it is not unreasonable question that you’re asking Jan. The real problem comes in is when you look at the other zonings on these other pieces of property, and what we’re going to do when they need to redevelop, and they need to put, because they got nine units or eight units. They’re going to want to do four or five, six units, not two or three units. And we’re going to wind up, the only way we’re going to get these properties to all redevelop with the amount of density that they have today and the cash flow they have today to go away and get new owner occupied stuff, is if we have to hold for a 30-foot setback, that’s not going to happen on these properties. They are either going to be on the street or they are going to go up because they are not going to build. They are not going to get rid of nine units and eights and eleven units, and build three. That won’t happen. So, we squeeze ourselves today and say on 33rd Street, we’re not going to have anyone build within 30 feet of the front yard setback we’re going to have a problem. That is why the City has tried twice to get form-based code here because it will 100 percent work. In fact, there is more density here than a lot of places on the south of 32nd Street where we put it. That is why it made sense to do it here. But we can’t do it. I don’t want to drag a whole constant issue but it has been tried. It has been tried twice. Then all
of a sudden out of the blue, we think these ought to be 30-foot setbacks. It is not seeing the big picture. I apologize. I am not trying to sit here and be antagonistic or critical to anyone but the staff has this right. They are your professional staff and they lived this like some of the rest of us for the last 25 years. It is going to be closer than what is on the street today. Absolutely. But if we tell everybody that you got to setback 30 feet, we’re creating another problem.

Jeff Hodgson: We never said 30-feet. No one ever said 30-feet.

Eddie Bourdon: I did hear that this morning.

Dee Oliver: That’s the proposed. That’s a requirement. The requirement is 30-feet.

Eddie Bourdon: I thought I heard people suggesting 30-feet.

Jan Rucinski: No, that is why I was wondering if there was an opportunity to make a compromise like Carolyn said, the other one on 34th Street is got a 15-foot setback that you know, can there be some compromise that we can come up the required setback that he could provide a little bit more by changing something on the interior.

Eddie Bourdon: If the idea is, two things are going to have to happen. You make the apartments a little bit smaller less valuable and you would also squeeze the units together because unlike the other ones on 34th Street because of the wider lot, they don’t have the third unit in the back. They just have garages there, so you have a nice separation. What you do when you push this back. To answer your question, there is not going to be the ability to push those back 10 feet or 15 feet without squeezing the two together more.

Jeff Hodgson: I think that is the question though. Would you rather have it on the street or take five more feet from the back. I know you did kind of what you was asked was when we looked at this before it looked like a cruise ship. It was a giant wall down both sides, and we asked you to separate it, which you did. I mean, to be honest with you, my finger is in the middle of these two buttons right now, and it still is, and I am still weighing all this.

Eddie Bourdon: I’m not saying that we won’t try again, I need to talk to my client who is here. But I want to mention one other thing that we tried very hard to do as well. We happen to have the support of the property to our east and the owner of the property to the west who is here. There is one benefit that this provides that moving this back, it hinders and that is they have a building over here that starts here, and it is not going to be torn down anytime soon, but it extends with six units all the way back here. So, now we have a very extensive area where we are not building anything in front of her building, and blocking the view to the east. So that building is oriented with the views facing the east, so, by having it forward, it actually minimizes the impact on her units as they exist today. I believe that made sense for them and ultimately like I said earlier, and I am repeating myself, because of the other more dense development that is going to come into redevelop through this same process, I don’t know that setting a precedent that we need to be 15-feet back is a wise precedent to set. So, that is my two cents. Because I think you’re going to be putting more units on those properties that have eight, nine, eleven units on similar size piece of property, and you’re not going to come in and do three and be able to make the numbers work.
Jeff Hodgson: My concern when you first came in was the size, like I said it was a giant wall on both sides. I think you addressed that. The other concern we had was the parking, and I think that was a big issue and you more than exceeded expectations of parking. One of the roughs now, and we’re hearing from a number of people is the setback, mostly on the front of the building. I’m a little different on that. I kind of like the stuff pulled the front because I like that more urban style landscaping like we have on 21st and 22nd Street. But I guess this is a question for everybody up here, and I don’t know if we can answer this. I mean, am I hearing that is if all the duplexes were slid back 5-feet, would that make a difference the way people feel or is that splitting hairs?

Dee Oliver: No, personally, I think, like I said, I think he has done a great job as far as the elevations. I think even if he builds his duplex by-right, if that is what it ended up with he is still going to do a good job on his elevations. Why would you not do that to begin with? That just makes good sense.

Jeff Hodgson: I didn’t mean to cut you off.

Dee Oliver: But to push the requirement the way they have been pushed to five feet from 30, and I am not saying 30 feet Eddie. I am not asking for 30 feet. But to push them to the limit that he is pushing them, I think is unreasonable.

Eddie Bourdon: Excuse me. I don’t meant to cut you off. I will talk to see. There wasn’t an effort to push and just try to build very high end use and Form-Based Code.

Dee Oliver: I understand. We don’t have Form-Based Codes.

Eddie Bourdon: If the City had control of it, we would.

Jeff Hodgson: I know Barry is running out.

Barry Frankenfield: I didn’t try to sneak out.

Dee Oliver: I’m sorry Barry

Jeff Hodgson: Not that I don’t believe Mr. Bourdon.

Dee Oliver: Do I take this personally?

Barry Frankenfield: I was trying to think when I could leave.

Jeff Hodgson: I caught you just before you got out the door. Not that I doubt Mr. Bourdon. But was the City looking wishing that for the Form-Based Code?

Barry Frankenfield: I think that the fact that it was attempted to be included and considered and it was not because of the amount of increased density. So, I don’t know that we intentionally said, we would love to have this as Form-Based Code. My understanding is that yesterday from Stephen White is that it was considered but it was rejected by the navy because of the amount of increased density.

Dee Oliver: Right.
Jeff Hodgson: So, in this case, he is taking the density down.

Eddie Bourdon: I will talk to my client. Let me see if we can get something done here. This one is already is 15-feet back to the second story balcony. It still makes sense to have these skewed. It doesn’t look good if we have them straight across. If we push this unit back 5-feet, this gives you 10-feet plus roughly 12-14-feet of unimproved right-of-way. If we push this unit back five-feet that will give you a 10-foot to the porch here, and again, like I said, repeating myself, probably about 15-feet from the second sorry balcony there, and we still have the offset with that is sufficient.

Jeff Hodgson: You’re giving 15-feet?

Eddie Bourdon: 15-feet on one and ten on the other to the porch, to the enclosed structure is another 6 or 7 feet.

Bob Thornton: And we’re not talking about anything on the 33 ½ Street.

Eddie Bourdon: No, and they are not setbacks from 33 ½ Street.

Bob Thornton: So, you’re saying there that the driveway says 18 x 18 and you’re calling it 15?

Eddie Bourdon: The driveway is 18 x 18. What you see here at 15 is the second story balcony is what I was referring too.

Bob Thornton: Okay.

Dee Oliver: Which is the overhang for the porch?

Jeff Hodgson: Yes.

Dee Oliver: Okay.

Eddie Bourdon: On the west unit, this is a first floor porch at grade. On the eastern end, what’s here is a second floor porch or balcony, whichever you want to call it. It is above. You can’t leave it as above parking spaces.

Bob Thornton: You push Unit A back almost even with the back of Unit B somewhere, maybe not quite that far back.

Eddie Bourdon: That’s right.

Bob Thornton: Okay.

Eddie Bourdon: If I could? The existing building. The existing building that is there now because it is setback further, the back of the building is actually slightly behind the back of this building here. It is right in here where the current back of the building is. So, we’re not going further back than what’s already there.
Jeff Hodgson: So, looking at Unit A on the front where it says 5 feet, that becomes 10 feet.

Eddie Bourdon: Yes sir. And we still have enough room for the parking.

Mike Inman: You got 23 feet to the pavement.

Eddie Bourdon: Yes sir, to the pavement. That’s the area that will be a sidewalk and landscaped and green, and they will probably make us put a curb.

Jeff Hodgson: Mr. Redmond

Dave Redmond: So, you push that back what happens to the rest of the building? You slide it back into that open area?

Eddie Bourdon: No. This isn’t moving Dave. This is the driveway, so we will move this building back five feet. It wouldn’t quite line up with the back of the eastern unit. It would be a couple of feet inside that. This is the access to the driveway, and the two garages for that unit there. It doesn’t reduce.

Dave Redmond: That was my concern I want to make sure there was sufficient break in there and that two garage stays a two car garage.

Eddie Bourdon: That is not going to change that at all. What will happen, it is possible this driveway section may come back a couple of feet to make sure we have a 18 x 18. I can’t imagine it is going to be more than a foot or two if it has to go back at all.

Jeff Hodgson: I think we are trying to get you to the goal line.

Eddie Bourdon: That will be very appreciative.

Jeff Hodgson: Okay. Thank you. Are there any other questions?

Mike Inman: I make a motion that we approve the application subject to the plans showing Unit A setback to 10-feet to the first five feet shown in the exhibit by the applicant.

Jeff Hodgson: A motion made by Commissioner Mike Inman with the change to the setback and seconded by Ms. Oliver. Mr. Weeden.

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By a vote of 11-0, the Commission has approved the application of Beach Borough Development, L.L.C. with the change in the setbacks.

Eddie Bourdon: Thank you.
An application of Shahab Rahimzadeh for a Modification of Conditions to a Conditional Use Permit (automobile sales and service) approved by City Council on July 3, 2012 on property located at 5001 Virginia Beach Boulevard, District 4, Bayside. GPIN: 1477-04-1959-0000.

A motion was made by Commissioner Thornton and seconded by Commissioner Rucinski to defer item D3.

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By a vote of 11-0, the Commission deferred item D3.
Item #D4
Birdneck Storage 2, L.L.C.
Conditional Change of Zoning
1044, 1052m 1954 Bells Road
District 6
Beach
May 11, 2016

DEFERRED

An application of Birdneck Storage 2, L.L.C. for a Conditional Change of Zoning from R-10 Residential District to Conditional I-1 Industrial District on property located at 1044, 1052 & 1054 Bells Road, District 6, Beach. GPIN: 2416-58-1110-0000; 2416-58-2140-0000; 2416-57-1965-0000.

A motion was made by Commissioner Horsley and seconded by Commissioner Rucinski to defer item D4.

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KWASNY   AYE
OLIVER   AYE
REDMOND  AYE
RIPLEY   AYE
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THORNTON AYE
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By a vote of 11-0, the Commission deferred item D4.

Eddie Bourdon appeared before the Commission requesting the deferral.
Item #D5
Virginia Beach Travel Soccer
Floodplain Variance
Conditional Use Permit
North side of Buckner Boulevard, west of Holland Road
District 3
Rose Hall
May 11, 2016

REGULAR

Jan Rucinski: Okay, our last item of today is item D5, Virginia Beach Travel Soccer. An application for a Floodplain Variance to Section 4.10.B.2 of the Virginia Beach Ordinance on the north side of Buckner Boulevard, west of Holland Road, District 3, Rose Hall. Who is going to represent them?

Eddie Bourdon: You guys will be perfectly glad to get rid of me today. This application is one that the Commission heard, and recommended unanimously for a Use Permit for Beach Travel Soccer a couple of months back, afterwards, it was discovered, and I think, put the aerial of the property. We had no knowledge of this until afterwards until the pre-submittal meeting that there. You can even see it on this picture. There is an old remnant of a field ditch that comes right across here. Obviously, this property has a Walmart Market Place now, but this is the old remnant of a field ditch. And, under our Southern Virginia Beach Floodplain Ordinance, it only applies to half the City, which we adopted a number of years ago, and I said at the time, it is going to deal with primarily when a development proposes around Owl Point, where the properties were all floodplain or mostly floodplain, and properties have already been developed in the floodplain, so we came up with this ordinance where we just pulled out of that sky, the 5 percent of the floodplain on the piece of property is impacted and requires a floodplain variance regardless of how much floodplain is on the property and how de minimis the impact of the floodplain alteration might be. It is not wetlands. It is floodplain. And, the Walmart Market Place is developed on a piece of property that should have been required to get floodplain variance because they had this little ditch running on their property that was filled. And they filled all of the floodplain on their property. Now, the floodplain on their property, the loss of it, you couldn’t even measure the impact. It doesn’t exist. You couldn’t measure it. It is so de minimis, but after we after the pre-submittal meeting it came up, there is a little section of floodplain, there is a section back here as well. That’s more important that we have now moved the building. We changed the alignment. We’re going to preserve all the trees. We’re not going to put any parking over in this area, and actually it is a better buffer scenario than with the parking we had over before, to go completely avoid any impact in this small area of floodplain there. We cannot avoid the impact to this old remnant ditch because the access and cross access easement as Mr. McNamara extremely well explained this morning in the informal, and that is why we are here. I did not want to go back to City Council without bringing the new layout back to you guys, and this is the new layout. Before the building was here, the parking was here, and it wrapped around in the front. Now, the parking is all on this side, the building there with all this treed buffer to remain and treed buffer to remain. My clients have met with the neighbors over here and the subset of the Buckner Farms community that is in charge of this area, and no objection from them whatsoever, that I am aware of. The mitigation we are providing is right here. Now, see these five chairs sitting up here in the front row, you take those five chairs and you square them. And they come up to about here on me. That is how much floodplain that we are actually impacting with this volume, with this ditch we’re filling. And, we are replacing it with that plus 50 percent, and it is directly adjacent to the canal, it is a better scenario but once again, in a storm, the water level, flood level, if we didn’t
mitigate it, you couldn’t measure the difference. That is how de minimis it is, in the billions of gallons of flood storage capacity in this floodplain. And I think probably done 10, 12, or 15 of these over the years. There has never been one as minimal as this. It is almost. It is what it is. I’m not going to go back but that five percent of the floodplain on site, as Mr. McNamara said this morning, if you have a thimble so start with, the impact is de minimis. That is why we are here. We just didn’t want to bring the floodplain back and say oh by the way, we changed the plan. So we brought them both back rather than go forward with the Use Permit and then change the plan. So, we wanted you to see everything that’s involved. Staff has recommended unequivocal approval, FEMA. No one is going to have any issues with this because again, we can more about the city and we can fill 1,000 times more than, it would even have an impact and we wouldn’t need a variance, so, it is one of the those catches because the way the ordinance is written. If you have a little bit, and it is an impact, like I said, Walmart Market Place needed a floodplain variance, and to get one because nobody even figured it out because it is so innocuous. I will be happy to answer any questions if anybody has any?

Jeff Hodgson: Are there any question for Mr. Bourdon?

Jan Rucinski: Our first speaker in opposition is Linda Russell.

Jeff Hodgson: Good afternoon Ms. Russell.

Jan Rucinski: Just as you know, state your name for the record.

Linda Russell: Okay. Welcome back Mr. Redmond. I am Linda Russell, and you have been here through this thing many, many times, and the rest of you, I think two of you. So I want to talk about memory loss. Well, I have been through this whole thing. I think I am the oldest one in here. I am a grandmother too. And, I have been paying attention to what all of you say. I live on Shipps Corner Road. I can do a traffic count on my front porch and at my kitchen window. And that is 12,000 cars a day. I have documents for that if you need that. On the other side of Buckner, I don’t know where that traffic goes when it goes up there because on Buckner, because I think there are 6,000 trips is what they are saying. It is really funny because when we walk Buckner and Shipps Corner, We always have all of this traffic. When we want to develop something the traffic seems not to be there. But anyway, since we were here last, I went over and talked to Walmart. Walmart knows nothing about this. I’m not saying that’s a bad thing because when we see these orange signs, all of us, we have to stop, get out of the car, or walk somewhere. Of course, it is undeveloped land. So the manager of Walmart didn’t know this was even going to happen. So, I told them what was happening, and that’s okay because most people just don’t know until you see the trees gone until something is going to happen and it is too late because they didn’t take the time to go and see what is going to be put there. This is a neighborhood Walmart. You can go to a regular Walmart and get online and order a lawnmower, buy anything they have. That is delivered to this store, and we can go pick that up. They also going to start to order at 8:00 a.m., you can pick that up after 4:00, which is the same time as all the traffic. So, I think something else needs to be put there, and I know you’re going to ask me, what do you suggest? You’ve told me many times I tell you too much stuff. I think everybody should know what’s going on. I’ve lived there 50 years. We like development okay? I want something there. I expect something. There have been three things already in the last year that you guys have approved two of them on Riddick, and were on Chandler, but still going to be on Rosemont. You even have the sign down. So, what I’m saying is that one thing that would go great would be a tattoo parlor. You don’t have a tattoo parlor there. We have not tattoo parlor.
Jeff Hodgson: Ms. Russell, real quick, you just addressed the traffic. The existing land use is over 1,800 average trips a day.

Linda Russell: Yeah, okay?

Jeff Hodgson: The proposed is 142, by-right, you can something that is far worse.

Linda Russell: yes. Didn’t I just tell you that so far in the last year, you have approved three things.

Jeff Hodgson: We did.

Linda Russell: They are going to development. The leasing company even has a sign there. Okay? But traffic that you’re telling me about is not just for this one, there is going to be lots of development. We’re going to look like Princess Ann Road by time they are done with it. You have approved three within the last year.

Jeff Hodgson: That piece is going to be developed.

Linda Russell: I just told you, yes. We need something that is not going to have that many cars at one time. We already have the other soccer field. They have drop off. They have 250 parking places. We already have that at the same time. Okay?

Jeff Hodgson: Okay.

Linda Russell: We need something where it is going to be like an office building. Like a medical. We already have by the fire station, we have something like that, on the corner of Dam Neck and Holland. We have something like that. Perfect.

Jeff Hodgson: Okay.

Linda Russell: Something else can be built there. Like a tattoo parlor. I would even go get a tattoo.

Jeff Hodgson: Are there any questions for Ms. Russell?

Linda Russell: I will be there first customer.

Jeff Hodgson: Thank you ma’am.

Linda Russell: And we don’t need more water. We don’t need that there either. Okay. And I am a member of our Civic League and I haven’t said that in a while.

Jeff Hodgson: Thank you.

Jan Rucinski: Our next speaker is Frances Laskey.

Jeff Hodgson: Good afternoon.
Frances Laskey: Good afternoon. I come before you again as the esteem Mr. Bourdon said. I didn’t expect to see you again.

Ed Weeden: Please state your name for the record.

Frances Laskey: Frances Laskey. I’m coming with a prepared speech but I have copies made for you. So, I’m going to read it. I don’t have personal experience with the objection that Mrs. Russell has, so I cannot speak from her perspective. However, I would like to address some concerns regarding the application of Beach FC for approval of a floodplain variance of the proposed site for a practice facility behind Walmart Neighborhood Market on Holland Road. As Mr. Bourdon pointed out, if the floodplain was five percent or less, we wouldn’t be here today. However, from what I understand the floodplain on the existing property is approximately 19 percent. I did not know until Mr. Bourdon brought it forward. In fact, there was already the existing floodplain lack of consideration when Walmart was built. So, that is news to me today, I guess I wasn’t as thorough doing my homework as I thought I was. In very simplistic terms that I can understand Beach FC says were going to need the help. And, all the excess water is going to go into that hole. So, you’re not going to have a drainage problem. The City of Virginia Beach claims to be a “City for a Lifetime”, to me means persons born here. They live their lifetime here and they die here. It is simple. They should be able to do this without any undo concern of their quality of life. I recently spoke to a citizen who lived in the original Buckner Farm neighborhood from the time he was a child until today. He is a senior citizen. He recalls growing up and playing on Buckner Farms. It is important because if I had as much time as Mr. Bourdon, I could explain lots of things that you may not be aware of. He grew up there that Buckner Farms. All of the farm area originally was crossed hatched with ditches. When it rained, the farm became a swamp, literally. This is the area that now contains the current residential Buckner Farm Community, and I’m not going to go back and discuss that because when that was developed, there was a unit by-right by the community to accept a Conditional Use Permit for Buckner Farms to be expanded and that was done, because of the majority of the open space was on the original side of the Buckner Farm development. So, by annexing the other side of Buckner Boulevard to go to Buckner Farm, the developer did not have to account for any extra focus where the water can go.

Jeff Hodgson: Ms. Laskey, I am going to have asked but I will give you another minute to wrap it up. The red light is blinking.

Frances Laskey: I see it. It is interesting with whom I spoke is having part of his land taken by eminent domain. This is in the expanding to Rosemont Road, and I can understand the necessity for expanding Rosemont Road but that will add additional impervious area that cannot absorb the excess water. It is projected to fill two-foot rise in local sea level by the end of the century. If that occurs, there will be a 2.9 foot rise in Virginia Beach, which on average is 12 feet above sea level. Low lying areas are bound to be inundated during storms. In the past few days, I saw my Mark Johnson on the City’s Community Channel. I felt sorry for him at that point because there stood Mr. Mark Johnson saying if the City were to have to contain and have to deal with all of the BMPs, all the ditches, all the canals, it would take 90 years to service them. And now it is on a case by case basis where all of this is being handled in terms of what is most important. I’m concerned about the quality of life in the area, the quality of life in the City of Virginia Beach. A question was asked what should we put there? I understand the relevant homeowner, the property owner, to develop, to sell, to do what is in their best interest. I understand the best interest of the City, in terms of wishing to get more retables. And I understand that completely. However, to impact an area that is already unduly impacted with the additional stormwater should be
considered. And I feel that at this point, the Planning Commission should defer or deny and ask that an adjustment be made in terms of what Beach FC is proposing on that site. Thank you.

Jeff Hodgson: Are there any question for Ms. Laskey? Mr. Thornton.

Bob Thornton: So, it sounds like your main concern on this application is drainage.

Frances Laskey: That is correct.

Bob Thornton: If the drainage situation is fixed and there is a 90 percent probability there is no drainage problem, are you okay with this particular use? In other words, if the City Engineers and the developer make it work so that the water coming off of this property won't go anywhere, and won't flood the city, and that's typically how they do, are you okay with this use?

Frances Laskey: May I comment?

Bob Thornton: I am asking the question.

Frances Laskey: Thank you. I don't have the yes or no answer.

Bob Thornton: Okay.

Frances Laskey: Okay. Basically when I look in terms of storms, and I have experience of living in a farm house when we purchased it in Buckner Farms the past 17 years. During the nor' easter, I had water coming from the BMP, which is called a lake in my backyard within that much of over spilling on the level property and of course with the south side. At that point, I decided I better get flood insurance. And we did. Mother Nature does not draw a line. Man draws a line and he says, okay, here is the line. Water from this area is going to stay here and water from that area is going to go there. Mother Nature doesn't see that line. It doesn't see it anywhere. With all construction that has been done, in that area, we've got LifeNet, we've got Operation Smile, and we've got TCC. We've got the widening of Rosemont Road. We have Princess Anne Road being extended and there is a possibility for an additional two more lanes there. How much more impervious land is going to be put there? And this is my problem. So, I can't answer with you with a yes or a no because I believe that in terms of weather and what we have been seeing, that there is a problem for additional drainage that cannot be resolved in that area if we continue to build and build.

Bob Thornton: Okay. Just for the record for what it is worth, the State of Virginia passed all new stormwater regulations in July 2014 and the federal government imposed them on the state and the State imposed them on the City, and basically the rule of thumb is no water can leave the site. And we have one group of people that I work with that I pretty well trust are engineers. They are numbers people and they dig big holes in the ground to hold the water. And I would trust the City engineers and the developer, if they say that the water is not coming out of that site, it is pretty good probability that it is not. I understand your concerns because we have flooding elsewhere and we certainly don't want to add to flooding. But the standards that the engineers use for designing these projects are promulgated by Federal and State Regulations, and as this body from my perspective, we have to trust their judgment so we're not going to approve something and then year from now, it is flooding and we created at major problem that didn't exist. So, I'm okay with this because I trust their judgment. I understand
where you’re coming from but you answered my question. If the draining is not a problem, you’re not opposed to this particular use. Is that safe to say?

Frances Laskey: It’s size. I can.

Bob Thornton: In its size.

Frances Laskey: In it size because it is still going to cause an impact in the area. It will still impact it. I think everyone is aware of that. I do understand where you’re coming from, and I have looked at the State Regulations, but I also know that the City is supposed to inspect its BMPs, drainage ditches, etc. on a five year basis. I know for fact that in Buckner Farms, we are at least two years beyond that five year inspection. So, BMPs aren’t being inspected. I assume the canals and ditches aren’t being inspected, and to go out and to try to resolve drainage issues on a case by case basis, where the water does not. It would take me 90 years according to Mark Johnson to bring what is currently to bring up to standard. I just don’t understand how we can look at saying that Virginia Beach is a “City for a Lifetime” and I’ve lived here, expecting to find a certain quality of life. And now I’m finding that people who have moved into the neighborhood are raising their children are saying, “Hey, wait a minute, what’s going on”? And we see the incoming upon us that we look at the jewel. Look at the Joint Use Library and the amount of parking there is there. Where does the water go? I know where it goes. I’ve had discussions. And yes, I am concerned. And, ours is a working class community. I’m fortunate, I work from home. I juggle my schedule, but I am truly concern that if we continue to permit large building, large parking that it will be detrimental to those homeowners who expect a certain quality of life in their neighborhood.

Jeff Hodgson: Is there anybody else? Thank you ma’am.

Frances Laskey: You’re welcome.

Jeff Hodgson: Are there any other speakers?

Jan Rucinski: No speakers.

Jeff Hodgson: Mr. Bourdon.

Eddie Bourdon: Thank you Ms. Laskey and Ms. Russell for coming down. Let’s start with the last person. This is not a variance in anyway shape or form that pertains to stormwater and stormwater management. This property must and shall comply with the current stormwater management regulations, and will do so. This is not about capturing, treating and holding stormwater on the site. This is about the fact that the site abuts a major drainage ditch, a drainage canal, and during a major flood event where there were drains found as canal from other development, they overflow the bank of the canal, and will occupy areas in this area that we’re not touching, and areas of this ditch. That is what this is about and that is why the mitigation, which is 1 ½ times the capacity of the little section of ditch that we are impacting, that is where the water will go. It is not a hole. We have to keep it at the same elevation. It is an expanded area. It is digging it out but it is not digging a big ole BMP. All the stormwater from this site, which is not in any way shape or form, overly developed in terms of impervious surface at all, is all handled on site. It will all be handled on site by structural BMPs and onsite BMPS to meet all the current regulations, which are far more cumbersome and restrictive than those that existed when really everything else in that area developed. So, just to be clear, this is not an
over development of this piece of property in terms of impervious surface whatsoever. And it is not asking for any variance from any stormwater regulations. And, I will mention that Ms. Laskey after this heard the previous time before you knew about it, the floodplain situation with this ditch said she was not opposed to the use and we didn’t know this existed at the time, so Mr. Thornton, you are 100% correct in your characterization of the situation. Now, Walmart is completely and totally and fully aware of this use as approved this use for you heard us last time. It is a very good Use of this piece of property. Traffic on this piece of property, off-peak traffic which we discussed at length the last time this was heard. We don’t have people coming in at 8:00 a.m. in the morning here. On weekends, and during bad weather months, the facility will used during the day from morning to evening but during the rest of the week and during good weather months, it is not hardly used at all or it used in bad weather months at off peak hours, 5:30 – 6:00 and later, you can’t have a more better in terms of not having a traffic impact compared to the by-right uses with the commercial retail uses that are allowed on this piece of property today. I neglected to mention also the BMPs on this property, because private property commercial property and they are required to be maintained by the owner of the property, and the stormwater management agreement that is very strict in terms of their requirements to maintain the BMP, a lot of residential neighborhoods that is not the case. The taxpayers have to do so or community associations in those areas that have them, and that is where the City does have a potential financial exposure that does not exist with regard to the BMPs for the stormwater as it pertains to this piece of property. I know you are totally familiar with the use and the fact that it will not be a substantial generator at all. It is a recreational use for youth in our city, indoors only. I’ll be happy to answer any questions.

Jeff Hodgson: Are there any question for Mr. Bourdon?

Karen Kwasny: I have a question.

Jeff Hodgson: Karen.

Karen Kwasny: I was not here when this was originally discussed and deferred. And frankly, I don’t keep all that paper for very long.

Eddie Bourdon: It was recommended for approval.

Karen Kwasny: It was recommended for approval. I’m sorry.

Eddie Bourdon: That’s okay.

Karen Kwasny: So, forgive me. Has the side of the building been changed in any way or the parking? Can you clarify?

Eddie Bourdon: The building and if you could put the site plan. The building has been shifted. Before it was in this area, actually we have more open space. The parking has been reduced. We have a little bit more open space. But the building has been shifted over here where we had parking before, including parking here that would have impacted this section of floodplain right here. That’s the other section of floodplain on site right here, and then that ditch. So, we moved the building and we relocated the parking away from the residences over here behind the Walmart Market Place and next to the self-storage facility. Oh, another one. And we had a little bit of setback here that now we are using for the parking. So, this is the parking and this building. Previously, the building was in this area and we had
parking wrapping around and more of it in front of that we don’t’ have any more.

Karen Kwasny: But the size hasn’t hanged on the sides?

Eddie Bourdon: I don’t believe it has changed.

Karen Kwasny: It is just the shifting of it?

Eddie Bourdon: It is not a particularly large building on this piece of property. I think you can easily see that you’re not using a lot of this piece of property. This is the BMP here. Open space in this area, preserve tree buffer here. The only reason why we’re impacting is because of the required cross access with the Walmart, and that is the only reason why we’re having to fill the ditch, because we don’t have any choice. And that ditch, again, there is a problem when the body of the water in the canal overflows into that ditch. That is why by having it closer and actually working as well or better than if the ditch was still thee. This is not a natural feature that we’re disturbing. It is a ditch. It was dug, maybe 100 years ago but it was a ditch that was used to drain that property at the time. That is all it is.

Jeff Hodgson: Are there any other questions for Mr. Bourdon? Thank you sir.

Eddie Bourdon: Thank you.

Jeff Hodgson: We will close the public hearing and open it up for discussion.

Jan Rucinski: Is there anybody still here from Traffic that might be able to answer some of Linda’s concerns about the traffic? No?

Jimmy McNamara: I don’t think we have anyone here from Traffic. There is no one here from Traffic at the moment.

Jeff Hodgson: Karen.

Karen Kwasny: I had concerns about this when I was here for it in December and wasn’t able to voice any of them. But I think some of the things that have been done on the site are positive moves. So, for instance, we have a slightly larger open space and the parking has been moved to the back adjacent to Walmart so that cross traffic can move in that direction. So, it is a much better layout. I think. I also think that this is going to be another one of those cases where believe it or not, you’re putting something in. The stormwater management has be managed on the site now, and so maybe your actually a dressing a problem you might not on the side addressed where it we are talking about runoff an issues with water and relations to stormwater management. So it is another one of those cases where this may provide benefit to some of the area where you’re containing onsite. So, I’m having less of an issue than I did originally because I think that and Eddie, this might have been a question that I should have asked you because I think the use of this site also is less impactful than a lot of these other ideas. Frankly, even a tattoo parlor where people are going to tattoos parlors, bars, restaurants, sometimes they don’t go there to get a tattoo. They go there to hang with the people who are getting tattoos. So, and you have constant traffic. So, this has some very specific stipulations on time frame usage that I think, are much more friendly to the traffic in the area.
Eddie Bourdon: There is no doubt about that Ms. Kwasny. The use of that property for indoor facility only is a practice facility. It is essentially winter, weekends and evenings, and it would be a bad weather spells during good weather months. But if the weather is good, it is not even being used. Beach FC has an office there so they will have one or two people there, not even every day of the week. But they will have someone doing scheduling or whatever they may be doing there. But compare to almost any commercial use that can be built on this property by-right, you’re going to have less traffic. There will be a fair amount of traffic on a Saturday and Sunday during bad weather months, but Saturdays and Sundays are not peak traffic days. That doesn’t mean there won’ be a lot of traffic on Buckner Boulevard on Saturday games. You go two teams, two games, four teams. When that transfers over, you will have people leaving and people coming. But that is the extent of it. And traffic said it last they were here. From a traffic standpoint, it doesn’t create problems on this road that just like any use of the property by-right would.

Jeff Hodgson: Mr. Wall.

Jack Wall: Concerning the floodplain variance. It is minor impact to floodplain, which is mitigated by providing additional storage, flood storage on the property. And, variances that due to the hardship created by the site, the access and the cross access. Concerning the Conditional Use Permit, I do like this new site layout. I think it is going to preserve more of a buffer between residential, and the site and I think it is a relatively low intensity use for the site, so I think it is a good use for the property, and I think the recreational facility for the community is definitely a good thing. I definitely support it.

Jeff Hodgson: Do I hear a motion following this?

Dave Redmond: I agree with it.

Jeff Hodgson: A motion made by Commissioner Wall and second by Commissioner Redmond. Mr. Ripley?

Ronald Ripley: I will be voting but I noticed that the applicant mentioned that he is looking three or four lenders and Towne Bank is one of them listed. I don’t know the applicant and I have no interest in the application, and I’m a member of the Towne Bank board in Chesapeake. I’ve been advised that since the Planning Commission has no final decisions, but only recommendations that unless Towne Bank is the applicant, I have no conflict, so I will be voting.

Jeff Hodgson: Thanks for pointing it out. Is there anybody else? Mr. Redmond?

Dave Redmond: Mr. chairman, I should note that the company signed and I don’t know which one she is talking and don’t know where the property is so I can’t imagine that would impact me, so I will be voting as well. We are all very cognizant of those things as well but I don’t what property she is talking about so that obvious can’t affect my vote.

Jeff Hodgson: Thanks for addressing that. Is there anybody else? Mr. Weeden.

AYE 11  NAY 0  ABS 0  ABSENT 0

HODGSON  AYE
HORSLEY  AYE
Ed Weeden: By a vote of 11-0, the Commission has approved Virginia Beach Travel Soccer.

Jeff Hodgson: Is there any other business? If not, on behalf of my fellow Commissioners, I would like to thank everyone for attending the meeting today, the Planning Director’s staff for all of their hard work. The meeting is adjourned.
CONSENT


PROFFERS

1. The following uses allowed in the B-2 Zoning District shall not be allowed on the property:
   - Animal hospitals, veterinary establishments, pounds, shelters, commercial kennels
   - Assembly uses
   - Automobile museums
   - Automobile repair garages
   - Automobile service stations
   - Bars or nightclubs
   - Beverage manufacturing shops
   - Boat sales
   - Body piercing establishments
   - Borrow pits
   - Building mounted antennas other than those meeting the requirements of Section 207
   - Bulk storage yards and building contractor yards
   - Business and vocational schools which do not involve the operation of woodwork shop, machine shops or other similar facilities
   - Car wash facilities
   - College and universities, public or private
   - Commercial parking lots, parking garages, parking structures and storage garages
   - Commercial parking garages and storage garages which include car wash, car rental, or car detailing services when wholly enclosed within a parking structure and assessor thereto
   - Communication towers and temporary communication towers
   - Fiber-optic transmission facilities
   - Funeral homes
   - Heliports and helistops
   - Home-based wildlife rehabilitation facilities
   - Hospitals and sanitariums
   - Marinas, commercial
   - Mini-warehouses
   - Mobile home sales
   - Motor vehicle sales and rental
   - Museums and art galleries
   - Open-air markets
Item #D6
Direct Independence Group, L.L.C.
Page 2

- Outdoor plazas
- Passenger transportation terminals
- Passenger vessels permitted by U.S. Coast Guard regulations to carry more than one hundred forty-nine (149) passengers and used for commercial purposes
- Personal watercraft rentals
- Public utility storage or maintenance installations
- Radio and television broadcasting stations
- Recreation facilities other than those of an outdoor nature, with a floor area greater than 7,500 square feet
- Recreational and amusement facilities of an outdoor nature, which may be partially or temporarily enclosed on a seasonal basis with approval of city council
- Religious uses with a floor area greater than 4,000 square feet
- Satellite wagering facilities
- Small wireless facilities
- Storage garages
- Tattoo parlors
- Wholesale and distribution operations
- Wildlife rehabilitation centers
- Wind energy conversion systems

2. Property owners shall develop the structures on the property in substantial conformance, as determined by the Planning Director, or designee, to elevations entitled, “Independence Square, 449 Independence Blvd., Virginia Beach, VA 23452,” dated March 10, 2016, and prepared by ionic dezign studios. Such elevations have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

3. Property owners shall develop the property in substantial conformance, as determined by the Planning Director, or designee, to the site plan entitled “Conceptual Site Layout Plan of 449 Independence Blvd., Virginia Beach, Virginia,” dated 10/23/15, and prepared by MSA, P.C.

A motion was made by Commissioner Thornton and seconded by Commissioner Horsley to approve item D6.

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By a vote of 11-0, the Commission approved item D6 for consent.

Shepelle Watkins White appeared before the Commission on behalf of the applicant.