CONSENT

An application of UJFT Community Campus, L.L.C. for a Conditional Use Permit (Assembly Use) on property located at 500 Corporate Woods Drive, District 4, Bayside. GPIN: 1467-82-6153-0000.

CONDITIONS

1. When installed, the proposed storage buildings shall be in substantial conformance with the size and location shown on the submitted site layout entitled, “UJFT Community Campus- Proposed Storage Buildings.”

2. If any of the mature trees located between the proposed storage buildings and tennis courts and the adjacent property to the north are removed, it shall be replaced with a tree of the same or similar species. Approval shall be given by the Development Services Center Landscape Architect prior to installation of any replacement tree.

3. All necessary permits from the Planning Department, Permits and Inspections Division, must be obtained prior to installation and occupancy of the storage buildings.

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.

Glenn Sauer appeared before the Commission on behalf of the applicant.
An application of Tonya Mitchell for a Conditional Use Permit (Family Day-Care Home) on property located at 4441 Crow Wing Drive, District 7, Princess Anne. GPIN: 1474-54-6552-0000.

**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 2.

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

Jeff Hodgson: We will address the remaining items on our agenda. But before we begin, it looks like we may have a number of speakers today, so I would ask that you please adhere to the 3-minute time limit. When you see the yellow light start to flash, that means that you need to kind of wrap up your comments, and when the red light comes on, that means the end of your three minutes. So, I appreciate everyone working with us on that. Jan, would you please call the first item?

Jan Rucinski: The first item is agenda item 3, Acela Aguerrebere. An application for a Conditional Use Permit for Family Home Day Care on property located at 1425 Glenwood Links Lane, District 1, Centerville. Can you please state your name for the record?

Acela Aguerrebere: My name is Acela Aguerrebere.

Ed Weeden: Please speak closer to the microphone.

Acela Aguerrebere: My name is Acela Aguerrebere.

Ed Weeden: Thank you.

Jan Rucinski: Can you explain a little bit about your application and what you’re looking for?

Acela Aguerrebere: I’m looking to get a license with the Department of Social Services and zoning. I’ve been doing daycare for 25 years. I’ve been living in my house for 14 years, and I’ve been doing daycare in my house for 14 years.

Jan Rucinski: Okay.

Jeff Hodgson: Are there any question for Ms. Aguerrebere? Thank you ma’am.

Jan Rucinski: We have one speaker in opposition and that is Stephen Clifford. Can you please state your name for the record?

Stephen Clifford: Good afternoon. My name is Stephen Clifford and I reside at 1433 Glenwood Links Lane, and I respectfully ask that the Commission disapprove this application due to traffic and parking issues. First of all, the increased traffic. We have 19 homes on our street, and there is a daycare already at 1432 Glenwood Links Lane. If we approve this application, that would be 20 total on the street. That is going to double the traffic. Most people don’t want traffic doubled on their street. Also, I had a member of our homeowners association say that about three years ago, some of the daycare members were passing school buses when their lights were flashing and they were stopped. They had the police come in and they checked us out, and it did stop for a while but they told me it is happening again. So,
that is the traffic issues. Parking problems? I handed out some pictures. Did you guys get the pictures? Okay. I live at the end of cul-de-sac and the customers routinely park straight out from a cul-de-sac, which is illegal parking. They also block mailboxes, which causes the mailman to have to stop his truck and get out. They double park down there. The police have been called out for a few people blocking driveways. Now the application states that they have a staggered drop-off and pick-up times. They list five different times but two of them are exactly the same, so it is not all staggered. The application says that parking will be on site and not on the public road. But currently they park on the street every day. Zoning has been called in to monitor the traffic on the street, and they did that. They said it is a narrow street. I don’t think they really got a good picture of that because I am assuming that the zoning people probably work 8-5 or 9-5 but that is outside the times that most people drop their kids off or pick them up, because they drop them off before 8:00 in the morning, and usually 5:00 later in the afternoon. You have a good picture of what really happens there. Since these problem have been ongoing, they have not changed after police and zoning intervention, I don’t expect things are going to get any better. It will get worse with more traffic. The bottom line is really, that if the customers followed all the rules, and they parked correctly, if they dropped their kids off and picked them up at staggered times, I probably wouldn’t even be here today. Although it looks good on paper, it doesn’t happen that way in the real world. Thank you.

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

Dee Oliver: I have one.

Jeff Hodgson: Ms. Oliver.

Dee Oliver: Can you show me where you live with the pointer right there? And where the other daycare house is? Right on the podium

Stephen Clifford: Okay. I live right here. And there is a daycare here. And this is the other one. Most of the problems happen right in here.

Dee Oliver: Okay. Thank you.

Jeff Hodgson: Is there anybody else have any question for Mr. Clifford? Thank you sir.

Jan Rucinski: Our next speaker in opposition is Jason Becker.

Jason Becker: Good afternoon Commissioners.

Jan Rucinski: Would you please state your name for the record.

Jason Becker: Jason Becker from the Homeowner report Team 36 Glenwood Links Lane, three houses down from the daycare provider in question here. And I am opposing this Conditional Use Permit. Let me start by saying thank you to the Commission for letting us speak on this important subject and Mr. McNamara for putting together the packages. There is a lot of information involved here. My take is this individual request will pose a medium level burden on the houses in the area as indicated by Traffic Impact Statement. And increase of 10 daily trips up to 36 daily trips. But this increase is actually in addition, to another, April 2013 Conditional Use Permit, that was provided for at 1432 Glenwood Links Lane that was previously pointed out. It increased the child limit to 12. So, the daily trips impact is not
listed on that package, which I have here from 2013, they didn’t go into detail that Mr. McNamara has now, 12 children is a significant burden for traffic and parking in the area. At least one police report has been filed for a disturbance due to parking issues in that cul-de-sac. I’m the house at the very end next to Mr. Clifford. After traffic, parking is a significant issue. The background summary states that there are four driveways parking spots, as well as free parking. Again, the recommended condition correctly indicates there shall be no street parking for customers or employees. The daycare provider plus one employee would use two of those spots, limiting available parking. There is already an active daycare serving at least eight children, with at least one employee and has been for at least the last few years. Parking has been an issue in the past involving disturbances with the neighbor across the street resulting in police involvement. This continued tit for tat with neighbors doing burnouts in the cul-de-sac, just to try and show the displeasure, and then puts that the daycare provider’s son is a firefighter, and the fire truck came in the cul-de-sac, and started blaring its sirens and mics everything for the wild tit for tat, on their displeasure. It was embarrassing. It was a disturbance, and it is kind of causing a problem, and it all stems from parking from the daycare. It is a small cul-de-sac that can’t that really support this much traffic. There are no sidewalks down either side of the street either. I’m not sure that is illustrated in any of the photographs. But there are a lot of small children, including my two teenagers and two toddlers in my home, if you’re going to go for a walk in the evenings, it presents a challenge. It is not just an increase in traffic and parking, other than the reaction of customers then they are asked not to block the driveway or a mailbox. They are extremely rude and sometimes angry for daycare providers. Instead of being apologetic for the burden and inconvenience that they are for their neighbors, they feel that their business is being impacted and their business is being affected. I took a snapshot of the pickup times in the afternoon showing the number of children and the times they are coming and where they are parking. There was one out of five cars that parked in the driveway. The rest were all parked in the street. One was parked illegally, facing the wrong direction on the wrong side of the street there. A number of times, I also have photographs showing from my house the traffic provided by the daycare on the left. It is a quick snapshot as well as all of the pickups from yesterday afternoon.

Jeff Hodgson: You can pass them around.

Jason Becker: Thank you Commissioners. So the first group of photographs, the smaller group there is predominately traffic from the daycare on the left of my house. Again, they have a 12 child limit. I just took a few photographs that show some of the violations where they park in front of the mailbox. There is a mailman that had to pull in my driveway to deliver mail. There is additional parking from the driveway. You can’t back out. My neighbor was unable to back out for her medical appointment one-day, and had to cancel that appointment. This has been a recurring issue. And then the second and the larger photo, was just the pickups from purely yesterday afternoon. I had those developed at Walgreens today, and just showing the pickup, the people they pick up their children and they drive around the cul-de-sac because they are not pulling into the driveway. So, it is additional traffic through that cul-de-sac as well.

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

Karen Kwasny: I have a question.

Jeff Hodgson: Karen.

Karen Kwasny: One photograph, there is parking going on in the center of the cul-de-sac?
Jason Becker: Yes.

Karen Kwasny: They are parked?

Jason Becker: That is a typical parking configuration. Illegal as it is, it is some routine from houses in that general vicinity for parties, overflow from daycare, etc. They will park in the middle of the cul-de-sac.

Jeff Hodgson: Mr. Horsley.

Donald Horsley: So, you got just as much complaint about the one that is already there as you do about this one?

Jason Becker: I’ve been in the house since 2010. They had a hearing 2013 sir, and I was up against them about showing up. I wanted to keep the peace. I certainly have no animosity towards the applicant today as well. But the burden is too much and I have two additional toddlers now, and it is just too much in the area sir. I don’t want to go back again on the previous daycare center. We are at our limit. How many daycares are too many on this narrow street with no sidewalks is kind of my thought?

Donald Horsley: Evidently, one is too many according to the way these people park. They need a lesson in parking it sounds like to me.

Jason Becker: Unfortunately, when we try to confront him, there is some hostilities that, and I try to avoid it, and keep the peace, and I’ll make a police report if it continues to happen. I haven’t done so in quite some time but it is to the point now where I’m going to have to start making complaints, I think.

Jeff Hodgson: Mr. Redmond.

Dave Redmond: Let me explore there with you a little bit. What police reports? You’ve mentioned an incidence that led to a police report, which is a little pregnant with expectations. Can you give us some detail on it?

Jason Becker: Yes sir. There was a parking violation where my driveway was blocked.

Dave Redmond: What violation? What was the parking violation?

Jason Becker: There was a car parked blocking my driveway. It was a customer who illegally parked because they were required to park in the driveway on the premises and not on the street, and of course, the City Code, they were not, and they were also blocking my driveway. My 16 year old daughter at the time had to walk through the grass. I asked them to move their car please, and the woman was extremely rude, hostile. She said she will get to it. It is just very confrontational. At that point, my wife came out and they exchanged words. Tempers were heated. The police were called and a police report was made sir. That was for the police report for the particular daycare, and the daycare in question also had a parking incident where police were called.

Dave Redmond: So you called the police that someone was blocking your driveway?

Jason Becker: I did not sir. I believe it was the heated argument, and the daycare provider may have called the police at that time sir.
Dave Redmond: The daycare provider called the police?

Jason Becker: I believer so, but I can’t say for certain. I did not.

David Redmond: Okay. Thank you.

Jeff Hodgson: Mr. Weiner.

David Weiner: The picture of the cars parked in the cul-de-sac in the middle, that doesn’t look like those cars are going to the existing daycare, not the one from the application in front of us.

Jason Becker: No sir. It is from my house in the rear of the cul-de-sac looking down the street, so that parking in the rear, it could be either one. I am not particularly sure but it is in the middle of between both.

David Weiner: That is obviously more than the daycare.

Jason Becker: No sir. It is right there, park right in the middle of that cul-de-sac.

Jeff Hodgson: Are there any other questions of Mr. Becker?

Jack Wall: I do.

Jeff Hodgson: Mr. Wall.

Jack Wall: How long would you say those cars are actually there because it is a pick-up, drop-off?

Jason Becker: Again, it was a quick snapshot. I only did was try to collect a little bit of data that provides something for this, frequently untraveled, but we have an 1803 pick-up, so it was after 1800 the proposed hours to begin with but 1803, the gold GMC arrived and departed at 1813, approximately 11 minutes, which two kids, one in a car seat and one not. So, roughly 12 minutes but that can go anywhere from 20-30 minutes depending on how much discussion when you first pick up before 12. They were already there standing in the street. There are pictures of children standing in the street with mothers. They were there for at least a good 20-25 minutes. I didn’t catch their arrival time.

Jack Wall: Thank you sir.

Jeff Hodgson: Mr. Thornton.

Bob Thornton: These pictures that you are showing us related to this lady’s daycare?

Jason Becker: Yes sir.

Bob Thornton: Not the other ones that are open on that street?

Jason Becker: The larger group of and second group of photos there is all the arrivals and pickups per daycare.

Bob Thornton: Of this application?
Jason Becker: I believe so sir.

Bob Thornton: How do the other daycare centers in that cul-de-sac deal with their traffic?

Jason Becker: Not well sir.

Bob Thornton: Not well. So, it really is a problem in the cul-de-sac with the daycare centers?

Jason Becker: Both of them. Yes sir.

Bob Thornton: I don’t want to use that word universal but it is creating a traffic issue.

Jason Becker: Yes sir.

Bob Thornton: All of them.

Jason Becker: Yes sir.

Jeff Hodgson: Is there anybody else? Thank you sir.

Jan Rucinski: Ms. Aguerrebere, would you like to come forward and have a rebuttal comment?

Acela Aguerrebere: Yes. As they didn’t say anything that was true but I don’t know the name of both of them. They are not neighboring because they did not come to my house and knock at my door and say how many kids are you going to be babysitting? I am only going to babysit 5 kids, two more in my daycare. Okay. They don’t have any issues when the other lady that is doing daycare. I am friends with her. Okay. The issue with the police he was talking about, his wife hit one of my friends of the parent. That is what he was talking about. I am not coming here to throw dirt or anything like that, but it is not fair. The only issue they had was my friend to throw on top of them. I only ask permission for eight kids, but three of those kids are my grandkids. That one day they live me and the next they sleep at their father’s house. Okay. Only five kids, why didn’t they come and knock on my door and say, listen how many kids are you going to do daycare for? They never did. They never showed up. They just show up in here. I am kind of upset they are putting my friend with the 12 kids he is talking about that they throw on top of me. My thing is like you said they go in front of my house and pick-up the kids in front of my house. They don’t go in front of my friend that she does daycare because it is long walk for the little kids. The oldest kid that I have is 3 years old. You think if you have where they live by, and go to my house and pick up the kids, I have to take the stairs. I would get my blame for it would be true. But if it is not true, then don’t them on top of me. That is the only thing that I have to say.

Jeff Hodgson: Ms. Oliver.

Dee Oliver: How many children do you have in your daycare now?

Acela Aguerrebere: Five.

Dee Oliver: So, you are operational now?

Acela Aguerrebere: Yes. I have been doing daycare for about 15 years, right there at the house.
Dee Oliver: And you now you want to have eight children? Is that correct?

Acela Aguerrebere: No. The only reason why I am doing this is because Social Service changed from 4 children, and you can’t have your grand kids with you. Then I ask for eight to stay with my grandkids. Not because I want to bring someone else to my house, I just want to be with my grandkids.

Kevin Kemp: I can provide a little more clarity on this. Family Daycare Home by-right, you used to be able to have five children, not to exceed seven but that recently changed to four children, so because of that, she has to get relicensed to Social Services, she needs a Use permit for that additional child.

Acela Aguerrebere: That is the only reason. I’m not doing for 12 kids. It’s the same consistent kids, and they go home. I’m not doing any issues. They have a lot of issues with my friend. They do. Because it is hard to say this, but she is kind of crazy but that is the issues we have in the neighborhood. Lovely neighbors when they move in.

Jeff Hodgson: Are there any more questions?

I just want to make srue that I understand. So, there was no Conditional Use Permit needed until child services changed their policy.

Acela Aguerrebere: July 1st, Social Services is going to change from 4 children and I can’t stay with my grandkids. That is the only thing why I am doing all of this. Not because of nothing else.

Kevin Kemp: Right. Correct. Five children used to be permitted by right now it is four.

Jeff Hodgson: Mr. Ripley.

Ronald Ripley: But the relatives counts?

Acela Aguerrebere: No. They count.

Ronald Ripley: Wait a minute. I’m asking.

Kevin Kemp: They count to some sense. The ordinance says that you can’t have more than four children by right that aren’t related and no more than seven total, so that would allow you to have 3 relatives that you care for.

Acela Aguerrebere: That is the only reasons why I’m doing it. I’m not doing it to have 12 kids or nothing like that, but I’m kind of upset that they didn’t come to my door and knock and say how many kids are you going to look for daycare, because I should tell them.

Jeff Hodgson: Ms. Oliver.

Dee Oliver: And do to the fact that you have a pool in the back yard, correct?

Acela Aguerrebere: Yes.

Dee Oliver: So, now these eight children will be in the front yard.
Acela Aguerrebere: Well, my oldest grandkid, he is going to be nine. He goes to school all day long. But the kids play in the front of the house. I move the toys back and I put them back in the pool in the backyard because Social Services told me that I can’t even use the pool it is a really big pool. I got a private lock on my door that only adults can catch it. If they get on top of the chair or something, they can’t open my door at all.

Dee Oliver: Tell me again, you have five children there right now.

Acela Aguerrebere: I have five children.

Dee Oliver: And we want to go to eight. So, you are going to have eight children in the front.

Acela Aguerrebere: To be involved with my grandkids, that is family members.

Dee Oliver: Thank you.

Acela Aguerrebere: And they will play there. They play there with all the neighbor’s kids. And like the Thursday, that he had called the wife and the police, one of his teenage daughters. She don’t live there.

Dee Oliver: Thank you.

Acela Aguerrebere: You’re welcome.

Jeff Hodgson: Is there anyone else?

Dave Redmond: I’m sorry and don’t go away yet. I have one question and I apologize. I know I’m hung up on this, and I apologize. The police were called, was that confrontation with one of your customers.

Acela Aguerrebere: No.

David Redmond: Okay.
Acela Aguerrebere: My other friend that does daycare. Never with my parents.

David Redmond: Thank you.

Acela Aguerrebere: You’re welcome. Any questions?

Jeff Hodgson: Is there anybody else? Thank you ma’am. You may be seated.

Acela Aguerrebere: Thank you.

Jeff Hodgson: Are there any other speakers?

Jan Rucinski: There are no other speakers on this application.

Jeff Hodgson: We will close the public hearing and open it up for discussion amongst the Commission. Would anybody like to start?
Jan Rucinski: I guess I will. I guess it is my district.

Jeff Hodgson: Ms. Rucinski.

Jan Rucinski: I am sort of perplexed on this. I have a concern because there is already a daycare there. But then I see that she has been operating, so one of these daycares are sort of conflicting for the same space in that small cul-de-sac. And I feel for the neighbors and I feel for the traffic issue. And I’m not sure that we need to put all of that burden on her since it is not all coming from her. And if she had one less child there, she would be able to do this without having a Conditional Use Permit. If I am understanding a couple of things. So with that being said, I’m not sure that she should be punished or the jeopardy should be all on her because of that situation.

Jeff Hodgson: Mr. Redmond.

David Redmond: I agree. It’s a little disconcerting about the whole police case. It had to do with quite frankly, with another residence and another operation. This is a need throughout, not just the city, but throughout the planet. That is in high demand. We are going to keep having babies and folks have to go to work and they have to have places to put them. And, like a dozen years ago, and my daughter was in a facility like this, I didn’t know anybody who hung around the street for a long period of time chit-chatting. They had to work. That is what they did. They dropped off their kids and they got out of here, and the idea that an extra five cars on the block, I don’t’ know. It is a small cul-de-sac. It’s a cul-de-sac is necessarily a great burden. I just don’t see that. I don’t know how I can see it. I don’t know how to sort out whose cars versus with cars. They are public streets. You are allowed to park in a public street. People park in front of my house on a public street. I have no doubt that there are people who are discourteous in the way they to it at times. That is the way human beings are sometimes. They can be discourteous, which is why Ms. Aguerrebere, I hope I got that close. I think it is incumbent to find you and your neighbors too, although she is not here, I think it is incumbent of you to make sure that you are very clear with your customers when they come to your house, how and where they are supposed to park, and encourage them to get in, pick up your child, and go home.

Acela Aguerrebere: Sir, I don’t have.

Jeff Hodgson: Ma’am.

David Redmond: That is just my point. Anyway, I think these uses are important. They belong in our society. We need them. How we manage them is never very easy. But this seems to me more about the neighbor than it does about this application. And like Jan, I am not willing to punish an applicant for somebody else’s transgressions and providing you do your job and managing that, I think they ought to co-exist as much.

Jeff Hodgson: Mr. Inman

Mike Inman: I agree a lot with both speakers have said so far but on the other hand, I really do believe that this is too much congestion on one place. I am not saying how I am voting yet but maybe we can put, like we have in the past, we put a time limit on the Use Permit. I would also like a little refresher from the Staff about, okay, what about the existing use permit. What kind of monitoring can be done too. It is a Conditional Use Permit and the conditions are the conditions. Are the conditions being met by the current licensee of the other party on the street, and it is just unfortunate that this is
concentrated on this cul-de-sac, but it is apparently creating some problem for a couple of neighbors at least. So, I would say that if we were inclined to approve this one with a time limit to review in one year. That is a motion.

Bob Thornton: Karen’s got a point.

Karen Lasley: Let me address the permit. What we are doing as far as keeping that under control, okay. We got. And thank you for your kind words. We’ve gotten the word from the neighbors that there are problems and occasionally. The zoning inspector has been out there. I think he has been going early in the morning and the afternoon, but we will make sure that he is out there at the prime time. He has talked to the applicant. The condition that was attached to that other Use permit that the drop off and pickup shall be staggered and our zoning inspectors were having a little bit of trouble dealing with the word staggered. What does that exactly mean? So, in the future, we will try to clarify that condition a little. I think this one the Condition clarifies that it just says parking for customers employees all have to be met on the site. None in the street. So, I think that will help and Kevin and I will make sure the zoning inspector is out there at the heavy times for at least a while to try and keep that under control. Okay.

Jeff Hodgson: Can you come back next month?

Karen Lasley: No, but Kevin will.

Jeff Hodgson: Is there anyone else? Mr. Inman.

Mike Inman: I make a motion that we approve the application subject to an additional condition that it be reviewed in one year for compliance with an administrative review.

Ronald Ripley: I’ll second it.

Jeff Hodgson: A motion made by Commissioner Inman with a change of additional condition and seconded by Commissioner Ron Ripley.

Jan Rucinski: Before we vote, I need to get a clarification that the applicant has seen the last condition that was made since the informal that no play equipment being left out in the front yard.

Jeff Hodgson: There is a number 8.

Jan Rucinski: A ninth condition was put this morning after our informal session about now play equipment or toys associated with the daycare should be store in the front yard overnight.

Acela Aguerrebere: Yes, we do have a homeowners’ association and I have to put them in the back of my house. I will not leave anything in the front my house.

Jan Rucinski: So you were are aware that condition was added.

Acela Aguerrebere: Yes.

Jeff Hodgson: Thank you ma’am. Mr. Weeden.
By a vote of 11-0, the Commission approved the application of Acela Aguerrebere Lane for approval with the review of an administrative approval after one year.
Item #4
Waller Enterprises, L.L.C.
Subdivision Variance
221 75th Street
District 5
Lynnhaven
June 8, 2016

REGULAR

An application of Waller Enterprises, L.L.C. for a Subdivision Variance to Section 4.4(b) & (d) of the Subdivision Regulations on property located at 221 75th Street, District 6, Lynnhaven. GPIN: 2419-56-7897-0000.

CONDITIONS

1. When subdivided, the property shall be subdivided as shown on the submitted preliminary plat entitled “PRELIMINARY SUBDIVISION PLAT, PROPOSED LOTS A-1 & A-2,” dated March 29, 2016, and prepared by Gallup Surveyors & Engineers, Ltd., a copy of which has been exhibited to the Virginia Beach City Council and a copy of which is on file with the Virginia Beach Planning Department.

2. When developed, the Property shall be developed in substantial conformity with the submitted site plan entitled “RE-SUBDIVISION VARIANCE EXHIBIT 75th STREET RESIDENCES for WALLER ENTERPRISES,” dated February 23, 2016, and prepared by John Waller, AIA, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

3. When developed, the single-family dwellings shall be developed in substantial conformity with the submitted building elevations entitled “RE-SUBDIVISION VARIANCE EXHIBIT 75th STREET RESIDENCES for WALLER ENTERPRISES,” dated February 23, 2016, and prepared by John Waller, AIA, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

4. A 20-foot private ingress/egress, drainage, and utility easement shall be established across proposed Lot A-1 for proposed Lot A-2, as shown on the submitted exhibit entitled “PRELIMINARY SUBDIVISION PLAT, PROPOSED LOTS A-1 & A-2,” dated March 29, 2016, and prepared by Gallup Surveyors & Engineers, Ltd.

A motion was made by Commissioner Redmond and seconded by Commissioner Inman to approve item 4.

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

The applicant appeared before the Commission.
CONSENT

An application of Walmart #1688 for a Conditional Use Permit (Bulk Storage Yard) on property located at 657 Phoenix Drive, District 6, Beach. GPIN: 1496-38-7496-0000.

CONDITIONS

1. The location and size of the bulk storage area shall be as shown on the submitted exhibit entitled, “WALMART #1688 OUTDOOR SEASONAL DISPLAY AREA.”

2. All materials for sale or materials related to the outdoor lawn and garden care operation being stored shall be contained within the specified area depicted on the plan specified in Condition number one. There shall be no materials or merchandise in the adjacent parking spaces, parking drive aisles, or parking lot islands.

3. There shall be no signage installed within the area, on the fence, or immediately adjacent to the area, other than professionally prepared traffic control signs. Hand-lettered signs shall not be used.

4. When the storage area is not being used to accommodate seasonal demand, all fencing, merchandise, and other materials shall be removed from the parking area.

5. The seasonal storage area shall only be used to store pallets of mulch, top soil, paver stones, shrubs, trees and other such lawn and garden care merchandise.

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

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By a vote of 11-0, the Commission approved item 5 for consent.
Item #6
Reed Enterprises, Inc.
Conditional Use Permit
3249 Dam Neck Road
District 7
Princess Anne
June 8, 2016

CONSENT

An application of Reed Enterprises, Inc. for a Conditional Use Permit (Motor Vehicle Sales) on property located at 3249 Dam Neck Road, District 7, Princess Anne. GPIN: 1495-14-6175-0000.

CONDITIONS

1. The sale of motor vehicles on the site shall be limited to no more than five at any one time.

2. There shall be no outdoor display of any motor vehicle for sale.

3. Other than a slight modification to the existing freestanding sign to add this use, no display of the motor vehicle sales operation shall be indicated on the building, on the roof or in the windows.

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.

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

An application of Christian Brothers Automotive Corporation for a Conditional Use Permit (Automotive Repair Garage) on property located on the corner of Holland Road and Warwick Drive, District 3, Rose Hall. GPIN: 1466-80-9439-0000.

CONDITIONS

1. With the exception of any modifications required by any of these conditions, the site shall be developed and maintained substantially in conformance with the submitted site layout entitled, “CHRISTIAN BROTHERS AUTOMOTIVE CONCEPTUAL SITE PLAN,” dated May 23, 2016, and prepared by Timmons Group. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Planning Department.

2. The design and exterior building materials shall be substantially in adherence with the submitted exhibit entitled, “CHRISTIAN BROTHERS AUTOMOTIVE ARCHITECTURAL RENDERING & PHOTO CONDITIONAL USE PERMIT APPLICATION,” dated April 1, 2016. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Planning Department.

3. The design and materials of the dumpster enclosure shall be substantially in adherence with the submitted exhibit entitled, “CHRISTIAN BROTHERS AUTO DUMPSTER ENCLOSURE DETAILS,” dated May 23, 2016, and prepared by Timmons Group. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Planning Department.

4. There shall be no vehicular access from Holland Road directly to the site.

5. Any onsite signage shall meet the requirements of the City Zoning Ordinance, and there shall be no neon or electronic display signs or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. There shall be no window signage permitted. The building signage shall not be a “box sign,” but rather either externally lit, or constructed of raceway-mounted channel letters with L.E.D. illumination. A separate sign permit shall be obtained from the Planning Department, Zoning Office, for the installation of any signage.

6. Any freestanding sign shall be monument style with a brick base that matches the building, and shall be no taller than eight feet as measured from the ground to the top of the sign. Said sign shall not be a “box sign,” but rather be either externally lit or constructed of raceway-mounted channel letters with L.E.D. illumination.

7. A Landscape Plan shall be submitted during site plan review process. Said Landscaping Plan shall also reflect the plant material depicted on submitted site layout plan referenced in condition one above.
8. A Photometric Plan shall be submitted during the site plan review process to ensure that all lighting on the site be shielded and directed downward to limit the amount of overspill outside the property’s boundary.

9. All vehicle repair shall take place inside the building.

10. No outside storage of equipment, parts, or materials shall be permitted.

11. There shall be no outside storage or display of tires.

12. No outside storage of vehicles in a state of obvious disrepair shall be permitted. If vehicles in this condition require storage, then such vehicles shall be stored within the building.

13. There shall be no storage containers outside the building or in parking spaces.

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.

Jonathan Wakefield appeared before the Commission on behalf of the applicant.
Item #8
Inglesia Cristiana Nueva Vida
Conditional Use Permit
1100 Indian Lakes Boulevard
District 2
Kempsville
June 8, 2016

CONSENT

An application of Inglesia Cristiana Nueva Vida for a Modification to the Land Use Plan and a Conditional Use Permit (Religious Use and Child Care Center) on property located at 1100 Indian Lakes Boulevard, District 2, Kempsville. GPIN: 1466-80-9439-0000.

PROFFER

1. The Land Use Plan for Indian Lakes Planned Unit Development shall be amended to also allow religious uses on the Property. Such religious uses shall include a church, sanctuary, and classrooms. Accessory uses to the religious use shall include preaching and classroom teaching, a food pantry, counseling, children’s ministry and outreach, daycare, and general outreach to the Hispanic community.

CONDITIONS

1. A Certificate of Occupancy shall be obtained by the Building Official’s Office prior to occupancy of the building by the church.

2. The number of occupants shall be established by the Building Official’s Office.

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

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By a vote of 11-0, the Commission approved item 8 for consent.

John G. Loper appeared before the Commission on behalf of the applicant.
Item #9
Thomas A. Brown
Subdivision Variance
East of Riddick Lane and north of Candle Pine Lane, north of Indian River Road and south of Candle Pine Lane
District 7
Princess Anne
June 8, 2016

REGULAR

An application of Thomas A. Brown for a Subdivision Variance to Section 4.4(b) and (d) on property east of Riddick Lane and north of Candle Pine Lane, north of Indian River Road and south of Candle Pine Lane, District 7, Princess Anne: GPIN: 1493-33-2751-0000; 1493-33-3163-0000; 1493-33-2346-0000.

A motion was made by Commissioner Inman and seconded by Commissioner Thornton to defer item 9.

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By a vote of 11-0, the Commissioner deferred item 9.

Thomas Brown appeared before the Commission.
CONSENT

An application of Old Dominion Tobacco Company, Inc. for a Conditional Change of Zoning from I-1 Industrial and B-2 Community Business to Conditional A-18 Apartment District on property west of 5400 Virginia Beach Boulevard, District 2, Kempsville. GPIN: 1467-58-7545-0000; 1467-57-1872-0000, portion of 1467-57-5967-0000.

PROFFERS

1. When the Property is developed, it shall be as a 282 unit multifamily residential community substantially in accordance with “THE CONCEPTUAL LAYOUT PLAN OF MEZZO APARTMENT HOMES, VIRGINIA BEACH, VIRGINIA”, dated 1/28/16, prepared by MSA, P.C., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the “Concept Plan”).

2. When the Property is developed, it will be fenced, landscaped and have entrance signage substantially as depicted and described on the three (3) exhibits labeled “OVERALL FENCING & LANDSCAPING PLAN (Sheets L.1.1, L.1.2 and L.1.3)” and the exhibit labeled “SITE DETAILS” (Sheet SD2-1), prepared by Siska Aurand which are contained in the twelve (12) page development manual entitled “MEZZO Apartment Homes, 5426 VIRGINIA BEACH BLVD., VIRGINIA BEACH, VIRGINIA”, dated 01.30.16 copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (the “Manual”).

3. Vehicular ingress and egress shall be limited to one (1) entrance from the Virginia Beach Boulevard and a second emergency only access via an improved ingress/egress easement across the east side of the Grantor’s adjacent property substantially as depicted on the Concept Plan.

4. The total number of dwelling units permitted to be constructed on the Property shall not exceed two hundred eighty-two (282).

5. When the Property is developed, the clubhouse and pool area at the entry to the community shall be developed substantially in accordance with the layout as depicted on the exhibit labeled “SITE PLAN,” prepared by TS3 Architects, PC and dated 01.30.16, which is contained in the Manual which shall supersede the Concept Plan in this one area. The Clubhouse shall have the architectural design, appearance and exterior building materials substantially as depicted and described on the three (3) exhibits labeled “CLUBHOUSE ELEVATIONS,” “CLUBHOUSE, EXTERIOR FINISH LEGEND” and “CLUBHOUSE RENDERINGS,” prepared by TS3 Architects, PC and dated 01.30.16, which are contained in the Manual.

6. When the Property is developed, the Apartment Buildings shall have the architectural design, appearance and exterior building materials substantially as depicted and described on the three (3) exhibits labeled “APARTMENT-RENDERINGS,” prepared by TS3 Architects, PC and dated 01.30.16+, as contained in the Manual.
7. Further conditions may be required by the Grantee during detailed site plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

A motion was made by Commissioner Thornton and seconded by Commissioner Horsley to approve item 10.

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By a vote of 11-0, the Commission approved item 10 for consent.

Eddie Bourdon appeared before the Commission on behalf of the applicant.
Item #D1
Traditional Concepts, L.L.C.
(Conditional Change of Zoning)
Victory Baptist Church
(Modification of Conditions)
4125 Indian River Road
District 7
Princess Anne
June 8, 2016

REGULAR

Jan Rucinski: Okay, the next item on the agenda is agenda item D1, an application of Traditional Concepts, L.L.C., for a Modification of Conditions to a Conditional Use Permit (Religious Use) approved by City Council on 12/8/98, and a Conditional Change of Zoning from R-15 Residential to Conditional R-10 Residential District on property located at 4125 Indian River Road, District 7, Princess Anne. Is there a representative? Yes, there is a representative for this application.

Eddie Bourdon: Jan, thank you very much. I appreciate that you slipped and originally put us on the consent agenda. Eddie Bourdon, a Virginia Beach Attorney, and it is my privilege to represent the applicant on this case, and Mr. Wayne Crosby, one of the principals. The applicant is here, as well as Victory Baptist Church, Pastor Les Smith, who is also here, along with Rodney Flores, the Project Engineer on this proposed subdivision. This is a Conditional Rezoning of 8.2 acres out of a 10-acre parcel that is zoned R-15 to a Conditional R-10 in order to develop no more than 14 residential lots in a subdivision, a cul-de-sac off of Indian River Road. Victory Baptist Church, Pastor Smith’s congregation, has owned this property for more than 20 years. They will retain 1.8 acres with the existing sanctuary and church building along with some reconfigured and somewhat enlarged parking lot. As well as the church’s parsonage, which will be located on one of the residential lots, Lot 13 on the conceptual plan that has been proffered. And I’ll take a second to thank Dr. Stephen White and the staff, especially Dr. White. He has been working with the church and the applicant for quite some time, and he went over that some of that this morning, some of the history. We were going to provide the right-of-way for the Southeastern Parkway at a reduced price to the City in terms of rezoning the property before it was determined that right-of-way was not going to be necessary any longer. I think that is probably a wise decision, and that is the decision that has been made. So, this is a proposed rezoning for 14 potential lots on a cul-de-sac. The interesting thing about this, and again, Dr. White touched on this this morning, the average lot size, and this does not include any floodplain or any environmentally sensitive wetland areas, just developable land, the average lot size is 18,662 square feet in size. The only variations from the existing R-15 Zoning are for lot widths on the lots that do not abut the R-15 zoned neighborhood developed on the north side of the property. We have 80 foot lot widths for the lots that adjoin lots to the south that are in R-10 that are exactly Open Space Promotion, as Dr. White said, that some of them, not all of them. Some of them could be as little as 9,000 square feet. So, we have somewhat lot widths but much deeper, much larger lots by far. So, that is what this is all about. The other variation that these two lots which are 100 feet in width, R-15 widths just as these are, are less than 300 square feet short of 15,000 square feet. They are 14,700 plus in both instances. Other than that, it is not putting smaller lots in smaller homes on this property whatsoever. The homes are proffered to have a minimum size square footage and exterior building materials of high quality. We proffered four elevations. We proffered minimum two-car garage. All of these homes that will be built here, barring something catastrophic in the economy, will sell between $450,000 and $525,000, and can very well be above that depending on how things go. It will be a year and a half before any homes will be built out here. And that exceeds the average sales prices on the homes on either of the two adjoining neighborhoods. I don’t think, frankly, that Pastor Smith, and the church and the developer could have done more to try to
make certain that we bridge the gap between these 9,000 -10,000 square foot lots to the south and the 15,000 square foot lots to the north than what’s occurred here. There have been meetings that have taken place with the residents on the north side, and I can certainly I cannot speak for the principal, but I do know there has been a big issue with regard to drainage. And the church, which was there before any of these developments occurred, when the developer of the property to the north, which I think was Pace Construction, came in to develop this property, there was an agreement, as I understand it, reached that the church permitted, and I am sure there was an easement, and I am sure it was probably paid for, but an easement was granted to allow this development to utilize a BMP on the church’s property, which also serves as the BMP for the church as well. And, that is a circumstance that has led to some problems, not because of the people involved, but because of either installation or maintenance of that BMP. And it was discovered just yesterday, the day before, excuse me, by our project engineer, meeting with some of the neighbors on-site that, and interestingly, there is 30-inch drainage pipe that drains all the public water. It goes from this neighborhood into this BMP, and it is designed so once the elevation for the water is to a certain level, there is an outflow here, where there is an outfall where the water is supposed to go into a drainage pipe once the elevation is reached, and out into the low lands, the wetlands, the swamp, if you will, to the west. Well, the outfall and the pipe, there is a cave-in, it’s disconnected so, when water reaches the designed elevation, the water can’t leave. It just spills over, backs-up, overflows the bank, and backs up in the pipe. And that is why they had problem, and apparently, Public Works has been out, and filled in the sinkhole, but that really didn’t address the problem. They probably didn’t realize what the problem was. I am advised that Public Works has been out there today, and they are working on resolving that problem. It is going to take some work. My client was nice enough in the meetings, said “Hey, we’ll replace the pipe”, but we’re not going to be out there for probably 18 months, and this needs to be addressed immediately. I am confident that it will be addressed, but when we drew out this piece of property, just to make this very clear, we have to meet the current stormwater drainage regulations and requirements that went into effect July 2015. Very few developments have had to meet those criteria. Most of the development that has occurred over the course of the last year plus has been grandfathered developments under the old regulations. This is not grandfathered under the old regulations. So, the regulatory bar, the regulatory hurdle, is far greater with this development than it has been with any of the surrounding developments. This BMP has some capacity in it when it is functioning correctly, but certainly not to capacity required to get approval for these lots. There are a menu of options that will be looked at. There will be a drainage study done that we will have to pay for, which costs tens of thousands of dollars, and some of the things that may occur, we may wind up, and as you saw in the presentation that Barbara Duke made this morning, on the Draft Outdoors Plan, we may have some rain gardens, bio-retention beds on the front of the lots. That’s one option. It may be a menu of a lot of them. We can do a standard BMP across all these lots on the south side because they are extremely deep lots and that’s some form of BMP over here. It is certainly possible. I’d say even likely. We can provide structural BMPs to serve the church property or even a small BMP behind the church. Because the church now has the right to drain into here with any additional capacity in the BMP, any and all or a combination of those as well as the potential we could lose a lot is also a possibility. All those things will be gone through. That is why it will be 18 months before anybody is building any houses out here, in getting those approvals, as well as the dam and inundation approval, which is relatively a new deal, but again, everyone out here is in the same boat, but they are grandfathered. So, we will have to go through that process as well, which will mean that the potential of the elevation of the finished floors of the homes may be a little higher than has been required in the past, but I don’t know that will be the case, but that is another process that these folks will have to go through that other people have not had to endure or go through. So, one thing is a certainly, and that is that the development of this property is not going to cause any stormwater to be placed upon the adjacent property owners in any way, shape, manner or form, and at the very least, the situation that they have been enduring for some time, I don’t
know for how long, will be rectified. It is not our responsibility, and hopefully, it will not be put upon us to do that because they will be waiting 18 months or so for that to happen. I think we got a great application. I think we've done everything we can do to try to fit in. Pastor Smith has gotten along with the neighboring developments as they developed around him. I think staff has got it right on with the recommendation. I hope you all take that position as well and approve our request.

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

Jan Rucinski: Our first speaker is Ron Villanueva.

Jeff Hodgson: Good afternoon.

Delegate Ron Villanueva: Mr. Chairman, Commissioners, this brings back memories. First, I want to thank you guys for helping to make Virginia Beach one of the greatest cities. Not only have I witnessed many engaging questions that you’re asking in the fair and balanced manner that you’re doing, but our city owes a lot to our Planning Commission and our staff. I would like to thank Karen as well. I've served 8 years on City Council, not as long as Don. I was a pup 30 years ago.

Donald Horsley: You were a little pup.

Delegate Ron Villanueva: But I wanted to thank you guys. This application was originally heard, I believe in April and deferred. I was in session during that time. As you know, I represent the 21st House District that encompasses Virginia Beach and Chesapeake. I also serve as Chairman of Transportation and I am a champion with regards to the stormwater drainage and reoccurring flooding. So, I’m here today as Ron Villanueva, a member of our Hillcrest Meadows neighborhood. I’m one of the eight original members of the 16 that lived in the neighborhood that is adjacent to the proposed development. It has been a great neighborhood. You've had great neighbors. You can't ask for more when you have a pastor and a church praying for a politician every day, and we need it. I appreciate Pastor Smith. The developer has also called me and I’ve known Mr. Bourdon, as you know, mostly being on Council. I’m here today to bring to the attention to the Planning Commissioners, Mr. Chairman, some of the things to take into consideration. Now Mr. Bourdon, my good friend, talked about Council and making a determination on the right-of-way easement for the Southeastern Expressway. As Chairman of Transportation in the House, it is still on our rolls. There has been no formal resolution with regards to what the City of Virginia Beach and Chesapeake plan to do with that easement and all of the acreage that the City has acquired with regards to that. Should this development go forward, this would be the first development that would impact the determination on what to do on that easement just because the easement of the right-of-way backs into this development. Now, I have today with me several members from the neighborhood that are here, four of our neighbors are on deployment and could not be here. We have a neighborhood that consists of military men and women, a postman, a realtor, a nurse, defense contractors and yours truly. And, again, we have had no problems with our neighbor, and he has been a gracious neighbor. Our concerns will be a couple of things. You’re going to hear some pre-existing conditions that would impact not only our neighborhood but the new neighborhood, and will require the City’s attention and the developer’s attention. I’ve talked to the developer’s attorney, Mr. Bourdon, and he has indicated that Public Works has been out there this morning. I have not yet talked to Public Works staff with regards to the solution. And what the neighbors would tell you is that you have a BMP that is shared by our neighborhood and the church. It is maintained by the neighborhood and the church, and our neighbors are going to tell you that there has been severe flooding, and there is regular occurrence of that recurrence. We've had the City come out regularly to address the stormwater outfalls, and just this Monday, the developer, along with the neighbors, saw that the outfall pipes aren't
connected to the BMP. It is going to require some attention. So, having been in our position before, and as President, I am asking for a couple reasonable things. One is, an indefinite deferral on this application until we can figure out what the City solution would be, because regardless, if you approve this or not, the problem is still going to remain and someone is going to have to pay for it and fix it. And having said that I appreciate your time and effort Mr. Chairman and Commissioners.

David Weiner: Thank you. So, you’re opposed to the application. You just want to find out about the BMP and to fix things that need to be fixed before we make a ruling, basically is what you’re saying.

Delegate Ron Villanueva: As a politician, I would say that you got to see the solution before we say yes or no. There is no doubt you got a quality developer. You got quality engineering. The neighbors have been great. But you know this, when you approve this application, it goes to City Council, and then, they got to fix it. I’m one of the elected officials that gets calls from constituents on a regular basis with regards to “Hey, it’s flooding we’ve got to fix it.” And then we got to figure out the solution; so, before we get to that step, let’s fix it now. Right?

Jan Rucinski: So, that is why you didn’t mark either support or deny.

Delegate Ron Villanueva: I put a question mark.

Jeff Hodgson: Mr. Thornton.

Bob Thornton: As we said in an earlier case, I don’t know whether you were here or not, but if we do approve this, the next step, as you well know, is City Council and then through the site plan development process. And I, for one, trust their process. They can’t let this developer build this without the outflow working and the drainage working and all of the stuff that’s got to be finished through that, and also the stormwater regulations that the State has imposed on us. So, are you saying that you don’t trust that process? What would a deferral do to help the process that they already have in place?

Delegate Ron Villanueva: Mr. Chairman, Commissioner Thornton, my answer would be rather than hearing it from the developer that Public Works is taking care of it, as an elected official, and as a citizen of Virginia Beach, I would get a manager in Public Works and ask him to say definitively when they are going to fix this solution, and the solution has been reoccurring. My neighbors will show you pictures that aren’t fabricated of the flooding that is reoccurring; that happens all of the time. As a matter of fact, the recent rain storm, we had some flooding. So Mr. Thornton, I would say an indefinite deferral just like you did to this previous application, rather than trying to approve something that you think is good, have all the answers before you approve it, and before it gets to City Council, because if it gets to City Council, you can be rest assured that I’ll be talking to some of the Councilmembers.

Jeff Hodgson: Mr. Ripley.

Ronald Ripley: Ron, did you say the solution, you think, would be the outfall that is not connected to the BMP?

Delegate Ron Villanueva: Well, I am not the engineer Commissioner Ripley. There are two problems. One is the existing BMP. If it is a shared BMP, and you have 13 new homes that are there, you might have to increase capacity on that BMP. In addition, there is an existing outfall pipe that is not connected. We’ve had several attempts of the City fixing it. What we found out, and what the developer found out and the neighbors found out on Monday, was that there were substandard repairs
on that outfall pipe that need to be addressed. So, I’m asking for something reasonable where, hey, if this is a good application let’s get it right. Let’s make sure that the neighbors’ input is heard, and more importantly, before it gets to Council, this thing is mitigated.

Jeff Hodgson: {Directed to Mr. Bourdon} I do believe Mr. Bourdon, I don’t want to put words in your mouth mentioned that you are looking at alternatives if the BMP is not sufficient to handle. Is that a fair statement? I think you, maybe you mentioned, that some of the extremely large lots in the backyard or some of the newer eco-gardens like we kind of talked about this morning. So, hopefully, you will be looking at some of those issues.

Delegate Ron Villanueva: Mr. Chairman, Commissioners, as you know, you guys have heard hundreds of applications. You know from the citizen standpoint, if there is an approval and the developers says they are going to do it, and the City says they are going to do it, lot of times the citizens need assurance that it is going to happen. Again, as a citizen, I think that Public Works with regards with the solution the problem that I’ve heard.

Jeff Hodgson: Is there anybody else?

Karen Kwasny: I have one. Given that has been the focus for the last few minutes, the Southeastern Parkway and Greenbelt mentioned a little like a Red Herring for me at the moment, because I am not exactly sure what your position was with regard to this application?

Delegate Ron Villanueva: Well, I’m a proponent of the Southeastern Expressway and have long been. When I was on Council, we championed it. As you know, our City needs the Southern, that’s at the end of Chesapeake, not only will it help for evacuation purposes, it also gives you a strong economic development corridor between Chesapeake and Virginia Beach. I just want to let you know, just this morning, I talked to the Planning Director over in Chesapeake. If you commute in that sector of town, we are on Indian River and Elbow Road. When you look at Elbow Road and Centerville connection in Chesapeake, on the south end of Stumpy Lake, you will note that there has been 550 new homes that have been approved by the Chesapeake City Council and Planning. For an additional 1000 more, and note this, there is no transportation solution on that rural two-lane highway, so; 14 homes, 13 homes, you can say it is minimal, but we’re just adding to the fact that we haven’t had transportation funding to address that road. With regards to the Southeastern Expressway, it is still viable. But we haven’t heard officially. There has been no resolution put forth by City Council nor has been submitted to our Hampton Roads Transportation Accountability Commission or our VDOT planners. And I know so, because as you know, I am the Chairman of Transportation.

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

Delegate Ron Villanueva. Thank you.

Jan Rucinski: Our next speaker in opposition is Byron Salsbury. Please state your name for the record.

Byron Salsbury: Good afternoon. Byron Salsbury. I reside 2408 Hillcrest Meadows Lane. I’m an original homeowner. We bought in December 2002, in the northern neighborhood above the proposed building. I brought with me some colored photos that we’ve taken over the years of the flooding of my street. The first one on the top is from my front yard, and it clearly shows a storm drain completely underwater. This is a recurring problem that I personally have called the City on a couple of times, and as a result of my complaining to the City, they have sent crews out with backhoes, and they made a couple of failed attempts to correct this problem. And I’m just major concerned about putting more
houses, more concrete, dumping into the same retention pond, is just going to add to the problem. Additionally, a concern of mine is one of the reasons why I bought this home. It was brand new construction. I’ve been a resident of Virginia Beach since 1992. The Navy brought me here. I retired in 1999. I still work for the United States Navy, drive to Norfolk every day. And, one of the things I really loved about this property was that all the open space whenever I stand in my backyard. I just see sky and trees. A lot of the trees have gone maybe because houses have taken their place, and now I’m going to have probably two-story house behind me; so, whenever I’m in my backyard sharing with my family and friends, I’m going to have a neighbor in a second story window peering down on my backyard. That is going to be a daily change for me. I know it happens to a lot of folks, but I just wanted to share with you that was one of the reasons we bought this home was because of all the open space that was in the back that is going to be eaten up by homes. I understand that Mr. Smith, great neighbor. He owns the property. It is his right to develop it if he likes, but I just wanted to share with you that from our perspective, there is more issues to it, more than just the water. Now, one of our neighbors Paul, who is not able to be here today, is there any chance you can put up the other picture that showed from the satellite our neighborhood? Yeah, that one. I am this guy right there. I got this giant oak tree I love; so, I have parking lot behind me, which is great. Paul here, he is not able to be here today because he had surgery. He’s had his swimming pool liner float on more than one occasion as a result of this retention pond being so flooded and overflowing that it teaches in the water underneath the soil, has caused his swimming pool, and my neighbor Bruce, who is here today, has had the same problem. So, top of the list? Water drainage. Everything else, as Ron presented and what Bruce will present next. Thank you.

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

Bob Thornton: I’ve got one. I noticed on these drawings at the top it is 2009?

Byron Salsbury: The 2009s are from my camera from my house. The other ones that don’t have a date are from a neighbor across the street that wasn’t able to make it today because he was on deployment, but his wife was able to provide me an email with the pictures.

Bob Thornton: It is the same time frame?

Byron Salsbury: I don’t think so. If I look at my vehicle in the driveway and what not, I can tell it is a different timeline based on when I owned what truck.

Bob Thornton: How often do you all see this kind of water in this neighborhood?

Byron Salsbury: Minimum, the one I took was 2009, but it reoccurs more often. I will say at least once a year we have this kind of problem. Sometimes, it drains quicker than others. I think it has everything to do with just how much of a problem we’re having with the drainage piping, as the earth collapses in around the drainage piping, it clogs it up, and you can go all the way to the other end where it spills out into the swamp, which I’ve done numerous times, and you can see that the pipe that used to be round is still round but it is half covered in dirt at the base where the earth has been collapsing and flowing down and reducing the amount of drainage that’s possible.

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

Byron Salsbury: Thank you.
Jan Rucinski: Our last speaker in opposition is Bruce Molloy. If you will, please state your name for the record?

Bruce Molloy: My name is Bruce Molloy, and I am also a resident of Hillcrest Meadows. To answer one of your questions, the other pictures were from 2006. We flood, on average, twice a year. And we have flooded at least 37 times since our homes were built. My house is in between the two that Byron depicted. I’m sending some pictures around just to give you kind of a personal perspective about our neighborhood. This flooding goes all the way into my house, into my garage, and into my crawl space. That is a regular occurrence. I agree with the attorney. We’ve had a very good back and forth relationship with a very good quality builder, and the pastor has been a friend of ours, although I am not a member of his church, since I’ve moved in there. He actually allows me to use his land on a regular basis. So, this is not about “Not in my backyard.” The last time I was in this chamber, I was here the only abutter supporting Pastor Smith when he wanted to move that 3,000 square foot house onto his property. So, I’m a pretty balanced representative. So, you can see that the flooding is certainly significant. Commissioner Oliver had questioned in the last application it would of, should of or could of, sure were looking at the possible, I assume. And that is what you’re hearing from the attorney. They are going to look at this, and I trust Wayne Crosby. I trust him. I do believe he is going to look at this and he will come up with a plan. Is it a viable one? We don’t know. The plan has changed a couple of times from 10 homes to 14. Now they are proposing possibly taking one lot, two lots, maybe the 34,000 square foot lot maybe reduced, and you’ll see an additional BMP. We don’t know the answers. So, Commissioner Oliver, once again, we have would of, should of, could of. We’re assuming that’s lets trust the developer. So, I’m here asking for a deferral, and I am certainly getting the feeling to my experience today that a deferral isn’t preferred; however, in this case, I don’t think that you’ve been given as a Commission, enough information to truly know what we have to look for on this particular proposal. Nobody has asked the question, “What happens when the church closes?” Les Smith is 70 years old. He has no known successor. His son is not interested in taking over the church by his own admission. So, what’s going to happen when that possible lot is going to have another four to six homes on it? We have to ask that question. We don’t have any saturation studies done on this land. All we have heard from the developer is, “I don’t know.” We haven’t had a chance to look at that yet. We haven’t put the expense in to determine what we should do. That is all we’re getting. So, I’m in forwarding to please consider deferring this until we have much more information. You can see the significant damage that I incur at my home. This is not something we can take lightly. And there are six of us that get that water in our homes on a regular basis, at least annually. And these are pretty nice homes. We all work hard for them just like a working vet neighborhood. I appreciate it.

Jeff Hodgson: Are there any questions for Mr. Moller? Mr. Ripley.

Ron Ripley: The pictures that we’re looking at, is all the drainage of the entire neighborhood going into this BMP? Is it the sole source of all the water that we’re looking at. It is a lot of water.

Bruce Molloy: It is I live on that line. In fact, my property line and my next door neighbor’s, the line runs under our home. I could have given you multiple pictures. I have pictures, again Wayne Crosby as the developer has been wonderful.

Ron Ripley: I am asking you do you believe that BMP is the sole source of the drainage for that entire neighborhood?

Bruce Molloy: It is.
Ron Ripley: That BMP does the whole neighborhood.

Bruce Molloy: It does, as well as all of the church property, and all of the land abutting the church.

Ron Ripley: Wow.

Bruce Molloy: And the other pictures you see show the street caving in. Just recently you deferred a proposal on the other side of my development due to soil studies. No soil studies have been done on this land yet. There are a lot of questions Commissioners on this proposal. I know they have a great developer, a great engineer. The church speaks for itself. Certainly an articulate attorney that I can’t stand behind but there is a lot of questions behind this. I don’t think we’re ready. Thank you.

Bob Thornton: I’ve got a question for you. This photograph here, is this the beginning of the pipe that goes back to Gum Swamp? Is this what is supposed to drain the BMP?

Bruce Molloy: The actual drain sits at the beginning of that 22 foot long ditch, and that ditch is how much soil has eroded through that broken pipe through the last couple of years. Les Smith worked very hard with the City, probably five years ago. They had that repaired; so, what you have is just five years of damage that sits about 14 feet deep today. I also have two of those in my yard that measure 2’ x 3’, and 17 feet deep, and the other one is 2’ x 2’ and about 8 feet deep, that the developer actually stood and looked at this past Monday evening, and stated that he had never seen anything so severe in Virginia Beach. There are a lot of things we’re dealing with.

Jeff Hodgson: So, you’re saying this is 14 feet deep?

Bruce Molloy: It is. The developer actually stood in there on Monday night, and he has been wonderful to work with.

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

Bruce Molloy: Thank you.

Jan Rucinski: That is all the speakers. Mr. Bourdon.

Eddie Bourdon: Thank you very much. I want first of all complement Delegate and former Councilmember Villanueva, and my friend, and all or the speakers for the way they handled themselves and reported themselves, and my clients appreciate it, and they had the opportunity to meet with them with some extent. I think this will be a symbiotic and helpful scenario. Let’s deal with the Southeastern Parkway scenario first. Pastor Smith and my clients have tried, and we spent lots of money on multiple plans that included the right-of-way alignment. And had an application ready to come forward, and it is a City Council decision not a Planning Commission decision as to the Southeastern Parkway. And we’ve been told that this section is not going to be built, to take it off our plan, and that is why we are before you. That is the only reason why we are before you with this application. We had another plan that would have included that right-of-way; so, any suggestion or innuendo that this shouldn’t go forward because that is somehow up in the air because it is still on Delegate Villanueva’s radar screen. That is for City Council to decide not for this group to decide. We can’t sit here in limbo about which way do we go. We have to follow the direction we’ve been given by City staff and City Council. If they change their mind, and decide they want this right-of-way, we’ll have to deal with it. But it is not on the agenda.
today. As it pertains to the drainage problem, and in all frankness, I initially was of the opinion, “Well, we hear this a lot all time.” But when Rodney Flores was out there on Monday and he took pictures, it is very clear that there is a serious problem with that outfall pipe, and it is silted over because of dirt going in it, and had people filling and the City filling those holes that go into the pipe. They clearly have a problem. The problem is one that has absolutely nothing to do with Pastor Smith or has to do anything with this applicant. It has to do with maintaining a public drainage easement, a public drainage structure. And that isn’t on us, although we will do anything we could do to try and help assist in that being resolved. When their neighborhood was developed, it was done with the zoning in place and with the same process we’re going to have to go through. It is not a question of design. It is a question of the way it has been maintained. The idea apparently that some may have which is fallacious is that we are going to try to put these 14 houses draining into that BMP. That cannot possibly happen. That is a non-starter. It is not going to happen. There may be some additional capacity when it is functioning property that might handle some of the stormwater, but nowhere near under the current regulations, which are much more strenuous that could possibly be used for the majority of the drainage from this neighborhood, this new neighborhood. It is not going to happen. But every residential rezoning, which you all understand and know, and everyone that Councilman Villaneuva voted on when he was on City Council, all this detailed engineering, and all of this detailed study, none of that gets done before zoning is put into place. That is a multiple tens of thousands to hundred thousand dollars plus of engineering expense that doesn’t happen until the zoning is in place. Zoning doesn’t give us the right to go out and build 14 houses on 14 lots. We have to meet all of those criteria. The enhanced ones that are in place today are a much, much higher bar, and that is what will happen in this case. We will not affect negatively their drainage, and we cannot. Delegate Villaneuva understands this very well. The bar has been raised very high. And anybody who is putting in any development applications for approval of subdivision, new construction plan approval, site plan approval today, understands that it is a much higher bar, and it takes a whole lot longer to get to the point where something gets approved. So, again, I do also want to say that I think this is really, and I won’t put words in Ron’s mouth, but I am quite comfortable that City Council isn’t going to act on this application until they are assured by their staff that the existing problem, again this has nothing to do with that problem, but they will want to know if that problem has been resolved before they vote on any application. I certainly believe that to be the case and that is why we are very proactive and going to see that gets addressed as well, but again, it is not a valid reason for this body not to act upon an application for a very reasonable request for a rezoning of this piece of property. Again, knowing full well that it will probably be 14 homes. We don’t know, it may be 13. There will be additional BMPs, as I mentioned as I went through the whole litany of ones that are available that may be used, but that is to be the time when all of this detailed engineering studies have to be done. Again, what is required is a lot more than what was required when either neighborhood decided to develop. And when it was developed, none of what they are suggesting my clients need to do, that wasn’t done then. It hasn’t been done in the past in any situation. So, I actually can think of one. Nimmo’s Quay. They actually did spend over a $100,000 on the drainage study, before they got their rezoning about three years ago. They are still under review by DSC; so, anyway, that is the only one. And this is a small development. It couldn’t withstand that cost on a whim.

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

Bob Thornton: I got one. The BMP that is there now, is there a concrete pipe going out to the back end of it heading toward Gum Swamp?

Eddie Bourdon: The outfall is here Mr. Thornton, there is 30-inch drainage pipe that runs between these two lots, and dumps into the BMP. When it reaches its designed elevation, it outfalls into a pipe that goes out into the swamp. And that is what is not taking place because of the capacity. There are two
reasons. It is not connected any longer, because I believe of a cave-in but that is my understanding. And there is, apparently, there have been some other cave-ins or breeches of that pipe, thus there is a lot of dirt, silt, mud through the pipe so the capacity of the pipe is lessened, but most importantly, the water is not getting into the pipe. It is overflowing and that is why, and I haven’t looked at any of the pictures, but it is overflowing and most importantly, it is backing up, water from all of this drainage. They are draining forward, all of these homes drain forward come down and go into that low point, and it is backing up. There is nowhere for the water to go when it has reached its capacity and the water is not leaving. It is not staying there and it is overflowing, and it is overflowing on the church’s property as well, and that’s what is occurring.

Bob Thornton: Whose responsibility is it to make that repair? Is it the churches or the City’s.

Eddie Bourdon: The City’s.

Bob Thornton: It’s been dedicated.

Eddie Bourdon: It is a public impoundment easement and it’s a public drainage easement. The church is not responsible.

Bob Thornton: Why hasn’t it been taken care of all these years?

Eddie Bourdon: I’m quite certain that the calls that have been made have resulted in people going out, and looking at what’s going on there, and I’ve been told that the sinkholes have been filled. This is all secondhand hear say. I know efforts have been made. I personally suspect that there are deficiencies probably of the outfall pipe that was installed to start with, but that is just a suspicion.

Bob Thornton: Your client puts these 14 houses in and obviously they cannot put water into something that doesn’t work, and if they put water into their own BMP that heads in the same direction that still doesn’t fix this problem.

Eddie Bourdon: First of all, make it very clear, it is unlikely that there will be much utilization of this BMP permitted. Again, it all depends. If we create a different BMP for the church, which drains into there now, which is designed for the church and for the houses, then that frees up additional capacity. If that system is operating properly, there may be water from some of this development that goes into that BMP. That remains to be seen. I’m confident as I can possibly be that there will be additional BMPs that we’ll have to do and the most likely one is along the back of the lots where we go extremely deep. There is the capacity for a very large BMP, basically about twice the size of this one. It isn’t because of a problem with where the water is going, it is the ability to get the water there. That is where the problem is. This water is not getting there. We certainly are not going to be able to put water into a system that is not functioning. The City is not going to allow that to happen. And Mr. Crosby, even advised the folks the other night that if we were out there developing it, and we were going to use that in some capacity, again, it would be for the entire development, we would go in there and fix the pipe, if we had to replace part of the pipe. These folks can’t wait that long, and I’m fully in agreement with that, but that has nothing to do with this application. That is the reality. The only thing is that Pastor Smith was kind enough, and I’m sure there was some remuneration involved to convey to Pace Construction, who developed this cul-de-sac, the drainage easement. And they put it in, whoever they hired to put it in. And it was inspected, but no one is arguing, and we are not arguing that it is functioning the way it should. It’s clearly not. But that is an issue that will have to be resolved. It is going to have to be resolved sooner than when we will be going through with our information and getting approval for our
actual construction plans, which will include other BMPs. I don’t want anyone to leave here thinking we’re planning on putting the drainage from this street, these 14 houses in that BMP. That isn’t the case. I do believe there may have been some belief though that may have been engendered by some misunderstandings in communications. That is not even feasible, possible, never going to happen.

Jeff Hodgson: Mr. Ripley.

Ronald Ripley: I understand that when you get into this process that you’re not going to get anything approved until you cross your T’s and dot your I’s, and all the new regulation, not only quantity, but also quality of drainage. I got all of that. When I look at this plan, they don’t give us plans that are with any kind of scale to look at. There appears to me there are outfalls running to the BMP from what I can see here. I may be seeing it wrong because it is so small. It looks like that but it is not withstanding that. That is not my comment. My comment is that these pictures that are passed around are pretty severe drainage issues, and I don’t think Delegate Villanueva is kind of off-base to come in and ask that this get fixed before something else gets added into the area that might continue to impact their neighborhood. So, if you’re going to go to Council, and Council is not going to approve it, wouldn’t it be a good idea to come back with a solution so that you know, and it may take this much time to get the solution but the neighborhood next door, the people that live next door, will be assuring that it is going to be done. And that is what he asked. I thought it was a very reasonable request. I didn’t understand until I saw the pictures of how reasonable it was.

Eddie Bourdon: With all due respect Mr. Ripley, I couldn’t disagree with you more. We are not the cause of that problem, and we can only help get that problem solved. To suggest that folks have been waiting for a year and a half, have to continue to wait because of a problem that we have no responsibility for or any causative. We didn’t create it. We’re happy to try to help, and I totally concur that the City must solve this problem, and if we can be of assistance in doing so, we certainly will, but to suggest that we’re going to be able to put more asphalt out there until not only that problem is solved, but our drainage plans are completely vented and approved, it just can’t possibly happen. So, we’re being held hostage by something that we had nothing to do with.

Ronald Ripley: But you could do a preliminary drainage study to show how you’re going to handle the water. Yes you could do a preliminary drainage study, and that way the neighborhood could understood that it is not going to invade their system, and that you have a method that could resolve it.

Eddie Bourdon: Were going to create a different set of rules for this applicant to go out and do a drainage study because somebody else’s system isn’t working the way it is supposed to work? That’s a precedent that I sure as hell hope that we as a City don’t engender, and I wonder, why it would be the case in this particular application?

Ronald Ripley: Because of the photographs that we’ve seen. I think if we pass this on to Council, Council is going to say what’s that Planning Commission thinking?

Eddie Bourdon: I couldn’t disagree with you more affirmatively. It has nothing to do with this applicant. When we found the problem, we immediately notified everyone that we know how to notify. I do not believe in any way, shape or form, that there is any logic behind that position. Because you’re taking a position now that other people who have drainage problems and they don’t have a former Councilperson or Delegate in their neighborhood, are they going to get the same treatment? And everybody is going to be held hostage for problems with maintenance of existing drainage systems?
Ronald Ripley: It just so happens that he lives there, and that is not the issue. He came in and presented the issue and the neighbors brought forth evidence. That is what we’re having to deal with, just like you’re presenting your evidence, they are presenting their evidence, and I think that idea of knowing there is a solution is a pretty good idea.

Eddie Bourdon: There has to be a solution, but the applicant, and the property owner, have no way of making that solution reality. And they didn’t create the problem. They aren’t the problem, and it is unassailable that nothing is going to get built on this piece of property until that problem is resolved. So, we’re talking about a deferral for no valid reason that I can conceive of, because what is a deferral going to do? It takes the City six months to figure out the problem, we’re still going to be a year out of ever being able to turn the first spade of dirt from our plans. We can’t get our plans started. We’re wasting a ton of time on something that we aren’t going to be turning dirt for 18 months. So, we’re sitting here in limbo waiting for the City to solve a problem that is going to have to be solved, and again, as I said before, I’m quite certain that before Council votes on this application, they are going to hear from their Public Works people and their other departments as to the source of this problem, and hopefully confirming what we discovered to be the problem. We’re being held hostage by something we had nothing to do with.

Ronal Ripley: I think they expressed the same information to us. So, we can make a formal decision.

Eddie Bourdon: Again, it is not appropriate, or responsible or reasonable to ask us to go out and ask us to spend money to do a drainage study because of a problem with an existing system that is not performing. It is defective, we think, for the obvious reasons. That is not reasonable to my client or this applicant at all. People who come here in good faith and have been good neighbors and still are good neighbors. We’re being asked of that request to do something that no one else would ever be asked to do under these circumstances. Because you’re not approving a subdivision construction plan or site plan that is being brought there and start developing. You’re not. You’re saying is this a reasonable land use that we’re proposing, and I heard no one suggest that it is not. In fact, I heard to the contrary. It is a reasonable land use that we are proposing. It is not granting us the right to go out and build it or put in any of those lots at this point. So, we would not be in favor of a deferral at all. I don’t‘ think there is any valid reason to ask us.

Jeff Hodgson: Are there any other questions of Mr. Bourdon?

Bob Thornton: Let me piggy-back on what Ron’s saying. In the plan that we have to study and look at and to make a decision on, there is no BMP on this proposed development except to what’s there.

Eddie Bourdon: I can show you two or three iterations of different BMPs.

Bob Thornton: All I could add is the one that is in the packet. Let me finish. But so, we have to look at this when we started, we just had to assume and that is what’s up on the board now, is one BMP up there. And now we have determined that it doesn’t work. So, if you got one that shows a BMP for your parcel, that might work or conceivably could work it might help us.

Eddie Bourdon: I just happen to have one. Thank you Mr. Thornton, but again, we don’t like to mislead. I think there is enough there for everybody. This is a bit of a dilemma. Do we submit an application that have four or five different variations? This is but one of a way to handle the stormwater on the property. Because you’re approving a plan that in the proffers say will be substantially adhere to. Okay? Well, if I use this plan, which you will see, there is a very large BMP as well as a small one on the
church’s property that runs the entire length of the southern boundary of the property. So, you approve that and our proffers say it will substantially adhere to that. We don’t know that’s the BMP that will make the most sense or will be approved by our Public Works and DSC. So, do we have to come back and have this body modify our proffers to show different BMPs, such as rain gardens, bio-retention, filterra systems. There are so many options available, but we have to know all of the information to know, which is the best one to use, and what the City will approve. And we also have this inundation process with the dam scenario, at Indian River, this will be the first, so we are in a scenario where we don’t know what the BMPs will be but it is easy to sit here and tell you that this development is not going to be utilizing that existing BMP for its’ drainage, again, other than to say that some of the drainage could go there, especially if we replace the church’s BMP, and none of the church’s drainage goes there any more then that will open up some of the capacity of that system. But, again we haven’t analyzed how much capacity that might be. But clearly it isn’t going to meet today’s requirements. It is not going to meet today’s requirements. I just think it causes a huge dramatic effusion for us to be giving two or three different plans of the way the water may be handled. I don’t think it make any sense. So, that is why we proffered one. The process is one that absolutely will work. It hasn’t worked for these folks. I understand that. I don’t think it is the process that hasn’t worked. I think it is the maintenance and or the quality of material that was used when that system was put in place. Again, that is just my seat of the pants analysis of what’s happened out there. But, again, we’re not standing here saying that there isn’t an issue or there isn’t a problem. We’re not trying to suggest that they are making it up or there is clearly one. But, it is one that has to be resolved, and I am 100 percent certain it will be resolved long before we ever turn the first spade of dirt on any development on this piece of property. So, I’m sorry to run on. I hope it made sense. You can see a very large BMP, and again, that may happen, plus two or three other things or there may be some other BMP or a series of BMPs that are utilized. We just have no way of knowing, and I don’t believe in any way, shape or form, it is that the City is ever going to adopt a policy or should ever adopt a policy where we have to figure it out before we get zoning. That is completely 180 to do anything you’ve ever done or will ever do.

Jeff Hodgson: Is there anybody else? Are there any questions? Thank you sir.

Eddie Bourdon: Thank you.

Jeff Hodgson: We will close the public hearing....but we will not open it again for our Delegate.

[The Public Hearing was again opened]

Delegate Ron Villaneuva: Let’s take a deep breath. With regards to the plan that you have before you, you know this. You don’t make a hasty decision if you haven’t seen anything prior to. I am pretty sure that is the first time you’ve seen this plan that Mr. Bourdon has presented. He’s talked to us about it, but we haven’t seen it. So, reasonable request again, is we’re not saying it is not going to be a quality development, but there are certain problems that are pre-existing that need attention, whether it is going to be at City Council to fix it or the developer to fix it, and it is pretty reasonable, and I appreciate your time and effort. Now, Mr. Bourdon talked about me representing the neighborhood and being a Councilman. As you know, yes, I am a former Councilman and a Delegate. Any citizen who has ever asked me to represent them before a Council or a regulatory board, I have done that without question, regardless if I lived in the neighborhood or not. So, I just wanted to bring that up to your attention. With regards to the Commissioner bringing up the Red Herring, the one reason why I brought that up before you is because you as planners have to look holistically at the transportation network system that is before you. Yes, it is Council’s prerogative to figure out what they are going to do with the Southeastern Expressway and all the acreage that is a lined on that. And it is ultimately going to affect what you guys
do as Planning Commissioners; so, that is the reason why I brought it up, just because I represent not only Virginia Beach and Chesapeake, and again, as an elected official, we are forced to figure out the solutions on our end. I know since the neighbors in my neighborhood, some of them couldn’t be here, they got personal stories as well. Again, I appreciate your time. Our neighborhood appreciates your time, and it is pretty reasonable to ask for that deferral until we figure what we can do. I pledged to the developer and to Pastor Les, I’m going over next door to find out what’s the solution, what’s the timeline. That is pretty reasonable. Thank you Mr. Chairman and Commissioners.

Jeff Hodgson: Mr. Bourdon? Would you like another rebuttal?

Ronald Ripley: How long do you think it would take the City to ascertain? You might not get the solution right away. You might get....

Delegate Ron Villanueva: I guess it depends on what kind of pipe they are putting in. Because they have been there twice already to fix this thing, and they filled it. It hasn’t solved the problem. Again, I am not the engineer, Mr. Commissioner. I would say reasonably 60 to 90 days, but that is up for you guys to determine. You know this if you got champions and you got concerned citizens that hit Council members and the City Manager, they will find a solution. They will figure out a timeline for that. Again, this is the first that I’ve heard of the problem. I haven’t had time to address it. They talked to Public Works, and I haven’t. Again, it would be beneficial for everyone if we could figure out and solve that problem before the neighborhood comes in, because you can see the developer says the 13 new homes won’t impact that BMP, well, again, we haven’t seen the plan for additional BMP or widening. We have only heard. You got to vote on the plan that is before you in the packet. Thank you Commissioner Ripley.

Donald Horsley: I got one question. This has been going for several years evidently. The pictures came in here from 2006 and 2009. Why hasn’t something been done before now?

Delegate Ron Villanueva: To answer your question Commissioner, there has been. It has been substandard, and with the developers coming in, seeing the problem. We’ve know the problem with regards the pipe outfall are connected to the BMP. We’re only existing in our certain timeframe, and we’re seeing, and we’ve been reporting this. Trust me. I’ve talked to the City Manager about this. Again, we know that there is a problem that exists and it needs to be fixed, and it has been addressed but it hasn’t been addressed properly. And before you approve this project, let’s go fix the problem first.

Donald Horsley: Thank you.

David Weiner: I’ve got a question. This isn’t the first time something has come in front of us. Okay. Princess Anne Woods right over here came in with the same type of problem. We approved it, and far as I know, things have been worked out. Why should we hold them responsible for something that is not their fault, because it still has to go in front of site plan review and staff has to do all of that? They shouldn’t have to pay for all of that and have that plan done because it is not their fault. It has to be planned. It has to go through the process before and then they do the plan. Why should it be different now?

Delegate Ron Villanueva: Mr. Chairman....

David Weiner: I am just asking.

Delegate Ron Villanueva: My answer to that would be if it the City’s responsibility, the City needs to find
a solution. Let’s have the City fix it before you approve a project that would impact the new neighborhood and ours, and worsen the problem even more. It is pretty reasonable. I am not asking you for a year deferral. I am asking you to give us some time to figure out a solution. I’m pretty sure we can find a solution, and then the developer can come back and present his new plan to you, and you can vote on a plan that was presented two minutes before.

David Weiner: There hasn’t been a solution since 2009 to fix the problem. How are going to fix it in a couple of months? Do you know what I mean?

Delegate Ron Villanueva: I’ve seen City Council and City and State Engineers. If there is a severe problem, there is funding available. And there are some champions behind it. And more importantly, a partnership with the neighborhood, and I think I’ve seen that move mountains.

David Redmond: Mr. Villanueva, I was curious perhaps if you had perhaps any extra time to serve as the President of Thoroughgood Civic League? I appreciate your advocacy on behalf of your neighborhood and your neighbors. Here is my question. I know a little bit not things about the Southeastern Expressway and Greenbelt. Let’s not dig too deep. The deferral, with regard to this question of the BMP, and my question is that the issue? Your neighbor, who spoke before whose name I forget, I apologize, said there were a lot of questions and I haven’t heard a lot of really legitimate questions about the nature of the application besides the problem that is occurring with this pond. I think what would be kind of difficult for any applicant is if they had a deal from the item they came in here and went through a bunch of steps with the City, call it 60 days. Let’s be optimistic. Came up with an action plan for repair for the pond, which for whatever reason has not been adequately addressed, and I would be curious too if I lived there, and then come back in 60 days, and we’re opposed because we don’t like A, B, and C. So, what I am looking for is whether or not it is this business with the pond? Can you put if off six months, I mean 60 days or something like that and still have the same issues. Because I think Mr. Bourdon is essentially correct in the sense that it is a separate issue from the application you are about to issue with the existing pond that has been there for how many years. I would be more comfortable if this procedure would get that place, people would be more comfortable with it. Is there more?

Delegate Ron Villanueva: Mr. Chairman, Commissioner, my neighbors didn’t come up and say “not in my backyard. We don’t want this.” We want a solution that would help with the drainage problem that affects not only our neighborhood but one tight community of a neighborhood. So, it is pretty reasonable to ask for a deferral. With regards to Thoroughgood, I hear from your constituents all the time.

David Redmond: Believe me, I’m surprised.

Delegate Ron Villanueva: But again, there are some policy decisions here. It is pretty reasonable. The market is always going to be there for these guys. You’ve heard the price point of their homes. It is going to be nice, but what you don’t want is after you approve this project then, after the fact, Councilmembers, and staff has to deal with the problem afterwards and fix it. Then, it costs more to compound to everything you were saying; so, when I was on Council, I heard about Princess Anne Woods. We tried to fix that. That is why I am up in Richmond trying to find more funding for flooding, drainage and stormwater.

David Redmond: I hope very frankly that there are offices right now where the phones were ringing off the hook and people are saying you would not believe the debate that is going on in City Council Chamber right now. Figure out what is going on with this pond, and figure it out ASAP. I hope it does.
Delegate Ron Villanueva: Mr. Chairman, the issue is not just the pond. It is just making sure that when you vote on an application, it is good to go. When Council gets it, it’s good to go, and that the citizens can take pride with the developer in a quality neighborhood. That’s been part of our tenets in our Comprehensive Plan for such a long time.

Bob Thornton: I’ve only got one statement. The gentleman said there were 37 floodings. I think I wrote that down since you’ve all been counting. I cannot imagine that it has come to this point where you’re having to use this as leverage to get that fixed. I understand on its surface, this application has the staff’s approval. I haven’t heard anybody say terribly bad about it, but you guys have either not gotten the City’s attention, or they are not paying attention to you, because there is a huge drainage problem out there. I guess we’re going to close this down this for a minute and start talking amongst ourselves, but I wish you well in getting the City to go fix that pipe, because 37 floodings, like these pictures show since 2006, is pretty unacceptable. It would be in my neighborhood.

Delegate Ron Villanueva: Mr. Chairman, for the record, our neighbors have regularly called the City. The City sends folks to clean up the stormwater drains and they do it on a regular basis. But obviously that is not the problem. Now we know where the problem is. So, we’ve been an aggressive and engaged neighborhood. City Manager knows about this problem. Again, just give me some time to work with the developer and the neighborhood to figure out the solution. That is all that I’m asking.

Jeff Hodgson: Mr. Bourdon.

Eddie Bourdon: First of all, I want to again, think the world of Delegate Villanueva and my comments in response to Mr. Ripley’s questions were not directed in any way to be critical of Mr. Villanueva advocating for his neighbors, and I certainly don’t blame him and I appreciate what he has to say. One of the things that he just said, however, I think is very important. In addition to the issue you all have, and I think we beat it up, and I’m sure a lot of people are hearing about it, and I am sure everybody has at this point. He just said also, the plan needs to be one that people don’t have questions about, and I would ask each of you what is it about this plan that anybody has any questions about. Other than if you want to suggest that we show every possible BMP that might be utilized down the road when we go through that process, if I show bio-retention beds along the side of the road, I show the BMP in the back. I show a Filterra system under the parking lot. I show a BMP on the church’s property. I show an expansion of the existing BMP as a possibility, than what are we doing in the terms of the way we proffered these things. Do we put a proffer in there that some or all of the BMPs depicted on the plan will be utilized rather than the ‘substantially adhere to the existing plan’ as of the proffered plan? That’s the dilemma here. We couldn’t make it any clearer that this BMP that is on the property isn’t going to be the source of the treatment and the retention of stormwater for this development. It was put in by Pace. There is a public impoundment easement at the outfall was all a drainage easement. The church didn’t use that as a BMP until Pace developed their property. They are fee-simple lots. It is not a situation where there is an association that is responsible for maintaining it, at least that I am not aware of, and I’m pretty sure that is correct. So, I don’t think there is anything about the plan that is before you that has been recommended for approval by your staff, and really to their credit, one gentleman spoke about not having the view out of his backyard, but the comments were all about the existing drainage, and you all have, I think have, figured that part out. It isn’t anything that we can do, and there is no doubt whatsoever, should be no doubt in anyone’s mind that there won’t be anything done to develop this property other than plans being worked on or engineering being done that can only be positive before this other situation is resolved. Mr. Chairman, I promised I would do this, but I am not advocating for it one way or the other, but Pastor Smith has asked if could speak? That is up to the Commission.
Pastor Les Smith: Well, it brings me great pleasure and I sometimes…. the job you guys have, I think it is harder than my job. I’d preach, but you won’t let me. But, I’ve thought about this. We’ve been there for quite a long time. And the neighbors have been commendable. They really have. And we together have really sought help with the City, the Public Works, the retention ponds all over this City, including the one right here at the Courthouse. It is not kept up right. So what do you do? The City has got a big responsibility. They have a lot of retention ponds and this particular one. It’s enough water to drain the whole community out there. All the communities, it is big enough. It is not working properly because it is not being kept up. We were told that for the first year the church would be responsible to make all the improvements. Then, the City would have a right-of-way to take it from them. Well, for whatever reason, the City has got a lot of work. There is just too many of them to keep up with all that work. We begged them. The community has been down, and we’ve called hundreds of times, and they would come out and put a band-aid on it. But if that thing is done properly, it will drain not only the church property and the next community but it will also drain. Come out and look at how big it is. It is 55-60 feet long and almost that wide. I think the problem is if the community wants to keep that open property, and I understand that. Let them use it anytime they want too. The church has the right to vote and have houses in there if that is what we decide to do, and that is what we’ve decided to do. We certainly don’t want to hurt anybody. We are here to help people. I think I’ve been fair. The people there have been great, even the ones who made the complaint. I don’t think they are mean people. They are great people. We just want to get the solution solved, but we think it’s the City’s fault and not the church’s fault, and certainly not the neighborhood’s fault. And, they need to come and correct it but how to get them to do it, we haven’t been able to. Okay. But to put us off, and it has already been a year and a half or whatever it’s been trying to get this thing done. I am not an architect. I don’t know anything about that. We’ve got City engineers that are going to approve everything. And so, we’ve got professional people that can do it. When you have a storm, guess what, and the tide comes in? I don’t care what you do, there is going to be some flooding sometime, but that particular property is 100 years for what a major flood to come in. That’s the insurance plan. A 100 years. So, we don’t have that flood problem that often. Now, the problem is the drainage is not taking the water to the swamp. That is what the problem is. Thank you so much for you kindness.

Jeff Hodgson: Thank you sir. Mr. Bourdon, I am not giving you another chance.

Eddie Bourdon: Thank you.

Jeff Hodgson: We’re going to close the public hearing and open it up amongst the Commissioners.

David Weiner: I would ask Mr. Bourdon a question if I could? What was the number of houses they could do by –right without coming here? What was it 10?

Eddie Bourdon: 12.

David Weiner: 12 houses. So, now they are driving two more houses; so, that is why they are here. They will only put the 12 houses on there and it will still be in the same predicament. I’ve listened to both sides, but I got to say this is something that’s been before us before. And we passed it, and we think about site plan review. And site plan review doesn’t have anything to do with us. We’re here for, I guess, we’re here for the application, and the application for the houses are permitted to drain this problem. Yes. I don’t think it has anything to do with this application. The application, I think it is real good and I’m going to support it.

Jeff Hodgson: Is there anyone else? Mr. Ripley.
Ronald Ripley: Yeah, I think we ought to defer it for 60 days. And give the neighborhood a chance to find a solution from the City. And that the applicant comes back with a plan that generally shows how it would reasonably drain the property. We’re looking at a little larger plan that is showing outfalls from the property to the BMP, and it seems like that is a connection. A big connection but it is a connection, so, I just think given the severity of the drainage and the problem that is occurring, that the 60 days is not unreasonable. He is looking for a solution. I don’t think he’s saying it is fixed in 60 days but, I doubt if the City will fix it in 60 days, but you probably get some answers. I think if everyone is put their shoulder behind the wheel and pushed on it and shoved a little bit, we might get a little further. And everybody would be happy. I don’t feel the neighborhood complaining about the development. It certainly seems reasonable to me, but I think given the environmentally sensitive drainage areas of this area of the city, the flatness of terrain its rain, that’s an important component to think through before you come in and ask for the additional lot or additional two lots. And probably based on the discussion today, of course, they could reconfigure these lots, and make them a little bit smaller. I guess they could get another lot in there. They would probably lose a lot, is my guess. Mr. Flores can certainly advise his client of that for sure. So, I would recommend that we do a 60-day deferral to give them the opportunity to come back with a solution and that they come back with a plan that reasonably represents what they really want to do here. That is my motion.

Jeff Hodgson: Does anyone have any more comments? Mr. Inman.

Mike Inman: I’m conflicted about this. I understand what David is saying. Are we really being consistent with the way we’ve handled these applications in the past? Have we gotten ourselves involved in drainage issues? Haven’t we already said that is not our job? Our job is land use. Is this a proper land use? What comes after is in the conditions at the end it says, one of the conditions is that they have to comply with any requirements that might be placed upon them in site plan review and any City agencies. Okay. Now, we’re asking that if we go to the deferral, we’re asking the developer to not know whether or not it is going to get the rezoning or not, but to spend thousands and thousands of dollars on a drainage plan, which he may never need. That doesn’t seem right to me. I don’t remember doing that before. And, I do know that the City is way behind from our representation of community associations and such, and that the City is way behind on maintenance of drainage facilities all over the city. I mean way behind. I’m talking 15 to 17 years behind. Maybe this one will be different. Maybe this will be addressed sooner because of the environmentally sensitive area that it is the severity of the problem. But it does disturb me as people ask why it hasn’t been addressed in the past six years. And, why shouldn’t we approve the rezoning and let them go forward. I am sure Mr. Bourdon’s client would dearly love the City to take action on the property next door, and do the proper maintenance or repair, and that would alleviate a lot of the expense for his client. But the City may not. His client may want to go forward, and may want to spend the extra money to make it right in the near future. so he can proceed with this. I don’t think he is going to decide to do that. He is spending all that money if he hasn’t even got a rezoning or doesn’t know if he’s going to get the property rezoned and add two more lots.

Ronald Ripley: There are two things. We just passed a policy down in the southern part of the city exactly on this line. There were drainage studies done as you come into it. I think it was done in the Rural Area for a similar kind of reason it was done. And there are many layers that deal with Chesapeake Bay. We provide detailed drainage before you actually get planning. That happens. You got a neighborhood that’s asking. They don’t have that layer in front of them, and so they are asking for that time so they could try and find a solution. I don’t think it is unreasonable.

Jeff Hodgson: Mr. Horsley.
Donald Horsley: This was a pretty tough one, but when I look at it as a land use thing, they could go there by-right and get the stormwater management planned, approved, and build 12 homes. They don’t have to be here today, but they are here because they want to get two more homes, which they may get one. I know what David is talking about over here at the Courthouse, and we told that neighborhood that when it was developed, when the neighborhood was developed they would not put any more stormwater on their property because we got them on the site plan review process takes place. It goes back again to this problem that this community has had for, I guess going on 10 years now, since 2006 to now, and it looks like they are finding an opportunity to jump on this horse, this next door neighbor is going to get some extra support to get their problem fixed, and that is a smart way to go if you haven’t done it in all these years, is time to get it done some kind of way. And I think it is the City’s responsibility, and I think somebody has been dragging their feet. I’ve got a lot of confidence now it will be taken care of. If Delegate Villanueva is behind it, and the group that is developing it gets behind it, I’m sure this problem will be taken care of, and addressed pretty soon. So, realizing the process has taken so long for this process to get done now, since last year when the statewide stormwater ordinance change or regulations changed. It just takes forever, and this delay in this process, I can’t see it is doing them any good, and I think everyone is agreeable to the land use plan that they submitted, and just get the drainage straight. So, I’m going to have to support that application as it is today. Staff has supported it, and I think they got confidence, and staff is going to get the drainage at site plan review and going to get that straightened out and have a good plan. So far as the land use, I’ve got to go along with it. I don’t usually buck against the Commissioners, but I am going to have to do it this time. I think it is the right thing to do.

Jeff Hodgson: Ms. Rucinski.

Jan Rucinski: And that is sort of how I’ve been feeling to piggyback on that. I really think we are looking at two separate issues, and I really think the only thing we can make a decision about is the land use. I think this is a pretty good land use. I feel for the neighborhood that is backing up and the church that is backing up to it, and I am hoping by them coming here today that somebody in the Planning Department and City staff can talk to the next person in line, and they can push that to get behind. I also know that the City is very behind in their BMP maintenance. But I think this one definitely needs a little timely service that has been long overdue; so, I will also support the application.

Jeff Hodgson: Dr. Kwasny

Karen Kwasny: I was conflicted as everyone else. I do think that this is an opportunity. If we move this forward, this is one of those cases where it becomes an opportunity for something to happen. I feel a little hypocritical when I say that, when I’m teetering on edge, but I feel pretty convinced that’s the case because for instance, if we do have outfalls that are going into this BMP, and this BMP is the problem, then this is going to draw attention to something that might have ended up down on a list somewhere waiting even longer than you already waited. So, it is a possibility that the BMP is going to be utilized by the new development. The new development is going to have to address an issue that will be their own. Then that is already an issue of the current development. So, it then becomes a benefit. Do we need to be consistent in that kind of review of land use? I think so. And, if we push it forward and we allow for the piggy-backing, it will result in the attention it deserves. And, so that is how I finally came to my decision.

Jeff Hodgson: Is there anyone else? Who would like to make a motion?

Donald Horsley: I make a motion that we approve the agenda item.
David Weiner: I'll second it.

Jeff Hodgson: A motion made by Don Horsley to approve the item and seconded by Commissioner David Weiner.

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Ed Weeden: by a vote of 8-3, the Commission has approved the application of Traditional Concepts and Victory Baptist Church.

Eddie Bourdon: Thank you all for your patience.
REGULAR

Jan Rucinski: The last item on the agenda today is D2, 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 District on property located at 929 First Colonial Road, Lynnhaven district.

R.J. Nutter: Thank you very much. Mr. Chairman and members of the Commission, my name is R.J. Nutter. I am an attorney representing the applicant. Thank you. I guess it is a pain that Eddie had to follow me, and everybody knows I have a long winded way about myself, so I guess this is payback. At any rate, I represent the applicant, Aldi, Inc. Aldi is a new company. It has been in the United States now for some time, but it is entering the Virginia and Hampton Roads markets throughout every Hampton Roads city. They are new to us, not just the fact that they are a new company, but, their concept of groceries is dramatically different than anything we’ve ever witnessed. In fact, it is directly opposite of everything we witnessed with the last 20 years. We’ve witnessed Food Lions starting out at 35,000 square feet, Farm Fresh is at 40,000 and Harris Teeter is at 60,000 square feet, Kroger is depending which one you pick, anywhere from 55,000 – 120,000 square feet. And on top of that, you throw Walmart Supercenters and in Wegmans, which are about 150,000 square feet and you use the trend where groceries have gone. So when a grocery store comes to you and comes to a neighborhood and says we’re only 18,000 square feet, one half the size of the smallest store that first came to this area, and of that, we are only 11,000 square feet of actual retail sales area that is a very different animal and requires a lot of explanation. That is why we have to take the time we’ve had with the residents around us to explain how all the works and to let them know all about it. In addition to the size differential, it has to do with the fact they are designed not to be a destination, but a convenience store for people who are already going to a market in their area. There is no way they can compete with a 60,000 square foot Teeter because they are only 11,000 square feet retail space. So, they are for people who are already going shopping at the Kroger, Harris Teeter or Wal-mart, and want to have their line of products out a less expensive price, and are frankly, very in tune with their environment, and how they do business. That is a lot of their customer base. As a result, their customer radius is about two miles. And, as a result of that, they are going to have stores planned in Virginia beach on Shore Drive, further down towards the Oceanfront, on Virginia Beach Boulevard in the Thalia area, and I may have missed a few. They are opening up in Kempsville, and there will be several more after that. In short, people are not going to drive to a destination location where somebody might drive from Kempsville to go to the store. They are not going to be driving from a very long distance. They will be going in route, and the reason for that is because, quite frankly, they are not trying to compete with them. They can’t. They have a different model. The net result of that is the traffic that they generate doesn’t fit in all of the books. The other thing about them is the traffic they generate is largely traffic that is already on the road to go to that area around Hilltop. In fact, I live in Great Neck, and I will tell you that if you live in that market, you’re going to go to Hilltop for your shopping, or for clothes, for any number of items including groceries. And, when you do, you’re going to have the opportunity to pass this store, They found, for instance, that a larger percentage of the people who come to their stores. are already on the road going to another location. There are estimates that over 70 percent of the people who come to their stores, are actually already going down the road to go to someplace else. So, that’s a big factor in how, if you look at the book, it will tell you 35 percent. That is based on a traditional grocery store, a
much larger sales area, a lot farther to drive area with people going greater distances. So, you can’t rely
on all the books in this case. We’ve tried to look at a store in Richmond Virginia on Perham Road. As
many of you know, Richmond on Perham Road. A very high traveled road. We picked it because the
store has the same trader, a two mile trader. It has a high traffic count per day than first Colonial Road.
This is the right store to pick to see how many people come into the store on a daily basis over a weekly
time and what are the peak hours for them. What we found was anywhere from 400 to 600 people
come to those stores on a daily basis. The other interesting thing is the peak hour is actually at 3:45 and
5:30. It just bleeds over to the next half hour. So, you have very different travel patterns. As you know,
they don’t open until 9:00 am, so they don’t have virtually any am peak hour period traveling period.
That is just a small part of the equation of this company and that is what I want you to understand. The
biggest part of this just like any application, you know is not based on one issue. It is based on a variety
of factors. Here are the factors that I want you to take serious consideration of in addition to what I told
you about the traffic situation. First of all, what is the impact on adjacent properties? We always start
there. First I will show you, we have O-2 right next to us on the south, O-2 on the north. We got
residential behind us. We have O2 across the street, we have a bank located there, a commercial bank
and Bank of America with the largest number of drive-thrus I’ve ever seen in my entire life. So, to say
this is a commercial quarter is a bit a mystery. But to suggest that this be residential redeveloped, is
obviously not realistic. A church has already got a Used Permit there, and that church by the way, is
about 26,000 square feet and you look at that site and you think boy it’s a pretty rare site, a lot of open
space. These stores at this location is going to occupy 18,900 square feet, 8,000 square foot less of
building on this site, than exist today and everyone feels like that is very, very and pleasant site. So, let’s
talk about the narrative. Not only do we have land uses which are highly compatible with this, and in
fact this zoning will eliminate, as your staff points out, two navy issues. It eliminates the R15 zoning that
is here, because this is in a 75 plus noise zone. And it eliminates the congregational use, which is also
prohibited in the 75 noise zone. So, we’re eliminating tow Navy issues here. If you look at from a policy
perspective from the Navy, we are in good shape. Now, let me tell you where we started and we met by
the way. Long before this application was even advertised, we met with the residents behind us. I am
happy to tell you that one of them went out of her way on my promise that she will be out of here by
2:00 - 2:30, so poor thing. She has taken her time. God bless her. So, we met the residents there, there
are six homes along here. Our first thought was that we’ve got to meet with them and tell them about
the Aldi Store. We got to answer all of their questions. We did what they asked us to do, and their
input, directly resulted in this site plan. Let me go back to site plan. I will tell you what we did. First of
all, we met with them and told them the whole story and we said we are prepared to put a significant
buffer in the back. This buffer, by the way, is at its closest point is 130 feet. It is 160 feet at this furthest
point. So, this is a buffer like no other. Second, we got a lot of trouble with kids coming back in here
and we’re very concerned about that. Can you put in heavy landscaping along here, so; we said yes. We
will send you our landscaping plan before we submit it to the City, so if you want to revise it, please let
us know so we can do that. And we got two comments that we add landscaping on here because there
is school is right up here and there is a townhouse development up right here. There are a lot of kids
that traverse in this area as they go out to Hilltop in that area. Then they walk on the right-of-way, they
just go back here which is all green. So, we put in landscaping to stop that. All of that was done. We
also agreed of course, as you can see there are no roads, no drive aisle, there is no nothing behind the
store. In fact, the truck access is here on the other side, next to office. It is located almost inside the
building behind a wall and the big bulk of the building. The bay itself is also recessed, and significantly.
The trash compactor area is located in that area. All the other things they asked were where is your
loading dock area? Where about the machine that move equipment inside the store? Where is that
stored? All of that is stored inside the store. So, you are going to be one of the quietest uses we’ve got
out here. If you look and stop right there, we have a situation where we apply with the land use
program here, we have met with all the neighbors concerned. We have a better benefit from the Navy
perspective. We have given you a great amount of open space. There is a huge amount of buffer here in the front; much more because we agreed to eliminate an out parcel in the front. We took all that out and put in all the landscaping there and all the landscaping in the back. Then when we met with the residents across the street, they had a lot of concerns about traffic. In addition to that, can you add, because we want to be able to get there, a walkway and a bike loading area for us. It lines up directly with the crosswalks that exist today on First Colonial Road. So, all of that was put in at their request, and the president of the Civic League called me and we spoke later that week. He said the civic League is not going to take a position on this case. You’ve done what we asked you to do, you kindly addressed the issue on First Colonial Road, so, you will have some people come and speak because they are concerned about traffic. Our civic league will not take a position on this case. And that was music to our ears, if you could imagine. That will give you some indication we had our meeting with them where there was over 40-50 people at that meeting. Councilman Wood attended that meeting with us as. Following that meeting, give us two weeks to try to address some of other questions you raised on First Colonial and we will get back to you, and we did. We met with, the Deputy City Manager involved, and we got Jim Wood’s help on that if I might add, but we got serious high level attention placed on this intersection. What could be done to make it better? To help not just us, but the more importantly the people across the street. So, they recognize that. I will tell you, that you don’t have a lot of people here today, and didn’t have them at 12:00, any more than you had them at 4:15. It is some evidence of the face that most people understood that we’ve done everything that we could do. We have an application of a new company bringing new jobs, and a new capital investment into the area. We go a company that is located at a spot where everybody is fine. Your staff has recommended approval, and your staff recommending approval comes with consideration that traffic engineering weighed in on this application, because we’ve been making improvements to that light. We’re all for making additional improvements there in terms of timing, adding a left turn lane, which we said that if that doesn’t help, please don’t do it. If it does, we’re willing to pay for it. So, you get an applicant that is more than met the standards by which of any application has seen that has come down here to you, and seeks for your recommending of approval. But if you can see, we’ve also engaged into a large amount of public outreach. I know you’ve given me some time after the little red light. I appreciate that. I did want to get in outreach applies with all of these programs, and to let you know what we’ve done, so I will stop. We have several speakers in support. I have some engineers if you have some questions. Two from Kimley-Horn, one on the traffic side. I have Josh Wall, with Aldi Foods. He is from Richmond. He came down today for the hearing. I have Les Watson who represents the church, and how much the church, has participated in this process with us. More importantly, I have Alex, and Alex is just wonderful who stayed all of this time Perecko, to speak in favor, who lives behind it. Finally, I will pass this out. It is a letter of support. There is one from Alex on behalf of her neighbors in the back, additionally met with the property owner on either side of us, on the north and south, and the owners on the north that signed the letter in support of the application. I’ll pass those out for you as well. And I’ll stop for a second. And let someone else talk, unless you have any questions?

Jeff Hodgson: Does anyone have any questions for Mr. Nutter? I have one quick one. You said the church was 26,000 square feet?

R.J. Nutter: Total side of the buildings including the gymnasium.

Jeff Hodgson: Thank you.

Jan Rucinski: Is there any order?

R.J. Nutter: I think Mr. Watson wanted to speak briefly for the church, and how much they have gone
through, and worked with us and the neighbors. They wanted to make sure the neighbors were addressed correctly as well, as you might imagine.

Jan Rucinski: Okay, our first speaker in support is Les Watson. Please state your name for the record.

Les Watson: Mr. Chairman, and members of the Commission, my name is a Les Watson. I am a local attorney. I represent the owners of the land, which is the subject of this application. We, of course, support the application. But beyond that, I want to tell you how impressed we are by what we perceive is an incredible level of commitment on the part of Aldi to respond to the concerns of people who live adjacent to this property and near this property. We’ve been to several meetings, which Aldi has called with the neighbors, and we have watched them respond with compassion and concern to the issues raised by the residents. And I think you will even find that residents who abut the property in the rear may even be here to support the application. That is all that I wanted to tell you. We are very impressed by the way which the way they conducted themselves through the course of this application, and we fully support, and we think this a superb use for this property.

Jeff Hodgson: Any questions of Mr. Watson? Thank you sir.

R.J. Nutter: Jan, do you mind calling Alex? I promised her. Thank you very much.

Jan Rucinski: Our next speaker in support is Alex Perecko. I hope I pronounced that correctly. If you can, just state your name for the record please.

Alex Perecko: I am Alex Perecko. I am the owner of the property behind to the right. Basically, they have been very responsive. They had a meeting at the church. Several of my neighbors showed up. We were concerned with lighting. They addressed every concern. We didn’t want lights in our backyard at night since the store was going to be open after dark, they told us that the lights they used point down. They time to turn on and cut off. The pedestrian traffic like R.J. mentioned was a huge concern. But they literally emailed their response, and it was in two days. Look at this plan from the landscaper. How does this look? Does it look like cutting it down, and even so far as saying we’ll use thorny prickly bushes if it doesn’t stop the pedestrian traffic. So very responsive and I actually went up to off of these and faced timed me, so I can see what it is going to look like, and I think it will be a great addition to the neighborhood. I’m hoping I’ll be able to get over the thorny bushes, if need be. I’m in full support of it. They have been very cooperative and helpful, and eased everyone’s concerns that was ever brought to our attention.

Jeff Hodgson: Are there any questions for Ms. Perecko? I was wondering if you were going to use thorny bushes or poison Ivy?

Alex Perecko: Whatever works.

Jeff Hodgson: Thanks for spending your whole afternoon with us.

Alex Perecko: Thank you very much. Interesting process.

Jan Rucinski: The next speaker is support is Mark Boyd. Sir, if you can, please state your name for the record.

Mark Boyd: Sure, Mark Boyd with Kimley-Horn.
Jan Rucinski: Let us know why you support the project.

Mark Boyd: I’m in support of the project. I’ve been working. I’m the civil engineer for Aldi the last three years. I found it to be a very great client to work with. They are always concerned and accommodating of all requests, and citizen outreach is one of their big deals. We always look at that up front, and try to coordinate with everyone as much as we can. I think they’ve done everything they can on the site to provide a good use and especially if you tried to mitigate any concerns that some of the citizens have.

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

Jan Rucinski: Our next speaker is, Bill Baggett.

Bill Baggett: Excuse me if I am a little nervous. It is my first time.

Jeff Hodgson: That’s okay. We’re nervous too.

Jan Rucinski: If you will just state your name for the record.

Bill Baggett: William Baggett. I don’t know which way to go. Because the improvement I fully support, as long as it is an improvement. But if it is moving parallel or stepping back, my thought would be and the former employers all said the same thing, as long as you’re moving forward. My biggest concern is the traffic. For example, any of us going to Virginia Beach General Hospital travel First Colonial Road. It doesn’t matter what time of day or night you go, except for maybe 2 or 3 in the morning, you’re going to hit traffic. I can’t think of how many times I’ve had to watch fire trucks, emergency personnel, rescue, EMS, police vehicle going from the hospital and took off come back, had to drive down the wrong side of the road just to get to Hilltop. Everything is dumped into Hilltop. Of course you have Hilltop north. Just like the other church, they have four lanes. We have trouble with traffic. I’m hoping it doesn’t develop into a similar situation of Independence Boulevard and Virginia Beach Boulevard. My other concern, like I said, I can sit in my family house and I can listen to the sirens and tell you what’s going by. I can tell you which direction and how bad the traffic is. But again, you factor in anything else, but it is like the Aldi’s representative said, it’s a small door. You’re already there. You are going to stop and out, similar to a 7-11 grocery store. Again, if we can think about it as best as possible, and do our best foot forward first, then we won’t have to come back and reevaluate two or three years from now. First colonial Road is going to has to be expanded, and in order to expand it, you have to take. So, why not let’s take a little farther down the line and once it is done, same project. That makes everybody happy. I thank you for your time. It has been a long afternoon. Mr. Inman, I remember you from Novack Shell. I spent 20 years. I get around. So, thank you everybody. I hope you all have a nice evening.

Jeff Hodgson: Are there any questions? Thank you sir.

Jan Rucinski: Our next speaker is Valerie Porowski. I did that right?

Valerie Porowski: Yes you did.

Jan Rucinski: Oh my gracious.

Jeff Hodgson: good afternoon.

Valerie Porowski: Good afternoon everybody. I can’t believe the patience you people have, because I
would have lost it a long time ago. I am Valerie Porowski, and I live at Tottenham Lane, which is off of First Colonial Road and we are in the townhouses that are at the traffic light that’s across from the section that Aldi wants to move in to. So, we have a problem with traffic going in and out of our area. That’s the same place where Bill is also. And, I have written down what I like to say, so I hope you don’t mind me reading it? It would be easier for me. I am a resident of Southall corner off of First Colonial Road since 1999. I always wondered why there is so much traffic on First Colonial. It took me a while to realize that it is one of two roads that cars coming from the north from Shore Drive area, can get to the shopping areas or the beach front. They come down Great Neck Road to First Colonial to go to the many shopping centers in the beach front or they stay on Shore Drive, and add many miles to the trip. They go by the state Park at First Story, and down to Atlantic; instead, they go down Great Neck to First Colonial, and then to their destinations. Going from Tottenham Lane, where I live and attempting to take a left on First Colonial is a nightmare at times. There is a traffic light at one of the entrances and exits, the other has no light. If I want to take a right, there is a problem. I can use either egress to take a right but when I want to take a left on First Colonial Road, at the intersection where there is a light, I cannot get onto First Colonial because things are jammed up many times because the bottleneck starts at the left entrance for the Hilltop shops on First Colonial. So, sometimes we have traffic all the way from the hospital down through First Colonial Road, all the way down to the Hilltop shops. Traffic studies have shown that usage on First Colonial Road is more than 140 percent of recommend usage. It was not built to accommodate this many cars with a hospital on First Colonial Road, emergency vehicles using First Colonial, there is no space for cars to get out of the way of these vehicles. And now how they change the lights so they can go through it, it takes a while to get the lights back on cycle. Also living on Tottenham Lane, many drivers think they can beat some of the traffic by cutting down my lane to get to the south Hall and First Colonial intersection. Many times they speed down the road, and don’t bother to stop at the stop sign when they get to Southall. I’ve got many of them to slow down, and got angry responses. In reading the Planning Staff report, “Planning recommends that priority be given to infill and redevelop proposals that complement healthcare activities.” It also states retail brings high traffic and the current traffic volume here is way over capacity now. I’m not against Aldi’s but I am against more traffic, which First Colonial Road cannot handle. Of course, therefore, I am greatly against the rezoning of this property at 929 First Colonial Road. Where will the zoning stop? It may just continue up First colonial Road towards the hospital and then to Great neck Road. Please don’t change the zoning. We don’t need any more grocery stores in the area. We have more than enough. Thank you in advance for anything you can do to alleviate our traffic problems. And thank you for your time for listening to me!

Jeff Hodgson: Are there any questions for Ms. Porowski? Thank you ma’am.

Valerie Porowski: You’re welcome.

Jan Rucinski: Our next speaker in opposition is Douglas Murdock. Would you please state your name for the record?

Douglas Murdock: Yes. My name is Douglas Murdock and I am speaking on behalf of my mother, who is Beth Murdock. She lives at Tottenham Lane. She has lived there since 1990. And I am also a resident of Virginia Beach. So, I am speaking on her behalf.

Edward Weeden: Can you get closer to the mic?

Douglas Murdock: Yes. Okay. And first I would like to say that I’m sorry to see the church being torn down. It is icon there. It is a smart business and eventually it is going to go under like bigger churches,
let’s say. So, first of all, I like to say that I read the applicant report, and there were a few discrepancies. Namely when they were talking about First Colonial Road. We are to the end of the applicant, and very little was said about us because we are not abutting the property. We are adjacent. I believe we’re adjacent because we are east of it. But we don’t abut the property, so you hear mostly about what’s going on behind Athen’s Property north and south. Our neighborhood is Southall Court, and is Southall Court Road where the light is. On the other side of the road is Tottenham. There is an entrance way out and in out of there, but there is no light. You can’t put a light there because you can’t put one there is is too close to Westwood traffic light. So, therefore, they ended up putting a light out there by the 1990s. When you take a left, yes a peak times, you can’t hardly get on. You really have to fight to get in there, because the blockage is going from Wolfsnare Road all the way down to Southall Road. And, you kind of got to wait for to ease out to loosen up so you can work your way in there. Now, with that being said, the applicant didn’t state there was a major hospital there. He just stated there are homes there. That is also a main corridor for the fire and rescue squad. Like I said, the cycle goes in and out all the time and that is just the extra turn as well. That is all that I have to say. Thank you.

Jeff Hodgson: Thank you sir. Are there any questions? Thank you sir.

Jan Rucinski: That is the last speaker. Mr. Nutter if you would like to rebut?

R.J. Nutter: Thank you very much. And I will be very brief like I told you. As I told you, we took every one of these very seriously and that is why we deferred this last month to look at that, and the reason why I have their engineers here, in case there were any questions about it. But what we found is that the traffic generation from this store is to be diminisus compared to many of the other uses that could be there. The other thing that we found, actually speaks to what Dr. Kwasny said, that sometimes when there is an application that directs the City’s attention, to solve these problems. I will tell you in many years of appearing before you and Council, I can’t tell you that I’ve seen any much any more attention paid to the right of Southall and First Colonial than I have than I have in the last 30 days. The City is serious. They looked at a number of opportunity to make that better, and they feel that all they can add to that can help solve those problems. No matter what we do, we’re going to have a traffic impact there. And, I’ll give you a little story about the value of this property. One night Jim Wood told us, “look if you want to talk about a problem, let me talk to you about a church?” The Wave church up the road or Spring Branch Church up on the road on great Neck Road, so because this is a low attendance today doesn’t meant that it couldn’t be a mega attendance tomorrow with the same exact zoning with no input whatsoever from the City. The other thing is, and this is an actual fact, when Aldi came to this property, it was actually under contract with Remke. Remke wanted to put two retail uses on it. And, it wanted Aldi to be one of those two uses. I told Aldi that would not work. That this had to be a low intensity type use, so they bought out the contract from Remke to prevent that type activity from occurring. Not many people could do that. Quite frankly, they were committed to this site, this location. They feel strongly about it, but I will tell you those are the kind of uses you’re going to see coming to this site. And this is why this application is so insignificant. It is among the smallest retail uses that you can have. It will provide the largest amount of open space of any property within the entire region including the hospital property I might add. They eliminated the out parcel and frankly, they didn’t because the problem on First Colonial Road. They can’t solve the problem on First Colonial Road. The city has to solve the problem, and you can’t shut down development along that roadway because of the traffic issue. There is a street down every single one of your districts and there is a traffic count where there is excess traffic on, and that if that is the measure, we can all go home early because that will be the measurable what we do. This application comes to you with staff recommendation for approval. It is an application that has reached out to the neighbors that the neighbors supported on all sides of it, and reached out to the civic league across the way. The point that the civic league takes no position,
because of the action has all been taken both on the site plan and as well as with the City trying help to
solve traffic problem. We can’t change the graphics of what’s there. We can help solve it. That is why
the civic league really voted to take no position. They felt like we’ve done all we could, and nobody
could do more. So, I’m happy and proud to represent them. They’ve done a great job. I would tell you
that because of the high percentage of cross over traffic, there will be some increase in traffic over by
the way, just what this church provides. If you put a similar use on it, the traffic will actually go down, so
if you put an office use on it, the increase traffic beyond and that would be destination traffic. New
people come in because there are new doctors. There are new lawyers. There are new politicians. That
is where Mr. Forbes office is. All of that will be coming to that location. Rather than driving by on the
way to their other locations. So, we urge your support. We’re happy and proud to have staff’s
recommendation of approval, and we urge you to support your staff as well.

Jeff Hodgson: Thank you. That was it?

Jan Rucinski: That was it.

Jeff Hodgson: We’re going to close the public and open it up for discussion. Not everyone speak at
once.

Mike Inman: Okay.

Jeff Hodgson: Mr. Inman.

Mike Inman: It seems to me they have reached out to all the effected by groups and responded to calls
and requests for meeting, and worked things out, in a successful way, for the most part. Now, you look
at, and I’m really convinced by the fact that there is going to be some use there of that property and
there is going to be a commercial use. Is this perhaps the lowest impact that we can have? Because I do
believe that it makes sense to me that people are already traveling in that area to another destination to
multiple allies on the list to stop by. So, sole destination in terms of generation of traffic by this
particular use, it may not appear to be to some and, so minimal use in terms of the amount of structure
that is put on the size of the site. So, I know we have an issue there with First Colonial Road, no
question about it. I experience it like the people here in the audience, and on the Commission, it needs
attention, and this is going to get some attention. I think this is going to help bring some attention. All
of the discussion that has been had to the traffic light situation, and the attention of expansion, I
suppose of First Colonial. I would support the application.

Jeff Hodgson: Ms. Oliver.

Dee Oliver: And I think you’ve all done a good job as far as buffers and the neighbors behind with this
application. I don’t have any problem with it. But I do have a problem with is the amount of traffic and
that it is our medical corridor that protects those areas of the city. They keep them such that they are a
medical corridor for a lot of reasons. It makes sense to have medical offices next to the hospital. We
have a fire department on Old Donation. It is a main thoroughfare road from Mill Dam and Great Neck
and First Colonial Road. The traffic there is so bad, and even though with the turn lanes added for
Southall, and all of that. They’ve done a great job. When you’re there by the time it backs up at
Southall, it backs up at Wolfsnare. It backs up with Republic. It backs up at First Colonial. It is a
nightmare and you’re trying to get rescue squad down there, and God forbid if it is one of us in the back
of that truck, or the fire department has to get through and they can switch the lights because my
daughter runs rescue. There is no doubt about it. But then it just backs up even more after the fact. It
used to be it was just rescue going to the hospital. They are having so many problems rescue leaving the hospital and trying to get back out into the City. It doesn’t make sense that would cause more congestion, and even though it is minimal, I totally agree, but it is 400 to 600 cars more. Traffic is already stated the fact that we are so far over in capacity for that road. I don’t even understand how we did that. And, then we are going to add more to it, and the peak hours within the school zone and people leaving the offices, so; at 3:45 to 5:00 everybody, the doctors are leaving, the shift changes and at the hospital. The schools are letting out. You have Cape Henry and Cox using that road. We have First Colonial using that road. We got the elementary school, which started causing problems from the beginning. And you have Hilltop. I know for a fact that when I’m on that road, I’ll look at it and it is easier for me to loop through up to Great Neck, cut back through London Bridge and go back down to get around that. It is less time and I’m covering more area. I don’t’ know the solution. I don’t think this is going to help. I think it is going to make it worse, and I think at one point as a public safety and that is where our closest hospital is and one of our main fire department, we should take that into consideration when we are looking at this corridor. And, for that, I can’t support it. I’m sorry.

David Redmond: A couple of things. The responsibility of this goes back for decades. This road would have been widened decades ago in my view, so here is not fixing that. With regard to the use, I think this is a substantial site improvement, landscaping is going to be an awful lot better. The site is frankly oversized for the use. You wouldn’t be able to have that big buffer in the front and that big buffer in the rear if it weren’t. So I think 18,000 foot building, which is essentially the size of a Petsmart, to give you an equivalent, is not at all an outrageously sized use on property of that size. The way this particular market works is that people don’t do their weekly shopping there. It is typically a 2, 3, 4 items, and my guess is the vast majority of traffic that is coming to that store is going to be coming off First Colonial Road because it is on First Colonial Road. That is why they want to be there to capture all of that. There are much larger and much more comprehensive supermarkets within a one mile radius that would capture a lot larger sale of a trip. This is a much more convenience oriented supermarket. Smaller produce, smaller fish, smaller meats, smaller dry good, can goods. Somebody is going to go in and get a can of salmon, toilet paper, and bottled water, costing $12 bucks or whatever. But it is typically is not $150 grocery bill for a family of 4 for the week, so I am confident that the vast majority of the traffic is already there. It is not going to add much. Frankly, there are uses that could be far worse. From all the things we would like to see buffering, landscaping, setbacks, walking path, all of those things were done. But I’ve never seen in a supermarket that didn’t have a lot load in the rear. There is an awful lot of thought and care, I think, that went into that site plan to make it as accommodating as possible. So, I think it has a lot to offer. I don’t see, quite frankly, anything with regard to the application that would cause me not to support it. So, as Mr. Inman, I intend to support the application. Thank you Mr. Chairman.

Jeff Hodgson: Is there anybody else? Mr. Ripley?

Ronald Ripley: One of the things that Dave mentioned, that I was going to mention as well, is the intensity of use here is really very mild. It is 5,400 square feet an acre. If you did an office building, you would do at least 20,000 square feet an acre, I think, and here you probably have about 60,000-70,000 square feet in there that could employ 300-400 people in there depending on whatever. So, it looked like some a very low intense development, so, just picking up from what you said. That was my comment.

Jeff Hodgson: Mr. Horsley.
Donald Horsley: I agree with that, and the intensity of the use is low, but what really drove my attention this morning when they had the picture up there. We got a lot of vacant land left on First Colonial Road that is not developed. So, I’m hoping that somebody higher up than we are is going to see that we need to do something about traffic on First Colonial Road because you can see these large parcels that are undeveloped, and we got some redevelopment that is going to occur down there too, just like this piece of property. But I think we need to send a message that we need to start thinking about what to do about the traffic on First Colonial Road, but I am going to support the application.

Jeff Hodgson: Mr. Wall

Jack Wall: I think it is kind of an odd use. It seems like we would want to preserve our medical office. It is predominately medical office area for protecting that. Being a medical corridor, and an office area with minimal business, a community business, but at the same time it seems like it is a low intensity use and I don’t think it is really going to make the traffic that much worse.

Jeff Hodgson: Ms. Rucinski.

Jan Rucinski: I think what’s happening with that medical thing that there has been so much new development that Princess Anne out by the new hospital that people are leaving that corridor and moving out. I noticed the last time that I was by there. There are a lot of vacancies. I was surprised because I have a couple of doctors over there that is there no longer. So, I think maybe that corridor may be in a transition.

Jeff Hodgson: Mr. Redmond.

Dave Redmond: Mr. Chairman, I move approval of the application.

Mike Inman: Second.

Jeff Hodgson: A motion made by Commissioner Redmond to approve the application and seconded by Commissioner Inman.

Bob Thornton: Ed, I’m not voting on this. My company represents the applicant.

Karen Kwasny: I completely over this parcel, because Mr. Nutter used to call my name to testify for the rationale here, and I don’t want to sound like I’m sliding back on that particular thought that I felt there. But because I see so much available here, I’m more concerned about this is one of those things were I’m concerned about precedence, and whether or not we put something in and then we start the ball rolling. I don’t think traffic, I’m not saying stormwater management is easy to handle or gets the priority, but I think traffic is probably underneath that in terms of the priority list. It is down below that even further. And, I don’t think it gets addressed and because it requires funding from outside sources, not from the developer. I think to start the ball rolling and precedence for this area that could be very negative in its impact following this, so, I cannot support it because of that. I feel it does create further traffic. It creates further problem and may create more of one if we have more of that type of thing coming in. Thanks for letting comment.

Jeff Hodgson: Is there anybody else before we vote?
Ed Weeden: By a vote of 8-2-1, with one abstention, the application of Aldi, (N.C.), L.L.C. has been approved.

Jeff Hodgson: I would like to thank everybody for attending today. I know it has been a long day. Meeting adjourned.
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 Rusinski to defer item D3.

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By a vote of 11-0, the Commission deferred item D3.