An application of Donna House for a Conditional Use Permit (Tattoo Parlor) on property located at 1300 Diamond Springs Road, Suite 102, District 4, Bayside. GPIN: 1469-11-5141-0000.

CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department for consistency with the provisions of Chapter 23 of the City Code.

2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

3. Any on-site signage for the tattoo establishment shall meet the requirements of the City Zoning Ordinance. 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. Window signage shall not be 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 for the installation of any signage.

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

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By a vote of 10-0-1, with the abstention so noted, the Commission approved item 1 for consent.

The applicant appeared before the Commission.
Item #2
City of Virginia Beach
Change of Zoning
120 Marshview Drive
District 6
Beach
October 12, 2016

CONSENT

An application of the City of Virginia Beach for a Change of Zoning (A-12 Apartment A-18 Apartment to P-1 Preservation) on property located at 120 Marshview Drive, District 6, Beach. GPIN: 2417638556, 2417731546, 2417638455, 2417730186, 2417734027, 2417721866, 2417724866, 2417820890, 2417625690, 2417629740, 2417724771, 2417729577, 2417625475, 2417628462, 2417724423, 2417729477, 2417625179, 2417628177, 2417724128, 2417729178, 2417615907, 2417618978, 2417715918, 2417617659, 2417713734, 2417714742, 2417719838, 2417810879, 2417811611, 2417812549, 2417813504, 2417813407, 2417818250, 2417817439, 2417817518, 2417816663, 2417736469, 2417621142, 2417811567, 2417816320, 2417817377, 2417815865, 2417816078, 2417624483, 2417624681.

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.
Item #3
David E. Stinnette
Subdivision Variance
726 24th Street
District 6
Beach
October 12, 2016

DEFERRED

An application of David E. Stinnette for a Subdivision Variance to Section 4.4 (b) of the Subdivision Regulations on property located at 726 24th Street, District 6, Beach. GPIN: 2417-88-4727-0000.

A motion was made by Commissioner Thornton and seconded by Commissioner Rucinski to defer item 3.

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By a vote of 11-0, the Commission deferred item 3.
An application of Safe Haven Healing and Deliverance Ministries for a Conditional Use Permit (Religious Use) on property located at 463 South Lynnhaven Road, District 6, Beach. GPIN: 1496-18-3564-0000.

A motion was made by Commissioner Thornton and seconded by Commissioner Rucinski to withdraw the application.

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By a vote of 11-0, the Commission withdrew item 4.
Item #5  
Ann Riggs Henley & Richard Riggs  
Subdivision Variance  
3120 Colchester Road  
District 7  
Princess Anne  
October 12, 2016

CONSENT

An application of Ann Riggs Henley & Richard Riggs for a Subdivision Variance to Section 4.4 (b) of the Subdivision Regulations on property located at 3120 Colchester Road, District 7, Princess Anne. GPIN: 2423-31-7404-0000.

CONDITIONS

1. The subdivision of the Parcel shall be substantially in accordance with the submitted subdivision exhibit entitled, “PRELIMINARY RESUBDIVISION OF PROPERTY OF FRANCES MOYER RIGGS (Instrument No 20160520000426770)” dated June 23, 2016, and prepared by Stephen I. Boone & Associates, P.C. Said plan has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.

2. A note on the plat shall indicate that Lot A-4 is a non-buildable parcel.

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

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

Al Henley appeared before the Commission on behalf of the applicant.
CONSENT

An application of Ivy League Academy for a Modification of Conditions to a Conditional Use Permit for a Private School approved by City Council on September 15, 2015 on property located at 4413 Wishart Road, District 4, Bayside. GPIN: 1478-66-6381-0000.

CONDITIONS

1. A maximum of 200 students, or as otherwise determined by the Building Official’s office, shall be permitted to enroll each year.

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.

Deborah Zollos appeared before the Commission on behalf of the applicant.
CONSENT

An application of Ocean Breeze Holdings for a Modification of Conditions to a Conditional Use Permit for Outdoor Recreation Facility approved by City Council on June 23, 1986 and modified on April 23, 1990 on property located at 849 General Booth Boulevard, District 6, Beach. GPIN: 2416-75-2982-0000.

CONDITIONS

1. All conditions attached to the Conditional Use Permit granted by the City Council on 6/23/86 and the subsequent modification of conditions granted on 2/26/90, 4/23/90, 6/11/1991, 11/26/91, and 4/14/1992 shall be deleted and replaced with the conditions below.

2. All drainage improvements shall be designed to minimize runoff into Owls Creek and its tributaries through the use of on-site stormwater management facilities. Porous pavement material for all surface-parking areas shall be required, provided that the underlying soil is suitable. Riprap shall be used at all outfalls, unless otherwise approved by applicable City Staff.

3. Recreational use of Owls Creek shall be prohibited from this site. There shall be no boating on Owls Creek associated with this operation.

4. Pedestrian access to properties zoned P-1 Preservation District shall be limited to only the pedestrian bridges and the scenic overlook.

5. All lighting shall be low level and directed toward the interior of the park.

6. There shall be no public address system other than for background music and emergency announcements.

7. Mechanical rides and other activities shall only operate between the hours of 10:00 a.m. to 12:00 midnight. No motorized rides or noise disturbing activities shall be permitted after 12:00 midnight.

8. Musical events shall conclude by 11:00 p.m. Any temporary stage and speakers shall be oriented away from Owls Creek and shall be removed within 48 hours of the conclusion of such an event.

9. The waterslide depicted on page 7 of this report shall be located in substantial conformance with that exhibit, shall be no taller than 100 feet, and shall be subject to Section 202 of the Zoning Ordinance.

10. Existing healthy, mature trees on the property shall be preserved to the maximum extent possible.
11. No freestanding sign shall be permitted with the public rights-of-way, unless otherwise authorized by the City Council or by the Department of Public Works, as applicable.

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.

R.J. Nutter appeared before the Commission on behalf of the applicant.
CONSENT

An application of Thalia Acres, L.L.C. for a Conditional Use Permit (Non-Commercial Marina) on property located at 653 Thalia Road, District 5, Lynnhaven. GPIN: 1478-90-0018-0000.

CONDITIONS

1. The layout of the pier shall be in substantial conformance with the plan depicted on the exhibit entitled, “Exhibit A, Proposed Non-Commercial Marina Thalia Acres, LLC,” prepared by WCI, Inc., dated July 23, 2016, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.

2. The pier shall serve only the patrons of the restaurant during operating hours and shall not be open to the general public.

3. The long-term mooring of patrons’ boats, the sale of fuel or supplies, and the repair of boats shall be prohibited.

4. The sale of food and beverages shall be prohibited on the pier.

5. Appurtenant permits from all federal, state and local agencies shall be obtained prior to the use of the pier.

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.

Billy Garrington appeared before the Commission on behalf of the applicant.
Item #9
Estate of James R. Boyce by Sharon Simon, Executor
Subdivision Variance
4472 Lee Avenue
District 4
Bayside
October 12, 2016

REGULAR

Jeff Hodgson: We will now address the remaining items. I will ask the Secretary to call the first item.

Jan Rucinski: The first item I have to be heard today is the Estate of James M. Boyce by Sharon Simon, Executor, which is an application for a Subdivision Variance to Section 4.4. (b) of the Subdivision Regulations on property located at 4472 Lee Avenue, District 4, Bayside. Is there a representative for this application?

Eddie Bourdon: Thank you Ms. Rucinski. Eddie Bourdon, a Virginia Beach attorney representing the applicant. This was semi on consent so I will be brief. The subject property contains 32,500 square feet, zoned R-10, with only 150 feet of frontage versus 160 feet of frontage, which is why we are here. The interesting thing to note in addition to having more than three times the square footage of R-10 zoning, is that the properties were in Princess Anne County. It was a popular area. A lot of development occurred before we even had a zoning ordinance. It is a dense area over there off of Chesapeake Beach and Lookout Road and it is mixed use, which it is not suburban. We have some longtime residents in various astute residents who recognize the fact that we have B-1 Zoning, B-1 Zoning, R-5R Zoning, R-5R, R-5R, R-5R. All of these 5,000 square foot lot zonings. We have seven apartments on one parcel that is less than, maybe less than, 10,000 square feet, but it doesn’t contain the required footage for R-10. It is on Lookout Road, not in here. We have, this area here, that is transitional. We also have two houses here, built before the zoning was attached to this property. Two houses were on this parcel before the zoning was attached to this parcel. They go way back, decades and decades ago. There is no intervening street, alley, body of water, anything whatsoever between the R-5 and the R-10. The folks who live out here recognize the obvious potential that we could assemble these properties, rezone them to R-5. What is to stop somebody? They don’t want that to happen. That is why they want to keep the 10,000 square foot minimum lot size. They aren’t concerned about there being a little bit more density. And that is why we have all of these variances. And this lot actually, I believe, has about 160 feet of frontage. There is an astute group of very, very neighborhood minded people who live here, who have lived here for decades, and they and the civic league support not having the zoning changed, and support the additional density because we’re talking about two lots that have 16,000 square feet in them, and they are five feet short on lot frontage. That is all. And, that character of the area is better served by doing this than by doing additional flag lots, which there are dozens of them, and that’s the reason. We don’t have the manpower to go in there and try to have all the deeds, and say, we need to create a zoning category that will allow 15,000 square foot lots that are 75 feet wide, instead of 80 feet per 10,000. It is just common sense. That is why you folks are here, and that is why this community supports this application with no opposition whatsoever. And, that’s the best answer that I can give you. In terms of there being not only a hardship but an application that is consistent with and supports retention of the character of this area, which is what the community. That is why they don’t oppose it to what we’re proposing to do. I think that is an important factor to weigh. I think the hardship is because you have properties that were developed before there was even zoning. You have properties that zoning was placed on that are much larger than the zoning, in terms of square footage
requirements. We didn’t tailor make the zoning for the lots that are there. And that is the explanation that I can give. I hope it is sufficient.

Jeff Hodgson: Are there any questions for Mr. Bourdon. I don’t believe we have any other speakers on this.

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

Jeff Hodgson: Would you like to have a rebuttal on yourself Eddie? We will close the public hearing and open it up for discussion amongst the Commission. Mr. Redmond?

Dave Redmond: First off, don’t tempt him with that. Second, I’m entirely comfortable with his explanation I heard this morning in the side bars. So, I agree with him and unless anybody has an objection, I’m prepared to make a motion.

Jeff Hodgson: I think your questions this morning were very valid in trying to define what a hardship is. I mean the explanation was very good this morning. Thank you for starting that. Is there anybody else? Mr. Redmond?

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

Mike Inman: Second.

Jeff Hodgson: A motion made by Commissioner Redmond and seconded by Commissioner Mike Inman.

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Edward Weeden: By a vote of 11-0, the Commission has approved the application of Estate of James Boyce.

Jeff Hodgson: Thank you.
An application of Emil Yusubov for a Conditional Use Permit (Motor Vehicle Sales) and a Conditional Rezoning (AG-1 Agricultural District to Conditional B-2 Community Business District) on property located at 1249 Oceana Boulevard, District 6, Beach. GPIN: 2415-49-1603-0000.

A motion was made by Commissioner Thornton and seconded by Commissioner Rucinski to defer item 10.

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By a vote of 11-0, the Commissioner deferred item 10.
Item #11
Franklin Johnston Group Management & Development, L.L.C.
Conditional Rezoning
(I-1 Light Industrial to Conditional A-36 Apartment District)
200 Price Street
District 4
Bayside
October 12, 2016

REGULAR

Jan Rucinski: The next application is an application of Franklin Johnston Group Management & Development, L.L.C. for a Conditional Rezoning (I-1 Light Industrial to Conditional A-36 Apartment District) on property located at 200 Price Street, District 4, Bayside.

R.J. Nutter: Thank you Jan. Good afternoon Mr. Chairman and members of the Commission. For the record, I’m R.J. Nutter, and I represent the applicant. I know this application was placed on the consent agenda, so I know you know a lot about it. I’m very proud to represent this application. I did kind of want of present it a little. An adjacent owner did speak to me prior to today’s session, and he indicated the concern over the drainage to the trailer park, just to the east of this site, as you can see, the trailer park. As part of this application, you probably know, is going to be creating for the first time, a regional stormwater system for that entire area. In fact, the system has been designed and it is going to be located on these parcels right here (pointing to Powerpoint). So, this application, in addition to being well received on its own merit, actually is offering a significant public benefit for this public area. This stormwater system is being designed there to cover not just our property, but will cover the quality treatment requirements for 91 acres in size, which has never been done for that entire area. In fact, this will be the first time under the new stormwater regulations that the City has developed a stormwater system for a regional system near this size. What it will do will open the area up for redevelopment of the entire quadrant. Our property’s parking with the rezoning, just for the apartments, is only about 12 acres or so, 10.3 acres. As you can see, the significant benefit well extends, well beyond the limit of this property. The other benefit to this project is that when we were preparing this application, doing due diligence, we discovered to our surprise that, there are no utilities in this area. And here we have a SGA, where we focus growth and utilities. Fortunately, the City found out the only one missing utilities, so if you’re going to do this, Burton Station which is being added. But for this area, we found there were no utilities. So, my client worked with the City to develop and locate property for not one, but two pump stations that would also serve that same 91 acre area. So, this brings with it a significant amount of public improvement and benefit. The City will be participating here to make this happen, and putting in about $6½ million dollars of those improvements, in addition to what we are doing. So, it is a significant benefit. I want her to know a little more of the story, so she’ll know in fact that we’re more than accommodating our property with this application. So, if we can answer any questions, Mr. Chairman, I’ll be happy to do so.

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

R.J. Nutter: Thank you.

Jan Rucinski: We have one speaker in support and that is Lorrie Bonney. Please state your name for the record.
Lorrie Bonney: Lorrie Bonney. I’m with County View. And we’re in support of the project. Our concerns were the stormwater management but it has been addressed, so. I didn’t know he was going to say that. Anyway, I just wanted to make sure that they are aware of it and that was a concern but I think it has been addressed.

Jeff Hodgson: Are there any questions for Ms. Bonney? Thank you.

Jan Rucinski: Our first speaker in opposition is Rory Kennedy?

Rory Kennedy: I’ll pass.

Jan Rucinski: Okay. The next speaker in opposition is Abraham Clementson.

Abraham Clementson: I’ll pass.

Jan Rucinski: Well, that concludes our speakers for that application.

Jeff Hodgson: I guess we’ll close the public hearing and open it up for discussion, unless you have anything else to add Mr. Nutter?

R.J. Nutter: I’ll pass.

David Weiner: I’ll start off by saying something. This is a prime example of a private developer coming in to a SGA that has no utilities in it, and developing it and putting and bringing out and adding utilities to it. It takes money away from the City to have to pay for. And I’m behind this 100 percent. I’m very happy to see this happen and the area could use it. Very nice!

Jeff Hodgson: Is there anybody else?

Jack Wall: It appeared they are doing their due diligence with stormwater and it may have been a concern with the neighbors. It looks like that was going to be an issue but again recently there has been some issue throughout the City, hopefully this project will not only address the stormwater issue that might be in that area including Euclid Road.

Jeff Hodgson: Is there anybody else? Would anybody like to make a motion?

Bob Thornton: I move that it be approved.

Jeff Hodgson: A motion made by Commissioner Thornton? Is there a second?

Don Horsley: I’ll second it.

Jeff Hodgson: A second by Commissioner Don Horsley. Mr. Weeden.

AYE 11 NAY 0 ABS 0 ABSENT 0

HODGSON AYE
HORSLEY AYE
Ed Weeden: By a vote of 11-0, the Commission has approved the application of Franklin Johnston Group Management & Development, L.L.C.

Jeff Hodgson: We’re moving right along.
Item #12
City of Virginia Beach
An Ordinance to Amend Section 235 of the City Zoning Ordinance pertaining to Signage for Housing for Seniors and Disabled Persons
October 12, 2016

CONSENT

An Ordinance to Amend Section 235 of the City Zoning Ordinance pertaining to Signage for Housing for Seniors and Disabled Persons.

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

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

Kevin Kemp presented this item on behalf of the City.
Item #13
City of Virginia Beach
An Ordinance to Amend Section 1001 of the City Zoning Ordinance pertaining to Fiber-Optics Transmission Facilities
October 12, 2016

CONSENT

An Ordinance to Amend Section 1001 of the City Zoning Ordinance pertaining to Fiber-Optics Transmission Facilities.

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

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By a vote of 11-0, the Commission approved item 13 for consent.

Kevin Kemp appeared on behalf of the City.
Item #14
City of Virginia Beach
An Ordinance to Amend Section 111 of the City Zoning Ordinance pertaining to the Definition of Major Entertainment Venue
October 12, 2016

CONSENT

An Ordinance to Amend Section 111 of the City Zoning Ordinance pertaining to the Definition of Major Entertainment Venue.

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

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By a vote of 11-0, the Commission approved item 14 for consent.

Kevin Kemp appeared on behalf of the City.
Item #15
City of Virginia Beach
An Ordinance to Amend Section 1110 of the City Zoning Ordinance, pertaining to Residential Care for Seniors in the PD-H1 Planned Unit Development District
October 12, 2016

CONSENT

An Ordinance to Amend Section 1110 of the City Zoning Ordinance, pertaining to Residential Care for Seniors in the PD-H1 Planned Unit Development District.

A motion was made by Commissioner Thornton and seconded by Commissioner Horsley to approve item 15.

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HODGSON      AYE
HORSLEY      AYE
INMAN        AYE
KWASNY       AYE
OLIVER       AYE
REDMOND      AYE
RIPLEY       AYE
RUCINSKI     AYE
THORNTON     AYE
WALL         AYE
WEINER       AYE

By a vote of 11-0, the Commission approved item 15 for consent.

Kevin Kemp appeared on behalf of the City.
Item #16
City of Virginia Beach
An Ordinance to Amend the 2016 Comprehensive Plan by adding the
“Historic Seatack and Vicinity Suburban Focus Area” with area descriptions and Recommendations
October 12, 2016

REGULAR

Jan Rucinski: Item 16. The City of Virginia Beach, an ordinance to amend the 2016 Comprehensive Plan by adding the Historic Seatack and Vicinity Suburban Focus Area with area description and recommendation.

Jeff Hodgson: Good afternoon

Jeryl Phillips: Good afternoon Mr. Chairman and members of the Commission, for the record, I’m Jeryl Phillips. I work in the Planning Department as the Comprehensive Planning Coordinator. The item before you today is an amendment to the brand new Comprehensive Plan that City Council adopted in May 2016. It will be the second amendment to it. This item is to add to the list of designated suburban focus areas. Suburban Focus Area 9, Historic Seatack and Vicinity. A change would be made to the Policy Document on page 1-68. We will also replace the map that is the locator map of the Suburban Focus areas found on page 1-69, by adding the Historic Seatack and vicinity boundary, to which this suburban focus area will apply. And, we will be adding a whole new section beginning on page 1-96, that is the Suburban Focus Area 9, Historic Seatack and vicinity. That begins with a map. A little bit of an unusual map for us. It is unlike the other eight Suburban Focus Area maps, in so far you will find a red boundary delineated. That represents the historic limits of the Seatack community, as brought to us by the President of the Civic League. At one time it was very historic community, over 200 year they just recently celebrated. And that represents the historic limits of the neighborhood, actually probably extended further over all the way to the Oceanfront at one time. However, there is a black dashed boundary, and that is the boundary that applies to the recommendation for the Suburban Focus area. As we did our work with the community and we went out in the field and replaced on a map, the dots that represented issue areas, and opportunity areas, this is where they aggregated within that black dash line. I want to be very clear at what you’re looking at here after the public. Not the red solid line on this map that is the proposed Suburban Focus Area 9, but it is the dashed black line to which these recommendations are fine. So, following the map you have a description of the area. Noting its historical significance, of the community, and about its context that it sits to the east of NAS Oceana, and as a result it is heavily encumbered by the city’s AICUZ regulations, with regard to high noise zones, and accident potential zones. It is also an area that is heavily encumbered by easements that at the U.S. Navy has purchased. These are restrictive easements that are recorded and it is the Navy that enforces those easements. We support the Navy’s intent with those easements but we do not enforce the Navy easements. However, our adopted plans and our adopted ordinances are all consistent with the U.S. Navy OPNAV, with regard to these uses that are determined to be compatible or not compatible within these AICUZ zoning areas. We have the AICUZ zoning in our zoning ordinance. A description of this area is also that it is a very flat low lining area. It is within the Lynnhaven River system, within the watershed, a lot of wetland areas and also a part of the Owl’s Creek watershed. A lot of drainage issues and recurrent flooding in this area especially associated with new development. It has been observed and in some cases, it has negatively impacted the existing residential community there at a time. There are also several significant historical and cultural landmarks in this area that are important to the history and progress of the neighborhood. And it is our hope that these can be recognized in the future as local
historical or cultural landmarks. We are not proposing a historic district at this point, but that they simply be recognized, as landmarks with signage or other things that need to be deemed desirable by the property owners, and the people that live there. Following that is a set of recommendations. These are the land use recommendations that are coming forward with this area into the Comprehensive Plan, which is your land use policy document. In your discussion this morning, you did note that bullet 2, at the advice of our City Attorney that the wording be changed to read “limit the insertion of additional self-storage usages in this area to existing industrial zoning, and limit future rezoning for industrial usages to ensure there is minimal, if any impact, to adjacent residential neighborhoods. Kay suggested that the word “should” be added because this is a Comprehensive Plan and it is a policy document and it is not regulatory in nature and the language saying “limit” in both cases in this bullet is pretty restrictive. And, in the spirit of Comprehensive Plan, the language we should be using is “should”, not “shall” ever. I would support that recommendation that this bullet say to delete the insertion of additional self-storage uses in this area should be limited to existing industrial zonings and future rezoning and industrial uses should be limited in general, to ensure there is minimal, if any impact, to adjacent residential neighborhoods. So, I would call for that wording suggested to be. All of the these recommendations again, are addressing and offering land use guidance that does not currently exist for this area outside of the zoning, the AICUZ zoning on the books, or the Navy’s own restrictive use easements. We don’t have any other guidance for this area to help view as you consider development applications in this area. And then the last amendment, is on page, would be a new page 1-98 in the section that addresses agenda for future action recommendations for the entire suburban area of the Comprehensive Plan’s suburban area chapter, which is Chapter 3, that we strike the last bullet, that bullet read “using a public process involving area stakeholders, study the Historic Seatack community and vicinity area for potential designation as a Suburban Focus Area, with associated land use recommendations”. With this amendment coming forward to you today, there is no more need for that recommendation, so we would remove it and hopefully we could check off more recommendations in the section as we move forward over time implementing of the Comprehensive Plan. That’s the gist of the amendment itself. I would just like to take a moment for the public to walk through the process that was used in preparing this amendment and why we prepared this amendment. Of course, every five years, the Planning Commission by State Code cracks open the Comprehensive Plan in its entirety and looks at it cover to cover to determine if it is still current and reflective of existing conditions, recent trends, and is in a good position to look forward over the next 20-25 years. If not, to recommend amendments to it to City Council to bring it current and to be a good set of policy guidance going forward. So, that is the work that you just completed in May, with the adoption by City Council of the Plan. Getting to that point, a draft was prepared, a public review draft was prepared in January or December, went out to the public in January of this year, and we held a series of meetings around the City inviting the public to provide you, provide staff with comments on that public review draft. And it was at the last public meeting that a concern was raised from the Seatack community. They asked a simple question. When we look at the map of the Suburban Focus areas, why is it that Historic Seatack is not identified as one of these areas? And why are there no recommendations for it? That was a really good question. And, we said we would go back and take a look at that. And, so, the Planning Commission worked with staff on drafting a set of land use recommendations for this area and a map. And, we worked with the President of the Civic League, Mr. Frankenfield worked very closely with him to try and establish a map for that area, and we brought that before you in workshops as were moving forward with considering all the public comments we received on that public review draft after January
and you worked at it, and you discussed it but at the end of the day, while you were comfortable with some of the recommendations, you did feel rushed because City Council had informed us that they wanted to see the Comprehensive Plan before them in April for a vote. So this is at the beginning of February. And we were really putting the finishing touches on the final draft at that point. So, understandably, you felt rushed, and so in March you did move forward with a recommendation to City Council to adopt the Comprehensive Plan updated to 2016 looking out to the year 2040, with a recommendation that I just read. That working with the Historic Seatack community to study the land use issues there, and using a public process to determine if it made sense to designate this area as a Suburban Focus Area. And, that is how the Council adopted the Plan in May. And you immediately set to the task of beginning to meet with the community and representatives that were appointed by the civic league as well as Civic League bullet members, as well as business owners. In a very small working group, three of you assigned yourselves as liaisons to this process, and we met. My job was to do due diligence to bring forward maps, that showed existing conditions, that showed the zoning of the area, that showed the Navy restrictive easements and land ownership patterns, and just maps of existing conditions of the area. We started with a field trip. We went out in a van, and that field trip was held by citizens in the community, and we learned a lot that day from listening to them, by them pointing out things. And then we got out of the van and sat in a meeting for the next hour and a half, and we kind of debriefed ourselves on what we just saw. And, with the map in front of us, with all of that information that I just stated, these dots, and we put dots on the areas that were identified as issue areas. We put dots on areas that were historic sites. We put dots on drainage problem areas, and we also put dots on areas that were opportunity areas. We also put on that map the location of every storage facility in the area in general, really within that red line boundary, that bigger area. Just so we could understand factually, just how many storage units were already in that area. And it is from that initial meeting and the aggregation of those dots that we came up with that dashed line. And, at these meetings, your supporting staff was Barry, as the Director, myself, and Chris Langaster, who is our Assistant Zoning Administrator. We spent a lot of time talking about the AICUZ restriction. A lot of confusion in the community about what those are, what they mean for property owners, and it was just a lot of good discussion that I think was needed in order to make sure everybody was on the same page collectively with an understanding of the area and an understanding of the regulations that affect that area. If we hadn’t done that, we would have been flying blindly, so it was important to take the time, and you’re absolutely right, to take that time to study the area, work with the community on it and gain your own understanding of it. So, we met four times between May and the end of June. And, I appreciate the time you put in to that. I enjoyed working with you. And a draft was prepared. We kept refining that dash line, and we kept refining those recommendations. All of the meetings that you held with the community as liaisons were properly noticed as per notification requirements, and then on September 12, we were invited to come to the Seatack Community Civic League meeting. They have their meeting at the beginning of every month, to be on their agenda to present this draft work, and to receive feedback. We were grateful for the opportunity because you worked in a very small working group that was definitely representative of the community. It was time to go cast a wider net and receive feedback on your work. And, I would say about 50 people were there at that meeting. Not everybody was a member of the civic league. Some had come to give their own presentation. Some were campaigning. We weren’t the only item on the agenda. Let’s put it that way. That agenda was put on the Seatack Community Civic League website. And at that meeting, we presented the process that had been undertaken. We presented and handed out the draft plan, which and we took questions. And there
Item #16
City of Virginia Beach
An Ordinance to Amend the 2016 Comprehensive Plan by adding the “Historic Seatack and Vicinity Suburban Focus Area” with area descriptions and Recommendations
Page 4

were questions. And, at the end of the day the bullet members at the meeting said that they were in support of the recommendation I think that was huge in terms of the process, and I feel like, again, that we learned a lot. I think we helped establish a trust that was missing in the community. I hope that is something that we can continue to build on and work from coming forward. And so the recommendations that you have before you today are what the working group and the community and the Planning Commission liaisons worked on, and brought forward. And, it has received the verbal endorsement of the Seatack community Civic League. I have not received anything in writing from anybody actually. I haven’t received anything in opposition or in support. Prior to this morning, at your informal session, you did receive a letter that has been written. I am not sure who is written by. It doesn’t say. Making some observations and some recommendations and I just saw it this morning. I’ve had a chance to sit there and read it just now, and I just want to share a few observations about it. It opens by saying that the proposed amendment is far too simplistic to be beneficial to existing stakeholders for potential developers with their many undeveloped and underdeveloped properties within this area. I just want to comment that it is very important to remember that the Comprehensive Plan is a general plan. It is in the State Code that it is intended to be a general plan guiding the future growth and development of the local jurisdiction. It states that a lack of any map or maps depicting the existing zoning of land within this proposed focus area and the descriptive summary, and the lack of inclusion of a map which depicts all the parcels that are encumbered with restrictive easements imposed by the Department of the Navy, which are foundational to any reasonable review and analysis of the future of this area is regrettable, and the lack of any exhibit depicting the existing roadways and access points to the many undeveloped and underdeveloped parcels is unfortunate. As I stated, we began our process. My job was to do the due diligence as your support staff to bring forward the map showing the existing conditions that included the existing land use, existing zoning, and a map of U.S. Navy easements, as well as, ownership.

Jeff Hodgson: Jeryl, before you go through this letter, do we have any speakers regarding this letter.

Jan Rucinski: Yes, I’ve got five speakers on this.

Jeff Hodgson: Are there any questions for Jeryl? Thank you.

Jan Rucinski: Yes, I do have one. When you made the comment earlier about that this map was different than all the other maps, that you had done for the focus areas, maybe it would have been better or clearer for people to understand. All the others have the red outline for what the focus area is. To maybe have reversed that, so that the dash lines represented the whole Seatack Historic Vicinity, and the red line indicated those areas that are in the Suburban Focus Area might make it a little more similar to some of the other maps, when you’re looking at Suburban Focus 6 or 7 or whatever, and they have the red line that shows where that focus area is, that maybe reversal of those might create a little less confusion as to what area is really is really being specifically being addressed.

Jeryl Phillips: That is an excellent recommendation. And it is easy enough to do. I did want to state that in the description, and my attempt to be clear as to what these were, but you’re right. We need to go there. The area shown in the black dash line only on the above map is the area to which the Historic Seatack Suburban Focus Area and the following recommendations apply.
Jan Rucinski: Sometimes we look at things and we see the visual and we don’t necessarily read the fine print or the words that describe it, so we try to make it is look it have a little more similarity to some of the others. It might be easier to look at it and go, “oh okay, that is what they are talking about”.

Jeryl Phillips: I’ll be happy to do that with your recommendation with a motion. Good point.

Jeff Hodgson: Is there anybody else? Thank you.

Jan Rucinski: Our first speaker in opposition is Everette Brown. Mr. Brown, can you make sure you state your name for the record?

Everette Brown: Yes. I’m Everette Brown, and I’m representing my family’s interest in property in the so called Seatack Historic District, holdings that my family has had for quite a long time. Some of you may know my father. He has been around for a long time here, and he’s elderly and he can no longer speak on his own behalf; so, that is one reason why I am here. We really oppose this amendment to the Comprehensive Plan, and if we could, I would like to reference that map that you just had up.

Jeff Hodgson: Why don’t you just use the pointer? There is right there.

Everette Brown: Okay. I don’t know who drew this map but I grew up in this area, and my family has been life-long residents here. And, this area here, I’ve always recognized as Atlantic Park, and not part or the Seatack Historic, as this so called Historic area in Seatack. I’m not quite clear on what the purpose of this amendment serves the community. It seems to me that it is just trying to further restrict our land uses, and we’re already in, at least the properties that we hold, are in the APZ1 and APZ2 areas. And, we don’t have the right to have tax reductions on our properties. We’re still paying the same taxes but we have a lot less use for our properties than other people with the same zoning in other areas of the City. And, I’m really opposed to any further restrictions on our properties uses. I’m really concerned about the specific targeting of self-storage facilities in this area. And, I am familiar with what’s taken place with the civic league. I would never be a part of that civic league. I don’t agree with its President and his stance. I think he is quite racist and I’m not agreeable to the things that he puts out. And, I think most of you are probably familiar with what I’m talking about. It is really disturbing that this Comprehensive Plan has taken place. I was only made aware of this yesterday. And, I cleared my schedule to be here to speak in opposition because I was not familiar with any work groups. We were never notified of anything in regard to this Comprehensive Plan. I really respect the job that the Planning Commission does, the staff, and I’ve worked hand and hand with them and for the most part, I think you guys do a really, really good job. But this is quite a sensitive area because of the Naval Base, we do have the yes Oceana Project and it seems to be that project was brought forward to try and encourage businesses in these areas with the APZ, this high noise area. And, it is difficult to operate a business. My father has done that, and you know to further add too those already long laundry list of problems for this area, really goes against your whole concept of yes Oceana. How can we promote businesses in the area and then say, well we really only don’t want these businesses. That is very selective process. I think it is wrong. We’re already restricted with our land use because of the APZ zoning. Thank you.
Jan Rucinski: I have a question. Can you show us on that map where your properties are?

Everette Brown: Yes I can, if I can figure out how to work this thing. One of our properties is. If this is Virginia Beach Boulevard, which I think we have a property right here, and then I’m not sure where Gregory Lane is on this map. I imagine it is somewhere probably. I’m not really sure. I think it may be over here.

Dee Oliver: Where is the business in the dash line? What is it next to? Is it next to Seatack School?

Everette Brown: No.

Dee Oliver: Motor World?

Everette Brown: No, the business is not within the dashed line but I do believe that the property that we own is within the dash line.

Dee Oliver: And where is it located?

Everette Brown: It is off of Gregory Lane. That is all that I can tell you. I’m not sure about the map. This map is hard to decipher

Jeryl Phillips: This is Gregory Lane.

Everette Brown: Okay, it would be at the end of Gregory Lane. So it may not be in that dash line.

Dee Oliver: Okay. And your business is sir?

Everette Brown: It is my family’s business. It is Seatack, Inc.

Dee Oliver: And what do you do?

Everette Brown: My father owns a boat storage facility and he has some rental properties.

Dee Oliver: Okay.

Jeff Hodgson: Are there any more question for Mr. Brown? Thank you sir?

Jan Rucinski: Our next speaker in opposition is Audrea Hill? If you would, please state your name for the record?

Andrea Hill: It is Andrea Hill.

Jan Rucinski: Oh, it’s Andrea Hill. My apology.
Andrea Hill: That is fine. I am opposing based on my family's history in relation to the east end of Bells Road. My family has owned that property since the late 30s. I'm not sure of its historic significance to Seatack Community. We have never even considered that property to be a part of Seatack. So, I'm not sure what historical significance it has to the Seatack community, which is why I'm opposing this.

Jan Rucinski: Where on that map is your home?

Andrea Hill: Right around here.

Jan Rucinski: Thank you.

Jeff Hodgson: Are there any more questions for Ms. Hill?

Ronald Ripley: I have a question. Is your property vacant land?

Andrea Hill: I recently sold the property in November. It was used mostly for heavy equipment storage and some industrial waste that my father used it for to run a landscaping company in the area.

Ronald Ripley: Thank you.

Andrea Hill: Is there anything else?

Jeff Hodgson: No. Thank you.

Dee Oliver: But you sold the property so you no longer own it.

Andrea Hill: No.

Dee Oliver: Okay. Thank you.

Jan Rucinski: The next speaker in opposition is Ryan Powell.

Ryan Powell: I have some photos here of my property at the east end of Bells Road. I will pass these out. To clarify the situation.

Jan Rucinski: Please state your name for the record.

Ryan Powell: My name is Ryan Powell and Andrea was here in my support to back up what I have to say. I purchased the property from Andrea in December 2015. I have a statement. Good afternoon Planning Commission, as the owner and applicant before the Conditional Rezoning request at 1054 Bells Road, I would like to address the Comprehensive Plan Amendment for the Seatack area. My application for the Conditional Rezoning was made based upon the light industrial precedence that now exists at this end of Bells Road. A recent door count of 20 office warehouse units versus three residential units makes this end of Bells Road currently 85 percent light industrial. We are not located in a historical
residential community. As you can see from the before and after pictures, my property has been fully restored after removing about 20 tractor trailer loads of industrial garbage. Also, I have witnessed the previous owners using the property as a contractor’s yard, storing heavy equipment such as front end loaders, bulldozers and tractors over the past 30 years. I built the original Birdneck self-storage 30 years ago. And these previous owners did the landscaping for me on the new project. So, I was well aware of what they had on the property because I was always back and forth negotiating with them. We are not located in a historical residential community. I would like to request, to be specific, I can point to it. This boundary right here is not correct. The situation is that what I would like to request is the southern most boundary line for this potential proposed historic residential district be moved to a more realistic position on Olds Lane to the north. Olds Lane is the next road up abutting my property to the north. I feel as if in a realistic position, that is where this line needs to be moved. In addition, I feel that my application for rezoning submitted February 2016 has been unfairly targeted by the proposed amendment. It is obvious the language to eliminate further self-storage rezoning Seatack has been inserted into the amendment just one month ago as a direct result of my application. The rules are being changed midway through my application process. This is very unfair and unjust procedure intended to satisfy the opposition. This is no way for City Planners to treat a well a suited land use application, which has full support of the Planning Staff from the beginning. My request secondly is for my land use application to be exempt from the new guidelines proposed in the Comprehensive Plan amendment. Thank you.

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

Jan Rucinski: The next speaker I have is Annie Powell. Can you please state your name for the record?

Annie Powell: Annie Powell. I am opposing as well. I agree wholeheartedly, with Everette Brown and his family. My family, and I represent the John Leslie trust as well, which owns a great deal at the Boulevard and Birdneck. They own three of the corners there. We do not want anything else to encumber development of that property. My grandmother passed away ten years ago, and it was her dream to see it all be the gateway to the oceanfront one day. And, that is my wish as well. It is really hard, as he said with the taxes that we pay, and everything, to be encumbered more just makes it more difficult for us. And, it is very intimidating to be front of you all. And, I really sincerely hope that you do consider all of us and our livelihood as well and our futures, and my children’s future for that matter. Please do not give us any more problems in the development of our property. My family has been there probably as long as anybody else. They own that property since it was Princess Anne County and my great, great grandfather bought it, and he was a wise businessman, and that was his dream was to see it all developed one day and being able to provide for his future generations. And that is my dream.

Jan Rucinski: Can you show me on that map where your property is located?

Annie Powell: Right all through here. That little corner right there is ours, all of that over there and all of this.

Jeff Hodgson: Ms. Oliver.
Dee Oliver: So, if I’m not mistaken, you own the trailer park. You own to the east of that, you own the tire shop, you own the car wash, and then behind the car wash is the sort of the shanty horse place. Do you still have horses there?

Annie Powell: Yes. We still have horses there.

Dee Oliver: So, you own that. Do you own the south east corner where the shopping center is?

Annie Powell: no, that is the only thing that we don’t have, on down towards the billboard on the Boulevard.

Dee Oliver: You’re heading west towards the Boulevard? So, I you own the stone house, and the trailer park, and all of that. Your plans for developing the property are?

Annie Powell: Well, there have been numerous ones. We were approached recently by someone in regards to the arena, and I know that may fall through but maybe it won’t.

Dee Oliver: Right.

Annie Powell: There are numerous talks but I am not at liberty to speak of those.

Dee Oliver: The reason why I am asking because you made the statement as that is the gateway.

Annie Powell: That is what they were hoping. Yes.

Dee Oliver: I am totally in agreement with that so that was why I was asking. Our intent here is the fact that if is the gateway on 17th Street to be the ViBE District and to develop into a second gateway to mirror 31st Street into that area. I think that is all of our intent. It is not to hurt anybody.

Annie Powell: Thank you.

Dee Oliver: Thank you.

Jeff Hodgson: Are there any other questions?

Mike Inman: Yes. How are your properties zoned now?

Annie Powell: B-2. Most of them are B-2.

Karen Kwasny: I guess I want a clarification because you had said that it was your grandmother’s dream for those properties to serve as the gateway.

Annie Powell: And life-long.
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Karen Kwasny: So, I’m curious how in what manner do you interpret this recommendation to further encumber you from doing that?

Annie Powell: More restrictions. There is already. We’ve had people that have been interested in developing it and have gone and been denied.

Karen Kwasny: In a way, you wouldn’t be allowed to do that and still be able to provide a gateway?

Annie Powell: No necessarily. But it could possibly hinder us. We just don’t need any more obstacles in our way.

Dee Oliver: You are already zoned B-2.

Annie Powell: Right.

Dee Oliver: So, you’re not encumbered by that.

Jeff Hodgson: Jan?

Jan Rucinski: Were you aware of any of these public meetings that have been going around?

Annie Powell: No, not at all. None of my family has known either. I came because I was the one who could come.

Jan Rucinski: They were advertised.

Annie Powell: Well we didn’t receive anything in the mail. Thank you.

Jeff Hodgson: Thank you.

Jan Rucinski: The last speaker is Mr. Bourdon?

Eddie Bourdon: Thank you Mr. Chairman and members of the Commission, Eddie Bourdon, a Virginia Beach attorney. I represent a number of different clients who have property in this area. The Brathewaite Family, which owns a significant portion of what was the Owl’s Creek Golf Course property, that is zoned Agriculture. It includes frontage on Birdneck Road. A number of property owners, whose properties are encumbered by easements, that are located in this area here that do not allow them to be developed residually. A substantial amount of acreage, in some instances that has not been a part of this process at all, have not been made aware of this process, and have not been made aware of the effect on them of these recommendations. Jeryl, and I appreciate her and I provided this to everybody so you get a chance and she wanted to start rebutting it before I even get a chance to present it. The attempt is obviously a good one as I say but I believe it is far too simplistic to be beneficial to anybody. It is certainly a land use recommendation by her own words. I’ve had the privilege, and I won’t call it a
pleasure, of dealing with the Navy’s AICUZ compatibility issues since before I was in law school. Our family’s farm on London Bridge Road, and throughout my 32 years of practicing law, that has been an evolutionary process with the Navy. I was privileged to be appointed the Mayor’s Task Force after BRAC. I spent a tremendous amount of time and effort and so did a whole lot of other people in that process with Mr. Macali and Les Lillie and we’ve threaded the needle, with that but our policy is very, very clear after BRAC. The City’s policy is to both roll back and try to eliminate existing incompatible land use in the APZs and the highest noise zone around NAS Oceana, and to preclude new incompatible uses within the APZs and the highest noise zones around NAS Oceana. Millions of dollars in tax money, Federal, State and Local have been allocated and paid for that purpose. This area is one of the main areas that is impacted by it and has been impacted by that policy, those policies. Jeryl indicated that when she went to the Seatack Civic League centric process, and she took those maps. The maps, which I think are foundational land use maps, i.e., existing zoning and existing encumbered properties with easements. Well, they are not anywhere to be found in here. I don’t see any of them. I don’t believe that very many property owners who live in these areas are members of the civic league to begin with. Again, I’m all for getting the civic league involved and all for a lot of the things that are in here. There are lots of good things in here. Don’t get me wrong. I’m not here to attack it. I’m not here opposed. But I am here to suggest that the lack of these foundational exhibits in the recommendation, to me, is unfortunate to say the least. I have made recommendations for some changes to some of the proposed recommendations. The first bullet point, I think ought to be split between zoning versus building code because they are two different things. I think it should reference redevelopment. I thought the phraseology was a little bit confusing. The second of the bullet points that I proposed, I think is extremely important. Whenever reasonably possible, new industrial development should avoid the use of existing roadways, which are primarily residential in character for their vehicular access. Well, the fact simply is that all this property. This thing doesn’t seem to want to work for me. It is not working. All of this property over in this area, to access it that is restricted. You all don’t know that because you don’t have the maps, is restricted, right now access would have to come through a residential area out predominantly out near Birdneck Road, but it does cross over the dotted line and Ms. Rucinski’s suggestion was absolutely correct. This is confusing as it can possibly be in my opinion. And, a road like Bells Road and there is also a paper street they showed on the zoning map that I passed out. It is just a small portion of the zoning. We need to be identifying ways for those properties to be accessed and that is to me what a Comprehensive Plan ought to looking forward to doing. Trying to create avenues to reduce conflict between land uses that we all know are going to be in conflict here unless we get out ahead of it and at this point, try to manage it so we provide these opportunities not addressed anywhere in here. And the ability to even visualize it and see it and talk about it doesn’t exist with what I see here. So, that is a problem. We’re also eliminating before the Birdneck Storage application the first and formal meeting of the Planning Commission to talk about that before it was deferred a few times, everyone agreed that it was the least most intrusive use. And we’re going to take away the least intrusive use in the entirety of the area east of Birdneck Road and any area not zoned industrial west of Birdneck Road, like the Braithewaite property that is part of the Owl’s Creek Golf Course. It is adjacent to nothing but industrial. It is shown on the zoning map that I gave you today, everything on the west side that abuts into this house, all zoned industrial and that’s zoned agriculture. So, that means it is not zoned industrial” so self-storage won’t work there. I don’t understand that one bit. I’m not saying it should go there, would go there, but why would you be eliminating it? I don’t understand it. Also, we say no new industrial zoning that might impact the neighborhood. Well, there is residential across from
the Braithewaite property on the other side of Birdneck Road. Is that going to give rise to “we don’t want that to be industrial over there because it might impact our neighborhood”? I don’t know. I don’t think some of it has been thought through very thoroughly. I think it is done for good intentions but it is being rushed through without the proper time for people who are impacted to understand that they are being impacted by this especially, I realize that this is what you say but anybody looking at this map who is not in tune with, which is 90 percent of the folks, aren’t going to figure out that you’re only talking about this little area here, and it doesn’t apply to all these other areas that are outlined in red. That is what you’re going to hear moving forward if this is approved the way it is proposed. I think that is a bad precedent to take and make. The Comprehensive Plan needs, in my view, start recommending that we look at our specific landscaping requirements, specific screening requirements for areas like this where you do have a substantial portion of residential. It is pretty much concentrated. And you’re going to have additional industrial. That is just the reality of the situation. We don’t want it to be, this is what the BRAC Committee said, we don’t put that in the middle of existing homes but that is different from being near the existing homes, and that can be done, and has been done in other areas, London Bridge and other places. Last thing I’m going to point out, and that is when Ms. Hill was here. In the zoning map that I provided to you all this morning, it shows the intersection of South Birdneck Road and Bells Road. Everything on the northwest corner of that intersection is zoned industrial. All the way until you get to Ms. Braithewaite’s AG properties part of the golf course. Birdneck Storage is on southwest corner and that is part of a larger piece, that is zoned on a zoning basis, all zoned I-1. You can see if you look down a little bit further. Then you got the east side of Birdneck Road. Mrs. Hill is here today because her family has owned every bit of the property on the north side of the eastern section of Bells Road by that is zoned industrial zoned B-2 and the little part in the middle zoned R-10. Her family owned every bit of that since the 1930s. They have used it as a landscaper’s yard, storage yard, all of those things. It has never been unless you go back prior to 1930, it has never been a part of Seatack and it has never been a residential area. So, and frankly that section of Bells Road provides, along with that, it is a paper street, and if you look all the way up at the very top of the map, there are two red lines, that is an unapproved paper street. It is only 20 feet wide that runs behind some houses in a brand new subdivision, but Bells Road or that paper street are the only means by which all of this encumbered land, which is encumbered by Navy easements for the most part. Again, we don’t have that map, or we could actually be talking about it. May be able to be accessed in a manner that doesn’t provide or doesn’t impose traffic on these residential areas. And we’re missing the boat here. We haven’t even looked at how do we do this? Frankly, the Bells Road property has no business. This section, every other section of Bells Road is not included that northeast quadrant doesn’t belong here either. Mr. Powell is correct. And that I zoning goes all the way up to end of Olds Lane, the next road up. So, we are sitting here, I think getting wrapped around as pretzels trying to satisfy a “lets not have any more storage facility deal”, because what you’re really doing is saying this part that Mr. Powell is proposing to rezone and to put storage on that we would rather have eight or nine house there, which has been suggested that the Navy would be okay with that. I’m here to tell you that it is completely and utterly false. The Navy won’t be okay with that. That is contrary to our policy and that area, that section, does not belong in this Seatack Historic Community where we’re going to protect the residential. It belongs in an industrial area. It belongs in a way that is protective of the houses on Olds Lane. No doubt about it. But you’re setting up a construct that doesn’t make any logical sense. And so, that is the sum but all of these bullet points that I have propose, I think it is important to moving forward and not trying to make this a
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document that will actually help people moving forward and not be something that everybody beats each other up over the head over moving forward. Thank you.

Jeff Hodgson: I’ve got a question.

Eddie Bourdon: Sure.

Jeff Hodgson: The property down what I call the end of Bells Road on the east side and that is industrial now. Ten years ago, wasn’t that residential?

Eddie Bourdon: That was approved by the Planning Commission and City Council both unanimously to rezone it.

Jeff Hodgson: But it was residential.

Eddie Bourdon: No. It wasn’t residential. No sir. It has AICUZ easements over it. It was part of the Ferrar Family. And Ms. Hills’s family property.

Jeff Hodgson: There are houses on them.

Eddie Bourdon: I don’t know. Maybe it is zoned residential but it was a residential development.

Jeff Hodgson: I agree with that.

Eddie Bourdon: It may have been.

Jeff Hodgson: I’m pretty sure it was zoned residential.

Eddie Bourdon: That could be correct.

Jeff Hodgson: Along with the piece as you move up Bells Road is zoned residential, which connects to Olds Lane.

Eddie Bourdon: What connects to Olds Lane?

Jeff Hodgson: The R-10 butts up. They back up to each other, the houses along Olds Lane.

Eddie Bourdon: Okay. The only parcel that connects to Olds Lane is the eastern most property, which goes up and does connect and goes beyond Olds Lane, and goes around the houses at the end of Olds Lane.

Jeff Hodgson: I understand. I misspoke there. We brought the subject up about storage facility. To me it had nothing to do with that being the least intrusive. The fact, that it was industrial. To me, you’re turning this residential and making it industrial. I didn’t care what was going there, for me.
Eddie Bourdon: It is already industrial.

Jeff Hodgson: There are houses there. It is not industrial. There are people that live in those houses right there. I don’t know how you can call that industrial.

Eddie Bourdon: The street is predominately industrial. It is certainly not a part of Historic Seatack.

Jeff Hodgson: Going back 10 years ago, that street wasn’t predominantly industrial.

Eddie Bourdon: Ten years ago, we had BRAC. We had the policy and both Council and Planning Commission unanimously approved the zoning changes on that street, which is a clear precedent that street is never going to be residential.

Jeff Hodgson: If you lived right there on Olds lane and that was going in your backyard, would you want it or would you rather have a house behind you?

Eddie Bourdon: If I lived on Olds Lane, if I bought a house On Olds Lane, after AICUZ and BRAC, I would know full well that there weren’t going to be new houses built behind me because contrary to our policies, and to go in and subdivide that property and create eight new residential homes in the middle of an industrial street, I don’t get it.

Jeff Hodgson: Ten to nothing that the residents that moved onto that court did not expect all that property to become industrial around them.

Eddie Bourdon: Mr. Sauer was well aware because he was told that the property behind him was going to be developed industrial.

Jeff Hodgson: And he opposed that. He wanted.

Eddie Bourdon: And it was approved ten to nothing, eleven to nothing.

Jeff Hodgson: I didn’t say it wasn’t approved. But he opposed it.

Eddie Bourdon: But the reality is it is not a residential street.

Jeff Hodgson: Okay.

Eddie Bourdon: And it is not hard to see that.

Jeff Hodgson: And when we were talking about, and I agree completely that looking at that, and I’m glad you brought that up is confusing with the dashed lines versus the red line. I think it should have been switched. The red boundary is just showing, that this what Seatack was being called as the Historical area of Seatack. That is not making any policy at all for this area.
Eddie Bourdon: When I first looked at the map that is exactly what I was thinking. What are we doing? I had to read through the text to figure out that we’re saying.

Jeff Hodgson: We can’t help that someone doesn’t read through the text to figure it out. Just like we couldn’t help the family that maybe moved on Olds Lane without looking a little deeper to find out that could have been industrial. It’s up to the person to dig a little deeper.

Eddie Bourdon: Olds Lane is a residential street. There is no doubt about Olds Lane being a residential street.

Jeff Hodgson: Okay.

Eddie Bourdon: We’re not talking about Olds Lane. We’re talking about doing the same thing. We’re artificially suggesting that a street that provides access to the Navy facility. We’re not going to talk what it is about. And the storage center and all of this other property and have the potential to provide access to a lot more property that is only can be developed industrially, and cannot be developed residentially, and basically putting in place, tying our hands so that from now on we’re going to have problems when these other properties come in to do something with them, that they have to go through the neighborhood to get to Birdneck Road. That’s the kind of thought process that we ought to be going through and instead we have spent, I believe, too much civic league centric time. And there is nothing wrong with doing that but there are other people who don’t know anything about this who have property in that area, who were never brought in the process, and we’re making pronouncements that we won’t rezone anything industrial, if it may have an impact on the neighborhood, whatever that means. Well, if you have to drive through the neighborhood that’s going to be an impact on the neighborhood, so why are we not being having some foresight and looking at what other road accesses can we preserve that don’t involve going through residential neighborhoods? And I think that’s important, as well as enhancing screening and doing other things that go way beyond what the current ordinance provides. Things that are actually going to help the situation and I don’t believe, while the intent is good, again a lot of this is going to help, but I think it is just going to cause more confusion, and cause more back and forth.

Jeff Hodgson: I know that it seems like this just sprung up and just working on it but this has been out to the public for months.

Eddie Bourdon: The first we heard the no storage facility was the morning our public hearing before this body on the Birdneck Storage application.

Jeff Hodgson: But the process of working on the SFA started months ago, and I mean I know you were well aware that we were working on that?

Eddie Bourdon: I became aware of that on the morning of the public hearing when Mr. Frankenfield came in and said, I need to tell you that we’re going to recommending that there be no more storage facilities, even though there are only two storage facilities in that area that is “hatched” on there.
Jeff Hodgson: I thought we made that note that we were going to work on this months ago when we voted to go ahead and approve the Comprehensive Plan that we were going to study this area in more detail.

Eddie Bourdon: Certainly. Until I made aware that there are recommendations coming forward, I don’t have clients that are willing to pay me to go to all of the meetings you guys do for free and I couldn’t.

Jeff Hodgson: You got it this morning?

Eddie Bourdon: I found that this was on the agenda last Wednesday when Mr. Frankenfield advised me that it was coming on Tuesday, and he indicated he was going to send it to me. I actually, I got the write ups on Friday, as I always do after you all do your van trip, and Barry, his office did send it to me on Monday, but I had already reviewed it at that point.


Dee Oliver: Mr. Bourdon, I kind of want to go back into Bells Road, and that it is existing residential right now, this piece of property that you’re speaking to right now is residential.

Eddie Bourdon: Roughly. It is less than 15 percent of the property served by that road is residential. That is correct.

Dee Oliver: But the piece of property you were speaking about right now is zoned residential.

Eddie Bourdon: It is zoned residential and a non-conforming storage yard for industrial use for 30 years on it. Before there was zoning, it was a storage yard, and it was used for their landscape business before there was any zoning. That is no longer an existing non-conforming use.

Dee Oliver: According to your map Mr. Bourdon, according to your map, it’s R-10.

Eddie Bourdon: Before it was R-10, it was a part of...

Dee Oliver: It was something before R-10? Are you telling me that it wasn’t residential before R-10?

Eddie Bourdon: I’m telling you it was used as a storage yard before there was zoning before there existed any zoning and after the existing zoning. There wasn’t any zoning in Princess Anne County until 1953.

Dee Oliver: Let me just ask you a question. So, according to you, and I just want to make sure I understand, your desire is that we would change this road completely too industrial. And basically this whole section of residential headed north would be better served industrial.

Eddie Bourdon: No. That is incorrect.

Dee Oliver: That is what you said because we asked you would you prefer, I mean, Chairman Hodgson
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basically said would you want it in your backyard and you said yeah, I don’t have a problem with that, because I can just continually change the residential, and just encroaching in on to this neighborhood. There are people here that have houses, that have invested in their houses, and they are expecting their neighborhood to retain that character. They’re not expecting the zoning to be changed into an industrial zoning.

Eddie Bourdon: Olds Lane and the people who live on Olds Lane, this property abuts this property. If they lived there any length of time, it was a storage yard, a contractor’s storage yard that was operating as a non-conforming, a legally non-conforming use for decades, before Mr. Powell bought the property. It may have been, and I’m not going to say they didn’t stop a few years before he bought it, but those who have been there a long time, that’s exactly what the property was used for.

Jeff Hodgson: And they had to contend with it.

Eddie Bourdon: Correct. They had to contend with it. It was an industrial type of use and the other industrial zonings that have occurred on that road, and the Navy acquisitions and everything else, pretty much guaranteed. Not to be argumentative but you’re suggesting is that given it is an APZ2 in the highest noise zone and given our policy with the Navy we are better off putting eight houses here than to develop it at as consistent with all that has happened on that road and what is going on with that road and will continue.

Jeff Hodgson: Who said you have to put eight houses there? You don’t have to put any houses. You could just put wood back there or leave what’s there. No one is saying shove eight more houses in that piece of property.

Dee Oliver: I’m not trying to start an argument. I’m just asking...

Eddie Bourdon: So the property owner is just simply out of the goodness of their heart, they are just going to say we’re not going to maximize our use, we’re not going to do what the people on Olds Lane did. We’re just going to sit there and have one house but we’re going to have two houses. No, we’re going to put a cul-de-sac in and we’re going to build on the same spot that exist on Olds Lane and they are between two industrial uses on an industrial road.

Jeff Hodgson: Or you can make it industrial and push it up against.

Eddie Bourdon: You buffer it is what you do just like the Planning Commission and City Council has already approved the properties on either side.

Jeff Hodgson: The buffering on the piece on the other end is poor. The shrubbery that is supposed to block the existing island facility, you drive down the cul-de-sac, all you see is that giant warehouse.

Eddie Bourdon: I couldn’t agree with you more. You’re a 100 percent correct. One of my bullet points is that we need to have in the Comprehensive Plan to help protect his area very specific requirements for the type of buffering and the type of setbacks we should have because we know this is going to
happen and to bury our heads in the sand and suggest it is not going to happen, is poor planning.

Jeff Hodgson: Karen did you have a question?

Karen Kwasny: I’m hoping well get a chance for Jeryl to do some clarification but first I think that public hearings don’t require a letter to adjacent property owners. Correct?

Eddie Bourdon: That is correct.

Karen Kwasny: That is all I asked.

Eddie Bourdon: And if you were allowing the civic league and 80 percent of the people who own property don’t belong to the civic league they don’t get the information.

Karen Kwasny: But they are publically announced and they are don’t require a letter. I am not done. I have another question.

Eddie Bourdon: The process is that we should be here to get the best results.

Karen Kwasny: Right, I’m just clarifying that. The second thing is you have number bullet four, the fourth bullet point under recommendations contains a simply logical limitation so on and so forth. This proposed restriction, so; I think Jeryl will clarify that it is not an proposed restriction or a limitation. It is a language that addresses that issue states “should limit”, which is a recommendation within a Comprehensive Plan, which is a guide. Not a law, not a legal proceeding element, anything like that. And as well, when you get to that logical restriction discussion, and you say, the proposed restriction on this land use to only existing industrial zone land will have an unintended consequence of putting less compatible industrial uses. That is hypothetical. Right?

Karen Kwasny: Hypothetical. You’re proposing the possibility.

Eddie Bourdon: I don’t believe it to be hypothetical.

Karen Kwasny: But it is though. It is a hypothetically which is similar to the hypothetical of the R-10 becoming nine individual units.

Eddie Bourdon: I’m giving you a plan that shows how that can be done.

Karen Kwasny: That’s hypothetical as well.

Eddie Bourdon: That’s a by-right use. That’s not hypothetical.

Karen Kwasny: I don’t think it is for the nine of use to worry about. I don’t know that the worse-case scenario are always applicable to the discussion. I also had one comment in relation to your BRAC discussion, which is that in talking closely with Bobby Rountree on another committee I was on, who is
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an expert in that particular area, and when I asked him about this recently in a phone call, to his new
place in Florida, he said it wasn’t the intention of BRAC to undermine existing residential zoning. Correct,
or to come in and come around the back door and threaten existing residential uses.

Eddie Bourdon: Now you’re getting better. Residential zoning has nothing to do with anything
Residential uses, existing residential neighborhoods, it wasn’t the intention of BRAC to, and all the we
did, it was to protect the enclave of existing residential uses by not inserting additional industrial in the
middle of them. It was understood by everybody that you were going to have new industrial uses that
were going to be close by. They had to be screened. They have to be buffered, but you don’t want them
on the same street with the residential. That is what we’re talking about, and residential uses are not
residential zoning. So, that’s absolutely correct. That is 100 percent correct, but to suggest here where
it is already industrial both sides, all of the sides of that intersection will never be residential. Either the
two on the west side of Bells Road, Bells road west of Birdneck will never be residential in that area, nor
will it be on the east side other than this one little section, which is about less than 20 percent of the
land is served by that road, And frankly, that road ought to be, I believe is the only one today other than.
I guess I mentioned the paper street, it is the only ability to provide access to a lot of these other
properties that are encumbered, which we can actually point to if we had a map without going through
existing neighborhoods, which is the last thing we want to do.
Karen Kwasny: But I think all of what is provided in that one particular recommendation, which is the
one I think we’re hanging our hats on here, of what is provided in that recommendation allows for
someone to come forward with an application and for us to simply apply a guideline to it, and then to
have an educated discussion in relation to what is desired for the area. So, a Comprehensive Plan is put
together in an effort, as you well know, but I just lecturing a little bit as you have been, the
Comprehensive Plan is put together to provide guidance for the good plan of the City as a whole. And
so, is not intended necessarily to become cut and dry element, and we’ve seen that happen where we
discuss the Comprehensive Plan whether or not what we are doing with it is effective, and that is what
amendments are about and are going to produce something positive in the future. But it doesn’t mean
this doesn’t mean it provides guidance, that you can’t come forward with an application or the property
owners aren’t permitted to try to do something with their property by the Comprehensive Plan is meant
to pull the whole city together into an element that the residents have had a stake in creating, and that
is what the public process is about. That is what the Comprehensive Plan is put together intending to do,
so, I’m bothered by the notion that is going to restrict you from coming forward with an application

Eddie Bourdon: I’ve been suggesting that it is going to cause a problem for any applicant and this is not
just the Comprehensive Plan. This is a Suburban Focus Area, a Focus Area. That tells me and you will
define it however you wish, but it’s an area where we are going to put more focus on because we know
we have issues. We know we have potential conflicts. And if we are going to do that, do it right. Let’s
have focus that creates some stability and a road map moving forward as how we can avoid conflict and
this, I’m sorry, it is well intended but it doesn’t get us there. It is only a step. It isn’t as thorough as it
needs to be. And I do recognize, I do recognize it is an extremely difficult task, and I’m not here to
suggest that anybody has been derelict. It is just simply, there is more to it, and I was really taken the
back that the maps are a key component that you got to know what you’re dealing with on the ground
to look, as you all know what you’re doing. You’ve all done this. Some of you have been doing since I’ve
been doing what I do. You know what to look for. Unfortunately, in what I’ve seen maybe, and you all
Ronald Ripley: A good example to pick up what you’re talking about Eddie is that we just approved an application on Shore Drive area, and they have a pretty good understanding of what their guidelines are because they wrote them out. When you suggested that here, and the situation where you have competing, conflicting zonings and uses, that would be very beneficial to know, what do I got to do to create a buffer guideline? What are they? And that would be helpful. That’s what you’re talking about?

Eddie Bourdon: Exactly, we have them in our existing ordinance, but I would suggest that in areas such as this we need to have special requirements that are greater than what is in the basic ordinance. So that somebody knows what they are going to need to do to have any opportunity, and we also ought to try to create opportunities so these development don’t’ go through the residential streets. I just think those are the two key foundational things we ought to be looking at here. This area has been dealing with this change over already for decades and that is why there is so much industrial already here. I’m not suggesting that it can’t be made better. I think the whole process will make things better, but I don’t think this gets us where we should be. That’s my opinion.

Dave Redmond: I’m listening to all of this. It is my impression that we’re not where we need to be to move forward with this. This is a process, I thank everybody for the enormous amount of work they have put in and I think the purpose of it was to reach some consensus. What I am seeing is anything but consensus. The folks here who feel like they haven’t been included in the process for whatever reason, and to fix the problem is to add them to these things. The typical ways in which we advertise these days don’t reach everybody like they used to. It is very hard to get these around to everybody to make sure their advice is included and there are people who feel like they haven’t been included. I am particularly concerned about the concerns that Mr. Bourdon has raised with the Navy. I don’t know if it is possible to fold them into this conversation in a way they can help inform that rather than have us speculate. Mr. Ripley’s comment, I think, right now I found to be very sensible, so I’m uncomfortable with this. We’ve spent a lot of months, I know, and pretty close to a couple of hours here today, and I don’t’ think we are need to be to move forward with something like this. I think Council will appreciate probably some greater consideration on this. I think everybody kind of gets a fresh look on it with a cooler head, and everybody will be better off, so my recommendation is we kind of take a step back and look at it again.

Jeff Hodgson: Mr. Inman?

Mike Inman: Are we going to hear from Jeryl again?

Jeff Hodgson: Yes, she has the right to come up and rebuttal. Jeryl?
Jeryl Phillips: Thank you. I’ve been taking a lot of notes.

Jeff Hodgson: I hate to do this but I know we have three others in line and we are kind of want to stick to the time.

Jeryl Phillips: First thing I want to be very clear about is what is a Suburban Focus Area and what is it not. The Suburban Focus Area is simply a planning term that originated in the previous Comprehensive Plan in 2009. Prior to that, they were called Primary Residential Areas. And, the purpose of designating a Suburban Focus Area is just that. The wording in the Comprehensive Plan states that these are areas within the Suburban area of the City, which is roughly the northern half of the City that because of their character or the changing nature land use is in there, or whatever reason, necessitates more specific land use guidance to address what’s going on now and in the future. So, you’ve had a number of these designated over the plans. Some have evolved, like the Historic Kempsville Suburban Focus Area or the Shore Drive Corridor Suburban Focus Area, specifically from an area Master Plan that was done from a public planning process. The Historic Kempsville Plan put forward recommendations and it was adopted as part of the Comprehensive Plan, and as a result a Suburban Focus Area was designated for the Historic Kempsville Area and the recommendations for it, there are only just a few that are found in the Comprehensive Plan stem entirely from that adopted plan, likewise the Shore Drive Corridor Suburban Focus Area. Likewise, the Shore drive Corridor Plan had a lot of recommendations in it but they are summarized as a Suburban Focus Area for Shore Drive. There was not an area master planning process that was done for Historic Seatack. And outside of those two that I mentioned, with the exception of the Virginia Aquarium and Owl’s Creek area, none of these suburban focus areas have ever had an area planning process done. We came close to it with the process that we used over the past few months, but I will in no way put forward to you that it was area planning process. The people we were working with felt that we unduly put this area under a microscope as if it was an area of planning process. They asked me “have you ever done this for any of the other Suburban Focus Areas”? Have you ever gone out and looked in the field and met with the community? They felt like they we’re having to go through a higher standard just to bring forward the recommendations you have before you. Then other Suburban Focus Areas did, and I had to point out to them what I just said, Historic Kempsville, Shore Drive, and the Virginia Aquarium, are the only ones that actually went through an area planning process. So, I think there is some misconception about what a SFA is and what it isn’t. Atlantic Park is the area to the south of Virginia Beach Boulevard west of Birdneck Road, after you cross the creek marshy area. That is Atlantic Park today, always has been Atlantic Park. Their neighborhood is to the north. I’m sorry, I don’t recall the names of those neighborhoods and to the west you start to run into Oceana Gardens. There are other neighborhoods to the east along Virginia Beach Boulevard that go by different names. But it is called the historic Seatack Communities Civic league. Because it is a presence that people in those neighborhoods are invited to come and be heard through. So, I’m not suggesting that Atlantic Park or any of these other areas are not Atlantic Park. The Historic Seatack and Vicinity is the name of it, recognizing that the vicinity of what, if you go out there today and people identify as “I live in the Seatack neighborhood” it is the vicinity around it. Atlantic Park is in the vicinity, Owl’s Oak lane is in the vicinity. This is Historic Seatack and Vicinity so I want to be clear about that. And yes, it is not a regulation. These are a set of land use recommendations. Property owns are not sent notices when we do a Comprehensive Plan amendment. Before we do an area plan or we work on the Comprehensive Plan, we simply cannot notice all the property owners. However, if it was a zoning change, we are
required to notify the property owner and adjacent property owners. However, again, all of our working
meetings were duly noticed. And, the Seatack Community Civic League meeting, which we were invited
to be on their agenda, is posted on their typical site, and this amendment has been posted for over two
weeks on the City’s Comprehensive Plan page and with the agenda that was advertised two weeks as
per law. The last thing I want to say is this SEGA, the Special Economic Growth Area that is east Oceana,
is the west side of Birdneck Road. That is the area that was in the last Comprehensive Plan in 2009,
where that term was invented. It is a planning term like a SFA or a SGA. It is just a planning term, and it
stands for Special Economic Growth Area. It was brought forward in this Comprehensive Plan, as well.
That is an area that is designated specifically for compatible uses around Oceana, Economic
Development, not residential. It is an economic growth area and that is limited to the west side of
Birdneck Road, and south of the area that is shown along the red line, north of there. The
recommendation in this amendment says, “bullet 4, limit the insertion of additional self-storage uses in
the area of in the dashed line to existing industrial zonings”, meaning work with the zoning that you
have. The industrial zoning if you want to consider inserting additional self-storage uses into this area in
the dashed line. And limit future rezonings for industrial uses to ensure there is minimal if any impact to
adjacent residential neighborhoods. And this is where you suggest the language should be should. Also,
bullets states, “new development should be respect the historic settlement of this area and should be
compatible with the neighborhood”. It is in Mr. Bourdon’s point about inserting into the Comprehensive
Plan some specific language regarding buffering. That bullet goes on to state “significant landscape
screening buffers should be established between existing residential areas and new non-residential
development to mitigate adverse visual and noise impacts”. We deliberately thought about this,
thought about the emotion and the conflicts that were happening in that area, and specifically put this
wording in. I’ll close by saying at no point in the Comprehensive Plan is there ever a zoning map is there
ever an existing conditions map. There is an existing land use map in the technical report, but no-where
in the Comprehensive Plan is a zoning map because it is a Comprehensive Plan, it is not a zoning
ordinance. It would be inappropriate to have a zoning map in here. However, in the area plans that has
been adopted, as part of the Comprehensive Plan, there are existing conditions maps, there are zoning
maps, there are AICUZ maps. For example, the ITA and Vicinity Master Plan that you’re updating right
now, has all of those maps in it. And those are adopted as part of the Comprehensive Plan, as area plans
in of themselves. But when you look at the Policy Document of the Comprehensive Plan, it is a summary
of those plans. And we do not repeat every recommendation in the Comprehensive Plan that is found in
those plans, nor do we insert every map. In this case, as I stated, we looked at all of those maps, but no
other SFA, and no SGA, and certainly no SEGA, is there a zoning map because it would be inappropriate
and there is not any existing conditions map. I just want to be clear about what a Comprehensive Plan is
and is not and some of the planning terms we’ve been using because they are confusing and I even get
tongue tripped on some of them. Thank you for that time.

Jeff Hodgson: Is there any questions for Jeryl? Thank you. Alright, no more speakers, we will close this
and open it up for discussion. Mr. Thornton?

Bob Thornton: In looking at these recommendations, if you literally remove bullet 4, you would do
almost nothing to mitigate the rest of these. I think what causes me the most concern is that anytime
you put the word “limit”, you’re stating policy or at least an attempted policy. The word “insertion” is a
terrible word. It ought to be “development”. You don’t insert stuff into a neighborhood unless it is trash
or traffic. You know, and Kay said it this morning, if this had started out with “should” limit it, I still am offended by that because there is a process. There is a due process that any land owner has the right to come to us, and look at this stuff through the eyes of the Comprehensive Plan, and the ordinance and so forth, and then if they can negotiate with the community, and if they can mitigate the process, they very may very well be able to negotiate and get something better than what’s proposed or limited. So, I’m with Dave. I would like to see us take this back to the drawing board and work together. Maybe we need a Planning Commission workshop or something, but to use language that we limit insertion of a certain type of use in a large geographic area, and then we limit, again, that word limit, any future rezoning for industrial use. There is a lot of land out there that is only going to be used for industrial use. The Navy has seen fit to that. They bought all kinds of development rights. The AICUZ prevents just about anything that has a bed in it, so to me, if I were a property owner out there, I would be verify concerned that this is going to set precedence and if I want to come in and try to convince this body and City Council to let me do something, I’ve got one hand tied behind my back already because of a policy statement. So, I guess we’re not going to fix this today, so I’ll let somebody else make a motion but I think it has been a great discussion. I’m all in favor of that and I’ve learned a lot by listening to it. But I think it needs some help and I just think going forward I just don’t want us to have us have policy statements that use the word “limit”. It is too much of a declaratory term and one day we may regret saying that we want to limit. It might be reasons to not to limit. I think those things need to come to us with a clear case for what they want to do. We don’t think it is a good idea, and the staff tells us it is not a good idea, then we have the right to turn it down, just like we did the storage facility on the piece of property right in the middle of this neighborhood.

Jeff Hodgson: Mr. Inman.

Mike Inman: I agree in part with what Mr. Thornton says. However, I think we can move forward with this today. I think there are only two items in all the list of recommendations that really put a burden or could seriously affect the kind of use that could be made or put a limitation on it. And those are bullet 2, where it says, “new development should respect historic settlement of the area and should be compatible with the neighborhood”. That is fine. Significant landscape screening buffers should be established between residential areas and new non-residential development. Well, you can argue and mitigate visual and noise impact. You can say well, that’s really putting something extra on these people. Well, it really isn’t, probably because we would probably do that anyway as part of the process, and the second one voices 4, which is I think is an area of focus, no pun intended. I think the first clause ought to go. I don’t think we ought to be talking about limiting anybody’s specific kind of business, whether it is a convenience store or it’s a self-storage or it is bar lounges. Whatever. That’s a land use decision on each piece of property. Depending on where it is and how it is zoned. AICUZ, all of those things, so, I would eliminate the first clause and I would retain the second clause and just say that “future rezonings for industrial and commercial uses could be limited or should be limited to ensure there is minimal impact on adjacent residential neighborhoods. Simplify state, “Future rezonings for industrial or commercial uses should be limited to ensure there is minimal, if any impact, to adjacent residential neighborhoods. I think that gives the guidance that you need in a Comprehensive Plan, we don’t need to be talking about specific kinds of businesses. For planning purposes for this Comprehensive Plan, we’re talking about inside that dotted line and actually inside that dotted line, is the Suburban Focus Area, and not the red. So that is what we’re talking about, that area. We’re not talking about Atlantic Park. We’re
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talking about inside the dotted line for these recommendations to apply. And I think Eddies’ suggestion of more detailed maps, I agree with Jeryl. We have, we know the maps there and everybody knows the maps are there. We know we have to consult AICUZ maps, we have to consult zoning maps whenever we do planning, so I don’t see the need to add them. I don’t think it is appropriate either. So, that is what I suggest as far as changes. The other items are just, they are not burdensome on any particular property or property owner that makes it untenable as a planning Comprehensive Plan item. One other thing I would say is about notices. I think we’ve got a problem. We need to talk to city Council about them and our council about the way notices are given. People are not aware. I don’t know what to do about that but they are not aware. That is not a good thing.

Ronald Ripley: You know, Mike you may think that it is close to it being resolved but it sounds like you had a lot of issues and probably a lot of other people do to. I could probably come up with three or four myself. So, I really think that idea of having a workshop might be to try and work through this detail would be fair to the community. I see a lot of play on both sides here. I think we would be better off doing that and I would recommend that we defer this and have a workshop, and work through the details and come out here in uniformity and move this through. That is what I suggest.

Jeff Hodgson: Jan.

Jan Rucinski: I totally agree with what Ron has said because I think we’ve put a lot of focus and emphasis on what the Seatack Civic League wanted and not that that it is bad, please understand that. But I’m just surprised that nobody from the Seatack Civic League is even here to address the issue today, so I would really like to be able to send it forward being proud of being able to put the right verbage together the right action together so that when we send it on from Planning Commission to City Council, that we’re all in agreement. So, if you made a motion, I would second it.

Ronald Ripley: I make a motion we defer this application or Comprehensive Plan amendment, and hold a workshop as soon as you can and bring this matter back to the public for a rehearing.

Dee Oliver: I just want to interject something. Before we do any of this, I would like that being the fact that we spend a lot of time with the community and trying to build a bridge with a community, I think before we make a motion to defer it, I would feel more comfortable if we heard from the Planning Director who spearheaded it with us, guided us through it along with Chris Langaster and Jeryl. This wasn’t just, it truly wasn’t a wing and a prayer kind of process that we did. It was vetted very, very hard. So, before we make a motion to defer anything, I would like to hear from Barry and from Jeryl one more time on their thoughts on this matter since they are the Comprehensive Plan professionals.

Barry Frankenfield: I am deeply concerned. I personally reached out to Mr. Jackson verbally, email explained that this item was coming forward, so we must not have communicated clearly because I am pretty shocked that no one from the civic league. I would have thought that we would have had a pretty strong representation, so I am very concerned. But regardless, of that, I think we have a little bit of work to do. We could approve what we have here and I don’t have no problem with coming back and having a workshop.
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Jan Rucinski: Jeryl?

Dave Redmond: Mr. Chairman, I would like to second Mr. Ripley’s motion.

Jeryl Phillips: I can’t speak for the civic league, and as I said, I didn’t receive anything in writing from
them. I am not surprised they are not here. The board members that are on the civic league worked
diligently over several months with all of us on this process, and we were invited to come to the civic
league for a meeting on September 12, and they verbally stated that they were in support of it. I’m not
sure they felt there was anything further to do at this point because we stated at that time, I stated that
any comments I receive would be brought back and we’ll discuss them and make any necessary
adjustments. There were not received that night. I didn’t receive any further ones from anybody in the
community, anybody until this morning with this. Therefore, no changes were made what was
presented to them. They have spent hours upon hours upon hours working with us on this. They work.
Some are retired. And they were very comfortable with this draft, so to take additional time, I’ve know
you’ve seen Mr. Minns up here many, many, many times, and he’s left his work to come here. And he
has been talking to you since January. The fact that he is not here and he stated to us going in to the
meeting that night he was very, very pleased, so that’s my observation as to why you don’t see anybody
here because they put their time into it already. They really have, and we spent many months on this
starting at the end of January. I’m always happy to work with you until you are entirely comfortable. I
think I have demonstrated that, certainly with the Transitionary work, where you requested a deferral.
Somebody requested a deferral. It was approved and we worked for a few more months and we
thought we were done in October.

Ronald Ripley: But isn’t it our job, it is our job to recommend?

Jeryl Phillips: Absolutely.

Ronald Ripley: To make sure we are all on the right page.

Jeryl Phillips: Just like I did back on the Transitionary amendments in October. We worked for another
two to three months on those until you were comfortable.

Bob Thornton: What has happened here is for the first time in this process, the other side of the street,
if you will, has come in and said we are not comfortable with this. Mr. Minns and his crowd aren’t here
because everything in here is what they wanted so if they thought for one minute that we were going to
come and vote on this today they probably had no reason to come. The other side is who showed up
today. They’re business, they are people who live in the neighborhood. They are people who are
affected by this and it is our job to hear both sides of the argument. So, we did, we have and we feel
like we need to do some more work on it.

Jeryl Phillips: And I respect that. I didn’t hear any of these comments at the civic league meeting which
was not attended just by civic league members.

Bob Thornton: But we have today.
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Jeryl Phillips: Sure, and I respect that.

Jeff Hodgson: Mr. Inman?

Mike Inman: It seems clear with we that we are probably on a motion for deferral. I’m going to
support that to the extent that what is Bob is saying. There are people who clearly should have been
involved in the process. I believe that they didn’t know. They didn’t know these meeting were going on.
I know how these notices are done in the paper. People expected to look at the City’s Comprehensive
Plan website. I don’t know. So, everybody hasn’t had the opportunity that the folks that have already
been talked have had. They were here today. Maybe not all of them, but now we’ve heard that and yes,
the other folks should have been here too, so, I would support a deferral.

Jeff Hodgson; I’ll weigh in. I guess my frustration lies in the fact that this amendment has been written
out in this form for, I will say, for well over a month. And here we are now debating this, which I know
that is what we are supposed to but I just have frustrations that I wish that more of this had been done
prior to this morning, this afternoon. I will go along with the deferral but with reservations. I think, like
you said a minute ago Mike, that there are some small changes that I think could be made today to this
that we could move this on, but I don’t think that is going to happen. So, I will support the deferral for
30 days on this.

Jan Rucinski: Jeryl, maybe this is a learning process for us also that when we’re making these changes,
and I know Jeryl has sent all that out to us and we’ve all had the opportunity to read it but sometimes
when you’re sitting in your office or your home and you are just reading something, you may not
necessarily get the whole scope of it until you’re sitting around the table and somebody makes a
comment that makes you think of something about “oh what about this” or “what about these words”,
so it very well may be that in the process that there needs to be a work group after all the details have
been put out before it is presented to the Planning Commission and the public, that there ought to be
maybe that one final polishing work group so that everybody understands what that verbage means or
to determine if there is better language like Bob had pointed out earlier that may be better language
that could be used to polish it. Because I read it and I didn’t pick up on limit but then once we talked
about it this morning, I said, yeah, yeah, yeah, we shouldn’t say that. So, that is maybe a learning
experience for us to go one step further.

David Redmond: I didn’t hear Mr. Ripley to say a 30 day deferral.

Jeff Hodgson: No. You didn’t.

David Redmond: I tend to think an indefinite deferral to make more sense so you can figure it out as you
go along anyway. I understood him to mean an indefinite deferral. Is that right Mr. Ripley?

Ronald Ripley: That would be fine but to have the workshop as soon as you can.

Jeff Hodgson: After I said that, I knew there was no way we can get this done in 30 days. But I think it
needs to be expedited. We’ve worked on this a long time and we worked with the community and if we
Item #16
City of Virginia Beach
An Ordinance to Amend the 2016 Comprehensive Plan by adding the
“Historic Seatack and Vicinity Suburban Focus Area” with area descriptions and
Recommendations
Page 27

defer this now, I want us to quickly start the process of looking at this. I don’t want to do this next year. I want to do it right away. So, I think you made a motion. Ron made a motion for an indefinite deferral and seconded by Commissioner Redmond.

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Ed Weeden: By a vote of 10-1, the Commission has deferred the application of the ordinance to amend the Historic Focus Amendment indefinitely.
Jeff Hodgson: We’ll call the next item.

Jan Rucinski: let me find my place on the agenda. Okay. The next item on the agenda is an application of Erica Dancel & Ramon Mejia for a Conditional use Permit (Family Day-Care Home) on property located at 2749 Mulberry Loop, District 3, Rose Hall. Is there a representative here for that application? State your name for the record.

Erica Dancel: Erica Dancel.

Jan Rucinski: Can you present your application to us please?

Erica Dancel: Can you hear me okay now? I currently have a home day care that is voluntary registered for the State so I’m certified. I’ve been running that from September of last year and it has never posed a problem. The maximum capacity of children was five, and the code ended up changing from the Department of Social Services from July 1, 2016 where they changed it from 5 to four children, so in order to keep that fifth child, you have to obtain your State license, which brought me to apply for the license and a Conditional Use Permit. So when I called the Homeowners Association Manager, she explained to me that the Homeowners’ Association can’t really tell me, approve it or deny it due to the by-laws, so I just went ahead and applied for it. Then I ended up getting two opposition letters coming from the same property, which is the property on the right hand side of my house. So, I have that neighbor that’s to my left that is exactly a cemetery. It is on the corner lots. There is plenty of parking and then my driveway fits four cars, so the opposition from the tenant they put in that house complained about parents walking the driveway. So, that is what she said in the letter. But when I spoke with her, when I posted up the orange signs, she told me it happened one time. And I asked her why she didn’t address it to me so that it could have been resolved quickly. I was unaware of it so, she ended up sending the letter and I just feel like it is exaggerated. There is no way that my four parents block the driveway because at most I have is four. For a little bit I have five kids so that’s the first issue that they have, so in order to resolve that my suggestion is that, I will make sure that the parents only park on the side of the property where the cemetery is or in my driveway. I will keep my vehicle to the right, and parents will park only on the left, which will bring them to my front door in front of the house. So, there is plenty of room. The second complaint was from the homeowner who owns the home, and he feels like it could affect the sale of his home because of noise pollution because what this license allows from the Virginia Department of Social Services that maximum of the 12 children, which I actually went around to my other adjacent explain on my intentions is not to max out to 12 kids. There is just no way I can do that or want to do that so I ended up getting this form signed by four of my neighbors and then I sent it over to the Board of Directors and they had approved it. So, zoning advised me to clear it up with the Homeowners’ Association before I come here, which is why I deferred it so once I explained to my neighbors my intention was not to have 12 children. I’m only allowed to have one employee, so technically, four children per adult, that would be my self-provider and my assistant, that would be eight
kids, which I don’t plan on having any kids so I currently have 3 children, and I just don’t see how this is going to be a problem with noise pollution or affect the sale of his home. Castleton is a family oriented neighborhood. All the villages and there are lots of young children. There are lots of young parents and I just don’t think that is going to be an issue. The third issue is that under the Castleton Code, it states that all properties are for single-family residential use only. All property of the application shall be devoted exclusively to single-family residential use. No day care occupation or professional trade or non-residential use shall be conducted on such property. So what happened when this approved, the president who lives down the street from, and he said I’m not asking for anything unreasonable, they decided to bring it up to the Castleton Board of Director. And I received an email yesterday afternoon stating that they again are denying my request to have the Use Permit to continue my business, so I’m just here to let everyone know that I’m not planning to max it out. This is my livelihood. My husband is a government contractor so he travels often and I have two small children. So, right now, it is reasonable for my life. It worked out for me. I’m not again planning, and I’m not having a kinder-care on the corner of that street. I’ve been offering this for a year, everything has been quiet. I don’t have rowdy children in my daycare. And another thing with that code, there are four active business licenses on Mulberry Loop alone. And then I found out there is another home day-care in another village on Seven Road that has an active business license as a daycare and she has a Conditional Use Permit as well that was approved in December 2015. So, I just think it is unfair and all of this arises from one neighbor. Everybody else is fine with it. I even have neighbors already asking, “Hey you know is there an opening for my child? So, I just don’t think this is fair to object this Conditional Use Permit because I need it for my licensing to go through even to have that fifth child. Even if my max is to keep it as it was, and to have a fifth child, which I have to withdraw because of the code change, I need it. And, that is why I am here today.

Jeff Hodgson: Are there any question for Ms. Dancel? I have two. What age groups do you watch?

Erica Dancel: The one’s that I currently have?

Jeff Hodgson: Yeah.

Erica Dancel: Yes, I have 1 ½ year old, actually, I have two 1 ½ year olds.

Jeff Hodgson: What are they a certain age?

Erica Dancel: Yes, I’m not planning on having infants.

Jeff Hodgson: You’re no planning on having teenage kids in there? They are all small children.

Erica Dancel: Yes.

Jeff Hodgson: Okay. Are there any other questions. I think you’re allowed to have one foot square sign. Are you planning on putting a sign up?

Erica Dancel: Yes. I read that under my contract.

Jeff Hodgson: Do you think you will be putting a sign up?
Erica Dancel: No.

Jeff Hodgson: No. Okay.

Erica Dancel: That’s fine.

Jeff Hodgson: Does anybody else have any questions?

Jack Wall: I have a question. Where do they typically stay at the house? Do they go outside?

Erica Dancel: Yes. It is required that they go outside unless it raining or inclement weather. So, my left side of my house is a daycare area. So, there is plenty of space. In the backyard, I have a playground. So, in the morning is what we do is take a walk. They are outside for at least 20 minutes, and then in the afternoon again, they play outside. So, even if I did max the kids, and I am saying for an example, as far as noise pollution thing, I would bring out all of these kids because I could stagger that too so where my assistant brings out the four and I would bring out the four at a different time.

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

Jan Rucinski: We have one speaker in opposition and that is Greg McCracken.

Greg McCracken: Greg McCracken, a Virginia Beach attorney, Fine, Fine, Legum and McCracken. I’m here on behalf of the adjacent proper owner, Meade Stone. Meade and his wife own 2745 Mulberry Loop, which is the adjacent property. Meade and his wife are life-long residents of Virginia Beach, Norfolk Academy, Hampton-Sydney. They have twins, one who died and one of them has incredible injuries. Because of this, they live in Atlanta. So they rent this piece of property and when they bought their piece of property, they bought it subject to a HOA, which the applicant just read. The HOA says that all property in this classification shall be used and approved and devoted solely inclusively to single-family residential use. No gainful occupation, professional trade, occupation or other non-residential use, shall be conducted on any such property. That is a condition under which they bought their piece of property. The applicant bought the piece of property on September 25, 2014. They had the same exact. Their agent signed it. They got the same exact HOA and low and behold, they want to open up a daycare center. She said I want to open up and I got four kids. I didn’t seek approval on that one. I want to come back and seek approval. I don’t want twelve kids back but I could have up to 12 kids. This is a residential neighborhood. It is not a business area. The Stones depend upon this for the rental income. They depend on this for their livelihood to support themselves while they’re looking after a severely disabled child. They are extremely opposed to this. They do not want a business next door whether there is a daycare or any other business next door to their piece of property. It is not allowed by the HOA. There has not been an approval by the HOA. And they oppose this vigorously. I will be happy to answer any questions.

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

Jack Wall: Actually. When they oppose that number 12, it has been mentioned that does seem like a large number, especially for somebody next door to that property. Would they be opposed to a smaller
Greg McCracken: They are opposed to any business being run in a residential neighborhood under which they bought and these people purchased the property saying, it is a single-family residence. And when you buy that, you understand that. And whether they liked or not, they bought a piece of property which the HOA clearly says, it is exclusively devoted to single-family resident use. It doesn’t say daycare center, or tattoo parlor or what if you wanted to park your roofing trailer/contractor truck there every day? I’ve got a client for the City of Virginia Beach, who runs his own business and he was cited. He can’t park a truck which has welding equipment on the back of it in his driveway. It is equivalent to the same thing. This is a neighborhood. It is not zoned industrial. It is zoned for a residential area. They knew that when they bought it. Coming here now to seek approval of what they already do, I think is an inappropriate way to do it. They want to run a daycare center, rent a piece of property that is appropriate for a daycare center, rent a daycare center. Thank you.

Jeff Hodgson: Thank you. Are there any other speakers?

Jan Rucinski: There are no other speakers.

Jeff Hodgson: Ms. Dancel, would you like to come up for rebuttal?

Erica Dancel: Okay, I understand what he is saying but I wanted to bring up the fact that there are again, four active businesses licenses on Mulberry Loop alone that are have commercial. And I understand the whole HOA thing and you shouldn’t have a business but like I said, this is very quiet. I don’t advertise anywhere around my house. All I have is the playground in the back. So, nobody even knew that I had a daycare beside my surrounding neighbor until I had to put the orange sign up. So now this has caused like all this stuff from one person in that entire neighborhood where I feel like that is affecting my livelihood. I’m not bothering anybody. Like I said, when I had the Association letter, I even told her I am willing to do whatever to meet halfway so that is not an issue for any for the neighbors. So, not like I’m being irrational or try to push the whole child thing. I’m willing to redo the proposal or whatever to lower the number. Whatever needs to be done but I just feel like even with the HOA done publically guided, I’m clear. No one guided. The only reason why I found out that I could even have my neighbors sign this thing, this form was to the lady who had a Conditional Use Permit in the other neighborhood. So, how did she make her money under Castleton? She got a Conditional Use Permit approved but yet they are just so adamant in denying my permit just so I could continue doing what I’ve been doing. I just feel like I’m being singled out. It doesn’t make sense. I feel like this has become complicated and it doesn’t need to be. About the businesses like what he is saying under that code, there is a man with a moisture control business and his truck has his business all over it and he parks in the driveway, and the Board of Directors pretend like he discussed it with him that his employee cannot park near his house. They worked something out. Even Courtney Dees, who I spoke with this morning, she was the one who was saying that if someone complains to the Board of Directors, whether it is on the village level or entire Castleton level, they are obligated to respond to that. So, I guess that is why I had to get the lawyer involved in this. I just want to continue doing what I am doing. So I am requesting that you guys approve my conditional use. If I have to change the number to whatever satisfies.

Jeff Hodgson: I don’t think that is going to a make a difference in how they feel.

Erica Dancel: Actually, I know this sounds petty but the people that are renting that home of Mr.
Meade, like in the same page, right underneath that section code there is a code about pets. If the pets are a nuisance or cause this or that, I am able to complain. So, my point is saying that Castleton is a family oriented neighborhood, their little pugs bark. Twenty minutes in the morning and I’m not even kidding, twenty minutes in the afternoon, but for me, I feel like she has three kids, she has two pugs. So for me, I feel like this guy, you know Mr. Meade, is complaining about things first of all haven’t even happened yet. Secondly, they’re tenants. Pets cause noise pollution. So, I just kind of feel it is unfair of all the things being brought up and hasn’t even happened. That’s all.

Jeff Hodgson: We’ll talk through this and come up with something.


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

Mike Inman: Jeff, quickly.

Jeff Hodgson: Mr. Inman.

Mike Inman: Would you be comfortable with a lesser number than 12, if a part of this approval, say six or seven.

Erica Dancel: Yes. That would be perfectly fine.

Mike Inman: Okay. Thank you.

Jeff Hodgson: Are there any other speakers? We’ll going to close the public hearing and open it up for discussion. Who would like to begin?

Dee Oliver: I have a question. Mike and I were asking and we can’t remember, when you do a day care isn’t there a certain number that you can have? Is it four by-right?

Kevin Kemp: By-right, you can care for four children but not to exceed 7 in your home including your own children.

Dee Oliver: Okay.

Mike Inman: Not to exceed seven including your own children?

Kevin Kemp: In other words, if you had four children you can only watch three. You can’t have more than seven but four is the number of children you can watch by-right.

Dee Oliver: If you have three children?

Kevin Kemp: And after that it requires a Conditional Use Permit.

Jeff Hodgson: Mr. Redmond?
Dave Redmond: I don’t think that is going to make any difference whatsoever for the principal means of opposition, none whatsoever. So, I don’t’ know if we get anywhere by moving that number around. It could be 45, given the nature of the opposition. My view, however, is that is not our business. The HOA and the homeowner who lives there, that is their business. We deal with appropriateness of the land use as we see it, and the application before us, and there are dozens, if not hundreds of these all throughout residential neighborhoods throughout Virginia Beach. It is not like a man landed from Mars. They are everywhere. They are entirely appropriate. It serves a public purpose, and a lot of neighborhoods that are very much like this one. I can’t for the life of me figure out what would be different about this one except in many ways it is more appropriate because it is a large lot. It’s got some certain characteristics that are next to it that make it easy. I don’t know what there is about this quite frankly to oppose from a land use perspective, so I think we can get on with it.

Jeff Hodgson: Is that a motion?

Dave Redmond: Well, unless anybody else wants to weighs in on it.

Jeff Hodgson: Is there anybody else?

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

Jeff Hodgson: A motion made by Commissioner Redmond for approval and seconded by Mr. David Weiner. Mr. Weeden?

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Ed Weeden: by a vote of 11-0, the Commission approved the application of Erica Dancel and Ramon Mejia.

Greg McCracken: Thank you.

Jeff Hodgson: We got two more.
Manousos Enterprises, Inc.
Subdivision Variance
1337 Ferry Point Road
District 2
Kempsville
October 12, 2016

REGULAR

Jan Rucinski: The next application is an application of Manousos Enterprises, Inc. for a Subdivision Variance to Section 4.4 (b) of the Subdivision Regulations on property located at 1337 Ferry Point Road, District 2, Kempsville. Is there a representative for the application? Thank you. Can you please state your name for the record?

Rodney Flores: Good afternoon Chairman, Vice Chairman and members of the Commission, I’m Rodney Flores from Pinnacle Group Engineering. I have a business address of 445 Battlefield Boulevard, Chesapeake. I’m here to support the variance of Section 502 of the Subdivision Ordinance for the 50 foot that is required. We’re not providing the 50 foot frontage for Lot 5B2, which is shown on our exhibit. This particular lot is going to be over half an acre, 21,283 square feet. For an R-5, 5,000 square foot zoning district, so it’s six times the size that it needs to be. Lot B1 up front is going to be a 5,000 square foot lot on the right. It will have the 50 foot frontage and I brought some elevations for that particular lot for you guys to have and it is going to be basically the same elevations that Mr. Manousos has built on the adjacent lot already on the same street. He is willing to stipulate that the small lot would have something similar to that built on it. For Lot 5B2, the big lot, it is a very large lot. There is really no comparable lots in the particular area that we could base it on. The sales price on so it would end of being a parcel that would be “built to suit”. Obviously, with that being that big of a lot, six times bigger than the other ones around it, he is going to put something that is going to be bigger and better than the other residences on that street. He is willing to state that materials will be substantially similar to the ones you have there in your hand for the small lot up front, and that the setbacks are going to be similar to other houses in the area more specifically, he will be willing to have 10 foot side setback lines and 20-foot rear and front setback lines, which I believe matches everything else on that street. We would like to have those conditions in lieu of specific elevations for the large lot just because it is a singular type situation, and Mr. Manousos doesn’t want to paint himself into a corner up front. I’ll be standing by for any questions. And I think Mr. Manousos may want to say a couple of things.

Jan Rucinski: I just need to correct something. You are opposed on your card.

Dimitrios Manousos: We just checked the wrong block.

Jan Rucinski: That is why it threw me for a loop. I am just going to remark them as support.

Rodney Flores: Thank you.

Dimitrios Manousos: My name is Dimitrious Manousos. I don’t have those elevations. I don’t have any choice but to build this house, which I don’t already know what to build yet. I plan to subdivide the property as build to suit just to see how much property with building or annual money I’m trying to make. So, I would like for you to move those elevations for the big property and just keep the lots in front.
Jeff Hodgson: Are there any questions? Thank you sir.

Dimitrious Manousos: Thank you.

Jeff Hodgson: Are there any other speakers?

Jan Rucinski: There are no other speakers.

Jeff Hodgson: I guess we can close the public and open it up for discussion. Would anybody like to start? Mr. Wall.

Jack Wall: The subdivision is in keeping with the precedence set by the adjacent property owner but you did have the elevation for the property, for the flag lots. So, I can’t say one way or the other. But the precedence was met, and it is typical that we have the elevation for the property. We are doing a Subdivision Variance and like I said, precedence was there from the adjacent property.

Jeff Hodgson: Mr. Ripley?

Ronald Ripley: I think Jack is right. I think the applicant could define what square footage he would be willing to build, materials, characterization of what the elevations might look like. The neighborhood would want to get and you wouldn’t put something in the neighborhood that surprises people and I think we need to have a pretty good feeling for that. I think not to have that would be incomplete at this point. I think we worked with one of the adjacent property owners or one of the property owners in the area to do something very similar but we were able to work out what the property would look like but we probably need to hold the same standard here.

Jeff Hodgson: Is there anybody else?

Ronald Ripley: I don’t think Staff has seen those.

Jeff Hodgson: We closed the public hearing. You can come up for just a moment.

Dimitrious Manousos: We can put in there the property will be no less than 3,000 square feet or similar to the front of the lot 1333 Ferry Point that is built? I built four properties there already, and the neighborhood is happy with the look of the properties. Now this one being 2,800 square feet, 20,000 square feet of course is going to be better than the one in the front. I don’t want to make them worse than the ones in the front.

Jeff Hodgson: I think they want to make sure that it fits the character of the neighborhood too.

Dimitrious Manousos: The character of the neighborhood is all by itself. Now, I can’t do this one brick. I don’t know. That is the reason why I am asking you not to give the elevations there because build to suit means somebody wants to buy this large lot and build a humongous house there. We don’t know that. So, if you bought for me to come by, that I mean I can’t put brick there. Wood statue is better than vinyl siding. That is why I don’t want to elevations there. My purpose for this is not to make something worse, it is to make something better. That is why I am asking you not to defer this.
Jeff Hodgson: Okay. Thank you sir.

Bob Thornton: I’ve got a question. He is proffering the smaller lot with something very similar to that picture right there? Is that correct?

Ronald Ripley: He is not proffering anything.

Bob Thornton: What’s this? Is this not a proffer? Is this something he is willing to agree to today on the front lot? If he agrees to no less than this on the back lot, were no worse off if they were the same size. He says he is going to do something bigger along the back. Would we be comfortable if we had two of these proffers, one in the back and one in the front? And he has the latitude to make the one in the back better.

Ronald Ripley: I think it would be help if the Staff had the opportunity to work with them to get the proper form. This may be exactly okay. I’m not saying it is not.

Bob Thornton: Okay. I got it.

Ronald Ripley: But I think when it was presented this morning, the applicant wouldn’t provide this information, and I think that is what he probably needs to do.

Bob Thornton: Can you do that administratively or do we need to bring this back?

Barry Frankenfield: I am nodding saying that I can.

Carolyn Smith: Perhaps you can put in a condition that that elevations would be approve subject to the Planning Director.

Barry Frankenfield: If you use the guidelines of what he has shown, then we could certainly work with that. You all had some comments on reviewing the elevations. Did you have some thoughts?

Jimmy McNamara: First off we haven’t seen what the site lay out is yet. So, we got right now, what appear to be a side loading garage there and we want to make rue that indeed we could have a side loading garage without having to go to BZA for a setback issues or anything like that. So, there are several issues that we need to kind of flush out here to make sure this is consistent, and will work with this site. We also see there is a lack of window on the one side of the house that we would like to see something architecturally and aesthetically pleasing. So there are somethings we would like to work with in regards to the elevations.

Jeff Hodgson: I guess the question is, are we comfortable approving this and allowing?

David Weiner: I think the question is right now is being consistent with what we’ve done in the past. We’ve had developers come in front of us neighborhoods would possibly look like and there building more than one. I understand what you’re wanting to do but it still has to be consistent and has to go to these people of here before it comes to us and when it comes to us and we say yes, we like this and we approve an we recommend it and it has to go to Council. I don’t feel comfortable sending this to Council.
Jeff Hodgson: Is there anybody else?

Dee Oliver: I’m in agreement with David on that. We are consistently asking for elevations. We just did that to a previous applicant and not be consistent. We always ask for these.

Jeff Hodgson: Is there anybody else?

Karen Kwasny: I think the complete package needs to be presented for review and be totally reviewed before it goes forward.

Jeff Hodgson: Do I have a motion?

David Weiner: I make a motion that we defer this indefinitely.

Ronald Ripley: I’ll second it.

Jeff Hodgson: A motion made by Commissioner Weiner and seconded by Commissioner Ron Ripley to defer indefinitely.

Ronald Ripley: It gives the applicant time to get back with staff and work through the details.

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Ed Weeden: By a vote of 11-0, the Commission has deferred the application of Manousos Enterprises, Inc. indefinitely.
Item #D3
McQ Builders, L.L.C.
Conditional Rezoning
R-10 Residential to Conditional PD-H2 (A-12 Apartment)
4732, 4712 4708 4704 Indian River Road
District 1
Centerville
October 12, 2016

REGULAR

Jeff Hodgson: Thank you for being patient Mr. Miller.

Jan Rucinski: We have reached the end of the line. This is an application of McQ Builders, L.L.C. for a Conditional Rezoning, R-10 Residential to Conditional PD-H2 (A-12 Apartment) on property located at 4732, 4712, 4708, 4704 Indian River Road, District 1, Centerville.

Mike Inman: Mr. Miller if you had a deja vu moment.

Bob Miller: Yeah, I did. I’m Bob Miller by the way. I represent McQ Builders. Tom Betz and I used to sit about right there. We did this incredibly functional process, we bet a quarter as to what time we would finish based on the agenda.

Jan Rucinski: We made them stop betting. Because every time they did it, it would be long.

Bob Miller: Judy Rosenblatt got so mad at us because we’d sit there inherently leave it in five minutes of each other or something. It was never right. Forgive us. I am sorry to extend your day even a little bit longer, but anyway, I have with me today the landowners three of the four. Mr. & Mrs. Harris, could you please stand up and wave. You probably can’t stand up you’ve been sitting for so long, and Paul Warner, who sits behind her. Just to let you know, that they are here, part of the reason why I handed out this document and I’ll try to cut to the specific comments. Carolyn and I had a lot of fun working on this. I do appreciate it and admire her and even though I don’t always agree with her. So, this is one of those ones. If you don’t get the plan that I gave you, to paint a picture of the reality of this piece of property. There are four pieces of property here, that are owned by the Harris’, one is owned by Hollis Road, which is Paul Warner. These properties are kind of caught in a unique situation. And all of us realize that unique situations present themselves because of public benefits and public things like new roads. And, by the way, Ric Lowman and I were talking and we feel like there is a, and he will speak to this, we are in the process of. We’ve already contacted Chris Cahoon in Public Works Right-of-way to talk about the purchase of this road, the future purchase of it. So there is a conversation that has begun. So I think they are a little further along in their phasing than 2025, just to let you know. That is a dual effect on us and makes this picture the reality of it and the likelihood of the road being built, the new Indian River Road being built a little bit more, 2025, seems like I keep hoping it’s a long ways away. Let me phrase it this way. But 2019, which I think Ric will let you know about in a minute. And just too kind of get things going here, what we did was Joe McCutheons and a few builders and we looked at this piece of property and said, okay, this is going to be very tight. There is a sale price that has to be identified by the Harris’s and by Paul Warner, and the number to divide this property and then to work with the City on the reservation. By the way, there was an additional piece, I’m not sure. The Harris Family was Cory Harris or that Elizabeth Harris? Is that similar?
Bob Miller: Who owned other property, which was also dedicated as part of the Hollis Road, when Paul Warner bought property from the Harris Family. The Harris Family has been in this area at least 70 years. Not these two young people, but other people in the family, and have owned this property so this is not something that they sat around and said okay we’ll speculate on this. And certainly it is a very important piece of property to them and to their family. So, we looked at this and said, okay, what makes the best sense? And the best sense is to do something that creates a neighborhood just exactly what Carolyn has said. And I’m 100 percent in favor of neighborhoods. This piece of land across the street on Old Indian River Road is Stumpy Lake, which is a golf course and an environmentally reserved area, hundreds of acres of property. The elevation, by the way, of this land is about elevation 10 and the ground water is six feet down and Stumpy Lake is at an elevation of about 4. Not today, I completely understand that but on most days that is what the elevation of Stumpy Lake is. Now the idea of making this a condominium neighborhood, was to be able to support that neighborhood with a Homeowners’ Association, with the restrictions and covenants. I know you just went into Castleton and I was sitting here thinking, I’m going to say the same thing again and, you all are going to look at me like, “well, it didn’t work there”, but I think that is one of the things that has been a concern to several Council people is to make sure that when we set up these communities, we set them up right and a few builders understand that the covenant and restrictions will be inclusive of the Homeowners’ Association in making sure there is an economic model that manages this process, this project. But also going back to the uniqueness of it, it is a piece of property that, again, that says to me this wants to be a community and it cannot be a community adjacent to another community. There is no adjacent community. To say it is adjacent to Glenwood, you still got to get across a 145-foot right-of-way, and to say it is adjacent to the other parts of Indian River Road, without disrespect, it is not. There is nothing on the side towards Stumpy Lake. The idea of a neighborhood to me is connectivity. One of the things that is going on new Indian River Road is the multi-purpose trail, so we would obviously have a way to get to that. When you build new Indian River Road, okay that is Public Works, I don’t like their math because it doesn’t show it as dramatically as the drawing I’ve put out to you. It is not because they didn’t do a good job of drawing the drawing. I would point at it, for some reason I’m not able to. Just a couple of points and I’ll make these points as loud as I can. With the four lane road that would go there, this will phase, and I think Ric will support, we think is going to be a two lane road that goes all the way through, and because of the amount of money available right now, they will get more funding to finish up the four-lane road, which is not unusual. Old Indian River Road is a cul-de-sac. One of the suggestions that we had in discussion, in discussion, was we would ask this even be closed and that this just be an egress/ingress easement into here, leaving other lands available,. Now, I don’t want to misrepresent that. Obviously, it would leave lands available in one location that is not available to a lot of people in Glenwood, but potential but certainly this community and maybe a few other people that would be coming down. The reason why we put an exit out on Independence, was, I felt like, that for safety reasons we needed to have two entrances and exits. And again, talking to Ric, he said we could give the Fire Department obviously the pavers, grass area, and we could look at doing that but this piece on Independence once new Indian River is built, is only bringing a little bit of traffic, not near the traffic you have there now. I’ve been out there and you’re exactly right Jan. I’m not going to argue about that. They need a traffic signal at Independence and old Indian River Road. Ultimately, I believe there will be a signal at new Indian River Road and Independence. Unfortunately, timing and perhaps priorities is just not to get one in there right now. But it really needs to be because there is a lot of traffic that is trying to make either a left turn to go up to Elbow Road, or now trying to make a right turn and head towards Kempsville, and so forth coming down Independence. But that piece of Independence and what’s left of
old Indian River Road becomes really a residential, very secondary street. We cannot access new Independence so we do have to access old Indian River, and then we chose to show this connection to new Independence. I’m trying to rush. The other thing is that the units, we will use a coastal design and they will have single car garages. The garages will be in the covenants that they have to stay garages. It part of, and we understand that in the old days we used say they would be garages forever, and they weren’t. Open space. Well that’s the architecture. It will be brick and maintenance-free siding, 25-year roofs and soffit and other finishes along that line will be done either with vinyl or metal clad, so they will be maintenance free. Open space. Let me go back to that. We have own open space adjacent to new Indian River Road where there is some greenway and paths we were just talking about. It is at the corner of Independence and Indian River. There is open space there. We kind of circle the entire property with open space trying to think that would be to the best benefit to the neighborhood. Not trying to stick something in the middle of everything and obviously and then still be able to retain the units. I had a conversation about going to R-10 or R-5. The frontages, in order to get R-10, you got to have 80 foot frontage, and we end up 450 feet on Indian River Road, so literally we would get five units or six units at the most. I think five. And them on the back on the far end, if you look at that picture again, you can see down this piece. I wouldn’t be able to get lots down here on R-10. R-5 does the same thing. We won’t get 16. We physically might get as many as eight or nine. And then the bottom line to this is that it is kind of an island all by itself. I am all out of time? You don’t have any more? You didn’t pay enough to pass this time? Anyway, the bottom line is we are a leftover piece of land. It’s not that it is not very important to these families and to this part of the community. It is a neighborhood. It is sustainable. We could do this with the townhouses. I don’t believe if you put nine or ten houses in there, that you have a neighborhood, you don’t have a neighborhood. You just have a matter of ten houses sticking out by themselves. With that I will try to answer any other questions. I am sure I didn’t cover something.

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

Ronald Ripley: So Independence Boulevard in front of this property will become more of a secondary road now? If you’re traveling down Independence, I guess there will be a traffic light at this? Is this a traffic light intersection when you get to Independence and Indian River?

Jan Rucinski: Ric Lowman is here.

Ronald Ripley: Okay. But you can go through there and go on down to Elbow. Will that change?

Bob Miller: No, I think ultimately the east end. Now I have another client down at the east end. Ric do you know if east end is cul-de-sac’d? I don’t know if the east end gets cul-de-sac’d or not. The main road goes actually at Elbow and at the current location of Indian River Road, where it comes in from Pungo because it makes that “L” that goes down.

Ronald Ripley: I believe that Elbow Road is going to be reconfigured so it ties into the south?

Ric Lowman: I believe it does get cul-de-sac’d all the way down at the end of Elbow.

Ronald Ripley: Okay.

Ric Lowman: There is one more connection through there at the midpoint that will connect to you from old Indian River up to new Indian River. I forgot what the name of the street is.
Ronald Ripley: But would traffic flowing down would have any reason typically to go through, back down Independence Boulevard and along the lake?

Ric Lowman: No. What Jan’s concern was is yes, that traffic is going to go away. It is going to turn left at the new Indian River Road to go in the new direction rather to come all the way down towards the lake.

Ronald Ripley: And there will be a traffic light at this intersection?

Ric Lowman: Yes.

Ronald Ripley: So the traffic concern you had after this is down might improve it?

Jan Rucinski: But here is part of my concern. So, let’s say that the new Indian River Road doesn’t go in 2025 or whatever. We are adding more congestion on Independence Boulevard and Indian River Road intersection that currently exists by them having this ingress/egress on Independence Boulevard.

Ric Lowman: I can explain the schedule. As I was reading that this morning, the 2025, that was the schedule before, I think, Public Works changed things up, so I went back to the office after we talked this morning, and we actually split it into two phases. So, Phase 1 is going to be Indian River Phase 7A. We’re going to build two lanes of the four lanes. That project will start in 2019. Construction will start in 2019 and it scheduled to be completed in 2021. So, the concern is that until 2021, the old Indian river Road will be cul-de-sac’d. Because obviously that is going to be the last thing you do is cul-de-sac the road. So, once that road becomes cul-de-sac’d in 2021, then the Independence issue would be less of an issue. But, until that point, you’re right, there is an issue there and that access point will exacerbate, so after 2021, as scheduled, the Independence issue may go away and they may come back for an entrance to Independence at that point.

Jan Rucinski: That is what I was just ding to ask. Is there a way to say that there is no entrance onto Independence at this point in time?

Ric Lowman: We could talk to them about that. You could ask them to make that a proffer if that is what you decided to do. The other thing, as Mr. Miller pointed out, was that the secondary access point, if he is worried about that for fire, they could design it so that it kind of cul-de-sacs there or ends before Independence, and they could use reinforced turf to satisfy the Fire Department. So, if the Fire Department needs a secondary access point, they could drive over the grass which would be rated for the fire equipment.

Jan Rucinski: Have they talked to the Fire Department? Do they need a second entrance?

Ric Lowman: I don’t know what the rule is for that, but, I think, it was 35 units.

Bob Miller: I did not do that. In our conversations with Carolyn, that’s the only reason why I gave in and certainly what Ric just said, I think I indicated that in my presentation but I might have missed it was that we would be willing to do that. We’ll do the fire access point and they use a gate that they actually control and so you’re not allowed, you just wouldn’t be able to drive in and out of there. We wouldn’t be able to drive in and out, which is fine. I was not worried about our traffic as much as you are. Forgive
me about that. But my main reason for the secondary entrance was too be able to have, and I’m
anticipating the Fire Marshal saying, I want to be able to get into this development. But that would
satisfy with a gated grass access, what he is talking about. We would put pavers on the ground and put
grass on top of it. We’ve done it in lots of locations.

Bob Thornton: Is Independence now four lanes all the way to old Indian River or only half built?

Bob Miller: It is only 10 miles.

Bob Thornton: It is two lanes. And all this happens there is not a whole lot of likelihood that the second
part of Independence from the two roads will be put in willingly?

Bob Miller: It will be put in north of there.

Bob Thornton: But not between the new Indian River and the old Indian River?

Ric Lowman: No sir. It is going to stay just like it is.

Bob Thornton: So, there will be no median. There will be no way not to make a left turn into this from
either direction on the two Indian Rivers.

Bob Miller: What I just say though that I am agreeing to get that entrance as not an entrance in and out
of this community, which is what I think Jan was stalking about.

Bob Thornton: Yea. Okay, but at some point as you mentioned earlier the traffic is going to be
diminimus.

Bob Miller: We can look at it at that time.

Bob Thornton: Yeah.

Jeff Hodgson: Are there any other questions?

Mike Inman: Do you have any way of telling us really what impact 29 townhouse occupants would have
on contributing to the congestion that apparently occurs at this intersection during high traffic times?

Ric Lowman: It’s 29 homes. It is a minimal amount of traffic. Really what you have to take a look at is
what it is zoned for now, what the by-right zoning generates versus what is going to be generated by 29,
so the impact of 29 new townhomes. And townhomes, they generate traffic at a lower rate than single-
family homes would anyway, so, it is in the report I believe what the differences are.

Mike Inman: Okay. So thank you.

Ric Lowman: Sure.

Jeff Hodgson: Is there anybody else? Are there any other speakers?
Jan Rucinski: There are no other speakers on this application.

Jeff Hodgson: Okay. We’ll close the public hearing and open it up for discussion. Anybody? Mr. Inman.

Mike Inman: My thought of sort at the beginning at looking at this is this is a very unusual parcel. I think we all know that. They got land they can’t be used built on across the street. So, it formed this island. As Mr. Miller reverted to 145 foot right-of-way view of Glenwood back and forth, I think, probably I don’t see it as a negative for the neighborhood for the style of architectural that is being used. The screening or the open space that is there, so the only real issue for me was the traffic issue. I don’t think it is a significant enough impact, and that is short term. Eventually those roads are going to be built. It might not be on schedule but eventually they are going to be built. I don’t think the impact at any time is sufficient for me to say, I don’t think we should build this project, so it seems like an appropriate use for that particular piece of property.

Jan Rucinski: I guess I should have asked him what is the anticipated building of these projects?

Bob Miller: Is it okay for me to come up? It takes us, and we go to City Council obviously probably next month and we will see how that goes. And the it will take us a better part, I’ll say about e3ight months before we would be able to get plans approved and everything under construction, so somewhere this time next year or maybe a little earlier. Late summer next year, 2017, I will just say tit that way.

Jeff Hodgson: Ms. Oliver?

Dee Oliver: Carolyn, you were not in favor of this duplex. You wanted to change the zoning from an R-10 to an R-5? Correct? I guess I would like to hear your thoughts on specifically on what you prefer.

Carolyn Smith: Sure. If you could put the map up that shows the zoning and the surrounding area. It is difficult to read but that yellow area depicts residentially zoned properties. The majority of that is R-10. Some of it is R-5. They are proposing an A-12 Overlay with a PD-H2 at a density of about 10.9 units per acre. The R-10, which is the predominate zoning in the area, yields about 3 units per acre. So, our suggestion to them was perhaps to look at a compromise of maybe an R-5 district, which is in the middle of A-12 and the R-10, so they could go with lots as small as 5,000 square feet, which would yield potentially up to 16 units at a density of six units per acre, so that was our thinking.

Dee Oliver: Okay.

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

Ronald Ripley: I think Carolyn recognizes, as Mike mentioned, it is a little different. It is not really connected to the neighborhood. It sits on an island. It warranted a different situation than tying in with the rest of the neighborhood. I was concerned about the traffic issue as you brought it up this morning, and as I read it and after hearing how this might come together quicker, and what’s going to happen to Independence and let’s call it “old Indian River Road” is going to be cul-de-sac’d. It is going to be very, a different feeling in there if you will, as far as traffic is concerned. The traffic light there sets it up to be able to handle the traffic, and so I think looking at it from a standpoint of traffic from 16 versus seven dwelling units on here, I think, and I am not trying to get inside of Carolyn’s mind, it sounds like to me that was probably was some of the thinking, if you will. It is a PD-H Overlay, A-12, it gets you 12 to the
acre, and this has come down to 10. I’m not uncomfortable with this either in supporting the application.

Jeff Hodgson: Mr. Thornton.

Bob Thornton: I think what causes me to support is the advent of this road. You’re going to have a 145-foot wide public right-of-way between the back of these unis and the existing neighborhood. If that was the pie in the sky dream street, that would be one thing, but it sounds like it’s pretty much on board to get built, and if it gets built, this is a good use of this little small piece of property. Bob called it an island. And with the front of it being on a cul-de-sac, the side of it being on a two lane street, there is not much better you can do with the piece of property. We talked about work force housing, affordable housing, this is exactly what the City says it needs in terms of housing. It doesn’t exactly meet all the criteria of the older neighborhood, the R-10, it certainly does provide for a product that the City needs, so, I’m in favor of it.

Jeff Hodgson: Is there anybody else? Karen?

Karen Kwasny: I guess I’m in keeping with Carolyn’s thinking and I think the idea that what comes into the neighborhood is certainly a matter of perspective because when I look at how dense that is and by reviewing it, I think the comparison to what Carolyn suggested, I see more possibilities for neighborhood when you have a little bit of space, a little bit of yard of their own, and little bit more of an ability to get out and be a community, so that to me that is a matter of perspective. I think the density that Carolyn suggested is actually more in keeping with the surrounding area and kind of a fragile part of the City and with some changes that are going to come, and so it is not necessarily that traffic is not a matter of consideration for me but it is more a matter of density, and I just tend to like Carolyn’s idea in her review and think it is more in keeping with the surrounding area and an idea of a neighborhood for me.

Jeff Hodgson: Is there anybody else?

David Weiner: Carolyn, I would intend to agree 100 percent with you if they were single-family houses. And I understand that looking at the pictures, it is far away from the single-family houses. I am kind of on the fence here. But it is different than what is there. That is the way the piece of property is. It is cutoff right there. I kind of think I am going to support it.

Jeff Hodgson: Mr. Inman?

Mike Inman: I would point out that the features and the materials that are proffered are very detailed, I think it is a very attractive product. If you go with the 5,000 square foot lots, it doesn’t have to do that much. He might want to because it looks better. I don’t know. He might not. He might not from an economic standpoint to be able to put this better product in when he feels 16 versus 10.

Jeff Hodgson: Is there anybody else? Would anybody like to make a motion?

Bob Thornton: I would move that we approve it.

Mike Inman: Second.
Jeff Hodgson: A motion made by Vice Chairman Thornton and seconded by Commissioner Inman.

Jan Rucinski: I would like to have that Independence Boulevard connector.

Jeff Hodgson: Are you okay with that?

Mike Inman: Is that a condition?

Kay Wilson: These are proffers voluntarily given by the applicant. The applicant would need to come forward and agree to change his proffer agreement between now and City Council.

Bob Miller: I thought I’d already done that but I do agree to change it. I will follow the suggestion of Rick to put, if the Fire Marshal wants one, a fire entrance. It will have a gate on it.

Jeff Hodgson: A motion made by Mr. Thornton and seconded by Mr. Inman and the proffered change has been agreed to by Mr. Miller. We’re ready to vote.

AYE 10 NAY 1 ABS 0 ABSENT 0

HODGSON AYE
HORSLEY AYE
INMAN AYE
KWASNY NAY
OLIVER AYE
REDMOND AYE
RIPLEY AYE
RUCINSKI AYE
THORNTON AYE
WALL AYE
WEINER AYE

By a vote of 10-1, the application of McQ Builders has been approved with the change in proffers.

Bob Miller: Thank you.

Jeff Hodgson: Thank you. I would like to thank on behalf of my fellow Commissioners everyone for attending today’s meeting. Thank you Barry and your staff for a goof agenda as usual. The meeting is adjourned.
CONSENT

An application of Ocean Bay Homes, Inc. for a Conditional Rezoning from B-2 Community Business to Conditional B-4 Mixed Use (Shore Drive Overlay) and a Conditional Use Permit for Multiple Family Dwellings on property located at 3736 & 3744 Shore Drive, District 4, Bayside. GPINs: 1489-39-9034-0000; 1489-49-0053-0000.

PROFFERS

Proffer 1:
When the Property is developed, in order to achieve a coordinated design and development of this residential condominium in terms of limited vehicular access, parking, and building layout, the exhibit entitled, “SITE IMPROVEMENT PLAN, MULTI-FAMILY SITE PLAN EXHIBIT”, dated June 30, 2016, and prepared by WPL, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Concept Plans”) shall be substantially adhered to.

Proffer 2:
When the Property is developed, vehicular ingress and egress shall be via one (1) entrance from Roanoke Avenue.

Proffer 3:
The architectural design of the buildings depicted on the Concept Plan will be substantially as depicted on the two (2) exhibits entitled “BUILDING ELEVATIONS’ Sheets C-3.0 and C-3.1, dated June 30 2016, compiled by WPL (“Elevations”) and on the four (4) perspectives entitled “shore dr. & Roanoke ave.” (a) “corner elevation”, (b) “south elevation”, (c) “east elevation” and (d) “rear elevation”, dated 30 june 2016 (“Renderings”), which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Elevations”). The exterior building materials shall be cement fiber siding, vinyl clad railings, columns and accents, architectural shingles, with the water-table feature and masonry fence columns to be a matching combination of brick and/or parged c.m.u.

Proffer 4:
When the property is developed, there will be no more than eight (8) residential condominium units as depicted on the Concept Plans.

Proffer 5:
Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.
CONDITIONS OF CONDITIONAL USE PERMIT

1. Prior to final site plan approval, a Landscape Plan shall be submitted during the site plan review process that reflects the plant material and placement depicted on the submitted landscape plan entitled, “CONCEPTUAL PLANTING PLAN,” dated June 30, 2016, prepared by WPL, and is consistent with the plant lists as specified in the Shore Drive Corridor Plan. Said plan shall be submitted for review and approval by the Development Services Center Landscape Architect.

2. Any proposed fencing shall be vinyl and no taller than four (4) feet if adjacent to a right-of-way and no taller than six (6) feet if adjacent to private property. Fence columns shall be constructed with brick and/or parged c.m.u.

3. Each unit on the site shall connect to City water and be served by a single and exclusive water service line and meter. An appropriately sized public utility easement within the rear drive aisle shall be approved by the Department of Public Utilities and recorded with the Circuit Court prior to final site plan approval.

4. Each unit on the site shall connect to City sanitary sewer and be served by a single and exclusive sanitary sewer lateral and cleanout. An appropriately sized public utility easement within the rear drive aisle shall be approved by the Department of Public Utilities and recorded with the Circuit Court prior to final site plan approval.

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

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<td>AYE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

By a vote of 11-0, the Commission approved item D4 for consent.

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