

Item #1
1508 Dedham, L.L.C.
Conditional Use Permit
2272 W. Great Neck Road, Suite 2268
District 5
Lynnhaven
February 8, 2017

CONSENT

An application of 1508 Dedham, L.L.C. for a Conditional Use Permit (Craft Brewery) on property located at 2272 W. Great Neck Road, Suite 2268, District 5, Lynnhaven. GPIN: 1590-30-2212-0000.

CONDITIONS

1. The occupancy load for the Craft Brewery shall be established by the City of Virginia Beach Building Official's Office.
2. A Certificate of Occupancy shall be obtained prior to operation of the Craft Brewery.
3. Any conditions associated with the license issued by the Virginia Alcoholic Beverage Control Board shall be incorporated as conditions with this Conditional Use Permit.
4. There shall be no sale or consumption of alcoholic beverages on the premises between midnight and 10:00 a.m.
5. Live music may be performed only inside the establishment and all doors and windows shall remain closed during such performances, except during the actual ingress and egress of patrons and employees.
6. The outdoor seating area shall not be enclosed by either a solid or chain-link fence, and shall maintain sidewalk clearance as required by building code.
7. All signage onsite 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. A separate sign permit from the Planning Department shall be required for the installation of any signage.

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

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			

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REDMOND	AYE	
RIPLEY	AYE	
RUCINSKI		ABSENT
THORNTON	AYE	
WALL	AYE	
WEINER	AYE	

By vote of 10-0, the Commission approved item 1 for consent.

The applicant Darrell Cuenca appeared before the Commission.

Item #2
Muhammad Rabbani
Conditional Use Permit
Motor Vehicle Sales
801 S. Lynnhaven Road
District 3
Rose Hall
February 8, 2017

REGULAR

Bob Thornton: Thank you for the people that had an item on the consent agenda today. We thank you for coming down and we appreciate your work with the staff. We'll head into the next part of the agenda in a minute. The next part of the agenda are those items that are to be heard, and the Secretary or today, the acting Secretary, will take care of the items to be heard. Ms. Kwasny?

Karen Kwasny: The first item to be heard is agenda item 2, Muhammad Rabbani, I believe. An application of Muhammad Rabbani for a Conditional Use Permit (motor vehicle sales) on property located at 801 S. Lynnhaven Road, in the Rose Hall District. We have three speakers, two in support and one in opposition. The first speaker is Muhammad Rabbani. So if he is not here, do I go on to the next one? I thought he was out in the hallway. Mr. Muhammad Rabbani?

Muhammad Rabbani: Sorry for the wait. Good afternoon ladies and gentleman. How are you?

Karen Kwasny: Can you state your name for the record?

Muhammad Rabbani: Muhammad Rabbani, representing Guardian Properties, L.L.C. And the property in concern is 801 S. Lynnhaven Road, Virginia Beach, Virginia. Can I begin?

Karen Kwasny: Yes.

Muhammad Rabbani: I have lived in Virginia Beach for about 17 years. As a matter of fact, a mile down from this address, 801 S. Lynnhaven Road, I have been part of the wonderful community for almost half my adult life. When we first acquired this site back in 2006, we have been to the Planning Department and the City of Virginia Beach helped us get the necessary permits to improve the site to the way it looks right now. So, we have had this site for almost 11 years now. We are proposing a car lot at this address, 801 S. Lynnhaven Road. We have been very fortunate to work with the excellent members of the Planning Department and their excellent staff. They have been very helpful and was willing to answer any questions, and we would like to continue to work with the ladies and gentlemen of Planning Department on any questions or in any way we can improve our application in regards not only the parking, but additional screening, landscaping, and anything else that is needed. We are more than happy and willing to work with the wonderful people at the Planning Department. Again, we have had this site for a about a good part of 11 years. We believe that the proposed car lot will not add any significant traffic to the existing convenience store. To the best of my knowledge, and I am sure that the Planning Commission will agree with me, I believe the convenience store is required to have 9 or 10 parking spaces. This site has 27 marked parking space available. So, it has more than enough parking spaces for a proposed car lot with 12 cars. Now, the neighbors to our right are wonderful people. John,

with the house of printing, I have actually went over there and talked with him, and his staff. They seem to be highly supportive and when needed will submit a letter in support. The neighbors across the street, which is a shopping center, includes Papa John's and I believe a hotdog place and a nail salon. They are more than happy to do the same, I believe, the Papa John's is. When I spoke to him. They had no issues whatsoever, with the proposed car lot across the street. Now, the other thing I would like to point out, on the documents in front of you, it says, that there is no precedence for a car lot from S. Lynnhaven Road ladies and gentlemen, but if google it, or you happen to drive by there, you will notice that two doors down, there is an existing car lot. I believe it is called Two Chiefs or Chief's Auto Sales. I believe with the capacity of 25 of 30 cars. That I am not sure how many, but I believe they have that capacity plus they have an onsite repair facility and a garage. They have lit signage and everything available. The other point I would like to raise would be members of this honorable Commission is the size of our lot. The lot two doors down, only has 44 foot of frontage on S. Lynnhaven Road, and it backs up onto Carriage Hill. They have a Conditional use Permit for a car lot, while we have a huge lot. It is almost an acre. It has about 200 some feet, give or take a little bit more on S. Lynnhaven Road, compared to 40 feet of our neighbors two doors down that have an existing car lot, and I believe they have been in business for as long as I can remember. The size of the lot and its location, shields not only the neighborhood but the businesses around us from any activity that happens on this premises. If you look at it on the residential side, on Bow Creek Boulevard and on Carriage Hill, there is already existing landscaping. Some are crepe Myrtles and some of the trees are 30 – 40 feet plus tall along with the Pointy Holly bushes that are continuous. Some of them have been newly planted. Hopefully, over time they will grow to be a continuous fence. It is not an eye sore. Our immediate neighbor behind us, whom I had the privilege of first speaking, Mr. Bill Grates, was more than supportive of our idea. In a letter from Mr. Grates can be submitted in this regard, if required. Again, we are more than happy and willing to work with the wonderful staff of the Planning Department to see if we can come to an agreement. And if there is anything required from the Planning Department, which there might be some issues for landscaping, and adding to the existing landscaping. There may be an issue with changing or adding a fence or two, we are more than happy to work with the Planning Department and do whatever it needs to be done to see if we can get this application unanimously approved and move forward. Again, I would just like to add that we have canvased the neighborhood, our immediate neighbors in doing commercial and residential, and I haven't seen any opposition or heard of any opposition. If anybody has a question, I'm sure we would love to answer them. And, also, like the Planning Department, if they require and further screening in the shape of a fence or some landscaping to shield or a view of the cars of anything, we are more than happy to work with them and do what it takes. Once again, I have part of this community for most of my life. I love it. I plan on staying here. I lived on the same street, S. Lynnhaven Road for almost 17 years. So, I'm a mile down from it. If there is anything that the Planning Department wants us to do, again, the wonderful people at the Planning Department, we are more than happy to work with them.

Bob Thornton: Thank you. Are there any questions of the applicant?

Jeff Hodgson: I have on quick question. Did you say you had 37 marked parking spaces?

Muhammad Rabbani: I believe there are 30 and some odd parking spaces. 37, I believe.

Jeff Hodgson: The staff report, I think says 19.

Muhammad Rabbani: Yes, and also on the same issue, I would also like to point out on the staff report, regarding the precedence of not having a car sales or car lot on S. Lynnhaven Road, that if you look two doors down, there is an existing car sales with approximately, I think 20 plus cars, available for sale in two rows. They only have a 40 foot frontage on S. Lynnhaven Road, while I have almost 200, maybe 300 feet.

Jeff Hodgson: Okay. Thank you.

Bob Thornton: Commissioner Oliver?

Dee Oliver: Apparently this is your business.

Muhammad Rabbani: No ma'am. We are the landlord.

Dee Oliver: Okay, so you don't run a convenience store?

Muhammad Rabbani: No ma'am.

Dee Oliver: Okay. Thank you.

Bob Thornton: Are there any other? Jack?

Jack Wall: One thing during the informal and actually did come out that two doors down there is an already used car lot.

Muhammad Rabbani: It was not in the report. That is the only reason why I brought it up.

Jack Wall: Okay.

Muhammad Rabbani: Okay, I appreciate it.

Bob Thornton: Are there any other questions for the applicant? Ron?

Ronald Ripley: You've got an acre of land. It looks like you got a lot of land in the rear that is not developed.

Muhammad Rabbani: Yes sir.

Ronald Ripley: Do you have plans to develop that?

Muhammad Rabbani: No sir. We want to leave it as a buffer between us and the neighbors. If you see all that availability that is happening on the existing asphalt parking lot, so that green area in the back is a buffer between us and Carriage Hill, and the neighborhood. I believe it separates the nearest house, which is Mr. Grates, who has lived there since 1972. He is the original homeowner. Me and him walked from his house to our fence, and I believe it was 290 feet, so; as of right now to answer your question, no sir we have no plans, in the future or right now to develop that green belt. We want to leave it the

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way it is open.

Ronald Ripley: Thank you.

Bob Thornton: Jack?

Jack Wall: I can't remember. Did you say you would be willing to work with the City staff concerning signage? I know there are some generalities and there are some things.

Muhammad Rabbani: Yes sir. We are open to anything. We are willing to work with the wonderful people of the Planning Department. I have never been through this process before. This is the first time so they have been very kind to me and they have guided a novice like me. It has only been because of their guidance and the fact they will answer a phone call when I have a question. They have all been answered.

Jack Wall: With about reducing the number of vehicles?

Muhammad Rabbani: Sir, my initial proposal, when I talked with the Planning Department, because I was kind of eyeballing the car lot next door, and I don't know how many they were allowed or how does it work, but when I saw all those cars there, I figured okay, maybe two or three dozen, but we worked with the Planning Department and we agreed on the number 12. So that satisfied the minimum state requirement and it satisfies the Planning Department too.

Bob Thornton: Dave?

Dave Redmond: I am not sure I have this right. You are the property owner?

Muhammad Rabbani: Yes sir.

Dave Redmond: Okay. And you want to operate the used car portion?

Muhammad Rabbani: Yes sir.

Dave Redmond: But you don't operate the convenience store with gas pumps. You lease that to someone else. Is that correct?

Muhammad Rabbani: Yes sir.

Dave Redmond: Is there a hair studio that operates there?

Muhammad Rabbani: No sir.

Dave Redmond: Okay.

Muhammad Rabbani: That is across the street sir.

Dave Redmond: Okay.

Muhammad Rabbani: The hair studio is across the street. I actually went and tried to talk to that person but every time I go there, there is nobody there. I wanted to get a letter of recommendation that they have no objection of the car lot. But every time I went there, I could never catch the owner.

Dave Redmond: There is a note on the application that says Sensations Hair Studio.

Muhammad Rabbani: That is across the street sir.

Dave Redmond: I am not sure why it is on the application. Anyway, thank you.

Muhammad Rabbani: You're more than welcome sir.

Bob Thornton: Mike?

Mike Inman: Just looking at the application documents, it looks like the property owner that person that signed is the property owner.

Muhammad Rabbani: Stratford G. Ward.

Mike Inman: Right. Apparently the property is owned by Guardian Properties, L.L.C.

Muhammad Rabbani: Richmond. That is my partner. I'm also a managing director.

Mike Inman: Okay. So you're a member of that L.L.C.

Muhammad Rabbani: Yes sir.

Bob Thornton: Karen?

Karen Kwasny: Can you show me, I believe you have a pointer out there. Correct? Can you show me on this particular drawing where the shed is located? It is not on this drawing. Right?

Muhammed Rabbani: Right here.

Karen Kwasny: So it is not there in this picture.

Muhammad Rabbani: There was an existing structure there like the Planning Department is asking, I believe it might be one of these, they might want to see this fence replaced to which we are completely agreeing to doing.

Karen Kwasny: So the shed you're going to use is it.

Muhammad Rabbani: That is it.

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Karen Kwasny: That is it.

Muhammad Rabbani: There was another one too just like this fence as you can see. It was old, so over time it has been repaired/replaced/fixd but again, this is also the fence that may have come up with your Planning Department, that they are recommending we replace it.

Karen Kwasny: I have an additional question. So, vehicles for sale are going to be positioned here?

Muhammad Rabbani: Right here. That is correct.

Karen Kwasny: And then people who are going to be doing business will be accessing the shed.

Muhammad Rabbani: Yes ma'am.

Karen Kwasny: From?

Muhammad Rabbani: The shed has one entrance right here.

Karen Kwasny: And you're willing to improve that fence?

Muhammad Rabbani: Yes ma'am. Actually they wanted it replaced or what is required. We are more than happy to do it.

Karen Kwasny: Thank you.

Bob Thornton: So Valero is your tenant?

Muhammad Rabbani: yes sir. Valero is a brand name.

Bob Thornton: A brand name. Are they selling gas today?

Muhammad Rabbani: Yes sir.

Bob Thornton: Do you have any reason to believe that the people buying gas are going to conflict the traffic with people moving automobiles in and out of there?

Muhammad Rabbani: No sir. Where the parking space is that we agreed with the Planning Department is on this side, so it doesn't conflict with the ingress/egress perfectly clear and opened for the cars for the gasoline sales customers to come and go.

Bob Thornton: Are there any other questions for the applicant? Thank you. We have more people to speak so thank you for your time.

Muhammad Rabbani: You're welcome. Thank you. Once again, have a wonderful evening.

Bob Thornton: Don't go away. You get to come back and rebut the people who are here to speak against this.

Muhammad Rabbani: No problem.

Karen Kwasny: The next speaker on this agenda item is also in support and it is Hassan Rabbani:

Hassan Rabbani: Good afternoon everyone.

Bob Thornton: Good afternoon.

Karen Kwasny: Can you please state your name for the record?

Hassan Rabbani: Yes. Hassan Rabbani. I actually stay right down the street for almost 15 years. My relation to him is he is my brother. To be honest, he really didn't leave much more questions to raise or to answer. I just want to speak a little bit more to how he has operated that site. How I've had the pleasure of seeing him grow over the course of 17 years. We landed here with \$1,174 in March of 2000. To see somebody grow from a convenience store cashier at a little Texaco gas station, right across the street from where he is now, and he takes pride in what he does. And, he means what he says when he says that he is going to work with you in making sure that the rules are abided by the way they are meant to be. And, he will run a very good operation there. And I think the true essence of being an entrepreneur is seeing the opportunity where others might not have. I don't just believe but I have faith that he will do a great job there. You should give him a shot.

Bob Thornton: Are there any questions for Mr. Rabbani? Thank you sir.

Hassan Rabbani: Thanks.

Karen Kwasny: The next speaker is in opposition to this application. His name is Robert Elms.

Robert Elms: Good afternoon. My name is Bob Elms. Yes, I speak in opposition to the application and concur with staff's findings with this. What he proposes is not in compliance with State codes. There is no shed there. I've driven by the place. The signs that he has put up, the variance signs, you can't see them on the north side. They are in the bushes. On the east side, they are right behind a utility pole where it is hard to see. I have not had a chance to bring this up with the civic league yet because of this, I just found out it was in the Beacon. And that is about all that I have. What he has written down in the Conditional Use Permit is not in compliance with State code or City code. His intention is, I believe, because car dealers, well not car dealers, but who repair cars are looking for places to stash cars, and this is a perfect place for it. He could put, I would imagine probably 75 or 100 cars on that lot. And it will be an eyesore. We've already had in our area two incidences where we've had this done. We've met with the civic league and came out with their proffers, and gave us a nice story. We approved of them and there is one company that we got to move out of the area because they didn't comply with the proffers. The second one, we're going to start working on because you can't even get on the property because there are so many cars stashed there, and he is stashing cars next door in the shopping center parking lot. And, this is just setting up for another situation. He says he wants to sell 12 cars. Pretty soon there are going to be in that grassy area, you're going to have 75 - 60 cars in there. So, therefore,

we are in opposition, and are in agreement with the staff's findings. Are there any questions? Thank you.

Bob Thornton: Thank you.

Karen Kwasny: There are no other speakers.

Bob Thornton: No more speakers. Mr. Rabbani, if you would like to three minutes to come back and rebut anything you thought to be rebut.

Muhammad Rabbani: Yes. Thanks for giving me the opportunity.

Ed Weeden: State your name again for the record.

Muhammad Rabbani: Muhammad Rabbani. Thank you for giving me the opportunity to speak again. The gentleman's main point number one, the sign is posted. I actually stabbed a finger trying to post the sign the day it snowed. The sign was securely posted with complaint with all the City's requirements. But his main point that he raised is that the place is going to be 100 cars out there or 70 cars out there. What I want to ask is he said there was a guy that they chased out from the neighborhood that had cars stashed all over. I want to know was it a commercial lot or was he running something out of a house because I have been here for 17 years. I have yet to see anybody like that. The car lot that is already existing I believe, he is abiding with all the codes and regulations. I don't know of any citations by the City of Virginia Beach, the Planning department or the Code enforcement people against Two Chief's Auto or Volvo, or whatever it is called for the last 15 years. I did my research. Nothing came up. So, unless to the contrary, you guys or other people can inform me, that there was some infractions by him, I don't know. The other thing as far as 100 cars, we are strictly proposing that the green belt stays green, 12 cars is the max. It stays on the asphalt, clearly marked parking spaces. It is a car proposed car sales. It is not a Pick-N-Pull where you would stash 100 cars. That would be the last thing that I want. My interest in this piece of property goes far beyond that. We acquired it in 2006. We know it is a prime commercial lot, and we have turned down several offers for sale on it. This hopefully, one day, will be my retirement. When it is paid for, and when I'm ready to retire. So, there is no way I would allow anybody to park anything like the gentleman just said, 70 – 100 cars. No sir. What you see is what you get, 12 cars on the asphalt, nothing on the grass.

Bob Thornton: Are there any other questions of Mr. Rabbani:

Ronald Ripley: I will just make a comment. I don't know if we will recommend approval or not. But one of the things that we run into with used car lots like this is that they don't stay within the number that has been granted. They end up moving the cars out to the road or off the site plan area that has been approved, and so my question is to you, would you keep your cars exactly in that spot?

Muhammad Rabbani: Yes sir.

Ronald Ripley: And limit it to 12?

Muhammad Rabbani: Yes sir. Limit it to 12.

Ronald Ripley: Because if not, they have to come out and enforce it.

Muhammad Rabbani: Exactly.

Ronald Ripley: And they will.

Muhammad Rabbani: I am perfectly fine with 12 and limited to 12 only for sale.

Ronald Ripley: Thank you.

Muhammad Rabbani: You're welcome sir.

Bob Thornton: Thank you. Are there any further questions? Thank you Mr. Rabbani.

Muhammad Rabbani: Thank you once again for giving me your time. Enjoy your evening.

Bob Thornton: With that, I would like to close the public hearing and open it up for discussion among the Commissioners. David.

David Weiner: I need to ask staff a question. The other car lot that is down at Import Services, do you know how long that has been there? Has it been there for a while?

Kevin Kemp: yes it has. That site was a service station that was approved in 1978, and then 20 years ago in 1997, a Conditional use Permit for auto repair and auto sales was approved. It does limit it to 12 cars on site for sale. But I will mention that in that report, staff did recommend denial stating that it was too intense a commercial use being that close to residential, however, it was approved.

Bob Thornton: David.

Dave Redmond: It really doesn't help you much Mr. Rabbani when the neighbors got cars parked in what appear to be the right-of-way to me. If you go and look at Google Earth and I recommend that to the staff's attention. Unless, I don't think you can stick an apple, quite frankly, with someone else's transgressions and I take this applicant at his word. He seemed pretty earnest to me when he said he is going to stick to that number. I know that everyone sticks to that number until they don't stick to that number anymore, but I don't know if we can blame this applicant or hold him responsible for someone else's transgressions whether they are still in the neighborhood or got run out at one point or not. Those things don't apply to this applicant. I've studied this site now for a couple of hours. I've googled earth it and it looks quite frankly that it is well suited to this very limited use on that one side of the property. I do have a little bit of concern about these two businesses conflict, but it is in the applicant's best interest to ensure that they don't or he loses his tenant. So, I think there are a number of elements here that recommend to me anyone, that this is an acceptable application. The staff's, not withstanding, I'm going to give him the benefit of the doubt. And in the end, I think comfortable supporting the application.

Bob Thornton: Jack.

Jack Wall: I think I kind of agree with Dave but the buffer is sufficient. And the application, I don't think necessarily really improves the area. It is not necessarily meshes especially the Economic Growth Area. It doesn't necessarily improve the entrance of the neighborhood, but there is precedence for two doors down for a used car lot. One thing about staff is they marked it 14 cars on their website. They might want to take a look at the number of cars that are allowed on that site, two doors down. It seems like there is a conflict with the number of spaces also with the spaces that are allowed in the area and the number of cars that possibly there will be stacking, which would not be very aesthetically pleasing. If there is a limited area that would allow for 12 cars, I don't necessarily like the way that would be laid out. There would be one car stacked behind another car, and there is only a certain amount of spaces there. There seems to be a lot uncertainty, so I might be open, not necessarily to denial, but to a deferral.

Bob Thornton: Dee?

Dee Oliver: As much as I appreciate him wanting to grow his business, I really do feel strongly about supporting the staff and this application of denial. Something that catches my attention on this is our Comprehensive Plan with this. And, that is basically our guide book and I know we make exceptions to it but in this condition, this is not a business that is a service oriented business for the residents, and it is also the gateway to this residential area. And I don't think this is a good use of this property. The other thing that concerns me, as staff as admitted, there is a parking issue between the convenience store and their parking and then these used cars having to park there. I don't really see how this is going to work until he starts using the back of that lot. And I think that we really need to take a look at this. It is around all of our neighborhoods, are service oriented shopping centers that aid in the daily lifestyle of the residents there. This is not something that aids, as a used cars sales does not aid in that daily easement of people running up and getting milk or getting their hair done or their nails done and I think in our Comprehensive Plan that is what we layer our City to look like and our neighborhoods to look like.

Bob Thornton: Ron?

Ronald Ripley: Again I don't know how everyone is going to vote but to me, I think it is a workable plan but I think it is not quite ready, I don't think to be voted on, I looked at the site. The site is really isn't underutilized. It is an acre. He is using the front part of the site. I think the applicant needs to meet back with the staff and meet some of the questions they have about the fencing and the landscaping, and I think also if you're going to allow this, maybe there is a condition as long as you have these cars there that the back part would not be developed. So, you can't develop because of auto type use if you will. It is all zoned B-2. It is probably not. I don't know if a Conditional B-2 when they got it or not for the whole piece, so B-2, allows a lot of things so give the staff the opportunity to maybe talk with the applicant and determine some things on that property that maybe you don't want to happen over there. I don't know. So, I would be in favor of deferral but again, it might be wasting the applicant's time and your time because of road wars. I don't know how that is going to play but that is my thinking.

Bob Thornton: Don?

Donald Horsley: I intend to agree with what Mr. Ripley just said as I look and listen, it seems like the application is kind of incomplete to me. The staff has noted that there are no notes to landscaping and things like that. There is a discrepancy in the number of parking spaces. It goes from 19 & 37, so I think

it would be to the applicant's best interest that if he would go back and we defer it and he get with staff and get some of these questions that we raised today rectified. And then come back and if staff still agrees that a denial is in place then so be it. I would like to give him that opportunity to go back and rehash this with staff. So, if you're ready for a motion I'm ready to give you one.

Bob Thornton: Let me make a comment and then I'll take your motion. The things that I personally think are not working right is as Ron pointed it out. There is more unused land on this site. If we were to look at this in reality for a car lot, those cars ought to be back further. They don't need to sit out and compete with the cars coming and going out of the gas station part, so; any improvement to the site plan to me would be to move them back. Use some of that grass area, maybe not go back any further than the building but move them back behind the fence, tear the fence down, put a new fence, clean it up. Another objection that I have is there is no permanent sales office. I don't think it is reasonable to run a car lot out of a building that maybe came from Lowe's on the back of a truck. Maybe it didn't. I don't mean to be precocious but it doesn't look like much of a permanent structure. And then the site plan. Somebody mentioned the site plan has not really been addressed, landscaping. I would imagine there could even be a drainage situation. So, those are just my comments, and I'll certainly be willing to entertain a motion.

Dave Redmond: Mr. Chairman. Before you do, let me just say we put it on staff too. I sometimes get frustrated when we have applicants that come in and the staff will work with them and work with them, and develop a whole bunch of conditions and other things and still recommend denial. In this case, there aren't any conditions at all. I think it would be helpful if the staff would also identify some of these things and say that it will develop some of these that would be occluded if the application passes. I think it would be good to have some of the things identified in the application when it comes back.

Bob Thornton: Would you like to make a comment Carolyn? You look like you might want to say something.

Carolyn Smith: We have worked with the applicant and he is aware of our position. Typically when we recommend denial, we're pretty serious about that so that is why we don't offer conditions, but we do have conditions for you if you would like to view those, if you're moving in that direction.

Dave Redmond: I don't mean slip sheet them in now. I just think the next time, if we see this again, I kind of like to see those things innumerate in a number of conditions so if it does pass, then that is where they are. Or at very least, we could then edit them and improve them or take them out or do whatever we do.

Bob Thornton: Thank you. Mr. Horsley.

Donald Horsley: Like I said, I think the applicant, I would like to give him his most opportunity as possible other than deny today, I would like to make a motion that we defer this application until the next available agenda. Do you think he understands our situation now and you'll try to work with staff a little bit closer, so; I make a motion that we defer.

Bob Thornton: Do I have a second?

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Mike Inman: Second.

Bob Thornton: Seconded by Mr. Inman.

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KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Ed Weeden: By a vote of 10-0, the commission has deferred the application Muhammad Rabbani.

Bob Thornton: Thank you Mr. Rabbani. We'll get with the staff and we'll see you when you come back, hopefully.

Item #3
 Central Drive Mini Storage, Inc.
 Modification of Proffers
 Northeast Corner of General Booth Boulevard and Nimmo Parkway
 District 7
 Princess Anne
 February 8, 2017

CONSENT

An application of Central Drive Mini Storage, Inc. for a Modification of Proffers on property located on the northeast corner of General Booth Boulevard and Nimmo Parkway, District 7, Princess Anne. GPINS: 2414-17-4511-0000; 2414-07-7143-0000; 2414-17-2167-0000; 2414-17-0309-0000; 2414-17-3206-0000.

PROFFERS

PROFFER 1:

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Conceptual Layout Plan Hickman Place Virginia Beach, Virginia", dated November 29, 2016, prepared by Finley Design, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Concept Plan").

PROFFER 2:

2. When the Property is developed, the exterior of the retail shops shown on the Concept Plan shall be substantially similar in appearance to and shall utilize the external building materials as depicted on the eight (8) page exhibits entitled, "Hickman Place, Virginia Beach, VA" and designated "Conceptual Perspective View: 1, 2, 3, 4, 6, 7 and 8", dated November 30, 2016, and "Conceptual Perspective View: 5 House Parcel", dated November 1, 2013, prepared by Finley Design, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter referred to as the "Elevations"). Any roof mounted mechanical equipment shall be screened from view.

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

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			

Item #3
Central Drive Mini Storage, Inc.
Page 2

WALL	AYE
WEINER	AYE

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

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

Item #4
Salem Lakes Storage, L.L.C.
Modification of Proffers
Modification of Conditions
1980 Salem Road
District 7
Centerville
February 8, 2017

CONSENT

An application of Salem Lakes Storage, L.L.C. for a Modification of Proffer and Modification of Conditions (Mini-Warehouse) on property located at 1980 Salem Road, District 7, Centerville. GPIN: 1475-90-5719-0000.

PROFFERS

PROFFER #1

1. When the Property is developed, it shall be landscaped and developed substantially as shown on the exhibit, "SALEM ROAD STORAGE – PHASE 2 1980 SALEM ROAD", dated 10/15/2015, prepared by American Engineering, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter referred to as the "Site Plan").

PROFFER #2

2. When the Property is developed, the exterior and building mounted signage of the Salem Road Self Storage building shown on the Site Plan shall be substantially similar in appearance to and shall utilize the external building materials as depicted on the three (3) page exhibit entitled, "AREA STORAGE & BUSINESS CENTER A PROPOSED COMMERCIAL STORAGE FACILITY FOR: BURNETTE CAPITAL SALEM RD. VIRGINIA BEACH, VA", dated 11/30/16, prepared by GMF & Associates, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter referred to as the "Elevation Plan").

CONDITIONS

1. The existing wooded area along the eastern property boundary shall be preserved and maintained to the best extent possible. A Landscape Plan shall be submitted that, in addition to all requirements of the Zoning Ordinance, shall depict the proposed supplemental plant material within the existing wooded area along the eastern property line. The species and location of this supplemental plant material shall be coordinated with the Development Services Landscape Architect.
2. All landscape material on the site shall be maintained to ensure the intent of the Category VI landscape buffer as outlined in the Virginia Beach Landscaping Guide. Any plant material that is dead, diseased or dying shall be replaced.

3. A Photometric Plan shall be submitted during the site plan review process to ensure that all lighting on the site be shielded and directed downward to limit the amount of overspill outside the property's boundary.
4. When the site is redeveloped, the property shall be used only for the storage of goods. The units shall not be used for office purposes, band rehearsals, residential dwellings, auto repair, or any other purpose not consistent with the storage of goods. There shall be no exterior (outside) storage of items on the property.
5. There shall be no permanent dumpster located on the site.

A motion was made by Commissioner Oliver and seconded by Commissioner Horsley to approve item 4.

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 10-0, the Commission approved item 4 for consent.

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

Item #5
21st Development, L.L.C.
Alternative Compliance
415 & 417 21st Street
District 6
Beach
February 8, 2017

DEFERRED

An application of 21st Development, L.L.C. for an Alternative Compliance on property located at 415 & 417 21st Street, District 6, Beach. GPIN: 2427-08-3336-0000.

A motion was made by Commissioner Oliver and seconded by Commissioner Horsley to defer item 5.

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 10-0, the Commission defer item 5.

Item #6
Robert B. & Diana C. Davis
Conditional Use Permit
Home-Based Wildlife Rehabilitation
1804 Rainbow Court
District 1
Centerville
February 8, 2017

REGULAR

Bob Thornton: Please call our next item.

Karen Kwasny: This is agenda item 6. It is an application of Robert B. and Diana C. Davis for a Conditional Use Permit for a Home-Based Wildlife Rehabilitation on property located at 1804 Rainbow Court, in the Centerville District. I have one speaker in support of this, and they are Robert & Diana Davis, the applicants.

Ed Weeden: State your name for the record please?

Robert Davis: Robert Davis.

Diana Davis: Diana Davis.

Bob Thornton: Thank you. Welcome and if you would, take a minute and give us an explanation of what you want to do here, and things we should know to help make that decision.

Diana Davis: Okay. We have been rehabilitating, this will be my third year and his second. And we are the type of people that all of our pets have always had city tags. We have state permits, so we're trying to get in line with what the City wants us to do. We are Category I, which means we cannot handle injured wildlife. We basically just deal with orphaned wildlife. If a mother has been hit by a car and leaves baby squirrels and raccoons, if someone cuts a tree down, and there is a nest in tree, they don't know what to do about them are the kind of wildlife that we get. We did have our rabies pre-series shots, so we are allowed to handle raccoons, skunks, and those kinds of things. I have lived in this residence for 32 years and he was there before I got there, so we have both seen neighbors come and go. We did take a prepared letter around to all the neighbors in our court, and the gentleman who resides behind us, and they all signed letters saying that they were okay with this. The ones that knew about it were really intrigued by it. The ones who didn't know, figured we are letting them run loose, and we're keeping the cages clean, because they didn't know we were doing it. As far as safety issues go, we do have a six-foot privacy fence. We also have a shorter fence that separates our yard in half, so if a creature gets out, he doesn't end up in my swimming pool with me. The shorter fence has wire grading on it, and that area is where our outdoor enclosure is. It was mentioned in the report that we needed to have a second door, a vestibule type of thing, just for safety, for us and the animals. And my contractor husband will certainly take care of that for me. Inside there is their own room and we have an incubator. We have two good size cages. Then we also have another cage. He built it so big that we had to take the sliding glass doors out to get it in. So, they have plenty of room. Their room is gated as well to keep them out. We do have gloves for use for safety. So far we have had squirrels and raccoons.

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Robert B. & Diana C. Davis

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The squirrels come March. We keep them for 10-12 weeks, they are gone. The raccoons show up. We keep them for about 14 -16 weeks. So, that ends in August. Then the squirrels mate again, so we have squirrel babies again in the fall. That is pretty much our schedule. I'm retired. So of these babies eat five to six times a day. So that pretty much falls on me while he works. Then the older they get, he steps in more and plays a more active role in, and helps me out.

Bob Thornton: Are there any questions of the Davis'?

Bob Thornton: Thank you.

Ronald Ripley: Can I ask a question?

Diana Davis: Sure.

Bob Thornton: Ron?

Ronald Ripley: The size of the cage, you have use of these multiple cages. Are these very small little animals that you have? I know raccoons can get pretty big. Are you dealing with the large raccoons?

Diana Davis: By the time they are released.

Ronald Ripley: The cage looked very impeditive to us.

Diana Davis: We've never had more than four in the cage at a time.

Ronald Ripley: But it says 10 on the application.

Diana Davis: Well, that is not just for the outside, and that was including everything inside. I misunderstood that. The most we've had is four on the outside cage at one time.

Ronald Ripley: So the inside is in the garage?

Diana Davis: No. We have a Florida room in the back of the house. We have it gated it off. That is where all the supplies and animals are.

Ronald Ripley: Okay. Thank you.

Diana Davis: We do work under Evelyn's Wildlife Refuge too. I forgot to mention that but she is our sponsor. As Category I, we have to have a sponsor.

Ronald Ripley: Okay. Thanks.

Bob Thornton: Are there any other questions?

Karen Kwasny: I have a question.

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Robert B. & Diana C. Davis

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Bob Thornton: Karen?

Karen Kwasny: I think I am actually kind of answering my own question. You have a wooded portion of your lot correct? Is that what I am seeing on the diagram up there?

Diana Davis: We have trees in the back corner of our yard.

Karen Kwasny: Is that why this is located farther away from your home, and the resident that is adjacent to you?

Diana Davis: Yes.

Karen Kwasny: Okay. So there wouldn't be another location for them that might move it away from that residence next to you?

Diana Davis: No.

Karen Kwasny: No. Okay.

Bob Thornton: I've got one quick question. Have you ever had animals escape or have problems with them?

Diana Davis: No.

Bob Thornton: If I was your neighbor I would be worried about some upset raccoon escaping.

Diana Davis: We've never had one escape. As a matter of fact, one of the neighbors on one side of us has three young children, and they will stand on the benches on their deck to watch the animals, and they will say "mom, come look, they're doing this and they're doing that". So, we've never had any problems.

Bob Thornton: In the outside cage, you have animals inside your Florida room, and you have animals outside in the pen that we see there. What do you think would be a reasonable limit to place? If we tell you that you can have the recommended 10 animals you can conceivably put 10 raccoons in that cage there? You might not do it but there would be nothing that would cause you not to do it. You could do it legally. What do you think that the outside cage is reasonable to hold? Would you be willing to put some sort of limit on what you would put in there?

Diana Davis: I would say five to six.

Bob Thornton: If they are all little baby squirrels, that is not the same as five half grown raccoons.

Diana Davis: Like I said, when they are young, most of them to be honest with you, they start off in the incubator and then they work their way through the inside cage system.

Bob Thornton: Our biggest concern is these things might get away or might escape and then you got

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Robert B. & Diana C. Davis

Page 4

these upset animals running around in your neighborhood.

Diana Davis: They haven't got away. To be honest with you, they have a rabies vaccination that we give them.

Bob Thornton: David.

David Weiner: In our informal this morning. I don't know if you were actually there, but what our concerns were, and they are coming before us every month. We look at some cages that animals are going in and most of them have called what you call vestibule first gate. That is kind of important. We actually asked staff to maybe have some type of ordinance or come up with something because we see these too often. We have ordinances, don't get me wrong. Just to come with something before they come up before us. This is what it has to be. It is a stipulation, stuff like that. I think that is one of our biggest concerns looking at this compared to some we've seen before. This is par for what we've seen before so all I am saying, so a second door would be one of the things we do.

Diana Davis: That would be fine. I have no problem with that.

Robert Davis: We just learned of this a few months back also. The State never said anything about that when they came and inspected the property. You said you wanted to put, like I said, back and build anything you want built.

David Weiner: I think that is what our concern is.

Bob Thornton: Don?

Don Horsley: Where do you all release your animals? Are you directed as to where to release them?

Robert Davis: You're a farmer.

Don Horsley: Don't bring them during sweet corn time.

Diana Davis: No. We have some friends we met at church about 30 years ago that own property all around this area. You have the strawberry field on Salem Road. I don't know if you're familiar with that area? They have given us permission to release over there.

Don Horsley: I didn't know whether the State directed to as to where to release them.

Diana Davis: As long as it is on private property, and we have the owner's permission. We can't release them where we are.

Don Horsley: No.

Robert Davis: There are some wild ones out there. We see them all the time.

Diana Davis: We do not release where we live though.

Bob Thornton: Okay. I don't think we have anybody speaking in opposition.

Karen Kwasny: I don't have anybody else.

Bob Thornton: Nobody else? Okay. Thank you. With no other speakers, I will close the public hearing and have comments from the Commissioners. Any there any comments, questions or a motion?

Jeff Hodgson: I make a motion to approve the application.

Bob Thornton: Okay.

Dave Redmond: Second.

Bob Thornton: A motion made by Commissioner Hodgson and seconded by Commissioner Redmond.

Carolyn Smith: Would that be with the six conditions as amended?

Jeff Hodgson: Yes.

Carolyn Smith: Thank you.

Bob Thornton: The six conditions were brought to us when we sat down.

Ed Weeden: Jeff made the motion and Dave seconded it?

Bob Thornton: Yes.

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Ed Weeden: By a vote of 10-0, the Commission has approved the application of Robert B. and Diana C. Davis with the six conditions as amended.

Item #7
Soho Lashes, L.L.C.
Conditional Use Permit
1616 Hilltop West Shopping Center
District 5
Lynnhaven
February 8, 2017

CONSENT

An application of Soho Lashes, L.L.C. for a Conditional Use Permit (Tattoo Parlor) on property located at 1616 Hilltop West Shopping Center, District 5, Lynnhaven. GPIN: 2407-89-0555-0000.

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 / permanent makeup shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. There shall be no window signage permitted.
4. If and when the existing sign is replaced with any reference to permanent makeup application, the new signage shall meet the requirements of the City Zoning Ordinance, and there shall be no neon or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. The building signage shall not be a "box sign" and the proposed sign package shall be submitted to the Zoning Administrator for review and acceptance prior to the issuance of a sign permit.

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

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 10-0, the Commission approved item 7 for consent.

The applicant Khadine Ellison appeared before the Commission.

Item #8

Elbow Road Investments, L.L.C.

Subdivision Variance

4261 Elbow Road & parcel located at the eastern corner of the intersection of

Elbow Road & Indian River Road

District 7

Princess Anne

February 8, 2017

REGULAR

Karen Kwasny: Okay, the next item to be heard is agenda item 8, Elbow Road Investments, L.L.C., which is an application for a subdivision variance on property located at 4261 Elbow Road on the eastern corner of the intersection of Elbow Road and Indian River Road, District 7, Princess Anne.

Robert Miller: I'm Bob Miller, a local engineer, and I represent the owners. Let me just give you a couple of points. I know this was proposed to be on the consent agenda, so I will listen to what the other folks have to say, and hopefully, I will be able to answer that. The current family that owns the property has owned it since prior to 1953, as you were told this morning. The property, originally before the take on Indian River Road, was over 2½ acres. When the take occurred on Indian River Road for the expansion of Indian River Road Phase VII, which is the current project for me, with the road, 28,000 square feet was taken. Additionally, there is a no-ingress/egress easement on Indian River Road, and there is a proposed sound wall. I'm an engineer. I don't know where we keep getting all of these sound walls. I guess, Jack, maybe you can tell me where they come from. There is a sound wall. Literally, our frontage on Indian River Road is about 200 feet if you count the diagonals in the current situation. Lots, as we are proposing, are over in the range of 18,000 square feet each. Two of them, the two on the southernmost, are slightly less than about 16,000 square feet. They are all over 15,000 square feet. The adjacent properties, as you know, Hillcrest Farms and across the street, are 9,000 square feet in Hillcrest and 10,000 across the street. So, we did not propose to rezone the property. It is still R-15. The issue comes down to literally what is left of the property. These two parcels were both owned by the Clark Family. It wasn't like they just happened to be two pieces. It wasn't like it was two separate owners. So, with that, I'll be happy to sit down and listen to any concerns that the folks have, and I'll be glad to answer them for you all.

Bob Thornton: Are there any questions right now for Mr. Miller?

Robert Miller: Thanks.

Karen Kwasny: Our first speaker in opposition is Susan Clements.

Susan Clements: Hi, I'm Susan Clements. I live in Hillcrest Farms, and I am generally opposed to this construction at this time until they put the barrier walls in and make it a safe intersection.

Bob Thornton: Thank you. Are there any questions?

Karen Kwasny: Our second speaker is Cindy DeAngelo.

Cindy DeAngelo: Good afternoon. I'm Cindy DeAngelo. I'm also a resident of Hillcrest Farms. I am in opposition of this until which time Elbow Road expansion can be completed. Simply because of the

Item #8

Elbow Road Investments, L.L.C.

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traffic and so many issues right there at that corner of Elbow Road and Indian River Road. I will defer any further comments to a couple of other folks that will answer some of the questions, and other issue we may have.

Bob Thornton: Thank you.

Karen Kwasny: The next speaker in opposition is Julie Pippins.

Julie Pippins: Good afternoon. My name is Julie Pippins. Not to be redundant, I will defer to her and let her cover her points. I just want to add what she is going to say, I've been a homeowner on Elbow Road since 2001. When I purchased my home, I had to sign paperwork indicating that I was aware of the relocation of Elbow Road to take place in 2007, which means greatly 15 years and probably a lot longer than that, the City has been aware of the fact that road structure, the road that is in place right now, is not designed to hold the amount of traffic and the congestion that is going to be taking place with future developments. However, despite that, the City has since then, despite not having the funding to relocate the road, has continued to improve over and over and over again. All of the economic development of that area of the City, from new housing developments to new stores to connecting to Dan Neck Road is really not paying attention to the fact that the road is not designed for that much traffic. I live there, and the person speaking after me will address the statistics, but I'll address is the number of unrecorded statistics, the number of accidents on the road more times than I can tell you. Cars in ditches, cars hitting trees over and over, including the death of someone on that road. To you, it might seem like it is four more houses. To me, those four more houses. Where is the line? When is the City going to say that it seems to me they would be accountable for many of these accidents by having to continually approve more traffic on that road, and a road that was never designed to hold it by your own admission, more than 15 years ago. Additional issues would be a school bus stop. There are no sidewalks. So, if you build a house, and three houses down there is another elementary school bus stop because there is not a sidewalk for children to walk. The picture that is shown in the Planning package for that area must have been taken at 6:00 am on a Sunday morning because at 5:00 pm every day of the week, traffic backs up a good half mile down that road, bumper to bumper. It is in front of my home. I see it every day. No one can get in or out of their homes because there is so much traffic, and yet, the City just continues to approve. So, I employ the City to please stop for a moment and say, at some point in time, when there is one home, two homes, a housing development, put a line in the sand and say, "we don't have the infrastructure in place." We couldn't afford to fix the road that we agreed needed to be fixed so we should approve no more improvements. No more housing developments. No more people. No more traffic on that road. It is not safe for anybody and now more school bus stops, more people there. It is inappropriate. And so I oppose any addition to that road, including four more homes on a road at an intersection that is that busy.

Bob Thornton: Thank you.

Julie Pippins: Thank you.

Bob Thornton: Any questions of Ms. Pippins? Thank you.

Karen Kwasny: The next speaker is Michelle, and I know I am going to butcher this, Ratzcall.

Michelle Ratzcall: Not even close. Ratzcall is how you say it. Thank you. Hi. My name is Michelle (Ratzak), and I am a homeowner in Hillcrest Landing. I've been there since 2010. Hillcrest Landing is

right off of Elbow Road, where Elbow and Round Hill meet. So, I am in between the light where the proposed houses are going up and the wonderful bridge that we have at the little "S" curve. I am the President of our Homeowners' Association. I've also been realtor here since 1999, so opposing home growth is not something that I usually do, and I take it very seriously. As Julie said, as we all know, I believe that Elbow Road was first in the Capital Improvement Plan in 2003-2004 but there hasn't been funding. I do understand that the funding for Phase II has been received and that the project is going to start in 2019, which is great, but it is still two years away. Meanwhile, the traffic on that road is getting worse and worse all the time due to a lot of growth in Chesapeake off of Elbow Road. As most people are aware, there is a lot of growth off Elbow Road. There are many new neighborhoods that have either gone up or still going up. The latest one, Fieldstone, is going to be, I believe, 162. The one at the corner of Centerville is Lake Thrasher, a little bit further down on Elbow, even though it is Chesapeake, all of the feeds back and forth into Elbow Road in Virginia Beach. The little stretch between Salem Road, where Elbow Road starts and the Chesapeake City line of Elbow Road is 1.5 miles. Since January 2014, that is all the further I could go back on the police reports, there are 147 reported accidents in a mile and a half stretch, and I would say that probably most of those have occurred within a mile. At my intersection, which is at 5:00 o'clock, as Julie said, those pictures are nothing like what it is like. It backs up from that light going towards the bridge, almost to the bridge, trying to get in and out of our neighborhood on Round Hill is almost impossible. Those statistics that I pulled out. There have been 20 accidents alone at my intersection, and we all say reported, because it is reported. We have all, anyone that lives around there has seen many, many people in the ditches that there has never been a police report done. We just feel that at this time, I don't think any of us here and for our group there is a lot of people on the social network Nextdoor.com that commented, have been talking about this. We don't oppose the four houses, but we oppose it now after Elbow Road is moved, realigned, straightened, and, the ditches, and if you ever driven down Elbow Road, there is no shoulder. And the ditches, unfortunately, that bridge has been fixed numerous times, and one time when they did it, it actually made it worse because the ditches are much deeper. The addition of four houses there, if they have children, is going cause a bus stop; so, now you have the traffic light. You're going to have four houses and that intersection when it backs up now, and you're going to have a bus having to potentially stop there with children. At my intersection, our bus stop for our neighborhood is at the corner, right at the corner. I can't even tell you how many times, that right now if you drive there right now, you will see skid marks coming right into where the kids stand. Near where Julie's house is by Kumbaya Court in between Kumbaya Court, and the traffic light, there is a little curve, and there is a ditch and that causes a lot of problems. That tree has been hit many times because of that. The kids that stand at that bus stop it is extremely risky with the traffic that is on there, so even though it is only four homes, it is that you have to stop and putting them where they are going at that intersection is just not going to be in the best interest of everyone one around there. So, I would say either delay letting the growth happen there, or move the Elbow Road project up a lot sooner, which needs to be done. Thank you.

Bob Thornton: Any questions of Ms. Ratzcall? Thank you.

Karen Kwasny: Our next speaker in opposition is Josie Grandfield.

Josie Grandfield: I am Josie Grandfield. I guess I want to say that I concur with everything that was just said. I live in Hillcrest Farms and the Elbow Road project is not supposed to be going until 2019, I think. I don't oppose a subdivision, but I think it has to wait until then.

Bob Thornton: Thank you.

Josie Grandfield: Thank you.

Karen Kwasny: That is all the speakers in opposition.

Bob Thornton: Mr. Miller, this is the time for some rebuttal.

Robert Miller: Obviously, I can't get Elbow Road built. The fact is that this property can have three lots on it right now. The reason why we asked for four is obviously the value of the property, and the size of the lots will be more than those of the adjacent properties. We will only have three driveways as required in the conditions that you all have set for us, so we're only going to have the same three driveways we will have there by-right. I think it is a reasonable request. I do understand many concerns that they have about Elbow Road, but I can't require Elbow Road to be relocated as they said. It has perhaps been on the schedule since 2007. I think what we are asking for is a reasonable request given the background and take on Indian River Road, and by the way, Indian River Road Phase VII is getting ready to be built, and has a little better timing than Elbow Road. Again, I can't fix Elbow Road, but I will be happy to try and answer any concerns that you have.

Bob Thornton: I have one. Can you show me? Is the concrete wall still planning on going there?

Robert Miller: It is a sound wall.

Bob Thornton: Is that up against the side of the Lot B?

Bob Miller: Yes sir. It actually goes from that edge down diagonal always the way down. I imagine it continues along in front of Hillcrest. I haven't looked through the plans to the extent to know that but I'm sure it is not just buffering out our property. I am sure they are buffering the other residential properties that are there.

Bob Thornton: It is the same kind of wall you see on Nimmo and you use on the interstate?

Robert Miller: Yes sir. I would assume so, yes sir.

Bob Thornton: Okay.

Robert Miller: The proposed Elbow Road, (Kay watch out I might shoot you – using a laser pointer), is back over in Hillcrest in the realignment. You can't see it on the photograph. If you all want to correct me but it may be right there. So it actually realigns Elbow Road completely, and at that time, this portion of Elbow Road gets cul-de-sac'd into a "T" cul-de-sac and does no longer connect to Indian River Road. The intersection being moved down to this location, which I'm sure as the neighbor says, that would be too some extent to their advantage and certainly to the advantage of the community as a whole.

Bob Thornton: Would it go off towards Chesapeake also?

Robert Miller: Yes sir. It would continue across and realign that bend that is in there right now at Stumpy Lake.

Bob Thornton: Ron?

Ronald Ripley: It is a by-right use, and if you had the fourth one, how would you handle that driveway? Can you show us on the pointer on how you would share the driveway?

Robert Miller: What the staff asked us to do was these two lots would have a shared driveway because this is only about 39 feet. I would ask that the driveway be somewhere in there so I could have the minimum amount of easement from this owner to this owner but we're going to be cooperative with whatever staff is going to tell us what to do that we're going to put that entrance. This driveway could be anywhere along this frontage. It would be on that lot A-3 to get as far away and potentially as far away from the intersection as possible.

Ronald Ripley: Okay. Thanks.

Bob Thornton: Dave?

David Weiner: Mr. Miller, I am going to be a little redundant here to what Mr. Ripley just said. I just want to make sure the ladies understand if one residence wasn't there right now, we wouldn't be here right now.

Robert Miller: I'm sorry. Actually it is not even that. If I had the frontage that I had when we owned that piece of property right there, I wouldn't be here. That is over 104,000 square feet of property, and I literally have enough frontage, not quite enough to do five, but I can easily do four lots. And, this distance here would allow me to put two lots here and have the other two lots all in conformance. The problem is I don't think it would be a good idea to after one.

David Winer: I guess what I'm getting at is I know it is a bad intersection and I've driven through there quite often, but what we have to really think about here is what he is proposing and what's being proposed is only one residence. It is four residences but it is only one. He could put three by-right and just add a residence, not an extra driveway.

Robert Miller: That is correct.

David Weiner: So I just want to keep that in mind that is what we are here looking at.

Bob Thornton: Karen?

Karen Kwasny: Can you show me Bob where those drives will be located in relation to where the drives are now existing drives?

Robert Miller: There is an existing driveway up here by this house, and then, he has a work shed and so forth, and I believe there is another entrance down further. If I'm saying that incorrectly, there is actually an entrance right here, which goes in near the corner.

Karen Kwasny: But at the moment, there is only one?

Robert Miller: There are two.

Karen Kwasny: There are two being used.

Robert Miller: And the house is not currently occupied. I don't want to misrepresent anything, and it hasn't been occupied for a little bit of time. But Mr. Clark is a good friend of mine, and he actually operates his landscape business. He is getting ready to retire, so he is not going to continue to operate it.

Karen Kwasny: So, if he did three by-right, he wouldn't be in front of us? This wouldn't be in front of us at all.

Robert Miller: That is correct.

Bob Thornton: So, when Elbow Road is relocated to the south, Elbow Road will be a cul-de-sac?

Robert Miller: The old Elbow Road would become a "T" cul-de-sac.

Bob Thornton: The road in front of these three lots or four will be a cul-de-sac?

Robert Miller: That is correct.

Bob Thornton: So, at some point in the near future that traffic is not going to be an inconvenience.

Robert Miller: And I can defend what they are saying in the current situation. They have to live through the new construction of new Elbow Road before that happens. I don't want to sit here and tell you that and promise when Elbow Road is going to be built. Where's Barry? I don't mean to be smart but I think what they are speaking of are the conditions that are out there now, and I certainly respect that.

Bob Thornton: Is there anybody else? Thank you.

Robert Miller: Thanks.

Bob Thornton: With that, I would like to close the public hearing and open the floor up for discussion or a motion. Karen.

Karen Kwasny: I'm concerned about the very things that they have mentioned, but the by-right aspect of this gets in the way each time because they could be doing, by-right, and not be in front of us. And, I am very apprehensive about even making an effort to hold off what I see as a limited amount of development for a road that is off in the future. And we can't ask an applicant to wait until that happens to come back, and I'm not sure we can make a decision based on let's wait until the road and then allow. In the meantime, he could come back and put the three in right away anyway, so that is really got me kind of hung up. I understand your concerns absolutely, and I think they are relevant to a number of decisions made throughout the City when it comes to traffic congestion, roadway projects that are put off into the distant future. So, I share your frustration there and your desire to see development wait until those things are managed for the communities that are in existence. That absolutely makes sense to me, but because that landowner could come back and do something that is and he is only asking for one more in addition, I can't say anything more.

Bob Thornton: Don?

Donald Horsley: I understand what the ladies are talking about with traffic. And I also understand that these are going to four large lots. I'll play the devil's advocate too and make it a cul-de-sac and he might get hated in there because these lots are whole lot bigger than the lots that are on the backside. Who knew how that could have worked out? I don't think these four lots are going to add that much of a problem to the situation that we have out there. So, I don't have a problem supporting it. If we turn it down and Council turns it down, he can just go ahead and build three. Then your one house away, but I think with the size of these lots, and I look at these and I compare them to the ones behind it, and they are twice the size of those, it looks like it to me. So, I'm going to support the application.

Bob Thornton: David Redmond?

Dave Redmond: I move approval of agenda item 8.

Ronald Ripley: Second

Bob Thornton: A motion from Mr. Redmond and second by Mr. Ripley.

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Ed Weeden: By a vote of 10-0, the Commission approved the application of Elbow Road Investments, L.L.C.

Item #9
Smartmouth Brewing Co., L.L.C.
Conditional Use Permit
313 32nd Street
District 6
Beach
February 8, 2017

CONSENT

An application of Smartmouth Brewing Co., L.L.C. for a Conditional Use Permit (Craft Brewery) on property located at 313 32nd Street, District 6, Beach. GPIN: 2418-92-8642-0000.

CONDITIONS

1. With the exception of any modifications required by any of these conditions, the site shall be developed and maintained in conformance with the submitted site exhibits and renderings. Said exhibits and renderings have been exhibited to the Virginia Beach City Council and are on file with the Planning Department.
2. A Landscape Plan shall be submitted for review and approval by the Development Services Center (DSC) Landscape Architect. The applicant shall work with the DSC Landscape Architect to determine the appropriate amount and species of plant material that shall be installed within the existing turf area so that the parking area is sufficiently shaded and screened.
3. The applicant shall coordinate with the Strategic Growth Areas Office and Traffic Engineering to sufficiently design and locate planters on-site and parallel with the southern property line in order to clearly prevent vehicular access from 32nd Street. Said planters shall be installed prior to issuance of a Certificate of Occupancy. Plant material within the planters shall be maintained at all times.
4. The occupancy load for the Craft Brewery shall be established by the City of Virginia Beach Building Official's Office, and a Certificate of Occupancy shall be obtained prior to operation of the Craft Brewery. Any conditions associated with the license issued by the Virginia Alcoholic Beverage Control Board shall be incorporated as conditions of this Conditional Use Permit.
5. There shall be no sale or consumption of alcoholic beverages on the premises between 12:00 midnight and 10:00 a.m.

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

	AYE 9	NAY 0	ABS 1	ABSENT 1
HODGSON			ABS	
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			

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Smartmouth Brewing Co., L.L.C.
Page 2

RUCINSKI		ABSENT
THORNTON	AYE	
WALL	AYE	
WEINER	AYE	

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

The applicant Porter Hardy appeared before the Commission.

Item #10
McDonald Garden Market, L.L.C.
Conditional Use Permit
4664 Princess Anne Road
District 2
Kempsville
February 8, 2017

CONSENT

An application of McDonald Garden Market, L.L.C. for a Conditional Use Permit (Open-Air Market) on property located at 4664 Princess Anne Road, District 2, Kempsville. GPIN: 1476-43-1521-0000.

CONDITIONS

1. The layout of the seasonal market shall be limited to 20,208 square feet and shall be located on the site in substantial conformance with the concept plan entitled, "Proposed Site Plan," prepared by McDonald Garden Market, dated 01/23/2017, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
2. As required by Section 239.03 of the Zoning Ordinance, there shall be no less than one (1) trash receptacle per one thousand (1,000) feet of sales area, all trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall be not be allowed to accumulate.
3. The Open-Air Market shall be limited to the operation between the months of March to August and shall be open seven days a week between 8:00 a.m. to 8:00 p.m.
4. All signage on the site, including any signage or graphics on the fabric screen and fence, shall be in compliance with the sign regulations of the Zoning Ordinance, and shall be submitted to the Zoning Administrator for review prior to installation.
5. The applicant shall construct the shed/kiosk in accordance with the submitted Engineer's Report / Certification Letter prepared by Gregory M. Gerling, P.E., and shall be presented to the Building Official's Office prior to issuance of a building permit.
6. Certification that the canopy design meets all applicable code requirements shall be submitted to the Building Official's Office, prior to the issuance of a building permit, by a professional engineer licensed by the Commonwealth of Virginia, or by any other professional deemed acceptable by the Building Official's Office.
7. If the parking spaces on the adjacent parcel are used in order to meet the minimum parking requirements set forth in the Zoning Ordinance, a shared parking requirement shall be recorded in conformance with Section 203 of the Zoning Ordinance.

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

AYE 10

NAY 0

ABS 0

ABSENT 1

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McDonald Garden Market, L.L.C.
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HODGSON	AYE	
HORSLEY	AYE	
INMAN	AYE	
KWASNY	AYE	
OLIVER	AYE	
REDMOND	AYE	
RIPLEY	AYE	
RUCINSKI		ABSENT
THORNTON	AYE	
WALL	AYE	
WEINER	AYE	

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

The applicant Michael Westphal appeared before the Commission.

Item #11
The Bunny Hutch, Inc.
Conditional Use Permit
Animal Shelter
1165 Jensen Drive
District 6
Beach
March 8, 2017

REGULAR

Karen Kwasny: This is agenda item 11. It is an application of the Bunny Hutch for a Conditional Use Permit for an Animal Shelter on property located at 1165 Jensen Drive, District 6, Beach. We have two members in our audience in opposition. Mr. George Minns is our first speaker.

Bob Thornton: We have to hear from the applicant first.

Karen Kwasny: Forgive me everyone. Sorry. Would the applicant like to come up and speak?

Angela Maxwell: I apologize enough for my appearance. Hello is Dr. Angela Maxwell. I've been up all night with a turtle who has a bilateral prolapse of his eyes, so I have been treating him all night long. His eyes have to be misted quite often during the night, so I smell too. I run the Bunny Hutch Boutique and Exotic Rescue. We're the only one of our kind in existence in the United States. My family has been involved with philanthropic efforts publically in the UK and internationally since the 1200s. I'm a retired Pathologist and disabled combat veteran. Our rescue follows guidelines and stipulations that are set out by the Association of Zoos and Aquarium, that govern zoos, whose standards are probably exponentially higher than the animal care center around the corner from us. Part of our protocol, is beta testing everything that we do to include the escape drills that are required. Those are only required annually. Everything the AZA stipulates that is required is annually we do quarterly. Everything the AZA stipulates that is done monthly, we do weekly. Our protocol is from top to bottom daily including redundancy checks and sanitization of the facility from floor to ceiling. We require a 10% bleach solution or a similar solution of those that are utilized in hospitals. We have an intern programs from William and Mary through NC State to help train pre-veterinary students and we're also going to be working with ODU to help them expand their pre-veterinary program because we only do exotics, not cats and dogs. So, primarily pocket pets, but we also have a professional zoo keeper husbandry program that works with those exotics that people are legal to own throughout the State, that we feel, as professional experts, and we were founded by six zoo keepers. We have an annual Board meeting. We verify and test everything with zoos throughout the world. I'm also a former non-profit consultant, since I retired from the military, Professor at Austin PC State University before we PC's here. My husband just retired. I live in Newport News. The facility is on Jensen. We have been in existence for quite sometimes because even though we call USDA, U.S. Fish and Wildlife, Inland Game, and anyone else who will listen every time we get a new breed or species, everyone kept telling me that we didn't have to have any permits because we didn't have dogs or cats, just because an animal is an exotic animal, which includes, Guinee pigs, hamsters, chinchillas, ferrets, snakes of all species, lizards or all species, tarantulas. Nobody thought we had to be regulated because it wasn't dogs and cats, even though ferrets and any Condi verse pocket pets have to get rabies, parvo, and distemper. That is not a criteria at the current SPCA level, it is a criterial and a part of my triage, and in take process, for both the exotics and previously any wildlife that we had taken in underneath someone else's permits previously. The Department of Inland Game and USDA have taken pictures of our facility and, which to utilize them in slide shows, to be able

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to show other home rehabbers and other agencies the standard of care that can be implemented on a daily basis easily to them.

Bob Thornton: Thank you. Are there any questions?

Jeff Hodgson: Do you have any venomous?

Angela Maxwell: No, we will never handle it at this point and until we get acres upon acres. We will never handle any venomous even though they are allowed in the City of Virginia Beach to be privately owned, which horrifies me, nor will we ever handle non-human primates. I don't have a Primatologist.

Jeff Hodgson: Okay. Thank you.

Bob Thornton: Questions? Thank you.

Don Horsley: You said you live in Newport News and the facility is here?

Angela Maxwell: Yes.

Don Horsley: Do you have somebody that stays on duty all the time there?

Angela Maxwell: Yes. We have someone. It is part of the second year program. The program that we have that trains professional zoo keepers, and in fact, we have 100 % higher rate to DCA credited facilities. Someone, or myself, pull shifts. I would never ever have anybody do something that I wasn't willing to do so. Someone is on property 24 hours a day. If, I, or if is it one of the interns, but we have never had any issue. Mainly it is for security. The animals that we take in that are surrenders are often very coveted on the black market. We have a Rhino Rat snake, Princes Penelope, who was mentioned in the Pilot article about the facility, who was smuggled out of Vietnam. She was on the black market because she is a wild cotton non venomous rhino rat snake. She is worth \$18,000. The only people who have approached us about adopting her are those people who are breeders, and we don't allow that under any circumstances.

Jack Wall: You haven't had any problems with animal escapees?

Angela Maxwell: Oh no. We utilize either an intern dressed in a costume or we also have Rumba, who has escaped. We have the same protocol the zoo has compartmentation in regard to protocols of interior. All of our animals have cages that are inside the facility because it is primarily pocket pets even though our mascot all of which my boss, you have met, is included in the pocket pet category at 25 pounds. He is compartmentalized and is my ESA animal as well. In our classroom and exercise yard has secondary protocol gatement.

Bob Thornton: I have a quick question for you. When you're finished these and need to move them on do you send them to zoos?

Angela Maxwell: There are two routes. Those animals in reference Burmese Python that we had rescued that was from a drug bust in Manassas was 18 feet long. And we don't feel as professionals that in individual who does not have a degree in Zoology. I'm a Pathologist. My background is elephants. I

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grew up in Africa and have worked with and rehabilitated everything to elephants, the largest land faced creature. Those are trained to go to educational departments in zoos and not exhibit animals. So their standard of protocol is much higher. They are utilized to engage the public at zoological entities to be able to show how majestic these creatures are but how it really shouldn't be owned in a private sector. I've worked with Inland Game and Fisheries reportedly to try and get stronger regulations for exotic pet ownership, much to the dismay of the breeders because we just don't feel, even though it is your right as an American to own anything you wish that's legal in your state. There is just too many things that we've seen because reptiles have undetermined growth. So, that's why its life span predicates how big it will get. Burmese Pythons in captivity, in zoological care, there life span is twice of that what it is in the wild. So, you can have a 30 year old Burmese Python that can reach 25 feet. So, they go to zoos. Those pocket pets that are legal in the City and they're different cities and counties, in this area in Hampton Roads that have different things like chickens. You can have up to six hens in Newport News as long as their structure is 50 feet from your building or any neighbors building. I have a small chicken coop. That is where a lot of the chickens go that we rescue because we rescue things that are suburban chickens that are construed as barn animals. Those go to a specific home if it is legal. I perform home visits even on the animals that live in tanks. The tank inhabitants still get a home visit and every animal that is adopted out from us does. Also, it includes with the adoption package, a cage that limits the ability for the ability for the animal to be able to escape. Because I'm British American from UK, we have minimal guidelines for feet per square inch that even a Guinee pig has to be confined in, so we follow those guidelines, which is generally twice the size that people think an animal needs.

Bob Thornton: Thank you. Now we hear from the opposition.

Karen Kwasny: We have two members of the audience in opposition to this application. The first is E. George Minns.

E. George Minns: My God. I'll tell you. Good evening to everyone. I had one feeling when I came down here and I'm a little complexed with this thing now. But at any rate, I'll pass around. I think there is enough for everyone. My number one problem with this is....

Ed Weeden: Can you identify yourself for the record?

E. George Minns: E. George Minns, President of the Seatack Community Civic League. Excuse me. What I passed out is a copy of State Code regarding private animal shelter, and I would ask the Commission to look at page 2, or whatever it is, highlighted in terms of animal shelter and this made part of the record, if you would? It is the position of our Board and this matter has been discussed by the Board, and we would ask that this be denied or kind or alternatively deferred. For the reason is we didn't know about the place being over there. When it comes to wild and exotic animals, I hear all the distinguished operator has said, with much respect for her level of expertise as it relates to wild and exotic animals. But at the same time, in as much as in incident may not have occurred so far, that doesn't mean something is not going to happen, and the thing that hit us number one there was no notice to the community. Number two it is so close to recreation center where the children play. And God forbid if anything does happen where something gets out we would have some concerns. Fortunately at the time this was discussed at the civic league meeting, the Commander of the Second Precinct was there and he then informed the citizens that they would not call the police for a wild or exotic animal. They would have to call animal control which would obviously create some more confusion in terms of how do you contact them as opposed to the police. But number one is which has happened twice in Seatack

in recent, wherein when something is going on with a Change of Zoning, but the lot or facility is located down at dead end, so you don't see the sign on the street. And in this case, I think the sign is at the property, but the property is up in a commercial park where none of the residents normally would go. I happen to notice it on the agenda at that's what drew my attention. But at this time, the community having not known anything about it is very uneasy about it. I noticed they did mention that they have met with staff, and that the applicant and staff had met with the Navy. I noticed how it's colorized in the report. It just references okay to the left and the right as industrial, industrial, industrial, the recreation center. It just absolutely disregards the fact that it is in a residential community. And, this is not very well setting when you. It's like one community is treated one way. Community means one thing. And it is important to let them know stuff, but then when Seatack, will repeatedly at the end we don't know anything. The Navy doesn't live in Seatack. We do. And anywhere wild and exotic animals, no matter how well kept, no matter how professional, there is a concern. I know something I reviewed regardless because I never knew anything about wild animals that says something when these are animals are brought into the Commonwealth are supposed to be registered or something as to, and I would assume having now heard the distinguished lady, they probably met those regulations. But at any rate, it is very uncomfortable with the fact that they didn't know anything and I don't know if you can do something in the future that when the place is located down a street where there is not going to be much traffic, that something be out on the main area where people would drive or otherwise they won't even know what's even going on. With that said, and I noticed it was talking about the cage and a room, but this property is not fenced it. I went out and looked at the property. I, at least did the degree of due diligence that I could do. I didn't know anything about wild and exotic animals, so I had to look it up. I went out there and looked at the place, and yes you got the building, but if a cage door is open or if a room door is open, the rest is open. There is nothing else secure or anything. But, I think it would help that over all with the community, they had some understanding of it as myself, just sitting there listening to her. It put me in a little in-balance in terms of what I thought in the beginning. All I saw was words, wild and exotic. And, then I looked on their website and it said something about it started from a snake. But at any rate, anytime, something like this is coming in a residential community, and I think it is absurd to just make the decision of who was notified based on the lot next to it as industrial. The one is industrial. This is industrial. The community should be the governing factor. I know somewhere in the Staff report, I read about it being compatible with the community. How are they going to be compatible with the community when nobody notifies the community? And that is why we strive so hard to be a Suburban Focus Area or to get some level of control of what is coming upon us. Everything is coming from the outside in before the inside can even do anything to preserve itself. Are there any questions? Thank you.

Karen Kwasny: Our next speaker on this application is Andrew Jackson in opposition.

Andrew Jackson: To the Chair, Vice and Commission Members. Good afternoon. I am Andrew Jackson. I am a Chair of the African American Leadership Forum and look at petitions all over. I am also a combat veteran, from Korea to the end of Vietnam. One of the things that I think probably is more meaningful to me is I spent time fighting for the things that we call freedom and democracy. That brings me to this neighborhood. I personally, along with other folks, spent a lot of time over the last year trying to do everything possible to preserve the integrity of the neighborhood that is of a historical significance. I believe that, and I was kind of bewildered in terms of looking at this information here, exotic and wild animals. One of the things that I noticed and the young lady speaking was their drills. So if something does escape, which means there is an "if" that would mean that it is possible. That would mean it is possible for some animal or whatever type, snake, whatever, it doesn't make any difference to get free.

That also means that in a residential area you have something running loose free. I don't care if it is poisonous or not. I've seen enough snakes in my time. I don't ask the snake whether it is poisonous. I get away from the snake. And in a residential area like this where you have both elders and young folks. That is devastating. And everything that I've read is it recommend everywhere that you do not have exotic or wild animals within a residential area. Everything I've read. The other part of this is it seems like, I almost want to call Seatack, Trashmore III because it just seems like anything that no one else wants any place else, we'll just send it to Seatack. I don't understand that. It is a residential area and I would bet anything that if I ask each one of you here, would you like that next door to you? I don't think I wouldn't get a whole lot of yeses. So I guess I am saying I understand that everybody has their wants and likes and things they like to do but the place ought to be appropriate. It ought to be appropriately done in a place that does not limit or sacrifice somebody else's well-being. A residential place that you live, where you grow up. Your kids grew up here. Your grandparents grew up ought to be some place where you feel comfortable. And some of those folks now don't feel comfortable because they don't know what is going to come upon them. I would just ask this Commission to think about what you would want in your neighborhood or next door to you or what might possibly be loose if your kids, or grand kids or your parents, or someone else walks outdoors and there is snake or whatever. Would you feel comfortable with that in your neighborhood? That's the question. This is a neighborhood. It ought to be preserved, as such, and we went through a lot of process to make sure that would happen. So, I would ask you to keep that in mind. Thank you.

Bob Thornton: Thank you Mr. Jackson. Dr. Maxwell, would you like to come back and take a minute for rebuttal?

Angela Maxwell: Dr. Angela Maxwell. I have to say that again. Sorry. So, to address the first gentleman's concern, not only is our name on the marquee, which is on the street, we had a grand opening that was only for all of the neighbors. Myself, and one of our family volunteers took a flyer to every person on Jensen Drive, and adjoining Birdneck areas to include the three homes right out on Birdneck, and invited them all to come and in fact, our facility is the only facility in the world that is set up based on the standards of the zoo but it has absolutely no area where a guest cannot go. You can see how our protocols are implemented. We went to Seatack, and in fact, all of the community centers throughout Hampton Roads are provided free aftercare programs with, who is my boss is now the largest animal celebrity in Hampton Roads since a dog shaved like a lion got arrested. And, we provide to low income neighborhoods and green space with our 32-foot mobile outreach unit, free program in both green spaces and all community centers. We notified Seatack and invited them to come, and that was in September of 2016, and no one ever has ever come by. The second impact they posted the flyer in the community center because we are a non-profit. The second gentleman that is prejudice that we face as people who own what is construed as non-traditional pets. USDA classifies them as exotic. These are not animals that are illegally smuggled in to the country. These are animals that are purchased every day at the expos that are at the Convention Center at Hampton Road. They all have them throughout the United States. It is hard not to get agitated because the traditional pet is a dog and cat. Exotics, which is a classification from USDA, as that is not a phrase we came up with. I only represent 10 percent of animals in households but to that 10 percent.

Bob Thornton: Give us a quick wind up and that little red blinking light is on. Then we'll close the hearing and discuss it among ourselves.

Angela Maxwell: Sunny, the red Panda is terminally at large and I was one of the people who

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recommended to the zoo to be able to have that not happen again. It has happened five times. That is definitely. The Virginia Zoo is located in a heavily dense suburban neighborhood. We are not. And in fact, as a non-profit inspector, my attention to detail and diligence has stopped these things from happening if the facility's listen. Sorry, I talked a lot.

Bob Thornton: Thank you.

Angela Maxwell: I provide free programs to Seatack after care program of they ever ask. I do every community center.

Bob Thornton: Thank you. David?

Angela Maxwell:: We signed December, not this last year, but the previous year but because of the building's condition, it took us \$10,000, which the landlord never reimbursed use as instructed so we've been open, and have been seeing animals since May 12, 2016.

Bob Thornton: Mike?

Mike Inman: How many square feet do you occupy?

Angela Maxwell: 1,865 currently. But the whole entire second floor is a little activity room and it is where the volunteers have their break room and little human kitchen. We don't have any paid employees. It is all volunteers and interns. No one is paid.

Jack Wall: How did you choose that site on Jensen Drive?

Angela Maxwell: It was a site where we could get the proper zoning and they would rent to us. The prejudice against exotic animals is pretty substantial but the standards that we follow, we literally open this small facility as a beta test to show people the standards that you can implement any type of pet you wish to own and I welcome any one on the Planning Commission to come to the facility any time.

Bob Thornton: Dee?

Dee Oliver: You might have said it and I might have missed it. How many animals do you currently have?

Angela Maxwell: Right now, because we're primary education. We're really not what a traditional rescue. I think we've got maybe 10 all total between all species. If I was to include junior in everything?

Dee Oliver: He's the rabbit?

Angela Maxwell: Yeah. Junior is my boss. We'll be on Coastal Live March 6th at 10:00 am. Please turn in to Channel 3. My boss is personal ESA and he goes wherever I go. So, when I go back and forth to work, he goes with me.

Bob Thornton: Is there anybody else? Okay. Thank you. With that, I would like to close the public hearing and open a discussion up among the Commissioners. Jeff?

Jeff Hodgson: After hearing you, and I'm sitting here trying to figure out a reason why not to vote for

this, and I cannot come up with one. The chance of a cage does get open and one of the frogs hop out or a turtle crawls out or a chinchilla climbs out, the chances of it going to the Seatack Recreation Center or to house and mauling somebody, I think is very low. You have no venomous animals or reptiles. There are probably more copperheads and water moccasins behind the property then anything that you would have in there. I think that is something that the residents should be more concerned about than a non-venomous rat snake. So, I make a motion to approve this application.

Bob Thornton: Mike?

Mike Inman: I would like to say that we are very fortunate to have this operation in our community. I mean with all the outreach they are doing and the schools and providing internships and is obviously a pretty safe environment. The conditions don't allow animals to be released on the subject site or within the surrounding area. And it is in an industrial area. It is pretty much removed from any residential. It is totally industrial if you look Google maps, you can see where it is situated. It looks like pretty ideal location, very small as well, 1,800 square feet. It looks like a great application to me.

Bob Thornton: Did you second the motion?

Mike Inman: I'll second it.

Ron Ripley: I made the second.

Bob Thornton: A motion made by Jeff Hodgson and seconded by Ron Ripley to approve item 11.

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Ed Weeden: By a vote of 10-0, the Commission has approved the application of the Bunny Hutch, Inc.

Bob Thornton: Thank you for attending the meeting today. And with that, we will adjourn the February meeting.

Item #12
Virginia Beach Community Development Corporation
Modification of Conditions
5865 Pickering Street
District 2
Kempsville
February 8, 2017

DEFERRED

An application of Virginia Beach Community Development Corporation for a Modification of Conditions (Assembly Use) on property located at 5865 Pickering Street, District 2, Kempsville. GPIN: 1468-10-7265-0000.

A motion was made by Commissioner Oliver and seconded by Commissioner Horsley to defer item 12.

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 10-0, the Commission deferred item 12.

Item #D1

City of Virginia Beach

Modification of Conditions

North side of the Norfolk – Southern right-of-way, west of Air Station Drive

District 6

Beach

February 8, 2017

CONSENT

An application of the City of Virginia Beach for a Modification of Conditions (Borrow Pit) on property located on the north side of the Norfolk-Southern right-of-way, west of Air Station Drive, District 6, Beach. GPIN: 2407-34-6916-0000.

CONDITIONS

1. The hours of operation of the site shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. This condition may be suspended during times of emergency, such as large storm events and hurricanes. No mulching of materials shall occur when the Upper Wolfsnare house is open to the public for tours. This is generally noon to 4:00 p.m. on Wednesdays in July and August.
2. The limits of fill shall substantially adhere to the submitted site plan, except as noted below, titled "DREDGED MATERIAL DISPOSAL SITE, WOLFSNARE PROPERTY, Virginia Beach Public Works Department, City of Virginia Beach, Virginia", dated 10/12/01, revised 1/31/02, and prepared by Landmark Design Group. Said plan is on file with the City of Virginia Beach Planning Department.
3. The stormwater management ponds shall adhere to the natural design depicted on the END USE / LAND USE PLAN, prepared by City Staff and Landmark Design Group. Said plan is on file with the City of Virginia Beach Planning Department.
4. The fill operation shall begin at the eastern most portion of "Cell B" as conditioned by the City of Virginia Beach Historical Review Board on April 18, 2002.
5. Restoration of the site shall substantially adhere to the submitted "END USE / LAND USE PLAN, DREDGED MATERIAL DISPOSAL SITE," prepared by City Staff and Landmark Design Group. Said plan is on file with the City of Virginia Beach Planning Department.
6. Fencing around the site shall be "black vinyl coated" chain-link as depicted on the "END USE / LAND USE PLAN, DREDGED MATERIAL DISPOSAL SITE, prepared by City Staff and Landmark Design Group. Said plan is on file with the City of Virginia Beach Planning Department.
7. Based on Fire Department guidelines, the height of any pile of mulch shall be limited to 20 feet and shall be located no closer than 20 feet to any other pile of debris.
8. The Fire Department shall have access to the site at all times. Said debris shall be located away from power lines and ignition sources. The use of welding and other heat generating devices shall be restricted.

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

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 10-0, the Commission approved item D1 for consent.

John Barnes appeared before the Commission on behalf of the applicant.