

Item #1

5073 Virginia Beach Boulevard

Discontinuance, closure and abandonment of an unimproved strip of Euclid Road formerly
Broad Creek Road

District 4

Bayside

June 14, 2017

DEFERRED

An application of 5073 Virginia Beach Boulevard for a Discontinuance, closure and abandonment of a unimproved strip of Euclid Road formerly Broad Creek Road, District 4, Bayside. GPIN: 1467-85-8567-0000.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to defer item 1.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 11-0, the Commissioner deferred item 1.

Eddie Bourdon appeared before the Commission requesting the deferral.

Item #2
5073 Virginia Beach Boulevard
Modification of Conditions
5073 Virginia Beach Boulevard
District 4
Bayside
June 14, 2017

DEFERRED

An application of 5073 Virginia Beach Boulevard for a Modification of Conditions on property located at 5073 Virginia Beach Boulevard, District 4, Bayside. GPIN: 1467-85-8567-0000.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to defer item 2.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 11-0, the Commission has deferred item 2.

Eddie Bourdon appeared before the Commission requesting the deferral.

Item #3

David C. Brosius

Conditional Use Permit

Motor Vehicle Sales & Rental, Automobile Repair Garage & Bulk Storage

73. S. First Colonial Road

District 6

Beach

June 14, 2017

REGULAR

Bob Thornton: I would like to ask the Secretary to call the first item please.

Jan Rucinski: Applicant number 3 David C. Brosius. An application for a Conditional Use Permit, Motor Vehicle Sales & Rental, Automobile Repair Garage, and Bulk Storage on property located at 73 South First Colonial Road, District 6, Beach. Do we have a representative here? If you can come forward, and please state your name for the record?

David Brosius: I'm David Carl Brosius. Owner of Martin Auto Body Works.

Jan Rucinski: Okay. If you can explain your application?

David Brosius: I came to put up a new building and they told me that I wasn't zoned for an auto body shop on that property or bulk storage and I'm going through this process. And I've been here since 1978 and the business has been there since 1959, family owned it.

Jan Rucinski: Okay. Does anyone have any questions?

David Brosius: I was at the hearing this morning, and I heard everything that you want me to do. Keep the grass maintained and trim the trees. And I agree to all that. Someone mentioned about the privacy fence on the southeast corner, I think it was. I could put up a 50 foot privacy fence there if they need it. I'm willing to do that. And, they also want me to plant some trees between the warehouses. I much rather, if you would, maybe putting up a 12-foot privacy fence instead of planting trees. It would take longer for the trees to grow than me putting up a fence. And that is just to the warehouses where the people can't see, I already got a solid fence there. It is only a chain link fence which the City requires because I tow vehicles for the City of Virginia Beach Police and they require a chain link fence with barbed wire on the top. I got that and the privacy fence on that side and across the back.

Bob Thornton: Dee?

Dee Oliver: Show me the trees. I just want to make sure. Are they on the north side? There is a pointer right there.

David Brosius: This is where you're talking about putting trees and it is between two warehouses. Then there are trees all the way long here and all the way down here, and this is a chain link fence. This is all Verizon parking lot, and they have put more of these trailers over here now. They are really filling the place in. I don't know why. And this is all green. This is all green right up to there. Trees, shrubs. This is where I would like to build the 12-foot privacy fence instead of putting trees there.

Dee Oliver: What is up there right now? Is there a privacy fence?

David Brosius: It is a privacy fence with a chain link fence. Chain link runs all the way around the property. All the way, there is a gate right here, all the way around, down here, and all the way up to here. It is all chain link. And what I did, I made privacy inside that chain link all the way.

Bob Thornton: Jeff?

Jeff Hodgson: I go two quick questions. I think one of the concerns and I just want to make sure you're aware of it. One of the conditions, number 7, it says "Vehicles that are in a state of obvious disrepair shall be stored on a temporary basis no more than 90 days per vehicle". And we're looking at some of the photos and it seemed like it was obvious that some of them had been there for quite some time.

David Brosius: I understand that. I got rid 32 of them so far. I've got another 15 to go.

Jeff Hodgson: Great. Okay. And you brought up a point that I am not sure who to ask to this to; but you said that the police require you to have barbed wire around your lot for protection of the cars he is towing, but in here we have a statement that says "at any time that the fence is replaced, barbed wire is prohibited". How do you handle that? This isn't for you. This is for Staff.

Kevin Kemp: We have heard that in the past that the police do require . We have had other applications similar where they had a barbed wire fence and a privacy fence. I will say that barbed wire fence is not prohibited in an industrial district the way it is in a residential or apartment but if that is a requirement, we have in the past had a condition that he has on the northern property line where there is a privacy fence and barbed wire.

Jeff Hodgson: I don't know if you need to make changes to this condition that says if he removes the fence, he can't put this back that he be required t...

Kay Wilson: Mr. Hodgson, we will work that out between now and Council making sure that we know the requirements for the Police Department.

Jeff Hodgson: Okay.

Bob Thornton: Jack?

Jack Wall: I just have one question. I think it was discussed about the landscaping and it was conditioned to infill the existing landscaping. Right now that site is very well straightened. It is very tucked away and I am glad it is being cleaned up but I'm just curious about the condition.

Kevin Kemp: Yes, in the break, the Staff actually drafted a condition, if you want to look at it? It is not typed out, and I handed a copy to Chairman Thornton that believes covers this and that in the future that buffer and that screening be kept at an acceptable level.

Jack Wall: Maybe I just missed it.

Bob Thornton: I haven't read it to you yet. It is not your fault. I wanted to get the questions out of the way. Is there anything from this side?

Jeff Hodgson: I was going to make a motion.

Bob Thornton: Did that answer your question Jack?

Jack Wall: yes sir.

Bob Thornton: Let me read this you and if you are all okay with this, it will be put into the record because we didn't have chance to amend the conditions. It would supplement condition 15 and it would read as follows "the supplemental landscaping existing or proposed shall be installed and maintained to provide equal or greater screening from adjacent properties as the required Category 6 landscaping". It is almost the same as what you're reading in here now but the Zoning Administrator felt that this gave him a little more leverage just in case they found that it wasn't exactly up to code. If you're comfortable and if you would like to see it, I'll be more than happy to hand it to you. Here take this. What we want to do is substitute what's in this write up with what you have there. Is that correct Kevin?

Kevin Kemp: That is correct. And the way that condition is worded just gives some flexibility to address the existing landscaping and what his intentions are if he has to replant it. It allows the City to look at that and make sure it meets the intent of the ordinance.

Bob Thornton: Okay. So are you okay with that?

David Brosius: I'm okay with it. It is looking great. I think that is what you're saying.

Bob Thornton: That is what we think we're saying too.

Jack Wall: To maintain means keep the existing landscaping, not to take it out.

David Brosius: I'm not going to take it out. I'm cleaning it all up. And I have a fence question. Can I build a higher fence for privacy or not?

Bob Thornton: I would say. How do we deal with that? Is that part of the site plan review or do we want to condition it now?

Kevin Kemp: The City has a maximum height for fence of eight feet in our ordinance, so; that would have to be buried in the request.

David Brosius: So, if I do an 8-foot, I would need a variance.

Bob Thornton: That is correct.

Kevin Kemp: If you do an 8-foot.

David Brosius: Can I do an 8-foot fence instead of planting the trees.

Bob Thornton: I think you can do that by-right. But I don't know if that would be in addition in lieu of the landscaping. We want to keep the landscaping verbage like we just gave you and you decide if you want to build a fence as long as it is your right, by-right you can build a fence.

The fence may mitigate some of the need for additional landscaping but they are going to look at the landscaping ordinance to make sure you're complying with it.

David Brosius: I'll put the fence up, and see what they say, I guess.

Bob Thornton: Do you have any more to add Kevin?

Kevin Kemp: No, as long as the fence doesn't exceed eight feet. He won't need a permit so he can install that fence.

David Brosius: Okay. Thank you>

Jeff Hodgson: Mr. Chairman.

Bob Thornton: Yes sir.

Jeff Hodgson: If there are no other questions, I would like to make a motion to approve agenda item 3.

Bob Thornton: Let me ask Kay. Do we need to close the public hearing before we move on the motion?

Kay Wilson: You can do so yes.

Bob Thornton: We can just accept it now.

Kay Wilson: You close the public hearing and then you get a motion.

Bob Thornton: We declare the public hearing closed, and I would like a motion.

Jeff Hodgson: We don't have any speakers against this I assume.

Jan Rucinski: No.

Kevin Kemp: I have just one more tiny housekeeping issue. On the condition 14 about the fence, I would suggest we add in the word "minimal" in front of that six foot fence, it would allow him to go up to 8-foot fence.

Bob Thornton: So, we have a motion to approve. Make the motion and we'll get a second.

Jeff Hodgson: I make a motion to approve agenda item 3 adding in the change for condition 15, which the Chairman read in and inserting the word "minimum" in front of six-foot.

Item #3
David C. Brosius
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Bob Thornton: Do I have a second for that?

Donald Horsley: Second

Bob Thornton: A second by Don Horsley.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 11-0, the Commission approved item 3 with the amendments to conditions 14 & 15.

Item #4

C & J Investors, L.L.C.

Conditional Rezoning

R-10 Residential to Conditional PD-H2 with underlying A-12 Apartment District

1725 & 1733 Salem Road

District 1

Centerville

June 14, 2017

REGULAR

Bob Thornton: Okay, Ms. Secretary, call the next matter.

Jan Rucinski: The next item is item 4, C & J Investors, L.L.C. for a Conditional Rezoning R-10 Residential to Conditional PD-H2 with underlying A-12 Apartment District on property located at 1725 & 1733 Salem Road, District 1, Centerville. And there is our representative.

Eddie Bourdon: Thank you Ms. Rucinski. Thank you very much. Mr. Chairman, members of the Commission, again, Eddie Bourdon, A Virginia Beach attorney representing the applicants. Jonathan Spade, Chris and Joe McCutchen are all with us this afternoon, along with Bob Miller. His firm did the preliminary stormwater analysis that was presented to Staff. I think that Mr. McNamara did an excellent job in the informal briefing condition on the application. The proposal for the townhome condominium units, all of which the impervious surface construction is all outside, completely and totally outside of the floodplain on the property. The property has 55 percent open space, as proposed. The open space is high land in terms in not being a swamp. It is in a floodplain, for the most part, but it is in dry other than when there is a flood. There are some upper non-tidal wetlands on the back of the property but those too are dry. The water table is high. There is some vegetation but we are not even near any of that. None of that is being disturbed whatsoever with this proposal, with this application. The price point on the units \$250-\$260, are the price points that we anticipate. We've provided connectivity. We abided by the Southern Watersheds. We do have backyards of the units that are in it. That is all. There is a specific proffer that no structures will be placed in those backyards. I did meet about a month ago with the Board of Directors that South Hampton Salem Springs, across the large ditch, a canal between the two properties. I had the pleasure of representing the Dragas Companies when that property was rezoned. The Montz family had owned it to that time. That zoning came along with the change in our ordinance that created these floodplains Subject to Special Exceptions, or Special restrictions. And there was quite a substantial floodplain variance that was part of that approval. In fact, you can kind of see the floodplain in there was floodplain here too, but mitigation was created on site as part of that. Obviously, we don't need any of that. We're not approaching the floodplain. And, I will also say that the meeting was an excellent meeting with the folks that attended. There were six or seven community members on the Board. They were pleased that these two units that are close to us, and you they got their own buffer area plus the 50 foot where the small canal is located. You can't even see what's going on over there, for one thing. Prices are in line or a better to what their user currently is selling for. None of their properties had any water in them from Matthew whatsoever. They did have water standing water in the street, and things of that nature, so; what they expressed to me and I encourage them to write to you all because this thing it does need to be addressed. I still don't know to this day quite understand how we got a four lane highway that was built by VDOT, with a stormwater BMP for that public water that discharges into this canal, yet it is not owned by the State or the City, and I'm not sure there is a drainage easement over it. It also drains development on the east side of Salem

Road. I believe it even gets some of the drainage from the Spence Farm development that is taking place. So, because what they were telling me was that they would make phone calls about limbs and things being in the ditch because I walked the whole thing. Some of them did maintain it because it is not blocked at all now, but they would call and it be told, well it is not our responsibility. We don't own it. That is just not right. Our discharge, our BMP is totally outside the floodplain. We will either discharge in here or we will discharge into the large Salem canal, and will not cause anybody any flooding issues or flooding problems. We are 100 percent certain of that. Now, this morning, I want to address Commissioner Wall asked a question. We would like to point out that we need to have little bigger zoning maps in our write ups. On the north side of South Hampton Salem Springs is another A-12 PD-H, across Spence Farm, on the other side of Salem Road A-12 PD-H, and south of this is an undeveloped piece, and on the corner there is an A-18 PD-H. So, there is A-12, A-18 and there is higher density, by far, than what this is at six. You're not showing it on here, but there is a residential development that is, I think it is an A-12 PD-H, there is an A-12 PD-H, and then down here there is an A-18 PD-H, and our density is 6.2 per acre with South Hampton is 5.2 units per acre over here, and a PD-H A-18 down here has, I believe it is a little up north at 12. It is not 18 units per acre, so; it is absolutely in keeping, in terms of density numbers, and in this case, it is environmentally sensitive as it can possibly be as the BMP and all the developments completely outside. All impervious surfaces are completely outside of the floodplain. And it will not cause any flooding. Now what came up in the informal, two things that I've spoken to my clients about with regards to Mr. Ripley's concern. These are two story units. They are not three story units like Chimney Hill like some of the thing you see on Shore Drive so the profile is a lot lower because they are two story units. But, what we would propose to do between now and city Council, we can back these lots, these units back There is plenty of setback here, so we can back those up two feet , and on this side, we will stagger the units so that one is two-feet further out than the other, so you don't have that flat feel. We can also put banding on the back of the building to break up the two-stories. We got dormers already on those particular building. We added those already, and then we can also use some cedar shake, first cedar shake, which we have on the front we can do that on the back. We can break up the material with the first cedar and then the regular high quality vinyl. As per the other request, as far as doing hardi-plank, the applicants are unwilling to do that because their price point, and this area is different at \$250,000-\$260,000, so the high quality vinyl and the first cedar, as well as, the racine metal, bricks skirts on the bottoms is all they're amenable to doing as far as building materials are concerned. I don't believe there is any opposition. The folks I met with they were pleased. They didn't have any complaints of what we were proposing. They were very happy that we weren't going anywhere in the floodplain but they were concerned, and I encourage them to write. It has been a long time I couldn't comprehend anybody suggesting that canal and its maintenance wasn't a City responsibility or a State responsibility because we're putting all kinds of public water through that canal.

Bob Thornton: Ron?

Ronald Ripley: Mr. Bourdon, I am glad you put that on the record because I think, I believe that. I believe some of the other Commissions believe that as well. The determination of who is responsible for that drainage is really important because it is not one person using it, one property using it, it is several. I am sure anybody that lives in there that was around that would look to the City because they would be the logical person to be responsible, so for the record, I think, hopefully City Council will take note, City Manager will take note, the Planning Staff will determine and make recommendations so that it is really clear to the public. But thank you.

Eddie Bourdon: It has been a long time, and I've never come across the City or anybody aware you got undeniably all kinds of public water going through there and again, I wasn't a part of this telephone conversation that they related to me but I believe the City is maintaining it frankly, but there shouldn't be any ambiguity of that.

Ronald Ripley: I appreciate the modification of the elevations. That is very helpful. I think to stagger them and material and ban will probably plus the berming and the things that will go on that will be good. I would like for them to reconsider the Hardi-plank because I think. Hardi-plank is not going to add that much more cost. But I hear what you say about price point. And you mentioned the two

Eddie Bourdon: \$225,000-\$260,000, \$225,000-\$250,000.

Ronald Ripley: I can understand from a builder's eye that he cares.

Eddie Bourdon: Salem Springs was there. Their units are actually, from what I was told, there was selling less than that at this point, not tremendously less but less than that.

Ronald Ripley: The final that you're proposing is a cedar shake look.

Eddie Bourdon: A first cedar, old cedar shake vinyl and then there is some high quality vinyl and they are both, we would add to the amount of the first cedar vinyl. On the title pictures that are in the report, you can see where the cedar vinyl is. It is a very good look. Folks at the North End and Shore Drive area there is a lot of that first cedar. It looks very practical. That is the extent to which they are willing to modify the building materials.

Bob Thornton: Any more questions for Mr. Bourdon? Dee?

Dee Oliver: I feel really strongly about that Hardi-plank only because in of the developments that we had coming forward as you know, you've been a party to most of them, along with just the 7-Eleven that we are trying our very hardest to change the look of a lot our new developments so they have a better appearance.

Eddie Bourdon: I would say to you this. I'm just the messenger but I would also say to you that where the quality of the vinyl product is much better than it was 15 or 20 years ago, but most importantly it is the run, the flat more run of vinyl that tends to have a very poor quality appearance. When you break it up and you have smaller sections and with banding and it is broken up, it does not look like the stuff that you and I would point of as that looks cheap. And, it isn't all about. I'm not suggesting that vinyl and hardi-plank are the same, but it is really the way it is utilized. And, the stuff that looks bad is where you have as Ron was talking this morning, four units flat across, you got bands of vinyl along the entire length of the building. That is where you intend to have a lesser quality appearance.

Dee Oliver: Correct. I guess as we drive through our City tours, we have seen lots of developments with the vinyl siding and we watch it fall apart basically. It becomes an eyesore. It is hard to maintain.

Eddie Bourdon: Also, when you also have it as a condominium, and I'm not going to sit here and tell you that every condominium look great but again, a lot of the stuff that is really aged poorly and hasn't been

maintained are the fee simple townhomes, and that is why you don't approve any more fee simple townhomes, because the exterior of the condos is controlled by the Association, and they have to do the replacement as it deteriorates, so there is another layer. Every pile across the board applies to all of them, so; again, I am not trying to argue.

Dee Oliver: I understand.

Eddie Bourdon: to give you some perspective that is not all vinyl that turns out. It is how it is being maintained.

Bob Thornton: Are there any other questions for Mr. Bourdon? Thank you.

Eddie Bourdon: Thank you.

Bob Thornton: With that, we will close the public hearing.

Jan Rucinski: No, we have one speaker in opposition.

Bob Thornton: Okay, I'm sorry. Sorry.

Jan Rucinski: Vaughn Williams. If you will please state your name for the record?

Vaughn Williams: The name is Vaughn Williams. I live at 4468 Salem Springs Way. I appear in opposition in terms of the drainage. Now, I live...

Jan Rucinski: You have to hold it (talking about laser pointer).

Eddie Bourdon: Are you talking about the second house?

Vaughn Williams: Which one? No. The next one. Right there. I've lived there for 15 years. We've had two floods almost floods to our house, the last one. I have a picture of it, from Matthew. The water came down the street and ended up six inches from my front step. Okay? The canal going down in the back here, my wife and I in 2005, which we were in our den, we heard an explosion. It was a lightning bolt that split a tree and put the tree inside that canal. It is blocking the canal now. There have been Wisteria growing for the last 13 years and that Wisteria has caught on to that street and onto the trees on both sides of the canal. So it is blocking and beginning to block that canal. Okay. Drainage wise, when Matthew came along, the water from, because I could look out my back den window, the water from. My house is right here. Now, water from the field back here was two feet under water from Matthew. The water came down the street and it is on a three degree angle, and it came right toward my house. The water from the back from the field back here was 2 to 3 feet, it went to the canal and the canal was six inches from the top. Now, the reason why the water didn't run over the canal was because some of the water coming out of the field here went forward to the church parking lot and to where the church is. So, it didn't disburse totally off in the canal coming back on to my side of the property. When you're putting in the new housing, the water is not going to be able to disburse through the church the parking lot or not, all of that area is going to be blocked, now it is going to have to disburse to the side, which is a canal and on the other side. And that canal, when someone looks at it will find a dead tree that has

been there for the last 10-12 years and it is blocked. Now we tried, I tried to find out because asking the Board of Directors, our Association, they want to go find out, supposedly that canal is owned by an individual. They gave me a name of an individual and an address, which doesn't seem to exist. So, I'm concerned that the drainage, no matter what they say, the front of it is going to be the buildings but the back field where it comes off the canal. The other concern that I have is they are asking for a variance to have the property run for Salem all the way back to the canal. Well, there is wetlands back there. There is woodland back there. So, that variance, either you can't build on it or in the future, someone is going to say we got a variance for that residential area, and we're going to be able to build on it. I don't have a problem with the variance for the residential doing to the front of the place but to have it change the residential along the side of the canal a long side that little small creek back to the canal...

Bob Thornton: Your time is up. Can you wind this up?

Vaughn Williams: Okay. It is really a problem, and no one has really looked at it and nobody has looked at the canal that is now being field with trees and debris and with wisteria.

Bob Thornton: Okay, thank you.

Vaughn Williams: Okay.

Bob Thornton: Thank you. Does anybody have any questions? I don't see any. Stand by. We might have something for you. Okay, Mr. Bourdon?

Eddie Bourdon: Thank you Mr. Chairman. Certainly appreciate Mr. Williams. A couple of important points. I think on the last point that Mr. Williams is misunderstanding what's in the write up. All of the area and Mr. Williams' property is here, and this is as far back as development goes, this will be the BMP. We are not seeking and cannot under this rezoning, all of the property from this point back which is about where there is a shed. If you look at the overhead aerial there is a little shed in the church right here. That is as far back as we are going with any development in the floodplain is back here, where Mr. Williams is saying he saw water standing. I'm not sure of the depth of water and that is where the water would be, that is where the floodplain is, and that is where it was flooding. We are not going anywhere near that. Everything we are doing including the BMP is outside the floodplain, so and there is zero. All this is in perpetuity unless City Council changes it remains a natural open area. Nothing can be built on it and that cannot happen so, I'm not really a 100 percent sure what the misunderstanding concerns but there is nothing that would be happening with the piece of property at all other than essentially from here forward and the BMP behind it, again, outside the floodplain. And the water from the development has to be treated by the BMP and the rate of discharge and volume of discharge into a receding body, be it Salem canal or the smaller canal cannot exceed predevelopment rate of discharge. So, under the new stormwater regulations, which are much more stringent, than what Salem Springs developed under or the property to the north developed under, there is really not any chance this is going to cause flooding over there. The other point that Mr. Williams made, and I've already address, and totally agree with. And, I didn't see the tree that was down but the members of the board were very clear, and they were concerned about the Wisteria and the blockage of that canal. We share that concern that should be addressed but were not the makers of that issue.

Bob Thornton: Yes, Mr. Ripley?

Ronald Ripley: Could Mr. Miller come up since he is the engineer?

Bob Miller: Good morning. Bob Miller, professional engineer. I thought Mr. Bourdon became a quite good engineer just a minute ago. I told my clients that I was no longer necessary.

Ronald Ripley: You performed a preliminary drainage study?

Bob Miller: Yes.

Ronald Ripley: Can you talk about that? Can you talk about what seems to be a concern about drainage? How you're going to handle the drainage. Will the water also be designed to stay on site?

Bob Miller: We're required as I think all of you know now to do the preliminary drainage studies. We got to look at the ten year storms, 25 year storms, 50 year storms, 50, years, and 100 year storms.

Ronald Ripley: Which is brand new?

Bob Miller: Which is fairly new. I think I was the first one back with the Indian River Road project that we had; so, what we do is obviously subordinate ourselves to DSC and the Public Works people to make sure that the engineering is done in a way that is acceptable to them. The current site, I once shot myself in the eye with this thing. There is no BMP for the church, and the existing parking lot. That was done in probably the 70s or the 80s, and it wasn't done by me. But whoever did that, there was no BMP. So, we got a BMP now and this is actually going to be a dry BMP, which means that the water table in that particular part of the site, but down further, the water table is much higher, and you go down to the Salem canal but up in this area it is farther down, so; we'll have a dry BMP. During a storm event, it will fill with water and we have accounted for everything for the 100 year storm, and my engineers the 10 year storm is a light reduction of an the 100 year storm is about 11 percent reduction of the runoff that is going off of there right now. So, we have reduced the runoff by being able to retain it in this BMP. The water will come directly to the BMP, all the water from our site.

Ronald Ripley: So the water will rise up an out fall and it will spill into that?

Bob Miller: Well, I love engineers. Multi -stage weir. Does that sound important?

Dave Redmond: It does.

Bob Miller: Let me explain that to you. What we do is we drain off, we'll have a hole in the weir of the riser pipe and one of the pieces will allow for the 10 year storm as it gets, as the storm gets higher up to and including the 100 year storm, there will be a different outlet structure but it will allow the outlet over a period of time, not during most casts, during the storm event will actually not be discharging but will be putting up the BMP.

Ronald Ripley: What do you think it will look like if Mathew would have occurred in this development had already been there? Do you think it would drain back into that property like that?

Bob Miller: Do you want me to explain this multi stage weir again. What happens is that when a storm like Matthew hits, there is so much intensity from a rain fall. Just take a one typically we have an August thunderstorm where we get a couple inches of rain in an hour, I mean it is just super intense. The water is going to be sitting in these driveway, drive aisles, not in the driveways, because the system is not, the inlets don't take in that big storm event that fast. Over the period of Matthew occurs, this would be cold water, there might be some water in some cases, where the stormwater drain inlets are but all the finish forward here are going to be 2 – 2 ½ feet above the FEMA elevations so nothing will be, in most cases, nothing in the driveway. Undeniably there will be water out on the street. There is water everywhere when an event like that happens. There is no place. You just can't suck it into the system. The pipes are not big enough. The inlets, they are not going to take it in that fast. I forgot Mr. Wall was here. He could explain multi stage weir stage too.

Mike Inman: I think Ron's concern is not going on to adjacent properties.

Bob Miller: It is not. Right now it is going hit or miss wherever it wants to because there is no BMP system set up to drain directly to that canal.

Mike Inman: Thank you.

Bob Thornton: Are there any other questions for Mr. Miller? Thank you.

Jan Rucinski: There are no other speakers.

Bob Thornton: Okay, then we will close the public hearing and talk amongst ourselves. Does anybody have any thoughts to bring forth? Jeff?

Jeff Hodgson: I hope this application brought some awareness, which, I think it did. This ditch is a mystery to everybody. Hopefully now, we can kind of get to the bottom of who owns it and who needs to maintain it. And it will get a better situation moving forward. I can also say the Culpepper's built a number of houses in my neighborhood and they are top notch products. I kind of which he would have built my house but he does a very, very fine job that the products he does build. I understand both of your comments about the Hardi-plank and I do agree with Eddie too that when you have shorter runs on a house, it is much less noticeable then when you have a whole side of and you have the whole back of the unit done in one linear vinyl. So, I'm one to support this application.

Bob Thornton: Mike?

Mike Inman: I want to support what Eddie had to say also about the maintenance aspect of it representing a lot of Condominiums Association and HOAs. I can tell you that with the maintenance responsibility on the Association to the exterior of the structures, it intends to get attended to because there is money put a side. There is a program for maintenance that encompasses all the buildings and it is not a one by one basis as it would be in a townhouse community where you're depending on everybody putting a side their own money, and stepping up at the right time to take care of their property. So, I think there will be some consistency and quality and maintenance that would allow for the use of the materials that he is proposing would be fine.

Bob Thornton: Jan and then Ron.

Jan Rucinski: Do we put something in the conditions that will not hold to making the backs on Salem Road offset as opposed to...

Kay Wilson: This does not have any conditions. It is a conditional rezoning.

Eddie Bourdon: If I may? For the record, we will make those revisions in conjunction with Staff and be happy to share it with any Commission members before we go to City Council. So, Staff will be able to share them with you, the changes that we spoke of on the rear of those units on Salem Road.

Jan Rucinski: Okay. Thank you.

Bob Thornton: Okay. Ron?

Ronald Ripley: No.

Bob Thornton: Is there anybody else? Karen?

Karen Kwasny: I don't know if I asked Bob this question or not still in relation to the engineering that he was talking about?

Bob Thornton: I think so.

Bob Miller: Yes ma'am.

Karen Kwasny: So it is just mostly in relation to the gentleman speaker who came up in opposition. I think perhaps more concerned to what degree because this was not engineered to address stormwater management previously is what I understand you're using?

Bob Miller: Correct.

Karen Kwasny: And that the varying weir. I understand it completely. I don't know if that is the terminology but the rear and the BMP are the driving BMP are going to significantly address the site in the way it hasn't been addressed before.

Bob Miller: Correct. Yes ma'am.

Karen Kwasny: So, he will have some degree of relief from whatever he was seeing back there.

Bob Miller: Yes, on our property it wouldn't be a flood. We are outside the floodplain.

Karen Kwasny: In witnessing in terms of the standing water on the site during storm events like Matthew, it will not be to that degree because you have something on site addressing it now.

Bob Miller: Right, on our site.

Karen Kwasny: On your site. Okay, that is all that I have for you but I did have an additional question.

Bob Thornton: Go ahead.

Karen Kwasny: How can what this application is doing offset, and I don't know if it can so just forgive me if it is an ignorant question but to what degree to what is being seen done on the site affect knowledge of the ownership of that ditch that is not necessarily part of this problem but effecting. It's been a good part of our discussion so I'm wondering how this application can affect the ownership of that ditch, maybe not at all? Is that the case?

Barry Frankenfield: Mr. Chairman, we will and if you give me the address, we will report to Public Works and make sure it is investigated and followed up, and more than likely it will be appropriate if they clean it up.

Karen Kwasny: Right, because we would have problems.

Barry Frankenfield: We will handle it.

Mike Inman: Are you talking about maintenance or ownership?

Karen Kwasny: Ownership, because once we know ownership, we might be able to determine whether it's the private owner who has to maintain it.

Mike Inman: That is a real estate title issue. It has to be researched.

Barry Frankenfield: We agree with Mr. Bourdon. More than likely the City will have some responsibility but we will look into it and we'll, if you want to we will get back to you, but it is totally appropriate, we will handle it.

Bob Thornton: Dave had a question.

Dave Redmond: I was going to move approval of the application.

Dee Oliver: I got one last ditch question. You're suggesting that the tree fell into the canal and that obviously that is going to cause a problem upstream and downstream, and as the ditch feeds into this canal, obviously it is privately owned, how does that get addressed?

Barry Frankenfield: The same way.

Dee Oliver: Okay.

Barry Frankenfield: We're going to address it.

Dee Oliver: That is just the obvious way!

Bob Thornton: Dave?

Mike Inman: I'll second the motion.

Item #4
C & J Investors, L.L.C.
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Dave Redmond: I move approval of the application.

Bob Thornton: A motion made to approve it and seconded by Mr. Inman. The vote is open.

David Winer: I need to abstain on this. The developer is my partner.

Bob Thornton: I also need to abstain too.

Kay Wilson: Mr. Thornton, the reason for your abstention?

Bob Thornton: My company is working on this project. We are representing the landowner.

Kay Wilson: Thank you.

Ed Weeden: The vote is open.

	AYE 9	NAY 0	ABS 2	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
REDMOND	AYE			
RUCINSKI	AYE			
THORNTON			ABS	
WALL	AYE			
WEINER			ABS	

Ed Weeden: By a vote of 9-0-2, with the abstentions so noted, the application of C & J Investors, L.L.C. has been approved.

Bob Thornton: Thank you.

Item #5
Mirasol, L.L.C.
Change of Zoning
Adjacent to Mirasol Drive, Adjacent to North & South of Nimmo Parkway
District 7
Princess Anne
June 14, 2017

CONSENT

An application of Mirasol, L.L.C. for a Change of Zoning (Conditional R-7.5 Residential to P-1 Preservation) on property located adjacent to Mirasol Drive, and adjacent to North & South of Nimmo Parkway, District 7, Princess Anne. GPINS: 2414-74-1539-0000; 2414-75-8288-0000.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item 5.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

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

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

Item #6
Two Farms, Inc.
Modification of Conditions
2150 Centerville Turnpike
District 1
Centerville
June 14, 2017

DEFERRED

An application of Two Farms, Inc. for a Modification of Conditions on property located at 2150 Centerville Turnpike, District 1, Centerville. GPIN: 1454-98-9315-0000.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to defer item 6.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 11-0, the Commission deferred item 6.

R.J. Nutter appeared before the Commission requesting the deferral.

Item #7
G. Kyle & Amanda B. Gift
Subdivision Variance
1325 Lynnwood Drive
District 5
Lynnhaven
June 14, 2017

CONSENT

An application of G. Kyle & Amanda B. Gift for a Subdivision Variance (Section 4.4 (b) of the Subdivision Regulations on property located at 1325 Lynnwood Drive, District 5, Lynnhaven. GPIN: 1488-88-1351-0000.

CONDITIONS

1. When the property is subdivided, it shall be in substantial conformance with the layout depicted on the plat entitled "Preliminary Subdivision of Property Site 1 (Roper Tract) Plat of Property of D. W. Gregory & Others" prepared by Gallup Surveyors & Engineers, LTD dated March 30, 2017, with no more than two parcels - Lot A-1 and Lot B-1. Said plat has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
2. Any residential dwelling constructed on Lot A-1 and Lot B-1 shall be in substantial conformance with the quality of the surrounding neighborhood.

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

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGESON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

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

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

Item #8
Starbucks Coffee Company
Alternative Compliance
501 Laskin Road
District 6
Beach
June 14, 2017

CONSENT

An application of Starbucks Coffee Company for an Alternative Compliance on property located at 501 Laskin Road, District 6, Beach. GPIN: 2418-91-4769-0000.

CONDITIONS

1. With the exception of any modifications required by any of these conditions or as a result of development site plan review, the improvements to the site shall be substantially as shown on the submitted exhibits, titled, "STARBUCKS COFFEE COMPANY, PLANT PALETTE," "STARBUCKS COFFEE COMPANY, LANDSCAPE PLAN," and "STARBUCKS COFFEE COMPANY, SITE PLAN," dated 05/08/2017, as prepared by Timmons Group. Said drawings have been exhibited to the City Council and are on file in the Department of Planning.
2. With the exception of any modifications required by any of these conditions or as a result of reviews under the Virginia Construction Code or as part of the final site plan review, the structure the structure shall be substantially as shown on the submitted architectural exhibit package titled, "SCHEMATIC DESIGN PHASE 1," dated 04.13.2017, as prepared by the Starbucks Coffee Company Miami Studios. Said drawings have been exhibited to the City Council and are on file in the Department of Planning.
3. At the time of installation, and during subsequent maintenance and/or replacement of the plant material on the site, the planting plan shall be substantially as shown in the exhibits referenced in Condition #1. All plant material must be maintained in good health. Any landscaping that fails to grow or is determined to be in poor health shall be replaced with a type and quantity of plantings that is similar to and meets the same intent as the plants shown in the exhibits referenced in Condition #1.
4. All mechanical equipment shall be screened from view from the public right-of-way. The location and screening of receptacles for trash and recycling shall follow the applicable City standards. The trash enclosure shall be comprised of materials included in the architectural exhibit package referenced in Condition #2.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item 8.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			

Item #8
Starbucks Coffee Company
Page 2

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

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

Lisa Sunderland appeared before the Commission on behalf of the applicant.

Item #11
Bickford of Virginia Beach, LLC
Conditional Rezoning (AG-2, O-2 & Conditional B-2 to Conditional O-2)
Conditional Use Permit (Housing for Seniors and Disabled Persons)
2625 & 2629 Princess Anne Road & a portion of 2476 Nimmo Parkway
District 7
Princess Anne
June 14, 2017

DEFERRED

An application of Bickford of Virginia Beach, L.L.C. for a Conditional Rezoning (AG-2, O-2 & Conditional B-2 to Conditional O-2 and a Conditional Use Permit (Housing for Seniors and Disable Persons) on property located at 2625 & 2629 Princess Anne Road, District 7, Princess Anne. GPINS: 1494644297; 1494646109; and a portion of 1494633417).

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to defer item 11.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

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

Item #12
Scarlet Dawn Windley
Conditional Use Permit
3833 Jousting Arch
District 7
Princess Anne
June 14, 2017

CONSENT

An application of Scarlet Dawn Windley for a Conditional use Permit (Home-Based Wildlife Rehabilitation Facility) on property located at 3833 Jousting Arch, District 7, Princess Anne. GPIN: 1484-19-6909-0000.

CONDITIONS

1. The applicant shall comply with all of the provisions of Section 242.3 of the City Zoning Ordinance pertaining to a Home-Based Wildlife Rehabilitation Facility.
2. No animals shall be dropped-off between the hours of 10:00 p.m. and 7:00 a.m.
3. No animals shall be released at the subject site or within the neighborhood.
4. The applicant shall maintain the existing six-foot high privacy fence that encloses the backyard, such that all activity and all structures associated with the Home-Based Wildlife Rehabilitation Facility are screened from view.
5. Pre-release cages, depicted on the site layout, shall be equipped with a double-door system for the protection of the handler and of the wildlife.
6. All wildlife kept on site shall be properly vaccinated for rabies and proof of rabies immunization shall be kept onsite.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item 12.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			

Item #12
Scarlet Dawn Windley
Page 2

WEINER

AYE

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

The applicant Scarlet Dawn Windley appeared before the Commission.

Item #13
Infotech, L.L.C.
Conditional Use Permit
100 Constitution Drive
District 5
Lynnhaven
June 14, 2017

CONSENT

An application of Infotech, L.L.C. for a Conditional Use Permit (Business and Vocational School) on property located at 100 Constitution Drive, District 5, Lynnhaven. GPIN: 1477-63-3810-0000.

CONDITIONS

1. The Vocational School shall operate from the existing two-story building depicted on the submitted site layout entitled, "ALTA/ACSM LAND TITLE SURVEY OF LOTS 70-73 & THE EASTERN PORTION OF LOT 69 PART OF THE PORTER SHELDON FARM (MB 5, PG 46) FOR 100 CONSTITUTION DRIVE ASSOCIATES, L.L.C.," dated January 14, 2015 and prepared by MSA, P.C.
2. Any additional 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 Rucinski to approve item 13.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

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

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

Item #14

City of Virginia Beach

An Ordinance to Amend Sections 111, 207, 232, 301 (Preservation District), 401 (Agricultural Districts), 501 (Residential Districts), 601 (Apartment Districts), 701 (Hotel Districts), 801 (Office Districts), 901 (Business Districts), 1001 (Industrial Districts), 1501 (RT-1 Resort Tourist District), 1521 (RT-3 Resort Tourist District), 2203 (Central Business Core Districts), and the Oceanfront Resort District Form-Based Code Sections 5.2 and 5.3.17 pertaining to Small Wireless Facilities and definitions, requirements and uses

June 14, 2017

CONSENT

An Ordinance to Amend Sections 111, 207, 232, 301 (Preservation District), 401 (Agricultural Districts), 501 (Residential Districts), 601 (Apartment Districts), 701 (Hotel Districts), 801 (Office Districts), 901 (Business Districts), 1001 (Industrial Districts), 1501 (RT-1 Resort Tourist District), 1521 (RT-3 Resort Tourist District), 2203 (Central Business Core Districts), and the Oceanfront Resort District Form-Based Code Sections 5.2 and 5.3.17 pertaining to Small Wireless Facilities and definitions, requirements and uses.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item 14.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

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

Kevin Kemp appeared before the Commission.

Item #15

City of Virginia Beach

An Ordinance to Amend Section 103 of the City Zoning Ordinance pertaining to notice to property owners of appeals to the Board of Zoning Appeals

June 14, 2017

CONSENT

An Ordinance to Amend Section 103 of the City Zoning Ordinance pertaining to notice to property owners of appeals to the Board of Zoning Appeals.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item 15.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

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

Kevin Kemp appeared before the Commission.

Item #16
Roy Wright & Jamie Short
Enlargement of a Non-Conformity
2541 Beaufort Avenue
District 4
Bayside
June 14, 2017

WITHDRAWN

An application of Roy Wright and Jamie Short for a Enlargement of a Non-Conformity on property located at 2541 Beaufort Avenue, District 4, Bayside. GPIN: 1570-52-0727-0000.

A motion was made by Commissioner Oliver and seconded by Commissioner Inman to withdraw item 16.

	AYE 11	NAY 0	ABS 0	ABSENT 0
HODSGON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 11-0, the Commission withdrew item 16.

Item #D1
Muhammad Rabbani
Conditional Use Permit
Motor Vehicle Sales
801 S. Lynnhaven Road
District 3
Rose Hall
June 14, 2017

REGULAR

Jan Rucinski: We have one more item on the agenda and that is item D1. That is Muhammad Rabbani. An application for a Conditional Use Permit (motor vehicle sales) on property located at 801 S. Lynnhaven Road, District 3, Rose Hall. Do we have representative here for this application? If you would, come forward and state your name for the record please?

Muhammad Rabbani: Thank you Mr. Chairman. Thank you honorable Planning Commission Members. My name is Muhammad Rabbani. I am one of the owners of the property at 801 S. Lynnhaven Road, Virginia Beach, Virginia. Good afternoon to you all. We have heard this here back in February. We have owned this lot since 2006. I am a resident of the City of Virginia Beach since 2000. I live about a mile down from this particular lot, particular store. I have been there for 17 years. I am a part of that community. Last time I was here, we asked to have some extra time, granted time to work with the wonderful staff of the Planning Department, particularly Mr. Sanders. You guys have an extremely professional staff. They worked with us. This particular site, there were a couple of points that were placed by the Planning Department. I will get to them later. The first thing we did was when we came up with the proposed car lot, we actually canvassed the neighborhood, both the commercial and the residential, both of them. At that time I met with the Planning Department. We only had 20 letters. Every one of the neighbors, both commercial and residential who have direct sight of this property have been visited. And almost 99 percent of them have signed consent letters. Now we have 40 with zero objections. And that includes commercial and residential. A couple of final points that were raised last time, and the number one issue was we talked about was the parking spaces. There was an issue about the number of parking spaces. I thought that would be resolved. And the honorable members of the Planning Department wrote that the parking does not meet ADA or Zoning Ordinance standards. Really, I mean, part of the site right here, that concrete pad, all of it contains the handicap ramp, everything is brightly painted blue, white, everything handicap compliant because the site holds a lottery license. In order to get the lottery license, I think every year people are visited by a representative of the State of Virginia to make sure that you are constantly in compliance with all the ADA standards. The other point that I think we might have in mind was the gap of the distance of the parking spaces. Lynnhaven Mall across the street has, I actually measured it twice to make sure I came and spoke to you guys, they have exactly the same size parking spaces as I do. If that is good enough for them then why not for the little guy? Now, this lot, back in March, was resealed and restriped, and stuff but we didn't realize we wanted to do it again. We didn't like the results of it, so as of right now, it has been about two weeks ago, it was seal coated again and is awaiting striping. You can see a little bit of the shadow of the old multiple layers of the pin striping there. So, that was one of the points. The other thing about this area being predominately that retail oriented. Yes and no. Two doors down, there is a car lot in operation since late 1990s, and the City's existing facility, if I am not mistaken, since 1970s. It has been an automotive repair facility too. So, that gentleman added on from a repair facility to a car lot, and to this day, to the best of my knowledge, up to yesterday he was still in operation. He has the same maximum

cars allowed for sale on the lot at 12. However, the point to be noted here is that lot right here (pointing to PowerPoint), look at the size of the lot. Look at the frontage and look at this. So, this gentleman was granted a permit judging the size of the lot, the location, why not us? Now, we got our own usage, as signed, dated, telephone number and the address letters from the commercial and residential neighbors. A proposed 12 car lot will not add any significant traffic. The other point raised on this report by the honorable members of the Planning Department, was conflict of interest because of the store or the facility being operated by a tenant. Well, let me explain this to you. We have a lease. It can be provided if needed. We are clearly highlighted to our tenant. This lease or this, this, and this for sole use of the landlord. It clearly states in order to prevent any future conflict. We had thought about that so we had put it in writing. And color coded it just in case there were any future issues. We maintain complete right of access and use of our facility inside and outside of that existing structure with no exceptions. Now, I have been part of that community for like I said, for about 17 years. I've lived in Virginia Beach and I have enjoyed every second of it. I've spent most of my adult life here. I came here and I started with nothing. It has been a journey for me buying my first house, starting a business and then owning your first commercial real estate. So, I have been blessed, the community that I have been a part of for the last 17 years has been great to us, this is why before we even did anything we canvassed the neighbors especially those around us, that includes all the commercial neighbors that directly see us, print shop, all these neighbors right here, and these, to make sure that none of them had any objections. If somebody had anything to say, we reached out to them. So, I believe, as of right now, I heard of no opposition. Is there any opposition Mr. Sanders?

Jonathan Sanders: No sir.

Muhammad Rabbani: I know that time is precious and I'm not going to drag it any longer. We have done our due diligence. We took our time. We worked with the wonderful staff right here with Mr. Sanders and company. Now, the City asks for particular stuff. Yes, you have a right to ask for that. We sat down. We had multiple meetings. Right now, don't look at it from what it looks now. Think of it as how it will look. This mess right here is an old dilapidated fence. It will come down, as we have proposed and agreed. We will take it out. It will move further back like, I think, one of you gentleman suggested last time, I believe that it was Mr. Redmond suggested that the fence might equal the building in the back. That had been done. We agreed to it. The other proposal that the City Staff asked for was the proper screening. That's done. The trash container on the other side needs to have fence around it. Some of the bushes are as tall as 10 feet or 15 feet. The same goes on that side. From this end all the way continuously it is fenced.

Bob Thornton: You're time is up, so wrap up.

Muhammad Rabbani: Okay. So, all of the other things that the City has asked for, no signage, has been agreed to. All screening, landscaping, including landscaping the entire frontage of the side facing South Lynnhaven Road has been done. Once again, I thank you guys for your time. I appreciate it. If there are any questions, I'll be glad to answer them. The building, I have been made aware by the Planning Department that it may or may not meet the regulations. I am willing to take that chance when they come in.

Bob Thornton: Does anybody have any questions of Mr. Rabbani?

Ronald Ripley: I've got a question. The conflict seems to be or part of the conflict is the convenience and gas and car sales all in one spot. And then the car sales doesn't seem to have a bathroom associated with it, and it appears to be more temporary than a real permanent place business now. Can you talk about it?

Muhammad Rabbani: Yes. Two parts to your question, number one is the rest room access. We maintain unrestricted access to the store premises. There is an ADA compliant restroom in there, which will be open to our potential clients. And, yes, you are looking, and to answer your comment to your request but you are looking at as of it right now, as it looks non-permanent, but we are trying to make it into a permanent facility because of the all the upgrades and everything as for the Planning Department about the building, the structure, electrical and all of that. We'll make it into a permanent structure.

Ronald Ripley: What would this permanent structure look like? It looks like it is temporary.

Muhammad Rabbani: A permanent structure. You're asking for construction.

Ronald Ripley: We have seen a lot of automobile dealers come in with real nice facilities, and this doesn't seem to reach the same mark at all, and so, I'm just putting that out as part of the issue, and so I'm asking you to address what it looks like. And it sounds like your answering with some "Is" and that it may be more temporary than permanent depending on the boundary. You've separate businesses and they are all kind of inter-twined. I think that is part of the push back and part of the push back is also the mixture of these uses seem to conflict. It is not really clear how this stuff can be effective and how it is really going to look to the public. So that is part what we are doing here.

Muhammad Rabbani: We have a drawing. That would be how it would look like, but again, you're not talking about Beach Ford, I believe an 8½ acre facility plus or minus. This is a small facility.

Ronald Ripley: It is smaller but more substantial that what we are looking at here. This appears to be temporary. Somebody is asking for a temporary use. It is almost like a temporary parking lot that you see down at the Beach. That is the way I see it.

Jeff Hodgson: Hey Ron? Would it really make a difference and this is something that you can start us down the path on, and I don't know if this would make a difference to anybody but if you got rid of the shed completely, and you leased a few square feet back from your own tenant inside that facility, and that is where you hung your keys for your cars and you have your bathroom. I don't know if that would make a difference.

Ronald Ripley: You still got the mixture of uses. And if I understand your staff, I'm trying to listen to what their concerns were that was a concern.

Jeff Hodgson: But I will say and I remember the one off of South Plaza where they did fuel sales and they were getting automobiles sales, and they do sell snacks inside.

Muhammad Rabbani: Yes, South Plaza and Rosemont.

Jeff Hodgson: Okay, there was and he's right.

Ronald Ripley: Did he operate out of one building?

Jeff Hodgson: Yeah.

Ronald Ripley: He operated it all.

Jeff Hodgson : One building, so granted he's got a lot more snacks and drinks and all the other stuff with the convenience store but where's the line of having a rack of peanuts versus having a full convenience store.

Bob Thornton: David?

David Weiner: I want to piggyback on both of these lots. This is not the proper land use for this area. That is what I am having a hard time thinking about, also with the multiple uses in one lot.

Bob Thornton: I have a question for you. Do you actually run the Valero? Is that your business?

Muhammad Rabbani: No. It is leased out.

Bob Thornton: You're the landlord?

Muhammad Rabbani: Yes sir.

Bob Thornton: And you have a tenant there. And the tenant in there is perfectly comfortable with having you sell cars on the front part of the lot?

Muhammad Rabbani: Yes sir. When the lease was done with them it was clearly explained to them that this is what you're looking at. This is what you got, and this what we may or may not intend to do.

Bob Thornton: That doesn't mean they think it is a good idea but it is legally what they have to agree to.

Muhammad Rabbani: They seem to have no objections. We have a very long standing relationship with them.

Bob Thornton: Okay.

Muhammad Rabbani: We have a great working relationship with them and their partners for a significant amount of years.

Bob Thornton: Are there any other questions? Jack?

Jack Wall: Mr. Rabbani, I admire your past experience and getting general support for this application. I've got a couple of questions. One is maintenance of vehicles. Typically we've seen some of these car lots that they have onsite cleaning of the vehicles or they are just doing general maintenance. How would you intend to do maintenance if it was approved?

Muhammad Rabbani: If it was approved, it can be made part of the conditions. No maintenance will be done on the car lot. I'm not opening up a mechanic shop. I don't have time for that. I am not trying to run a Pick and Pull or a repair facility. Vehicles will be presented there. There is already an agreement of no signage, none whatsoever. No kind of repair won't happen on that premise because at the end of the day, ladies and gentleman, this is kind of my retirement. I'm looking forward to that time. This is an income generator site for me for a very long time to come. Why would I want to be on a bad terms with my own tenant that is paying rent on time. The last thing I need is an angry tenant. The last thing I need is a neighbor that says you have broke down cars. I see you turning wrenches. Now, look at me. I don't turn wrenches. That is beyond me. But I can assure you that you guys can eliminate the fears of me running a repair facility out of it. I will be more than happy to have a lien inserted in it that says this is not a repair facility. No repairs on motor vehicles or any kind will occur on the site.

Bob Thornton: Where would you do that?

Muhammad Rabbani: Pardon me?

Bob Thornton: Where would wash and detail because if you take in a used car, you will have to do something to it.

Muhammad Rabbani: Yes. Most vehicles we buy from the auctions, they do not transport the vehicles themselves. Repairs, I can tell you that within two miles of this site, there are four or five different vehicle repair facilities, as far as the detailing, and stuff, and most of it can be done off site. Most detailers, yes, they are mobile but within about two miles, Holland and Lynnhaven Parkway. There is a Car Spa. Right beside it, two doors down, there is another full service detailed facility. In fact, I believe, one of them will actually drop your car off and give you a ride back and forth. So there are plenty of options. That is something.

Bob Thornton: One of the things we are dealing with is that Staff made a recommendation that we turn this down so there are no conditions in this. There are no conditions to say yes that we will go along with this subject to these conditions held. There are no conditions. So one of the things that we have to talk about when we close the public hearing is if we were inclined to go along with this we've got to come up with a whole bunch of conditions because we don't have any.

Muhammad Rabbani: Okay.

Bob Thornton: None in here. I just want to make everybody aware of that and so the next thing we need to do is decide amongst ourselves where we are going with this and if there is an inclination to grant his, we've got to take time out and condition it. Seriously condition it.

Muhammad Rabbani: Okay.

Bob Thornton: Because many of the car lots that we see in the City, no matter what the applicants says they are going to do, they end up doing way more. More cars, more work, more repairs, and some cases, more junk. So, anyway, I just wanted to throw that out to my colleagues. Jack?

Muhammad Rabbani: I perfectly understand your concerns but again, just a point to be made. I can't

be blamed for Mr. Weiner's actions. I can't be held accountable how Jan's yard looks. It is mine. I own it. It took seven years of my life to get to a point where I was able to buy it. I worked. This was my first job. I worked at this place in 2000 as a cashier. And then I acquired it in 2006. It was in bankruptcy.

Bob Thornton: I don't want to stop you but we have to discuss this amongst ourselves. I think if anybody has any more questions for you. Jack?

Jack Wall: How big is the stacking of the vehicles? I counted the number of spaces there and they don't support the number of vehicles that are listed. It is not the location of vehicles but it is the number of spaces that are provided there, and it does not equal the vehicles.

Muhammad Rabbani: This is a very old picture. The parking lot can actually hold 37 vehicle parking spaces. 37 marked parking spaces.

Jack Wall: That is understood. It is actually just the area that is denoted for the car lot. If we did approve it, the area would be subject to the small corner, the smaller area, toward the southern part of the lot and that doesn't appear to be the number of spaces that is listed in here.

Muhammad Rabbani: We did the measurement, the minimal required. We're asking for 12 but it can easily hold 15 to 16 cars.

Jack Wall: I'm just talking about the spaces. The number I read and having to look at it, and make a certain area specific to the site if we did approve, it would be in the southern corner and that corner only has I think eight spaces.

Muhammad Rabbani: Actually it is being restriped. This can easily hold easily about 15 cars and on this end, it leaves another, which is outside the proposed car lot area, another 4 spaces.

Jack Wall: I count about 10, I guess that is open.

Muhammad Rabbani: What is the date if you don't mind asking on that aerial, which ever one you are using? This is a very old one.

Bob Thornton: Basically, the plan that is in this application takes your area. It doesn't matter how many you can put there, they have said in there that you can only put 12. I don't think we can put a 100 there. All you're talking about is 12.

Muhammad Rabbani: Yes sir.

Bob Thornton: I think we can limit whatever happens there to 12 because that is what you asked for. So, I would get to the debate with the members of the Commission. Are you good with that? Thank you. Have a seat. If we need you we will get you back.

Muhammad Rabbani: Thank you kindly. I really appreciate your time.

Bob Thornton: You're welcome. Are there any other speakers?

Jan Rucinski: No.

Bob Thornton: We will close the public hearing. I don't think we've done that yet. We will now close the public hearing and open it up for discussion. Who wants to speak? Who wants to make a motion? Who wants to ask a question? Dee?

Dee Oliver: Go ahead Mike.

Mike Inman: I think the biggest problem we have is it's contrary to the Comprehensive Plan. We passed the Comprehensive Plan, we worked on it. We should respect it. The Comprehensive Plan recommends the area West of Lynnhaven Parkway provides corporate office, retail or comparable commercial uses, particularly in a high visibility sites such as this. I think it crosses the line if we do not intend to go over the Comprehensive Plan.

Bob Thornton: Excuse me Ron?

Ronald Ripley: I'm not particular enamored about the use and the quality of the proposal part is the building. On the other hand, I'm very impressed with the applicant because he really wants to make a go out of it here and we want commerce to flourish in the City for sure, and that has to be commended. If it was a better quality application, I think I would try to find a way to work with it. I think it would make a difference in their final recommendation and evaluation. But the fact that it intermingles with these two buildings and you have to go and use the restroom in that building. That looks like it is put out there, it looks like one of the sheds that you might buy off a lot and stick out there, and as he indicated he'll nail it down. I would rather see if you're going to do this, give us a substantial building that is compatible to what's there. It looks more like a retail environmental versus sort of hap hazard. I think that is what I can't continue to get by. I think, like you said, if the condition to consider, it would need a whole bunch of conditions which we haven't even addressed, so I am kind of on the fence here.

Bob Thornton: Dee?

Dee Oliver: I was just going to reiterate what Mike and David said. There is a reason why we have the Comprehensive Plan. We wrote the Comprehensive Plan, the Staff was advised by the Comprehensive Plan. He would like to have a mixed use type of business, that is not what this area calls for, and if we don't abide by what we are designing for our City, and how we want that to look like today and 20 years down the road, we're not using it. We're not doing what we as Planners are supposed to be doing and as much as I would like to see him do well, I just don't think this type of mixed use convenience store, used cars sales, condo business. I don't want to set a precedent for that to begin with. That everybody thinks they have enough acreage to start doing that. And then we don't follow the Comprehensive Plan on where we want something like this to go. We're going to start tripping over ourselves in a lot of ways. I've got to support staff on this completely.

Bob Thornton: Jeff?

Jeff Hodgson: As it stands, I can't support the application If he is able to incorporate his office somehow

inside the existing building and we put maybe some time limit on this like they do a lot of others, whether it is five years because he is not going to have to do real improvements to the property, so if you had him come back in five years, or whatever the number of years that we think would fit in case this area, I could probably get more behind this but it would take those type of changes for me to be able to.

Bob Thornton: Dave first then Jack.

Dave Redmond: I couldn't. I just think these uses are in conflict with one another. It is one too many uses on this site. The example we site at S. Plaza and Rosemont Road, I just remember that being a headache. The fellow would come in here with various uses and cars spilled out into the street, and there was a trailer parked in the back of it. There is too much stuff on this site. There is just too much activity on one site. And I think maybe as Bob or Jack or who to ask, how do you service vehicles on the lot? How do you wash them? Vacuum them? There is lot going on here and I can't see if you stuck in the same building how that is really going to work. They are just not going to play well together. I just don't think you can put the pieces together and have it work, so I'm not serving that as a gas station.

Bob Thornton: Jack.

Jack Wall: One thing I like is the continuity of decisions among the Planning Commission. I'm not sure if the approvals when it was a special economic growth area, when Section 2 was in place. I am not sure even staff can answer that. Staff's recommendation was to deny that previously. I don't think it necessarily complied with their conditions. I don't like the aesthetics. So, I like the continuity of decisions but I don't necessarily like that being there currently. I don't think it matches with the Comprehensive Plan currently as part of the Specil Economic Growth Area, so, my one concern is the continuity of decisions but I don't necessarily like the form that it is in.

Bob Thornton: I want to finish this up if I may? When he was here in February, we were uncomfortable with this. So we sent him back to the drawing board to meet with the Staff and put some time back in it. And the Staff is still not comfortable. So, as far as I am concerned, nothing has been done to make it better than it was in February. I think the Staff has done an admirable job in working with this person and trying to get it to the point where they could bring it to us with a recommendation and I commend them because most of the time they bring to us recommendations with conditions that make it a better application. In this case, they brought forth no conditions to make this a better application, which indicates they are certainly not in favor of it. So, to support these folks that work for us, I'm agreeing with most of the guys. I need a motion. Dave?

Dave Redmond: I move for denial of the application.

Bob Thornton: Do I have a second?

David Weiner: I'll second it.

Bob Thornton: Two Daves. Dave moved and David second it. Thank you.

AYE 10

NAY 0

ABS 0

ABSENT 1

Item #D2
DHW Joint Venture, L.L.C.
Conditional Rezoning
5833 Sandpit Road & Nearby Parcels
District 4
Bayside
June 14, 2017

CONSENT

An application of DHW Joint Venture, L.L.C. for a Conditional Rezoning (R-5D Residential Duplex District and I-1 Light Industrial District to Conditional A-36 Apartment District) on property located at 5833 Sandpit Road & Nearby Parcels. GPINS: 1459805796, 1459815016, 1459816140, 1459817013, 1459818232, 1459910373, 1459912208, 1459900680, 1459902964, 1459914202.

PROFFERS

PROFFER 1

The Property shall be developed in substantial conformity with the site plan entitled "Burton Station Apartments - Site Plan", prepared by Poole and Poole Architecture, LLC, dated March 2, 2017 ("Conceptual Site Plan"), which has been exhibited to the Virginia Beach City Council ("City Council") and is on file with the Virginia Beach Department of Planning ("Planning Department"). Public Utility Impacts School Impacts Evaluation and Recommendation Proffers

PROFFER 2

The architectural design and building materials of the multi-family dwelling units built on the Property shall be substantially compatible with the architectural style and materials depicted on the building elevation plans entitled "Burton Station Apartments", dated March 2, 2017, prepared by Poole and Poole Architecture, LLC ("Elevation Plans"), which have been exhibited to City Council and are on file with the Planning Department.

PROFFER 3

A minimum of 650 parking spaces shall be provided in the approximate locations depicted on the Conceptual Site Plan.

PROFFER 4

Open space shall be provided in the approximate locations depicted on the Conceptual Site Plan.

PROFFER 5

Further conditions lawfully imposed by development ordinances may be required by the GRANTEE during detailed site plan review and administration of applicable City Codes by City agencies and departments to meet all applicable City Code requirements.

PROFFER 6

The Effective Date of this Agreement shall be the date this Agreement is approved by City Council.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item D2.

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

By a vote of 10-0-1, with the absention so noted, the Commission approved item D2 for consent.

Lisa Murphy appeared before the Comission on behalf of the applicant.

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

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

Bob Thornton: Is there any further business? Hearing none, on behalf of my fellow Commissioners, I would like to thank everyone for attending today, and thank the Planning Director and his Staff for their work in preparing for today's agenda. The meeting is adjourned.

Ed Weeden: Don Horsley was absent from the vote.