

Item #1
James Gruszczyk
Enlargement of a Non-Conforming Use
406 27th Street
District 6
Beach
July 12, 2017

CONSENT

An application of James Gruszczyk for an Enlargement of a Non-Conforming Use on property located at 406 27th Street, District 6, Beach. GPIN: 2418-90-9472-0000.

CONDITIONS

1. With the exception of any modifications required by any of these conditions, the expansion of the building shall be in substantial conformance with the submitted layout entitled "PROPOSED RENOVATION & ADDITION, 406 27TH STREET", prepared by Walter Parker. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Planning & Community Development Department.
2. The design, size and materials of the addition shall be substantially in conformance with the submitted elevation exhibits entitled "PROPOSED RENOVATION & ADDITION, 406 27TH STREET", prepared by Walter Parker. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Planning & Community Development Department.

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

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

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

The applicant James Gruszczyk appeared before the Commission.

Item #2

Freedom Properties VB, L.L.C.

Conditional Rezoning

R-15 Residential to Conditional O-2 Office

Northern side of Wolfsnare Road near the intersection of Wolfsnare Road & First Colonial Road

District 5

Lynnhaven

July 12, 2017

REGULAR

Bob Thornton: We would now like to address the remaining matter on the agenda for today. I would like to ask the Secretary to call the first item.

Jan Rucinski: The first item is item 2, an application of Freedom Properties VB, L.L.C. for a Conditional Rezoning R-15 Residential to Conditional O-2 Office on property located on the northern side of Wolfsnare Road near the intersection of Wolfsnare Road and First Colonial Road, District 5, Lynnhaven.

Brad Martin: Thank you. Good afternoon Commissioner Thornton, Commissioners. My name is Brad Martin. I am with American Engineering. My business address is 448 Viking Drive, and I'm here to speak on behalf of the applicant Freedom Properties. I do have some handouts. After I get over my first little bit of nervousness, I usually love coming to these kind of public hearings because I get to stand here and say we're proud of our project, and we've enjoyed the opportunity to work with City staff, and we agree with almost everything we read in the staff report except for the one or two minor things. Can we hammer them out right now? Unfortunately, that is not the case today. We are proud of our project. We think we've got a great project here that is going on a high traffic area, First Colonial Road. We have specific difficulty with almost everything in the staff report except for the identification of the property, and the description of the project that we intend to pursue. We have a small residential piece of property that touches Wolfsnare Road. You all are familiar with it. You're familiar with Wolfsnare Road. It is currently zoned Residential R-15. It is sandwich in between residential on both east and west. Let me first say that we were never expecting a full throated endorsement for approval from the Planning Staff. We know that this project has challenge. It is geometrically challenged. Like I say, it is between two residential pieces of property and to rezone it O-2 Office, does not make sense. What does make sense is we are intending to rezone this property to match the rest of the property that the applicant O. E. Burke, who is here today, owns with Freedom Properties. And, all we are intending to do with this piece of property is to use it as a drive aisle as a north/south connector (there is the more fully featured site plan). We are intending to use it as a drive aisle to connect from North South to both the three story medical office building that Freedom Properties is intending to build and it is also going to serve the Aldi Building, just to the north of us, which does have an egress/ingress easement across this property to let their drivers use that winds out to the south. I had prepared this five page kind of diagram handout and it seems like these five pages address every one of the questions that I heard in the informal session, and I would like to go through that very quickly, if I can. I know you want, you probably want to get your questions on the record but I will just describe the project from these diagrams very quickly. We are a triangular piece of residential property and if you look at the first page that I handed out, you have, in pink, a 30-foot front yard setback, you have a green drainage easement on the side, and you have an orange utility easement on the east side, and what that leaves is about 3,900 square feet of buildable area in white behind the front yard setback. If someone was to build a house and take a 3,000-4,000 square foot footprint to an architect, he could certainly design a house.

But not in the triangular shape that we got here, so there is no house that can be built on this residential piece of property. It is obviously because this is a very fashionable corridor. It is a nice place to be. The fact that there is not a house there now speaks to that. We are geometrically challenged primarily at the north end of our property at the top of our triangle, because we do have a 20-foot drainage easement on our left side, and we got about a 27-foot drainage, excuse me, utility easement on our right side. When we hopefully rezone this property to office to serve the further north project, what we technically have to do for both our residential neighbors to the west and to the east is provide a 20-foot landscape buffer on either side, like we've done here. Our narrowest point up here at the top is only 51 feet across, so if we try to get a 20-foot landscape buffer here, and a 20-foot landscaper buffer here, and a 24-foot drive aisle in the middle, the math doesn't work, 64 feet is greater than 51 feet. So, we can't get what we need. What we have negotiated and we've got with the three residential properties to our east, what we have negotiated is, we are going to get a 20-foot buffer down here and a 7-foot buffer with all of the required plantings in on the east side because these residential neighbors on our west back up to us, and have their backyards, they are served by a driveway over here off of Wolfsnare. We are going to get the full easement buffered and the full width buffer in that side of the project. So, we are going to have a 20-foot landscape buffer on our west side, we are going to have a 7-foot landscape buffer on our east side and 24-foot drive aisle in between. We talk about the connectivity to the Aldi project to our north; again there is an egress/ingress easement. They got a signalized intersection where they leave their Aldi but this is going to be a nice escape. I heard Ms. Oliver, I think, use the term 'a lovely cut' through in the informal session. And this absolutely is and will plan to be a cut through from the Aldi. There is a traffic signal right up as you leave the Aldi parking lot but notice if you will it is not direct, we may even have a more recent concept plan than this, it is not a direct shot, it is not a direct cut through straight across the property. You come in off the Aldi traffic light, you have to come in the Aldi parking lot, you come down, you make another 90 degree turn, another 90 degree turn, so what I'm saying, it is not going to be a race track through there. It is going to be an improved cut through and what it is going to, primarily going to accomplish is it is going to take traffic off this traffic signalized intersection at Wolfsnare and First Colonial. So we feel good about the prospects of that. Switch to the next page, and I think one of our main difficulties with the staff report is that they evaluation this project as a suburban area property. And, what you're looking at there is the Suburban Focus Area of the medical corridor on First Colonial Road, and you can see where it is drawn, and you say I should have used a different color, but you can see our little triangular property in red there. And, we are just outside of the Suburban Focus Area of the medical corridor. We consider ourselves to be in the Suburban Focus Area corridor, not only because the Suburban Focus Area corridor runs along the back of our main property, here, but then it cut across this neighbor's property at a diagonal and if you believe this planning document, what it mean is that these two and a half residential properties are actually in the medical corridor and we are not. We think the residential here in these three homes is a little bit misplaced but we think certainly that the medical corridor applies to us and if does, then we flip to the third page and you look at the staff and the Comprehensive Plan recommendations for what is going to happen in that medical corridor. If you look at our property as something within the Suburban Focus Area of the medical corridor, and not just in the Suburban Area, we got to hit those three bullet points. And I apologize. I will just read them. Priority should be given to infill or redevelopment proposals that complement the areas medical and health care activities. Check, we're definitely there. Because we support land use and transportation services, residential and support uses that serves the need of older adults are appropriate for this area. Check, we are absolutely there. Mr. Burke and his project already have two medical offices, who are ready to sign letters of interest to go into this building. And third, new development should include access management and cross access between

parcels to minimize impact to First Colonial Road. Check, check, check, check, check, check and check. Lot of the stuff we heard in the informal, a lot of stuff we heard from staff has been, and we are going to add a lot of traffic to this residential street that's Wolfsnare Road. You and I have driven Wolfsnare Road know that certainly serves residential properties. That is not a residential street. That is a secondary collector in the street system. It is one of the only two east/west collectors, Wolfsnare Road and up further north, Old Donation, are the only two east/west connectors that connect First Colonial Road and Great Neck Road. So, I don't think that can determine residential street but what we are doing here, we are giving the Aldi customers and our customers and admittedly even some folks who are going to cut through here to get to Wolfsnare, those people are going to go west on Wolfsnare anyway. We are not creating traffic. Holy cow, I am getting ready to end up. We are not creating traffic on this end of Wolfsnare. We are giving are clients and the Aldi clients an opportunity to come here, and get onto First Colonial with a signalized intersection or avoid First Colonial altogether. If you got somebody from the Hilltop area who wants to come up Wolfsnare, and get into the Aldi, their alternative is to come here on First Colonial Road, take a left turn and take a left turn into Aldi. So, we go left on First Colonial Road, which you heard is already overburdened. We like to take that traffic up through our site and relieve that traffic. I don't think we're generating traffic on Wolfsnare. I've got a couple of other things to say, and I'm going to sum up. And I'll be happy to answer any questions. We are proud of our project here. We think that our project has been a little bit mischaracterized in the staff report. We certainly do appreciate working with staff but obviously there is a difference of opinion here. We are proud of the potential of this project. We don't think it provides problems that you read about in your staff report, and we are certainly excited to get this project going. One question asked during the informal was, is the project to the north going to move ahead without this? It absolutely is. Mr. Burke Freedom Properties owns the property. They are going to pursue the medical office building with or without this. So, I'll let you hear from him now. Thank you very much and I'll be happy to standby for your questions.

Bob Thornton: Are there questions of the speaker? Ron?

Ronald Ripley: Brad, the landscaping that you mentioned, there was some discussion about not planting trees at the top of the drainage.

Brad Martin: Right.

Ronald Ripley: Planting species that you're looking at or have you talked to staff? What are they?

Brad martin: We've talked about some Leland Cyprus. We were asked not to specifically identify those but if I can. I am glad you brought that up because there was a question about planting trees right on top of the pipes. We are sensitive to Public Works Operation's desire that we don't plant in the landscape easement. On the first page, and on the 5th page here, I actually put that storm pipe, that is that brown line that I called out the public storm pipe there. And what's important is where that public storm pipe is there is the 20-foot drainage easement on our property but there is also a 15-foot drainage easement on the residential properties, so that storm pipe actually leaves our property and goes into the neighbor property there, and then comes back on to our property. So, we are going to be in a very similar situation as the Aldi just to the north. First of all, we feel like we've planted our trees. We've shown our trees as far away from that storm pipe as possible. We certainly understand that in the future there are maintenance issues. There might be a challenge with that but you heard that we're

ready to proffer something different. You see the same situation with the Aldi on page 5, which wasn't approved two years ago, it wasn't approved ten years ago, it was approved last month and it is going to construction and demolition right now. That storm pipe is also in brown. That is a bigger storm pipe than we got and you can see what the approved landscaping plan there did. They got 29 trees clustered all over that pipe, so if this is a problem for this site, I hate to do this because I don't want to muck up somebody else's project, somebody else's approval. If it wasn't a problem for the Aldi, why is it a problem for us? That is the approved site plan from the Aldi. And you can see that they show the 15-foot building setback and landscape buffer. The back of their building is about 80 or 100 feet away. They could have shown that buffer anywhere in their property. They clustered those 29 trees everywhere all around that pipe. So, I'm curious if wasn't a problem for Aldi in June, why is it a problem for Freedom Investments in July?

Ronald Ripley: I thought I heard there was a discussion, if you gained approval that you wouldn't put trees that could conflict with the pipe. That it would be another species. That was my question.

Brad Martin: To be sensitive to the neighbors behind us, the residential neighbors behind us, this is the exhibit that Mr. Burke went to the neighbors with. I don't want to show up either in construction or with approved plans or go back to them and say, all we're going to do is plant little box woods. We need the screening for those backyards, I think. The idea that we don't plant landscaping in the buffer is clearly not something that is a hard and fast rule. We will be happy to talk about whatever types of buffering trees and buffering shrubs we want to do. I don't want to and Mr. Burke doesn't want to back to those neighbors and say this is what we showed you with a nice lush buffer, but all we're going to do is a little bushes because now Public Works Operations wants to plan for removal and replacement of their storm pipes in 17 years.

Ronal Ripley: Okay. Thanks.

Bob Thornton: Any other questions? Dave.

David Weiner: Why does there have to be a cross access with all of these? I haven't heard that.

Brad Martin: I am not a traffic engineer. The cross access with all these actually are two existing. Can we go to the overhead aerial picture please? The short answer to your question is that the easements are there. And, we have access over the Aldi Property and they have access over us. Thank you very much. Here is where the Aldi is going to be. Right now you got traffic sitting at this intersection. The cross access benefits our two existing office buildings greatly because they wind around behind the church and they can take a left and go north bound on First Colonial. That is what the benefit is to us, is with the church and the proposed Aldi, thee customers if they want to go north on First Colonial, they don't have to come out here come down to the intersection, muffed that intersection, make a U-turn and come back north. So, our current clients and future clients can go through the Aldi parking lot and go north on First Colonial. I think what the traffic for the Aldi is, the Aldi easement across us comes here and comes south to our entrance. And once there is an easement there, we can relocate the direction of that easement but we can't blockade it. I don't know how many Aldi customers are going to be going north but that will be a left turn at a signalized intersection to go north. If there is a stack of 20 cars here Mr. Weiner, there might be somebody who is parked on this side of the parking lot who just says, oh I am just going to scoot out here and we're going to have an entrance here on First Colonial and I

Item #2

Freedom Properties VB, L.L.C.

Page 5

want to go south on First Colonial and get out here. Or I want to get out of here and I want to go through here and I want to go west on Wolfsnare, so there are reasons if there is a stack of cars there're waiting to take a left turn at a signalized intersection, there is a reason for somebody going south or west to come through our property and do that, so we can't blockade that easement.

David Weiner: So it doesn't belong to you then?

Brad Martin: The rights of the easement are for them over us and conversely for us over them. So, neither one of us can blockade those easement rights.

David Weiner: Are there any suggestions or thoughts about making that a right in and right out at Wolfsnare?

Brad Martin: Without a median at Wolfsnare, which would stop people from making the left in or stop people from making a left out, I don't think there is much to talk about. If you paint or chevroning on the road and try to keep people from left turning, they are going to drive over that. I don't know if Wolfsnare would handle a median there, which is that it would take to make this a right in, right out.

David Weiner: You could do like a curb cut. They will still drive over that.

Brad Martin: Right.

Bob Thornton: Any other questions? I've got one. On your proposed plan, there was an entrance on First Colonial to the office building, is that new or is that in the same place that the existing one is?

Brad Martin: The existing one sits a little north of where the new one is going to be.

Bob Thornton: So you are moving it down.

Brad Martin: We are moving it down a little bit. A little bit from the signal.

Bob Thornton: Okay. So you will have right in right out on First Colonial Road and so will Aldi or is Aldi limited to the right in and out?

Brad martin: Aldi has the traffic light. I wouldn't say they are limited to the right because you can certainly...

Bob Thornton: In addition to the...

Brad Martin: Right

Bob Thornton: You got this one. Those are the two that you and Aldi are going to get out onto First Colonial.

Brad Martin: Correct.

Bob Thornton: Depending on which way you're going.

Brad Martin: Correct.

Bob Thornton: David Redmond

Dave Redmond: Mr. Martin just tell me a little bit about this. I'm curious about the medical office building. It has zoning.

Brad Martin: Yes sir.

Dave Redmond: You can develop that by-right. Well, the applicant can develop that by-right.

Brad Martin: We will develop that by-right. We will build something close to this. Like I said, we define this layout. They are working with Baser Architects up in Richmond to really put a nice building together. We're going to have a three-story medical office building with about 45,000 square feet and about 200 parking spaces on this site. You can see that with or without this rezoning, we can simply round this curve and then we got a less attractive less, desirable project because we are restricted to one access putting more traffic on an already over-burdened road versus what you read in your staff report. Wolfsnare is only about less than half of their capacity.

Dave Redmond: Okay. Thank you.

Bob Thornton: Dee?

Dee Oliver: Brad, but that has been an existing two-story office buildings for as long as I can remember. Correct?

Brad Martin: True. Absolutely.

Dee Oliver: So it is not as if the building and the offices haven't been there. This is just new buildings, probably more offices, but they've always used that right in right out. The section of illegally using the back cut through.

Brad Martin: But importantly,

Dee Oliver: Are you taking away the front building? There were two buildings.

Brad Martin: The continuity goes away. Both existing buildings went away and there is about 22,000 square feet of office space in that so we are about doubling the capacity in terms of office space. We're going from 22,000 square feet to 45,000 square feet.

Dee Oliver: I guess my statement is, it has always been, it has always been an office building there too. Actually, and it has always been a right in right out, so it is not.

Brad Martin: We're not concerned at all about the minor modifications to this. That is going to remain

Item #2

Freedom Properties VB, L.L.C.

Page 7

an entrance. There are going to be people who leave our site or cut through from the Aldi and go right southbound on First Colonial Road.

Dee Oliver: Right. But that has always been our entrance and exit to that piece of property.

Brad Martin: With the additional access. Yes ma'am.

Dee Oliver: Right.

Bob Thornton: Are there other questions for Brad?

Jan Rucinski: Our next speaker is O.E. Burke.

Bob Thornton: Because we have a full agenda today, keep a close eye on the light.

O.E. Burke: No problem. I'll be brief. Mr. Chairman Thornton, Vice Chairman Oliver, members of the Commission, thanks for allowing me to be here today. I think Brad Martin summarized it really well. I just want to get up and say hi and introduce myself.

Ed Weeden: State your name for the record.

O.E. Burke: I'm sorry. My name is O.E. Burke. And I'm the president of Freedom Investments and Freedom Properties, VB is our subsidiary that owns this particular piece of property. We are and it is important for me to point that out because we are neighbors here too. So we live here and work here, and if I can use your pointer for a moment? Our office is and has been for almost 14 years now in this building right here (pointing to PowerPoint). So I work here every day. I come in and out of this office building every day. I see First Colonial traffic. I see Wolfsnare traffic. We also own this building immediately adjacent to our south. It is important for me to be a good neighbor. So, we started meeting with these folks early in the year, it has been a couple of months even prior to this as we were putting plans together to redevelop this property. We just acquired these adjacent facilities last fall. And now our mission is to clean them up. Frankly, we are trying to make what's there nicer and more accessible and safe. So, one of my primary goals in meeting with the neighbors to our west has been to enhance the buffer that is not there right now. What we have in Office zoned land that backs up right to their properties, there is no buffer here. What we are trying to create is a nicer product here that includes a new enhanced buffer to our western boundaries. We've heard a few different ideas thrown out there about changing the types of plantings on the western boundary. Frankly, it would be easier for us to say sure great, whatever helps us get approved. I don't want to do that. I want the plantings on our western boundary. I want to be a good neighbor. I want to be true to my word. And I've given my word to our neighbors that when we develop this, there will be a nicer screening there than there is today. We are going to enhance what's behind their property. It is also important to know two neighbors to the east who in theory, would be very impacted by this. There are three homes here. These two homes, they both have woods growing there. Those neighbors have been neglected since February. They actually both have written letters in support of our project. We talking about the two neighbors who actually live on the old stone road are in support of our project. The neighbors to our west on Glenfield Court, are six properties. We've had the opportunity to interact with them, as well, in fact, one is here today. We're excited about our project. We appreciate your consideration. I'm here and

Item #2

Freedom Properties VB, L.L.C.

Page 8

available to answer any questions.

Bob Thornton: Jeff?

Jeff Hodgson: Do you have what the homeowners' want that are on the south side of the street?

O.E. Burke: No sir. I've not. I wanted to meet every one that touched us that literally abutted our property. We've accomplished that. Frankly, I never thought, I thought the idea of having a development around the homes would be the concerns. I didn't think the traffic would even be a rub at all, so it did not occur to me to meet with the folks across the street. I will most certainly do that. Because being a neighbor is a high concern to us.

Bob Thornton: Are there any other questions of Mr. Burke. Okay. Thank you.

O.E. Burke: Thank you.

Jan Rucinski: We have one speaker in opposition and that is Jennifer Archer. As you come to the podium please state your name for the record.

Jennifer Archer: I'm Jennifer Archer. I live on Glenfield Court, 904 Glenfield Court. I am the neighbor to the west. It is my backyard that would be impacted by the driveway.

Ed Weeden: Please get closer to the microphone.

Jennifer Archer: So, I am the neighbor to the west. It is my backyard. This would be my backyard. I'm the second house right here. This is my backyard. I wrote a letter in opposition. I've talked with Mr. Burke and I appreciate what he talked about. We discussed the buffer. And in talking with him today, I feel a lot better about his ideas about buffer and not going forward without large plantings because the idea of nothing being there between us and a road is disgusting to me. But hearing the idea of we're not suburban and it is not a residence or a residential area, but the traffic does bother me and the amount of traffic that is on Wolfsnare now. I don't know when this traffic counting was done but there are a ton of people that come around that corner very fast from First Colonial to avoid traffic. There are a ton of people that go in that back lane to cut around. If you live in that area and you knew that cut through was there, people go in that back lane all the time. So, when it is connected to Aldi's and that parking lot, a lot of people will use it but as long as there is a buffer there, that's more acceptable to me. I understand that change happens and our area is developing and changing and I understand that. I can accept whatever comes our way but something needs to be there to protect my investment, which is my home, between us and the road.

Bob Thornton: Any questions of Ms. Archer? Ron?

Ronald Ripley: Ms. Archer, thanks for coming down. I think the buffer as you mentioned is critical also. But my question is was that cut through there when you bought the house?

Jennifer Archer: It was. It had just been cut through. We moved in 2008, but it wasn't really a use, and funny, I actually looked it up, and it was not actually an improve thing so I didn't think people actually

used it. And because it was residential, I thought it went to someone's house. I didn't realize that it would be for those office buildings. So, I looked it up before purchasing our property and because it said residential I thought it went to someone's house, and then when we moved in, seeing all the traffic, I was like, this isn't exactly what I thought it would be used for but it wasn't as bad. But as time has increased realizing that on a Thursday afternoon, a UPS truck can go by at 20 mph. On a Saturday at 7:00 people are walking back there all the time. Kids can be walking back there and cars would be going by. And it could 10:00 p.m. at night or 8:00 a.m., if I'm watering my plants on my deck. I'm very visible. I think City Planning's people were out on the bus, and I was watering my plants in my back deck, and I'm like hmmm, and still in my pajamas, and very visible.

Ronald Ripley: So, was the bamboo there when you moved in?

Jennifer Archer: Yes. That's the property that's to the east of that lane. That is their bamboo. So, it is very private. In a conversation that I had with Mr. Burke, I was like, we like it because it is very private it is very green. The bamboo is there.

Ronald Ripley: It is really thick.

Jennifer Archer: Yea, so you don't see anything. And there is no green space which will now be a three story office building, so it was very private. Even though that was zoned Office there isn't an office. The office buildings are way in the distance. There are lots of trees. We had a huge Oak in our yard that ended up getting struck by lightning, and had to be taken down. We're just really exposed because our house kind of sits up on the property and obviously we lost its screening but that bamboo was always there. But there is just a lot of stuff there. But it was very private and we're losing that privacy if that road is then there and a lot of office buildings. People will be cutting through to get to the grocery store at all times of the day. And people are avoiding the light at First Colonial to cut through and people are inherently not going to be going 10 mph. They are going to be doing 15 – 20 mph.

Ronald Ripley: Thank you.

Bob Thornton: Question Dee?

Dee Oliver: You have bamboo up? I don't remember seeing bamboo on your side.

Jennifer Archer: It is not on our side. It's on the other side.

Dee Oliver: It's on the other side. You have vinyl fence? So, there is no screening. I just wanted to make sure I remember the correct house.

Jennifer Archer: Right. So, when we had talked to Mr. Burke, he was going to put up nice big 20-foot plants, the appropriate residential buffer between us and whatever he builds, and that is when he told me today that it had been proposed to put in three-foot box woods, it scared me.

Bob Thornton: Are there any other questions? Mike?

Item #2

Freedom Properties VB, L.L.C.

Page 10

Mike Inman: Can you back to the plat and show me actually which lot?

Bob Thornton: The second one back.

Mike Inman: So, it is next to the rezoning.

Bob Thornton: 904 is the address.

Jennifer Archer: 904.

Bob Thornton: On the drawing.

Jennifer Archer: This is me right here.

Mike Inman: Okay, thank you.

Bob Thornton: Are there any other questions. Thank you.

Jennifer archer: Thank you. Have a good day.

Bob Thornton: Thank you.

Jan Rucinski: There are no other speakers.

Bob Thornton: Okay. Would the applicant like to come up and rebut?

Brad Martin: No rebuttal. It sounds like we're on the exact same page with Jennifer when it comes to the landscape buffering. That is one of the two main issues is the landscape buffering and I think I have given you the opportunity to say that we can plant this landscape buffering in the easement and avoid the pipe, which is critical. I am sensitive to Public Works Operations. I don't know what they have to do on a daily basis. I think we can get the landscape accomplished without infringing on the pipe. The other thing this, quite frankly, the traffic heading west on Wolfsnare is going to be there anyway. Whether it comes out onto First Colonial and turns right onto Wolfsnare to head west or whether it cuts through this parking lot, our parking lot, from the Aldi parking lot; however, they're coming and going out there. That traffic is going to be there anyway. So, I don't, except for the few residential homes between us and First Colonial, I don't think this is going to be a traffic increase in any way, shape manner or form because that traffic is still going to come out if they want to head west on Wolfsnare, they are going to come down to the light at First Colonial and Wolfsnare and they are going to go west. That traffic west of us on Wolfsnare is still going to be there. So, again, we are proud of this project. We really appreciate the work that you have put in, and the work that staff puts in. Look forward to your approval. Thank you.

Bob Thornton: Thank you. If there are no more comments, we will close the public hearing and will open up for discussion amongst the Commissioners. Does anybody have any thoughts, ideas to share with the group? Jan?

Jan Rucinski: Two things that are a little concern to me. One is the traffic because it's a little scary how it takes that curve right there, and people coming out the driveway come out onto the cars and traffic. I don't know if there much foot traffic that would walk through there but I have a concern with that. I also have a concern because I thought I understood that there isn't enough space to be able to put the type of buffer they're talking about on the property line without it affecting the piping that is there.

Robert Davis: Well yes that's the intention that we have for the buffer to be shrubs. It was to protect the piping and still provide the natural landscaping. It should be outside the easement.

Jan Rucinski: So, we cannot give the people that back up to that the insurance that they're going to get the kind of buffer that the applicant would like to put in because there is not enough space to do that. Am I understanding it correctly?

Robert Davis: Yes.

Bob Thornton: I would like to ask Robert this question. I think in the early meeting you indicated they would proffer putting in the landscaping that would be, I know I think we can get to category 4 but if it had to come up because of maintenance they would take it out and put it back at their expense. Was that my understanding?

Robert Davis: Yes.

Bob Thornton: So, if it is prohibited by our ordinance or statute or whatever and they cannot put it in there that doesn't matter, but if the City would let them landscape it and, at their expense if they had to take it out and put it back, they would do that so; it seems like there is an answer to the screening. It can go along the easement, and it is their cost to take it out and get it out of the way if the City has to maintain it. Am I understanding that correctly?

Carolyn Smith: Generally speaking yes, that is correct. However, in an emergency situation, we would not wait for the applicant to mobilize a crew. We would get in there and do that.

Bob Thornton: Okay. Thank you. Mike?

Mike Inman: I have a question for staff also. Why can't we know that before we vote on this application? Why can't you determine why we're speculating, can we put the landscaping in? Is it going to be allowed? Is not going to be allowed? Why can't we find out what it is going to be allowed?

Carolyn Smith: Well, Public Works Operations folks have told us is that shrubs would be permitted in the easement as long as they are off the pipe. And we would determine exactly that location during final site plan review.

Mike Inman: I don't know that everybody's who is concern about this, is happy about shrubs versus trees versus...

Carolyn Smith: Their policy is no plants period. So, as a compromise, they are willing to allow shrubs in this situation to provide the neighbors some form of buffer, and it could be shrubs that grow as tall as

18-20 feet tall.

Mike Inman: Sounds like a tree to me.

Carolyn Smith: It is technically a shrub so we just don't know exactly what the species will be.

Barry Frankenfield: Mr. Chairman?

Bob Thornton: Barry?

Barry Frankenfield: I will personally volunteer to guarantee that if you approve this, an appropriate buffer will be installed. Shrubs, whatever, pipe, I am sure we can work it out.

Bob Thornton: In your opinion, things can go in there that grow tall, it won't destroy that pipe?

Barry Frankenfield: Absolutely.

Bob Thornton: Thank you. Does that answer your question Mike? Dave?

Dave Redmond: I think we are way over thinking this application. I think there is probably a misperception this morning that this is to rezone a site to build an office building and therefore, there is going to be a whole bunch of new traffic. Really it is just about this small piece of property. I still can't understand. First off, I understand that there is nothing in the code that says you can't plant landscape buffer. It is only a policy, but it is a policy that is not generally consistent because this is what Aldi's landscape plan is. There is an awful lot of plantings that are within that easement. It seems to me that it clearly is something that can be done with care and creativity, and it would work and I have no doubt that making this plan work would benefit all of these sites that are above it and traffic on First Colonial. It simply would make a lot more sense for site design, and I do think that lady's concern, whose real concerns about buffering, can be address because it was addressed with proffers to the north. I just think it has to take that kind of care and that kind of creativity. I think that will work and will make the site work better and First Colonial Road work better.

Bob Thornton: Dee, question?

Dee Oliver: Yea, a couple of questions. I guess Barry's committed to the landscaping now so I guess that is no longer a question.

Barry Frankenfield: I want to take that out.

Dee Oliver: I think the bigger issue here is granted and I totally appreciate her being exposed because on the van trip we did, her house is extremely exposed to this dirt gravel road. It is not supposed to be there to begin with. My two concerns is the fact that the City staff has denied this in 1981, 1983, and 1991. This has continually come back. City staff denies it. It is something that I give a lot of merit to when they come forward and they have reasons for that. There is a reason being that this road is not supposed to be there. I've used in on many occasions because my pediatrician was back there. I have two businesses off of Regency, so we refer our traffic through there because of Hilltop the way it is.

Unfortunately the businesses are at the mercy of the traffic that is on First Colonial as it is now. I don't think opening this road; rezoning it to impact the neighborhood, Wolfsnare Road, is the right thing to do. I just don't. I understand Commissioner Redmond that you don't think it's that much of an impact, but I travel that road all the time. I have two businesses that used that road, and it is huge. There is a lot of traffic on Wolfsnare. There is a lot of traffic cutting through Regency Apartments. And I think it is going to increase with that grocery store having to cut through to that. If you didn't have that easement in between Aldi's and the office park, I wouldn't have a problem with it but you do. And I think that the people at the grocery store are going to use it on a regular basis. I think that with Staff's denial, we would not see this go up; I really put a lot of weight into that.

Bob Thornton: Any other comments? Mike again.

Mike Inman: I heard Mr. Martin characterized Wolfsnare as a collector road. I think I'm using the correct term. It is and it isn't. It's a very wide road but it is not like Old Donation Parkway. And, there are houses that face onto Wolfsnare, unlike Old Donation Parkway. So, it is certainly a residential road but in a way it does connect between First Colonial and Great Neck, so, in that sense it is. And it is wider than a normal right-of-way. The other concern is cars coming out onto Wolfsnare can turn left or they can turn right. The focus has been on right turns trying to go west. Or there could be people also coming out wanting to go east, and they are going to go to the light. And, what impact is that going to have on that light in terms of cycling, and the backups we experience on First Colonial Road? I mean, Mr. Martin argues that people are going to come out, they're wanting to go west, you can't get in here they are going to come out and going to turn right and go down Wolfsnare. Well, maybe they will. Maybe they will make another stop. Maybe they're going to down Virginia Beach Boulevard. But, he does have somewhat of a point on that. Also people coming out at night will be having headlights on the house across the street, which they are not necessarily used to seeing on a regular basis. So there are a lot of factors in play here. Invading a neighborhood for the benefit of commercial development, it is a tough call.

Bob Thornton: Jeff?

Jeff Hodgson: Just to tag on what Dee said. This is what I'm wrestling with, where it was denied in 81, 83, 91, and now it is recommended for denial in 2017. If it was just recommended for denial in 1981, I could say they got it wrong but the chances of them getting it wrong in all three of these past years and in 2017, and it says the reasons was incompatibility with the adjacent residential uses. What has changed right there to make it now that it shouldn't be. What's change to allow it go through now that wasn't there the last three times?

Bob Thornton: Ron, and then Jan.

Ronald Ripley: I think what's probably changed is we are kind of looking at this as a Suburban Focus Area where before I don't think we were. I think the patterns. It is a conflict between the residential and the commercial always, and we have people that have bought extra commercial and it is always try to mitigate that. I think the fact that it does now come way into the Suburban Focus Area. I keep looking at these properties and they intend, and they said they want to be massed together and this intends to be a part of it. I think Brad's correct, that I think that anybody is leaving Aldi's to this office building that want to go down Wolfsnare is going to go west. You're going to get that traffic whether you want it or

not. It is just going to go that way. I mean if it is going some other place, that's not the story, but if it is heading west, it is going right down Wolfsnare and it going to go that way. Aldi's, they are going to have far superior stacking lanes than you will here. If I'm at Aldi's, I think I would want to go out that traffic light because it is going to be a better pattern and I doubt I am going to go meandering through the office building to get over to Wolfsnare. Some people do that I'm sure, if you live back in the neighborhood, that is probably what you might do. It is a tough one I know. I'm inclined to support it because I think it kind of fits right and I think it fits within the Suburban Focus Area and I think you buy one of these two properties to the east, they are probably to want to go this way too. I would guess. I don't see how you're going to use this piece of land otherwise. What are you going to do with it? It's a very odd shape piece of dirt. I tend to support this.

Bob Thornton: Don?

Don Horsley: I think she was first.

Bob Thornton: Oh, I'm sorry. Jan

Jan Rucinski: And that's part of what I was wondering so that if this particular piece of property changes from residential use to be rezoned for office, then are we setting up a possible precedent for the other properties on Wolfsnare, which is residential to them, think let's go in and submit an application to become office space. Also, and then we are putting office space in a residential zone if we change the zoning on this particular piece of property?

Bob Thornton: I will comment on that. On the corner, there is an office building, across the street is a 7-Eleven, so as the applicant stated, they can by-right build a building there, and in front of there on First Colonial are three office buildings already, so as Ron said that little area has changed. There is an Aldi replacing the church and there is a 45,000 square foot office building replacing two 20,000. There are three office buildings or condos or some configuration already out on First Colonial. On the corner, there is an office building. On the opposite corner there is a 7-Eleven, so the lots that are between this proposed road and the back of the building up on First Colonial, the logical thing to do with that is to take it out or take out residential and put it into some sort of commercial or office use. That is why part of this is in the SFA and a part of it isn't. I suspect that it hadn't matured to that point yet.

Jan Rucinski: Then that changes the structure of the layout of an area that is zoned residential because you have three lots before you get to the office space on the corner.

Bob Thornton: I understand and that happens on busy roads, residential parcels that were on Princess Anne Road are now Wendy's. That is part of the evolution of cities that grow from residential to commercial and this is an area that is not like a lot of other areas in the City, but I don't think we set a precedence because whoever develops, they have to come back before this Board and City Council and convince two bodies that whatever they want is reasonable within the realm of the Comprehensive Plan. So, it is not like it is automatic. Don?

Don Horsley: I look at it a little bit different way. I think the commercial development is if we do nothing the road is going to stay there. People are going to continue to use it and Ms. Oliver says she has been using it for years. The lady with no buffering won't have any buffering. At least if we go ahead

and approve this, let it get improved, we get buffering there and it will be put in a better state. I think everybody would be benefiting. I think the lady will have her buffer from the street, which isn't going to go away. It is going to stay there in some way, shape or form, and the developer, I don't have any problem with the development of the office building.

Bob Thornton: You first, ladies first.

Dee Oliver: Let's just speculate that this corner gets redeveloped into office, which is fine. But we're not talking about putting an office building there. We're talking about actually paving a road behind residential area, which it didn't occur to me until I was taking a sick child to a pediatrician once a month, but until she started talking about a UPS truck going through, that is whole another, different animal going through a backyard. If this application, and correct me if I'm mistaken about this, gets denied they have to close that road. That road is not being used.

Kevin Kemp: That is correct. The use of that road would be a violation on a residentially zoned property.

Dee Oliver: Thank you, so that sort of takes the buffering out of the mix, and protects her house. It is not a building being built, it's an actual paved road that is 25 mph that is going to be used as a cut through behind with trucks and grocery stores. The grocery store hours are going to be considerably different than what the office hours are. Office hours are, doctor's hours are probably 9-5, the grocery stores are 8, I think Aldi's is 10:00 or 11:00. That's headlights going behind those people's houses, headlights in the houses across the street. That's affecting a quality of life on that residential area. Traffic or no, it is just affecting the quality of life. That is where I am.

Bob Thornton: Jeff.

Jeff Hodgson: Kevin answered my question. I was curious about what Don asked. I was under the impression that if it was denied, that road would have to be closed. Okay, you answered that.

Bob Thornton: Jack? I'm sorry, Dave.

Dave Redmond: I'll defer to Mr. Wall.

Jack Wall: I thought Mr. Martin brought up some great points about the site. It is in the medical corridor. And that is a collector street on Wolfsnare Road. But it is still residential on both sides even though one side, there are office uses and property owners. I could be in support of it. It would still be splitting existing new residential. It has had denials in the past probably for the very same reason. So, I have a hard time supporting it.

Bob Thornton: David?

David Weiner: I'm still stuck in the cross access with Aldi's. I don't understand why that can't be closed off. If that can be closed off, because there is good traffic coming from the church. When the church was even active, I'm sure there wasn't that much traffic. With an office building is there, there is not much traffic. Personally, if that access go away, I wouldn't have a problem with just the medical office building with that access onto Wolfsnare, that's fine. As long as that cross access is going to Aldi's, I

can't support it.

Bob Thornton: Mike?

Mike Inman: I am relatively confident that we find that the cross access is a recorded easement and people are relying on that being there so it is not for the City to control that access at this point.

Bob Thornton: Are there any other comments?

Ron Ripley: Motion?

Bob Thornton: Please.

Ronald Ripley: I make a motion to approve the application.

Bob Thornton: Do I have a second?

Dave Redmond: Second.

Bob Thornton: A second by Dave.

	AYE 4	NAY 7	ABS 0	ABSENT 0
HODGSON		NAY		
HORSLEY	AYE			
INMAN		NAY		
KWASNY		NAY		
OLIVER		NAY		
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI		NAY		
THORNTON	AYE			
WALL		NAY		
WEINER		NAY		

Ed Weeden: By a vote of 4 – 7, the motion has been denied.

Item #3
Franklin Johnson Group Management & Development, L.L.C.
Conditional Rezoning
R-15 Residential to Conditional A-24 Apartment
5900 Wesleyan Drive
District 4
Bayside
July 12, 2017

REGULAR

Bob Thornton: Please call the next item.

Jan Rucinski: The next item is Item3, an application of Franklin Johnson Group Management and Development, L.L.C. for a Conditional Rezoning R-15 Residential to Conditional A-24 Apartment on property located at 5900 Wesleyan Drive, District 4, Bayside.

R.J. Nutter: Thank you very much. Mr. Chairman and members of the Commission, my name is R.J. Nutter, and I'm the attorney representing the applicant. I'm happy to be here today. First, I want to thank you for when we got into this room, we were on consent. I appreciate your indulgence there. But, I did want to tell you a little bit about the application. I want to also talk about some of the opposition's question because we've been able to address some of those with people who are here today in opposition. First, this is an application to rezone a piece of property that is owned by Virginia Wesleyan. During the informal session, you heard, and we talked about how officials have changed the official location for the University, that they were changed to a university status now. Part of that requirement to have a graduate program and the graduate program that started earlier this year and this application was an attempt by them to look at a housing component focused on their graduate students or any other free market place for rental. They have housing today on campus today for their students. They plan on adding additional housing for those students. In fact, their Board, in this process, asked us not to compete with them for student housing. They wanted the undergraduate students, to live on campus to the best extent possible. And they will be building additional housing for that purpose. So, having heard that and what they did was they hired a search committee and they actually interviewed 11 different developers of multi-family projects, and Franklin Johnson was lucky enough to be selected by them because of their reputation, and other factors, unknown to me and known only to them why they selected Franklin Johnson. With that, we then embarked on an effort to design this in a way that the Staff and the university wanted and that was to do everything we could to protect the adjacent residential property, L & J Gardens. L & J Gardens is a wonderful history. It is a wonderful neighborhood. And, we did everything we could designing it to keep it away from L & J Gardens. To that extent, we moved all the buildings, all the four-story buildings up along the right-of-way, along a common path. We agreed, with the university, for the common scheme of fencing. The university will be putting up along its portion of Wesleyan Drive, and also putting along Baker Road, as well. We agreed to put the parking up behind the buildings. We agreed that the buildings in the rear, and there are only two that are adjacent to the residential neighborhood, right here, these two (pointing to PowerPoint). This one is adjacent to Fenway. It is a church. This is a three-story structure as well. These two buildings, we agreed, along with this one, to keep three stories in height and to move them back as far away from the neighborhood as possible. We also agreed to put a buffer area, and I want to explain that to you. We agreed to put buffer areas between these buildings and the residential area. And these are labeled BMP features on the plan. They are, however, these will be dry landscape bio-

retention areas with trees and shrubs. So, the buffer you see here is a buffer from the buffer from the apartments. So, this is really going to run from a minimum of about 50 feet in width here, to a maximum about 75-80 feet at its widest point here. We think this is important because these will not be wet. They will be dry. They will be bio-retention features in here. We've been working with a series of engineering about how to minimize impact on adjacent properties. So, we wanted to let you all know that. Second, we heard a concern from the neighbors. We actually had a meeting in May at the University and we invited the residents of L & J Gardens to attend that meeting after the first week of May. We just filed our application and we will get to them as quickly as we could. And, we had a good number of people in attendance including approximately 20 people from L & J Gardens, who attended the meeting. Some of the people, one of the persons who, was at that meeting, is here today, and the others who are here today were not able to attend that meeting for whatever reason. So, we haven't heard from anybody until today, but I did want to let you know we customary reach out to people adjacent property owners. We did in this case as well. And, so we discussed with them a couple of concerns. The first person today, there was a concern about one residence that there are some platted streets that come through here and I see another one up here. She wanted to know if we would be running the streets, if we were going to have any street connection between their neighborhoods and this, and of course, we told them there would be none. There would be no access vehicular access at all through here. One gentleman asked us if we would look at fencing along here in addition to the buffers we talked about. We said we would be happy to look at that with them. This is a gated community. This is gated here. So, we're happy to look at fencing along those lines as well. Another issue, one of the gentleman had that is here today, was also at the meeting asked us actually for us to look at his lot, because he has some of the trees on the property today, that are over his property line or have fallen into his yard causing leaves and stuff like that and asked us to trim those back or take them out if necessary. We told him we would do that. He then agreed to come to his home to make sure we got all of that taken care of. So, I would tell you that we have been very sensitive to that neighborhood. It is a long standing neighborhood, and we understand that. We have done everything we can in the design to make sure we reduce the impacts on the property, while at the same time it is a valuable piece of property owned by Virginia Wesleyan. They are trying to use to promote both the graduate program, and provide new housing in the area that is really nice and upscale. I think the rents start at the \$1,300.00 range per month. And by the way, the Franklin Johnson Group has a 3 to 1 ratio of rents, in terms of your income. So, basically, you have to make about \$40,000.00 a year to qualify, to be able to live there. So, we're not going to have too many students. We'll probably have some professors. And I think that nature, but we're not going to have any undergraduates to be honest with you. That is where they start. We also did some four bedroom quads like you might at the university. This is mostly one and two bedroom units. So, it is attractive to us because is not just Virginia Wesleyan, it is a great location. It is on a beautiful road. It's quiet. It is across from the university. It is across from Norfolk Academy. It is right near the interstate. It is a very attractive. We think it will be very, very popular, normal free market apartment complex. It is not going to be a student housing area, if you will, by any sense of the word. We tried to address the concerns in terms that we told them about the bio-retention areas. And it was no surprise to them. We told them the roads would not go through. So, we tried to address their concerns but we want to be good neighbors and listen further. I'll be happy to answer any questions you all might have in any regard of the application. Mr. Johnston is here from Franklin Johnson. I signed up a card for him. He is really here for any questions you have, but I don't think that would be necessary that he speak. Okay thank you.

Bob Thornton: Thank you.

Item #3

Franklin Johnson Group Management & Development, L.L.C.

Page 3

Jan Rucinski: If he doesn't want to speak, I won't call on him.

Tom Johnson: I'll be happy to answer questions.

Jan Rucinski: Okay. Our first speaker in opposition is Cindy Wilkins.

Cindy Wilkins: Yes.

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

Cindy Wilkins: My name is Cindy Wilkins. I live at 1033 Sanford Avenue, which is a community that is adjacent to L & J Gardens, and is also adjacent to the University. You can get into our community either by Wesleyan or by Baker Road. Now we were approached by the developers but I've been pleased today that he did address a couple of our concerns. Our civic league concerns, that here again, the Bayside area seems to be a very high density populated area. With the apartments that have gone up, the homes that have gone up just in the 3½ years that I have lived here, I have seen things increase and traffic problems continue to increase. And of course, with the outlet malls and the university, we will see. I'm not opposed to the university building properties but when they say it is going to be open to the public, than I am concerned. I just heard the gentleman say that you have to qualify to live there. But are they still opening it up to the public first before they are opening it to the university folks. That is my main concern that was not addressed today. He did address our concern about the incorporated part of Norwich Avenue, which we were concerned that it may be open from the back of the apartments into the residential area of L & J and Diamond Lake Estates. Because we have noticed an increase and influx of traffic just with the Taco Ball up there at the corner of Northampton and Norwich, so we anticipate the traffic is not going to get any better. He also addressed another concern of mine with the no subsidized housing, which those apartments would not be and another one of our concerns, was there would be a fence so they would be willing to look at a fence at the back of the buffered property which faces, would be onto L & J's property residential areas. So, that is pretty much my concerns. Right now is with the continued density issues that we seem to be having in Bayside. Okay. Thank you very much.

Bob Thornton: Any questions for the speaker? No question? Thank you.

Jan Rucinski: Our next speaker is Matthew Gobla. Will you please state your name for the record?

Matthew Gobla: My name is Matthew Gobla. I live at 660 Aubrey Drive. I use Wesleyan Drive to get to the highway to get to work. I see a dramatic increase in traffic in the last two years. We've had apartments going up. You've got Baker Woods, Semi Haven, and a new one still in development at Newtown and Baker Road. You've had the Lexi Town Homes go up. You've had the Diamond North Apartments go up, and these all within two miles or 1½ of this area. So, we've had a dramatic increase in the amount of high density housing and apartments. We already have big traffic issues on Wesleyan Drive, especially with Norfolk Collegiate or Christian, I forget, the high school that borders Wesleyan University. Traffic controllers are posted during most school days to control the in and out of traffic so they will change the lights to allow students who are leaving with their parents out. Light issues with taking down the forest, being a huge nice buffer and the rezoning goes against the City of Virginia Beach's goal to increase its urban tree canopy from 38 to 45 percent by the year 2030, and especially for

such a high density place. If it was developed into residential properties, you would see at least you wouldn't be losing so much even projected tree cover. Yes, if it was developed into residential, a lot of this forest would go away to but at least the lot would grow back or trees would be planted in yards and would provide for denser coverage than off street parking hardscape features here in the plan. I also have issues with decrease in property values and increase in urban heat, increase in stormwater runoff because of the local hardscape, an increase in light pollution, and additional burdens to local school systems and increase noise from construction and residents. Like I said, basically our area has been cut through, which I have experienced pretty much in two years of solid construction. I'm very much opposed to this, and I also a big wildlife advocate and I am the backyard bird watcher and you're going to lose a lot of nice birds that probably visit these adjacent property yards.

Bob Thornton: Okay. Thank you. Are there any questions for the speaker? Thank you.

Jan Rucinski: Our next speaker in opposition is Patricia Payne. State your name for the record.

Patricia Payne: My name is Patricia Payne. I live at 1021 Fairlawn Avenue. My home will back directly up to the three story apartment buildings, which is about the size of this building, I believe. How would you like a building like that over your backyard looking through your windows from the third story? Think about it. That's a lot to ask and I am with him on the birds, we do have a lot of wonderful wildlife there, and with lots of activity I also have feeders and enjoy watching the Woodpeckers, and the Cardinals and the Blue Jays and all of the animals that reside in those woods. But our biggest concern is the buffer. They said there is a 10 foot tree line. Does anyone realize how small 10 foot is? Three trees maybe, three trees. How many can you see through three trees? I have a concern with that. We are always in our yard, and very active. A gorgeous yard by the way, and you take away the tree line and the privacy, you're really taking away a big part of what that neighborhood is about. It is a very park like setting. A lot of the yards are open to one another. They are not fenced off. That is part of the character and the beauty of the neighborhood. Wesleyan has a lot of property on the other side with trees that they are happy they can tear down if they want next to one of their other buildings. Why can't they make it a soccer field or a park? Why does it got to be these monstrosities that are three or four stories? That is a lot because most of these homes are ranch homes. That is all I have to say. I oppose it 100 percent.

Bob Thornton: Thank you. Are there any questions of the speaker? None, thank you ma'am for coming down.

Jan Rucinski: Our last speaker is William Waters.

William Waters: Thank you ladies and gentlemen. I received a copy of the site plan.

Ed Weeden: State your name for the record?

William Waters: William Waters. I live at 1021 Fairlawn Avenue. I received a copy of the site plan. Initially I was pleasantly surprised. It seems like the developer is really going out of his way to move the apartment building away from the residents. My main concern has to do with flooding. I live on Fairlawn Avenue, which tends to flood in moderate rain. Now there is a drainage ditch that shares a common border between the woods and our properties. Now this ditch doesn't really function very

Item #3

Franklin Johnson Group Management & Development, L.L.C.

Page 5

well. So, my concern is how will runoff be handled with their new development, parking and what not? Will it adversely effect in an already bad situation within our neighborhood with regards to flooding. Thank you very much.

Bob Thornton: Any questions of Mr. Waters? Thank you. We need to get you to fill out a card before leave.

William Walters: I already did

Ed Weeden: He did.

Bob Thornton: Okay.

Ed Weeden: It must be misfiled somewhere in there.

Bob Thornton: Please come to the podium.

Jackie Bowe: Thank you Mr. Chairman and members of the Commission. I am one of the residents of L & J Gardens that live directly

Bob Thornton: State your name for record.

Jackie Bowe: Jackie Bowe. B O W E. 1017 Fairlawn Avenue, Virginia Beach. I am one of the properties that is behind the Wesleyan property. I've been in L & J for most of my life. I enjoy the wooded area. It has been a very nice neighborhood to grow up in. I will say this. I am not anti-Wesleyan. Virginia Beach is fortunate to have a new university and I realize that the school does have to expand. I love my privacy in the back, but I don't want to stand in the way of progress either. I see that Franklin Group has done a pretty masterful job, I think, to try and better the situation and the property value. We've been kind of stagnant for years on what was going to be done with that piece of property. Again, my neighbor also mentioned to you about the ditch. Our topography in our neighborhood is a little more than the property across from the ditch is a little higher. So, we're concerned about possible flood issues and we talked to Franklin Group about that too. I am not sure that ditch is maintained by the City, which I suspect that it is and whether or not if the City could also have some influence as to either deepen the ditch or putting a pipe in along that water so that our properties don't flood out. That is our main concern. And again, when you live that property for as many years that I have, when you wake up and you got a skyscraper in your backyard, it is a little different. But again, I'm not against Wesleyan. I am just concern about those other issues a and over hanging trees that are right on the border line of the ditch that may also cause problems during storms and so forth. I had one tree once before that fell from the Wesleyan property and Wesleyan and took care of it for me instantly. They've been good neighbors. They are people who have been nice enough. They've invited us to meetings. They really put out the olive branch, in a sense, to try to let us know what's going on, so; we're not too surprised. So, for whatever input this may be on this project, that I what I had to tell you today. Thank you for your time.

Bob Thornton: Thank you. Any questions of Mr. Bowe?

Jan Rucinski: I did find his card.

Bob Thornton: Thank you and we did find your card. Would you like to have a moment for rebuttal?

R.J. Nutter: Yes sir. Thank you. As I said, and indicated a couple of things I would like to tell you. One, is Mr. Bowe was at the meeting and asked us to come in and take a look at his tree. We didn't have the address until today, so I am glad he came today so we could get his address. And we ensured him that the buffer we got there is going to change. There is no question about it. But we can preserve a certain percentage of what's going on in there because of the bio-retention system we are looking at. It is not going to be a wet pond system. It is going to be a dry area, bio-retention with shrubs and additions to that. So, we plan not to miss any more than that of 10 foot area of no impact on those trees. The other thing that I will tell you and you all have been in development, many of you for a long time, and you know that at often times if you start disruption of trees that can impact other trees in the area. One of the nice parts about this is that is really true here on this where you have a hard surface but here, where this is going to be soft area, where we are going to be planting in shrubs. We don't have that hard area, so a lot of these root systems on these trees that are left really survive. And have a really good chance of maintain themselves. So, there will be change. There is no question about it. I can't deny that but we've done everything we can to minimize that. So that is really a large, large buffer, much more than ten feet. Another question has been raised about the ditch, and the flooding, really quickly, the flooding. This particular design, even though all the water is directed in this direction, the outfall is out here, and run underneath Wesleyan Drive into an existing lake. So, in addition to that, we are going to be lowering the height of this property here along this area here, by about 18 inches. So, I'm sorry, this area. I beg your pardon on about 18 inches. The buildings remain higher but this area will start feeling lower. So, the all the drainage we're going to have is going to be focused in to these deep features and out into the outfall and it won't be going in cross. The ditch and we make it clear to them that if the ditch is on our property, we will be happy to pipe it. We're happy to do that. We're not draining it, probably some drainage it into today from the property. But we don't intend to drain it anything into that whatsoever. We told them we don't know actually where the ditch is in terms of whose property line it is on. Maybe we can work with them along. We won't be putting any additional water into that ditch. We will be running it into a first class stormwater system. It drains in the opposite direction away from the neighborhood. Mr. Chairman, we will continue to work with them as we always do.

Dee Oliver: I know there was some conversation about a fence for privacy. Is that a good possibility? A strong possibility

R.J. Nutter: I would say a strong possibility. It is fully gated along the front and that would make them feel better, we're happy to do that. We made that clear.

Dee Oliver: I know on the front it is aluminum. Real pretty

R.J. Nutter: Aluminum. There is more on the back. Depending on what the conditions are like in there, we could use a slated chain link or go with a solid color fence. It varies on when you get back into those wood on what will work. Another concern about fencing though is that I have fencing in my yard and there is a lot of trees, and every storm I have to replace the fence because the stuff falls and breaks

through the fence. We'll work out something back there with him but we have no objection to putting a fence along that line.

Bob Thornton: Are there any other questions of Mr. Nutter? If there are no questions, we will close the public hearing and open it up for the Commissioners to discuss. Who would like to lead off? Mr. Redmond?

Dave Redmond: Thank you Mr. Chairman. Mr. Thornton, I had the pleasure of going out to Virginia Wesleyan and going over in some depth about the origins and the designs of this plan. And I know there are some folks who are understandably concerned about change. That is always going to happen on somebody else's property. On property you can't control. I do think that this is a very well thought out and well-designed plan to the greatest extent, they tried to put the building out of the right-of-way to conceal the parking the greatest extend in the middle. The stormwater, and given the laws and regulations of the stormwater management today, are far, far beyond that which existing in L & J Gardens, and a lot of others that housing Virginia Beach, so, those are not things that particularly concern me. This is a significant piece of Virginia Wesleyan's long term strategic plan. And, I do believe, it is actually fortunate to have such a high quality and high value asset in what is soon to be. It isn't technically already Virginia Wesleyan University, and it takes great pains to integrate the design and the fencing to liking. I certainly support it and I hope everyone here will support it.

Bob Thornton: Thank you. Are there any other comments? Would anybody like to make a motion? Jack.

Jack Wall: I would like to say a few things. One is that I am okay with it. It would have been nice fi they would have left of course the buffer, and it may have affected the number of buildings. It may have affected the parking. But it would have been nice during their planning stages to probably think a bit more about the neighborhood thinking about the residents that are going to back up to that. Yes, it is not their property, but it is zoned apparently residential. I think R-15? It is not zoned apartments, you know A-12, I think, A-24. So, it is going to be changed. We're actually rezoning it and from what the existing zoning is. I'm okay with it. I just wanted to point out that it is not the prime at all. A substantial buffer would have been nice. Apparently it is R-15.

Bob Thornton: Karen?

Karen Kwasny: I wonder if I could ask the woman where her property is located?

Bob Thornton: Certainly.

Karen Kwasny: Are you in that little triangle there? I find myself in agreement with Jack. I'm not in opposition to it. I generally like the idea. I think Virginia Wesleyan is a good neighbor and I don't think that their concept of what this will provide in the area I a good one. I agree with David that it is not a logical to place for retail so, and I will admit R-15 is going to change like that. I do think that Jack has a point about providing additional buffering and that would be a matter of perhaps just making a few adjustments that would allow for a greater buffer for those residents between their property and this property or their property and these buildings that would be, while the site plan look like there will be good deal of room, in reality not very much. So, I don't know if there is opportunity at the moment but I

think it bears taking into consideration.

Mike Inman: Mr. Chairman?

Bob Thornton: Mike?

Mike Inman: I would like to make a motion to approve the application. I think they did a wonderful job of planning it. It is not the most dense apartment zoning they could ask for. I'm sure there are certain numbers that work in order to make this project to go and make it the quality that we would like to see.

Bob Thornton: A motion make by Mr. Inman. Do I have a second? A second by Mr. Redmond.

	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			

Ed Weeden: By a vote of 11-0, the Commission has approved the application of Franklin Johnson Group Management and Development, L.L.C.

Bob Thornton: Thank you.

Item #4
Clarence E. & Doris V. Bryan/Cindy Feldman
Subdivision Variance
3388 Eagle Nest Point
District 4
Lynnhaven
July 12, 2017

CONSENT

An application of Clarence E. & Doris V. Bryan and Cindy Feldman for a Subdivision Variance (Section 4.4(b) of the Subdivision Regulations) on property located at 3388 Eagle Nest Point, District 4, Lynnhaven. GPIN: 1489-80-3700-0000.

CONDITIONS

1. When the site is subdivided, it shall be in substantial conformance with the submitted subdivision exhibit entitled, "PRELIMINARY SUBDIVISION EXHIBIT FOR LOT-5 & PART OF LOT-6 PLAT OF EAGLE NEST POINT (M.B. 16, PG. 43) VIRGINIA BEACH, VIRGINIA," prepared by WPL, dated March 1, 2017, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. When Lot 5A is developed, the dwelling constructed shall substantially adhere in appearance, size and materials to the submitted elevation, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.

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

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

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

Billy Garrington appeared before the Commission on behalf of the applicant.

Item #5
Real Investment Associates, Inc.
Subdivision Variance
1337 Reedtown Road
District 4
Bayside
July 12, 2017

CONSENT

An application of Real Investment Associates, Inc. for a Subdivision Variance (Section 4.4(b) of the Subdivision Ordinance) on property located at 1337 Reedtown Road, District 4, Bayside. GPIN: 1478-68-0720-0000.

CONDITIONS

1. When the property is subdivided, it shall be in substantial conformance with the layout depicted on the plat entitled "PRELIMINARY EXHIBIT FOR RESUBDIVISION OF PROPERTY OF DALA CORPORATION (D. B. 3405, PG. 875) VIRGINIA BEACH, VIRGINIA," prepared by WPL, dated April 10, 2017, with no more than two parcels - Lot A and Lot B. Said plat has been exhibited to the Virginia Beach City Council and is on file in the Planning Department and Community Development.
2. When Lot A and Lot B are developed, the dwelling for Lot A when constructed shall substantially adhere in appearance and size to the submitted elevation entitled A4 OBH-200 Model "B" and the dwelling for Lot B when constructed shall substantially adhere in appearance and size to the submitted elevation entitled A5 OBH-200 Model "B", prepared by Ocean Bay Homes. Said elevations have been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.

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

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

By a vote of 10-0, the Commission approved item 5 for consent.

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

Item #6

Hospice House of South Hampton Roads, Inc.

Conditional Use Permit

Hospice House (Sanitarium)

East Side of Upton Drive, North of Nimmo Parkway

District 7

Princess Anne

July 12, 2017

REGULAR

Bob Thornton: Please call the next application.

Jan Rucinski: The next application is Item 6, an application for Hospice House of South Hampton Roads, Inc. for a Conditional Use Permit (Hospice House –Sanitarium) on property located on the east side of Upton Drive, North of Nimmo Parkway, District 7, Princess Anne.

Cindy Curtis: Good afternoon ladies and gentlemen. Thank you very much for this time to present to you that we see as a very important opportunity for our community to meet a need.

Ed Weeden: Can you identify yourself for the record?

Cindy Curtis: Yes, I apologize. My name is Cindy Curtis.

Barry Frankenfield: I could have told you that one.

Cindy Curtis: I forgot to identify myself. I'm not used to identifying myself. This is something that is heartfelt to me and to all of the members of our 501(c)(3), our non-profit foundation. Our attempt is to ask the City to provide us with 2.25 acres, give or take, on Upton Drive for the development of a 12-room hospice facility. In the informal session, you saw some of the photos associated with the wonderful design that has been done. We think it is in keeping with the surrounding neighborhood. Needless to say this is a very quiet use. This is for folks who are dealing with end of life care needs. There are many individuals who are not capable of dealing with end of care life needs in their homes. Unfortunately, in our region there are only 12 beds provided by the Sentara assisted-living facility. There is a stipulated need done by a community analysis for a minimum of 36 beds, so we would like to attempt to reduce that backlog of beds that are needed in our region. We spent quite a bit of time working with the City. This has been a discussion that has been ongoing since 2014. We have met with the surrounding neighborhood two times. We've met with Mrs. Henley's regular commission meeting that she holds monthly to present the proposal. We've made adjustments to the proposal based upon the feedback that was received from the community. South Shore Estates. We've moved the location of the facility northwards to make sure it engages with the mostly treed buffer that is provided along the lakeside. We have every intention of adding to that buffer. The City, because of their implicit support for the hope of this moving forward, agreed to sell approximately 14,000 square feet of property to the abutting neighbor to provide an additional buffer from what they already purchased from the City. The City has already placed trees. We will add to the buffering of the trees. They have already been placed along that north border. We are excited because we believe this is a project that the community will get behind. We estimate, it will take \$5,000,000 to build the facility and we hope to raise about \$5,000,000 from the endowment because we would eventually, once the endowment is set, would like not to have to turn anyone away from the need of this service. It is near and dear to my heart because I had a

Item #6

Hospice House of South Hampton Roads, Inc.

Page 2

mother-in-law who I had put into a facility for her end-of-stage life-care and it could have been better. It could have been gentler and we designed a facility that will allow the full family input. The best of care! We would not be operating it. We will hire a professional group to come in, medical doctors, nurses, and a professional group to run it. And as I said, it is a quiet use and design to fit in as best as possible with the surrounding neighborhood. I'll be happy to answer any question, or if you have any specific development questions, I've got the capable Bob Miller here to back me up in case there is something there that is a concern that I may not be able to answer.

Bob Thornton: Thank you. Are there any questions for Cindy? Thank you.

Jan Rucinski: Mr. Miller, did you want to speak on the application?

Bob Miller: Since I'm capable.

Ronald Ripley: We were trying to consent it.

Bob Miller: I know. I am just letting you that what Cindy said, I'm on the Hospice House Board also. I'm Bob Miller. I'm a professional engineer in Virginia Beach. This is a facility that certainly has a large need like she explained. I think we've done what the staff has asked us to do, and we were ready, obviously be approved in the consent. So, we will see what the concerns are and address those things. Thank you.

Jan Rucinski: Our first speaker says that he is in partial opposition, and he represents South Shore Estates, and that is Bob Kugler.

Bob Kugler: You got it close enough.

Jan Rucinski: State your name for the record.

Bob Kugler: Yes, my name is Bob Kugler. I live at 2084 Bierce Drive, Virginia Beach in South Shore Estates. And I work for the South Shore Estates Civic League, and we have had a couple of good meetings with the hospice facility and their people. I provided you with some background documents that you may or may not have read, if you had a chance to read, but I sent to you by email I believe. That showed that we have spent, as a neighborhood, much time working with the City over many years trying to turn this particular property into a wooded area, or at least one with more trees and shrubs. And as you know, or from the background know, the City originally acquired this through eminent domain. They took the property in order to produce, in order to extend Upton, which they did as a two lane road. They are also inconsistent with that. They built or they provided some of the land for two Houses for Humanity homes. And they have been built, Habitat for Humanity. The eminent domain was not though justified on the purpose of creating commercial space. Nowhere in any of the documentation indicates that, and the rest of the neighborhood of course, is residential. This is the lake, although it does not own any of water itself. That is all owned by the property owners from across the lake. So, from a point of view, you can see the site and where the lake is. People who live across from it and the rest live down. From a neighborhood standpoint, we of course, first and foremost wish to make this stay as a park, or if it could not be a park, rather as a wooded area consistent with the City's desire to have more trees and wooded areas. If that is not possible, if it must be turned over to anything else, then, through a survey we determined that yes, we would support the hospice, though many people who live and most affected by this, certainly we're not in favor of that. But as an overall neighborhood, we said we would prefer a hospice over other things. What took us by surprise was the second meeting

Item #6

Hospice House of South Hampton Roads, Inc.

Page 3

with the Hospice folks. They were actually told no, we're not going to give you the center of the property. We're only going to give you part of the property, and that raised the hackles of everybody in the neighborhood. For we know that once you rezone that site, there is nothing to stop you from rezoning the site that is further to the south and turning it into a business facility or anything else you so desire. That would be totally against the community, the original zoning, and as far as we're concerned, it doesn't even help the hospice facility. That facility does not site that far down. In fact, it would help the neighborhood if the whole property was given to them or the rest of the property was used as wooded or open space. So, what we are really asking is as an absolute minimum, do not subdivide that property in a way you have shown. We're not a party to that. We were only informed of it and we never agreed to it. That, frankly, is the position from the survey of the community folks. I am not the only one here to talk from the community. I don't want to preclude others who actually live adjacent or across from. Are there any questions?

Bob Thornton: Karen.

Karen Kwasny: You are aware that this is a Conditional Use Permit? So, they are not rezoning the property. Correct?

Bob Kugler: They are asking to rezone the property. You can't build something on residential. Somebody is asking.

Karen Kwasny: It is a Conditional Use Permit. Correct? Does someone want to clarify that so we can all understand what's happening?

Bob Thornton: It is a Conditional use Permit, but it is not a rezoning.

Karen Kwasny: Dr. White?

Stephen White: The site is zoned R-7.5. It is Residential. But you can have this use on a Residential site with a Conditional Use Permit. That is what they are here for.

Bob Kugler: Let me just be sure that I understand. Will that also allow the City once this is done, to rezone or use a Conditional Use Permit to build a medical office building on the remaining part of the site?

Stephen White: A medical office building or anything commercial of that nature is not allowed in that R-7.5 District; so, they would have to come in and rezone the property. It is a process just like this, and you get the opportunity to weigh in on that.

Bob Kugler: Okay. I'm sorry for my ignorance on that. But you do understand our hesitancy that once this is done, there will be more likely an inducement to use the rest of the property for something besides a hospice, and as we've been at last alluded to by the City, medical office building, which we feel should be addressed at the same time this is so we aren't kind of caught later on. Does that make sense?

Bob Thornton: Are there any other questions?

Bob Thornton: Let me answer part of that for you and Staff can help me. The City owns this property and it is zoned Residential. If they made a decision to put it on the market and sell it, they would have to

Item #6

Hospice House of South Hampton Roads, Inc.

Page 4

go through a RFP process and advertise, and developers would come along and tell them what they wanted to do, or the City would advertise it for a specific use, and that's got to go before City Council before they advertise it. So there are layers of protection for your neighborhood if the City decided they wanted to sell it and be done with it. You get a chance to weigh in on the questions to sell it, and then the question of use. And then the question of who they respond to in the RFP. So, it is just not going to happen one night that you're going to wake up and see a building being built out there. I've done work with the City on several parcels, and it is a very lengthy cumbersome process that is for the purpose of protecting the public. Hopefully, the staff can nod their head, and say that is how it works. I don't think you should worry about someday something out there is offensive because the people on City Council doesn't like offending the neighborhood with things that you all don't like.

Bob Kugler: I appreciate that. It is the Staff that told us the other part of the property would probably be used for a medical office building; so, I have also weighed that somewhat with our perception we've been given.

Bob Thornton: I understand.

Bob Kugler: But I appreciate the feedback.

Bob Thornton: The answer could be, but it is going to be a process. A real process. Are there any questions of our speaker?

Karen Kwasny: That was very clear. Thank you.

Bob Kugler: Thank you.

Jan Rucinski: Our next speaker in opposition is Cheryl Caffyn. State your name when you get to the podium

Cheryl Caffyn: It is a tough name. Cheryl Caffyn. I live at 2201 Bierce Drive in South Shore Estates. As the pictures show, the property adjacent. I am the property. So, this would be my backyard. I have several questions and concerns. This past May was our 20th year in our home. When we purchased our home, we were told there would be no ingress/egress into the land behind us. I think there was no extension, and the City wouldn't allow it. We have on this lake, we have spectacular views. There is kayaking, sailing. We have wildlife, osprey, herring and hawks. Daily visitors, which I have a pair of nesting bald eagles on the lake as well. Recently I had someone to come in and do some trimming on my trees, but also looked at this land that is behind there that the City is allowing us to purchase. It is going to protect the trees on there; so, I'm not sure if the City has done any true looking at the property to see if there is actually any other protected trees. He told me if I was to cut it, I would be dealing with a penalty. So, again, the homeowners on the lake, it is private lake. I had several concerns and it was great to hear the earlier session where it was mentioned about the part of the preliminary stormwater analysis had been done on this property. I am assuming that?

Stephen White: Yes.

Carolyn Smith: Yes.

Cheryl Caffyn: Where will the storm drains be going? On this property here covered, and there

Item #6

Hospice House of South Hampton Roads, Inc.

Page 5

previously slide presentation it covered water and it covers sewer. It never covers storm drains. So, we would like to know where the storm drains are going.

Stephen White: The detailed design work has not yet been done. Preliminary stormwater study and assumptions made in that study have been reviewed by Development Services Center and they have accepted that. I cannot tell you the details.

Barry Frankenfield: We know that. I don't know if we know it right now. In other words, that would have been determined in the study; so, I apologize that we don't know that answer to that but they have determined where the outfall is going to go. So, we will get someone who could answer that question.

Cheryl Caffyn: Yes. The last time the storm drains were worked on, it was a bit closer to the Red Robin up there. When the City came in to do stormwater on that particular drain, they took out a 100 foot across of trees, 50 foot on both sides. They worked across the lake immediately called had this halt stopped and wanted to know what's going on, and they said it was standard practice for them to wipe out 100 or so trees because they needed that level of access. If this is not noted on here, so they be working on another 100 foot of trees that are already filled and established across there to add an additional storm drain. That is why I am concerned where this is not being shown. So, one of the areas that when the City did that it was notified that they were going to be removing these trees. We want to be notified if they are going to be removing trees, and if so, how it is going to impact us? We have an easement. If you look further down, there is a pool, an easement of storm drain. A 30-foot easement. I want to know if the City is going to be connecting into that one, or if they are going to be adding a new one, because, if so, you will be putting my family at risk, the pool at risk for construction that is going to be going through.

Bob Thornton: Ma'am, we have a time on speakers, and your red light has already gone off. If you have a summary, could you please summarize?

Cheryl Caffyn: I can do it real quick. A couple of times that trash being picked up between not the hours of 7:00 am and 7:00 pm. I don't want trash ups at 2:00 in the morning. I want to make sure we get that. The traffic patterns, we want to know how that is going to be going. You got 28 spots here but you have over a full time staff, nurses, doctors, and attendants. You don't have adequate spacing. Where is the overflow going to go? Also, wanted to know was the biggest concern I have about this facility is a non-profit. I work in healthcare. I understand that it is very noble cause. You're talking about a non-profit that you're based on funding. They are going to being able to take in people that whether you can pay or not. What happens if this goes under in three years? What happens? Can this be turned into a rehab facility? Will I have that in my backyard? What is my guarantee that it will remain a hospice? You're limiting it, because it is inpatient; so, you're limiting the use of this property. And that is my greatest concern. I mean it is a noble cause, but I just don't want it in my backyard.

Bob Thornton: Thank you. Are there any questions of the speaker? Thank you. Are there any other speakers against?

Jan Rucinski: Yes, we have one more and that is Mirella Stalnaker.

Item #6

Hospice House of South Hampton Roads, Inc.

Page 6

Mirella Stalnaker: I have a few things I would just like to hand out. Can I do that?

Bob Thornton: Sure.

Mirella Stalnaker: Okay. Just really quick.

Ed Weeden: State your name for the record.

Mirella Stalnaker: I'm sorry.

Ed Weeden: State your name for the record.

Mirella Stalner: my name is Mirella Stalnaker. I live at 1040 Sandoval Drive. I am part of South Shore Estates. What you are about to receive is a copy of our deed. I wanted to make sure that you are very clear what we're talking about, and when you receive this, what you will see is at the bottom is where my home is. Behind us is the waterway. You can't see it up there. You will see in your hand. The waterway is part of our deeded property. And where our water stops is where the proposal is for this Hospice. So when we say it is in our neighborhood, it is in our neighborhood. And while this is just my home, all of the homes adjacent to me have the same issue where the water goes against the property. The pictures I am sending you are pictures directly from my backyard. I'm showing you those even though in the back it looks like the water is. We're talking about less than a mile. So, where I am looking at the hospice and seeing into the time, they are also seeing into our homes. So, I want to make sure that is very clear. My direct neighbors and I are strongly opposed to this hospice, and I have six reasons, and I know I have three minutes. So, I'm going to speak quickly. The six reasons on why I am strongly opposed to this hospice in our neighborhood. Number one is safety. This hospice will bring visitors, volunteers, employees into our neighborhood. These strangers will be able to look in our homes. They will see our children, our daily activities, and our patterns. While we are unaware of who they are, or where they came from, that is why you don't put commercial properties in residences. You expect a certain amount of privacy. Can you hear me? That is why you don't put commercial properties in our neighborhood. This land we're discussing is zoned residential, and directly backs to our property in our neighborhood. Please keep it safe for private homes, and keep it for private home development by keeping it residential. Number two. There are six. I am on number two. Backing up to the lake, which is really the Back Bay watershed. That is the watershed we are talking about. Most people who spend any time on the beach or on the water understand that you can't leave a can or a fast food wrapper out there. Their landscaping is beautiful. The reason why you can't have those things out because there is always a breeze near the water, and that leaves debris that goes into our waterway. Now, what they are buying, one of the pros to our neighborhood, is that we use this lake. We swim. We kayak. We paddle-board. No one wants to swim in trash and filth. We just don't. And, that is our fear that is one of the things that will happen when you bring strangers into the neighborhood. They just don't know better. They don't live there. They don't care. Number three. What about future development? What happens that in five to eight years, the hospice doesn't have the financial means to stay open? For me, it working at hospice and working at a halfway home or a drug rehab. Would you want that in your neighborhood? I don't want that in mine. You wouldn't want that for your family either. There are places in Virginia Beach for this. I don't think it is in a residential area. Number four is liability. We discussed that waterway is ours. Right now, it is owned by the City. It is zoned no trespassing. If we put a building there, it is going to bring people in. If someone was to drown in that lake, as homeowners, we're responsible. So you need to think we're liable. So, we will sue you, if they drown in your water. Maybe they wouldn't, but we would be the ones who will have to hire the attorney, miss work. It is just a

hardship that you wouldn't expect from a vulnerability you should expect in your home. Number 5 of 6. I am almost done. Increased activity not conducive to residential living. I don't believe they would have the emergency vehicle sirens coming into this facility, but they would have lights. And again, this is directly across from the facility. All of our master bedrooms are on the side of the water. So, these lights would be coming in at two or three in the morning. It doesn't add to our quality of life. And the last thing, number six. All the arguments that I presented to you result in a decrease of our property value. I forgot about this. I brought a realtor over, and said what is this going to do to our property value? He said it is going to decrease. It makes it vulnerable. Talking to our neighbors, they said if this hospice had been there, and I'm including myself, I wouldn't have bought the property. My real estate taxes get lower home values. In my research, I haven't seen any hospice that paid any real estate taxes. That's real estate tax doesn't that to our schools. I'm not sure, but if the City chooses to disregard the pleas of the residents that are directly impacted by the building of this hospice, then I would like to make a requirement that the hospice include an aesthetically pleasing fence blocking any access to the water. They should maintain the trees that are already there, and plant additional trees for a buffer protecting our privacy. I think that is all that I want to say about that. Thank you. Are there any questions?

Bob Thornton: Are there any questions? Are there any questions of the six statements?

Dee Oliver: I've got one.

Bob Thornton: Okay. Dee.

Dee Oliver: I can't address the landscaping on the lake because I'm not just not sure, or the liability if someone falls into the lake or drowns. I think you have more opportunity for that to happen with the land undeveloped than you do as a hospice house. I can address, being a funeral director and pretty much an expert on the end of life, that this is a very quiet use of the land. The likelihood of you having a lot of foot traffic or a lot of people in and out of that building is minimal at best. I have a couple of funeral homes. We don't have a lot of traffic. It is a very quiet. A hospice house is very, very quiet. They are great, and I hope you never have to experience it in your life, but they are a very, very nice facility to have in our communities. I don't think that it will impact you as your envisioning. The ambulances won't come in with red lights on. They just won't. You're not going to have that kind of use for this facility. It is quiet. And most of the people that end up in a hospice facility, just for this particular one, I know, it is because they don't have somewhere to go. So, you're not going to have 20 family members descending in on one person in a bed. The likelihood is probably is that they don't have anybody, unfortunately, for them. So, to have a facility like this, that they can go to, be well taken care of, and I know this particular facility will probably be one of the top ones, probably in the State of Virginia. We're that fortunate to have. I think that. I understand your concerns, but I think you might, and I'm counting on you being presently surprised that this isn't going to impact you as much as you think.

Mirella Stalnaker: Ms. Oliver, I appreciate you saying that, and I do believe, and I am sensitive to the issue to the hospice in what's being done there. I absolutely believe that Virginia Beach needs another one. And they have been so kind and easy to work with. Here is another reality, and I want you just think about. I have this home, and we enjoy being on that water, and now after this hospice is built, and if we don't have these buffers at a minimum, I am out there enjoying paddle-board and knowing right across that lake is somebody losing their best friend, their mother, their spouse. What kind of quality of life is that for our neighbors, knowing that how insensitive of us to enjoy the lake in front of them. So it is just the thought we had. You may not agree, and I understand that. But this is our home. And, I would just want to ask you. Would you want it in your backyard, because this isn't like across the street down a

Item #6

Hospice House of South Hampton Roads, Inc.

Page 8

way, this is our backyard.

Dee Oliver: I appreciate that as a land use, as a facility, or a business coming on a piece of land, as far as it impacting anything, it is relatively quiet.

Mirella Stalnaker: I would ask that it would maintain residential, and that if it was free up for sale, I personally would like, and this is how it came up actually, I called to see if I could buy it, and they said something was going on. It was months and months ago. I would like to have a home there for my parents so I could keep an eye on them, and I believe others would as well. This is a residential property; so, I wish them well. I just don't wish it on a residential, anyone, not just ours, any residential. That is all that I have to say. Thank you.

Bob Thornton: Are there any questions of Ms. Stalnaker? Karen.

Karen Kwasny: I'm not sure if it is a question for you so much, as but it is a question, because the conceptual that I am looking at provides a substantial buffer behind the building on the lake; so, there is a substantial buffer there. You're asking for a more robust buffer than what is already in existence? And gives where the building will be situated?

Mirella Stalnaker: That is a great question? What first presentation we saw there was no buffer. The second one said there might be, and they were going to try, and Lynnhaven River Now is thinking they could put something better there. With all due respect on the buffers and landscaping, the City did put, I think, 8 or 10 trees, about two months ago, two of which are already dead. So, when someone says trust me, we're going to have a buffer, if there is any chance of taking those trees down, I am opposed. If there is not a dump there, I'm opposed for the safety of us. You say it is acceptable now, it may be more so when you're going to have a hospice there and there will be volunteers. That is great. But they are going to get lunch breaks, and that is on our waterway; so, let's go back to the watershed. Let's be clear on that.

Karen Kwasny: So I think you had some questions that will probably be able to get answered when they return to the podium so we can ask those questions with them.

Mirella Stalnaker: Thank you.

Karen Kwasny: I am sure we can perhaps work with what you would like.

Mirella Stalnaker: Thank you.

Bob Thornton: Thank you. Would you care to rebuttal? We don't have any more speakers.

Cindy Curtis: Thank you very much. The concerns that have been expressed were not new to us, and we heard them, and we tried to deal with them with the greatest extent possible with the exception of not being there on the site. And, I will let you know that we looked for quite a bit of time with the Planning Department for other parcels throughout the city. This, by far, was the best use for this type of facility. The others were more driven by economic development, higher and better uses you can imagine versus a non-profit use, which is a more quiet use. In terms of the wildlife, and recreation uses, as I think you heard earlier, there are two parks within a quarter mile of this situation. Yes it is, right now, a green field and I respect the fact that the change from a green field to a more active use is, as you said, change.

She is absolutely right. Both of the speakers were right. The trees abutting this property are owned by the people across the lake. So, we will not be removing those trees. What we have asked is Lynnhaven River Now, and some other groups, to work with us to deepen the amount of buffer with the trees, which will hopefully thrive in the environment. The initial trees that were put up by the City that are dead, I am sure they will be replacing them. They probably didn't irrigate them appropriately, which is the irrigator bags. It has been very dry. I am sure landscape management will be embarrassed that occurred, and we'll make sure to get that fixed. Trash will be a minimum. These residents are basically bed-bound. We thought this was a wonderful site, because we are designing the bedrooms that overlook the lake to allow them to have the peaceful vista through the landscaped area, and then the trees. It won't necessarily be looking at the lake, as you can see, because we have the built-in buffer, but it is a green quiet environment. And we think a peaceful caring environment is the way any of us would want to spend our last days. In terms of if, this was to fail, we certainly are not planning on that. As a matter of fact, we are allowing ourselves, and our term sheet, an amount of time to work with the community to make sure, as I said earlier, not only to have the funds to build this building, but to provide an endowment to ensure coverage of not only annual operating shortfalls that may occur, but also to hopefully be able to accept individuals who don't have the funds necessary for this care - for us to be able to take care of our community. Safety and strangers? These will be individuals, volunteers, will be individuals from our nursing staff throughout the community. All the staff throughout the community, and our faith-based community. We will have professional nurses and doctors on staff. Like you said, family members, visits will be intermittent during quiet times. We will not have lights or sirens as you well-said. There will not be lights or sirens. In terms of trash pickup, I can ensure you that we can write in our contract that it occurs during regular business hours not at 3:00 a.m. because that would be disruptive to the neighbors as well as to our community that is using the Hospice Facility.

Bob Thornton: May I ask you to wind up really quick?

Cindy Curtis: Yes. I will be happy to.

Bob Thornton: Thank you.

Cindy Curtis: Can't always guarantee it to be a hospice facility. I am on the board, and I would like to say that you never say never, but I can tell you that the City would be extraordinarily sensitive to any other adaptive reuse, and it would definitely be one that I think the community would be comfortable with, and I certainly respect your concern there, but believe the City is very aware of that. If there are any concerns or questions regarding infrastructure design, Bob would be happy to answer those. We really believe we worked hard to try to hear the concerns, and are very sensitive to making this space be something that the community would be glad it is in Virginia Beach.

Bob Thornton: Are there any questions of Cindy? Karen?

Karen Kwasny: So you are amenable to changing the trash pickup hours? That is my first one.

Cindy Curtis: We don't have trash pickup for us right now. It will be a private service line. I am certain we can ask for a certain time to do that. We certainly would not, because of our residents wanting them there at 3:00 in the morning, and we are very sensitive to the fact that yes, there is a neighborhood abutting. There is also a private sector business is right next door; so, we are very sensitive.

Bob Thornton: Thank you. Did you have a question?

Jan Rucinski: That was one of the questions. But I actually had one for staff because it does say in the write up that the trash pickup will occur, I think it is before 7:00 a.m. in the morning and after.

Bob Thornton: 7:00 to 7:00. Number #3.

Jan Rucinski: I can see where the residents would have a concern with that. Is there a way to get that in the write up changed?

Bob Thornton: Condition #3 is 7:00 to 7:00.

Stephen White: It says trash from the dumpster shall not occur between the hours of 7:00 am and 7:00 p.m.

Bob Thornton: Shall not occur?

Stephen White: We can easily fix that by removing "not."

Cindy Curtis: I rest on the opportunity of not removing "not."

Jan Rucinski: That is why when I read it, okay, maybe there is something different.

Cindy Curtis: I can understand why you brought that forward. Do we have any problem with the Planning Department with that? Great. Consider it moved. How about that?

Bob Thornton: Are there any other questions of Cindy? Okay. Bob, a question for you please?

Karen Kwasny: Bob, do you have any manner of answering Cheryl's question. I think Cheryl's question about? I know we said we don't know where the stormwater are going to go. She had a couple of questions about stormwater management, about construction, and an easment adjacent to her property.

Bob Miller: Adjacent to her property? Excuse me?

Karen Kwasny: I thought that is what she had said.

Cheryl Caffyn: There is only two storm drains.

Bob Miller: Here? We are not touching any of that.

Cheryl Caffyn: There is one there, and there is one other by the water.

Bob Miller: There is one that goes through the property, and we're not dealing with that one either.

Cheryl Caffyn: So, you will be adding one?

Bob Miller: What we will do is honor those trees that are there, and like you said, reinforce that

landscaping. These are volunteer trees in for the most part, and the rest of the trees that are on the property, a few of them that have been planted by the City. That buffer will be there consistently. We're doing stormwater management on the property in the form of quality and quantity, and if we were to choose the one piece, it would be quality, and we would change to buy phosphorous credits, but we will actually do all of that on the property. So there will be a small outfall pipe that will go in that will go to the lake, but there will not be an additional cutting down of a 100 trees. There will not be anything like that. We can't do that. And there are easements allowing the City access to the lake, if that answers your question?

Bob Thornton: Thank you. Anybody else have questions for Bob? Thank you. With that, we will close the public hearing and open it for discussion amongst the Commissioners. Who would like to speak first? Go ahead Karen.

Karen Kwasny: This kind of piggybacks on what Dee had said in response to some discussion, and that is, and as I said earlier, when we look at the hospice house off of Rosemont, I recall saying to my husband, wow, I would love this in my backyard, because it was so quiet and peaceful, and lovely. And since this isn't nearly as large as that, there isn't an availability of a lakeside walk around like that particular location has. They have done a fine job in creating kind of a natural landscape around the building, and I wouldn't want us to make a decision in the negative here in relation to a fear of the future, when we're not talking about a rezoning yet. And Bob articulated that so well, and I'm sure I'm going to do damage to it, but if that becomes the case later on for the portion of the property that is not being developed for the hospice, that would go through the process, and then, I think your concerns would have a lot of merit, and I would bring them forward at that point. I think that they have every intention of making this a use that is going to be a model to the neighborhood, and it really would be a quiet peaceful buffered property with stormwater managed on a property with relation to quality and quantity without it being constructive or reviewed, without your reasons being interrupted, for a lack of better articulation.

Mike Inman: Mr. Chairman?

Bob Thornton: Mike.

Mike Inman: First off, I want to make sure that everybody is clear. I think Staff can correct me if I am wrong, that the City is the owner of this property. This is a request of the applicant, which is a 501(c)(3) charity organization, which is to operate a hospice facility in a R-7.5 Residential District. If someone else wanted to do something else, because of a failure of this organization, which is highly unlikely, I think, they would have to apply for a use permit, and the uses within R-7.5 are pretty narrow; so, and if you're interested you can look in the City's Zoning Ordinance and find out what those listed uses are by law. This use is probably the least intensive potential intrusion into a neighborhood that I can think of in this particular location, and the organization that is going to operate it is a very responsible organization with excellent members on the Board who will, I am sure, they will be as accommodating as they can to their neighbors should there be any need to do so. I'm very supportive of this use on this particular piece of property.

Bob Thornton: Thank you Mike. Does anybody else want to comment before ask for a motion?

Karen Kwasny: I would like to make a motion that we approve agenda item 6, Hospice House of South Hampton Roads.

Bob Thornton: A motion made by Commissioner Kwasny. Do I have a second?

Don Horsley: Second.

Bob Thornton: A second by Commissioner Horsley.

Bob Thornton: We got to change Condition #3 by removing the word "not".

Carolyn Smith: We would recognize that as a typo. That was not our intention.

Bob Thornton: Okay. Thank you.

Stephen White: That includes the new condition #5. Right? The right-in and the right-out?

Bob Thornton: Yes. You gave that to us between meetings, "the southern access will be right-in right-out only."

Stephen White: Yes sir.

Bob Thornton: Are you okay with that? Okay. Thank you.

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

Ed Weeden: By a vote of 10-0, the Commission has approved the application of Hospice House of South Hampton Roads, Inc. with the new condition #5.

Bob Thornton: Thank you.

Conditions:

1. The site shall be substantially developed as shown on the submitted plan titled "Conceptual Site Layout & Landscape Plan of South Hampton Roads Hospice House," prepared by MSA, P.C., dated 12/07/16, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.

Item #6

Hospice House of South Hampton Roads, Inc.

Page 13

2. The design of the building shall be substantially as shown on the submitted building elevations titled "Proposed Elevations, South Hampton Roads Hospice House," prepared by Cox, Kliewer & Company, P.C., dated December 5, 2016, as well as the rendering titled the same but dated February 10, 2017, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
3. Collection of trash from the dumpster shall not occur between the hours of 7:00 p.m. and 7:00 a.m.
4. Any exterior lighting on the building or installed on the site shall be mounted and shielded to prevent any spillover of illumination onto adjacent residential properties to the north and west.
5. The southern access on Upton Drive shall be right-in/right-out only.

Item #7
Mogul Properties
Conditional Rezoning
317 S. Witchduck Road
District 2
Kempsville
July 12, 2017

CONSENT

An application of Mogul Properties for a Conditional Rezoning (Conditional B-2 Community Business to Conditional B-1A Limited Community Business) on property located at 317 S. Witchduck Road, District 2, Kempsville. GPIN: 1467-70-6098-0000.

PROFFERS

PROFFER 1

The Property is developed with the "Carraway House" substantially shown on that "PHYSICAL SURVEY OF PARCEL DESIGNATED AS 'VIRGINIA CARRAWAY HICKS' (AS SHOWN IN M.B. 140, PG. 1) VIRGINIA BEACH, VIRGINIA FOR JAMES E. OWENS & VIRGINIA L. OWENS", prepared by Rood & Smith, P.C. Land Surveyors, dated 07/01/06, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Physical Survey").

PROFFER 2

The Property may be used for those uses (permitted or with an approved Conditional Use Permit) as allowed in the B-1A Zoning District under the Grantee's C.Z.O., with the following exceptions, which are not permitted:

- (a) Animal pounds, shelters or commercial kennels;
- (b) Building Mounted Antennas;
- (c) Colleges and Universities, public or private;
- (d) Communications Towers;
- (e) Grocery Stores, Carry-Out Food Stores and Convenience Stores;
- (f) Liquor Stores; or
- (g) Mini-Warehouses.

PROFFER 3

All outdoor lighting shall be shielded, deflected, shaded and focused to direct light down onto the premises and away from adjoining property.

PROFFER 4

Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City codes by all cognizant City agencies and departments to meet all applicable City code requirements.

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

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			

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

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

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

Item #8
Grace Bible Church of Virginia Beach, Inc.
Conditional Use Permit
Conditional Rezoning
2285 London Bridge Road
District 7
Princess Anne
July 12, 2017

REGULAR

An application of Grace Bible Church of Virginia Beach, Inc. for a Conditional Use Permit (Religious Use) and a Conditional Rezoning (AG-2 Agricultural to Conditional B-2 Community Business) on property located at 2285 London Bridge Road, District 7, Princess Anne. GPIN: 2405-70-2584-0000.

A motion was made by Commissioner Inman and seconded by Commissioner Kwasny to defer item 8.

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

By a vote of 9-0, the Commission deferred item 8.

Eddie Bourdon appeared before the Commission.

Item #9
Milagros Montesa
Conditional Use Permit
5768 Arrowhead Drive, Unit C
District 2
Kempsville
July 12, 2017

CONSENT

An application of Milagros Montesa for a Conditional Use Permit (Automotive Repair Garage) on property located at 5768 Arrowhead Drive, Unit C., District 2, Kempsville. GPIN: 1467-03-1723-0000.

CONDITIONS

1. All vehicle repairs shall take place inside the building.
2. No outside storage of equipment, parts, tires or materials shall be permitted.
3. There shall be no outside storage or display of tires.
4. No outside storage of vehicles in a state of obvious disrepair shall be permitted. If vehicles in this condition require storage, then such vehicles shall be stored within the building.
5. All parking spaces required by the City Zoning Ordinance must be marked by painted striping, including handicap spaces in accordance with the Americans with Disabilities Act (ADA).
6. Any building signage shall meet the requirements of the City Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage. No "box signs" shall be permitted on the building.

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

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

By a vote of 10-0, the Commission approved item 9 for consent.

The applicant Milagros Montesa appeared before the Commission.

Item #10
SXCW Properties II, L.L.C.
Conditional Use Permit
3264 Holland Road
District 3
Rose Hall
July 12, 2017

DEFERRED

An application of SXCW Properties II, L.L.C. for a Conditional Use Permit (Car Wash & Automobile Service Station) on property located at 3264 Holland Road, District 3, Rose Hall. GPIN: 1495-09-3490-0000.

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

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

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

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

Item #11
Ocean Bay Homes, Inc.
Subdivision Variance
2422 Baltic Avenue
District 6
Beach
July 12, 2017

DEFERRED

An application of Ocean Bay Homes, Inc. for a Subdivision Variance (Section 4.4(b) of the Subdivision Regulations) on property located at 2422 Baltic Avenue, District 6, Beach. GPIN: 2417-99-6690-0000. A motion was made by Commissioner Oliver and seconded by Commissioner Horsley to defer item 11.

	AYE 10	NAY0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN				ABSENT
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 10-0, the Commission deferred item 11.

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

Item #12
Mermaid Winery at the Beach, L.L.C.
Conditional Use Permit
4401 Shore Drive
District 4
Bayside
July 12, 2017

CONSENT

An application of Mermaid Winery at the Beach, L.L.C. for a Conditional Use Permit (Craft Winery & Assembly Use) on property located at 4401 Shore Drive, District 4, Bayside. GPIN: 1479-77-8573-0000.

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 layout plan. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.
2. 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 renderings. Said renderings have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development.
3. A Landscape Plan shall be submitted that reflects the plant material listed in the Shore Drive Design Guidelines and placement depicted on the submitted landscape exhibit. Said plan shall be submitted for review and approval by the Development Services Center Landscape Architect.
4. Consistent with the Shore Drive Design Guidelines, the building façade shall be a neutral or earth tone color. No primary color shall be permitted.
5. The occupancy load for the Craft Winery shall be established by the City of Virginia Beach Building Official's Office.
6. A Certificate of Occupancy shall be obtained prior to operation of the Craft Winery.
7. Any conditions associated with the license issued by the Virginia Alcoholic Beverage Control Board shall be incorporated as conditions with this Conditional Use Permit.
8. There shall be no sale or consumption of alcoholic beverages on the premises between midnight and 10:00 a.m.
9. 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.
10. 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.

11. All minimum parking requirements and aisle widths as specified in Section 203 of the Zoning Ordinance shall be met at all times for any operating uses located on the subject site.
12. HRSD approval shall be obtained prior to any discharge of sewage.

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

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

By a vote of 10-0, the Commission approved item 12 for consent.

Jennifer Eichert appeared before the Commission on behalf of the applicant.

Item #13

Princess Anne Estate Trust and Virginia Beach Financial Center, Inc.

Discontinuance, closure and abandonment of a portion of Lord Dunmore, approximately 200 feet

In length between Princess Anne Road and relocated Lord Dunmore Drive

District 2

Kempsville

July 12, 2017

REGULAR

Jan Rucinski: Our last item, I believe, let me double check, our last on item on the agenda is item 13. An application of Princess Anne Estate Trust and Virginia Beach Financial Center, Inc., for a discontinuance, closure and abandonment of a portion of Lord Dunmore Drive, approximately 200 feet in length, between Princess Anne Road and relocated Lord Dunmore Drive, District 2, Kempsville. Is the applicant here?

Ed Halloran: Good afternoon. I'm Ed Halloran. I am the applicant. These organizations are owned by me. The street closure that we're speaking of physically occurred six years ago. I am an attorney, and I practice law at the Carriage House in this old grand building. I moved the Manor House, which used to be here on Princess Anne Road to this location, and what we're talking about is the road closure of what's left of the old Lord Dunmore. Presently, it is being used as excess parking for my law office, and my friends in Fairfield that are here today. This will not affect whatsoever the traffic patterns on Lord Dunmore. Once this is formally abandoned and closed, I will be able to finish the parking lot, get moving on the Manor House, and make it look more presentable than it is now. So, I'm open for questions if you have any?

Bob Thornton: Any questions of Mr. Halloran? Thank you. There appears to be three speakers. It is kind of interesting, I came back, and most people left; so, I am kind of wondering if they would rather me be gone. Anyway, the first speaker in opposition to this is Bob Larmore. Would you please come forward sir?

Bob Larmore: Thank you Mr. Chairman and Board. When we saw the red sign...

Ed Weeden: State your name for the record please?

Bob Larmore: Oh I'm sorry. I'm Bob Larmore. 5568 Normandy Avenue, Avalon Terrace area.

Bob Thornton: Thank you.

Bob Larmore: We have been long time members at Emmanuel Episcopal Church since 1969, and when we saw the red sign that street closure, my wife and I did not realize what that meant, and we were afraid that maybe that whole Lord Dunmore was going to come to a dead end, and not feed into Princess Anne Road as it now is, because Lord Dunmore has always fed into Princess Anne Road for as long back as we can remember. It was discovered from when it started to be built. So we were alarmed of what that sign meant, and that is why we are here. We are not opposed to what this gentleman wants to do, because we understand how he had to move his building when the expanded road came behind the church. We were deeply involved with that with the City Council, and Planning, and whoever about the church property, which we gave up through eminent domain that Princess Anne Road, as we now understand it, as it is. So, we've been here for four hours. It has been interesting listening. I haven't been to one of these things in a long time. And I'm very much at ease at what's happening, and now I

Item #13

Princess Anne Estate Trust & Virginia Beach Financial Center, Inc.

Page 2

understand why the Fairfield Civic League is not here. So, thank you very much.

Bob Thornton: Thank you. The next speaker is W. T. Flanagan.

W.T. Flanagan: My name is William Flanagan. I live at 5250 Jacob Court, which is a stone's throw, which I thought was going to be the closure of Lord Dunmore. As the last gentleman spoke, since it isn't that, and it is only going to be an area at the lawyer's office, I have no complaints at all.

Bob Thornton: Thank you sir. Are there any questions of the speaker? Thank you. And the last speaker is Teresa Kaiser.

Teresa Kaiser: I'm going to kill him for letting me sit here for four hours over this.

Jan Rucinski: He probably didn't know he was going to sit there for four hours either.

Teresa Kaiser: I am Teresa Kaiser, and my biggest reason for coming here today was my parents are in their 80s. They live at the north end. There are haunted houses at the north end. I was afraid you were going to close up access, which would affect emergency vehicles. I just want to make sure that is not the case. What this gentleman said is we are still going to get onto Princess Anne Road. My only suggestion is put stop signs at both of the two streets where the apartments are coming out so you can stop some of that congestion.

David Weiner: Bob?

Bob Thornton: David.

David Weiner: For all those that came out to speak today, sorry you have been here for four hours. But you really need to get with the Fairfield Civic League, because there is a petition coming out to close that road. It has been out for a while now. So be part of the civic league. Join, get there. Voice your opinion. This is not the time to do it right now.

Teresa Kaiser: It is a little hard for them, but I will do it for them.

David Weiner: Just think about that.

Teresa Kaiser: Alright. Thank you.

David Weiner: Just think about that. It is out there to be closed.

Teresa Kaiser: Okay. Thank you.

Bob Thornton: Thank you.

Teresa Kaiser: Thank you.

Bob Thornton: One question. Stephen, you left us a note. Is this apropos or do we need to proceed?

Stephen White: Proceed.

Item #13

Princess Anne Estate Trust & Virginia Beach Financial Center, Inc.

Page 3

Bob Thornton: Proceed. I am not sure. I need for you to proceed, because I am not sure what we are supposed to do this. Just forget this?

Stephen White: Just forget it.

Bob Thornton: Forget it and carry on? Okay. Close the public hearing, and open it up for comment amongst the Commissioners. David?

Ronald Ripley: A motion to approve.

Bob Thornton: A motion by Mr. Ripley and seconded by Mr. Weiner.

Ed Weeden: Who made the motion?

Bob Thornton: Mr. Ripley and seconded by Mr. Weiner.

Ronald Ripley: I just want to disclose that I do own property across the street, but I have no financial interest in this property at all.

Bob Thornton: Okay. Thank you.

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

By a vote of 10-0, the Commission has approved the application of Princess Anne Estate Trust and Virginia Beach Financial Center, Inc.

Bob Thornton: If there is no further business that we need to conduct, if not, the meeting is adjourned.

Conditions:

1. The City Attorney's Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined as specified in the July 27, 2010 Sale Agreement [the 'Agreement'] between the City of Virginia Beach and the applicant. A copy of the Agreement has been made part of the file for this street closure application, which is available at the Planning Department.

2. The applicant shall submit a subdivision plat that incorporates the closed area into the adjoining parcels (referenced by the Agreement as the 'Trotman Residue' [west of the closure area] and the 'VBFC Remainder' [east of the closure area]). The plat shall include a public easement for a boat launch, including access to two parking spaces, and a public ingress/egress easement, as specified in the Agreement. This plat must be submitted and approved for recordation prior to final street closure approval.
3. The applicant shall verify that no private utilities exist within the right-of-way proposed for closure. Initial review indicates that there appear to be private utilities within the right-of-way proposed for closure. If it is determined that private utilities do exist, easements satisfactory to the utility company, must be provided.
4. Easements for public water and sewer lines located within the closed area, satisfactory to the Virginia Beach Department of Public Utilities, must be provided on the plat referenced in Condition 2.
5. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved within one year of the City Council vote to close the right-of-way this approval shall be considered null and void.

Item #D1 & D2

5073 Virginia Beach Boulevard

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

Modification of Conditions

5073 Virginia Beach Boulevard

District 4

Bayside

July 12, 2017

CONSENT

An application of 5073 Virginia Beach Boulevard for a discontinuance, closure and abandonment of an unimproved strip of Euclid Road formerly an Broad Creek Road and a Modification of Conditions on property located at 5073 Virginia Beach Boulevard, District 4, Bayside. GPIN: 1467-85-8567-0000.

CONDITIONS

Street Closure

1. The City Attorney's Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the "Policy regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council.
2. The applicant shall resubdivide the property and vacate internal lot lines to incorporate the closed area of Euclid Road into the adjoining parcels that the right-of-way would have provided direct access to. The plat must be submitted and approved for recordation prior to the final street closure approval.
3. The public sanitary sewer gravity main located in the closed area of Euclid Road shall either be relocated to the new property line, or an appropriately sized public utility easement satisfactory to the Department of Public Utilities shall be dedicated for it. Prior to the dedication of a public utility easement, a variance to Section 2.3.6 of the Public Utilities Design Standards Manual will be required.
4. The public water meters located in the closed area of Euclid Road shall either be relocated to the new property line, or an appropriately sized public utility easement satisfactory to the Department of Public Utilities shall be dedicated for it. Prior to the dedication of a public utility easement, a variance to Section 2.3.6 of the Public Utilities Design Standards Manual will be required. If the water meters are not relocated, a planting island with landscaping material satisfactory to the Landscape Architect shall be located over the meter(s).
5. The applicant shall verify that no private utilities exist within the right-of-way proposed for closure. If private utilities do exist, easements satisfactory to the utility company must be provided.
6. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved within one year of the City Council vote to close the right-of-way, this approval shall be considered null and void.

Modification of Conditions

All conditions attached to the Conditional Use Permit granted by City Council on December 2, 2008 shall be deleted and replaced with the following:

1. The site shall be redeveloped substantially as shown on the submitted site layout exhibit entitled, "CONDITIONAL USE PERMIT EXHIBIT OF 5073 VIRGINIA BEACH BLVD, VIRGINIA BEACH, VIRGINIA," dated June 23, 2017 and prepared by WPL Landscape Architects, Land Surveyors, Civil Engineers. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
2. A Landscape Plan reflective of the plant material on the submitted exhibit entitled, "LANDSCAPE EXHIBIT OF 5073 VIRGINIA BEACH BLVD, VIRGINIA BEACH, VIRGINIA," dated June 23, 2017 and prepared by WPL Landscape Architects, Land Surveyors, Civil Engineers and of all requirements of the Virginia Beach Landscaping Guide shall be submitted and approved by the Development Services Center Landscape Architect prior to final site plan approval.
3. All landscaping shall be maintained in an orderly fashion. If any plant material becomes diseased or dies, it shall be replaced as depicted in the approved Landscape Plan referenced in Condition 2 above.
4. The building on the property shall continue to be as substantially depicted on the elevation entitled, "Proposed Building, 5073 Virginia Beach Boulevard," dated 08/28/08, prepared by Daugherty & Associates Architecture. Said elevation has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
5. Prior to occupancy of either Vehicle Display Area #1 or Vehicle Display Area #2, as depicted on the site layout referenced in Condition 1, by any motor vehicles for display, landscaping as depicted on the submitted Landscape Exhibit shall be installed.
6. Prior to occupancy of Vehicle Display Area #1, as depicted on the site layout referenced in Condition 1, by any motor vehicles for display, the closure of the subject portion of Euclid Road referenced in the Street Closure request must be finalized.
7. The vehicle display areas depicted on the site layout referenced in Condition 1 above shall be physically designated with a painted strip along the outside perimeter of the area.
8. All vehicles for sale shall be located within the area designated for display on a paved surface. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
9. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
10. There shall be no outside audio speakers for any purpose.
11. No outside storage of vehicles in a state of obvious disrepair shall be permitted.

12. The existing spinning freestanding sign shall be removed and replaced with a monument style freestanding sign with a brick base and shall be no taller than ten (10) feet in height measured from the ground to the top of the sign.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item D1 & D2.

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

By a vote of 10-0, the Commission approved item D1 & D2 for consent.

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

Item #D3

Bickford of Virginia Beach, L.L.C.

Conditional Rezoning

Conditional use Permit

2625 & 2629 princess Anne Road & a portion of 2476 Nimmo Parkway

District 7

Princess Anne

July 12, 2017

CONSENT

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 or Seniors and Disabled Persons) on property located at 2625 & 2629 Princess Anne Road and a portion of 2476 Nimmo Parkway, District 7, Princess Anne. GPINS: 1494-61-4297-0000; 1494-64-6109; portion of 1494-63-3417-0000.

PROFFERS

Proffer 1:

When developed, the Property shall be developed in substantial conformity with the conceptual site plan entitled "Conceptual Exhibit Bickford of Virginia Beach", dated February 24, 2017, and prepared by Bowman Consulting (the "Concept Plan"), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 2:

The architectural style and quality of materials used for the facility to be constructed on the Property, when constructed, will be in substantial conformity with the exhibit "Bickford of Virginia Beach", and prepared by Kazamier & Associates, LLC (the "Exterior Elevations") a copy of which has been exhibited to the Virginia Beach City Council and is on file with Virginia Beach Department of Planning.

Proffer 3:

When developed, the facility shall include a maximum of sixty (60) residential apartments.

Proffer 4:

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

CONDITIONS

1. When the property is resubdivided, a one-foot no ingress/egress easement along Princess Anne Road shall be recorded on the plat.
2. The proposed monument sign shall be as substantially depicted on the submitted freestanding sign exhibit. Said sign shall not be internally lit and be no taller than eight feet as measured from the ground to the top of the sign.

Item #D3

Bickford of Virginia Beach, L.L.C.

Page 2

3. A Landscape Plan shall be submitted during site plan review process reflective of the plant material depicted on submitted Landscape Plan. Said plan shall be approved prior to final site plan approval.
4. The generator depicted on the Concept Plan referenced in Proffer 1, shall be screened by plant material from the private drive along the property's southern boundary line.
5. Prior to occupancy, the applicant shall obtain a Certificate of Occupancy.
6. Prior to the issuance of a Certificate of Occupancy, the existing driveway aprons along Princess Anne Road shall be removed and all right-of-way work shall be completed as required by the Department of Traffic Engineering.
7. The applicant shall obtain and maintain all applicable licenses required by the Virginia Department of Social Services for operation of the proposed facility.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item D3.

	AYE 9	NAY 0	ABS 1	ABSENT
HODGSON	AYE			
HORSLEY	AYE			
INMAN				ABSENT
KWASNY	AYE			
OLIVER	AYE			
REDMOND			ABS	
RIPLEY	AYE			
RUCINSKI	AYE			
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

By a vote of 9-0-1, with the abstention so noted, the Commission approved item D3 for consent.

Robert Beamon appeared before the Commission on behalf of the applicant.

Items D4 & D5

Enclave at PA BC, L.L.C.

Conditional Rezoning

AG-1 & AG-2 Agricultural District to PD-H2 Planned Unit Development (R-7.5 Residential)

2754 North Landing Road, 2804 North Landing Road and Eastern 1.2 Acres of 2808

North Landing Road

The Enclave at Princess Anne Homeowners Association and The Enclave at PA BC, L.L.C.

Modification of Proffers

North Side of North Landing Road, 2,700 feet west of West Neck Road

District 7

Princess Anne

July 12, 2017

CONSENT

An application of Enclave at PA BC, L.L.C. for a Conditional Rezoning (AG-1 – AG-2 Agricultural District to PD-H2 Planned Unit development (R-7.5 Residential on property located at 2754 North Landing Road, 2804 North Landing Road and Eastern 1.2 Acres of 2808 North Landing Road and an application of The Enclave at Princess Anne Homeowners Association and The Enclave at PA BC, L.L.C. for a Modification of Proffers on property located on the North Side of North Landing Road, 2,700 feet west of West Neck Road, District 7, Princess Anne.

Proffers / Modification (Phase 1)

1. Proffer numbered 3 in the 2011 Proffers is hereby deleted and replaced with the following "NEW PROFFER #3":
 3. When Nimmo Parkway is constructed and opened for travel across the 1.52 acre parcel dedicated to the Grantee for "FUTIJRE NIMMO PARKWAY EXPANSION" as depicted on the "MODIFIED CONCEPTUAL SITE LAYOUT PLAN OF ENCLAVE @ PRINCESS ANNE - PHASE II" dated July 25, 2016, prepared by MSA, P.C., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter the "Modified Conceptual Plan"), the Subdivision's access shall be shifted by the Grantee to Nimmo Parkway and the approximately 425 linear feet of existing access road from North Landing Road shall be closed and removed by the Grantee. The closed section of roadway shall be transferred to the party of the first part and added to the adjacent Modified Open Space B which the party of the first part shall be responsible to maintain.
2. Proffer numbered 7 in the 2011 Proffers is hereby deleted and replaced with the following "NEW PROFFER #7":
 7. The dimensional requirements applicable to the single family lots numbered 1 through 34 on the Concept Plan shall be as follows:

• Minimum front yard setback	20 feet
• Minimum side yard setback	5 feet
• Minimum rear yard setback	

Lots number 1 through 9	20 feet
Lots numbered 10 through 34	10 feet
• Minimum lot size	5,000 square feet
• Maximum lot coverage	
Lot13	47.60 percent
Lot31	46.52 percent
All Lots, except 13 and 31	43.50 percent

3. Proffer numbered 10 in the 2011 Proffers is hereby deleted and replaced with the following "NEW PROFFER #10":

10. The areas depicted and designated "MODIFIED OPEN SPACE '1A'; MODIFIED OPEN SPACE '1B'; EXISTING OPEN SPACE '2', '3' AND '5'" on the Modified Conceptual Plan are owned and maintained by the Grantors, to be used by its members consistent with the intent and regulations set forth in Article 3 of the Grantee's Zoning Ordinance ("Preservation District"). Upon recordation of a Subdivision Plat for the 5.36 acre "PHASE TWO" of the Enclave @ Princess Anne as depicted and described on the Modified Conceptual Plan, the party of the first part shall convey to the Grantee a public right of way across that portion of its existing OPEN SPACE 1, to be improved by the party of the second part and the Grantee shall convey to the Grantor that area depicted and described as "PROPOSED ADDITION TO OPEN SPACE 2 (0.09 AC)" on the Modified Concept Plan.

Proffers / Rezoning (Phase 2)

1. When the Property is developed, it shall be as Phase II of an existing residential community with no more than 17 single family residential lots, connected walking trails, within and between Open Spaces and an added Tot Lot within Open Space 2 (Phase 1) substantially in accordance with the "MODIFIED CONCEPTUAL SITE LAYOUT PLAN OF ENCLAVE @ PRINCESS ANNE TO INCLUDE PHASE II VIRGINIA BEACH, VA", dated 07/ 25/16 - R, prepared by MSA, P.C., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the "Concept Plan For Phase II").
2. If, as a result of the review of the Subdivision Construction Plan for Phase II by the Grantee, the Grantee concludes modifications are necessary to the existing stormwater management facilities installed with Phase I, the Granter shall modify those facilities during the development of Phase II.
3. When the Property is developed, vehicular Ingress and Egress to the Property shall be limited to the access depicted on the Concept Plan for Phase II.
4. The total number of residential lots permitted to be subdivided on the Property shall be no more than 17. Each home shall contain a minimum of 1800 square feet of living area, and a one (1) car garage.
5. When the Property is developed, the architectural design of the new residential homes to be constructed on Lots 1 through 17, Phase II as depicted on the "Concept Plan For Phase II" will be substantially as depicted on the exhibits entitled, "BISHARD HOMES SF-32 ELEVATION STANDARD &

SF-32 ELEVATION UPGRADE", dated 5/19/2015; "BISHARD HOMES SF-33 ELEVATION STANDARD & SF-33 ELEVATION UPGRADE", dated 5/12/2015; "BISHARD HOMES SF-34 ELEVATION STANDARD", dated 11/5/2015; "BISHARD HOMES SF-35 ELEVATION STANDARD", dated 9/24/2015; "SF-41 Bishard Homes, A ELEVATION", dated 6/15/2016; "SF-42 Bishard Homes, A ELEVATION", dated 5/16/2016; and "SF-49 BISHARD HOMES, ELEVATION", dated 12/26/2016, prepared by J. Bengston, Land Planning Solutions, and elevations designated "SINGLE FAMILY 6 A-6, A-7 and A-8", dated 12/29/2012, prepared by Linda R. Sullivan, Progressive Designs, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Elevations"). The exterior building materials on the new residential homes shall be limited to brick, stone, fiber cement siding, hardiplank, cedar shake, faux shake of earth tone colors.

6. The dimensional requirements applicable to the single family lots numbered 1 through 17, Phase II on the Concept Plan for Phase II shall be as follows:

- | | |
|---|-------------------|
| • Minimum front yard setbacks | 20 feet |
| • Minimum side yard setback | 7 feet |
| • Minimum side yard setback adjacent to a street | 15 feet |
| • Minimum rear yard setback | |
| | |
| Lots numbered 1 through 4, 10, and
11 (Phase II) | 20 feet |
| Lots numbered 5 through 9 and
12 through 17 (Phase II) | 10 feet |
| | |
| • Minimum lot size | 5,000 square feet |
| • Maximum lot coverage | 39 percent |

7. When the Property is developed, the proposed "Tot Lot" depicted within Existing Open Space 2 shall include age appropriate playground equipment for youth under the age of ten (10) years old costing not less than Five Thousand Dollars (\$5,000.00), which shall be reviewed and approved by the Director of the Department of Planning or his designee during Subdivision Review.

8. When the Property is developed the areas depicted on the Concept Plan for Phase II which will not be residential lots are open spaces which shall be utilized as such and the Grantor shall record a Declaration submitting the Residential Property to the existing mandatory membership Enclave at Princess Anne Homeowners' Association which Association shall also be conveyed title to the Proposed Addition to Open Space 2 (0.09 AC). The Association shall be responsible for maintaining all open spaces, entrance features, landscaping, trails, and other improvements on the Property as depicted on the Concept Plan for Phase II.

9. Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item D4 & D5.

Item D4 & D5
Enclave at PA BC, L.L.C.
The Enclave at Princess Anne Homeowners' Association
Page 4

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

By a vote of 10-0, the Commission approved items D4 and D5 by consent

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

Bob Thornton: Commissioner Kwasny has asked to make a comment on one of the cases after we voted. Go ahead.

Karen Kwasny: I just wanted to express my reservation in voting for consent on items D4 and D5. While the applicant worked since the deferral to make some changes to the application, I still find it to be deficient in addressing some of the desires that were expressed during the Planning Commission meeting in June, which were a matter of reducing the number of lots to a degree that would allow for more internal open space on a development and providing more active open space throughout the development, which I think is key to new development especially within the Princess Anne District and the area where open space is considered an amenity and active open space is a matter of culture and behavior. Thank you.