

Item #1
Metamorphosis Salon and Spa
Conditional Use Permit
624 Independence Boulevard, Suite 102
District 4
Bayside
September 13, 2017

CONSENT

An application of Metamorphosis Salon and Spa for a Conditional Use Permit (Tattoo Parlor) on property located at 624 Independence Boulevard, Suite 102, District 4, Bayside. GPIN: 1477-49-9345-0000.

CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department for consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY				ABSENT
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 Molly Zemke appeared before the Commission.

Item #2

Evergreen Virginia, L.L.C.

Conditional Use Permit

Modification of Conditions

3033, 3025, 3001, & 2981 Virginia Beach Boulevard

District 3

Rose Hall

September 13, 2017

CONSENT

An application of Evergreen Virginia, L.L.C. for a Conditional Use Permit (Car Wash Facility) and a Modification of Conditions on property located at 3033, 3025, 3001, 2981 Virginia Beach Boulevard, District 3, Rose Hall. GPINs: 1497-15-8417-0000; 1497-25-0372-0000; 1497-25-2343-0000; 1497-25-3405-0000.

CONDITIONS

1. The development and landscape of the site substantially conform with the submitted layout entitled "Conceptual Site Layout & Landscape Plan of Checkered Flag Jaguar-Land Rover 3033 Virginia Beach Blvd. Virginia Beach, VA" prepared by MSA, P.C., dated 04/07/17 and annotated "MSA PROJ. #14088C" as depicted on page 8 of this report as exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development.
2. Architectural design and colors shall conform with the "Schematic Drawings for Checkered Flag Jaguar/Land Rover 3033 Virginia Beach Boulevard, Virginia Beach, VA 23452" prepared by Covington Hendrix Anderson, dated 05/18/17. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development.
3. The spaces for display of motor vehicles shall be clearly marked as depicted on the submitted site layout. Customer parking within the areas shown on the Site Layout Exhibit referenced in Condition 1 above shall be clearly marked by sign or pavement markings as such and shall not be used for the display of vehicles for sale.
4. Vehicles shall not be displayed on platforms or elevated above the parking lot.
5. All motor vehicle repairs and painting shall take place inside the building.
6. No outside storage of vehicles in a state of obvious disrepair, equipment, parts, or materials shall be permitted.
7. No tires, merchandise, or parts for sale shall be displayed outside.
8. Category I screening shall be provided along the western property line adjacent to the Historical and Cultural District.
9. No outside paging or amplified music system shall be permitted.
10. The building signage shall not be a "box sign," but rather either externally lit or constructed of raceway-mounted channel letters with L.E.D. illumination. There shall be no neon or electronic

display signs or accents installed on any wall area of the exterior of the building or on the doors. No window signage or portable or nonstructural signs shall be permitted. Any on-site signage for the automobile sales operation shall meet the requirements of the City Zoning Ordinance.

11. There shall be no decorative pennants, strings of light bulbs, spinners, feather flags, ribbons, streamers, air dancers, inflatables or other similar advertising items located on the site.

12. Use of the car wash by the general public shall not be permitted.

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

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

By a vote of 10-0, the Commission approved item 2 for consent.

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

Item #3
Wave Church
Modification of Conditions
1000 N. Great Neck Road
District 5
Lynnhaven
September 13, 2017

CONSENT

An application of Wave Church for a Modification of Conditions on property located at 1000 N. Great Neck Road, District 5, Lynnhaven. GPIN: 2408-13-7769-0000.

CONDITIONS

The conditions below consolidate all of the conditions of the 2003 Use Permit, the Modifications of 2009 and 2015, and the current modification request for the playfield and picnic shelter. The conditions applicable to the current application are in bold type (Condition 11).

1. The site shall be developed in accordance with the submitted plan titled "WAVE CHURCH; Great Neck Road; Virginia Beach, Virginia, SITE PLAN," prepared by Tymoff & Moss Architects, dated June 26, 2008. Said plan has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.
2. The proposed building additions and renovation of the existing sanctuary shall be constructed in accordance with the submitted plans titled "VIRGINIA BEACH CHRISTIAN LIFE CENTER, Virginia Beach, Virginia, Exterior Elevations", prepared by Tymoff & Moss Architects, dated July 8, 2003. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
3. The applicant shall install connecting sidewalks from Old Donation Parkway and Great Neck Road to the main entrance of the building and to the recreational fields. The location of the sidewalks shall be determined during detailed site plan review of each phase of the project.
4. At the time the site plan for development of the 'Recreational Fields' shown on the plan referenced by Condition 1 is submitted, the applicant shall submit a tree preservation restoration plan, including the installation of Category IV landscaping, where needed, within the proposed twenty-foot buffer along the southern boundary of the site adjacent to the Michaels Glen and Great Neck Pines residential neighborhoods as well as the eastern boundary of the site adjacent to the Forest Park residential neighborhood and the City of Virginia Beach property.
5. The applicant shall submit a photometric lighting plan indicating the number and types of lighting as part of the formal site plan submission for review by the Police Department to determine consistency with Crime Prevention through Environmental Design (CPTED) principles and practices. All fixtures shall be of an appropriate height and design so as to prevent any direct reflection or glare towards adjacent uses and city streets. Lighting should be directed down at the ground and not horizontally or up in the air.
6. The 'Recreational Fields' shown on the plan referenced by Condition 1 shall be gated from sundown to sunrise. There shall be no lighting of the recreational fields. There shall be no roadway installed

along the edge of the recreational fields. The recreational fields shall not be used for overflow parking for any events associated with the church.

7. The existing stormwater management facility shall be cleared of trash and debris during the Phase I construction, and Category I screening shall be installed on the top of bank, on the western side of the facility, before a Certificate of Occupancy is approved for the addition.
8. The church shall install trash receptacles throughout the parking lots. There shall be one trash receptacle for every 3,500 square feet of parking area.
9. Signage on the site and building shall be in substantial conformance with the following conditions, as approved by the City Council on August 11, 2009 by modification of the original October 14, 2003 Conditional Use Permit:
 - a. The free-standing sign proposed to be installed at the southwest corner of the site shall be substantially consistent with the submitted enhanced photo elevations of a light-emitting diode (LED) sign. The sign shall have no video playback capabilities nor have any audio capabilities. Said sign shall replace the existing sign at the same location, and shall be no higher than 8 feet. A landscape plan for plantings around the base of the sign shall be submitted to the Current Planning Division of the Department of Planning for approval.
 - b. The LED sign shall not be used to promote or advertise any other businesses, institutions, or events other than those related to the church located on the property.
 - c. The sign shall include a light-sensitive photocell feature that will reduce and increase the intensity of the LED output commensurate with the external ambient light level (LED output reduction for night and cloudy conditions and LED output increase for daytime sunny conditions).
 - d. The interval of time between one image and the next image shall not exceed eight seconds. This shall not prohibit a single element on any static image from movement (as in a butterfly or bouncing ball moving across the screen during a static image message).
 - e. One building-mounted sign consistent with the submitted photo enhanced elevation shall be allowed. The lighting method for the sign shall be submitted to the Department of Planning for approval.
 - f. One additional free-standing sign, without electronic display, meeting sign ordinance requirements may be installed at the Old Donation Parkway entrance into the parking area, but shall be located at the entrance furthest away from the intersection. An elevation drawing and location plan of such sign shall be submitted to the Department of Planning for approval.
10. Two 24-foot by 60-foot modular classroom structures may be located on the site as depicted on the plan entitled, "Plan for Installation of Modular Units (Wave Church – Great Neck Road)," as approved by the City Council on August 11, 2009 by modification of the original October 14, 2003 Conditional Use Permit:
 - a. The portable classroom structures are considered temporary and shall be permitted on this site until August 14, 2020. Continued use of the structures after five years shall require a new modification of the Conditional Use Permit.

- b. The portable classroom structure shall have skirting around the entire base to screen the under-carriage of the unit.
- c. Foundation landscaping, subject to approval by the Planning Director, shall be installed around the base of the unit.
- d. The applicant shall obtain all necessary permits and inspections and a Certificate of Occupancy from the Permits and Inspections Division of the Planning Department prior to occupancy of the portable classroom structure.

11. Subject to the conditions below, an artificial turf field, picnic shelter, and associated landscape area may be installed at the location shown on the plan titled "WAVE CHURCH - Great Neck Road - Virginia Beach, Virginia - SITE PLAN," prepared by Tymoff & Moss Architects, dated June 26, 2008.

- a. Any additional use, beyond that allowed above, of the area shown as 'Recreational Area' on the site plan referenced above shall be as shown on that plan.
- b. The size and configuration of the area designated for the playfield and picnic shelter shall be in substantial conformance with that shown on the plan labeled, "Playfield and Picnic Shelter for Wave Church, Great Neck Road," dated August 30, 2017.
- c. The size and architectural design of the picnic shelter shall be substantially as shown on the submitted plans titled "Foundation Plan, Elevations, and Notes, PICNIC SHELTER, WAVE CHURCH," dated 18 May 17.
- d. Consistent with intent of Condition 6 for the future athletic and recreational fields, there shall be no exterior lighting of the area designated for the playfield or picnic shelter. Low-level lighting within the picnic shelter shall be allowed when the shelter is in use.
- e. There shall be no use of the playfield and/or picnic shelter between the hours of 10:00 p.m. and 8:00 a.m.

ADDITIONAL CONDITION ADDED BY PLANNING COMMISSION:

- 12. The applicant shall install street frontage landscaping consistent with the requirements of the Site Plan Ordinance along N. Great Neck Road where none currently exists.

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

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

Item #3
Wave Church
Page 4

THORNTON	AYE
WALL	AYE
WEINER	AYE

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

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

Item #4
Alan Zinke
Conditional Use Permit
Home Occupation Retail Sales (Firearms)
2252 Creeks Edge Drive
District 5
Lynnhaven
September 13, 2017

REGULAR

Bob Thornton: Now we will address the remaining items on the agenda, and I'll ask the Secretary to handle that portion of the agenda.

Jan Rucinski: Thank you Chairman Thornton. The first item to be heard today is an application of Alan Zinke for a Conditional Use Permit (Retail Sales – Firearms) on property located at 2252 Creeks Edge Drive, District 5, Lynnhaven. If the applicant would come forward please, please state your name for the record and then explain your application?

Alan Zinke: Alan Zinke. And the application is for firearm transfer from my house. I want to say there will be no retail sales. There will not be people coming to the location and coming and browsing. That is not at all what's going there. There will be no retail sales at all. It is simply just transfers and background checks, which is transfer.

Bob Thornton: Are there any questions of the applicant Mr. Zinke? Ron.

Ronald Ripley: I brought it up at the informal meeting. The day the Planning Commission drove by in the van. The garage door was open, and it looked like it was pretty wide open and we didn't go into your property or anything but it looked like your safes, your gun safes are in your garage? Is that correct? Do you normally leave that garage door open like that?

Alan Zinke: yes. During anytime I'm working in there, which I have been doing a lot of lately. It's been a long time trying to get the place straight away, but when thinking positively, when I start my little business in there, the garage doors will be locked and closed at all times. And it is alarmed. And there are cameras all around the house and in the house.

Ronald Ripley: I am just telling you what we saw. The door was open and the TV on.

Alan Zinke: I didn't understand that.

Ronald Ripley: It just looked casual, if you have fire arms there and I can't speak for other Planning Commissioners, but it was very different than what we normally see in these situations there inside the house, and if we never see anything from the outside. You say you would keep the garage door closed?

Alan Zinke: Yes, it is not used as a garage. It is an office or will be an office. It is actually getting set up now. As the process progresses I'm setting up the office in there so we do have some stuff in there now so it has been open but as soon any business starts, it will be closed and locked for good.

Ronald Ripley: Thank you.

Bob Thornton: Jack?

Jack Wall: Good question. It is conditioned, but how many visits do you expect a month, an average for

your transfers?

Alan Zinke: With regards to transfers, which means somebody has already purchased an item from the internet or from somewhere else. They already own it but they have to come and go through a firearms dealer, which I did for 10 years, by the way. I did the same thing up in Chesterfield before we moved here. And, it is by appointment only. There will be nobody coming over just to come in and say: What you got? It won't happen. It is strictly by appointment. Somebody buys an item on line. It has to be shipped to a dealer which would be me. I call the owner who bought it, let him know it is in, set up a time for him to come by. He comes by, gives me his ids, I do a background check and if he is approved, which they always are because anybody that signs that paper, those Federal and State papers are going to be real. I have never come across an issue that is by appointment. I know I am limited by the number of transfers that I can do and I will stand by that.

Jack Wall: Which is five.

Alan Zinke: Yes.

Jack Wall: Thank you.

Bob Thornton: Are there other questions of Mr. Zinke?

Don Horsley: I got a question.

Bob Thornton: Don?

Don Horsley: If I want to buy a gun online how do I find out about you? How do you advertise to get your name out there?

Alan Zinke: You know me from this or word of mouth or when certain people on line sell guns on line, like Brass Pro Shops. When I get this approved, I would call Brass Pro Shops and call all the people that I know who sell guns. I have to fax them a copy of my Federal Firearms License, they keep it on file, so if somebody goes on line and purchase a gun from the general area, the person buying it will say, where can I pick it up, and dealers will have my name there showing my address and phone number. He calls me, says I would like to do a transfer and then I communicate with the seller and make sure they have my FFL and which they will, and then they ship it to me. It is not my item. I don't own it. I receive it; put it in the ATF book showing that I received it, which is very specific what the rules we need to follow. You can imagine with the ATF. It goes into a safe. I call the owner, the purchaser. We set up a time to come by. He comes by and purchases. He is not allowed to possess it until he has passed the gun check.

Bob Thornton: Are there any other questions? Thank you, sir.

Alan Zinke: Thank you very much. I appreciate it.

Bob Thornton: We will close the public hearing.

Jan Rucinski: We have speakers.

Bob Thornton: Excuse me. Okay, pardon me. We go some opposition. Please call them.

Jan Rucinski: Our first speaker in opposition is Joan Ryan.

Joan Ryan: My name is Joan Ryan. I live at 2164 Marina Shores Drive, which is Long Creek Condominiums. My backyard is less than 50 yards from Mr. Zinke's garage, which you saw open. I come before you today in opposition of this application. I put together a package of 29 neighbors, notarized, that have signed in opposition to this. I personally witnessed 18 of the signatures, and my first concern with this is for the safety of myself, I'm single and live alone; my children, my grandchildren, and the other children in the neighborhood. I also question what this would have on property values. I have several other concerns, one being that the person, who is actually purchasing the gun, is the one who will be possessing the gun. And this is not a store purchase. Will there be a notary present to notarize the signatures? Also, on October 13, 60 minutes did a special on Remington Arms Company. They have misfired rifles, and you don't even have to pull the trigger and the rifle misfired. Four out of 10 went off in this manner. The government can't recall guns. They can only recall toy guns. Only 1 in 4 Remington guns have been fixed and they are still millions out there. I'm wondering if one these may end up in my neighborhood. And also there is a copy of my condominium documents. Item 6, the last two pages from the packet I gave you says it should be for residential use except to vote, 19.2 which I referenced and that was in order from the developer to be able to sell condominiums out of one of these units. I don't think the intent was to have guns or anything else there. And in conclusion, I just wanted to thank you again. Sorry, I have the wrong glasses on. I want to thank you again and state that I adamantly opposed this application, and I hope you do too. Thank you very much for your time.

Bob Thornton: Thank you. Hold on. We may have question or two for you. Does anybody have a question for the speaker? No, thank you.

Jan Rucinski: Our next speaker is Amanda Thompson. If you can, please state your name for the record?

Amanda Thompson: Amanda Thompson. We live at 2208 Cape Arbor Drive, and I got a message in the mail saying that someone was planning on selling guns right next to where we live. And I don't think that I want my daughter growing up in an area where my neighbor has a garage full of guns. I mean, it is fine for those who want to purchase them and have them in an appropriate area but I don't think an area right next to my daughter is appropriate. That is all that I have to say.

Bob Thornton: Thank you.

Jan Rucinski: Okay. Our next speaker is Robert Sully.

Robert Sully: Good afternoon, my name is Robert Sully. I live at Long Creek Cove, 2145 Marina Bay Cove. I live directly across the street from where the proposed sales are and already I've seen an influx of cars in the neighborhood driving by this gentleman's house just to read the sign, so there has been numerous cars driving by the neighborhood just to see the sign, so they already know that there is a proposition that you might approve the sale of guns. Even after a week after the sign went up, I saw somebody smoking a joint in front of the house, and I'm looking and saying this will bring some kind of unseedy characters to the neighborhood, even though they are not looking to purchase but possibly to steal. There are kids that go up and down in front of Mr. Zinke's house all the time. I see them all the time. I have two grandchildren there and I strongly oppose. We're trying to get guns off the street not back onto the street, and if people need guns that much, they can go to a gun show or something where it is more authorized, more controlled. This is a residential neighborhood where residents live, and we do not think it would be a good idea to have guns being sold from this gentleman's property. Like I said before, and I'm repeating it, but people have driven by numerous times just looking at the sign, so they know already that there is a chance you might approve the sale of guns in a residential neighborhood, and I strongly disagree, and I hope you do not vote for this proposal.

Bob Thornton: Thank you. Are there any questions of Mr. Sully? None? Thank you, sir.

Jan Rucinski: That was our last speaker.

Bob Thornton: Mr. Zinke, if you care to have any rebuttal of any of the comments you have time at the podium.

Alan Zinke: Actually no, I don't. Thank you very, very much. I do appreciate the opportunity though.

Bob Thornton: Thank you. With that then will close the public hearing and open it up for discussion amongst the Commissioners. Are there any thoughts or comments?

David Weiner: I guess I'll start. Mrs. Wilson, can I ask you , and I know there is a certain law what it is supposed to be when we can't think about doing firearm sales. Can you just enlighten us on that information again please?

Kay Wilson: Firearms are a unique quantity in the Commonwealth of Virginia and in order to deny an application for firearm sales, you have to deny that because of the sale, not because they are a firearm. This is just like any other retail sale in this neighborhood and any objection you have has to be land use related, not related to the firearm itself.

Bob Thornton: Ron?

Ronald Ripley: But it is a Conditional Use Permit. There is a reason for the Use of that and that is to determine if it is compatible for the neighborhood, and if you feel it is not compatible, I believe we could recommend what we would like to recommend. Is that not correct?

Kay Wilson: On land use issue, yes sir.

Ronald Ripley: Okay.

Bob Thornton: Jack.

Jack Wall: Getting back to David's, and Kay's comment, there is a condominium association bylaws that are included in here. Does this have any effect on land use?

Kay Wilson: The City of Virginia Beach does not regulate condominium documents. We don't enforce them. Therefore, in order to have any kind of decision made, as to whether or not this is permitted by the condominium documents, it would require the residents to go to their homeowners' association to enforce those.

Ronald Ripley: Can I ask a question of Mr. Davis?

Bob Thornton: Sure.

Ronal Ripley: Did you do any kind of search to see if there are any other home occupations in this particular neighborhood, i.e., child care or anything like that? Did anybody look at that?

Robert Davis: Can you hear me? I reviewed the application based on compatibility. Can you tell me more about your question?

Ronald Ripley: Well this is a home occupation and my question is; are there any other home occupations in the neighborhood that sets any kind of precedence for that?

Robert Davis: In doing my zoning history, there were no other home occupations that were Conditional Use Permits that have been issued in this neighborhood.

Ronald Ripley: Okay. Thank you.

Bob Thornton: Other questions?

Jeff Hodgson: I'm just surprised by the volume of this package. I just think we've doing these a long time. We've seen a lot of these applications. I have never seen 29 signatures against something like this before. This has kind of caught me off guard when I looked at it. It kind of surprised me.

Bob Thornton: Well, would somebody like to make a motion?

David Weiner: I would like to make a motion. I just don't have that. I didn't like seeing the garage door open with five safes sitting out there. To me, you can't live like that. We can't talk about that, but it is in a neighborhood, and it is a Use in the neighborhood, but I just didn't like that. And, that to me, just doesn't sit well.

Ronald Ripley: I'll put a motion up. I want to make a motion to deny.

Bob Thornton: Do I have a second? Mr. Ripley move to deny. Is there a second on that motion?

David Weiner: I'll second it.

Bob Thornton: A motion for Mr. Ripley and a second from Mr. Weiner. We are ready for the vote.

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

Ed Weeden: By a vote of 10-0, the application of Alan Zinke has been denied.

Item #5
Holland South Investments, L.L.C.
Conditional Rezoning
3420 Holland Road
District 3
Rose Hall
September 13, 2017

CONSENT

An application of Holland South Investments, L.L.C. for a Conditional Rezoning (B-1A Limited Community Business to Conditional B-2 Community Business) on property located at 3420 Holland Road, District 3, Rose Hall. GPIN: 1486-82-3088-0000.

PROFFERS

PROFFER 1

The Property is developed with the "Holland South Shopping Center" substantially shown on that certified and sealed Physical Survey of 3420 HOLLAND ROAD, VIRGINIA BEACH, VIRGINIA", dated 8-31-05, prepared by Ward M. Holmes Land Surveyor, P.C., 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-2 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. Boat Sales;
- d. Commercial Parking Garages, Parking Structures and Storage Garages;
- e. Wholesaling and Distribution Operations;
- f. Grocery Stores, Carry-Out Food Stores and Convenience Stores;
- g. Liquor Stores;
- h. Colleges and Universities, public or private;
- i. Communications Towers;
- j. Mini-Warehouses;
- k. Automobile Repair Garages;
- l. Automobile Service Stations;
- m. Bars or Nightclubs; or
- n. Borrow Pits.

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 code requirements.

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

Item #5
Holland South Investments, L.L.C.
Page 2

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY				ABSENT
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
Oanh Dang
Conditional Use Permit
Tattoo Parlor & Body Piercing Establishment
3420 Holland Road
District 3
Rose Hall
September 13, 2017

REGULAR

Jan Rucinski: Our next item is the application of Oanh Dang for a Conditional Use Permit (Tattoo Parlor and Body Piercing Establishment) on property located at 3420 Holland Road, District 3, Rose Hall. I guess I don't have to tell you to state your name for the record.

Eddie Bourdon: For the record, Eddie Bourdon, I'm a Virginia Beach attorney. I represent the owner of the center, which was case number 5, and I'm assisting the tenant, whose establishment. The beauty school has been in this center in the units they are occupying for over 16 years, and I expected this to be on the consent agenda. I understand that there was some discuss this morning about, well, let me back up. The owner of the center made it very clear to me from day one when she contacted me that they would never permit or lease space for a tattoo parlor in her center. And, I gather there was conversation or there is concern about the fact that this establishment is occupying, and has occupied for over 16 years, a separate space within the center. And, to do derma writing and piercing ears and body piercing, I didn't even realize until I heard this when I got down here today, that's also is the same thing as tattooing. And, I think the smarter way to deal with this is to suggest that there be a condition. Because the condition is recommended by staff, which we totally agree with, I think is sufficient. But if you want to suggest that there be not be any tattooing in the center, we don't have a problem with that because there is not going to be any. But to suggest that this beauty school has to do its derma blading in one section of its school versus the other, I'm not going to sit here and fall on my sword and tell you we'll take a denial. If you want to do that, do that. It just seems almost absurd to me but I know that what the ordinance says but they are not the same use. With that, if you want to add a condition, we don't think it makes sense that they can only do the derma blading or the body piercing in one section of their establishment versus another, you can use the left end 101 & 102, but it just seems rather ridiculous. But whatever you all want to do.

Bob Thornton: Jan.

Jan Rucinski: I have a question but maybe I misunderstood the application, but I thought she was already in one unit, and she wanted to open the second unit in order to do that.

Eddie Bourdon: No ma'am. They have been there in those years for 16 years.

Jan Rucinski: I misunderstood that.

Eddie Bourdon: And I'm sorry, I wasn't at the informal.

Jan Rucinski: That is why I thought we had this coming before us because she was expanding her beauty school, so to speak, to provide this.

Eddie Bourdon: No. They, I believe have been doing Timberlake for some time but they are. I don't know that for a fact, but I believe that is the case, and because your Zoning folks are going around and checking places, that is why this is coming before you. It is a beauty school. They do derma blading and they are perfectly content to do it in one end versus the other but my point is that that landlord will not allow tattooing period. We don't consider what they are doing to be tattooing. And, if you want to put

a condition on it that there be no tattooing, we totally agree with it. And, if that doesn't work, then you can limit it to the units 101 & 102, but it is the same school that has been there, same establishment that has been there all along.

Bob Thornton: What caused us some concern about this was the word tattoo and you weren't there to help us this morning, but we have limits that say that have to be so many feet apart. So, you're saying in the condition to remove the word tattoo, and Kay told us earlier that what you want to do is legally thought of as tattooing but the word tattoo is what got us.

Eddie Bourdon: And I totally understand that Mr. Chairman. My client, who owns the shopping center, is aware. Her intent from day one is to not allow tattooing in her center. And I'm not trying to make thing completely complicated. It's the ordinance that is not anything that you folks have any direct responsibility for, but I think two separate uses, ought to be two separate uses personally, but that is not the way the state code is written, that's the dilemma. But I think that the fact that it is an establishment, an existing establishment that's been there for 16 plus years where we're talking about in the center. It is not an expansion. That I believe is the wording of the ordinance that would cover this without any additional conditions but the extent that someone may want to have an additional establishment. The owner of the center will not allow tattooing in the center as we commonly all understand as body tattooing. And we think it is different than permanent eye liner or eye make-up.

Ronald Ripley: The intent of the ordinance, I'm sure you understand that. We don't want to have tattoo parlors showing up every other place, so we wanted to try and separate them so that was the idea.

Eddie Bourdon: I totally understand.

Ronald Ripley: And, nobody understood what you said until you said it. One question I do ask is that if we grant this, if you did put language in there perhaps with no advertising of body tattooing. Because the Use Permit could transferred and if it said just tattooing, somebody could transfer it and it could become a tattoo parlor provided these conditions.

Eddie Bourdon: You're absolutely right. If the ownership of the center changed that is correct, but again, I'm not trying to put something under the door here. My point would be have it provide that no tattooing can take place under this Use Permit then Kay says how do you define tattooing?

Kay Wilson: If it says tattooing, why are you banning this? This is for tattooing and body piercing. If you're saying no tattooing, she can't microblade.

Eddie Bourdon: If it says for micro-blading only.

Bob Thornton: Kevin, our Zoning Administrator has his hand up. Give him a chance.

Kevin Kemp: I was just going to suggest that if you did want to put a condition you could word it such that tattooing be of the cosmetic or permanent makeup type and restricted to use within the beauty school. That use associated with the code won't let us distinguish between tattooing, but you could condition that it is associated with beauty school.

Eddie Bourdon: I will also add that you can legally add a condition that the word tattooing would not be utilized in any advertising or signage on the property because that won't be the case, which should keep you from having people come in for tattoos and they are not going to be done at the beauty school anyway.

Bob Thornton: Right now, we don't have another condition that is worded the way between Kevin, you and your client. Are you comfortable with what he's agreed to and you've just stated to make the

condition read that way. Should we take a minute to write it before we vote on this?

Kevin Kemp: If he is comfortable with the spirit of that condition, we can have that drafted up before Council to go forward with that amendment.

Bob Thornton: Is everybody okay with that? Thank you Eddie.

Eddie Bourdon: Thank you.

Bob Thornton: Any comments?

Jan Rucinski: There are no additional speakers.

Bob Thornton: We'll close the public hearing and discuss this. Dave?

Dave Redmond: First off, I want to apologize I had something this morning that caused me to miss this portion of the debate. I would like to make one point. The ordinance is the ordinance. So, I mean, we try to come up with these fine granular or distinction between various claims of tattooing. How is this not going to work? You are permanently applying ink to skin rather it's in the form of an eyebrow. It can be in the form of something like a butterfly on someone's lower back. The idea is that we're going to try and now sort of come up with these fine distinctions within the current text of an ordinance that says tattooing. I don't know how to do that but it is a problem of either up or down.

Ronald Ripley: Dave, I think we didn't envision this in the ordinance. It is a fine line. I think we're trying to figure out, so sometimes it is a growing situation. In this case, I didn't realize that the applicant had been there 16 years and operating a school. That is what is being said. She just happens to fall under this bucket as far as approval. My concern when we voted on the changing of the ordinance a while back was that we don't have a situation where we look like, and no disrespect to the Naval base, but the Naval base when it used to be honky-tonk and I don't want our city to turn into that type of situation. Tattooing is acceptable. It is business and not a problem but we just don't need them bagged together. I hear what you're saying. It is a tough needle to thread and that is what we are doing here, but I think if you limit the no advertising of the tattooing and he agrees to not to do any tattooing, if he feels that is something he could.

Bob Thornton: Jan.

Jan Rucinski: I would think based on that it might be better to ask them to have that particular service out of just one suite or the other so that we don't run into something falling within that distance. Because I think what Kay is trying to say is that we can't really say you can't do tattooing because micro-blading is, according to the law, tattooing. So, I think it might be better to put a conditional of where it could be done at.

Bob Thornton: I have a question for Eddie. Tell us if you can, she's got these two locations that are in the same shopping center. She has been there for many, many years. How were they operated today? Are they different businesses?

Eddie Bourdon: Same business, same establishment, same ownership.

Bob Thornton: It is just enough room under one roof?

Eddie Bourdon: It has been that way from the beginning.

Bob Thornton: So this is a new business is the microblading because it is tattooing it has to go through this process?

Eddie Bourdon: The fact that they teach and provide microblading and body piercing you ears, and other fine parts some people may want pierced. That is why they are here. It is part of what they teach and a part of what they offer. It is a vocational school and a business. They offer those services. That's why we're here. Like I said, it is good discussion. We're going to and whatever you all decide, we can move forward, but it isn't as Mr. Ripley said, that is my understanding of this ordinance and why the 600 feet is there, and that is never ever going to happen here as long as this owner owns the center. Whatever you all recommend. We appreciate your time.

Bob Thornton: Okay. Thank you. Mike.

Mike Inman: I 100 percent support Ron's suggestion on how to deal with this. I understand Jan's point but I hate to have to limit a business person from being able to move operations in between the two suites that some business might need to pick up they need for space for that as well as the other suite, and I don't see any main gain in that. What we need to realize though, and I appreciate Eddie's cooperation on the additional condition, which we should do, but the landlord, I'm sure, doesn't want to permit tattoos but that may not be the landlord next month or next year, when they sell the property. We don't know if it is in a lease that prohibits any tattooing. We're not asking for a copy of the lease. We can just make an interpretation to it but, which I'm sure may or may not be the lease. It might just be the attitude of the landlord that says simply we're not going to allow tattooing. So, I think we need the condition in there of no advertising. I think that will take care of the issue of this particular application based on its history and the type of operation that they seem to have for 16 years and want to continue.

Bob Thornton: Any other? Jack?

Jack Wall: I'm fine with either moving to one facility or to just permanent cosmetic make-up. I kind of forgot which one is cleaner. Permanent cosmetic make-up condition or limiting it to one of the store fronts. Limiting it to one of the storefronts would align with the ordinance that is currently in place. I find it acceptable to do an occupation for limiting it to just permanent cosmetic make-up.

Ronald Ripley: So, no advertising.

Jack Wall: No advertising of course.

Ronald Ripley: Just limiting it to permanent make-up.

Bob Thornton: Are you guys taking notes down there on the bench? Dave?

Dave Redmond: I still disagree with the extent that I think we are rewriting the ordinance in ways that we can't. We're trying to make a distinction that doesn't exist at all. I would suggest that not have an open front. I would suggest that, where Ron's going, I think gets us about as far we can get, which is the advertising part. You don't have something out on the street that says tattoos come here, if that is possible. Kay's rolling her eyes. But the rest of it, I think some of the stuff like a Conditional Use Permit for some of these. The applicant provides a particular kind of service, and teaches that particular kind of service, which is the micro-blading, about which I know next to nothing. And, the owner says that she doesn't want anything beyond that use in that shopping center. In some cases like this, where your hands are somewhat tied by what the ordinance says, that is all that we got to go on. And, I'm comfortable supporting the application, with the condition with regard to advertising. I'm not

comfortable trying to tell them how they arrange things within the course of their business floor plan for their business to what works best and they can only do it in one suite but not that suite. I don't know what it gets us other than unnecessary tying of the hands of a business owner in terms on how they organize. I wouldn't tell a farmer how to do that. He knows how to arrange the land on which he is operating or a regular kind of manufacturing. It strikes me that being over intrusive and burdensome. So, I think the approach Ron works, and works as best as we are going to get given the conference that we have.

Bob Thornton: Jeff and then Dee.

Jeff Hodgson: I would like to a make a motion on this issue.

Dee Oliver: No, I have a question because I think with all the conversation, I missed something. I just want clarity. The tattoo ordinance, is it 600 feet apart? That's the ordinance. Should the beauty school go out of business, and we pass this, and those two suites get rented again, does that transfer to them, to the new businesses.

Kay Wilson: Yes.

Dee Oliver: So you can have bookend tattoo businesses? Is the correct?

Mike Inman: They can't advertise tattoo.

Dee Oliver: But they can't advertise. I'm just trying to get clarity. The beauty school lady dies. I'm sorry. You know what type of business I'm in. She moves to Florida and she's out of business, and now we have an ordinance in place and two bookend tattoo parlors, how do we prevent the next? That is where Ron's going with this. It is not so much whether she's in one end or the other.

Jan Rucinski: That is why I was suggesting that it could only be done out of one or the other.

Dee Oliver: So, I'm just trying to make sure.

Eddie Bourdon: I'm sorry to belabor this. The lease does not permit it. It is not something the City enforces. The lease does not permit tattooing. So, if this goes out of business and Mr. Inman's point is exactly right, if this goes out of business, the current landlord will not allow tattooing. She made that very, very clear. The landlord may not be there anymore, so; one way to do it is the way you all are talking about with this idea that I will only be allowed in one space versus the other. But I believe you can limit the advertising and I believe, and again Kay may disagree with this on the second part; I believe you can say it because we're agreeing to the condition. It is not your imposing it. We are agreeing to the condition that will only be derma blading, permanent make-up and body piercing and we're saying that the classic, body tattooing and the advertising of tattooing would be prohibited. That's what the owner of the property doesn't want, and it is not what this long term tenant is proposing or doing. So, if that's just too much then go with the other and move it on.

Dee Oliver: I was just asking.

Eddie Bourdon: It's a very good question.

Dee Oliver: Due to the fact that we are within the ordinance so everybody just stops.

Eddie Bourdon: Excellent question. It is a good discussion.

Kay Wilson: I'm okay with the condition that the uses that will be allowed here will only be micro-blading, permanent make-up and body piercing. Then I think there will be no advertising for any other types of tattooing. You are making us define tattoo and it becomes a problem because it's already defined. So if we do both that way, I think we can go ahead and do these two petitions in the spirit of them.

Bob Thornton: Are you okay with that Kevin?

Kevin Kemp: Yes, and I've been taking good notes over here.

Bob Thornton: Thank you sir. So, now are there any other questions before we have motion? I see none this way. Jeff?

Jeff Hodgson: I make a motion to approve the application with the change in condition to state exactly what Kay said.

Bob Thornton: Very legal. Do I have a second on that motion?

Jack Wall: I'll second it.

Bob Thornton: Seconded by Jack. We're ready to vote.

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

By a vote of 10-0, the application of Oanh Dang has been approved with a change to condition with only allowing permanent makeup, microblading and body piercing.

Bob Thornton: Is there any other further business for this body. If none, on behalf of my Commissioners, my fellow Commissioners and I thank everyone for attending today. Thanks to the Planning Director for his excellent work in preparing the agenda. Meeting adjourned.

Item #7
Atlantic Wildfowl Heritage Museum
Conditional Use Permit
1113 Atlantic Avenue
District 6
Beach
September 13, 2017

CONSENT

An application of Atlantic Wildfowl Heritage Museum for a Conditional Use Permit (Open-Air Market) on property located at 1113 Atlantic Avenue, District 6, Beach. GPINs: 2427-25-5322-0000, 2427-25-5317-0000.

CONDITIONS

1. The mobile vendor cart shall be located on the southern patio, as designated on the site layout on page four of this report.
2. No food trucks or other vendors shall be permitted to operate on this property as part of the Open-Air Market.
3. The grill shall be located no closer than 10 feet from any structure, or the minimum distance required by the Virginia Uniform Statewide Building Code standard, to maintain fire safety.

A motion was made by Commissioner Oliver and seconded by Commissioner Rucinski to approve item7.

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

The applicant Lynn Hightower appeared before the Commission.

Item #8
Eye Candy Lash Boutique
Conditional Use Permit
4322 Holland Plaza Shopping Center
District 3
Rose Hall
September 13, 2017

CONSENT

An application of Eye Candy Lash Boutique for a Conditional Use Permit (Tattoo Parlor) on property located at 4322 Holland Plaza Shopping Center, District 3, Rose Hall. GPIN: 1467-97-5253-0000.

CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department for consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any onsite signage for the tattoo establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. The building signage shall not be a "box sign". There shall be no window signage permitted. A separate sign permit shall be obtained from the Department of Planning and Community Development for the installation of the signage.

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

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

By a vote of 10-0, the Commission approved item 8 for consent.

The applicant Shaneaka Price appeared before the Commission.

Item #9
Shyan J. Csatlos
Conditional Use Permit
1921 Perrel Street
District 4
Bayside
September 13, 2017

CONSENT

An application of Shyan J. Csatlos for a Conditional Use Permit (Family Day-Care Home) on property located at 1921 Perrel Street, District 4, Bayside. GPIN: 1479-16-0746-0000.

CONDITIONS

1. Arrival and departure times shall be staggered to avoid vehicular congestion.
2. The family day-care home shall be limited to a total of twelve (12) children, other than children living in the home.
3. The applicant shall maintain a license with the Virginia Department of Social Services for child care.
4. No more than one (1) person, other than the applicant, shall assist with the operation of the family day-care home at any one time.
5. Any sign identifying the home occupation shall be non-illuminated, not more than one (1) square foot in area and mounted flat against the residence.
6. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a family day-care home.

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

	AYE 10	NAY 0	ABS 0	ABSENT 1
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY				ABSENT
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 Shyan Csatlos appeared before the Commission.

Item #10
Water Boxes, L.L.C.
Conditional Use Permit
Conditional Rezoning
2100 Marina Shores Drive
District 5
Lynnhaven
September 13, 2017

DEFERRED

An application of Water Boxes, L.L.C. for a Conditional Use Permit (Multi-Family Dwelling and Commercial Marina) and a Conditional Rezoning (B-2 Community Business & R-7.5 Residential to Conditional B-4 Mixes Use and P-1 Preservation) on property located at 2100 Marina Shores Drive, District 5, Lynnhaven. GPIN: 1499-48-7413-0000 and a portion of 1499-58-9755-0000.

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

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

By a vote of 9-0-1, with the abstention so noted, the Commission deferred item 10.

Lisa Murphy appeared before the Commission on behalf of the applicant requesting the deferral.