

Item #1  
Luciana Crespo  
Conditional Use Permit  
325 First Colonial Road  
District 6  
Beach  
January 10, 2018

**CONSENT**

An application of Luciana Crespo for a Conditional Use Permit (Tattoo Parlor) on property located at 325 First colonial Road, District 6, Beach. GPIN: 2407-86-1291-0000.

**CONDITIONS**

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department for consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos/permanent makeup shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. 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 Commissioner Hodgson to approve item 1.

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

By a vote of 11-0, the Commission approved item 1 for consent.

The applicant Luciana Crespo appeared before the Commission.

Item #2  
Consumer Properties, L.L.C.  
Subdivision Variance  
2311 Busky Lane  
District 6  
Beach  
January 10, 2018

**REGULAR**

Bob Thornton: The next order of business we will address the remaining two matters on the agenda. And I would like to ask the Secretary to call the first item.

Jan Rucinski: Okay the first item is Consumer Properties, L.L.C. An application for Consumer Properties, L.L.C. for a Subdivision Variance (Section 4.4(b) of the Subdivision Regulations) on property located at 2311 Busky Lane, District 6. Beach. Are you the applicant?

Phil Bonifont: I am not the applicant. My name is Phil Bonifont and the land surveyor and I indicated to the owner and acknowledge that I would be here to represent them today.

Jan Rucinski: Okay, can you explain the project to us please?

Phil Bonifont: The property was deeded from the original owner of parcel D, 50 feet of the lot was deeded in 1949 to the original owner of this particular parcel, 50' x 145' square feet. He kept it as a pocket deed.

David Weiner: Can you talk more into the microphone. I can barely hear you.

Phil Bonifont: I'm sorry. He kept it as a pocket deed for 12 or 13 years before it was recorded. In that time, they built a house on the property, and were living in it, and about 1964 or 1963, it was recorded. At that time, the City incorporated it and then we had zoning laws that kept people from subdividing by deed. What we are trying to do now is take down that house that is there, and build a new house. The one that is there is 1950s version, two bedroom one bathroom, small kitchen, and a dining room with a deck on the front. I suspect that the termites have had that for their leisure for the past several years. The house that is going in will be a two story contemporary vinyl. I think that the one that is pretty much shown. The foot print will be almost identical with what was there, so that we have very little amount of surfaced drainage going into the CBPA or the Chesapeake Bay Water Shed. I think that is essentially what we are trying to do is put something back and upgrade the neighborhood a bit from what it looks like at the present time.

Bob Thornton: Questions of Mr. Bonifont? Standby, we might have something for you later.

Phil Bonifont: Thank you.

Bob Thornton: Thank you.

Jan Rucinski: We do have someone who is in opposition. Anthony Albritton. If you can, state our name for the record please?

Anthony Albritton: Anthony Albritton, Sr.

Jan Rucinski: Tell us what your opposition is.

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Anthony Albritton: Yes, I was talking to the gentleman earlier about this piece of property. I requested that they put a fence up between my property and their property, even though you told me I have a fence there, Certainly I have a fence there but I would rather have them put a fence up too because they might not like my fence, and when they come and build a brand new house in the area, it will create a problem but also in that same area, the Chesapeake Bay is a ditch that runs behind this property and the Chesapeake Bay Water runs back there. I was told I couldn't even cut a limb or a tree down in my yard because with that zoning. They are going to build a brand new house there and I was also told I couldn't even repair my shed. I have a shed in my yard, and wasn't allowed to repair my shed but yet somebody could buy the property next door and come and build a brand new house. Yes, I have a problem, a big problem with that. The Army Corp of Engineers came out one time and told me that they could charge me \$10,000 of that area. There is a lot of zoning issues, and I think you need to check it out to see the difference. I don't have the paperwork with me or the different zoning areas or they come across the property and come across my property. But I've talked to the gentleman, I said, hey, put a fence up. My opposition will go away. What he told me is that it is not his money to spend but what's a fence between my property and the property that I owned for years. I wasn't even allowed to repair my shed a tree fell and knocked a hole through my shed and I wanted to repair my shed. I was told that I couldn't even repair my shed, but now a brand new house is coming up. I think there is something wrong with that. I think you need to look into the area and see where, there are some lines that come across certain areas of the property, my property because the Chesapeake Bay is behind our property and runs out to the ocean. And when Mr. Bonifont went the one where Food Lion, where the Asian store, all that was a pipe put down, and it runs through the neighborhood, and runs out behind that property, so I think you need to investigate it some more about that area, and look at all the different zonings and stipulations in that area because I was bombarded with a bunch of stipulations, and they showed me all kinds of lines, where are property runs, so I think it needs to be checked out a little more.

Bob Thornton: Thank you. I have just a question just for Barry. If you have some issues about repair a building and things about, instead of saying to us that somebody told you could or couldn't do it, see Mr. Frankenfield after the meeting.

Barry Frankenfield: It sounds unusual. I'll be glad to check into it.

Bob Thornton: You should have the ability to fix your shed up and do things like that. He's the guy that can help you. Any questions for of the speaker? Thank you sir.

Anthony Albritton: Alright.

Dee Oliver: I got one.

Bob Thornton: Dee?

Dee Oliver: Do you mind showing us where your property is?

Anthony Albritton: Just go up to the right on the same side, to the right.

Dee Oliver: The Cuffees used to own that property. It was in my family, and is on the property on the property next door.

Bob Thornton: You're in between. You're the corner?

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Dee Oliver: So you're on the corner?

Anthony Albritton: No. I'm next door to the right.

Dee Oliver: The other side.

Anthony Albritton: If you come on Busky Lane from Old Great Neck Road, you make a left on Busky. That's the first house on Busky. My house is the second house to the right of that property.

Dee Oliver: Okay. Thank you.

Bob Thornton: Are there any other speakers?

Jan Rucinski: There are no other speakers.

Bob Thornton: Phil, would you like a minute for rebuttal?

Phil Bonifont: Can we go to the survey that we did? And I will point out some things on that. Don't point it at you?

Bob Thornton: Don't point it back at us.

Phil Bonifont: It doesn't show it very clearly along here. Right about here and going this way, diagonally from the upper left to the lower right, is where the line from the RPA or RMA changes from Resource Protection Area to the Management area of the Chesapeake Bay. And I can understand why Mr. Albritton's property is having trouble with the CBPA people. Here is the line where anything below that line is in the RPA, Resource Protection and anything above is Resource Management. They all drain into the Chesapeake Bay Watershed. His is significantly impacted because it covers at least ¾'s of this property is in the RPA. So, he would have to jump through several more hoops than my client, who is in the RMA. And further south he goes, like he was saying, the Corp. of Engineers had indicated to him that he was going to have some problems, that is probably because they indicated they can enforce the Wetlands, very south corner of his property. The property of my client does not have that problem. Now, there is six foot fence and a chain link and it is along his property line between my client and Mr. Albritton at 2315 Busky lane and just on the southwest side of that fence, is a hedge that would take more than just a little pushing to get through. You can't see through it. On the north side of the fence trying to see into Mr. Albritton's property is impossible. There is no view unless you're up 15 feet or better over top of hedge and fence that is there, and so for us to put in another fenced along that line would be required to be put a fence along that line, would seem to be over kill for what's already there. And I don't see from the property at 2315 that there have been any improvements to upgrade the property in the past several years. So, I'm thinking that for him to request us to put in a fence there is if it. I don't know. It doesn't seem like it is productive for what's already there.

Bob Thornton: Any questions of Phil? Thank you. If there are no further questions of the speakers, we can close the public hearing and talk about it amongst ourselves. And, somebody at some point, make a motion. Jeff this is your neighborhood. What are your thoughts?

Jeff Hodgson: Sometimes when we have applications like that and as the speaker came up with some concerns he has especially with his own property and his shed, it is nice they are brought to light and hopefully when he leaves here today, Barry will have some answers for him as to why he couldn't fix a

simple hole in the shed. So , hopefully there is something good that comes out of this but I think and I don't have any issues with this application at all, especially there is a large vegetation buffer between the two properties, and you said there is already a fence there now, two fences I believe.

Phil Bonifont: At this part you can see the fence Mr. Albritton is talking about. The property line is right near the power pole, just a little bit to the left of it, going back toward the fence. The fence begins at about the front of the house.

Jeff Hodgson: Okay.

Phil Bonifont: And so, you got a little bit of blow right there, where there is just a little bit, but once you go past that you're getting into some fence and some hedge.

Jeff Hodgson: Thank you. So, I'm willing, if there are no comments, I willing to make a motion to approve the application as it stands, and again I hope that Barry you can address some of these questions that the other speaker had.

Bob Thornton: Thank you. We have a motion and we have second. Are there any other questions before we call for the vote? Is everybody okay?

Ed Weeden: Who second it?

Bob Thornton: Commissioner Weiner.

	<b>AYE 11</b>	<b>NAY 0</b>	<b>ABS 0</b>	<b>ABSENT 0</b>
<b>HODGSON</b>	<b>AYE</b>			
<b>HORSLEY</b>	<b>AYE</b>			
<b>INMAN</b>	<b>AYE</b>			
<b>KWASNY</b>	<b>AYE</b>			
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<b>RUCINSKI</b>	<b>AYE</b>			
<b>THORNTON</b>	<b>AYE</b>			
<b>WALL</b>	<b>AYE</b>			
<b>WEINER</b>	<b>AYE</b>			

Ed Weeden: By a vote of 11-0, the Commission has approved the application of Consumer Properties, L.L.C.

Bob Thornton: Thank you.

Item #3

Michael Binetti

Subdivision Variance

West side of Riddick Lane, approximately 1379 feet from Indian River Road

District 7

Princess Anne

January 10, 2018

**REGULAR**

Bob Thornton: Next.

Jan Rucinski: The next item on the agenda is item 3, Michael Binetti. An application for a Subdivision Variance, Section 4.4(b) & (d) of the Subdivision Regulations on property located on the west side of Riddick lane, approximately 1379 feet from Indian River Road, District 7, Princess Anne. Is the applicant here?

Michael Binetti: Yes. How are you?

Jan Rucinski: If you can state your name for the record and then give us a rundown of your application.

Michael Binetti: It's Michael Binetti. Thank you for hearing what we are proposing to do. These lots were originally, I think, recorded early in the 50s. I actually own a house and previously built a house 10 years ago that is two lots south of the blue dashed area. That is where I currently live now. So, I purchased the property that is the furthest north. We have plans to go forward and build a house on that. So, what we're running into is that it is extremely hard to design a house, a ranch, with only 60 foot of frontage. These lots were all 100 feet across by several hundred feet deep, 600-700 feet deep. They are approximately 1.5 acres a piece. Like I said, there are five of them as you can see. On both sides of the lot group are retention ponds for Courthouse Estates and the neighborhoods that surround. So, what we are asking to do is just simply divide the property so that it would be more buildable, a more friendly lot for a single family dwelling. In order to get to the back lot, we would simply have the driveway, well, it's not drawn there. Oh, there it is. The driveway would get the ingress/egress for the backlot and at this point is proposed to be this location that it says right now. So, the impact, I don't think that there is a whole lot. Right now, both of these lots are heavily wooded, so there is going to be change for those lots whether they are as it is proposed or whether they are now. Several trees are going to have to come down. We're going to have to do a pump station into the manhole, as I have right now. So, there is not a whole lot I feel would change and we're just simply doing this to entertain a more buildable house with less limitations on the setbacks. That's pretty much it. The owner that is in the middle is not here but he's obviously filled out the application with me so we're both kind of going in submitting it and asking for the permission to subdivide as you see now.

Bob Thornton: Are there any questions of Mr. Binetti?

Karen Kwasny: Can you give me a sense of where, I believe it is on Lot I-1, where the house may be positioned? It is a heavily wooded lot and I know trees are going to come down. I am just trying to get a sense.

Michael Binetti: I would say it would be in the middle.

Karen Kwasny: Okay. That is where I was imagining. Are you planning to maintain some of that buffer vegetation between that lot and those houses behind you? Or are you clearing the lot in its entirety?

Michael Binetti: The Courthouse Estates on the angel part?

Karen Kwasny: Yeah.

Michael Binetti: There is a 10 or 15 foot concrete culvert drainage that connects those two bodies of water, which does have....it goes down. There is a lot of vegetation. It is all woods. So, the trees that are along the back would stay. They are like pine trees. I kind of think it happened when they developed Courthouse Estates. Now we got a nice little pine tree buffer around this whole area. My intent is to leave as many trees as we can. That is what both lot owners want, to keep the trees and the natural area.

Karen Kwasny: Okay.

Bob Thornton: I would call to your attention if you look on page 7 of the application, at the back end of this property up against these houses, there is not only a 15-foot drainage easement, there is 35-foot drainage easement, and a 15-foot maintenance easements, so there is 50 feet back there that he can't get anywhere near, so, then he has got a rear yard setback to honor. It seems like there is adequate back there. Are there any other questions of Mr. Binetti? Thank you. We may ask you back. There is some opposition here.

Jan Rucinski: We do have one speaker in opposition and that is Amanda Kutz. Please state your name for the record.

Amanda Kutz: My name is Amanda Kutz and I live on the property in Courthouse Estate that is by these lots. I appreciate the opportunity to speak to you all this afternoon and for having your hearing on a day that schools are closed, so my six year old can get a civics lesson and see momma go to work. So, we oppose this subdivision variance for a variety of reasons of which I gave you all a detailed memo explaining. First of all, we do not believe that the subdivision variance meets the requirements of City regulations, to grant a subdivision variance. I won't go through each of the five conditions because I did provide you a very detailed memo but I would point out that this requires you to get a subdivision variance that strict application of the division rules would produce a hardship. It also requires that the Commission not take into account personal preference. For Mr. Binetti, there is no hardship if this variance is denied. There are existing right now, two lots. He proposes to build two houses. There is no reason why he can't build two houses on the two existing lots as is. It is a personal preference for him. He would like to build a house that is too large to be accommodated on the lots that are existing. If you were to grant this subdivision variance and this large home was built, it would be completely out of character with all the surrounding homes on Riddick Lane, as well as in Courthouse Estates and Signature of West Neck that abuts this property. In addition to that, the orientation is different than every lot on Riddick lane as well as the lots behind it in Courthouse Estates. So, it would create a very in cohesive part of the property and for all of the surrounding property owners. That is hardship for us. In addition to that, there are many areas within a stone's throw of this property that could accommodate a home of this size that Mr. Binetti would like to propose. At Indian River Plantation, King's Grant, and all of Eagles Nest. These are literally right around the corner from this, and plainly as a homeowner, we are concerned that the rural character of the estate of the property is not going to be maintained. We bought the house for that nature. We're also very concerned of stormwater. I don't have to tell you that we live in an area where flooding is a huge concern. This is a buffer for those neighborhoods. And finally, I would like to say, if you're going to approve this variance, in which we hope you do not, that you should require at least a 50-foot buffer of trees from every property line, which would be in addition to the setback requirements. Thank you.

Bob Thornton: Are there any questions of Ms. Kutz? Thank you. Jack?

Jack Wall: So, where is your property? It really doesn't show up there.

Amanda Kutz: Yeah. It is hard to see but if you zoom in, my house, it is right where it says PD-H1. That is my house, kind of right there above that star.

Bob Thornton: Don and then David.

Donald Horsley: What you're asking for is a 50-foot buffer all the way around this property?

Amanda Kutz: Where it is adjacent to the homeowners. Yes.

Donald Horsley: In addition to what's already there?

Amanda Kutz: Yes.

Donald Horsley: You don't think that is kind of excessive?

Amanda Kutz: I think the request is excessive. I think it's excessive to ask to build a house that doesn't accommodate a lot, when you can build a house of that size in developments that the City has already approved.

Donald Horsley: Okay. Thank you.

Bob Thornton: David Weiner.

Dave Weiner: Could you actually see the houses on Riddick Lane through the woods?

Amanda Kutz: I can see Mr. Binetti's. In fact, his dog has been in in my yard several times. We can see his house, yes, but with the buffer of trees, I can't see into his bedroom window, but I can certainly see his house from my house.

David Weiner: What you're going to get on two long narrow pieces of property are two houses that are not going to look like anything on Riddick Lane now anyway. So, if it was rezoned, you're going to get two nicer looking houses then you would on two narrow skinny lots.

Amanda Kutz: We would presume that if they built two houses on Riddick Lane without the lots reconfigured, they would probably not be building them right against my backyard.

Don Horsley: They could.

Amanda Kutz: They could but it would be a long way to run a sewer line to Riddick Lane.

Bob Thornton: Any other questions? Thank you. Is there anybody else?

Jan Rucinski: There are no other speakers.

Bob Thornton: Mr. Binetti, you have an opportunity for rebuttal, if you wish?

Michael Binetti: I don't know if I really understood exactly which house is hers? What was your name again?

Amanda Kutz: I'm sorry?

Michael Binetti: What was your name again?

Amanda Kutz: Amanda Kutz. My husband and I live on Barbour Drive.

Michael Binetti: Mrs. Kutz and it is PD-H1 right there. Is that the house?

Amanda Kutz: Yes.

Michael Binetti: Okay. First and foremost, the reason why I am doing this personally is because I couldn't afford a lot in Indian River Plantations. Obviously, the house that we are planning on designing is all dependent on what we can do at this hearing today. So, it can either go one way on a 100-foot lot, 60-foot frontage, which is a typical house whether it is in Strawbridge or Indian River Plantations, typical frontage is going to be at least 70 – 80 feet on any house. What it also does, if you do build a 60-foot house on a 100-foot lot, you're going to have to have a driveway or entrances pinned up against the sides of either side. So, I think that actually forces you to take out more trees and decrease the amount of buffer between the neighbors. What we are planning on doing, like we said, putting the houses in the middle of these two square larger lots. The other big thing, we're planning on keeping the trees, keeping the vegetation. I know exactly the area that she is saying. When it is summertime, I have a very hard time even seeing the house lights when they are lit up at night, but now that it is winter, and all the trees are gone, you can see the different houses here, but it is still actually pretty private. I think these woods that are back there and everyone has been looking at them. There are dilapidated houses on Riddick Lane that really need to come down, so the house that I took down was completely torn apart and needed to come down and I built my new house, this new area, there are no houses. It is the only section of wood forest that is left on Riddick Lane. I think, obviously, there is going to be some opposition because it is a pretty place. The reason for us to ask for the lot to be more or less redesigned is so it can be a more buildable lot. I think that is really going to have the structure more away from your house or any surrounding areas to be honest with you. If it was the old way, you can see how far back my house is, so it could have been all the way in the front or it could have been all the way in the back but we chose to go to the back. So, I have to take out a lot of trees in the front yard, so that is what we were trying to avoid was coming in and plowing a whole bunch of trees down.

Bob Thornton: Your red light is going so I need to ask you to end your comment. I see some hands so we'll get to some questions. Ron.

Ronald Ripley: Who owns the lot in between where you live and these two lots that you're asking?

Michael Binetti: It's a new owner. It is a 2,500 square foot house that just has been rehabbed and they have handicap ramps around it. A new family has just moved in over the last week.

Ronald Ripley: Somebody else owns that?

Michael Binetti: Somebody else owns it, yes.

Ronald Ripley: They are using it as a single-family.

Michael Binetti: Yes. And they were actually trying...

Ronald Ripley: What about to the north of you? What's that use?

Michael Binetti: That is the dilapidated.....Where are we, south?

Ronald Ripley: To the north of the property that you're asking.

Michael Binetti: That is a big pond surrounded by Pine trees and there is even a bigger lake or pond on the south side of all this that you can't see.

Ronald Ripley: You can see a tip of it.

Michael Binetti: Yeah.

Bob Thornton: Other questions? Does anybody have another question? Jack.

Jack Wall: So, would you be willing to agree to maintain a buffer?

Michael Binetti: Not all the way around.

Jack Wall: Not all the way around but to the existing homes on...

Michael Binetti: Yeah. We want just as much disconnection from Courthouse Estates. Sorry about my dog. It is a very annoying dog but we want to maintain that and I have three kids that we recently caught them with the ice playing in the back and it kind of sparked us, so, we don't want our kids back there. We don't want them near the ponds or anything like that. So, yes, I will maintain whatever kind of buffer. Just to let you know, there is a buffer right now just from the natural development and they are just pine trees but they are kind of like everything that goes around these two ponds and then around that retention connection thing there are smaller pine trees.

Jack Wall: So, you're up to maintaining a 50-foot and wouldn't clear it and maintain it.

Bob Thornton: Let him answer Jacks' question.

Jack Wall: It's just general. It's not a hard -

Michael Binetti: Well, I guess it would be what we're asking for these two lots to be coming from 100 x 700 and going to a 200 x 350. So, if we gave up 50-foot of a dedicated.

Jack Wall: It wouldn't be dedicated, it would just be buffered.

Michael Binetti: If there was any way to tell what the scale was between the back lot or where the proposed house is going to be, 50 feet doesn't sound like it is hard to maintain. I just can't tell by looking at how much that is going to encroach in the back lot. Just so that you know, Ms. Kutz, the bigger house is going to be on the front lot. Well, that is what we're hoping for. The back one where we drew the big house for this variance, and to be honest with you just over the last months since me and

the other property owners have been talking about his needs and my needs, we actually decided to swap. The line will still be where it is but the other house that is going to go in the back and is going to be closer to like 2,800 square feet and there won't be a pool on that.

Bob Thornton: Wait a second. Dave Redmond.

Dave Redmond: The answer should be no because I 'm certainly not going to agree to that. I think the 50-foot buffer is completely unreasonable. We have legally prescribed setbacks for these sorts of things, and I wouldn't agree to it. I'm not going to agree to that anyway.

Ron Ripley: That is a good idea.

Dave Redmond: So, I think that is just going too far, 50 feet. So, we have things in the ordinance about that.

Bob Thornton: Does anybody else care to add a comment? Mr. Inman.

Mike Inman: I was going to suggest that there is a 35-foot buffer on the property that they own that backs up to you, perhaps a 35 foot buffer on yours would be acceptable to you.

Michael Binetti: Can you just go back to the diagram that shows the easement? I wish I had pictures. There is a good amount of distance between these houses, between Courthouse and Riddick, a very good distance but I mean I guess I can agree to something, now that I am hearing.

Bob Thornton: Let Ms. Oliver make a comment.

Dee Oliver: I have to make a comment. I think that given the size of the lot, when you square them off, what do we have an acre and half on each one?

Michael Binetti: Yes, Ma'am.

Dee Oliver: I think between the drainage and 35-foot buffer that is already there on the neighbors and then the natural easement that he has is plenty. It is a wooded lot. I think we're asking him to do something that you don't need to do. I think there is plenty of buffer here. There are plenty of woods. I am sure he is not going to turf the entire acre and half. There will probably be a fence. I think that is asking a lot. I think there is plenty of what is back there.

Bob Thornton: If you don't have any more to add to your comments, we'll close the public hearing and we'll bring this matter to a vote real quickly.

Michael Binetti: Okay. The only other comment is that I'm trying to just improve that area.

Bob Thornton: I hear you loud and clear.

Michael Binetti: Thank you sir.

Bob Thornton: Thank you. With that, I would like to close the public hearing.

Donald Horsley: I just got a comment to make. I think a reconfiguration of these two lots is a better

situation to develop. Long skinny lots are better to farm, but short lots are better to build houses on them. That is just the way it is but if I was going to farm it, I would prefer the long skinny fields, but I think what he is asking for is alright and I don't have a problem with it. I think with the 35-foot drainage easement and that big concrete ditch and I'm very familiar with it because I farm the other side field and I see it. We farm the entire huge ditch and it has got a concrete bottom in it. I think what he is asking for is okay, and whenever you're ready, I'm ready to make a motion.

Bob Thornton: David Redmond.

Dave Redmond: I move approval of the application.

Donald Horsley: Second.

Bob Thornton: A second by Mr. Horsley. We're ready to vote.

Ronald Ripley: I am a member of the Towne Bank Advisory Board in Chesapeake and they disclosed Towne Bank as their lender. I will be voting on these matter since I have no interest in the application and Towne Bank is not the applicant and since the Planning Commission is advisory and has no control over the final decision. There is also a disclosure letter on file with the clerk as additional disclosure.

	<b>AYE 11</b>	<b>NAY 0</b>	<b>ABS 0</b>	<b>ABSENT 0</b>
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<b>WALL</b>	<b>AYE</b>			
<b>WEINER</b>	<b>AYE</b>			

By a vote of 11-0, the Commission has approved the application of Michael Binetti.

Bob Thornton: Thank you. Is there any other business that anyone would like to bring? On behalf of my fellow Commissioners, I would like to thank everyone for attending today. Thanks to the Planning Director and his staff for their excellent work in preparing today's agenda. The meeting is adjourned.

Item #4  
HH VB2, L.L.C.  
Modification of Conditions  
400 33<sup>rd</sup> Street  
District 6  
Beach  
January 10, 2018

**CONSENT**

An application of HH VB2, L.L.C. for a Modification of Conditions on property located at 400 33<sup>rd</sup> Street, District 6, Beach. GPIN: 2418-92-5567-0000.

**CONDITONS**

1. When developed, the site shall be developed in substantial conformance to the submitted exhibit included in this report entitled, "PHYSICAL SURVEY OF PARCEL B, EXCLUSIVELY FOR HH VB2, LLC," dated September 2, 2016 and prepared by Fox Land Surveying.
2. When constructed, the deck additions shall be in substantial conformance to the submitted building elevations entitled "LEFT SIDE ELEVATION" and "REAR ELEVATION."
3. The existing single-family dwelling shall not be altered to include more than two-dwelling units.
4. The total number of dwelling units on the site shall not exceed nine units.

A motion was made by Commissioner Oliver and seconded by Commissioner Hodgson.

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

Ronald Ripley: I am a member of the Towne Bank Advisory Board in Chesapeake and Towne Bank as their lender. I will be voting on this matter since I have no interest in the application and Towne Bank is not the applicant and since the Planning Commission is advisory and has no control over the final decision. There is also a disclosure letter on file with the clerk as additional disclosure.

Mike Inman: I am a member of the Towne Bank Advisory Board in Virginia Beach. I have no interest in the application and since Towne Bank is not the applicant and since the Planning Commission is advisory and has no control over the final decision, I will be voting on this application. There is also a disclosure letter on file with the clerk as additional disclosure.

Item #4  
HH VB2, L.L.C.  
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By a vote of 9-0, with the abstentions so noted, the Commission approved item 4 for consent.

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

Item #5

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

Conditional Change of Zoning

273 N. Witchduck Road

District 2 - Kempsville

January 10, 2018

## **CONSENT**

An application of Franklin Johnston Group Management and Development, L.L.C. for a Conditional Change of Zoning on property locate at 273 N. Witchduck Road, District 2, Kempsville. GPIN: 1467-75-8675-0000.

## **PROFFERS**

### **PROFFER 1**

When developed, the Property shall be developed in substantial conformity with the conceptual site plan entitled "Renaissance Apartments", dated November 30, 2017, and prepared by Cox, Kleiwer & Company, P.C. (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 quality of architectural design and materials of the multifamily residential buildings constructed on the Property, when developed, shall be in substantial conformity with the exhibit prepared by Cox, Kleiwer & Company, P.C., entitled "Conceptual Elevations – Renaissance Apartments", and dated November 30, 2017 (the "Elevations"), a copy of which is on file with the Department of Planning and has been exhibit to the Virginia Beach City Council. Upgrades to the architectural design and materials of the multifamily residential buildings constructed on the Property shall be permitted subject to approval by the City Planning Director.

### **PROFFER 3**

Landscaping installed on the Property, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Siska Aurand Landscape Architects, Inc., entitled "Overall Site Sheet Index – Renaissance Apartments", and dated December 1, 2017 (the "Landscape Plan"), a copy of which is on file with the Department of Planning and has been exhibit to the Virginia Beach City Council. The exact species of the various types of landscaping may vary from the Landscape Plan depending upon the availability of landscape material at the time of installation.

### **PROFFER 4**

The number of multifamily residential units located on the Property, when developed, shall not exceed a total of two-hundred forty (240).

### **PROFFER 5**

Freestanding signage located on the Property shall be monument-style, no larger than eight feet (8') in height, and shall be constructed of materials compatible with those used for the buildings located on the Property.

**PROFFER 6**

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.

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

Bob Thornton: I will abstain from voting because my company is involved in the project.

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

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

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

Item #6  
Larry Garrison  
Conditional Use Permit  
1805 Virginia Beach Boulevard, Suite 102  
District 6  
Beach  
January 10, 2018

**CONSENT**

An application of Larry Garrison for a Conditional Use Permit (Motor Vehicles Sales) on property located 1805 Virginia Beach Boulevard, Suite 102, District 6, Beach. GPIN: 2407-65-2769-0000.

**CONDITIONS**

1. There shall be no more than 10 cars displayed and all displayed vehicles shall be located within the vehicle display area as designated by the site layout exhibit, found on page 5 of this report.
2. One medium shade tree and understory shrubs, as determined by the Development Services Center’s Landscape Architect, shall be planted and maintained within the two landscape islands, as depicted in the site layout exhibit referenced in Condition 1 above.
3. A six-foot solid fence shall be installed and maintained along the southern property line.
4. The existing dumpster shall be screened by a fence or wall no less than six feet in height.
5. All signage on the site shall meet the requirements of the Zoning Ordinance. The motor vehicle sales operation shall be limited to one wall-mounted sign, which location is depicted on the site layout exhibit referenced in Condition 1 above.
6. No vehicles shall be parked or displayed within 30 feet of the Riddle Avenue right-of-way.
7. No outside paging or amplified music system shall be permitted.
8. There shall be no decorative pennants, feather flags, streamers, air dancers, inflatables or other similar advertising items located on the site.
9. No vehicles in a state of obvious disrepair shall be stored on the site.
10. There shall be no vehicle repair performed on the site.

A motion was made by Commissioner Oliver and seconded by Commissioner Hodgson to approve item 6.

	<b>AYE 11</b>	<b>NAY 0</b>	<b>ABS 0</b>	<b>ABSENT 0</b>
<b>HODGSON</b>	<b>AYE</b>			
<b>HORSLEY</b>	<b>AYE</b>			
<b>INMAN</b>	<b>AYE</b>			
<b>KWASNY</b>	<b>AYE</b>			
<b>OLIVER</b>	<b>AYE</b>			
<b>REDMOND</b>	<b>AYE</b>			

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Larry Garrison  
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<b>RIPLEY</b>	<b>AYE</b>
<b>RUCINSKI</b>	<b>AYE</b>
<b>THORNTON</b>	<b>AYE</b>
<b>WALL</b>	<b>AYE</b>
<b>WEINER</b>	<b>AYE</b>

By a vote of 11-0, the Commission approved item 6 for consent.

The applicant Larry Garrison appeared before the Commission.

Item #7  
Lynnhaven Mall, L.L.C.  
Major Entertainment Venue Signage Permit  
701, 739, 745, 757, 773 Lynnhaven Parkway  
1001, 1005, 1009 Lynnhaven Mall Loop  
District 3  
Rose Hall  
January 10, 2018

**CONSENT**

An application of Lynnhaven Mall, L.L.C. for a Major Entertainment Venue Signage Permit on property located at 701, 739, 745, 757, 773 Lynnhaven Parkway and 1001, 1005, 1009 Lynnhaven Mall Loop, District 3, Rose Hall. GPINs: 1496269419, 1496268097, 1496350434, 1496341955, 1496342787, 1496363430, 1496461559, 1496453926, 1496358830, 1496455278, 1496353639, 1496468297, 1496468027, 1496469093, 1496459637.

**CONDITIONS**

1. When installed, the free-standing signs shall be installed in a location substantially conforming to the site layout included in the submitted sign package entitled, "GGP GENERAL GROWTH PROPERTIES, LYNNHAVEN MALL REFRESH PHASE 3, SITE SIGNAGE, 701 LYNNHAVEN PARKWAY, VIRGINIA BEACH, VA," dated September 13, 2017 and prepared by CANNONDESIGN.
2. When installed, the free-standing signs shall be substantially conforming in size and appearance to the elevation drawings included in the submitted sign package entitled, "GGP GENERAL GROWTH PROPERTIES, LYNNHAVEN MALL REFRESH PHASE 3, SITE SIGNAGE, 701 LYNNHAVEN PARKWAY, VIRGINIA BEACH, VA," dated September 13, 2017 and prepared by CANNONDESIGN.
3. No additional free-standing signs shall be installed to the signs shown in the submitted sign package entitled "GGP GENERAL GROWTH PROPERTIES, LYNNHAVEN MALL REFRESH PHASE 3, SITE SIGNAGE, 701 LYNNHAVEN PARKWAY, VIRGINIA BEACH, VA," dated September 13, 2017 and prepared by CANNONDESIGN.
4. All approvals from the Department of Public Works, Real Estate division must be obtained prior to the installation of any signs located within the public right-of-way.
5. A permit must be obtained from the Planning Department, Zoning Division, for all signage prior to installation.

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

	<b>AYE 11</b>	<b>NAY 0</b>	<b>ABS 0</b>	<b>ABSENT 0</b>
<b>HODGSON</b>	<b>AYE</b>			
<b>HORSLEY</b>	<b>AYE</b>			
<b>INMAN</b>	<b>AYE</b>			
<b>KWASNY</b>	<b>AYE</b>			
<b>OLIVER</b>	<b>AYE</b>			
<b>REDMOND</b>	<b>AYE</b>			
<b>RIPLEY</b>	<b>AYE</b>			

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<b>RUCINSKI</b>	<b>AYE</b>
<b>THORNTON</b>	<b>AYE</b>
<b>WALL</b>	<b>AYE</b>
<b>WEINER</b>	<b>AYE</b>

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

Grady Palmer appeared before the Commission on behalf of the applicant.