

Virginia Beach Planning Commission

Public Hearing Verbatim

March 14, 2018

Mr. Thornton: Virginia Beach Planning Commission, my name is Bob Thornton and I serve as the Chairman of the Commission. Before we get started, I would like to ask Commissioner Oliver to lead us in prayer, this will be followed by the pledge by Commissioner Horsley, please stand.

Mrs. Oliver: Dear Heavenly Father, we come to you today, thanking you for your guidance and wisdom, as we begin this hearing today, guide our hearts and our minds in a spirit of fairness, right thought and speech, help us to remember our responsibility to serve our community with great insight guided by understanding, wisdom, and respect for all. As we make our decisions today, help us to promote the common good as we work together for the betterment of our great city. As trusted servants, we seek blessings on our deliberations and on our efforts here today, Amen. [Group Pledge].

Mr. Thornton: Thank you Commissioners Oliver and Horsley. I have asked Commissioner Weiner to introduce the members of the planning commission.

Mr. Weiner: Thank you Mr. Thornton. Starting on the far end, is Kay Wilson, she is our city attorney. Next is Jack Wall. Jack is a civil engineer and he represents the Rose Hall District. Next is Dr. Karen Beardslee Kwasny, she is a professor of literature and she represents the Princess Anne District. Next is Don Horsley. Don is a farmer and he is At-large. Next is Ron Ripley. Ron is in real estate management and development and he is also At-large. Next is Jan Rucinski. Jan is the secretary of the Planning Commission, she is in property management and she represents the Centerville District. Next is Bob Thornton, Bob is the chairman of the Planning Commission, he is in sales and leasing in development and he represents the Lynnhaven District. Next is Dee Oliver, Dee is our vice chair of the Planning Commission and she is a funeral director and she is At-large. The empty seat is Jeff Hodgson, Jeff is in real estate management and he represents the Beach District. Sitting next to me is Mike Inman, Mike is an attorney and he is At-large. My name is David Weiner, I am in commercial sales and I represent the Kempsville District. Next to me is Dave Redmond, Dave is in commercial real estate, he represents the Bayside District and sitting next to Dave is Carolyn and she is in-charge today. She's our boss. Introduce your staff please.

Carolyn Smith: Certainly, thank you. We have several clerks that are going to assist us today and some in training to help us keep track of our votes and the record today. I have Pam Sandloop and then Carol Dozier, and then we have Dalina Cartwright and Cole Fisher, and we have planners and other city staff that have assisted with

the preparation of our projects and writing the staff reports, we have Jonathan Sanders, Jimmy McNamara, Kathy Warren who is the Director of the SGA Office, Kevin Kemp our Zoning Administrator, and behind Kevin we have Kristine Gay, Robert Davis, Ashby Moss, and special guest Rick Lowman with Traffic Engineering, Marchelle Coleman and Stephen White.

Mr. Thornton: Thank you, thank you, before we get started on the first order of business, we heard this morning in our informal session that Dr. Stephen White is retiring from the planning commission and on behalf of the Planning Commissioners, we would like to thank you Stephen for all the work that we have individually done with you over the years. Stephen has, I think, 28 years with the City and four more years in the Virginia Retirement System, so he has spent over 30 years working as a public servant and for that Stephen, we thank you and we wish you well and hopefully you will be back as a consultant and you will be bringing clients before us in the future and we just do thank you for that. The first order of business is the explanation of the rules that we use to run our meetings, Commissioner Rucinski, our secretary, will explain the rules.

Mrs. Rucinski: Thank you Chairman Thornton. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties and attendants. It is important that all understand how the Commission normally conducts its meetings. It is equally important that each one is treated with respect and civility for those members and the Commission. The Commission requests that if you have a cell phone to please silence it or turn it off at this time. This is an abbreviated explanation of the rules. A complete set of the rules can be found in the front of the planning commission agenda for today. Following is the order for this public hearing. Withdrawals and deferrals, the Chairman will ask if there is a request for withdrawal or deferral on the agenda. Those items will be made first. Consent agenda, the second order of the business is the consideration of the consent agenda, which were those items which the planning commission believes, are unopposed and have favorable staff recommendation. Regular agenda, the Commission will then proceed with the remaining items on the agenda. Please note that action taken by the Commission today is in the form of a recommendation to the Virginia Beach City Council. The final decision for approval or disapproval of any application is made by City Council. The Commission thanks you for your attendance. We hope that your experience here today lets you leave feeling that you have been heard and treated fairly. Thank you.

Item #3

Belvedere Hotel Investments Associates, LLC [Applicant & Owner]

Conditional Use Permit (Commercial Parking Lot)

203 & 205 35th Street & Vacant lot on northeast corner of 35th Street & Pacific Avenue

District - Beach

March 14, 2018

WITHDRAWN

Mr. Thornton: Thank you Commissioner Rucinski. The next order of business is to address those items to be withdrawn. If you have an item that you would like to withdraw, please come forth, the chair has been made aware of item number three to be withdrawn, is there any opposition to this matter being withdrawn, hearing none, I would like to ask for a motion to approve this item being withdrawn.

Mrs. Oliver: Thank you Mr. Chairman I move that item number three to be withdrawn.

Mr. Thornton: Second.

Mr. Horsley: Second.

Mr. Thornton: Second by Mr. Horsley, call for the question.

Carol Dozier: Mr. Inman, May I have your vote.

AYE 10 NAY 0 ABS 0 ABSENT 1

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

Carol Dozier: By 10 to 0 votes, the commission has approved the withdrawal agenda

Item #8

Dragas Associates, Inc. [Applicant]

Conditional Change of Zoning (R-10 Residential to Conditional A-24 Apartment)

Southwest corner of Haygood Road & Wesleyan Drive

District - Bayside

March 14, 2018

DEFERRED

Mr. Thornton: Thank you, the next item are to look at the items that are to be deferred, the Chair has been made aware that item number eight has been requested a deferral, is there someone here to speak on that matter? Is there any opposition to this matter being deferred? Hearing none, I would entertain a motion to defer item, well let me do the other one too, number nine is also a deferral, any one here to speak on that matter? Is there any opposition to number nine being placed on the deferral? Hearing none, I would request the motion to defer items number eight and nine.

Mrs. Oliver: Thank you Mr. Chairman, I move that items number eight and nine to be deferred.

Mr. Thornton: I have a second.

Mrs. Rucinski: Second

Mr. Thornton: Second from Commissioner Rucinski.

Pamela Sandloop: Vote is open.

AYE 10

NAY 0

ABS 0

ABSENT 1

HODGSON

ABSENT

HORSLEY AYE

INMAN AYE

KWASNY AYE

OLIVER AYE

REDMOND AYE

RIPLEY AYE

RUCINSKI AYE

THORNTON AYE

WALL AYE

WEINER AYE

Carol Dozier: By 10 to 0 votes, the Commission has deferred items eight and nine.

**Item #9
Halle Properties, LLC [Applicant]
Conditional Use Permit (Automobile Repair Garage)
620 First Colonial Road
District – Beach**

March 14, 2018

DEFERRED

Mr. Thornton: Thank you, the next item are to look at the items that are to be deferred, the Chair has been made aware that item number eight has been requested a deferral, is there someone here to speak on that matter? Is there any opposition to this matter being deferred? Hearing none, I would entertain a motion to defer item, well let me do the other one too, number nine is also a deferral, any one here to speak on that matter? Is there any opposition to number nine being placed on the deferral? Hearing none, I would request the motion to defer items number eight and nine.

Mrs. Oliver: Thank you Mr. Chairman, I move that items number eight and nine to be deferred.

Mr. Thornton: I have a second.

Mrs. Rucinski: Second

Mr. Thornton: Second from Commissioner Rucinski.

Pamela Sandloop: Vote is open.

AYE 10 NAY 0 ABS 0 ABSENT 1

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

Carol Dozier: By 10 to 0 votes, the Commission has deferred items eight and nine.\

Item #1
Kay F. Stanley
Conditional Use Permit (Home Occupation – Commercial Kitchen)
312 Indian Avenue
District – Beach

March 14, 2018

CONSENT

Mr. Thornton: Thank you. The next order of business is that we will address those items that have been placed on the consent agenda, the Vice Chair will handle this portion of the agenda.

Mrs. Oliver: Thank you Mr. Chairman, this afternoon we have 17 items on the Consent Agenda. The first matter is agenda item number one and this is an application of Kay F. Stanley for a Conditional Use Permit for a Home Occupation-Commercial Kitchen on property located at 312 Indian Avenue in the Beach District. Is there a representative for this application, would you please come forward?

Kay Stanley: Do you just come right up and speak into that microphone? I thought I was loud enough.

Kay Stanley: I am Kay Stanley and this is my daughter Dena Sawyer and we have the Prissy Pickle Company and we make pickles, so we are asking to put a commercial kitchen in our house, my husband's house and my house on 312 Indian Avenue. We have read all the conditions and we understand them and we will abide by all, so thank you and we also brought pickles to handout everybody.

Mrs. Oliver: Perfect, thank you. I heard they were wonderful.

Kay Stanley: Thank you.

Carolyn Smith: Thank you. Do I get to keep the bag?

Mrs. Oliver: Is there any opposition to this matter being placed on the consent agenda? Hearing none, the chairman has asked Commissioner Weiner to read this into the record please.

Mr. Weiner: Thank you Mrs. Oliver. This is a conditional use permit for a home occupation-commercial kitchen. The applicant is requesting a conditional use permit for a home occupation to operate a commercial kitchen in the attached garage of the property. The commercial kitchen would be approximately 400 square feet and would include three sinks, stove, refrigerator, and a work table for the production of canned pickles. It is anticipated that no customers will be coming to the site to purchase products as all products will be sold off site at local farmer's markets and grocery stores. The applicant and her daughter will be the sole operators of the kitchen and no other employees will be in this operation. Staff has recommended approval and we put on the Consent Agenda.

CONDITIONS

1. In accordance with Section 234 (c) of the City Zoning Ordinance, there shall be no more than one (1) sign identifying the home occupation. Said sign shall be no more than one (1) square foot in area, shall not be internally illuminated, and shall be mounted flat against the wall of the residence.
2. In accordance with Section 234 (d) of the City Zoning Ordinance, the use shall not create noise, dust, vibration, smell, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.
3. There shall be no retail sales of any products or merchandise to the general public from the site.

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

AYE 10 NAY 0 ABS 0 ABSENT 1

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

Item #2
Evergreen Virginia, LLC
Conditional Use Permit (Car Wash Facility)
Modification of Conditions (Motor Vehicle Sales and Automobile Repair Establishment)
240 & 248 N. Lynnhaven Road, 2865 & 2893 Virginia Beach Boulevard
District – Beach

March 14, 2018

CONSENT

Mrs. Oliver: Thank you, the next matter is agenda item number 2, this is an application of Evergreen Virginia LLC as the applicant and the property owner for a Modification of Conditions and a Conditional Use Permit for a car wash on property located at 240 and 248 North Lynnhaven Road and 2865 & 2893 Virginia Beach Boulevard in the Beach district.

Billy Garrington: Thank you Chairman Thornton, Ladies and gentleman of the Planning Commission. For the record I'm Billy Garrington, on behalf of the applicant Evergreen Virginia LLC. I think there are ten conditions that are attached with this Conditional Use Permit request. We are in total agreement with those conditions and we thank the staff for putting this on consent.

Mrs. Oliver: Great, thank you. Is there any opposition to this being placed on the consent agenda? Hearing none, the Chairman is asked Commissioner Inman to read this into the record.

Mr. Inman: Thank you Mrs. Oliver. This is a, as stated before, this is a Conditional Use Permit request and a Modification of Conditions and it has to do with property that's immediately adjacent to the Checkered Flag Operation and faces Virginia Beach Boulevard on the corner of Lynnhaven Road. They acquired this property behind them, which is sort of triangular piece of property with 2 acres. Surrounding uses are on one side some office use and another side some residential use across Lynnhaven Road. At this point, it's already zoned properly for this type of use, so these conditions that will be placed on this. Because of its proximity in part to the residential use the ten conditions include that all repairs and painting have to take place inside the building, and car washing, of course, inside of the car wash facility, no tires or merchandise can be displayed on the outside, no outside paging, and outdoor lighting will be shielded and restricted to 14 feet in height and no decorative pennants and lighting. So these are the conditions. For those reasons we put it on the Consent Agenda.

CONDITIONS

The conditions of the 1971, 1987, 1989, and 1997 Conditional Use Permits for Motor Vehicle Sales and Repair will be deleted and replaced with the conditions below.

1. The development and landscape of the site shall substantially conform to the submitted layout entitled “Conceptual Site Plan Checkered Flag Building/Parking Lot Expansion 2865 Virginia Beach Blvd. Virginia Beach, Virginia” prepared by VHB, dated 12/22/2017 as depicted on page 6 of this report. Said site plan has been 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 “Prep Building Addition for Checkered Flag 2865 Virginia Beach Boulevard, Virginia Beach, VA 23452” prepared by Covington Hendrix Anderson, dated 01/02/2018 as depicted on page 7 of this report. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development.
3. Vehicles shall not be displayed on platforms or in any method that elevates them above the parking lot surface.
4. All motor vehicle repairs and painting shall take place inside the building.
5. No outside storage of vehicles in a state of obvious disrepair, equipment, parts, or materials shall be permitted.
6. No tires, merchandise, or parts for sale shall be displayed outside.
7. No outside paging or amplified music system shall be permitted.
8. All outdoor lighting shall be shielded to direct light and glare onto the premises; said lighting and glare shall be deflected, shaded, and focused away from nearby residential property. Any outdoor lighting fixture located on the property shall not be erected any higher than 14 feet. A photometric plan shall be submitted and approved prior to the approval of the site plan.
9. 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.
10. Use of the car wash facility by the general public shall not be permitted.

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

AYE 10

NAY 0

ABS 0

ABSENT 1

HODGSON

ABSENT

HORSLEY AYE

INMAN AYE

KWASNY AYE

OLIVER AYE

REDMOND AYE

RIPLEY AYE

RUCINSKI AYE

THORNTON AYE

WALL AYE

WEINER AYE

Item #4
ISHWAR, LLC
Modification of Conditions (Motor Vehicle Rentals)
5924 Indian River Road
District – Centerville

March 14, 2018

CONSENT

Mrs. Oliver: Thank you Commissioner Inman. The next matter is agenda item number four. This is an application of ISHWAR, LLC as the applicant and property owner for a Modification of Conditions on property located at 5924 Indian River Road in the Centerville District, is there a representative for this application? Hi, would you come up and state your name please?

Vikash Chaudhary: My name is Vikash Chaudhary and we are the owners of this property. We already have a Conditional Use Permit for four parkings for box truck rentals and we are just adding four more.

Mrs. Oliver: Great. And are the conditions that are set forth in your application acceptable to you?

Vikash Chaudhary: Yes.

Mrs. Oliver: Okay, great, thank you very much. Is there any opposition to this matter being placed on the consent agenda, hearing none, the Chairman has asked Commissioner Rucinski to read this into the record please.

Mrs. Rucinski: Okay, thank you. As stated this is a Modification of Conditions, the Conditional Use Permit for automobile sales, service and car wash was approved in 1988 for that site, since that time, the site has been developed with the fuel canopy, fuel pumps, the convenience store, and a car wash. In September of 2017, a Conditional Use Permit for Motor Vehicle Rentals for up to four box trucks was approved by City Council. With this submittal of this request, the applicant originally requested 18 box trucks but after discussions with Staff, he has modified that request to eight total box trucks on the site. As depicted on this submitted site layout, the rental trucks will be parked on the west side of the convenience store and next to the car wash building. With the existing operation, the customers will rent the vehicles from spaces within the convenience store and the proposed hours are 8 a.m. to 7 p.m. seven days a week. In Staff's opinion, this use is compatible with the surrounding commercial uses. The number of parking spaces on this site exceed the number of parking spaces that are required by 14, therefore, the display of up to eight box trucks for rent will not impact the ability of both customers and employees to safely access the fuel pumps, the convenience store, or the car wash. A condition is recommended that specifies the location of the eight box trucks in order to limit the visibility from the right-of-way. For all of these reasons, Staff has recommended approval of this

application with the conditions listed, which are agreeable by the applicant, therefore, we have placed this item on the Consent Agenda.

CONDITIONS

The Conditions of the Conditional Use Permit for Motor Vehicle Rentals dated September 19, 2017 are hereby replaced with the following Conditions:

- 1. There shall be no vehicle repair performed on the site. There shall be no storage of inoperable, wrecked or dismantled vehicles on the site.
- 2. There shall be no signs placed within the windows or the doors of the rental vehicles. There shall be no pennants, banners, streamers, or portable signs placed on the site or on the vehicles.
- 3. No more than eight box trucks for the purpose of renting shall be allowed on the site at any one time. Rental trucks shall only be located in the areas on the site that have been designated on the exhibit entitled, "Proposed Site Layout" as depicted on page 5 of this report. Rental trucks shall not be parked in such a way that impedes the internal vehicular circulation of the site.

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

AYE 10 NAY 0 ABS 0 ABSENT 1

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

Item #5
Glaser Enterprises, Inc.
Conditional Use Permit (Bulk Storage Yard)
2584 Horse Pasture Road
District – Rose Hall

March 14, 2018

CONSENT

Ms. Oliver: Thank you. The next matter is agenda item number five and this is an application of Glaser Enterprises, Inc. for a Conditional Use Permit for a bulk storage yard on the property located at 2584 Horse Pasture Road located in the Rose Hall District. Is there a representative for this application? No? Is there any opposition to this being placed on the consent agenda? Hearing none, the Chairman has asked Commissioner Weiner to read this into the record, please. Sorry, I skipped, Commissioner Wall.

Mr. Wall: Thank you. This is a Conditional Use Permit for a bulk storage yard. In 2012, a Conditional Rezoning from AG-1 to AG-2 Agricultural District to Conditional I-1 Light Industrial District was approved by City Council to allow development of the 25-acre farm property as an industrial park. The proffered rezoning for the entire industrial park was modified in 2004 to reduce the setbacks along London Bridge Road. The applicant currently occupies a 16,000 square-foot building. Upon seeking a zoning verification letter from the zoning office, the applicant was informed that the Conditional Use Permit for a bulk storage yard is required to store spas and other equipment associated with the business on the exterior of this site. Based on this information, the applicant is requesting a Conditional Use Permit for bulk storage yard on the rear of the property. The approximately 10,000 square-foot bulk storage area is currently enclosed with a 6 foot tall chain-link fence with aluminum slats. The applicant is seeking a deviation to the required Category VI screening which is a solid six-foot tall fence with shrubs surrounding the bulk storage yard, in lieu of a solid privacy fence, the applicant intends to install plant material outside of the existing chain-link fence that has slats in it as it means a screening the materials from London Bridge Road. In staff's view, the proposed bulk storage yard is compatible with the surrounding industrial uses and the land use policies for the Special Economic Growth Area 3 South Oceana. Staff recommends approval. There is no opposition, and therefore, we placed this item on the Consent Agenda.

CONDITIONS

1. The Bulk Storage Yard shall be limited to the area and location depicted on the exhibited entitled, "Site Layout" on page 4 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. Southern wax myrtle (*Myrica cerifera*), planted six feet on center, shall be installed along the northern side of the site facing London Bridge Road and along the western side of the Bulk Storage Yard area, as depicted on the “Proposed Landscape Exhibit” on page 5 of this report. The plants shall be a minimum of two feet in height at the time of installation.

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

AYE 10 NAY 0 ABS 0 ABSENT 1

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

Item #6

Logan Virginia Properties, LLC

Conditional Change of Zoning (B-2 Community Business, A-12 Apartment, R-7.5 Residential to Conditional B-2 Community Business)

5441 & 5473 Virginia Beach Boulevard

District – Kempsville

March 14, 2018

CONSENT

Mrs. Oliver: Thank you Commissioner Wall. The next matter is agenda item number 6 and this is an application of Logan Virginia Properties, LLC for a Conditional Rezoning from B-2, A-12, and R-7.5 to a Conditional B-2 on property located at 5441 & 5473 Virginia Beach Boulevard located in the Kempsville District. Is there representative for this application? Is there any opposition, oh sorry. Hi, how are you? Good, could you state your name for the record please?

Jeffery Frinkel: Yeah, I am Jeffery Frinkel and I am senior vice president of Rooms to Go and this project is to bring Rooms to Go showroom to Virginia Beach.

Ms. Oliver: Great and are the conditions set forth in the application acceptable to you?

Jeffery Frinkel: Yes, they are.

Ms. Oliver: Great, thank you very much.

Jeffery Frinkel: You are welcome.

Ms. Oliver: Is there any opposition to this being placed on the consent agenda? Hearing none, the Chairman is asked Commissioner Weiner to read this into the record?

Mr. Weiner: Thank you. This is a Conditional Rezoning, the subject 4.32 acres that are proposed to be rezoned with the reconfiguration of two sites. The applicant is a contract purchaser of the 1.77 acres from Gateway Free Will Baptist Church and 2.7 acres from Byler Azalea, LLC, the applicant plans on combining these acres into one parcel and rezoning to a Conditional B-2 for the purpose of development of the site with a 44,685 square foot retail furniture store. Access to this site is proposed via two points' ingress and egress along Virginia Beach Boulevard and one point of ingress/egress along Toy Avenue. The parking spaces proposed on the site exceeds the maximum number permitted by zoning ordinance by 50 spaces, a large BMP is proposed in the rear of the site to adjust stormwater needs and more detailed review of the proposed strategy will be completed at the time of the site plan review. The proposed building is a contemporary design with plate glass as the main exterior building material. Staff recommends approval and we put it on the Consent Agenda.

PROFFERS

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

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

Item #7
ACC Property Solutions, Inc.
Conditional Rezoning (A-12 to Conditional to R-5S)
1602 Cypress Avenue
District – Beach

March 14, 2018

CONSENT

Mrs. Oliver: Thank you. The next matter is agenda item number 7, and this is an application of ACC Property Solutions, Inc. as an applicant and the property owner for Conditional Rezoning A-12 to Conditional R-5S on property located at 1602 Cypress Avenue located in the Beach District.

Eddie Bourdon: Thank you Madam Vice Chair, Chairman, members of the Commission for the record Eddie Bourdon, Virginia Beach Attorney representing the applicant. This is actually a Conditional Rezoning to down zone and we appreciate the efforts of Mr. Kemp so unusual circumstances present here and Mr. McNamara it is well appreciated being on the consent agenda.

Mrs. Oliver: Thank you, Is there any opposition to this being placed on the consent agenda? Hearing none, the chairman is asked Commissioner Ripley to read this into the record.

Mr. Ripley: As you heard, this is located on 1602 Cypress Avenue, it is a down zoning from A-12 to R-5S, the property is currently improved, it is a very little small piece of land, and it's only 37 x 60 and it's improved with an older house that has been there for almost 80 years and this is not in really good condition and this is really a nice addition to the neighborhood and the single family house is being offered to go back. The current size of the site is only 2,200 square feet, the applicant needs front yard side yards and minimal lot, some variances in those areas and we felt there was very appropriate buildings have been pulled close to the road, but actually it has got little better setback near the existing building and the side yards are little better than they were on the older building, but it's by far are very nice development because this is a two and a half story, heard somebody described it is a three story, but it really looks like to me a two and a half story wood-frame building that's compatible to neighborhood, nice addition, Staff recommends approval, Planning Commission felt that it ought to be put on Consent.

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

AYE 10

NAY 0

ABS 0

ABSENT 1

HODGSON

ABSENT

HORSLEY AYE

INMAN AYE

KWASNY AYE

OLIVER AYE

REDMOND AYE

RIPLEY AYE

RUCINSKI AYE

THORNTON AYE

WALL AYE

WEINER AYE

**Item #10
D & S Williams, Inc.
Conditional Use Permit (Automobile Repair Garage)
113 Pennsylvania Avenue
District - Bayside**

March 14, 2018

CONSENT

Ms. Oliver: Thank you. The next matter is agenda item number 10, and this is an application of D & S Williams, Inc. for a Conditional Use Permit for an Automobile Repair Garage on property located at 113 Pennsylvania Avenue located in the Bayside District. Is there representative for this application? Hello. Would you state your name for the record?

Damion Williams: Hello, Damion Williams.

Ms. Oliver: Are the conditions set forth in the application acceptable to you?

Damion Williams: Yes ma'am.

Ms. Oliver: Okay, great, thank you very much. Is there any opposition to this being placed on the consent agenda? Hearing none, the Chairman has asked Commissioner Redmond to read this into the record, please.

Mr. Redmond: Mr. Chairman, this is a Conditional Use Permit application for an Automobile Repair Garage, which has operated on this site for a number of years, it's a very small site, it's about a quarter of an acre and has operated apparently without incident. The operator, however; was unaware of the need for a Conditional Use Permit, and has been working with Staff towards end, there were two issues which the Staff identified and addressed in the conditions, one is the existence of a nonconforming sign, which is to be removed and any sign that replaces it then must conform to the city code and a second was some very minor deficiencies with regard to the parking, again very small site, small number of parking places but nonetheless here is a parking requirement, that's conditioned as well and appears that should be easily met. There is no opposition and the staff recommends approval, we agree and incurred by consent, thank you Mr. Chairman.

CONDITIONS

1. The parking lot shall be striped to include any required handicap spaces in accordance with the Americans with Disabilities Act (ADA).
2. All on-site signage must meet the requirements and regulations of the Zoning Ordinance.
3. The existing non-conforming freestanding sign shall be removed.

4. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs or electronic display signs on the site.
5. No vehicles in a state of obvious disrepair shall be stored outside on the property. All such vehicles shall only be permitted to be stored within the building.
6. There shall be no outside storage of equipment, parts or materials.
7. No motor vehicle repair work shall take place outside of the building.

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

AYE 10 NAY 0 ABS 0 ABSENT 1

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

Item #11

Kellye V. Gentry

Subdivision Variance (Sections 4.4 (b) & (d) of the Subdivision Regulations)

West side of Vaughan Road

District _ Princess Anne

March 14, 2018

CONSENT

Mrs. Oliver: Thank you. The next matter is agenda item number 11, and this is an application of Kellye V. Gentry as an applicant and the property owner for a Subdivision Variance, Section 4.4 B and D, on the property located on the West side of Vaughan Road located in the Princess Anne District. Is there a representative for this application? Hi, welcome, could you state your name for the record please?

Kellye Gentry: Kellye Gentry.

Mrs. Oliver: And are the conditions acceptable to you?

Kellye Gentry: Yes.

Mrs. Oliver: Okay, perfect, thank you. Is there any opposition to this being placed on the consent agenda? Hearing none, the chairman is asked Commissioner Kwasny to read this into the record.

Mrs. Kwasny: Thank you Vice Chair Oliver. This is a request in the Princess Anne District for a Subdivision Variance on Vaughan Road of property zoned AG-1 and AG-2 agricultural. Originally, it was apart 190 acres put into City's ARP program with 16 developable rights, only 13 of those went into the program, the other three were carved out to become probably single family residences of which one of those was already existing, you can see that in the right hand corner. This Subdivision Variance is a matter of the issue of road frontage because there is no road frontage for the property that's being subdivided to provide for another single family home, the Subdivision Variance is required. There is another Subdivision Variance that is a matter of the easement on to the property, because there is no direct access to a public street. Therefore, it has to come in front of Planning Commission and then in front of Council. The Staff finds that it is in compliance with the comprehensive plans for the agricultural area for the rural area and planning commission places this on the Consent Agenda.

CONDITIONS

1. When the property is subdivided, it shall be substantially in accordance with the submitted subdivision exhibit entitled "EXHIBIT FOR SUBDIVISION VARIANCE AT GENTRY PROPERTY," dated 01/31/2018 and prepared by Pennoni Associates Inc. Said exhibit has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. A final plat shall be recorded with the Clerk of Court reflective of the layout referenced herein.

2. When Lot C-2A1 is developed, the residential dwelling constructed shall have the architectural features, and appearance of like quality and character to the Elevation Exhibit on page 8 of this Staff report, entitled "Proposed Elevation," which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.
3. An ingress/egress easement connecting to a public street, with a minimum width of 20 feet, shall be maintained in perpetuity to provide access to Lot C-2A and Lot C-2A1. Said easement shall be recorded with the Clerk of Court.
4. A 50-foot vegetated buffer shall be installed and maintained between any residential structure and any abutting agricultural operation. Said buffer shall be consistent with the Rural Residential Development Guidelines with the first 25 feet being heavily planted with a mixture of grasses and low growing indigenous shrubs, and the second 25 feet adjacent to the structure planted with a double row of trees with a minimum caliper of one and one half inches and planted no more than 30 feet apart on center.
5. No residential structures shall be permitted on Lot C-2A. A note shall be recorded on the final plat indicating that Lot C-2A is not a building site.
6. Prior to obtaining a building permit, Lot C-2A1 shall obtain approval from the Virginia Beach Health Department for private well and septic facilities.
7. As required by Section 4.10 (B) (3) of the Floodplain Ordinance, no residential structures shall be located within the area designated as Floodplain Subject to Special Restrictions.

A motion was made by Commissioner Oliver and seconded by Commissioner Horsley to approve item 11.

AYE 10 NAY 0 ABS 0 ABSENT 1

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

Item #13

City of Virginia Beach – An Ordinance to Amend Section 107 of the City Zoning Ordinance pertaining to the fees for a rezoning, conditional rezoning and modifications to a conditional rezoning.

Item #14

City of Virginia Beach - An Ordinance to Amend Section 106 of the City Zoning Ordinance pertaining to the fees for an appeal to the Board of Zoning Appeals for residential and commercial properties.

Item #15

City of Virginia Beach - An Ordinance to Amend Section 107.1 of the City Zoning Ordinance pertaining to the fees for alternative compliance in certain districts.

Item #16

City of Virginia Beach - An Ordinance to Amend Section 221 of the City Zoning Ordinance pertaining to the fees for conditional use permits and modifications to conditional use permits.

Item #17

City of Virginia Beach - An Ordinance to Amend Section 105 of the City Zoning Ordinance pertaining to the fee for the enlargement, extension or conversion of a nonconforming use or structure.

Item #18

City of Virginia Beach - An Ordinance to amend Section 8.3 of Appendix B, Subdivision Regulations, pertaining to the fee for subdivision variances.

Item #19

City of Virginia Beach - An Ordinance to Amend Section 33-111 of the City Code pertaining to the fee for the vacation of a street or alley.

Item #20

City of Virginia Beach - An Ordinance to Amend Section 1403 of the City Zoning Ordinance pertaining to the fees for Wetland permits and deferrals.

Item #21

City of Virginia Beach - An Ordinance to Amend Section 1603 of the City Zoning Ordinance pertaining to the fees for coastal primary sand dune permits, sand management permits and deferrals.

March 14, 2018

CONSENT

Mrs. Oliver: Thank you. The next matter is agenda Items number 13 through 21, and this will be read into the record, these are for the City of Virginia Beach and that will be read by Jimmy McNamara of our planning department. Thank you.

Mr. McNamara: Good afternoon, So, Agenda Items 13 through 21 are amendments to the Zoning Ordinance to adjust Planning Department review fees associated with the City Council, Planning Commission, Wetlands Board, and Board of Zoning Appeals processes. City Staff has worked with our process Improvement Committee to adjust our practices to better serve our stakeholders, one of the suggestions that came out of this committee was consolidating fees. Previously, the Planning Department had charged separate fees for an application and then for advertising, which resulted as an inconvenience to our customers. Those advertising fees were charged at cost and varied greatly depending and the number of notification letters that were mailed and the size of the advertisement. So, with this amendment, the Planning Department now charges one set fee and has combined those two fees well with the application fee. The amendments of the Zoning Ordinance were required to adjust the right amount. I would note that agenda item has been amended to reflect that the correct amount for agenda Item number 18, changing it from \$1190 as was listed in the Staff report to \$810 dollars.

Mrs. Oliver: Thank you very much. Mr. Chairman that was the last item on the consent agenda and I would like to move that to approve consent agenda items number 1, 2, 4, 5, 6, 7, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, and 21 be approved.

Mr. Thornton: Thank you, do I have a second?

Mr. Horsley: Second.

Mr. Thornton: Seconded by Commissioner Horsley.

Mr. Horsley: Mr. Chairman, before we move on, I want to take a moment and thank these two ladies, Mrs. Stanley and Mrs. Sawyer for the pickles, we don't get a lot of gifts around here, but these look really great, it was a very kind gesture on your part, you didn't have to do it, but I am going to take them home and eat them and I think I agree, I think everyone will agree that it was very nice if you do that, so thank you very much and good luck. Thank you Mr. Chairman.

Mr. Thornton: We are now ready to vote.

Carol Dozier: Mr. Ripley, may I have your vote.

Pamela Sandloop: Mr. Ripley, may I have your vote.

A motion was made by Commissioner Oliver and seconded by Commissioner Horsley to approve items 13, 14, 15, 16, 17, 18, 19, 20, 21.

AYE 10

NAY 0

ABS 0

ABSENT 1

HODGSON

ABSENT

HORSLEY AYE

INMAN AYE

KWASNY AYE

OLIVER AYE

REDMOND AYE

RIPLEY AYE

RUCINSKI AYE

THORNTON AYE

WALL AYE

WEINER AYE

Carol Dozier: By 10-0 vote, the commission has approved items 1, 2, 4, 5, 6, 7, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, and 21.

Mr. Thornton: Thank you. Before you all depart, I would like to thank all of the applicants who had a matter on the consent agenda today. These items will be scheduled for hearing in the City Council's agenda, thank you for your attendance today. The next order of business is our one remaining matter on the agenda and I would like to ask the clerk of the commission to call this item, please.

Item #12
Burger Busters, Inc. [Applicant]
Alternative Compliance (Sections 2.6 & 5.3.8 of the Oceanfront Resort District Form-Based Code)
Corner of 29th Street & Pacific Avenue
District – Beach

March 14, 2018

Carol Dozier: Item number 12, Burger Busters, applicant Balboa LLC.

Mr. Thornton: Have a nice day.

Mr. Redmond: Mr. Chairman, I need to recuse myself on this matter, I am under contract on behalf of a seller as the broker with this applicant on another site in North Carolina, so cannot participate in it, so I will go ahead and take my leave and wish you all good luck, thank you.

Mr. Thornton: Thank you, enjoy your afternoon. Welcome Mr. Bourdon.

Mr. Bourdon: Thank you Mr. Chairman. For the record, Eddie Bourdon Virginia Beach attorney, representing the applicants and the property owner. With me this afternoon is Mr. Garry Franks who is the project engineer with Blakeway and Will Ellis with Burger Busters. The application is to redevelop an existing commercial parking lot on Pacific Avenue at 29th street adjacent to Murphy's Restaurant. The plan that is in your package recommended for approval by staff, we have slightly revised and I will explain that in a moment, but I have provided each of you with that plan along with letters of support and a petition with 100s of names of people who are very supportive of this application. I am going to thank Kristine Gay for her work on this application; we have been working on this for quite some time as well as the Public Works staff as well with the 29th Street CIP project. The applicants, my clients, went to the PDRC committee of RAC back in December and were provided with feedback on their proposal and a number of suggestions and items to change, to modify, to improve the plan. They went back [to PDRC] in January with all of those changes included in the plan and were approved, they acknowledged, you know, voted, you know, we did what they asked us to do, and that's the plan that's in your staff report. In that meeting, Tim Barrow mentioned that he had concerns because we had a 20 foot wide exit, and that people might try to turn in to the exit. So that is the reason why we have narrowed and changed slightly the configuration. This is the way it had been designed, it had been configured. He expressed concern that traffic coming would, might, even though we would have some signage, that this might be too inviting. So what we have done, with the plan that you all have, we narrowed this to 17 feet and we have added some additional landscaping and tapered it back against the building as well just to try to better define this for folks who may be approaching in their vehicle and that is an exit only. There will be, you know, small signage that's indicate that as well. But that is the only change in what I

handed out to you all this morning versus what is on the plans that are in the report and they are up on the power point. The two, the access, the way it shown here, my client believes provides much better safer, cleaner circulation on the site and that's why we prefer what is before you, versus what we can talk about later. What's happened since that time, we were not invited to nor did we know anything about the February PDRC meeting, they were going to then, you know, start talking about possible other ways to do this, which is a little disconcerting but we are not going to argue with anybody. You know, everyone is entitled to their opinions. The plan, if you can show the elevation real quick, this is the result, this is not like any other Taco Bell in the area to say the least. All facing Pacific Avenue, this is EIFS, this is EIFS, just different styles. We have lighting out here, it does not show up real well on the gray, and windows. These are powder coated aluminum slats up here on this wall and then this feature is a CorTen steel, it's a US steel has, the patent on it and it is made to look a rust color and will you know maintain that color for a long long time, as long as this will be there, but that's a steel feature on the corner there. As the Form-Based Code suggests that we not have any visibility for the parking, there is an 8 foot wall that goes all the way across so it's an entire solid frontage, that wall is set back with the lot of landscaping which is on the plan, you can't see it on here, that wall would be EIFS to match the building, you know, matched with same color, same material, but that wall runs all the way here, back down and all the way across, so there is no access here. It's all blocked off with all the landscaping. That's all you'll see. You get the sidewalk out on Pacific, additional parking has been provided on Pacific. There is also parking on Pacific to the south as well and then we got landscaping and we got the outdoor, small outdoor sitting area that can be accessed. Doors facing Pacific and on 29th Street. In the parking lot, we have got a sidewalk here so you exit your car, you don't have to cross any traffic, you just go right down the sidewalk across to go into the restaurant to Taco Bell, dumpster back here in the back employee parking, 16 parking spaces on site, the area where the employees would you know access and leave again because of the wall it's secured and it's not at all anyway visible from Pacific Avenue and this location will get a tremendous amount of foot traffic coming from the east across Pacific Avenue as well as coming from the North and South down Pacific and then there will also be some pedestrian traffic coming from the west as well. Our property abuts property to the west that this property here zone owned by the Vacos's family, you have a letter they support this application. They have only asked one that we agreed to close the drive through at 1 a.m. which my client agreed that exactly what will we do and we would appreciate that condition could be modified to so state. Mike Lavinson and the Yee family, he represents them, they own the property here and Murphy's they also support the application, they have no objection to this application whatsoever, Brad Waitser and Brian Large are developing town house condominiums to the west of the Yee family, they are clients of mine, I represented them on their rezoning that you all approved, actually a subdivision variance, I should say you all approved about seven months ago, they are in the process of developing now. They support the application as well and then we have Chicho's to the south, they and their owners have no

objection to this application either. There are going to be 13 on-site parking spaces on the north side of 29th street when it is completed and as I said, we got three spaces that we are providing in front of the restaurant, there is also on-street parking on Pacific heading south in the next two blocks, there is existing parking across the street and then caddy corner is the large city parking garage and then there is parking garage on 31st and 32nd street as well. So there is ample parking in this area that would be lots as the McDonalds has and the Wendy's have, there will be tremendous amount of foot traffic that will come to this restaurant and we are not anyway inhibiting that because we have no access from Pacific Avenue as do the other fast food restaurants who are on Pacific access from Pacific 21st street in the case of McDonalds as well as Pacific and the Burger King has all of its access on Laskin Road, so ours is off the main thoroughfare and off the area where the most foot traffic will take place as staff asked us to design this. The conditions that have been recommended, we have no objection to them, they are very, you know, they are very extensive, we will irrigate the landscaping, we will have the landscape screening on 29th street that also be irrigated and down the parking, in the middle of the parking lot. All the conditions, the only two that we have a problem with are the condition number 10, this restaurant can go here, a bar can go here under a Form-Based Code with no restrictions, and no alternative compliance application open until 2 in the morning as is the case on either side of us. We therefore don't believe that it is anyway fair or reasonable that our restaurant has to be closed before 2 o'clock at night. We are not serving alcohol and we gladly accept the condition that no alcohol would be served here, otherwise, some of you would prefer that that would be the other way around, but the what this is about, what the alternative compliances about it is the drive-through and so we certainly don't have any aversion to having that restricted as our abutting neighbor to the West asked that they close at 1 o'clock, just for your information the Vacos family they are in the process, they have plans, I have actually seen the plans, they are going to be developing a multi-story apartment building with first floor is parking garage basically underneath and the building on top which is four story on top of that and so. They are not concerned about this because they understand it's an urban environment, year you round residence that's what we have been trying to create at the Ocean front that's what we have created here and our creating is year round environment and Pacific Avenue is the arterial highway at the Ocean front, it's the only north/south road we want people driving on and if we can't put this on Pacific Avenue at the gateway, the Laskin Road gateway which is actually an intersection of the north end coming down Pacific Atlantic and Pacific where all the year-round residence come down and Laskin Road coming in that's serves all the people who live at the north end, all the people who live back on Laskin Road and as well as people down Shore drive, who don't want to go all the way down to hilltop to go to a Taco Bell, so it's for not just the tourist but it's also for people who live here year-round, which is what we are getting more and more of at the Oceanfront and we all use drive thru in bad weather even you know, my wife and I, we can go to the beach, we ride our bikes but not during the dead of winter and we would probably go and eat but we

might use a drive-through, and drive-through is not a devil as some people I guess think it is, appreciate it. So my time is up. I am happy to answer any questions?

Mr. Thornton: Any questions for Mr. Bourdon? Ron?

Mr. Ripley: This morning they showed another alternative for curb cuts from two to one and I am in different really on either one, okay, I will state that but because I think either one will be fine as far as I am concerned, but the parking layout on the angles tend to, in my mind, lend itself with the one way traffic through and easier maneuver for the vehicle that parked back up and move in the direction it needs to go and also makes him go that way versus backing up and going back to the other way and you might a lose space doing that but would that be something that you would be able to consider.

Eddie Bourdon: I am sure, my client will be willing to consider, you know, looking at doing that and if this winds up, which we don't think this plan is as good it loses two parking spaces and we think it would be hard on people to understand the circulation and think there will be some conflicts internally but we certainly, you know, we will look at doing some angle with the plan we have with the 14 spaces, we don't believe there will be any problem anybody maneuvering in or out, but I do appreciate what you are saying, we would take that, you know, concern back and if council agrees that they want angle parking then that's what we will do. We are going to be at their mercy.

Mr. Ripley: As far as the recommendation, come out here, would that upset you?

Eddie Bourdon: It's not going to upset anyone, no, I mean, it's not going to upset us.

Mr. Thornton: David?

Mr. Weiner: Mr. Bourdon, I understand what you are talking about but with traffic engineering coming, it's a safety issue more than anything having one curb cut, I don't understand, to me it's a circle anybody can't get that to get in and out, I don't understand why there wouldn't be a problem?

Eddie Bourdon: I am not sure, I am going to give you point of view, here you have vehicles coming in alright where folks are trying to come out from the drive-through and/or not having, you know, just people who parked in any so they have got to come here and cut across to get out and very close proximity to where vehicles will be coming in. It's basically trans and you wouldn't, people don't, people aren't going to have that expectation because you don't see this, I mean, what we design, we have, we don't really see that often but you know, I have been in something similar this because you got people having to crossover when vehicles are coming out, coming in and then try to maneuver over here and get out versus just slide out here and block the entrance which is again something that could happen, that's the concern this is a type configuration and a unusual one that people aren't going to be at all used to and that's the reason why we believe the other one will create far fewer conflicts, granted, the conflicts here to some degree will be on site but if they as a fender bender then it's going to potentially cause some backup into the road, so again it's we are not talking about night and

day here, we are talking about grades but we don't believe that that's the best way to develop the property from a circulation on-site perspective and I have recognized there is a balance between different things that we are all trying to balance to figure out, you know, what the best way to do it is, so it's not an argument but that is our feeling if this will have bigger issues then the other will have especially if we narrow the exit so that it avoids, you know, reduces any chance that somebody not paying attention and tries to enter to the exit.

Mr. Thornton: Any other questions for Mr. Bourdon? Thank you.

Eddie Bourdon: Thank you very much.

Carol Dozier: We have one speaker in opposition.

Eddie Bourdon: Did I mention the other condition about the 25 years or 15 years, I didn't, I am sorry. The last condition is not one that we can accept because we have a 25-year, Burger Buster has a 25-year land lease and a 25-year franchise agreement on its desk with Taco Bell, so we can agree to 25-years but we would not be able to agree with 15 years restriction on the drive-through.

Mr. Thornton: Thank you.

Carol Dozier: We have one speaker in opposition, Ms. Pope.

Bernice Pope: Hello everybody, thank you for having me. My name is Bernice Pope for the record. I am a property owner at Old Beach Village and I am a member at the PDRC, which I am not representing PDRC at this, you know, at this meeting. I am opposed to a drive-through restaurant on that corner of 29th street and Pacific Avenue for a several reasons. One, I would like to mention that section III 5.3.8 of the Form-Based Code requires that a drive-through facility not be visible from the right of way. While, they have located the ordering kiosk behind the screening wall and building, it will still be visible as well the queued vehicles from 29th street. Per chapter six of the Form-Based Code, 23 parking spaces are required for the proposed footprint, only 16 spaces are proposed as part of the request for special exception for alternative compliance. The other, one of the other big reasons is that more than 70 dwelling units are located on this block at this time, and of course there are 100 condos at Old Beach Village at this time that community has send in a letter of opposition on this project. Also, the property in front of Harris Teeter is going to be developed with apartments that will be a couple hundred apartments, they mentioned that the development of the new condos are going to be there. This is primarily a residential neighborhood. The drive-through facilities by nature have a high turnover of vehicles; traffic will spill on to Arctic Avenue and avoid dealing with Pacific Avenue for both north and south vehicles. This will negatively impact Old Beach and the existing proposed dwellings at the north 30th street. We should follow the code more precisely and only permit a drive-through in the parking structure with mixed use buildings. It is my understanding that the reason that a drive-through was permitted in the Form-Based Code as I currently reads is that it states that it's in a structured parking garage that would make it not totally visible, that's the

reason why it was approved for the Monarch Bank on 31st street. This is clearly something that is not in a parking garage, it is not really a something that a Form-Based Code is looking for with pedestrian friendly walkable, bikeable pedestrian traffic, so the fact that a drive-through no matter what they try to do with the plan, it's still going to have these cars circulating throughout, it's going to be open late at night with traffic and noise and the noise from the kiosk and everything else from, so it's something that's the reason why the PDRC wants to take another look at the Form-Based Code as to see whether there could be some changes made down the road with maybe not having that option, so I just kind of, I am very leery about allowing a drive-through at this particular time because it's something number one that is really not what we are looking for at the beach especially it's not the place for a drive-through. Drive-throughs, there is places that would be more appropriate for Taco Bell to locate, nobody is really opposed to a Taco Bell, they are just opposed to the drive-through.

Mr. Thornton: Any questions to Ms. Pope? Thank you.

Bernice Pope: Thank you.

Eddie Bourdon: I certainly appreciate Bernice's perspective as a resident of Bay Colony. The Beach, the Resort, is not you can use a term residential neighborhood, but I would suggest you that a residential neighborhood in some people's mind conjures up Bay Colony, Linkhorn Park, even the north end, Linlier, Birdneck Point, this is a urban resort that we are creating with high density residential components, such as the apartments that Bruce Thompson beautiful apartments he is build that are on top of wing, what is it Summer House, but it's on top of the wing place, Buffalo Wild Wings and a lot of other, you know, places that are open to 2 o'clock in the morning and we have Smartmouth Brewery right across you know from The Summer House. We have got clients of mine that are buying properties in the Sea Pines area right in the neighborhood across the street from Smartmouth and Brian Large built townhouses directly behind the drive-through at Burger King that sold for very substantial prices and the people perfectly happy living there. We've got to recognize it, you know, this isn't the typical suburban neighborhood not by any stretch of the imagination. This is something that in our resort we need, there is a lot of demand for it and it's not just by people who come here, it's by people who live here and will live here and by the time this gets to council, I will expect we'll probably have quite a few more 100s signatures than the 500s plus that you have today. Now, there needs to be regulation but I would disagree with Ms. Pope, I don't think there is a better place at the Oceanfront than here for this use. This is at the gateway that's why we have Harris Teeter and Farm Fresh, both of these in this gateway and this is on Pacific Avenue, you know, other than the apartments over the iFLY that the Breeden Company has built, I am not aware of anybody building multifamily right on Pacific Avenue other than Mr. Thompson, he had a big ole piece of property to do it on, this is just a small piece of property, that's not it. So this is an ideal use in this location because it will capture traffic from the people who live here at the north end, people who live down Laskin Road, coming to the beach, they are going to park in the parking garage and this is

somewhere that's walkable, it's somewhere my wife and I would come up here, we ride our bikes down to the PACC all the time and you know we ride our bikes to Mojito a block away on Pacific Avenue, but it's on Pacific Avenue, no one suggesting that it should happen to down 29th street to the west but Pacific Avenue is not a great location for them having a parking garage there, I mean a parking lot there. It's all traffic oriented there and it's not anything attractive, it's not anything that serves much of a purpose, you know, other than we needed this transitionally while we build these parking garages but I disagree with you know with the idea that there are better places, I frankly think, there is no better place than this, possibly 32nd street but that's at the other entrance to the gateway, but that's not allowed under the Form-Based Code that is one of the restricted areas, we certainly don't want to see at 17th street, we are not going to see at 19th street, so this is really the best place for it, it is something that the resort absolutely needs, it's missing. It's the leading, you know, quick food vendor that's out there that we don't have and there is demand for it and we think that they, we have a respectable local owner of both the property and the company, they are going to be somebody that, if there are issues or problems, you will be able to get to them, it's not somebody from out of town or out of state.

Mr. Thornton: Thank you Mr. Bourdon. Any question for Mr. Bourdon? Thank you. Being no speakers, I will close the public hearing and open up for the Commission to offer up comments and questions and dialog amongst ourselves. Mr. Weiner?

Mr. Weiner: Mr. Lowman can I ask you a question please, I know quite a few times we go against what staff says and recommends but when it comes to traffic engineering, I tend to listen little bit closer staff does a great job, your thoughts on that one cut, but I understand Bourdon's talking about the cars crisscrossing leaving the drive-through coming out and the cars going in, what is your thoughts on that, traffic engineering's thoughts on that?

Richard Lowman: Like he said it kind of pushes the conflict to the interior of the site versus on the public roadway, so we much rather see that type of an issue on-site rather than the public right of way, so that's what we represent.

Mr. Weiner: And your thoughts about the one cut instead of two?

Richard Lowman: Originally, we said that we could live with the two, we didn't know that the option was there for this one, the two in front of us to say which one do we feel the safer and in a better interest of the public, we would chose the, you know this option here, but we did originally say that the other one met minimum standards albeit there is you know there is one substandard thing about it which is that you know the one way pattern is to kind of reversed. Usually, you come in the first entrance and you go out, you know, you come in on the right, you go out on the right, this one will be, you know, kind of reversed. So but given the two options, in the interest of the public, this is the option that we would choose because it does put the conflict interior rather than exterior.

Mr. Ripley: So what's the movement you prefer if you are coming out from the drive-through or coming around from after parking, you want them to come across the lane there and then come out, so which you are looking for them to do, in other words you don't want them to make a sharp pull to the curb to the east, because then now you conflicting with traffic coming in, so there is a little bit of confusion, what do you think?

Richard Lowman: The exiting traffic here and again we don't get too much, traffic engineering does not get too much interior circulation only as it affects the public right of way because we are not designing the interior and the circulation patterns for them, but if they did wait for vehicles to come around the corner here, they will queue up here to wait to get out whether they are going left, whether they are going right, we like this location for the exiting, because it's further away from Pacific Avenue and it's safer because it takes the conflict away from closer to the intersection to further back interior to the block.

Mr. Ripley: I get that. It seems a little confusing to me right there but if they had the as the way the applicants has drawn it, I mean, is that, you can work with that.

Richard Lowman: It still meets the minimum requirements of the city, meets the bare minimum and generally with the high turnover restaurant like this, we try to get little better than just the minimums, but it does meet the minimums.

Mr. Ripley: What minimum does it meet?

Richard Lowman: I believe that we looked at this in 25 feet is the minimum separation between the entrance and the corner like I said its 25 foot minimum.

Mr. Ripley: Okay, So, that's what I thought you meant but I wasn't sure.

Richard Lowman: Yes sir, you know, again it's a high turnover site, and we would like to see more than a minimum but.

Mr. Thornton: Commissioner Oliver and then Commissioner Horsley?

Mrs. Oliver: So Rick, when we talk about the minimum here from corner to the curb cut, the numbers for your minimum that's just for a typical corner of street traffic load not like June, July, and August in Virginia Beach, I mean, that's a different intensity especially with the traffic light about a block and a half north of that where got two traffic lights north of that were backing up causing, you know, the traffic on Pacific as it starts bottlenecking] right there.

Richard Lowman: Right, you know, to me it's, the summer months are little heavier on Pacific than 15000 as far as daily traffic on Pacific, 29th street is not a very heavily travelled street so there is not a whole lot of cars that turn up that street anyway except to go the businesses that are on that street so it's not a big cut through street between Arctic and Pacific Avenue, it is what I am trying to say, so it doesn't see a lot more summer traffic than it does winter traffic on 29th street, but Pacific Avenue definitely is a little busier in the summer and the fact that it's high turnover meaning cars are constantly coming in and out does you know give us a little bit of concern with using just the bare minimums.

Mr. Thornton: Don?

Mr. Horsley: Rick, it just looks to me like looking at the plan that Mr. Bourdon gave us, compared to the other plan we saw, I do like the parking places in an angle spaces, I think that's a good but looks like to me that this is a far simpler and less confusing route for the people coming in and they go around and they go straight out versus coming in, going around, and then having to work their way back through the incoming traffic to get out, looks like to me that it would be far less confusion to go straight out with the two curb cuts.

Richard Lowman: Again the reason that we, it may be simpler for the traffic on the interior this side, but public works traffic engineering were concerned with which option is going to be better for the motoring public and for the public right of way. Beside from the Taco Bell customers, we feel like having this egress point further back, away from Pacific Avenue is the better of the two options. I am not saying that this isn't a simpler one for the Taco Bell patrons but my job is not to recommend what's best for Taco Bell, my job is to recommend what's best for the city, the public right of way that's fair.

Mr. Horsley: Well I will accept that, I guess but I still think that this looks like a far simpler traffic pattern than this one.

Richard Lowman: You know when they are faced with no other situation except for figuring out that they have got to come out here, I mean there is nothing else for them to do, it's not like there is anything else they can do, they have got their tacos and they are sitting here, they are going to get out.

Mr. Thornton: Unless you give them a Mojito?

Richard Lowman: He said no alcohol.

Mr. Horsley: I just think there is something that can be done to that entrance the other one to deter people from wanting to turn in there and I would just think the other one is by far simpler, I will think you will have less fender benders and whatever they said we're going to keep them on the property.

Richard Lowman: I will say this that city traffic engineer normally does not like one way access point, he did take a look at this and say if we did the two one way access points then he will be okay with it. Again that was before this option, we would prefer this option versus you know the two entrance option.

Mr. Inman: Looking still at the one entrance option, entrance exit options, we are looking at there, it didn't matter to you which side becomes the exit side and which side is the entrance side as far as the design.

Richard Lowman: In general cars are going to hug the curb, you are going to stay on the right side of the road, and we would rather not have the cars flip flop.

Mr. Inman: Well, I am saying how on the inside track there and as far as exiting and enter on the left side of that opening?

Richard Lowman: That would be chaos because cars generally hug the inside and when you exit, you exit to the outside, and you always stay on the right. The only one I know of is McDonalds.

Mr. Inman: If we go with that, we need to make that a condition?

Richard Lowman: Oh absolutely, it's driver expectation. You will end up with safety issues if you do that, McDonalds on Pacific Avenue not ideal but they have got a setup just like that and you can go out and see problems with cars turning in and almost again people coming out because of the drive there but that's grandfathered in, it's old.

Mr. Thornton: Any other questions for Mr. Lowman? Thank you, questions and comments from the commission?

Mrs. Kwasny: So I wonder if I could ask Kristine a question or two.

Mr. Thornton: You may.

Mrs. Kwasny: Can you clarify again for me the special exemption and what that is supposed to mean when we apply it? Is that a matter of providing a benefit to the area through the development just so I can better understand how this complies with the expectations of that?

Kristine Gay: The special exception for alternative compliance is there to give developers an opportunity to provide a development that is above and beyond standards, but may deviate from that prescribed criteria because the Form-Based Code does have more prescribed criteria than your standard zoning district residential business. In the staff report in front of you and in section 7.3 of the Form-Based Code, there are specific review provisions for alternative compliance, it talks to being functionally and physically integrated into the surrounding area supporting multi-modal transportation, it's consistent with the intent of the regulations of the street frontage, advances the goals and objectives of the parking strategy, advances the goals and objectives of the resort area strategic action plan and creates a built environment that is in scale with pedestrian oriented activities and provides visual interest in orientation for pedestrians and then also contributes to mix of uses in area that are compatible with each other and work together to create a memorable and successful place.

Mrs. Kwasny: Thank you.

Mr. Thornton: Did that answered your question?

Mrs. Kwasny: Yeah only that I find a number of them which is just generally the way it works a little subjective in that I am not sure, I find what's presented in front of us as adding to the memorable aspect of the area and I understand it being the gateway that also is a concern of mine because I am not necessarily sure, we want the gateway to be automatically going in opposition to the plans for the area in general so that doesn't necessarily make sense to me, but you also write in here that the prescribed criteria and limited use provisions typically require a much larger site and subject property, also according to the applicant the market

currently does not support the level of improvements required by the limited use of provisions. Considering the previous mentioned issues and subjects that is located within the area except for the fact that the limited use provisions weren't applied so some things have been done that I guess you have balanced out there, limited use provisions have not been met but something else has been done that allowed for that to be.

Kristine Gay: What we are saying is if you are in support of granting the special exception to that criteria that they are not meeting, the design, the site layout that they are proposing does come further to balance the pedestrians, prioritize the pedestrian a bit more, it does provide a built environment that's more in keeping with the area than that standard typical suburban drive-through layout would be.

Mrs. Kwasny: Okay, so I guess for me, I don't know that it provides for that pedestrian aspect that seems to be a goal and I am concerned about that safety issue with the curb cuts, the two curb cuts that's a concern of mine and I listening to Rick and it continues to be a concern for me. I also think that you know, we create some guidelines for an area that are pretty specific and have great value to the area, I do feel as though we have got two groups that came forward with opposition who are most directly affected by it and for me, those are concern, those are big concerns, so I am not leaning in the direction of recommending approval on this one at the moment.

Mr. Thornton: Ron?

Mr. Ripley: Well, I beg to differ because I think the use of the site, so it's the side of Pacific Avenue, it's not an easy area to develop and you don't see any residential as I think the counselor pointed out, you know, the alternative provisions that are put into the code were intended to try to if you had an application to amend how could you make it so that it looked and met those criteria that's in the plan and I think they have done that. They pulled the building up close, it has a tall feeling it's urban feeling and they blocked the view of any of the, you know, you have the right, I think we heard somebody said, I think Ms. Pope said that had to be in a parking garage, whether it could be on a parking garage or be located in the block interior is the other exception and that's what this is and they have managed to I think buffer and screen it very well, I think the activity up on the road with the outside patio makes sense and I think that if you slant the parking, I would like to see that done but I think the two curb cuts is the easier of, it will make the site a very simple site to work and I think I heard Mr. Lowman said that either one would work, he would rather have one over the other but prior to seeing that, I think they were pretty much okay with that and then the way this new site plan, this was brought into us this morning even buffers the view from 29th street a little bit more so that really you're not really seeing it from only that area and it's really reduced area on 29th street so I am inclined to think that you know the I think the staff is worked really hard with the applicant, looks like the applicant worked really hard to try to meet the intent of the code and I think it's there and I think it's a good use and I think it's you know, you don't see a lot of these down on the resort area and if they do come down, they have to come through this

process and it's not an easy process to get through, so I think this is okay and I am going to support it with the exception of the slanting the parking.

Mr. Thornton: Mr. Inman?

Mr. Inman: on the van trip that we did last week, we went to the site to look at it closely and I was struck by the fact of the apartment buildings that have one, in existence now and the other as well as in existence is not complete, construction of three or four storey apartment that not only immediately adjacent property but certainly within hearing of the proposed Taco Bell and my concern about this solely is focused on the drive-through aspect of it, it's not the restaurant, it's a commercial district, it's a commercial area on both sides on Pacific Avenue, it's a great place for a restaurant, it's not a great place for a drive-through with the outdoor activity, the outdoor noise that goes along with having a drive-through and I don't think I don't want to be renting an apartment that was on the east end of either of those buildings if there is going to be a drive-through restaurant on that site. I realize there is little property in between not sure why they be supporting a drive-through with the residentially zone property, of course may not stay residential I suppose. So I don't think it's advancing the cause of the Form-Based Code to introduce this type of use on this piece of property, which will perhaps lead others to think well, I if they can have it there, we can have it, I mean Form-Based Code maybe not as tough as we thought it was, reference to the Burger King, that's been there for quite some time, it's pretty much surrounded by commercial except for the six or eight town houses that came after, it's already there as a drive-through, the drive-through in that particular case is on the east side and the town houses that Mr. Bourdon referred to were on the north side of that site, the Burger King site. I think there is a compatibility issue with what's now being built there and occupied, it is already occupied on the close by apartment properties and I think it does not advance the Form-Based Code as stated in the evaluation you know that we're supposed to be doing here is to promote walking and uses that involve other than the automobile, well this is promoting the use of the automobile basically and I just don't think it's a good planning decision on our part to introduce this drive-through.

Mr. Thornton: Jack?

Mr. Wall: I think a lot of great work has gone in to this application. I think that's the wall, the screen, the actual drive-through and the windows, you know the lot of landscaping, I think a lot of work good, I am sure it hasn't been easy, not an easy process, but it also not easy to establish the goals, you need to establish you know the vision of the Form-Based Code and to see it through so you know I think that it's you know in my opinion that's you know that you would maintain that vision and I think that's you know I can agree with Mike on you know his thoughts on that.

Mr. Thornton: David?

Mr. Weiner: We learn this morning that there is about three locations in the city that are stipulations and regulations on drive-throughs and they are permitted but there are

regulations, you can have some as long as you meet the regulations and in my opinion, this doesn't meet the regulations on the drive-through, but there is more to it in that, there are holes in this that I don't like, the timeframe midnight, the 15 year, the curb cut, I understand what Mr. Bourdon is coming, that's a headache and I understand Ron what you're saying that is the most simple way to come in and out but I don't think, we don't have a complete package here unless we have because with all this hearing and also the drive-through, I just don't feel like I can support it.

Mr. Thornton: Anybody else have any comments? You want to speak? This is a case to me, I think the applicants done a great job of working with the staff and the staff is come up with the plan and they have actually supported. I think this is the case where the Form-Based Code needs serious attention. This is a commercial site on a commercial road, the people live behind it are -not, complaining generally if we have neighborhoods, they don't like this stuff. They don't hesitate coming out and making a lot of racket, we didn't have that on this case and again it's a commercial site on a busy commercial road and they have done a great job of essentially hiding the drive in window behind the building and for all intents and purposes this drive in window is not going to create any problem for Pacific Avenue and it's going to enhance the development of the site and it's going to add business to this part of the city, so I am in favor of it, I am more in favor of it because it's brought up another weakness in our Form-Based Code, it was a you know one size fits all with throw it on this part of the city and every time we hear one we hear these almost once a month, there is somebody trying to get away or get around the Form-Based Code, it really doesn't work well and I think this is the case where it does not work well. The applicants has done an outstanding job of showing how they can just about fit in to the site without making it an ugly detrimental site to this city, so I am in favor of it, I have mixed feelings about the traffic, it would be nice if we could fix it, so that there was one entrance and one exit but I think that creates more problems for the tenant than it does the city, so anyway. Sure.

Mr. Weiner: I agree with you 100%, they have done a great job. I think it's nothing about the building at all, it was great. I think it would be good on the site and you know I am kind of wishy-washy on the drive-through, but it doesn't meet the regulations what's in the Form-Based Code but there are too many holes in this. There are too many things that the applicant and staff are disagreeing with and I if mean we want to defer this, let them work that out and bring it back I'm good with that trying to do that, but I just don't think I cannot pass through this because there are too many holes in it. They haven't worked things out, it's not going to work out together.

Mr. Thornton: Well would you make a motion, we ask the applicant, do you want up and down today, you want us to give you time.

Eddie Bourdon: In my knowledge, the only thing that we aren't in agreement on this the 15-year versus the 25-year and I don't know that staff has any opposition to the restaurant

being open until 2 in the morning, so other than the restaurant being open until 2 in the morning.

Mrs. Oliver: The drive-through at midnight, the drive-through to be closed at midnight.

Eddie Bourdon: The drive-through item because all of the adjacent property owners support the application, there is no one who doesn't who is adjacent to the property. If you want to condition it on the one entrance versus the two, we are not going to leave here unhappy, we were approved to do two, we thought two made more sense that's why we are not arguing with you, it's up to the Commission. That's not a disagreement if you are talking about the one entrance versus two; we think two would work better. The drive-through, so I guess there is a disagreement between whether it closes at midnight or 1 o'clock and then the 25 years versus the 15 years that has to go away, those two we aren't going to be able to agree upon so you all can make up a motion to recommend or to deny and the recommendation can have whatever conditions you want to have, but I don't agree with you that there are lot of things that were, I think it's pretty focused myself, I think it just simply the drive-through hours because I think the restaurant was not intended because any restaurant could be open down there 24 hours a day, there are no restriction on any of the restaurant, so it's a drive-through whether it is 1 a.m. which we agreed to with the adjacent property owners with the other restaurants next to us, both open until 2 and then the years that because we have a 25-year lease, but I think that's it that we have disagreement on, so I would like to have a vote hopefully to approve it and whichever entrance configuration you all think is better, we are not going to leave here unhappy with, we just, as I said we are just putting out why we thought one would be better than the other and I don't disagree with what Rick had to say either, that was a fair statement.

Mr. Thornton: Don?

Mr. Horsley: Mr. Chairman I know we discussed a 15-year deal this morning and I am not a big fan of 15-year deal in fact I would rather eliminate any years at all on the condition, not put any year limit on it. I think that does handicap the owners and the business itself and so far as the 12 versus 1 o'clock I mean it's going to be hard, I guess somebody go and then shut the gate at 12 o'clock and say everybody else has got to go home, good night, got to go the other way it really doesn't make any difference to me the one, the one versus two entrances or curb cuts, you know, Mr. Bourdon says that they can live with either or and I personally think that two is better than one but I mean that's immaterial either way. So I would tend to support the application so we can move it along and take the years out completely. I think, I mean, if you want to put 25 years on that so be it but I think we could just eliminate the years entirely and so far 12 versus 1, I mean I can agree to either 1 if you want to leave it to 12 and they cannot agree with, when they get to Council they can hassle it out at that point but.

Mr. Thornton: You are making a motion?

Mr. Horsley: Yes sir, I am making a motion to that effect, we approve it, I think.

Mr. Thornton: So, Mr. Horsley's motion is to recommend approval of the application with one entrance or two entrances.

Mr. Horsley: I think we better go with one entrance.

Mr. Thornton: One entrance, modify, change the parking, angle the parking, and eliminate the 15-year requirement and change the hours to midnight. Close the drive in window at midnight, any questions on that matter?

Mr. Ripley: I second.

Mr. Thornton: Ron seconded it.

Mr. Inman: I would like to offer a substitute motion to deny the application.

Mr. Thornton: Okay and Roberts Rules of Order, we have to have a second for that right. You have made a motion.

Mr. Inman: I have made a motion.

Mr. Thornton: Do we have a second for that?

Ms. Kwasny: I will second it.

Mr. Thornton: You will second it, so we vote on the second one first, is that correct? Okay.

Kay Wilson: This is a motion to deny the application, if you vote for yes, you are voting for denial.

CONDITIONS

1. When the property is developed, it shall be substantially in accordance with the submitted site exhibit entitled "PACIFIC AVENUE TACO BELL, PRELIMINARY LAYOUT PLAN," dated 08/25/2017 and prepared by Blakeway Corporation, with the exception of any conditions stated below. Said exhibit has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. When the property is developed, it shall be substantially in accordance with the submitted landscape exhibit entitled "PACIFIC AVENUE TACO BELL, CONCEPT LANDSCAPE PLAN," dated 07/17/2017 and prepared by Blakeway Corporation, with the exception of any conditions stated below. Said exhibit has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. When the site is developed, the structure constructed shall have the architectural features, and appearance of like quality and character to the architectural elevation exhibits entitled, "EXPLORER LIGHT, EXTERIOR ELEVATIONS," dated 11-29-17, with the exception of any conditions below. These elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development.

4. As part of the approval of this request for a Special Exception for Alternative Compliance, the required parking shall be reduced to 16 (sixteen) parking spaces. Employment by this business shall not render an individual eligible for a Residential Parking Permit.
5. The proposed screening wall located to the north of the building shall follow the Oceanfront Resort District Design Guidelines by being designed similarly to the proposed architectural elevations and constructed with architectural materials consistent with the materials used in the proposed architectural elevations. The wall shall be designed to block the menu board and dumpster entirely from Pacific Avenue and as required by City landscape regulations.
6. As shown on the site plan exhibit, the drive-through lane and exit lane & parking area shall be improved with two separate materials or surface treatments that substantially differ in appearance such that drivers are clearly guided to the correct aisle.
7. As part of site plan review, to ensure adequate screening is provided within the reduced 10-foot parking setback, the Development Services Center Landscape Planner may request up to 40% additional plantings than the minimum amount of plantings required by the parking lot street frontage regulations of the City of Virginia Beach Landscaping Guide. To ensure the growth of all plants, all landscaped areas shall be irrigated.
8. As part of site plan review, the applicant shall adjust all drive aisles to meet the minimum width supported by Public Works Traffic Engineering. Residual area shall be used to increase interior or perimeter landscape screening of the drive aisles.
9. As part of site plan review, as supported by Public Works Traffic Engineering, the applicant shall provide landscaping to the north and south of the on-street parking spaces located in the public right-of-way of Pacific Avenue.
10. To limit the disturbance to nearby residential uses, the restaurant shall not operate between the hours of 12:00 midnight and 7:00 a.m.
11. All signage shall follow the Oceanfront Resort District Sign Design Guidelines. No window signage, interior or exterior, temporary or permanent, shall be used. No signage shall be used in the outdoor dining area. Signage shall not be provided on trash receptacles, fencing, furniture, bicycle racks, patio umbrellas, or drive-through canopies. The proposed screening wall shall not be included when calculating the amount of signage permitted by the Form-Based Code.
12. Pavers shall be used for the proposed patio space. The applicant is currently showing a fence surrounding the patio and a strip of landscaping separating the patio from Pacific Avenue. If desired by the applicant, at site plan review, the fence and landscaping may be removed to provide less restricted pedestrian movement at the corner of the site. If fencing is used, it shall meet the Oceanfront Resort District Design Guidelines by being weather resistant and comprised of low maintenance materials.

13. To ensure this proposal contributes to the long term goals of the Oceanfront Resort District Form-Based Code and the Resort Area Strategic Action Plan, this Special Exception for Alternative Compliance shall be granted for no longer than a period of 15 (fifteen) years.

A motion was made by Commissioner Inman and seconded by Commissioner Kwasny to deny item 12.

	AYE 5	NAY 4	ABS 1	ABSENT 1
HODGSON				ABSENT
HORSLEY	NAY			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND			ABS	
RIPLEY	NAY			
RUCINSKI	NAY			
THORNTON	NAY			
WALL	AYE			
WEINER	AYE			

Carol Dozier: By a 5-4 vote, the Commission has denied the application of Burger Busters.

Mr. Thornton: Thank you fellow Commissioners. Since that is our last case to be heard today, is there any more business, anyone wants to bring up to the Planning Commission?

Mr. Horsley: Mr. Chairman, I have to one a comment, I have been around pretty long time and I have known Stephen White a long time and I will remiss if I didn't publically say this that I have enjoyed working with him over the past ever how many years it is Stephen and now they go a long ways and I've never known Stephen to be anything but very professional in his workings with the Planning staff and I certainly appreciate all what he is done for Planning Commission all these years and for the City of Virginia Beach, thank you.

Mr. Thornton: With that the meeting is adjourned.