

Virginia Beach Planning Commission

Public Verbatim Hearing

May 9, 2018

Mr. Thornton: Commission before we get started, I would like to ask Jack Wall to lead us in prayer and Commissioner Hodgson in the pledge, would you please stand.

Mr. Hodgson: Dear Heavenly Father, we come to you today, thank you for your guidance and wisdom, as we begin this hearing today guard 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 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 – Pledge of Allegiance].

Mr. Thornton: Thank you Jack and thank you Jeff for the prayer and the pledge. I have asked Commissioner Horsley to introduce the Planning Commission members.

Mr. Horsley: Thank you Mr. Chairman. To my far right, we have Kay Wilson from the City Attorney's office. Next to Kay, we have Jack Wall. Jack is a civil engineer and representing the Rose Hall District. Then we have Dr. Karen Kwasny, she is a professor of literature in cultural studies and representing the Princess Anne District. My name is Don Horsley. I am a farmer and I am At-large representative. An empty seat to my left belongs to Ron Ripley. Ron is out of town on business this week and he is in real estate management and he is At-large representative. The next empty seat belongs to Jan Rucinski. She is a secretary of our Planning Commission; she is a property manager and representing the Centerville District. Our chairman is Bob Thornton, commercial real estate broker and he represents the Lynnhaven District and Bob is our chairman. Next to Bob, we have Dee Oliver, she is a funeral director and At-large representative and she is our vice chairman. Then we have Jeff Hodgson, Jeff is in real estate management and representing the Beach District. Next to Jeff, we have Mike Inman, Mike is an attorney for real estate developing community associate law and he is At-large representative also. Next to Mike, we have David Weiner; David is in commercial sales and representing the Kempsville District. Then we have David Redmond, in commercial real estate, and Dave is representing the Bayside District and next to Dave, we have Barry Frankenfield who is our planning director and he will introduce the other members of his staff. Barry?

Mr. Frankenfield: Good afternoon, thank you very much. Not in direct order but I am just going to introduce since we have so many people here today, Cole Fisher and Dalina Cartwright will helping you out front when you came in. To my left, Pam Sandloop and Carol Dozier, who are managing the very important electoral vote duties. On the planning bench we have Carolyn Smith, Jimmy McNamara, and Jonathan Sanders and we have with us today Kathy Warren and

Mark Shea who is our comprehensive planner, Robert Davis, we have an intern for the summer Lane Winesett and the back where we have Kristine Gay and Dan Adams with Public Works Engineering, so thank you all for being here.

Mr. Thornton: Thank you Barry, thank you Don, for introducing the Planning Commission members. The first order of business today is the explanation of the rules typically our secretary does that but in her absence, I have asked Commissioner Dave Redmond to explain the rules for us.

Mr. Redmond: Thank you Mr. Chairman. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved understand how the Commission normally conducts its meetings. It is equally important that everyone treat each other and the members of this Commission with respect and civility. The Commission requests that if you have a cell phone, please either silence it or turn it off. This is an abbreviated explanation of the rules. The complete set of the rules is located in the front of the Planning Commission Agenda. Following is the order of business for this public hearing. Withdrawals and deferrals. The Chairman will ask if there is any request for withdrawal or deferral item on the agenda. Consideration of these requests 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 which have favorable staff recommendations. Regular agenda, the commission will then proceed with the remaining items on the agenda. Please note that the actions taken by the Commission today are in the form of a recommendation to the Virginia Beach City Council. The final decision to approve or disapprove an application will be made by the City Council. The Commission thanks you for your attendance and we hope that your experience here today leaves you feeling that you have been heard and treated fairly. Thank you Mr. Chairman.

Mr. Thornton: Thank you Mr. Redmond. The next order of business is to address those items to be deferred. Today, we have three items that will be deferred, I think three, three, the first item is item number four, is there someone here to speak on item number four, it has been brought to chair's attention, is there any opposition to this matter being placed on to be deferred, hearing none, Kay can we vote on these three at one time or each by itself?

Kay: You can vote on all three just make sure if there is any that have a different time period.

Mr. Thornton: So there is no one here for item number four to speak on this matter. The next item that we have been made aware of is item number eight, this is an item for Nicholas and Sarah Nestor, is there anyone to speak on this matter, is there any opposition to this matter being placed on the deferral agenda, hearing none and then the last item is item number D2 an item with John and Karen Waller, welcome.

Mr. Bourdon: Thank you Mr. Chairman, for the record Eddie Bourdon, the Virginia Beach attorney representing the Wallers and we do consent to the deferral and we expect to be back next month.

Mr. Thornton: Thank you sir.

Mr. Bourdon: Thank you.

Mr. Thornton: So we have three items on the deferred agenda, item number four, item number eight, and item number D2, do I have a motion to defer those items.

Ms. Oliver: Yes Mr. Chairman, I would like to move that items number four, eight and D2 be deferred.

Mr. Thornton: Second.

Mr. Horsley: Second.

Mr. Thornton: Mr. Horsley second, calls for the question.

Pam: By vote of 9-0, agenda items four, eight, and D2 have been deferred for 30 days.

Mr. Thornton: Thank you, there being no items that were requested to be withdrawn, the next order of business we will address to those items that have been placed on the consent agenda, Vice Chair Oliver will handle this portion of the agenda.

Ms. Oliver: Thank you Mr. Chairman. This afternoon, we have seven items on the consent agenda. The first matter is agenda item number one and this is an application for a conditional use permit for a family Daycare Center or Home on property located at 600 Iris Lane in the Bayside District, is there representative for this application? Hi, would you please come up and state your name for the record please?

Ms. Arney: Hi, my name is Gina Arney.

Ms. Oliver: Great, thank you very much. You can take a seat, that's good. Is there any opposition to this matter being placed on the consent agenda today? Hearing none, the chairman has asked Commissioner Don Horsley to read this into the record please.

Mr. Horsley: Thank you ma'am. The proposed conditional use permit for a family Daycare or Home, staff has reviewed this extensively and is determined that it is consistent with the comprehensive plan. For the land uses in the residential areas, it provides a valuable service for families in those areas and has a large lot with adequate space for the youngsters and an adequate parking for the clients. Staff has recommended that we stagger the drop off times for the families and I think that's been a gray zone. We had no opposition to this application, for these reasons, we placed it on the consent agenda.

Ms. Oliver: Thank you, the next matter is agenda item number 3, and this is an application for Beach Building Group Inc for an alternative compliance on property located at 521 and 523 on the 20th street in the Beach District. Good afternoon.

Mr. Bourdon: Good afternoon Ms. Oliver and Mr. Chairman and members of the Commission, again for the record Eddie Bourdon, Virginia Beach attorney representing, the two applicants Beach Building Group is present with Mr. Jonathan Spade, we appreciate the work of Kristine on this application, all eight conditions is recommended are acceptable to my client and we also greatly appreciate being on the consent agenda, thank you.

Ms. Oliver: Thank you. Is there any opposition to this being placed on the consent agenda, hearing none, the chairman has asked Commissioner Hodgson to read this into the record?

Mr. Hodgson: Thank you Ms. Oliver. The applicant is requesting an alternative compliance, the Ocean Front, Form-Based code for beach property on 20th street at the ocean front, the subject site is capable of yielding up to four dwelling units to accommodate garage excess to each of the units, and the applicant is proposing to develop the site with three units on one lot. Form-Based Code states that when multiple primary buildings or building types are placed on the same lot, each building must be able to meet the minimum lot criteria of its associated building type whether or not actual lot lines exists, the proposed layout does not provide the minimum lot with or minimum lot area for the rear unit, thus the applicant is requesting the special exemption for alternative compliance to permit this alternative proposal. As shown on the submitted plan, two units are proposed on 20th street and one unit is located near the alley on 20th and a half street and centered within the site, two parking spaces will be provided for each unit and all vehicular access will be from the alley, direct pedestrian access will be provided for each unit from 20th street. Staff finds that the proposal sufficiently meets the applicable review standards and recommends approval. The Commission is in agreement with this and we placed it on our consent agenda and I think the developer came up with a very creative way to develop this site and a way that I hope we see more in the future, I mean just with the building materials, he is removing the curb cuts that would be on 20th street and having drive access from the alley using pavers instead of big slabs of concrete down the Ocean Front and the quality of product that this builder builds, I know this will be a very nice development.

Ms. Oliver: Great, thank you. The next matter is agenda item number five and this is an application of Valvoline LLC for conditional use permit for an automobile repair garage on Western Outparcel of 2105 Princess Anne Road in Princess Anne District.

Mr. Nutter: Thank you Ms. Vice chairman and Mr. Chairman, for the record, my name is R. J. Nutter, I represent the applicant. Well thank you Dr. Kwasny and the rest of the Commission for placing us on the consent agenda, pleasure to be there and the conditions are all acceptable and we look forward to this new facility. Thank you.

Ms. Oliver: Great, thank you. Is there any opposition to this being placed on the consent agenda, hearing none, the Chairman has asked commission Kwasny to read this into the record.

Ms. Kwasny: Thank you Vice Chair Oliver. This is a request for conditional use permit in the Princess Anne District for an automobile repair garage specifically a Valvoline Oil Chains facility. The concept plan depicts a two-bay garage not facing the right-of-way, vehicular ingress and egress is proposed via one point of access from the interior of the site, no direct vehicular access will be on Princess Anne Road. A 4-foot tall decorative wrought iron style aluminum fence with brick columns along with a mixed of flowering and evergreen trees is proposed along the right-of-way frontage of the site, a mixed of shrubs and trees are depicted along the side of the bay doors to assist in screening in the area. The transition area committee reviewed this plan at it's meeting in May and found it favorable to the site. The applicant worked with staff to ensure that as required by the recorded proffers, the quality and architectural style and exterior materials of the structure would be similar to the larger shopping center in the area, the proposed concept plan depicts plant material in excess of the minimum which will also add to the amenities on the site, as recommended by the comprehensive plan, the applicant has submitted a preliminary drainage study to the development services center outlining the proposed stormwater management strategy for the subject site as a result of the review DSC concurs that the proposed conceptual stormwater strategy has the potential to successfully comply with the stormwater requirements of this site.

The staff finds the proposed use acceptable, recommends approval and the Planning Commission puts it on the consent agenda.

Ms. Oliver: Thank you. The next matter is agenda item number six and this is an application for conditional use permit Tattoo Parlor on property located at 1860 on Laskin Road in the Beach District. Is there representative for this application? Good afternoon, you will state your name for the record please.

Mr. Daniel: Good afternoon Mr. Chairman, good afternoon honorable members. My name is a Daniel Singh.

Ms. Oliver: Great, thank you and are the conditions set forth in the application agreeable to you.

Mr. Singh: Yes, they are.

Ms. Oliver: Great, thank you very much.

Mr. Singh: Thank you.

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

Mr. Hodgson: Thank you Ms. Oliver. The applicant currently operates a beauty salon within a shopping center near the intersection of Hilltop and First Colonial Road. A conditional use permit for a Tattoo Parlor is requested in order to offer permanent cosmetic makeup services known as microblading to its clients. No changes are proposed to the exterior of the building or the existing signage. The proposed conditional use permit for a Tattoo Parlor is consistent with comprehensive plans, land use policy for the Hilltop area. Staff recommends approval of this application subject to the conditions, the Commission agrees and we have placed in our consent agenda.

Ms. Oliver: Thank you very much. The next matter is agenda item number 9, Northampton Development LLC; this is an application for conditional rezoning R-5D Residential District to Conditional B-2 Community Business District on the property located on the North side of Northampton Boulevard adjacent to & east of the Premium Outlet Boulevard in the Bayside District. Hello.

Mr. Bourdon: Thank you Madam Vice Chair, Mr. Chairman, members of the Commission, again for the record Eddie Bourdon, Virginia Beach Attorney representing the applicant, with me also today is Mr. Billy Milligan with the Livas Group who is the architect on the project and also representing the project. I want to thank Mr. Frankenfield, Kathy Warren at the SGA office and Mark Shea for their work with us on this project and greatly appreciated being on the consent agenda, proffered rezoning with the proffers, that's you all will be approving. Thank you.

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

Mr. Redmond: Mr. Chairman, the applicant proposes to develop an approximately 250,000 square foot commercial shopping center on approximately 33 acres of land, this is a property zoned R-5D Residential District which only permits residential uses, the rezoning has required in order to develop the site with retail uses. The proffered conceptual site plan depicts a series of detached buildings along Northampton Boulevard and Premium Outlets Boulevard with surface parking proposed within the interior of the site, there are five points of vehicular access including a

connection to Tolliver Road which is currently under construction. The right-in and right-out connection on Northampton Boulevard and three ingress and egress points along Premium Outlet Boulevard in Norfolk. Any development project of this size and complexity is bound to be second guessed, in the end, the Commission agrees with staff that “B-2 Community Business District is the most compatible, complementary, and efficient use of the land in such close proximity to the Outlet Mall.” The staff obviously recommended approval, we are unaware of any opposition to this application and the Planning Commission concurs with staff’s judgment consent, thank you Mr. Chairman.

Ms. Oliver: Thank you. The next matter is agenda item number D1, BHC LLC, an application for a conditional rezoning, B-2 Community Business to B-4 mixed use and a conditional use permit multi-family dwellings on property located at 3739 Shore Drive in the Bayside District. Hi.

Mr. Bourdon: Once again Mr. Chairman, Madam Vice Chair, thank you Eddie Bourdon Virginia Beach Attorney representing the applicant, we appreciate, first of all Steve Bishard principal is here with us this afternoon and we appreciate being on the consent agenda the Ocean Park Civic League has been briefed on this as well as the Bay Front Advisory and we appreciate all the hard work of Mr. McNamara as well, thank you.

Ms. Oliver: Thank you. 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.

Mr. Redmond: Mr. Chairman, the applicant is requesting a conditional rezoning and a conditional use permit to develop the property with six residential condominium dwelling units within two buildings. One of the buildings containing four dwelling units will front along Shore Drive; the existing curb cut along Shore Drive will be removed. The second building containing the remaining two dwelling units will front along Pendleton Avenue. The vehicular access to the site is proposed along the southern property line from Pendleton Avenue, all of the units will be rear or side loaded. The parking spaces will not be visible from the rights-of-way but rather will be located on the interior of the site; each of the three story buildings will be 35-feet in height. Each will either have a rear or side loading two-car garage. The front façade will feature multi-level porches and exterior building material of cement-fiber board siding on the first and second floors and cedar vinyl shakes along the third floor. Board and batten siding is located on projections and gable ends. Colors of all materials would be a combination of earth tone colors indicative of coastal communities; in short this is high quality development project, well-designed on a small and funky lot, which is not easy to do. Staff recommended approval and we are unaware of any opposition of this request and as a result, we have placed it upon our consent agenda, thank you Mr. Chairman.

Ms. Oliver: Thank you. The next matter is agenda item number D3, and this is an application for conditional use permit for Halle Properties LLC, automobile repair garage on property located at 4300 Virginia Beach Boulevard and 417 Thalia Road located in the Lynnhaven District, is there representative for this application?

Mr. Palmer: Thank you Mr. Chairman and Vice Chair and members of the Commission. My name is Grady Palmer. I am an attorney and I represent Discount Tire. In this application and with the removal of condition number five, we are in agreement with all the conditions. Thank you.

Ms. Oliver: Great, thank you very much. Is there any opposition to this being placed on the consent agenda? Hearing none, the chairman has asked commissioner Inman to read this into the record.

Mr. Inman: Thank you. This is an application for conditional use permit on a North West corner of Virginia Beach Boulevard and Thalia Road in order to operate an automotive repair garage as the category has called; it's actually a proposed location for Discount Tire, which would construct a new facility on that site. The submitted elevation depicts a single-story building with brick veneer exterior, brick accents are proposed in contrasting colors to provide architectural interest. Siding for the gables and dormers will be white 8-inch wide metal wall panels; roof depicted as a gray standing seam metal roof with a 12-foot tall storefront windows. The conceptual landscape plan depicts street frontage plantings in excess of the minimum requirements of the zoning ordinance. In addition, the require foundation landscaping is depicted on the plan along the front of the building. An existing neighborhood sign for Thalia is proposed to remain on the property. This property has had in zoning history has been an automotive repair facility in the past. There are 11, well, there is proposed 12 conditions, there will be 11 upon deletion of number 5, which has to do with the doors remaining closed, garage doors that are up on the facility which don't face any thoroughfare. So we have put it on the consent agenda since there is recommendation by the staff also for approval with the deletion of number 5.

Ms. Oliver: Thank you. Mr. Chairman that was our last item on the consent agenda and I would like to move that we approve items number one, three, five, six, nine, D1 and D3.

Mr. Thornton: We have a motion, is there a second?

Mr. Hodgson: Second.

Mr. Thornton: Second from Mr. Hodgson. We are ready to vote. Dave?

Mr. Weiner: Item number three, I need to abstain from that, the applicant is a client of mine.

Mr. Thornton: Okay.

Mr. Redmond: Mr. Chairman, I am going to abstain from agenda item number D3, I have a piece of property under contract with the applicant in another location.

Mr. Thornton: Okay, any other conflicts? None, noted those.

Pam: By recorded vote of 9-0, agenda items one, three, five, six, nine, D1, and D3 have been approved by consent. D3 approved as modified with Commissioner Weiner abstaining from item three and Commissioner Redmond abstaining from item D3.

Mr. Thornton: Thank you. For those who have not left, I wanted to thank all of the folks who came for these items on the consent agenda and thank you for your time and we look forward to your cases going before City Council for final approval and development. The next order of business that we will address today would be the items on our regular agenda and it appears that we have two matters, one is item number two. Would the secretary please call this matter?

Item#1
Gina Arney (Applicant)
Conditional Use Permit (Family Day-Care)
600 Iris Lane
District – Bayside

May 9, 2018

APPROVED - CONSENT

Ms. Oliver: Thank you Mr. Chairman. This afternoon, we have seven items on the consent agenda. The first matter is agenda item number one and this is an application for a Conditional Use Permit for a Family Day-Care Home on property located at 600 Iris Lane in the Bayside District. Is there representative for this application? Hi, would you please come up and state your name for the record please?

Ms. Arney: Hi, my name is Gina Arney.

Ms. Oliver: Great, thank you very much. You can take a seat, that's good. Is there any opposition to this matter being placed on the consent agenda today? Hearing none, the Chairman is asked Commissioner Don Horsley to read this into the record please.

Mr. Horsley: Thank you ma'am. The proposed Conditional Use Permit for a Family Day-Care Home has been review by staff extensively and has determined that it is consistent with the Comprehensive Plan. For the land uses in the residential areas it provides a valuable service for families in those areas and has a large lot with adequate space for the youngsters and adequate parking for the clients. Staff has recommended that we stagger the drop off times for the families and I think that's been a gray zone. We had no opposition to this application. For these reasons, we have placed it on the consent agenda.

CONDITIONS

1. Arrival and departure times shall be staggered to avoid vehicular congestion.
2. The Family Day-Care Home shall be limited to a total of twelve (12) children, other than children living in the home.
3. The applicant shall maintain a license for the in-home daycare operation with the Commonwealth of Virginia, Department of Social Services.
4. Any sign identifying the Home Occupation shall be non-illuminated, not more than one (1) square foot in area and shall only be mounted flat against the residence.
5. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.

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

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

THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Pam Sandloop: By recorded vote of 9-0, agenda items one, three, five, six, nine, D1, and D3 have been approved by consent. D3 approved as modified with Commissioner Weiner abstaining from item three and Commissioner Redmond abstaining from item D3.

Item#2

VA Finishing, LLC
Conditional Use Permit (Automobile Repair Garage)
4990 Euclid Road
District – Bayside

May 9, 2018

APPROVED

Pam Sandloop: Item number two, an application of VA Finishing, LLC for conditional use permit, Automobile Repair Garage on property located at 4990 Euclid Road in the Bayside District. Would you state your name for the record please?

Julianne Smith: Good afternoon Chairman and Commission. My name is Julianne Smith of D'Lima Law. I am the attorney for VA Finishing LLC. I am also here with the applicant Mr. Glenn Martin, a co-owner of the business. We are here to ask for a conditional use permit for an automobile repair garage. I would like to have Mr. Martin say a few sentences about the nature of the business.

Mr. Thornton: Okay, thank you.

Glenn Martin: Thank you everyone for being here, allowing me for this application, but my name is Glenn. I am a co-owner and just decided to startup a shop here with my brother in Virginia Beach. I was born in Kempsville, lived here almost all my life and we are applying for an automobile repair garage permit due to the fact that we have a tire machine and wheel balancer. I want it to be known that we are not a full service shop, meaning that I am not going to be working on vehicles in that capacity and have a lot of cars and stuff sticking outside. Our customers are just going to drop off the items that need to be worked on and some of them are wheels because we do polishing and powder coating. We put tires on and I will take them off and put them back on in the shop but no vehicles worked on at the shop.

Mr. Thornton: Thank you, any questions for the applicant and his attorney? Thank you, the way this process works, there will be people to speak against it, and then we will have you back for rebuttal and then we will close the hearing and talk amongst ourselves. Thank you.

Pam Sandloop: Mr. Chair we have two speakers in opposition, Shane Vasser.

Shane Vasser: Good afternoon, my name is Shane Vasser and I am representing myself and several of my neighbors in Pocahontas Village we are neighbors to the Spring Building Property where VA Finishing is going to be and I have a signed letter from my neighbors that couldn't be here, I would like to submit that. I have one unsigned copy and if you need I have an unsigned duplicate. Would you like that also?

Pam Sandloop: No, this is fine, thank you.

Shane Vassar: Okay, thank you for giving me this opportunity to speak. I object to this application for a conditional use permit for the automobile repair garage for VA Finishing in the Spring Building for the following reasons. The noise associated with this business would include pounding, banging, grinding, sanding, vibrations etcetera, it would add to the already high level of disturbing noise coming from the Spring Building every day. The noise has a detrimental impact on my quality of life, approving this application would set a bad precedent that would open the door to other similar business setting up shop right in back of my home. Disturbing noise already comes from the other shops and businesses loading and unloading their trucks between 7 a.m. and 11 a.m. every day, operating loud machinery and from the emptying of the trash dumpsters in the middle of the night, every night, Monday through Friday. Allowing this business to expand would add one more trash dumpster to the building's parking lot. Since I am the Spring Building's closest neighbor in the adjacent residential neighborhood, I live to the east wing of the Spring Building; I will be most affected by the addition of another loud noise generating business. There are already three large dumpsters placed along the fence line bordering my property. The noise from that side of the building that VA Finishing occupies can be heard on my property because it echoes off of the building on the other side of the railroad tracks. It would help if the existing businesses in the building would close their garage doors to lessen the noise when they work. I strongly believe that the noise levels coming from the Spring Building are already in violation of the City's noise ordinance. This conditional use permit will only add to the noise and further denigrate my standard of living. I have to wear earplugs so that I can go to sleep at night and throughout the day when the noise gets bad. The parking adjacent to the Spring Building is limited and already overcrowded. The addition of this repair garage will push more congestion into the parking area directly behind the fence along my property. This creates an overbearing visual presence because equipment parked there are taller than the fence. I can see and hear everything that happens at the building's eastern side. Let me expand on the dumpsters problem. There is an ongoing problem with the noise from the dumpsters being emptied every morning between about 2 a.m. and 8 a.m. Monday through Friday and disturbing the peace of the neighborhood. There are four dumpsters on the property which I can hear being emptied at night, three of which are right up against the fence of my backyard. The neighbors and I are awakened by trash dumpsters being emptied all through the hours of the morning. We are awakened by the noise and cannot get back to sleep. The noise created by the emptying of the dumpsters is loud like bombs exploding. We have to wear earplugs every night to get to sleep and from inside my home, the disturbing noise from the building afternoon and night, five or six days a week, it's almost around the clock. In conclusion,

I object to the approval of this conditional use permit for VA Finishing for the reasons I have presented here. Okay, thank you very much.

Mr. Thornton: Thank you. Are there any questions for the speaker Mr. Horsley?

Mr. Horsley: Could you just take the pointer there and show us where you live?

Shane Vassar: Yes. This it here? One lives here, one lives here, one across the street.

Mr. Horsley: Except these noises that you hear, you say at nighttime too?

Shane Vassar: Yes.

Mr. Horsley: The businesses stay open at night?

Shane Vassar: Sometimes they do, not regularly but I would say every week or so, there is somebody working there at night.

Mr. Horsley: Our package says from 10 to 5 from Monday through Friday, the applicant, is that what applicant is requesting.

Shane Vassar: Well some of the businesses do work at night. They push the envelope, the owner of the building has told me that people there are only supposed to work doing regular business hours but the occupants that have businesses in the Spring Building do work outside of those hours.

Mr. Horsley: Okay thank you.

Mr. Thornton: Mr. Redmond?

Mr. Redmond: I am sorry, would you grab that pointer again, I couldn't quite, put right on your house, if you would?

Shane Vassar: See, there are trees here then you cannot really see the house, right there. There is my house right there.

Mr. Redmond: Okay, alright thank you.

Shane Vassar: I share the longest property line with the Spring Building of all my neighbors.

Mr. Redmond: If you would point, where the dumpsters are on the photograph, pull that back up, overhead photograph?

Shane Vassar: Well the dumpsters about there is one right there, there is one right there, there is one right there, and there is one on this side of the building. There is one behind these two. There is one there, and there is one there and this is one behind. See about two years ago, the dumpsters used to be here; this is an old picture, okay. New businesses, old businesses moved out, new businesses moved in, and they moved their dumpsters to right behind the fence, right, right here, here is the third, these are two really big dumpsters and there is a third smaller dumpster right there and then there is another dumpsters over around here. This is more of a problem for my next door neighbor, this is here.

Mr. Thornton: Dee?

Ms. Oliver: What businesses are located on your side of the property?

Shane Vassar: Okay, this is a pool construction company, these two suites here, this suite here is, I think, it's a furniture storage business. I think this one here is a appliance installation, it's a Perez Enterprises, they are loading and unloading their trucks every morning. This suite here is vacant at the present time, there was a wrestling venue there, set a business last year up until I think January or February of this year, which was bothering us, they are not there now. This suite is vacant here and the owner of the Spring Building is advertising that it's open for leasing. This suite right here is a company that renovates crawlspaces. These are the back entrances which are garage doors and these are the front, each of these businesses has a front office entrance on this side of the building. And this is where the VA Finishing wants to be, but the noise from this side of the building does hit, see there are buildings over here which are sheet metal and the acoustics. Through the acoustics, the noise from here bounces off these walls and comes into our neighborhood.

Ms. Oliver: Thank you.

Mr. Thornton: Any other questions? David?

Mr. Weiner: Are the business actually working late at night or is the dumpsters just being dumped late at night?

Shane Vassar: Well some of the businesses work late at night not on a regular basis, but it's the dumpsters that are being emptied during the night.

Mr. Weiner: How many times in a week that happens?

Shane Vassar: Every night Monday through Friday. The reason that they have told me that they have to dump at night, I have talked to the individual business owners, I have talked to the owner of the building about these problems and I have also called the dumpster company, because what they said was that they don't have any control over, they empty the trash. So you have to call them. I looked up each of the four or five different companies that empty trash there every night. So one truck will come like 2 o'clock and other truck would come at 3, just by the time I get back to sleep. Another truck comes in but during the day. The parking lot is so congested with cars and vehicles and storage, trailers, that the trash company said they cannot get into dump the trash, so they have to do it in the middle of the night. I have asked them to why cannot you do it in the early evening, you know, it's better to be disturbed during our dinner hour than it is when we are trying to sleep. They said that they will do what we can but you know they really haven't resolved that problem.

Mr. Thornton: Any other questions?

Ms. Oliver: You said there were three different trash removal companies?

Shane Vassar: At least.

Ms. Oliver: It's not that just using one.

Shane Vassar: No, each dumpster has its own company that picks it up.

Mr. Thornton: So what you are saying is that these businesses had faced the alley if you will, their employees are parking back there during the day, most of those businesses access their spaces through the back.

Shane Vassar: Yes.

Mr. Thornton: So when they are there and they are working, people don't have room to navigate through there and empty those dumpsters during the day.

Shane Vassar: Yes that's correct.

Mr. Thornton: Okay, so that's why that area is crowded.

Shane Vassar: Yes and during the day, I mean, this part of the parking lot is also filled with cars as well.

Mr. Thornton: Okay, I think we have one more speaker. Let the next speaker speak and we may have some question for you and then we will let the applicant have the last word.

Shane Vassar: Alright, thank you.

Pam Sandloop: William Vassar.

William Vassar: Good afternoon ladies and gentleman Planning Commission, I am the owner of the property we were just discussing.

Pam Sandloop: Would you please state your name for the record?

William Vassar: William Vassar. I can attest to the most of these comments by the previous speaker. Unfortunately, we don't have a civic league that can defend these use permits, so we are left on our own. Also, the neighbors on either side couldn't attend, one owns a 7-11 and he has a big meeting with the company meeting today and the other one is a navy guy who says his chief wouldn't let him come in to speak. He wanted to speak, especially since he has small children and these trash emptying at 3 o'clock in the morning are upsetting him and his children. He has got a small baby who wakes up and they have to get up in the morning and take their children to childcare because both are in the Navy. Also, I have witnessed, like I said most of these disturbances, trucks with backup whistle in the morning 6 o'clock, 7 o'clock in the morning, also trucks loading and unloading, dropping things, its noise throughout the day. They also had a wrestling venue that had music to 11:30 at night which disturbed all the neighbors. Noise from a machine shop who felt that they want to share their noise with the community, open the garage doors and noise from the machinery. A crawlspace business that has loading and unloading from 7 to 11 a.m. A pool company which has illegally extended that area which is about 30 feet from the building to the fence line. They are using it as a stock yard, well that was it. I believe it's an illegal stock yard. Also the emptying of the dumpsters. Unfortunately, I haven't witnessed it at 3 o'clock in the morning but I have been there during the day when there has been a dumping and man, it is loud, used to be they had a small containers, now they got these huge containers.

Mr. Thornton: Mr. Vassar, we have a timeline on speaking, so could you wind up for us please?

William Vassar: Of course, the noise from the drills, saws and cutting the tiles for the pool. Okay, the owner of the building has little control of the infractions of leasees and of course of the leasees' employees. Additional noise from this repair garage will only exasperate the conditions. I believe that VA Finishing should move to accommodations that are more amenable to an auto repair shop, therefore, I recommend disapproval to this request.

Mr. Thornton: Thank you sir, any questions for Mr. Vassar. Dave?

Mr. Redmond: Same question, can you point where you live?

William Vassar: Beg your pardon.

Mr. Redmond: Can you point where you live?

William Vassar: It's the same situation in the back, you know, it's hard to see. If you saw the distance between, it used to be, nowadays you have to have a big buffer, but at one time, he only needed 25 or 30 feet that's what that is. There is parking, there is a shop back there that has extended their, they have got all their pool crap, out in the parking lot, they fence it off.

Mr. Redmond: Okay thank you. Appreciate it.

William Vassar: Okay.

Mr. Thornton: Any other questions for Mr. Vassar, thank you sir.

William Vassar: Okay, thank you.

Mr. Redmond: Mr. Chairman, can we have questions of staff before we listen for rebuttal? Without a condition, there is no, if you don't have a condition there is no timeframe for dumpsters for a truck to come back and dump a dumpster is there?

Barry Frankenfield: There are no conditional use permits others and this facility and it appears that all the operations are permitted. But it seems to me there is some reasonable expectation of quiet and enjoyment of your home, so what I can promise you is that we will look at the bulk storage issue. Unfortunately our zoning administrator is not here and there are other ordinances related to noise and construction, so we will, I don't of the top of my head have an answer to your question, but I believe it warrants some inspection and some research and we will take that on for this site.

Mr. Redmond: Okay, perfect.

Mr. Thornton: Rebuttal time.

Julianne Smith: Thank you, I can only speak to VA Finishing itself and the things that it controls, I cannot speak to the actions of other businesses or the management of the building services. VA Finishing's use of the corner of the building, which I want to point out is opposite from the residential section, is consistent with the surrounding uses and the character of the area. In addition, there is minimal sound effect. The applicant is agreeable to all conditions, which included that all work would be done internally in the business and that the door will be closed. We also submitted evidence of the sound coming from the business, we ran tests with all machines running and we submitted evidence of that and there is minimal sound coming from the business even with all the machines running. I would emphasize the sound issue from VA Finishing itself is not an issue and we would ask that the Commission to please approve, thank you.

Mr. Thornton: Any questions Don?

Mr. Horsley: I have one question, could you point to where the dumpster that this facility is to be using is going to be located?

Julianne Smith: I am not sure, I think that's one of the services that the building manages, do you know?

Mr. Horsley: Can you show us on the map?

Glenn Martin: If we apply for one, there are dumpsters that are located here already, that's one. I can see it outside of my window. But when I apply for one, it will be placed that on this side here, and there is a railroad and then it's an open area at the Papco petroleum supplier over there.

Mr. Thornton: Go ahead David.

Mr. Weiner: You have your business there now correct? What do you do for dumpster now? So do you use the dumpsters that are up there now?

Glenn Martin: No, no. We have very minimal trash right now.

Mr. Redmond: Is one of those dumpsters yours?

Glenn Martin: No, but if I do, when I do apply for one.

Mr. Thornton: I have a question for your counselor. I think she said, I don't want to put words in your mouth, those dumpsters are they run by the landlord of the building?

Glenn Martin: No, when I signed up for the place, she gave us information as to who we can contact.

Mr. Thornton: So each tenant is responsible for their own dumpsters? Should they provide you a place to put it?

Glenn Martin: Yes, it might be along that side.

Mr. Thornton: That's a dumpster pad. Other questions, Jack?

Mr. Wall: So you stated that primarily pretty much all of your business would be enclosed inside, I mean it's all done within the building. You may leave your door open at times.

Glenn Martin: If I need to open a door, but primarily I am very conscious about making noise. I don't want to be obtrusive to anybody and my unit is closed for the most part. I don't need to open it unless somebody is dropping something off. If a customer comes by, typically it's a very quick drop off and then work on it inside the shop yeah.

Mr. Thornton: Others? Thank you.

Glenn Martin: Thank you.

Mr. Thornton: If there are no questions of the applicant or the opposition, we will close the meeting to the public and open it up amongst us, Dave.

Mr. Redmond: Well first I have enormous sympathy for the two gentleman who spoke. I don't want to have to stick earplugs in my ears in the middle of the night in order to sleep and I think the staff has been quite clear and earnest in their desire to try and help you figure something out about that. Be all that as it may, I don't know that has anything to do with this application. This applicant is on the other side of this center and unit with minimal noise. If he gets himself a dumpster, it's not going to be in the location that causes these two gentleman and their neighbor some harm. It would up appear, and I don't know why on earth we would penalize this business for conditions that occur from some other tenant or some other business, that just doesn't seem to me to be fair. So I am going to support the application and would encourage others to support the application. That is not a reflection on the trouble that you all have, I hope that gets worked out. I just don't

think that this business is responsible for it, nor it need be penalized for it. That doesn't strike me as a way to solve that problem, and I do hope it gets solved. Thank you.

Mr. Thornton: Jeff.

Mr. Hodgson: I have to agree with Dave. I don't really buy that the dumpsters companies cannot come at other times. We condition applications all the time where we say, dumping has to be done between these hours and it seems to be accommodated. If you are okay with it, this is your district, I would just for peace of mind, just add a condition here saying, if he does get a dumpster, it would be between these hours, so that there is no chance of him adding to the issue. I know he is quite a ways away but since we condition that quite a bit for dumpsters. Do you see an issue with doing that on this one?

Mr. Redmond: Yeah, I am open to that and I think we could probably talk about that. Is this the only business then, that you guys, I think you said staff, that all the other uses were permitted uses. There are no other conditions so there is nothing else and I don't want to penalize them, if that's the only one., At least the ones that require conditional use permit, that's strikes me as reasonable. Hours, we would have to get some consultation on that. I am always reluctant to make stuff up like that on the fly. I tell you what, let's do this. I would prefer that now that it is a part of the record, that the staff explore that as a part of the ongoing process. When City Council takes it up that does strike me as something that would be appropriate. I don't want to just grab numbers out of thin air and have them be arbitrary without any real consideration. I'd want to make sense and they can do that in the time between now and City Council. Does that work for you?

Mr. Hodgson: Yeah, perfect.

Mr. Thornton: Mr. Wall, Jack.

Mr. Wall: Okay thanks, I support the application also, but I am very sensitive to the opposition with the dumpsters. I must live half a mile from the nearest shopping center. I can hear these things at 5 a.m. I mean, it is loud, so I feel for them. I really hope the City takes a hard look and you discuss this with the property owners and at the bulk storage as well as the dumpsters and be responsible to the residents that live adjacent to that business.

CONDITIONS

1. All on-site signage must meet the requirements and regulations of the Zoning Ordinance.
2. There shall be no signs that 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.
3. 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.

4. There shall be no outside storage of equipment, parts, tires or materials.
5. No motor vehicle repair work shall take place outside of the building.

A motion was made by Commissioner Redmond and seconded by Commissioner Hodgson to approve item 2.

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

Pam Sandloop: By a recorded vote of 9-0, agenda item two; VA Finishing, LLC has been approved.

Item#3
Beach Building Group, Inc.
Alternative Compliance
521 & 523 20th Street
District - Beach

May 9, 2018

APPROVED - CONSENT

Ms. Oliver: Thank you, the next matter is agenda item number 3, and this is an application for Beach Building Group Inc for an alternative compliance on property located at 521 and 523 on the 20th street in the Beach District. Good afternoon.

Mr. Bourdon: Good afternoon Ms. Oliver and Mr. Chairman and members of the Commission, again for the record Eddie Bourdon, Virginia Beach attorney representing, the two applicants Beach Building Group is present with Mr. Jonathan Spade, we appreciate the work of Kristine on this application, all eight conditions is recommended are acceptable to my client and we also greatly appreciate being on the consent agenda, thank you.

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

Mr. Hodgson: Thank you Ms. Oliver. The applicant is requesting an alternative compliance, the Ocean Front, Form-Based code for beach property on 20th street at the ocean front, the subject site is capable of yielding up to four dwelling units to accommodate garage excess to each of the units, and the applicant is proposing to develop the site with three units on one lot. Form-Based Code states that when multiple primary buildings or building types are placed on the same lot, each building must be able to meet the minimum lot criteria of its associated building type whether or not actual lot lines exists, the proposed layout does not provide the minimum lot with or minimum lot area for the rear unit, thus the applicant is requesting the special exemption for alternative compliance to permit this alternative proposal. As shown on the submitted plan, two units are proposed on 20th street and one unit is located near the alley on 20th and a half street and centered within the site, two parking spaces will be provided for each unit and all vehicular access will be from the alley, direct pedestrian access will be provided for each unit from 20th street. Staff finds that the proposal sufficiently meets the applicable review standards and recommends approval. The Commission is in agreement with this and we placed it on our consent agenda and I think the developer came up with a very creative way to develop this site and a way that I hope we see more in the future, I mean just with the building materials, he is removing the curb cuts that would be on 20th street and having drive access from the alley using pavers instead of big slabs of concrete down the Ocean Front and the quality of product that this builder builds, I know this will be a very nice development.

CONDITIONS

1. When the property is developed, with the exception of any conditions below, it shall be substantially in accordance with the submitted site exhibit entitled, "ALTERNATIVE

COMPLIANCE EXHIBIT, SITE IMPROVEMENT PLAN,” dated 02-27-2018, as prepared by WPL. 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 site is developed, with the exception of any conditions below, the structures constructed shall have the architectural features, materials, and appearance of like quality and character to the architectural elevation exhibits entitled, “DETACHED HOMES AT 20TH,” dated 4-13-18, as prepared by Beach Building Group. These elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development.
3. With the exception of the garages, each unit shall have a finished floor elevation of no less than two feet, as prescribed by the Oceanfront Resort District Form-Based Code.
4. Where “planting bed” is called out on the submitted site exhibit, a mixture of ground cover, evergreen, woody, grassy, and ornamental plantings shall be used. As part of site plan review, where the planting bed is over four feet in dimension, the Development Services Center Landscape Reviewer may request up to 200% of the number of plantings required to meet the minimum foundation landscaping criteria.
5. All plantings shall be maintained in good health. Plantings that fail to grow shall be replaced with a similar type of plant or a plant type approved by the Development Services Center.
6. The applicant shall make all right-of-way improvements as required for 20th Street and 20th ½ Street and as further required by Public Works Traffic Engineering and the Development Services Center as part of site plan review.
7. All mechanical equipment, including but not limited to HVAC units, shall be screened year-round by landscaping or maintenance free fencing. All trash receptacles shall be stored in a manner such that they are not capable of being viewed from the public right-of-way.
8. Each of the proposed Detached Houses shall not be used for any other principle use than one single-family dwelling.

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

	AYE 8	NAY 0	ABS 1	ABSENT 2
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HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY				ABSENT
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER			ABSTAIN	

Pam Sandloop: By recorded vote of 9-0, agenda items one, three, five, six, nine, D1, and D3 have been approved by consent. D3 approved as modified with Commissioner Weiner abstaining from item three and Commissioner Redmond abstaining from item D3.

Item#4
St. Luke Catholic Church
Modification of Conditions (Religious Use)
2304 Salem Road
District – Princess Anne

May 9, 2018

DEFERRED

Mr. Thornton: Thank you Mr. Redmond. The next order of business is to address those items to be deferred. Today, we have three items that will be deferred, I think three, the first item is item number four. Is there someone here to speak on item number four? It has been brought to the

chair's attention, is there any opposition to this matter being placed on to be deferred? Hearing none, Kay can we vote on these three at one time or each by itself?

Beverly Kay Wilson: You can vote on all three just make sure if there is anyone that have a different time period.

Mr. Thornton: So there is no one here for item number four to speak on this matter. The next item that we have been made aware of is item number eight, this is an item for Nicholas and Sarah Nestor, is there anyone to speak on this matter, is there any opposition to this matter being placed on the deferral agenda, hearing none and then the last item is item number D2 an item with John and Karen Waller, welcome.

Mr. Bourdon: Thank you Mr. Chairman, for the record Eddie Bourdon, the Virginia Beach attorney representing the Wallers and we do consent to the deferral and we expect to be back next month.

Mr. Thornton: Thank you sir.

Mr. Bourdon: Thank you.

Mr. Thornton: So we have three items on the deferred agenda, item number four, item number eight, and item number D2, do I have a motion to defer those items.

Ms. Oliver: Yes Mr. Chairman, I would like to move that items number four, eight and D2 be deferred.

Mr. Thornton: Second.

Mr. Horsley: Second.

Mr. Thornton: Mr. Horsley second, calls for the question.

Pam Sandloop: By vote of 9-0, agenda items four, eight, and D2 have been deferred for 30 days.

	AYE 9	NAY 0	ABS 0	ABSENT 2
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY				ABSENT

RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Item #6

**Savarnas Beauty Spa
 Conditional Use Permit (Tattoo Parlor)
 1860 Laskin Road
 District - Beach**

May 9, 2018

APPROVED - CONSENT

Ms. Oliver: Thank you. The next matter is agenda item number six and this is an application for Conditional Use Permit for a Tattoo Parlor on property located at 1860 Laskin Road in the Beach District. Is there representative for this application? Good afternoon, you will state your name for the record please.

Daniel Singh: Good afternoon Mr. Chairman, good afternoon honorable members. My name is Daniel Singh.

Ms. Oliver: Great, thank you and are the conditions set forth in the application agreeable to you.

Daniel Singh: Yes, they are.

Ms. Oliver: Great, thank you very much.

Daniel Singh: Thank you.

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

Mr. Hodgson: Thank you Ms. Oliver. The applicant currently operates a beauty salon within a shopping center near the intersection of Hilltop and Laskin Road. A Conditional Use Permit for a Tattoo Parlor is requested in order to offer permanent cosmetic makeup services known as microblading to its clients. No changes are proposed to the exterior of the building or the existing signage. The proposed Conditional Use Permit for a Tattoo Parlor is consistent with Comprehensive Plan's land use policy for the Hilltop Area. Staff recommends approval of this application subject to the conditions. The Commission agrees and we have placed this on our consent agenda.

CONDITIONS

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

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

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

Pam Sandloop: By recorded vote of 9-0, agenda items one, three, five, six, nine, D1, and D3 have been approved by consent. D3 approved as modified with Commissioner Weiner abstaining from item three and Commissioner Redmond abstaining from item D3.

Item #7
City of Virginia Beach
Modification of Conditions (Borrow Pit – Fill)
560 Oceana Boulevard
District - Beach

May 9, 2018

APPROVED

Pam Sandloop: The next order of business is an application of the City of Virginia Beach for a Modification of conditions on Borrow Pit – Fill on property located at 560 Oceana Boulevard in the Beach District.

Mr. Thornton: Welcome Mr. Adams.

Dan Adams: Good morning Mr. Commissioner and the members of the Commission, good afternoon as it may be. My name is Daniel Adams; I am with Department of Public Works. I am the City's coastal program manager, I am representing the Department on this application to modify the permit conditions to allow for reclamation of the former borrow pit. Public Works desires to transition the site into a dredge material management area to allow for the disposal of dredged material from city navigation dredging projects and from stormwater management dredging projects. All the material would be inert nonhazardous and nontoxic material. The material is not suited to go to the general landfill because of the water content and the consistency of the material. It's better suited to go into a wet facility for consolidation and management and therefore, we don't want to mix it with other general construction debris. So it will only be for use from navigation dredging and stormwater management projects. The Department does accept all the conditions staff has proposed in the application and is available to answer any questions or concerns you have.

Mr. Thornton: Questions for Mr. Adams. Don't?

Mr. Horsley: Could you tell me if you didn't have facilities like this, what do you do with this spoil?

Dan Adams: These facilities are very well suited. We would have to find a land area and dry it in the open land. It would require a much large footprint which probably have more compatibility issues and have to take it to a land field, a private or city land field. They would have to designate a very large area for drying, setup a containment berm and dewater it and handle it before they would be able to use it for daily cover at the land field.

Mr. Horsley: So this is the by far the best scenario?

Dan Adams: Yes, we have a similar operation ongoing just up the road at the old Whitehurst Borrow Pit on Oceana Boulevard across from the Oceana radar dome towers, so this is very similar.

This is actually a better suited site, because it's not connected to state waters, there is no defined outfall, there is no dewatering, and no discharge concerns downstream. Thank you.

Mr. Thornton: David Weiner?

Mr. Weiner: Mr. Adams, correct me if I am wrong, you are going to be testing or have done testing on the material to make sure that it is not contaminated or anything like that?

Dan Adams: We do testing of the material of all the dredging projects for all contaminants of concern. And of all the tests we have done, they all passed, they are just general background contaminants that you find in general fill in your backyard or anywhere else. There are no point sources of pollution in the Lynnhaven that have contaminated the dredge material in the Lynnhaven and there are no sources of point sources of contamination for the stormwater material. It's the runoff that comes from our yards, our business and our streets, but we did test it and like we say, we have seen nothing more than just background concentration, nothing over any acceptable limits.

Mr. Horsley: Great, thank you.

Mr. Thornton: Do you have a timeline, I mean, we are now into two or three years of dredging the Lynnhaven in various projects and that, in my opinion, is one of the best things the city has done. We have got miles and miles of waterfront and it's virtually impossible for private people to get dredging permits, I mean, so now the City is doing it and I am all in favor of that. How long will this facility be able to be used or do you anticipate a timeline?

Dan Adams: It's going to be long term, probably 10-20 years before we reach surface elevation and are ready to grade and close the site completely. The Oceana Facility, we expected that we were going to get little bit longer life out of that, but it's filling up quickly, more quickly than we anticipated. One of the reason for that is the additional material we were receiving from the stormwater dredging program. That is really ramped up recently, so we are generating a lot of fill, we have got several different projects and contractors using that facility. It's very busy and crowded and we do need some relief, so that we can spread out some of the traffic that is occurring on that site and utilize this one.

Mr. Thornton: Thank you. Any other questions? Thank you sir. Stand by, we will let you have a rebuttal. There are people to speak against.

Pam Sandloop: Mr. Chairman there are four speakers in opposition. Buddy Lilley, thank you; if you would approach the podium and state your name for the record?

Buddy Lilley: Thank you very much for your time. My name is Buddy Lilley. I was the original owner up until last year up there that we are talking about. The City ended up buying this pit against my will. I didn't wish to sell this pit, but circumstances were, I had no choice. My big concern here is I want to thank the engineering folks, they have been really great this morning to go over things with me, but we have some egress and ingress problems coming and going. I had some questions on setbacks which they are looking at. We had some questions on drainage in case we get a lot of water, because we have had flooding before in the rear of this lake which would be toward the Birdneck Road area. Our neighbor, Mr. Shawn Foresight, who owns property there was not notified that this pit would be filled right up to his large property line. He owns the Birdneck Storage right on Birdneck; right past the golf course, well what's left of the golf course

thank you, going south. He was not notified. If you are aware, there is going to be a nice new battery factory put on the golf course. I don't know if this gentleman was notified, at least officially, we have tried to let him know. Otherwise he is going to be building up next to a dump. Now I shouldn't use that term because they have gone overboard to explain how they are going to do this. So I will ask a couple of quick questions and not take too much of your time. One, do you believe that it's going to be clean stuff coming out of a BMP? Do you believe that all the water channels in Lynnhaven are clean? Do you believe that they are going to be like trucks carrying this muddy stuff coming from Lynnhaven to my house at 566? Is that going to be a problem on your streets? A few things we can take into account. Also, I am very concerned with my neighbors over on Credle Road and Bells Road. There will be some folks here to speak. They have been very good neighbors, and like myself, they have lived there for eons. I have been there since I was 3 years old, 1950. I am old. I see you smiled. I am old, so that is my home, I farmed it, I shot birds on it, I drank beer on it, a lot of beer, but it is a beautiful lake. I don't want to see it go to this. The City built this lake, if you are not aware of that, 1985-86. I let the City have the mineral rights for Beach replenishment. Is anybody old enough to remember that? Okay. The City had a contract they let it run out and left a large amount of sand in there which we know that Baillio Sand Company came in there, removed the rest of the sand, or was in a process of removing it when the City shut us down. For the record, those who know Mr. Baillio, he passed away last night. Don't know what it was all about, but I am concerned for my neighbors last but not least. The City, when they took this property, got over a 150,000 yards of prime beach sand which Croatan could use. Now they say you cannot truck it there. You trucked sand out of my pit for two years. You have trucked sand all the way from Bonnie Bright's, so if I have got to give up this pit, it's going to be like it is. At least take sand out and try to help Croatan. Thank you so much.

Ms. Thornton: Any more questions? Jeff?

Mr. Hodgson: Do you know what the average depth of the lake is?

Buddy Lilley: Twenty-seven feet, depending on the rains. They have done an engineering study on it. Supposedly, the guys were in there to get full depth of it. I am sure that Mr. Adams can give you all that information sir.

Mr. Hodgson: Thank you.

Mr. Thornton: Dave?

Mr. Redmond: You still live close to the pit area?

Buddy Lilley: Yes sir, there are three of us still living there who are on well water. Yes sir, that is the lake right there, my house is there, Ms. Braithwaite's house is there, Mr. Hutchinson's house is there. And if you notice Credle Road comes right up to the line there. Bells Road is right over here and all those springs are all connected.

Mr. Thornton: How do you get to your house? What is your access?

Buddy Lilley: I come in off Oceana Boulevard at 566. This would be me right along here.

Mr. Thornton: Your lane runs behind the houses there?

Buddy Lilley: Between the lake and Credle, yes sir.

Mr. Thornton: Thank you. Any other questions for Mr. Lilley? No more, thank you sir.

Buddy Lilley: Thank you for your time.

Mr. Thornton: You are more than welcome.

Pam Sandloop: Next speaker is Everette Brown. You can please state your name for the record.

Everette Brown: Mr. Chairman and Commissioners, my name is Everette Brown and I live on Bells Road. I am very much oppose to the filling of this lake with this dredge material. You know I have been in construction most of my life and I have worked in the farming industry. Mr. Horsley met me the other day, so certainly is nice seeing you again as well. The material that has been going in this way, in this lake, I have really do not believe that we are going to have good clean fill, certainly not sand. It's going to go back in this lake and I'm certainly concerned about the wells in the area. My family, I have most of my family still living right down in Bells Road and have been since the early 1960s. They still maintains wells. There are a lot of wells still on Bells Road. They may not use it for drinking water, but they certainly use it to water the gardens and water the lawns and some people still like their wells. Originally, when this property was purchased, there was a lot of talk that this property was being purchased because of the Southeastern Expressway, which has been an on again and off again project for many, many years. So I am very disturbed by the pretense that this property was purchased and then when we oppose the purchase of the property, we were told that it would be years and years and years before the City would ever do anything. Well, it has been a year and we are already there and which we knew was coming. The amount of traffic that is on Bells Road and Oceana Boulevard is really horrific, you know. If there is an accident on the northern portion from Bells Road, North Oceana Boulevard shuts down and all that traffic gets diverted down Bells Road right through the residential neighborhood. The speed limit on Bells Road is 35 miles an hour, it shouldn't be, it should be 25. It's a neighborhood, and people, when folks get on Bells Road, it's like a launch pad and they fly from one end to the other. Having more trucks, more City trucks, more dump trucks, especially hauling debris that has come from this dredging project, is going to be odorous and I certainly don't want to see it. Last thing that I have to say here is Mr. Redmond spoke, or maybe it was Mr. Frankenfield spoke, about that there was an expectation on the last thing that you all just listened to, of peaceful enjoyment of one's property. This property, the folks in this area already deal with the jets from Oceana and they already deal with the fire station on Birdneck Road. They deal with all the traffic from the base, and not just Oceana but Dam Neck. It's a cut through, anyway you look at it and I don't think burdening the people of this area with one more project is really conducive to good government. It's really unfair for the folks that live in this area to have to undergo these sorts of burdens. The folks that live just on the other side of this, which recently was made a part of the Seatack historic community, borders this property as well. And so you are all very concerned about that recently when there was a project proposed on Bells Road and I would hope that you would give this equal consideration. I certainly appreciate your time.

Mr. Thornton: Any questions for the speaker? Thank you.

Pam Sandloop: Milton Martin. Can you please state your name for the record?

Michael Kelly: Mr. Chairman, ladies and gentleman, I am actually Michael Kelly. I am the next speaker and I am speaking for Milton Martin as well. Thanks very much. This is actually a

conditional objection, I am the Vice-President for the Croatan Civic League and when we heard that there was a potential for sand could be available for the Croatan public beach, we of course are very anxious about that and that's simply a question of we don't know if there is sufficiency or cost effectiveness in utilizing that sand for Croatan Public Beach. So the question becomes; is there value there in maintaining that for use in the future? So that's our concern here is we hate to see a valuable commodity in our eyes, contaminated or at least being made unavailable in the timeframe, that's all I have to say about it.

Mr. Thornton: Any questions? Thank you sir. Mr. Adams, time for a rebuttal if you would care to?

Dan Adams: I can start with Mr. Lilley's comments. My understanding is that there was a sales agreement reached. The property was not condemned. He didn't say it was, but I didn't want anyone to feel like there was a condemnation action. It was a willing seller. The material is clean. It's soil. It's as clean as soil can be in that it's free of contaminants and hazardous materials. But you know, it is liquid dredge material. The nature of the activity; it's we feel like it is similar to the truck and hauling activity that occurred when the private operator was utilizing the facility for the borrow pit and sand mining operation. There are two water lines. There is City water available on Bells Road and on Credle Road to the neighborhood. There are three residents that are on wells, Mr. Lilley, Mrs. Braithwaite, and I believe Mr. Hutchinson. They are on wells. The recharge of the lake is from the surface water aquifer. Beneath that there is a confining layer and then there is the Yorktown Eastover aquifer which your wells are drawing water from. So there will be no contaminated material placed in the lake. But if there was a large amount of contaminated material, it's not likely that it would transmit from the surface aquifer down to the drinking well aquifer. Mr. Kelly's comments that this project will preclude our ability to re-nourish Croatan Beach. There are commercially available sources of sand. Our intention for the Croatan Beach project is a sand haul from a commercial sand pit. There is, we believe, some sand leftover in the Lilley pit, but we are no longer operating that and intend to operate that as a sand mining operation. The way that was operated, it was somewhat unique. It wasn't dewatered, mined, and dried like a lot of sand pits. They hydraulically mined the material. Whether or not it's cost effective for Croatan we would have to consider that the bulk of the cost is in hauling the sand and in extraction. Not so much the value of the material itself. But for us to explore this, we would have to do some extensive and expensive geotechnical work to determine the available amount of material. We would have to reconstitute the permit with the State to operate the borrow pit as a mining operation that's been closed. We have to find a contractor or purchase as a hydraulic dredge just to extract an amount of material for a single project. We don't believe that's cost effective at all to delay using this for a dredge material management area for Croatan. There are other commercially available sand sources for that.

Mr. Thornton: Any questions for Mr. Adams? Jack?

Mr. Wall: What kind of, is there permitting involved that the City has to go through with the State for this type of operation?

Dan Adams: There are for any activity like this, there are environmental permits to be cleared. We are getting jurisdictional determinations from the permitting agencies. The local wetlands board has replied back, there is no jurisdictional issues, no permit required and we have heard from, I believe, DEQ. We are waiting on DEQ and their feedback from the Corps. We have been told that they are going to issue a letter of no permit required. The reason is, it's not connected to

state waters which is why this is such an ideal location for dredge material disposal. The Whitehurst pit down the road was connected to state waters, so we had were issued two permits; one for impacts to fringe wetlands from the Corps and then the DEQ permit was for water quality. We are doing extensive water quality monitoring at that site because the water does discharge and drain out into the Linkhorn. But this is going to be a contained site, when we fill up over time, material is going to settle down to the bottom over time, it is going to cover the bottom. It's going to reduce the amount of recharge. The water surface elevation will actually be lower, so we are not proposing any dewatering and there are no environmental issues.

Mr. Thornton: I have got a couple of questions, the water that's in that lake now is coming from the ground and rain, the combination of the two?

Dan Adams: It's spring fed. There is very little surface area that is directed to the pond itself. It's on a ridge, it's fairly flat. There is some, but what maintains the normal water surface elevation is the recharge from surface aquifer.

Mr. Thornton: As you put dredge material in the bottom of the lake, will that stop the spring from filling the lake up or does it come through that material?

Dan Adams: It will come through for a period of time, but as we fill the depth, it will cap that.

Mr. Thornton: Eventually it will stop the water coming in. Now the other question is when you bought this property from Mr. Lilley, was there any conversation, or you may not know, but I mean, his house is right at the backend of that lake. Is what you are going to do radically different in what's been done and going on in this lake for years in terms of; they have been taking sand out with equipment and now you are going to put stuff back in, is there any major difference between those two operations in terms of noise and you know nighttime operations, daytime operations? If he continues to live there, is this any different in what's been going on for years there?

Dan Adams: I believe it is similar in nature, with some of the noise and activity. The only issue we have discussed that's dissimilar would be the nature of the material. When we do finally break the surface and we are in the final stages of filling dredge material that comes from tidal dredging, it has an odor that could be present while it's drying. When it's under water, there are no odor issues or concerns, but during that period of drying for the final filling, there could be a smell of low-tide.

Mr. Thornton: But you are talking about several years, aren't you? I mean, you are not planning on filling this lake up in the next couple of years. You answered earlier that it might be a 20-year process, so in the dredge material that's coming out at the river, is not going to be visible or have an odor for a while?

Dan Adams: We will be developing, like we did for the Whitehurst pit, a dredge management plan and part of that plan could be that when we are in the final stages of filling, we break the water surface and the material is open for drying to only allow material from the stormwater projects for the final placement. That should mitigate most of the odor issues.

Ms. Kwasny: I just wondered at what point in the process does that occur and how does that happen that you can make that kind of equation?

Dan Adams: We did that for Whitehurst and it was after we get through the approvals and the permitting we got a work order with an engineer to develop a dredge management plan. Then over the 10-20 years it takes to fill it we will operate under that plan. During the final stages we will do a final grating and disposition plan to walk away from the site and grade it, so there aren't any drainage or other issues and stabilizing.

Mr. Thornton: Don.

Mr. Horsley: In terms of traffic, you know, hauling out sand, you know, there is truck traffic and dump truck traffic can get pretty thick. What in terms of filling back, how many trucks do you think, I mean the dredging process is a lot slower than excavating sand, I would assume, isn't that true?

Dan Adams: It is, so the trucks from a single project, the frequency of the trucks are, peak efficiency is about 15 minutes apart, it is a function of how fast they can offload the material at the offloading site. They are one truck at a time, but we may have multiple projects using the facility, there could be higher intensity than that. One of the reasons why we need a secondary facility is, we do have a pretty high level of hauling activity at the Whitehurst pit, so we are going to take half of that activity and move it over to Oceana to spread that out or move it over to the Lilley Pit to spread that out.

Mr. Thornton: Jeff.

Mr. Hodgson: If this doesn't get through and you said you want to move something from Whitehurst pit, do you have a backup other than this in place or was this the backup?

Dan Adams: This is the backup to the Whitehurst pit.

Mr. Hodgson: Is there another potential backup there?

Dan Adams: Not in the planning stages, but that's going to need to occur at some point in the future and that's going to be a function of how much capacity and life expectancy we get out of these two facilities.

Mr. Hodgson: So that would be very long term?

Mr. Thornton: The material being under water, in other words, you start, you take it out of the Lynnhaven, you carry it over here, you put it in the lake, it all settles down into the bottom of the lake. How long will it be before it's above the water of surface, I mean, you are talking 27 feet deep and with 10 or 12 acres of lake, a lot of cubic yards of material can go in the bottom of this lake. How long before you get to the top of the water?

Dan Adams: We are talking a couple of decades.

Mr. Thornton: Couple of decades. Will you put this in the lake in any one particular place or do you just take the truck and spread it out along the outside?

Dan Adams: Initially we intend of having two or three offloading locations just to separate the trucks so they can operate independently. You could use one site because it's going to spread to the bottom, it's very fluid. Then down the road, when we begin to reach capacity and it breaks the surface, we alternate and add additional placement areas to allow for consolidation

and drying, manipulation of the material to get maximum compaction, and density, and fill volume and we are in that phase at Whitehurst.

Mr. Thornton: And that's two decades away?

Dan Adams: Yes.

Mr. Thornton: Okay, Jeff?

Mr. Hodgson: Do you have to go to capacity or could you stay below the water line by couple of feet so that you could control the odor in the drying process?

Dan Adams: We could. There might be other issues with the shallow water body, other water quality issues, and concerns with that. If it's not spring fed, it's a very shallow water body that isn't desirable for a host of reasons, yes.

Mr. Thornton: Dee?

Ms. Oliver: Since there is only three houses that don't have access the city water, is that correct in that area? If by chance, I know you said that it was slim, that the ground water gets contaminated with this process, what is the availability of city water to these other three houses?

Dan Adams: That's a good question. I mean water could be extended to those three houses but it doesn't meet the utilities definition of being available because there is not a water main fronting those parcels. And even if there was a watermain front along Oceana Boulevard, the distance of Mr. Lilley's dwelling is so far back where it wouldn't be a mandatory connection requirement. But you could run a oversized water service line from the existing city mains. There would be easements need to be obtained because there is no direct right of way with a water main existing that currently serve those properties. It can be engineered and it could be done, but the water is not currently available to those three properties with the direct connection.

Ms. Oliver: Because, I mean that's a real concern, I mean you can say it is not going to happen, but if it does, then these three families are without.

Dan Adams: There is a way water could be extended, but it's not currently available.

Ms. Oliver: Because that would probably be something that you might like to look into, maybe a little bit further just for the protection of those three families.

Dan Adams: Water main runs down Bells Road, to Oceana, and loops into the neighborhood.

Mr. Thornton: Mr. Weiner has a question for you.

Mr. Weiner: No, I am trying to know where exactly is Whitehurst pit.

Dan Adams: It's about half a mile north of this side on Oceana Boulevard. The same side of the road, if you know where the radar domes are, directly across the street.

Mr. Weiner: Okay, okay.

Mr. Thornton: Were you involved in the acquisition of this or was it done through the city attorney's office?

Dan Adams: No sir, I was not involved. I believe it was done through the city attorney's office and Public Works Real Estate.

Mr. Thornton: I would like to ask the owner, the former owner a question when we are done. Any other questions for Mr. Adams? Jack?

Mr. Wall: Is there any baseline water quality testing on the water, not on the lake water, but on the potable water that services the three home owners?

Dan Adams: I believe we could, yes. I think the service was offered to citizens currently but we could certainly see that and document that.

Mr. Thornton: David Weiner?

Mr. Weiner: One more question. Over here going back to Whitehurst pit, I am looking at it here on Google maps and you have got Beautiful Street that comes off of southern Birdneck. Because houses are real close to that pit. There are some businesses. How long have you been doing Whitehurst pit now? How long that has been going on for?

Dan Adams: I must say, probably this is the fourth year of operation, maybe longer, about four years.

Mr. Weiner: Have you not had any complaints or concerns from any of the neighborhoods around there?

Dan Adams: None that I am aware of. There is one concern we have had. It's been ongoing with the four-wheelers utilizing the site after hours. It's been a cat and mouse game. We have notified police, asked for their assistance and they have done flyovers and patrols and that is the, that's been a problem.

Mr. Weiner: But I mean no water issues, no smells, no, nothing like that?

Dan Adams: No, no tracking mud on the roadway, no other concerns. No concerns about the city operation.

Mr. Weiner: Perfect, okay.

Mr. Hodgson: Why again cannot you keep using a Whitehurst?

Dan Adams: We can, we are going to continue to use it.

Mr. Hodgson: But why using not that exclusively, why do you need the second one right now?

Dan Adams: Because the number of projects we have that are in the queue to use it are backing up. We don't have enough areas to offload and we have to alternate use of the offloading facilities to allow the material to dry and consolidate, just not enough room at the inn basically. It's going to have a useful life probably maybe another 10 years of operation and then at that time, then we are going to be looking for the next generation of dredge management areas to keep supporting the programs.

Mr. Thornton: Any other questions? I think we are done with questions, but I would like to ask Mr. Lilley a question if he would be so kind enough to come forward? When did the City buy this lake from you again?

Buddy Lilley: The whole thing started about three years ago. There was a problem of who was going to pay for it and we were shut down. At the time Baillio Sand Company was working there. They were shutdown and we went through a pretty close to three-year program of excuses why we couldn't get no money and I had a meeting with the mayor before the sale. I said, let me out of this, will work something out for the city on the front part for the expressway and it was three years finally on my third lawyer, the City finally found some money. Now during that time, they told Mr. Andy Fox from Channel 10 that BRAC money was going to be used to buy the pit with as you know, that's a no-no. That's not even legal. Somewhere around that time, Waste Management managed to come up with the money and I can neither deny nor confirmed that this money that supposed to have gone to help Kempsville and Windsor Woods, as you all know that's been flooded terribly. I cannot deny or confirmed that. This is what I was told by little bird, so take it with a grain of salt.

Mr. Thornton: When they negotiated this contract with you, did they tell you what they were going to do with this?

Buddy Lilley: They didn't specify they were going to be a dump like we were doing. We were doing reclamation, which is putting back dirt, clay in area that's already been done. We had a permit and we were governed by the state. They checked us every month what we did there. Later on after I had done signed the paper, I really found out when the late Mr. Baillio assured us that everything was fine. But it was some nasty stuff gonna be put into the pit and that it was downhill from there. I went to see the Mayor to try and renegotiate and makes sure the city still kept the piece front for the Southeastern Expressway and they wouldn't even talk to me sir.

Mr. Thornton: So you are putting material back in there when...

Buddy Lilley: We were putting material back in, inert, could be dirt, clay and again we were checked constantly by the State. Mr. Shaffer, I believe that's his name was our inspector, a mining inspector who kept tabs on everything there.

Mr. Thornton: Okay, so what they are going to do, you are also doing to a degree, it was just different material?

Buddy Lilley: Just different material, yes sir. We had no intention of filling the whole pit. We were going to the end towards the Oceana Boulevard. If you look at the map where we have been filling, we were going to fill that across and add a couple of acres of land to the piece across the front, in the event the Southeastern Expressway did not go through. The City would have, whoever owned it that time, would have a road front plus a few acres in the back.

Mr. Thornton: Okay, thank you. Any further questions for Mr. Lilley? Thank you so much sir.

Buddy Lilley: Thank you very much for your time and some of your folks here asked some really good questions. I appreciate it.

Mr. Thornton: Thank you. If there are no more speakers, we will close the public portion of this and debate amongst ourselves. Anybody have any comments, concerns, questions, motion?

Mr. Weiner: I will start. With the Whitehurst pit going on now and there are no concerns, the same material is going to go down there. I am sure our people are smart enough to do research and testing. They wouldn't go through of this if there wouldn't be testing, I do have concerns about the people there. The three residents there not being on city water. And then again, I really don't have a concern about it, but kind of on the fence about that, but I would go to tend to support it.

Mr. Thornton: Dee?

Ms. Oliver: I do, that's the one concern I have is that something happens to the well water and I want to make sure that there is a provision maybe put in there to make sure that they don't have a problem hooking up the city water. That's my main concern with that because it's just small, it's not an entire neighborhood. It is three houses and even if it's only one house, not being able to have clean drinking water if something happens, and it might not, it might be just nothing ever happens, but I don't want them to get caught in a lot of paperwork.

Mr. Weiner: I guess, personally that's why I am on the fence because I don't know enough about that.

Ms. Oliver: I don't either.

Mr. Thornton: Well the truth is, they are on wells. The truth is, if the water is contaminated, they cannot use it anymore. So that's either going to not be a problem or is going to be a terrible problem and only time will decide whether that's a problem. But what I would like to ask Mr. Adams is, is there any way you could guarantee or warrant to us that if that water ever became a problem, you all would run a water line back? Because that's, I don't know how long it is, but that's thousands of dollars to put in water pipe to serve these people. I know it cost me \$1200 to run a 75-foot line in my front yard so this is probably several thousand dollars or more to get it back there. What would happen if these folks came to you one day and said our water is now not drinkable? Would you all participate in putting a water line back there or would you say sorry, it's your problem?

Dan Adams: I hope we reach out the Public Utilities to find out that what they have available for testing. So we can get the water tested and get a baseline and then perhaps do some routine testing and monitoring to check on that. Also speak to Public Works about the ability to provide water service to these houses, should this happen. And it would require obtaining an easement from the adjacent property owners to run a water service line which is possible. But yes, we can commit to exploring all of those remedies should contamination happen. But again it's highly unlikely given the separation of the aquifers and the fact that we have no known contaminated material sources coming from our projects.

Ms. Oliver: It's understood, I think, it's a nice reassurance. We will go forward into the future with these projects.

Dan Adams: And if our operation was responsible for fouling the wells, I would certainly think that the city would incur the expense to obtain those easements and extend the services.

Mr. Thornton: Don, and then yeah, Karen.

Mr. Horsley: Yeah, I think that's a little bit of assurance that the residents would have, you know, and I'm like you, I don't think it is going to happen. Not from the filling of this borrow pit because you know I have experience with digging holes, and ,whenever it fills up from the top,

not from underneath, when once it seals off at the bottom, you know. I would imagine the water table, you know, aquifer is probably 90- 100-feet I would guess, but I am not too sure. Where we live and where we are, we on shallow water. I mean, we cannot find deep water where we are, you know, we're on that nasty water if you want to know about that. We would like to have city water out there where I am to be honest, you know, but water aquifers are very funny. You can go 20-foot one way and you can get into another aquifer and you get excellent water and just depends upon where you are. But I just think that this is a thought process that has been going on and I don't think you can find a better group to monitor it than our local officials and it's something that has to take place. I mean, we got to find the home for this, if we are going to keep our water ways clean and dredged out, you know, we got to find the home for the material and with the monitoring and all it takes place by the government, you know I feel comfortable with it. And with the assurance of the city that they would do something if for some reason they cause these wells to go bad you know I will support the application.

Mr. Thornton: David.

Mr. Redmond: Just to be the skunk at the garden party, because that's I kind of, that's me. I don't understand this concerns about the wells. I mean this pit has been operated commercially for very long time. I don't know what about, what the city is talking about, would be substantially different obviously, if there were some sort of damage, then you know, you want to make sure that these owners are taking care of, but this, as the gentleman indicated, they have had material taken out, they have had material put in for decades. And I don't know, I just don't know why I would tend to believe that there is going to be something deleterious that would occur to their wells because we are putting river material in there and I just don't see it so, anyway, I am not concerned by that.

Mr. Thornton: Okay, Karen do you want to say something?

Ms. Kwasny: I just want to make sure that when we talk about some kind of condition or assurance that the language is to address the issues these families may face, so for instance, he said that he would work to get a baseline of water quality and then assure that they would commit to exploring remedies. So what you are really looking for is assurance that if these people have an issue, it will be addressed. If an issue arises, it's more than exploration that you are looking for, right. You don't want them just to explore a remedy, you want them to explore and then apply a remedy. So that needs to be part of whatever language is included in it, that it's not just exploring a remedy that the people will then have to pay for them on their own. You had asked a question, Jeff, earlier so I also thought that the dredge management plan that you mention could be applied to only allow for material for stormwater management at the point of fill, right, I think that's the way you put it. I don't know how, I have just kind of a question for you, again sorry I bring you back up, but how would you, you didn't necessarily answer for me how we would know that that could be assured? So that when you get, you said you would also explore that and that would be part of something down the line and I just wanted to feel, I don't know.

Dan Adams: Well one of the conditions is that we are going to develop the fill plan. We don't go into detail of the elements of the plan but we absolutely are going to develop a fill management plan.

Ms. Oliver: Right, that would include that it would only be from stormwater management ponds that would go in at the point of fill. Is that what we were talking about?

Dan Adams: At the point of closure, if there are complaints about odor, we could restrict the source of material that's causing the odor.

Ms. Kwasny: So kind of means being ever diligent on it to make sure that it occurs, I am still wondering how...

Dan Adams: But you know, Mr. Horsley can attest to test this, earth has odor to it when you till it up...

Ms. Kwasny: Well, I know that too.

Dan Adams: And I don't believe that this material is any stinkier than organic material that has some manure in it that's been excavated from a construction site...

Ms. Kwasny: So once again, how does that go into the dredge management plan for sure? How do you assure that that goes into the plan; that it's only stormwater management pond material because you said that's what you look for, so I am still wondering. It sounds to me like kind of now you are rolling back that that's not, it's not necessarily what would happen, it's just something that might be considered.

Dan Adams: I guess, my response is, I think the odor concerns, I think is overstated. We haven't had any odor complaints from our Whitehurst operation. We had a dredge transfer operation in Thalia behind Thalia Middle school and a public ball field, no concerns about odor. There was no tracking of material. We have had a transfer facility constructed in the Church Point neighborhood and we have not had any concerns. We have had a lot of concerns before the project from people concerned about odor and what not, but during the operation, we have not had any complaints about odor.

Ms. Kwasny: So you don't know whether you would include that or not?

Dan Adams: If you are asking should it be made a condition of the conditional use permit, we can discuss that and talk about how the appropriate language to put that in there. I am very careful about not precluding ability to use it for navigation.

Ms. Kwasny: So you might have that part of the condition.

Dan Adams: So that's the reason why we were here, the main reason why we were here is to be able to support that program. We have to have a place to dispose of this material and you know we try to get them as far away from the residential concentrated areas as possible and this is almost as good as it can get as far as a facility for this purpose.

Ms. Kwasny: I would like to have some language in there and the condition; however, you put it in there, and I also think that the language needs to be strengthen to address Dee's and Bob's initial concern. And I also had a question about flooding, because I think Jeff had asked that earlier and this gentleman mentioned something about flooding at the back of a lake and I just wondered to what degree is that a concern, and to what degree is that considered the flooding, can you address the question of that?

Dan Adams: Whatever drainage issues had been ongoing, we are not changing the characteristics of the surface of the area. We are not adding impervious area. We are not changing the contours of the ground until we do the closure plan and we close the facility and grade it to drain. But during dredge material disposal operations, we don't expect any overflow from the site.

According to Mr. Lilley, there was only about that concern he could site; there was one instance of a storm event where the lake did overflow when there was some adjacent property. So we discussed that this morning, one of things we are going to address early on in our fill management plan is raising the berm on the east side where that overflow occurred that's the lowest corner of the property. We will do some initial filling to get enough material to raise that elevation and create containment berms, so those are types of things we are going to put into the management plan.

Ms. Kwasny: Got it, okay.

Mr. Thornton: Jack.

Mr. Wall: Got a couple of things, one is you know maybe it have been mentioned before but the, at the closure of the facility because we already discussed, I think the whole plan as you know, the dredge material on bottom, maybe some stormwater on top, you know when it's reaches the top of it; but like what's the ultimate end of life, you know, once you are done with the facility, you know, it's filled.

Dan Adams: I don't know what the ultimate land use disposition would be, but when we are done using it for this purpose, it would be graded to drain, meet all drainage ordinances, and requirements and stabilize. And then the following use would be a future action.

Mr. Wall: Future action in the city.

Mr. Thornton: One of the things that I will point out to Karen, pulling water and bottom out of the Lynnhaven river is probably cleaner than cleaning out BMPs. They have hydrocarbons in them, oil from cars go into those things.

Ms. Kwasny: I didn't mention that.

Mr. Thornton: So when you take care of stormwater management, you are cleaning out a dirtier place than you might be if you are cleaning out the bottom of the Lynnhaven River.

Ms. Kwasny: Okay, and I don't know why that would have been offered as an option?

Mr. Thornton: Well, it's an option because they got...

Dan Adams: Because the concern was about the odor that was being addressed. That's one way they address the odor concern. But they do test the material from the stormwater projects. They test them for whole host of scary things and the arsenic, barium, lead, and hydrocarbons and from every project that's been tested, the elements that were not detectable or within regulatory acceptable limits...

Ms. Kwasny: Those would be advantageous?

Dan Adams: They wouldn't be advantageous for that reason, but they wouldn't have, the concern was I guess odor from the material from tidal dredge., But I have said that the general fill that's already been placed there, we are more likely to encounter contaminated fill from general construction projects, road projects where there was a fuel station, or a dry cleaner facility, but we just don't have those near our stormwater facilities or water ways that we are dredging.

Mr. Thornton: Other questions? Thank you. So do we have a motion? Any, Mike?

Mr. Inman: I would make a motion that we approve the application subject to an additional condition as follows that the city shall provide city water facilities to adjacent property owners in the event that appropriate, continuous testing of the ground water would reflect a need for an alternative drinking water source, maybe drinking water is not the right word.

Barry Frankenfield: He can repeat it and I will get trouble perhaps, but the likelihood of us warranting, guarantee anything like that will happen, it's not going to happen on the City Council side. And Dan and I have personal experience with Burton Station where to guarantee water and sewer connection we had to go to City Council to get special permission because of the conflict with the utility bonds and the use of public funds and public right-of-way. So the expectation of requiring this is unlikely and as planning staff, we would not support you adding that condition. Pretty blunt, I apologize but I appreciate where you are going. I think you have, you know, it is certainly a valid concern and it's unlikely that the Council would support binding a future Council. There are numerous reasons why we don't support your condition. It's hard for me to say that but I am saying it.

Ms. Thornton: Jack.

Mr. Wall: Condition possibly be that's upon request of those that are on the well, these three home owners that the city would conduct baseline water quality testing of their, could that be acceptable?

Mr. Thornton: Just providing the testing?

Mr. Wall: Just the baseline, that's all, just to understand what the existing well.

Dan Adams: I will have to get, run that by the director and see if he is in support of that but it sounds reasonable.

Mr. Thornton: That way we know what it is now. I have got one more question for you I think. You have been putting material in here since you have owned it?

Dan Adams: No sir, the city has not putting any material into it, but it was originally excavated as a rectangular area and then it was expanded to the south and then the area to the north where (referring to a graphic of the site) you see the City of Virginia Beach called out in that area had been filled by the prior operator and owner with general construction fill.

Mr. Thornton: With general construction fill.

Dan Adams: I don't know what it is, actually to tell you the truth

Buddy Lilley: Negative, it's got to be dirt, clay, all inert.

Dan Adams: If it was tested or what it consist of, I have no idea.

Mr. Thornton: I will get back to the point. You feel like you can get if we put a condition on you, to do baseline water testing, is that something you can reasonably agreed to?

Dan Adams: Definitely would seek approval for that.

Mr. Thornton: Looks like that's the best we are going to get today Mike. Dave?

Mr. Redmond: Can I just say, I think we have gone too far with this. I don't know where the doomsday scenario is coming from that these wells are going to be fouled. I just, I don't know why we would assume that.

Mr. Thornton: Nobody is assuming. That's the possibility [Crosstalk].

Mr. Redmond: I don't know what would lead us to believe that that's a possibility other than that we kind of made it up out of thin air and I have support with this baseline water thing, but I think we have spent now half an hour coming up with the scenario that none of has any real confidence or should have any real confidence in believing it's going to happen, we just kind of cooked it up.

Mr. Thornton: Well I don't know I agree with you, but I think we need to call for the question and have a second and hit the buttons. So do we have a motion to approve with a condition that our director says he cannot support. So that means we have to modify our motion to either basically accepted the way it is and trust that the city will do their best to do some testing. That seems to me to be where we are with this, so I will make a motion to approve this as submitted and then we will call for the question, is there a second?

Mr. Redmond: I will second.

Mr. Thornton: Dave seconded. We have a motion and we have a second.

Mr. Horsley: What we are voting on? [Crosstalk]

Mr. Thornton: My vote is to approve the application, we have a second and trusting that Mr. Adams is going to do what he can do to get his department to do baseline testing on this water.

Ms. Oliver: That has to be a part of it, doesn't it?

Barry Frankenfield: That's not a condition, we are adding.

Mr. Thornton: Anybody not understand what we are voting on?

Beverly Kay Wilson: Do we have a second?

Mr. Weiner: Yes, I second.

Pam Sandloop: Thank you Mr. Weiner. Mr. Hodgson?

Mr. Hodgson: It's not working.

Mr. Horsley: You broke it.

Pam Sandloop: Can I get through the verbal vote? Commissioner Inman?

Mr. Inman: Nay.

Ms. Oliver: Wait, I want to change, I hit the wrong one.

Pam Sandloop: We are going to try it again.

CONDITIONS

1. No filling of the borrow pit shall be permitted without first obtaining all necessary permits from Federal, State, and Local agencies required.
2. A fill plan shall be prepared that addresses all Federal, State, and Local agency requirements.
3. The existing vegetated buffer along Oceana Boulevard and along the southern property line shall be maintained.
4. Access to the site and filling of the pit shall be consistent with the submitted plan entitled, "BAILLIO SAND PIT EXHIBIT 1 FOR CITY OF VIRGINIA BEACH," by Waterway Surveys & Engineering, Ltd., dated March 12, 2018.
5. Only inert, non-hazardous, non-toxic materials shall be deposited on the site, and shall not include wood, asphalt, concrete, or other construction debris.
6. Dust control measures shall be implemented.
7. Typical operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday, unless emergency hours are authorized by the City Manager.

A motion was made by Commissioner Thornton and seconded by Commissioner Redmond to approve item 7.

	AYE 6	NAY 3	ABS 0	ABSENT 2
HODGSON		NAY		
HORSLEY	AYE			
INMAN		NAY		
KWASNY	AYE			
OLIVER		NAY		
REDMOND	AYE			
RIPLEY				ABSENT

RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Pam Sandloop: We are going to try it again. Just bear with us, we are going to try and open a new vote and see what happens? Okay, vote is open. By the recorded vote of 6-3, agenda item number 7 City of Virginia Beach has been approved as submitted.

Item#8

Nicholas M. and Sarah H. Nestor
Conditional Use Permit (Community Boat Dock)
1329 & 1333 West Little Neck Road
District - Lynnhaven

May 9, 2018

DEFERRED

Mr. Thornton: Thank you Mr. Redmond. The next order of business is to address those items to be deferred. Today, we have three items that will be deferred, I think three, three, the first item is item number four, is there someone here to speak on item number four, it has been brought to chair's attention, is there any opposition to this matter being placed on to be deferred, hearing none, Kay can we vote on these three at one time or each by itself?

Beverly Kay Wilson: You can vote on all three just make sure if there is anyone that have a different time period.

Mr. Thornton: So there is no one here for item number four to speak on this matter. The next item that we have been made aware of is item number eight, this is an item for Nicholas and Sarah Nestor, is there anyone to speak on this matter, is there any opposition to this matter being placed on the deferral agenda, hearing none and then the last item is item number D2 an item with John and Karen Waller, welcome.

Eddie Bourdon: Thank you Mr. Chairman, for the record Eddie Bourdon, the Virginia Beach attorney representing the Wallers and we do consent to the deferral and we expect to be back next month.

Mr. Thornton: Thank you sir.

Eddie Bourdon: Thank you.

Mr. Thornton: So we have three items on the deferred agenda, item number four, item number eight, and item number D2, do I have a motion to defer those items.

Ms. Oliver: Yes Mr. Chairman, I would like to move that items number four, eight and D2 be deferred.

Mr. Thornton: Second.

Mr. Horsley: Second.

Mr. Thornton: Mr. Horsley second, calls for the question.

Pam Sandloop: By vote of 9-0, agenda items four, eight, and D2 have been deferred for 30 days.

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

Item#9

Northampton Development, LLC

Conditional Rezoning (R-5D Residential District to Conditional B-2 Community Business District)

**Property located on the north side Northampton Blvd, adjacent to and east of Premium Outlets Boulevard
District - Bayside**

May 9, 2018

APPROVED - CONSENT

Ms. Oliver: Thank you very much. The next matter is agenda item number 9, Northampton Development LLC; this is an application for conditional rezoning R-5D Residential District to Conditional B-2 Community Business District on the property located on the North side of Northampton Boulevard adjacent to & east of the Premium Outlet Boulevard in the Bayside District. Hello.

Eddie Bourdon: Thank you Madam Vice Chair, Mr. Chairman, members of the Commission, again for the record Eddie Bourdon, Virginia Beach Attorney representing the applicant, with me also today is Mr. Billy Milligan with the Livas Group who is the architect on the project and also representing the project. I want to thank Mr. Frankenfield, Kathy Warren at the SGA office and Mark Shea for their work with us on this project and greatly appreciated being on the consent agenda, proffered rezoning with the proffers, that's you all will be approving. Thank you.

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

Mr. Redmond: Mr. Chairman, the applicant proposes to develop an approximately 250,000 square foot commercial shopping center on approximately 33 acres of land, there is a property zoned R-5D Residential District which only permits residential uses, the rezoning has required in order to develop the site with retail uses. The proffered conceptual site plan depicts a series of detached buildings along Northampton Boulevard and Premium Outlets Boulevard with surface parking proposed within the interior of the site, there are five points of vehicular access including a connection to Tolliver Road which is currently under construction. The right-in and right-out connection on Northampton Boulevard and three ingress and egress points along Premium Outlet Boulevard in Norfolk. Any development project of this size and complexity is bound to be second guessed, in the end, the Commission agrees with staff that "B-2 Community Business District is the most compatible, complementary, and efficient use of the land in such close proximity to the Outlet Mall." The staff obviously recommended approval, we are unaware of any opposition to this application and the Planning Commission concurs with staff's judgment consent, thank you Mr. Chairman.

Ms. Oliver: Thank you. Mr. Chairman that was our last item on the consent agenda and I would like to move that we approve items number one, three, five, six, nine, D1 and D3.

Mr. Thornton: We have a motion, is there a second?

Mr. Hodgson: Second.

Mr. Thornton: Second from Mr. Hodgson. We are ready to vote. Dave?

Mr. Weiner: Item number three, I need to abstain from that, the applicant is a client of mine.

Mr. Thornton: Okay.

Mr. Redmond: Mr. Chairman, I am going to abstain from agenda item number D3, I have a piece of property under contract with the applicant in another location.

Mr. Thornton: Okay, any other conflicts? None noted those.

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

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

Pam Sandloop: By recorded vote of 9-0, agenda items one, three, five, six, nine, D1, and D3 have been approved by consent. D3 approved as modified with Commissioner Weiner abstaining from item three and Commissioner Redmond abstaining from item D3.

Item#D1
BHC, LLC

**Conditional Rezoning (B-2 Community Business to B-4 Resort Commercial)
Conditional Use Permit (Multi-Family Dwellings)
3739 Shore Drive
District - Bayside**

May 9, 2018

APPROVED -CONSENT

Ms. Oliver: Thank you. The next matter is agenda item number D1, BHC LLC, an application for a Conditional Rezoning, B-2 Community Business to B-4 Mixed Use and a Conditional Use Permit Multi-Family Dwellings on property located at 3739 Shore Drive in the Bayside District. Hi.

Eddie Bourdon: Once again Mr. Chairman, Madam Vice Chair, thank you Eddie Bourdon Virginia Beach Attorney representing the applicant. We appreciate, first of all Steve Bishard principal is here with us this afternoon and we appreciate being on the Consent Agenda the Ocean Park Civic League has been briefed on this as well as the Bayfront Advisory Commission and we appreciate all the hard work of Mr. McNamara as well, thank you.

Ms. Oliver: Thank you. 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.

Mr. Redmond: Mr. Chairman, the applicant is requesting a Conditional Rezoning and a Conditional Use Permit to develop the property with six residential condominium dwelling units within two buildings. One of the buildings containing four dwelling units will front along Shore Drive; the existing curb cut along Shore Drive will be removed. The second building containing the remaining two dwelling units will front along Pendleton Avenue. The vehicular access to the site is proposed along the southern property line from Pendleton Avenue. All of the units will be rear or side loaded. The parking spaces will not be visible from the rights-of-way but rather will be located on the interior of the site; each of the three story buildings will be 35-feet in height. Each will either have a rear or side loaded two-car garage. The front façade will feature multi-level porches and exterior building material of cement-fiber board siding on the first and second floors and cedar vinyl shakes along the third floor. Board and batten siding is located on projections and gable ends. Colors of all materials would be a combination of earth tone colors indicative of coastal communities. In short, this is high quality development project, well-designed on a small and funky lot, which is not easy to do. Staff recommends approval and we are unaware of any opposition of this request and as a result, we have placed it upon our consent agenda, thank you Mr. Chairman.

CONDITIONS

1. Prior to final site plan approval, a Landscape Plan shall be submitted during the site plan review process that reflects the plant material and placement depicted on the submitted landscape plan entitled, "CONCEPTUAL PLANTING PLAN," dated December 1, 2017, prepared by WPL, and is consistent with the plant lists as specified in the Shore Drive

Corridor Plan. Said plan shall be submitted for review and approval by the Development Services Center Landscape Architect.

2. Any proposed fencing shall be vinyl and no taller than four (4) feet, with brick columns no taller than five feet, if adjacent to a right-of-way, and a fence no taller than six (6) feet if adjacent to private property.
3. Each unit on the site shall connect to City water and be served by a single and exclusive water service line and meter. An appropriately sized public utility easement within the rear drive aisle shall be approved by the Department of Public Utilities and recorded with the Circuit Court prior to final site plan approval.
4. Each unit on the site shall connect to City sanitary sewer and be served by a single and exclusive sanitary sewer lateral and cleanout. An appropriately sized public utility easement within the rear drive aisle shall be approved by the Department of Public Utilities and recorded with the Circuit Court prior to final site plan approval.
5. Prior to site plan approval, the existing five-foot landscape buffer easement and a one-foot no ingress/egress easement along Pendleton Avenue that was dedicated to the City of Virginia Beach via instrument number 2014100300093990 shall be removed, and a revised five-foot landscape buffer and one-foot ingress/egress easements shall be reestablished along the southern property line with the exception of the proposed entrance

A motion was made by Commissioner Oliver and seconded by Commissioner Hodgson to approve item D1

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

THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Pam Sandloop: By recorded vote of 9-0, agenda items one, three, five, six, nine, D1, and D3 have been approved by consent. D3 approved as modified with Commissioner Weiner abstaining from item three and Commissioner Redmond abstaining from item D3.

Item#D2

John S. and Karen S. Waller

Conditional Change of Zoning (AG-1 & AG-2 Agriculture to R-10 Residential)

2313 Treesong Trail, east and north sides of Treesong Trail

District – Princess Anne

May 9, 2018

DEFERRED

Mr. Thornton: Thank you Mr. Redmond. The next order of business is to address those items to be deferred. Today, we have three items that will be deferred, I think the first item is item number four, is there someone here to speak on item number four, it has been brought to chair’s attention, is there any opposition to this matter being placed on to be deferred, hearing none, Kay can we vote on these three at one time or each by itself?

Beverly Kay Wilson: You can vote on all three just make sure if there is anyone that have a different time period.

Mr. Thornton: So there is no one here for item number four to speak on this matter. The next item that we have been made aware of is item number eight, this is an item for Nicholas and Sarah Nestor, is there anyone to speak on this matter? Is there any opposition to this matter being placed on the deferral agenda? Hearing none, and then the last item is item number D2 an item with John and Karen Waller, welcome.

Eddie Bourdon: Thank you Mr. Chairman, for the record Eddie Bourdon, Virginia Beach attorney representing the Wallers and we do consent to the deferral and we expect to be back next month.

Mr. Thornton: Thank you sir.

Eddie Bourdon: Thank you.

Mr. Thornton: So we have three items on the deferred agenda, item number four, item number eight, and item number D2. Do I have a motion to defer those items?

Ms. Oliver: Yes Mr. Chairman, I would like to move that items number four, eight and D2 be deferred.

Mr. Thornton: Second.

Mr. Horsley: Second.

Mr. Thornton: Mr. Horsley second, calls for the question.

Pam Sandloop: By vote of 9-0, agenda items four, eight, and D2 have been deferred for 30 days.

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

Item #D3
Halle Properties, LLC
Conditional Use Permit (Automobile Repair Garage)
4300 Virginia Beach Blvd, 417 Thalia Road
District - Lynnhaven

May 9, 2018

APPROVED - CONSENT

Ms. Oliver: Thank you. The next matter is agenda item number D3, and this is an application for Conditional Use Permit for Halle Properties LLC, Automobile Repair Garage on property located at 4300 Virginia Beach Boulevard and 417 Thalia Road, located in the Lynnhaven District. Is there representative for this application?

Grady Palmer: Thank you Mr. Chairman and Vice Chair and members of the Commission. My name is Grady Palmer. I am an attorney and I represent Discount Tire. In this application and with the removal of condition number five, we are in agreement with all the conditions. Thank you.

Ms. Oliver: Great, thank you very much. 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. This is an application for Conditional Use Permit on the northwest corner of Virginia Beach Boulevard and Thalia Road in order to operate an automotive repair garage as the category is called. It's actually a proposed location for Discount Tire, which would construct a new facility on that site. The submitted elevation depicts a single-story building with brick veneer exterior. Brick accents are proposed in contrasting colors to provide architectural interest. Siding for the gables and dormers will be white 8-inch wide metal wall panels. The roof depicted as a gray standing seam metal roof with a 12-foot tall storefront windows. The conceptual landscape plan depicts street frontage plantings in excess of the minimum requirements of the zoning ordinance. In addition, the require foundation landscaping is depicted on the plan along the front of the building. An existing neighborhood sign for Thalia is proposed to remain on the property. This property has had in its zoning history an automotive repair facility in the past. There are 11, well, there are proposed 12 conditions. There will be 11 upon deletion of number 5, which has to do with the doors remaining closed, garage doors that are up on the facility which don't face any thoroughfare. So we have put it on the consent agenda since there is recommendation by the staff also for approval with the deletion of number 5.

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the submitted exhibit entitled, "AERIAL SITE PLAN DTC STORE VAB 11611 4300 VIRGINIA BEACH, VIRGINIA BEACH VIRGINIA", prepared by Kimley Horn, dated February 01, 2018. Said site plan has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. At the time of site plan review, a Landscape Plan reflective of the plant material depicted on the Landscape Plan entitled, "CONCEPT LANDSCAPE PLAN, DTC STORE VAB 11611 4300 VIRGINIA BEACH, VIRGINIA BEACH VIRGINIA", prepared by Kimley Horn, dated February 01, 2018, and meeting all of the requirements of the Zoning

Ordinance, shall be submitted for review to the Development Services Center and shall obtain an approval prior to the site plan approval. Said landscape plan has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

3. The architectural style and quality of materials used for the proposed structure to be constructed on the Property, when constructed, will be in substantial conformity with the exhibit entitled, "CONCEPTUAL ELEVATIONS, 4300 VIRGINIA BEACH BLVD., VIRGINIA BEACH, VIRGINIA", prepared by Architectural Resource Team, dated April 30, 2018. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development.
4. All automotive repairs and service shall be performed inside the building.
5. ~~All garage doors shall remain closed, other than for the maneuvering of vehicles in and out of service bays.~~
6. No outside storage of vehicles in a state of obvious disrepair, equipment, parts, tires, merchandise or materials shall be permitted.
7. All signage on the site shall comply with the requirements of the City Zoning Ordinance. Any freestanding sign shall be a monument style sign, no taller than eight feet, externally lit and have a brick base.
8. 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.
9. At the time of site plan review, a Photometric Plan shall be submitted for review and shall contain footcandle lighting readings for all areas of the site including the perimeter. Said plan shall also specify light fixture height, light fixture type, proposed shielding, and light dimming capabilities.
10. All light fixtures on the site shall be no taller than 14 feet in height.
11. All light fixtures shall be equipped with automatic photocell on/off and include dimming and or programmable dimming to dim the lumen output to 50%. The automatic dimming should be the manufacturer's standard but as a minimum shall dim to 50%.
12. No outside paging or amplified music system shall be permitted.

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

	AYE 8	NAY 0	ABS 1	ABSENT 2
HODGSON	AYE			
HORSLEY	AYE			
INMAN	AYE			
KWASNY	AYE			
OLIVER	AYE			
REDMOND			ABSTAIN	
RIPLEY				ABSENT
RUCINSKI				ABSENT
THORNTON	AYE			
WALL	AYE			
WEINER	AYE			

Pam Sandloop: By recorded vote of 8-0, agenda items one, three, five, six, nine, D1, and D3 have been approved by consent. D3 approved as modified with Commissioner Weiner abstaining from item three and Commissioner Redmond abstaining from item D3.