

Virginia Beach Planning Commission

Public Verbatim Hearing

July 11, 2018

Mr. Thornton: Good afternoon, I would like to call to order the July 2018 public meeting at the Virginia Beach Planning Commission. My name is Bob Thornton, I serve as the chairman. Before we get started, I have asked Don Horsley to lead us in prayer and followed by the pledge led by Commissioner Ripley, please stand.

Mr. Horsley: Dear Heavenly Father, we come to you today, thanking you for your guidance and wisdom, as we begin the 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 and 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 blessing on our deliberations and on our efforts here today, Amen. [Group Pledge].

Mr. Thornton: Thank you commissioner Horsley for the prayer and thank you commissioner Ripley for the pledge. I have asked Commissioner Hodgson to introduce the planning commission members.

Mr. Hodgson: Thank you Mr. Thornton. To my far right, your left is our city attorney Kay Wilson, beside Kay is Jack Wall. Jack is a civil engineer and he represents the Rose Hall District. Next is Dr. Karen Kwasny. She is a professor of literature and cultural studies and she represents the Princess Anne District. Next is Don Horsley. Don is a farmer in Princess Anne and he is an At-large member. Next is Ron Ripley. Ron is in real estate management and development and he is At-large member. Our secretary of the commission is next as Jan Rucinski. She is a property manager and she represents the Centerville District. You have met our chairman Bob Thornton, Bob is in commercial real estate sales leasing and development and he represents the Lynnhaven District. To my right is an empty seat, which is usually our vice chair Dee Oliver, she is an At-large member and funeral director and Dee is out today dealing with illness of a family member and we would like to keep her in our thoughts and prayers today. My name is Jeff Hodgson; I represent the Beach District and I am in real estate development. To my left is Mike Inman, Mike is an attorney in real estate development and he is an At-large member. Next is David Weiner; David is in commercial sales and he represents the Kempsville District. Next is Dave Redmond, Dave Redmond is in commercial real estate, and represents the Bayside District and beside Dave is our planning director Barry Frankenfield, and Barry if you would please introduce.

Mr. Frankenfield: Hey thank you very much. To my left, we have a lot of staff here today, Pam Sandloop and Dalina Cartwright are managing your votes and your minutes. On the planning bench, we have Kevin Kemp, Carolyn Smith. I don't know where she is but I'm sure she'll be back. Jimmy McNamara, Jonathan Sanders, in the back row we have Kathy Warren, Lane Winesett, Emily Bazemore, Marchelle Coleman, Kristine Gay, and we have our steam traffic engineer with us today Rick Lowman. Thank you very much.

Mr. Thornton: Thank you Barry, one of the things that's a pleasure in the summer to see is we have interns it works with the staff during the summer and it's nice to look at and see some nice young smiling faces of folks that are in college learning how to be planners, so welcome interns. The first order of business is the explanation of the rules that we use to run our meetings, commissioner Rucinski, the secretary will explain these rules for us.

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

Mr. Thornton: Thank you Jan. The next order of business is to address those items to be deferred or withdrawn. Are there any items that an applicant would wish to defer or withdraw at this moment? The chair is aware that the following items have been requested to be deferred. Those are items number seventeen, nineteen, and twenty. They are items that were brought to us by the city of Virginia Beach in the form of ordinance revision. Is there any opposition to these matters being deferred? Hearing none, may I have a motion to defer items number seventeen, nineteen, and twenty?

Mr. Horsley: Motion.

Mr. Thornton: Motion by Mr. Horsley, second.

Ms. Rucinski: Second.

Mr. Thornton: Second, we got that, ready to vote.

Ms. Cartwright: By the recorded vote of 10-0, items number seventeen, nineteen, and twenty have been deferred.

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

**Item #1**

**Nathan Hinch Waicunas  
 Conditional Use Permit  
 1332 Stringfellow Court  
 District- Kempsville**

**July 11, 2018**

**CONSENT**

Ms. Rucinski: Thank you Chairman Thornton, the first item on the consent agenda of the ten that we have today is Item Number One which is Nathan Hinch Waicunas. An application for a conditional use permit home occupation, retail sales on property, located at 1332 Stringfellow Court District Kempsville. Is there is a representative for this application? Come forward. Are the conditions acceptable to you?

Mr. Waicunas: Yes ma'am.

Ms. Rucinski: Right, thank you. Oh sorry, state your name for the record.

Mr. Waicunas: It's Nathan Hinch Waicunas. So it's kind of a wacky name.

Ms. Rucinski: Thank you very much. Is there any opposition to this application being placed on the consent agenda? Okay, you can have a seat. Okay, so since we have no opposition, the Chair has asked Commissioner David Weiner to read this into the record.

Mr. Weiner: Thank you Ms. Rucinski. This is a conditional use permit for home occupation sales for firearms. The applicant is requesting a conditional use permit for home occupation for retail sales in order to sell firearms and related accessories from a single-family dwelling. The applicant proposes to operate as a Federal Firearms Licensed dealer with five hand-to-hand sales transactions per month. The applicant will complete the required state and federal background checks before transferring the firearm to the buyer. The items will be stored in a secured steel

vault. No sign to advertise the business. City of Virginia Beach Police Department will conduct a security assessment of the home. We have recommended approval and put it on a consent agenda.

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

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with Commissioner Hodgson abstaining from item number 15.

**CONDITIONS**

1. The applicant shall obtain and maintain a Federal Firearms License through the Bureau of Alcohol, Tobacco, Firearm, and Explosives, as required by law.
2. The Home Occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.
3. There shall be no sign identifying the business on the exterior of any building on the property or within the yard of the property.
4. There shall be no more than five (5) hand-to-hand transactions per month at the dwelling.
5. Delivery of firearms to the property shall be received on the applicant’s property only, secured by the applicant’s signature.
6. Not more than twenty (20) percent of the floor area of the dwelling unit and accessory structures shall be used in the conduct of activity with the home occupation.

7. Any firearm or firearm parts kept on the property shall be stored in a locked, secured vault or similar container. The applicant shall contact the Police Department's Crime Prevention Office to arrange for a meeting at the property for the purpose of conducting a security assessment. A report shall be written by the Police Department, a copy provided to the applicant, the Planning Department, and a copy retained by the Police Department.

8. All small arms ammunition, primers, smokeless propellants and black powder propellants stored or awaiting transfer at the residence shall comply with Section 3306 of the Virginia Statewide Fire Prevention Code and NFPA 495.

9. There shall be no more than one (1) employee, other than the home owner, on the property associated with this home-based business.

**Item #2**

**Ronald F. Giesin, Jr.**

**Conditional Use Permit**

**519 N. Witchduck Road**

**District- BAYSIDE**

**July 11, 2018**

**CONSENT**

Ms. Whitbeck: The next item is item number two, and that is an application for Ronald F. Giesin, Junior and that's an application for a Conditional Use Permit for Motor Vehicle Rentals on property located at 519 North Witchduck Road, District Bayside. Can you please state your name for the record?

Ms. Whitbeck: I am speaking for Ronald Giesin, that's my husband. My name is Bridgette Whitbeck.

Ms. Rucinski: Okay and are the conditions acceptable?

Ms. Whitbeck: Yes ma'am.

Ms. Rucinski: Okay, thank you. You may be seated. Okay, the chair has asked Commissioner Dave Redmond to read that into the record.

Mr. Redmond: Mr. Chairman this is an application for a Conditional Use Permit for Motor Vehicle Rentals. In this case specifically, U-Haul vehicles, the applicant who has actually been renting these vehicles on the site was unaware he needed a Conditional Use Permit. It was

discovered and now he has gone through this process. He has 13 parking spaces on the site, which is two more than required under the code and as a result is going to rent two vehicles, U-Haul vehicles from this site, and still be within the code as you can see from the graphic will be placed behind the building. The site is appropriate to this use, has operated before without incident. There is no opposition of which we are aware and the Planning Commission grants it by consent. Thank you Mr. Chairman.

Mr. Thornton: Thank you.

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

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with commissioner Hodgson abstaining from item number 15.

**CONDITIONS**

1. There shall be no signs placed within the windows or the doors of the rental vehicles. There shall be no pennants, banners, streamers, or portable signs placed on the site or on the vehicles.
2. No more than two trucks or trailers for the purpose of renting shall be allowed on the site at any one time. Rental trucks and rental trailers shall be located only in the area on the site that has been designated on the exhibit entitled, "Proposed Site Layout," as depicted on page 5 of this report. Rental trucks and rental trailers shall not be parked in such a way that impedes the internal vehicular circulation on the site.

**Item #3**  
**Brittany Primmer**  
**Conditional Use Permit**

**1001 Eagle Point Drive  
District- Centerville**

**July 11, 2018**

**CONSENT**

Ms. Rucinski: Thank you the next item on the agenda is Number three. An application for Brittany Primmer is a conditional use permit for family day-care on property located at 1001 Eagle Point Drive District Centerville and that is my district. Do we have an applicant for that? Can you please state your name for the record?

Ms. Primmer: Yes, Brittany Primmer.

Ms. Rucinski: Are the conditions acceptable?

Ms. Primmer: Yes.

Ms. Rucinski: Alright, thank you. You may be seated. Okay this is an application requesting a conditional use permit for a family home day-care for up to 12 children in a single family residence. The property has an enclosed backyard for the children to play safely. The proposed hours of operation for this particular day-care will be 24 hours a day which includes weekends as needed for shift work and military. The typical hours of operation are from 5:00 a.m. to 6:30 p.m. The proposed conditional use permit request, in Staff's opinion, is consistent with the Comprehensive Plan's land use for the residential area, and it also does provide a valuable service to the families that live in the suburban area. To alleviate the potential for congestion of client parking in the right-of-way, Staff recommends that alternate pickup and drop off times are provided. For the reason stated above, the Staff approves this application and the applicant is good with the conditions. Therefore, we have placed this on the consent agenda.

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

Ms. Cartwright: By recorded vote of 10-0, the Items Number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with Commissioner Hodgson abstaining from item number 15.

## **CONDITIONS**

1. Arrival and departure times shall be alternated 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. No more than one (1) person, other than the applicant, shall assist with the operation of the family day-care home at any one time.
5. Any sign identifying the Home Occupation shall be non-illuminated, not more than one (1) square foot in area and shall only be mounted flat against the residence.
6. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.

### **Item #4**

**Lynnhaven Area Properties, LLC**

**Conditional Use Permit**

**Northwest corner of Laskin Road and Regency Drive**

**District- Beach**

**July 11, 2018**

## **APPROVED**

Ms. Cartwright: Alright, the first item here is item number four - Lynnhaven Area Properties LLC. This is an application for Conditional Use Permit, Car Wash, Automobile Repair Establishment on property located here in corner of Laskin Road and Regency Drive. This is in the Beach District. If you could please state your name for the record.

Mr. Miller: Yes Bob Miller with MSA and thank you again Chairman Thornton and members of the Commission. I think everything is in order except the cash vacuums that we had talked about and was recommended by Staff to be removed from the front. You can have them on the property but not be able to have them on Regency Drive and I just wanted to note a couple of things. Obviously looking at the architecture of what we are doing, we are doing a high quality facility. That's one of the pictures. There is an updated picture which is this one from the left and then one on the right also. So we are really making an area, that perhaps without disrespect to the other

facilities into the area, could use little upgrades. So I took a time to roll around with my wonderful telephone camera and take a few pictures, and what you are going to see from those is that the property that we are on has a large stand of trees between the us and the adjacent neighborhoods. One of which is an apartment complex and the other single family. There is a ditch in there inside that stand of trees but its well inside the stand of trees. We are not going to take down the trees, so we are going to leave all of them. They are natural and that's kind of the backdrop of the first two pictures. I did accidentally, but on purpose maybe sketch the circle K air machine which sits up next to the road. I just wanted to again just say that what we are doing is providing a top quality facility in that area that's going to really make a nice statement for the community and for our owners the McKleskys and be able to have this facility where it is without dealing with the trees now. This is the tree, this is actually where my surveyors picked it up. That's actually the limits of the trees, so that physical body of the tree is back in that land little bit but I don't want to, we are trying to stay out of it altogether and that's why we positioned it where we did. These are the cash vacuums and obviously as you go through the carwash, you come out, you go in to vacuum your vehicle here. There are 20 vacuum facilities here, 20. Not to over emphasize but obviously they are there for the operation of the facility and they give the convenience to the people that are using our car wash to be able to get to a place to vacuum. So we are putting six cash vacuums in front of it and we are 13-feet off the right-of-way. I have talked to Staff about that. They already know what I am going to say and that is I have got 20 vacuums there and you are telling me that these six vacuums somehow or another are really intrusive. No disrespect but I don't think I agree with that and we can provide a little more room in here. I can slant these at 45 degrees, give up more green space if you would like to have some more green space. Some of the pictures are also of again the Kangaroo and the lack of any landscapin. It's been there for long time, and I am not trying to say that I have to go back and plant a landscaping and then also the oil change facility that was just built on the other side and there is landscaping there. So we understand that we should provide some landscaping, but we were really like to have these cash vacuums here. They will be shut down at the same time everything else is, so it's not a case that these going to be opened 24/7, and somebody is going to roll in there at 2 o'clock in the morning to back in the car. They may roll in but they are not going to be able to back in the car. I am not going to prevent them from driving through there and then again we are in conformers with everything else that you have asked for. This is a one particular item that we would like to have some flexibility being able to put these out here again. We will add some landscaping if that's, we will have landscaping obviously that conforms with the site plan ordinance. Also we will have an air facility, a place to get air for the tires and so forth and where that goes will make sure that's on the site somewhere that is not intrusive but that's my presentation and asking your consideration for letting us keep the cash vacuums up here. Even in the realignment, I have got 13-feet, I can probably give 15, 18-foot Staff says, they want 30-feet and I am not sure. I think, I still like for you all will be able to see the building after we put the landscaping up because it really is a beautiful building and that's I will be happy to answer any questions and discuss this.

Mr. Thornton: Any questions for Mr. Miller? Jan?

Ms. Rucinski: I just want to make sure that I understand, so I think sitting around the table earlier this morning, I think a lot of our concern was people being able to go any time and use the cash vacuums, so they will be operational when the facility is open.

Mr. Miller: They will also be stopped from operations once the facility is shut down at night.

Ms. Rucinski: Okay that was my big concern, thank you.

Mr. Miller: And won't open till the next morning.

Mr. Ripley: They cannot understand where these, the ones you are asking about are, can you point to that with your pointer.

Mr. Miller: These 6 right here.

Mr. Thornton: Other questions, Dave.

Mr. Redmond: If you do slant them, how much more room you would give to put more landscaping in. I guess here is my big concern -- the car washing in the Independence Boulevard, across Mount Trashmore. It's my first year doing this and I didn't realize what we could do and some people said that's really, when you drive by there and how you see there are big wires just sticking out, it's not very presentable, just want to just to clean it up this little bit, so you don't see all those big wires, they can come out from the other vacuums.

Mr. Miller: So these actually will, in our rendering, the architecture, the architect shows them as having the same group of circle there, they do not have them. He doesn't know that.

Mr. Redmond: What we are thinking about is, the front landscaping will block the back ones a little bit. If we can get little bit more front landscaping by those vacuums.

Mr. Miller: I am happy to cooperate with some amount, I obviously again, I don't want to prevent people from being able to see the building, as you know, we are going to go to the BZA to try to get the sign out on Laskin and there is a signal at that Regency where it hits Laskin and you can probably imagine that we sit up, it sits up the, the road sits up pretty high there, you can see the building, but I do think that you know we will add landscaping here, but I don't want to imply that, it's going to totally block as if to say you won't be able to see the building, but I will, and how much could I increase it, 3-5 feet somewhere in there.

Mr. Hodgson: I think two of my concerns were taken away, one was to how you can control this but you are saying, it is going to be shut off at 9 o'clock that's gone. What you just told Dave, I didn't realize that the overhead hoses were going to be gone so that's going to take away a lot, you want to put a little more landscaping in front of those to shield on more, pretty much took away my concerns there, so you answered all my questions, thank you.

Mr. Thornton: Jack.

Mr. Wall: What about, you have got 20 vacuums associated with the building, could six of those be paved?

Mr. Miller: They could but what if you look at traffic pattern, that would mean that they either we have to re-arrange things so that people will be able to go into that area and drive through their setup for the people to go through the car wash right and so we our customers as each of us knows how long does it take the vacuum if you vacuum my car, it's probably not too long, if you vacuum my wife's car, it may took a long. No disrespect to the ladies, my son's car too, let's go over there okay. So I don't know how long we are just kind of, this is based on a model that comes from my manufacturer or supplier, they tells us this is how many we need. Okay.

Mr. Thornton: Other questions. Karen.

Ms. Kwasny: So I follow Jeff's thinking in that, they will be shut down at night, you take off the hoses, both of those are amenities to the project, how many fee can you give us to add additional landscaping when you change that design to vertical that's what you said, you are going to put them on like an angle [Crosstalk].

Mr. Miller: Those spaces, we are using as one-way aisle, we can put them at 45 or 60 degrees which will obviously, they are still be just as deep at 13-feet, but I can probably give you 3 more feet there easily, 2 or 3 more feet with that point and [Crosstalk].

Ms. Kwasny: So I am just asking which one do you think you can probably give me?

Mr. Thornton: Are you doing a math on that Bob?

Mr. Miller: I am not doing the math.

Ms. Kwasny: I want a figure instead of 2-3 or 3-5, which one are we going to get?

Mr. Miller: When you do the angle, I green all this area.

Ms. Kwasny: You are just not sure what that is yet?

Mr. Miller: It could be as much as 4 or 5 feet that I will have, this is a 9-foot dimension so if Jack would do the calculations for the triangle since I am not allowed to do, but seriously it will be, there is a significant area that we will have to be able to add a landscaping in that area if I turn these with an angle.

Ms. Kwasny: Okay, will that affect the people being able to back out and go?

Mr. Miller: No, it's one-way drive out. We are trying not to have that two-way traffic, it really is.

Mr. Redmond: Actually makes it easier I think, for people to know which way to back out and go.

Ms. Kwasny: I think so too.

Mr. Miller: We angled the others as you see, they are in 60 degrees.

Ms. Kwasny: I like that.

Mr. Miller: So you will be using this car wash right?

Mr. Thornton: The question I have Bob is space is up against the building, they are also vacuum spaces?

Mr. Miller: That's right, yes sir.

Mr. Thornton: Okay, any other questions for Bob? Okay thank you, with that we will close the public hearing and receive comments from a member of the commission. Anybody Jeff, Mike?

Mr. Inman: I just back what Jeff said since he is already said it, I don't want to make him say it again but you know I think that the applicant has given us what we were really looking for in terms of aesthetics and I think it's a good application.

Mr. Thornton: Jack?

Mr. Wall: I mean I think it's an aesthetically nice building but you know I still am in favor of not having the six spaces upfront. I mean that's just my position.

Mr. Thornton: Okay Jeff Hodgson.

Mr. Hodgson: I will make a motion to approve Agenda item number four includes the discussion we just had about him working the six spaces, said that they are angled at an either 45 or 60 degree angle and the shutting off of the pumps at 9 o'clock or the vacuum at 9 o'clock and what was the other one? Additional landscaping right in front. Yes, I would like this to have that written into the condition.

Mr. Thornton: And we have a second, correct. Ready to vote, vote is open.

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

Ms. Cartwright: By the recorded vote of 9-1, item number four Lynnhaven Area Properties LLC has been approved with conditions as amended

**CONDITIONS**

1. When the site is developed, it shall be in substantial conformance with the site layout entitled "CONCEPTUAL SITE LAYOUT & LANDSCAPE PLAN OF HILLTOP CAR WASH, REGENCY DRIVE, VIRGINIA BEACH, VA," dated -July 12, 2018, prepared by MSA, P.C.
2. When the site is developed, both buildings shall have the architectural style, colors and materials with the rendering entitled "LASKIN ROAD CAR WASH, REGENCY DRIVE AT LASKIN ROAD, VIRGINIA BEACH, VA," dated May 10, 2018, prepared by ionic design studios.
3. The hours of operation of the automated car wash, vacuums and auto detailing and repair building shall be limited to between 7:00 a.m. and 9:00 p.m. daily.
4. There shall be no tipping of the dumpster between the hours of 9:00 p.m. and 7:00 a.m. daily.

5. If at any time the existing landscaping in the rear of the site is removed or dies, the applicant shall replace it with a Category IV landscape buffer with plant material as recommended in the Virginia Beach Landscape Guide.
6. The canopy above the vacuums shall be a neutral or earth tone color with the exception of the trim or support structure.
7. The hoses for the vacuum system shall be black in color.
8. A photometric plan (i.e. lighting plan) for the Property shall be submitted for review and approval with the Site Plan and the outdoor lighting fixtures shall be coordinated as to style, material and color. All lighting fixtures shall be equipped with automatic photocell on/off and include programmable dimming to dim the lumen output to 50% (or less). The programmable/automatic dimming must be to the manufacturer's standards and, at a minimum, reduce the lumen output by 50%. The lighting fixtures on the Property shall be dimmed by 50% each day at 9:30 p.m. If approved by the Virginia Beach Police Department, light fixtures within 100 feet of a residential property shall be turned off daily at 10:00 p.m.
9. All light poles shall be no taller than 14 feet in height.
10. All light fixtures shall be shielded and angled away from the adjacent residential uses.
11. No outside storage of equipment, parts, tires, merchandise, or materials shall be permitted on the site.
12. Only light vehicle repair work such as lighting, brakes and fluid replacement shall take place on site. There shall be no engine repair, paint booth, or body work taking place on the site.
13. All vehicle repair shall take place within the building.
14. There shall be no pennants, streamers, air dancers or banners displayed on the site.

**Item #5  
H & S Development Group, LLC  
Conditional Use Permit  
1236 Prosperity Road  
District- Beach**

**July 11, 2018**

**CONSENT**

Mr. Forehand: C. E. Forehand, representing H & S Development.

Ms. Rucinski: Okay, are the conditions acceptable?

Mr. Forehand: Yes maam.

Ms. Rucinski: Alright, thank you. The chair has asked Commissioner Jeff Hodgson to read this into the record.

Mr. Hodgson: Thank you Jan. Mr. Chairman the applicant is requesting a Conditional Use Permit to construct a Communication Tower on the rear of this parcel, which is behind the existing Elks Lodge. The tower is proposed as a steel, self-supported monopole with exterior-housed radio equipment at its base. The tower itself will be 156 feet high with a three-foot tall lightning rod on top for a total height of 159 feet; a 15-foot wide access easement is provided proposed to provide vehicular access to the leased area. Staff finds this application for Conditional Use Permit and the construction of this tower acceptable. The commission agrees and we have placed it on our Consent Agenda.

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

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with commissioner Hodgson abstaining from item number 15.

## **CONDITIONS**

1. The Communications Tower shall be located within the lease area and developed substantially in conformance with the submitted plan package entitled "Columbian Club 1236 Prosperity Road Virginia Beach, VA 23451," prepared by Allpro Consulting Group, Inc., and dated May 1, 2018.
2. A full structural report shall be submitted during detailed site plan review.

3. A depiction of the location of required FCC hazard safety signage on the site and sign diagrams shall be required during detailed site plan review.
4. The maximum height of the tower shall be 160-feet, inclusive of the lightning rod.
5. As required by Section 202 of the City Zoning Ordinance, the applicant shall obtain a Determination of No Hazard (DNH) to Air Navigation from the Federal Aviation Administration / Obstruction Evaluation Office (FAA/OE) and shall submit a copy during detailed site plan review. No building permit shall be issued until the tower is determined to be no hazard to air navigation.
6. In the event that the antennae on the tower are inactive for a period of two years, the tower shall be removed at the applicant's expense.

**Item #6**

**Greenway Towing, LLC T/A Aristocrat Towing  
Modification of Proffers and Modification of Conditions  
1608 Washington Avenue  
District- Beach**

**July 11, 2018**

**CONSENT**

Ms. Rucinski: Alright, thank you. Okay item number six, is Greenway Towing, LLC, trading as Aristocrat Towing is an application for Modification of Proffers and a Modification of Conditions for Bulk Storage Yard on property located at 1608 Washington Avenue, District Beach.

Ms. Bourdon: Thank you commissioner Rucinski.

Ms. Rucinski: Sorry I didn't mean to skip you.

Mr. Bourdon: That's okay. Chairman Thornton, members of Commission, for the record Eddie Bourdon, Virginia Beach attorney representing both Greenway Towing and also 800 Block Properties LC on this application. The six conditions as recommended by staff were acceptable and appreciate the work of Jonathan Sanders and appreciate being on the consent agenda.

Ms. Rucinski: Thank you. The Chairman has asked Commissioner Jeff Hodgson to read that into the record.

Mr. Hodgson: Thank you. Mr. Chairman, a Conditional Rezoning from A-12 to Conditional B-2 was approved in 2001. This Conditional Use Permit was for a Bulk Storage with a 10-year time limit that expired in 2012 and they came back and had an additional five years of an extension on a conditional use permit. It has since expired again and they are requesting an additional five years for the same use. One thing that's important to note on this is condition six, this conditional use permit is valid for five years from the date of City Council's approval or when one of the following occurs prior to the end of the five-year term and one of them is the land use on the property at 853

Virginia Beach Boulevard changes the something other than automobile service and repair and the other one is land use on the adjacent property to the south changes to something other than a residential trailer park. The Planning Department is recommending approval of this application and the Commission agrees and we have placed it on our consent agenda.

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

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with commissioner Hodgson abstaining from item number 15.

**PROFFERS**

**Proffer 1:**

Proffer numbered 1 as set forth in the 2012 First Amended Proffers is hereby re-adopted and shall read:

1. Although the Property shall be zoned B-2 Community Business District, the Property shall only be used as a bulk storage yard and building contractors yard. This use shall also be governed by the conditions of a Conditional Use Permit which limits the terms of the use to five (5) years from the date of adoption by Grantee and further requires the Grantor to terminate the use prior to the end of the five (5) year term in the event that: (a) the land use on the adjacent property at 853 Virginia Beach Boulevard changes to something other than a automobile service and repair garage; or (b) the land use on the adjacent property to the south changes to something other than a residential trailer park.

**Proffer 2:**

Except for the modification by replacement of Proffer number 1, the remaining proffered covenants, restrictions and conditions as set forth in the “2001 Proffers” are hereby ratified and affirmed.

**CONDITIONS**

All conditions of the Conditional Use Permit granted by the City Council in August 14, 2001 and as modified on May 8, 2012, shall be deleted and replaced with the following conditions:

1. Materials stored in the Bulk Storage Yard shall not exceed a height of seven (7) feet.

2. Category I landscape screening, as specified in the Virginia Beach Landscaping Guide, shall be installed along the eastern side of the bulk storage yard adjacent to Washington Avenue.

3. There shall be no outside storage of inoperable vehicles or vehicles in a state of obvious disrepair.

4. All used tires shall be stored in an area which is not visible from any adjoining property or rights-of-way and maintained in a manner that does not permit the collection of standing water as to help prevent the breeding of mosquitos.

5. Lighting for the site shall not exceed a height of 14 feet and shall be directed in toward the site.

6. This Conditional Use Permit is valid for five (5) years from the date of City Council's approval or when one of the following occurs prior to the end of the five (5) year term:

(a) The land use on the adjacent property at 853 Virginia Beach Boulevard changes to something other than an automobile service and repair garage;

(b) The land use on the adjacent property to the south changes to something other than a residential trailer park.

**Item #7**

**Wal-Mart Real Estate Business Trust  
Conditional Use Permit  
1149 & 1169 Nimmo Parkway  
District- Princess Anne**

**July 11, 2018**

**APPROVED**

Mr. Kleine: Good afternoon Mr. Chairman, members of the Commission. For the record, my name is Tom Kleine. I am a partner with the firm Troutman Sanders, it's also been my privilege for a number of years to serve as council to Wal-Mart Stores for all the projects that they do here in Virginia and I am here on behalf of these four, I realized we have four applications one after another. I will proceed with the first one and then if we want to go on into the next one, however, the chair wishes to proceed. The first application that we have is with respect to the project that we have on Nimmo Parkway and this application as you all know is for the ability for us to have temporary trailers, storage trailers in the back of the store, on the side of the store to help us prepare for the holiday season. We are proposing limitation of 20, no more than 20 containers. There are

a number of conditions that we worked very closely with the staff on over the course of last few weeks. I too addressed they are all acceptable to Wal-Mart obviously the location of them would have to be acceptable to the fire marshal or the planning director. They are within the defined area that shown on the site plan. There would be no hazardous materials that would be stored in any of the containers and again there are strict limits on the number and limits on the timeframe to which they would need to be removed. The area of the site, if you have been out there, is an area that is predominantly where you have truck traffic and loading, its located behind the strip center that is adjacent to the Wal-Mart store. It's also bordered on the other side that does not look like it. It's also bordered on the other side by very mature hedge of trees and that area. There is a site plan that everyone has in their packet, it shows the precise location. They would typically be uniform in size, stacked next to one another in that location. We have heard no objections from any of the adjacent property owners. One of the property owners actually signed the application because part of that site is in a shared area with the adjacent like gym, developers that own the balance of the shopping center. Now let me speak to the concern about containers Mr. Ripley. I read your transcript from a couple of years ago and I also heard Mr. Redmond and Mr. Horsley's comments when we have those sessions earlier and I know that there was a concern of, okay we have this discussion two years ago where are we now. I want to assure you all Wal-Mart takes those concerns, this issue very seriously, we have every single store manager for all five Wal-Mart supercenters in Virginia Beach here today. We have the market manager for this whole part of Virginia has come here today to discuss the logistics issues. We also have someone from the corporate office here Ms. Laurie Smalling-Letts, who is senior director for government affairs. We have also reached out to some of the commissioners who are located in the district. We had the privilege of meeting with Dr. Kwasny at the site with the store manager for a period of time the other day to show the location, to talk about the logistics issues and talk about what we are doing. Some of these, this one we are asking for 20, some of them are more limited number and we will speak to those as we get to them. The issue is that these stores, you know while we are trying to manage inventory as best we can, these stores happen to be very popular and very successful stores and we are trying to keep the store successful in a climate in which the retail market has changed dramatically even in the two years since that approval was granted a couple of years ago. We have had situations where we have got Toys R Us that is gone out of business recently, the Babies R Us has gone out of business and I know the Sears from our office at town center is going to be closing and even with the Babies R Us closure, our store manager has mentioned that she has seen an uptick in the demand for some of that merchandise. So we also have seen a huge change in the online shopping environment. People are sitting at home, they are texting, they are saying I want this TV and I want it delivered to that store and I want to be able to get there and pick it up. We have tried to configure the sites to facilitate that to minimize, you know, the number of people in the stores so that they can come, you may notice we have done some restriping in some of the stores. We have added some locations in the parking lot where people can text in advance, come, pick their merchandise up and do some of the online grocery but we are trying to adjust to that but that also means is the stores were still staying very busy and the sales are continuing and so what this effort is during the holiday season it is an extremely demanding time particularly for toys and for some of the merchandise, that's a little bit larger -- bicycles and things like that -- that are difficult to just continuously restocking keep on the shelves and they are doing what they can. Fortunately, this is a large store, it has a large storage area in the back when the garden center is not occupied with plant material and this has a large garden center when it's not occupied during the planting season, we try to use some of that space to maximize the additional merchandise but

what this comes down to is the ability for the customer to have the merchandise on the shelf that they are asking for and they are working on that. They are working on logistic, you will see a lots of trucks coming to the stores frequently to keep the merchandise going, to keep them moving, to keep them restocked. When you get into that super high demand period particularly as you lead up to black Friday and get passed Christmas, the demand is really pressing on these stores. They are working to do the best to manage it as best we can. I heard some comments earlier. This happens in one of our bigger stores. Some of the stores we are doing now are smaller, the one we will talk about in few minutes at First Colonial is smaller, we are asking for less trailers here to just get us over the hump, but I mean that's kind of thrust of where we are at so we are looking at these stores and we are saying okay what can we do that can allow us to keep the merchandise to meet the customer demands and another thing the Wal-Mart does that some stores don't do is the layaway option, you know, there are lot of our customers they don't have the ability to pay for the merchandise right away but need to know that it's going to be available there for Christmas and particularly as you get to the holiday season, you are having our customers coming to us asking for that merchandise that may be we are storing and trying to get us really through the thanksgiving push I really say. Once we get passed that, closer to Christmas, there is less demand to have that storage there. But that's the purpose, I mean, I think the good news is as we are seeing retailers and frankly there have been some Wal-Mart Stores that I have taken through the entitlement process in the mid-Atlantic, they have ultimately decided let's not pursue that store. You know, the good news is these stores are successful. These stores are doing well. Virginia Beach has been one of the only markets in the mid-Atlantic where they opened a new store last year, that's the one on First Colonial that we will talk about in a few minutes. We are employing over 2,200 people in Virginia Beach. We have got these five supercenters. They are doing well, we are doing our best to adjust to it and we are trying to do it in a way that's not intrusive, that's not objective. I don't know of any adjacent property owner who has called. I know that we put them on a two-year limit a couple of years ago, I don't know that in that two years that anybody has called us. I asked the zoning administrator a couple of months ago, have we heard any concerns from these from adjacent property owners? I have not heard of any, people know to call me adjacent property owners out there have not called us to let us know about them and we have also tried to do them in an area that's really not going to affect the customer experience going in that shopping center. You come, you drive into that Red Mill Wal-Mart, and you are not going to see these. The only way you are going to see them is if you go all the way behind, all the way around that hedge and up into our loading area and that's where they will be just for that limited period of time. So you know, we respect and we hear the concerns that you all mentioned but that's what we are trying to adjust to. We have got an online issue, we have got an extremely dynamic change in the market place right now, we are trying to keep the merchandise out there and now I heard a comment earlier – well what you do when you cannot have the containers, you know, there are some jurisdictions where that is outright prohibited and we have to adjust but the adjustment in that situation may be just not having the merchandise that the customers are looking for so they'll go to another jurisdiction or go somewhere else or in the lot of jurisdictions we are allowed to have them subject to certain conditions by right actually in some jurisdictions, we are allowed to have them by right, we try to work with the jurisdiction, make sure that they are not offensive, that they are not obtrusive that we don't have adjacent property issues that they are in compliance with zoning requirements and to try to adjust that. So that you know that's kind of the story we take this seriously, they take their stores very seriously here in Virginia Beach because they are so successful and you know we were out there. What was it Monday or Tuesday afternoon in the

middle of the afternoon, and there were people that were coming who are vacationing here, you know buying beach supplies, buying all kinds of supplies, buying their groceries, looking for beach chairs, you know that store with all its 450 employees is serving the community and that's all they are asking for is to be able to continue to do that for this limited period of time. I did hear the comment earlier, gosh that seems an awful long amount of time, that's not the holiday season September 15<sup>th</sup> through, we have really asked for that four months just to make sure that if a trailer shows up a little bit earlier whatever there is layaway demand you know that we don't have situation violation of the zoning ordinance, is a practical matter. I think that Ms. Conway who is the store manager will tell you, they are not there that long, you are not going to have 20 trailers out there from September 15 through January 15 and it is a practical matter, once she has the containers there and the merchandise is out of them, she doesn't have any need for them to continue to be there, so she calls them up and says please remove these but again we ask for 20. So if there are 20 out there at any given time again we are not having the zoning violation or we are not having a situation. So we would certainly again we brought the whole team, every store manager, the market manager, someone from the corporate office were happy to answer any questions but we want you to know we did look at the transcript and we did discuss the transcript with the planning staff from the discussions that you had two years ago and we are working on it. We are trying to keep these stores successful in a very dynamic and changing market. So with that said I will be happy to answer any questions. All of the conditions that we reviewed with the staff are acceptable to us and again I am not aware of any objections or anyone here in opposition.

Mr. Thornton: Questions for Mr. Kleine, Mr. Redmond.

Mr. Redmond: So you said that in instances where in the jurisdictions where you cannot get approval for this, the store adapts, right?

Mr. Kleine: Well when I say adapt, if you cannot have them then you just, there might be merchandise that people are asking for that you just cannot provide, yeah. I mean that's or there might not be the ability to do the layaway or offer that service and offer the merchandise. So it is really just about being able to provide the merchandise that people are asking for that store.

Mr. Redmond: What are some jurisdictions where you cannot do that in the Commonwealth of Virginia, are you aware of any?

Mr. Kleine: I would have to go back and research, I am not aware.

Mr. Redmond: You heard my concern this morning is I don't like doing this with no context, right.

Mr. Kleine: I mean I know in Chesapeake they are permitted, you know, you got a lot of containers subject to certain requirements, I know Norfolk you are allowed to do them subject to certain requirements. Some cases you may have a zoning overlay district such as town center for example where we have it screened and you know unless it's like a special event or something, there was certain restrictions on having them there. I would say that puts a big burden on that store too, you know, again town center is a dynamic area, we put our office there at the very beginning so I know how dynamic it is. I watched it grow up outside my window, a few years ago people said well we are not sure that Wal-Mart make sense at Town Center, Wal-Mart compatible with the Town Center model and all that so again that was a by right side that Old Bill's flea market and we work with the staff, Wal-Mart some of these folks, the corporate office worked with the planning staff and did a town center Wal-Mart there, even though it wasn't fully about the zoning ordinance to

try to have something that fits in with the environment. That's a hard issue with the holidays to be honest with you, because the reality is you have got all these people saying I would like to put this on layaway, I would like to have access to that equipment. I would like to have that bicycle and we may be in a situation that we just say I am sorry we cannot do that.

Mr. Redmond: Why is that unique to Wal-Mart? I am unaware of any other retailer that we have had asked for trailers?

Mr. Kleine: Well, I don't think it's unique that we have had trailers in some of our stores. I think it's a lot of just meeting kind of the customer to manage and try to make sure that the merchandise is available and be successful. I don't represent Target, so I don't know to be honestly I don't know that they don't have trailers at their sites, perhaps they don't at the Hilltop site.

Mr. Redmond: We haven't seen them, I mean this is the only Wal-Mart is the only retailer I am aware of, that's ever come before us is asked for trailers around Christmas time as I said this morning Kohl's doesn't do it, Target doesn't do it, the extent that there are any J. C. Penneys, they don't do it. I mean retailers that you are talking about before, I have never seen it from Sears or K-Mart for some odd reason. This is particular just for Wal-Mart and look at these shopping centers and I think to myself wouldn't any other retailer be inclined to come and say yeah we'd like a trailer. What about Big Lots which is you know adjacent to that store and once bought, you know, another retailer in some places just said, we could use one or two. I don't think we want to encourage this notion that if you have a store and you are busy in Christmas because they are all busy at Christmas from the guy that has a 1200 square feet, and he just sells shoes to you know couple of hundred thousand square foot Wal-Mart, again you are going to face greater strains at Christmas time. I don't know that's something going forward that we have to think is just sort of assume that that's okay to do that because we do have site plans. Yeah those other four walls will cause some, you know, some constraints and so the changing retail environment is challenging for anybody. This is the only retailer that I am aware of and whatever 11 years of doing this, that's ever asked for this and I don't know that it's necessarily fair to everybody because I would think everybody would want at least one -- what a heck, I am selling lot of shoes out of my 1,200 square foot store so anyway that's my concern. So now here what are you saying about it makes easier for Christmas timing and moving bunch of stuff at around and I understand all that but those are constraints that every retailer faces.

Mr. Kleine: But I do think you know some of our merchandise is all different sizes. You got lot of bicycles, you got toys, you have things like that and our stores are just very successful. I mean they are, they are extremely busy, very successful stores here. The model is such that you know a lot of people; we have got a lot of traffic to these stores. I don't know what the traffic counts are to other retailers. I think you will have also have a code that would permit other retailers to ask, you know, when there are discretions and I think again we are doing it in a very unobtrusive way. I mean this is literally behind the shopping center in an area that's almost enclosed on four sides because you have got the back of another retailer behind this, retailer on two sides and then there is very mature hedge so you know when I am asking to put them out in the parking field. We are not asking to have them there indefinitely or asking so that we can get through you know this much and that is I mean that's the reality of the situation, I'll ask people like Laurie, the market manager, if they have anything that they want to add to what we said there but I mean that's what we have during that period of time.

Mr. Thornton: Ron, a question?

Mr. Ripley: Tom if you read that the verbatim we said at the very beginning last year that we are ecstatic that the commerce was there, we want the commerce to continue. The idea of what the discussion we have was in good faith was how do we do that, you know, how do we kind of plank and come forward with to help solve this problem in long term and not have that because there was an objection then and you can see it really hasn't changed as far as the way I think this commission kind of looks at it. When I think about Wal-Mart, Wal-Mart has written, how many books have been written about inventory supply chain management, I mean, it has been studied and the highest business institutions in the country over and over again because it is so efficient. Here we got this what we are looking at here it says inefficiency and it doesn't seem to line up with their philosophy to me. I think what was important to me last time is that the managers did come in and they said yeah, we know we are at this problem. We think we can solve it and I realize things do change in the market place and if the commerce is really doing well. There may be another way to solve it and I think I have heard this morning I think maybe at the most some additional time to help solve it might be palpable but this being a long term solution, I don't think that's the solution.

Mr. Kleine: I appreciate that Mr. Ripley and we did share that transcript obviously with the leadership that's here and it has been a changing environment just in those two years, you know, the demand on that store, I am talking about the Red Mill, just continues to go up as we discussed with Dr. Kwasny out there which is great for Virginia Beach, it's great for everyone and so to the extent you know two years ago they were looking and I know that Ms. Conway the store manager, they have looked to re-configure areas in the back. They looked to try to establish more efficiencies and keep merchandise on the shelves, keeping the shelves stocked so that you know you are not going in there and saying oh my god, there is none of this item but it's all back in the storage locker at the back. It mentions they are trying to keep 10 plus items of each thing continuously stocked on those shelves. So that you are coming in and you are looking for something it's there and we are also again trying to have additional efficiencies with respect to the fleet of the Walmart trucks that you see coming, getting the stores off-loaded, getting the merchandising off the shelves.

Mr. Ripley: But in that inventory model, I mean, the inventory model is that the warehouse knows exactly when they need something and it's moved up as oppose to putting it out in the parking lot.

Mr. Kleine: And for that limited period of time though, there was just not that room, we have got so many people coming into these stores asking for certain items to keep that merchandise continuously on the shelves. To keep them successful, you do have that big press and as I said we are asking for the four months. It's a practical matter, it's not really four months of trailers. I mean, we are having that window just so you don't have a situation where we're in violation but it's really a big push over a shorter compressed period of time, black Friday.

Mr. Ripley: I am not speaking for everybody up here but if you had another year or two to help solve this issue, would you be willing to good faith of work on that get it done or not? I mean it buys you time and something you said in the presentation I want to take exception to and that is that you didn't hear anything from the staff. It's incumbent on the applicant to solve the problem not just staff to have to go out and solve the problem.

Mr. Kleine: I am sorry if I misspoke.

Mr. Ripley: It sounded like nobody has contacted you in the two years about this issue.

Mr. Kleine: Oh, no, no, no what I was saying was what I checked was, had there been anyone from the community called to complain that it was a zoning violation or some issues associated with them being out there, that's what I had asked. No, I certainly didn't, we had many discussions with the staff and we are very familiar with the issues.

Mr. Ripley: It is incumbent on you to solve these issues.

Mr. Kleine: We understand that. And may I introduce, this is Laurie Smalling-Letts with the Walmart corporate office.

Ms. Smalling-Letts: Good afternoon, thank you for the time you know as I sit here, I have been with Walmart for 17 and a half years, and I completely understand your concerns but I have seen a drastic change in retail in the time that I have been with the company. We are a good corporate citizen and we provide, as Tom has already said, 2,400 jobs in Virginia Beach. We have given back over 2 million dollars annually to your community through food donations, through CHKD, through local organizations. We have also with just taxes in the State of Virginia, sustain local taxes over a 109 million dollars that are coming back, through tax dollars, so yes we are a corporate citizen that is operating in your city, within your city. I have worked as I said with Walmart for 17 and a half years so I have been at federal state, local, international working with governments on how we engage and how we support the communities we serve. I understand your concern about our inventory management but our stores are built to basically serve customers nine months out of the year. That other additional, there is the influx of traffic. I was just visiting with Melissa who has a store, she has 60,000 customers coming through her door during the holidays. She has an increase in millions of dollars at inventory that's coming in. So I understand that just in time, and pretty much you know most of the year, we are able to do just in time inventory but our just in time inventory now is just in time for the store. The customer wants to be there just in time for that parent that doesn't want the big item to be shipped to their house but they can pick it up at store and then we will have to pay a shipping fee. I just did it this last year, we were buying a shuffleboard table for our boys and it was from Santa we didn't have it shipped to the house. It would have been free to go to the house but it was free to go to the store. We went to the store because we didn't want it on the front step when we came home and didn't know what the box was going to say to surprise what Santa was bringing. So there is a changing dynamic and when you are asked about finding an internal solution to be able to do this, that would be coming back and that would be multi-million dollar expansion of trying to add inventory for the three months, which we would have to go through all the process and everything else. We are in the time right now that in retail we are fighting for our lives. When you look at what retail spaces are going out of business and the retail space that is actively being used, that is going away where it's not generating sales tax revenue, I would love to say that we can come in and tell you that for every store in Virginia Beach, we are going to go in and invest 10 million dollars to expand the stores so we have the inventory space for Christmas. Unfortunately, we are a low-cost retailer. Every cost that adds on adds to the cost of doing business and adds to the cost of every item that your constituents would be purchasing at our stores. So we have to evaluate the kind of the big picture and yes I know trailers don't look great but you are right. Like in all the other jurisdictions that I have worked in, I have had the experience where they understand that we truly like, I tell people, people think oh you are a retailer, we are actually in the people business. We work to get our associates to serve the customers that come through the door. It happens to be the merchandise what's in between and there is a lot of merchandise at Christmas time. It is fortunate that we are having increases in sales but as we have been talking to each of these stores, we have online grocery

pickups so we are creating new jobs for those associates to have additional training to be able to serve those customers that want to come in and get their groceries. So we are increasing skill sets, we are investing in our people, we are doing a lot of great things. We have to be able to serve the customer to be able to stay in business and so it is this additional merchandise that we need during the holidays at all of our stores. There was one saying as I have been visiting with some local officials about our community engagement, everybody is like are you facing the same issues in the other jurisdictions? And we are not. We had trailers at all of these stores and so and I have to say that Virginia Beach is absolutely beautiful and you're building and everything else. I understand the pride that you have and making sure that you are making the right decisions but we are trying to make right decisions for our customers. By having the merchandise that they want when they need it and being able to have pickup in our local stores where people can order big items for their kids and surprise them and layaway. A lot of retailers have done away with layaway because it is expensive to store that merchandise and to collect ongoing but that's our core customer. They need layaway because they cannot afford to come in and buy it all in once. So I understand and I would love to say that we could say hey give us another year and we will come back and we will have a solution. Unfortunately, I think that the only thing at this point is that temporary storage to get us through and will continue to work through our inventory and figure out there are ways that we can reduce the number of trailers. I also don't want the company to go out of business. I don't want us to have to reduce inventory because people aren't shopping in our stores and that's what we are facing as you look at the competitive landscape. Where retail is going, more and more is going online and we are here providing jobs in your community, we are providing tax dollars that come directly back to your community and we are serving your customers that are your constituents. So I do appreciate you hearing this but as we are sitting back I know our stores need this because this is the first issue that I heard when I came into the market last year is that the city doesn't like us and it was our trailers. That's the interpretation of our store managers. When they came here two years ago, the feeling as they walked out was that it was easy for you all to kind of say well we don't want to see you and you fix it. They are managing 400-450 associates. They are managing millions of dollars of inventory that's flowing in the stores and unfortunately they are just trying to make sure that they can accommodate customers and serve the customers with the merchandise they want. So if you all decide that we have to come back and come up and invest then maybe Tom will be coming here and saying we are actually closing another store versus building more. That's the retail environment as I said I came into Walmart where we are opening 250-300 stores a year, this year alone we are opening 20, consumers are changing, shopping behaviors are changing that where we can keep our customer shopping in the stores that's what these store managers are here fighting for just to make sure we can serve those customers.

Mr. Thornton: Don't go away, we may have some questions. Any questions for Laurie, Mike?

Mr. Inman: From either of them, I respect that what you were saying about what Walmart does for the community, I want to thank you all for that. Our job is to a great degree about aesthetics and keeping our city beautiful and this has something to do with the storage units that you have. It is still curious that and I know you guys are smarter than most of them, but nobody else seems to need this. Maybe they haven't figured it out yet, I don't know. What about other off-site warehouse facility, maybe several smaller warehouse facilities that are in an industrial part versus having the trailers right there. I know it's not convenient as far as restocking. It is not as convenient but it's an alternative that would eliminate the trailers, maybe that doesn't work. I mean I understand. I am not trying to restructure Walmart here but what are the alternatives could there be to satisfy?

Ms. Smalling-Letts: And we have had those conversations about that and just from the logistical standpoint. So our trucks come in and bring the trailers and then they could place in the parking lot. We don't have short haul like we don't have small trucks that kind of go from point A to point B. When you talk about putting in an outside storage then it becomes running new hauls and it becomes finding CBL drivers that would be beyond the corporate time and then the liability of having the merchandise and being able to transport it back and forth. So we have had those conversations. I know Tom you have had additional conversations even with internal real estate but you know it's we have the space there, we can have associates go out, we have locks on all of it. We can monitor when they are on property. So from that standpoint, it's just we are setup logistically for long haul not short haul just in the way that our logistic system works.

Mr. Thornton: David?

Mr. Weiner: And I want to thank you also. Walmart does a great job around here and they are very good corporate citizens with the City of Virginia Beach, doing a fine job. I think it took us by surprise that's what I think for pretty much here. I even asked Jimmy. I thought this was a done deal, they are going to take care of this. That's what I think. That's why we are talking about this right now and on the other hand not thinking about the applications. If you looked at the number of people who walked in the Walmart compared to Target, it's probably double and that's why they need a containers because, don't take this wrong way, but if I have to go to Walmart, I will go 5 in the morning where I can get in and out. I think that's why we are here right now because of the people that go there are about double the people that go to Target. I think that's why we are little bit shocked to see this come in front of us again.

Mr. Kleine: And I think again, we have those issues with the stores being very successful and again just the changes with the retail market changing. Our firm represents a lot of other type of entities and we are seeing so much dramatic change in business over time, I mean, there have been sites as I mentioned before that I took through very ruling entitlement processes in other parts of the Mid-Atlantic. Walmart ultimately decided we are not going to do the stores, even though we have been through lawsuits and everything, to get them approved. It's changing that much and as she mentioned, with the mode we used to be and building so many stores when last year I think the only store I am pretty sure that this is correct, the only store that they opened in all of Virginia was this one in Hilltop. That's what the change has been. Getting to Mr. Inman's comment, and I respect the concern about the aesthetics, I am a resident of Virginia Beach and I appreciate that. We are trying to find with every one of these applications the places where they are the most unobtrusive and no one is going to have to go back there to look for them here. Ms. Conway, who is a store manager, also gave commissioner Kwasny her word. These things aren't going to be just scattered around there. You have got a defined box we have to keep them in, we have got an understanding with the adjacent property owner that there was a defined area that they are going to be in. They are going to be uniform, there are going to be stacked and again her business model as soon as she doesn't need that thing and she locally had used another thing that has changed. It used to be that the delivery of these trailers etc. was handled at the corporate level. That's changed and it is now handled at the store level as I understand. So Ms. Conway is going to be there at that store, running that store, and she is going to realize we don't need these five trailers. Call up the folks, get them off the site and so maybe you are down to 10, maybe you are down to 15 or whatever. We have deliberately, and you will see with all the other applications, found spots that are going to have to minimize any kind of aesthetics adjacent. The newest one that we have, that

we will talk about in a moment, there is some fencing that the staff has asked for because there is an adjacent shopping center, so we have a very cognizant of that sir.

Mr. Thornton: Karen?

Ms. Kwasny: I don't have a question. I am wondering whether or not we are listening to each one of them individually and then we will have closed it, so that we can have conversation. Because I think, I am passed a point of question for them, I am to the point of wanting to make a comment or two that we could just ask, but don't know when we are going to do that.

Mr. Thornton: We are going to close public hearing sooner than later, because I think, unless we have got anymore specific questions but we are going to hear their argument all at once and then we are going to deliberate. We have got to make a decision on each individual one, but I don't want to stop if we got questions, let's keep asking questions and Mr. Redmond.

Mr. Redmond: I do have a question. That's the variations in the number of trailers in each one of these four applications, can you explain it? I would prefer some sort of you know specificity and metric, not merely the store manager says 10 or the store manager says 20. As Mr. Ripley said, you guys have a pretty well known and extraordinarily sophisticated logistics and supplied management reputation, I am sure was probably a good bit more specific than that, so 10 versus 20 versus.

Mr. Kleine: Well, I think I can address that probably on a site by site basis. On this particular site, we have the room. It's one of our largest stores, 200,000 square feet. So I think this is such a big store between the proximity to all the tourist areas and in the other parts of the city. I think that was evaluated. We also have the space on the side in that area, so that was a 20. With the other stores, we can talk about. Some of it, we have less space. Some of the stores are smaller like the retrofitted K-Mart that we did at First Colonial.

Mr. Redmond: Yes, it's a question ahead actually. What's the square foot of store Hilltop? Do you know of the top of your head square footage of the store at Hilltop? Somebody was asking this morning and I don't know.

Mr. Kleine: I think in the range of 152, but it's based off of sales. The metric that they do internally and this is from the market manager, they do look at the sales. You know that they have of that store and what the increase demand is anticipated to be with the holiday season in that shift. Then they look it, where feasibly we will be able to house that merchandise based on our historic data, numbers of customers coming in an anticipation with the holiday.

Mr. Redmond: Okay, thanks.

Mr. Kleine: And there are practical limitations based on do you have space more than like Phoenix Drive, we just have that location on the site.

Mr. Thornton: Questions on this side, over here, I see no more hands, I see no more questions. So with that we'll close the public hearing and will debate this matter amongst ourselves, thank you.

Mr. Kleine: Thank you. This is just the public hearing on this application. We do have different issues with the other.

Mr. Thornton: Why don't you quickly give us the nuances of four of them, so we know Nimmo Parkway has 20 containers, we know where they are going to be, what about, do the next three in executive summary because they all should be reasonably similar except for Hilltop.

Mr. Kleine: And then I know with respect the Hilltop just for purpose of keeping the record, we have some gentlemen that are going to want to speak from adjacent property owners. We want to make sure that the record reflects that opportunity.

Mr. Thornton: That one will be last.

Mr. Kleine: So I think that one in your agenda was actually the next. That was number eight, so perhaps if we wanna skip, now to number nine and ten.

Mr. Thornton: Nine is Lynnhaven and ten is Phoenix.

Mr. Kleine: Okay, so Lynnhaven again it's a similar situation, this is one of our larger stores with heavy sales. You cannot see it very well with this site plan, but these would be placed around the back of the store, pushed up as close to the stores as the fire marshal will allow us. We'll have to work with the fire marshal on that, outside of any travel lanes. This is part of a larger shopping center. You have got an adjoining shopping center next to us, so this is not a situation where it looks like a parking lot in this but that's actually, this area over here is actually more in line shopping down to that shopping center. So there is a little passage way but from the parking field out here, there's just really no visibility. He is proposing to park some of them along here and then some of them along there. The back of the store has a pretty well defined stormwater management facility. There is also very defined hedge that runs along the back there. The adjacent property notices have been sent out. Signs for the stores have been posted. I am not aware of any of the adjacent or nearby property owners who have any concerns. This is one of the large stores like the Red Mill, a 200,000 square foot store, and again a very successful store. There is a lot of demand for some of the layaway and some of the other merchandise at the holidays. We have a series of conditions that are acceptable to the applicant here, no hazardous limitation on the number, limitation on the time of year that they would be out there. The final location of them will have to be subject to final approval by zoning and fire marshal etc. But they're back there, near the loading area that is not visible from public right-of-way. You can see the mature hedge across there that's providing successive buffering with any the residential behind is a multifamily.

Ms. Rucinski: And how many at that store?

Mr. Kleine: That would be no more than 20. The next one, number 10, is Phoenix Drive and this is a store just near the Lynnhaven Mall. You may recall, we came before the Planning Commission and City Council a few years ago for an expansion for this store so that we could add the full grocery component. At this store we are proposing to put them back in this area and have no more than 10 over there. That's where they historically put them at this 168,000 square foot store. It was originally a division one store and it was expanded a few years ago to make a little bit so we had the full service grocery component to it. This again is an area of the site, it has very limited visibility as you can see, very mature hedge along this side. Its way off to the side as you drive into the site, all the vehicular access for the most part is from the front or from the other side big parking field because the side is over parked. I heard your comment earlier about parking, I think this was parked at 4.5 per thousand ratio and the city requirement is 4 per thousand, so we got lot of parking. We are trying to keep them back there, minimize the visibility. There is also a

condition, that is a little bit unique from the others that if this site over here were ever to be developed and for whatever reason that hedge were to be removed or thinned out, we would have to put a wooden fence or some type of barrier fence along there. If we were going to continue to have the containers in that location, but again that's a condition that we worked out with the staff. I cannot tell them how they would really have any visibility again. One of the entrance features over here and then entrance over here, there would be very minimal. You really have to drive over there and again there is a lot of parking that's not used at this site. That's where they would be located. So the conditions on that are acceptable. I think those are the three which you have looked at before. The new site is the one at Hilltop and that is agenda item eight. This is an exciting store. I have to say because we worked on this, I live near the store, it took us a long time working on all the documents to get this together. I think for those of you who aren't familiar with this shopping center and Kmart, that was a very dated Kmart that ultimately went out of business and that center was in need of significant work. Walmart came in a few years ago. We went before the City Council for a conditional use permit associated with some of the accessory components that we have over here. It's part of that approval. We also showed architectural detail. We worked very closely with the staff on dressing this up. We took that old Kmart store's respective old walls, for the most part, and gutted it and did a few additions on the sides. If you have been out there, you really have to look to not know that it's a completely brand new store. You would never know that it was essentially, we have retrofitted the older building that's there. You know this site has a shopping center with other retail parcels that kind of surround it. They are owned by different property owners. Those gentleman are here and they are going to speak with us. What she is asking for, the square footage of this one Jackie, 152 and that's approximately the size of the Kmart that we took over with a little bit of few tweaks to accommodate some things around the area around the sites. So on this side, there are reciprocal easements for parking and travel lanes etc., with this overall shopping center. You can obviously access this site of First Colonial. You can access it off Donna Drive as well. Over this area here is the loading area. Again we try to identify and on this side is our garden center and this is the Autobell. Of course the store faces this way and then passed on a drive, you have Laskin Road up here. What we have done over here is, she has a limited need again for some containers. She is anticipating seven to ten so we are asking for 10. So limit on 10 again the same limitations that we have before. The staff did indicate that because we are adjacent to this retail area, that's owned separately from Walmart, that we could perhaps put in some fencing. There is a screen fence, it screens some of the loading area that's of a wood nature over here. They asked if we could put something similar to that or compatible with that. It would be temporary if you could go to the site plan there kind of a long like that actually it was a previous one, like that, I think the staff reports showed it going all the way down here and comment was that's an awful lot of temporary wooden fencing when you are needing to get into the containers over here. When you have got basically screening yourself from your own store over here because the remainder of the center is over there. The other issue is some questions we had, wait a minute what does this box mean, there is already a site plan that shows some parking spines etc. She would just put some of these containers in those existing parking spines. So we are not proposing to block any travel lanes or drive aisles, it's more just to get them closer to the store. This area back here is a loading area. It has some reinforce concrete, there is a lot of truck activity with the deliveries that are coming back there each day. I know one question is could you push them back little bit further. That's why we have them kind of in these areas over here on our site located to typically put them in some of the perpendicular to one another within the spines. But not interfering with the routine truck travel lanes that are coming into the site or anything that would pose an issue

from a fire perspective. I did speak with Mr. Aspin Wall who owns the self storage on the other side here. He does not have any objection to it. I know the gentleman from Pratt Street did want to comment on it, they did. They are new owners of the remaining shopping center and they did contact us last Friday just indicated they have some questions and I believe that they would also like to speak. So on that part, I will be happy to answer any questions or if not defer to the gentleman from the Pratt Street.

Mr. Thornton: So you are talking 20, 20, 10 and 10 on number count; we got that? Two at 20 and two at 10.

Mr. Klein: Yes sir.

Mr. Thornton: Don.

Mr. Horsley: These are all 20-foot containers right; they are not 40?

Mr. Klein: They are 40. Yes sir. But they would all, have defined limits that we would have to keep them in, so there are precise locations. We have to keep them within those confines.

Mr. Thornton: Any other questions for Mr. Klein? Okay thank you.

Mr. Klein: Thank you.

Ms. Cartwright: Alright, we do have one speaker in opposition for item number eight, Jeff Spatz, would you please come to the podium and state your name for the record?

Mr. Spatz: Good afternoon, I'm Jeff Spatz on behalf of Pratt Street Capital, PSC Hilltop and other co-owners of the adjacent center there. As Mr. Klein explained, we own a retail center, over here as well as on this side of the Walmart center. On each side we have properties, retailers are on each side. There is a reciprocal easement agreement between Walmart and our ownership which was placed there by the prior owner, prior to the sale to Walmart to allow both parties to have utilization of access ingress/egress etc., so that there will be kind of cohesive flow to the center even though it is separate parcels. We only did learn about this more recently, there are many factors that are moving parts. One is this Walmart is a relatively new Walmart. As Walmart explained, they have been opened a year. It may be just over a year, but it's a pretty new Walmart and we are still just digesting how the impact is on the center. They have been a great neighbor, we are happy to work with them, but we want to make sure that the traffic flow, the truck loading and the parking do not get adversely impacted. We did get to this a little bit late in the game. I want to thank the Commission and the staff, especially Mr. Davis. I am not sure if he is here, okay he has been very responsive and very helpful. It has made our job of digesting this in a short period of time much easier, so thank you and that being said we want to be good neighbors. We want to accommodate Walmart. We want to help them be successful. Retailers in the market, we just want to ensure that it does not adversely impact the aesthetics as the Commission is concerned, and as far as traffic flow and truck loading as well. The site plan that they put together had a call out for a substantial area where they may or may not put the trailers. We would like to little more closely define it to understand. My understanding from being at the center and from speaking to Walmart is that the trucks actually do come along the back of our retail establishment and go through here so I want to make sure that does not impede and Walmart has verbally said no we would make sure that it doesn't impact the truck ingress/egress and loading area. So we are not in opposition, we just want to make sure that it is working in a cohesive manner with the entire shopping center. Now we could

all work together so as much as we are quoted as opposition, we are not here formally saying that we are against it, we just want to be done it in a way that enhances entire center for Walmart as much as you know our retailers.

Mr. Thornton: We have a time limit on speaking.

Mr. Spatz: Oh, I am sorry, my first time here.

Mr. Thornton: That's okay, that's fine, questions for Mr. Spatz from the Planning Commission.

Mr. Redmond: Was the fencing a priority for you?

Mr. Spatz: The fencing would be helpful but part of that is to understand exactly the layout of the storage facilities and then we can see the visibility, the eye sight. So to understand there is a lot of parking here to understand exactly where in this area. It will now be set, then we can understand exactly the site line. We really want to keep it looking nice aesthetically as we can and we did ask if they could be set back a bit further to kind of keep it out of the view point. As they said, Mr. Klein explained, it's a little difficult because of the loading area, so we are trying to have a discussion of how we could work together to accommodate it from our perspective. Obviously the Commission has to approve it from their perspective but we are trying to work together to see if there is a way we can accommodate.

Mr. Redmond: My concern is whether screening ends up looking worse than better and it could end up looking like. We have all seen the construction site fences that go up, and I just don't want the screening to make it look more of an eyesore than it would as you just said the walls of the containers.

Mr. Spatz: I agree completely and that part of the factor of is the screening going to be up year round or is that only going to be there when the storage facilities are there, is it going to be maintained, will it need to be power washed, etc. Those are kind of some of the moving parts that were you know trying to have the discussion on to make sure that it works.

Mr. Redmond: My understanding is that screening would have to be removed when the containers are moved.

Mr. Spatz: That was my understanding and I wanted to confirm that and the question is from one year to the next, how it will be maintained and at this point, the Commission deems that it is an appropriate use because this is a new Walmart and we are still just trying to get our hands around exactly the logistics and the layout and the trucking lanes. We would propose that it would be a more timeline finite period rather than indefinite approval.

Mr. Redmond: I think we are all in agreement with that.

Mr. Spatz: That's fine, but I just especially with this site, because Walmart has only been opened for a year and there are a lot of open issues from our perspective.

Mr. Redmond: Thank you.

Mr. Thornton: Jack.

Mr. Wall: So currently the traffic flow and the pattern is acceptable?

Mr. Spatz: That is correct. We have not had any issues with their trucks going behind our center and our parcel and using that lonely area. We have not had any issues.

Mr. Thornton: Okay, Jan.

Mr. Rucinski: I have a question for Walmart.

Mr. Thornton: Do you need to ask to this while this gentleman is here?

Ms. Rucinski: No.

Mr. Thornton: Ok.

Mr. Spatz: Thank you very much.

Mr. Thornton: Thank you sir. Tom she has a question for you.

Ms. Rucinski: So my question is this. If the loading trucks are entering behind where those storage units are proposed, why could we move those storage units closer to the building?

Mr. Kleine: Thank you for that question. By the way, and I am going to have the store manager to address where the trucks for the most part are coming through, I will say that the short answer is Wal-Mart is never going to allow something that interferes with their ability to get the merchandise in the store and interfere with their truck routes. So not containers. This is Jackie Russell who is the store manager of the new store.

Ms. Russell: Good afternoon, so where the trucks come in, they actually come off the Donna Drive and they do go behind, so they go here and they come down through here and this right here is where they back the trucks up. These trucks are really big so in the morning time, I may have possibly anywhere from I want to say five to ten deliveries, different size of vehicles coming from local business partners for grocery merchandise and then I also have our Wal-Mart corporate trucks. They have to back these things up into four different bays. So they need this room right here to back up the maneuver because they are maneuvering around five to ten other vehicles so I cannot put the proposed bulk storage there because then there is just no way. It's going to create an interference. It's going to create safety issue.

Ms. Rucinski: I wasn't really talking about back down the corner; I was talking more like closer to the building because it looks like you have got them up in that front corner, but instead of been in the corner move them closer to the building.

Ms. Russell: Good question, I actually have a pickup area, so my online grocery shoppers go to the back of the building and we have a door on the side of the building that allows my associates to come out there and provide that service to that customer. So unfortunately I cannot put it there because that's going to impede on those parking spaces for those customers to come in and come out.

Mr. Kleine: But the reason, if you go to the exhibit where it would be, with the black one, that one yes; what we are doing there was really just respecting the property line and showing that would be within the limits of where they could be. We are not saying that they would necessarily be pushed off all the way along that area. We would, you know, we are going to try to keep them in existing parking areas in a way that there was not interfere with pickup, you also have the pharmacy pickup. There is a pharmacy drive through and there is designated spot. The people who are doing

the online pickup that you are talking about, but if you can go to the one that shows the site plan, well yes, the other one, the one that shows the overhead, I am sorry, yes so where she would do them is a practical matter. There are some parking spaces that run through here and she would have them within those parking spaces, for the most part in those parking space areas.

Mr. Thornton: Do you anticipate ten units side by side?

Ms. Russell: So there would be like two and then there would be some space, yes and then two, so I am trying to confine it into allocated parking spaces on my property.

Mr. Kleine: As a practical matter, more in this right in here, and then we would, and then with respect to the fencing, the wooden fencing, you know, if we wanted to modify that condition, etc. or such appropriate screening as approved by the planning director or something like that, to provide some flexibility, I think that is yes. Someone has asked the question that is it going to be up and around; no, I mean we wouldn't have just a line of fencing there with nothing behind it or whatever. It would be removed, the wooden fencing you know, sometimes it draws attention I agree, you know, I see wooden fencing, you're like okay what's going on behind that, but there is some Shade cloth screening, there is portable temporary screening that I have seen used in some locations and some of our stores. We have sometimes put it on the inside of garden centers that can come on portable racks that they can roll out there, so if you wanted to modify that condition to say or such appropriate screening is approved by the planning director that we can work, you know, with the planning director to find some alternative as well instead of the wood. But if the requirement is that it be wood then, yes, the wood have to go to a fence vendor and they would have to have basically prefab sections put up and they'd have to have the concrete, portable concrete footers, put out there and then have to have all that removed and then they'd have to -- her employees would have to be maneuvering around that -- particularly if they ran all the way down as it was originally proposed, to get back to where those areas are located and again, if you go back to the site plan, the overhead, you know, here is your visibility. I mean this is the end of the shopping center, Mr. Spatz' company owns right there, so we are talking about this area down here. So you know we certainly can work with the staff, planning director on appropriate screening of that corner that we discussed. I would also say that as soon as Mr. Spatz and his company reached and talked to us, we put them in touch with the whole Walmart team. I think he met with the market manager, he has met with the store manager and he is also schedule to be talking to someone from the corporate office that handles all the real estate transactions and all that to establish a relationship and understanding and of course he understands. I won't put words in his mouth, that this is a recommendation, that the matter still has to go before City Council so I imagine we will continue having discussions with him. At the time Walmart bought this side, it was all owned by one owner so we purchased this site from one owner and then the residual still owned by the owner that we purchased with, so that the ECR and everything that he was referencing was put in place as part of that transaction.

Mr. Thornton: No more questions, thank you.

Mr. Kleine: Thank you.

Mr. Thornton: Standby, you may be back, okay any other speakers in opposition?

Ms. Cartwright: No that was it.

Mr. Thornton: So we have Mr. Kleine speaking in favor, one speaker opposed, and with that we can close the public hearing and discuss it amongst ourselves. So who wants to takeoff with it, Dave?

Mr. Redmond: As you know, I have a number of concerns; I think foremost in my mind is that this has to be time limited. Second, I am most concerned about the one at Hilltop because it hasn't been there before and the current owner of the adjacent shopping center hasn't experienced it either. So I think certainly in that instance, you know, we've got to be very careful because if the two don't play well together then he is not going to be able to do anything about it. I wouldn't want an adjacent property owner to be disadvantaged in any way for his operations to be disadvantaged in any way and have no recourse about it because there is a conditional use permit in place. So particularly on that site, I think we have to look at that. Furthermore, it cannot be the answer that the internet is coming to retail and is changing everybody's shopping just have more 40-foot trailers everywhere. There's got to be some better answer than that long term or have 10,000 40-foot trailers in the city. I think you know what they are facing, by the way, they are one of the largest drivers of the shift to online shopping but what they are facing, everybody in retail is facing and everybody is going to have to grapple with it and all sort of other different aspects of the economy. But we'll leave that aside for now, so as a long term solution, I cannot imagine and I certainly hope that the answer isn't we just string a bunch of 40-foot trailers around our store, no matter who it is, whether it's Walmart or Target or anybody else. There is going to have to be a better or more professional and more creative solution, typically if you have growing sales, you've got to be stick in trailers outside of your store that means you need more stores, you need to expand stores that you have. That's more expensive than trailers -- that's this whole argument. That's all this is about. But I don't know that that's going to be very good for the city. I certainly don't think we ought to encourage it, and we are certainly not doing it without some sort of time limit so we can review it. I don't necessarily know that any considerations have been given to how to manage that in a way like we discussed two years ago and I think that really has to occur because I just don't -- I hope that's not going to be in anybody's head a permanent solution to changes in the market place. I think we all expect that, very frankly, so would I. I don't know about two years in Hilltop, I don't think any more than one year and the reason I say that is because if it impacts this adjacent shopping center, they ought not to wait two years to try and fix it, that just wouldn't be fair to any adjacent property owner. So anyway that's my thoughts.

Mr. Thornton: Karen, and then Ron.

Ms. Kwasny: So given Dave's last comment I think it might be appropriate for us to, yes, of course be determining, you know, sufficient appropriate use of space, how much, and how long for each application individually of course because each one is different and has its own unique constraints and needs. I think that, you know, while, you know, it's problematic, what might be causing the issue is a conundrum for all of us, we cannot determine for them how to solve it, all we can determine is how we are going to manage it on their sites for now as well. I understand the fear of other businesses doing it, but they would be able to come forward to us to make that request and then we would have to determine whether or not the very same things we're determining on this, whether it's appropriate use of space, how much, how long, or whether or not they have the space to do it. For instance, Big Lots are usually in a retail space. They are not stand alone and they don't have the kind of space that's behind the Walmart at Nimmo for instance and of course the First Colonial has a different type of space and a different amount of space. So we have to handle that one differently and they are asking for fewer units, so in my view, I can understand a

time constraint being applied and I can understand a limitation on the number of storage units. But I think as we are doing it, it's going to have to be according to each of them individually and I don't think it should be with the fear that we are going to set a precedent for every retail business putting storage units on their lots. Because many of them don't have lots to do that and, when they come forward, we have to assess them accordingly. So that's not a fear of mine; is whether or not this is appropriate to the use of the Walmart on Nimmo in Princess Anne or the use of the Walmart space in the First Colonial or Lynnhaven or anywhere else. It's not our job to figure out how they solve that problem, it's how we solve this one.

Mr. Thornton: Anybody on this side, Jeff?

Mr. Hodgson: I agree with both speakers. I would be supportive of this with the time limitation. I agree with you on doing the First Colonial one at a smaller duration of time to see how it performs. We are trying to, we are always trying to think a solution for this and you know we don't have the answer for that, but if my math is right, these containers are about 8-feet wide by 40-feet long which is like 320 square feet. Ten of those would give you 3,200 square feet of additional retail space. You are talking about facilities that are 150,000 square feet. There a lot of very good contactors in this area that could easily add 3,200 square feet of additional space on to the back of one of these large buildings probably for pretty inexpensive price and there are solutions to this, but I would be willing to support it with some time limitations.

Mr. Thornton: Ron.

Mr. Ripley: I too, would do that, you know, we see other types of uses needing trailers, churches need them temporarily, schools need them temporarily, and here we have a situation where the retailers need it temporarily. We can accommodate, but we need a longer term solution than that and I think that two years would be appropriate and so I would be in favor of that.

Mr. Thornton: Jack, and then Don.

Mr. Wall: Well, I think that these are in commercial areas. I think that the location of the trailers as they have been are fairly hidden, you know, not visible so, as it is I think it's okay, but I do support and I feel it's appropriate for time limit as well.

Mr. Thornton: Don.

Mr. Horsley: I am like Jeff. I have done a little math and I come up with by the time we get 60 containers, we have built a 20,000 square foot warehouse when you put all 60 of them together. So I have always been pro-business and I want people to be successful, but also try to look out for the city's best interest too. And you know every once in a while I can come up with ideas, you know, but what I could see people come out and wanting to just put up a small store front and put a couple containers in the back and start running a business, and saying why wouldn't we be able to do that? Since Walmart is doing it so, so we don't want anything like that to start happening and we think more of the city than that, but I do want Walmart to be successful. They need to stay in the area. I appreciate what they do for our community. But I think they do appreciate what we try to make our city look like. So I would support it for the two-year timeframe like we did two years ago.

Mr. Thornton: Okay, Mr. Weiner.

Mr. Weiner: I am definitely in support of two years, I am good with two years even with Hilltop, but when you leave from here today, don't think that we don't like you, because we want you to come back and keep doing good work here in Virginia Beach, so yes I am in support of it.

Mr. Redmond: I am not on Hilltop; I am much more comfortable with the notion of a one-year administrative review on Hilltop. These are a much tighter quarters than all these other sites and it hasn't been done before and if there are conflicts between the operations of those two things, I think that the adjacent operator ought to have some say in that and I don't think it would be a lot to ask, nor do I think it would be fair if we didn't do that. [Crosstalk].

Mr. Thornton: We are going to hear these individually, so when we make a motion for each, someone make a motion on Hilltop accordingly. We've got to make four motions, but we are not finished. Anybody else down here want to speak?

Ms. Rucinski: I was going to say the exact same thing; I have absolutely no issues with, you know, 7, 9, and 10. You can't even tell that containers are there. I mean I knew two years ago that we did it and on a couple of them when I went by, it was like, oh yeah, oh there they are, you know, you have to go looking for them, but I agree the one at Hilltop, it's almost out, I mean, it's not even really behind the building. I mean you will be able to see it from the front row parking so that one, I do have some reservation with.

Mr. Thornton: Karen.

Ms. Kwasny: just had one more kind of concern about the way we look at this going forward because I am not sure I want to consider; I want us to be considering adding another 3,200 or whatever however many square feet it would be, of building in any area where that space might be available when the option is for a 4-month span of store units that aren't visible to the eye from the street. So I don't know that I would like that to be the option that's considered going forward. I frankly, in my opinion, I would rather have timeframes that are administratively reviewed for something that impacts us only for four months and most of us don't see except for when we have a timeframe on a brand new building. That's my thought process, so I am not a fan of urging them to consider adding more building space that I don't think is very wise across the city. I do think that each item that comes before us, as I said before, will be assessed individually by us to determine whether or not when a business wants to put in storage units, they are not just going to get their business and then put up storage units. They are going to ask to do that. So we will, it won't set a precedent what we are doing today, we will have to assess each one individually. So the idea of precedent setting doesn't fly with me either, and I don't think we want more building. I think allowing for some temporary space that allows them to continue to do good business on some of these places where it's not obtrusive is a value to all of us. So I think we should be doing that, I agree. It gets good businesses.

Mr. Inman: I will make a motion that we approve applications 7, 9, and 10 with a two-year limit. [Crosstalk]

Ms. Cartwright: We need to do one at a time please.

Mr. Thornton: So before you make a motion, may I have a word.

Mr. Weiner: Certainly.

Mr. Thornton: Okay these are, I just want to end up the discussion today with a few thoughts and then I will entertain a motion. In, you know, in the big picture we have got the largest retailer in the United States, maybe the world, asking to put 60 trailers in a city of 400,000 people. So I don't think we are going to upset the applecart and ruin anybody's neighborhood or ruin any retailers since another thought is no retailers have asked for this. Well, Target doesn't sell lawnmowers and Target doesn't sell bicycles and Target doesn't sell foosball table whatever, so I don't think we need to charge Walmart with what other retailers do or don't do. The sad thing is Sears, Kmart, Penney's, these people are all out of business and so what we need to do, and somebody said it on this side of the room, what we need to do, we can do to help Walmart stay in business and we also need to, you know, take care of the aesthetics of the City of Virginia Beach. I am in total agreement with what Karen says and what Jan said; these things cannot be seen almost by anybody except for Hilltop, so it's not like we are letting some intrusive thing into neighborhoods and the truth is, if we put a time limit on it, we have a chance to come back and look at this, I would almost rather, I don't know whether we can do it or not, let this be an administrative review so that they don't have to come back into the public arena. What do you think about that?

Mr. Redmond: I was going to ask you that, what you were asking for, administrative review on an annual basis or two-year basis is certainly typical or not uncommon. I want to make sure I am saying the right thing here.

Mr. Thornton: I would prefer that -- I mean you all are competent staff of people and if they are violating the intent of what they have agreed to, you will know that, now my colleagues on this panel may not agree with me and they may want to force them back to the table to the public arena, but I would be comfortable with administrative review from the staff and if this thing goes right, goes wrong, I don't think that in three or four years when this has a chance to work itself out, they may end up not even needing this space because of the way the retail world is shaking out. So you know, I am in complete support of this application. If we want to put an administrative review on it, then we can have a motion. Yes sir.

Mr. Weiner: Point of information, please explain an administrative review to me. I don't know exactly, how that works?

Mr. Frankenfield: It means you don't ever see it again.

Mr. Weiner: I needed a little more detail.

Mr. Frankenfield: Little more detail, alright, so what if.

Mr. Kemp: What that would entail is in our system an inspection would be triggered every year and an inspector would go out, make sure that they meet the conditions. If there are only certain months that are supposed to be there, that gets checked and we would also see if there are any complaints from adjacent property owners. If there have been any property issues in that past year and typically if they have met all the conditions and it has gone on without any issues, it would be administratively approved for another year.

Mr. Inman: I need to respond to that. So that means we never have another chance to consider this if they comply with this application conditions?

Mr. Kemp: That's correct, unless you put another time limit, for example for five years with an administrative review every year. That would be the only way, it would come back.

Mr. Inman: Permanently have number of trailers as requested?

Mr. Kemp: Indefinitely as long as they comply. Correct, except if there were problems with the site and we revoke that administrative approval, then they would have to come back to you with another request for the bulk storage.

Mr. Thornton: Dave.

Mr. Redmond: I have a question to comment on that. So Barry this morning you indicated to us that in a briefing with city council; one of the things that they had mentioned was that they want to see a time limit, correct?

Mr. Frankenfield: You are correct but they didn't have any particular consensus or detail. I just wanted to let you know, right, but let me tell you that it has come up in our favorite short-term rentals that if, and I have to ask Kay about this. We didn't determine if this is legal, but they asked that when the administrative review is done, that council be advised of the administrative review. So there is some possibility here you could have a little more oversight then never see it again. Is that right?

Ms. Wilson: Yes. You could ask that they let you know what the determination was; also if you have one that is a problem that people complained about. Staff can bring them back to you, and so we can administratively do this, it's yours.

Mr. Thornton: So Dave.

Mr. Redmond: Well, I am not sure that I agree with the administrative review, I mean, it doesn't sound like it's really much of a review. I don't think a two-year, I don't think coming back for a conditional use permit in two years is a great burden for anybody, so the two-year administrative review, it doesn't sound like much of a review at all, it sounds like unless something goes wrong, then it's going to get renewed. I just don't think that's good enough very frankly, so and I still am concerned about that Hilltop site.

Ms. Thornton: Well, unless something does go wrong, why should they have to come back here?

Mr. Inman: I can answer that. We are here because times are changing with regard to retail and all. Times are going keep changing and do we want to have anything to say about something that we could have spent an hour and some time talking about the aesthetics. So if it is an aesthetical concern, that may not be necessary after two years or four years or whatever as we review it going down the road, because with the administrative review, we have nothing further to say about it as long as they comply with the conditions.

Mr. Thornton: Back to Barry. When Mike says we have nothing to do about it, if you in your review process find a problem, it sounds like Kay said then you can bring it back.

Mr. Inman: And if there are no problems with that then we do not have any right to have anything further to say about it.

Mr. Thornton: That's what led to my question, if there are no problems, why do we care? But we must or you think we must, anyway. Ron?

Mr. Ripley: I'm the same way, administratively, I don't think I have ever seen administrative review come back here that I can remember that we had placed that in there and there was a

violation of that such that it came back. I go back two years ago, in good faith, there was representation that there was going to be an attempt to solve this problem and it really hasn't and I think you might be right I think in a couple of years it might solve itself. I mean in the market may just, you know, be so much more online and less in-store, then it solves some of its problems itself. So I think two years is not unreasonable for everybody to put their heads together and try to find a solution that's better than trailers. I think again if I own that retail shop as Dave mentioned then, what's to prevent me to come here and wanting to have a trailer, everybody can have a trailer, it would be really nice. [Crosstalk] but what you said where you gave Walmart 20 trailers, but then I should have one.

Ms. Rucinski: I mean size, need, whether or not they have the space, whether or not it's obtrusive to the eye, all of those things would have to be part of the evaluation.

Mr. Ripley: I don't have enough space, I need more retail space.

Ms. Kwasny: I think you will have to evaluate each of them individually. I don't think you just blank check all of them because you did a Walmart, I disagree.

Mr. Thornton: Well, I postponed the motion and now I am ready for a motion and I think Mike was making.

Mr. Inman :I will make a motion as to agenda item number 7, that it be approved with a two-year time limit.

Mr. Thornton: We have a motion and I second on 7, ready for the vote.

Ms. Cartwright: By recorded vote of 10-0, item number seven, Wal-Mart Real Estate Business Trust, has been approved with conditions as amended.

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

**CONDITIONS**

1. The location of the Bulk Storage Yard for the storage containers shall be limited to the area depicted on the proposed site layout on page 5 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning

and Community Development, and shall be subject to all applicable building and fire codes.

2. The storage containers shall not be stacked.
3. The storage containers shall not be placed within any easements.
4. Unless otherwise authorized by the Building Official's Office and the Fire Prevention Bureau, the storage containers shall be located as to maintain a 20-foot wide accessway for vehicular traffic flow and emergency access to the building and HVAC equipment.
5. No hazardous materials shall be stored within the storage containers.
6. Prior to use of the site for the storage, the applicant shall submit a plan to the Planning Department and the Fire Prevention Bureau showing the location of the storage containers for review and approval.
7. The storage containers shall be limited to 20 and are only permitted on site from September 15<sup>th</sup> to January 15<sup>th</sup>.
8. The existing plant material along the western property line that provides a visual screen of the containers from Newstead Road shall remain and shall be properly maintained so as to provide a continuous screen to the Bulk Storage Yard.
9. This Conditional Use Permit is valid for two years from the date of approval by the City Council.

**Item #8**

**Wal-Mart Real Estate Business Trust  
Conditional Use Permit  
546 First Colonial Road  
District- Beach**

**July 11, 2018**

**APPROVED**

Mr. Kleine: Good afternoon Mr. Chairman, members of the Commission. For the record, my name is Tom Kleine. I am a partner with the firm Troutman Sanders, it's also been my privilege for a number of years to serve as council to Wal-Mart Stores for all the projects that they do here in Virginia and I am here on behalf of these four, I realized we have four applications one after another. I will proceed with the first one and then if we want to go on into the next one, however, the chair wishes to proceed. The first application that we have is with respect to the project that we have on Nimmo Parkway and this application as you all know is for the ability for us to have temporary trailers, storage trailers in the back of the store, on the side of the store to help us prepare for the holiday season. We are proposing limitation of 20, no more than 20 containers. There are a number of conditions that we worked very closely with the staff on over the course of last few weeks. I too addressed they are all acceptable to Wal-Mart obviously the location of them would have to be acceptable to the fire marshal or the planning director. They are within the defined area

that shown on the site plan. There would be no hazardous materials that would be stored in any of the containers and again there are strict limits on the number and limits on the timeframe to which they would need to be removed. The area of the site, if you have been out there, is an area that is predominantly where you have truck traffic and loading, its located behind the strip center that is adjacent to the Wal-Mart store. It's also bordered on the other side that does not look like it. It's also bordered on the other side by very mature hedge of trees and that area. There is a site plan that everyone has in their packet, it shows the precise location. They would typically be uniform in size, stacked next to one another in that location. We have heard no objections from any of the adjacent property owners. One of the property owners actually signed the application because part of that site is in a shared area with the adjacent like gym, developers that own the balance of the shopping center. Now let me speak to the concern about containers Mr. Ripley. I read your transcript from a couple of years ago and I also heard Mr. Redmond and Mr. Horsley's comments when we have those sessions earlier and I know that there was a concern of, okay we have this discussion two years ago where are we now. I want to assure you all Wal-Mart takes those concerns, this issue very seriously, we have every single store manager for all five Wal-Mart supercenters in Virginia Beach here today. We have the market manager for this whole part of Virginia has come here today to discuss the logistics issues. We also have someone from the corporate office here Ms. Laurie Smalling-Letts, who is senior director for government affairs. We have also reached out to some of the commissioners who are located in the district. We had the privilege of meeting with Dr. Kwasny at the site with the store manager for a period of time the other day to show the location, to talk about the logistics issues and talk about what we are doing. Some of these, this one we are asking for 20, some of them are more limited number and we will speak to those as we get to them. The issue is that these stores, you know while we are trying to manage inventory as best we can, these stores happen to be very popular and very successful stores and we are trying to keep the store successful in a climate in which the retail market has changed dramatically even in the two years since that approval was granted a couple of years ago. We have had situations where we have got Toys R Us that is gone out of business recently, the Babies R Us has gone out of business and I know the Sears from our office at town center is going to be closing and even with the Babies R Us closure, our store manager has mentioned that she has seen an uptick in the demand for some of that merchandise. So we also have seen a huge change in the online shopping environment. People are sitting at home, they are texting, they are saying I want this TV and I want it delivered to that store and I want to be able to get there and pick it up. We have tried to configure the sites to facilitate that to minimize, you know, the number of people in the stores so that they can come, you may notice we have done some restriping in some of the stores. We have added some locations in the parking lot where people can text in advance, come, pick their merchandise up and do some of the online grocery but we are trying to adjust to that but that also means is the stores were still staying very busy and the sales are continuing and so what this effort is during the holiday season it is an extremely demanding time particularly for toys and for some of the merchandise, that's a little bit larger -- bicycles and things like that -- that are difficult to just continuously restocking keep on the shelves and they are doing what they can. Fortunately, this is a large store, it has a large storage area in the back when the garden center is not occupied with plant material and this has a large garden center when it's not occupied during the planting season, we try to use some of that space to maximize the additional merchandise but what this comes down to is the ability for the customer to have the merchandise on the shelf that they are asking for and they are working on that. They are working on logistic, you will see a lots of trucks coming to the stores frequently to keep the merchandise going, to keep them moving, to

keep them restocked. When you get into that super high demand period particularly as you lead up to black Friday and get passed Christmas, the demand is really pressing on these stores. They are working to do the best to manage it as best we can. I heard some comments earlier. This happens in one of our bigger stores. Some of the stores we are doing now are smaller, the one we will talk about in few minutes at First Colonial is smaller, we are asking for less trailers here to just get us over the hump, but I mean that's kind of thrust of where we are at so we are looking at these stores and we are saying okay what can we do that can allow us to keep the merchandise to meet the customer demands and another thing the Wal-Mart does that some stores don't do is the layaway option, you know, there are lot of our customers they don't have the ability to pay for the merchandise right away but need to know that it's going to be available there for Christmas and particularly as you get to the holiday season, you are having our customers coming to us asking for that merchandise that may be we are storing and trying to get us really through the thanksgiving push I really say. Once we get passed that, closer to Christmas, there is less demand to have that storage there. But that's the purpose, I mean, I think the good news is as we are seeing retailers and frankly there have been some Wal-Mart Stores that I have taken through the entitlement process in the mid-Atlantic, they have ultimately decided let's not pursue that store. You know, the good news is these stores are successful. These stores are doing well. Virginia Beach has been one of the only markets in the mid-Atlantic where they opened a new store last year, that's the one on First Colonial that we will talk about in a few minutes. We are employing over 2,200 people in Virginia Beach. We have got these five supercenters. They are doing well, we are doing our best to adjust to it and we are trying to do it in a way that's not intrusive, that's not objective. I don't know of any adjacent property owner who has called. I know that we put them on a two-year limit a couple of years ago, I don't know that in that two years that anybody has called us. I asked the zoning administrator a couple of months ago, have we heard any concerns from these from adjacent property owners? I have not heard of any, people know to call me adjacent property owners out there have not called us to let us know about them and we have also tried to do them in an area that's really not going to affect the customer experience going in that shopping center. You come, you drive into that Red Mill Wal-Mart, and you are not going to see these. The only way you are going to see them is if you go all the way behind, all the way around that hedge and up into our loading area and that's where they will be just for that limited period of time. So you know, we respect and we hear the concerns that you all mentioned but that's what we are trying to adjust to. We have got an online issue, we have got an extremely dynamic change in the market place right now, we are trying to keep the merchandise out there and now I heard a comment earlier – well what you do when you cannot have the containers, you know, there are some jurisdictions where that is outright prohibited and we have to adjust but the adjustment in that situation may be just not having the merchandise that the customers are looking for so they'll go to another jurisdiction or go somewhere else or in the lot of jurisdictions we are allowed to have them subject to certain conditions by right actually in some jurisdictions, we are allowed to have them by right, we try to work with the jurisdiction, make sure that they are not offensive, that they are not obtrusive that we don't have adjacent property issues that they are in compliance with zoning requirements and to try to adjust that. So that you know that's kind of the story we take this seriously, they take their stores very seriously here in Virginia Beach because they are so successful and you know we were out there. What was it Monday or Tuesday afternoon in the middle of the afternoon, and there were people that were coming who are vacationing here, you know buying beach supplies, buying all kinds of supplies, buying their groceries, looking for beach chairs, you know that store with all its 450 employees is serving the community and that's all they

are asking for is to be able to continue to do that for this limited period of time. I did hear the comment earlier, gosh that seems an awful long amount of time, that's not the holiday season September 15<sup>th</sup> through, we have really asked for that four months just to make sure that if a trailer shows up a little bit earlier whatever there is layaway demand you know that we don't have situation violation of the zoning ordinance, is a practical matter. I think that Ms. Conway who is the store manager will tell you, they are not there that long, you are not going to have 20 trailers out there from September 15 through January 15 and it is a practical matter, once she has the containers there and the merchandise is out of them, she doesn't have any need for them to continue to be there, so she calls them up and says please remove these but again we ask for 20. So if there are 20 out there at any given time again we are not having the zoning violation or we are not having a situation. So we would certainly again we brought the whole team, every store manager, the market manager, someone from the corporate office were happy to answer any questions but we want you to know we did look at the transcript and we did discuss the transcript with the planning staff from the discussions that you had two years ago and we are working on it. We are trying to keep these stores successful in a very dynamic and changing market. So with that said I will be happy to answer any questions. All of the conditions that we reviewed with the staff are acceptable to us and again I am not aware of any objections or anyone here in opposition.

Mr. Thornton: Questions for Mr. Kleine, Mr. Redmond.

Mr. Redmond: So you said that in instances where in the jurisdictions where you cannot get approval for this, the store adapts, right?

Mr. Kleine: Well when I say adapt, if you cannot have them then you just, there might be merchandise that people are asking for that you just cannot provide, yeah. I mean that's or there might not be the ability to do the layaway or offer that service and offer the merchandise. So it is really just about being able to provide the merchandise that people are asking for that store.

Mr. Redmond: What are some jurisdictions where you cannot do that in the Commonwealth of Virginia, are you aware of any?

Mr. Kleine: I would have to go back and research, I am not aware.

Mr. Redmond: You heard my concern this morning is I don't like doing this with no context, right.

Mr. Kleine: I mean I know in Chesapeake they are permitted, you know, you got a lot of containers subject to certain requirements, I know Norfolk you are allowed to do them subject to certain requirements. Some cases you may have a zoning overlay district such as town center for example where we have it screened and you know unless it's like a special event or something, there was certain restrictions on having them there. I would say that puts a big burden on that store too, you know, again town center is a dynamic area, we put our office there at the very beginning so I know how dynamic it is. I watched it grow up outside my window, a few years ago people said well we are not sure that Wal-Mart make sense at Town Center, Wal-Mart compatible with the Town Center model and all that so again that was a by right side that Old Bill's flea market and we work with the staff, Wal-Mart some of these folks, the corporate office worked with the planning staff and did a town center Wal-Mart there, even though it wasn't fully about the zoning ordinance to try to have something that fits in with the environment. That's a hard issue with the holidays to be honest with you, because the reality is you have got all these people saying I would like to put this

on layaway, I would like to have access to that equipment. I would like to have that bicycle and we may be in a situation that we just say I am sorry we cannot do that.

Mr. Redmond: Why is that unique to Wal-Mart? I am unaware of any other retailer that we have had asked for trailers?

Mr. Kleine: Well, I don't think it's unique that we have had trailers in some of our stores. I think it's a lot of just meeting kind of the customer to manage and try to make sure that the merchandise is available and be successful. I don't represent Target, so I don't know to be honestly I don't know that they don't have trailers at their sites, perhaps they don't at the Hilltop site.

Mr. Redmond: We haven't seen them, I mean this is the only Wal-Mart is the only retailer I am aware of, that's ever come before us is asked for trailers around Christmas time as I said this morning Kohl's doesn't do it, Target doesn't do it, the extent that there are any J. C. Penneys, they don't do it. I mean retailers that you are talking about before, I have never seen it from Sears or K-Mart for some odd reason. This is particular just for Wal-Mart and look at these shopping centers and I think to myself wouldn't any other retailer be inclined to come and say yeah we'd like a trailer. What about Big Lots which is you know adjacent to that store and once bought, you know, another retailer in some places just said, we could use one or two. I don't think we want to encourage this notion that if you have a store and you are busy in Christmas because they are all busy at Christmas from the guy that has a 1200 square feet, and he just sells shoes to you know couple of hundred thousand square foot Wal-Mart, again you are going to face greater strains at Christmas time. I don't know that's something going forward that we have to think is just sort of assume that that's okay to do that because we do have site plans. Yeah those other four walls will cause some, you know, some constraints and so the changing retail environment is challenging for anybody. This is the only retailer that I am aware of and whatever 11 years of doing this, that's ever asked for this and I don't know that it's necessarily fair to everybody because I would think everybody would want at least one -- what a heck, I am selling lot of shoes out of my 1,200 square foot store so anyway that's my concern. So now here what are you saying about it makes easier for Christmas timing and moving bunch of stuff at around and I understand all that but those are constraints that every retailer faces.

Mr. Kleine: But I do think you know some of our merchandise is all different sizes. You got lot of bicycles, you got toys, you have things like that and our stores are just very successful. I mean they are, they are extremely busy, very successful stores here. The model is such that you know a lot of people; we have got a lot of traffic to these stores. I don't know what the traffic counts are to other retailers. I think you will have also have a code that would permit other retailers to ask, you know, when there are discretions and I think again we are doing it in a very unobtrusive way. I mean this is literally behind the shopping center in an area that's almost enclosed on four sides because you have got the back of another retailer behind this, retailer on two sides and then there is very mature hedge so you know when I am asking to put them out in the parking field. We are not asking to have them there indefinitely or asking so that we can get through you know this much and that is I mean that's the reality of the situation, I'll ask people like Laurie, the market manager, if they have anything that they want to add to what we said there but I mean that's what we have during that period of time.

Mr. Thornton: Ron, a question?

Mr. Ripley: Tom if you read that the verbatim we said at the very beginning last year that we are ecstatic that the commerce was there, we want the commerce to continue. The idea of what the discussion we have was in good faith was how do we do that, you know, how do we kind of plank and come forward with to help solve this problem in long term and not have that because there was an objection then and you can see it really hasn't changed as far as the way I think this commission kind of looks at it. When I think about Wal-Mart, Wal-Mart has written, how many books have been written about inventory supply chain management, I mean, it has been studied and the highest business institutions in the country over and over again because it is so efficient. Here we got this what we are looking at here it says inefficiency and it doesn't seem to line up with their philosophy to me. I think what was important to me last time is that the managers did come in and they said yeah, we know we are at this problem. We think we can solve it and I realize things do change in the market place and if the commerce is really doing well. There may be another way to solve it and I think I have heard this morning I think maybe at the most some additional time to help solve it might be palpable but this being a long term solution, I don't think that's the solution.

Mr. Kleine: I appreciate that Mr. Ripley and we did share that transcript obviously with the leadership that's here and it has been a changing environment just in those two years, you know, the demand on that store, I am talking about the Red Mill, just continues to go up as we discussed with Dr. Kwasny out there which is great for Virginia Beach, it's great for everyone and so to the extent you know two years ago they were looking and I know that Ms. Conway the store manager, they have looked to re-configure areas in the back. They looked to try to establish more efficiencies and keep merchandise on the shelves, keeping the shelves stocked so that you know you are not going in there and saying oh my god, there is none of this item but it's all back in the storage locker at the back. It mentions they are trying to keep 10 plus items of each thing continuously stocked on those shelves. So that you are coming in and you are looking for something it's there and we are also again trying to have additional efficiencies with respect to the fleet of the Walmart trucks that you see coming, getting the stores off-loaded, getting the merchandising off the shelves.

Mr. Ripley: But in that inventory model, I mean, the inventory model is that the warehouse knows exactly when they need something and it's moved up as oppose to putting it out in the parking lot.

Mr. Kleine: And for that limited period of time though, there was just not that room, we have got so many people coming into these stores asking for certain items to keep that merchandise continuously on the shelves. To keep them successful, you do have that big press and as I said we are asking for the four months. It's a practical matter, it's not really four months of trailers. I mean, we are having that window just so you don't have a situation where we're in violation but it's really a big push over a shorter compressed period of time, black Friday.

Mr. Ripley: I am not speaking for everybody up here but if you had another year or two to help solve this issue, would you be willing to good faith of work on that get it done or not? I mean it buys you time and something you said in the presentation I want to take exception to and that is that you didn't hear anything from the staff. It's incumbent on the applicant to solve the problem not just staff to have to go out and solve the problem.

Mr. Kleine: I am sorry if I misspoke.

Mr. Ripley: It sounded like nobody has contacted you in the two years about this issue.

Mr. Kleine: Oh, no, no, no what I was saying was what I checked was, had there been anyone from the community called to complain that it was a zoning violation or some issues associated with them being out there, that's what I had asked. No, I certainly didn't, we had many discussions with the staff and we are very familiar with the issues.

Mr. Ripley: It is incumbent on you to solve these issues.

Mr. Kleine: We understand that. And may I introduce, this is Laurie Smalling-Letts with the Walmart corporate office.

Ms. Smalling-Letts: Good afternoon, thank you for the time you know as I sit here, I have been with Walmart for 17 and a half years, and I completely understand your concerns but I have seen a drastic change in retail in the time that I have been with the company. We are a good corporate citizen and we provide, as Tom has already said, 2,400 jobs in Virginia Beach. We have given back over 2 million dollars annually to your community through food donations, through CHKD, through local organizations. We have also with just taxes in the State of Virginia, sustain local taxes over a 109 million dollars that are coming back, through tax dollars, so yes we are a corporate citizen that is operating in your city, within your city. I have worked as I said with Walmart for 17 and a half years so I have been at federal state, local, international working with governments on how we engage and how we support the communities we serve. I understand your concern about our inventory management but our stores are built to basically serve customers nine months out of the year. That other additional, there is the influx of traffic. I was just visiting with Melissa who has a store, she has 60,000 customers coming through her door during the holidays. She has an increase in millions of dollars at inventory that's coming in. So I understand that just in time, and pretty much you know most of the year, we are able to do just in time inventory but our just in time inventory now is just in time for the store. The customer wants to be there just in time for that parent that doesn't want the big item to be shipped to their house but they can pick it up at store and then we will have to pay a shipping fee. I just did it this last year, we were buying a shuffleboard table for our boys and it was from Santa we didn't have it shipped to the house. It would have been free to go to the house but it was free to go to the store. We went to the store because we didn't want it on the front step when we came home and didn't know what the box was going to say to surprise what Santa was bringing. So there is a changing dynamic and when you are asked about finding an internal solution to be able to do this, that would be coming back and that would be multi-million dollar expansion of trying to add inventory for the three months, which we would have to go through all the process and everything else. We are in the time right now that in retail we are fighting for our lives. When you look at what retail spaces are going out of business and the retail space that is actively being used, that is going away where it's not generating sales tax revenue, I would love to say that we can come in and tell you that for every store in Virginia Beach, we are going to go in and invest 10 million dollars to expand the stores so we have the inventory space for Christmas. Unfortunately, we are a low-cost retailer. Every cost that adds on adds to the cost of doing business and adds to the cost of every item that your constituents would be purchasing at our stores. So we have to evaluate the kind of the big picture and yes I know trailers don't look great but you are right. Like in all the other jurisdictions that I have worked in, I have had the experience where they understand that we truly like, I tell people, people think oh you are a retailer, we are actually in the people business. We work to get our associates to serve the customers that come through the door. It happens to be the merchandise what's in between and there is a lot of merchandise at Christmas time. It is fortunate that we are having increases in sales but as we have been talking to each of these stores, we have online grocery

pickups so we are creating new jobs for those associates to have additional training to be able to serve those customers that want to come in and get their groceries. So we are increasing skill sets, we are investing in our people, we are doing a lot of great things. We have to be able to serve the customer to be able to stay in business and so it is this additional merchandise that we need during the holidays at all of our stores. There was one saying as I have been visiting with some local officials about our community engagement, everybody is like are you facing the same issues in the other jurisdictions? And we are not. We had trailers at all of these stores and so and I have to say that Virginia Beach is absolutely beautiful and you're building and everything else. I understand the pride that you have and making sure that you are making the right decisions but we are trying to make right decisions for our customers. By having the merchandise that they want when they need it and being able to have pickup in our local stores where people can order big items for their kids and surprise them and layaway. A lot of retailers have done away with layaway because it is expensive to store that merchandise and to collect ongoing but that's our core customer. They need layaway because they cannot afford to come in and buy it all in once. So I understand and I would love to say that we could say hey give us another year and we will come back and we will have a solution. Unfortunately, I think that the only thing at this point is that temporary storage to get us through and will continue to work through our inventory and figure out there are ways that we can reduce the number of trailers. I also don't want the company to go out of business. I don't want us to have to reduce inventory because people aren't shopping in our stores and that's what we are facing as you look at the competitive landscape. Where retail is going, more and more is going online and we are here providing jobs in your community, we are providing tax dollars that come directly back to your community and we are serving your customers that are your constituents. So I do appreciate you hearing this but as we are sitting back I know our stores need this because this is the first issue that I heard when I came into the market last year is that the city doesn't like us and it was our trailers. That's the interpretation of our store managers. When they came here two years ago, the feeling as they walked out was that it was easy for you all to kind of say well we don't want to see you and you fix it. They are managing 400-450 associates. They are managing millions of dollars of inventory that's flowing in the stores and unfortunately they are just trying to make sure that they can accommodate customers and serve the customers with the merchandise they want. So if you all decide that we have to come back and come up and invest then maybe Tom will be coming here and saying we are actually closing another store versus building more. That's the retail environment as I said I came into Walmart where we are opening 250-300 stores a year, this year alone we are opening 20, consumers are changing, shopping behaviors are changing that where we can keep our customer shopping in the stores that's what these store managers are here fighting for just to make sure we can serve those customers.

Mr. Thornton: Don't go away, we may have some questions. Any questions for Laurie, Mike?

Mr. Inman: From either of them, I respect that what you were saying about what Walmart does for the community, I want to thank you all for that. Our job is to a great degree about aesthetics and keeping our city beautiful and this has something to do with the storage units that you have. It is still curious that and I know you guys are smarter than most of them, but nobody else seems to need this. Maybe they haven't figured it out yet, I don't know. What about other off-site warehouse facility, maybe several smaller warehouse facilities that are in an industrial part versus having the trailers right there. I know it's not convenient as far as restocking. It is not as convenient but it's an alternative that would eliminate the trailers, maybe that doesn't work. I mean I understand. I am not trying to restructure Walmart here but what are the alternatives could there be to satisfy?

Ms. Smalling-Letts: And we have had those conversations about that and just from the logistical standpoint. So our trucks come in and bring the trailers and then they could place in the parking lot. We don't have short haul like we don't have small trucks that kind of go from point A to point B. When you talk about putting in an outside storage then it becomes running new hauls and it becomes finding CBL drivers that would be beyond the corporate time and then the liability of having the merchandise and being able to transport it back and forth. So we have had those conversations. I know Tom you have had additional conversations even with internal real estate but you know it's we have the space there, we can have associates go out, we have locks on all of it. We can monitor when they are on property. So from that standpoint, it's just we are setup logistically for long haul not short haul just in the way that our logistic system works.

Mr. Thornton: David?

Mr. Weiner: And I want to thank you also. Walmart does a great job around here and they are very good corporate citizens with the City of Virginia Beach, doing a fine job. I think it took us by surprise that's what I think for pretty much here. I even asked Jimmy. I thought this was a done deal, they are going to take care of this. That's what I think. That's why we are talking about this right now and on the other hand not thinking about the applications. If you looked at the number of people who walked in the Walmart compared to Target, it's probably double and that's why they need a containers because, don't take this wrong way, but if I have to go to Walmart, I will go 5 in the morning where I can get in and out. I think that's why we are here right now because of the people that go there are about double the people that go to Target. I think that's why we are little bit shocked to see this come in front of us again.

Mr. Kleine: And I think again, we have those issues with the stores being very successful and again just the changes with the retail market changing. Our firm represents a lot of other type of entities and we are seeing so much dramatic change in business over time, I mean, there have been sites as I mentioned before that I took through very ruling entitlement processes in other parts of the Mid-Atlantic. Walmart ultimately decided we are not going to do the stores, even though we have been through lawsuits and everything, to get them approved. It's changing that much and as she mentioned, with the mode we used to be and building so many stores when last year I think the only store I am pretty sure that this is correct, the only store that they opened in all of Virginia was this one in Hilltop. That's what the change has been. Getting to Mr. Inman's comment, and I respect the concern about the aesthetics, I am a resident of Virginia Beach and I appreciate that. We are trying to find with every one of these applications the places where they are the most unobtrusive and no one is going to have to go back there to look for them here. Ms. Conway, who is a store manager, also gave commissioner Kwasny her word. These things aren't going to be just scattered around there. You have got a defined box we have to keep them in, we have got an understanding with the adjacent property owner that there was a defined area that they are going to be in. They are going to be uniform, there are going to be stacked and again her business model as soon as she doesn't need that thing and she locally had used another thing that has changed. It used to be that the delivery of these trailers etc. was handled at the corporate level. That's changed and it is now handled at the store level as I understand. So Ms. Conway is going to be there at that store, running that store, and she is going to realize we don't need these five trailers. Call up the folks, get them off the site and so maybe you are down to 10, maybe you are down to 15 or whatever. We have deliberately, and you will see with all the other applications, found spots that are going to have to minimize any kind of aesthetics adjacent. The newest one that we have, that

we will talk about in a moment, there is some fencing that the staff has asked for because there is an adjacent shopping center, so we have a very cognizant of that sir.

Mr. Thornton: Karen?

Ms. Kwasny: I don't have a question. I am wondering whether or not we are listening to each one of them individually and then we will have closed it, so that we can have conversation. Because I think, I am passed a point of question for them, I am to the point of wanting to make a comment or two that we could just ask, but don't know when we are going to do that.

Mr. Thornton: We are going to close public hearing sooner than later, because I think, unless we have got anymore specific questions but we are going to hear their argument all at once and then we are going to deliberate. We have got to make a decision on each individual one, but I don't want to stop if we got questions, let's keep asking questions and Mr. Redmond.

Mr. Redmond: I do have a question. That's the variations in the number of trailers in each one of these four applications, can you explain it? I would prefer some sort of you know specificity and metric, not merely the store manager says 10 or the store manager says 20. As Mr. Ripley said, you guys have a pretty well known and extraordinarily sophisticated logistics and supplied management reputation, I am sure was probably a good bit more specific than that, so 10 versus 20 versus.

Mr. Kleine: Well, I think I can address that probably on a site by site basis. On this particular site, we have the room. It's one of our largest stores, 200,000 square feet. So I think this is such a big store between the proximity to all the tourist areas and in the other parts of the city. I think that was evaluated. We also have the space on the side in that area, so that was a 20. With the other stores, we can talk about. Some of it, we have less space. Some of the stores are smaller like the retrofitted K-Mart that we did at First Colonial.

Mr. Redmond: Yes, it's a question ahead actually. What's the square foot of store Hilltop? Do you know of the top of your head square footage of the store at Hilltop? Somebody was asking this morning and I don't know.

Mr. Kleine: I think in the range of 152, but it's based off of sales. The metric that they do internally and this is from the market manager, they do look at the sales. You know that they have of that store and what the increase demand is anticipated to be with the holiday season in that shift. Then they look it, where feasibly we will be able to house that merchandise based on our historic data, numbers of customers coming in an anticipation with the holiday.

Mr. Redmond: Okay, thanks.

Mr. Kleine: And there are practical limitations based on do you have space more than like Phoenix Drive, we just have that location on the site.

Mr. Thornton: Questions on this side, over here, I see no more hands, I see no more questions. So with that we'll close the public hearing and will debate this matter amongst ourselves, thank you.

Mr. Kleine: Thank you. This is just the public hearing on this application. We do have different issues with the other.

Mr. Thornton: Why don't you quickly give us the nuances of four of them, so we know Nimmo Parkway has 20 containers, we know where they are going to be, what about, do the next three in executive summary because they all should be reasonably similar except for Hilltop.

Mr. Kleine: And then I know with respect the Hilltop just for purpose of keeping the record, we have some gentlemen that are going to want to speak from adjacent property owners. We want to make sure that the record reflects that opportunity.

Mr. Thornton: That one will be last.

Mr. Kleine: So I think that one in your agenda was actually the next. That was number eight, so perhaps if we wanna skip, now to number nine and ten.

Mr. Thornton: Nine is Lynnhaven and ten is Phoenix.

Mr. Kleine: Okay, so Lynnhaven again it's a similar situation, this is one of our larger stores with heavy sales. You cannot see it very well with this site plan, but these would be placed around the back of the store, pushed up as close to the stores as the fire marshal will allow us. We'll have to work with the fire marshal on that, outside of any travel lanes. This is part of a larger shopping center. You have got an adjoining shopping center next to us, so this is not a situation where it looks like a parking lot in this but that's actually, this area over here is actually more in line shopping down to that shopping center. So there is a little passage way but from the parking field out here, there's just really no visibility. He is proposing to park some of them along here and then some of them along there. The back of the store has a pretty well defined stormwater management facility. There is also very defined hedge that runs along the back there. The adjacent property notices have been sent out. Signs for the stores have been posted. I am not aware of any of the adjacent or nearby property owners who have any concerns. This is one of the large stores like the Red Mill, a 200,000 square foot store, and again a very successful store. There is a lot of demand for some of the layaway and some of the other merchandise at the holidays. We have a series of conditions that are acceptable to the applicant here, no hazardous limitation on the number, limitation on the time of year that they would be out there. The final location of them will have to be subject to final approval by zoning and fire marshal etc. But they're back there, near the loading area that is not visible from public right-of-way. You can see the mature hedge across there that's providing successive buffering with any the residential behind is a multifamily.

Ms. Rucinski: And how many at that store?

Mr. Kleine: That would be no more than 20. The next one, number 10, is Phoenix Drive and this is a store just near the Lynnhaven Mall. You may recall, we came before the Planning Commission and City Council a few years ago for an expansion for this store so that we could add the full grocery component. At this store we are proposing to put them back in this area and have no more than 10 over there. That's where they historically put them at this 168,000 square foot store. It was originally a division one store and it was expanded a few years ago to make a little bit so we had the full service grocery component to it. This again is an area of the site, it has very limited visibility as you can see, very mature hedge along this side. Its way off to the side as you drive into the site, all the vehicular access for the most part is from the front or from the other side big parking field because the side is over parked. I heard your comment earlier about parking, I think this was parked at 4.5 per thousand ratio and the city requirement is 4 per thousand, so we got lot of parking. We are trying to keep them back there, minimize the visibility. There is also a

condition, that is a little bit unique from the others that if this site over here were ever to be developed and for whatever reason that hedge were to be removed or thinned out, we would have to put a wooden fence or some type of barrier fence along there. If we were going to continue to have the containers in that location, but again that's a condition that we worked out with the staff. I cannot tell them how they would really have any visibility again. One of the entrance features over here and then entrance over here, there would be very minimal. You really have to drive over there and again there is a lot of parking that's not used at this site. That's where they would be located. So the conditions on that are acceptable. I think those are the three which you have looked at before. The new site is the one at Hilltop and that is agenda item eight. This is an exciting store. I have to say because we worked on this, I live near the store, it took us a long time working on all the documents to get this together. I think for those of you who aren't familiar with this shopping center and Kmart, that was a very dated Kmart that ultimately went out of business and that center was in need of significant work. Walmart came in a few years ago. We went before the City Council for a conditional use permit associated with some of the accessory components that we have over here. It's part of that approval. We also showed architectural detail. We worked very closely with the staff on dressing this up. We took that old Kmart store's respective old walls, for the most part, and gutted it and did a few additions on the sides. If you have been out there, you really have to look to not know that it's a completely brand new store. You would never know that it was essentially, we have retrofitted the older building that's there. You know this site has a shopping center with other retail parcels that kind of surround it. They are owned by different property owners. Those gentleman are here and they are going to speak with us. What she is asking for, the square footage of this one Jackie, 152 and that's approximately the size of the Kmart that we took over with a little bit of few tweaks to accommodate some things around the area around the sites. So on this side, there are reciprocal easements for parking and travel lanes etc., with this overall shopping center. You can obviously access this site of First Colonial. You can access it off Donna Drive as well. Over this area here is the loading area. Again we try to identify and on this side is our garden center and this is the Autobell. Of course the store faces this way and then passed on a drive, you have Laskin Road up here. What we have done over here is, she has a limited need again for some containers. She is anticipating seven to ten so we are asking for 10. So limit on 10 again the same limitations that we have before. The staff did indicate that because we are adjacent to this retail area, that's owned separately from Walmart, that we could perhaps put in some fencing. There is a screen fence, it screens some of the loading area that's of a wood nature over here. They asked if we could put something similar to that or compatible with that. It would be temporary if you could go to the site plan there kind of a long like that actually it was a previous one, like that, I think the staff reports showed it going all the way down here and comment was that's an awful lot of temporary wooden fencing when you are needing to get into the containers over here. When you have got basically screening yourself from your own store over here because the remainder of the center is over there. The other issue is some questions we had, wait a minute what does this box mean, there is already a site plan that shows some parking spines etc. She would just put some of these containers in those existing parking spines. So we are not proposing to block any travel lanes or drive aisles, it's more just to get them closer to the store. This area back here is a loading area. It has some reinforce concrete, there is a lot of truck activity with the deliveries that are coming back there each day. I know one question is could you push them back little bit further. That's why we have them kind of in these areas over here on our site located to typically put them in some of the perpendicular to one another within the spines. But not interfering with the routine truck travel lanes that are coming into the site or anything that would pose an issue

from a fire perspective. I did speak with Mr. Aspin Wall who owns the self storage on the other side here. He does not have any objection to it. I know the gentleman from Pratt Street did want to comment on it, they did. They are new owners of the remaining shopping center and they did contact us last Friday just indicated they have some questions and I believe that they would also like to speak. So on that part, I will be happy to answer any questions or if not defer to the gentleman from the Pratt Street.

Mr. Thornton: So you are talking 20, 20, 10 and 10 on number count; we got that? Two at 20 and two at 10.

Mr. Klein: Yes sir.

Mr. Thornton: Don.

Mr. Horsley: These are all 20-foot containers right; they are not 40?

Mr. Klein: They are 40. Yes sir. But they would all, have defined limits that we would have to keep them in, so there are precise locations. We have to keep them within those confines.

Mr. Thornton: Any other questions for Mr. Klein? Okay thank you.

Mr. Klein: Thank you.

Ms. Cartwright: Alright, we do have one speaker in opposition for item number eight, Jeff Spatz, would you please come to the podium and state your name for the record?

Mr. Spatz: Good afternoon, I'm Jeff Spatz on behalf of Pratt Street Capital, PSC Hilltop and other co-owners of the adjacent center there. As Mr. Klein explained, we own a retail center, over here as well as on this side of the Walmart center. On each side we have properties, retailers are on each side. There is a reciprocal easement agreement between Walmart and our ownership which was placed there by the prior owner, prior to the sale to Walmart to allow both parties to have utilization of access ingress/egress etc., so that there will be kind of cohesive flow to the center even though it is separate parcels. We only did learn about this more recently, there are many factors that are moving parts. One is this Walmart is a relatively new Walmart. As Walmart explained, they have been opened a year. It may be just over a year, but it's a pretty new Walmart and we are still just digesting how the impact is on the center. They have been a great neighbor, we are happy to work with them, but we want to make sure that the traffic flow, the truck loading and the parking do not get adversely impacted. We did get to this a little bit late in the game. I want to thank the Commission and the staff, especially Mr. Davis. I am not sure if he is here, okay he has been very responsive and very helpful. It has made our job of digesting this in a short period of time much easier, so thank you and that being said we want to be good neighbors. We want to accommodate Walmart. We want to help them be successful. Retailers in the market, we just want to ensure that it does not adversely impact the aesthetics as the Commission is concerned, and as far as traffic flow and truck loading as well. The site plan that they put together had a call out for a substantial area where they may or may not put the trailers. We would like to little more closely define it to understand. My understanding from being at the center and from speaking to Walmart is that the trucks actually do come along the back of our retail establishment and go through here so I want to make sure that does not impede and Walmart has verbally said no we would make sure that it doesn't impact the truck ingress/egress and loading area. So we are not in opposition, we just want to make sure that it is working in a cohesive manner with the entire shopping center. Now we could

all work together so as much as we are quoted as opposition, we are not here formally saying that we are against it, we just want to be done it in a way that enhances entire center for Walmart as much as you know our retailers.

Mr. Thornton: We have a time limit on speaking.

Mr. Spatz: Oh, I am sorry, my first time here.

Mr. Thornton: That's okay, that's fine, questions for Mr. Spatz from the Planning Commission.

Mr. Redmond: Was the fencing a priority for you?

Mr. Spatz: The fencing would be helpful but part of that is to understand exactly the layout of the storage facilities and then we can see the visibility, the eye sight. So to understand there is a lot of parking here to understand exactly where in this area. It will now be set, then we can understand exactly the site line. We really want to keep it looking nice aesthetically as we can and we did ask if they could be set back a bit further to kind of keep it out of the view point. As they said, Mr. Klein explained, it's a little difficult because of the loading area, so we are trying to have a discussion of how we could work together to accommodate it from our perspective. Obviously the Commission has to approve it from their perspective but we are trying to work together to see if there is a way we can accommodate.

Mr. Redmond: My concern is whether screening ends up looking worse than better and it could end up looking like. We have all seen the construction site fences that go up, and I just don't want the screening to make it look more of an eyesore than it would as you just said the walls of the containers.

Mr. Spatz: I agree completely and that part of the factor of is the screening going to be up year round or is that only going to be there when the storage facilities are there, is it going to be maintained, will it need to be power washed, etc. Those are kind of some of the moving parts that were you know trying to have the discussion on to make sure that it works.

Mr. Redmond: My understanding is that screening would have to be removed when the containers are moved.

Mr. Spatz: That was my understanding and I wanted to confirm that and the question is from one year to the next, how it will be maintained and at this point, the Commission deems that it is an appropriate use because this is a new Walmart and we are still just trying to get our hands around exactly the logistics and the layout and the trucking lanes. We would propose that it would be a more timeline finite period rather than indefinite approval.

Mr. Redmond: I think we are all in agreement with that.

Mr. Spatz: That's fine, but I just especially with this site, because Walmart has only been opened for a year and there are a lot of open issues from our perspective.

Mr. Redmond: Thank you.

Mr. Thornton: Jack.

Mr. Wall: So currently the traffic flow and the pattern is acceptable?

Mr. Spatz: That is correct. We have not had any issues with their trucks going behind our center and our parcel and using that lonely area. We have not had any issues.

Mr. Thornton: Okay, Jan.

Mr. Rucinski: I have a question for Walmart.

Mr. Thornton: Do you need to ask to this while this gentleman is here?

Ms. Rucinski: No.

Mr. Thornton: Ok.

Mr. Spatz: Thank you very much.

Mr. Thornton: Thank you sir. Tom she has a question for you.

Ms. Rucinski: So my question is this. If the loading trucks are entering behind where those storage units are proposed, why could we move those storage units closer to the building?

Mr. Kleine: Thank you for that question. By the way, and I am going to have the store manager to address where the trucks for the most part are coming through, I will say that the short answer is Wal-Mart is never going to allow something that interferes with their ability to get the merchandise in the store and interfere with their truck routes. So not containers. This is Jackie Russell who is the store manager of the new store.

Ms. Russell: Good afternoon, so where the trucks come in, they actually come off the Donna Drive and they do go behind, so they go here and they come down through here and this right here is where they back the trucks up. These trucks are really big so in the morning time, I may have possibly anywhere from I want to say five to ten deliveries, different size of vehicles coming from local business partners for grocery merchandise and then I also have our Wal-Mart corporate trucks. They have to back these things up into four different bays. So they need this room right here to back up the maneuver because they are maneuvering around five to ten other vehicles so I cannot put the proposed bulk storage there because then there is just no way. It's going to create an interference. It's going to create safety issue.

Ms. Rucinski: I wasn't really talking about back down the corner; I was talking more like closer to the building because it looks like you have got them up in that front corner, but instead of been in the corner move them closer to the building.

Ms. Russell: Good question, I actually have a pickup area, so my online grocery shoppers go to the back of the building and we have a door on the side of the building that allows my associates to come out there and provide that service to that customer. So unfortunately I cannot put it there because that's going to impede on those parking spaces for those customers to come in and come out.

Mr. Kleine: But the reason, if you go to the exhibit where it would be, with the black one, that one yes; what we are doing there was really just respecting the property line and showing that would be within the limits of where they could be. We are not saying that they would necessarily be pushed off all the way along that area. We would, you know, we are going to try to keep them in existing parking areas in a way that there was not interfere with pickup, you also have the pharmacy pickup. There is a pharmacy drive through and there is designated spot. The people who are doing

the online pickup that you are talking about, but if you can go to the one that shows the site plan, well yes, the other one, the one that shows the overhead, I am sorry, yes so where she would do them is a practical matter. There are some parking spaces that run through here and she would have them within those parking spaces, for the most part in those parking space areas.

Mr. Thornton: Do you anticipate ten units side by side?

Ms. Russell: So there would be like two and then there would be some space, yes and then two, so I am trying to confine it into allocated parking spaces on my property.

Mr. Kleine: As a practical matter, more in this right in here, and then we would, and then with respect to the fencing, the wooden fencing, you know, if we wanted to modify that condition, etc. or such appropriate screening as approved by the planning director or something like that, to provide some flexibility, I think that is yes. Someone has asked the question that is it going to be up and around; no, I mean we wouldn't have just a line of fencing there with nothing behind it or whatever. It would be removed, the wooden fencing you know, sometimes it draws attention I agree, you know, I see wooden fencing, you're like okay what's going on behind that, but there is some Shade cloth screening, there is portable temporary screening that I have seen used in some locations and some of our stores. We have sometimes put it on the inside of garden centers that can come on portable racks that they can roll out there, so if you wanted to modify that condition to say or such appropriate screening is approved by the planning director that we can work, you know, with the planning director to find some alternative as well instead of the wood. But if the requirement is that it be wood then, yes, the wood have to go to a fence vendor and they would have to have basically prefab sections put up and they'd have to have the concrete, portable concrete footers, put out there and then have to have all that removed and then they'd have to -- her employees would have to be maneuvering around that -- particularly if they ran all the way down as it was originally proposed, to get back to where those areas are located and again, if you go back to the site plan, the overhead, you know, here is your visibility. I mean this is the end of the shopping center, Mr. Spatz' company owns right there, so we are talking about this area down here. So you know we certainly can work with the staff, planning director on appropriate screening of that corner that we discussed. I would also say that as soon as Mr. Spatz and his company reached and talked to us, we put them in touch with the whole Walmart team. I think he met with the market manager, he has met with the store manager and he is also schedule to be talking to someone from the corporate office that handles all the real estate transactions and all that to establish a relationship and understanding and of course he understands. I won't put words in his mouth, that this is a recommendation, that the matter still has to go before City Council so I imagine we will continue having discussions with him. At the time Walmart bought this side, it was all owned by one owner so we purchased this site from one owner and then the residual still owned by the owner that we purchased with, so that the ECR and everything that he was referencing was put in place as part of that transaction.

Mr. Thornton: No more questions, thank you.

Mr. Kleine: Thank you.

Mr. Thornton: Standby, you may be back, okay any other speakers in opposition?

Ms. Cartwright: No that was it.

Mr. Thornton: So we have Mr. Kleine speaking in favor, one speaker opposed, and with that we can close the public hearing and discuss it amongst ourselves. So who wants to takeoff with it, Dave?

Mr. Redmond: As you know, I have a number of concerns; I think foremost in my mind is that this has to be time limited. Second, I am most concerned about the one at Hilltop because it hasn't been there before and the current owner of the adjacent shopping center hasn't experienced it either. So I think certainly in that instance, you know, we've got to be very careful because if the two don't play well together then he is not going to be able to do anything about it. I wouldn't want an adjacent property owner to be disadvantaged in any way for his operations to be disadvantaged in any way and have no recourse about it because there is a conditional use permit in place. So particularly on that site, I think we have to look at that. Furthermore, it cannot be the answer that the internet is coming to retail and is changing everybody's shopping just have more 40-foot trailers everywhere. There's got to be some better answer than that long term or have 10,000 40-foot trailers in the city. I think you know what they are facing, by the way, they are one of the largest drivers of the shift to online shopping but what they are facing, everybody in retail is facing and everybody is going to have to grapple with it and all sort of other different aspects of the economy. But we'll leave that aside for now, so as a long term solution, I cannot imagine and I certainly hope that the answer isn't we just string a bunch of 40-foot trailers around our store, no matter who it is, whether it's Walmart or Target or anybody else. There is going to have to be a better or more professional and more creative solution, typically if you have growing sales, you've got to be stick in trailers outside of your store that means you need more stores, you need to expand stores that you have. That's more expensive than trailers -- that's this whole argument. That's all this is about. But I don't know that that's going to be very good for the city. I certainly don't think we ought to encourage it, and we are certainly not doing it without some sort of time limit so we can review it. I don't necessarily know that any considerations have been given to how to manage that in a way like we discussed two years ago and I think that really has to occur because I just don't -- I hope that's not going to be in anybody's head a permanent solution to changes in the market place. I think we all expect that, very frankly, so would I. I don't know about two years in Hilltop, I don't think any more than one year and the reason I say that is because if it impacts this adjacent shopping center, they ought not to wait two years to try and fix it, that just wouldn't be fair to any adjacent property owner. So anyway that's my thoughts.

Mr. Thornton: Karen, and then Ron.

Ms. Kwasny: So given Dave's last comment I think it might be appropriate for us to, yes, of course be determining, you know, sufficient appropriate use of space, how much, and how long for each application individually of course because each one is different and has its own unique constraints and needs. I think that, you know, while, you know, it's problematic, what might be causing the issue is a conundrum for all of us, we cannot determine for them how to solve it, all we can determine is how we are going to manage it on their sites for now as well. I understand the fear of other businesses doing it, but they would be able to come forward to us to make that request and then we would have to determine whether or not the very same things we're determining on this, whether it's appropriate use of space, how much, how long, or whether or not they have the space to do it. For instance, Big Lots are usually in a retail space. They are not stand alone and they don't have the kind of space that's behind the Walmart at Nimmo for instance and of course the First Colonial has a different type of space and a different amount of space. So we have to handle that one differently and they are asking for fewer units, so in my view, I can understand a

time constraint being applied and I can understand a limitation on the number of storage units. But I think as we are doing it, it's going to have to be according to each of them individually and I don't think it should be with the fear that we are going to set a precedent for every retail business putting storage units on their lots. Because many of them don't have lots to do that and, when they come forward, we have to assess them accordingly. So that's not a fear of mine; is whether or not this is appropriate to the use of the the Walmart on Nimmo in Princess Anne or the use of the Walmart space in the First Colonial or Lynnhaven or anywhere else. It's not our job to figure out how they solve that problem, it's how we solve this one.

Mr. Thornton: Anybody on this side, Jeff?

Mr. Hodgson: I agree with both speakers. I would be supportive of this with the time limitation. I agree with you on doing the First Colonial one at a smaller duration of time to see how it performs. We are trying to, we are always trying to think a solution for this and you know we don't have the answer for that, but if my math is right, these containers are about 8-feet wide by 40-feet long which is like 320 square feet. Ten of those would give you 3,200 square feet of additional retail space. You are talking about facilities that are 150,000 square feet. There a lot of very good contactors in this area that could easily add 3,200 square feet of additional space on to the back of one of these large buildings probably for pretty inexpensive price and there are solutions to this, but I would be willing to support it with some time limitations.

Mr. Thornton: Ron.

Mr. Ripley: I too, would do that, you know, we see other types of uses needing trailers, churches need them temporarily, schools need them temporarily, and here we have a situation where the retailers need it temporarily. We can accommodate, but we need a longer term solution than that and I think that two years would be appropriate and so I would be in favor of that.

Mr. Thornton: Jack, and then Don.

Mr. Wall: Well, I think that these are in commercial areas. I think that the location of the trailers as they have been are fairly hidden, you know, not visible so, as it is I think it's okay, but I do support and I feel it's appropriate for time limit as well.

Mr. Thornton: Don.

Mr. Horsley: I am like Jeff. I have done a little math and I come up with by the time we get 60 containers, we have built a 20,000 square foot warehouse when you put all 60 of them together. So I have always been pro-business and I want people to be successful, but also try to look out for the city's best interest too. And you know every once in a while I can come up with ideas, you know, but what I could see people come out and wanting to just put up a small store front and put a couple containers in the back and start running a business, and saying why wouldn't we be able to do that? Since Walmart is doing it so, so we don't want anything like that to start happening and we think more of the city than that, but I do want Walmart to be successful. They need to stay in the area. I appreciate what they do for our community. But I think they do appreciate what we try to make our city look like. So I would support it for the two-year timeframe like we did two years ago.

Mr. Thornton: Okay, Mr. Weiner.

Mr. Weiner: I am definitely in support of two years, I am good with two years even with Hilltop, but when you leave from here today, don't think that we don't like you, because we want you to come back and keep doing good work here in Virginia Beach, so yes I am in support of it.

Mr. Redmond: I am not on Hilltop; I am much more comfortable with the notion of a one-year administrative review on Hilltop. These are a much tighter quarters than all these other sites and it hasn't been done before and if there are conflicts between the operations of those two things, I think that the adjacent operator ought to have some say in that and I don't think it would be a lot to ask, nor do I think it would be fair if we didn't do that. [Crosstalk].

Mr. Thornton: We are going to hear these individually, so when we make a motion for each, someone make a motion on Hilltop accordingly. We've got to make four motions, but we are not finished. Anybody else down here want to speak?

Ms. Rucinski: I was going to say the exact same thing; I have absolutely no issues with, you know, 7, 9, and 10. You can't even tell that containers are there. I mean I knew two years ago that we did it and on a couple of them when I went by, it was like, oh yeah, oh there they are, you know, you have to go looking for them, but I agree the one at Hilltop, it's almost out, I mean, it's not even really behind the building. I mean you will be able to see it from the front row parking so that one, I do have some reservation with.

Mr. Thornton: Karen.

Ms. Kwasny: I just had one more kind of concern about the way we look at this going forward because I am not sure I want to consider; I want us to be considering adding another 3,200 or whatever however many square feet it would be, of building in any area where that space might be available when the option is for a 4-month span of store units that aren't visible to the eye from the street. So I don't know that I would like that to be the option that's considered going forward. I frankly, in my opinion, I would rather have timeframes that are administratively reviewed for something that impacts us only for four months and most of us don't see except for when we have a timeframe on a brand new building. That's my thought process, so I am not a fan of urging them to consider adding more building space that I don't think is very wise across the city. I do think that each item that comes before us, as I said before, will be assessed individually by us to determine whether or not when a business wants to put in storage units, they are not just going to get their business and then put up storage units. They are going to ask to do that. So we will, it won't set a precedent what we are doing today, we will have to assess each one individually. So the idea of precedent setting doesn't fly with me either, and I don't think we want more building. I think allowing for some temporary space that allows them to continue to do good business on some of these places where it's not obtrusive is a value to all of us. So I think we should be doing that, I agree. It gets good businesses.

Mr. Inman: I will make a motion that we approve applications 7, 9, and 10 with a two-year limit. [Crosstalk]

Ms. Cartwright: We need to do one at a time please.

Mr. Thornton: So before you make a motion, may I have a word.

Mr. Weiner: Certainly.

Mr. Thornton: Okay these are, I just want to end up the discussion today with a few thoughts and then I will entertain a motion. In, you know, in the big picture we have got the largest retailer in the United States, maybe the world, asking to put 60 trailers in a city of 400,000 people. So I don't think we are going to upset the applecart and ruin anybody's neighborhood or ruin any retailers since another thought is no retailers have asked for this. Well, Target doesn't sell lawnmowers and Target doesn't sell bicycles and Target doesn't sell foosball table whatever, so I don't think we need to charge Walmart with what other retailers do or don't do. The sad thing is Sears, Kmart, Penney's, these people are all out of business and so what we need to do, and somebody said it on this side of the room, what we need to do, we can do to help Walmart stay in business and we also need to, you know, take care of the aesthetics of the City of Virginia Beach. I am in total agreement with what Karen says and what Jan said; these things cannot be seen almost by anybody except for Hilltop, so it's not like we are letting some intrusive thing into neighborhoods and the truth is, if we put a time limit on it, we have a chance to come back and look at this, I would almost rather, I don't know whether we can do it or not, let this be an administrative review so that they don't have to come back into the public arena. What do you think about that?

Mr. Redmond: I was going to ask you that, what you were asking for, administrative review on an annual basis or two-year basis is certainly typical or not uncommon. I want to make sure I am saying the right thing here.

Mr. Thornton: I would prefer that -- I mean you all are competent staff of people and if they are violating the intent of what they have agreed to, you will know that, now my colleagues on this panel may not agree with me and they may want to force them back to the table to the public arena, but I would be comfortable with administrative review from the staff and if this thing goes right, goes wrong, I don't think that in three or four years when this has a chance to work itself out, they may end up not even needing this space because of the way the retail world is shaking out. So you know, I am in complete support of this application. If we want to put an administrative review on it, then we can have a motion. Yes sir.

Mr. Weiner: Point of information, please explain an administrative review to me. I don't know exactly, how that works?

Mr. Frankenfield: It means you don't ever see it again.

Mr. Weiner: I needed a little more detail.

Mr. Frankenfield: Little more detail, alright, so what if.

Mr. Kemp: What that would entail is in our system an inspection would be triggered every year and an inspector would go out, make sure that they meet the conditions. If there are only certain months that are supposed to be there, that gets checked and we would also see if there are any complaints from adjacent property owners. If there have been any property issues in that past year and typically if they have met all the conditions and it has gone on without any issues, it would be administratively approved for another year.

Mr. Inman: I need to respond to that. So that means we never have another chance to consider this if they comply with this application conditions?

Mr. Kemp: That's correct, unless you put another time limit, for example for five years with an administrative review every year. That would be the only way, it would come back.

Mr. Inman: Permanently have number of trailers as requested?

Mr. Kemp: Indefinitely as long as they comply. Correct, except if there were problems with the site and we revoke that administrative approval, then they would have to come back to you with another request for the bulk storage.

Mr. Thornton: Dave.

Mr. Redmond: I have a question to comment on that. So Barry this morning you indicated to us that in a briefing with city council; one of the things that they had mentioned was that they want to see a time limit, correct?

Mr. Frankenfield: You are correct but they didn't have any particular consensus or detail. I just wanted to let you know, right, but let me tell you that it has come up in our favorite short-term rentals that if, and I have to ask Kay about this. We didn't determine if this is legal, but they asked that when the administrative review is done, that council be advised of the administrative review. So there is some possibility here you could have a little more oversight then never see it again. Is that right?

Ms. Wilson: Yes. You could ask that they let you know what the determination was; also if you have one that is a problem that people complained about. Staff can bring them back to you, and so we can administratively do this, it's yours.

Mr. Thornton: So Dave.

Mr. Redmond: Well, I am not sure that I agree with the administrative review, I mean, it doesn't sound like it's really much of a review. I don't think a two-year, I don't think coming back for a conditional use permit in two years is a great burden for anybody, so the two-year administrative review, it doesn't sound like much of a review at all, it sounds like unless something goes wrong, then it's going to get renewed. I just don't think that's good enough very frankly, so and I still am concerned about that Hilltop site.

Ms. Thornton: Well, unless something does go wrong, why should they have to come back here?

Mr. Inman: I can answer that. We are here because times are changing with regard to retail and all. Times are going keep changing and do we want to have anything to say about something that we could have spent an hour and some time talking about the aesthetics. So if it is an aesthetical concern, that may not be necessary after two years or four years or whatever as we review it going down the road, because with the administrative review, we have nothing further to say about it as long as they comply with the conditions.

Mr. Thornton: Back to Barry. When Mike says we have nothing to do about it, if you in your review process find a problem, it sounds like Kay said then you can bring it back.

Mr. Inman: And if there are no problems with that then we do not have any right to have anything further to say about it.

Mr. Thornton: That's what led to my question, if there are no problems, why do we care? But we must or you think we must, anyway. Ron?

Mr. Ripley: I'm the same way, administratively, I don't think I have ever seen administrative review come back here that I can remember that we had placed that in there and there was a

violation of that such that it came back. I go back two years ago, in good faith, there was representation that there was going to be an attempt to solve this problem and it really hasn't and I think you might be right I think in a couple of years it might solve itself. I mean in the market may just, you know, be so much more online and less in-store, then it solves some of its problems itself. So I think two years is not unreasonable for everybody to put their heads together and try to find a solution that's better than trailers. I think again if I own that retail shop as Dave mentioned then, what's to prevent me to come here and wanting to have a trailer, everybody can have a trailer, it would be really nice. [Crosstalk] but what you said where you gave Walmart 20 trailers, but then I should have one.

Ms. Rucinski: I mean size, need, whether or not they have the space, whether or not it's obtrusive to the eye, all of those things would have to be part of the evaluation.

Mr. Ripley: I don't have enough space, I need more retail space.

Ms. Kwasny: I think you will have to evaluate each of them individually. I don't think you just blank check all of them because you did a Walmart, I disagree.

Mr. Thornton: David.

Mr. Weiner: Mr. Chairman I will make a motion that the commission approve agenda item number 8 for a conditional use permit with a one-year limitation.

Mr. Thornton: Second by Jan Rucinski. Jeff?

Mr. Hodgson: I was just going to say; would you be open to a two-year, with a one-year administrative on that one, so that they can still do a two-year; but they can review it after one year in lieu of the fact that it is new, it is visible and we did have speakers against it, so I am with you on the one-year.

Mr. Redmond: They are not opposed to it. They did show concern about it and as it is a new store, and it is visible where the other three you cannot even see it. So I don't want to change your motion, but I want to know if you would consider a two-year with a one-year administrative review on that one so they can all come back at the same time if they do come back.

Mr. Hodgson: No, I am not, one year.

Mr. Thornton: Well, we have a motion and we have a second. So we need to, is that right, you seconded it.

Mr. Wall: Can I do a substitute motion? I would like to put a condition, add a condition that you keep two year because that's – is that where we're at?

Mr. Thornton: On number eight, the motion has been made to limit it to have a one-year as oppose to a two-year like on number seven and Jeff's argument was make it two but have a one-year administrative so that the four of these can come back together and there is no need to send one back a year from that, three back two years from that, I think that's what you're thinking.

Mr. Hodgson: But still want to have some controls on this new site. I am getting smoke signals from the adjacent property owner out there that he is more comfortable with one year, so I am sticking to the one year.

Mr. Thornton: Let's have a verbal rather than a smoke signal.

Mr. Spatz: As I previously said, you know, one year, there is lot of merit to the one-year because this is a relatively, the Walmart has been opened less than a year, I am not familiar with how the administrative process would work, so I'm really trying to understand that and I'm also trying to understand exactly the layout and where the truck lanes will be, so that's part of the unknowns. And that's on me for not finding out about this earlier and having as much time for the due diligence as I could have. That being said, you know, we are opened to the two-year with a one year administrative review if I could understand that the administrative review is subject to the adjacent property being told that you are not having any issues with it, if that would be ok.

Mr. Redmond: I think you hit it on the head. It comes down to this. Are you more comfortable with one year conditional use permit for those storage units, or you comfortable enough with the idea that they have it for two years and after one year the staff would review it. And I would encourage the staff to be very sensitive to adjacent property owners in that and also will be incumbent upon you to make sure there is communicating with them if you have some sort of concerns or objections. If you are comfortable with that two-year time limit with the administrative review, I am perfectly comfortable with that myself.

Mr. Spatz: If we can put in their condition to understand that there should be certain compliance with the adjacent property owner to ensure that it is done in a way that's not obtrusive and invasive to the neighbors.

Mr. Redmond: Okay, I am reading you to say that you are okay with two years. So Mr. Chairman may I change my motion. I would like to make a motion that we approve agenda item number eight with a two-year limitation and administrative review after one year.

Mr. Thornton: And Jan second that so, vote is open.

Mr. McNamara: Mr. Chairman, there was a discussion about the alternative fencing, some alternative fencing, that the screening will be acceptable to the planning director. I don't know, as far as this motion, if you wanted to consider that; right now there is a requirement that it will be fencing. We heard different comments about that and one suggestion was that whether alternative screening be allowed that is acceptable to planning director.

Mr. Thornton: What is the Staff's position? Would you rather in be alternative or leave it fixed or let you all work with the applicant. I think Jeff had some concerns about the fence because it could be worse, the cure could be worse than the problem.

Ms. Smith: Depends on what type of screening and where you like that screening.

Mr. Thornton: We are not really sure where the containers are going to go exactly so not sure we can; all we can do is require screening subject to, can we do that or is that too wide open.

Mr. Frankenfield: I am okay with that as I don't like the wood fencing either.

Mr. Thornton: Okay, so then the condition would be, the screening would be a requirement subject to your input, it's not very formal but you got the words for that? [Crosstalk]. The type and location is subject to the planning directors, okay.

Ms. Rucinski: Do we need to change the motion?

Mr. Thornton: Okay, ready for vote?

Ms. Cartwright: By recorded vote of 10-0, item number 8, Walmart Real Estate Business Trust has been approved with conditions as amended.

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

## CONDITIONS

1. The location of the bulk storage area for the storage containers shall be limited to the area depicted on the proposed site layout on page 5 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, subject to all applicable building and fire codes.
2. The storage containers shall not be stacked.
3. The storage containers shall not be placed within any easements.
4. The containers shall be screened from view as depicted on the submitted site layout. The screening wall shall be consistent with the photo titled “Proposed Screening Wall” as depicted on page 6 of this Staff report.
5. Unless otherwise authorized by the Building Official’s Office and the Fire Prevention Bureau, the storage containers shall be located as to maintain a 20-foot wide access way for vehicular traffic flow and emergency access to the building and HVAC equipment.
6. No hazardous materials shall be stored within the storage containers.
7. Prior to use of the site for the storage, the applicant shall submit a plan to the Planning Department and the Fire Prevention Bureau showing the location of the storage containers for review and approval.
8. The storage containers shall be limited to 10 and are allowed on site only from September 15 to January 15.
9. This Conditional Use Permit is valid for two years from the date of its approval by the City Council. An Administrative Review shall be done after one year by the City of Virginia Beach Zoning Administrator to determine compliance with the above approved conditions.

**Item #9**  
**Wal-mart Real Estate Business Trust**  
**Conditional Use Permit**  
**2021 Lynnhaven Parkway**  
**District- Rose Hall**

**July 11, 2018**

**APPROVED**

Mr. Kleine: Good afternoon Mr. Chairman, members of the Commission. For the record, my name is Tom Kleine. I am a partner with the firm Troutman Sanders, it's also been my privilege for a number of years to serve as council to Wal-Mart Stores for all the projects that they do here in Virginia and I am here on behalf of these four, I realized we have four applications one after another. I will proceed with the first one and then if we want to go on into the next one, however, the chair wishes to proceed. The first application that we have is with respect to the project that we have on Nimmo Parkway and this application as you all know is for the ability for us to have temporary trailers, storage trailers in the back of the store, on the side of the store to help us prepare for the holiday season. We are proposing limitation of 20, no more than 20 containers. There are a number of conditions that we worked very closely with the staff on over the course of last few weeks. I too addressed they are all acceptable to Wal-Mart obviously the location of them would have to be acceptable to the fire marshal or the planning director. They are within the defined area that shown on the site plan. There would be no hazardous materials that would be stored in any of the containers and again there are strict limits on the number and limits on the timeframe to which they would need to be removed. The area of the site, if you have been out there, is an area that is predominantly where you have truck traffic and loading, its located behind the strip center that is adjacent to the Wal-Mart store. It's also bordered on the other side that does not look like it. It's also bordered on the other side by very mature hedge of trees and that area. There is a site plan that everyone has in their packet, it shows the precise location. They would typically be uniform in size, stacked next to one another in that location. We have heard no objections from any of the adjacent property owners. One of the property owners actually signed the application because part of that site is in a shared area with the adjacent like gym, developers that own the balance of the shopping center. Now let me speak to the concern about containers Mr. Ripley. I read your transcript from a couple of years ago and I also heard Mr. Redmond and Mr. Horsley's comments when we have those sessions earlier and I know that there was a concern of, okay we have this discussion two years ago where are we now. I want to assure you all Wal-Mart takes those concerns, this issue very seriously, we have every single store manager for all five Wal-Mart supercenters in Virginia Beach here today. We have the market manager for this whole part of Virginia has come here today to discuss the logistics issues. We also have someone from the corporate office here Ms. Laurie Smalling-Letts, who is senior director for government affairs. We have also reached out to some of the commissioners who are located in the district. We had the privilege of meeting with Dr. Kwasny at the site with the store manager for a period of time the other day to show the location, to talk about the logistics issues and talk about what we are doing.

Some of these, this one we are asking for 20, some of them are more limited number and we will speak to those as we get to them. The issue is that these stores, you know while we are trying to manage inventory as best we can, these stores happen to be very popular and very successful stores and we are trying to keep the store successful in a climate in which the retail market has changed dramatically even in the two years since that approval was granted a couple of years ago. We have had situations where we have got Toys R Us that is gone out of business recently, the Babies R Us has gone out of business and I know the Sears from our office at town center is going to be closing and even with the Babies R Us closure, our store manager has mentioned that she has seen an uptick in the demand for some of that merchandise. So we also have seen a huge change in the online shopping environment. People are sitting at home, they are texting, they are saying I want this TV and I want it delivered to that store and I want to be able to get there and pick it up. We have tried to configure the sites to facilitate that to minimize, you know, the number of people in the stores so that they can come, you may notice we have done some restriping in some of the stores. We have added some locations in the parking lot where people can text in advance, come, pick their merchandise up and do some of the online grocery but we are trying to adjust to that but that also means is the stores were still staying very busy and the sales are continuing and so what this effort is during the holiday season it is an extremely demanding time particularly for toys and for some of the merchandise, that's a little bit larger -- bicycles and things like that -- that are difficult to just continuously restocking keep on the shelves and they are doing what they can. Fortunately, this is a large store, it has a large storage area in the back when the garden center is not occupied with plant material and this has a large garden center when it's not occupied during the planting season, we try to use some of that space to maximize the additional merchandise but what this comes down to is the ability for the customer to have the merchandise on the shelf that they are asking for and they are working on that. They are working on logistic, you will see a lots of trucks coming to the stores frequently to keep the merchandise going, to keep them moving, to keep them restocked. When you get into that super high demand period particularly as you lead up to black Friday and get passed Christmas, the demand is really pressing on these stores. They are working to do the best to manage it as best we can. I heard some comments earlier. This happens in one of our bigger stores. Some of the stores we are doing now are smaller, the one we will talk about in few minutes at First Colonial is smaller, we are asking for less trailers here to just get us over the hump, but I mean that's kind of thrust of where we are at so we are looking at these stores and we are saying okay what can we do that can allow us to keep the merchandise to meet the customer demands and another thing the Wal-Mart does that some stores don't do is the layaway option, you know, there are lot of our customers they don't have the ability to pay for the merchandise right away but need to know that it's going to be available there for Christmas and particularly as you get to the holiday season, you are having our customers coming to us asking for that merchandise that may be we are storing and trying to get us really through the thanksgiving push I really say. Once we get passed that, closer to Christmas, there is less demand to have that storage there. But that's the purpose, I mean, I think the good news is as we are seeing retailers and frankly there have been some Wal-Mart Stores that I have taken through the entitlement process in the mid-Atlantic, they have ultimately decided let's not pursue that store. You know, the good news is these stores are successful. These stores are doing well. Virginia Beach has been one of the only markets in the mid-Atlantic where they opened a new store last year, that's the one on First Colonial that we will talk about in a few minutes. We are employing over 2,200 people in Virginia Beach. We have got these five supercenters. They are doing well, we are doing our best to adjust to it and we are trying to do it in a way that's not intrusive, that's not objective. I

don't know of any adjacent property owner who has called. I know that we put them on a two-year limit a couple of years ago, I don't know that in that two years that anybody has called us. I asked the zoning administrator a couple of months ago, have we heard any concerns from these adjacent property owners? I have not heard of any, people know to call me adjacent property owners out there have not called us to let us know about them and we have also tried to do them in an area that's really not going to affect the customer experience going in that shopping center. You come, you drive into that Red Mill Wal-Mart, and you are not going to see these. The only way you are going to see them is if you go all the way behind, all the way around that hedge and up into our loading area and that's where they will be just for that limited period of time. So you know, we respect and we hear the concerns that you all mentioned but that's what we are trying to adjust to. We have got an online issue, we have got an extremely dynamic change in the market place right now, we are trying to keep the merchandise out there and now I heard a comment earlier – well what you do when you cannot have the containers, you know, there are some jurisdictions where that is outright prohibited and we have to adjust but the adjustment in that situation may be just not having the merchandise that the customers are looking for so they'll go to another jurisdiction or go somewhere else or in the lot of jurisdictions we are allowed to have them subject to certain conditions by right actually in some jurisdictions, we are allowed to have them by right, we try to work with the jurisdiction, make sure that they are not offensive, that they are not obtrusive that we don't have adjacent property issues that they are in compliance with zoning requirements and to try to adjust that. So that you know that's kind of the story we take this seriously, they take their stores very seriously here in Virginia Beach because they are so successful and you know we were out there. What was it Monday or Tuesday afternoon in the middle of the afternoon, and there were people that were coming who are vacationing here, you know buying beach supplies, buying all kinds of supplies, buying their groceries, looking for beach chairs, you know that store with all its 450 employees is serving the community and that's all they are asking for is to be able to continue to do that for this limited period of time. I did hear the comment earlier, gosh that seems an awful long amount of time, that's not the holiday season September 15<sup>th</sup> through, we have really asked for that four months just to make sure that if a trailer shows up a little bit earlier whatever there is layaway demand you know that we don't have situation violation of the zoning ordinance, is a practical matter. I think that Ms. Conway who is the store manager will tell you, they are not there that long, you are not going to have 20 trailers out there from September 15 through January 15 and it is a practical matter, once she has the containers there and the merchandise is out of them, she doesn't have any need for them to continue to be there, so she calls them up and says please remove these but again we ask for 20. So if there are 20 out there at any given time again we are not having the zoning violation or we are not having a situation. So we would certainly again we brought the whole team, every store manager, the market manager, someone from the corporate office were happy to answer any questions but we want you to know we did look at the transcript and we did discuss the transcript with the planning staff from the discussions that you had two years ago and we are working on it. We are trying to keep these stores successful in a very dynamic and changing market. So with that said I will be happy to answer any questions. All of the conditions that we reviewed with the staff are acceptable to us and again I am not aware of any objections or anyone here in opposition.

Mr. Thornton: Questions for Mr. Kleine, Mr. Redmond.

Mr. Redmond: So you said that in instances where in the jurisdictions where you cannot get approval for this, the store adapts, right?

Mr. Kleine: Well when I say adapt, if you cannot have them then you just, there might be merchandise that people are asking for that you just cannot provide, yeah. I mean that's or there might not be the ability to do the layaway or offer that service and offer the merchandise. So it is really just about being able to provide the merchandise that people are asking for that store.

Mr. Redmond: What are some jurisdictions where you cannot do that in the Commonwealth of Virginia, are you aware of any?

Mr. Kleine: I would have to go back and research, I am not aware.

Mr. Redmond: You heard my concern this morning is I don't like doing this with no context, right.

Mr. Kleine: I mean I know in Chesapeake they are permitted, you know, you got a lot of containers subject to certain requirements, I know Norfolk you are allowed to do them subject to certain requirements. Some cases you may have a zoning overlay district such as town center for example where we have it screened and you know unless it's like a special event or something, there was certain restrictions on having them there. I would say that puts a big burden on that store too, you know, again town center is a dynamic area, we put our office there at the very beginning so I know how dynamic it is. I watched it grow up outside my window, a few years ago people said well we are not sure that Wal-Mart make sense at Town Center, Wal-Mart compatible with the Town Center model and all that so again that was a by right side that Old Bill's flea market and we work with the staff, Wal-Mart some of these folks, the corporate office worked with the planning staff and did a town center Wal-Mart there, even though it wasn't fully about the zoning ordinance to try to have something that fits in with the environment. That's a hard issue with the holidays to be honest with you, because the reality is you have got all these people saying I would like to put this on layaway, I would like to have access to that equipment. I would like to have that bicycle and we may be in a situation that we just say I am sorry we cannot do that.

Mr. Redmond: Why is that unique to Wal-Mart? I am unaware of any other retailer that we have had asked for trailers?

Mr. Kleine: Well, I don't think it's unique that we have had trailers in some of our stores. I think it's a lot of just meeting kind of the customer to manage and try to make sure that the merchandise is available and be successful. I don't represent Target, so I don't know to be honestly I don't know that they don't have trailers at their sites, perhaps they don't at the Hilltop site.

Mr. Redmond: We haven't seen them, I mean this is the only Wal-Mart is the only retailer I am aware of, that's ever come before us is asked for trailers around Christmas time as I said this morning Kohl's doesn't do it, Target doesn't do it, the extent that there are any J. C. Penneys, they don't do it. I mean retailers that you are talking about before, I have never seen it from Sears or K-Mart for some odd reason. This is particular just for Wal-Mart and look at these shopping centers and I think to myself wouldn't any other retailer be inclined to come and say yeah we'd like a trailer. What about Big Lots which is you know adjacent to that store and once bought, you know, another retailer in some places just said, we could use one or two. I don't think we want to encourage this notion that if you have a store and you are busy in Christmas because they are all busy at Christmas from the guy that has a 1200 square feet, and he just sells shoes to you know couple of hundred thousand square foot Wal-Mart, again you are going to face greater strains at Christmas time. I don't know that's something going forward that we have to think is just sort of assume that that's okay to do that because we do have site plans. Yeah those other four walls will

cause some, you know, some constraints and so the changing retail environment is challenging for anybody. This is the only retailer that I am aware of and whatever 11 years of doing this, that's ever asked for this and I don't know that it's necessarily fair to everybody because I would think everybody would want at least one -- what a heck, I am selling lot of shoes out of my 1,200 square foot store so anyway that's my concern. So now here what are you saying about it makes easier for Christmas timing and moving bunch of stuff at around and I understand all that but those are constraints that every retailer faces.

Mr. Kleine: But I do think you know some of our merchandise is all different sizes. You got lot of bicycles, you got toys, you have things like that and our stores are just very successful. I mean they are, they are extremely busy, very successful stores here. The model is such that you know a lot of people; we have got a lot of traffic to these stores. I don't know what the traffic counts are to other retailers. I think you will have also have a code that would permit other retailers to ask, you know, when there are discretions and I think again we are doing it in a very unobtrusive way. I mean this is literally behind the shopping center in an area that's almost enclosed on four sides because you have got the back of another retailer behind this, retailer on two sides and then there is very mature hedge so you know when I am asking to put them out in the parking field. We are not asking to have them there indefinitely or asking so that we can get through you know this much and that is I mean that's the reality of the situation, I'll ask people like Laurie, the market manager, if they have anything that they want to add to what we said there but I mean that's what we have during that period of time.

Mr. Thornton: Ron, a question?

Mr. Ripley: Tom if you read that the verbatim we said at the very beginning last year that we are ecstatic that the commerce was there, we want the commerce to continue. The idea of what the discussion we have was in good faith was how do we do that, you know, how do we kind of plank and come forward with to help solve this problem in long term and not have that because there was an objection then and you can see it really hasn't changed as far as the way I think this commission kind of looks at it. When I think about Wal-Mart, Wal-Mart has written, how many books have been written about inventory supply chain management, I mean, it has been studied and the highest business institutions in the country over and over again because it is so efficient. Here we got this what we are looking at here it says inefficiency and it doesn't seem to line up with their philosophy to me. I think what was important to me last time is that the managers did come in and they said yeah, we know we are at this problem. We think we can solve it and I realize things do change in the market place and if the commerce is really doing well. There may be another way to solve it and I think I have heard this morning I think maybe at the most some additional time to help solve it might be palpable but this being a long term solution, I don't think that's the solution.

Mr. Kleine: I appreciate that Mr. Ripley and we did share that transcript obviously with the leadership that's here and it has been a changing environment just in those two years, you know, the demand on that store, I am talking about the Red Mill, just continues to go up as we discussed with Dr. Kwasny out there which is great for Virginia Beach, it's great for everyone and so to the extent you know two years ago they were looking and I know that Ms. Conway the store manager, they have looked to re-configure areas in the back. They looked to try to establish more efficiencies and keep merchandise on the shelves, keeping the shelves stocked so that you know you are not going in there and saying oh my god, there is none of this item but its all back in the storage locker

at the back. It mentions they are trying to keep 10 plus items of each thing continuously stocked on those shelves. So that you are coming in and you are looking for something it's there and we are also again trying to have additional efficiencies with respect to the fleet of the Walmart trucks that you see coming, getting the stores off-loaded, getting the merchandising off the shelves.

Mr. Ripley: But in that inventory model, I mean, the inventory model is that the warehouse knows exactly when they need something and it's moved up as oppose to putting it out in the parking lot.

Mr. Kleine: And for that limited period of time though, there was just not that room, we have got so many people coming into these stores asking for certain items to keep that merchandise continuously on the shelves. To keep them successful, you do have that big press and as I said we are asking for the four months. It's a practical matter, it's not really four months of trailers. I mean, we are having that window just so you don't have a situation where we're in violation but it's really a big push over a shorter compressed period of time, black Friday.

Mr. Ripley: I am not speaking for everybody up here but if you had another year or two to help solve this issue, would you be willing to good faith of work on that get it done or not? I mean it buys you time and something you said in the presentation I want to take exception to and that is that you didn't hear anything from the staff. It's incumbent on the applicant to solve the problem not just staff to have to go out and solve the problem.

Mr. Kleine: I am sorry if I misspoke.

Mr. Ripley: It sounded like nobody has contacted you in the two years about this issue.

Mr. Kleine: Oh, no, no, no what I was saying was what I checked was, had there been anyone from the community called to complain that it was a zoning violation or some issues associated with them being out there, that's what I had asked. No, I certainly didn't, we had many discussions with the staff and we are very familiar with the issues.

Mr. Ripley: It is incumbent on you to solve these issues.

Mr. Kleine: We understand that. And may I introduce, this is Laurie Smalling-Letts with the Walmart corporate office.

Ms. Smalling-Letts: Good afternoon, thank you for the time you know as I sit here, I have been with Walmart for 17 and a half years, and I completely understand your concerns but I have seen a drastic change in retail in the time that I have been with the company. We are a good corporate citizen and we provide, as Tom has already said, 2,400 jobs in Virginia Beach. We have given back over 2 million dollars annually to your community through food donations, through CHKD, through local organizations. We have also with just taxes in the State of Virginia, sustain local taxes over a 109 million dollars that are coming back, through tax dollars, so yes we are a corporate citizen that is operating in your city, within your city. I have worked as I said with Walmart for 17 and a half years so I have been at federal state, local, international working with governments on how we engage and how we support the communities we serve. I understand your concern about our inventory management but our stores are built to basically serve customers nine months out of the year. That other additional, there is the influx of traffic. I was just visiting with Melissa who has a store, she has 60,000 customers coming through her door during the holidays. She has an increase in millions of dollars at inventory that's coming in. So I understand that just in time, and pretty much you know most of the year, we are able to do just in time inventory but our just in

time inventory now is just in time for the store. The customer wants to be there just in time for that parent that doesn't want the big item to be shipped to their house but they can pick it up at store and then we will have to pay a shipping fee. I just did it this last year, we were buying a shuffleboard table for our boys and it was from Santa we didn't have it shipped to the house. It would have been free to go to the house but it was free to go to the store. We went to the store because we didn't want it on the front step when we came home and didn't know what the box was going to say to surprise what Santa was bringing. So there is a changing dynamic and when you are asked about finding an internal solution to be able to do this, that would be coming back and that would be multi-million dollar expansion of trying to add inventory for the three months, which we would have to go through all the process and everything else. We are in the time right now that in retail we are fighting for our lives. When you look at what retail spaces are going out of business and the retail space that is actively being used, that is going away where it's not generating sales tax revenue, I would love to say that we can come in and tell you that for every store in Virginia Beach, we are going to go in and invest 10 million dollars to expand the stores so we have the inventory space for Christmas. Unfortunately, we are a low-cost retailer. Every cost that adds on adds to the cost of doing business and adds to the cost of every item that your constituents would be purchasing at our stores. So we have to evaluate the kind of the big picture and yes I know trailers don't look great but you are right. Like in all the other jurisdictions that I have worked in, I have had the experience where they understand that we truly like, I tell people, people think oh you are a retailer, we are actually in the people business. We work to get our associates to serve the customers that come through the door. It happens to be the merchandise what's in between and there is a lot of merchandise at Christmas time. It is fortunate that we are having increases in sales but as we have been talking to each of these stores, we have online grocery pickups so we are creating new jobs for those associates to have additional training to be able to serve those customers that want to come in and get their groceries. So we are increasing skill sets, we are investing in our people, we are doing a lot of great things. We have to be able to serve the customer to be able to stay in business and so it is this additional merchandise that we need during the holidays at all of our stores. There was one saying as I have been visiting with some local officials about our community engagement, everybody is like are you facing the same issues in the other jurisdictions? And we are not. We had trailers at all of these stores and so and I have to say that Virginia Beach is absolutely beautiful and you're building and everything else. I understand the pride that you have and making sure that you are making the right decisions but we are trying to make right decisions for our customers. By having the merchandise that they want when they need it and being able to have pickup in our local stores where people can order big items for their kids and surprise them and layaway. A lot of retailers have done away with layaway because it is expensive to store that merchandise and to collect ongoing but that's our core customer. They need layaway because they cannot afford to come in and buy it all in once. So I understand and I would love to say that we could say hey give us another year and we will come back and we will have a solution. Unfortunately, I think that the only thing at this point is that temporary storage to get us through and will continue to work through our inventory and figure out there are ways that we can reduce the number of trailers. I also don't want the company to go out of business. I don't want us to have to reduce inventory because people aren't shopping in our stores and that's what we are facing as you look at the competitive landscape. Where retail is going, more and more is going online and we are here providing jobs in your community, we are providing tax dollars that come directly back to your community and we are serving your customers that are your constituents. So I do appreciate you hearing this but as we are sitting back I know our stores need this because this

is the first issue that I heard when I came into the market last year is that the city doesn't like us and it was our trailers. That's the interpretation of our store managers. When they came here two years ago, the feeling as they walked out was that it was easy for you all to kind of say well we don't want to see you and you fix it. They are managing 400-450 associates. They are managing millions of dollars of inventory that's flowing in the stores and unfortunately they are just trying to make sure that they can accommodate customers and serve the customers with the merchandise they want. So if you all decide that we have to come back and come up and invest then maybe Tom will be coming here and saying we are actually closing another store versus building more. That's the retail environment as I said I came into Walmart where we are opening 250-300 stores a year, this year alone we are opening 20, consumers are changing, shopping behaviors are changing that where we can keep our customer shopping in the stores that's what these store managers are here fighting for just to make sure we can serve those customers.

Mr. Thornton: Don't go away, we may have some questions. Any questions for Laurie, Mike?

Mr. Inman: From either of them, I respect that what you were saying about what Walmart does for the community, I want to thank you all for that. Our job is to a great degree about aesthetics and keeping our city beautiful and this has something to do with the storage units that you have. It is still curious that and I know you guys are smarter than most of them, but nobody else seems to need this. Maybe they haven't figured it out yet, I don't know. What about other off-site warehouse facility, maybe several smaller warehouse facilities that are in an industrial part versus having the trailers right there. I know it's not convenient as far as restocking. It is not as convenient but it's an alternative that would eliminate the trailers, maybe that doesn't work. I mean I understand. I am not trying to restructure Walmart here but what are the alternatives could there be to satisfy?

Ms. Smalling-Letts: And we have had those conversations about that and just from the logistical standpoint. So our trucks come in and bring the trailers and then they could place in the parking lot. We don't have short haul like we don't have small trucks that kind of go from point A to point B. When you talk about putting in an outside storage then it becomes running new hauls and it becomes finding CBL drivers that would be beyond the corporate time and then the liability of having the merchandise and being able to transport it back and forth. So we have had those conversations. I know Tom you have had additional conversations even with internal real estate but you know it's we have the space there, we can have associates go out, we have locks on all of it. We can monitor when they are on property. So from that standpoint, it's just we are setup logistically for long haul not short haul just in the way that our logistic system works.

Mr. Thornton: David?

Mr. Weiner: And I want to thank you also. Walmart does a great job around here and they are very good corporate citizens with the City of Virginia Beach, doing a fine job. I think it took us by surprise that's what I think for pretty much here. I even asked Jimmy. I thought this was a done deal, they are going to take care of this. That's what I think. That's why we are talking about this right now and on the other hand not thinking about the applications. If you looked at the number of people who walked in the Walmart compared to Target, it's probably double and that's why they need a containers because, don't take this wrong way, but if I have to go to Walmart, I will go 5 in the morning where I can get in and out. I think that's why we are here right now because of the people that go there are about double the people that go to Target. I think that's why we are little bit shocked to see this come in front of us again.

Mr. Kleine: And I think again, we have those issues with the stores being very successful and again just the changes with the retail market changing. Our firm represents a lot of other type of entities and we are seeing so much dramatic change in business over time, I mean, there have been sites as I mentioned before that I took through very ruling entitlement processes in other parts of the Mid-Atlantic. Walmart ultimately decided we are not going to do the stores, even though we have been through lawsuits and everything, to get them approved. It's changing that much and as she mentioned, with the mode we used to be and building so many stores when last year I think the only store I am pretty sure that this is correct, the only store that they opened in all of Virginia was this one in Hilltop. That's what the change has been. Getting to Mr. Inman's comment, and I respect the concern about the aesthetics, I am a resident of Virginia Beach and I appreciate that. We are trying to find with every one of these applications the places where they are the most unobtrusive and no one is going to have to go back there to look for them here. Ms. Conway, who is a store manager, also gave commissioner Kwasny her word. These things aren't going to be just scattered around there. You have got a defined box we have to keep them in, we have got an understanding with the adjacent property owner that there was a defined area that they are going to be in. They are going to be uniform, there are going to be stacked and again her business model as soon as she doesn't need that thing and she locally had used another thing that has changed. It used to be that the delivery of these trailers etc. was handled at the corporate level. That's changed and it is now handled at the store level as I understand. So Ms. Conway is going to be there at that store, running that store, and she is going to realize we don't need these five trailers. Call up the folks, get them off the site and so maybe you are down to 10, maybe you are down to 15 or whatever. We have deliberately, and you will see with all the other applications, found spots that are going to have to minimize any kind of aesthetics adjacent. The newest one that we have, that we will talk about in a moment, there is some fencing that the staff has asked for because there is an adjacent shopping center, so we have a very cognizant of that sir.

Mr. Thornton: Karen?

Ms. Kwasny: I don't have a question. I am wondering whether or not we are listening to each one of them individually and then we will have closed it, so that we can have conversation. Because I think, I am passed a point of question for them, I am to the point of wanting to make a comment or two that we could just ask, but don't know when we are going to do that.

Mr. Thornton: We are going to close public hearing sooner than later, because I think, unless we have got anymore specific questions but we are going to hear their argument all at once and then we are going to deliberate. We have got to make a decision on each individual one, but I don't want to stop if we got questions, let's keep asking questions and Mr. Redmond.

Mr. Redmond: I do have a question. That's the variations in the number of trailers in each one of these four applications, can you explain it? I would prefer some sort of you know specificity and metric, not merely the store manager says 10 or the store manager says 20. As Mr. Ripley said, you guys have a pretty well known and extraordinarily sophisticated logistics and supplied management reputation, I am sure was probably a good bit more specific than that, so 10 versus 20 versus.

Mr. Kleine: Well, I think I can address that probably on a site by site basis. On this particular site, we have the room. It's one of our largest stores, 200,000 square feet. So I think this is such a big store between the proximity to all the tourist areas and in the other parts of the city. I think that was evaluated. We also have the space on the side in that area, so that was a 20. With the other

stores, we can talk about. Some of it, we have less space. Some of the stores are smaller like the retrofitted K-Mart that we did at First Colonial.

Mr. Redmond: Yes, it's a question ahead actually. What's the square foot of store Hilltop? Do you know of the top of your head square footage of the store at Hilltop? Somebody was asking this morning and I don't know.

Mr. Kleine: I think in the range of 152, but it's based off of sales. The metric that they do internally and this is from the market manager, they do look at the sales. You know that they have of that store and what the increase demand is anticipated to be with the holiday season in that shift. Then they look it, where feasibly we will be able to house that merchandise based on our historic data, numbers of customers coming in an anticipation with the holiday.

Mr. Redmond: Okay, thanks.

Mr. Kleine: And there are practical limitations based on do you have space more than like Phoenix Drive, we just have that location on the site.

Mr. Thornton: Questions on this side, over here, I see no more hands, I see no more questions. So with that we'll close the public hearing and will debate this matter amongst ourselves, thank you.

Mr. Kleine: Thank you. This is just the public hearing on this application. We do have different issues with the other.

Mr. Thornton: Why don't you quickly give us the nuances of four of them, so we know Nimmo Parkway has 20 containers, we know where they are going to be, what about, do the next three in executive summary because they all should be reasonably similar except for Hilltop.

Mr. Kleine: And then I know with respect the Hilltop just for purpose of keeping the record, we have some gentlemen that are going to want to speak from adjacent property owners. We want to make sure that the record reflects that opportunity.

Mr. Thornton: That one will be last.

Mr. Kleine: So I think that one in your agenda was actually the next. That was number eight, so perhaps if we wanna skip, now to number nine and ten.

Mr. Thornton: Nine is Lynnhaven and ten is Phoenix.

Mr. Kleine: Okay, so Lynnhaven again it's a similar situation, this is one of our larger stores with heavy sales. You cannot see it very well with this site plan, but these would be placed around the back of the store, pushed up as close to the stores as the fire marshal will allow us. We'll have to work with the fire marshal on that, outside of any travel lanes. This is part of a larger shopping center. You have got an adjoining shopping center next to us, so this is not a situation where it looks like a parking lot in this but that's actually, this area over here is actually more in line shopping down to that shopping center. So there is a little passage way but from the parking field out here, there's just really no visibility. He is proposing to park some of them along here and then some of them along there. The back of the store has a pretty well defined stormwater management facility. There is also very defined hedge that runs along the back there. The adjacent property notices have been sent out. Signs for the stores have been posted. I am not aware of any of the adjacent or nearby property owners who have any concerns. This is one of the large stores like the Red Mill, a 200,000 square foot store, and again a very successful store. There is a lot of

demand for some of the layaway and some of the other merchandise at the holidays. We have a series of conditions that are acceptable to the applicant here, no hazardous limitation on the number, limitation on the time of year that they would be out there. The final location of them will have to be subject to final approval by zoning and fire marshal etc. But they're back there, near the loading area that is not visible from public right-of-way. You can see the mature hedge across there that's providing successive buffering with any the residential behind is a multifamily.

Ms. Rucinski: And how many at that store?

Mr. Kleine: That would be no more than 20. The next one, number 10, is Phoenix Drive and this is a store just near the Lynnhaven Mall. You may recall, we came before the Planning Commission and City Council a few years ago for an expansion for this store so that we could add the full grocery component. At this store we are proposing to put them back in this area and have no more than 10 over there. That's where they historically put them at this 168,000 square foot store. It was originally a division one store and it was expanded a few years ago to make a little bit so we had the full service grocery component to it. This again is an area of the site, it has very limited visibility as you can see, very mature hedge along this side. Its way off to the side as you drive into the site, all the vehicular access for the most part is from the front or from the other side big parking field because the side is over parked. I heard your comment earlier about parking, I think this was parked at 4.5 per thousand ratio and the city requirement is 4 per thousand, so we got lot of parking. We are trying to keep them back there, minimize the visibility. There is also a condition, that is a little bit unique from the others that if this site over here were ever to be developed and for whatever reason that hedge were to be removed or thinned out, we would have to put a wooden fence or some type of barrier fence along there. If we were going to continue to have the containers in that location, but again that's a condition that we worked out with the staff. I cannot tell them how they would really have any visibility again. One of the entrance features over here and then entrance over here, there would be very minimal. You really have to drive over there and again there is a lot of parking that's not used at this site. That's where they would be located. So the conditions on that are acceptable. I think those are the three which you have looked at before. The new site is the one at Hilltop and that is agenda item eight. This is an exciting store. I have to say because we worked on this, I live near the store, it took us a long time working on all the documents to get this together. I think for those of you who aren't familiar with this shopping center and Kmart, that was a very dated Kmart that ultimately went out of business and that center was in need of significant work. Walmart came in a few years ago. We went before the City Council for a conditional use permit associated with some of the accessory components that we have over here. It's part of that approval. We also showed architectural detail. We worked very closely with the staff on dressing this up. We took that old Kmart store's respective old walls, for the most part, and gutted it and did a few additions on the sides. If you have been out there, you really have to look to not know that it's a completely brand new store. You would never know that it was essentially, we have retrofitted the older building that's there. You know this site has a shopping center with other retail parcels that kind of surround it. They are owned by different property owners. Those gentleman are here and they are going to speak with us. What she is asking for, the square footage of this one Jackie, 152 and that's approximately the size of the Kmart that we took over with a little bit of few tweaks to accommodate some things around the area around the sites. So on this side, there are reciprocal easements for parking and travel lanes etc., with this overall shopping center. You can obviously access this site of First Colonial. You can access it off Donna Drive as well. Over this area here is the loading area. Again we try to identify and on this

side is our garden center and this is the Autobell. Of course the store faces this way and then passed on a drive, you have Laskin Road up here. What we have done over here is, she has a limited need again for some containers. She is anticipating seven to ten so we are asking for 10. So limit on 10 again the same limitations that we have before. The staff did indicate that because we are adjacent to this retail area, that's owned separately from Walmart, that we could perhaps put in some fencing. There is a screen fence, it screens some of the loading area that's of a wood nature over here. They asked if we could put something similar to that or compatible with that. It would be temporary if you could go to the site plan there kind of a long like that actually it was a previous one, like that, I think the staff reports showed it going all the way down here and comment was that's an awful lot of temporary wooden fencing when you are needing to get into the containers over here. When you have got basically screening yourself from your own store over here because the remainder of the center is over there. The other issue is some questions we had, wait a minute what does this box mean, there is already a site plan that shows some parking spines etc. She would just put some of these containers in those existing parking spines. So we are not proposing to block any travel lanes or drive aisles, it's more just to get them closer to the store. This area back here is a loading area. It has some reinforce concrete, there is a lot of truck activity with the deliveries that are coming back there each day. I know one question is could you push them back little bit further. That's why we have them kind of in these areas over here on our site located to typically put them in some of the perpendicular to one another within the spines. But not interfering with the routine truck travel lanes that are coming into the site or anything that would pose an issue from a fire perspective. I did speak with Mr. Aspin Wall who owns the self storage on the other side here. He does not have any objection to it. I know the gentleman from Pratt Street did want to comment on it, they did. They are new owners of the remaining shopping center and they did contact us last Friday just indicated they have some questions and I believe that they would also like to speak. So on that part, I will be happy to answer any questions or if not defer to the gentleman from the Pratt Street.

Mr. Thornton: So you are talking 20, 20, 10 and 10 on number count; we got that? Two at 20 and two at 10.

Mr. Klein: Yes sir.

Mr. Thornton: Don.

Mr. Horsley: These are all 20-foot containers right; they are not 40?

Mr. Klein: They are 40. Yes sir. But they would all, have defined limits that we would have to keep them in, so there are precise locations. We have to keep them within those confines.

Mr. Thornton: Any other questions for Mr. Klein? Okay thank you.

Mr. Klein: Thank you.

Ms. Cartwright: Alright, we do have one speaker in opposition for item number eight, Jeff Spatz, would you please come to the podium and state your name for the record?

Mr. Spatz: Good afternoon, I'm Jeff Spatz on behalf of Pratt Street Capital, PSC Hilltop and other co-owners of the adjacent center there. As Mr. Klein explained, we own a retail center, over here as well as on this side of the Walmart center. On each side we have properties, retailers are on each side. There is a reciprocal easement agreement between Walmart and our ownership which was

placed there by the prior owner, prior to the sale to Walmart to allow both parties to have utilization of access ingress/egress etc., so that there will be kind of cohesive flow to the center even though it is separate parcels. We only did learn about this more recently, there are many factors that are moving parts. One is this Walmart is a relatively new Walmart. As Walmart explained, they have been opened a year. It may be just over a year, but it's a pretty new Walmart and we are still just digesting how the impact is on the center. They have been a great neighbor, we are happy to work with them, but we want to make sure that the traffic flow, the truck loading and the parking do not get adversely impacted. We did get to this a little bit late in the game. I want to thank the Commission and the staff, especially Mr. Davis. I am not sure if he is here, okay he has been very responsive and very helpful. It has made our job of digesting this in a short period of time much easier, so thank you and that being said we want to be good neighbors. We want to accommodate Walmart. We want to help them be successful. Retailers in the market, we just want to ensure that it does not adversely impact the aesthetics as the Commission is concerned, and as far as traffic flow and truck loading as well. The site plan that they put together had a call out for a substantial area where they may or may not put the trailers. We would like to little more closely define it to understand. My understanding from being at the center and from speaking to Walmart is that the trucks actually do come along the back of our retail establishment and go through here so I want to make sure that does not impede and Walmart has verbally said no we would make sure that it doesn't impact the truck ingress/egress and loading area. So we are not in opposition, we just want to make sure that it is working in a cohesive manner with the entire shopping center. Now we could all work together so as much as we are quoted as opposition, we are not here formally saying that we are against it, we just want to be done it in a way that enhances entire center for Walmart as much as you know our retailers.

Mr. Thornton: We have a time limit on speaking.

Mr. Spatz: Oh, I am sorry, my first time here.

Mr. Thornton: That's okay, that's fine, questions for Mr. Spatz from the Planning Commission.

Mr. Redmond: Was the fencing a priority for you?

Mr. Spatz: The fencing would be helpful but part of that is to understand exactly the layout of the storage facilities and then we can see the visibility, the eye sight. So to understand there is a lot of parking here to understand exactly where in this area. It will now be set, then we can understand exactly the site line. We really want to keep it looking nice aesthetically as we can and we did ask if they could be set back a bit further to kind of keep it out of the view point. As they said, Mr. Klein explained, it's a little difficult because of the loading area, so we are trying to have a discussion of how we could work together to accommodate it from our perspective. Obviously the Commission has to approve it from their perspective but we are trying to work together to see if there is a way we can accommodate.

Mr. Redmond: My concern is whether screening ends up looking worse than better and it could end up looking like. We have all seen the construction site fences that go up, and I just don't want the screening to make it look more of an eyesore than it would as you just said the walls of the containers.

Mr. Spatz: I agree completely and that part of the factor of is the screening going to be up year round or is that only going to be there when the storage facilities are there, is it going to be

maintained, will it need to be power washed, etc. Those are kind of some of the moving parts that were you know trying to have the discussion on to make sure that it works.

Mr. Redmond: My understanding is that screening would have to be removed when the containers are moved.

Mr. Spatz: That was my understanding and I wanted to confirm that and the question is from one year to the next, how it will be maintained and at this point, the Commission deems that it is an appropriate use because this is a new Walmart and we are still just trying to get our hands around exactly the logistics and the layout and the trucking lanes. We would propose that it would be a more timeline finite period rather than indefinite approval.

Mr. Redmond: I think we are all in agreement with that.

Mr. Spatz: That's fine, but I just especially with this site, because Walmart has only been opened for a year and there are a lot of open issues from our perspective.

Mr. Redmond: Thank you.

Mr. Thornton: Jack.

Mr. Wall: So currently the traffic flow and the pattern is acceptable?

Mr. Spatz: That is correct. We have not had any issues with their trucks going behind our center and our parcel and using that lonely area. We have not had any issues.

Mr. Thornton: Okay, Jan.

Mr. Rucinski: I have a question for Walmart.

Mr. Thornton: Do you need to ask to this while this gentleman is here?

Ms. Rucinski: No.

Mr. Thornton: Ok.

Mr. Spatz: Thank you very much.

Mr. Thornton: Thank you sir. Tom she has a question for you.

Ms. Rucinski: So my question is this. If the loading trucks are entering behind where those storage units are proposed, why could we move those storage units closer to the building?

Mr. Kleine: Thank you for that question. By the way, and I am going to have the store manager to address where the trucks for the most part are coming through, I will say that the short answer is Wal-Mart is never going to allow something that interferes with their ability to get the merchandise in the store and interfere with their truck routes. So not containers. This is Jackie Russell who is the store manager of the new store.

Ms. Russell: Good afternoon, so where the trucks come in, they actually come off the Donna Drive and they do go behind, so they go here and they come down through here and this right here is where they back the trucks up. These trucks are really big so in the morning time, I may have possibly anywhere from I want to say five to ten deliveries, different size of vehicles coming from local business partners for grocery merchandise and then I also have our Wal-Mart corporate

trucks. They have to back these things up into four different bays. So they need this room right here to back up the maneuver because they are maneuvering around five to ten other vehicles so I cannot put the proposed bulk storage there because then there is just no way. It's going to create an interference. It's going to create safety issue.

Ms. Rucinski: I wasn't really talking about back down the corner; I was talking more like closer to the building because it looks like you have got them up in that front corner, but instead of been in the corner move them closer to the building.

Ms. Russell: Good question, I actually have a pickup area, so my online grocery shoppers go to the back of the building and we have a door on the side of the building that allows my associates to come out there and provide that service to that customer. So unfortunately I cannot put it there because that's going to impede on those parking spaces for those customers to come in and come out.

Mr. Kleine: But the reason, if you go to the exhibit where it would be, with the black one, that one yes; what we are doing there was really just respecting the property line and showing that would be within the limits of where they could be. We are not saying that they would necessarily be pushed off all the way along that area. We would, you know, we are going to try to keep them in existing parking areas in a way that there was not interfere with pickup, you also have the pharmacy pickup. There is a pharmacy drive through and there is designated spot. The people who are doing the online pickup that you are talking about, but if you can go to the one that shows the site plan, well yes, the other one, the one that shows the overhead, I am sorry, yes so where she would do them is a practical matter. There are some parking spaces that run through here and she would have them within those parking spaces, for the most part in those parking space areas.

Mr. Thornton: Do you anticipate ten units side by side?

Ms. Russell: So there would be like two and then there would be some space, yes and then two, so I am trying to confine it into allocated parking spaces on my property.

Mr. Kleine: As a practical matter, more in this right in here, and then we would, and then with respect to the fencing, the wooden fencing, you know, if we wanted to modify that condition, etc. or such appropriate screening as approved by the planning director or something like that, to provide some flexibility, I think that is yes. Someone has asked the question that is it going to be up and around; no, I mean we wouldn't have just a line of fencing there with nothing behind it or whatever. It would be removed, the wooden fencing you know, sometimes it draws attention I agree, you know, I see wooden fencing, you're like okay what's going on behind that, but there is some Shade cloth screening, there is portable temporary screening that I have seen used in some locations and some of our stores. We have sometimes put it on the inside of garden centers that can come on portable racks that they can roll out there, so if you wanted to modify that condition to say or such appropriate screening is approved by the planning director that we can work, you know, with the planning director to find some alternative as well instead of the wood. But if the requirement is that it be wood then, yes, the wood have to go to a fence vendor and they would have to have basically prefab sections put up and they'd have to have the concrete, portable concrete footers, put out there and then have to have all that removed and then they'd have to -- her employees would have to be maneuvering around that -- particularly if they ran all the way down as it was originally proposed, to get back to where those areas are located and again, if you go back to the site plan, the overhead, you know, here is your visibility. I mean this is the end of

the shopping center, Mr. Spatz' company owns right there, so we are talking about this area down here. So you know we certainly can work with the staff, planning director on appropriate screening of that corner that we discussed. I would also say that as soon as Mr. Spatz and his company reached and talked to us, we put them in touch with the whole Walmart team. I think he met with the market manager, he has met with the store manager and he is also schedule to be talking to someone from the corporate office that handles all the real estate transactions and all that to establish a relationship and understanding and of course he understands. I won't put words in his mouth, that this is a recommendation, that the matter still has to go before City Council so I imagine we will continue having discussions with him. At the time Walmart bought this side, it was all owned by one owner so we purchased this site from one owner and then the residual still owned by the owner that we purchased with, so that the ECR and everything that he was referencing was put in place as part of that transaction.

Mr. Thornton: No more questions, thank you.

Mr. Kleine: Thank you.

Mr. Thornton: Standby, you may be back, okay any other speakers in opposition?

Ms. Cartwright: No that was it.

Mr. Thornton: So we have Mr. Kleine speaking in favor, one speaker opposed, and with that we can close the public hearing and discuss it amongst ourselves. So who wants to takeoff with it, Dave?

Mr. Redmond: As you know, I have a number of concerns; I think foremost in my mind is that this has to be time limited. Second, I am most concerned about the one at Hilltop because it hasn't been there before and the current owner of the adjacent shopping center hasn't experienced it either. So I think certainly in that instance, you know, we've got to be very careful because if the two don't play well together then he is not going to be able to do anything about it. I wouldn't want an adjacent property owner to be disadvantaged in any way for his operations to be disadvantaged in any way and have no recourse about it because there is a conditional use permit in place. So particularly on that site, I think we have to look at that. Furthermore, it cannot be the answer that the internet is coming to retail and is changing everybody's shopping just have more 40-foot trailers everywhere. There's got to be some better answer than that long term or have 10,000 40-foot trailers in the city. I think you know what they are facing, by the way, they are one of the largest drivers of the shift to online shopping but what they are facing, everybody in retail is facing and everybody is going to have to grapple with it and all sort of other different aspects of the economy. But we'll leave that aside for now, so as a long term solution, I cannot imagine and I certainly hope that the answer isn't we just string a bunch of 40-foot trailers around our store, no matter who it is, whether it's Walmart or Target or anybody else. There is going to have to be a better or more professional and more creative solution, typically if you have growing sales, you've got to be stick in trailers outside of your store that means you need more stores, you need to expand stores that you have. That's more expensive than trailers -- that's this whole argument. That's all this is about. But I don't know that that's going to be very good for the city. I certainly don't think we ought to encourage it, and we are certainly not doing it without some sort of time limit so we can review it. I don't necessarily know that any considerations have been given to how to manage that in a way like we discussed two years ago and I think that really has to occur because I just don't -- I hope that's not going to be in anybody's head a permanent solution to changes in the market place. I

think we all expect that, very frankly, so would I. I don't know about two years in Hilltop, I don't think any more than one year and the reason I say that is because if it impacts this adjacent shopping center, they ought not to wait two years to try and fix it, that just wouldn't be fair to any adjacent property owner. So anyway that's my thoughts.

Mr. Thornton: Karen, and then Ron.

Ms. Kwasny: So given Dave's last comment I think it might be appropriate for us to, yes, of course be determining, you know, sufficient appropriate use of space, how much, and how long for each application individually of course because each one is different and has its own unique constraints and needs. I think that, you know, while, you know, it's problematic, what might be causing the issue is a conundrum for all of us, we cannot determine for them how to solve it, all we can determine is how we are going to manage it on their sites for now as well. I understand the fear of other businesses doing it, but they would be able to come forward to us to make that request and then we would have to determine whether or not the very same things we're determining on this, whether it's appropriate use of space, how much, how long, or whether or not they have the space to do it. For instance, Big Lots are usually in a retail space. They are not stand alone and they don't have the kind of space that's behind the Walmart at Nimmo for instance and of course the First Colonial has a different type of space and a different amount of space. So we have to handle that one differently and they are asking for fewer units, so in my view, I can understand a time constraint being applied and I can understand a limitation on the number of storage units. But I think as we are doing it, it's going to have to be according to each of them individually and I don't think it should be with the fear that we are going to set a precedent for every retail business putting storage units on their lots. Because many of them don't have lots to do that and, when they come forward, we have to assess them accordingly. So that's not a fear of mine; is whether or not this is appropriate to the use of the the Walmart on Nimmo in Princess Anne or the use of the Walmart space in the First Colonial or Lynnhaven or anywhere else. It's not our job to figure out how they solve that problem, it's how we solve this one.

Mr. Thornton: Anybody on this side, Jeff?

Mr. Hodgson: I agree with both speakers. I would be supportive of this with the time limitation. I agree with you on doing the First Colonial one at a smaller duration of time to see how it performs. We are trying to, we are always trying to think a solution for this and you know we don't have the answer for that, but if my math is right, these containers are about 8-feet wide by 40-feet long which is like 320 square feet. Ten of those would give you 3,200 square feet of additional retail space. You are talking about facilities that are 150,000 square feet. There a lot of very good contactors in this area that could easily add 3,200 square feet of additional space on to the back of one of these large buildings probably for pretty inexpensive price and there are solutions to this, but I would be willing to support it with some time limitations.

Mr. Thornton: Ron.

Mr. Ripley: I too, would do that, you know, we see other types of uses needing trailers, churches need them temporarily, schools need them temporarily, and here we have a situation where the retailers need it temporarily. We can accommodate, but we need a longer term solution than that and I think that two years would be appropriate and so I would be in favor of that.

Mr. Thornton: Jack, and then Don.

Mr. Wall: Well, I think that these are in commercial areas. I think that the location of the trailers as they have been are fairly hidden, you know, not visible so, as it is I think it's okay, but I do support and I feel it's appropriate for time limit as well.

Mr. Thornton: Don.

Mr. Horsley: I am like Jeff. I have done a little math and I come up with by the time we get 60 containers, we have built a 20,000 square foot warehouse when you put all 60 of them together. So I have always been pro-business and I want people to be successful, but also try to look out for the city's best interest too. And you know every once in a while I can come up with ideas, you know, but what I could see people come out and wanting to just put up a small store front and put a couple containers in the back and start running a business, and saying why wouldn't we be able to do that? Since Walmart is doing it so, so we don't want anything like that to start happening and we think more of the city than that, but I do want Walmart to be successful. They need to stay in the area. I appreciate what they do for our community. But I think they do appreciate what we try to make our city look like. So I would support it for the two-year timeframe like we did two years ago.

Mr. Thornton: Okay, Mr. Weiner.

Mr. Weiner: I am definitely in support of two years, I am good with two years even with Hilltop, but when you leave from here today, don't think that we don't like you, because we want you to come back and keep doing good work here in Virginia Beach, so yes I am in support of it.

Mr. Redmond: I am not on Hilltop; I am much more comfortable with the notion of a one-year administrative review on Hilltop. These are a much tighter quarters than all these other sites and it hasn't been done before and if there are conflicts between the operations of those two things, I think that the adjacent operator ought to have some say in that and I don't think it would be a lot to ask, nor do I think it would be fair if we didn't do that. [Crosstalk].

Mr. Thornton: We are going to hear these individually, so when we make a motion for each, someone make a motion on Hilltop accordingly. We've got to make four motions, but we are not finished. Anybody else down here want to speak?

Ms. Rucinski: I was going to say the exact same thing; I have absolutely no issues with, you know, 7, 9, and 10. You can't even tell that containers are there. I mean I knew two years ago that we did it and on a couple of them when I went by, it was like, oh yeah, oh there they are, you know, you have to go looking for them, but I agree the one at Hilltop, it's almost out, I mean, it's not even really behind the building. I mean you will be able to see it from the front row parking so that one, I do have some reservation with.

Ms. Thornton: Karen.

Ms. Kwasny: I just had one more kind of concern about the way we look at this going forward because I am not sure I want to consider; I want us to be considering adding another 3,200 or whatever however many square feet it would be, of building in any area where that space might be available when the option is for a 4-month span of store units that aren't visible to the eye from the street. So I don't know that I would like that to be the option that's considered going forward. I frankly, in my opinion, I would rather have timeframes that are administratively reviewed for something that impacts us only for four months and most of us don't see except for when we have

a timeframe on a brand new building. That's my thought process, so I am not a fan of urging them to consider adding more building space that I don't think is very wise across the city. I do think that each item that comes before us, as I said before, will be assessed individually by us to determine whether or not when a business wants to put in storage units, they are not just going to get their business and then put up storage units. They are going to ask to do that. So we will, it won't set a precedent what we are doing today, we will have to assess each one individually. So the idea of precedent setting doesn't fly with me either, and I don't think we want more building. I think allowing for some temporary space that allows them to continue to do good business on some of these places where it's not obtrusive is a value to all of us. So I think we should be doing that, I agree. It gets good businesses.

Mr. Inman: I will make a motion that we approve applications 7, 9, and 10 with a two-year limit. [Crosstalk]

Ms. Cartwright: We need to do one at a time please.

Mr. Thornton: So before you make a motion, may I have a word.

Mr. Weiner: Certainly.

Mr. Thornton: Okay these are, I just want to end up the discussion today with a few thoughts and then I will entertain a motion. In, you know, in the big picture we have got the largest retailer in the United States, maybe the world, asking to put 60 trailers in a city of 400,000 people. So I don't think we are going to upset the applecart and ruin anybody's neighborhood or ruin any retailers since another thought is no retailers have asked for this. Well, Target doesn't sell lawnmowers and Target doesn't sell bicycles and Target doesn't sell foosball table whatever, so I don't think we need to charge Walmart with what other retailers do or don't do. The sad thing is Sears, Kmart, Penney's, these people are all out of business and so what we need to do, and somebody said it on this side of the room, what we need to do, we can do to help Walmart stay in business and we also need to, you know, take care of the aesthetics of the City of Virginia Beach. I am in total agreement with what Karen says and what Jan said; these things cannot be seen almost by anybody except for Hilltop, so it's not like we are letting some intrusive thing into neighborhoods and the truth is, if we put a time limit on it, we have a chance to come back and look at this, I would almost rather, I don't know whether we can do it or not, let this be an administrative review so that they don't have to come back into the public arena. What do you think about that?

Mr. Redmond: I was going to ask you that, what you were asking for, administrative review on an annual basis or two-year basis is certainly typical or not uncommon. I want to make sure I am saying the right thing here.

Mr. Thornton: I would prefer that -- I mean you all are competent staff of people and if they are violating the intent of what they have agreed to, you will know that, now my colleagues on this panel may not agree with me and they may want to force them back to the table to the public arena, but I would be comfortable with administrative review from the staff and if this thing goes right, goes wrong, I don't think that in three or four years when this has a chance to work itself out, they may end up not even needing this space because of the way the retail world is shaking out. So you know, I am in complete support of this application. If we want to put an administrative review on it, then we can have a motion. Yes sir.

Mr. Weiner: Point of information, please explain an administrative review to me. I don't know exactly, how that works?

Mr. Frankenfield: It means you don't ever see it again.

Mr. Weiner: I needed a little more detail.

Mr. Frankenfield: Little more detail, alright, so what if.

Mr. Kemp: What that would entail is in our system an inspection would be triggered every year and an inspector would go out, make sure that they meet the conditions. If there are only certain months that are supposed to be there, that gets checked and we would also see if there are any complaints from adjacent property owners. If there have been any property issues in that past year and typically if they have met all the conditions and it has gone on without any issues, it would be administratively approved for another year.

Mr. Inman: I need to respond to that. So that means we never have another chance to consider this if they comply with this application conditions?

Mr. Kemp: That's correct, unless you put another time limit, for example for five years with an administrative review every year. That would be the only way, it would come back.

Mr. Inman: Permanently have number of trailers as requested?

Mr. Kemp: Indefinitely as long as they comply. Correct, except if there were problems with the site and we revoke that administrative approval, then they would have to come back to you with another request for the bulk storage.

Mr. Thornton: Dave.

Mr. Redmond: I have a question to comment on that. So Barry this morning you indicated to us that in a briefing with city council; one of the things that they had mentioned was that they want to see a time limit, correct?

Mr. Frankenfield: You are correct but they didn't have any particular consensus or detail. I just wanted to let you know, right, but let me tell you that it has come up in our favorite short-term rentals that if, and I have to ask Kay about this. We didn't determine if this is legal, but they asked that when the administrative review is done, that council be advised of the administrative review. So there is some possibility here you could have a little more oversight then never see it again. Is that right?

Ms. Wilson: Yes. You could ask that they let you know what the determination was; also if you have one that is a problem that people complained about. Staff can bring them back to you, and so we can administratively do this, it's yours.

Mr. Thornton: So Dave.

Mr. Redmond: Well, I am not sure that I agree with the administrative review, I mean, it doesn't sound like it's really much of a review. I don't think a two-year, I don't think coming back for a conditional use permit in two years is a great burden for anybody, so the two-year administrative review, it doesn't sound like much of a review at all, it sounds like unless something goes wrong,

then it's going to get renewed. I just don't think that's good enough very frankly, so and I still am concerned about that Hilltop site.

Ms. Thornton: Well, unless something does go wrong, why should they have to come back here?

Mr. Inman: I can answer that. We are here because times are changing with regard to retail and all. Times are going keep changing and do we want to have anything to say about something that we could have spent an hour and some time talking about the aesthetics. So if it is an aesthetical concern, that may not be necessary after two years or four years or whatever as we review it going down the road, because with the administrative review, we have nothing further to say about it as long as they comply with the conditions.

Mr. Thornton: Back to Barry. When Mike says we have nothing to do about it, if you in your review process find a problem, it sounds like Kay said then you can bring it back.

Mr. Inman: And if there are no problems with that then we do not have any right to have anything further to say about it.

Mr. Thornton: That's what led to my question, if there are no problems, why do we care? But we must or you think we must, anyway. Ron?

Mr. Ripley: I'm the same way, administratively, I don't think I have ever seen administrative review come back here that I can remember that we had placed that in there and there was a violation of that such that it came back. I go back two years ago, in good faith, there was representation that there was going to be an attempt to solve this problem and it really hasn't and I think you might be right I think in a couple of years it might solve itself. I mean in the market may just, you know, be so much more online and less in-store, then it solves some of its problems itself. So I think two years is not unreasonable for everybody to put their heads together and try to find a solution that's better than trailers. I think again if I own that retail shop as Dave mentioned then, what's to prevent me to come here and wanting to have a trailer, everybody can have a trailer, it would be really nice. [Crosstalk] but what you said where you gave Walmart 20 trailers, but then I should have one.

Ms. Rucinski: I mean size, need, whether or not they have the space, whether or not it's obtrusive to the eye, all of those things would have to be part of the evaluation.

Mr. Ripley: I don't have enough space, I need more retail space.

Ms. Kwasny: I think you will have to evaluate each of them individually. I don't think you just blank check all of them because you did a Walmart, I disagree.

Mr. Thornton: Thank you. Can we have motion for number 9?

Ms. Rucinski: I will make a motion for item number 9 to be approved with a two-year limit.

Mr. Thornton: Second.

Ms. Kwasny: Second.

Mr. Thornton: Karen second it, vote is open.

Ms. Cartwright: By recorded vote of 10-0, item number nine, Walmart Real Estate Business Trust has been approved with conditions as amended.

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

**CONDITIONS**

1. The location of the storage containers shall be limited to the area depicted on the site layout shown on page 5 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The storage containers shall not be stacked.
3. The storage containers shall not be placed within any easements.
4. Unless otherwise authorized by the Building Official’s Office and the Fire Marshall, the location of the storage containers shall be so as to maintain a 20-foot wide access way for vehicular traffic flow and emergency access to the building and HVAC equipment.
5. No hazardous material shall be stored within the storage containers.
6. Prior to use of the site for the storage, the applicant shall submit a plan to the Planning Department and the Fire Prevention Bureau showing the location of the storage containers for review and approval.
7. The storage containers shall be limited to 20 and are allowed on site only from September 15 to January 15.
8. This Conditional Use Permit is valid for two years from the date of approval by the City Council.

**Item #10**  
**Wal-Mart Real Estate Business Trust**  
**Conditional Use Permit**  
**657 Phoenix Drive**  
**District- Beach**

**July 11, 2018**

**APPROVED**

Mr. Kleine: Good afternoon Mr. Chairman, members of the Commission. For the record, my name is Tom Kleine. I am a partner with the firm Troutman Sanders, it's also been my privilege for a number of years to serve as council to Wal-Mart Stores for all the projects that they do here in Virginia and I am here on behalf of these four, I realized we have four applications one after another. I will proceed with the first one and then if we want to go on into the next one, however, the chair wishes to proceed. The first application that we have is with respect to the project that we have on Nimmo Parkway and this application as you all know is for the ability for us to have temporary trailers, storage trailers in the back of the store, on the side of the store to help us prepare for the holiday season. We are proposing limitation of 20, no more than 20 containers. There are a number of conditions that we worked very closely with the staff on over the course of last few weeks. I too addressed they are all acceptable to Wal-Mart obviously the location of them would have to be acceptable to the fire marshal or the planning director. They are within the defined area that shown on the site plan. There would be no hazardous materials that would be stored in any of the containers and again there are strict limits on the number and limits on the timeframe to which they would need to be removed. The area of the site, if you have been out there, is an area that is predominantly where you have truck traffic and loading, it's located behind the strip center that is adjacent to the Wal-Mart store. It's also bordered on the other side that does not look like it. It's also bordered on the other side by very mature hedge of trees and that area. There is a site plan that everyone has in their packet, it shows the precise location. They would typically be uniform in size, stacked next to one another in that location. We have heard no objections from any of the adjacent property owners. One of the property owners actually signed the application because part of that site is in a shared area with the adjacent like gym, developers that own the balance of the shopping center. Now let me speak to the concern about containers Mr. Ripley. I read your transcript from a couple of years ago and I also heard Mr. Redmond and Mr. Horsley's comments when we have those sessions earlier and I know that there was a concern of, okay we have this discussion two years ago where are we now. I want to assure you all Wal-Mart takes those concerns, this issue very seriously, we have every single store manager for all five Wal-Mart supercenters in Virginia Beach here today. We have the market manager for this whole part of Virginia has come here today to discuss the logistics issues. We also have someone from the corporate office here Ms. Laurie Smalling-Letts, who is senior director for government affairs. We have also reached out to some of the commissioners who are located in the district. We had the privilege of meeting with Dr. Kwasny at the site with the store manager for a period of time the other day to show the location, to talk about the logistics issues and talk about what we are doing.

Some of these, this one we are asking for 20, some of them are more limited number and we will speak to those as we get to them. The issue is that these stores, you know while we are trying to manage inventory as best we can, these stores happen to be very popular and very successful stores and we are trying to keep the store successful in a climate in which the retail market has changed dramatically even in the two years since that approval was granted a couple of years ago. We have had situations where we have got Toys R Us that is gone out of business recently, the Babies R Us has gone out of business and I know the Sears from our office at town center is going to be closing and even with the Babies R Us closure, our store manager has mentioned that she has seen an uptick in the demand for some of that merchandise. So we also have seen a huge change in the online shopping environment. People are sitting at home, they are texting, they are saying I want this TV and I want it delivered to that store and I want to be able to get there and pick it up. We have tried to configure the sites to facilitate that to minimize, you know, the number of people in the stores so that they can come, you may notice we have done some restriping in some of the stores. We have added some locations in the parking lot where people can text in advance, come, pick their merchandise up and do some of the online grocery but we are trying to adjust to that but that also means is the stores were still staying very busy and the sales are continuing and so what this effort is during the holiday season it is an extremely demanding time particularly for toys and for some of the merchandise, that's a little bit larger -- bicycles and things like that -- that are difficult to just continuously restocking keep on the shelves and they are doing what they can. Fortunately, this is a large store, it has a large storage area in the back when the garden center is not occupied with plant material and this has a large garden center when it's not occupied during the planting season, we try to use some of that space to maximize the additional merchandise but what this comes down to is the ability for the customer to have the merchandise on the shelf that they are asking for and they are working on that. They are working on logistic, you will see a lots of trucks coming to the stores frequently to keep the merchandise going, to keep them moving, to keep them restocked. When you get into that super high demand period particularly as you lead up to black Friday and get passed Christmas, the demand is really pressing on these stores. They are working to do the best to manage it as best we can. I heard some comments earlier. This happens in one of our bigger stores. Some of the stores we are doing now are smaller, the one we will talk about in few minutes at First Colonial is smaller, we are asking for less trailers here to just get us over the hump, but I mean that's kind of thrust of where we are at so we are looking at these stores and we are saying okay what can we do that can allow us to keep the merchandise to meet the customer demands and another thing the Wal-Mart does that some stores don't do is the layaway option, you know, there are lot of our customers they don't have the ability to pay for the merchandise right away but need to know that it's going to be available there for Christmas and particularly as you get to the holiday season, you are having our customers coming to us asking for that merchandise that may be we are storing and trying to get us really through the thanksgiving push I really say. Once we get passed that, closer to Christmas, there is less demand to have that storage there. But that's the purpose, I mean, I think the good news is as we are seeing retailers and frankly there have been some Wal-Mart Stores that I have taken through the entitlement process in the mid-Atlantic, they have ultimately decided let's not pursue that store. You know, the good news is these stores are successful. These stores are doing well. Virginia Beach has been one of the only markets in the mid-Atlantic where they opened a new store last year, that's the one on First Colonial that we will talk about in a few minutes. We are employing over 2,200 people in Virginia Beach. We have got these five supercenters. They are doing well, we are doing our best to adjust to it and we are trying to do it in a way that's not intrusive, that's not objective. I

don't know of any adjacent property owner who has called. I know that we put them on a two-year limit a couple of years ago, I don't know that in that two years that anybody has called us. I asked the zoning administrator a couple of months ago, have we heard any concerns from these adjacent property owners? I have not heard of any, people know to call me adjacent property owners out there have not called us to let us know about them and we have also tried to do them in an area that's really not going to affect the customer experience going in that shopping center. You come, you drive into that Red Mill Wal-Mart, and you are not going to see these. The only way you are going to see them is if you go all the way behind, all the way around that hedge and up into our loading area and that's where they will be just for that limited period of time. So you know, we respect and we hear the concerns that you all mentioned but that's what we are trying to adjust to. We have got an online issue, we have got an extremely dynamic change in the market place right now, we are trying to keep the merchandise out there and now I heard a comment earlier – well what you do when you cannot have the containers, you know, there are some jurisdictions where that is outright prohibited and we have to adjust but the adjustment in that situation may be just not having the merchandise that the customers are looking for so they'll go to another jurisdiction or go somewhere else or in the lot of jurisdictions we are allowed to have them subject to certain conditions by right actually in some jurisdictions, we are allowed to have them by right, we try to work with the jurisdiction, make sure that they are not offensive, that they are not obtrusive that we don't have adjacent property issues that they are in compliance with zoning requirements and to try to adjust that. So that you know that's kind of the story we take this seriously, they take their stores very seriously here in Virginia Beach because they are so successful and you know we were out there. What was it Monday or Tuesday afternoon in the middle of the afternoon, and there were people that were coming who are vacationing here, you know buying beach supplies, buying all kinds of supplies, buying their groceries, looking for beach chairs, you know that store with all its 450 employees is serving the community and that's all they are asking for is to be able to continue to do that for this limited period of time. I did hear the comment earlier, gosh that seems an awful long amount of time, that's not the holiday season September 15<sup>th</sup> through, we have really asked for that four months just to make sure that if a trailer shows up a little bit earlier whatever there is layaway demand you know that we don't have situation violation of the zoning ordinance, is a practical matter. I think that Ms. Conway who is the store manager will tell you, they are not there that long, you are not going to have 20 trailers out there from September 15 through January 15 and it is a practical matter, once she has the containers there and the merchandise is out of them, she doesn't have any need for them to continue to be there, so she calls them up and says please remove these but again we ask for 20. So if there are 20 out there at any given time again we are not having the zoning violation or we are not having a situation. So we would certainly again we brought the whole team, every store manager, the market manager, someone from the corporate office were happy to answer any questions but we want you to know we did look at the transcript and we did discuss the transcript with the planning staff from the discussions that you had two years ago and we are working on it. We are trying to keep these stores successful in a very dynamic and changing market. So with that said I will be happy to answer any questions. All of the conditions that we reviewed with the staff are acceptable to us and again I am not aware of any objections or anyone here in opposition.

Mr. Thornton: Questions for Mr. Kleine, Mr. Redmond.

Mr. Redmond: So you said that in instances where in the jurisdictions where you cannot get approval for this, the store adapts, right?

Mr. Kleine: Well when I say adapt, if you cannot have them then you just, there might be merchandise that people are asking for that you just cannot provide, yeah. I mean that's or there might not be the ability to do the layaway or offer that service and offer the merchandise. So it is really just about being able to provide the merchandise that people are asking for that store.

Mr. Redmond: What are some jurisdictions where you cannot do that in the Commonwealth of Virginia, are you aware of any?

Mr. Kleine: I would have to go back and research, I am not aware.

Mr. Redmond: You heard my concern this morning is I don't like doing this with no context, right.

Mr. Kleine: I mean I know in Chesapeake they are permitted, you know, you got a lot of containers subject to certain requirements, I know Norfolk you are allowed to do them subject to certain requirements. Some cases you may have a zoning overlay district such as town center for example where we have it screened and you know unless it's like a special event or something, there was certain restrictions on having them there. I would say that puts a big burden on that store too, you know, again town center is a dynamic area, we put our office there at the very beginning so I know how dynamic it is. I watched it grow up outside my window, a few years ago people said well we are not sure that Wal-Mart make sense at Town Center, Wal-Mart compatible with the Town Center model and all that so again that was a by right side that Old Bill's flea market and we work with the staff, Wal-Mart some of these folks, the corporate office worked with the planning staff and did a town center Wal-Mart there, even though it wasn't fully about the zoning ordinance to try to have something that fits in with the environment. That's a hard issue with the holidays to be honest with you, because the reality is you have got all these people saying I would like to put this on layaway, I would like to have access to that equipment. I would like to have that bicycle and we may be in a situation that we just say I am sorry we cannot do that.

Mr. Redmond: Why is that unique to Wal-Mart? I am unaware of any other retailer that we have had asked for trailers?

Mr. Kleine: Well, I don't think it's unique that we have had trailers in some of our stores. I think it's a lot of just meeting kind of the customer to manage and try to make sure that the merchandise is available and be successful. I don't represent Target, so I don't know to be honestly I don't know that they don't have trailers at their sites, perhaps they don't at the Hilltop site.

Mr. Redmond: We haven't seen them, I mean this is the only Wal-Mart is the only retailer I am aware of, that's ever come before us is asked for trailers around Christmas time as I said this morning Kohl's doesn't do it, Target doesn't do it, the extent that there are any J. C. Penneys, they don't do it. I mean retailers that you are talking about before, I have never seen it from Sears or K-Mart for some odd reason. This is particular just for Wal-Mart and look at these shopping centers and I think to myself wouldn't any other retailer be inclined to come and say yeah we'd like a trailer. What about Big Lots which is you know adjacent to that store and once bought, you know, another retailer in some places just said, we could use one or two. I don't think we want to encourage this notion that if you have a store and you are busy in Christmas because they are all busy at Christmas from the guy that has a 1200 square feet, and he just sells shoes to you know couple of hundred thousand square foot Wal-Mart, again you are going to face greater strains at Christmas time. I don't know that's something going forward that we have to think is just sort of assume that that's okay to do that because we do have site plans. Yeah those other four walls will

cause some, you know, some constraints and so the changing retail environment is challenging for anybody. This is the only retailer that I am aware of and whatever 11 years of doing this, that's ever asked for this and I don't know that it's necessarily fair to everybody because I would think everybody would want at least one -- what a heck, I am selling lot of shoes out of my 1,200 square foot store so anyway that's my concern. So now here what are you saying about it makes easier for Christmas timing and moving bunch of stuff at around and I understand all that but those are constraints that every retailer faces.

Mr. Kleine: But I do think you know some of our merchandise is all different sizes. You got lot of bicycles, you got toys, you have things like that and our stores are just very successful. I mean they are, they are extremely busy, very successful stores here. The model is such that you know a lot of people; we have got a lot of traffic to these stores. I don't know what the traffic counts are to other retailers. I think you will have also have a code that would permit other retailers to ask, you know, when there are discretions and I think again we are doing it in a very unobtrusive way. I mean this is literally behind the shopping center in an area that's almost enclosed on four sides because you have got the back of another retailer behind this, retailer on two sides and then there is very mature hedge so you know when I am asking to put them out in the parking field. We are not asking to have them there indefinitely or asking so that we can get through you know this much and that is I mean that's the reality of the situation, I'll ask people like Laurie, the market manager, if they have anything that they want to add to what we said there but I mean that's what we have during that period of time.

Mr. Thornton: Ron, a question?

Mr. Ripley: Tom if you read that the verbatim we said at the very beginning last year that we are ecstatic that the commerce was there, we want the commerce to continue. The idea of what the discussion we have was in good faith was how do we do that, you know, how do we kind of plank and come forward with to help solve this problem in long term and not have that because there was an objection then and you can see it really hasn't changed as far as the way I think this commission kind of looks at it. When I think about Wal-Mart, Wal-Mart has written, how many books have been written about inventory supply chain management, I mean, it has been studied and the highest business institutions in the country over and over again because it is so efficient. Here we got this what we are looking at here it says inefficiency and it doesn't seem to line up with their philosophy to me. I think what was important to me last time is that the managers did come in and they said yeah, we know we are at this problem. We think we can solve it and I realize things do change in the market place and if the commerce is really doing well. There may be another way to solve it and I think I have heard this morning I think maybe at the most some additional time to help solve it might be palpable but this being a long term solution, I don't think that's the solution.

Mr. Kleine: I appreciate that Mr. Ripley and we did share that transcript obviously with the leadership that's here and it has been a changing environment just in those two years, you know, the demand on that store, I am talking about the Red Mill, just continues to go up as we discussed with Dr. Kwasny out there which is great for Virginia Beach, it's great for everyone and so to the extent you know two years ago they were looking and I know that Ms. Conway the store manager, they have looked to re-configure areas in the back. They looked to try to establish more efficiencies and keep merchandise on the shelves, keeping the shelves stocked so that you know you are not going in there and saying oh my god, there is none of this item but its all back in the storage locker

at the back. It mentions they are trying to keep 10 plus items of each thing continuously stocked on those shelves. So that you are coming in and you are looking for something it's there and we are also again trying to have additional efficiencies with respect to the fleet of the Walmart trucks that you see coming, getting the stores off-loaded, getting the merchandising off the shelves.

Mr. Ripley: But in that inventory model, I mean, the inventory model is that the warehouse knows exactly when they need something and it's moved up as oppose to putting it out in the parking lot.

Mr. Kleine: And for that limited period of time though, there was just not that room, we have got so many people coming into these stores asking for certain items to keep that merchandise continuously on the shelves. To keep them successful, you do have that big press and as I said we are asking for the four months. It's a practical matter, it's not really four months of trailers. I mean, we are having that window just so you don't have a situation where we're in violation but it's really a big push over a shorter compressed period of time, black Friday.

Mr. Ripley: I am not speaking for everybody up here but if you had another year or two to help solve this issue, would you be willing to good faith of work on that get it done or not? I mean it buys you time and something you said in the presentation I want to take exception to and that is that you didn't hear anything from the staff. It's incumbent on the applicant to solve the problem not just staff to have to go out and solve the problem.

Mr. Kleine: I am sorry if I misspoke.

Mr. Ripley: It sounded like nobody has contacted you in the two years about this issue.

Mr. Kleine: Oh, no, no, no what I was saying was what I checked was, had there been anyone from the community called to complain that it was a zoning violation or some issues associated with them being out there, that's what I had asked. No, I certainly didn't, we had many discussions with the staff and we are very familiar with the issues.

Mr. Ripley: It is incumbent on you to solve these issues.

Mr. Kleine: We understand that. And may I introduce, this is Laurie Smalling-Letts with the Walmart corporate office.

Ms. Smalling-Letts: Good afternoon, thank you for the time you know as I sit here, I have been with Walmart for 17 and a half years, and I completely understand your concerns but I have seen a drastic change in retail in the time that I have been with the company. We are a good corporate citizen and we provide, as Tom has already said, 2,400 jobs in Virginia Beach. We have given back over 2 million dollars annually to your community through food donations, through CHKD, through local organizations. We have also with just taxes in the State of Virginia, sustain local taxes over a 109 million dollars that are coming back, through tax dollars, so yes we are a corporate citizen that is operating in your city, within your city. I have worked as I said with Walmart for 17 and a half years so I have been at federal state, local, international working with governments on how we engage and how we support the communities we serve. I understand your concern about our inventory management but our stores are built to basically serve customers nine months out of the year. That other additional, there is the influx of traffic. I was just visiting with Melissa who has a store, she has 60,000 customers coming through her door during the holidays. She has an increase in millions of dollars at inventory that's coming in. So I understand that just in time, and pretty much you know most of the year, we are able to do just in time inventory but our just in

time inventory now is just in time for the store. The customer wants to be there just in time for that parent that doesn't want the big item to be shipped to their house but they can pick it up at store and then we will have to pay a shipping fee. I just did it this last year, we were buying a shuffleboard table for our boys and it was from Santa we didn't have it shipped to the house. It would have been free to go to the house but it was free to go to the store. We went to the store because we didn't want it on the front step when we came home and didn't know what the box was going to say to surprise what Santa was bringing. So there is a changing dynamic and when you are asked about finding an internal solution to be able to do this, that would be coming back and that would be multi-million dollar expansion of trying to add inventory for the three months, which we would have to go through all the process and everything else. We are in the time right now that in retail we are fighting for our lives. When you look at what retail spaces are going out of business and the retail space that is actively being used, that is going away where it's not generating sales tax revenue, I would love to say that we can come in and tell you that for every store in Virginia Beach, we are going to go in and invest 10 million dollars to expand the stores so we have the inventory space for Christmas. Unfortunately, we are a low-cost retailer. Every cost that adds on adds to the cost of doing business and adds to the cost of every item that your constituents would be purchasing at our stores. So we have to evaluate the kind of the big picture and yes I know trailers don't look great but you are right. Like in all the other jurisdictions that I have worked in, I have had the experience where they understand that we truly like, I tell people, people think oh you are a retailer, we are actually in the people business. We work to get our associates to serve the customers that come through the door. It happens to be the merchandise what's in between and there is a lot of merchandise at Christmas time. It is fortunate that we are having increases in sales but as we have been talking to each of these stores, we have online grocery pickups so we are creating new jobs for those associates to have additional training to be able to serve those customers that want to come in and get their groceries. So we are increasing skill sets, we are investing in our people, we are doing a lot of great things. We have to be able to serve the customer to be able to stay in business and so it is this additional merchandise that we need during the holidays at all of our stores. There was one saying as I have been visiting with some local officials about our community engagement, everybody is like are you facing the same issues in the other jurisdictions? And we are not. We had trailers at all of these stores and so and I have to say that Virginia Beach is absolutely beautiful and you're building and everything else. I understand the pride that you have and making sure that you are making the right decisions but we are trying to make right decisions for our customers. By having the merchandise that they want when they need it and being able to have pickup in our local stores where people can order big items for their kids and surprise them and layaway. A lot of retailers have done away with layaway because it is expensive to store that merchandise and to collect ongoing but that's our core customer. They need layaway because they cannot afford to come in and buy it all in once. So I understand and I would love to say that we could say hey give us another year and we will come back and we will have a solution. Unfortunately, I think that the only thing at this point is that temporary storage to get us through and will continue to work through our inventory and figure out there are ways that we can reduce the number of trailers. I also don't want the company to go out of business. I don't want us to have to reduce inventory because people aren't shopping in our stores and that's what we are facing as you look at the competitive landscape. Where retail is going, more and more is going online and we are here providing jobs in your community, we are providing tax dollars that come directly back to your community and we are serving your customers that are your constituents. So I do appreciate you hearing this but as we are sitting back I know our stores need this because this

is the first issue that I heard when I came into the market last year is that the city doesn't like us and it was our trailers. That's the interpretation of our store managers. When they came here two years ago, the feeling as they walked out was that it was easy for you all to kind of say well we don't want to see you and you fix it. They are managing 400-450 associates. They are managing millions of dollars of inventory that's flowing in the stores and unfortunately they are just trying to make sure that they can accommodate customers and serve the customers with the merchandise they want. So if you all decide that we have to come back and come up and invest then maybe Tom will be coming here and saying we are actually closing another store versus building more. That's the retail environment as I said I came into Walmart where we are opening 250-300 stores a year, this year alone we are opening 20, consumers are changing, shopping behaviors are changing that where we can keep our customer shopping in the stores that's what these store managers are here fighting for just to make sure we can serve those customers.

Mr. Thornton: Don't go away, we may have some questions. Any questions for Laurie, Mike?

Mr. Inman: From either of them, I respect that what you were saying about what Walmart does for the community, I want to thank you all for that. Our job is to a great degree about aesthetics and keeping our city beautiful and this has something to do with the storage units that you have. It is still curious that and I know you guys are smarter than most of them, but nobody else seems to need this. Maybe they haven't figured it out yet, I don't know. What about other off-site warehouse facility, maybe several smaller warehouse facilities that are in an industrial part versus having the trailers right there. I know it's not convenient as far as restocking. It is not as convenient but it's an alternative that would eliminate the trailers, maybe that doesn't work. I mean I understand. I am not trying to restructure Walmart here but what are the alternatives could there be to satisfy?

Ms. Smalling-Letts: And we have had those conversations about that and just from the logistical standpoint. So our trucks come in and bring the trailers and then they could place in the parking lot. We don't have short haul like we don't have small trucks that kind of go from point A to point B. When you talk about putting in an outside storage then it becomes running new hauls and it becomes finding CBL drivers that would be beyond the corporate time and then the liability of having the merchandise and being able to transport it back and forth. So we have had those conversations. I know Tom you have had additional conversations even with internal real estate but you know it's we have the space there, we can have associates go out, we have locks on all of it. We can monitor when they are on property. So from that standpoint, it's just we are setup logistically for long haul not short haul just in the way that our logistic system works.

Mr. Thornton: David?

Mr. Weiner: And I want to thank you also. Walmart does a great job around here and they are very good corporate citizens with the City of Virginia Beach, doing a fine job. I think it took us by surprise that's what I think for pretty much here. I even asked Jimmy. I thought this was a done deal, they are going to take care of this. That's what I think. That's why we are talking about this right now and on the other hand not thinking about the applications. If you looked at the number of people who walked in the Walmart compared to Target, it's probably double and that's why they need a containers because, don't take this wrong way, but if I have to go to Walmart, I will go 5 in the morning where I can get in and out. I think that's why we are here right now because of the people that go there are about double the people that go to Target. I think that's why we are little bit shocked to see this come in front of us again.

Mr. Kleine: And I think again, we have those issues with the stores being very successful and again just the changes with the retail market changing. Our firm represents a lot of other type of entities and we are seeing so much dramatic change in business over time, I mean, there have been sites as I mentioned before that I took through very ruling entitlement processes in other parts of the Mid-Atlantic. Walmart ultimately decided we are not going to do the stores, even though we have been through lawsuits and everything, to get them approved. It's changing that much and as she mentioned, with the mode we used to be and building so many stores when last year I think the only store I am pretty sure that this is correct, the only store that they opened in all of Virginia was this one in Hilltop. That's what the change has been. Getting to Mr. Inman's comment, and I respect the concern about the aesthetics, I am a resident of Virginia Beach and I appreciate that. We are trying to find with every one of these applications the places where they are the most unobtrusive and no one is going to have to go back there to look for them here. Ms. Conway, who is a store manager, also gave commissioner Kwasny her word. These things aren't going to be just scattered around there. You have got a defined box we have to keep them in, we have got an understanding with the adjacent property owner that there was a defined area that they are going to be in. They are going to be uniform, there are going to be stacked and again her business model as soon as she doesn't need that thing and she locally had used another thing that has changed. It used to be that the delivery of these trailers etc. was handled at the corporate level. That's changed and it is now handled at the store level as I understand. So Ms. Conway is going to be there at that store, running that store, and she is going to realize we don't need these five trailers. Call up the folks, get them off the site and so maybe you are down to 10, maybe you are down to 15 or whatever. We have deliberately, and you will see with all the other applications, found spots that are going to have to minimize any kind of aesthetics adjacent. The newest one that we have, that we will talk about in a moment, there is some fencing that the staff has asked for because there is an adjacent shopping center, so we have a very cognizant of that sir.

Mr. Thornton: Karen?

Ms. Kwasny: I don't have a question. I am wondering whether or not we are listening to each one of them individually and then we will have closed it, so that we can have conversation. Because I think, I am passed a point of question for them, I am to the point of wanting to make a comment or two that we could just ask, but don't know when we are going to do that.

Mr. Thornton: We are going to close public hearing sooner than later, because I think, unless we have got anymore specific questions but we are going to hear their argument all at once and then we are going to deliberate. We have got to make a decision on each individual one, but I don't want to stop if we got questions, let's keep asking questions and Mr. Redmond.

Mr. Redmond: I do have a question. That's the variations in the number of trailers in each one of these four applications, can you explain it? I would prefer some sort of you know specificity and metric, not merely the store manager says 10 or the store manager says 20. As Mr. Ripley said, you guys have a pretty well known and extraordinarily sophisticated logistics and supplied management reputation, I am sure was probably a good bit more specific than that, so 10 versus 20 versus.

Mr. Kleine: Well, I think I can address that probably on a site by site basis. On this particular site, we have the room. It's one of our largest stores, 200,000 square feet. So I think this is such a big store between the proximity to all the tourist areas and in the other parts of the city. I think that was evaluated. We also have the space on the side in that area, so that was a 20. With the other

stores, we can talk about. Some of it, we have less space. Some of the stores are smaller like the retrofitted K-Mart that we did at First Colonial.

Mr. Redmond: Yes, it's a question ahead actually. What's the square foot of store Hilltop? Do you know of the top of your head square footage of the store at Hilltop? Somebody was asking this morning and I don't know.

Mr. Kleine: I think in the range of 152, but it's based off of sales. The metric that they do internally and this is from the market manager, they do look at the sales. You know that they have of that store and what the increase demand is anticipated to be with the holiday season in that shift. Then they look it, where feasibly we will be able to house that merchandise based on our historic data, numbers of customers coming in an anticipation with the holiday.

Mr. Redmond: Okay, thanks.

Mr. Kleine: And there are practical limitations based on do you have space more than like Phoenix Drive, we just have that location on the site.

Mr. Thornton: Questions on this side, over here, I see no more hands, I see no more questions. So with that we'll close the public hearing and will debate this matter amongst ourselves, thank you.

Mr. Kleine: Thank you. This is just the public hearing on this application. We do have different issues with the other.

Mr. Thornton: Why don't you quickly give us the nuances of four of them, so we know Nimmo Parkway has 20 containers, we know where they are going to be, what about, do the next three in executive summary because they all should be reasonably similar except for Hilltop.

Mr. Kleine: And then I know with respect the Hilltop just for purpose of keeping the record, we have some gentlemen that are going to want to speak from adjacent property owners. We want to make sure that the record reflects that opportunity.

Mr. Thornton: That one will be last.

Mr. Kleine: So I think that one in your agenda was actually the next. That was number eight, so perhaps if we wanna skip, now to number nine and ten.

Mr. Thornton: Nine is Lynnhaven and ten is Phoenix.

Mr. Kleine: Okay, so Lynnhaven again it's a similar situation, this is one of our larger stores with heavy sales. You cannot see it very well with this site plan, but these would be placed around the back of the store, pushed up as close to the stores as the fire marshal will allow us. We'll have to work with the fire marshal on that, outside of any travel lanes. This is part of a larger shopping center. You have got an adjoining shopping center next to us, so this is not a situation where it looks like a parking lot in this but that's actually, this area over here is actually more in line shopping down to that shopping center. So there is a little passage way but from the parking field out here, there's just really no visibility. He is proposing to park some of them along here and then some of them along there. The back of the store has a pretty well defined stormwater management facility. There is also very defined hedge that runs along the back there. The adjacent property notices have been sent out. Signs for the stores have been posted. I am not aware of any of the adjacent or nearby property owners who have any concerns. This is one of the large stores like the Red Mill, a 200,000 square foot store, and again a very successful store. There is a lot of

demand for some of the layaway and some of the other merchandise at the holidays. We have a series of conditions that are acceptable to the applicant here, no hazardous limitation on the number, limitation on the time of year that they would be out there. The final location of them will have to be subject to final approval by zoning and fire marshal etc. But they're back there, near the loading area that is not visible from public right-of-way. You can see the mature hedge across there that's providing successive buffering with any the residential behind is a multifamily.

Ms. Rucinski: And how many at that store?

Mr. Kleine: That would be no more than 20. The next one, number 10, is Phoenix Drive and this is a store just near the Lynnhaven Mall. You may recall, we came before the Planning Commission and City Council a few years ago for an expansion for this store so that we could add the full grocery component. At this store we are proposing to put them back in this area and have no more than 10 over there. That's where they historically put them at this 168,000 square foot store. It was originally a division one store and it was expanded a few years ago to make a little bit so we had the full service grocery component to it. This again is an area of the site, it has very limited visibility as you can see, very mature hedge along this side. Its way off to the side as you drive into the site, all the vehicular access for the most part is from the front or from the other side big parking field because the side is over parked. I heard your comment earlier about parking, I think this was parked at 4.5 per thousand ratio and the city requirement is 4 per thousand, so we got lot of parking. We are trying to keep them back there, minimize the visibility. There is also a condition, that is a little bit unique from the others that if this site over here were ever to be developed and for whatever reason that hedge were to be removed or thinned out, we would have to put a wooden fence or some type of barrier fence along there. If we were going to continue to have the containers in that location, but again that's a condition that we worked out with the staff. I cannot tell them how they would really have any visibility again. One of the entrance features over here and then entrance over here, there would be very minimal. You really have to drive over there and again there is a lot of parking that's not used at this site. That's where they would be located. So the conditions on that are acceptable. I think those are the three which you have looked at before. The new site is the one at Hilltop and that is agenda item eight. This is an exciting store. I have to say because we worked on this, I live near the store, it took us a long time working on all the documents to get this together. I think for those of you who aren't familiar with this shopping center and Kmart, that was a very dated Kmart that ultimately went out of business and that center was in need of significant work. Walmart came in a few years ago. We went before the City Council for a conditional use permit associated with some of the accessory components that we have over here. It's part of that approval. We also showed architectural detail. We worked very closely with the staff on dressing this up. We took that old Kmart store's respective old walls, for the most part, and gutted it and did a few additions on the sides. If you have been out there, you really have to look to not know that it's a completely brand new store. You would never know that it was essentially, we have retrofitted the older building that's there. You know this site has a shopping center with other retail parcels that kind of surround it. They are owned by different property owners. Those gentleman are here and they are going to speak with us. What she is asking for, the square footage of this one Jackie, 152 and that's approximately the size of the Kmart that we took over with a little bit of few tweaks to accommodate some things around the area around the sites. So on this side, there are reciprocal easements for parking and travel lanes etc., with this overall shopping center. You can obviously access this site of First Colonial. You can access it off Donna Drive as well. Over this area here is the loading area. Again we try to identify and on this

side is our garden center and this is the Autobell. Of course the store faces this way and then passed on a drive, you have Laskin Road up here. What we have done over here is, she has a limited need again for some containers. She is anticipating seven to ten so we are asking for 10. So limit on 10 again the same limitations that we have before. The staff did indicate that because we are adjacent to this retail area, that's owned separately from Walmart, that we could perhaps put in some fencing. There is a screen fence, it screens some of the loading area that's of a wood nature over here. They asked if we could put something similar to that or compatible with that. It would be temporary if you could go to the site plan there kind of a long like that actually it was a previous one, like that, I think the staff reports showed it going all the way down here and comment was that's an awful lot of temporary wooden fencing when you are needing to get into the containers over here. When you have got basically screening yourself from your own store over here because the remainder of the center is over there. The other issue is some questions we had, wait a minute what does this box mean, there is already a site plan that shows some parking spines etc. She would just put some of these containers in those existing parking spines. So we are not proposing to block any travel lanes or drive aisles, it's more just to get them closer to the store. This area back here is a loading area. It has some reinforce concrete, there is a lot of truck activity with the deliveries that are coming back there each day. I know one question is could you push them back little bit further. That's why we have them kind of in these areas over here on our site located to typically put them in some of the perpendicular to one another within the spines. But not interfering with the routine truck travel lanes that are coming into the site or anything that would pose an issue from a fire perspective. I did speak with Mr. Aspin Wall who owns the self storage on the other side here. He does not have any objection to it. I know the gentleman from Pratt Street did want to comment on it, they did. They are new owners of the remaining shopping center and they did contact us last Friday just indicated they have some questions and I believe that they would also like to speak. So on that part, I will be happy to answer any questions or if not defer to the gentleman from the Pratt Street.

Mr. Thornton: So you are talking 20, 20, 10 and 10 on number count; we got that? Two at 20 and two at 10.

Mr. Klein: Yes sir.

Mr. Thornton: Don.

Mr. Horsley: These are all 20-foot containers right; they are not 40?

Mr. Klein: They are 40. Yes sir. But they would all, have defined limits that we would have to keep them in, so there are precise locations. We have to keep them within those confines.

Mr. Thornton: Any other questions for Mr. Klein? Okay thank you.

Mr. Klein: Thank you.

Ms. Cartwright: Alright, we do have one speaker in opposition for item number eight, Jeff Spatz, would you please come to the podium and state your name for the record?

Mr. Spatz: Good afternoon, I'm Jeff Spatz on behalf of Pratt Street Capital, PSC Hilltop and other co-owners of the adjacent center there. As Mr. Klein explained, we own a retail center, over here as well as on this side of the Walmart center. On each side we have properties, retailers are on each side. There is a reciprocal easement agreement between Walmart and our ownership which was

placed there by the prior owner, prior to the sale to Walmart to allow both parties to have utilization of access ingress/egress etc., so that there will be kind of cohesive flow to the center even though it is separate parcels. We only did learn about this more recently, there are many factors that are moving parts. One is this Walmart is a relatively new Walmart. As Walmart explained, they have been opened a year. It may be just over a year, but it's a pretty new Walmart and we are still just digesting how the impact is on the center. They have been a great neighbor, we are happy to work with them, but we want to make sure that the traffic flow, the truck loading and the parking do not get adversely impacted. We did get to this a little bit late in the game. I want to thank the Commission and the staff, especially Mr. Davis. I am not sure if he is here, okay he has been very responsive and very helpful. It has made our job of digesting this in a short period of time much easier, so thank you and that being said we want to be good neighbors. We want to accommodate Walmart. We want to help them be successful. Retailers in the market, we just want to ensure that it does not adversely impact the aesthetics as the Commission is concerned, and as far as traffic flow and truck loading as well. The site plan that they put together had a call out for a substantial area where they may or may not put the trailers. We would like to little more closely define it to understand. My understanding from being at the center and from speaking to Walmart is that the trucks actually do come along the back of our retail establishment and go through here so I want to make sure that does not impede and Walmart has verbally said no we would make sure that it doesn't impact the truck ingress/egress and loading area. So we are not in opposition, we just want to make sure that it is working in a cohesive manner with the entire shopping center. Now we could all work together so as much as we are quoted as opposition, we are not here formally saying that we are against it, we just want to be done it in a way that enhances entire center for Walmart as much as you know our retailers.

Mr. Thornton: We have a time limit on speaking.

Mr. Spatz: Oh, I am sorry, my first time here.

Mr. Thornton: That's okay, that's fine, questions for Mr. Spatz from the Planning Commission.

Mr. Redmond: Was the fencing a priority for you?

Mr. Spatz: The fencing would be helpful but part of that is to understand exactly the layout of the storage facilities and then we can see the visibility, the eye sight. So to understand there is a lot of parking here to understand exactly where in this area. It will now be set, then we can understand exactly the site line. We really want to keep it looking nice aesthetically as we can and we did ask if they could be set back a bit further to kind of keep it out of the view point. As they said, Mr. Klein explained, it's a little difficult because of the loading area, so we are trying to have a discussion of how we could work together to accommodate it from our perspective. Obviously the Commission has to approve it from their perspective but we are trying to work together to see if there is a way we can accommodate.

Mr. Redmond: My concern is whether screening ends up looking worse than better and it could end up looking like. We have all seen the construction site fences that go up, and I just don't want the screening to make it look more of an eyesore than it would as you just said the walls of the containers.

Mr. Spatz: I agree completely and that part of the factor of is the screening going to be up year round or is that only going to be there when the storage facilities are there, is it going to be

maintained, will it need to be power washed, etc. Those are kind of some of the moving parts that were you know trying to have the discussion on to make sure that it works.

Mr. Redmond: My understanding is that screening would have to be removed when the containers are moved.

Mr. Spatz: That was my understanding and I wanted to confirm that and the question is from one year to the next, how it will be maintained and at this point, the Commission deems that it is an appropriate use because this is a new Walmart and we are still just trying to get our hands around exactly the logistics and the layout and the trucking lanes. We would propose that it would be a more timeline finite period rather than indefinite approval.

Mr. Redmond: I think we are all in agreement with that.

Mr. Spatz: That's fine, but I just especially with this site, because Walmart has only been opened for a year and there are a lot of open issues from our perspective.

Mr. Redmond: Thank you.

Mr. Thornton: Jack.

Mr. Wall: So currently the traffic flow and the pattern is acceptable?

Mr. Spatz: That is correct. We have not had any issues with their trucks going behind our center and our parcel and using that lonely area. We have not had any issues.

Mr. Thornton: Okay, Jan.

Mr. Rucinski: I have a question for Walmart.

Mr. Thornton: Do you need to ask to this while this gentleman is here?

Ms. Rucinski: No.

Mr. Thornton: Ok.

Mr. Spatz: Thank you very much.

Mr. Thornton: Thank you sir. Tom she has a question for you.

Ms. Rucinski: So my question is this. If the loading trucks are entering behind where those storage units are proposed, why could we move those storage units closer to the building?

Mr. Kleine: Thank you for that question. By the way, and I am going to have the store manager to address where the trucks for the most part are coming through, I will say that the short answer is Wal-Mart is never going to allow something that interferes with their ability to get the merchandise in the store and interfere with their truck routes. So not containers. This is Jackie Russell who is the store manager of the new store.

Ms. Russell: Good afternoon, so where the trucks come in, they actually come off the Donna Drive and they do go behind, so they go here and they come down through here and this right here is where they back the trucks up. These trucks are really big so in the morning time, I may have possibly anywhere from I want to say five to ten deliveries, different size of vehicles coming from local business partners for grocery merchandise and then I also have our Wal-Mart corporate

trucks. They have to back these things up into four different bays. So they need this room right here to back up the maneuver because they are maneuvering around five to ten other vehicles so I cannot put the proposed bulk storage there because then there is just no way. It's going to create an interference. It's going to create safety issue.

Ms. Rucinski: I wasn't really talking about back down the corner; I was talking more like closer to the building because it looks like you have got them up in that front corner, but instead of been in the corner move them closer to the building.

Ms. Russell: Good question, I actually have a pickup area, so my online grocery shoppers go to the back of the building and we have a door on the side of the building that allows my associates to come out there and provide that service to that customer. So unfortunately I cannot put it there because that's going to impede on those parking spaces for those customers to come in and come out.

Mr. Kleine: But the reason, if you go to the exhibit where it would be, with the black one, that one yes; what we are doing there was really just respecting the property line and showing that would be within the limits of where they could be. We are not saying that they would necessarily be pushed off all the way along that area. We would, you know, we are going to try to keep them in existing parking areas in a way that there was not interfere with pickup, you also have the pharmacy pickup. There is a pharmacy drive through and there is designated spot. The people who are doing the online pickup that you are talking about, but if you can go to the one that shows the site plan, well yes, the other one, the one that shows the overhead, I am sorry, yes so where she would do them is a practical matter. There are some parking spaces that run through here and she would have them within those parking spaces, for the most part in those parking space areas.

Mr. Thornton: Do you anticipate ten units side by side?

Ms. Russell: So there would be like two and then there would be some space, yes and then two, so I am trying to confine it into allocated parking spaces on my property.

Mr. Kleine: As a practical matter, more in this right in here, and then we would, and then with respect to the fencing, the wooden fencing, you know, if we wanted to modify that condition, etc. or such appropriate screening as approved by the planning director or something like that, to provide some flexibility, I think that is yes. Someone has asked the question that is it going to be up and around; no, I mean we wouldn't have just a line of fencing there with nothing behind it or whatever. It would be removed, the wooden fencing you know, sometimes it draws attention I agree, you know, I see wooden fencing, you're like okay what's going on behind that, but there is some Shade cloth screening, there is portable temporary screening that I have seen used in some locations and some of our stores. We have sometimes put it on the inside of garden centers that can come on portable racks that they can roll out there, so if you wanted to modify that condition to say or such appropriate screening is approved by the planning director that we can work, you know, with the planning director to find some alternative as well instead of the wood. But if the requirement is that it be wood then, yes, the wood have to go to a fence vendor and they would have to have basically prefab sections put up and they'd have to have the concrete, portable concrete footers, put out there and then have to have all that removed and then they'd have to -- her employees would have to be maneuvering around that -- particularly if they ran all the way down as it was originally proposed, to get back to where those areas are located and again, if you go back to the site plan, the overhead, you know, here is your visibility. I mean this is the end of

the shopping center, Mr. Spatz' company owns right there, so we are talking about this area down here. So you know we certainly can work with the staff, planning director on appropriate screening of that corner that we discussed. I would also say that as soon as Mr. Spatz and his company reached and talked to us, we put them in touch with the whole Walmart team. I think he met with the market manager, he has met with the store manager and he is also schedule to be talking to someone from the corporate office that handles all the real estate transactions and all that to establish a relationship and understanding and of course he understands. I won't put words in his mouth, that this is a recommendation, that the matter still has to go before City Council so I imagine we will continue having discussions with him. At the time Walmart bought this side, it was all owned by one owner so we purchased this site from one owner and then the residual still owned by the owner that we purchased with, so that the ECR and everything that he was referencing was put in place as part of that transaction.

Mr. Thornton: No more questions, thank you.

Mr. Kleine: Thank you.

Mr. Thornton: Standby, you may be back, okay any other speakers in opposition?

Ms. Cartwright: No that was it.

Mr. Thornton: So we have Mr. Kleine speaking in favor, one speaker opposed, and with that we can close the public hearing and discuss it amongst ourselves. So who wants to takeoff with it, Dave?

Mr. Redmond: As you know, I have a number of concerns; I think foremost in my mind is that this has to be time limited. Second, I am most concerned about the one at Hilltop because it hasn't been there before and the current owner of the adjacent shopping center hasn't experienced it either. So I think certainly in that instance, you know, we've got to be very careful because if the two don't play well together then he is not going to be able to do anything about it. I wouldn't want an adjacent property owner to be disadvantaged in any way for his operations to be disadvantaged in any way and have no recourse about it because there is a conditional use permit in place. So particularly on that site, I think we have to look at that. Furthermore, it cannot be the answer that the internet is coming to retail and is changing everybody's shopping just have more 40-foot trailers everywhere. There's got to be some better answer than that long term or have 10,000 40-foot trailers in the city. I think you know what they are facing, by the way, they are one of the largest drivers of the shift to online shopping but what they are facing, everybody in retail is facing and everybody is going to have to grapple with it and all sort of other different aspects of the economy. But we'll leave that aside for now, so as a long term solution, I cannot imagine and I certainly hope that the answer isn't we just string a bunch of 40-foot trailers around our store, no matter who it is, whether it's Walmart or Target or anybody else. There is going to have to be a better or more professional and more creative solution, typically if you have growing sales, you've got to be stick in trailers outside of your store that means you need more stores, you need to expand stores that you have. That's more expensive than trailers -- that's this whole argument. That's all this is about. But I don't know that that's going to be very good for the city. I certainly don't think we ought to encourage it, and we are certainly not doing it without some sort of time limit so we can review it. I don't necessarily know that any considerations have been given to how to manage that in a way like we discussed two years ago and I think that really has to occur because I just don't -- I hope that's not going to be in anybody's head a permanent solution to changes in the market place. I

think we all expect that, very frankly, so would I. I don't know about two years in Hilltop, I don't think any more than one year and the reason I say that is because if it impacts this adjacent shopping center, they ought not to wait two years to try and fix it, that just wouldn't be fair to any adjacent property owner. So anyway that's my thoughts.

Mr. Thornton: Karen, and then Ron.

Ms. Kwasny: So given Dave's last comment I think it might be appropriate for us to, yes, of course be determining, you know, sufficient appropriate use of space, how much, and how long for each application individually of course because each one is different and has its own unique constraints and needs. I think that, you know, while, you know, it's problematic, what might be causing the issue is a conundrum for all of us, we cannot determine for them how to solve it, all we can determine is how we are going to manage it on their sites for now as well. I understand the fear of other businesses doing it, but they would be able to come forward to us to make that request and then we would have to determine whether or not the very same things we're determining on this, whether it's appropriate use of space, how much, how long, or whether or not they have the space to do it. For instance, Big Lots are usually in a retail space. They are not stand alone and they don't have the kind of space that's behind the Walmart at Nimmo for instance and of course the First Colonial has a different type of space and a different amount of space. So we have to handle that one differently and they are asking for fewer units, so in my view, I can understand a time constraint being applied and I can understand a limitation on the number of storage units. But I think as we are doing it, it's going to have to be according to each of them individually and I don't think it should be with the fear that we are going to set a precedent for every retail business putting storage units on their lots. Because many of them don't have lots to do that and, when they come forward, we have to assess them accordingly. So that's not a fear of mine; is whether or not this is appropriate to the use of the Walmart on Nimmo in Princess Anne or the use of the Walmart space in the First Colonial or Lynnhaven or anywhere else. It's not our job to figure out how they solve that problem, it's how we solve this one.

Mr. Thornton: Anybody on this side, Jeff?

Mr. Hodgson: I agree with both speakers. I would be supportive of this with the time limitation. I agree with you on doing the First Colonial one at a smaller duration of time to see how it performs. We are trying to, we are always trying to think a solution for this and you know we don't have the answer for that, but if my math is right, these containers are about 8-feet wide by 40-feet long which is like 320 square feet. Ten of those would give you 3,200 square feet of additional retail space. You are talking about facilities that are 150,000 square feet. There a lot of very good contactors in this area that could easily add 3,200 square feet of additional space on to the back of one of these large buildings probably for pretty inexpensive price and there are solutions to this, but I would be willing to support it with some time limitations.

Mr. Thornton: Ron.

Mr. Ripley: I too, would do that, you know, we see other types of uses needing trailers, churches need them temporarily, schools need them temporarily, and here we have a situation where the retailers need it temporarily. We can accommodate, but we need a longer term solution than that and I think that two years would be appropriate and so I would be in favor of that.

Mr. Thornton: Jack, and then Don.

Mr. Wall: Well, I think that these are in commercial areas. I think that the location of the trailers as they have been are fairly hidden, you know, not visible so, as it is I think it's okay, but I do support and I feel it's appropriate for time limit as well.

Mr. Thornton: Don.

Mr. Horsley: I am like Jeff. I have done a little math and I come up with by the time we get 60 containers, we have built a 20,000 square foot warehouse when you put all 60 of them together. So I have always been pro-business and I want people to be successful, but also try to look out for the city's best interest too. And you know every once in a while I can come up with ideas, you know, but what I could see people come out and wanting to just put up a small store front and put a couple containers in the back and start running a business, and saying why wouldn't we be able to do that? Since Walmart is doing it so, so we don't want anything like that to start happening and we think more of the city than that, but I do want Walmart to be successful. They need to stay in the area. I appreciate what they do for our community. But I think they do appreciate what we try to make our city look like. So I would support it for the two-year timeframe like we did two years ago.

Mr. Thornton: Okay, Mr. Weiner.

Mr. Weiner: I am definitely in support of two years, I am good with two years even with Hilltop, but when you leave from here today, don't think that we don't like you, because we want you to come back and keep doing good work here in Virginia Beach, so yes I am in support of it.

Mr. Redmond: I am not on Hilltop; I am much more comfortable with the notion of a one-year administrative review on Hilltop. These are a much tighter quarters than all these other sites and it hasn't been done before and if there are conflicts between the operations of those two things, I think that the adjacent operator ought to have some say in that and I don't think it would be a lot to ask, nor do I think it would be fair if we didn't do that. [Crosstalk].

Mr. Thornton: We are going to hear these individually, so when we make a motion for each, someone make a motion on Hilltop accordingly. We've got to make four motions, but we are not finished. Anybody else down here want to speak?

Ms. Rucinski: I was going to say the exact same thing; I have absolutely no issues with, you know, 7, 9, and 10. You can't even tell that containers are there. I mean I knew two years ago that we did it and on a couple of them when I went by, it was like, oh yeah, oh there they are, you know, you have to go looking for them, but I agree the one at Hilltop, it's almost out, I mean, it's not even really behind the building. I mean you will be able to see it from the front row parking so that one, I do have some reservation with.

Mr. Thornton: Karen.

Ms. Kwasny: I just had one more kind of concern about the way we look at this going forward because I am not sure I want to consider; I want us to be considering adding another 3,200 or whatever however many square feet it would be, of building in any area where that space might be available when the option is for a 4-month span of store units that aren't visible to the eye from the street. So I don't know that I would like that to be the option that's considered going forward. I frankly, in my opinion, I would rather have timeframes that are administratively reviewed for something that impacts us only for four months and most of us don't see except for when we have

a timeframe on a brand new building. That's my thought process, so I am not a fan of urging them to consider adding more building space that I don't think is very wise across the city. I do think that each item that comes before us, as I said before, will be assessed individually by us to determine whether or not when a business wants to put in storage units, they are not just going to get their business and then put up storage units. They are going to ask to do that. So we will, it won't set a precedent what we are doing today, we will have to assess each one individually. So the idea of precedent setting doesn't fly with me either, and I don't think we want more building. I think allowing for some temporary space that allows them to continue to do good business on some of these places where it's not obtrusive is a value to all of us. So I think we should be doing that, I agree. It gets good businesses.

Mr. Inman: I will make a motion that we approve applications 7, 9, and 10 with a two-year limit. [Crosstalk]

Ms. Cartwright: We need to do one at a time please.

Mr. Thornton: So before you make a motion, may I have a word.

Mr. Weiner: Certainly.

Mr. Thornton: Okay these are, I just want to end up the discussion today with a few thoughts and then I will entertain a motion. In, you know, in the big picture we have got the largest retailer in the United States, maybe the world, asking to put 60 trailers in a city of 400,000 people. So I don't think we are going to upset the applecart and ruin anybody's neighborhood or ruin any retailers since another thought is no retailers have asked for this. Well, Target doesn't sell lawnmowers and Target doesn't sell bicycles and Target doesn't sell foosball table whatever, so I don't think we need to charge Walmart with what other retailers do or don't do. The sad thing is Sears, Kmart, Penney's, these people are all out of business and so what we need to do, and somebody said it on this side of the room, what we need to do, we can do to help Walmart stay in business and we also need to, you know, take care of the aesthetics of the City of Virginia Beach. I am in total agreement with what Karen says and what Jan said; these things cannot be seen almost by anybody except for Hilltop, so it's not like we are letting some intrusive thing into neighborhoods and the truth is, if we put a time limit on it, we have a chance to come back and look at this, I would almost rather, I don't know whether we can do it or not, let this be an administrative review so that they don't have to come back into the public arena. What do you think about that?

Mr. Redmond: I was going to ask you that, what you were asking for, administrative review on an annual basis or two-year basis is certainly typical or not uncommon. I want to make sure I am saying the right thing here.

Mr. Thornton I would prefer that -- I mean you all are competent staff of people and if they are violating the intent of what they have agreed to, you will know that, now my colleagues on this panel may not agree with me and they may want to force them back to the table to the public arena, but I would be comfortable with administrative review from the staff and if this thing goes right, goes wrong, I don't think that in three or four years when this has a chance to work itself out, they may end up not even needing this space because of the way the retail world is shaking out. So you know, I am in complete support of this application. If we want to put an administrative review on it, then we can have a motion. Yes sir.

Mr. Weiner: Point of information, please explain an administrative review to me. I don't know exactly, how that works?

Mr. Frankenfield: It means you don't ever see it again.

Mr. Weiner: I needed a little more detail.

Mr. Frankenfield: Little more detail, alright, so what if.

Mr. Kemp: What that would entail is in our system an inspection would be triggered every year and an inspector would go out, make sure that they meet the conditions. If there are only certain months that are supposed to be there, that gets checked and we would also see if there are any complaints from adjacent property owners. If there have been any property issues in that past year and typically if they have met all the conditions and it has gone on without any issues, it would be administratively approved for another year.

Mr. Inman: I need to respond to that. So that means we never have another chance to consider this if they comply with this application conditions?

Mr. Kemp: That's correct, unless you put another time limit, for example for five years with an administrative review every year. That would be the only way, it would come back.

Mr. Inman: Permanently have number of trailers as requested?

Mr. Kemp: Indefinitely as long as they comply. Correct, except if there were problems with the site and we revoke that administrative approval, then they would have to come back to you with another request for the bulk storage.

Mr. Thornton: Dave.

Mr. Redmond: I have a question to comment on that. So Barry this morning you indicated to us that in a briefing with city council; one of the things that they had mentioned was that they want to see a time limit, correct?

Mr. Frankenfield: You are correct but they didn't have any particular consensus or detail. I just wanted to let you know, right, but let me tell you that it has come up in our favorite short-term rentals that if, and I have to ask Kay about this. We didn't determine if this is legal, but they asked that when the administrative review is done, that council be advised of the administrative review. So there is some possibility here you could have a little more oversight then never see it again. Is that right?

Ms. Wilson: Yes. You could ask that they let you know what the determination was; also if you have one that is a problem that people complained about. Staff can bring them back to you, and so we can administratively do this, it's yours.

Mr. Thornton: So Dave.

Mr. Redmond: Well, I am not sure that I agree with the administrative review, I mean, it doesn't sound like it's really much of a review. I don't think a two-year, I don't think coming back for a conditional use permit in two years is a great burden for anybody, so the two-year administrative review, it doesn't sound like much of a review at all, it sounds like unless something goes wrong,

then it's going to get renewed. I just don't think that's good enough very frankly, so and I still am concerned about that Hilltop site.

Ms. Thornton: Well, unless something does go wrong, why should they have to come back here?

Mr. Inman: I can answer that. We are here because times are changing with regard to retail and all. Times are going keep changing and do we want to have anything to say about something that we could have spent an hour and some time talking about the aesthetics. So if it is an aesthetical concern, that may not be necessary after two years or four years or whatever as we review it going down the road, because with the administrative review, we have nothing further to say about it as long as they comply with the conditions.

Mr. Thornton: Back to Barry. When Mike says we have nothing to do about it, if you in your review process find a problem, it sounds like Kay said then you can bring it back.

Mr. Inman: And if there are no problems with that then we do not have any right to have anything further to say about it.

Mr. Thornton: That's what led to my question, if there are no problems, why do we care? But we must or you think we must, anyway. Ron?

Mr. Ripley: I'm the same way, administratively, I don't think I have ever seen administrative review come back here that I can remember that we had placed that in there and there was a violation of that such that it came back. I go back two years ago, in good faith, there was representation that there was going to be an attempt to solve this problem and it really hasn't and I think you might be right I think in a couple of years it might solve itself. I mean in the market may just, you know, be so much more online and less in-store, then it solves some of its problems itself. So I think two years is not unreasonable for everybody to put their heads together and try to find a solution that's better than trailers. I think again if I own that retail shop as Dave mentioned then, what's to prevent me to come here and wanting to have a trailer, everybody can have a trailer, it would be really nice. [Crosstalk] but what you said where you gave Walmart 20 trailers, but then I should have one.

Ms. Rucinski: I mean size, need, whether or not they have the space, whether or not it's obtrusive to the eye, all of those things would have to be part of the evaluation.

Mr. Ripley: I don't have enough space, I need more retail space.

Ms. Kwasny: I think you will have to evaluate each of them individually. I don't think you just blank check all of them because you did a Walmart, I disagree.

Mr. Thornton: Okay and last number 10, who will motion on number 10.

Mr. Inman: I will make a motion to approve agenda item number 10 with the two-year time limit.

Mr. Redmond: Second.

Mr. Thornton: Second by Mr. Redmond. Vote is open.

Ms. Cartwright: By recorded vote of 10-0, item number 10 Wal-Mart Real Estate Business Trust has been approved with conditions as amended.

Mr. Thornton: Thank you all for your great work in the city and we wish you well and figure out a way to not have as many containers in two years

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

## CONDITIONS

1. The location of the Bulk Storage Yard for the storage containers shall be limited to the area depicted on the proposed site layout, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, and shall be subject to all applicable building and fire codes.
2. The storage containers shall not be stacked.
3. The storage containers shall not be placed within any easements.
4. Unless otherwise authorized by the Building Official's Office and the Fire Marshall, the location of the storage containers shall be so as to maintain a 20-foot wide accessway for vehicular traffic flow and emergency access to the building and HVAC equipment.
5. No hazardous materials shall be stored within the storage containers.
6. Prior to use of the site for the storage, the applicant shall submit a plan to the Planning Department and the Fire Prevention Bureau showing the location of the storage containers for review and approval.
7. The storage containers shall be limited to 10 and are only permitted on site from September 15<sup>th</sup> to January 15<sup>th</sup>.
8. The existing plant material along the northern and western property lines shall remain and shall be properly maintained so as to provide a continuous screen to the Bulk Storage Yard. In the event that the property to the north is developed and the existing plant material is removed and fails to meet the intent of the Category VI screening, a solid fence shall be installed along said property line at height and with materials approved by the Planning Director.
9. This Conditional Use Permit is valid for two years from the date of approval by the City Council.

Item #11

**Vision, Inc.  
 Subdivision Variance  
 5558 Daniel Smith Road  
 District- Kempsville**

**July 11, 2018**

**CONSENT**

Ms. Rucinski: Right. The next item to be consent is item number eleven for Vision Inc and that is an application for a subdivision variance section 4.4 (b) of the subdivision regulations on property located at 5558 Daniel Smith Road, district Kempsville. Can you state your name for the record?

Mr. Sancilio: Tony Sancilio.

Ms. Rucinski: Are the conditions acceptable?

Mr. Sancilio: Yes maam.

Ms. Rucinski: Alright, thank you. The chair has asked Commissioner David Weiner to read this into the record.

Mr. Weiner: Thank you. This is a request for a subdivision variance. The lot was created by deed in January 1953. Currently, a mobile home exists on the property. The applicant is proposing to subdivide the existing lot into two parcels to construct the two single-family dwellings. The proposed lots will be nearly 21,000 square feet each, each of the lots is proposed with a lot width of 66.17 feet, which is deficient in meeting the minimum lot width requirement of 75 feet for parcels in the R-7.5 Residential Zoning. Therefore, the applicant is requesting a Subdivision Variance to the lot width requirement. We have recommended approval and put it on the consent agenda.

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

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with commissioner Hodgson abstaining from item number 15.

## **CONDITIONS**

1. When subdivided, the property shall be developed as shown on the submitted preliminary plat entitled "Exhibit Plat for Subdivision Variance for Lot Width # 5558 Daniel Smith Road (GPIN 1468-41-4674) for Vision, Inc., Virginia Beach, VA," dated 4/27/2018, and prepared by John E. Sirine and Associates, LTD., a copy of which has been exhibited to the Virginia Beach City Council and a copy of which is on file with the Virginia Beach Department of Planning and Community Development.
2. When the property is developed, the residential dwellings constructed shall have architectural features, and appearance of like quality and character to the homes depicted on page 7, entitled "Proposed Elevations", in this Staff Report, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning and Community Development.
3. All parcels shall connect to City water via a single and exclusive water service line.
4. All parcels shall connect to City sewer via a single and exclusive sanitary sewer lateral.

**Item # 12**  
**Christopher Stankus**  
**Conditional Use Permit**  
**3612 West Neck Road**  
**District- Princess Anne**

**July 11, 2018**

## **APPROVED**

Ms. Rucinski: The next item on the agenda is item number twelve Christopher Stankus, an application for Conditional Use Permit, Commercial Kennel on property located at 3612 West Neck Road. Is there is an applicant present? Would you please come to the podium and state your name for the record?

Mr. Stankus: Good afternoon, my name is Christopher Stankus. Thank you ladies and gentleman for hearing me today. I don't know how to proceed; I have never done this before. Previous though this morning, there was some opposition to my Conditional Use Permit and there has been some amendments so that people who opposed have agreed with me and as I understand right now there is no opposition to my Conditional Use Permit.

Mr. Thornton: H Have you and the opposition rearranged your conditions, and are they acceptable to you?

Mr. Stankus: Yes sir.

Mr. Thornton: And they have been presented to the Staff, these are the nine items that are listed on what was given to us earlier today, and those are just as we see them they are acceptable conditions?

Mr. Stankus: Yes sir.

Mr. Thornton: Okay.

Ms. Wilson: I need to see the conditions before you all vote on them, they have to be legal conditions, and they have to be enforceable.

Mr. Thornton: We have a list, who has got a copy they can give, you know, pass it over to Kay. [Irrelevant Conversation]

Mr. Horsley: I think if Staff would read the conditions and you get to see how they have adjusted, I think they have adjusted the nine that were here.

Ms. Coleman: I have them, most of the conditions that we have (one through five) have remained but number one we are going to change to 12 dogs instead of saying adult dogs.

Ms. Wilson: Could you read the whole condition, Marchelle, for me?

Ms. Coleman: Want me to read all of them? Starting with number one, No more than 12 dogs shall be kept on the property at any time. Number two: The existing kennel structure outdoor area and fence shall be maintained in a safe and sanitary condition. Number three: All animal waste shall be collected and disposed of in a lawful manner on a daily basis. Number four: The applicant shall ensure that all the dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach. Number five: All signage on the site must be in accordance with sign regulations of the Zoning Ordinance. We came up with four more. Number six: All dogs shall be kenneled indoors between the hours of 6:00 p.m. to 8:00 a.m. Number seven: No other one-day services shall be offered or carried out on the property except for the dogs in training. Number eight: All dogs would be leashed unless inside the designated training area. Number nine: The location of the kennel and outside training area shall be as depicted on the proposed site layout. Number ten: Dog shows shall not be permitted.

Ms. Kwasny: What was the last one?

Ms. Coleman: Number ten: Dog shows shall not be permitted.

Ms. Wilson: My only qualm about any of those is number six that states the dogs have to be kept indoors from the hours of 6 p.m. to whatever it was in the morning. Do we accept for, well we won't put potty breaks except for urination and defecation. [Crosstalk]

Ms. Rucinski: I like the potty break okay, I guess we could a use potty break.

Mr. Thornton: So are you all, Staff are you all comfortable with what you have if we have a motion to approve that and the applicant is agreeable with that and the attorney has seen that, are we ready, any questions for the applicant.

Ms. Cartwright: I did have two people for opposition.

Mr. Thornton: No, no, fine, that's good, please take your seat. Wait hold on, any questions for the applicant first and then we will let the opposition speak. No questions to the applicant, thank you sir, standby for rebuttal.

Mr. Stankus: One of the opposition was Fred Statin, he has left and after that we wrote the conditions.

Mr. Thornton: That's the best kind. And then there is one another opposition.

Ms. Cartwright: If Mr. John Chimblo would come to the podium please. Can you please state your name for the record?

Mr. Chimblo: Good afternoon ladies and gentleman, I am John Chimblo. I live across the street from Chris, I do appreciate your time and your dedication to serving the City of Virginia Beach along with the great Staff you have, and they helped to guide me through some of the questions I have. It's a little tough here to be at times, I feel I am on judge duty almost and my big issue was with noise and I sat and talked outside here with Chris and Mark, the person that's going to run the kennel, and Chris handshaked me and said that he will keep the noise to a minimum, that he will keep the dogs in the evening and I just talked to Mark and he said there wasn't a problem with that and as far as the other neighbors and their conditions that they had put forward would be fine and like I said it was just a matter of a noise issue at night, so that's -- I am in agreement as long as he abides by that now -- that makes sense. I mean I know I've appeared in opposition but I think we have worked something out outside.

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

Mr. Chimblo: Thank you, have a great day.

Mr. Thornton: Thank you. If you have a reason for rebuttal, please you have a minute or so that sounds like he is okay with your application.

Mr. Stankus: Yes, I discussed with him as a neighbor that we would do whatever changes needed to be done to the property if there was any noise issues, of course we are not totally sure what the situation will be until we begin operation but I have known John for many years and I told him you know just as being a neighbor I would do whatever it would take you know to make him comfortable with the noise level and I think that we have satisfied his opposition to the noise.

Mr. Thornton: Okay thank you, any questions? Thank you with that we will close the public hearing and anyone wants to make any comments before we ask for a motion?

Mr. Horsley: No I think the neighbors have gotten everything worked out; Mr. Stankus was very concerned about it. He approached me about it and I think they have met in the hall and going over the conditions again and I think they have all agreed now, so I think everything should be fine so, I am ready to make a motion. Make a motion; we approved the application with the revised conditions that we have been presented.

Ms. Kwasny: Second.

Mr. Thornton: Second by Karen.

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

Ms. Cartwright: By recorded vote of 10-0, item number twelve Christopher Stankus has been approved with the condition as amended.

Mr. Thornton: Thank you Mr. Stankus.

**CONDITIONS**

1. No more than 12 ~~adult~~ dogs shall be kept on the property at any time.
2. The existing kennel structure, outdoor area, and fence shall be maintained in a safe and sanitary condition.
3. All animal waste shall be collected and disposed of in a lawful manner on a daily basis.
4. The applicant shall ensure that the dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
5. All signage on the site must be in accordance with sign regulations of the Zoning Ordinance
6. All dogs shall be kenneled indoors in the dog kennel structure between the hours of 6:00 p.m. to 8:00 a.m., with an exception for breaks for urination and defecation.
7. The Commercial Kennel Conditional Use Permit shall be limited to training of dogs. One-day services, such as dog grooming and daycare, shall be prohibited.
8. All dogs on the site for training shall be leashed at all times unless inside the designated training area.
9. The location of the dog kennel and the outdoor dog training area shall be limited to the area designated on the site layout plan included in the Staff Report.
10. Dog shows shall be prohibited.

**Item #13**  
**Edith Monroe**  
**Conditional Use Permit**  
**164 Onondaga Road**  
**District - Bayside**

**July 11, 2018**

**CONSENT**

Ms. Rucinski: Okay, so we will move on to item number thirteen, which is Edith Monroe, an application for conditional use permit for Family Day-care Home on property located at 164 Onondaga Road, District Bayside. Is there an applicant here for that? Can you come forward and state your name for the record please?

Ms. Monroe: Edith Monroe.

Ms. Rucinski: And are the conditions acceptable to you?

Ms. Monroe: Yes.

Ms. Rucinski: Okay, you can have a seat. So the chair has asked Dave Redmond to read that into the record.

Mr. Redmond: Mr. Chairman this is an application for a conditional use permit for a Family Daycare Home. The applicant has requested to care for up to 12 children within her home. She has extensive experience in childcare services. The site has a fenced in backyard with play equipment and some other amenities that are consistent with that kind of use as you can see there on the board. The hours of operation would be limited to about 12 hours. In a number of conditions under the usual suspect kind of conditions that we typically require, arrival and departure times are staggered. The applicant has to maintain a license with department of social services. In all respects, this seems to meet standards for a conditional use permit for this sort of site. We are unaware of any opposition and the commission consents. Thank you.

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

<b>WALL</b>	<b>AYE</b>			
<b>WEINER</b>	<b>AYE</b>			

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with commissioner Hodgson abstaining from item number 15.

**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. No more than one (1) person, other than the applicant, shall assist with the operation of the family day-care home at any one time.
5. Any sign identifying the Home Occupation shall be non-illuminated, not more than one (1) square foot in area and shall only be mounted flat against the residence.
6. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.

**Item #14**  
**Donna C. Denham**  
**Conditional Use Permit**  
**965 Edwin Drive**  
**District- Kempsville**

**July 11, 2018**

**APPROVED**

**CONDITIONS**

1. Arrival and departure times shall be alternated to avoid vehicular congestion.
2. The Family Day-Care Home shall be limited to a total of ~~twelve (12)~~ eight (8) 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. No more than one (1) person, other than the applicant, shall assist with the operation of the family day-care home at any one time.
5. Any sign identifying the Home Occupation shall be non-illuminated, not more than one (1) square foot in area and shall only be mounted flat against the residence.
6. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.

Ms. Cartwright: The next item on the agenda is Item Number 14, Donna C. Denham. It's an application for a conditional use permit family day-care home on property located at 965 Edwin Drive and this is in the Kempsville District. If you could please state your name for the record.

Ms. Denham: Donna C. Denham.

Mr. Thornton: Welcome, give us a quick overview of what you are asking for.

Ms. Denham: I am just trying to get a conditional use permit for a family day-care home.

Mr. Thornton: Okay, thank you. Any questions for the speaker, David?

Mr. Weiner: I do. I know this is on Edwin Drive. I am very familiar with Edwin Drive. I don't know what the opposition would be, but in the past if we had any problems with traffic, I mean people parking anywhere besides your driveway; do you let anybody park in the road, or are they parking in your driveway?

Ms. Denham: Yes, sometimes they do, but I think I am going to make sure that they don't, because I have four parking places in my personal driveway. So that's what I am trying to work out, to make sure they can park in my driveway.

Ms. Rucinski: So have you being doing daycare at your residence currently?

Ms. Denham: Yes.

Ms. Rucinski: So you just came before us because of your licensing. They told you need to get a conditional use permit.

Ms. Denham: Yes, I want to be able to add some kids part-time. I am not looking to have 10 to 12 kids, which I have told my neighbors. I don't want 10 to 12 kids.

Ms. Rucinski: How many kids do you have now?

Ms. Denham: I have four full-time. I have gotten a request for part-time and 12 kids would break the bank if I had to hire, you know, someone to help out. So, no I don't want 10 to 12.

Mr. Thornton: Any questions for the speaker.

Mr. Redmond: Stand by so we can ask you more questions after the person comes up.

Mr. Thornton: Thank you.

Ms. Cartwright: We do have two speakers in opposition. Would the first, Janette Moyer, come to the podium please? Can you please state your name for the record?

Ms. Moyer: Janette Moyer.

Ms. Cartwright: Can you speak up a little bit?

Ms. Moyer: Yes, Janette Moyer, I am opposed to her day-care. I am especially opposed to 12 kids. If you could limit it to 3 or 4 kids, that would be one thing, but her property is only 28 feet from the back of my house and I am opposed to all those kids there. The fence that is across the yard belongs to me and I spent thousands of dollars to put it up, so I am concerned about that. And then there are toys coming over the fence all the time and I am always throwing toys back, so if you could limit the kids. I have lived there for 45 years and it's been a quiet nice neighborhood so that's my opposition and I sent a letter in.

Ms. Rucinski: So you know, she is doing daycare there now, though.

Ms. Moyer: Well, she has had a couple of kids there that I know, but I don't know that much because my fence is there. When I got this card and it said up to 12 kids, I thought uh-uh.

Mr. Redmond: Have you experienced any disruption from the four that she has there currently?

Ms. Moyer: From the children, no. Except for you know all the toys coming over.

Mr. Thornton: Any other questions? David.

Mr. Weiner: Would you be opposed to 4 kids and couple of part-time?

Ms. Moyer: I suppose that's okay.

Mr. Weiner: Okay.

Mr. Thornton: I think the 12 is because that's the way the ordinance reads, is that correct?

Mr. Kemp: The 12 has traditionally what we put on because that is the maximum number that the Department of Social Services regulates for the state.

Mr. Thornton: So we could recommend less than 12. Don.

Mr. Horsley: What type of fence do you have, like, is it chain-link?

Ms. Moyer: It's a wooden fence.

Mr. Horsley: Wooden, how tall, 6 foot?

Ms. Moyer: 6 foot normal.

Ms. Horsley: 6-foot privacy fence, so you cannot see through and they cannot see through it, little kids, okay.

Ms. Moyer: But you know it is my fence, there is damage done.

Mr. Thornton: You can see it in the photographs in the application. Jack.

Mr. Wall: Yes sir, this question actually for City Staff, so by-right; what is the by-right?

Mr. Kemp: By right, a person can have four children; care for four children but not to exceed 7 children in the house. For example, if you have four children, you can care for three.

Mr. Thornton: Any other questions for Ms. Moyer? Okay thank you.

Ms. Cartwright: Alright, next we have Marie Fehmel. Could you please come to the podium? You can please state your name for the record.

Ms. Fehmel: Good afternoon. Marie O. Fehmel.

Ms. Cartwright: Can you let us know what your concerns are?

Ms. Fehmel: Yes very much so. I live directly not behind her but at the corner. I have lived there for 46 years and this is a neighborhood of retired elderly people. And very quiet, except for the traffic going up and down Edwin, which we have a lot of and I feel that if there is a day-care needed; there is one right up the street from us, so within a mile. I am not for a day-care in my neighborhood.

Mr. Thornton: Any question, Jeff.

Mr. Redmond: I have a same question. Have you been aware that she has had a day-care there with four kids?

Ms. Fehmel: No, not how many children she has.

Mr. Redmond: Did you know she has?

Ms. Fehmel: But I knew she had at least one or two.

Mr. Redmond: You had any issues with them?

Ms. Fehmel: No, because they are inside, they are babies. But my neighbor does, my neighbor lives directly behind where I live next to, my neighbor now for going on 46 years.

Mr. Redmond: Okay, thank you.

Mr. Thornton: Any other questions? Thank you ma'am.

Ms. Fehmel: Thank you.

Mr. Thornton: And if the applicant would, is that the last opposition?

Ms. Cartwright: Yes sir.

Mr. Thornton: If you be kind enough to come up and if you have any words of rebuttal, take this time to do that and then we may have some more questions for you.

Ms. Denham: I don't really know what to address. The kids are not that noisy and they don't throw toys all the time and, like I said, I raised my three kids there. So I am sure they probably threw toys over in her yard as well. I have lived there since 1986, so and yes, it is a quiet neighborhood for the most part. But there are kids in the neighborhood. It's not an over-55 community, there are tons of kids, maybe not right there. But I know there are other kids in the neighborhood because I have seen them. I am sure they play in their backyards as well, but I try to

be very considerate. I have taken away some of the toys that can fly, you know, like a Frisbee so they don't play with Frisbees. For the most part, I now have toys that they can ride or they can push because I do want to be considerate. I cannot get the toys back when they go in her yard. I can to my right or my left, but I cannot get the toys back, so I think it's been probably four weeks since the little boy threw a hat in her yard. But the toys that were causing the problems, they are no longer allowed to play with those. As far as Edwin Drive goes, it is busy, but I think the biggest problem is the speed. But I do have four spots in my driveway where they can park. I probably will have a talk with the current parents to say please don't park on the street, you know, because you never know, I mean we have bus stops so the buses park as well but I mean there are people who are going to speed. There is really nothing I can do except to make sure that my parents do try to park in my driveway. That's what I will try to do and again, I don't plan on having 10 to 12 kids. I really just want to add some part-time because my daughter has lot of friends that work for the city and since they know her, they come to me. Some of the daycare places are just out of reach or just too expensive, especially for part-time. So I am trying, you know, to help out the parents that really need part-time.

Mr. Thornton: Karen.

Ms. Kwasny: So you will be willing for a cap on say, can we do that, can we provide no more than eight, you know, four full times, four part-time or something like that. You would be amenable to that?

Ms. Denham: Sure. I don't want 12.

Mr. Thornton: Any other questions? Any other comments? Thank you ma'am. We will close the public hearing and we will discuss this and if we don't need any more discussion maybe someone would make a motion.

Mr. Weiner: I would make a motion to approve item 14 with the four full-time and four part-time on a condition, can we do that.

Mr. Kemp: Staff would prefer just eight, four part-time as full time, it's hard to enforce.

Mr. Thornton: Do I have a second?

Mr. Wall: Hold on, before we second, can I say, and I think that Ms. Moyer and Ms. Fehmel, I thought they brought up great points. I think you know they have valid points, but throughout just about every month, you know, we are approving home day-cares, so it's without much not necessarily opposition. Because every now and then, there is opposition but without much complaints afterwards, so I think that they did bring up some very valid and very good points, but I am in favor of the eight.

Mr. Thornton: Okay, so we have a motion, we have a second. Jack second. So we will call for the question.

	<b>AYE 10</b>	<b>NAY 0</b>	<b>ABS 0</b>	<b>ABSENT 1</b>
<b>HODGSON</b>	<b>AYE</b>			
<b>HORSLEY</b>	<b>AYE</b>			
<b>INMAN</b>	<b>AYE</b>			

<b>KWASNY</b>	<b>AYE</b>			
<b>OLIVER</b>				<b>ABSENT</b>
<b>REDMOND</b>	<b>AYE</b>			
<b>RIPLEY</b>	<b>AYE</b>			
<b>RUCINSKI</b>	<b>AYE</b>			
<b>THORNTON</b>	<b>AYE</b>			
<b>WALL</b>	<b>AYE</b>			
<b>WEINER</b>	<b>AYE</b>			

Ms. Cartwright: Alright, by recorded vote of 10-0, Item Number 14 Donna C. Denham has been approved with conditions as amended.

Mr. Thornton: Thank you, thank you all for coming today.

**Item #15**

**Princess Anne Hotel, LLC**

**Conditional Rezoning**

**Northeast Intersection of Princess Anne Road & Community College Place**

**District- Centerville**

**July 11, 2018**

**CONSENT**

Ms. Rucinski: Alright, thank you. The next item on the consent agenda is item number fifteen, Princess Anne Hotel, LLC which is an application for conditional rezoning B-2 community business district to conditional B-4 Mixed Use on the property located at the northeast intersection of Princess Anne Road and Community College Place District Centerville.

Mr. Royal: I am Randy Royal, I am representing this project.

Ms. Rucinski: Are the conditions acceptable?

Mr. Royal: They are. I would like to mention the building rendering has been swapped out with what the Staff has shown you so that will be what's moving forward formally.

Ms. Rucinski: Okay, thank you. The chairman has asked Commissioner Ron Ripley to read that into the record.

Mr. Ripley: This is a rezoning of a property from B-2 to B-4 Mixed Use and it's on a 6.46 acre parcel and the city has been interested in having it developed as a hotel for some time. Its right at the entrance to Tidewater Community College and it has been proposed to be developed with 5,200

square-foot restaurant, freestanding and two 120 unit hotels and you saw the elevation up there with Hampton Inn. There is adequate parking laid out. It is something again the City has been looking for. We understand that the applicant and the City will work together some times in the future on hotel management, maybe some courses offered within the Community College and so that's a really nice twist to it. There is no one opposing this that we know of, it's been something that's been looked to for quite some time and we thought that it should be on the Consent Agenda and was recommended by Staff for approval, so we placed it on the consent.

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

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with commissioner Hodgson abstaining from item number 15.

**Item #16**  
**27 ½ Street Garage, LLC**  
**Alternative Compliance**  
**2613 Atlantic Avenue**  
**District- Beach**

**July 11, 2018**

**DEFERRED**

Ms. Cartwright: The next item we will hear is item number sixteen, 27th-1/2 Street Garage LLC, an application for alternative compliance on property located at 2613 Atlantic Avenue in the Beach District. If there is an applicant here, could you please come to the podium and state your name for the record.

Mr. Weiner: Mr. Chairman for the record, I am going to abstain on this application because I have a business relationship with one of the partners in the development, so I will keep quiet over here. Thank you.

Mr. Thornton: Good afternoon.

Mr. Harvey: Good afternoon, Chris Harvey is my name. Our request is to have a special exemption for the alternative compliance to take the second phase of our development, the 27<sup>th</sup> street project to all apartments on the south parcel and that's what we are here to discuss today. Based on the conversations that are listened to earlier, I understand there are some clarification questions from this body that I am here to answer for, for anybody.

Mr. Thornton: Okay well, if someone took really good notes today, we will start, who has, Ron can start often, it will prompt some thinking.

Mr. Ripley: Yeah, my original concern is there is no elevation first to look at and have you all developed any elevations?

Mr. Harvey: We have not done that just yet, what we have done is we considered this step number one and determined, if we can get this alternative compliance approved so that we can have it as an all apartment deal itself and so the way the ownership group has looked at this, we wanted to go and take it in very small steps and that was step one. We have not done that. We have done some previous work on other types of development on that site, I believe that's what you looked at earlier but we have not done elevations to the degree that we need to right now.

Mr. Ripley: That would have been very helpful; I know without a doubt, you will do a good job. I mean the work that you have done around the city is second to none, so I am not concerned about that but I would like to typically when asking for an alternative compliance you show it but this is why you need to do this. One thing is the mix either hotel or residential but still can you tell us what the exterior material is going to be constructed of? We can talk about the surface of the structure, outside of the structure, the railings, the glass, the glazing, those type of things? Sustainability is really important.

Mr. Harvey: Absolutely. If you are familiar with phase I project which is the Hyatt House Hotel.

Mr. Ripley: I am not all that familiar with that.

Mr. Harvey: Okay, it's an EIFS building with glass and it has got railings, aluminum railings on the outside, what we are trying to do is create a destination point for in the city and we are going to tie the second phase of the building into the first phase and so we want to do make one harmonious development that looks exactly the same. We've worked with the city on the -- I am getting a head of myself here -- but talking about the stub street there to tie both pieces together, it's all one project but we are trying to tie both pieces together, so it's going to be an upper scale apartment complex, very similar to what we have done as you said around the Virginia Beach in Town Center and very similar to what's been done out there at the Hyatt House.

Mr. Ripley: So the material is EIFS you said it's not a stone of some sort or any kind of rigid material.

Mr. Harvey: It's not, it's EIFS, sometimes I can get it, a little bit, I know, people have problems in the past but I think they have addressed a lot of those issues and as you know we are long term

holders of properties and we will have a professional management with there and that will be able to upkeep the entire building, the entire time, so much what we have right now at the Hyatt House.

Mr. Ripley: You don't think, having to paint it or things like that in the future is an issue if it's EIFS.

Mr. Harvey: I don't, but we would agree to make sure that it's kept within some kind of reason to satisfy this body, I mean, I don't think that would benefit anybody to have it looking that only outside.

Mr. Ripley: Well, you know just people can build really good looking materials projects and then sell them and the next guy maybe doesn't think that way, you know, I understand and anyway, the other real question I have was about your parking plan and you know the fact that we have so many parking spaces 1.3 per dwelling unit, is that going to be, are you going to dedicate space parking just for that like you have done in the Westin for example, so that the residents have parking and they are not fighting for parking from tourism and people use in restaurants and things like that?

Mr. Harvey: Absolutely. Our plan is I don't know if you can, I don't if there is a, this is where the location of the parking deck right across the street from the proposed south parcel and then this is the hotel, what we are planning to do is exactly what you are saying is to have, we are going to bifurcate the parking so that the departments have their share of parking up to what the code requires, hotel will have parking in there as well and we are going to size it accordingly and what we talked about doing and it's not finalized, we have talked about doing is to have also up to 100 to 150 depending on how big we want to make the garage itself, private but public spaces that are available for people to go out to the beach in that type of thing so we will do that as well. We want a side so that it benefits the community as well.

Mr. Ripley: So you would accommodate the 1.3 bifurcated from the other which is sort of a general parking that you are renting out to the public?

Mr. Harvey: Absolutely. So it would be public apartments and hotel would have their own as well, so it is similar to what you are talking about the Westin and where the Westin has.

Mr. Ripley: So there should be a color coded – this is red and you can't park here, like there in the Westin for example?

Mr. Harvey: We haven't gotten that far but yes it's going to be like that, I am not sure what we are going to do by color code, or if we are going to do it by floor or how we are going to do it but it's going to be so that it's very clear as to where the apartments parked, where the public can park and where the hotel can park as well.

Mr. Ripley: Okay, good thank you.

Mr. Thornton: Jeff.

Mr. Hodgson: So you don't envision the residents or your employees participating in the residential parking program is down in the Ocean Front, you'll house all them in this parking garage?

Mr. Harvey: If we have the ability to do that, we will try to do that yes.

Mr. Hodgson: Okay and these apartments are going to be for with short-term rentals right now, are they going to be more long-term rentals or short-term rentals or do you know?

Mr. Harvey: Right now, it's contemplated to be long-term rentals 12 months' rentals as what we are planning on.

Mr. Hodgson: Okay. Can you talk about any amenities that you are going to have relative to this apartment?

Mr. Harvey: Allis can you talk about the amenities?

Mr. Allis: Our on-site amenities, we'll have on-site property management, we have on-site leasing obviously, we'll have your top-notch fitness areas with all the newest and greatest stuff. We'll have club room, we'll have swimming pool, we'll have outdoor seating area on the second floor I think, if you looked at the mason area, so this would be very highly amenitized.

Mr. Thornton: Is this going to be a market rate deal, no not a tax credit deal, my question is going to be working around access point that you planned for the hotel and you probably heard us talk today, it seems to me like that needs to be minimized because that street that passage way there is for the public and lot of people go to the beach down there and with your people not needing to come and go out of it, have you given it any thought to moving that partially on Atlantic or maybe a piece of it on Atlantic and piece of it on that sidewalk area like we have seen some of the other hotels or have you given any thought to anything but what's on this drawing that was part of the hotel plan?

Mr. Harvey: We have not thought about that, that doesn't mean we cannot go back and look at that again but we have not thought about that again as I stated and earlier this was step one to see if we can make this all apartments and then once we do that, we can go back and work with the city staff in order to get those details done. We spent an inordinate amount of time developing this area here with the city staff I think that went back and forth probably five or six times with Barry's staff to get the least amount of vehicular traffic and make it as small as possible so that you do have the ability to have very large sidewalks so that people feel safe walking through there, so we went through a lot of kind of different venues and trying to figure out how we get that there so we certainly would want, we can go back and look at that again but we certainly do want to get through this step as step one first.

Mr. Thornton: Well, we understand because that was based on a hotel, with the hotel not there based on an apartment building, we even questioned the need to have it there, when you got to have a way to get in and get out but my thought would be, I would love to see half of it on Atlantic and then going out that way like one of the hotels down the street just to minimize as much as possible the encroachment on that public right-of-way at the beach.

Mr. Harvey: I understand and what I would like to do is go back and at least study it so that I can say that from a building perspective, I can do that and I don't want to give you an answer that says, "Yes I can do it right now," I just, I can turn around and say I can't.

Mr. Thornton: Because your plan, now you have a floor plan for the apartment building but you don't have an elevation and the floor plan shows a driveway or an entrance are something on Atlantic, is that intended to be a roll-up door that a tractor can back in or if I wanted to move in

there and bring a moving van in, am I going to have to come and go out of the drop off or have you given any thought to that?

Mr. Harvey: Absolutely, that's why we do have this. I haven't decided if it's going to be a rollup door or what it is going to be, obviously we would follow code to make sure that it met code but this is as you said, a truck and it won't be a large truck because I am not sure how for an apartment they need the large trucks backing there but this would be for the restaurant deliveries and also for your apartment move-in as well, considering this to be a restaurant this is only the ocean side but yes we will have them if this plan goes through to back up there so that we would get them off at Atlantic and be able to move in and move out as they see fit.

Mr. Thornton: And there is some way will be a freight elevator?

Mr. Harvey: Correct.

Mr. Ripley: I just because something that planning director said this morning, you have site plan approval already for this scheme already where you are loading on the side and just goes out to what you are looking at right here, you cannot lose sight of that as much you might like it differently but then you do have a site plan approval.

Mr. Thornton: But they are asking for a major change in the use and so it's like you know..

Ms. Rucinski: I follow your thinking.

Mr. Thornton: We all are 100%, well I won't say 100 but we all think, I heard it that the residents down there would be good that part of the beach needs 230 people living there full time that would be a great economic boost to that carter, we just, you know, you only get to do this once, we just want to make sure it's right. David.

Mr. Wiener: I like the idea; I think it's a great idea. I am very familiar with the work you all do. You all do great work, but to be consistent with what we do, we really don't go forward without looking what's going to actually be there. I know you are keep saying this is step one but after this is done, you plan to get elevations and everything together before you go to council.

Mr. Harvey: If that's a requirement, we would have to do that obviously.

Mr. Weiner: Okay because we kind of, we would like to see things like that because if we approve it and it goes to council, and they say these elevations you know it went through us and we never got a chance to see them, that's where I stand but I do like it, I understand you have approved site plan but I would really love to see something, you know.

Ms. Rucinski: And I feel exactly the same way and I think there was a lot of conversation this morning, what I would like to present or see if maybe we could defer this item and have you guys bring us back, you know, not necessarily the final project but close to what is you are looking for, so that when we look at it and we can take pride in saying, "Yes, that's the kind of apartment complex you know that we want down there," because I think everybody is in agreement that we like the housing aspect of it but I think there are just so many things that we are not sure about and I think a lot of us are not pleased with how that drop off is going to be with so much vehicular traffic where people think they are going to be walking and the potential of accident, so I think we just have some concerns. Would you be opposed to that?

Mr. Harvey: Well, what I would like do, it's just on my wish list is just to you know, what the application is for is to approve or not approve going to 100% and I am happy to come back to you at the appropriate time to say this is what it's going to look like, but I am not sure that and I want to say this correctly, I don't want you to take any disrespect to this, I am not sure that what it looks like, has any bearing or whether or not, it's going to be, it can be 100% apartments versus not 100%, but I understand what you are saying in terms of wanting to know exactly what it looks like and I am happy to provide those renderings if that will suffice to you.

Ms. Rucinski: Is that appropriate, Barry, to like give approval for that one component and then have the project come back when they're...

Mr. Frankenfield: I think it's been your policy, I don't know that was always a policy with the level of elevation and detail but from a policy standpoint or an experience standpoint, you have typically seen an elevation.

Ms. Rucinski: So if we were to, let's say, take a vote and approve the 100% as oppose to the 15, would there then need to be a condition put on that then it would come back to planning commission for, [Crosstalk]

Mr. Frankenfield: Our attorney is shaking her head.

Mrs. Wilson: No. You're done.

Mr. Thornton: Let's go Karen first and then Dave second.

Ms. Kwasny: I have the same question Jan does, because I would like you to consider that because while I see that you have one request I do think that that request is a sizable enough shift to change the dynamic and the character and I think that as Bob has said, you know, there is a kind of a careful balance we are trying to craft between this change you want which is significant and this alternation we want which will also be significant and when you said something earlier to kind of piqued my interest, which was you want these two properties to kind of speak to each other and work in tandem and that simply feeds into my discontent with that use of the pedestrian walkway as an ingress/egress, because I don't find that to be a very you know linear cohesive use of that property especially when there is like seating area and restaurant area out there and now we are going to have traffic going in and out so I would prefer that it would be minimize and I do think that's reasonable trade off to ask that we see what you are going to do with this sizable change and in you presenting that you consider a shift of the ingress/egress on that pedestrian walkway.

Mr. Thornton: Jeff.

Mr. Hodgson: Since your concern is to know whether this group would approve that can we do an informal thumbs up to him without a vote saying hey we like your idea of apartment building.

Mrs. Wilson: Well, I don't like thumbs up – a little head nodding.

Mr. Hodgson: I think what you are hearing, I think everybody here is pretty happy with what you are looking to do and like Ron said we know you are going to build a good product but then like you are hearing, it's just kind of makes us like, we are not fully doing our job if we don't see what you are trying to build.

Ms. Rucinski: We just want more.

Mr. Harvey: I completely understand, I would again, my goal is to say that we as you say the thumbs up to say we are good to go for the 100% because it does, it is a financial consideration to going forward there, so that's my issue there to say if I come back to you and then I will get the thumbs down then what do I do, I spent a lot of money to and that's why I am here today saying I think there are two separate indistinct but I understand what your thought process is.

Ms. Rucinski: They are telling us, we can't separate them.

Mr. Harvey: Absolutely.

Mr. Thornton: What is the value of this apartment project just roughly?

Mr. Harvey: If I had to put a number on it based on the preliminary, you are looking at between apartment complex is somewhere around 50 million or little bit more, probably 55-60 million plus we got to build a parking garage as well, with that as well so that, so we can get there to park the hotel, the apartments and also the retailers are going to be out there. You are talking upwards of you know between 75-80 million dollars.

Mr. Thornton: Where are you parking the hotel people now?

Mr. Harvey: They are on the surface here, and also right here.

Mr. Thornton: Do you have a timeline that you have got to get that garage built for that hotel?

Mr. Harvey: I do and so that's why I wanted to come here to say.

Mr. Thornton: Is that a city requirement or an internal requirement?

Mr. Harvey: It's a city requirement that I need to be able to start the process of you know but I don't want to do is throw good money after bad, I want to be able to go and build this for the benefit of the city and my development as well in a timely manner so that we can move forward on this large project, I mean, it's a fair amount of investment that we have got to do and again here to say want to get thumbs up so that we can move forward.

Mr. Thornton: Oh I will say this if you are a reasonably intuitive person, I think you probably have figured out that for the most part, we don't disagree with your concept but you haven't told us enough. In my way, I think we need a site plan, we need to know how you are going to build an extra 200 parking space garage, what are you going to do with that public right-of-way, so I would like somebody to make a motion that we defer this and you guys get your act together and come back to us and speaking from myself not my other, nine friends, I don't think you will waste your money, I think, you know, we cannot give you a thumbs up or thumbs down but if you are reasonably intuitive person, if we didn't like this, it would be very easy to turn it down, we have a motion to deny and you could go away and build your hotel there with 15% apartment but we do need more information.

Ms. Rucinski: That said, I will make a motion to defer.

Mr. Riley: Before you vote, we told about schematics you know obviously and characterizations perhaps to not full blown drawing, okay that's all.

Mr. Wall: And one thing as you know, we have had people coming here for just you know single family home and you turn them down.

Mr. Thornton: We have a motion, do I have a second?

Mr. Inman: One thing I would like to say before we vote please understand that, you know, this is a major project in the city, I mean, you want it be and you want it to be a focal point and it will be, I am sure and if anything is not done quite, if there is something hare-brained about the parking and whatever, people are going back to us and say what were you all thinking approving something like that without seeing anything, what did you have, we don't have any plans, we don't know anything about parking, and then we you know it doesn't work out too well for us.

Mr. Thornton: So we have a motion and we have a second by Mr. Hodgson, is that right? Ready for the vote? We didn't put a time line on the deferral.

Ms. Rucinski: You can defer it indefinitely, or you can defer it to September but it's up to you. Can you be back in September?

Mr. Harvey: Sure.

Mr. Thornton: If you are not ready then, we will let you know in September.

Mr. Frankenfield: Can we back that up just a minute and see where that gets us as far as staff? So we need it about a month ahead of time.

Mr. Thornton: You made the motion?

Ms. Rucinski: We are not here in August so we cannot do it in August, so just as soon as he can get it.

Mr. Inman: I am not here in January, February, or March or ever again.

Mr. Thornton: So we are ready to vote

Ms. Cartwright:: By recorded vote of 9-0 with commissioner Redmond have abstaining from item number sixteen, 27<sup>th</sup> and a half street garage LLC has been deferred.

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

## CONDITIONS

1. The subject site shall be developed with a Mixed-Use Building Type which may contain up to 234 multi-family dwelling units. Unless otherwise specified below, this approval shall address only the request to exceed the maximum percentage of permitted multi-family units east of Atlantic Avenue as prescribed by Section 5.3.2 of the Oceanfront Resort District Form-Based Code. Details shown in the submitted land use studies including but not limited to, curb cuts, door swings, or floor plans are not approved as part of this Special Exception for Alternative Compliance.
2. As required by the City of Virginia Beach Site Plan Ordinance and Zoning Ordinance, prior to receiving a Certificate of Occupancy, the subject proposal shall adhere to all applicable parking requirements of the Oceanfront Resort District Form-Based Code. Additionally, no less than 30 covered bicycle spaces shall be provided.
3. Prior to receiving a Certificate of Occupancy for the subject proposal, full improvements shall be made to the 27th Street Connector Park to accommodate bicyclists, pedestrians, and emergency response access. Said improvements shall adhere to all applicable Oceanfront Resort District Connector Park Design Guidelines.
4. The site and architectural improvements associated with the subject proposal shall meet all applicable criteria of the Oceanfront Resort District Form-Based Code as well as the Oceanfront Resort District Design Guidelines.
5. Prior to site plan approval, the applicant shall work with Public Works Traffic Engineering and Planning Staff to identify a plan of operation for moving trucks, deliveries, trash pick-up, and other service-oriented vehicle access.

**Item #18**  
**City of Virginia Beach**  
**Amend City Zoning Ordinance**

**July 11, 2018**

**CONSENT**

Ms. Wilson: Item eighteen is a revision to the code city zoning ordinance and it has been necessitated by a revisions to state code that has deleted the minimum fines for misdemeanor violations of the zoning ordinance and has established a step program for the maximum fines so that with each violation and each consecutive violation, the fines would increase.

Ms. Rucinski: Thank you. Chairman that is the last item on the consent agenda, so I would like to make a motion to approve items one, two, three, five, six, eleven, thirteen, fifteen, and eighteen.

Mr. Thornton: I have a motion to approve the consent items, do I have a second?

Mr. Redmond: Second.

Mr. Thornton: Second by Mr. Redmond.

Mr. Hodgson: Mr. Chairman.

Mr. Thornton: Yes sir.

Mr. Hodgson: I need to abstain from agenda item number fifteen. I have a business relationship with the applicant.

Mr. Thornton: Okay thank you, any other abstentions? No, we are ready to vote.

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

Ms. Cartwright: By recorded vote of 10-0, the items number one, two, three, five, six, eleven, thirteen, fifteen, and eighteen have been approved by consent with commissioner Hodgson abstaining from item number 15.

Mr. Thornton: Thank you. Thank you for your project and we look forward to seeing you back here with a little more detail. Thank you. Okay, is there any more business for the planning commission today? If there is none, meeting adjourned.