

Virginia Beach Planning Commission

Public Verbatim Hearing

October 10<sup>th</sup>, 2018

Ms. Oliver: October 10<sup>th</sup>, 2018 public meeting at the Virginia Beach Planning Commission, my name is Dee Oliver and I serve as the vice chair of the commission today, I am serving as the chairman or chairperson and Jeff Hodgson is sitting in for me as a vice chair. And before we get started, I would ask Commissioner Ripley to please lead us in prayer. Everybody will stand, thank you.

Mr. Ripley: Dear Heavenly Father, thank you for today, it's a wonderful day in this great city and we ask that you have healing power on the previous hurricane that came through to our friends in North Carolina and we will also ask heavenly God that this new hurricane that's coming up towards us is swift and is not as damaging and nobody gets hurt. We ask for, we are appreciative and thank the citizens for being here today and pray that they feel that they receive a fair hearing and we ask for this commission to deliberate and be mindful and use their wisdom and their decisions in your name, Amen.

Ms. Oliver: Thank you and commissioner Horsley will lead us into the pledge. [Group Pledge] Thank you and I have asked commissioner Weiner if he will introduce our members.

Mr. Weiner: Thank you Mrs. Oliver. Starting on the far end over there, we have Kay Wilson, she is our city attorney. Next is Jack Wall. Jack is a civil engineer and he represents the Rose Hall District. Next is Karen Kwasny, Karen is a professor of literature and cultural studies and she represents the Princess Anne District. Next we have Don Horsley. Don Horsley is a farmer and is At-large. Next is Ron Ripley. Ron is in real estate management and development and he is also At-large. The first empty seat is Jan Rucinski. Jan is in property management and she represents the Centerville District. The next seat is our chairman Bob Thornton, he is in commercial real estate and he represents the Lynnhaven District. Next is Dee Oliver, Dee is our vice chair, playing chairman today and she is a funeral director and she is At-large. Next is Jeff Hodgson; Jeff is in real estate management and he represent the Beach District. Sitting next to me is Mike Inman, Mike is an attorney and he is At-large. My name is David Weiner; I am in commercial sales and I represent the Kempsville District. Sitting next to me is Dave Redmond, Dave Redmond is in commercial real estate, and he represents the Bayside District and next is Barry Frankenfield, and Barry is our director of planning, Mr. Frankenfield would you introduce your staff?

Mr. Frankenfield: Sure, thank you Mr. Weiner. I have a whole cast of people to introduce here, we have Tori Rice who is our city attorney who is new to us and we are looking forward to

great things from her on the planning bench or next to me I have Cole Fisher, Dalina Cartwright. On the planning bench, I have Carolyn Smith, Bill Landfair, Jimmy McNamara, Kevin Kemp, and the back row we have Jonathan Sanders, Robert Davis, and Marchelle Coleman and behind her we have Rick Lowman our traffic engineer, I think that's everybody, thank you very much.

Ms. Oliver: Great, thank you and I would like to take a second to recognize that senator Bill DeSteph is with us today and welcome and we would love to have you join us on the dais if you would like to. Okay alright, we appreciate that, alright, so the first order of business is the explanation of the rules to run the meetings. Okay, we didn't cover that, I am sorry all.

Mr. Inman: Oh these are the rules that will govern our deliberation today. The Planning Commission takes pride in being fair and courteous to all parties and attendants. It is important that all involved understand how the commission normally conducts its meetings. It is equally important that everyone treat each other and the members of the commission with respect and civility. The commission requests if you have a cell phone please either silence it or turn it off. This is an abbreviated explanation of the rules. A complete set of the rules is located in the front of the planning commission agenda. Following is the order of business for this public hearing. Withdrawals and deferrals, the chairman will ask if there are any requests to withdraw or defer an item on the agenda, consideration of these requests will be made first. Consent agenda, the next second order of business is the consideration of the consent agenda, which are those items that the planning commission believe are unopposed and which have favorable staff recommendations. Let me go to the regular agenda, the commission will then proceed with the remaining items on the agenda. Please note that the actions taken by the commission today are in the form of a recommendation to the City Council. The final decision to approve or disapprove an application is made by City Council. The commission thanks you for your attendance and we hope that your experience today leaves you feeling that you have been heard and treated fairly.

**Item #1**  
**Bishard Homes, LLC**  
**Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)**  
**1416 Mill Dam Road**  
**District – Lynnhaven**

**October 10<sup>th</sup>, 2018**

**APPROVED**

Ms. Cartwright: Alright, first we are going to hear agenda item number one, Bishard Homes, LLC, an application for a Subdivision Variance section 4.4 (b) of the subdivision regulations on property located at 1416 Mill Dam Road in the Lynnhaven District. Welcome.

Mr. Bourdon: Thank you, madam Chairwoman Oliver, members of commission for the record Eddie Bourdon, Virginia Beach Attorney representing the application, I will try to be brief since this was a certainly adjust into the consent agenda. The first thing I want to point out and Mr. McNamara did a good job during informal and reiterate the existing piece of property was legally created in 1960 by a plat and at the time that it was created, it was not a corner lot. Palmetto did not exist next to it, there was a 12-foot right-of-way private road and under the Zoning Ordinance back in 1960, we had to have a 20-foot wide right-of-way in order for there to be a corner lot. The lot met the dimensional requirements at the time because it was not a corner lot. Subsequently Palmetto was created by taking on different properties for a public right-of-way, and thus the properties are legally non-conforming lot and what my client is seeking to do now is simply to subdivide it in accordance with the current Zoning Ordinance to create Lot B which meets each and every requirement of our Subdivision and Zoning Ordinances and is proposing to build a house on it that likewise, meets every setback and does not encroach into the Chesapeake Bay Preservation Area. The Zoning Administrator has deemed that we need to come for a variance, I certainly could have argued, we don't need a variance because this is legally non-conforming but rather than get into long argument about it, and let everybody see what the new house is going to look like on the totally conforming lot, we are here for a variance for the lot that will maintain the existing residence on it and the lot with the variances has the exact same variation from the requirements that has existed since 1983 or thereabout when Palmetto was platted and acquired. So the four conditions that are recommended are acceptable to my client. I am aware of the fact there is opposition here and the opposition owns a lot that was created. I represented the people when we created it, went to the Chesapeake Bay Board and created it in a flag lot that comes off of Palmetto and wraps around behind this property and the folks who own this property at that time were part of that whole process and they did not oppose to creation of a flag lot with the house to be built back here behind their property and they were aware at that time because I met with them with all the neighbors at that time. They were well aware of the fact this piece of property could be divided off. They did not oppose the creation of a true flag lot that flag lot has a house being built on it that means what is a side yard setback of 10-feet, this property will have a 20-foot rear yard setback which we will meet and we're not asking for any variances whatsoever, so I just want to understands what the facts are. I will be happy to answer any questions that anybody may have.

Ms. Oliver: Anybody have any questions for Mr. Bourdon, no thank you. We will call the first speaker up.

Ms. Cartwright: Alright, first speaker is Steven Valdivieso. If you could please state your name for the record sir?

Mr. Valdivieso: Good afternoon members of the commission, I am Steven Valdivieso, I am the Vice President of Premier Construction Management Services. We own the property to the east and we are in opposition. Like Eddie said in May of 2016, those four lots that we currently own were created. It went through CBPA and what not and in January of this year,

when the current owner of the property has requested the variance, purchased that property, we were not the owner back in 2016 and obviously they have intentions of subdividing that creating another lot. In April of this year, we purchased the property and trust me, with the money we paid for the property and with the homes that are going to be built on these four lots based in the water to water front, beautiful views up on a bluff. We did our due diligence and in doing that, we knew that the property extended down long, if you guys are went to the site, there is a ravine, has woods in it. Looking at the survey, it's from an elevation of 15 where the current houses down to a seven, it is an eight foot drop. We currently have our plans in our third submittal for DSC and they are requiring that we put in two storm drain pipes, we have got to build up that driveway that Eddie mentioned to get to the lot like 5 feet to get through there and really if you look at the lot, it's not that flag lot, it's got plenty of frontage in the cul-de-sac there, but in order to get to it with a CBPA, we are confined to a small driveway across this deep ravine to get to lot number one. So knowing that and doing our due diligence we have a very limited footprint but the houses on lot 1 in particular and like Eddie said, there is a 10-foot setback on our lot, but we have the house fronting, this lot is the front of the house facing it. Why do we do that? One we knew the lot couldn't be built on without due diligence. Two is to have that back of the house face the beautiful waterfront up on a bluff for 15-20 foot above the water and the value that we have the money, we have invested in this deed. So yeah, it's truly a detriment to see a house being built in there and it is going to be difficult to build because of the topography. In 2008, yes it was a grandfathered non-conforming lot because the City taking the road, but in 2008 was when that house was built, they didn't build the house back where the ravine was and where the woods were. They built it upfront where it's nice and high and we knew that only one house could be built back then and the owners back then of course were not going to have a problem with what we do on the four lots, so we recommend denial. Thank you.

Ms. Oliver: Thank you, do we have any questions? No, thank you very much.

Ms. Cartwright: Alright and next we have Anna Staylor in opposition to speak as well. Welcome if you state your name please.

Ms. Staylor: Anna Staylor, I am with Rose & Womble Realty and I am here just as an advocate to state the obvious that this will negatively impact the values that we were set to put on these properties that we are going to be anywhere between the \$589,900 value all the way up to \$700,000. The only reason why I am here is to state the obvious that this will actually impact our ability to market these homes and to offer a higher price point which is the price and which is the land was paid for.

Ms. Oliver: Great any questions, no, okay, thank you.

Ms. Cartwright: Thank you. That's all we have. Mr. Bourdon will come for your rebuttal.

Mr. Bourdon: I couldn't hear what the Stellar had to say but that's alright. There was a house on the front of the property not the current house and pretty much exactly the same spot when I

represented the property owners to get the CBPA approvals for the lots that were created and the Subdivision Variance for the lot that Steven is speaking about. The house that would be built on Lot B, which conforms in every way is the area where the ravine is located is back in this back corner. Not where the house is going at all, we are not filling the lot. We are not doing anything that affects his property and again that has zero to do with what this Commission is here to review. So it's a very attractive house, you have elevations, again you get the condition on the house, even though it isn't even a lot that we are asking for a variance on and the lot we are asking for a variance on is a variance to the condition that is existed since Palmetto was platted as a right-of-way. Again, all the four conditions are acceptable to my client, the community, the folks who live there for decades do not oppose this and again when I represented the developers who put the property together that they have subsequently bought, some of all the folks on the street were communicated with, met with and they did not object to that and they certainly don't object to this because the people who own this property had owned it for a quite some time and they were aware that owners were aware that they have the right to do this. I am happy to answer any questions.

Ms. Oliver: Any questions?

Mr. Inman: Yeah.

Ms. Oliver: Mr. Inman.

Mr. Inman: If you didn't have this variance granted then obviously a home could be built on that lot as it is.

Mr. Bourdon: They could build a.

Mr. Inman: They could build that house in the same place.

Mr. Bourdon: In exact same place, that's correct and exactly.

Mr. Inman: Okay.

Ms. Oliver: Any more questions, thank you. Alright, we will close the hearing, anymore speakers, I guess we are all done. Close the hearing now and we will open it up to the discussion amongst the commissioners. No, alright well is there a motion on the floor, yes.

Mr. Redmond: Ms. Chairman, I move approval of the application.

Ms. Oliver: Right, thank you, do we have a second.

Unknown Speaker: I will second.

Ms. Oliver: Okay, thank you.

Ms. Cartwright: By the recorded vote of 9-0, item number one has been approved.

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

**CONDITIONS**

1. When subdivided, the property shall be developed as shown on the submitted subdivision exhibit entitled “PRELIMINARY SITE PLAN OF .6 AC PARCEL AS SHOWN ON GEORGE A. PAYTON TO DENNIS GOFFIGAN, PROPERTY OF DENNIS GOFFIGAN,” dated 07/12/2018, and prepared by Fox Land Surveying, 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. Prior to construction, a one-foot no ingress/egress easement shall be recorded along Lot A’s frontage on Mill Dam Road.

3. When the property is developed, the residential dwellings constructed shall have architectural features, and appearance of like quality and character to the home depicted on the submitted elevation, entitled “SF57 BETHANY PALMETTO AVENUE LOT B”, prepared by Bourdon Design P.C. and dated September 17, 2018, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.

4. When the property is developed, each lot shall be served by an exclusive water tap and meter and an exclusive sanitary sewer lateral and cleanout.

**Item #2**

**1625 General Booth Blvd, LLC**  
**Conditional Use Permit (Car Wash Facility)**  
**1625 General Booth Blvd**  
**District – Princess Anne**

**October 10<sup>th</sup>, 2018**

**APPROVED**

Ms. Cartwright: Next on the agenda item number two, 1625 General Booth Blvd, LLC an application for a Conditional Use Permit for a Car Wash Facility on property located at 1625, General Booth Blvd in the Princess Anne District. If you could state your name to the record.

Mr. Ripley: May I go back for one second to the previous application, I also need to disclose, I am sorry, same disclosure that we disclosed earlier we got in Towne Bank. Towne Bank is listed here as the financial institution. Again I have no financial interest in this at all and I am just simply disclosing this that we are advising the Council we are not making the final decision. So I have been advised that I can vote on this, I am sorry, I missed that, but I want that for the record.

Mr. Inman: For the record, as Mr. Ripley just said as the member of the Towne Bank at Virginia Beach Board. I am going to vote on this. Although we are members of the Board, we don't have any power to approve or disapprove loans and have no influence on the decision of Towne Bank.

Ms. Oliver: Great, thank you. Welcome.

Mr. Lentz: Thank you, good afternoon, my name is Steve Lentz, attorney with Goodman Allen Donnelly, I represent the applicant 1625 General Booth Blvd, LLC. This is a project that is slated to put a car wash on this particular site. This was previously a bank site and it has been vacant for some time. We have worked very closely with Planning Staff on this. One of the things that we worked on with the Planning team is we have completely reengineered this site to put the vacuums at the back of the property and brought the building to the front of the property. So there will be a beautiful side and architectural windows on the front that will face General Booth Blvd. You notice also on the side here, there is a 15-foot landscaping treatment there class IV. There is a neighborhood right here and we have also relocated the dumpster which was close to residential area and moved it all the way to the other side so there have been quite a few adjustments made to conform to the Council on the great work of Planning. You know, we are using a brick façade, dormers, bronze-colored standing seam metal roof, decorative windows and also trying to be compatible with the surrounding properties. We feel like we have also reduced the hours of operation from the original plan. It has been recommended now for the operation, we have reduced to 8 a.m. to 8 p.m. which is perfectly alright with my client. There was a question at the informal meeting about the vacuums whether they could be used at night or not when the facility is closed. These vacuums are also closed and so we respectfully ask for approval from the Commission.

Ms. Oliver: Great, thank you. Other speaker?

Ms. Cartwright: We do have one speaker in opposition Darrell Satterfield, please come to the podium.

Mr. Satterfield: Hello, everyone.

Ms. Oliver: Hi, how are you? State your name for the record.

Mr. Satterfield: Darrell K. Satterfield.

Ms. Oliver: Great, thank you.

Mr. Satterfield: I actually live in the backyard, the 15 foot shrubberies they are talking about, that is entirely my backyard. So where he is talking about the vacuums and the dryer and all that sound would be directly going into my backyard and also the bank when it was there. We had issues with trash while we had probably a bag of trash every week, with blow stuff or people would just throw food. That's the issue I am having, the trash and the noise.

Ms. Oliver: Okay, one second, Jimmy can you, I think there is a plat of the houses on that application, I think I saw one. There you go and you can point right where you are, oh, thank you. Do we have any questions? Go ahead Commissioner Kwasny.

Ms. Kwasny: Where was the trash located when the bank was there?

Mr. Satterfield: For instance, people were throwing stuff like beer bottles.

Ms. Kwasny: Not necessarily a result of the particular bank property, but of the retail area. So can we address how the trash is going to be managed on this site because I think it's going to be quite different for at least this site, I don't know if it's a shared trash in any way, it's just for that site correct? Jonathan can you speak?

Ms. Smith: So the dumpster is depicted as that square just in from the first tree on that right side across the top. Originally when they submitted their application, the dumpster was along this gentleman's property line, so we did have them move the dumpster and now there is a red circle there. So you can see where it is, that's where the new dumpster location will be. This site is now vacant, so you are probably seeing some activity there that wouldn't normally be there during a normal business day. I know when we were out in the field together we saw some folks kind of hanging around, so hopefully when a business does occupy the site some of that trash will be addressed.

Mr. Satterfield: This was the trash while the bank was opened.

Ms. Kwasny: It was?

Mr. Satterfield: Yes, things like on the weekends, whatever, just throwing things over into my fence and over in my yard and with this coming in and you know with the vacuums and with the dryer, the loud noise, music playing and all days from 8 to 8 p.m. But still that will cause my property value to depreciate when I will go to retire and try to sell my house.

Ms. Oliver: I hear you. Right now, do you just have a fence, is that correct?

Mr. Satterfield: Yes a six-foot fence.

Ms. Oliver: So and I think that the applicant is putting in a shrubbery buffer, 15-foot so, that should probably help mitigate some of the trash was there really.

Mr. Satterfield: Some of them are pretty good. I have had bottles in my gutters.

Ms. Oliver: I am not making light of it, I am hoping that with all the greenery and everything and as it grows, matures that will help mitigate that and hopefully you know the noise, I know that they said that they did adjust the times to 8 to 8 p.m.. Do you have any questions?

Mr. Satterfield: But I believe they said the decibel level was like 75 decibels. I believe that's what I was told, I am not 100% sure. That's almost an aircraft jet at auto, and that's what I do for a living. That's pretty loud.

Ms. Oliver: Well let's see if we can get some answers from the applicant for you and see where we can go from that, how about that, okay great, thank you.

Mr. Lentz: Let me first address the issue of trash.

Mr. Lentz: Let me just first address the issue of trash. There is a big difference between a bank that has no employees outside of the building and a managed property. This has three employees at all times on the property and their job is to keep the entire enterprise looking sharp. There are now waste cans outside at the vacuums where there wouldn't have been before and so I think that's a big difference between with the gentleman had experienced before and what will have now. This is our third site in Virginia Beach, and we have not had one noise complaint anywhere in the city for any of the grand slam car washes, none. The engineering that is happening in the tunnels is surrounded by a brick wall and is very carefully positioned so that the noise is attenuated by the kind of materials, very expensive materials I might add, that have been used for the actual tunnel. That's why it's a brick façade. It's been engineered very carefully so I would just say that the noise issue has never been raised in any of the neighborhoods that we have been in to the day. We are very proud of that because it's been very carefully engineered and we did move the dumpster away from there, that's another major concession and I think a reasonable one.

Ms. Oliver: Okay.

Mr. Redmond: I understand where he saw the greater than 75 dB because it is hashed in blue and it shows greater than 75 but that is referencing the AICUZ, so that's what is 75 decibels. Is that clear? I want to make sure that you saw on the application where it said greater than 75 decibels and I think you were associating that with the noise that was going to be coming from. That is not what that is representing, that's representing the AICUZ from Oceana, the jets, just want to clear that one point.

Ms. Oliver: Okay. Yes Jack.

Mr. Wall: Do we have a decibel level for these vacuums, was that mentioned?

Mr. Lentz: I don't have it with me; we do have it on file, yeah.

Mr. Ripley: Back to the trash. People cleaning their cars out is little different than going to the bank. I mean, if people are cleaning their cars out, things fall out, they blow away and whatever and I think the gentleman has come in here is concerned about that. I think it is something that we need to have some assurance how that is going to be handled and it just have a dumpster that's great but you got to get the trash in the dumpster. How many cars are you going to be servicing here? How many bays do you have there?

Mr. Lentz: 22.

Mr. Ripley: So 22, so everybody is getting their car cleaned out and he is worried about the trash coming over to his place so what kind of assurance could you provide the citizen that's not going to happen.

Mr. Lentz: It's a very reasonable request.

Mr. Ripley: It is.

Mr. Lentz: Yeah we come back to the fact that before probably allow the trash had nothing to do with the bank or that site, it's a shopping center. So there is a lot of activity in the shopping center, but now there are berms and now that there are actual stations and a manned actual operation that is outside not just inside the building. There has never been a complaint about trash in any of these car washes because it's a very well managed facility. There is a lot of money invested in the facility and they cannot afford for the property to be poor representation. So they have manned people outside the building all during operations to make sure that it's clean. There will be trash receptacles right next to the cars and then there is a 15-foot landscape area between us and the property owner.

Mr. Ripley: I understand all that, I am asking what assurance.

Mr. Lentz: Yeah absolutely, we just have to make the assurance, I can assure that there will be management on the property at all times during operation, paying attention to you know trash issues any other issues that are out there.

Ms. Oliver: Please say your name for the record.

Mr. Bartley: Vance Bartley with 1625 General Booth LLC, so each of the parking spaces has a vacuum boom and also on the basis of vacuum boom is a trash receptacle so with each one of the parking spots, there will be a large round trash receptacle attached to it. Every hour one of our staff members is required to go out and check that trash, fill a rolling trash can, a big trash can and send it to the dumpster.

Mr. Ripley: What about trash that gets loose?

Mr. Bartley: Then we also have sweep around receptacles for the only hour as well. We pride ourselves on a clean and welcoming environment.

Mr. Ripley: So if this man has a problem, he can call you and you will make sure it gets taken care of?

Mr. Lentz: Certainly. We will be glad.

Mr. Ripley: Can you get with him and trade information?

Mr. Lentz: Yes sir, we will be glad to.

Ms. Oliver: Great, any other questions, Commissioner Wall?

Mr. Wall: I have got a question about the dumpster operations, can you explain the timeframe like what's the typical, we've had complaints in the past and it's obvious that the dumpsters are about as far away from the residential property as possible, but what are the typical hours for because it's...

Mr. Bartley: One take at early 7:30 in the morning.

Mr. Wall: 7:30 in the morning, okay because you know something complains about at 5 a.m. and it's once a week, okay, got it thanks.

Ms. Oliver: Commissioner Kwasny.

Ms. Kwasny: So two questions for you, so how many locations in Virginia Beach?

Mr. Lentz: This will be a third.

Ms. Kwasny: And of the other two is either of them adjacent to residential in the same way?

Mr. Lentz: Thereabout.

Ms. Kwasny: Can you give me the location; I am trying to take it in my mind.

Mr. Lentz: One is S. Independence Boulevard and one is over on Indian River Road right across from the right across the street from CBN, from Founders Inn.

Ms. Kwasny: And residential is that closely located to the property?

Mr. Lentz: Yes ma'am.

Ms. Kwasny: So in 22 vacuum units, is that what you said, vacuum spaces?

Mr. Bartley: Our first location is actually 493 South Independence Blvd; right across the Mount Trashmore, reservoir and the lots for subdivision is directly behind this.

Ms. Oliver: Mr. Hodgson.

Mr. Hodgson: But is this is a central vacuum system where you have one vacuum that is servicing all these hoses or is every parking space has its own vacuum system?

Mr. Lentz: One system, it's a structure that connects to all.

Mr. Hodgson: Where is that motor running that main central system is it kind of away from the houses?

Mr. Bartley: I believe the first motor is going to be on the right side by the exit by the tree that's going to serve the whole side. I believe the second motor will be on top of this side.

Mr. Hodgson: I think that's important that it shows that you are not going to have a separate motor running at every parking space. I think it will be a more centralized one system running that whole row.

Mr. Bartley: In the vacuum system, they basically plug into the whole set so there is no external noise from like you said a motor or anything like that.

Ms. Hodgson: Okay.

Ms. Oliver: Any other questions? No, okay great thank you very much.

Mr. Lance: Thank you very much.

Ms. Oliver: Alright, the hearing is now closed and we will open up for discussions amongst the Commissioners. Anybody, alright.

Mr. Hodgson: I will say trash was important maybe but the noise was way more important to me because that is something that you can hear from inside your house and not necessarily you are not always hear the trash being thrown into your yard. The fact that the motors are quite a distance away from the property lines gives me more of a comfort level than I would have, if they were sitting at each parking space and everyone runs its own system. So I feel better about that, so I am glad he was able to clear that up for me.

Ms. Oliver: Yes Ron.

Mr. Ripley: Anytime we have a residential house next to a commercial property, we always have to mitigate something. I think the noise is a good point but the trash, you know, affects the citizen and I think that the fact they are next to each other, the corporation that's going in there needs to be mindful of that and keep it clean and be a good neighbor with him. I think you ought to trade cards so you know I had to get up with somebody to make some decisions if you are not getting, if things are out of hand but I think aside from that I don't know what else you can do.

Ms. Oliver: Great, yes Commissioner Wall.

Mr. Wall: I don't think it's ideal, I mean, I think it's okay, I think one issue that we didn't discuss was that if you are looking where the cars are coming into the car wash that they are going to be stacking 20 feet from the property line and you know idling, music on, some are going to be louder than others and they'll be stacked. On nice days, pretty much all morning along, all day along and that's one noise you know nuance thing that really didn't bring up besides the operations of the wash itself and the dryer and the vacuum. It's something that I think

we should consider as well is the idling stacking, noise from the vehicles 20-feet from the property.

Ms. Oliver: Yes, Mr. Inman.

Mr. Inman: I think we have had to recognize that this is a B-2 district, it could accommodate lots of different uses that would be noise generating could be a fast food restaurant with lots of vehicles with loud music and such. I think this owner has shown a lot of concern about being a good citizen and obviously it's in his best interest to run a nice clean site and efficient business. Also, the screening has been provided as conditioned and I think it's a reasonable application to approve. So I would move to approve the application with the revision to the hours as conditioned.

Ms. Oliver: Commissioner Redmond.

Mr. Redmond: Second.

Ms. Oliver: Okay, oh hold on, Sorry, commissioner Kwasny.

Ms. Kwasny: So I think Mike wanted to comment that I think you made the most salient point because there are lot of other things that could probably happen on this property without an owner willing to work to create something that's much more user friendly for the neighborhood and also willing to do as Ron suggested which is get with you to make sure that you have recourse should you find that you are having continued problems. I think probably that the trash issue has more to do with the fact that this is a retail strip as the bank has been empty and this has been creating some problems for some time. I hope livening this and actually aesthetically elevating that area will make a difference in the kind of vagrancy you have seen and that you have been experiencing impacting your property. I am like Jeff, I think that having those vacuum motors somewhere else probably will alleviate the situation. My key point is it's most important to understand how it could be, what could go there other than what we are looking at today so.

Ms. Oliver: Yes, Jack.

Mr. Wall: I think that's a good point that it is in the currently zoned B-2 and there are quite a few things that are going to go in there by-right.

Ms. Oliver: Yeah that's true, I mean being the fact that at least it closes at 8 p.m. versus a drive through food operation is probably a definite improvement.

Mr. Hodgson: I just want to make sure there are some protections for the homeowner. I know they are spending a significant amount of money on this but he also spent a significant amount of money on his house to live there and that there are some safeguards for him. If this is out of hand, what recourses does he have?

Ms. Oliver: That is an interesting question.

Mr. Hodgson: He can call and complain and if there is noise?

Mr. Kemp: Yes sir.

Mr. Hodgson: What protections does he have that if this gets out of hand and there is just an excessive amount of noise, pollution, trash whatever it may be, that he has some safeguards and what can he do to protect his large investment in his house?

Mr. Kemp: Right, the easiest way is to, in the conditions, include things such as the dumpster, no music, hours of operation that sort of thing. If the noise got excessive, he would call the zoning officer to file a complaint and we could investigate it. Our noise ordinance, you know, isn't the easiest to enforce. It is a 65 decibel level measured from 4 feet inside the wall of the home. In the past we have received noise complaints from other car washes, none that this gentleman owns, and we have been able to resolve that by going through the owner through common courtesy.

Mr. Hodgson: I just want him, when he leaves here today, feel like he has somebody who is going to listen to him if there are issues. You are telling me that we will listen to him if there are problems and will do everything that we can to rectify?

Mr. Kemp: Yes absolutely. As I have mentioned we have improved that situation with other car washes in the area previously, through contacting the owner and going that route.

Ms. Oliver: Yes, Mr. Redmond.

Mr. Redmond: Yeah to be fair though, I mean this is a facility that's going to have on-site staff so I mean it's not going to devolve into fraternity party or something like that. It would be entirely, detrimental to their business to do so. I am satisfied on both noise and trash frankly. I think probably this site will be less likely to generate the trash simply by virtue, every modern car wash that I have been to has got trash receptacles everywhere and if you go to a bank, there isn't one sitting next to your car when you just deposit a check. I have also found lot of the trash that you find in places like this is coming not necessarily from any given parcel but from the giant shopping center that's behind it. There is a lot of windblown trash that ends up in shopping center environments. I spend too much time in shopping centers but that's where a lot of it simply comes from. You have a big expansive parking field behind it and the wind picks up and stuff goes in all sorts of different places. So I am satisfied that it's, appropriate and frankly Mr. Kemp this morning when he was asked if we got noise, you said no. These newer ones we have not gotten any noise complaint citywide so I mean I think that gives me some comfort that this is a reasonable use. I think it's a good use actually. Some of these adaptive reuses that they are going to be more and more of these bank parcels. Branch banking is not a growth business. There are going to be lot of these parcels that come up as these banks begin to get out of the physical branch location. This strikes me as a clean useful and appropriate adaptive reuse of that kind of parcel, so I support it. I think we have a motion on the table, don't we?

Ms. Kwasny: I know there is a motion on the table, but I think Jeff has a really good point, I don't know whether or not, I just asked Kay, she said it's worth asking the question whether or not the owner of the business would be willing to put, a sign where the cars stack up along that property line. You are going to have a 15-foot buffer with Category IV screening which takes some time to grow because it's not going to go in full grown. Can you put a sign there that says windows up, no loud music, just something that would provide some quiet along there while people are waiting? Okay will that help? I think that might help at least with that part of the noise issue so they are not partying in their cars while they are waiting to wash them. They are willing to do something like that I think that's helpful.

Ms. Oliver: Right, Jack. Do you have something?

Mr. Wall: Do we want a condition that or is that something that?

Ms. Oliver: Alright, I think we have a motion on the floor. Mike made the motion, Mr. Inman okay. Great, thank you.

Ms. Cartwright: So by recorded vote of 9-0, item number two has been approved.

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

## **CONDITIONS**

1. When the site is developed, it shall be in substantial conformance with the submitted site layout exhibit entitled "Concept Plan", dated 09/07/2018 and prepared by Blakeway, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. The exterior of the proposed building shall substantially adhere in appearance, size and materials to the submitted elevations entitled "GRAND SLAM CARWASH, CAR WASH BUILDING, ELEVATIONS, 1625 General Booth Blvd", and prepared by Balzer and

Associates, Inc., which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development.

3. Install the required Category IV landscape screening along the southern boundary line adjacent to the residential dwellings. A Landscape Plan shall be submitted at the time of final site plan review reflective of the plant material depicted on submitted Landscape Plan entitled, "Concept Plan", prepared by Blakeway, dated 09/07/2018, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Planning Department.

4. The existing plant material within the Scenic Easement along General Booth Boulevard shall remain and be maintained. In the event that any of the plants are damaged or die, they shall be replaced with like vegetation acceptable to the Development Services Center's Landscape Architect within a timely manner.

5. A Photometric Plan shall be submitted during the site plan review process to ensure that all lighting on the site shall be shielded and directed downward to limit the amount of overspill outside the property's boundary.

6. All light fixtures on the site shall be no taller than 14 feet in height.

7. All light fixtures shall be shielded away from the adjacent residential uses to the south of the site.

8. The dumpster shall be enclosed with a solid wall in a color and material to match the building and any required screening shall be installed in accordance with Section 245 (e) of the Zoning Ordinance. Evaluation and Recommendation

9. The operation of the car wash and vacuums shall be limited to the hours of 8:00 a.m. to 8:00 p.m.

10. Any onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals, and there shall be no neon, other than individual channel letters lighted with internal neon and as approved by the Zoning Administrator, or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. There shall be no window signage permitted. The building signage shall not be a "box sign" and the proposed sign package shall be submitted to the Zoning Administrator for review and acceptance prior to the issuance of a sign permit.

**Item #3**

**Tonya Mitchell**

**Conditional Use Permit (Family Day-Care Home)**

**1501 Three Gait Trail**

**District – Rose Hall**

**October 10<sup>th</sup>, 2018**

## CONSENT

Mr. Wall:     Alright, thank you. This is a Conditional Use Permit for a Family Day-Care Home. The applicant requests a Conditional Use Permit for Day-Care Home for up to 12 children within a single-family dwelling in the Grassfield Farms neighborhood. The property has an enclosed backyard for the children to play safely outdoors. The proposed typical hours of operation will be from 6:00 a.m. to 6:00 p.m., Monday through Friday. The conditions are acceptable, based on the applicant not being here, and staff recommends approval. Therefore, we have placed this item on the consent agenda.

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

## 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 #4**  
**Roy E. & Ivy C. Caskey**  
**Conditional Use Permit (Residential Kennel)**  
**133 S. Kellam Road**  
**District – Bayside**

**October 10<sup>th</sup>, 2018**

**CONSENT**

Mr. Hodgson: Thank you, Ms. Oliver. The first item is Agenda Item number four. It's an application of Roy & Ivy Caskey, for a Conditional Use Permit for a Residential Kennel on property located at 133 South Kellam Road. This is in the Bayside District. Is there a representative here for this application? Good afternoon. Please state your name for the record.

Ms. Caskey: Ivy Caskey.

Mr. Hodgson: Have you seen the conditions written up in the report.

Ms. Caskey: Yes, I have.

Mr. Hodgson: Are they acceptable?

Ms. Caskey: Yes, they are acceptable.

Mr. Hodgson: Great, alright, thank you very much.

Ms. Caskey: Thank you.

Mr. Hodgson: Is there any opposition to this agenda item being placed on the Consent Agenda? Hearing none, Ms. Oliver has asked Dave Redmond to please read this into the record.

Mr. Redmond: Thank you Mr. Hodgson. Mr. Chairman, this is an application of Roy E. & Ivy C. Caskey for a Conditional Use Permit, particularly for a residential kennel on property located at 133 South Kellam Road in the Bayside District. This is really a housekeeping matter and this couple has owned Jack Russell Terriers up to this number in their house for quite some time. They were unaware that Conditional Use Permit is necessary to operate a residential kennel of this sort. They have a host of letters of support from their most immediate neighbors. There has never been any kind of complaint or suggestion of anything toward the operation of this kennel within their residence. So the Planning Commission has concluded that it is appropriate for consent. Thank you, Mr. Hodgson.

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

**CONDITIONS**

1. No more than nine adult dogs shall be kept on the property at any time.
2. In accordance with Section 223 of the Zoning Ordinance, the dogs must be kept in a soundproof and air-conditioned building.
3. All dogs shall not be a nuisance to any property owners or residents and when outside they shall be supervised at all times and remain within the fenced-in area.
4. The existing fences shall be maintained in good condition.
5. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.

**Item #5**

**FWM Residential Rental Properties, LLC  
Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)  
425 Old Great Neck Road & the adjacent parcel  
District – Beach**

**October 10<sup>th</sup>, 2018**

**APPROVED**

Ms. Cartwright: Alright, next is Agenda Item number five FWM Residential Rental Properties LLC, an application for a Subdivision Variance Section 4.4 (b) of the Subdivision Regulations on property located at 425 Old Great Neck road & the adjacent parcel in the Beach District.

Mr. Miller: Hi, I am Bob Miller with MSA and I represent the owner. I will just make it very brief, this is our R-10 property, we have 1.26 acres, there are four lots shown on the plat but only Lot 4 is the one that we are dealing with for a variance and it fronts Butternut Drive, it is going to be 40-feet wide, the Zoning Ordinance requires 80-feet. The other three lots are all in conformance with the ordinance. This lot will be over 19,000 square feet; the ordinance is R-10 which is 10,000 so I will be happy to wait and answer any other question or answer questions now whatever you all chose.

Ms. Oliver: Do we have any questions, no, we will get back to you, alright thank you.

Ms. Cartwright: We do have one speaker in support Kevin Watson, if you would please come to the podium.

Ms. Oliver: Welcome Mr. Watson.

Mr. Watson: Thank you, my name is Kevin Watson, I am one of only two residents who live on Butternut, the questions I had is these lots right here for the driveway or it going to be facing Butternut or it's going to be facing Great Neck, all three is going to be facing Butternut. So there is a possibility with the construction, heavy traffic going down to Butternut because right now both of our houses that sit right next to each other, if a UPS or a heavy truck comes by, it does shake our house, so more heavy traffic we got on this road, the more we are going to fill in our house, so I don't know if that's going to take consideration or they are going to park on North Great Neck enter that way or they are going to be entering this way. If so, are we going to be notified well in advance? Because I do have multiple vehicles and multiple people live in my house that do drive and if that is the case we would have to park up in the circle up. I don't know if that's a small or big thing, but has a big impact on us.

Ms. Oliver: Understood.

Mr. Watson: The second question is more of an engineering issues, we are at Great Neck Road and North Great Neck road and there is a stop sign right there, I have been living in this residence for nine years and I see multiple, multiple accidents, coming from north Great Neck Road making a right on Butternut Drive, so is that stop sign going to be moved up? Because this right here that's a blind spot so if they do not move that, there is going to be more accidents and those three houses right here. I feel sorry for whoever is going to be buying them I mean that's just my opinion because there has been, there is a little brick park right here three times in one year that's been replaced because when they make this right on Great Neck Road from Old Great Neck Road, it's a blind spot, so you got these cars coming this way.

Ms. Oliver: Where is the stop sign, which corner is a stop sign?

Mr. Watson: Right there, right by lot one.

Ms. Oliver: Okay and it faces Butternut?

Mr. Watson: It faces Old Great Neck Road because you have to stop at the stop sign.

Ms. Oliver: Because you have to stop on Butternut to come out, okay.

Mr. Watson: Yeah, then move up a little bit to actually see the right-of-way the two way intersection.

Ms. Oliver: Okay, well maybe we can get traffic up here and see what they can do.

Mr. Watson: Now with that being said is speed limit sign going to be 25 or is it going to be 15? Because I don't know who it is going to be addressed to with the miles per hour, this 25 right here is a little bit too fast of course.

Ms. Oliver: We can ask traffic, he's here today, and we can ask him to come up and address those two concerns for you.

Mr. Watson: Those were the only two concerns that I have.

Ms. Oliver: Is there any questions? No? Okay great. Ric, do you mind coming up and asking a couple of questions or answering a couple of the concerns. Okay that's alright.

Mr. Lowman: Ric Lowman, Public Works Traffic Engineering.

Ms. Oliver: Thank you Ric, so this gentleman is concerned. There is, evidently there is a stop sign on the corner of lot one and the stop faces Butternut, and so he is concerned right now the way there is a lot of accidents on that street evidently due to the stop sign and the placement of the stop sign, so I think his concern is the fact that he wants to know if... Bob? Sure.

Mr. Miller: The stop sign is back here, there is a setback maybe 10-15 feet. It's not bad but there is a brick wall, back of that wall shows the community sign on it and there is a lot of underbrush and other trees around it that prevent you from seeing. This is our side of the brick wall but there is another piece right here, and so what happens is you can't see when you get to the stop sign without pulling up literally into the road into Old Great Neck Road. Yeah I mean moving the stop sign then I think that something that could be done, this piece needs to be cleared up and I don't know who's responsibility it is, but it looks like it's in the right-of-way.

Mr. Lowman: Now, I can respond. We will investigate whether the shrubbery can be cleaned up, so that we could get good sight distance. The placement of the stop sign isn't really necessarily where we want them to stop because generally we put stop signs where we can so they could be best seen by the traffic coming up, so we would want them to stop outside of the Old Great Neck Road and before they have to enter it, but we'll clean up the shrubbery. We can get that looked at. You know how that, the speed limit 25 miles an hour is the lowest speed on a public street.

Ms. Oliver: Great, I think that the concern, you know, if you all can address that evidently, his concern is with all the constructions trucks and everything with the building of the three houses and then the fact that there is already an issue with people not being able to see the stop sign and

having to pull out. There seems to be a lot of accidents at that particular point so I think anything we can do to mitigate that was probably would help considerably. Ron.

Mr. Ripley: This probably you're barely aware but part of it is. The man that came up mentioned with the construction to be from the Butternut side versus the Old Great Neck Road side and from a traffic point of view what would you suggest, construction access to these sites?

Mr. Lowman: Generally construction access is always through the front, you know, these houses are built inside of existing neighborhoods all the time. I don't consider it a lot of construction traffic. It's not like they are going to be bringing in lot of fill or taken a lot of dirt away, so it's done all the time.

Mr. Horsley: Thank you.

Mr. Lowman: You are welcome.

Ms. Oliver: Any questions? Okay great thank you.

Ms. Cartwright: We do have other speakers in opposition, Mike Ehrenzeller.

Mr. Ehrenzeller: I would like to start by thanking Planning Commission.

Ms. Oliver: One second, if you state your name for the record.

Mr. Ehrenzeller: John Michael Ehrenzeller. I thank you and appreciate all to letting me speak today. I am one of the land owners, I am in the lot right here, this is my house. I have a couple of bullet points here I'd like to bring up. Yes, there was a sign put up for a variance. I received a letter but maybe a week or so ago stating about the variance explaining a little bit of it. Still kind of vague. I had to search pretty deep in the Virginia Beach site to get this which really explains what they are doing here. So none of the other neighbors had any idea what was going on this. I will hit my bullet points really quick and then come back on that. So I have spoken to some of the adjacent neighbors and any of the ones I talked to yesterday this is how soon it was. I didn't have a whole lot time to do this myself but none of them in favor of this. First and foremost squeezing four houses in the area meant for two houses will de-value my property especially when these four houses are for rent. Make no bones about it, FWM Residential Rental Properties LLC rents. They are known what just call it for what it is, McClesky and Associates. They do not sell. That is their mantra, so they are going to rent these houses more than likely. I would have to say yes my opinion right now. Second, the original intent was to have two houses on two lots hence the water sewage. There was one water sewage line over here. I believe originally and one here which there is a house right here and it is act of that. So there was meant to be two lots in this whole area not two houses. Let's keep that in mind that is the flavor, for the lack of a better word, that the original neighborhood was trying to keep with lot sizes like this. This is the lot right now. This whole lot here and there is a back lot here is what they are trying to say it has the grievance. Let me not get too far out of hand here, let me put out a couple of things, the water hookups if that is on page five of the agenda item five report under public utilities impact.

Thirdly on page two of the agenda report see it is pointed out that as lot C1 lacked street frontage, C1 was considered this lot right here, there we go, thank you very much whoever did that. I would make it back to where I was.

Ms. Oliver: You are out of time, I am sorry to bother you; you have got three minutes, but will let you finish.

Mr. Ehrenzeller: I appreciate that, I will try to make this really quick, I will go through this. A note was recorded into the plat that required C1 to be sold to an adjoining property owner and not to be sold to an individual building site that is probably to conform to the R-10 zoning, so that they would have adequate street frontage and I did that just to show that this would be a great lot right here that would have more than the 80 feet. Let me make this little bit quicker. Alright, fourth restricted access for emergency vehicles, more of these flag lots that come over there like that if you have an emergency, things could get bottlenecked right there and that being my house and other houses in the close proximity if this things burning and we cannot get fire trucks back there, bad things can happen. Just want to point that out that's why the City really doesn't like flag lots in the first place hence the zoning lots. FWM Residential Rental Properties, LLC is creating their own hardship basically this lot is being created. There's four lots being created out of two, they don't need to necessarily create a hardship and it's my understanding you shouldn't be creating a hardship in the first place. Three lots could be created, this one could come straight out here. This would meet all the setbacks as they say it is 19,000 feet which the minimum is 10,000 square feet, but look at the size of my lot, I am on a R-10 too, plenty of room but if they had three lots here they would conform to the current zoning instead of going for a variance which is agreed, I think that's what it is, my understanding. They are creating their own grievance, when they can just put three lots in. I can't stop that, that's an ordinance with the Zoning Regulations, you know, that's within their right. This is a creation of a need for a variance, I am opposed to it. These houses are going to be rental that will impact the sale of my house, not the sale I am sorry, the value of my house. So that's my basic biggest grievance but last but not least in my opinion the profit of FWM Residential Rental Properties would make off, alright, I don't know what I scribbled down there. I apologize for that, basically their profit shouldn't be at my expense, my property value shouldn't go down, so they can squeeze another lot in here, whatever lot you want to call it 2, 3, they can have 3 lots in there and conform so basically what it comes down to greed is not good and in this situation not good for me, not good for my neighbor here, they are all these neighbors, which he has concerns about traffic and that is a bad spot, but shoehorning another lot in there isn't going to help anything, that's my grievances, you know, getting that guy in there, they can make three lots that's my biggest grievance.

Ms. Oliver: Thank you, do we have any questions, no thank you so much.

Mr. Ehrenzeller: Thank you ladies and gentleman for listening to me today, bit nervous.

Ms. Cartwright: We have one more speaker Carey Raleigh.

Ms. Oliver: Hi, welcome, please state your name.

Ms. Raleigh: My name is Carey Raleigh and I just want to say I have never been to a meeting like this, I didn't know what to expect, I didn't know what would happen or how any of this goes, I live on Big Leaf Circle which is the cul-de-sac right behind there, so I do live in one of those townhouses. When they built these houses right here, they are actually significantly changed even just coming in and out of our neighborhood and this house right here has been on the market for quite some time, they cannot sell, I am sure these guys can attest to that, this one right here, the one that's been for sale forever.

Ms. Oliver: Okay.

Ms. Raleigh: Anyway the traffic coming in and out, I realized that it's a public street, I talked to these guys before we came in here but you used to be able to have two cars going back and forth through the neighborhood, now there are cars on this side of the street and on that side of the street just to get home now, I have to pull over, wait for anybody coming out. Then I go leaving my neighborhood same kind of thing. Those guys are right about those accidents from what I am understanding just from those, the questions I had with these guys beforehand and everything that I am hearing, these three are going up, no matter what which I think is pretty sad, but this one definitely doesn't need to be there. I agree with the guy that just spoke, they don't need to have to squeeze one more back in there when they are already adding those three. None of my neighbors knew anything about what's happening so he's right about that. I went around my cul-de-sac yesterday asking everyone. No one knew anything about it, everyone that I spoke to is very concerned about the fact that their back patios already flood and there is a huge land mass there that gets all the rain, if you build all those things they are worried about what's going to happen to them.

Ms. Oliver: Great thank you. We have any questions for Ms. Raleigh, just as you know there is a sign that's posted for 30 days on the piece of property and that usually allows you information on who to contact when the city is getting ready to do something or there is an application of some sort.

Ms. Raleigh: You know, I went to the website and didn't really tell me anything whether it had been about this meeting so I didn't really know what was going on.

Ms. Oliver: Okay great, thank you. Any more speakers?

Ms. Cartwright: That is all.

Ms. Oliver: Great. Mr. Miller.

Mr. Miller: Let me see if I can walk through these carefully. So the first one we talked about with Rick which was the stop sign at the intersection situation, the second thing was the construction traffic and yes that would be on Butternut but we will make sure we let Mr. Watson know when that project is going to happen if you will give me his phone number, we will make

sure he knows when we are going to build. We probably won't build all the houses in one time. I think that was lot of that, but his concern is with traffic is something that I can echo. I was out there, he and I talked and you could see the intersection was not something that if you pulled up the stop sign, you could not see well down old Great Neck Road to the north in that direction and the second speaker water and sewer will be done for each lot that's a requirement, City requirement you all know that. There may be existing water taps in there, we'll use them, if they are not enough, we will add the additional ones, same with the sanitary sewer. The CIP study refer to which is in the back that is a separate piece that was platted that way, I don't know why like you know done not before my time but a long time ago. I will just put it that way. I didn't do the plat and we are the owner of that, so we are the in conformance with what the notes on the plat. we're the adjacent property that we own that property in order to access that property we've got to provide some mechanism to do that and our choice was to go ahead and provide a flag lot. If you can turn to page three of the report and I don't know if you all have these maps, but if you look right up here, there is a flag lot here, there is another flag lot up just a little further. Obviously adjacent properties are A-12. Yeah, you can see, there is a flag lot there, there is a flag lot there, not saying that all these things are justified or right but certainly in this neighborhood in the R-10 zoning, there are existing flag lots. These other lots in this area are generally in conformance with approximately the R-10 ordinance which is the 10,000 square feet obviously this is the lot that he was referring to next door and this is a corner lot are both larger but most of these lots that are in there. They are R-10 and they conformed R1-0, which is what we will do. The existing house which is here is in deteriorated condition and we'd like to, we own that, and we would like to get rid of that house, so whatever we put up in here is going to be new housing and it will be as conformance to the information that we gave you whether the properties are sold or retain by FWM that's something that is a business decision of their and I don't, at this point I'm not going to sit here and say they are not going to be sold, I am not going to tell you that they are going to be sold, but there will be quality housing, they will be an asset to the community not to say again that they are exactly what perhaps some of the neighbors want in that area but I think that pretty well covers what was mentioned in a short form.

Ms. Oliver: Great, yes, Ron.

Mr. Ripley: I noticed that, you know, you brought up now is going to bring up the patterns of zoning that are in that area and you have designed this as single-family to fit in the R-10 district which have A-12 beside it, did you consider any A-12 and if you did why not?

Mr. Miller: This is an AICUZ area and so the existing zoning as well, we would use. We won't be able to change the zoning to get, you could change it, but you won't get a higher density.

Mr. Ripley: Okay, I was just curious if you had considered that.

Mr. Miller: Well when you look at, I think you are right it perhaps logical but no we wouldn't do it.

Mr. Ripley: Okay because I think single family is a good move here that fits in with the neighborhood better and transitions because you do have a quite much multifamily around you if I am seeing this correctly.

Ms. Oliver: Any other questions for Mr. Miller, alright thank you. We will close this hearing now and open it up to the commissioners. You want to discuss Mike.

Mr. Inman: Yes, I have been looking at this on Google Earth while this discussion has been going on and observing the amount of, the type of housing and density. it varies some but overall it's fairly dense community in that vicinity, this land is zoned R-10. The three of the lots totally conformed, all the lots conforming from the square footage, it seems like a very reasonable request and it seems like it fits in with the neighborhood and I can't imagine why looking at the from the Google earth standpoint it would have any significant impact on property values or neighboring properties, which isn't really our call anyway but it's a land use decision we are making and it looks like a reasonable land use in light of what's going on in that vicinity and the current zoning.

Ms. Oliver: Thank you. Anybody else?

Mr. Ripley: I agree with you, I think it's a reasonable request and I think it should be approved.

Ms. Oliver: But one thing from Mr. Wall.

Mr. Wall: I think you know these are high quality homes I think you know they'll be replacing that one structure and if we do have or the few people that were in opposition brought up about the flag lots, but we had recent precedents in the past couple of years, you know, supporting flag lots such as this one so it's not out of the ordinary that we would not approve this under the Subdivision Regulations.

Ms. Oliver: Okay, thank you. Anyone else, yes Mr. Redmond?

Mr. Redmond: Madam Chairwoman, I will move approval of the application number five.

Ms. Oliver: Do we have a second?

Mr. Horsley: Second.

Ms. Oliver: We have a motion made by Mr. Redmond, seconded by Mr. Horsley.

Ms. Cartwright: Alright, by recorded vote of 9-0, item number five has been approved.

	<b>AYE 9</b>	<b>NAY 0</b>	<b>ABS 0</b>	<b>ABSENT 2</b>
<b>HODGSON</b>	<b>AYE</b>			
<b>HORSLEY</b>	<b>AYE</b>			
<b>INMAN</b>	<b>AYE</b>			
<b>KWASNY</b>	<b>AYE</b>			

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

**CONDITIONS**

1. When subdivided, the property shall be developed as shown on the submitted subdivision exhibit entitled “SUBDIVISION OF LOT C1 (M.B. 59, PG. 16) AND PARCEL DESIGNATED AS “C.D. KNOPPENBERGER” (M.B. 59, P 16) VIRGINIA BEACH, VIRGINIA,” dated April 17, 2018, and prepared by MSA, P.C., 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 of the home depicted on page 7 of this Staff report entitled “Proposed Elevations”, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.

3. When the property is developed, each lot shall be served by an exclusive water tap and meter and an exclusive sanitary sewer lateral and cleanout.

**Item #3**

**Dam Neck Storage Partners, LLC**

**Modification of Proffers**

**Modification of Conditions (Bulk Storage Yard)**

**Southeast corner of Harpers Road & Dam Neck Road**

**District – Princess Anne**

**October 10, 2018**

Next is agenda item number six, Dam Neck Storage Partners LLC, an application for a Modification of Proffers and a Modification of Conditions for a Bulk Storage Yard on property located at the Southeast corner of Harpers Road & Dam Neck Road in the Princess Anne District. Could you please state your name for the record?

Mr. DeSteph: Bill DeSteph. Madam chair, members of the commission, we are asking for a Modification of Proffers on this for a couple of reasons. The proffers we are asking to be modified, let me give you a little history. In August of 2015, City Council approved a Conditional Rezoning from AG-1 and AG-2 to Conditional I-1 to do a storage, bulk storage lot off of Dam Neck Road. Here and as part of that, there was an easement to go on the back of the

property and to come out and I think that's Harpers Road, but on this back easement as part of it, if any of the parcels were ever to sell, the use of the private easement would be terminated. Well, two things happened, one the original easement was never recorded and two the property was sold. The storage lot that was in was, in fact, sold then they put a couple of other buildings there. We did contact the storage lot and talked to one of the managing partners. I believe and they were pretty amused when I asked them, if they will be willing to give us an easement across the front of their property. The way they kind of put it was that it would be a very cold day that they would give their competition an easement across their property. So we figured, we would try to find another alternative and I contacted one of the other property owners down on the front end. He was very excited about it and wanted to sell me the easement at about 20 times what his property and building were worth or I could buy it off for 5 million dollars. I am not sure lot of ticket on top of that so I sat down with planning staff and had a discussion about Dam Neck Road. The rest of the property again was already zoned for this. We have the letter from the navy, it's in the 75 decibel noise area and a bulk storage yard fits in and is compliant with the language and restrictive easements of the navy and appropriate for the use of the site. There is another application that will be coming in the next probably six months that's with economic development and another group. At this point in time, we will be able to develop the rest of the property but I am only interested in the storage lot here. So, we have asked for a couple of conditions to be modified one is for access off of Dam Neck Road and you can see where the

borrow pit access is and then there is already access on to the property a couple of hundred yards just west of the property off of Dam Neck Road. So, we are asking to modify the property to use that. Two other things, one of them is currently in the storage lots we manage. Folks have ice cream trucks or they have RVs that they park there and here there is a restrictive condition saying that you cannot use generators. Well, when the ice-cream trucks start up, they turn on their generators, start up their generators as well before they unplug it from the power to make sure the generators are going to operate. So, we put in there that it would be internal generators only on those RVs & Ice Cream truck type activities. What this would not be is external generators, like on food trucks. Most of them, have external generators, so you will notice on most of the RVs and most of the ice-cream trucks that the generators are quieter than the engines of the vehicles themselves. So, for us to come and say, hey there will be no generators operating on site ever but we know for a fact that the ice-cream trucks when they start up, they do start up a generator before they unplug because they don't want to lose any product, so that's one of the requested changes in modification. Another one was for the Conex boxes and a standard Conex box is 8-1/2 feet or 9-1/2 feet high with the new ones, we're happy with putting a 10-foot restriction, we know they will never go 10-feet or above. For the simple fact, once you put them

on wheels then you are above 13-1/2 feet, so it won't get through most of our bridges in the area. So, we know for a fact that they are not going to be larger than 9-1/2 feet if you all wanted to put a limitation on that perhaps. We just called it a standard storage container size which the 20 TEUs or 40 TEUs that's the standard. Let's see, I believe that was all of the modifications we are asking for and I am happy to answer any questions.

Ms. Oliver: Any questions, none, thank you.

Mr. DeSteph: Thank you, I know we have opposition, I believe.

Ms. Oliver: Alright, will see what they have to say, thank you.

Ms. Cartwright: Yes, we do have three speakers in opposition. Would the first, Mike Jarrad, come to the front please.

Ms. Oliver: I probably should have stated this in the beginning but you have three minutes to speak so.

Ms. Cartwright: Please state your name for the record sir?

Mr. Jarrad: Mike Jarrad, I am the closest resident to the storage yard 1800 Chelsea Green Drive. First, I have tremendous respect for Mr. Bill DeSteph but I don't feel like he has been given the

background leg work that was put into this original storage yard. So, the history has been long and awful and it was very involved. We had over 1000 signatures on the petition that you guys have. We had a stop industrial growth buttons on our shirts. We had many speakers the first time we came. We had bunch of months to plan for it. Two of the property owners today are actually deployed overseas so they are renting their properties so I don't think we are going to get any information from them. We had City Council at our house. We had neighborhood rallies but we are really rallied together to get the first proposed layout. The issues, the no generators, was something that we agreed to in the beginning. There is no internal generators that are quiet, you're on a 122 acre farm field which everything tends to echo. The 8-foot fence, so there is going to be an 8-foot fence around it, but now we are going to have 9-foot storage containers peaking over. There was a 3-1/2 acre buffer between the neighborhood that is now off the books but today in the proposed site layout, it's still there, this is a very small print, it says area to be re-seedling plantings, none of this current projects, none of Bill's current projects are next to 42 million dollar neighborhoods. In conclusion, we feel like the applicant needs to go back to the drawing board. This needs to be worked out between the HOA and the neighbors and come back to some resolutions.

Ms. Oliver: Okay, we have any questions? Go ahead.

Mr. Redmond: I was going to ask you to point out your house. If you are the closest person, you will grab that pointer and show and tell us please.

Mr. Jarrad: I am right here, so this is actually my house. The berm actually sits my property gets back into the woods right there and the berm is actually in front of that property. The berm was put there in 2013. They have used some dirt off this property and moved it over. This is the area that I was speaking of that in the final resolution, the neighborhood was concerned about. This was offered to the neighborhood originally and then we didn't want to mow it with the HOA and all that kind of stuff. So, in the end right there, it says it is going to be reseeded for seedlings but we are not just sure where everything stands like this is the old picture with the access. We know that this, I mean, there are concerns here about right now you have dump trucks coming off the other side and now you are going to have about 40-foot containers, 48-foot containers coming out under 55 mile an hour road and it just seems a little concerning to us but I think a lot of the little nuances just need to be hammered out.

Ms. Oliver: Mr. Ripley.

Mr. Ripley: So, the buffer was a concern of yours but seems to me there is a physical distance anyway between the neighborhood and this property. I remember going out there when it was re-zoned.

Mr. Jarrad: My property backs to right here, so the berm actually lines up with the property. The concern over here is that all these houses around here, it's an 8-foot fence, but it's just open field. These houses, we even had this neighborhood Mayberry, they showed up that there is a straight shot for them across the field to see that.

Mr. Ripley: Are there houses, where you pointed to?

Mr. Jarrad: This is all farm fields. There's houses right here yes all along here, they're staring right at it.

Mr. Ripley: And it's now zoned industrial.

Mr. Jarrad: This is still all agricultural.

Mr. Ripley: Right, but the property?

Mr. Jarrad: This property, this isn't actually what is zoned. It comes out this way because originally it came all the way down to this tree line which obviously all the neighbors were involved then and then after we finally got to the last deal, this is where we cut the line.

Mr. Ripley: But, it's zoned industrial right now, correct?

Mr. Jarrad: I don't know how this part sits.

Mr. Ripley: Not that.

Mr. Jarrad: Just this part is zoned industrial, I am sorry.

Mr. Ripley: Which is what we are talking about and what specifically would you want to try to work out? I mean, I heard the generators, I heard a buffer and I'm trying to understand.

Mr. Jarrad: The fence line, so you are going to have an 8-foot fence, but you can have 9-foot storage containers but you got at the, what was it, the car wash earlier; they're getting a 15-foot fence along here.

Ms. Oliver: Buffer, a landscape buffer. Not a fence.

Mr. Jarrad: This was chain link fence originally. Only this side is private screening so on the original plans, this is all chain link which I don't, I talked to Bill a little bit earlier, I am sure he is going to do a little bit higher end deal but we don't know what's going to happen.

Mr. Ripley: Thank you.

Ms. Oliver: I have a question for you and I do remember all of us going out there and looking at that and the berm, how does that look now?

Mr. Jarrad: If you could imagine the biggest hill of weeds that you have ever seen. It's been sitting there for three years, it's a weed, I sent most of everybody the picture, I think the couple of emails came back.

Ms. Oliver: And so nothing, no seedlings were planted on that one piece that was supposed to be basically forest. That was the intent for that piece of property, if I remember correctly. So, you didn't have to see any of that and nothing, refresh my memory. Okay, yeah I was trying to remember who was responsible, it wasn't.

Mr. Jarrad: Creech was the original land owner. Now, it has been sold from what my understanding, it's a 50:50 between Barbara Creech's daughter and Bill.

Ms. Oliver: Okay and so they never followed up on that?

Mr. Jarrad: Nothing. There was a gentleman who I guess originally owned the storage container the big storage area with all the buildings. Who had her get involved with another gentleman who was parking lifts back there and all kinds of stuff that we kept contacting Kevin. They kept going violating him and he fenced it off. I am trying to keep them away from it, and I guess she has had an issue getting them off the property, so they could move forward. So, all these things like we don't know from that last plan is the ditch going to be, is there going to be a driver over the ditch because the ditch is going to be completely filled in which is a flooding concern for all of us. We have another speaker today that will show you all the flooding that we are getting from that, just the berm at 15-foot berm by 100 feet long all the waters coming down back towards the neighborhood as supposed to back towards the fields.

Ms. Oliver: Okay, yes.

Mr. Hodgson: In the previously approved application, I think in 2015, there was the, I think, well you mentioned the 24-foot wide access area to be cleared which is the row of trees that's kind of off the back of your property to the left of your backyard, you know right there. There was like a 24-foot wide buffer that was approved to be cleared. No right on, go up a little bit, right to your left, right.

Mr. Jarrad: There are trees all the way along this line right here.

Mr. Hodgson: It was outlined in the previous approved application that there was a 24-foot wide access area to be cleared.

Mr. Jarrad: That was the access through the woods here.

Mr. Hodgson: Okay, but the trees that were right by the access and this thing. Was that to be cleared or was that staying or what is that?

Mr. Jarrad: That was staying, it's dense wood.

Mr. Hodgson: It is dense woods.

Mr. Jarrad: This happened to cut through on Easter Sunday.

Mr. Hodgson: Okay, but all those dense woods are still staying.

Mr. Jarrad: Well, we don't know. I would hope they would.

Mr. Hodgson: Okay, because that's a pretty big buffer between your backyard. I mean if those got removed I think that would really open up your view to this parcel, thanks.

Ms. Oliver: Great, thank you so much.

Ms. Kwasny: I have a question.

Ms. Oliver: Oh sorry, go ahead Commissioner Kwasny.

Ms. Kwasny: So, you are saying that the creation of the berm at the moment is causing some runoff difficulty and you are afraid that if the ditch also gets filled in for some reason it's going to exacerbate that problem. The berm hasn't been maintained either and neither has that 3.5 acreage has been seeded, right? So, there are a number of things that weren't taking care in the original application that you feel need to be maintained or managed or addressed, right?

Mr. Jarrad: Absolutely, yeah originally they were just going to take a cut through across the drainage, it's a 20 foot x 20 foot, I mean it's huge, so now we don't know.

Ms. Kwasny: So, those are questions to be answered.

Mr. Jarrad: Yeah, absolutely.

Ms. Oliver: Thank you very much.

Mr. Jarrad: Thank you.

Ms. Oliver: Okay, ready for the next one.

Ms. Cartwright: The next speaker in opposition is Allen Prince. If you could, please state your name for the record?

Mr. Prince: Good afternoon, I am Allen Prince. I live at 1868 Chelsea Green, this time I just like to voice opposition of the proposed modifications, just for a few reasons. The first of those being the possible noise that comes along with anything industrial that butts up to a residential neighborhood. I understand buffers speaking with Mr. DeSteph up front. You know, he gave us the assurance of internal generators only. As someone who owned a food truck for six years and actually stored it when it was Barbara at the time actually stored it there again with different owners. It was different policies but I was never approached. There were never any repercussions on the few times that I did have to run a generator ever. You know, and storing it there for six years and for me that was very rare that I had to do that but when it did happen I think that drove

a question for me of accountability on the developers and to make sure that we have those assurances that the noise is kept to a minimum as it comes. The second would be, I know Mike mentioned it, is the sideline. An 8-foot fence for 9 or 9-1/2 foot containers just baffles me. I would love to have that explained just how that makes sense to trying to keep the sideline and you know just to where you see a fence but things are peaking over it. And then, lastly for me, is the hurriedness of all this. There was a real feeling but we had HOA meeting last week where we had a decent turnout for it. The majority of our neighborhood just found out about this last week. I know there are signs posted 30 days, I heard that earlier. I think from what Mike was telling me that sign posted on this is on top of the weed infested berm at the back of the neighborhood behind properties. We more or less need to walk across Mike's property to get to see that sign in order to find out about it. So, that being said and I think you know we want to make sure that everyone has time. So, Mr. DeSteph, as well as our neighborhood, have a chance to make sure that this is done the right way respectfully to the neighbors so that we can maintain that quality of life that we love in our neighborhood as well. Also, you know we understand the development happens so we want to make sure that that's done in a right way.

Ms. Oliver: Great, thank you, do we have any questions, yes Mr. Horsley.

Mr. Horsley: How close is the nearest resident to the proposed site from the blue line to the nearest resident how far is that?

Mr. Prince: Mike would answer that better, being that is his lot.

Mr. Mike: 110 feet.

Mr. Prince: 110 feet from the house.

Mr. Horsley: 110 feet from the house? And between there is a 15-foot buffer? Is that what it is tall buffer, is that right?

Mr. Prince: Yes.

Mr. Horsley: Okay, thank you.

Ms. Oliver: Thank you.

Ms. Cartwright: We have one more speaker in opposition Tracey Little, please come to the podium.

Ms. Oliver: Welcome, you will state your name for the record please?

Ms. Little: Yes, my name is Tracey Little.

Ms. Oliver: Ms. Little adjust the mic down, there you go.

Ms. Little: Was I too loud?

Ms. Oliver: Because you are too soft.

Ms. Little: Alright, that's never been said to me before. Can I share some pictures with you? I thought we would be able to use that. I've lived there since 2013. I have been to every commission meeting since the desire of Barbara to expand. My property is right there.

Ms. Oliver: Alright.

Ms. Little: And last time I spoke, it was the same thing. The property value. We didn't want something disrupting our beautiful home and you know I know the sites are not going to stay there forever but we conceded and we agreed to concessions in the property. The initial agreement was that they would have certain commissions or conditions, now they are trying to back up on those conditions. So, in the last meeting, when I spoke I mentioned this ditch. You don't see it in this picture but it runs across here and in the paperwork it shows. Yes, right there, see the wooded area in the middle that's my home. Yesterday, I went in and took the picture that you have picture 9 or 10. 10 or 11 is a picture of a tag on one of the trees in the back that says wetlands delineation. I just took that one yesterday and there are some cattails back there. They never addressed not covering up that ditch last time. It was brought to the attention of Barber, the attorney at the time and you know kind of like everything kind of just went nowhere.

There was also another delineation wetland delineation sign somewhere in that area because I walked the ditch all the way around to Dam Neck one day to see it last year. Anyway, you will also see some of the pictures with the flooding. First, we had historical flooding with Matthew but just this past May, we had more flooding and page 8 of what you have in front of you is the result of this past May and then we also have pictures there from the flooding for Matthew. I think that if this moves forward and the ditch is not addressed, you are going to have, we are going to have a lot more problems. The City is aware of drainage issues but ever since that berm has gone up and it's unsightly just as he mentioned. Ever since that berm went up, things have changed a little bit for the flooding. I showed progression in pictures of different storms before and I would take picture just because I thought wow that's a lot of water and you cannot see in page one but that ditch behind there is build up with water and it's probably about three or four feet deep. So, if you cover up that land not making any provisions for drainage and that's part of the southern rivers watershed and in their little letter, sorry I am choppy everywhere, but I

thought I'd have a PowerPoint to share. In this letter, they said that there was no adverse reaction or no adverse environmental concern in that area and I totally disagree with that. There will be adverse implications to that whole little streak there at Dam Neck and at the Harpers Road, as it goes along. You cannot see in this picture but over here it flooded drastically when we had Matthew. We have had other issues since. One of my main concerns is the noise is loud. You can hear generators. In fact, you got a picture there of the berm that's built with the grass on it. A few little shrubs put on top of it but the equipment that's stored in that backyard and this is how close my house is to that so I am looking at the ditch yesterday and I took a picture of my house, so it's pretty close if you draw a straight line, but again I am sorry, I am scattered. Page 6 is of the high tide in my yard from Matthew from the water level coming up high, see my light there. Then, page 7 was the picture of the equipment that stored in that back storage yard as well as the grass covered dole over there. So, I appreciate your consideration and your time and I think we have some legitimate concerns and I hope that you all will take us seriously and address it, thank you.

Ms. Oliver: One second. Is this the picture of the berm?

Ms. Little: That's my house; I am standing in the ditch.

Ms. Oliver: So, you are in the ditch.

Ms. Little: Yeah, that's how close I am, that's not the berm.

Ms. Oliver: What page is the berm on?

Ms. Little: The berm is on page 7. This is straight from our front yard through the neighbor's backyard.

Ms. Oliver: Great. Do we have any questions, Ms. Kwasny?

Ms. Kwasny: Tracey, is it your sense that if your HOA were able to have a meeting with the applicant that you might get some resolution to some of these issues and you might be able to present your case and your desires specifically in relation how these things can be resolved?

Ms. Little: Yes, definitely with regard to that, I am not sure at what time they placed the markers on the tree to indicate that was their wetland delineation.

Ms. Kwasny: Well, here you have some questions about that. My sense was the noise and maybe that can be addressed by a set of hours or something like that. You could figure that out

what might be amenable to you but the berm and the seedling acreage those two things as well as how that ditch needs to be maintained, okay so to me those were the four principal things. I took down from all three of you and I just wanted to know if you felt that there was, if you met with the applicant and were able to have those discussions, you might be able to get to some of those items that were to be addressed before we got to this point.

Ms. Little: Yes, I think so, and definitely I am concerned mostly for our property and you know the others backyard, I am concerned mostly for the flooding issues.

Ms. Kwasny: Oh and you had the fence issue as well, the height requirement in the fence.

Ms. Little: Yes, you can see from there, you can see the equipment, half the time when I have gone out and snapped pictures it's because I hear some low rumbling. I am like, you know, I live close to the base, my husband is a marine or was a marine, so the noise from base is not a thing, it happens quick, but when I am sitting there and I am watching TV during the day or sometimes on a weekend, I hear a noise what the heck is that and it's constant and can go for hours and I wonder what it is. I go outside and try to figure it out and usually its storage units themselves and all the work that goes on there.

Ms. Oliver: Mr. Ripley.

Mr. Ripley: I just, you know, I am trying to visualize this. I have been out to the property when the original applications came in here. There is a 15-foot berm probably as high as this room, 100-foot wide right, 100-foot wide berm?

Ms. Little: Maybe.

Mr. Ripley: So, you can see over that berm and you are worried about a 10-foot or 8-foot fence? How are we going to see whatever is across that berm? How will we do that?

Ms. Little: I didn't say I was concerned about an 8-foot fence.

Mr. Ripley: Well, everybody seemed to be, that came up here.

Ms. Little: Well, we are concerned because they will eventually, these people here and the people on the other side of the neighborhood, they will be able to see the things that are stored in that yard.

Ms. Ripley: I am just having a hard time visualizing it. I haven't seen any application and I have been on the commission since 1999. I have not seen a buffer like that before, that's a huge buffer that ought to be commended that you got right now.

Ms. Little: In what, here. We should be happy for that right there, you say.

Mr. Ripley: The purpose of the buffer was to buffer now how it looks again how bad but it is a sizeable buffer that would buffer I would think, sounds significantly and I would think also visually and credibly, so I'm having a hard time understanding the issue.

Ms. Little: Visually yes, it does block some of that. Mike has a second story home, so he can see it from his second story. I can see it from my second story, I cannot see everything that goes on there but that doesn't detract from the sound. The sound is what we can hear. Again, Mike said because of the field, because of the openness.

Mr. Ripley: Was there something there now?

Ms. Little: In that yard?

Mr. Ripley: Yeah.

Ms. Little: Yes, I showed you a picture; they are storing things in this yard now.

Mr. Ripley: What kind of sounds do you hear?

Ms. Little: Mechanical sounds, working sounds and if they allow the generators to be hooked up to all of those that field does carry sound. I can hear sound from Dam Neck, right there, my house is there and I can hear sound from there. I can hear the cars racing and everything else at night just because they come across the field, pretty loud.

Mr. Ripley: Okay, alright, thanks.

Ms. Oliver: Anybody else, Mr. Horsley?

Mr. Horsley: Yes, you know, the main thing I can say from your pictures is that there probably does need to be some drainage work done out there somewhere. I don't know exactly where but with all due respect some of those dates on there were read after we got 13-inch rain and the water will be standing on top of the hill when we get 13-inch rain. So, on the ninth day of October in 2016, we had water everywhere. We had water to the ears of my corn that was in the field so we had lot of water then. It appears to me that there probably does need to be some drainage but I kind of agree with Ron and maybe we need to take a trip out there Ron and see how these work. But, it looks to me like from what I see there's more than adequate buffer than we give most anybody. In the car wash while ago with 15-foot buffer and here we have got a 100-foot buffer, that's 15-feet high according to what we have understand and of course you says it grow up in weeds. I mean that's vegetation. The only thing I can say about that. I am not a big fan of weeds either but I prefer to have some nice bushes up there but maybe there are some conditions on the original permit that weren't adhered to. We need to check into that but it

appears to me that there is more than adequate buffers here but as I like say the drainage is the main thing that concerns me and I think there does need to be some looking into for that. I guess with the property owners to see, I don't know how they main out fold is but that ditch that's grown up in trees that's a big problem with ditch, ditch grow up in trees don't drain very well, so that does need some attention. I can attest to that so you have got some concerns but also I think you know the buffer seems to be to me seems to be more than adequate really.

Ms. Little: The only buffer they have is adequate. Yes, I agree but moving forward when they do construct it. It would be nice that they would stay in the limits and not go over the limits. Mr. Prince mentioned, we had another gentleman who just bought a property at the other end of the property and his property sticks out right here. I believe that's right. So, he can see everything in the field so it's more of a visual eyesore and you know my disagreement with all of this was you know you have got a very nice neighborhood. We pay high taxes. You all agree with that but now we are going to be abutted up to industrial zone areas and it can't stay that way forever but a bulk storage yard and you know the nastiness that comes along with that is you know just in my opinion not something I want to live by. Its something that I wouldn't have ever preferred.

Mr. Horsley: That's the only question I have. You have indicated to me that there are lot of, seems like lot of work goes on in this storage yard. Usually the storage yards is for storage. You put a vehicle there and they don't usually get to do a lot of work there. DeSteph, can enlighten us on what type of work actually goes on there but I am not accustomed that it's supposed to be a lot of work that takes place in a regular storage yard.

Ms. Oliver: Thank you.

Ms. Cartwright: We do have one more speaker in opposition, Ms. Marsh, please come to the podium.

Ms. Marsh: Good evening Planning council members, I haven't had the opportunity to speak to you before but I am really happy to be here.

Ms. Oliver: If you could state?

Ms. Marsh: My name is Ronda Marsh, Lindal Crescent Thalia. I am here to speak about trees. Ms. Henley gave an extensive, extensive presentation yesterday about trees and from what I see there are trees on this property and they were talking about the development where there might be some trees cut and the person representing the city. I don't know her name of hand, she was saying we need to really step back and look at that because the trees minimize flooding and

that's what I am all about, about flooding and wasting money, cutting down trees and creating flooding and then having to fix it, so it would really be beneficial if someone could look at this. Marchelle Coleman, she could understand the trees and how are the trees affecting the flooding and the drainage and keeping things so that they don't get worse. You have got a major road out there. You have got Dam Neck and we just cut down a whole bunch of trees for the sports complex. We cut down the small forest and it was just so funny that it was literally less than a month ago before Ms. Henley spoke that the trees were there and then they were bulldozed for the sports complex, which is in an area that has extensively bad flooding on 21<sup>st</sup> and Arctic. So, as you profess to want to do good things. You should really understand about the trees because this seems to be a new focus that Ms. Henley and the Council have. If you would like I can go and find the name of the person from the VBgov department that spoke yesterday to the general council and spoke about the trees, so if you are looking at this are we really taking into account the trees, are we being careful with the trees. Has Ms. Coleman received the new memo that were all about trees and we are trying to stop flooding? Because if you just bulldozed ahead and cut the trees down, trees take decades, the trees by CTAK, they are on the sports complex land, they were a grove, they are going to take decades and decades to replace. They are not going to be replaced, they are going to be replaced by asphalt, so I really would ask you to delay this and just make sure that you know what's going on with the trees because you cannot replace the trees in an instance. You know, if any of you have ever a gardened or grown anything, it takes a long time and it would really be beneficial to know what all those trees are, what's going to be left and what's going to go. Just make sure that it doesn't add to the already bad flooding we had City wide.

Ms. Oliver: Thank you, Mrs. Marsh. I do believe and I am sure that somebody over there can correct me if I am mistaken that this particular piece of property within that blue line is field. It's farm land if you can see, it is. What he is going to use it for is field and actually what we are addressing just to concern you. We have got a pointer right here Ms. Marsh.

Ms. Marsh: These look like trees to me; those look like trees to me guys. I mean, I am happy to go out there and take a photo.

Ms. Oliver: No, no, we will get city staff to double check it.

Ms. Marsh: It looks like trees. I am sorry, this I mean again.

Ms. Oliver: Ms. Marsh, we have a pointer over here. If you don't mind, but that's an already approved application, right?

Ms. Marsh: It looks like field to me. I get that that's field. I think that's field, but those guys right there, those look like trees that looks like trees and I understand what you are saying but I am saying that City Council yesterday it was amazing to me that after they had just bulldozed most of the trees in Bird Neck. They said trees are the be all end all and here we have trees and now you are going to vote on something that has trees, you are going to.

Ms. Oliver: To be honest, this application, this is an old application and so what we are dealing with is the entrance into this, so this has already been approved. So, what we will look at is the piece where it was supposed to be treed that we didn't get it treed, so we will go back through that. So, we understand that how long it takes to get trees. We are not going to try to do anything to harm our land by any means or encourage more flooding than we already have.

Ms. Marsh: Great, save trees.

Ms. Oliver: Absolutely, thank you for speaking.

Mr. Horsley: Madam chairman if I may, we hit a nerve I think. I have noticed the presentation that this lady is talking about. I heard a portion of it Monday night myself. There is a movement to save as many trees as possible but we all know that, well in this instance that runs a single line of tree there is blocking the drainage. I can see that from the pictures, so that you know we cannot say if all of those and most of them are myrtle bushes that can't really big full-fledged trees, but what the goal is they calculate and come up with the amount of absorption that trees make. The big trees from the greenery at the top and how much water they take out and the root

systems how much that keeps from flooding and washing and things like that. We all realized that trees eventually, like everything else, they have to be harvested and things like this and have to be replaced with some other things such as buildings for instance, you know. Sometimes there needs to be buildings where there are trees so we try to conserve as many trees in place. I happened to be a farmer and I plant trees. You can plant trees in wetlands but they won't let you farm wetlands that produces hard value crops but anyway that's a different story. I do understand what you are talking about and I appreciate your enthusiasm about saving trees. Ms. Henley passed out a pamphlet the other night at that advisor meeting that I happened to attend and about this movement that's going on now to do this. I didn't get all of the details but I do understand that but just keep in mind that you know trees have their place and we don't want to destroy all of the trees but if you take a airplane ride over the state of Virginia you will find out about 60-70% of the state is covered with forest. Eventhough, we don't realize it in this area. I understand what you are talking about but there are times when trees have to be moved for other reasons.

Ms. Oliver: Do we have any more speakers?

Ms. Cartwright: No, that is all.

Ms. Oliver: Alright. Senator would you like to rebuttal or comment.

Mr. DeSteph: Actually, I am just going to answer pretty much all the questions that have been asked and address them so we can alleviate some of the concerns. I will first start on the 3.5 acre re-force station that was supposed to have been done here. Again, it's not in the area we are going to develop, developing areas here that 3.5 acres upon starting the development, we read the requirement previously and we stated that once we start development, we will re-force that. Again, that's not my responsibility that's part of the owner who owns all the property over here and who said they were going to do it in 2015, as soon as we start development we will actually take care of that. Secondly, I want to make sure I hit this in order nothing from the original application is going to change except those three things we asked for, that's it. Third, there is no work that's done on-site here right now, absolutely no work other than there is a gentleman who is storing equipment here and working on the operations of that. I don't know all the equipment but once we take control of the property all of that goes away. What's not going to change is any of the farm work that's being done on the 121 acres here. Any other farm work being done here, I don't control that. I will have no control over it, they are still going to farm it but it's also going to continue. They are going to have excavators come in and continue to clean the ditches. I have no control over that.

I will have control over all the drainage in here and every lot that we have done for storage, and we got four of them now, we have not had one issue on stormwater holding or drainage from the time we take over the lot. When we take this over all the water is not going to be drained this way the way it does today, it's going to drain the other way. We have pipes, ditches, drainage, and everything else to handle that. The tree buffer in the bank and the berm so we are going to weed. I will make sure that 3.5 acres get done here, everybody has my number and if I say I'm going to do something I do it, that's pretty clear of that. The 100-foot berm that's 100-feet long 15-feet high from the line of sight of these houses, if you can see over those berms, the only thing you are going to see a 100-feet is right over this area at a 15-foot berm and 100-feet. You are going to see about anything higher than 25 feet. That's just algorithms and the logic of that. You are just not going to see anything below that unless you are standing on the second floor then you are looking at second floor is 12 feet, still a 15 floor berm at 300 feet, so you are still talking about, you will see anything about 14-feet and above if you are standing on the roof. You

will be able to see anything that's about 6 feet high or more on the other side of this. Again, I am just laying out map and logic here. When we get into taking over this lot, there are trees we have got worked with the Army Corps of Engineers. Engineers are ready. There is a 250-year-old tree here that's originally was going to be part of a lot, we are actually carving that out, leaving that tree because we love trees too. We are not going to damage any of the old trees. There is one tree that's right over 100 years old, there is another tree that's right over 250 years old. We are going to preserve everything with those trees. The original plan had all those trees bulldozed over, we are not going to do that. Drainage, I have already addressed that but we have got our drainage taking care of in this. We have BMPs and all of our other lots that are supposed to. There are basically dry BMPs except when it rains heavily. We have never had rain or we have never had water in those BMPs for more than 24 hours. Our drainage works exceptionally well. We over engineered for the drainage. We always have and we always will. Where the 100-foot berm is over here, anything west or north of that, I have no control over that, that's property I cannot touch. I cannot control that property. It has nothing to do with this development. It will be part of the next development when economic development and everybody else come in on the rezoning of this area here. Again, I have nothing to do with that, I am not party to any of that and I don't control any of that. Everything that I will control, you will not have an issue with drainage off of that property period. We will take care of all of our own drainage, the original site in here was never actually developed, so we will actually develop the site.

The gentleman on the Town Bank board said you don't have to worry about it because there is no loan on the property and I am funding the development, so if you are on a bank board, you don't have to worry about it, you can vote for this. If you don't want to, you don't have to, but there are no conflicts and you will have to disclose anything on that. The internal generators right now with I guess about 1400 spots. We have four ice-cream trucks. We have about a 100 RVs. The total time any internal generator is running is less than 15 minutes from the time they fire it up, un-plug it and then drive off the lot. You truly can't hear the internal generators or the external generators like the food trucks. We have in our leases, you will not run any external generators. If there is anything that needs an external generator and they are interested in leasing in here, we will swap them out with something on our other lot that doesn't have the generator, so there are no issues with the generators. We can handle that with managing 1400 other lots or spaces, I am sorry not lots, four other lots, 1400 other spaces. There is going to be an 18-foot, an 8-foot fence around there that was part of the original one we are not asking for any changes to

that, we are still going to do that. The berm, there is growth on there, there is weeds, there is all kinds of natural habitat growth on there, you know, we are not going to do anything with that berm to cut it down. We are happy to throw bushes on there to make it more appealing to the neighborhood if they like to see a row of bushes on that; however, we will do something that's indigenous to the area. We have addressed the line of site, on the signs, we have actually had four signs on the site. This property, on every corner of the property, has had a sign on it to include Dam Neck Road, for almost 60 days. It's required for 30 days but we delay the application for 30 days, so we have had it for 60 days on there. We have been contacted by two individuals in the neighborhood and I have invited them in, sat down and talked to them. We went through the entire plan. There issues warrants as much with this. There issues were with children from the neighborhood sliding on the berms. They didn't want to go into wooden fences. They would rather we have chain link fences because wooden fences hit kids that slide down the berms. They will hit the wooden fences and immediate stop and they get injured. They would rather have chain link fences that absorbed the sleds a little bit, again I am just telling you what their concerns were when they came in. We talked to them about that. We brought that up with Planning that hey here was a concern on this, again, we have listened to the neighbors who have contacted us and had any concerns. The Corps of Engineers study on the ditches the drainage and flooding in the area, we designed this area to handle all of the drainage and any of the water around here. I have not looked at the agricultural land over here and I am not going to look at that, that's another application that's going to come before you all. I am not going to have anything to do with that, so you will be able to address that later.

On this ditch from here, this way I have no control over this ditch here. I will have no control over that. I am not going to promise anything on that. This way that ditch will actually flow, we have already got everything lined up. We have got our BMPs laid out so the entire engineering plan of that we're good to go on that. We believe it's the right plan to do and it handles any water that would possibly come off that. I think we can handle 18 inches of water if I am not mistaken with the design we have but we can handle about anything that would happen and I can tell you that water is not going to come off of this property over the berm into these unless we have catastrophic flooding which water before that happens. We are going to have to worry about it coming from over an here before that ever happens. Noise from the farm equipment, the noise from the excavators, the noise from Dam Neck road, I am sorry I can't control any of that. I don't control the farm land. I don't control any of the way the excavators are clearing the ditches or not. I don't control any of that. I am not going to have any control over that. I will have complete control over everything within the storage lot. We have individuals who go

through the storage lots right now four or five times a day from the time we open. We have access controls, gated access to all of our storage lots that will continue that will have access from 6 in the morning till 10 at night. After that, you know, have to worry about anything going in or out unless there is an exception. An exception would be if the City needs access for a specific thing or if law enforcement needs access for a specific reason. We do open it up for those reasons. We have addressed the trees. The tree over here identified that 250-300 years old we are not messing with that tree, we are going to keep it, original plans had it bulldozed that was approved. We are not touching it. We have redone our plan to make sure we leave those big mature trees alone and again the farming which combines, tractors, excavators, clean the ditches and all that equipment I don't have any control of. Anything outside of our area and then within our area the development we do we don't start before 7 a.m. and we knock off by 6 p.m. every day, so you won't hear any noise from our property before 7 or after 6 p.m. On the lighting, we put, think that the zoning ordinance says it's 14-foot lighting, we have identified a new LED light that's actually 12-feet high, so we we'll have that, we we'll have the entire property under surveillance with cameras. We get notification of everybody going on the property two or three multiple ways so we have got a pretty good idea of the maintenance or management of this that will be done properly. We have never had a complaint from any of the neighborhoods. Two of the ones we have are off of Central Drive, two of the other ones are in the Norfolk are in residential areas. We have never had one complaint, as a matter of fact, the only thing that we have had is we have had neighbors applying for jobs for the maintenance jobs or thanking us for

a cleaning up not just inside our fence. We clean up inside our fence. We also pick up the trash outside of our fences of all of our lots. So, we are very conscious to that. We operate a good clean operation and that's why we continue to expand. With that, I am happy to answer any questions or concerns.

Mr. Hodgson: Thank you, any questions for Mr. DeSteph.

Mr. Horsley : I have one question.

Mr. Hodgson: Mr. Horsley.

Mr. Horsley: Why did he store these long armed things which boom all the way up in the air?

Mr. DeSteph: I don't know why they do that. This lot here were primarily looking out for RVs, trailers and things like that. Any industrial equipment like that, you won't have stored in these

lots. We actually will swap out and storming our other lots which are truly laid out for industrial equipment. With something like this, we would not put any industrial equipment in there.

Mr. Horsley: I've often wondered why they did that. I am sure there is a reason but I don't really know what it is.

Mr. DeSteph: I have no idea. I know why they have the buckets so they drain and don't retain water. I don't know why they put them all the way up in the air unless they've got a generator on them and they don't want them stolen, that's the only thing I can think.

Mr. Wall: On the original site plan that's identified as Creech outside storage on page 7 of the packet, it's showing that there is, it shows a buffer on Dam Neck and it shows buffer preserved like a wooded tree buffer on Dam Neck where it says and I am sure it wouldn't impact the existing tree berm?

Mr. DeSteph: You are referring to the original tree buffer through here?

Mr. Wall: Right, yeah.

Mr. DeSteph: None of this will change, all of that is going to remain the same.

Mr. Wall: All of that remains the same.

Mr. DeSteph: Absolutely, every bit of that will stay, this area will be re-seeded. This is your buffer that's there, none of that is going to change. I will ensure this 3.5 acres which I don't have control over, I will ensure that seeded with nice seedlings, of indigenous things like when we do reforestation of our farmland.

But we plan on taking zero trees out of this. We plan on leaving all of the buffers in this area. We don't want to touch any of it. And as a matter of fact, we don't plan on having access through here at all so probably let that go back to however the growth is. We are not going to have access out of this lot here at all.

Mr. Wall: You know I understand that. You don't control the property where the seedling plantings are going to be on that next to the residential neighborhood Prince George Estates that you know I guess they are just going to discuss, I am not sure how that was ever.

Mr. DeSteph: I have texted Mrs. Creech and told her that we need to re-seed this and she said that was never re-seeded because they never developed this. I told her as soon as we start developing, we are going to re-seed this area or as soon as I take control. She has no issues with

it. I text her to while I was sitting here. I just want to address anything that comes up because we are trying to do the responsible thing. Last thing, I want to do is upset a lot of people.

Mr. Weiner: What's the lot going to be. Is it going to be paved or is it going to be like a hard pressure one?

Mr. DeSteph: It is going to be various gravel all the way up and I think the last on this one I think it's going to be 57 stone if I am not mistaken. We do that for drainage and part of the reason you do that is to store most of the water on the property. The capacity the way we design these, we're able to store in the 1000s of cubic yards of water right there on the site because you have clay and sand and large stone and stone, and stone all the way up. So, a lot of the water capacity will be taken here and stored underneath the gravel and you won't have that immediate drainage runoff that gets absorbed back in slowly over time.

Ms. Oliver: Anybody else?

Ms. Kwasny: I have the two questions remaining so, you said your hours were 7-6?

Mr. DeSteph : 6 a.m. to 7 p.m., when we do construction like as we develop. When we develop the site, it will start at 7 a.m. and it will be finished by 6 p.m. the development of the site itself.

Ms. Kwasny: And the hours of operation again will be?

Mr. DeSteph: Will be 6 a.m. till 10 p.m.

Ms. Kwasny: Can you put a limitation on? I am concerned about those generators despite the fact that you say they are quiet. I can understand that they need to be turned on in order to maintain

product in the transition from unplugging and leaving the site. Whatever the case may be but you know generators running at 6 o'clock in the morning and that have to pick them up for business but 10 o'clock at night can there be a different limitation that might be more, you know, in keeping with a neighborhood way of life for their quality of life.

Mr. DeSteph: We can put it on lease, but I will be honest with you, if you are picking up your RV on a Friday morning or a Saturday morning to go out of town, you're going to attach to the generator. I am being as honest as possible, we cannot control that. We can put it on a lease, but it's going to be almost impossible to enforce.

Ms. Kwasny: That was the answer to the question. So, how many trees did you say you are preserving? One?

Mr. DeSteph: No, we have one but we are going to be preserving a lot of trees but we cut out one of the areas over in here where it was on the original site plan to develop. We cut that out because there is a 250-year-old tree and another 100-year-old tree here. We are going to preserve everything around those trees to include those two trees. The big thing was we didn't want to do anything to impact those two big trees. On the original plans that was approved in 2013 or 2015, those two trees and a lot of the other trees back there were going to go. We decided when we walked through there with the Corps of the Engineers, well first we decided when we walked the property, we didn't want to get rid of the trees because they are really cool and really big. Secondly, we went back there with the Corps of Engineers. They saw the things, said hey are you going to bulldoze these trees. We said absolutely not. We are going to keep these trees and do everything what we can do to keep these trees. The Corps of Engineers at that point said hey great, we are going to tell you that we would like you to keep this one over here which was 100-year-old tree and the other one is out further and we said no we are going to keep both the trees. We don't want to mess with either of those two trees.

Ms. Oliver: Anybody else, no okay. Thank you, alright, we will close this hearing and open it back up to the commissioners for discussion. Anybody would like to go, yes, Mr. Redmond.

Mr. Redmond: Thank you, I want to say I think we need to keep in mind here. This is a very narrow application and I don't want to get lulled into this notion that we are re-litigating the appropriate use for this site, it's already been zoned, so this is about the access, it's about the

generators. One other issue, height, behind a 15-foot berm and the applicant has agreed to a 10-foot height restriction, so before we go and open it up to a broad-ranging discussion about all the things, it's not about I think we had to focus little bit on what it is about. It is really strictly the biggest issue it seems to me is about access and I cannot find anything in this that I find objectionable about that, but we really didn't talk about it much, so I do think the applicant has made very good faith effort to address some of the concerns that have been expressed. Even if they are not concerns for which he was responsible. I agree that the notion of inadequate buffering just doesn't to me make any sense, 3.5 acres and a 15-foot berm to me is plenty of buffer and rare in fact in my experience, so based just on if we look at this not on, you know, broader issues that have been settled some time ago. This strikes me as, you know, not a particularly complicated application. With regard to drainage, this still will go through site plan

review and that's when drainage is addressed. Drainage has never been part of the consideration as it is today, it's probably one of the, you know, the most focused upon topics in any kind of development throughout the city, so I have no doubt that that will be adequately addressed. I think this is an entirely reasonable application particularly with it's taken the height limit off the table that's why I don't have any problem supporting it and I will look forward to doing it, when we do.

Ms. Oliver: Yes, Karen.

Ms. Kwasny: I know we turned it to close session, but I just want to see if four points were confirmed by the applicant without a waxing poetic moment, but just a confirmation of four points.

Ms. Oliver: Okay.

Ms. Kwasny: May I do that?

Ms. Oliver: Yeah, actually. Senator would you step up for us, thank you.

Ms. Kwasny: I kind of just need a yes or no. So, you did say that you would I am not sure if you said, you would maintain but you would provide some management and tree the berm in some way?

Mr. DeSteph: Today the berm has weeds over top. We are happy to put bushes on top, again I don't control access. I don't control that berm in that property so I would have to work in arrangement with Barbara Creech and I can ask her about it, we are happy to put bushes on the top of the berm which would bring you up to 20-25 feet.

Ms. Kwasny: And, you also said that you would seed the 3.5 acre area at the point of development?

Mr. DeSteph: Correct and we will re-seed that.

Ms. Kwasny: And you also said that you will put a 10-foot height restriction limitation, correct?

Mr. DeSteph: Absolutely, we will have that.

Ms. Kwasny : And you said that you would put in the lease a time constraint on the generators, can you be specific?

Mr. DeSteph: We have in our leases today, every single one of our leases says that no external generators are allowed.

Ms. Kwasny: Well, I know that.

Mr. DeSteph: So, that's in my lease. On the internal generators, we can put in the lease and another paragraph specifically to this thing. On your internal generators you can't start before a certain time or after a certain time, it's going to be impossible to enforce it; however, we are happy to put it in the lease.

Ms. Kwasny: And then my last question, actually it was five. Was that you are going to in your storm water maintenance address to your area, you are going to address your part of the ditch is what you are saying. You have no control of the other one, which I understand because that's a different property and a different application coming forward at some point, but you have got part of that drainage ditch, you will be addressing.

Mr. DeSteph: Correct, everything in the lines of blue up there, I will be taking care of 100% of it.

Ms. Kwasny: I just want to clarify that, not for me, but for the residents who are concerned about it.

Mr. DeSteph: Yeah, we will take care of everything on the inside of that.

Ms. Kwasny: Alright, that's all I have.

Ms. Oliver: Okay great. Thank you.

Mr. Weiner: I just want to point out one thing, one thing I am really impressed about that the lot itself is not going to be concrete and it's going to be permeable and water is going to drain

through it, that's big. So, it's going to keep water from going into the neighborhood. I like that.

Ms. Oliver: Anybody else, no, do we have a motion. Mr. Hodgson.

Mr. Redmond: Madam Chairwoman, I move that we approve the application.

Ms. Oliver: Great, second?

Mr. Hodgson: Second.

Ms. Oliver: Thank you. Call for the question.

Ms. Cartwright: By recorded vote of 9-0, item number six has been approved.

Ms. Oliver: Thank you.

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

**PROFFERS**

**PROFFER 1:**

Proffer numbered 1 as set forth in the 2015 First Amended Proffers is hereby re-adopted and shall read:

When the Property is developed, it shall be developed into a bulk storage facility within heavy landscape buffers as shown on the exhibit entitled “CONCEPTUAL SITE LAYOUT 7 LANDSCAPE PLAN OF CREECH OUTSIDE STORAGE, Virginia Beach, Virginia”, dated March 24, 2014, and prepared by MSA, P.C., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development (hereinafter “Site Plan”).

**CONDITIONS**

1. Access to the Bulk Storage Yard shall be from Dam Neck Road from an existing 30-foot private ingress/egress or as otherwise approved by Traffic Engineering. As required by the Zoning Ordinance, the vehicular ingress/egress to this site from Dam Neck Road or any other easement or right-of-way shall be of a like zoning of the Bulk Storage Yard site or a more intense zoning classification than that of the Bulk Storage Yard property. The rezoning of the commercial entrance to the site via the private ingress/egress easement, as depicted on the

proposed plat entitled ‘Subdivision Plat of Parcel D, dated July 27, 2018’, and prepared by MSA, P.C, shall be approved by City Council prior to site plan approval of the Bulk Storage Yard.

2. The Bulk Storage Yard shall be used for the storage of licensed and operable motor vehicles including: cars, recreational vehicles and buses, and boats on trailers that are licensed and operable (the trailers), including panel trucks that are not permitted to be parked in residential communities. No storage of construction equipment shall be permitted at this facility.

3. No equipment shall be stored in the Bulk Storage Yard other than in fully enclosed steel storage containers. No storage containers shall be permitted to be stacked. Any storage containers on the property shall be located on the ground.

4. External generators shall be prohibited from operating at any time on the property.

5. All outdoor lighting shall be shielded to direct light and glare onto the premises. Said lighting and glare shall be deflected, shaded, and focused away from adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

6. No freestanding signage shall be permitted along the Dam Neck Road frontage.

7. Access to the facility shall be restricted by a gated entry containing a keypad. Access shall be available only from 6:00 a.m. until 10:00 p.m.

8. The storage facility shall not be used for any purpose other than the storage of vehicles and goods as identified in Condition 2. No person shall be permitted to reside at the facility, and no other repair, retail, or other similar business shall be conducted on the site.

**Item #7**

**Kirbor, LLC**

**Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)**

**3716 West Neck Road**

**District – Princess Anne**

**October 10<sup>th</sup>, 2018**

**CONSENT**

Mr. Hodgson: Thank you, Mr. Redmond. Next item is number 7, it's an application of Kirbor, LLC, and it's an application for a Subdivision Variance, Section 4.4(b) of the Subdivision Regulations on property located at 3716 West Neck Road in the Princess Anne District. Good afternoon.

Ms. Bourdon: Good afternoon, thank you Commissioner Hodgson, Madam Chair and members of the Commission. For the record, I am Eddie Bourdon, Virginia Beach attorney representing Kirbor. LLC. I appreciate Mr. Davis's work on this application. All three conditions are acceptable to the applicant and I greatly appreciate being on the consent agenda today.

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

Mr. Horsley: Thank you Jeff. According to the application, the subject parcel was subdivided by deed back in 1956, and placed in the deed book back then, but as a lot of parcels were in the days of the Princess Anne County before the city incorporated and joined with Princess Anne County to become the City of Virginia Beach; this lot was correctly done according to the city ordinance itself. So it was divided by deed and conveyed by deed and a home was built on it. And now the applicant decided that they want to demolish the existing residence and build a new single-family home. They applied to the Planning Department and found out that it wasn't properly recorded and it doesn't meet the subdivision standards now by about 45 feet roughly too narrow and some 2,400 and some square feet too small of a lot size. Thus requiring variances for the 45 feet and 2,500 roughly square feet to bring that up to par with the current regulations. That's what the current owner wants to do and staff seems to think that it is alright according to the existing property surrounding this property. So we decided to put it on the consent agenda today, thank you.

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

## **CONDITIONS**

1. When the property is subdivided, it shall be substantially in accordance with the submitted subdivision exhibit entitled “PRELIMINARY SUBDIVISION PLAT OF 3716 WEST NECK ROAD PROPERTY OF KIRBOR, LLC” dated July 30, 2018 and prepared by Renew the Bay, LLC. Said exhibit has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. A final plat shall be recorded with the Clerk of Court reflective of the layout referenced herein.

2. When the property is developed, the residential dwelling constructed shall substantially adhere in architectural features and appearance and size to the submitted elevation, entitled, “THE THOMAS KIRBOR HOMES”. Said elevation has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.

3. Prior to the issuance of a building permit, approval from the Virginia Beach Health Department for private well and private septic facilities shall be obtained.

### **Item #8**

**SectorSite, LLC**

**Conditional Use Permit (Communication Tower)**

**3386 Holland Road**

**District – Rose Hall**

**October 10<sup>th</sup>, 2018**

## **CONSENT**

Mr. Hodgson: Thank you Mr. Horsley. The next item is number 8, it’s an application of SectorSite, LLC for a Conditional Use Permit for a Communication Tower on property located at 3386 Holland Road, this is in the Rose Hall District, is there a representative for this application? Good afternoon.

Ms. Murphy: Good afternoon, madam Chair, Vice-Chair, and members of Planning Commission, for the record my name is Lisa Murphy and I am here today on behalf of the applicant and we accept all six of the conditions, we appreciate being placed on the consent agenda today.

Mr. Hodgson: Thank you. Is there any opposition to this being placed on the consent agenda? Hearing none, Ms. Oliver has asked Commissioner Jack Wall to please read this item.

Mr. Wall: Thank you. This application is for Conditional Use Permit for a Communication Tower. In 1982, the two-acre site was developed with a 32,000 square-foot office building and parking lot. The applicant is requesting a conditional use permit to construct a communication

tower on the rear of the parcel, within the forested area of the site. The applicant has submitted a coverage prediction report that supports the claim that those who live and work in the surrounding area are experiencing network overload due to extensive customer use. There are no existing tall structures within the vicinity of the site that could be retrofitted with equipment to address the network issue; therefore, the proposed tower is requested. The tower is designed to accommodate additional providers for collocation of equipment as required. The 125-foot tower is proposed as a galvanized steel self-supported monopole with exterior-housed radio equipment at its base. It will accommodate up to five sets of antennas. The tower and supporting ground level apparatus will be located in a leased area of approximately 2,500 square feet and will be enclosed with a chain-link fence within the wooded area of the site. A 15-foot wide access easement is proposed to provide vehicular access to the leased area. The conditions are amenable to the applicant and Staff recommends approval, therefore, we have placed this item on the consent agenda.

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

**CONDITIONS**

1. The Communications Tower shall be located within the lease area and developed substantially in conformance with the submitted plan package entitled “Site Plan, 3386 Holland Road,” drawn by BC Architects Engineers, and dated July 25, 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, if any, on the site and sign diagrams shall be required during detailed site plan review.
4. Subject to federal law, the maximum height of the tower shall be 125 feet above ground level, 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 #9**

**Larae Tucker**

**Conditional Use Permit (Automobile Service Station)**

**Portion of 1093 Laskin Road**

**District – Beach**

**October 10<sup>th</sup>, 2018**

**CONSENT**

Mr. Hodgson: Thank you Mr. Wall. Now we are going to back on track here, this is Agenda Item number nine, it's an application for Larae Tucker for a Conditional Use Permit for an Automobile Service Station on property located at a portion of 1093 Laskin Road in the Beach District. Good afternoon.

Mr. Nutter: Mr. Hodgson thank you very much. For the record, my name is R. J. Nutter. I am an attorney worked with Ms. Larae Tucker as well as 7-Eleven on this application. We appreciate being placed on the Consent Agenda, I want to thank Staff for all the work on this, really great design picked out by probably a genius. I did want to let you know, we are excited about the site and the conditions were acceptable.

Mr. Hodgson: Thank you Mr. Nutter.

Mr. Nutter: Thank you.

Mr. Hodgson: Is there any opposition to this matter being placed on the Consent Agenda? Hearing none, our chairman has asked Commissioner David Weiner to please read this item.

Mr. Weiner: Thank you Mr. Hodgson. This is a Conditional Use Permit for an Automobile Service Station. The 61,389 square-foot vacant site is located at the corner of Laskin Road and Birdneck Road and is zoned B-2 Community Business District. It is the applicant's desire to subdivide the site into two parcels. The western proposed parcel consisting of 34,931 square feet is the subject for this request. The parcel proposed to be developed with a 2,940 square-foot convenience store and 12 fueling pumps. The fuel sales require a Conditional Use Permit for an Automobile Service Station. We recommend approval and put it on the Consent Agenda.

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

**CONDITIONS**

1. When the property is developed, it shall be in substantial conformance with the submitted Concept Plan entitled, “LASKIN RD. AND BIRDNECK RD. PRELIMINARY LAYOUT PLAN”, prepared by Blakeway Surveying, Engineering and Environmental, dated 8/08/18, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

2. The exterior of the proposed building, fuel canopy, and dumpster enclosure shall substantially adhere in appearance, size and materials to the elevations entitled, “7-ELEVEN STORE 1093 LASKIN ROAD VIRGINIA BEACH, VA,” prepared by Intrepid Design, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning and Community Development.

3. The freestanding sign shall be monument style with a brick base and substantially adhere in appearance, size and materials to the submitted freestanding sign exhibit entitled, “7-Eleven #1042470,” prepared by Harbinger, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning Department.

4. Signage for the site shall be limited to:
- a. Directional signs.
  - b. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set on a brick base and two (2) building and/or canopy signs.
  - c. No striping shall be permitted on the fuel canopy.
  - d. There shall be no other signs, neon signs, or neon accents installed on any wall area of the building, on the windows and/or doors, canopy, light poles or any other portion of the site.

5. At the time of site plan review, a Landscape Plan reflective of the plant material depicted on the Concept Plan referenced in Condition 1 above, and meeting all of the requirements of the Zoning Ordinance, shall be submitted for review to the Development Services Center and shall obtain an approval prior to the issuance of a building permit.

6. At the time of site plan review, a Photometric Plan shall be submitted for review and shall contain foot-candle lighting readings for all areas of the site including the perimeter. Said plan shall also specify light fixture height, light fixture type, proposed shielding, and light dimming capabilities.

7. All light fixtures on the site shall be no taller than 18 feet in height.

8. All light fixtures shall be shielded away from the adjacent residential uses to the southeast of the site.

9. The dumpster shall be enclosed with a solid wall in a color and material to match the building and any required screening shall be installed in accordance with Section 245 (e) of the Zoning Ordinance.

10. No outdoor vending machines and/or display of merchandise shall be permitted.

11. All vacuums and air pumps shall be screened from the right-of-way with a wall and plant material of a size and species acceptable to the Development Service Center's Landscape Architect, all of which shall be depicted on the Landscape Plan.

12. Prior to the release of the site plan, a no ingress/egress easement shall be established along the entire length of the property lines adjacent to both N. Birdneck Road and the Laskin Road feeder road, other than the vehicular ingress/egress depicted on the Concept Plan referenced in Condition 1 above. This limitation is for proposed Parcel X only, as a shared access point along Laskin Road will be created when Parcel X and Parcel Y are platted.

**Item #10**

**Dorie E. Millford and A. Christine Carroll**

**Change in Nonconformity**

**4201 Ocean Front Avenue**

**District – Beach**

**October 10<sup>th</sup>, 2018**

**DEFERRED**

Ms. Oliver: Thank you commissioner Inman. The next order of business is to address those items to be deferred or withdrawn. Anybody have any items to be withdrawn or deferred, thank you.

Mr. Watson: My name is Jeff Watson and purpose of the applications on item 10 and we would like to defer that till November.

Ms. Oliver: Okay great, thank you very much. Are there any other, anybody have any objections to item 10 being withdrawn or it's actually being deferred, and the chair is also aware that the other following items have also been requested for deferral that is item number 13, for an indefinite deferral. So can I have a motion on the deferred items number 10 and number 13 please?

Ms. Hodgson: Ms. Oliver I will make a motion to prove the deferral of agenda item number 10 and number 13.

Ms. Oliver: Can I have a second on that?

Mr. Horsley: Second.

Ms. Wilson: Mr. Ripley, are you going to abstain from number 13?

Mr. Ripley: Yeah, I probably, yes I should abstain from item 13, we are a landowner in this district and I think we are probably the only one that's owned this at the moment and so what may be beneficial or detrimental to me in a business way, I need to abstain.

Ms. Cartwright: Okay, right, alright, by the recorded vote of 8-0, items number 10 and 13 have been deferred with Commissioner Ripley abstaining.

(Correction to Ms. Cartwright. The recorded vote was 9 - 0 for item number 10 and 8- 0 for item number 13 with Mr. Ripley abstaining)

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

**Item #11**

**City of Virginia Beach**

**Definition of Dwelling, Attached/Townhouses**

**October 10<sup>th</sup>, 2018**

**CONSENT**

Mr. Hodgson: Thank you David. Next is agenda item number eleven, it's an application by the City of Virginia Beach, it's an ordinance to amend section 111 of the city zoning ordinance pertaining to the definition of dwelling attached/townhouses.

Mr. Kemp: Thank you commissioner for the record. Kevin Kemp zoning administrator, this is pretty much a house keeping issue what it does is clarify the definition of semi-detached and townhouses, currently a townhouse says that it is two or more units in a series, this would change that 2-3 greater extinguishing between what is a townhouse and what is a semi-detached.

Mr. Hodgson: Any opposition to this being placed on the consent agenda, alright.

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

**Item #12**

**City of Virginia Beach**

**Ordinance Amendment Single Family Dimensional Requirements**

**October 10<sup>th</sup>, 2018**

**CONSENT**

Mr. Hodgson: Any opposition to this being placed on the consent agenda, alright. You got number 12 also, yes item 12 is also an application by the City of Virginia Beach and an ordinance to amend section 402A of the city zoning ordinance pertaining to single family dimensional requirements.

Mr. Kemp: Thank you, this is also an item that's intended to provide more clarity. It was brought up by staff, this involves the side corner setback in the agricultural district, currently our ordinance does not list a setback and there have been some questions as to what dimensional requirement would be used in that circumstance. This provides at the side corner setback would be 30 feet and therefore we can be consistent moving floor work with our customers.

Mr. Hodgson: Thank you, is there any opposition to this matter being placed on the consent agenda.

Mr. Kemp: Thank you commissioner.

Mr. Hodgson: Thank you. Madam Chairman that is the last item on our consent agenda and I would like to make a motion to approve agenda items four, seven, eight, nine, eleven and twelve.

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

**Item #10  
City of Virginia Beach  
Use Regulations in the B-4K Business District**

**October 10<sup>th</sup>, 2018**

**DEFERRED**

Ms. Oliver: Thank you commissioner Inman. The next order of business is to address those items to be deferred or withdrawn. Anybody have any items to be withdrawn or deferred, thank you.

Mr. Watson: My name is Jeff Watson and purpose of the applications on item 10 and we would like to defer that till November.

Ms. Oliver: Okay great, thank you very much. Are there any other, anybody have any objections to item 10 being withdrawn or it's actually being deferred, and the chair is also aware that the other following items have also been requested for deferral that is item number 13, for an indefinite deferral. So can I have a motion on the deferred items number 10 and number 13 please?

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Ms. Oliver: Can I have a second on that?

Mr. Horsley: Second.

Ms. Wilson: Mr. Ripley, are you going to abstain from number 13?

Mr. Ripley: Yeah, I probably, yes I should abstain from item 13, we are a landowner in this district and I think we are probably the only one that's owned this at the moment and so what may be beneficial or detrimental to me in a business way, I need to abstain.

Ms. Cartwright: Okay, right, alright, by the recorded vote of 8-0, items number 10 and 13 have been deferred with Commissioner Ripley abstaining.

(Correction to Ms. Cartwright. The recorded vote was 9 - 0 for item number 10 and 8- 0 for item number 13 with Mr. Ripley abstaining)

	<b>AYE 8</b>	<b>NAY 0</b>	<b>ABS 1</b>	<b>ABSENT 2</b>
<b>HODGSON</b>	<b>AYE</b>			
<b>HORSLEY</b>	<b>AYE</b>			
<b>INMAN</b>	<b>AYE</b>			
<b>KWASNY</b>	<b>AYE</b>			
<b>OLIVER</b>	<b>AYE</b>			
<b>REDMOND</b>	<b>AYE</b>			
<b>RIPLEY</b>			<b>ABS</b>	
<b>RUCINSKI</b>				<b>ABSENT</b>
<b>THORNTON</b>				<b>ABSENT</b>
<b>WALL</b>	<b>AYE</b>			
<b>WEINER</b>	<b>AYE</b>			

**Item #D1**

**BVMS, LLC  
Conditional Use Permit (Bulk Storage Yard)  
2572 Horse Pasture Road  
District – Rose Hall**

**October 10<sup>th</sup>, 2018**

**APPROVED**

Ms. Cartwright: Next on the agenda is number, agenda item number D1, BMVS, LLC, an application for a Conditional Use Permit for Bulk Storage Yard on property located at 2572 Horse Pasture Road in the Rose Hall District. If the applicant will please come to the podium?

Ms. Oliver: Hello, how are you?

Mr. Scarpa: Doing well, good afternoon everyone and thanks for your time all the members. My name is Marcello Scarpa and let me introduce my business, we have a local small business based in Virginia, in Richmond and in Virginia Beach. We started in Richmond in 2006 and then 2012 we decided to also operate in Virginia Beach. We located that building that was available in the market at Horse Pasture Road, which used to belong to Crestline Hotel. They used to have their laundry for several hotels that they used to operate. They are still in Virginia Beach but they outsource all of their laundry and we are able to rent about two-thirds of the building for us at that time. When we made our lease contract with Crestline, we made sure that in the lease contract would allow us for outside storage because we knew they would need that space at that time. We operated the building from 2012 to 2017, leasing the building from Crestline, we have been using that yard for stocking part of our slabs. In 2017 Crestline approached us with intention of selling us the building and we came to an agreement to buy the building. The bank that was financed was Zenith Bank. They asked for a letter of compliance with zoning and then when we found out that we would need the conditional use permit to be able to have those slabs outside. What we did was we moved the material that was outside in this 4900 square feet area that's outside to our Richmond location and started the application for the conditional use application. Once the application was complete and we put the signs for the hearing, Jonathan called us to tell that there was some opposition from the association on that case and we asked him to suspend our hearing. We tried to contact the association to find out what happened and the association is basically Ms. Linda Chapel because the governance. They say she still owns at least 20% percent of the lots and the park. She basically controls the association and we contacted her, submitted the drawings for the same exact same drawings that we submitted through the city and she basically responded by phone to us saying that she didn't agree with our proposition because she want us to use that side. However, this side of the building is used for the tenant that's staying there. There was a contract in place with that company and they have

two years in contract with an option to renew for five more years, so this portion here is used by the company that uses this one third of the building here. We use the two-thirds that's on the east side. The west side is used by our tenant here and basically we decided to ask Jonathan to move ahead with the hearing. We wanted to clear this with the city because we have planned for fencing and the landscaping to do here. The stock for granite slabs is not something that is when you first hear of outdoor storage you may think of. All sorts of objects that are stored there as containers, and other things but slabs are something that's neatly organized and have a close up picture. They are here. The former picture, we are going to have a close up picture. If somebody wants to take a look and see that's something that's well maintained and organized.

Ms. Oliver: Okay.

Mr. Scarpa: And I think if any of you have already shopped for granite, and sometimes the people confused what is the granite wholesaler, what wholesale is our case, we are not a granite fabricator, granite fabricator is usually a place where it's a lot of noise, dust, scraps of stones everywhere. We are just a wholesale distributor or we deal with all the full size pieces and there are no machines, no saws, no anything to process industrial stones. We just receive them from abroad and we ship them to our customers, this fabricator that I just mentioned.

Ms. Oliver: Great, thank you, do we have any questions?

Mr. Childress: Can I add something?

Ms. Oliver: Sure, if you will come up and state your name please?

Mr. Childress: My name is Michael Childress, I am the branch manager. I have been there for six years. Just a couple of things are that you know obviously we operated this business for six years with slabs outside, and also how about we have to take care of this conditional use permit. So obviously we applied the direct impact that it has on us as revenue because we reduced our inventory by 40%, has a direct impact on the business and that's just a negative thing.

Ms. Oliver: Okay, great, thank you very much.

Ms. Cartwright: We do have a speaker in opposition, Mr. Bourdon will come to podium, state your name for the record.

Mr. Bourdon: Madam Chair for the record, Eddie Bourdon I am here representing Taylor Womack, the LLC that owns and developed the property as the architectural review committee. Back in December, this matter was on the agenda of the Planning Commission and prior to that meeting, my client contacted me about the fact that they had received no application whatsoever for the bulk storage yard in the parking lot in front of the building. I contacted and spoke to some young lady with the applicant and sent her the deed restrictions, highlighted the whole thing and explained to her that they needed to submit an application to the association that in all likelihood the association was not going to approve a bulk storage yard in the front of a building. A building in which they leased out space that they could be using to store their material, I was told

that they would do so. Ms. Chapel called me last week and said they have never received any application; I was interested to hear what I heard. She has never seen anything, never heard anything, I also explained to the lady I spoke to in December before the matter was deferred and explained that they seemed to be the maker of their own problem and that this large industrial parks are the more attractive ones in the area. Ms. Chapel, who lives across street, is very protective of making sure that it stays that way but that they might be able to work something out on a temporary basis. She assured me as did Bobby Beasley the realtor who markets the property, they have received no application. So having said all the above obviously you all can do whatever you wish to do with the application but the deed restrictions does not allow it and they will be stopped from doing it unless and until they get the approval of the architectural control committee, architectural review committee. I want to make sure everybody is aware that, we think it's a bad precedent to have a bulk storage yard in front of a building in a parking lot. It's poor management of their inventory that apparently puts them in this position and/or they leased out space. They shouldn't have leased out in their building but you know again I understand Staff recommends approval but that's not what the developer of the industrial park is going to likely abide by.

Ms. Oliver: So I will say this being that this type of business, every granite place I have ever been to, stores their slabs of granite outside. That's just the nature of that particular business so.

Mr. Bourdon: An outside on the side of the business outside somewhere other than the middle of the parking lot smack in the middle of the building was something else that they are willing to try to help them. But we cannot make them, you know, submit something. Although I understand the gentleman said that was the case both Ms. Chapel and Mr. Beasley both confirmed that they have not seen anything.

Mr. Ripley: Yeah, I have a question, the slabs are they impeding the traffic through there too or are they are taking up the whole block?

Mr. Bourdon: They was taking up part of their parking lot in front of the building.

Mr. Ripley: So the drive aisle is still there?

Mr. Bourdon: Where it is would cut off but what I believe is occurring is they have leased space to the left in their building and I assume they just used that. We are not suggesting that they have a parking problem. We haven't seen any indication that there's overflow parking.

Mr. Ripley: Did they lease the whole building?

Mr. Bourdon: The own the building, the applicant owns the building and no they leased out space in their building that they could use to store their material.

Mr. Ripley: They leased it out to somebody else.

Mr. Bourdon: To somebody else that's correct. It's sort of like the Wal-Mart deal.

Mr. Ripley: So they own the building that's why I was envisioning in that you mentioned.

Mr. Bourdon: They own the building and they leased out space in their building and now they don't have enough space, I don't know all the sequencing of that.

Mr. Ripley: They own the parking lot, they own the building, they want to put something in front that's not in line with.

Mr. Bourdon: With the deed restrictions that the developer maintains and the architectural review committee maintains and they have not approved any. There are bulk storage yards in the industrial park absolutely, but they have never approved one.

Mr. Ripley: Is there some way, you can work with them that they could accomplish?

Mr. Bourdon: That's what my intent was in December and I indicated to the Staff if they would submit something, you know, on temporary basis maybe we can work with you but you know I have never seen anything. Of course, they didn't send it to me but Bobby Beasley and Ms. Chapel they have never received anything.

Mr. Ripley: So if it was buffered somehow.

Mr. Bourdon: There might be a way to make it less prominent and on a temporary basis, you know, they might be willing to abide by, again, it's a private deed restriction. I recognize that and you all don't enforce private deed restrictions but I want to make sure everybody understands it's kind of a fool's errand to be pursuing something that's not going to be approved by the association. They will enjoin them from doing it so they are better off.

Mr. Ripley: So our vote doesn't matter today.

Mr. Bourdon: Arguable that's the case, I mean, the other side of the coin is though when have you ever as a Planning Commission approved bulk storage yards in front of buildings and parking lots?.

Mr. Hodgson: I guess my question is going back to you said the architectural review committee because of the deed restriction can override whatever we say, so as since our vote doesn't matter.

Mr. Bourdon: That's correct, you can look at it in that way.

Mr. Weiner: That's why we have to agree with this eventually.

Ms. Oliver: Mr. Wall.

Mr. Wall: There is an actual review committee that's part of the business park?

Mr. Bourdon: For the industrial park, that's exactly right.

Ms. Oliver: Mike did you have something?

Mr. Inman: They own the whole building and they have decided to lease out some space that's their business, they also want to use part of the parking lot of the building they own, I guess, they own the parking lot, they want to use part of their parking lot for this reddened area that's outlined here to display some stone. That's the bottom line. What they want to do and you know but for putting some fence around it, it would be permissible if they would put fence around it. I just don't see any problem with it. They want to do it. It's their building. It's their parking lot. They worry about the association and take their action as they see fit.

Ms. Oliver: But I have been there, I have shopped there, it's not containers, its yard art basically.

Mr. Bourdon: I am just telling you what my client has said and I am not disagreeing with any of your opinions. My client asked me to make sure we're very clear.

Ms. Oliver: If it's not that intrusive, I mean, when you are there because you are there to look at it and usually in that particular type of material you asked them to bring it outside, I am just saying.

Mr. Bourdon: I think the less said the better, because I am not really sure that it's permissible to have, you know, retail sales in the property to begin with.

Ms. Oliver: Well that's true, we were just shopping, we didn't shop there, and we were looking.

Mr. Bourdon: I am not trying to get anybody in trouble.

Mr. Oliver: No, no, but we would just sight-seeing.

Mr. Weiner: Just slipped out, did it?

Ms. Oliver: They didn't sell, they can't sell to us.

Mr. Redmond: I have an actual question for Mr. Bourdon; an industrial park has an architectural review committee?

Mr. Bourdon: Yes.

Mr. Redmond: Never known architecture to be a big concern in an industrial park.

Mr. Bourdon: Ms. Chapel when she rezoned all the stuff many years ago, Mr. Browner wanted to make sure that there was control over what happened with there, again she is across the street, she is very involved and remains involved in what things look like out there from an industrial park standpoint. So that's absolutely the case and has been from day 1.

Mr. Weiner: I have written many restrictions and architectural things for industrial and office parks.

Ms. Oliver: Okay, thank you. The applicant would you like to come up.

Mr. Scarpa: Maybe I didn't make clear in the beginning because we would love to use the entire building but when we bought it, there was a contract in place with the other company that I said. They still have two years and then the option to renew for another five. So it would be seven years from two to seven years, they still be there. It's not up to us. When we bought the building from Crestline, the contract existed already, so we can remove them from here and something temporary would resolve my problem. If the thing is allowing me to do like during these two or seven years, it will solve my problem because when I have the building entirely from my use of course, I don't need that. So that's common sense, and also we do not conduct any retail sales there. We are wholesale distributors so this is also a point that needs to be cleared. Right there are absolutely no points, no retail operations in our business. We did submit the application to Ms. Linda and she never replied officially to us. She only spoke to us by phone and she also mentioned that she wouldn't be willing to approve our request because she thought there was opposition from other business owners. Mike that's our manager here, he went from door to door talking to the business owners and even collected signatures from everybody and business cards and nobody opposes to our project. By the way, everybody had a common thinking that the association is not doing the job that they expecting to do. That's maintaining the common areas like streets. The weeds are tall in the streets. The signs of our business park are falling apart and collapsing. So this thing is that other business owners in the park brought to me when we are discussing our things. Oh, the association really cares for your slabs there. That's what we think they should be caring about. This is just an insight sharing some information that the other 20-25 businesses in the same park are, thank you very much.

Ms. Oliver: Yes Ron.

Mr. Ripley: Question, the space you occupied now is it full of slabs and this is access over into the street or into the parking lot? Is that what that is?

Mr. Scarpa: Yes.

Mr. Ripley: Is it, I asked the question to Mr. Bourdon. Is it blocking the drive aisle, inside of the drive aisle?

Mr. Scarpa: No, this here is all parking and its own access from this side to the company there.

Mr. Ripley: You are through that red area.

Mr. Scarpa: No, because this is parked here and here is the park where we use here. This area in the center here is pretty much empty all the time as you can see in that picture there. There is a picture that shows if you can come back. You see this area is empty all the time because we use the parking lot here and the other company uses the parking lot that's out of the picture here, so the center of this yard here, it stays empty all the time.

Mr. Ripley: I think I heard you say you want to occupy the rest of the building, did I hear that or?

Mr. Scarpa: That is correct. When the other company leaves the building of course, they have two years left in their lease contract with us and option to renew for more five, that's not a contract that we made with them, when we bought the building.

Mr. Ripley: They have seven years?

Mr. Scarpa: Yes from 2-7, if they decide to exercise or not the renew option.

Mr. Ripley: If we had a conditional use permit, they gave you seven years?

Mr. Scarpa: Perfect, exactly that would be all I ask, yes.

Mr. Ripley: Thank you.

Mr. Scarpa: Thank you very much.

Ms. Oliver: Great any other questions? No, alright. We will close the hearing and open up to the Commissioners for discussion. Yes.

Mr. Redmond: I have a couple of points. First off to Jeff's, Mr. Hodgson's question about whether or not is what we are doing is relevant at all, absolutely. These are two different processes, so City Council can grant a Conditional Use Permit for this and then Mr. Bourdon's client can feel free to sue this fellow if he thinks he is, if they are violating the deed restriction. What they do is their business and what we do is the city's business, and the city has to make a decision based on that. So I don't think it degrades one iota of our responsibility to judge fairly and then what private parties do between themselves either through negotiation or in a court of law is between them. That said, I don't see anything about this, that's objectionable. Lots of time that we approve bulk storage elements that are associated with industrial uses and it's generally based on where it is and what's the impact of the thing. It's completely indistinguishable to me, almost not entirely but almost. The front and the rear of this building, this is fronting Horse Pasture Road, not exactly known as a big bustling thoroughfare. As you can tell from the photographs, the area that they are using is extremely small. As Mr. Inman said, they own the building, so if they are impacting anyone, they are impacting themselves. I mean, I try and compare this to the things that we have done a number of different times. I just don't see how it's really anyway distinguishable. As for what Mr. Bourdon says about a possible deed restrictions, that's not our business that's between two private parties. So I don't see how this is any different than what we do nor do I see how is it anyway deleterious towards any other occupant of that business park, so that's my view.

Ms. Oliver: Ron.

Mr. Ripley: I agree with most of the things you said and I think it's exactly right, right on point. I think that the fact that it would be a, I am concerned about setting a precedent though. Everybody comes and puts all their materials in front of their building, this is going to look pretty slightly just like an objective Wal-Mart. I think that it's almost clearly like that but if he is

willing to except a seven-year conditional use permit term and then he could be able to move it inside, I think if that works for him. I think that's probably the best of all worlds and I'd like to see us add that to the conditions and I think that will work.

Ms. Oliver: I think it's good, alright.

Mr. Redmond: I will move we approve the application with the addition of the condition that use permit expires in seven years.

Mr. Hodgson: I second.

Ms. Oliver: Alright, call for the question.

Ms. Cartwright: By the recorded vote of 9-0, item number D1 has been approved with an added condition.

Mr. Horsley: Madam Chairman I just want to make sure that we know that we are not setting a precedent here that we can take all these big shopping centers and make bulk storage yards in it. We need to understand that because that's one thing that I am strictly against the storage of even shrubbery and things like that out in front of the stores and all that. I don't think that's it. We approved the parking lot, it should be a parking lot.

Ms. Oliver: No, I agree and I do want to clarify it was not retail shopping. I was there.

Mr. Redmond: Too late.

Ms. Oliver: No, it's not too late.

Mr. Redmond: I want to be clear though Mr. Horsley this isn't a shopping center, this is an industrial park.

Ms. Oliver: This is an industrial park. It was a wholesale thing. Yes.

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

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

**CONDITIONS**

1. The location of the Bulk Storage Yard shall be limited to the area depicted on the exhibited entitled, “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.
2. Evergreen shrubs, planted three feet on center, shall be installed in the area in front of the stormwater management facility, as depicted on the Proposed Site Layout on page 5 of this report. The shrubs shall be a minimum of 24 inches in height at the time of installation and shall be maintained to be no taller than four feet for safety and visibility purposes. A plan depicting the ultimate species and location of said plant material shall be submitted to the Department of Planning and Community Development for review and ultimate approval prior to the issuance of a building permit.
3. This Conditional Use Permit shall be valid for 7 years from the date of City Council approval.

**Item #D2**  
**27 ½ Street Garage, LLC**  
**Alternative Compliance (Section 5.3.2 of the Oceanfront Resort District Form Based Code)**  
**2613, 2701, and 2705 Atlantic Avenue & 2705 Atlantic Avenue & 203 27<sup>th</sup> Street & 2701 Pacific Avenue**  
**District – Beach**

**October 10<sup>th</sup>, 2018**

**APPROVED**

Mr. Ripley: Before you hear this, I think I have mentioned to you and also the last item came up I abstained, it’s the last item, I would like to leave, I am abstaining because I have a company and I wasn’t aware of it, and engage the applicant on a subcontract the portion of the property and so I need to step away from this, so that’s why I am abstaining.

Mr. Horsley: I am going with him because I am riding with him today.

Ms. Kwasny: I have to leave at 3:15; I mean I have a meeting starting at 3 but I will miss 15 minutes, I might be able to get some of the center, alright, let’s do it.

Mr. Redmond: Madam Chairman, not to shake your confidence further, but I have to abstain myself the principals and the company where I work, our partners in the project.

Ms. Cartwright: Next is agenda item number D2, 27-1/2 Street Garage, LLC, an application for an alternative compliance section to 5.3.2 of the Oceanfront Resort District Form-Based code on the property located at 2613, 2701, and 2705 Atlantic Avenue and 203 27<sup>th</sup> street and 2701 Pacific Avenue in the Beach District.

Mr. Bourdon: Thank you, for the record, Eddie Bourdon Virginia Beach attorney representing the applicants, I want to mention that with me today are Mr. Bruce Smith who is the one of the managers of 27<sup>th</sup> Street Holding LLC, the partnership that controls all of the properties that are subject to the application. He is the majority equity holder in the partnership and the second largest equity holder in the partnership is Hampton University. Mr. Chris Harvey is here, he is in-charge of the development of all these properties for Armada Hoffler Construction. The first thing I will say is to spare Ms. Oliver from having to listen to me pontificate, as she did at the RAC meeting last Thursday afternoon, extensively. I think you indicated placing this on the consent agenda but wanted a few things addressed. I will stand down from speaking other than to say this, I want to thank on behalf of the applicants, this Commission for its input both in July and September and same goes for the PDRC committee and with RAC, who have reviewed this, I think on three occasions. And most importantly our very professional staff, and our Director, and the efforts of other City Staff. The work they put forth with this application are greatly appreciated. Having said that, also before entertaining questions, there have been two additional conditions added that you all should have. Kristine has provided better in-response in one case to comment from PDRC that's number nine, and number ten addresses one of the two RAC support letter conditions and that's the activation of Atlantic Avenue, and we are in agreement with both of those but I will hastened to point out that condition that request from RAC is diametrically opposed to putting the entrance on the Atlantic Avenue, so one or the other will prevail but that's something that, City Council will make that determination with regard to access. Your staff believes and we believe that the access from the stub street from the connector part as it has been designed, all of which is paid for by the developers not the city but which will be barrier free for pedestrian access, no parking will be allowed there...We believe that's the better course; however, I will hasten to add, I certainly indicated at the RAC meeting that we, it can be done moving the access to Atlantic Avenue which probably can be done, not 100% certain, we are certainly amenable to looking at doing so, we are not sitting here saying, "heck no we won't move it," and so it's very clear I have been, I indicated to Council that we were looking to it, we would get with them and with the City Manager and staff and Council and if that's the way, the way the Council wants it, we will make every effort to see that that occurs, but again at this point we have a staff recommendation for approval, we have an approved plan that includes that access; however, this is a modification to that but anyway that is an issue that council will have to resolve but we will be there to cooperate with council and with the PDRC to try to make it the best, it can be regardless of where the access winds up being safe and one that will work and I hope that addresses well, I think that one of the things that you will talk about the informal this morning.

Ms. Oliver: Any questions for Eddie. Thank you, okay. Alright, we don't have any speakers with this.

Ms. Cartwright: We do not, alright so we will... [Crosstalk]

Ms. Kwasny: Hold on, I have one question. The additional couple of floors on the top just wonder where they how we arrived to that?

Mr. Bourdon: The amount of density that can be put on the property we are well below that and the adding a couple of floors of penthouse units that were rented 40,000 dollars a year given all of the goals and aspirations that we have for the resort area and all of our consultant reports about needing to have the year-around residents with disposable money to spend and hopefully keep existing business open but more importantly drawing new businesses, higher and better retail and additional restaurants and other commercial enterprises that will make it a more livable year-around area at the resort, we felt it was a wise thing to do once I was retained and we started going through the numbers and looking at how the goals of and I won't go through them all of the Form-Based Code and most importantly the consultant reports are better addressed by having higher-end luxury apartments down there and that's the primary reason and we are well below the density that would be permitted by right if it were shared 190 apartments and then hotel for the rest which we could do but that's to be a solid luxury apartment building in community, you need to have security, you need to have the amenities that this product will have and you need to make sure that there aren't people coming and going that aren't keyed and security is key and that's ultimately that's a short answer and going to a longer one.

Ms. Kwasny: My question was the old Form-Based code which this falls under had a 70:30 overall floor area so I was and I know that you are at 44% so I was just wondering whether or not those two floors were the tipping point.

Mr. Bourdon: No ma'am, absolutely not.

Ms. Kwasny: Okay because they are new? Right? On this design or not, am I wrong? So I was wondering if they were part of the percentage that was taking you over the 30 because 44 is half of 30, so you are another 50%, so 44, you are 14%, to get 30 then you are almost...

Mr. Bourdon: There is a one-third increase over the 30% and that (code criteria) doesn't apply to anybody.

Ms. Kwasny: You mean of residential units?

Mr. Bourdon: Of residential units that's exactly right.

Ms. Kwasny: Okay, alright.

Mr. Bourdon: That's exactly right, it's a 14.8% increase from 30-44.8 okay and that all that is providing additional people, additional disposable money.

Ms. Kwasny: I don't have any problem with the residents.

Mr. Bourdon: And the key part at least I believe the key part is that there is, we don't have anything in the middle of the resort, we need eyes, we need people, we need people there year-around and it does not, the way it's been structured, the way it is does not set a precedent and the new rules that are in place, they don't apply to this, 15% of units, you would have to accumulate twice the amount of land you had to build one heck of a hotel and then you could potential try to argue that you could have 22-1/2 units for percent of the hotel units, so this was the biggest most expensive re-development all funded by the applicants, so it's not a tax payer penny in this the city has ever seen, it's a great endorsement in my view, some of the decisions that city has made in the past to seed money for some parking structures at the Oceanfront in order to get the revitalization, I have given you a handout this morning that shows the tax revenue generated by this re-development over what was there before, it's astronomical. It's fantastic. We should be celebrating what's going on. I will be happy to answer any questions.

Ms. Oliver: Yes Mr. Horsley.

Mr. Horsley: You address the access, I mean, we are very protective of our stub streets and the views that come from driving the Atlantic Avenue so I think you have addressed that and you are going to put a foot forward, your best foot forward to see if there is a way to do that but at the same time not trying to put a square peg in a round hole if it doesn't work, it doesn't work but you are going to look into ways to do that whether it's maybe just making the entrance come in on the corner and then you exit through the stub street or something, you are going to look into it.

Mr. Bourdon: Honestly with the assistance of staff, our engineers, we are going to honestly try to determine if there is a way that everyone can get on board is a better way.

Ms. Oliver: That's good.

Mr. Horsley: Okay.

Mr. Bourdon: The Councilman, obviously, it's his district.

Mr. Redmond: Last question I have for you is one of the drawings that we saw that had over on the Ocean's 27 restaurant that enclosed because right now when I look at this, the outside park is essentially to me an amenity to this residential development that you are going to do. If you were to enclose that, not only do you take away the view from that stub street, I think you take away an amenity from the existing hotel and from your future tenants in this building. Are there any assurances that you are not going to try to encroach into the stub street or

Mr. Bourdon: I understand totally your question and I very much appreciate the question. When the deal was made with Mr. Maddox for his property that proposal that was the plan was to build the three stories, retail, restaurant space, etc. and I would say that my clients are very happy with the fact that they didn't do that. The reality is that the entertainment venue, open air restaurant,

and bar that is there at Ocean 27 has been an overwhelming success. It is an amenity. It adds to the sense of place that this whole redevelopment of 27th street will create. They have financing in place for the existing part that has been developed and there is a 95 years left land lease on the property. There is economically, financially no foreseeable reason that they would want to change that, the amount of investment that they would have to make to build that structure there is no likelihood that they would be able to get a return on it that would make any sense given the good return and if you look at the information I provided you, you can kind of figure it out that they are doing extremely well at Ocean 27 and to change that other than to expand it but not by closing it in and they do have plans to make some expansion, second floor seating area etc. but that's not foreseeable that it would ever make sense to do that and when we were going through the process with PDRC, you know, that came up as a topic from the standpoint of why don't you show us and include all of that's square footage not just what you are currently using which I went through that and explained that we have, it would be kind of misleading because we don't have any intention to do so and so to increase that space by another 12-13,000 square feet and thus reduce our number or percentage down to 43% when we don't intend to build that and we may never build that and certainly not in the forcible future build out all that space, we didn't do that. Mr. Billy Almond and I had exchanged information back and forth on that, so we didn't do it because we don't plan on enclosing that space but in order to do anything adding space makes a percentage lower, so it's kind of countered to the alternate compliance, so all I can sit here and tell you that there is zero likelihood in the foreseeable future that that would happen. Now but the bank that holds the loan isn't going to allow us in all likelihood to come in and put some type of a permanent restriction on the possibility of doing what might be legal that would add to the amount of square footage that is not residential and reduce the alternate compliance, similarly Mr. Maddox might have an issue with it, he probably wouldn't if it's something that went away, the lease goes away but leave that as it may we are not in a position to say under that we will forever in perpetuity agree that it's going always be exactly the way it is but it would be detrimental to I believe and I think my clients believe it would be detrimental to the apartment complex if we just put that glass structure up there but the biggest thing, the most important thing is economically, you'd be spending a lot of money and the sales would not be able to sustain the return that they are getting if you look at what the taxes and you can back into the gross, it's a huge number that's coming from that and you just you can't expect any real increase by enclosing it and making it something else, it just, it's a very successful and we think it will, having the full time residents next door will only add to that.

Mr. Redmond: Thank you.

Ms. Oliver: Anybody else have any question for Eddie, we don't have any other speakers.

Ms. Fisher: No.

Ms. Oliver: Right, so we are going to close this hearing and open it up to the commissioners.  
Mike.

Mr. Inman: This is a very interesting project and it's forward thinking and it's bringing the dimension to the beach area that we have all wanted to see happen in terms of residential construction, residential opportunity and very nice design and coordinated design amongst the three structures that will be part of this. I have been concerned as others have about the access and the impact on the stub street, it's pretty and I felt all along it's squeezing it a little bit as how it's been developed but I understand the traffic concern, I understand the safety concern that have been expressed by our staff and but I am happy to hear that the applicant will explore an opportunity to modify it to allow it to be more pedestrian and less vehicular but if that doesn't happen, somewhat comforted by item seven and the conditions that it says that they are going to have no fewer than two employees present at all times to provide valet and traffic management services for customers of the ground floor commercial uses as well as residence of the apartments and further that another condition is that they have to meet all clearance requirements and design guidelines to propose right-of-way encroachments so trusting the staff and taking the applicant at his word about their efforts, I would support the application as proposed.

Ms. Oliver: Karen.

Ms. Kwasny: Yeah, I follow Mike's thinking. I think that we've worked really hard on this for the past couple of months and I think we have gotten to a place where that stub street, if it has to be the answer especially in relations to some of the things Rick pointed out, we can live with it. I like the idea of them preserving that outdoor restaurant, it's, I think that's actually part of the way the stub street works right now, but I am glad they are exploring the possibility of bringing the traffic in through Atlantic, I am not ever a fan of. You have a 70:30, that's the Form-Based Code that they fall under, I don't like it when we push the envelope to 44, but a little comforting when Kathy Warren says to me, "It doesn't set a precedent," but I don't like it when we go, we shift guidelines a little bit, no big deal because that can happen and keep shifting them but I think it's a good project, I think they worked really hard to address our concerns from the very start and frankly I would like to make a motion to approve it, recommend approval.

Ms. Oliver: Do we have a second?

Mr. Inman: I second.

Ms. Oliver: Okay.

Ms. Cartwright: By recorded vote of 7-0 with two abstentions item number D2 has been approved.

Ms. Oliver: Oh I got to close it, I am so sorry, everybody got up, alright hold on, we are all done, right that was it.

	<b>AYE 7</b>	<b>NAY 0</b>	<b>ABS 2</b>	<b>ABSENT 2</b>
<b>HODGSON</b>	<b>AYE</b>			
<b>HORSLEY</b>	<b>AYE</b>			
<b>INMAN</b>	<b>AYE</b>			

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

**CONDITIONS**

1. This Special Exception for Alternative Compliance to Section 5.3.2 of the Oceanfront Resort District Form-Based Code allows 2613 Atlantic Avenue to be developed with a Mixed-Use Building Type which may contain up to 266 apartment units. The area occupied by said apartment units may not comprise more than 44.88% of the unified development project consisting of 2613, 2701, 2705 Atlantic Avenue, 203 27th Street, and 2701 Pacific Avenue. Per Section 5.3.2 of the Oceanfront Resort District Form-Based Code that was in effect on May 23, 2017, the area occupied by structured parking shall not be included in the area calculation of the project.

2. Unless otherwise specified below, when 2613 Atlantic Avenue is developed with multi-family dwelling units following the provisions of this Special Exception for Alternative Compliance, the improvements shall substantially conform to the submitted site exhibit titled, “Site Plan Design Concept,” as provided by Armada Hoffler, and as dated August 2, 2018. This shall include the improvements shown in the rights-of-way of 27<sup>th</sup> Street and Atlantic Avenue. Said drawing is on file in the Department of Planning and Community Development.

3. Unless otherwise specified below, when 2613 Atlantic Avenue is developed with multi-family dwelling units following the provisions of this Special Exception for Alternative Compliance, the improvements shall substantially conform to the submitted undated architectural exhibits titled, “27 Atlantic.” Said drawings are on file in the Department of Planning and Community Development.

To further specify, the building shall:

- As conceptually shown, exceed all minimum transparency criteria of the Form-Based Code;
- Include a minimum of one primary pedestrian entrance on Atlantic Avenue as well as on 27<sup>th</sup> Street;
- As conceptually shown, include reveals, grooves, trim, sills, or other hand-scaled façade elements on each floor associated with the “base” of the proposed building, as defined by the Oceanfront Resort District Design Guidelines;
- As conceptually shown, include the aforementioned hand-scaled façade elements on every other floor associated with the “body” of the proposed building, and a distinct design for the “cap” of the building, as defined by the Oceanfront Resort District Design Guidelines;

- Meet all clearance criteria and Design Guidelines relating to any proposed right-of-way encroachments; and
- Unless otherwise required by the Virginia Uniform Statewide Building Code, any mechanical equipment, to include but not limited to HVAC systems, transformers, or equipment associated with wireless communications, shall be screened from being visible from the public right-of-way as well as surrounding private properties and the airspace above.

4. As part of their review, Staff may seek input from the Planning Design Review Committee (PDRC) of the Resort Advisory Commission (RAC) for any revisions to the conditioned exhibits that are proposed through DSC site plan review, to ensure the substantial conformance to the submitted exhibits and compliance with the Oceanfront Resort District Design Guidelines. This condition shall not be construed to require the approval of PDRC to move forward with site plan or building plans review.

5. Approval of this Alternative Compliance shall not serve as an approval of the conceptually shown Open Air Café located to the east of the site in the greenbelt, encroaching door swings, the southern vehicular curb cut on Atlantic Avenue, or any other type of conceptually shown right-of-way encroachment that does not align with the Oceanfront Resort District Design Guidelines. The Open Air Café shall still be required to follow all review policies established by the Resort Management Office and is subject to City Council approval of a franchise agreement.

6. 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 for the apartment units.

7. To ensure the vehicular use of the connector park follows all associated City Code requirements, no fewer than two employees of the development shall be present to provide valet and traffic management services for customers of the proposed ground floor commercial uses as well as residents of the proposed apartments. At a minimum, said service shall be provided for the hours of operation of the proposed ground story commercial uses. Unless otherwise permitted by Traffic Engineering and appropriate street signage is installed, no vehicles shall be parked within the right-of-way of 27th Street.

8. Any loading or unloading associated with the proposed development shall follow all established City codes, policies, and procedures.