

Virginia Beach Planning Commission

Public Hearing

January 9, 2019

Ms. Oliver: The first of the year, January 9th, 2019 public meeting of the Virginia Beach Planning Commission, my name is Dee Oliver and I serve as the chairman of the commission and before we get started, I have asked Commissioner Redmond to lead us in prayer and commissioner Horsley to lead us in the pledge.

Mr. Redmond: Let's bow our heads please. Dear Heavenly Father, we come to you today, thanking you for your guidance and wisdom, as we begin this hearing today, guide our hearts and our minds in the spirit of fairness, right thought, and speech. Help us to remember our responsibilities to serve our community with great insight, guided by understanding, wisdom, and respect for all. As we make decisions today, help us to promote the common good as we work together for the betterment of our great city. As trusted servants, we seek blessings on our deliberations and on our efforts here today, Amen.

Mr. Horsley: Please join me in the pledge. [Group Pledge]

Ms. Oliver: Thank you commissioner Redmond and commissioner Horsley for that. I have asked commissioner Weiner to introduce our members please.

Mr. Weiner: Thank you Ms. Oliver. Sitting on the far end from me is Kay Wilson, she is our city attorney. Next is new commissioner George Alcaraz, he is a contractor and he represents the Beach District. Next to me is Jack Wall. Jack is a civil engineer and he represents the Rose Hall District. My name is David Weiner, I am in commercial sales and I represent the Kempsville District, sitting next to me is Don Horsley. Don is a farmer and he is At-large. Next to Don is Ron Ripley. Ron is in real estate management and development and he is also At-large. Next is Dee Oliver, Dee is a chair of the planning commission and she is a funeral director, and she is At-large also. Next is Jan Rucinski, Jan is the vice chair of the planning commission, she is in property management and she represents the Centerville District. The empty chair is Mike Inman, Mike is an attorney and he is At-large. Then we have Dave Redmond, Dave is in commercial real estate, and he represents the Bayside District. Next is Whitney Graham, Whitney is in land development and

he represents the Lynnhaven District and Steve Barnes, Steve is a farmer and he represents the Princess Anne District, and this will be the last time, I will be able to say this, this is Barry Frankenfield, Barry is the director of the Planning department and we look forward, Barry is having a nice retirement.

Mr. Frankenfield: Alright, thank you very much. Now see if I can remember of those names this time, to my left is Cole Fisher and Nicole Garrido, they are the administrator piece of court today, missing is Carolyn Smith and Bill Landfair and I don't know this other guy's name, he is a zoning administrator, let me think, that's right Kevin Kemp, Kevin Kemp okay, Jimmy McNamara is next to him. In the back row, we have Jonathan Sanders, we have Torrie Rice our other attorney and our new traffic engineer, congratulation Rick Lowman, he is the official traffic engineer now and Marchelle Coleman, and then in the back is Robert Davis. That's it, thank you very much.

Ms. Oliver: Thank you very much. Before we get officially started today, I just want to take the opportunity to welcome our three new commissioners, George Alcaraz, he is with the Beach District and Whitney Graham, Lynnhaven and Mr. Steve Barnes who is representing now Princess Anne District, thank you welcome and before we go any further, I just, we have two important people who are going to leave us, this is going to be their last meeting, we are all a bit sad and about them leaving is our planning director Barry Frankenfield, he has been with the city since 1985 and has been leading in the Planning department and the planning commissioners since 2015. He has been a great leader, he taught us all, and we appreciate so much his integrity, his candor, his sage advice, his enormous sense of humor and endless patience with all of us. He has been a great-great asset to the City of Virginia Beach and we wish him well on his retirement, it is a huge loss for all of us and I am sorry to see him go truly, but I know that hopefully he will be doing some wonderful things like playing golf and tanning on the beach and going to Charlottesville more often than not. You are very welcome and our second one is Jimmy McNamara, he has been with the Planning department since 2015. He has been promoted three times, it's a record evidently, I understand he is a senior planner and he has been great. He has got great people skills, he has great leadership qualities, and technology qualities, he helped me earlier today for my passport, for my iPad, I have him on speed dial and Chesapeake will be a better city because of him, we are sorry to see you go anyway and we wish them

very much success on their new endeavors, so thank you both very-very much.

Mr. Frankenfield: I am going to miss you guys, I know, you are thinking I am joking, but I will.

Ms. Oliver: Alright, so the first order of business is the explanation of the rules and our city clerk is going to handle that for us today.

Ms. Garrido: Thank you chairman Oliver. The Planning Commission of Virginia Beach takes pride and 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 this commission with respect and civility. The commission requests that if you have a cell phone to 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 deferral, the chairman will ask if there is any request to withdrawal or defer an item on the agenda, consideration of these requests will be made first. Consent agenda, the second order of business is the consideration of the consent agenda, which are those items that the planning commission believes are unopposed and which have favorable staff recommendations. Regular agenda, the commission will then proceed with the remaining items on the agenda. Please note that the actions taken by the commission today are in the form of a recommendation to the Virginia Beach City Council. The final decision to approve or disapprove the application will be made by the City Council. The commission thanks you for your attendance and we hope that your experience here today leaves you feeling that you have been heard and treated fairly, thank you.

Ms. Oliver: Thank you. The next order of business is to address those items to be deferred and is there anybody have any items to be deferred? The chair is aware of the, can they come forward, thank you.

Item #1
Clear Creek Holdings, LLC
Conditional Rezoning
(R-10 Residential & I-1 Light Industrial to Conditional I-1 Light Industrial)
South Birdneck Road
District – Beach

JANUARY 9, 2019

CONSENT

Ms. Oliver: The next order of business, we will address those they have been placed on the consent agenda and the vice chair will handle this portion of the agenda.

Ms. Rucinski: Thank you madam chairman. This afternoon, we have four items on the consent agenda. The first matter to be heard is item number one. This is an application for a conditional rezoning R-10 residential and I-1 light industrial to conditional I-1 light industrial on property located on the west side of South Birdneck Road approximately 680 feet from Carissa Court in the Beach District. Do we have a representative?

Mr. Bourdon: Thank you madam secretary. Madam chair for the record Eddie Bourdon, Virginia Beach Attorney representing Clear Creek Holdings, LLC. We appreciate this item being on the consent agenda as we worked diligently with your city staff on this request and have provided answers to the questions that were raised in the informal this morning about access and parking and my client will be putting in wheel-stops as you suggested. Thank you very much.

Ms. Oliver: Thank you.

Ms. Rucinski: Thank you, so this is going to be reviewed by Commissioner Redmond.

Mr. Redmond: Thank you. This is an application of Clear Creek Holdings, LLC for conditional rezoning from R-10 residential and I-1 light industrial to conditional I-1 light industrial on property located on the west side of South Birdneck Road. The subject site is zoned both R-10 residential district on the eastern portion of the lot fronting South Birdneck Road and I-1 Light Industrial District on the western portion of the lot. The applicant is requesting to rezone the entire site to conditional I-1 Light Industrial in order to construct three buildings, that you see them there, that will contain 38 industrial office and warehouse units. The site is about 4.3 acres and sits on an undeveloped forested lot. It is also located in the Accident Potential Zone 2 and is encumbered by a Navy easement which restricts certain land uses in the high noise zones near Naval Air Station Oceana. So each business will need to obtain a separate determination letter from the Navy to ensure that its proposed use in the building meets the terms of the easement. There was some discussion this morning about the number of parking spaces, the appropriateness of the number of parking spaces. The applicant helpfully provided some additional data that we did not have this morning. The total number of parking spaces will be 119, 18 of those spaces

will be in the front, loading space in the rear and approximately 100 parking spaces in front of or along the open space internal to the center, so which comes out to little over three parking spaces per unit. The commission is unaware of any opposition to this application, the staff recommends approval. The Planning Commission, therefore, concurs by consent, thank you.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

PROFFERS:

1. When the Property is developed, the vehicular access, landscaping, building locations, setbacks and freestanding sign shall be substantially as depicted and described on the exhibits entitled, “EXHIBIT - SEATAACK BUSINESS CENTER VIRGINIA BEACH, VIRGINIA” (Sheets C1 through C4), and “LANDSCAPE PLAN – SEATAACK BUSINESS CENTER, VIRGINIA BEACH,VIRGINIA” (L1 through L4), dated September 26, 2018, prepared by Gallup Surveyors & Engineers, Ltd., which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter “Concept Plans”).
2. When the Property is developed, the buildings depicted on the Concept Plans shall have the architectural design, appearance and height substantially as depicted and described on the three (3) renderings labeled “SOUTH BIRDNECK ROAD VIEW” “INTERIOR VIEW” and “BACK VIEW (SOUTH) – SEATAACK BUSINESS CENTER”, dated 10-1-18, prepared by Covington Hendrix Anderson Architects, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter the “Elevations”). The primary exterior building materials shall be split-faced cmu, raised seam metal paneling and white overhead doors.
3. Further conditions may be required by the Grantee during detailed Site Plan and/or Subdivision review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code

Item #2

Richard C. Trotman & 7 Cities Tattoo, LLC
Conditional Use Permit (Tattoo Parlor)
Conditional Rezoning (B-1 Neighborhood Business to Conditional B-2 Community Business)
Subdivision Variance (Section 4.4 (b) of the Subdivision Regulations)
4857 S. Oliver Drive
District – Kempsville

JANUARY 9, 2019

APPROVED

Ms. Oliver: Alright, I would like to thank all the applicants who had a matter on the consent agenda today and these items will now be scheduled to be heard in front of the City Council. The next order of business, we will address the remaining matters on our agenda and before we start, I just want to remind everybody here that if you signed up to speak to be respectful of our time limits, you have three minutes and the yellow light blinks and then the red one and then I have to ask you to sit down, so be mindful of your time before we get started and now I will ask the City Clerk to go ahead and call the first item up please.

Ms. Garrido: The first order of business is agenda item number two Richard C. Trotman and 7 Cities Tattoo, LLC. It's an application for a Subdivision Variance of Section 4.4 (b) of Subdivision Regulations, Conditional Rezoning B-1 Neighborhood Business to Conditional B-2 Community Business and Conditional Use Permit Tattoo Parlor on property located at 5296, 5298, 5300, 5302, 5304, 5306, 5308, 5310, 5312, 5314, 5316 and 5318 at Providence Road. Is there a representative here for the application?

Ms. Rucinski: Can you come forward.

Ms. Wilson: Mr. Graham do you have a conflict of interest you like to have in the record?

Mr. Graham: I do know the applicant, the property owner but I do not have an interest in the project.

Ms. Wilson: So you intend to vote?

Mr. Graham: I do.

Ms. Wilson: Thank you.

Ms. Oliver: Welcome, how are you, could you state your name for the record please?

Mr. Trotman: Yes Richard Trotman.

Ms. Oliver: Would you go ahead and tell us a bit about the application?

Mr. Trotman: We are just trying to go from B-1 to B-2 with all of the other commercial properties in order, we had a lot of B-2 already I believe and I thought this was just a kind of

a normal upgrade to our type of zoning and we are, we would then be able to rent on a broader scope. All the folks that are coming to us to rent from us, so that's basically our reason for doing it. We probably wouldn't have done it had this gentleman from the 7 Cities Tattoo approached us to rent, then we understood that we need to enhance our zoning to accommodate 7 Cities.

Ms. Oliver: Okay, alright, would we have somebody that, do you want to tell us about your application real quick, or you the gentleman that is the applicant with that 7 Cities Tattoo, would you like to tell us a little bit about your application and then we will hear from the opposition, okay?

Mr. Blaster: My name is John Blaster, our application was to open up a, not a traditional tattoo parlor it's just me and my partner. We have operated independent contractors licenses for the better part of six or seven years now, so we have an established clientele and that is basically what we are going to continue doing is operating with the clientele that we have. It's not a walk-in studio. It's not going to be traffic generating. Probably we are only going to have five or six parking spots occupied at a time. We would be a gallery space/tattoo area, but we are not out there howling at the moon. We're more interested in going in to take care of what we have to and getting back to spend time with our families.

Ms. Oliver: Okay great, well thank you and why don't you all take a seat and will have you back up, after we hear from the speakers.

Mr. Trotman: Thank you.

Ms. Oliver: Thank you very much.

Ms. Garrido: We have two speakers in opposition, Wanda Ange and Lyna Levine. Please state your name for the record ma'am.

Ms. Ange: I am Wanda Ange, 721 Walton Drive and I actually live right behind where they want to put this tattoo parlor.

Ms. Levine: I am Lyna Levine, thank you for hearing us today. I also live on Walton Drive which is adjacent to the area where they are asking to have the strip mall rezoned.

Ms. Oliver: I had to interrupt you ladies, but would you all like to speak separately.

Ms. Levine: That would be just fine either ways, absolutely fine.

Ms. Ange: What you want us to do?

Ms. Oliver: Probably separately, might be little bit easier.

Ms. Levine: [Crosstalk] finish, you want me to sit down?

Ms. Oliver: No, we wanted to you go ahead and then we will start this way, right.

Ms. Ange: Alright, I guess one of my main concern is for Fairfield square shopping center to be rezoned from the community shopping center to the business, has all of that we have in there are in communities and we live on Walton Drive where as you come up Providence Road. There is, I believe it's a four-story medical center there. It's

Sentara Medical Center. They do not have adequate parking for their employees or their patients, so we have had to fight for that. I have been on that street for 35 years, so when you turn off to Providence Road, you come in to Walton which should be right behind this facility, they want to put in. We have cars lined up where sometimes I am not sure a fire truck could get through there, so we don't need any more traffic in that area. I don't know how much a tattoo parlor would bring in as far as traffic but really don't want to be changed from a community business at this time. We feel like it's not necessary. There are so many other places right around there, that's already zoned.

Ms. Oliver: Right, and do you mind, I think there is a pointer right there, there is a little black box on your left side and you could take that and press the top button, you can show us exactly where you live, you can take it off, you can pick it up, and there you go and you can show us.

Ms. Ange: There is Walton Drive, and you come off Providence Road so I guess is that the little shopping center.

Ms. Oliver: Yes ma'am.

Ms. Ange: So you go down Walton Drive, I live probably right there.

Ms. Oliver: Okay.

Ms. Ange: Okay you know what; I live in one of these houses. We really do.

Ms. Oliver: Does anybody have any questions?

Mr. Weiner: Can I?

Ms. Oliver: Yes Mr. Weiner.

Mr. Weiner: I know what you are talking about, so I live right around the corner. I know the office building can get very packed. The medical office building and I have seen it, but to go back to what we are talking about, that's in front of us right now, there is a B-1 neighborhood business, to go B-2, they could put all the businesses in there could actually draw a more crowd, draw more parking, draw more people and what they are trying to do now, so going from a B-1, we can get our zoning inspector will explain to you little bit better than I can but what can be done could draw more parking than what they are trying to do now.

Ms. Ange: Okay but even then would it not have to be rezoned to go from the community to business?

Mr. Weiner: No, not no, there could be a B-1 neighborhood with another type of business in there, like in there now.

Ms. Ange: Can you give me an example, right now?

Mr. Weiner: Well I was going to get our zoning inspector behind you, Mr. Kemp; can you explain for us this better than I can for a B-1 to B-2, what type of businesses that could go in there that could draw more parking in there?

Mr. Kemp: Yeah, B-1 is generally it's our neighborhood, commercial zoning district, the intense, use is tend to be less intense. B-2 is our standard commercial zoning district, the more intense uses that differentiate between B-1 and B-2 tend not to be in strip centers. The main differences are that B-2 permit uses such as fast food restaurants with drive throughs and that level of traffic and intensity those uses aren't in B-1, but in this particular situation, those types of uses wouldn't be conducive with the strip center, but a majority of the commercial property located in the city is B-2.

Ms. Ange: Right but there are lot of communities, have community shopping center that don't go to business, I really don't know why they want to go in there when there are so many already.

Ms. Oliver: Ma'am, do you mind turn around and speaking into the mic.

Ms. Ange: I am not sure he answered David's question though, David?

Mr. Weiner: Yes, he did.

Ms. Ange: Well, I don't understand it then.

Ms. Oliver: So this particular applicant, maybe I can explain a little bit when he came up and he stated, he is not the typical tattoo parlor in the fact that he has an open door policy just on-street, he has certain clients that he deals with, by appointment only. They also in this application proffered from a B-1 to a B-2, so this applicant made a list of proffers not to have when they go to the zoning to a B-2 and it says here animal pounds, these are things that they could have.

Ms. Ange: I read them.

Ms. Oliver: Okay, so they have proffered in there that these will not be in the shopping center. And those are the ones that are typical with the B-2, but these will not be businesses that you will see.

Ms. Ange: Well right now Dee, everyone excuse me, at this time that little community shopping center everybody closes early, you know, six the latest is in nail business, the latest is seven, what are the hours going to be for the tattoo?

Ms. Oliver: I think his hours are 7 o'clock, 10 to 7 by and what I understand but we can ask him when he comes back up, some more questions for you.

Ms. Ange: Okay, well the sign says 10-6.

Ms. Oliver: Well, the sign says 10-6, Kevin. The application says 7, but the sign says 6.

Mr. McNamara: Their application stated their hours between 10 and 7 but I am sure they can give some clarification on whether or not about signage.

Ms. Ange: Can I ask one more question, one of these it says that no bars can be put in there, you know, this changed but couldn't they go before the commission and ask to go in just like they are doing? I don't know, that's way I am asking.

Mr. Weiner: They would have to come back in front of us.

Ms. Oliver: They have to come back.

Ms. Ange: So they could go in there, they just have to come back and ask.

Mr. Weiner: It's a proffer they are making, so it becomes part of the zoning. It's not a condition, it's a part, you can do it, and you would have to come back through this whole public process.

Ms. Ange: Right, Okay but a tattoo parlor can get approved, then?

Ms. Weiner: It could happen on any property.

Ms. Ange: Then a bar could get approved or whatever.

Mr. Ripley: It has to go through the public process.

Ms. Ange: Well, I don't want to go over my three minutes, so that's my opposition. Thank you.

Ms. Oliver: Thank you very much. You want to call the next speaker for me please.

Ms. Garrido: Next we have Lyna Levine. Please state your name for the record.

Ms. Levine: Yes, it's Lyna Levine and I live at 732 Walton Drive, which is right adjacent on Walton Drive as you can see is adjacent to the piece of property that we are talking about and there are number of residential properties that are directly abutting this property from the rear and I feel like as you can see Fairfield and Providence Square shopping centers are already zoned B2 as is the property across Providence, so that if a business wanted to be in a B2 community business zone, there are many properties available there and there is the office building also that as was mentioned by the, by Mrs. Ange that does limit the egress and exit from Walton Drive. Walton Drive is really just a 2-lane road but there is parking that usually is employee parking that is available there on the right hand side of the street as you enter Walton Drive, so and obviously if we take this property from a B-1 to B-2, it's not ever going back to a B-1 and so my concern is that we continue to have it as a neighborhood business community and not a, neighborhood business zoning as oppose to a community business zoning.

Ms. Oliver: Great, thank you, is there any question for Mrs. Levine?

Mr. Horsley: I just to comment, looking at the amount I don't, you know, you are talking about Walton Drive and that's where your entrance to your neighborhood. This property does not have a curb cut on Walton Drive, the way I have read it on the map that we have, curb cuts on Providence so you wouldn't have traffic going from this either on to Walton Drive or from turn in Walton Drive to access this property unless I am reading map wrong and that's right.

Mr. Weiner: Correct.

Mr. Horsley: So the traffic is not going to affect Walton Drive.

Ms. Levine: The city actually takes care of the grass line between as you can where the blue line outlines this. It does, there is an easement which is basically a city easement and

the city takes care of that piece of grass. So you know it is the closest property to Walton Drive at that location.

Mr. Horsley: Yeah, I understand that but when the traffic doesn't go from this piece of property does not access Walton Drive is what I am trying to tell you according to the maps that we have, is that right Jimmy, so this really traffic going to this business is not going on Walton Drive.

Ms. Levine: It does affect our traffic flow as a matter of fact. I have often seen person and of course this is not a legal move however if you go back to your previous picture, you will see that if you are coming from, if you are coming from the west moving in an easterly direction, there is a turn lane that would allow you to turn on to Walton Drive. I often see people go on to the wrong side Providence Road to enter the driveway opening on Providence so that they are actually moving in an easterly direction on the part of Providence Drive where they should be moving in a westerly direction and obviously that is illegal and a person should not be doing that but it does cause a potential hazard for us as residents and it's not my job nor as far as I know, am I able to report that kind of illegal or dangerous action but that does happen.

Ms. Oliver: Any other questions for Mrs. Levine, okay, thank you very much.

Ms. Levine: Thank you.

Ms. Oliver: Alright, are there any other speakers?

Ms. Garrido: No more speakers.

Ms. Oliver: Alright, so if the applicant would like to come up for rebuttal, please. Both of you can come on up, that will be fine, state your names again for the record and then you can address the questions about the property.

Mr. Trotman: My name is Rick Trotman, I am the owner of the property but I am not going to be involved in the tattoo parlor but John has told me.

Ms. Oliver: Would you wanna speak in the mic, thank you.

Mr. Trotman: Sorry.

Ms. Oliver: It's okay.

Mr. Trotman: John has told me on number of occasions the way he is going to operate this is not like a, you know, people who are going to be coming and coming into his establishment on a walk-in basis, but it's one or two person a day, I think he said probably and that person would come and have a lot of work done, I don't have a tattoo, I am probably the only person in the world doesn't. It's not going to be a typical tattoo parlor with whatever that would bring as far as numbers of people, I think that's the concerns ladies number of people, you are concerned about.

Ms. Oliver: Okay, I will tell you what.

Mr. Trotman: John I think can address, how he is going to operate.

Ms. Oliver: Alright, thank you.

Mr. Blaster: It's John Blaster. I believe concerns were.

Ms. Oliver: One was traffic.

Mr. Blaster: Traffic, though I can't speak on behalf of B2 obviously it's up there, what is and isn't allowed and that's going to be his concern but we are not going to be hindering the traffic and what any way shape or form, as far as I have seen anytime I have come up to the establishment, there is plenty of parking opportunity enough so that the people that are actually parking on the other side of the fence, these women are talking about can probably occupy, we don't want them to, but we are not going to be hindering parking opportunities hours as stated I believe we did submit two different hours there, I think we are closing to 6 o'clock.

Ms. Oliver: 6 o'clock.

Mr. Blaster: Yeah, before we decided to establish.

Ms. Oliver: And about how much traffic do you typically generate from your establishment?

Mr. Blaster: Well, we are going to be closed on Sundays and Mondays, we will have gallery open on Tuesday, traffic as stated we only tattoo one person a day, each, so the total number of cars won't exceed four or five and as far as why we decided to come into this particular zoning, and try to change it to B2 because the word tattoo has traditional stigma, not many people like it and appreciate what it has to offer at least these days so having been blessed with coming in contact with Mr. Trotman here, he was the first person in months that was able to actually to get passed that word and hear us out as far as what we had planned to do and what we envision for our business so that's you know while there is plenty of other B2s available, it's hard to find a landlord that is actually opened to hear what we had to say, so.

Mr. Oliver: Okay, thank you. Anybody have any questions?

Mr. Trotman: Could I add one?

Ms. Oliver: Yes sir absolutely, step right on up.

Mr. Trotman: I went to my tenants who are there right now and they kind of looked to me like I was, you know, what you are asking us for that's you are building, you rent to whoever you want to but I wanted to make sure that stigma of tattoo because in my generation tattoos weren't what they are today and just about everybody who is in my structure has someone or number of people who have a tattoo, so the world changes and we are just trying to be a part of what the world is giving, so.

Ms. Oliver: Thank you.

Mr. Trotman: Yes sir.

Mr. Weiner: One question.

Ms. Oliver: Commissioner Weiner.

Mr. Weiner: Looking at the proffers that you come up with the staff are you very comfortable with keeping that, I know, this says it's a very small place, you are not just going to put a night club or bar in there.

Mr. Trotman: No.

Mr. Weiner: Are you comfortable with the proffers here that not going to come back and want to change anything?

Mr. Trotman: We are actually, I am 74 so I am getting little older and I don't think I am going to be operating the business, you know, forever. What I thought that B2 enhanced our ability or the ability of whoever owns the property to go to different people, but it's a community building. You know, we are going to keep that. We don't want to have a bar in there, we don't really want to have fast food, I don't think our facilities are large enough to accommodate those kind of businesses and we are not looking for that, we are just a little mom and pop operation that, how do I convey, you know, we are just trying to be a neighborhood organization so even though it's no longer has will have neighborhood in the zoning, we are going to operate it just the way it's operated and I don't think it will ever change. I don't think that the supply and demand equation is going to bring people into our small shopping center who are going to be of that type of a business so you know I did ask my tenants they all have some kind of a tattoo or someone does in their organization which is interesting because we don't but most people seem to, you know.

Ms. Oliver: Right. Thank you, anybody else; well he really answered my questions. I was just thinking what his other, the other tenants in the complex thought so nobody had any objection to it.

Mr. Trotman: No, they all kind of said, it's your building, you rent whoever you want to, I don't do that, I tried to keep everybody, it's a nice organization, everybody gets along, everybody likes one-another and that's the way we want to keep it.

Ms. Oliver: Okay, thank you.

Mr. Trotman: Okay.

Ms. Oliver: Thank you very much, anybody have any more questions for the gentleman.

Ms. Ange: I have a question for Mr. Trotman.

Ms. Oliver: Well, I am sorry, no ma'am, I am sorry, we have to kind of stick it to the format. [Background Voice] Well, you know, excuse me one second, it's out of order, we can't really have that conversation, I am sorry, so if the commissioners don't have any more questions than thank you very much and thank you. We are going to close the hearing now and open it for discussion amongst the commissioners, yes sir, commissioner Weiner.

Mr. Weiner: Listening the applicant and waiting through the proffers, I am comfortable in supporting this and ready to make a motion, anybody else has comment?

Ms. Oliver: Anybody have any comments? Mr. Redmond?

Mr. Redmond: Well, I do want to address one point and that is I wanna say B2 zoning is entirely appropriate for this piece of real estate, this is Providence Road. There are 22,700 cars that front this piece of property, it is not a small roadway and the idea that there is something inappropriate about that, there are thousands of properties in the city that are similarly situated parcels of land that are zoned B2 and the building is what the building is, its not going to support a whole bunch of uses simply by virtue of its structure. He is proffered out a number of objectionable uses and I look down on this tenant list, at least that's what's on this, you know, in the sign that we all have in our packets nail shop, maids, salon, jewelry store, there is nothing that this business would do that would be functionally different in terms of traffic or any kind of, you know, objectionable impact that these other small businesses do. This is a business center as it is and it will stay a business center just within additional tenant that fits into the zoning, I think much too much has been made of that so I agreed with Mr. Weiner and I certainly support his motion.

Ms. Oliver: Alright, thank you sir, commissioner Wall.

Mr. Wall: We had a similar application a couple of years ago and you know I opposed, I kind of opposed it, it was in the same format in B1 and B2, the same use, and much more prominent location I feel on Rosemont and Holland and but I drive by there all the time, since then and since it has been approved in, it seemed to have very little impact, I think, you know, we talked to the city staff and they said that, you know, there hasn't been any impact to them, a residents to the area so you know I support it as well.

Ms. Oliver: Alright, anybody else?

Ms. Rucinski: I am just, this is just an order of business, and do we need to make sure that the 6 o'clock closing time is in the application.

Ms. Oliver: Is that 6 o'clock.

Mr. Trotman: It is on the application, we just submitted the sign.

Ms. Oliver: So I just want to ask, do you mind coming up one more time, thank you, just for clarity here.

Ms. Smith: And maybe we have caused the confusion. The staff report notes the hours from 10 am to 7 pm, the conceptual sign exhibit for the wall mounted sign for the tattoo studio shows operating hours up to 6 p.m. so if you would like to make a condition that would limit the hours that certainly your purgative.

Mr. Blaster: There is an objection to the time that listed right now; I am not just trying to add any more paper work to the.

Ms. Oliver: I don't know that there will be any more paper work but we just want to, I think, what they are asking is we have two things in the application you are open till 7.

Mr. Blaster: That's fine.

Ms. Oliver: And then but your sign says you are open to 6, so.

Mr. Blaster: I didn't know there was going to be that strict as far as the sign was concerned; I thought you just needed a layout, but as far as.

Ms. Oliver: So it's that just the layout.

Mr. Blaster: It was just a layout.

Ms. Oliver: So 7 o'clock is your closing hours.

Mr. Blaster: You can do 7 that's fine, if it's better to do 6.

Ms. Oliver: Mr. McNamara.

Ms. Smith: Whatever time you feel is appropriate, you can certainly recommend adding that condition, the commission.

Ms. Oliver: Do you oppose to 6 o'clock?

Mr. Blaster: We are not.

Ms. Oliver: Alright that probably would make probably be more conforming to the yoga studio and probably everything else is there, so 6 o'clock, if that's go with you.

Mr. Blaster: I am okay.

Mr. Redmond: I bet you 100 bucks, yoga studios open past 6.

Mr. Blaster: They are.

Mr. Redmond: I think we are going to [Crosstalk].

Ms. Oliver: Okay, alright, why don't we just stick with the original application 7 o'clock and thank you very much.

Mr. Blaster: Thank you.

Ms. Oliver: Alright, so we have a motion on the floor right now, yes sir commissioner Weiner.

Mr. Weiner: I will make a motion for approval.

Ms. Fisher: Are you adding the condition that they?

Ms. Oliver: Adding the condition that they stay on, open until 7 o'clock which is already on there, which is in the application that why we were confused.

Ms. Smith: I am sorry, it's in the dialogue in your staff report but it's not a recommended condition, so you would need to add that to your condition that's why I was seeking that clarification, I apologies for the confusion.

Ms. Oliver: We will add that to our condition, to our conditions 7 o'clock closing, motion made by commissioner Weiner, seconded by Commissioner Redmond.

Mr. Fisher: Vote is open.

Ms. Garrido: By recorded vote of 10-0, item number two has been approved.

Ms. Oliver: Thank you very much.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

PROFFERS:

1. The Property is developed with the “Fairfield Square Shopping Center” substantially as shown on that certain concept plan of 5318 Providence Road Virginia Beach, Virginia, (hereinafter called “Concept Plan”) which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning. The Property may be used for those uses (permitted or with an approved Conditional Use Permit) as allowed in the B-2 Zoning District under the Grantee’s C.Z.O., with the following exceptions, which are not permitted:
 - a) Animal pounds, shelters or commercial kennels
 - b) Boat Sales
 - c) Motor Vehicle Sales
 - d) Grocery Stores
 - e) Liquor Stores
 - f) Communications Towers
 - g) Mini-Warehouses
 - h) Automobile Repair Garages
 - i) Automobile Service Stations
 - j) Bars or Nightclubs
 - k) Borrow Pits
 - l) Bulk Storage Yards

2. All outdoor lighting shall be shielded, deflected, shaded and focused to direct light down onto the premises and away from adjoining property.

3. Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City codes by all cognizant City agencies and departments to meet all applicable City code requirements.

SUBDIVISION VARIANCE CONDITIONS:

1. When subdivided, the property shall be developed as shown on the submitted

subdivision exhibit entitled “REMAINDER OF PARCEL A-5 PLAT NO. 2, SURVEY OF A PORTION OF THE ESTATE OF J.C. HUDGINS FOR THE SEABOARD CITIZENS NATIONAL BANK OF NORFOLK” dated December 16, 2018, and prepared by Fox Land Surveying, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.

2. The existing non-conforming freestanding sign shall be removed. Any new freestanding sign shall be monument style, no taller than eight feet in height, and have a brick base to match the building.

CONDITIONAL USE PERMIT CONDITIONS:

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

**Item #3
Atlantic Autowerks, LTD
Conditional Use Permit (Automobile Repair Garage)
5479 Virginia Beach Blvd.
District – Kempsville**

JANUARY 9, 2019

CONSENT

Ms. Rucinski: Thank you Commissioner Redmond. The next matter on the agenda is item number three and that’s an application for a Conditional Use Permit for an Automobile Repair Garage on property located at 5479 Virginia Beach Boulevard in Kempsville District. Is there representative here for this application? And, when you get to the mic, can you please state your name for the record?

Mr. Broche: David Broche.

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

Mr. Broche: Yes.

Ms. Rucinski: Alright, thank you. Is there anyone here in opposition of this matter being placed on the consent agenda? Hearing none, the Chair has asked Commissioner Weiner to explain this for the record.

Mr. Weiner: Thank you Ms. Rucinski. This is a request for a Conditional Use Permit for an Automobile Repair Garage. The site was currently developed with a 42,000 square foot car stereo installation business. As this operator's lease is expiring in the near future, the applicant submitted a Conditional Use Permit to operate an Automobile Repair Garage at this location. The garage will provide maintenance such as oil changes; air conditions and suspension repair; brakes, shocks, and tire installation; minor engine and transmission work; and Virginia State Inspections. The applicant does not intend to do any body work, painting, or over-hauling of transmissions on the subject site. Repairs and the storage of materials will occur within the building. There will be no significant modifications to the site or to the exterior of the building. We recommend approval and put it on the consent agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

CONDITIONS:

1. All on-site signage must meet the requirements and regulations of the Zoning Ordinance.

2. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
3. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.
4. There shall be no portable or nonstructural signs or electronic display signs on the site.
5. No motor vehicles in a state of obvious disrepair shall be stored outside on the property. All such vehicles shall only be permitted to be stored within the building.
6. There shall be no outside storage of equipment, parts, tires, or materials.
7. No motor vehicle repair work shall take place outside of the building.
8. No motor vehicles shall be parked within any portion of the public right-of-way.
9. The required street frontage landscaping and foundation plantings shall be installed as described in the Virginia Beach Landscaping Guide. A landscape plan depicting the required planting shall be submitted to the Planning Department, and approval of said plant species and locations shall be obtained prior to the operation of the business.

Item #4

Pleasure House Brewing, LLC

Conditional Use Permits (Craft Brewery, Assembly Use & Open-Air Market)

2032 Pleasure House Road

District – Bayside

JANUARY 9, 2019

DEFERRED

Ms. Oliver: Thank you. The next order of business is to address those items to be deferred. Is there anybody that has any items to be deferred? The Chair is aware of one. Can they come forward? Thank you.

Mr. Stevenson: Good morning to all.

Ms. Oliver: Good morning. Can you state your name for the record please?

Mr. Stevenson: Yes, my name is Charles Stevenson.

Ms. Oliver: And the item number?

Mr. Stevenson: I am one of the co-owners of Pleasure House Brewing and we put in an application for a Conditional Use Permit. We are seeking a deferral to have more time to negotiate a shared parking agreement so that we can make sure that we can adequately meet the parking requirements.

Ms. Oliver: Thank you very much. And is there any opposition to this item being deferred? Okay, great. Thank you very much. So I need a motion on the deferred item number four, please.

Ms. Rucinski: Madam Chair, I will make a motion that we defer item number four for Pleasure House Brewing, LLC.

Ms. Oliver: Do we have a second?

Mr. Weiner: Second.

Ms. Oliver: Second by commissioner Weiner.

Mr. Fisher: Vote is open.

Ms. Oliver: Okay, we are ready to vote.

Ms. Garrido: By recorded vote of 10-0, item number four has been deferred.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

CONDITIONS:

1. With the exception of any modifications required by any of these conditions or by any City regulations, the site shall be configured in conformance with the submitted layout plan shown on page 6 of this report. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.

2. Consistent with the Shore Drive Design Guidelines, the building façade shall be a neutral or earth tone color. No primary color shall be permitted.
3. The existing plant material shall remain and be maintained. Any supplemental plant material shall be consistent with the Shore Drive Design Guidelines.
4. The existing chain link fence shall be removed from the site and shall be replaced with a solid eight-foot tall noise-damping fence along the rear property line and extended eastward twelve feet along the north and south property lines. A solid six-foot tall privacy fence shall be installed along the remainder of the northern property line to the rear of the building and 65 feet along the remainder of the southern property line. Said fencing shall be in keeping with the Shore Drive District Design Guidelines for fences and shall be painted or stained wood or decorative vinyl fence systems that are compatible with the architectural style of the building.
5. The occupancy load for the Craft Brewery shall be established by the City of Virginia Beach Building Official's Office.
6. A Certificate of Occupancy shall be obtained prior to the operation of the Craft Brewery.
7. Any conditions associated with the license issued by the Virginia Alcoholic Beverage Control Board shall be incorporated as conditions with this Conditional Use Permit.
8. There shall be no sale or consumption of alcoholic beverages on the premises between midnight and 10:00 a.m. With the exception of weddings, gatherings and other special events covered in the Conditional Use Permit for Assembly Use, only beer or other fermented malt beverages and non-alcoholic beverages may be served on the premises.
9. All signage onsite shall meet the requirements of the City Zoning Ordinance. There shall be no neon 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. A sign plan shall be submitted to the Zoning Office for review and permitting prior to the installation of any signage. Any existing signs that did not receive required permits shall be submitted to the Zoning Office for review.
10. As per Section 230 of the Zoning Ordinance, live music shall only be allowed inside the establishment when all the doors and windows are closed. No live music will be permitted outdoors.
11. All outdoor light fixtures shall be shielded away from the adjacent residential uses.
12. Emptying of dumpsters shall be limited to between the hours of 8:00 a.m. to 8:00 p.m.
13. If the parking spaces on an adjacent parcel are used in order to achieve the minimum number of parking spaces set forth in the Zoning Ordinance for the proposed use, a shared parking agreement shall be required and continuously maintained for the duration of the

Conditional Use Permit. Said shared parking agreement shall be submitted to the Department of Planning and Community Development and deemed acceptable by the Zoning Administrator prior to the issuance of a Certificate of Occupancy. Otherwise, a Board of Zoning Appeals variance shall be required in order to operate in a manner consistent with the information presented in this report.

Conditional Use Permit (Open-Air Market)

1. Unless otherwise authorized by the Zoning Ordinance, the Open-Air Market shall be limited to one food truck and up to four vendors which shall be located in substantial conformance with the submitted layout plan, shown on page 6 of this report. Said plan has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning and Community Development.
2. If the parking spaces on an adjacent parcel are used in order to achieve the minimum number of parking spaces set forth in the Zoning Ordinance for the proposed use, a shared parking agreement shall be required and continuously maintained for the duration of the Conditional Use Permit. Said shared parking agreement shall be submitted to the Department of Planning and Community Development and deemed acceptable by the Zoning Administrator prior to the issuance of a Certificate of Occupancy. Otherwise, a Board of Zoning Appeals variance shall be required in order to operate in a manner consistent with the information presented in this report.

Conditional Use Permit (Assembly Use)

1. Two weeks prior to any event held on the property exceeding an attendance of 120 guests, to include but not limited to weddings, parties, gatherings, fundraisers, etc., the applicant shall notify the following City agencies: Police Department, Fire Marshal Bureau, Commissioner of Revenue, the Current Planning and Zoning Divisions of the Virginia Beach Department of Planning and Community Development, and the Health Department.
2. If the parking spaces on an adjacent parcel are used in order to achieve the minimum number of parking spaces set forth in the Zoning Ordinance for the proposed use, a shared parking agreement shall be required and continuously maintained for the duration of the Conditional Use Permit. Said shared parking agreement shall be submitted to the Department of Planning and Community Development and deemed acceptable by the Zoning Administrator prior to the issuance of a Certificate of Occupancy. Otherwise, a Board of Zoning Appeals variance shall be required in order to operate in a manner consistent with the information presented in this report.
3. Occupancy for any event shall be determined by the Fire Prevention Bureau and the Building Official's Office.

Item #5

Iron Asylum 2, LLC

Conditional Use Permits (Indoor Recreation Facility & Outdoor Recreation Facility)

1832 Kempsville Road, Suite 13

District – Centerville

JANUARY 9, 2019

CONSENT

Ms. Rucinski: Thank you, Commissioner Weiner. The next item on the agenda is item number five, and that’s an application for Conditional Use Permits for Indoor and Outdoor Recreation Facilities on property located at 1832 Kempsville Road, Suite 13 in the Centerville District. Is there a representative here for that matter? And as you come to the mic, can you state your name for the record?

Mr. Lapatin: Name is Elwin Lapatin.

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

Mr. Lapatin: They are.

Ms. Rucinski: Alright, thank you. Is there anyone here in opposition to this application being placed on the consent agenda, Alright, seeing none, the Chair has asked Commissioner Wall to review this item for the record.

Mr. Wall: Okay, thank you. The applicant is requesting a Conditional Use Permit for both an Indoor Recreation Facility and an Outdoor Recreation Facility in order to operate a 24-hour fitness center. The indoor portion of the operation is planned within Kempsville Crossing Shopping Center. It is anticipated that 14 employees will work at the facility which will be staffed from 8:00 p.m. to 10:00 p.m. weekly. The Outdoor Recreation Facility is requested in order to provide for the training of clients or small groups of up to twelve in an outdoor area located directly at the rear of the unit of approximately 12 feet by 50 feet. Activities will be limited to daylight hours and will be used for exercises such as sandbags, tire flips, battle ropes, and yoke carries. There will be no speakers, monitors, or amplification of music or instructions outside. A non-illuminated eight-foot by six-foot flat sign is proposed to be installed on the exterior of the building above the main entrance. With the exception of the new signage, no other changes are proposed to the exterior of the building. The conditions are acceptable to the applicant. There is no known opposition and staff recommends approval. Therefore, we have placed this item on the consent agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			

GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

CONDITIONS:

1. The location of the Indoor Recreation Facility and the Outdoor Recreation Facility shall be limited to the areas depicted on the proposed site layout on page 5 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. All exterior building signage shall comply with the requirements of the City Zoning Ordinance.
3. Outside storage of any equipment or any materials shall be prohibited within drive aisles and fire lanes.
4. The applicant shall obtain all necessary permits and inspections from the Department of Planning and Community Development Permit and Inspections Division, the Health Department, and the Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official's Office prior to commencing operation.
5. The maximum number of individuals within the facility shall not exceed the maximum number as determined by the Fire Marshal.

Item #6

L.B.H., LLC

Conditional Rezoning (R-7.5 Residential to Conditional A-24 Apartment)

463 N. Witchduck Road & the two vacant parcels to the south

District – Bayside

JANUARY 9, 2019

APPROVED

Ms. Garrido: Next we have item number six L.B.H., LLC, an application for a conditional rezoning from R-7.5 residential to conditional A-24 apartment on property located at 463 North Witchduck Road and the two vacant parcels to the south. Is there a representative for this application?

Mr. Bourdon: Madam Chair for the record, Eddie Bourdon, Virginia Beach attorney representing L.B.H. With me, this afternoon is Mr. Rob Prodan who is the managing member of L.B.H. My clients worked on assembling these three parcels on the west side of N. Witchduck Road for two years and have put together the properties and with dialogue with city staff Jonathan and Carolyn Smith and more recently with the Bill Landfair as well. The subject property is on the west side of N. Witchduck Road, a major arterial highway with a median strip. There is no median break. To our north is Whitaker Place, which was rezoned in 2012 and I am fairly certain that I did that rezoning and I as a part of that rezoning. It was a required proffer that they provide the ability to access this property or assemblage of property as there are three lots involved in this in the future in order to help create some cohesiveness along there. So that's a 23 unit condominium that has got underlying A-12 with the PD-H zoning in place. The folks at Lyle Design Group, the architects have done I think a very nice job with this project. This is a condominium unit for sale in two buildings. One and two bedroom units. The designated prices will be in the mid 200s for the units as they are sold. The building materials are proffered and as I think you all are aware, the board and batten and the brick water board and the shake siding, there is lap siding. The lap siding we will revise the proffer between here and City Council that it will be the premium vinyl lap siding, which you are familiar with, and it's not like the old time vinyl siding where you get a lot of different problems with over time with maintenance. Well this will be a condominium. Everything will be maintained by the association. The only reason this is an A-24 because of the lot coverage because of the parking area and the drive aisles or all counted as lot coverage in the apartment zoning district, the density is seventeen and a half units per acres, 28 units by contrast Whitaker Place to the north has 23 units. They are all single-family condominium unit buildings and if you look at the two side-by-side, there is a lot more open space and open area that's usable. This is a huge amount. There is non frankly at Whitaker Place because of the way it's designed with the single-family. This does allow for a lot less building on the property than, there - compatible density wise and value wise. All the drainage, storm water drainage from this project will go into Witchduck Lake, which is a regional BMP. It will not cause anybody any flooding or other similar issues. The access is right-in and right-out on North Witchduck Road, which is a major arterial highway with capacity. Because the units are one and two-bedroom units, they won't be a great deal of school impacts but all the schools in the area, in this district are under capacity. This section of Witchduck Road, as I travel fairly often, is not one that is, well if all roads were as effective and moving traffic is the section of north Witchduck Road, we wouldn't have any traffic problems. So obviously between the Boulevard and 264 is somewhat problematic now, but it will soon be better with the road improvements that are taking place there. Staff has recommend approval of this item. We greatly appreciate that recommendation. We worked closely with staff and this was on the consent agenda earlier. The couple

of things I will mention. We are aware of this letter that came in late yesterday from the Aragona Village Civic League which we do not abut and across this major arterial from but we will reach out to them and have a meeting with them before this matter goes to City Council. On the first page of the staff report, it indicates that the property to the north is zoned R-7.5 but it's in fact PD-H2 with A-12, which is the Whitaker Place, I am speaking about. But it's correct elsewhere in the write-up. With that, we are happy to answer any questions that you may have regarding this application.

Ms. Oliver: Anybody have any questions for Mr. Bourdon? Okay, thank you. I am going to go ahead and call.

Ms. Garrido: We have one speaker in opposition George Hayden. Please state your name for the record sir.

Mr. Hayden: Good afternoon, George Hayden, I am at 448 North Witchduck Road that is just across the arterial road as they said for Witchduck and three above north of Erskine.

Ms. Oliver: There is a pointer right there, if you would like to use it and you can show us.

Mr. Hayden: Right there.

Ms. Oliver: Okay.

Mr. Hayden: And I have three concerns. One is density as Witchduck Place is developed at 23 total units that was not present when I reside. When I first moved to Witchduck Road which was five years ago, five and a half years ago and that's the concern, primarily because of rising tax rates and lot of my neighbors have expressed concern about that including Aragona Civic League. Perhaps he could tell us just tree line space which I guess which is my second concern, which is an amount of water that's accumulates. This is going to be insoluble surface area, which will not be able to absorb rainfall. As stated, Witchduck Lake, which is behind their property, is not a sufficient source for the rainfall because I was here for the remnants of Hurricane Matthew, which was about two and a half years ago. Witchduck Road was flooded and the water was not quite reaching at doorways but when vehicles did pass as they were going slower about 10-15 miles an hour, it would cause a bit of wake which would creep up on to the grass of our yards.

Ms. Oliver: Jonathan can you go back to the street aerial view please?

Mr. Hayden: So this side, you can tell the buildings, the houses they are about 10 feet from the street, from the road and that was a concern for the flood waters. Hurricane Matthew, water was about 8 inches deep on Witchduck Road which was over the curb on to the sidewalk. My third concern is regards to traffic. Say there's 58 spaces for parking. The traffic already backs up at 4 p.m. through this area, standstill traffic, south down Witchduck Road. It's two lanes. It's not that major of a road. As already stated, as we already know that light rail is not coming to that part of the city and really that wouldn't alleviate the traffic much beyond the 58 parking spaces and that's what I want to say that. Well there was this traffic backing up about there.

Ms. Oliver: Okay.

Mr. Hayden: Ambulances, EMS crews that run through the street many times, won't be able to efficiently do their job in times of after school.

Ms. Oliver: Thank you. Mr. Hayden unfortunately your three minutes has passed, our red light doesn't seem to be working today and so but we will, do we have any questions for Mr. Hayden, any Commissioners any questions, well thank you very much.

Mr. Hayden: Thank you very much for your time.

Ms. Oliver: Thank you. Anymore speakers?

Ms. Fisher: No more speakers.

Ms. Oliver: Alright Mr. Bourdon, would you like to come up for the rebuttal please.

Ms. Wilson: Chairman.

Ms. Oliver: Yes ma'am.

Ms. Wilson: Mr. Graham has something in regard to his conflict of interest.

Mr. Graham: I do know the applicant but I did not have a financial interest in the project.

Ms. Wilson: So you intend to vote?

Mr. Graham: I do.

Mr. Wilson: Thank you.

Mr. Bourdon: The issue as far as storm water is concerned, I am not personally familiar with any flood damage that took place in this area and as we all know the storm water in Virginia Beach that is predominantly flat during storm events. The roads are where the water supposed to be if there are bad enough storm of versus in the people's houses but all of the storm water drainage from this development will be captured, none of it will be going in the N. Witchduck Road. It will be going into Witchduck Lake, which is a regional BMP with ample capacity to handle the outfall of storm water from this property. Again, the amount of development itself, the building themselves do not occupy that much of the site comparatively speaking but the parking lot is the reason because in the Apartment zoning district that parking and drive aisles count. That's why they add 24 for 17 and a half units per acre. The gentleman lives on the opposite side of N. Witchduck Road which has a median all the way down it, the only access that they have is a right-in and right-out. Similarly this development, the access that it will have is a right-in and right-out. Consequently and again there is ample capacity in this section of N. Witchduck Road, but the impact to the north bound or eastern side of N. Witchduck Road of this development frankly is pretty minor if any of that's real measurable hospital, up to the north, if they are going to hospital they are on the opposite side of the road from this development so I am not really following the progression of the logical argument that this somehow will have an impact on the ability of an ambulance to get to the hospital. I will be happy to answer any questions. We think it's a high

quality addition. We have B-2 property to the north of Whitaker Place and other B-2 properties to the south and this is on a major arterial highway. Developing it like Aragona Village, Aragona Village has nice neighborhood but we don't want to see what's over here with a bunch of curb cuts all along the road and that's what this type of cohesive development doesn't have. We removed that possibility. I will be happy to answer any questions.

Ms. Oliver: Any questions for Mr. Bourdon? Yes Mr. Wall.

Mr. Wall: So a condo association that's a different home ownership, is that?

Mr. Bourdon: Correct.

Mr. Wall: Okay, alright.

Mr. Bourdon: It will be a for sell to a home owner, you know, product.

Ms. Oliver: Any other questions for Mr. Bourdon? Thank you very much.

Mr. Bourdon: Thank you very much.

Ms. Oliver: At this time, we will close the public hearing and open it up to discussion for the Commissioners. Mr. Redmond.

Mr. Redmond: Madam chairwoman, I would move approval of the application.

Ms. Oliver: Okay, do we have a second?

Mr. Ripley: I second.

Ms. Oliver: Alright, call for the question.

Mr. Fisher: Vote is open.

Ms. Garrido: Alright, by recorded vote of 10-0, item number six, L.B.H., LLC has been approved.

Ms. Oliver: Yes sir.

Mr. Bourdon: Madam Chair if I could indulge for a second, what you said at the beginning, I mean about Mr. Frankenfield and Jimmy, couldn't have been said any better. I just want to echo, what you had to say there, as Robert as well, excellent city employees. If there ever were to be a City of Virginia Beach employee hall of fame, Barry would be there.

Mr. Frankenfield: I am in it already.

Mr. Bourdon: Congratulations! Thank you all.

Ms. Oliver: Thank you.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			

BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

PROFFERS:

1. When the Property is developed, it shall be as a residential apartment or condominium, substantially in accordance with the preliminary site plan designated “LBH LLC Witchduck Flats Witchduck Road, Virginia Beach, Virginia”, dated October 23, 2018, prepared by Lyall Design Architects, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the “Concept Plan”).
2. When the Property is developed, vehicular Ingress and Egress to the Property shall be via one (1) entrance from Witchduck Road with vehicular cross access provided to the residential condominium to the north as depicted on the Concept Plan.
3. The total number of dwelling units permitted to be constructed on the Property shall not exceed twenty-eight (28). Each dwelling unit shall contain between 700 to 1250 square feet of living area. Perimeter fencing outside of the front yard setback from Witchduck Road shall be six foot (6’) high white vinyl privacy fencing.
4. The architectural design and exterior building materials to be utilized on proposed Buildings “A” and “B”, as designated on the Concept Plan, will be substantially as depicted on the exhibit containing a “Long” and “Short” Elevation of “Building A” and of “Building B” entitled “LBH LLC WITCHDUCK FLATS” dated October 23, 2018, prepared by Lyall Design Architects; and on the two (2) renderings designated “Entrance View from Witchduck Road” and “Aerial View from Witchduck Road” on the exhibits entitled “LBH LLC Witchduck Flats Witchduck Road, Virginia Beach, Virginia” dated October 23, 2018, prepared by Lyall Design Architects, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning. The exterior building materials shall be a combination of architectural shingles, brick veneer, lap siding, shake siding, and board and batten siding.
5. When the Property is developed, the community identification sign designated on the Concept Plan shall be substantially as depicted and described on the exhibit entitled, “WITCHDUCK FLATS SIGN”, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

6. Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements

Item #7

LeCrea Westmoreland

Conditional Use Permit (Family Day-Care Home)

4857 S. Oliver Drive

District – Bayside

JANUARY 9, 2019

CONSENT

Ms. Rucinski: Thank you Commissioner Wall. The next item on the consent agenda is item number seven, is the applicant for that item here that is an application for a conditional use permit for a family daycare home on property located at 8457 South Oliver Drive in the Bayside District.

Ms. Westmoreland: Hello, my name is LeCrea Westmoreland.

Ms. Rucinski: Are the conditions is acceptable to you?

Ms. Westmoreland: Yes.

Ms. Rucinski: Is there anyone here who is in opposition to this matter being placed on the consent agenda? Seeing none, the chairman has asked Commissioner Ripley to review this for the record please.

Mr. Ripley: Thank you very much. This is an application for a family daycare in the in a house in a neighborhood at 4857 South Oliver Drive. It's very routine. This is by-right if you can have four children under daycare not related to them. The applicant is asking for 12. The staff has been out and reviewed it and looked at the yard and looked at the conditions and has recommended that this be approved. It's pretty routine for us to do that. We really do like seeing daycare within the neighborhoods, as it helps a lot of families out that wouldn't otherwise have access to this type of service. There are six conditions that are applied to it. The applicant is agreed to it. The Planning Commission is recommending approval too, so we put it on a consent agenda.

Ms. Rucinski: Thank you Commissioner Ripley. Madam Oliver that is the last item on the consent agenda, so I would like to make a motion that we approve the consent agenda items number one, three, five and seven.

Mr. Weiner: Second.

Ms. Oliver: Alright.

Cole Fisher: Vote is open.

Ms. Garrido: By a recorded vote of 10-0 agenda items one, three, five, and seven have been approved by consent.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

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# 8

Traditional Concepts, Inc. & Victory Baptist Church of Virginia Beach, Inc.

Modification of Conditions (Religious Use)

Conditional Rezoning (R-15 Residential to Conditional R-10 Residential)

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

4125 Indian River Road

District – Princess Anne District

JANUARY 9, 2019

DEFERRED

Ms. Garrido: Okay, lastly we have agenda item number eight, which is Traditional Concepts Inc and Victory Baptist Church of Virginia Beach, Inc. This is an application for modification of conditions religious use, conditional rezoning R-15 residential to conditional R-10 residential and subdivision variance of section 4.4B of the subdivision regulations on property located at 4125 Indian River Road, is there a representative for this application, please state your name for the record sir.

Mr. Napier: Madam chair and commissioners, My name is John Napier, I am a Virginia Beach attorney with Hanger Law, I am happy to be in front of you all this afternoon, thank you for having us. I am also joined by the applicant Mr. Wayne Crosby of Traditional Concepts. I am also joined by Pastor Smith and his lovely wife with Victory Baptist Church here as well. I have come into this a little bit midstream but I know that the current, city planner Mr. Sanders has as well but this has been almost a 4-year process frankly when the conversation started with city planning and you all of had actually already seen this application which I know most of you will know. This is a rezoning of, the church is going to stay, parking lot shifts little bit, you all know that. The applicant is proposing to do 14 lots, there is an existing home, parishioner residence there that's lot 13 and then there will be 13 other new homes here for this application, I know again you all are familiar with the architecture, I am happy to go through that if you like, I think they are wonderful quality homes, hardiplank siding, brick and stone accents, I think you all have seen that as well before and I know that there had been a recommendation from staff you all had approved the application as it had been and frankly the reason it didn't move forward to city council after that is because of again many of you well know there drainage issues with Hillcrest Meadows is right next door and the applicant had agreed to wait because the city was working out some of those drainage issues and two and a half years have gone by and here we are now. I understand that the staff

recommendation at this point unfortunately is a denial for three issues as I see them as reported in the staff report. One had to do with part of how the engineer had done the entrance way that has been rectified and I believe staff mentioned that this morning that I don't think that's an issue anymore before you all. Second of all was the south eastern parkway, we know that it still on the master transportation plan; however, I do want to just make note of the original staff report and I know Dr. White had been the original planner but as noted in that original staff report, there were several plans when this was originally brought up to city that included the parkway, there were about at least 6 or 7 months of discussions with the city, the applicant brought this to city and the city said that they were not interested in that property. They were not interested in purchasing it, and to quote the staff report from before based on this information and the discussions among city teams and leadership, the conclusion was reached the city is not going to purchase the rear of the subject property, therefore, the applicant was informed that the rear of the sight could be used for development. So that was the staff report from June of 2016 and that's the applicant is continued to move forward based upon that resumption up until this latest staff report came out and again I am certainly sympathetic to Mr. Sanders because he is coming into to take over this application as well so I understand he is working with the information he has. The last item that I understand was an issue and I will make one other note, there was a recommendation for an added proffer to make sure there was a minimum elevation, I believe 8.33 feet is that correct and the applicant has no problem with that, I will work with staff to add in that proffer that's not going to be an issue. The last issue has to do with whether there is a subdivision variance needed. The original plan that was approved by planning commission before on the cul-de-sec lots actually had similar, the similar widths that the current plan has. The only difference on this current plan from the plan that you all approved in 2016 is they have added in a BMP they gone through, the preliminary storm water and they have added in the BMP system and I know there was some comment about how that storm water facility to pond kind of juts up there but in the discussion with the engineer, this is the capacity needed to be able to serve that because the existing storm water facility in the north cannot be used by any of these new homes because that's already been committed to Hillcrest above which is I guess to the west so that existing storm water facility is already been committed and so those other two ponds that you see there here and here are needed to be able to service a development. These again, as I was saying these four cul-de-sac lots are actually in conformance with the exact same way that the cul-de-sac lots to Hillcrest and Indian River Meadows have cul-de-sac lots with similar lots widths on them there. I don't know that, I know that again Mr. Sanders is coming in and evaluating this kind of with fresh eyes and they have essentially said it that a subdivision variance was needed, we are going lot of presumption over the last basically four years that we worked through the issues; however, with all that being said, I would like to take any questions because I want to make sure that we address all of your comments and as well as city staff. We are going to ask for a 30-day deferral so that we can work with staff and do we can to get this plan right to make sure because we don't want to come up here with the plan denial or a planning staff recommendation of denial, but both the applicant

and the church have been immensely patient and done everything they can to work with the neighbors to do everything they can to work with staff for the past four years to get this done and really they would frankly just would like to move, be able to move forward. At that point, I will cede any other time that I have and do my best to answer your questions, unfortunately the engineer was not able to stick around with us this afternoon but to whatever extent I can be an engineer which I am not, I will be happy to answer questions.

Ms. Oliver: Any questions, Mr. Ripley.

Mr. Ripley: My memory is not always good but I do remember the application and I thought I remember drainage going into that primary BMP to the north, I called the north, which direction it is but I thought there was some utilization of that in the plan we saw, the first plan we saw months ago.

Mr. Napier: This is the original, this is the plan that you all approved back in June of 2016, yes. I know there were discussions; they knew they were going to have to add into another BMP at that point. So there was going to be another storm water system but we also know that two and a half, three years ago when it started, there has been a whole lot of development when it comes to storm water since then. My understanding now and I will be happy when we come back and I will verify with the engineer but I did ask the applicant before I even walked up here, I said can you just verify or are we utilizing any of that existing BMP and he said his understanding was at this point with the way it's when designed now that we are not utilizing that BMP.

Mr. Ripley: Way it is designed now but I am going to go back to the original plan and the reason is that there was, I don't believe, they were taking storm water from the adjacent neighborhood at that point, were they and was something worked out with the church later between then and now that provided for that or in my, again my memory is not always very good.

Mr. Napier: So Hillcrest Meadows up here is utilizing that BMP for their storm water.

Mr. Ripley: Okay.

Mr. Napier: Again there is a pipeline that runs this way across the back of the property, there is I believe that also pipes coming in this way into the BMP and that was.

Mr. Ripley: So with the original plan, again you are not an engineer and engineer is left but how would you have drained that?

Mr. Napier: There was always a plan to include a BMP as a plan went forward. This is a land use plan obviously but and again you have to forgive me because I wasn't here either commissioner Ripley but my understanding was they knew that there was going to be an added storm water system and that was going to get worked out and engineering whether they had some kind of underground system that they utilized or whether they put in another small pond, I know that there had been iterations of plan that there was a small pond potentially planned along the back of those lots and again that is what it ended up happening as far as how it was designed but the

pond obviously got substantially bigger just because of the new storm water regulations.

Mr. Ripley: Let me ask you about the number of lots because there was discussion this morning about if one lot could be removed, the cul-de-sac lots could be, maybe loosened up and maybe the houses bought forward slightly and maybe there is enough room to accommodate the south east expressway if that ever happen whenever but that seemed to be point of contention is that something you might be willing to consider?

Mr. Napier: Yes Commissioner Ripley. With a plan of this size and I am sure you all know also the tighter it gets and the fewer lots you have the greater your cost go exponentially right if you lose one lot in a 100 lot subdivision that can be defused quite easily, if you lose one lot in a 14 lot subdivision then your cost go up significantly and so the applicant is very much desirous of being able to retain what's there not because you know unfortunately the applicant and the church both would lose out in that scenario of losing the lot however that's part of the discussion of figuring out where we can come together and find that so there has been some initial discussion about if we did take one lot out what that would look like as far as being able to get the any feet along the cul-de-sac so that discussion has started, I have every confidence that by February hopefully when we are back in front of you then that will all be worked out and that we'll have a plan that everyone can get behind.

Mr. Ripley: Can you get it worked out in proffers isn't there a deadline?

Mr. Napier: Yes.

Ms. Wilson: 21 days.

Mr. Ripley: 21 days before.

Mr. Napier: The proffers, the only thing that need to change in the proffers are really to add in the elevation that we just discussed that we said we are minimal to the staff recommended and really if we end up losing a lot, I mean that takes me 30 seconds you know in the document to change that and get that back to the city to review. So that I don't anticipate that being a problem, I know that speaking with engineer who was there this morning with us at the informal session, he had to head back to the office but he was basically essentially going back to look at what he could do right away, he is going back to the office right away to see what could be done.

Mr. Ripley: Thank you.

Mr. Napier: Thank you, thank you for questions.

Ms. Oliver: Anybody have any other questions?

Mr. Horsley: No, the only comment I would make, I too like Mr. Ripley it was my thinking back in 16 that storm water pond that was set to the top there was part of the storm water plan at that time and I just, I know there was a problem with flooding in the Hillcrest Farms and it's in my memory and it's getting old too like me but I thought there was a pipe that going through that, it was too small and they again enlarging that

pipe to help the Hillcrest flooding issue but I thought there was some of the storm water from this property supposed to go in there, but maybe my recollection.

Mr. Napier: Mr. Horsley I will be happy to verify that with the engineer, I certainly don't want to misspeak like I said I had asked the applicant before coming up just to make sure and my understanding is that because of the other storm water system that's going in there that they won't be using capacity but I will make sure and I know that with as designed right now with the new BMPs even if any of that even any of that capacity is going to be used it will most likely be negligible to the point where the new system will be able to handle the newer lots, so you know again wish I am not an engineer, it's possible that some water could be going in there my understanding is that isn't been using the calculations but I will be happy to verify that.

Mr. Horsley: And I too the cul-de-sac lots down there if you would carefully discuss that with staff and see because I think I would be more appealing even I have to, I don't think you have to have a variance if you did that also.

Mr. Napier: If I know that the discussion has been even at this morning that if we lost a lot that we wouldn't have to worry about any kind of variance. It really comes down to again, it's somewhat of a math problem and you know time value here, this has been of four year process, everyone wants to be able to move forward and get things approved and continue forward, but thank you for your comments sir.

Ms. Oliver: Great, thank you, anybody else, alright. Thank you very much.

Mr. Napier: Thank you.

Ms. Garrido: We have two speakers Reverend Les Smith and Bruce Malloy. Please state your name for the record.

Mr. Smith: Pastor Les Smith, Victory Baptist Church [Inaudible] [01:23:02].

Ms. Oliver: Welcome.

Mr. Smith: Thank you, it's a privileged to be here, I love this great city. My wife and I started the church 41 years ago and City of Virginia Beach is always rightfully so believed in non-prejudice that means we are not to be prejudice against race, creed or color but yet I find myself and maybe the city is not aware of it but southeastern parkway has been a difficult problem and I wrote a letters to Jim Lawson and the city because they bought the Pace builders built on both sides and they bought, they said the geographical location of five the highest location south eastern Parkway. They went down to street and they bought the property that I owned and I sold it to Village Church and they bought that. I want to know [come let us reason together as a council, why would they refuse, is that prejudice, why would they refused to buy that property, we wouldn't be here today and all the stress that I have been under I think it has been four years. If that have done, they should have done and so the years went by and Wayne Crosby came to me and a good friend, I buried his father, and his sister I loved him and so he is a good guy, he made a contract and the church approved it, of course, [Inaudible] [01:24:45] to build on 7 of the 10 acres and there has absolutely been a nightmare for almost four years now. The

planning department which I don't know who to blame they blamed one of the builders and builders blamed it on the city and I'm caught in the middle, how would you like to held to a contract as a hostage and not able to do that right, my vote would be to deny this whole thing and let's get back to where we started from, I don't know what else to say. If they sue us, they have to sue us, I am angry about it but the Bible says be angry and sin not I am almost 76 and I am tired, any questions.

Ms. Oliver: Any questions for the pastor, thank you. Appreciate it.

Ms. Garrido: Next we have Bruce Malloy. Please state your name for the record.

Mr. Malloy: I am Bruce Malloy and I represent the neighbors that abut the church property and you have wonderful memories of the first time we were in front of the commission and I do understand that the attorney is walking in midstream here, can we go back to the slide that shows the layout of the properties please and this is fine right here so you are correct, initially this was the only retention pond that was proposed in this development and you are also correct in remembering, it is the only drainage from all of Hillcrest Meadows the 16 home subdivision. I own the home right here in the middle of this, the easement for that drainage goes between my property line and my next door neighbors. So this has been the issue for us and commissioner Oliver, you actually were one of the four folks that voted against this initially when we were here understanding what our concerns were since then Wayne Crosby as a developers has done a wonderful job partnering with us, this is not a conflict, I am not in opposition of this development quite frankly I think it's a pretty good plan when we get it right and I think Wayne is the right developer when we get this right, so what we are looking for is Wayne has helped us working with the city and we have got the drainage improved from this retention pond all the way back into this stumpy drainage area, we no longer have an issue with the retaining pond, the retention pond, what we have is an undersized pipe from the street all of the homes, all of that neighborhood drains through there. Unfortunately, we have not been able to get the city to help us up keep this pipe, so it is now clogged, we are operating it about 25 to 30% capacity. So unfortunately what continues to happen is my home floods the front of my home floods every time we get a very major storm, and I don't mean in a regular rain, but in a major storm I have water in my garage fortunately I am in a cross space, as all my neighbors are, my next door neighbor has the same issue because the way the street is designed of course high end, high end on each end low in the middle where the drain is, I live at the lowest part of the neighborhood lucky me. So what we are hoping for here and again I trust Wayne Crosby as a developer quite frankly and I am bleeping here so we are hoping that we can get some relief with Wayne and his group and this commission to get this fixed, because once we get this altogether, this entire neighborhood and I disagree in my understanding at least that there will be some water from this side of the draining into this retention pond. We need to get that fixed. My pool liner this year for the third time in six years is being replaced this spring, because my liner continues to float, 3500 dollars each time, my abutters each side of me Byron Solsbury, Paul Wise both have done the same thing so unfortunately I am out of the time, the other thing I am going to ask you to develop, considers please as we now

have to raise this for another eight and a half feet, we don't have that backed yet, this is an evil, it's an even level lot, so when we raise this to develop it, we are going to be draining this entire development into the backyards including former state delegate Ron Villanueva who was here with me the last time, all of us about this property and that development is going to drain into our yards all along there, so please consider that as we work together to get this right but I will share with you Les Smith and Wayne are just wonderful people and they have worked for four years with us as a neighborhood to get this right, so I am hoping that we do, so thank you letting me speak.

Ms. Oliver: Thank you, just one second.

Mr. Ripley: Can I ask you a question, it's not a question, the eight and half feet I believe you are talking about the finished floor, they don't have to grade it up to eight and a half feet, so hopefully what you are looking at and they'll work that out as that, you just really have, they are putting the finished floors up higher, they are going to have more peers, it will be higher at the finish floor level and not necessarily that the ground where the earth is.

Mr. Malloy: I appreciate that explanation.

Mr. Ripley: I think that's what you will say.

Mr. Malloy: I will trust you they protect us and make sure we do the right thing.

Mr. Ripley: I may be wrong about that but I believe I am correct.

Mr. Malloy: Okay.

Mr. Ripley: Thanks.

Mr. Malloy: Thank you.

Ms. Oliver: Anybody have any other questions, yes.

Mr. Weiner: Well it's really just for Jonathan, Jonathan can you clarify that just about the elevation because it seems like there is some confusion on.

Mr. Sanders: Sure. We received these comments from public utilities on their standards and it's actually at the very bottom where the foundation hits the ground, the lowest adjacent grade to the lowest part of the proposed house, it's where that it needs to be 8.5 feet. So not really at the finished floor level necessarily but just down where it hits the ground.

Mr. Malloy: I think that certainly supports my concern.

Ms. Oliver: Yeah, okay, thank you. So any other speakers?

Ms. Garrido: No more speakers.

Ms. Oliver: Okay, Mr. Napier would you like to come up for rebuttal please or more comments on this?

Mr. Napier: No madam chair, I just want to make sure that like I said, I will get clarification regarding the existing BMP, I do think that Mr. Sanders please help me on this too, we are not having to raise the site another eight and half feet, it just needs to be the finished overall elevation of the property has to be at 8.3 feet, so I again not an engineer, I cannot tell you where the elevation, that elevation could be at seven now, I don't know if you have that information on you as to what the delta is.

Mr. Sanders: No, we haven't received a full survey of the property yet but during site plan review, that information will be provided.

Mr. Napier: Just to Mr. Malloy's concern that would make this project cost prohibitive to have to raise the entire of the 8 acres or 7 acres another eight and half feet of where it is existing so we will be happy again to continue to work with you and I guarantee we are not lifting the site another 8 feet.

Mr. Malloy: Any raising of that level of course will affect us because it is a level lot now

Mr. Napier: As we go through the engineering, all of the grading and all of those calculations will be making sure that the existing storm water management facilities are taking that water; however, they drain, they won't be draining back in the Hillcrest Meadows, so that's, I know that's something that we work through and actual site plan review with the city to make sure that that's the case, so.

Ms. Oliver: Right and so it is my understanding that you are before us asking for deferral, is that correct?

Mr. Napier: Yes madam chair that's correct.

Ms. Oliver: Okay, great, so.

Mr. Napier: Till February.

Ms. Oliver: Till February, exactly so you have a lot of ground to cover and I am sure you will get that done to the satisfaction of the neighbors and of the pastor and of the city.

Mr. Napier: Okay, thank you very much.

Ms. Oliver: Yes sir. Mr. Redmond.

Mr. Redmond: I think it would be helpful and I would appreciate it if you would convey next time we do this, we kind of like that engineer here, I think it was unhelpful that he was not.

Mr. Napier: I will take a little bit of responsibility for that honestly just because he was here with us this morning, he had asked me and I said you know what I believe given the comments this morning in the conversation that we had, that we were going to ask for deferral and he said okay well, I am going to, I need to hit back in the office if that's the case. I don't think he was anticipating me getting up and having this full conversation with you, so I will take the responsibility, I will make sure that he is here for any subsequent conversations because obviously there are questions that he will need to answer that, only he will be able to answer it right.

Ms. Oliver: Okay, great.

Mr. Napier: Thank you.

Ms. Oliver: Thank you very much. At this time, we are going to close it and open it to any of the commissioners, if not, yes sir.

Mr. Weiner: I did have one thing in, I was in a civic league meeting last night with senior public work staff and they said, you know, if there is any issue with the public storm water infrastructure and if there is, you know, clogging you know what appeared to be damage pipes that you need to contact them, so I would Mr. Malloy I hope that.

Mr. Malloy: Multiple times.

Mr. Weiner: Multiple times okay.

Ms. Oliver: So on that since there seems to be having a problem with that line, thank you, that's a guarantee.

Mr. Frankenfield: They will do a work order, I am not going to guarantee, they are going to fix it, but.

Ms. Oliver: I guarantee you, yes Mr. Redmond.

Mr. Redmond: I would move for a 30-day deferral to the application.

Ms. Rucinski: Second.

Ms. Oliver: Okay.

Mr. Fisher: Vote is open.

Ms. Garrido: By a recorded vote of 10-0, item number eight Traditional Concept Inc and Victory Baptist Church of Virginia Beach Inc has been deferred.

Ms. Oliver: Alright, I think that is our last item for the day, is there any other business?

Mr. Horsley: Madam Chairman.

Ms. Oliver: Yes sir.

Mr. Horsley: I would like to say that I have enjoyed working with Mr. Frankenfield for many-many years and Jimmy for couple of three years and Robert for many-many years. Robert you have been very longer than I thought you have, anyway I just want to say that they have all worked in a very professional way and some of them have surprised me in many ways and they already know that but I wish them well in their retirement and I hope to see some of the younger ones back in Virginia Beach in the near future. Thank you.

Ms. Oliver: Absolutely, thank you and so on that my fellow commissioners and I would like to thank everyone for attending today and thank the planning director and staff for their all hard work as always and I guess that's it for the day, thank you.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			

Item #D1

City of Virginia Beach

Amendment to City Zoning Ordinance Sections 203, 223, 401, 901, 1001 and 2203

JANUARY 9, 2019

WITHDRAWN

Ms. Oliver: Thank you, do I have any items, do have one item to be withdrawn.

Ms. Rucinski: We just got this email that item number one is to be deferred, requesting item one to be deferred.

Ms. Oliver: Okay, so item one is being deferred, is there a representative for that here today, is there any, oh alright, I am sorry, it's a neighbor request. There is a little bit of confusion with that, so that thank you Cole. Alright, we will move on to the withdrawn. Is there an item to be withdrawn, the chair is aware of D1, the City of Virginia Beach to be withdrawn; is there a representative for that here today?

Mr. Kemp: Yes Commissioner Oliver, the city requests a withdrawal of that item.

Ms. Oliver: Okay, great thank you and is there any opposition to this being withdrawn from the agenda, hearing none, may I have a motion to withdraw item number D1 please.

Ms. Rucinski: Madam Chair, I will make a motion to withdraw item D1 from the City of Virginia Beach from the agenda.

Mr. Ripley: Second.

Ms. Oliver: Thank you.

Ms. Garrido: By recorded vote of 10-0, item D1 has been withdrawn.

	AYE 10	NAY 0	ABS 0	ABSENT 1
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM	AYE			
HORSLEY	AYE			
INMAN				ABSENT
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER	AYE			