

Virginia Beach Planning Commission

Public Hearing Minutes

July 9, 2019

Ms. Oliver: The July 9, 2019, meeting of the Virginia Beach Planning Commission. My name is Dee Oliver, and I serve as the chairman of the Commission. Before we get started, I've asked Commissioner Redmond to lead us in prayer and that'll be followed by the pledge led by Don Horsley. If you all would please stand, thank you.

Mr. Redmond: Let's bow our heads. Heavenly Father, we thank you for the opportunity to come together yet again, to help improve this community. We all love and care so much about. At the same time, we also ask for your guidance and love and wisdom to help those members of our family who are so tragically affective, affected not far from here. Our hearts and minds are with their families, and always will be. Guide us Lord that we might make our decisions based on fairness and right thought and the best judgment that we can apply. As always, we appreciate sacrifices of your son Jesus Christ and look forward to the day when we might join him and you in your kingdom, in this we pray. Amen. [Group Pledge]

Ms. Oliver: Thank you. I've asked Commissioner Ripley, if you would introduce our members please.

Mr. Ripley: Thank you. I'm Ron Ripley and I'm in the real estate management development business and I'm At-Large member of the Commission. I want to start on my far right. Your left is Kay Wilson who's the city attorney who presides here today. George Alcaraz is a contractor. He's a member of the Beach District. Jack Wall represents the Rose Hall district and he's a civil engineer. Dave Wiener is not here today. He's in commercial sales and he represents the Kempsville District. Don Horsley to my immediate right is a farmer and he is a member at At-Large. Of course we've met Dee Oliver. She's a funeral director and she's our chairman. She presides over this meeting today. Jan Rucinski is in property management and she represents Centerville District and she's our Vice Chairman. Mike Inman is an attorney and he's a real estate attorney that concentrates in association management law and he is an At-Large member. Dave Redmond is commercial real estate and he's represents the Bayside District. And Whitney Graham is not here today and he's in land development. He represents the Lynnhaven District. Steve Barnes is the last Commissioner on the far end and he's a farmer and he represents our Princess Anne District and our planning director, Bobby Tajan. Bobby if you don't mind introducing your staff.

Mr. Tajan: Yes sir. We have clerking the meeting today. Nicole Garrido and Cole Fisher our planning technicians, our planning administrator Carolyn Smith, planners, Jonathan Sanders, the coordinator for the group, Bill Landfair and Marchelle Coleman, as well as Corey McKenzie, yes, and with the city attorney's office.

Ms. Oliver: Right, thank you. The first order of business is the explanation of the rules that we use to run our meetings and our city clerk is going to give that for us.

Mr. Fisher: Thank you. The Virginia Beach Planning Commission takes pride and being fair and courteous to all parties and attendance, is important that all involved understand how the commission normally conducts its meetings. It is equally important that everyone treat each other and the members of the Commission with respect and civility. The Commission requested if you have a cell phone please either silence it or turn it off. This is an abbreviated explanation of the rules. The complete set of rules is located in the front of the Planning Commission agenda. Following is the order of business for this public hearing. Withdrawals and deferrals. The chairman will ask if there are any requests to withdraw or defer an item on the agenda. Consideration of these requests will be made first. The consent agenda. The second order of business is the consideration of the consent agenda, which are those items that the Planning Commission believe are unopposed and which had favorable staff recommendation. 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 for the Virginia Beach City Council, the final decision to approve or disapprove an application will be made by the City Council. The Commission thanks you for your attendance and we hope your experience here today leaves you feeling that you have been heard and treated fairly. Thank you.

Item #1

Rowelma McGraw

Conditional Use Permit (Family Daycare Home)

5504 Haden Road

District – Bayside

July 10, 2019

RECOMMENDED FOR APPROVAL-CONSENT

Ms. Oliver: Great, thank you. The next order of business we will address those that have been placed on the Consent agenda and the Vice Chair will handle this portion of our agenda.

Ms. Rucinski: Thank you Madam Chair. This afternoon, we have eight items on the Consent agenda. The first matter is Item number one. It's an application for Rowelma M. McGraw applicant and Gregory T. McGraw owner for a Conditional Use Permit for a Family Day-care Home at 5504 Haden Road in the Beach, I'm sorry, in the Bayside Council District. Is there a representative for this application present? Can you please come forward?

Ms. Oliver: Welcome.

Ms. McGraw: Thank you.

Ms. Rucinski: Can you state your name for the record please?

Ms. McGraw: I'm Rowelma McGraw.

Ms. Rucinski: And are the applications acceptable?

Ms. McGraw: Yes.

Ms. Rucinski: Alright. Thank you. Is there any opposition to this matter being placed on the Consent agenda? Okay, you can sit down.

Ms. McGraw: Thank you.

Ms. Rucinski: Hearing none, the Chairman has asked Commissioner Dave Redmond to read this into the record, please.

Mr. Redmond: Thank you. This is a fairly common application for a Conditional Use Permit for a Family Day-Care Home in a residential neighborhood. In this case, the applicant is requesting a Conditional Use Permit to care for up to 12 children within their home in the Diamond Springs neighborhood. The house on the lot is well suited for this use. There is an enclosed yard with a play area for children, which is obviously important that the hours typically will be from about 6 am to 6 pm. One of the common conditions that the staff typically requests and we require is that the applicant staggers pick up and drop off times to mitigate any traffic impact on the surrounding neighborhood. There really is nothing that's out of the ordinary about this application. Again, the property is well suited. The applicant is experienced in this particular line of work, and we felt comfortable with it by consent. Thank you.

Mr. Fisher: By vote of 9-0, agenda items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

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 with the Virginia Department of Social Services for childcare.**
- 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 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 for use of the house as a family day-care home.**
- 7. The fence enclosing the outdoor play area shall remain in place and shall be maintained.**

Item #2

Jason Sprague

Conditional Use Permit (Residential Kennel)

1504 Hummingbird Lane

District – Beach

July 10, 2019

DEFERRED

Ms. Oliver: Now, we will go to the deferred items, please come forward if you have any item to be deferred.

Mr. Fisher: By the recorded vote of 9-0, items D3, D4, and D5 have been withdrawn.

Ms. Oliver: Sorry Cole. I'm whipping through today. So we'll go to the deferred items.

Mr. Bourdon: Madam Chair for the record Eddie Bourdon, Virginia Beach attorney representing Ocean Rental Properties, LLC. Item number three, that's an indefinite deferral, not sure when that will be back.

Ms. Oliver: Okay. Great.

Mr. Bourdon : Thank you.

Ms. Oliver: Thank you. Are there any other items that need to be deferred? Hi.

Mr. Berlin: Madam Chair, members of the Planning Commission. My name is Bruce Berlin with Venture Realty Group, we have item D4. We asked for an indefinite deferral. I would like to think that we could be back here in 30 days but working with staff I believe that we're going to need an indefinite at this point. D2, I'm sorry.

Ms. Oliver: Okay, thank you. Are there any other items to be deferred? The Chair has been made aware that item two is also going to be deferred. So may I have a motion? Are there any oppositions to any of these been deferred from our agenda today, may I have a motion to defer items, two, three, and D2 please.

Ms. Rucinski: Madam Chair, I will make a motion to defer item two, three, and D2.

Ms. Oliver: May I have a second please?

Mr. Horsley: Second.

Mr. Tajan: Madam Chair, just for a point of clarification, item two is being deferred to the August agenda while the other two are requesting indefinite referrals.

Ms. Oliver: Thank you.

Ms. Garrido: Vote is open.

Mr. Fisher: By vote of 9-0, items two, three and D2 have been deferred.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

Item #3

Ocean Rentals Properties, LLC

Subdivision Variance

5568 Shell Road

District – Kempsville

July 10, 2019

DEFERRED

Ms. Oliver: Now we will go to the deferred items, please come forward if you have any item to be deferred.

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Ms. Oliver: Sorry Cole. I'm whipping through today. So we'll go to the deferred items.

Mr. Bourdon: Madam Chair for the record Eddie Bourdon, Virginia Beach attorney representing Ocean Rental Properties, LLC. Item number three, that's an indefinite deferral, not sure when that will be back.

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Mr. Bourdon: Thank you.

Ms. Oliver: Thank you. Are there any other items that need to be deferred? Hi.

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Ms. Oliver: May I have a second please?

Mr. Horsley: Second.

Mr. Tajan: Madam Chair, just for a point of clarification, item two is being deferred to date certain to the August agenda while the other two are requesting indefinite referrals.

Ms. Oliver: Thank you.

Ms. Garrido: Vote is open.

Mr. Fisher: By vote of 9-0, items two, three and D2 have been deferred.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

Item #4

David Lee and Kimberly Lee

Street Closure

Adjacent too 617 S. Atlantic Avenue

District – Beach

July 10, 2019

RECOMMENDED FOR APPROVAL-CONSENT

Ms. Rucinski: The next item on the consent agenda is item number four. And this is an application for David W. Lee and Kimberly B. Lee, the applicant for Street Closure adjacent to 617 South Atlantic Avenue in the Beach District. Is there an—?

Mr. Bourdon: Thank you Ms. Rucinski, members of the Commission for the record Eddie Bourdon, Virginia Beach attorney representing the applicants, we appreciate this application being on the consent agenda, I will mention all the conditions are acceptable. The second condition talking about a drainage easement over the part of the property be closed contradicts what's in the evaluation, I am not suggesting removing it, but having done, you know, scores of these applications in Croatan. What has been the case in the past is there has been a drainage easement over the five feet. The last five feet, the rear five feet when you relocate the property line seven and a half feet back. We've typically had a five-foot drainage easement but not overall seven and a half feet unless there's actually a pipe in the ground which I don't think in 90% of these cases they're already pipes in the ground. So if the conditions are fine, I also want to get on the record that in all the ones we've done in the past, it's not had a seven and a half foot drainage easement that I have any knowledge of, usually it's a five foot drainage easement and so just wants to put that up.

Ms. Oliver: All right, thank you.

Mr. Bourdon: Thank you.

Ms. Rucinski: Is there any opposition to this matter being placed on the consent agenda? Okay, hearing none, the chairman has asked Commissioner George Alcaraz to read this into the record.

Mr. Alcaraz: All right, just to clear what Mr. Bourdon said, so do we add that there is going to be five-foot drainage easement.

Mr. Tajan: I believe that based on the report during the viewers, meaning that there was not a need for the drainage easement. So it could be if you wish to remove that the requirement for it, Ms. Wilson I defer to you on the condition.

Ms. Wilson: I would keep it in, I don't know whether their private utilities of any kind or other easements, so if we leave it in that I think were safer.

Mr. Alcaraz: Okay, because one of the comments I was going to state in my review was the public works as indicated there are no assets with 375 square feet. So is that true or not?

Ms. Wilson: Well, it could be the public utilities don't have in them, but there's a private easement or there's a private drainage.

Mr. Alcaraz: Okay. All right, thank you, appreciate it. The property owner proposes to close a portion of the platted, unnamed and unimproved alley that is adjacent to the rear lot line. As shown on the submitted street closure exhibit, the applicant is requested to close half of the 15 foot alley, totaling 375 square feet and incorporated into an adjacent residential lot. City staff determined that the proposed closure will not result in any public inconvenience, therefore closure of this portion of the right-away was deemed acceptable and City Council adopted a policy aimed at disposing of undeveloped rights-of-way to join properties in the Croatan community, therefore, we recommend consent. Thank you.

Ms. Oliver: All right, thank you.

Mr. Fisher: By vote of 9-0, agenda items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			

WALL	AYE			
WEINER				ABSENT

CONDITIONS

- 1. The City Attorney’s Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the “Policy Regarding Purchase of City’s Interest in Streets Pursuant to Street Closures,” approved by City Council.**
- 2. The applicant shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining parcel. The resubdivision plat must be submitted and approved for recordation prior to final street closure approval. Said plat must include the dedication of a public drainage easement over the closed portion of the alley to the City of Virginia Beach, subject to the approval of the Department of Public Works, and the City Attorney’s office, which easement shall include a right of right of reasonable ingress and egress.**
- 3. The applicant shall verify that no private utilities exist within the right-of-way proposed for closure. If private utilities do exist, easements satisfactory to the utility company must be provided.**
- 4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved within one year of the City Council approval, said approval shall be considered null and void.**

Item #5

Sk8 House Virginia Beach, LLC

Conditional Use Permit (Indoor Recreational Facility)

600 S. Lynnhaven Road, Suite 101

District – Rose Hall

July 10, 2019

RECOMMENDED FOR APPROVAL-CONSENT

Ms. Rucinski: The next applicant is item number five for SK8 House Virginia Beach, LLC, applicant, Mishorim Gold VAB, LP owner, and that is a Conditional Use Permit for an Indoor Recreational Facility at 600 South Lynnhaven Road, Suite 101 in the Rose Hall district. Hi, can you state your name for the record?

Mr. Pungvewa: Hi, good afternoon. My name is Robert Pungvewa.

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

Mr. Pungvewa: Yes.

Ms. Rucinski: All right, thank you. Is there anyone opposed to this application? I think you may be seated. Based on this, the chair has asked Jack Wall to read this into the record.

Mr. Wall: Thank you. This is an application for a Conditional Use Permit for an Indoor Recreation Facility. The applicant proposes to renovate 27,000 square foot unit within an existing building near the Lynnhaven Mall for the purpose of creating a family entertainment center with a roller-skating rink, indoor children's jungle gym, and a gaming center with video games. A tap room with beer, wine, non-alcoholic beverages and food is also proposed. The Zoning Ordinance permits an indoor recreation facility of 7,500 square feet or less as a matter of right. Since the size of this facility is above that threshold, a conditional use permit is required. There's anticipated retained employees for each shift. Anticipated hours of operation are 10 to 8 a.m., 10 a.m. to 8 p.m., Monday through Thursday 10 a.m. to 10 p.m. Friday through Saturday and 10 a.m. to 8 p.m. on Sunday. The Zoning Ordinance requires a minimum of 135 parking spaces for the proposed use. The site only has 56 parking spaces, but the property owner has a shared parking agreement with where the employees and customers will have the ability to use 167 parking spaces on the property

to the south. The conditions are acceptable to the applicant and Staff recommends approval. Therefore, we have placed this item on the consent agenda.

Mr. Fisher: By vote of 9-0, agenda items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

- 1. This Conditional Use Permit is limited to Suite 101.**
- 2. 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.**
- 3. The maximum number of individuals within the facility shall not exceed the maximum number as determined by the Fire Marshal.**

4. All exterior building signage shall comply with the requirements of the City Zoning Ordinance, unless authorized by the Board of Zoning Appeals, and shall be in substantial conformance with the sign exhibits depicted on page 8 of this report.

5. A Landscape Plan has been provided entitled, “Enlarged Planting Plan – 2720 N. Mall Dr. and 600 S. Lynnhaven Road,” dated 7/3/19 and drawn by Siska Aurand Landscape Architects. The Plan depicts the installation of medium canopy trees in the existing parking lot islands. Foundation landscaping along the western side of the building shall be installed per the City’s Landscape Guide. The Landscape Plan shall be submitted to the Department of Planning and Community Development for approval in conformance with the City’s Landscape Guide. Plantings shall be installed within ninety (90) days of City Council’s approval of this Conditional Use Permit

Item #6

Mishorim Gold VAB, LP

Conditional Use Permit (Indoor Recreational Facility)

2720 North Mall Drive, Suite 100

District – Rose Hall

July 10, 2019

RECOMMENDED FOR APPROVAL-CONSENT

Ms. Rucinski: All right, thank you. The next item is item number six and this is an application of Mishorim Gold VAB, LP. The applicant and owner for conditional use permit for an indoor recreation facility at 2720 North Mall Drive Suite 100 in the Rose Hall District. Is there representative for this application?

Ms. Murphy: Good afternoon, Madam Chair, Madam Vice Chair. For the record, my name is Lisa Murphy. I'm a local attorney, and I'm here today on behalf of the applicant Mishorim Gold VAB, LP. We appreciate all of Jonathan's work on this application, we do think that both number five and number six will be a tremendous benefit to that mall. And we accept the conditions with the modification that you should have received this morning to number four, which will allow the new landscaping to be planted within 90 days of City Council approval of the Conditional Use Permit and with that, I'm happy to answer any questions.

Ms. Rucinski: Thank you. Is there any opposition to this matter being placed on the consent agenda? Okay. Now we have none, the chairman has asked Mr. Jack Wall to read this one for the record also.

Mr. Wall: Thank you, Madam Vice Chair. The applicant proposes to provide an indoor recreation activity location including indoor trampoline courts, zip line, trapeze, foam pits, arcade games, and American Ninja style obstacle course within the existing building. Zoning Ordinance permits an indoor recreation facility for 7,500 square feet or less as a matter of rights. This exceeds that and thus a conditional use permit is required. Employees are anticipated to be 60 total, 15 per shift, hours of operation are 11 a.m. to 8 p.m. Tuesday through Thursday, 11 a.m. to 12 a.m. on Friday, 9 a.m. to midnight on Saturday and noon to 8 p.m. on Sunday and parking is adequate for the site. The conditions are acceptable to

the applicant. Staff recommends approval. Therefore, we have placed this side among the consent agenda.

Mr. Fisher: By vote of 9-0, agenda items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

- 1. 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.**
- 2. The maximum number of individuals within the facility shall not exceed the maximum number as determined by the Fire Marshal.**
- 3. All exterior building signage shall comply with the requirements of the City Zoning Ordinance, unless authorized by the Board of Zoning Appeals, and shall be in substantial conformance with the sign exhibit depicted on page 8 of this report.**

4. A Landscape Plan has been provided entitled, “Enlarged Planting Plan – 2720 N. Mall Dr. and 600 S. Lynnhaven Road,” dated 7/3/19 and drawn by Siska Aurand Landscape Architects. The Plan depicts the installation of medium canopy trees in the existing parking lot islands and medium trees planted every 25 feet on center along N. Mall Drive. The Landscape Plan shall be submitted to the Department of Planning and Community Development for approval in conformance with the City’s Landscape Guide. Plantings shall be installed within ninety (90) days of City Council’s approval of this Conditional Use Permit.

Item #7

KI Kennels, LLC

Conditional Use Permit (Commercial Kennel)

6444 Knotts Island Road

District – Princess Anne

July 10, 2019

RECOMMENDED FOR APPROVAL-CONSENT

Ms. Rucinski: Okay, thank you. The next item on the consent agenda is item number seven and that is an application for KI Kennels, LLC the applicant and Karen Brumley Pool the owner. It is a Conditional Use Permit for a Commercial Kennel located at 6444 Knotts Island Road in the Princess Anne District.

Mr. Bourdon: Again, Eddie Bourdon Virginia Beach attorney representing the applicant and the owner. We appreciate being placed on the consent agenda and that includes the additional condition that Ms. Wilson so appropriately suggested in the informal, we agreed all the conditions. Thank you very much.

Ms. Rucinski: All right, thank you. Is there any opposition to this matter being placed on the consent agenda? Okay, seeing none, the chair has asked a commissioner Steve Barnes to read this one for review.

Mr. Barnes: Thank you ma'am. This request for Conditional Use Permit for Commercial Kennel is acceptable and in staff's opinion this Kennel which is supposed on a rural 3.24 acre parcel and be with any building approximately 200 feet from a nearest adjacent dwelling. It is compatible with the surrounding users and an appropriate activity in a rural area Virginia Beach. While the structure is not fully soundproof, Staff supports a deviation to the setback requirement due to the distance from the existing residents in a structure as well as the building being insulated providing some sound attenuation per Section 221 of the Zoning Ordinance. The City Council may approve the deviation. Staff recommends approval of this adjustment and that the application subject to the conditions below. There are six conditions. Five are printed on the sheet that you have. During the informal session, there was one added to for clarification. And that is the dog kennel's structure shall be located not closer than 22 feet from a property line and depicted on the exhibit on page five

of this report. This location is a deviation to the 100-foot setback required by the Zoning Ordinance. Thank you.

Mr. Fisher: By vote of 9-0, agenda items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

- 1. In addition to up to four of the owner’s dogs, there shall be no more than eight dogs for the commercial kennel kept on the property at any time.**
- 2. The dog kennel structure, outdoor dog area, and fence shall be maintained in a safe and sanitary condition.**
- 3. All animal waste from the dog kennel shall be collected and disposed of in a lawful manner on a daily basis.**
- 4. The applicant shall ensure that all dogs are properly vaccinated and immunized.**
- 5. All signage on the site must be in accordance with sign regulations of the Zoning Ordinance.**

6. The dog kennel structure shall be located no closer than 22 feet from a property line as depicted on the exhibit on page 5 of this report. This location is a deviation to the 100-foot setback required by the Zoning Ordinance.

Item #8

Josephine Parker

Conditional Use Permit(Automotive Repair Garage)

573 Central Drive

District – Beach

July 10, 2019

RECOMMENDED FOR APPROVAL-CONSENT

Ms. Rucinski: All right, thank you. The next item is Item No. eight. And that is an application for Josephine P. Parker, applicant and owner for conditional use permit for an automobile garage repair, modifications of condition for bulk storage yard located at 573 Central drive, and that is in the Beach District. Do we have a representative for that application? Okay, do we have any opposition to that application being placed on the consent agenda? Okay, seeing none, the chairman has asked Commissioner George Alcaraz to read that to the record.

Mr. Alcaraz: The site is currently developed with a 9,500 square foot vacant commercial building and associated parking and storage areas. The applicant proposes a conditional use permit for the operation of automobile repair garage specializing in the service and repair of alternative fuel vehicles. This work will be scheduled with customers by appointment only. And once completed, the vehicles are either delivered to the customers residents or an appointment is made for the pickup. Transactions with customers will occur online or in specifically designed showrooms. No sales of automobiles will be conducted on the property. The applicant also seeks a modification of conditions to an existing conditional use permit for bulk storage yard located at the rear of the property. The modification will enlarge the storage area with the removal of a segment of security fencing allowing the bulk storage yard to merge with the existing storage area behind the building. The proposed requests for conditional use permit for automobile repair garage and for modification of conditions for an existing bulk storage yard are in staff's opinion acceptable. Both applications are deemed compatible with AICUZ and with other industrial business uses along Central Drive and within the Oceana West Industrial Park. As stated previously, no changes are proposed for the building nor the site with the exception of the signage and the removal of the segment of the security fencing. Based on those considerations that I just

stated and along with the seven conditions for the automobile repair garage and the three conditions with the bulk storage, we recommend approval.

Mr. Fisher: By vote of 9-0, agenda Items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

Conditional Use Permit (Automobile Repair Garage)

- 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 portable or nonstructural signs or electronic display signs on the site.**
- 4. No motor vehicles in a state of obvious disrepair shall be stored outside, except within fenced areas on the property.**
- 5. There shall be no outside storage of equipment, parts, tires, or materials.**

6. No motor vehicle repair work shall take place outside of the building.

7. 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.

Modification of Conditions (Bulk Storage Yard)

All conditions of the Conditional Use Permit granted by the City Council on February 26, 2002 shall be deleted and replaced with the following conditions:

1. The Bulk Storage Yard shall be limited to the area shown on the submitted site plan, entitled “Service Center/Bulk Storage Yard”, prepared by Cushman Wakefield on behalf of the applicant, dated May 24, 2019.

2. No development, including expansion of the stormwater management facility, shall occur within the seaward 50 feet of the Resource Protection Area.

3. Fencing, landscaping and lighting shall be maintained in accordance with Section 228 of the Zoning Ordinance

Item #9

Town Center Associates 9, LLC

Alternative Compliance

4556 Commerce Street

District – Bayside

July 10, 2019

RECOMMENDED FOR APPROVAL-CONSENT

Ms. Rucinski: All right, thank you. The next item is item number nine. And that is an application for Town Center Associates 9, LLC, the applicant and owner for alternative compliance at 4556. Commerce Street in the Bayside District.

Mr. Ward: Hello, good afternoon. I'm Carter Ward.

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

Mr. Ward: Yes.

Ms. Rucinski: All right. Thank you. Is there any opposition to this site and being placed on the consent agenda? Seeing none, the chair has asked Commissioner Dave Redmond to read this to the record.

Mr. Redmond: Thank you, Jan. This is not a very usual application. This is an application for alternative compliance. This site in the Town Center lies within the central business core district. The signage requirements within that district are very specific and very stringent. The long and short of it is a blade sign typically has to attach to a wall that is adjacent to a particular business. This is a multi tenant blade sign that will not because there are more than one tenant on it. It needs the alternative compliance under the ordinance, specifically so we can be placed on this location near the stairwell which projects into the plaza of Town Center. That's the place to put sign, if it is to most effectively serve the public interest, which is to allow people, which there are a lot who move around the plaza center of Town Center and so it makes eminent sense that the blade sign would be located there. There is no detriment to having a blade sign at that spot in Town Center. There is the obvious public benefit to it. There is no opposition and the Planning Commission feels that this is best dealt with by placing it on a consent. Thank you.

Mr. Fisher: By vote of 9-0, agenda items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

- 1. The blade sign shall substantially conform to the submitted exhibit entitled “Premier Apartments Wayfinding Signs, Sign Permit Drawings Rev. L Final” dated 5/30/2019 and prepared by Advanced Design.**
- 2. The words “Public Terrace” or other name as determined by the Town Center Advisory Board shall be added as a separate listing on the sign, either above or in place of “Use Stair.”**
- 3. In order to accommodate the additional listing for “Public Terrace,” the size of the sign may be increased up to 12 square feet per face.**
- 4. The sign shall be placed at a pedestrian-oriented height while maintaining a minimum vertical clearance of eight feet.**
- 5. The sign shall not exceed 12 square feet in size and shall not extend more than three feet from the building.**
- 6. The bracket used to attach the sign will be finished in a manner to make it blend in as much as possible with the existing stone color so that it will not stand out when installed.**

Item #10

MMR Associates, LLC

Modification of Proffers

596 Princess Anne Road

District – Princess Anne

July 10, 2019

RECOMMENDED FOR APPROVAL

Mr. Fisher: The first item being heard today is Item No. 10 MMR Associates, LLC. This is an application for a modification of proffers on property located at 596 Princess Anne Road and the Princess Anne District. Will a representative please come forward.

Mr. Bourdon: Chairman Oliver, members of planning commission, again Eddie Bourdon, Virginia Beach attorney representing MMR. I am passing around two letters of support from the only two adjacent property owners to the Creeds Hardware Annex lawn mower repair property at the corner Morris Neck Road and Princess Anne Road in downtown Creeds. Long before our current President decided to run for president, I used to refer to my client as the Donald Trump of Creed's, his father built the building that's the general store from Mr. Jones way back in what I believe was in the 50s and over the years, this rural Hamlet which is what our comprehensive plan seeks to encourage not have, you know, stuff spread out all over the place Pungo and Creeds are two of those Hamlets has been developed by this applicant pretty much single handedly. The old fire station is across the street, the new fire station, which he and Mr. Williams, Mr. Frank Williams gave the land to the city for the new fire station many years ago. The little hamlet of Creeds includes gasoline, small convenience store, gasoline sales, laundromat, food in the saddle store, Redhead Bay Cafe, which is a small restaurant, self storage facility, the very popular hardware store, and the Annex where the lawnmower repair takes place and businesses got down in the rural part of Virginia Beach, the situation that took place here, as you all heard in the informal this morning, or a couple of mistakes that occurred and as a result of before I go into that, let me also mention, the general store which is now the Annex where the lawnmower repair business Annex for the hardware store that is set back approximately 12 feet from Morris Neck Road at the front corner, the back corner is roughly setback about 20 feet from the property line. And to be clear, Morris Neck Road, the actual paved road where it's been for century, and

I would submit will be for the next century is entirely in the northern half of the 50-foot right-of-way consequently, where we are proposing this modification based on the unfortunate set of circumstances that we'll discuss a little bit and you'll discuss this morning will be more than 30 feet off of Morris Neck Road. And as was stated by a number of members this morning, the amount of traffic on Morris Neck Road is very light. I would suggest there might be almost as many bikes that ride down Morris Neck Road from what I've seen on being down there on a couple of weekends where there just packs of folks on bikes. You don't see packs of cars going down Morris Neck Road, that's for sure. So when the plans were for this accessory structure when those were submitted and reviewed and approved and my client had those picked up, it has always been the case, you know, the staff stamps, I don't read stamped approve plan and what the setbacks are and as Mr. Kemp completely, totally accurately described. Apparently, there was a mistake made, clearly a mistake made and they put zero setback. The plans were given to the contractor to put in the foundation that was dug. A footing inspection was called for, a footing inspection took place and it was approved before all the rebar, the steel and the concrete were poured and that's what again, you've seen all of that. So it wasn't just somebody at the counter who reviews and checks this before they stamp it, but to Ms. Rucinski's point I'm not going to try to steal your thunder or whatever you want to say, you know, I would not disagree with your assertion that Mr. Rollins should have been more aware of the fact when this all took place, that it varied from, you know, what was on the plans that were approved by Planning Commission City Council and frankly, that was one of the first things that Marvin didn't, you know, why didn't you call me. Well, you know, for 50 years, whatever Bob or whatever, any that, you know, the folks at City, what they stamp on there, that's what you're, you know, to go by. So that's what happened and the contractor did exactly what was on those plans, exactly what was approved, and what was dug and inspected before it was ever. So that's the facts, those are what happened regrettable, regrettable all the way around. I certainly am not trying to blame the city for this entirely, the mistakes were made. We're all humans; we all make them. The reality of this circumstance and again, I wouldn't be here if it didn't, in my view, make sense, just from an overall, you know, end result is because the road is where it is, the position of this structure will still be, you know, more than adequately distanced from the lane of traffic from the ditch from everything else that's out there. So it is not going to create any safety hazard, any visibility issues whatsoever. My clients willing to plant more trees, plant trees or bushes along the front, whatever, there is no opposition to this; the neighboring property owners have no opposition to it. Even

the person, who had concerns about it when it was originally approved, has not expressed any opposition to this. So you know, we all make mistakes, one of the things this is kind of little off, but Mr. Kemp was, I think way too harsh on both the development community and his folks. I've been doing BZA hearings pretty much every month for the last, you know, 20 some odd close to 30 years. There aren't two of these a month, there might be four or five in the course of a year, but they do happen. I mean, not you know, this may be a little more than some but what Mr. Kemp described this morning does occur, but we certainly don't have nearly that many of these situations that do occur, I'd say that my experience probably maybe five or six a year at most. And again, not quite to the degree that this mistake, most of them are exactly as Kevin described, you know, somebody didn't measure right, and they're off a foot or less. So that's where we are. This is a proffered modification, so there aren't any conditions attached if you believe that there is, you know, no real damage done here. We would appreciate your recommendation for approval. Appreciate totally where staff is coming from in their report and be happy to answer any questions any of you may have.

Ms. Oliver: Thank you.

Mr. Bourdon: Thank you.

Ms. Oliver: We have any speakers? We don't have any speakers. We have any questions.

Mr. Alcaraz: Can you confirm the inspection?

Mr. Tajan: Yes, a footing inspection was performed we check our system. Unfortunately, due to the error on the stamping, we were unsure of how the stamp appeared on the plan. It was missed during the footing inspection because they rely on the stamps as well. I will note though that the cycling itself did show the building in the proper location, so as Mr. Bourdon referenced there are enough errors around for this one.

Ms. Oliver: Yes Ron.

Mr. Horsley: I'll start on this, I said this morning in the informal session, I said, you know, we can put blame on two different places here but make a long story short is what's occurred here is unfortunate event but this is a real no adversity taking place from here, there's not a safety hazard, Mr. Bourdon has already mentioned that is not a safety hazard. The adjoining property owners of both we got letters and one of them in particular is told me, he said Don I don't have a problem with that. It's not gonna affect anything; Morris Neck Road is not

a main thoroughfare. It looks like it did when I came here 50 years ago, and I think it looks that way 50 years from now, I don't think it's gonna be a hazard, just unfortunate occurrence. And I think we need to move on and approve this application.

Mr. Redmond: Well, I agree with Mr. Horsley. He's exactly right. It's unfortunate, but, you know, people do make mistakes. I've probably made a couple of them already today. We all do. It is unfortunate, and I don't in any way want to suggest that people can ignore their own plans and build whatever they want based on that. And I don't think that's what happened here. I just think the applicant made some mistakes, Lord knows city-based mistakes, which I would suggest probably would require a little bit of forensic analysis to try and figure out how things got that way. So that we don't again, I mean, this doesn't happen all the time. But it does happen sometimes. Sometimes, it can cause problems much larger than this. This is not a mountain; it is a mole hill and Mr. Horsley is exactly right, Morris Neck Road, there is no safety issue whatsoever and no real purpose, no public benefit would be served by causing the applicant to dig all this stuff up and start over again. It just would be fruitless and so I agree with Mr. Horsley and tend to support it.

Ms. Oliver: Okay, yes, Jack.

Mr. Wall: In cities, you know, recommendation for denial, you know that, that provides usually, you know, a lot of weight in it and it does, you know, provide a good recommendation and a sound. Usually it's a very sound recommendation and it probably still is but I think that this is such that it's not a recurring incident that would set precedence in a setback into this nature, so I mean, I'd be in favor of approval.

Ms. Oliver: All right, yes Mr. Inman.

Mr. Inman: I will make a motion to approve the application.

Mr. Horsley: Second.

Ms. Rucinski: Second. Okay, well, wait a minute. Doesn't that approve their denial?

Mr. Horsley: No, approve the application.

Ms. Oliver: Hold on, just one second please. Mr. Kemp.

Mr. Kemp: How would we go about if they denied the application recommend, what I would do is I would recommend approval of the application as submitted because when it goes forward, it will have staff's recommendation of denial of request, and then it will have Planning

Commission's recommendation of approval because the request remains the request. So if you're approving the request, you're approving what the applicant is saying.

Ms. Wilson: Correct, and the motion is for approval.

Ms. Oliver: Okay.

Ms. Wilson: We need a second.

Mr. Redmond: I second.

Mr. Horsley: Second.

Ms. Oliver: Don gave it.

Ms. Garrido: Vote is open.

Mr. Fisher: By vote of 9-0, Item No. 10 MMR Associates, LLC has been approved.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

Proffer numbered 1 as contained in the 2016 Proffers recorded in the above referenced Clerk's Office as Instrument Number 20160822000743760 is hereby deleted and replaced with the following:

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, “SITE PLAN PARCEL ‘A’ SUBDIVISION OF PROPERTY OF I.V. JONES ET UX D.B. 2392 P. 2167 (PLAT) VIRGINIA BEACH, VIRGINIA,” dated March 27, 2019, prepared by Gallup Surveyors & Engineers, Ltd., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Amended Site Plan”).

Except as expressly modified herein, all of the proffers, covenants, restrictions and conditions contained in the 2016 Proffers remain in full force and effect.

2016 Proffer Agreement:

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, “SITE PLAN PARCEL ‘A’ SUBDIVISION OF PROPERTY OF I.V. JONES ET UX D.B. 2392 P. 2167 (PLAT) VIRGINIA BEACH, VIRGINIA,” dated April 4, 2016, prepared by Gallup Surveyors & Engineers, Ltd., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).

When the building designated “Proposed Metal Storage Shed” is constructed, it will have the architectural design and will utilize building materials substantially as depicted on the photographic exhibit designated “PROPOSED METAL STORAGE SHE FOR MM ROLLINS,” dated June 14, 2016, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Picture Rendering”).

When the Proposed Metal Shed is constructed, the color of the exterior siding of the building shall be “Light Stone” with “Crimson Red” trim as depicted on the palette of “COMMERCIAL INDUSTRIAL COLORS” provided by Heritage Building Systems. The color palettes as referenced herein have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter “Color Palettes”).

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 #11

City of Virginia Beach

Zoning Ordinance Pertaining to Assembly Use in Residential Zoning Districts

July 10, 2019

RECOMMENDED FOR APPROVAL

Mr. Fisher: Our next order of business is item number 11. This is a City of Virginia Beach an ordinance to add section 223.02 and amend section 501 of the City Zoning Ordinance pertaining to assembly uses in residential zoning districts.

Ms. Oliver: Mr. Kemp.

Mr. Kemp: Commissioner Oliver, for the record Kevin Kemp zoning administrator for Virginia Beach. This proposed amendment is to allow assembly uses in certain residential zoning districts, it was brought forward, the idea was by an applicant Planning Commission was briefed in May and decided gave staff direction to move forward, staff looked at this and said, you know there are certain residential properties where this is a viable and compatible use. We did list nine restrictions on it. The big ones are that the minimum site area be three acres. We mentioned in the amendment that is restricted to the R30 and R40 districts which minimum lot sizes are smaller than three acres. But we feel that three acres is an adequate size where this kind of assembly use where you're having weddings and parties on a consistent basis wouldn't negatively impact the adjacent properties. And another big limiting factor is that the property must be or the structure on the property must be listed on the national state or Virginia Beach historic registry. So, you know, this is where the staff was looking for the win-win, because, you know, this would provide allowing assemblies and residential, would provide a revenue stream for the property owners to keep the house in good shape, to keep the property, you know, and maintain these historic properties, which, you know, let's face it, you know, at certain point, they get more expensive to renovate than to just tear down and redevelop. So by getting on that registry, providing that revenue encourages the use and continued use of these historic properties, just to go through real quickly, the other conditions, the owners, if they're using more than one parcel, they must own all the parcels, you know, two or three neighbors can't combine to one application. I mentioned site area three acres, a minimum of 50% of the parking must be able to be held on site. And that language be able is because off street parking

particularly in residential areas, is an encouraged method to handle events, if you can, you know shuttle people in that will minimize the vehicular traffic through neighborhoods. The outdoor assemble use must end by 9 pm. Now, that is the event ending by nine that does not include the cleanup and, you know, removal of all the materials and that sort of thing. Unapproved areas for parking must be stabilized within seven days of event and flooding, any flooding caused by this use must be corrected at the owner's expense. And that's really; it's also other places in our city code, but you know, if this event and the traffic and the parking alters the site such that, you know, it starts to flood the neighboring properties, this is an extra layer of protection that the property owners are responsible to take corrective measures to secure the other properties. And lastly, let the outdoor assembly uses are limited to Friday, Saturday, Sundays and national holidays. The keyword here is outdoor. This limitation is for outdoor only, there is no limitation proposed for events that are within the structure. That stuff you know, of course, recommended approval, and I'll stand by for any questions.

Ms. Oliver: Okay. Anybody have any questions for Mr. Kemp? Yes, Ron.

Mr. Ripley: We had a lot of discussion about this in the informal session. And a couple of things I think get out on the record, if you don't mind. Can you explain or explain why you selected the R30 and R40 Zoning Districts and no others?

Mr. Kemp: We selected that as our director stated in the informal, we started with a smaller, you know, group of properties. Now the R30 and R40 they're typically larger lots, you know, minimum 30,000 square feet for the R30 and 40,000 for the R40. We started small, you know, with just those districts rather than open it up to all districts. We also consider it as Ms. Wilson said that in the denser the smaller lots, the R5 and R10, you know, the amount of properties around that may be impacted are greater and it's also, you know, with the historic requirement and the size requirement of three acres, you know, it is a relatively speaking, I mean with a number of properties in Virginia Beach, it's a relatively small number that would be eligible for this.

Mr. Ripley: You didn't provide us a list of those properties, but choose the total approximate number you think this might that certain properties might qualify for the use of this zoning provision, how many do you think, based on what you have here, this could possibly qualify for?

Mr. Kemp: Well, the study and I apologize that I don't have that that's lost in my office in Building 2 at the moment, but what I did is I went through a list of houses that are on the historic, Virginia Beach Historic Register. And I looked at those and said, how many are above, you know, three acres? How many are in the R30 R40 and it was between five and eight homes properties. Now, there were other properties, you know, zoned R20 or R10 and off the top of my head, I don't know if the size requirement for those was met, I believe the thorough good house might be zoned lower than R30. I'm not sure, but it was a small. Now there was Marguerite, I believe briefed you some time ago, there was a study done citywide on the historical nature of Virginia Beach, and they have recommendations, you know, for each neighborhood of which houses, you know, are recommended to be on this list. And you know, so that number five to eight is just the ones we have on the registry just to get an idea. There may be, you know, many more structures out there like Mr. Barnes own that even though he's agricultural, that could meet that criteria.

Mr. Ripley: And for the record, we discussed the possibility of looking at the R20 and we talked about that, or as an example, the point being fair to other people that this might qualify for, it's not fair to include a myth, if it's appropriately located property that beats these criteria and as I understand it, you're going to study that and bring that back to the commission in September?

Mr. Tajan: Yes, Mr. Ripley, give us some time to pull the research together, will provide that additional analysis at your direction and at the September informal meeting.

Mr. Ripley: Thank you. Thank you.

Mr. Kemp: Thank you Mr. Ripley.

Ms. Oliver: Any other questions for Mr. Kemp? Yes.

Mr. Redmond: I also would like to just put a couple of points on the record here, because I think they're worth keeping on there. I am not comfortable; I'm not going to oppose this ordinance. Nonetheless, I tend to be uncomfortable with is 9 pm restriction, as I said, you know, if you're having a wedding, your happiest day of your life, nobody wants to get told, turn off the music get out. It's 9 pm and I just think that's kind of too tough on people. So I have a feeling that's probably meaningless, because nobody's going to go and pull the plug on folks who were you know, who were dancing at a wedding reception, unless I think we ought to be more sensitive about that. And I agree very frankly, with Ron, I don't think

there's three acres is three acres, as we suggested. And I think this is perhaps needlessly restrictive in terms of those two, those two zoning designations, and agree that we ought to look at that and precisely because I think we have to treat everyone fairly, I think that's what our principal responsibility is here is to treat everyone fairly, whether you're the, you know, the biggest brownies developer, the littlest of a little guy ought to get a fair shake. And we ought not enfranchise some property owners with a revenue producing activity and tell other ones whose properties are substantially similar, if not entirely similar. You can't, this is still a conditional use permit process, you still have to get your use permit. So if you have three acres or more, and you're in R20, the placement of where you're going to have this activity is still going to be the subject of a great deal of scrutiny. So all of the parking requirements, the noise requirements, the all of that is still going to be very carefully considered so. But I think more than just folks in R30 or R40, ought to be able to avail themselves of the opportunity to make that case that they get their conditional use permit. So again, I'm not going to stand in the way of it, but I made a point this morning, I'll make it again, I think we need to really be sensitive to that and when someone comes up again, and has this, that we need to revisit this ordinance and not just blow them off, because I've seen that before too. So anyway, I've said my piece and don't take more time. Thank you. Thank you.

Ms. Oliver: Anybody else have any comments? Yes Don.

Mr. Horsley: I've kind of echo that I guess I stirred the pot when I mentioned this 30 and 40 informal session this morning. If I need to apologize for it, I'm not. But anyway, and I kind of agree with Mr. Redmond on the 9 pm, you know, I've been involved in some outside weddings a few times and, you know, 10 o'clock is really a better time and I would love to see that 9 change to 10 pm is what I would love to see. And with the planning director sitting on studied this thing about seeing if some R20 properties may be possible to put in this and we can amend this thing later on, in the not too distant future if the request comes for us. So really, I think we could change that 9 to 10. And I'd be happy to approve this as it is today. And then we move forward and wait for September report. Do you have a problem with the 10?

Mr. Kemp: No, staff would not have an issue if that is what the commission wishes to do.

Ms. Oliver: So I've got along with the 10.

Mr. Inman: I prefer none, but 10 is better than 9 in my view.

Ms. Oliver: So all right, Mr. Inman.

Mr. Inman: Well, I'll just point out it, condition number six says unless varied in the use permit.

Ms. Oliver: Oh, there you go.

Mr. Inman: And consider the circumstances and I'll go along with the 10 pm, but it could be varied either way.

Mr. Tajan: That was the intent. But we understand that if the commission's direction is to change that to 10 pm, we can make that and this is a text amendment, initiated by the Commission, we can change that. Absolutely and the time set, that's the standard, the general in which everything is.

Mr. Horsley: And that's the point I'm getting at, I mean, it gives the participants a little bit more latitude if you move this to 10 where was it say, well, we got to stop at 9 and use permit when you get to use permit, you can you know, they say we don't want to use 9, we want to use 10 or whatever, you know, anyway, that's just my thinking. I think it would be simpler and less problems if you moved it to 10.

Ms. Oliver: Okay. All right. Is that everybody, okay, yes sir.

Mr. Redmond: I would ask Mr. Horsley if he wants to make a motion.

Mr. Horsley: So moved.

Mr. Redmond: Second.

Mr. Tajan: Noting that the motions will include the alteration to condition number, requirement number six the ordinance to change it to 10 pm unless it changes through the conditional use permit process.

Ms. Oliver: All right.

Ms. Garrido: Vote is open.

Mr. Fisher: By vote of 9-0, item number 11 has been approved.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

Item #12

Draybun Sajo, LLC

Conditional Use Permit (Assembly Use)

55925 Sajo Farm Road

District – Kempsville

July 10, 2019

RECOMMENDED FOR APPROVAL

Mr. Fisher: Our last order of business is item number 12, Draybun Sajo, LLC. This is an application for conditional use permit assembly use on property located at 5592 Sajo Farm Road in the Kempsville District.

Ms. Oliver: Welcome.

Mr. Bourdon: Good afternoon. Thank you, Madam Chair. Again, members of the Commission for the record, Eddie Bourdon Virginia Beach attorney representing the Bunch, the owners of the LLC that own the two parcels of property 12 and a half acres in size that are the location of the guests manor house at Sajo Farm on this 8.1 acre parcel adjacent to Lake Lawson, as well as the manor house which you could barely see the corner of over here on this 4.45 acre parcel again total of little over 12.5 acres of land, the property abuts a finger of Lake Lawson, and there are roads on the opposite side, the north side there are no homes located anywhere around this property other than this dwelling, that's in the middle of the property where the guest house is located on. The Bunch maintained the access road to the property and they've maintained this property beautifully during their ownership. We provided Staff with all the historical information ; we provided the adjacent neighborhood the information, which I know they posted on their community website. This was all one large site and Mr. Kemp touch on that this morning in the informed briefing, I'm not going to go through all of it, but it's a gorgeous, gorgeous, gorgeous piece of property. The real estate taxes and insurance alone on an annual basis is a \$75,000 expense. Okay, that's before you get to the maintenance of this very large, beautiful piece of property. And it's not a complaint, that's life, that's reality. But having been involved in a number of historical properties over the years in Virginia Beach, and a lot of you all have some familiarity with this as well. The hard part

is maintaining them and keeping them and having them remain viable. This piece of property can be rezoned, just like the adjacent piece of property that is where the homes are in Sajo, and they're beautiful homes, nice neighborhood, no doubt about it. The Bunch do not ever want to see that occur, plain and simple. And they are simply trying to create a way and they've had a lot of people from the historical, preservation committee and folks who are into historical preservation in Virginia Beach, and in even Hampton Roads, at the property various times, and their predecessors have as well. And everybody says the same thing we've got to preserve, we got to preserve it, was willing to pay for it. And so that's what this is an effort to do. And is the most perfectly situated property for that I've seen in Virginia Beach. And I don't know where a lot of other ones are located. Before I forget the chain of thought that the Bunch are the ones who because they like to go to bed early. They have suggested, not staff, the 9 pm on this property for events, so no quarrel with what you will do with the ordinance. The condition in here at 9 pm is their condition and we aren't asking that to be modified or changed in any manner, shape, or form. When they came to me with this originally, they had already spoken to the church, they already had made the arrangements because they don't want a lot of cars out here parked on the site either. And so that arrangement was made before we ever went down this path, if this is approved, they will be acquiring the shuttle, they will own the shuttle, that anyone who wants to use this for a venue for an outdoor event, will have park at the church and the shuttle that will be provided will be part of the cost, to bring people here and take people out. It is anticipated that most of the events that are outside and there are no more than 40 and we doubt they'll be 40 in a given year, maybe the years to come, it will be many years before that, it reaches that number, most of them will take place behind the guest house, the ones that are outdoors, I'm just really talking about the outdoors on the lake, the front of the nice yard in front of the guest house can be used for the small amount of parking that is permitted on-site and people who are working the event and there could be some utilization of this area for an event, but we expect the vast majority to be behind the house overlooking the lake. I don't think too many folks will use the front. But that's something that's a possibility and the cars that we do have will be for smaller events that will be parked in front of the house and indoor events are limited, as you saw in all the conditions that y'all had a chance to review and become familiar with. My clients want to make this property be maintained as it is like they have maintained it; they don't want to see it developed and this is the best way that they know and I will mention also that my good friend, our commissioner of revenue, he got the idea

of doing his house from the Bunch, the Bunch have been working on this longer than Phil that you all did approve, and that does have the 10 o'clock. But again that is not what we're seeking to do. We've also agreed voluntarily there'll be no bands out here, no drums, no bass guitar, the only type of music that'll be permitted is a DJ, or an acoustic guitar, nothing other than that. We had a meeting with the adjacent community over a month ago, well attended and take issue with one of the letters that I read about there being opposition; I've been doing these meetings for 30 some odd years and never certainly was not the circumstance, but I do think everybody was extremely courteous and civil at that meeting. We have provided you all, I provided this morning, there are 14 letters of support, we should hope you get a chance to read them, including one from Mr. Gambrell for the Historic Preservation Commission. There is a petition with 63 signatures and the letters are many other from couples and those petitions and the letters are from almost entirely from residents in the adjacent neighborhood and if we can put the overall map up, the Bunch, their neighbors, they don't want to see all these trees removed and houses built, I'm not aware of and don't believe there are any, or is any opposition from any of the property owners who abut the property. So that's the situation here and Bunch aren't going to knock these trees down. I mean they have no intention of ever doing that. There is no ability to access here, unless the owners of the property permitted, that's precluded by these conditions, and they're certainly not going to allow it to happen. Now, I read in one of these emails, so concerned about fire truck safety, etc. Obviously, if there were to be some type of emergency event, then the fire rescue, public safety could certainly get through here, we could certainly let them come through here. But all access will be from Sajo Farm Road, there will be no access to any event at the property other than through Sajo Farm Road. Now, you all have revised conditions that were passed out this morning, and I appreciate the revisions that were made. And I am in full accord with all of them. There is one however, that I brought up with Mr. Kemp, that was overlooked and with all this been going on, I certainly understand it; I draw your attention to condition number 16 regarding the use of generators, there will be no generators used for anything on this site, with one exception. And that is in spring or fall, especially after daylight savings time, it gets dark and the weather is still nice before 9 pm. And this is a residentially zoned property just as is the adjacent neighborhood and generators are completely permitted. And we have electrical power, we have good power, but what we don't have is the ability to have lighting especially for at night here, if there's not a full moon, it's you know, there's nothing around this very heavily wooded, we may need to have some

minimal outdoor lighting for safety reasons. So that condition number 16. There won't be any generators for music, there won't be any generators for food, or anything like that. But there may be and undoubtedly will be on occasion, need for an hour or two of some temporary outdoor lighting and the only way that we can do it without a generator, we certainly will, but we are concerned that my clients are concerned that there may be the need for a small residentially size generator, no different than you have in any of the homes in this adjacent community. And again, the 10 o'clock everything's dark and again, the 10 o'clock is not for the event, 10 o'clock is the extra hour to clean up, but that's the only thing that I would request the commission, I have discussed this with staff this morning that the generator, use of generators for provision of food, music or anything other than a temporary outdoor lighting shall be prohibited is perfectly fine with us. But we do not want to have a scenario where people walking around in the dark for an hour and that's the only situation as far as these conditions. Most of these conditions, staff has worked very diligently. I want to thank Bobby and staff, Kevin, on all the work they've done on this. And I frankly agree with all the conditions with that one clarification on the generator and I'll be happy with that to answer any questions any of you may have.

Ms. Oliver: Any questions? Yes, Ron?

Mr. Ripley: Well, first of all, I'll just say the generator, I would oppose the using generators for lighting, I think he should try and then put in his lighting and size that accordingly that just that's where I would be on that, but the rest of it, I don't have a problem with but the distance from houses, there were some pretty far long distances I saw there, a lot of them was a couple of football fields almost. Can you point out what that is?

Mr. Bourdon: The area in here is over 300 feet. If someone wants to suggest that we're going to have an event out here by the road, which isn't going to happen, that we're not suggesting, events will be in the house behind the house or, within 25-30 feet of the house. From that scenario, these homes, which I fairly certain there's zero opposition from anybody along here. We're talking about close to 300 feet little less the Bunch actually own one of these homes and they may wind up acquiring another one, the homes along here are well over 300 close to 400 feet and then I know there was a house I measured over here across the water from the manor house that have express concerns that from their second floor window they could see the front of the house, which they were well over 600 feet away, looking across heavily wooded, developed and some open area in

front of the manor house. But the closest residence here, my clients and the owner of that property, get along well for years and again, they've had discussions for years about.

Mr. Ripley: So its 300 feet from that right there? Okay.

Mr. Bourdon: In this area here. These folks, I know these homeowners are supportive. I know one of the long letter or email that you received, which I'll reserve for rebuttal, the owner of that property not even on this picture is over this area far-far away with houses between their house and the property, I think there may be another party who's in one of these homes on the end, that's concerned about the amount of traffic coming through the gravel driveway. I would simply note that on the opposite side of the street is commercial development that's far, far closer than what would be occurring way back here. So there's just isn't anything close and most importantly, heavily wooded, forested all this area, completely forest inside. It's going to stay that way.

Ms. Oliver: Any other questions for Mr. Bourdon? Okay, thank you very much.

Mr. Fisher: We have six speakers in opposition and one in support. Would you like for me to call the one in support first?

Ms. Oliver: Sure.

Mr. Fisher: Will Mr. Evin Thompson, please come to the podium. You can state your name for the record to sir.

Mr. Thompson: Evin Thompson.

Ms. Oliver: Welcome.

Mr. Thompson: Thank you Madam Chair, members of the commission. I'm Evin Thompson. Thanks for the opportunity to speak. I support the proposal. I've been a member of the Virginia Beach Community for over 37 years off and on, a Navy veteran. Thirteen years ago, I decided to make this community my home. Nine years ago, I decided to make Sajo Farm my home. I decided to make Sajo Farm my home because of the historical nature of it. Sajo Farm has a great community. I'll be up front. I live well 1000 yards away from thisplace. I'm on the other side of Lake Lawson. But I've been around Lake Lawson and what a beautiful, beautiful setting to have that one lifetime event of a person's life here in Virginia Beach. I know when I got married 32

years ago, there wasn't such a beautiful location to get married at here in Virginia Beach at venue like this. I believe the applicant has established satisfactory mitigating measures in regards to frequency, noise, parking, and everything else going on with this event. I also believe that the revenue brought in to this will help the Virginia Beach Community. So to summarize I support this proposal. Thank you for your time.

Ms. Oliver: Thank you very much.

Mr. Fisher: Mr. Bill Griggs, please come to the podium.

Ms. Oliver: Welcome.

Mr. Griggs: Well, thank you very much. Thank you very much for letting me speak. I am glad that we have the map so I can help point out some things to you. I sent a letter which all of you should have received. I have several concerns. One, let me show you where I live.

Ms. Oliver: Mr. Griggs.

Mr. Griggs: I am sorry.

Ms. Oliver: No, no, you're fine. There's a pointer right there. If you can pick that up it got a laser on it. There you go.

Mr. Griggs: Okay. There we go. This is my home, right here. There's another home right here that has been built since this picture was done. So there are 1, 2, 3, 4, 5 I mean, I got that right. Oh, it's because the trees out there. Sorry. I think we're all together. Yeah, right. Yeah. I'm right here. I'm sorry. My fault right there. It's not during the winter.

Ms. Oliver: So great. But I just need you on the mic.

Mr. Griggs: Oh, I'm sorry. So anyway, that's our home. Our problem is, and I would love to be able to party all night long. Our problem is that our master bedroom, our living room, our kitchen, our sun room, and all of those homes right there, those four homes on that side are 40 to 60 feet from that single lane gravel road. There is no buffer, no evergreen buffer, we only have some leaves. I can actually stand in my bedroom and see through to that gravel road. So that gravel road is going to be a real issue, because it's going to be a sound issue. First of all, they say they're going

to have an amplified DJ and that's fine. But there's also an acoustical issue. And the acoustical issue has to do with sound waves, and this came from the University of North Carolina that I found. Sound waves need to travel through a medium such as solids, liquids, and gases. The sound waves move through each of these mediums by vibrating the molecules in the matter. The molecules in solids are packed very tightly, liquids are not packed as tightly and gases are very loosely packed. This enables the sound to travel much faster through a solid than a gas. Sound travels about four times faster and farther in or over water than it does air. This is why whales can communicate over distances in the ocean, sound travels 13 times faster in wood than air. Now you have to understand if you live there, you know it's different. I moved there in 2015. This was our final home; this was going to be a great place. I walk my dog every night, every night. And I will tell you we love the four peacocks that are at the Sajo Farm. But I guarantee you right now when you hit about here, I can hear that peacock that's here. These trees are going to act as reverberation. They're not dense enough, lower, they're going to carry that sound from any amplified sound, whether it would be a DJ, acoustical guitar might be fine. But we're mostly concerned about the sound because this neighborhood of Sajo Farm is heavily military with different schedules. In my home, one of us is up at 4:30 that means we're at bed at six. I mean in bed at eight. So it's a very difficult time.

Ms. Oliver: Mr. Griggs, so sorry, but your red light has gone off.

Mr. Griggs: Okay, I didn't even know there was one.

Ms. Oliver: You do, you have, so when I started the hearing, I said you had to be mindful of your time. So just, you know, you have three minutes to speak.

Mr. Griggs: Okay.

Ms. Oliver: And you have a yellow light that blinks, and then the red light. And I apologize, but we appreciate your letter. And let's see if we have any questions for you.

Mr. Griggs: Okay, sure. Yes sir.

Ms. Oliver: Mr. Ripley.

Mr. Ripley: Is there a buffer that could be placed between the road and the back of your property that might help mitigate the sound?

Mr. Griggs: That's what I was trying to figure out. Because it's going to have to be something like a cement wall or whatever, because when you look at the letter, you'll see the number of trips that I've calculated, it is going to take to do for any event. So it's bouncing, that sound just bounces like crazy. I mean, I hear it when the Bunch do the repair work to their gravel road, which is great. It's loud as heck. Because and I can hear that scraping, so I don't know that there's room because there's condo, common land and then what strip that Mr. Bunch may have, which are side by side, and there's not much there.

Mr. Ripley: I don't doubt you'd be talking about a concrete fence but is there a residential type fence or six foot fence or something like that, that might make some difference to you?

Mr. Griggs: We put in, we spent a fortune on our fence that was approved by our association and it's not a solid fence.

Mr. Ripley: So you have a fence there now?

Mr. Griggs: I have a fence there now; it's not a solid fence. It's not, they were not in the approved things for the condos.

Mr. Ripley: What is that like, slap fences?

Mr. Ripley: So you can see through it.

Ms. Oliver: Aluminum fence.

Mr. Griggs: Just a plain aluminum fence. That's all it is.

Mr. Ripley: Aluminum fence.

Mr. Griggs: So you've got, you know, every six inches you've got.

Mr. Horsley: Rod iron.

Mr. Griggs: Yeah, that's all it is. So I mean that, other than paving it that may, that would probably help with the gravel sound, because it's going to be loud. And when you got heavy trucks,

assembly trucks coming in, because if you bring in tents that are needed for some weddings, and all of that sort of stuff, they come on large trucks, and they come in the day before to set up and they come back the day after the event to remove. And if you've got a van shuttling people back and forth to the church parking lot, understanding the van only holds 12, so if it only holds 12 how many trips have you got to make back and forth to that church to get people in, and then how many trips have you got to make back to get them out. And as you will know, people travel on their own schedules, and they're not all going to show up at one time where you can do it quickly and efficiently. So it's going to be a noisy mess from my perspective.

Mr. Ripley: So my question is, is there a buffer that you would be, you might find acceptable if that would help mitigate this out? That's my question.

Mr. Griggs: I haven't seen one, other than what I see out close by Yorktown, by the park in Newport News Park that goes over to 17, I've seen those types of barriers. They may work, you know, they're huge. But it's going to take something dense to cover that sound.

Mr. Ripley: Okay, thanks.

Mr. Griggs: Okay. Thank you very much. I appreciate it.

Ms. Oliver: Thank you very much.

Mr. Fisher: Bonita Barger, please come to the podium. You could state your name for the record as well.

Ms. Barger: My name is Bonita Barger.

Ms. Oliver: Welcome, you can drop the mic a little bit for you. We'll hear you better. Thank you very much.

Ms. Barger: My husband Blair Barger and I live in the Sajo Farm community. And our front porch is less than 800 feet from the guest house area that they've indicated would be parking and possible venue area.

Ms. Oliver: You want to use the pointer and just show us, is your house visible on this map?

Ms. Barger: It is.

Ms. Oliver: Do you mind just pointing to it with a pointer. Thank you. Okay.

Ms. Barger: My house is right there. And my issue is also concerning the road and on page 12 of the CUP application provided to our community by the owners, they write that in 1985, the property was actually owned by the City of Virginia Beach, and I'll quote "Ingress-egress issues and cost of renovations keep the city from any use of the manor house with public access." So the same road exists today as in 1985. The winding single lane gravel driveway leading from Shell Road to Sajo Farm manor and guest house crosses at least two private properties. Lake Lawson and property owned by the City of Norfolk, there's only a 20-foot Ingress egress easement, and that is extremely limiting. So that leads me to what my primary concern is and that is public safety. With the lake and its 20 foot buffer to the north and the homes to the south, a fire truck and other emergency vehicles will not have quick access to the property particularly when guest or vendors might be trying to exit the property since it's only a single lane gravel driveway. The close proximity to my home and others in my neighborhood would put us at risk with potentially 150 guests, a house on well water without sprinklers and surrounded by woodland. The potential for disaster exists. I might also add during dry periods as we often experience here in Virginia Beach in the summer that's a problem. I spoken to the fire marshal Deirdre Peterson and she has assured me quote "only the application and reviewing online maps were reviewed on a site and a site inspection will be performed during the site plan review process regardless, relevant fire code requirements shall be met if the property owner wishes to have wedding events." In closing, I want to ask you to please consider first and foremost, the safety of 300 plus families residing in my neighborhood and the safety of event that attendees. This venue does not meet criteria that is compatible with our community and should be denied or at least tabled until proper, thorough site plan review has been coming to you.

Ms. Oliver: Thank you. Your time is up. I appreciate it. Anybody have any questions? Okay, thank you very much.

Mr. Fisher: Deborah Partington.

Ms. Partington: I am a Deborah Partington; I'm a resident of Sajo Farms. I never received proper notice of today's hearing first off, and my understanding is you've received 63 votes in support of the CUP, but I feel that with proper notice from to the other homeowners, you might

have received 100 votes against it, and that 63 only represents 2% of the homeowners. This CUP is fraught with a laundry list of problems, I'm going to deal with noise levels, I'll make it more simple than Mr. Grayson. I will say it is unrealistic to think that wedding noise levels won't exceed the city code decibel levels of 65 decibels during the day, and 55 in the evening, especially since it is a fact that normal conversation levels between two people is at 60 decibels to begin with. Now you're adding into the mix 40 to 150 voices outdoors, it's going to be noisy, there's going to be a PA system for guests to make ceremonial speeches to toast the bride and groom, no brainer, it's going to be loud, amplified music, automatically going to excel the noise level. To approve this CUP is not compatible with the neighborhood community and land use set forth in the city comprehensive plan. Sajo Farms is a community of military seniors and families. And the CUP will only benefit the Bunch at the expense of the homeowners. And I forgot to add that about the music, the Bunch held an event two weeks ago, they had Lewis McGehee at their Carriage House playing for a birthday party and it could be heard all the way down the street, the words of the music, the words could be heard. And that wasn't even amplified. I would ask in closing that the Commission error on the side of caution and deny this CUP on the basis that the effect of the CUP won't be known until the first wedding and then it's too late. And also I want to say that their attorney intimated that or my understanding is that the purpose they want to do these weddings and have these assemblies is to raise money to help pay their tax bill. I think they have other options. They could sell the property. They don't need to hold weddings; it's going to heavily impact the residents of Sajo Farms. Thank you.

Ms. Oliver: Thank you very much. Is anybody have any questions? Thank you so much.

Mr. Fisher: Deborah Clark.

Ms. Oliver: Welcome.

Ms. Clark: Thank you for having us and allowing us a chance to speak. My name is Deborah Clark and my husband and I were the fourth home to close in Sajo Farms in 2008. So we've been there a long time, we've seen the whole community grow up and develop met all of our new neighbors. And it's really a wonderful, nice, quiet place to live. I want to request that the board either deny or table a decision until the property meets the requirements of Norfolk, Virginia Beach, the fire marshal, etc. The residents those 63 people who signed the petition, had no idea

what was going in on Monday when the lawyer submitted another letter to you. So those 63 people, who signed the petition, have no idea what they just agreed to. Okay, sorry. I'm a little nervous.

Ms. Oliver: It's all right.

Ms. Clark: In the Virginia pilot online article of June 5, 2009, the whole property was on the market for \$7.9 million and was unable to be sold. So now the owner's solution is to make money to support the property through a wedding venue. That's disturbing to the residents of Sajo Farm. My concern is for the peace and safety of the Sajo Farm community. Every day, we clearly hear the Navy bases morning and evening songs taps. The Navy base was here long before Sajo Farm was developed. We are about three to four miles away from the base and every house in the community can hear that. And while we agree that it's pleasant, we all stand we listen, we sing along. It's meaningful music and it's softly played. Having a wedding venue will not provide short and soft music across the community and the entire community will be hearing music. We have no control over the type of music and this could be rap music with foul language and could potentially be blasted across Sajo Farm. Property values are bound to drop, we've already heard of neighbors who are planning to move, traffic to and from the venue as you already heard down the one lane gravel road, I'm concerned with the lack of fire hydrants on the property will necessitate additional equipment to pump lake water to any fire on the property. Time and equipment well place the venue customers at risk. The property has a gate that exits on to Sajo Farm community property and it's a gate that's open people come in and out of that gate onto our Sajo Farm property. This gate implies at any time, sorry. People can enter our community which is a private community. There's nothing to stop them from exiting into our community, by foot or by vehicle. If the venue is approved, this gate should be changed to regular fencing to prevent customers or residents from entering Sajo Farm community from the venue and the Sajo Farm Manor property. Thank you.

Ms. Oliver: Thank you very much. Anybody have any questions for Ms. Clark? No. Thank you so much.

Mr. Fisher: Eddie Evard.

Ms. Oliver: Take your time.

Mr. Evard: My name is Ed Evard. My wife Barbara Knight and I have lived in Sajo since 2013. We live across the lake from the Bunch's Manor House about 200 feet as addressed earlier when they had their party two weeks ago, everything was heard loud and clear. We bought the home because we enjoy the beauty of the area and the nature; use our deck quite often to sit outside and enjoy the peace and quiet and to hear the sounds of nature. I can't imagine having to sit every Saturday and Sunday on my deck here and nothing but music. Imagine having an open house if you try to sell your home and the buyers come by, potential buyers come by on a Saturday or Sunday and that's what they hear. Music, Music, and music that's not going to help my property values, couple of questions I have already addressed, but you know weddings can be loud and boisterous. Guests can be obnoxious, drunk or even worse. Smoking is permitted, not prohibited in the venue. Somebody starts a fire as addressed earlier accidentally; it spread to the dry woods, what's going to happen? We're a private community. What happens in wedding guests aside a park and streets and cut through our neighborhood to get to the venue. How are they going to be policed to enforce all these requirements that have been set forth? Can emergency vehicles safely navigate a 20 foot wide winding gravel road and in contradiction to what was said in the application, the HOA did not endorse this venue. They've taken no positions. If you want to ask the president sitting right behind me, they are not taking a position on to the venue. So I ask as others have that this venue be denied? Or if not, at least time be given to do a site study and address all the applications that might affect the environment, safety, egress and code requirements that have been set forth in the staffs planning document. Thank you.

Ms. Oliver: Thank you. Do you mind showing us with the pointer about where your house is located please?

Mr. Evard: I don't know if it's shown, I don't think we're on and if I don't know, noise travels very quickly and loudly across the water.

Ms. Oliver: Right.

Mr. Evard: No trouble hearing what's going on, where we're located.

Ms. Oliver: Great. Thank you very much.

Mr. Evard: Thank you.

Ms. Oliver: Anybody have any questions? Okay. Thank you very much.

Mr. Fisher: Barbara Evard.

Ms. Evard: Thank you for this opportunity to speak to you. I just want to make one correction.

Ms. Oliver: Before you get started, would you state your name please?

Ms. Evard: Yes. I'm sorry. My name is Barbara Evard. I am a resident of Sajo Farms. I just want to set for the record. I think it was said that this is part of Kempsville District, it is not, it's Bayside.

Ms. Oliver: Okay.

Ms. Evard: Okay. We purchased our home in Sajo Farm, it was the understanding and validated with the real estate agent that adjacent property was not to be for commercial use. It was not zoned for commercial use. What is now being proposed is indeed commercial use. The zoning is therefore incompatibility. Approval of this proposal will provide a conflict between the venue and the Sajo Farm residential community. We are a community; we need to speak with one voice. We do not want this commercial venue in our backyard. It must be noted that Sajo Farm HOA has not approved this proposal as listed in your paperwork. And so the information presented in the conditional use permit was a gross misrepresentation. Our Community Board has also decided not to take a position. However, members of the board have a vested interest in this proposal, as she is an immediate relative of the applicants and she's a family member of the Bunch, she is on board. At issue is not that this proposal has not been properly vetted and information presented is not accurate. No site plan has been performed, which would reveal some major discrepancies issues and misrepresentations in the proposal. There is no city water or city sewage and the use of portable sewage devices place near the buffers to Norfolk, Lake Lawson are potential public health violations. Oversight of the specific limitations or requirements set forth in the permit request will be difficult at best to police or to enforce. As such, this will cause safety issues and will jeopardize the quality of our peaceful neighborhood. This proposal will threaten the welfare of the members of our community and serve as an annoyance, a disturbance, excessive noise, traffic parking issues, shuttle vehicles, food trucks, music, building issues, multiple serious access road issues provide serious safety and public health concerns as well as potential environmental concerns. This

proposal threatens and interferes with the enjoyment of my home and my yard and potentially every Friday, every Saturday and or Sunday will directly affect the property values of my home bordering on the lake and ultimately the values of the home of my entire community. It seems this proposal may not have been thought through sufficiently and so we strongly suggest that the Commission considered denial of this petition or to table this and due diligence in the review of the conditions and the specifications. A site review would be essential and providing insight into some serious concerns and 63 people is not representative of a private community of almost 1000 residents. Thank you.

Ms. Oliver: Thank you. Do you mind showing us where you live?

Ms. Evard: Again, I live, it's not seen there.

Ms. Oliver: Okay, so you can see your house.

Ms. Evard: The whole community that is behind here.

Ms. Oliver: So you are further to the south?

Ms. Evard: I am on a different finger of Lake Lawson. However, it is all part of Lake Lawson. The sound travels across Lake Lawson and when there was a party there about two weeks ago, every word that was said was heard from my back porch.

Ms. Oliver: Great. Thank you very much.

Ms. Evard: You are welcome.

Mr. Fisher: That's all the speakers we have.

Ms. Oliver: Okay, thank you, Mr. Bourdon.

Mr. Bourdon: The one thing I do want to agree that this is in the Bayside District. I think that is an error on the report says Kempsville. Is it in Kempsville?

Ms. Wilson: Yeah, it goes up.

Mr. Bourdon: Most everybody thinks it's in Bayside, but I guess that's changed at some point. All right, where to start, I guess the one way to start is that every homeowner in the community, first

of all know the folks who spoke to abuts the property with the exception of Mr. Griggs and in terms of putting up an eight foot fence or potentially trying to plant a buffer behind his fence that's something we certainly can look into doing and our covers doing. The rest of the folks who spoke do not abut the property. The last couple who spoke live in the same duplex condo out on the point that I referenced before I didn't make copies of this, but they are well beyond the Manor House across another finger of the lake. The other couple folks spoke are all the way out at the entrance close to Diamond Springs Road are closed and there's some personality issues, I'm not going to go down that road. The reality of this situation is that everybody in that neighborhood, in their pools in their backyard can play amplified music and our noise ordinance isn't going to bother anybody if they stopped by 9 o'clock, in fact, if they stopped by 10 o'clock. The city's not gonna do anything to stop it. They can play rap music, they can play any music they want, I can guarantee you. There won't be a rap concert out or there won't be rap music, the Bunch own this property, this is their endeavor. It is not something they're renting out to somebody who doesn't care. They care more about this property than anybody who's spoken here today and we could have brought, you know, twice as many people down here to speak about what a good idea this is. We chose not to do that. We didn't want to inconvenience folks. We will bring up at the city council. But the point I'm making is you all understand this. This is an excellent use of this property and 9 o'clock with Lewis McGehee, for birthday party that the Bunch had their property just like everybody else in the neighborhood can have a birthday party, everybody else can even theoretically have three weddings in their backyard and these small lots where they can play music. The community has a pool in a clubhouse, just like a lot of other communities I represent. They have wedding receptions and parties at the club house far closer to the last two folks that spoke than this is and no condition that it stopped by 9 o'clock or 10 o'clock. So the Bunch are trying to be a good, great neighbors and that's why they agreed that everything stops at 9 pm. Everybody out there can have music in their backyard, past 9 pm and there's not a thing the city can or will do about it. The Bunch don't want there to be stuff going on their property late at night, they certainly do not have any desire to see any fires or anything occur, this is their investment. The last thing they're gonna do is allow somebody to mess with it. There will be no smoking in the house, there will be a small outdoor area set aside for somebody who wishes to smoke but they certainly don't want to see people out there smoking, but that's beyond that. They are the ones who have the most at risk. They're the ones who definitely don't want to see this happen, the one lady spoke said that

she's over 800 feet away and I know a couple of spoker that are even further away. All the folks that have joined us understand the benefits of this intimately and I think all the conditions that staff is recommended, protect any reasonable expectation that anyone could have with regard to if this were developed houses just like theirs, they'd have people living right next to them, where they can be playing music past 9 pm at night, so this idea that somehow this has got to be completely silent just doesn't make sense and then Mr. Griggs, who work with him on his concern, but the notion we all have been doing this a long time that we're, as I thought I understood him to say his study he was referring to that sound wouldn't get to his property as quickly if the trees weren't there, just that's what I heard, maybe I misunderstood what he was saying, but the best thing that's out, the best things is the forested area, that is the best buffer. But again, as far as the road and the gravel, I think we're better off looking at putting up a fence or possibly a hedgerow or something like that to muffle the sound as opposed to paving it, and the fire issues and those will all be dealt with, as you all know, by the midst, in fact, my clients have the fire department out there every year to inspect because it helps them not have to pay even more money in insurance on the property. So they invite the fire department out there every year and they will certainly be doing that with regard to this. The last thing they want to do is take any risk with their property, which they dearly, dearly love, and it shows anybody's ever been out there by the way, it's maintained.

Ms. Oliver: Mr. Bourdon, you addressed the gate between places, can you talked about the gate a little bit and access who owns the gate is that locked?

Mr. Bourdon: My clients, they maintain the gate, it's their gate, the responsibility to make sure that people do not come again, anybody who's going to have any type of function here, there'll be a contract long beforehand will all be explained, what their expectations are, what will have to happen, the Bunch will be the ones that will be monitoring and involved in putting on whatever it is, no one will be coming through that gate. Obviously, if there were to be any type of an emergency circumstance situation, I think 99% they're going to be coming down the Sajo Farm Road, but they certainly can come through and the gate can be open to allow emergency vehicle access if that becomes necessary and an emergency.

Ms. Oliver: Is the gate belongs to the Bunch?

Mr. Bourdon: Correct. It's on the manor house property.

Ms. Oliver: And that paper road into the neighborhood belongs to them as well. So that gate typically is not open for public use, is that correct?

Mr. Bourdon: Exactly correct. And with this condition, this condition, it's only on them, you know, and they're not going to allow it to be used to access their property for any of that.

Ms. Oliver: And anybody else have any questions? Jan, go ahead.

Ms. Rucinski: So have they taken into consideration emergency vehicles on that small gravel road? I mean, is it wide enough for two people to go down at the same time?

Mr. Bourdon: There are places where a vehicle can pull off, there is plenty of room for vehicle pull off, but again, if there needs to be emergency vehicle access that access can come through the gate.

Ms. Rucinski: The gate goes to any road, it looks like there is?

Mr. Bourdon: Oh yeah, it does.

Ms. Rucinski: What I had here, it doesn't look like it goes to anything? Oh, okay.

Mr. Bourdon: It absolutely does. And I would suspect although I don't know this firsthand, but I would suspect if there were to be a fire in the Manor House, I believe that I don't know this, but I think the fire department may very well come that way anyway because it may be the most direct and easiest way to get there.

Ms. Rucinski: And then I just wanted to make sure that I understand you did indicate that you or your client was not be opposed to addressing something that's where that gravel joins, and right behind where those four or five houses are right, okay.

Mr. Bourdon: We're certainly willing to put up an eight foot fence of some sort or potentially since, I think they may all have open stuff and said Mr. Griggs was talking about certainly could look at doing a hedgerow that would grow up and again, be a better sound.

Ms. Rucinski: Or even pave a small section?

Mr. Bourdon: Or pave, yeah that's a possibility as well. Yes, ma'am.

Mr. Ripley: That's where I wanted to go with it. You know, thinking about Mr. Griggs' concerns and there will be a lot of traffic coming and going there and it does make noise. I drove down the road yesterday and there's a nice little road and everything, but it's a gravel road and makes a lot of noise. That's well maintained, but makes noise and I don't think I would like it right behind my house like that. So, what I'd like to see you do is paved the road, past that house, the last house 50 feet or 75 feet or something. By the time you do that, you could almost put a fence and I mean, cost you about what a fence would cost to do that. It's not that hard to paved. He's already got the subsurface, we got the rock there. It's simple, relatively speaking, that's simple for me to do.

Mr. Bourdon: Easy for us to do.

Mr. Ripley: Exactly, exactly. That's what I'd like to see happen, quite frankly, I think it would, I think it would improve its operations too, sort of transition back out to the road.

Mr. Bourdon: Whatever the commission wants to do with regard of that, if you want to put that as a condition. Again, I think the best thing would be to have a conversation with all of the owners along there, but I'm certainly not saying that isn't the solution that they would want.

Mr. Ripley: Okay.

Mr. Bourdon: But I'd certainly, we're not gonna, I'm not gonna sit here and tell you we won't do that. Because, you know, we may very well, that may be what they would prefer to do.

Mr. Ripley: Sure.

Mr. Bourdon: I don't believe there are any environmental restrictions that would keep us from doing that because it's already a hard surface to begin with, it's not the Bay, I think you're absolutely correct. Yeah.

Ms. Oliver: Mr. Inman.

Mr. Inman: Tell me about what's going on in the property in the past in terms of entertainment. They had Lewis McGehee out there for what birthday party.

Mr. Bourdon: My client had a birthday party.

Mr. Inman: Okay. Was that an event that required any kind of permit?

Mr. Bourdon: No. Their family.

Mr. Inman: No, so there hasn't been any, could they not acquire a special event permit if they wanted to have?

Mr. Bourdon: If they wanted to have a wedding reception, they could get a special event permit, but I think you're limited to three in a year.

Mr. Inman: Okay. I understand. So they haven't chosen to do that in the past?

Mr. Bourdon: No, no.

Mr. Inman: Okay. So there's been no opportunity, sort of for a test of how it would be to have a larger event?

Mr. Bourdon: Not that I'm aware of. I mean, I do know that at the Manor House, which is closer to residents substantially closer to existing residences. There have been receptions and the historic Review Boards been out there for reception. I'm certain over the years; I was at a political fundraiser there probably dozen or more years ago. I mean, there are that types of situation, but I do not believe they've had wedding receptions. Now there may have been the prior owner of the Manor House, had it was an art gallery and the public can come buy art. But again, it was not particularly successful. But that was again, couple of decade, more than two decades ago.

Mr. Inman: Okay.

Mr. Bourdon: But I do not believe that there have been any wedding receptions that have been held and the guest house, which is the older of the two houses...

Mr. Inman: On the wedding aspect, I don't think there could be other corporate functions somebody want to get out there.

Mr. Bourdon: The birthday party, Lewis McGehee, was done at 8:30. They stopped playing music at 8:30. I'm sorry, Mike, did you ask?

Mr. Inman: They're not limited to wedding.

Mr. Bourdon: Oh, no, no, but this is, if you know, the Bunch and I think that most of their neighbors do, they're very, very protected and guarded of this property, they're not going to be having any animal house parties out here. It's just not going to happen.

Mr. Inman: The organizations that you're thinking.

Mr. Bourdon: They're doing this, because they want to see the property preserved in perpetuity as it is, as opposed to it having to be sold and developed and that's what they don't want to see happen. And as I said earlier, they're the ones that gave Phil Pelham, the idea of doing the same thing right over here. And they've been working at, because the circumstances you all aware, this has taken longer to come forward because of the fact that its own residential instead of the zoning that Mr. Kellam had of agriculture.

Ms. Oliver: Yes Don.

Mr. Horsley: I had the privilege a few years ago to assist when the historical, whatever commission is Historic Preservation Commission, their Christmas tour and the Bunch allowed them to go into the Manor House and it was a tour. And that was held very nicely. I mean, it was, in and out, and it was a pretty much all day deal from and things went very well and that's an area people like historic things, and this is one of the best historic assets in the State of Virginia Beach and anything we can do to help them preserve it. And that's the problem with historic places people want to preserve, but, you don't pay up and help preserve them, that's the problem. So if they've got the means and the ability to do this and do it in a very professional way, I would have to support them. I do agree with the suggestion maybe that pave that front entrance would help the noise issue; I think that would help. But in the country, we like gravel roads, because you know, somebody who's coming to visit you hear them coming, but like I say I think it's anything we can do to help the Bunch make sure this is preserved and a venue like this helps get that done. I think we've got a notice from the historic commission that they are in support of this. So, I've always concerns of people, but you know, like, say everybody in the area can do certain things throughout the year and I think this will work if it's handled right and I think Bunch will do it right.

Ms. Oliver: Anybody have any other questions for Mr. Bourdon? If not, then thank you very much and I will close the hearing now, so that we can discuss it amongst the commissioners. Anybody have anything to say? Not then...

Ms. Rucinski: I just have a quick question. So if we're thinking that they need to do some either pavement or some kind of buffering, would we need to put that into the recommendation or?

Ms. Oliver: Yeah, and I think Mr. Bourdon said that he would, do you want to step up here?

Mr. Barnes: Well, let me make a recommendation. I was going to suggest though that the applicant constructs an asphalt surface on the existing Sajo Farm Road from Shell Road to approximately the beginning of the first curve in the road, which has just passed the house, which we get most of the day.

Ms. Oliver: Is that the house that's on the lane, so the one house that's on the lane.

Mr. Barnes: The four houses that are on the backside.

Ms. Oliver: On the backside.

Mr. Barnes: At Front Street. Four houses right there.

Ms. Oliver: Okay.

Mr. Barnes: Go about to the first curve, which is just past that.

Ms. Oliver: I got it. Right.

Mr. Barnes: Yeah, that they minimally pave it, if they want to do more, that's fine.

Mr. Wall: So we're gonna add that as a condition, we probably need to make it more sound than just to the first to the bend.

Mr. Tajan: For that, say the gravel drive shall be paved from Shell Road approximately 400 feet towards the Manor House that gets it to that location in my measurements here.

Mr. Ripley: If that's what the measurement is, I have no idea.

Mr. Tajan: That's what I pulled up here, it's about 100 feet from the houses.

Mr. Wall: Also, do the Bunch own that strip of land? Because it looks like it's between the City of Norfolk property, if lake Lawson is City in Norfolk.

Mr. Ripley: With an access easement.

Mr. Wall: Access easements that they can improve if that's.

Mr. Ripley: Well, they improve it now.

Mr. Bourdon: It's an easement that they can improve.

Mr. Wall: Okay.

Ms. Oliver: Thank you. Yes Mike.

Mr. Inman: I have some concerns about the noise. I'm impressed by some of the speakers and their testimony to what they've heard and what they are likely to hear and why they're likely to hear it in terms of speaking, in terms of music and, if we'd be better limitation here have no more than 40 events, outdoor events, no more than 40 per calendar year, and no more than one event on the same day, now that's helpful because that would only be a little over one a month. Is that not correct?

Mr. Ripley: One a week.

Mr. Inman: One a month.

Ms. Oliver: It's 52 weeks in a year.

Mr. Inman: Oh yeah. Okay. So we got, so little less than.

Ms. Oliver: That's three a month.

Mr. Inman: That's three a month, something like that.

Mr. Ripley: Three times, 52, about 156, so it's about 25% of eligible time.

Ms. Oliver: When you factor in weather in the month, you're not gonna, it's not going to be spread out like that, June is going to be a big month, or if it's weddings. I mean, you know, I mean, it could be anything and then it says right here it says the use of speakers or monitors permitted between the hours of 9 pm and 12, or there shall be none. And those hours are they said, or for more than three hours in any one day. So I went out there, Mike, and we toured it with the city

staff, and toured the insides of the building and walk the grounds and walk to the gravel gate, the roads and it's a beautiful venue and well kept and spend some time with Mr. and Mrs. Bunch and their family was there, the granddaughter and they're very quiet family, very well kept, I mean the property is absolutely exquisite, the amount of care that that this family has put into this piece of property and only concern I have is that, that when we don't help people with that own piece of property like this to preserve it, then it becomes a neighborhood it gets developed and would lose in a lot of these things and if this helps the Bunch and the City of Virginia Beach preserve such a beautiful piece of property, then I would want to help that happen with them, truly, and I understand the noise. But I think that, just my feeling. I mean, it's not a band. It's Lewis McGehee. 9 o'clock. Yes.

Mr. Redmond: I would have a quick questions; first it's not going to work that way. It's not going to be, you know, one every week or something like that, Dee is exactly right. Every Saturday and Sunday in June, probably this venue is going to be booked, every Saturday and Sunday in September and perhaps October, it's going to be booked, nobody is gonna be out there in February. So it does not gonna work that way. It's just not how those outdoor venues work and they're not going to have, some fantasy football draft out there, we're really predominantly talking about weddings. So I would make one suggestion, and that is with regard to the paving of that road, I think we not leave that 400 foot number etched in stone before City Council, somebody can do this a little bit more precisely than us just looking at Google Earth, doing a measurement and obviously in site plan review, that would be a good time to figure that out. Ron's intent is more specific than just a number that we throw up at 2 o'clock in the afternoon. To the application, I have no concerns about safety. I've been through 12 years of this stuff and anytime somebody posts, some of they say, well safety is going to suffer, ambulances can't get there, fire trucks will break down and I just don't see any reason that would lead me to believe that's the case. This venue is two football fields from somebody's house, there has to be at least some kind of places where you can have a wedding. And it be permissible. Is it supposed to be 1000 feet or 5000 feet or something? I mean, you're that's it's heavily wooded. It's already screened if you look at the, you know, if you look at the property, it seems to me ideally, situated for this kind of use and but for the gravel road concern that Ron rightly found a solution for in my view, it looks to me to be ideal for this kind of use. So I don't have any problem whatsoever supporting it, we will support.

Ms. Oliver: Jack.

Mr. Wall: I think that the people that spoke had very valid concerns about the noise. I mean, I live near Mount Trashmore, and I think that that their points are well taken because sound does travel and I can hear it, you know, I live probably half a mile from where the typical noise comes from, Mount Trashmore and I can hear pretty clearly, it's not, that noise may be on a different level than you know, with this wedding has or wedding venue. However, I think that we did set a precedence, you know, a couple months ago with venues or locations such as this, even smaller, new piece of property and it was agriculturally zoned, but it's surrounded by single family residential. So there's precedence in the similar nature of the application last or last April, and I feel that this, you know, has more conditions than in a previous application of similar nature. So I would tend to support it. Yeah.

Ms. Oliver: Yes, Mike.

Mr. Inman: Jan has pointed out to me, condition number 13 which says between the months of April through October, no more than two outdoor events shall be held during the same calendar week and not more than five weeks, during this time period shall multiple outdoor events be held on the property, not real sure what that second clause means. I know this is an attempt to place some little more limitation and spread out the events, it also says between November and through March, no more than one outdoor event shall be held for calendar week. I guess that's helpful, but I'm not sure someone can explain. Maybe I'm just not picking up on it and not more than five weeks during this time period shall multiple outdoor events be held on the property.

Mr. Tajan: Mr. Inman we will have Mr. Kemp to describe the condition.

Mr. Kemp: I can explain why that was there is one word that is wrong and that's in the first part of the sentence and that's each day. What that says is that no more than two outdoor events can be held in the same day and then any weekend and it is limited to five weeks with full multiple events.

Ms. Wilson: It can't happen.

Mr. Kemp: Okay, so not more than two outdoor events shall be held during the same week with the exception of five times per year, they're allowed to.

Ms. Oliver: Please, please come forward.

Mr. Bourdon: That condition is supposed to, I think it says what it's supposed to say although I haven't studied it other than earlier, what we have said is that there will never be two outdoor events in the same day, that isn't going to happen and that there would be only five weeks during the year, May and June, when there might be as many as two outdoor events in a given week.

Mr. Rucinski: So a Saturday and a Sunday.

Mr. Bourdon: Or a holiday, Memorial Day, but during the remaining 47 weeks, there would never be more than one outdoor event and that won't be one every week, but in any given week. They don't want to work that hard. So we're saying never two in a day outdoor events and never more than two in a week and that's only for five weeks during the course of a year.

Mr. Horsley: You are only allowed to have two events during a five week period?

Mr. Bourdon: Right. It could be any five weeks, but that's a part of the scheduling of weeks.

Mr. Horsley: Any five weeks except between November and March.

Mr. Bourdon: Well, yes. You know, we know weather wise; it's unlikely that's the reason that was structured that way, but also during those months, there's less vegetation, there's less buffering of sound, as well but again, it's also because it's not likely to be a demand as well.

Mr. Inman: I think that clause, second clause in first sentence of 13 needs to be reworked, just for clarification, between now and I mean, I don't know that I can fix it right this moment.

Mr. Bourdon: I didn't write it but I knew what was intended and I thought it was okay, but I'm not averse to staff writing it more clearly, certainly.

Ms. Oliver: Mr. Kemp.

Mr. Kemp: The condition was, we can take a look at that and if it needs to be reworded or tweaked between now and Council we will so that it will cover the intent that Mr. Bourdon described.

Ms. Oliver: I think that's a great thing. Let's clean it up a little bit so that we all understand it.

Mr. Inman: It needs some word shifting around in that clause and multiple outdoor events shall not be held, no except during, work on it please.

Ms. Oliver: All right, anything else? Are we good? Mr. Redmond?

Mr. Redmond: Madam Chair, we are going to move approval of the application.

Ms. Oliver: I have a second.

Mr. Redmond: I'm sorry, with the initial portion up to the curve of that road how you guys want to work that's up to you to be paved in asphalt.

Ms. Oliver: Mr. Inman please go ahead.

Mr. Inman: I was gonna say, I'd like to see a limitation; I mean review time put on this is like a year or something to come back?

Ms. Oliver: I think it's in there. Mr. Kemp. It's in there.

Mr. Bourdon: It's in here, it's a last condition, it's number 23.

Mr. Inman: Sorry. It's on another page. I missed that.

Mr. Bourdon: Yes sir, it is in there. I apologize.

Mr. Wall: Actually, where's that in there? It's in the original one, it's not in the revised one.

Ms. Oliver: All right, so it is on, just double check. Yes, may continue to operate on the site subject to an annual determination by the planning director etc, etc. Okay, on the original one.

Mr. Alcaraz: I will second Mr. Redmond's motion with the revision on the gravel, I mean, asphalt pavement.

Ms. Oliver: Right. Yes.

Mr. Tajan: I'm sorry, Madam Chairman. The applicant had requested, condition 16 be altered and there was no discussion about that condition. I know, Mr. Ripley referred that he was not in favor of changing the condition, but there's no discussion on that condition.

Mr. Ripley: It's not change yet has it?

Mr. Tajan: No sir.

Mr. Ripley: This won't be used.

Mr. Tajan: Just to be clear for the record. The use of generators for the provision of food, music and lighting shall be prohibited. So that condition is not changing. Is that correct?

Ms. Oliver: No.

Mr. Tajan: And just for clarification, Mr. Bourdon had offered to maintain the vegetation that was existing on south of the Sajo Farm Road, you noted that that was going to be removed? Would you state that as being a condition since it was offered in discussion? I'm just bringing that up for?

Mr. Bourdon: Oh what I was proposing was an in depth discussion with Mr. Griggs and his neighbors. If the commission believes that the best course of action is to pave that section of road, then that's the answer.

Mr. Redmond: That was my answer and that's the nature of my motion.

Mr. Tajan: There was discussion about maintaining the existing vegetation on, it was referenced as a buffer for the residences. I just want to make sure to see if that was still being offered.

Mr. Bourdon: I don't, we have no intention of removing any vegetation that may be there. We have a 20 foot ingress-egress easement. I think Mr. Ripley's and commission has to resolve this.

Mr. Redmond: There was nothing about the generator in my motion, nor was there anything about vegetation in my motion. I didn't intend for anything to be in there. My motion was what I intended it to be sir.

Mr. Tajan: Understand.

Mr. Redmond: I second.

Ms. Oliver: Thank you. I think we are ready.

Mr. Fisher: By vote of 9-0, item number 12 Draybun Sajo, LLC has been approved.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

1. This Conditional Use Permit is only valid when in common ownership with the adjacent parcel containing the Sajo Farm Manor House.
2. This Conditional Use Permit shall not be valid unless the subject property is listed on the Federal, State, and/or Virginia Beach Historic Registry.
3. The applicant offers and the City accepts that this Conditional Use Permit shall not be valid unless the Sajo Farm Manor House property is listed on the Federal, State, or Virginia Beach Historic Registry.
4. The number of attendees shall not exceed sixty (60) for an indoor event and one hundred and fifty (150) for an outdoor event.
5. All outdoor events shall be on Fridays, Saturdays, Sundays, and national holidays.
6. All activities associated with the proposed use shall cease by 9:00 pm, except, clearing after events shall be permitted until 10 pm.

7. Outdoor events shall be limited to no more than forty (40) per the calendar year and no more than one (1) event shall be held on the same day.
8. No more than thirty (30) vehicles shall be parked on the site at any one time. In addition, on-site parking shall be within the designated area show on page 9 of this Staff 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.
9. Should there be more than thirty (30) vehicles per event, then all attendees shall park their vehicles off-site at the designated location(s) as specified in the parking agreement and be shuttled to the event venue.
10. Prior to the commencement of the proposed assembly use, the applicant shall submit a parking plan and agreement to the Virginia Beach Planning Department that demonstrates the applicant's ability to use the off-site church parking lot as described in the application. Such agreement shall be subject to the review and approval of the Director of Planning or designee.
11. Except for ADA parking, alternative parking surfaces (front lawn area) may be permitted for on-site parking. ADA parking shall be provided in accordance with the ADA criteria.
12. The applicant/owner shall install and maintain a City standard commercial entrance at the intersection of Shell Road and Sajo Farm Road. Said entrance shall be installed in accordance with the City of Virginia Beach Department of Public Works Engineering Division Specifications and Standards.
13. Between the months of April through October, no more than two (2) outdoor events shall be held during the same calendar week, and not more than five (5) weeks during this time period shall multiple outdoor events be held on the property. Between November through March, no more than one (1) outdoor event shall be held per calendar week.
14. No more than two (2) food trucks for catered events may be located on the site at any one time. Food trucks shall only be permitted on the site in conjunction with an event.
15. There shall be no amplified music, use of speakers or monitor permitted between the hours of 9:00 pm and 12:00 pm (noon), or for more than three (3) hours in any one day.
16. The use of generators for the provision of food, music, and lighting shall be prohibited.

17. No activity associated with an event, with the exception of access to and from the event, shall be permitted within one hundred and fifty (150) feet of any adjacent residential property line.
18. All necessary permits shall be obtained prior to the event for temporary tents or other structures, as required by the Virginia State Building Code.
19. All lighting shall be contained on the subject property. The source of the light is to be shielded so as to not be visible from the property line of adjacent residential properties.
20. Any outdoor storage of materials associated with the Assembly Use shall be prohibited.
21. Any unimproved areas used for parking shall be stabilized within seven days after the conclusion of an event.
22. Any localized flooding that arises from the use of the unimproved parking areas shall be corrected at the applicant's expense.
23. This use may continue to operate on the site subject to an annual determination by the Planning Director or designee that the presence of the use is not detrimental to public health, safety, and welfare. Furthermore, this use, as conditioned herein, shall not cause public inconvenience, annoyance, disturbance, or be incompatible with other uses in the vicinity or otherwise interfere with the reasonable use and enjoyment of neighboring properties by reason of excessive noise, traffic, or overflow parking.

Item #D1

John E and Jennifer K Alex

Street Closure

Adjacent to 536 Vanderbilt Avenue

District - Beach

July 10, 2019

RECOMMENDED FOR APPROVAL- CONSENT

Ms. Rucinski: All right. Thank you. The next item on the consent agenda is item number D1. And that's an application for John E. & Jennifer K. Alex, applicant for a street closure, adjacent to 536 Vanderbilt Avenue in the Beach District. Sir can you come forward and state your name for the record?

Mr. Irwin: My name is Matt Irwin. I am representing the applicants John E. and Jennifer K. Alex, and attorney RJ Nutter who applied for the application, submitted the application. In reference to Mr. Bourdon and the drainage easement as some of y'all know, I'm a retired city planner here for 34 years; I did a number of these applications myself reports. It has been inconsistent over the years concerning these drainage easements in the closed portions of the alleys. It is my understanding now that with sea level rise that type of thing that public works is adamant about retaining a drainage easement over these areas. I just wanted to bring that up. This is my understanding now because I had questioned it myself and spoke with several people within the city and that's the answer I got and the conditions are acceptable.

Ms. Rucinski: They are acceptable. Okay, thank you. Is there any opposition to this matter being placed on the consent agenda? Okay, seeing none, the chairman has asked Commissioner Mike Inman to review this for the record.

Mr. Inman: This property owner proposes to close a portion of the platted, unnamed and unimproved alley that's adjacent to the rear lot line on this property, which is located 536 Vanderbilt Avenue in Croatan. The applicant is requesting a close half of the 15-foot wide alley, totaling 375 square feet and incorporate into the residential lot. The viewers who are included members of city staff have viewed the property to consider the appropriate as of the closure and decided that it would not result in any public inconvenience. And therefore,

the closure of this portion of the right-of-way is deemed acceptable. The Department of Public Works has indicated there are no assets within the 375 square feet. So therefore there is no need for drainage easement. City Council adopted a policy aimed at disposing of undeveloped rights-of-way to adjoining property owners in the Croatan community. Consequently, we put this on the consent agenda.

Ms. Rucinski: All right, thank you, Madam Chair that was the last item on the consent agenda. I would like to move to that the approval of consent agenda items number one, four, five, six, seven, eight, nine and D1 be approved.

Mr. Redmond: Madam Chair, I would like to state for the record that while I'm going to support this package of consents, I'm specifically abstaining on agenda item number eight. I don't benefit in any way from it, but I assisted the applicant in some way. So I should keep out of it.

Mr. Horsley: I second.

Ms. Garrido: Vote is open.

Mr. Fisher: By vote of 9-0, agenda items one, four, five, six, seven, eight, nine and D1 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

CONDITIONS

- 1. The City Attorney's Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council.**
- 2. The applicant shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining parcel. The resubdivision plat must be submitted and approved for recordation prior to final street closure approval. Said plat must include the dedication of a public drainage easement over the closed portion of the alley to the City of Virginia Beach, subject to the approval of the Department of Public Works, and the City Attorney's office, which easement shall include a right of reasonable ingress and egress.**
- 3. The applicant shall verify that no private utilities exist within the right-of-way proposed for closure. If private utilities do exist, easements satisfactory to the utility company must be provided.**
- 4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved within one year of the City Council approval, said approval shall be considered null and void.**

Item #D2

General Booth Venture, LLC

Conditional Use Permit(Automotive Service Station)

Northeast corner of General Booth Blvd and Prosperity Road

District – Beach

July 10, 2019

DEFERRED

Ms. Oliver: Now we will go to the deferred items, please come forward if you have any item to be deferred.

Mr. Fisher: By the recorded vote of 9-0, items D3, D4, and D5 have been withdrawn.

Ms. Oliver: Sorry Cole. I'm whipping through today. So we'll go to the deferred items.

Mr. Bourdon: Madam Chair for the record Eddie Bourdon, Virginia Beach attorney representing Ocean Rental Properties, LLC. Item number three, that's an indefinite deferral, not sure when that will be back.

Ms. Oliver: Okay. Great.

Mr. Bourdon: Thank you.

Ms. Oliver: Thank you. Are there any other items that need to be deferred? Hi.

Mr. Berlin: Madam Chair, members of the Planning Commission. My name is Bruce Berlin with Venture Realty Group, we have item D4. We asked for an indefinite deferral. I would like to think that we could be back here in 30 days but working with staff I believe that we're going to need an indefinite at this point. D2, I'm sorry.

Ms. Oliver: Okay, thank you. Are there any other items to be deferred? The Chair has been made aware that item two is also going to be deferred. So may I have a motion? Are there any oppositions to any of these been deferred from our agenda today, may I have a motion to defer items, two, three, and D2 please.

Ms. Rucinski: Madam Chair, I will make a motion to defer item two, three, and D2.

Ms. Oliver: May I have a second please?

Mr. Horsley: Second.

Mr. Tajan: Madam Chair, just for a point of clarification, item two is being deferred to date certain to the August agenda while the other two are requesting indefinite referrals.

Ms. Oliver: Thank you.

Ms. Garrido: Vote is open.

Mr. Fisher: By vote of 9-0, items two, three and D2 have been deferred.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

Item# D3

City of Virginia Beach

July 10, 2019

WITHDRAWN

Ms. Oliver: Thank you very much. The next order of business is to address those items to be deferred or withdrawn. If anyone has an item to be withdrawn, please come forward now. Alright, well, the chair has been aware of the following items that are to be withdrawn. And those are items D3, D4, and D5. Is there any opposition to these items being withdrawn today? Hearing none, I need a motion to withdraw the items D3, D 4and D5 please.

Ms. Rucinski: Madam Chair. I'll make a motion to withdraw items D3, D4 and D5.

Ms. Oliver: Do have a second?

Mr. Horsley: Second.

Ms. Oliver: Thank you.

Ms. Garrido: Vote is open.

Mr. Fisher: By the recorded vote of 9-0, items D3, D4, and D5 have been withdrawn

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

Item# D4

City of Virginia Beach

July 10, 2019

WITHDRAWN

Ms. Oliver: Thank you very much. The next order of business is to address those items to be deferred or withdrawn. If anyone has an item to be withdrawn, please come forward now. Alright, well, the chair has been aware of the following items that are to be withdrawn. And those are items D3, D4, and D5. Is there any opposition to these items being withdrawn today? Hearing none, I need a motion to withdraw the items D3, D 4and D5 please.

Ms. Rucinski: Madam Chair. I'll make a motion to withdraw items D3, D4 and D5.

Ms. Oliver: Do have a second?

Mr. Horsley: Second.

Ms. Oliver: Thank you.

Ms. Garrido: Vote is open.

Mr. Fisher: By the recorded vote of 9-0, items D3, D4, and D5 have been withdrawn.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			
WALL	AYE			
WEINER				ABSENT

Item# D5

City of Virginia Beach

July 10, 2019

WITHDRAWN

Ms. Oliver: Thank you very much. The next order of business is to address those items to be deferred or withdrawn. If anyone has an item to be withdrawn, please come forward now. Alright, well, the chair has been aware of the following items that are to be withdrawn. And those are items D3, D4, and D5. Is there any opposition to these items being withdrawn today? Hearing none, I need a motion to withdraw the items D3, D 4and D5 please.

Ms. Rucinski: Madam Chair. I'll make a motion to withdraw items D3, D4 and D5.

Ms. Oliver: Do have a second?

Mr. Horsley: Second.

Ms. Oliver: Thank you.

Ms. Garrido: Vote is open.

Mr. Fisher: By the recorded vote of 9-0, items D3, D4, and D5 have been withdrawn.

	AYE 9	NAY 0	ABS 0	ABSENT 2
ALCARAZ	AYE			
BARNES	AYE			
GRAHAM				ABSENT
HORSLEY	AYE			
INMAN	AYE			
OLIVER	AYE			
REDMOND	AYE			
RIPLEY	AYE			
RUCINSKI	AYE			

WALL	AYE			
WEINER				ABSENT