

Virginia Beach Planning Commission

Public Hearing

October 14, 2020

Ms. Oliver: 2020, Public Meeting of the Virginia Beach Planning Commission. My name is Dee Oliver and I am the Chairman of the Commission and before we get started, I have the Commissioner Inman to lead us in prayer and will be followed by the pledge led by Commissioner Horsley.

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

Mr. Horsley: "I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

Ms. Oliver: Thank you Commissioners. And, now we are going to have Commissioner Klein is going to introduce the members of the Planning Commission.

Ms. Klein: Thank you. We have Jack Wall, a civil engineer from the Rose Hall District. George Alcaraz, building contractor from Beach District. Don Horsley, farmer and member at large. Dee Oliver, Chairman, funeral director and member at large. David Wiener, commercial salesman from Kempsville District. Michael Inman, attorney and member at large. David Redmond, commercial real estate broker from Bayside District. Whitney Graham, real estate developer from Lynnhaven District and myself, Robin Klein, social worker from Centerville district.

Ms. Oliver: Thank you, and so I am going to turn it over to Bobby Tajan, the Planning Director and he is going to introduce his Staff.

Mr. Tajan: Thank you, Madam Chair. Starting with the Planning Staff, starting this side we have Waddell, Carolyn Smith, our Planning Administrator Marshall Coleman, Will Miller and Summer Peebles. We also have Tori Eisenberg with the City Attorney's Office. On the other side of the room, we also have Ashley Moss, Bill Lanfair, Kevin Kemp, clerking for us

today Lynn Roenker, Carol Dozier, and the Whitney Cartwright, and as well as Deputy City Attorney Kay Wilson is with us. Ms. Wilson, just for the record, we will leave the meeting and Ms. Eisenberg will take her place as some time after the first portion of the meeting. Just also to clarify for the Commissioners, as noted, we are recording the meeting, so, that we can do the verbatim. If, as you are speaking, please turn on your microphone, so, that it can be heard and recorded for the posting. And, then when you are not speaking, please turn the microphone off, because there is feedback of spaces and ideally set up to allow for all the microphones to be on at the same time. Thank you, Madam Chair.

Ms. Oliver: Thank you. So, our clerk is now going to read the rules and we will get started with that. Thank you.

Ms. Roenker: Thank you, Madam Chair. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved understand how the commission normally conducts its meetings. It is equally important that everyone treat each other and the members of the Commission with respect and civility. The Commission requests that if you have a cell phone please either silence it or turn it off. This is an abbreviated explanation of the rules. The complete set of rules is located in the front of the Planning Commission Agenda. Following is the order of the business for this Public Hearing. Withdrawals and deferrals, the chairman will ask are there any requests to defer or withdraw an item on the agenda, consideration of these requests will be made first. Consent Agenda, the second order of business is the consideration of the Consent Agenda, which are those items that the Planning Commission believes are unopposed and which have favorable Staff recommendations. The Regular Agenda, the Commission will then proceed with the remaining items on the agenda. Speakers in support or opposition of an agenda item will have three minutes to speak, unless they are solely representing a large group such as the Civic League or Homeowners Association, in which case they will have 10 minutes. Please note that the actions taken by the Commission today are in the form of a recommendation to the Virginia Beach City Council. The final decision to approve or disapprove an application will be made by the City Council. The Commission thanks you for your attendance and we hope that your experience today leaves you feeling that you have been heard and treated fairly.

**Item # 1.  
ArrowFit Human Performance, LLC [Applicant] Isis & Robert Arrowsmith [Owner]  
Conditional Use Permit (Home Occupation)  
1209 Funnell Street**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Thank you. So, with that we are going to get started, we do not have any items today to be withdrawn or deferred. So, we are going to move right on to our next order of business, which will be addressed those items that have been placed on the Consent Agenda and Vice Chair David Weiner is going to handle this portion.

Mr. Weiner: Thank you, Madam Chair. Today we have eight items on the Consent Agenda. First one is item one, ArrowFit Human Performance, LLC a Conditional Use Permit for a Home Occupation at 1209 Funnell Street, Council District, Bayside. Is there an applicant for this item? Please come forward. I am sorry. Please come forward. Great. Please state your name for the record.

Ms. Arrowsmith: Isis Arrowsmith.

Mr. Weiner: And, do you agree with all the conditions?

Ms. Arrowsmith: We do.

Mr. Weiner: Great. Thank you. You can have a seat, thank you. Is there any opposition to this being on a Consent Agenda? Hearing none, Mr. Redmond is going to read this into the record for us.

Mr. Redmond: Thank you, Mr. Weiner. This is an application of ArrowFit Human Performance, LLC for a Conditional Use Permit for a Home Occupation, specifically for personal fitness training. The applicant intends to perform this use in a 600 square foot accessory structure meaning a shed or an outbuilding on their property in the Lakeview Park neighborhood. There are a number of conditions that protect the adjacent homeowners in the neighborhood in general. Specifically, that there is to be no amplified music that can be heard from other people. It is a very common thing to have home occupations, we do it routinely for daycare for instance and

other uses. There is no opposition. The Staff supports this application and the Commission concurs with its consent. Thank you, Mr. Weiner.

Mr. Weiner: Thank you, sir. The next two items are the Short Term Rentals that have been put on Consent Agenda. The Planning Commission places the following applications for a Conditional Use Permit for a Short Term Rental on the Consent Agenda as these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition to this request for items number 9 and 17. And, saying that I would move for approval on the Consent Agenda items 1, 3, 6, 7, 8, 9, and 17.

Ms. Oliver: Thank you. Do I have a second?

Mr. Alcaraz: Second.

Ms. Oliver: Seconded by George Alcaraz.

Ms. Cartwright: I will call for the vote verbally. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By a recorded vote of nine to zero, Agenda Items 1, 3, 6, 7, 8, 9, and 17 with one condition added to agenda item number 6 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

### CONDITIONS

1. The use shall not create noise, dust, vibration, smell, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.
2. No more than twenty (20) percent of the floor area of the dwelling unit shall be used in conduct of the activity. In addition, all activities related to the proposed Home Occupation shall be conducted inside of 600 square foot accessory structure on the property.
3. No amplification of music or use of speakers shall be permitted except within the enclosed accessory structure.
4. Any sign identifying the Home Occupation shall be non-illuminated, not more than one square foot in area, and mounted flat against the accessory structure.
5. There shall be no more than one (1) employee, other than the homeowner, on the property associated with this home-based business.

6. There shall be no more than four (4) attendees at any one time.
7. The activities for the Home Occupation shall be limited to no earlier than 6:00 a.m. and no later than 8:00 p.m.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 2.  
McNeel Properties (Applicant) Dare Associates (Owner)  
Conditional Use Permit (Automobile Repair Garage)  
4901 Cleveland Street**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – HEARD – CONDITIONS AMENDED**

Ms. Dozier: The first item to be heard today is McNeel Properties application for Conditional Use Permit for an Automobile Repair Garage located at 4901 Cleveland Street in the Bayside District.

Ms. Oliver: Great, thank you and I do not think Mr. Nutter needs to know this. But, I am going to remind everybody out there that we are on a time limit of three minutes and, so, I ask that you would respect that and to silence your cell phones as well. Thank you. Mr. Nutter, welcome.

Mr. Nutter: Thank you very much Madam Chairman. For the record, my name is RJ Nutter, I represent Caliber or in this case McNeel. And, first of all, I did appreciate that we were able to be here during the informal session this morning and was privy to the discussion, but would like to set a couple things up for you just to let you know about this. Caliber is actually the largest auto repair facility in the country. They have several facilities here all of them are operating in pristine condition with no complaints whatsoever. So, the company itself, the use itself, I think you have already found to be consistent with the uses in the area, and would be consistent with the other uses in that area and not be disruptive. The property is currently zoned B2 and I-1 without any conditions whatsoever. It sits on 1.35 acres it is about 15,000 square feet in size. And, what Caliber is doing is making extensive improvements on the outside of the building, both to the facility itself, closing doors that are there today that do not look very attractive, adding awnings, repainting the building, putting in additional landscaping, redoing the access ways, and putting an extensive screening of ornamental fences and features like that. All of those together, the total cost of this project to them is a little over \$4 million. This is not a lightest investment by their part at all. And, quite frankly, all of the conditions, 12 of the 13 conditions are acceptable. And, the nice part about the 12 conditions, by the way, which none of which would apply in the event that this application did not get approved. All of those conditions are designed to two things, to improve the appearance of the site, to make sure it is properly maintained, to add a different access way

to the site, to consistent with what the City would like to see, to improve the quality of the building, and to shield any vehicles that are there. Right now, if those conditions are not there, any vehicles could be there would not be shielded can be used for any B2 or I1 use without condition or pre-content. The only condition is Condition 13 with respect to that this would be reviewed after 10 years. The problem with that as you have got a \$4 million capital investment, you would not occur with a 10-year restriction. It would not be able to be monetized, if you will, during that time period. In addition to that, the terms of the Caliber stay here are going to extend well beyond the 10-year period. So, with the 10-year limitation, Caliber could not make an investment of that nature and proceed with the project. That is why we have asked that you eliminate Condition number 13, we are perfectly acceptable to the 12 conditions that precede that one. And again, the whole purpose of those is to make sure this site is improved, and you have a better looking site than you do today. One other thing I will add just might be close to my time limit is that, if this building were left alone, and Caliber did not come in, you have the exact same building, but in worse condition with no conditions whatsoever. So, I would ask that should be something you would want to pursue and proceed with, and in fact, allow it to continue well beyond the time period. If the conditions change in the region, economics would make that change. No matter what condition you put on this, the fact that condition like this makes it impossible to sell, no one's going to want to buy or invest in this property with a 10-year limit that they use, that you spent \$4 million for might go away in 10-year period, it just would not happen. So, would actually hurt the value of the property if we would agree to that condition, that is the problem we have with it. But we have no problem with all the conditions that you have recommended with respect to the operation use of the facility. And as you know, the other uses in that facility, they are almost identical to this use, have no such conditions. Philips used to be Philips if you forgive me, Charles Barker is right down the street, they have got their facilities, a number of facilities around our auto repair facilities without conditions like that. So, we would like to proceed, we would like your recommendation for approval. We would ask that you consider dropping 13, but otherwise, I am here for any questions, Madam Chairwoman that you might have. We have no additional speakers, but I do have the engineers here if you like and representatives from McNeel, if you have any questions. So, I hope I stayed within my time limit.

Ms. Oliver: Do we have any questions for Mr. Nutter? No, not right now.

Mr. Nutter: Alright. Thank you, so much. I appreciate it.

Ms. Oliver: Thank you.

Mr. Nutter: My pleasure.

Ms. Oliver: Alright. With that, I will just go ahead and close this to the Commissioners and open it up for discussion. Yes, David.

Mr. Redmond: I stated this morning, and so for the purposes of the public hearing, I will restate it. I do agree with the applicant's position. And, there was a time when I didn't, and it has to do with the importance of trying to improve and redevelop Strategic Growth Areas. That is what they are, they are Strategic Growth Areas. Be that as it may, they do not all move at lightspeed. And, what I have found over time and this comes in part with a conversation I had with one of our Council members, is that the timeframe, particular timeframe on a Conditional Use Permit is just not helpful in any way towards advancing the SGA cause, what is, is market dynamism and momentum. And, that is far more powerful than a bureaucratic deadline. Within all of our SGAs we have transitional uses, where we might hope, by virtue of the particular SGA plan in the context of the overall comprehensive plan that we see, higher end redevelopment, it is not going to occur in in a New York minute, right. And, so, we have some temporary uses or transitional use is a better way to put it. This is a parcel that is, as I said this morning, it is across from the 7-11, that has gas pumps, which requires a Conditional Use Permit, it is next to a trailer park, and on that very street or whole lot of the same similar kinds of uses, which I did not realize the applicants attorney noted, do not have the same kind of restriction. I do not think it hurts the SGA cause to have this use. We have it in lots of other places. Transitional uses, I do not think a 10-year limit on the Conditional Use Permit serves any purpose. Other than perhaps limiting the ability of this particular redevelopment will make this SGA grow and it is already growing in various places, is the kind of dynamism and market momentum that we hope to see in lots of places. And, we are seeing it in lots of places, we have seen in the Burton Station corridor. We are seeing it on, actually, curiously enough at the western end of this Strategic Growth Area. That is how this stuff gets done. It does not get done with an arbitrary bureaucratic deadline, in my view. The particular conversation I had, had with a Council member once, before we had this discussion, I said, now what I want these SGAs want to stick division have these things in occurs, to which he replied, who would build anything if they had that restriction? And, as I said, I just do not think

that is how that gets done. I accept what the applicant has said about this, as I said, I had a different position in the past I just came with you differently because I just do not think that is the workable way to do it. I do support the application, when the time comes, I will make a motion for approval with Condition number 13 removed. Thank you, Dee.

Ms. Oliver: Alright. With that, we will entertain a motion. Mr. Redmond.

Mr. Redmond: Madam Chairwoman, I move approval of the application with removal of Condition number 13. Thank you.

Mr. Graham: I second.

Ms. Oliver: I have a second from Mr. Graham. And, we can call for the vote.

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By recorded vote of nine to zero, Agenda Item 2, has been approved with Condition number 13 removed.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the submitted exhibit entitled, "Caliber Collision (Building Renovation) 4901 Cleveland Street, Virginia Beach, VA ", dated 09/16/2020, prepared by Brian Rumsey, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The applicant shall obtain all necessary permits for the installation of a paint booth for the proposed use. If the required permits for the paint booth are not obtained, the painting of vehicles shall be prohibited on the site.
3. Vehicles in a state of obvious disrepair shall be stored in the rear of the building and fully screened with required landscaping and a six-foot solid fence.
4. Vehicles that are considered to be total loss shall not be stored on-site for more than 48 hours and vehicles awaiting repairs shall not be stored on-site for more than seven days.
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. No motor vehicles shall be parked within any portion of the public right-of-way.

8. The owner of the property shall be responsible for the continued proper maintenance of all fences, and shall keep them in a proper, neat, and orderly appearance, free from structural deterioration and disrepair at all times.
9. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
10. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.
11. There shall be no portable or nonstructural signs or electronic display signs on the site.
12. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.
13. ~~Subject to Section 221(k) of the Zoning Ordinance, an administrative review by the Planning Director shall occur 10 years after City Council approval of the Automobile Repair Garage Conditional Use Permit. This use may be allowed to remain on the site subject to a determination by the Planning Director 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.~~

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*



**Item # 3**  
**Ruth B. Wilson (Applicant & Owner)**  
**Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)**  
**856 & 877 Sandbridge Road**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – CONSENT**

Mr. Weiner: Thank you, Mr. Redmond. The next item is item number three, Ruth Wilson Subdivision Variance (section 4.4 of the subdivision regulations) at 865 & 877 Sandbridge Road, Princess Anne District. Please come forward. Please state your name for the record.

Ms. Wilson: Ruth Wilson.

Mr. Weiner : Do you agree with the everything with conditions?

Ms. Wilson: Yes.

Mr. Weiner: Okay. Thank you very much. You can have a seat. Is there any opposition to this being placed on the Consent Agenda? Hearing none, Mr. Horsley is going to read this into the record. Please.

Mr. Horsley: Thank you, Mr. Weiner, the applicant is asking for variance today to realign these lots to make them more conforming. These homes were built in 1910 and 1965, and back then the regulations did not apply as they do now. But, neither one of these lots has at least one acre that is needed to be above the floodplain. So, therefore they are reconfiguring the lot lines to make it so both of these lots can be independent of each other and can become more conforming. So, there is no opposition to this application. And, it seems like a very simple thing at fixing some problems that occurred way back gives before all the lot regulations came into effect. So, I think Ms. Wilson will be very appreciative if we go ahead and approve this. And, that is reason we put it on the Consent Agenda. Thank you.

Mr. Weiner: Thank you, sir. The next two items are the short-term rental that has been put on Consent Agenda. The Planning Commission places the following applications for a Conditional Use Permit for Short Term Rental on the Consent Agenda as these applications meet the applicable requirements of section 241.2 of the Zoning Ordinance. Staff supports the application

and there is no known opposition to this request for items number 9 and 17. And, saying that I would Move for approval on the Consent Agenda items 1, 3, 6, 7, 8, 9, and 17.

Ms. Oliver: Thank you. Do I have a second?

Mr. Alcaraz: Second.

Ms. Oliver: Seconded by George Alcaraz.

Ms. Cartwright: I will call for the vote verbally. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By recorded vote of nine to zero Agenda Items number 1, 3, 6, 7, 8, 9, and 17 with one condition added to agenda item number 6 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**CONDITION**

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled “Resubdivision Plat of Ruth B. Wilson,” revised June 20, 2020, and prepared by Michael W. Murphy, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 4**

**Thomas A. Brown (Applicant & Owner)**

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

**Shell Road, between 1412 Duck Run Court and 5145 Shell Road**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – HEARD**

Ms. Dozier: Okay, next item is Thomas A Brown, a Subdivision Variance (Section 4.4B of the subdivision regulations) at Shell Road between 412 Duck Run Court and 5145 Shell Road. We have one speaker registered on this.

Mr. Brown: Good afternoon. I am Thomas Brown. Can I have this put up on a projector or can I pass out, is it acceptable?

Ms. Oliver: I do not know if we are able to put it on a projector, but we can certainly pass it around. If you will just hand it to Mr. Tajan here and he will make sure that we see it.

Mr. Brown: It is basically page five of the Staff report, just with my notes of what I am presenting, which if you look at page five the upper lots they show are the existing lots and the lower or the proposed lots, which basically we are just leaving the lots as they are just only changing the line that divides them. So, the whole property remains the same, just changing the dividing line to make the lots look better. The existing lots have three nonconforming issues, but with our change, we have eliminated two of the nonconforming issues, that you only have one nonconforming issue on the remaining ones. And, you are making the lots look a lot better with the house configuration looks a lot better, you basically are eliminating that flag lot where it looks like one house is actually almost like in the backyard of another house. So, all in all, I think it makes it look better from pretty much everybody's perspective, it would look better. The Civic League opposes it and understand their opposition that they do not want to create a precedent that they are allowing lots less than 40,000 square feet, because a lot of builders come into that neighborhood and want to take a larger lot, and then divide it and end up with something less than 40,000. But, our two existing lots already are less than 40,000. So, even allowing this I do not think you are creating any precedent that is going to hurt the Civic League in the future, because we are eliminating two nonconforming issues. And, the one that remains is the one that was there to begin with

that you are less than 40,000 on with one that that remains and the previous ones. So, I asked them, I think it is a good project from everybody's perspective, really. But, I think it is going to be better for the city because it is going to look better, anything that looks better, is better for the city. And, I actually think if the Civic League looks at it, it actually is going to look better, but they just do not want a bad precedent that I do not think it creates the precedent that they are worried about. That is it.

Mr. Weiner: Any questions for Mr. Brown? Okay. Thank you, sir.

Mr. Brown: Okay, thank you.

Ms. Dozier: We call Paul Calhoun. Mr. Calhoun, when you approach a podium, if you could state your name for the record, please.

Mr. Weiner: Welcome sir.

Mr. Calhoun: Good afternoon. Honorable Members of the Planning Commission thank you for your time and allow me to speak. I am Paul Calhoun, I am president of the Lakeview Park Civic League. This variance, as Mr. Brown said, and I agree with him is unique to any other variances that normally Lakeview Park Civic League argue against. Both the lots are under the 40,000 square foot, they were grandfathered in probably I want to say around 1963 or something like that. Like I said, one of the lots does not have the required street frontage for R40. So, both lots are nonconforming. I had a really nice conversation with Mr. Brown yesterday and talked to him, reviewed the plat and looked at it and actually, in all aspects, I agree with what he is doing, it makes both lots more appealing, more attractive, and both of them will have waterfront access, there will be waterfront properties. Our only concern is that both the parcels are around 32,000 square feet and, so, it would be under the 40,000 minimum for R40 lot. So, in our case, it sets kind of a precedent and it is just a concern for the neighbors and the residents of Lakeview Park. I did kind of put out a query for a survey for the residents and I think you all have it on file. There was a petition that went out and 35 people out of the emails that we had that we sent out 35 were against it and five were for it. And basically, our concern is that this potentially could set up a precedent. But, there is a lot of caveats to these parcels, since none of them are compliant. And, the applicant is definitely making the lots more attractive to anybody. So basically, we just want to be on the record saying that the residents, we purchased the property, because we like the R40 zoning, Lakeview Park is like, one of the best, and I am sure all of you all been out

there and taking a look at it. And, it is like one of the best kept secrets in Virginia Beach, you are five minutes away from everything, but then you are almost in like on a farmland. And, for over 45 years, the city has maintained the integrity of R40 zoning. It is actually mentioned in past comprehensive plans. Although, I totally understand the reasoning behind the applicant's proposed variance, we are just concerned about any type of precedent that may be set going forward, because, like Mr. Brown said, occasionally, we will get a developer come in there, and they will see it as an opportunity to subdivide the parcels, a single parcel into postage stamp sized parcels and so. We want to maintain the type of land that we purchased and lived on. So, I thank you for your time.

Mr. Weiner: Thank you, sir. Any questions? Mr. Redmond.

Mr. Redmond: Mr. Calhoun, there are a number of lots in Lakeview Park that are not 40,000 square feet. Is that true?

Mr. Calhoun: That is correct. But they were grandfathered in prior to most of them there has not been a subdivision on a parcel in 40 years, where the other parcels where it was subdivided was not 40,000 square feet. Some of them are grandfathered in way back in the 60s and the surrounding areas in the 50s where they created, but really, I will say 45 years, there has not been a single parcel that was been subdivided less than 40,000 square feet.

Mr. Redmond: Okay. Thank you.

Mr. Weiner: Any more questions? Thank you, sir.

Mr. Calhoun: Thank you.

Mr. Weiner: Mr. Brown, did you want to add anything, you can rebut anything?

Mr. Brown: The only thing I can say is, we are not creating a lot, I can say he is concerned that they do not want to have any lots created under 40,000. But, we are not really creating any and we are just making a minor adjustment to these that are already under 40,000 to make them look better. And, I think a lot of people that are opposed maybe then, because their opposition just came in the last couple days. If I would have known about it, I would have gotten maybe went to a Civic League meeting or something. But, I think a lot of people that are opposed if it was really shown to them like what I have there. I think they might not be that opposed because I think even Mr. Calhoun agreed it makes the lots look

better. So, I guess my main point is, we are not creating a lot that we need a variance on. And really, we are not changing the nonconformity. It is just because we are changing it a little bit, just technic technically have to come back for a variance. Thank you.

Mr. Weiner: Okay, thank you, sir. I guess we will close that and open it up for a discussion or a motion, Mr. Redmond.

Mr. Redmond: There are in fact a number of lots in Lakeview Park that are not 40,000 square feet, this is not a unicorn. And, it is true that the configuring of the lots not only look better, but they simply work better. I mean, I think it should not take a lot of deep thought to understand that more regularly shape lots of a more uniform size, are simply a better land use pattern than what we have here. I live not far from here. My lot is 26,000 square feet. I cannot keep up. These are big lots, by any stretch of the imagination this is a large lot, three quarters of an acre, more than added in acres 43,560 these are large lots. I do not see what the harm is in reconfiguring these in such a way that they just work better. And, it is a better land use pattern. There are folks who are opposed to things sometimes I think for reasons which are too rigid. And, this may be one of them. But, I do think this is a sensible justifiable change that is for the better and I will support it. If anybody has any other comments I want to let him speak and I will be happy to make a motion, George wants to say something over there.

Mr. Alcaraz: Mr. Redmond, I concur just one thing that I am pretty familiar with this is not a subdivision it is a re-subdivision, relocating property lines and if you weigh the two nonconformities out for each lot, one has one nonconformity, one has two now, they only have one each. So, it is a better situation. So, I concur and I agree I would support it too.

Mr. Redmond: Thank you.

Mr. Weiner : Any other comments. Mr. Wall.

Mr. Wall: I appreciate the Civic League and their efforts to maintain the integrity of the lot size in the neighborhood, but in this case it seems like it is betterment, and it does not seem like it would be a detriment to the neighborhood due to the align the lot lines the way that they are shown. So, I am going to support it.

Mr. Brown: Awesome.

Mr. Weiner: Okay, any other comments? Mr. Redmond:

Mr. Redmond: Mr. Chairman, I move approval of agenda item number four.

Mr. Alcaraz: I will second.

Mr. Weiner: Mr. Redmond has made a motion and Mr. Alcaraz has made a second. We are ready for vote.

Ms. Cartwright : I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: By recorded vote of 8 to 0 agenda item number 4, has been approved.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver				ABSENT
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled “Resubdivision Exhibit for Site A7 and Parcel Designated as ‘H G Felton, DB 580 P 307’,” and prepared by Gaddy Engineering Services, LLC, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. If deemed necessary during final plat review, the subdivision plat shall comply with the Subdivision Regulations for right-of-way dedication.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 5  
Louis Perrin (Applicant & Owner)  
Conditional Use Permit (Residential Kennel)  
2121 Munden Point Road**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – HEARD**

Ms. Dozier: At this point, we will move on item number five. Louis Perrin on Conditional Use Permit for a Residential Kennel located at 2121 Munden Point Road. I have a number of speakers on this Mr. Weiner.

Mr. Weiner: Welcome, sir.

Mr. Perrin: Good morning Board.

Mr. Weiner: Please state your name for the record.

Mr. Perrin: My name is Louis Perrin, I reside at 2121, Munden Point, Virginia Beach. And, I applied for a residential application, my address is 13 acres and it is zoned AG2. I had a kennel back in Massachusetts and when I moved to Virginia, I wanted to focus more on my dogs, I show dogs, all over the country. So, I wanted to apply for residential kennel, because your bylaws states if you have more than four dogs you require a residential kennel license. I did submit when I was filling out my application, letters of recommendation from the town that I lived in and also from the dog officers stating I never had any issues or any complaints, and also for my neighbors. I did apply for a permit to build an indoor kennel that is going to be heated and AC, also I have cameras inside and those dimensions were 27 by 30. Other than that, unless the Board's got questions for me.

Mr. Weiner: Okay. Please stand by, we listen to some of the speakers talk, you will have a chance to come back up.

Mr. Perrin: Thank you, sir.

Mr. Weiner: Thank you.

Ms. Dozier: Tariq Louka, and as you approach the podium, if you could state your name for the record, please. Okay, moving on to the next one. Samantha Guida.

Mr. Weiner: Welcome.

Ms. Guida : My name is Samantha Guida and I do live directly across the street from Mr. Perrin, my address is 2120 Munden Point Road. My boyfriend and I are in favor of the dog kennel for the following reasons, we have personally met the four dogs that Mr. Perrin has, when we approach them, they are non-aggressive, they do not bark at us, they are actually very sweet and gentle. We do have a rescue dog that is only a year old, who is only 39 pounds, so, she is small in stature. She has play ed with his dogs, none of them have been aggressive towards her, mean, biting or nipping, none of that, very sweet and playful with them. I personally have fed his dogs, had my hands in their mouths, none of them have been food aggressive. None of them have charged at me, nothing of that sort, they are actually very sweet. And, then we have been in their home before, never once have we heard them bark. The garage that they are staying in currently is soundproof and does have AC and heat, they are well-kept, well-mannered. Never seen them out running loose or anything like that, and matter of fact, we are actually in awe of Mr. Perrin, because his dogs are so well-mannered that they listen to him, they obey him. My dog for instance, does not listen, she runs rampant and just does not behave, unfortunately. But, again, we just are in awe because his animals are so well-kept and just the sweetest dogs personally. And again, we do not ever hear them bark, we do not see them running around or anything of that nature. And, we think it is actually a breath of fresh air to have new neighbors who are very nice, their children are great, and again their dogs and they are just, well-behaved. That is all I have to say.

Ms. Dozier: Thank you. Clement Chernak. Please state your name for the record.

Mr. Chernak: Good afternoon, my name is Clement Chernak, I live at 2100 Munden Point Road pretty much directly across from Mr. Perrin's house. I have been there for 13 years, we have different types of neighbors. Some come over to you and discuss things, tell you what their plans are etc. Others might call the City to see if you will cut down trees, so they can have a better view. And anyway, bottom line is that Mr. Perrin came up and introduced himself to me. Talked to me about his plans, etc. I have a little bit of background in sound etc. and all that, so, I actually helped him with some things, took some sound pressure level readings, etc. I used to do home theater installation. Sounds to me like the soundproofing ideas for this kennel of look quite sound, should reduce any output by about 30 decibels. I have never walking my dog, up and down the street, experienced any bark from his dog unlike many other dogs in the

neighborhood. So, I am not concerned about that in the slightest. I actually had him, make the dogs bark out in the yard. And, the sound levels were considerably less than a lawnmower running or the jets passing overhead. There were basically about the level of a normal conversation that loops coming in around 62 decibels, somewhere around there. So, I am pretty satisfied with that. Having observed his yard for quite some time, because we get flooding and frankly, I kind of use his yard as a gauge as to whether I can get past West Neck Road or what have you, in terms of if I have to go out and get something. Where he plans on putting the kennel, there is no flooding. So, that is the least of my concerns there as far as ground contamination or any of that. This construction plans seem good and I welcome the fact that he took his time to come out, introduce himself, tell me what he was doing before he did it. And, this is the kind of neighbor I like, ones that work with you. And, that is all I have to say, and I have met the dogs. The dogs are fine, I have done animal rescue and I worked on dolphin rescues, dog rescues, fostering kittens, and fostering other dogs. His dogs are confident, they are calm. They are not like our family pets where we tend to spoil them. It is a different level of training. And, I have absolutely no issue with what he plans on doing.

Ms. Dozier: Thank you for your comments.

Mr. Chernak: Hope to learn from him.

Ms. Dozier: Thank you.

Mr. Chernak: You are welcome.

Ms. Dozier: Maria Perrin. Please state your name for the record.

Ms. Perrin: Hi there, my name is Maria Perrin. I am a retired warrant officer from the army, I have been married to my husband for 22 years. I was not raised around dogs. I actually had a pretty big fear of dogs as a kid, my parents kind of embedded that in me. My husband has begged me to have dogs for a long time. I finally did. I am now a pre-vet student at Becker College. One of the things that really turned me on to wanting to be around dogs is not only my husband's but my friends passion for animals and the love that they had for pets. I suffer from PTSD and one thing that I have learned besides going to college, is how therapeutic animals can be. The passion that my husband has shown with his Rottweiler's has really brought a whole new meaning for animals and myself. I have bonded with the Rottweilers that he has. I have seen his passion and we

gave up a lot to move to Virginia, we had a lot of property but due to some medical issues, we decided to sell everything and I came along with him to pursue his dream to raise dogs, show dogs and do something that makes him feel better. And, I just want to say that what I have seen with my husband and with the dogs that we have and going to college to pursue a veterinarian degree, I have a whole different view on dogs and I love the dogs that we do have and my husband is very passionate and very good with his dogs. And, that is all I have.

Ms. Oliver: Thank you.

Ms. Dozier: Kyle Bosiljevac. Please state your name for the record.

Mr. Bosiljevac: Good afternoon. I am Kyle Bosiljevac. So, I live at 5909 Hattie Street which is on the corner of Hattie and Munden Point, I lived there for about 10 years now, and I just wanted to come and show my favoritism for Mr. Perrin here. I only just met him a couple days ago. I became aware of the situation that was going on, that is kind of at the other end of Munden Point, so, two different worlds I guess I do not know, but I wasn't really sure what was going on down there but he was happy to invite me to his home, and kind of explained what was going on and what his plan was in the situation. And, so, I was able to meet three of the dogs while I was down there, they were all super happy, friendly, and playful. I did not see any aggression whatsoever at that point. He also was in control of them, the entire time he was not letting them out, run around, or anything like that on his property. He showed me where he was planning on putting the kennel, it is behind some trees, well off the road, with his plan to heat and AC it, it is going to be insulated I do not see any issue with sound or anything like that. I actually had no idea that he even owned dogs up into that point, I have walked my own dog past this house several times since they have moved in, I had no idea he even had dogs. So, as far as the barking currently it was nonexistent. The only time I heard them barking was when he went in there to get another dog and come back out and even then I was standing right outside the garage. So, I guess I am just here to say that I do not see any issue with what he is doing. He seems like a very agreeable person he is interested and trying to make the other people around him comfortable with what he is doing so, he is offered to make amenities and things like that. So, I am all in favor for it and I would be happy to answer any questions you have for me.

Ms. Oliver: Thank you very much.

Mr. Bosiljevac: Thank you.

Ms. Dozier: We have no additional speakers for this item.

Ms. Oliver: Thank you. Yes, Mr. Perrin, would you like to come back up.

Mr. Perrin: One of the last things I want to talk about with my dogs and when we talk about the word Rottweiler and people automatically have fear. One of the things we do with show dogs is, from the minute they are born we are running our hands through their mouth. We are teaching them not to protect food, we are teaching them not to have food aggression and we are teaching them that we are the alphas. And, the reason we do that is because when we were in the show ring, I have to have my dogs open their mouth and have a judge count all their teeth, and make sure they have the correct scissor bite and pigmentation within their mouth. And, the reason I tell you that is because some people may have fear of the unknown, because they do not know a Rottweiler, but we do not breed dogs to have bad temperaments, I have a dog that has done protection work, that dog's temperament is fantastic. In Germany, they will not allow any dogs with bad temperaments to be bred. They have to be up of the highest standard to be bred and shown, not just temperaments but also health. That is all I really have for the Board, I know it is not an easy decision. I was on the Planning Board in Massachusetts that I had to resign from. And, honestly, it was very rewarding, so, regardless of your decision I know it is not always an easy decision. Unless the Board's got questions for me and honestly I am extremely nervous on this side. I am always on the other side, so, I am not nervous but this side is pretty intimidating.

Ms. Oliver: I appreciate that. Do we have any questions for the applicant? Yes Mr. Weiner.

Mr. Weiner: How long have you been doing this in Pungo, where you are living now?

Mr. Perrin: I just moved here sir August 21.

Mr. Weiner: Okay. What do you have there built now for the dogs.

Mr. Perrin: I have nothing, I have my dogs I run them in and out, I am semiretired, I had a ton of real estate back in Massachusetts and I was a builder. But, for unseen reasons I had to sell everything and move more south. Being a true New Englander I could not really move Deep South because I could not deal with the heat. So, I thought Virginia would be a happy medium

for me. Right now they are in my garage with us because we are painting the house and I do not want to get black fur on the paint, but I rotate them in and out of the house constantly. But, when we do that, we are instilling training. People ask how many times a day you train your dog. Every second is training, I am out the door first they are second. They eat when I tell them to eat, they look at me when they are walking, they are listening. At the end of the day I love them like my children but at the end of the day, there are still dogs.

Mr. Weiner: We will just do real quick I am going to make this not a question, it is just a note, I know what you are saying about Rottweilers, when people hear Rottweiler they are thinking big mean dog. I have a pitbull and she's the biggest one that I know, the biggest one dog. But, the doorbell rings she runs out back. So, I know what to saying, thank you.

Mr. Perrin: Thank you, sir.

Ms. Oliver: Don.

Mr. Horsley: You said you have got 13 acres, but a big portion of that is a swamp and marsh area is that right?

Mr. Perrin: There is a little bit of water, sir. I really have not really had not figure out how to use your systems yet, back home we would use all over GIS and I could actually measure the land. I have tried that, on your site that really have not figured out your site yet, but I would have to say seven acres, seven and a half acres is land and the rest is water.

Mr. Horsley: We had some letters and, other letters that people did not show up today for some odd reason but were you dogs had been on the other people's property. How did that happen.

Mr. Perrin: So, what happened when we originally got there, I had some outdoor kennels where I feed them and then I will let them go to the bathroom, so, I could pick it up. Your dirt is different here, I did not realize when it gets wet in that clay, it is very clayish. I tried to open the dog door, the way the dog got out. Since then I moved my kennels on a concrete base in the driveway, until I build my kennel. The dog did get out, I did get the dog, but also for the record the dog was surrounded by chickens and nothing happened.

Mr. Horsley: Nuff said, I guess. Anyway, do you ever anticipate, I mean you are going to have your property fenced in, so the dogs when they are loose, they cannot get out.

Mr. Perrin: Yes, sir. So, currently, I have had nothing but bad luck since I moved to Virginia from day one, the dishwasher died to everything else to the dock.

Mr. Horsley: It is 2020.

Mr. Perrin: I am hoping next year will be better but when they were repairing the dock. The truck driver had them off and on the back of the truck and knocked down the pillars at the end of the driveway where I planned on putting a gate to keep the dogs in, but just for the record some of these dogs are worth anywhere from 20 to \$40,000. I do not have any intentions on letting them run free, they are usually on leash with me. That was a one-time incident, I am embarrassed about the incident because that is not how I am with my dogs but it was I had only been there like two weeks. New smells, new area, new everything happened, I never had that incident Massachusetts. I think I submitted a letter from the dog officer back home praising me for the way I keep my kennel and how I take care of my dogs.

Mr. Horsley: Thank you, sir.

Mr. Perrin: Thank you, sir.

Ms. Oliver: Commissioner Klein.

Ms. Klein: Thank you. Can you speak to where some of the contention is coming from, with some of the other neighbors who are less than thrilled about the kennel.

Mr. Perrin: So, my one neighbor, we actually stopped people over to talk to me, which was a relief. For the longest time I felt like I was living on eggshells, did not feel welcome to the neighborhood. Here I am I just spent \$1.1 million on a house and I am afraid to go outside with my dogs, because I am afraid of what people are going to think. So, he did eventually pull over we went for a walk and we talked, and his concern was his biggest fear of anxiety and not knowing the dogs. He currently lives beside me there is a six foot wooden fence. It is almost impossible for a dog to get over there, but my concern is, I am the new guy on the street. I have nothing but respect for my neighbors that is why I reached out to everybody before we even bought the house I drove down here three times from Massachusetts

to meet my neighbors. So, I want to live my dream but I also want people to live in peace. So, I am willing to do whatever I have to do to make my neighbors happy because I do not want to hear dogs barking either. But, I will do whatever I need to do to make them happy, but I think the biggest thing was fear. The word Rottweiler, and then me and him went for walk with one of my dogs and he felt extremely more comfortable. I asked if he wanted to put his hand in the dog's mouth but he said he had not gotten to that level yet, but I wanted to show him that dogs react off people's behavior too. If you show fear, there is more standoffish, but my dogs are very confident they go to Home Depot with me, they go to the pet stores. Last year before COVID, I was in Ohio and 330 Rottweilers there, there were no issues. In the show ring your dog can not show any aggression, or they throw you out. In the dog world business, we can be crazy people. We take dog shows very serious. So, for us, winning is everything in for something like that to happen is very embarrassing. So, I train my dogs a lot to react to people, strange people, strange locations, different situations.

Ms. Klein: So, to this point have there been any incidents with your dogs, other than them just escaping from the yard.

Mr. Perrin : No, madam.

Ms. Klein: Thank you.

Mr. Perrin : Thank you.

Ms. Oliver: Mr. Wall.

Mr. Wall: So, you currently have four dogs.

Mr. Perrin: I currently own, I have four dogs but in total I have nine dogs.

Mr. Wall: You have nine dogs, okay. Because the sketch of the pen, it has eight pens within the building.

Mr. Perrin: That is correct the rest of my dogs stay in my house. I have a son that has a French Bulldog believe it or not, he rules the Rottweilers. And, then I have a daughter that has severe anxiety, who wants to get a toy poodle to help her. But, that is kind of been on hold because I am already exceeding the town bylaw. So, I really cannot move forward into anything until I figure out where I stand with the city as far as the kennel.

Mr. Wall: Okay, thank you. I am curious about the perimeter fence or a fence is there, because you mentioned you do not have a gate but is there a fence?

Mr. Perrin: So, North Carolina's to the south. So, to the north, there is a stone wall that goes around the front of my house. But, there is a pillar that was knocked down, I am waiting for it to get fixed, so, I could put up a steel gate. And, then to the right of that, there is a six foot wooden fence that goes around my property. And, then there is the, I do not know what you guys call, it is the vinyl fence that you see at the horse farms they have that but it also has metal wiring in front of it. So, all of my property is basically fenced in other than where the gate is. And, then there is a little piece that go meets down by the water that is not fenced in.

Mr. Wall: Okay. Alright. Thank you.

Ms. Oliver: Thank you very much.

Mr. Perrin: Thank you, ma'am.

Ms. Oliver: So, at this time we will close the hearing and open it up to the Commissioners.

Mr. Horsley: You know, I have received a couple of calls on this and the first thing residential kennels, we have approved residential kennels in the residential areas in Ag areas forever. And, a lot of hunt clubs have dogs and have to get licensed, so, they had to have residential kennels. So, really didn't dawn on me much, I did not really think a lot about it until somebody said Rottweilers and I guess I am like he said, when you hear Rottweilers you got me eyes a little bit further than you think what was what. And, then as I got to talk to some of the people as they called someone were concerned and someone's concern had been addressed. And, the more I think about it is, if you have got somebody that has got four dogs and he did not have to have any conditions to be there whether they are Rottweilers or German Shepherds or whatever. I think you are probably better off if you allow to the kennel license where you know what facilities is going to be there and how they will be taken care of and whatever so. So, I guess I have kind of waffled my opinion of this to get to lean in favor of it because of that I think that the gentleman is shown that he is very concerned about what he is doing. I know people in show business was dogs or whatever animal there is a lot of people that love showing animals, and they are very concerned and they will go beyond the expectation that you think they would to make sure the animals are

cared for right and had the right facilities. So, with that being said I will let you know that I am going to be in support of the application and I would see if it was any of those more stipulations we could put there that would make it any more secure, but I think I have looked over the conditions and all they are pretty secure and listening what the gentleman is saying about how he is going to secure his property and the building that he will be building, then I will be in favor of the motion. So, whenever people are finished I will make a motion.

Ms. Oliver: Thank you, Don. Yes, Robin.

Ms. Klein: I pulled up the house on Zillow, it is beautiful by the way, it looks like the horse fencing that he is discussing is only about yay high, so it can be jumped over by a dog. I would feel more comfortable if there was more concrete fencing, but I do intend to vote in favor of the property.

Ms. Oliver: Okay. Mr. Perrin, do you mind stepping up, please. Thank you.

Mr. Perrin: Yes, Madam.

Ms. Oliver: So, can you speak to the fence that Commissioner Klein is referring to.

Mr. Perrin: I think the fence is about this high. I tried to go over it.

Ms. Klein: But it is open right, like.

Mr. Perrin: It is, so, what they do is they take fence like chicken wire fence I do not know if that is the correct term. It is the wire fence, it is a heavier gauge and what they do is they go over the front of the fence with it.

Ms. Klein : Okay.

Mr. Perrin: You cannot see it, so, a dog cannot go through it.

Ms. Klein: Okay.

Mr. Perrin: That is basically on half the property right now.

Ms. Klein: Okay.

Mr. Perrin: Because my other neighbor has goats and chickens. And, so, they do not go through there, my dogs do not go through that. The other half that is what I planned on doing, I just did not want to really do anything until I knew where I stood with the Board. But, I do not have a problem with ensuring my neighbor safety and concerns.

Ms. Klein: So, it is a slotted fence but there is chicken wire, so, the dogs cannot run thought it.

Mr. Perrin: Yes, Ma'am. It is like a heavy gauge you really cannot see it, I did not even realize until I got close to it.

Ms. Klein: Okay.

Mr. Perrin: And, I think the holes are maybe two by three inches.

Ms. Klein: No. I know what you are talking about. Yeah, that makes sense.

Mr. Perrin: But, I have no problem with doing that securing it.

Ms. Oliver: Perfect, thank you very much.

Mr. Perrin: Thank you, Madam.

Ms. Oliver : Anybody else? We have a motion?

Mr. Horsley: I am ready to make a motion we approve the application with the conditions as stated.

Mr. Redmond: Second.

Ms. Oliver: I have the second by Commissioner Redmond. We will call for the question please?

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright : Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: I abstain, as I was out of the room when discussion was held.

Ms. Cartwright: We have Mr. Barnes absent, Mr. Coston absent, and by recorded vote of eight to zero agenda item number 5, has been approved with one abstention.

	AYE 8	NAY 0	ABS 1	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman			ABSTAIN	
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. There shall be no more than thirteen (13) adult dogs kept on the property at any time.
2. The dog kennel structure shall be constructed to be soundproofed and air-conditioned.
3. The dog kennel structure, outdoor dog area, and fence shall be maintained in a safe and sanitary condition.
4. All animal waste from the dog kennel shall be collected and disposed of in a lawful manner on a daily basis.

5. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 6**

**Valvoline Instant Oil Change (Applicant) John & Rita Ninos (Owners)  
Conditional Use Permit (Automobile Service Station)  
5101 Virginia Beach Boulevard**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – CONSENT**

Mr. Weiner: Thank you, Mr. Horsley. The next item is item number 6, Valvoline Instant Oil Change and Conditional Use Permit for automotive service at 5101, Virginia Beach Boulevard, Kempsville District.

Mr. Nutter: Mr. Weiner, thank you. Members of commission, my name is RJ Nutter, I am an Attorney representing Valvoline. The conditions are acceptable Mr. Weiner, but there is one thing that staff and Mr. Wall has asked me to comment on that has to do with and in fact I have a site plan for just a second, perfect. We do not have pointers here. One of thing Mr. Wall asked us to look at is the area, I guess to the north of our access, even the utility area in there, is if we could instead of paving that, if we could look at it have maintaining that as a grassy area. And, that is acceptable to us subject to us getting all the full engineering ports, because we do not know if there is anything drop inlets or what else might be in there. But, if there is nothing in there that would prevent that we would be putting in grass in that area. And, we would be paving only the shared access way and the inter-access into the facility. Okay, thank you, Commissioner.

Mr. Weiner: Thank you.

Mr. Nutter: My pleasure.

Mr. Weiner: Is there is any opposition to this being placed on the Consent Agenda? Hearing none, Mr. Wall is going to read this in the record for us.

Mr. Wall: The applicant is requesting a Conditional Use Permit for an automobile service station to provide oil change services within a new building with two bay doors at the corner of Virginia Beach Boulevard in North Witchduck Road. The subject site is in the West Campus District of the Pembroke strategic growth area. The submitted landscape plan to pick screening on the southern side of the property where it abuts the multifamily apartment dwellings on the eastern property line to street in the bay doors from North Witchduck Road and along the western property line

abutting mixed retail uses, additional plant materials also proposed on the frontage of Virginia Beach Boulevard. The proposed development will result in the closure two of the three existing ingress-egress points along the boulevard. The ingress-egress points, on the Witchduck Road will remain a shared access easement for use by both the parcel and the parcel to the west. Per the City Zoning Ordinance, automobile service station requires two parking spaces for each service bay, plus three additional spaces for employee parking. The proposed eight parking spaces exceed the parking requirements by one space. Staff recommends approval, the applicant is amenable to the conditions and therefore we have placed this item on the Consent Agenda.

Mr. Weiner: Thank you Mr. Wall.

Ms. Oliver: Ms. Wilson.

Ms. Wilson: Yes. Would that be condition 10, which would be worded somewhat that if possible that the area identified as the utility easement shall be maintained in turf. Are we adding that condition?

Mr. Wall: I would be fine with that.

Ms. Wilson: Okay.

Mr. Wall: If the applicant.

Ms. Wilson: It will make it clear if we added as a condition.

Mr. Wall: Okay, sure.

Ms. Wilson: Mr. Nutter is okay with that too.

Mr. Nutter: And the way it is worded, it is fine the way you worded it.

Ms. Wilson: Yeah, that is fine, it may not be exactly that way, but that is the intent.

Mr. Weiner: Thank you, sir. The next two items are the short-term rental that has been put on Consent Agenda. The Planning Commission places the following applications for a Conditional Use Permit for Short Term Rental on the Consent Agenda as these applications meet the applicable requirements of section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition to this request for items number 9 and 17. And, saying that I would Move for approval on the Consent Agenda items 1, 3, 6, 7, 8, 9, and 17.

Ms. Oliver: Thank you. Do I have a second?

Mr. Alcaraz: Second.

Ms. Oliver: Seconded by George Alcaraz.

Ms. Cartwright: I will call for the vote verbally. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein : AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By recorded vote of nine to zero Agenda Items number 1, 3, 6, 7, 8, 9, and 17 with one condition added to agenda item number 6 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

1. The site shall be developed and maintained substantially in conformance with the submitted site layout entitled "Site Plan," dated July 15, 2020, and prepared by CESO. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. The Landscape Plan shall be developed and maintained substantially in conformance with the submitted layout entitled "Site Landscape Plan," dated July 15, 2020, and prepared by CESO. In addition, the applicant/owner shall install and maintain shrubs and foundation planting along Virginia Beach Boulevard.
3. The design, size, and materials of the building shall be substantially in adherence, with the submitted elevation exhibits entitled "Valvoline Instant Oil Change, Virginia Beach, VA – Brick/Brick," dated July 13, 2020. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning & Community Development.
4. Any onsite signage shall meet the requirements of the City Zoning Ordinance. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.
5. There shall be no portable or nonstructural signs or electronic display signs on the site.
6. There shall be no repairs of automobiles on-site and all work on automobiles shall be completed within the enclosed building.
7. There shall be no outdoor storage of equipment, parts, tires, or materials.

8. The dumpster shall be enclosed by a wall on three sides, constructed of materials that match the building, not less than six-feet in height, and any required screening shall be installed in accordance with Section 245(e) of the Zoning Ordinance and the City of Virginia Beach Landscaping Guide.
9. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.
10. Unless otherwise deemed in conflict with existing codes and regulations, the applicant shall install and maintain a grassed area that is bounded by the shared access easement to the south, the 15 feet Category IV landscape buffer to the north, and the ingress/egress lane to the west.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 7**  
**Hal J. & Deborah Woolard (Applicants & Owners)**  
**Street Closure**  
**adjacent to 833 S. Atlantic Avenue**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – CONSENT**

Mr. Weiner: Okay, move on to item number seven. Hal and Deborah Woolard street closure adjacent to 833 South Atlantic Avenue in the Beach District.

Mr. Bourdon: Thank you, Mr. Weiner. Madam Chair and members of the Commission. For the record Mr. Eddie Bourdon, Virginia Beach Attorney representing Mr. and Mrs. Woolard, I appreciate Mr. Landfair's work on this standard alley closure in Croatan. All four conditions are acceptable to the applicant. And, if you want to save time, the same is true for the next application.

Mr. Weiner: Okay. Thank you. I will come back to that.

Mr. Bourdon: Thank you.

Mr. Weiner: Is there any opposition to this being on the Consent Agenda? Hearing none. Mr. Alcaraz is going to read this in the record for us.

Mr. Alcaraz: Sure. Thank you. This applicant requests to close half of the 15-foot wide plotted unnamed and unimproved alley, adjacent to 833 South Atlantic Avenue, totaling 375 square feet and incorporate into their adjacent residential lot identified as lot 18, Block 14, Croatan Beach District. Staff recommends approval. The Planning Commission supports the conditions as stated and it is on the Consent Agenda for approval. Thank you.

Mr. Weiner: Thank you, sir. The next two items are the short-term rental that has been put on Consent Agenda. The Planning Commission places the following applications for a Conditional Use Permit for Short Term Rental on the Consent Agenda as these applications meet the applicable requirements of section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition to this request for items number 9 and 17. And, saying that I would Move for approval on the Consent Agenda items 1, 3, 6, 7, 8, 9, and 17.

Ms. Oliver: Thank you. Do I have a second?

Mr. Alcaraz: Second.

Ms. Oliver: Seconded by George Alcaraz.

Ms. Cartwright: I will call for the vote verbally. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By a recorded vote of nine to zero Agenda Items number 1, 3, 6, 7, 8, 9, and 17 with one condition added to agenda item number 6 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**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. Copies of the policy are available in the Planning Department.
2. The applicants, or the applicant’s successors or assigns, shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining lot. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval. Said plat shall 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 applicants, or the applicant’s successors or assigns, shall verify that no private utilities exist within the right-of-way proposed for the 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 for recordation within one year of the City Council vote to close the right-of-way this approval shall be considered null and void.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a*

*Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 8**  
**Jon S. & Deana M. Hess (Applicants & Owners)**  
**Street Closure**  
**Adjacent to 837 S. Atlantic Avenue**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – CONSENT**

Mr. Weiner: Thank you, sir. The next one is item number eight, Jon and Deana Hess, street closure adjacent 837 South Atlantic Street, Beach District. I know we heard you before what you have said Mr. Bourdon. Please.

Mr. Bourdon: I say ditto.

Mr. Weiner: That is fine.

Mr. Bourdon: For the record Eddie Bourdon. The applicant support the conditions and appreciate being on the Consent Agenda. Thank you.

Mr. Weiner: Thank you, sir. Is there any opposition to this being on the Consent Agenda? Hearing none, Mr. Alcaraz is volunteered again.

Mr. Alcaraz: Sure, ditto. The applicant requested closure of the 15-foot wide platted unnamed and unimproved alley adjacent to 837 South Atlantic Avenue, totaling 375 square feet to incorporate into the adjacent residential lot identified as a lot 17, block 14, Croatan Beach, Beach District. Staff recommends approval and the Planning Commission support this for Consent Agenda. Thank you.

Mr. Weiner: Thank you, sir. The next two items are the short-term rental that has been put on Consent Agenda. The Planning Commission places the following applications for a Conditional Use Permit for Short Term Rental on the Consent Agenda as these applications meet the applicable requirements of section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition to this request for items number 9 and 17. And, saying that I would Move for approval on the Consent Agenda items 1, 3, 6, 7, 8, 9, and 17.

Ms. Oliver: Thank you. Do I have a second?

Mr. Alcaraz: Second.

Ms. Oliver: Seconded by George Alcaraz.

Ms. Cartwright: I will call for the vote verbally. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By recorded vote of nine to zero Agenda Items number 1, 3, 6, 7, 8, 9, and 17 with one condition added to agenda item number 6 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**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. Copies of the policy are available in the Planning Department.
2. The applicants, or the applicant’s successors or assigns, shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining lot. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval. Said plat shall 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 applicants, or the applicant’s successors or assigns, shall verify that no private utilities exist within the right-of-way proposed for the 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 for recordation within one year of the City Council vote to close the right-of-way this approval shall be considered null and void.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a*

*Certificate of Occupancy, are required before any approvals allowed by this application are valid*

**Item # 9  
Shelley Gail Dagenhart  
Conditional Use Permit (Short Term Rental)  
2113 Atlantic Avenue, Unit 2-B**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – CONSENT**

Mr. Weiner: Thank you, sir. The next two items are the short-term rental that has been put on Consent Agenda. The Planning Commission places the following applications for a Conditional Use Permit for Short Term Rental on the Consent Agenda as these applications meet the applicable requirements of section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition to this request for items number 9 and 17. And, saying that I would Move for approval on the Consent Agenda items 1, 3, 6, 7, 8, 9, and 17.

Ms. Oliver: Thank you. Do I have a second?

Mr. Alcaraz: Second.

Ms. Oliver: Seconded by George Alcaraz.

Ms. Cartwright: I will call for the vote verbally. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By recorded vote of nine to zero Agenda Items number 1, 3, 6, 7, 8, 9, and 17 with one condition added to agenda item number 6 have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 2113 Atlantic Avenue, Unit 2B, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit

for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.

4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.

13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2 ) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 10**  
**Andrew Kutsch Gregory (Applicant & Owner)**  
**Conditional Use Permit (Short Term Rental)**  
**14 Pinewood Drive**

**October 14, 2020**

**RECOMMENDED FOR DENIAL – HEARD**

Ms. Dozier: Item number 10, Andrew Gregory, a Conditional Use Permit, Short Term Rental for 514 Pinewood Drive.

Mr. Alcaraz: Madam Chair, I just need to disclose that I own the property adjacent to this applicant. It is a rental and it is not a Short Term Rental; it is a long-term and I will be voting on this.

Ms. Oliver: Thank you.

Mr. Gregory: Good afternoon. Andrew Gregory, I own the property at 514, Pinewood Drive. Madam Chair and the board I want to thank you first and foremost, for the Planning Commission, and their Staff and the massive effort that you have put forward to arrange this permitting process and today's hearing. Due to the pandemic all of us here in Virginia Beach have experienced hardship in many types and forms, and its Council hearings and permitting process, have not gone unscathed. In my particular case this permitting process is stretched from three months to depressingly over 10 months. Despite the frustrations, hurdles and hiccups, the Planning Commission Staff has been outstanding and I wish to take this opportunity to thank them for their professionalism. I consider being a homeowner in this neighborhood a true privilege. I am committed to meeting and maintaining the requirements of Section 241.2 regarding Conditional Use Permits for Short Term Rentals, as well as meeting my fiscal responsibilities in the form of STR related occupancy and room taxes. And, can agree to comply with all 18 conditions, per the report. I wish to state for the record my agreement with the Planning Commission and the City Council's spirit and intent of regulating this industry, love them or hate them Short Term Rentals are here to stay and have been an integral part of this community in the Virginia Beach Tourism Industry. They provide hundreds of thousands in revenue for the city every year, and of exist in our beachfront communities since even before the incorporation of this city. I commend the City Council in enacting section 241.2 and look forward to addressing any questions or concerns you may have and working with you to achieve a conditional use permit that has

beneficial of and considerate of all parties involved. At this time I have no further comments and thank you for your time.

Ms. Oliver: Thank you, sir. I just want to address one thing on our summary.

Mr. Gregory: Yes, Ma'am.

Ms. Oliver: Did it said that you disagreed with the City Council's recommendation conditions reducing the number of bookings in a seven-day period to one and limiting the overnight guests calculations to two per bedroom. Is that correct?

Mr. Gregory: Yes, Madam. That is correct that I disagree with those conditions on my own personal basis are of those are the conditions that are required by the board today, and our secure this conditional permit and secure your recommendations. I will personally agree with them, but on a larger issue, I would disagree with them. If you would like I can comment further on those, but I believe there is two issues here my agreement with the requirement as a whole for the regular community versus my individual goals to achieve, working with you all to get a conditional use permit.

Ms. Oliver: Understood, but you do understand that to disagree with that means you do not accept them, and so going forward it is either.

Mr. Gregory: Madam, if I may. For example, we may disagree with the speed limit posted on a street, but we still comply to it, right. So, what I am saying is I do not necessarily agree with those conditions in my personal opinion, but I would wholeheartedly comply with the conditions that the board is asking of me.

Ms. Oliver: I understand that, but in this case it is semi-black and white, you either agree to the conditions or you disagree with the conditions.

Mr. Gregory: I apologize Madam, I think we are debating over semantics here. I am agreeing to comply with the conditions. I do not agree with them in my own personal opinion, but I will agree to comply with them for the board, if you would like I have further, comments on that.

Ms. Oliver: No, that is all. Thank you.

Mr. Gregory: Yes, Madam.

Ms. Oliver: Do we have any questions for the applicant? Okay.

Mr. Gregory: Thank you, Madam.

Ms. Oliver: Thank you very much.

Mr. Alcaraz: Madam Chair, I just need to clarify my property is down the street, about four houses near that, not directly adjacent.

Ms. Oliver: Right, thank you, George. With that, we will go ahead and close this and open it.

Ms. Dozier: I have some speakers to call Madam Chair.

Ms. Oliver: Well there you go. Thank you. We will keep this open then.

Ms. Dozier: David Haddaway. Please state your name for the record.

Mr. Haddaway: Thank you. My name is David Haddaway. I live with my wife at 528 Pinewood Drive about a couple doors down from 514. In all fairness to just like we are talking about owning a little bit down the street is also my son-in-law, my daughter bought that house as a vacation home. It is great to have your grandkids couple doors down, but now they are out of town, be nice to be able to have some rental income, so, that is all part of that. But, I am actually talking about the characteristics of the neighborhood and help the Commission understand the characteristics, because I saw one when you all has workshops on your PowerPoints said whatever you do about these CZO and how this stuff is, consider the characteristics of the neighborhood. How is this going to affect, is it going to negatively impact, is it going to maintain the characters. And, we have had long-term and Short Term Rentals on this block of Pinewood Drive the lower half of it between Mediterranean and the Midway. In the 10 years that we have been here, we have had at least seven properties registered or active or rented in long-term or short-term capacities. What is interesting is we are probably about the lowest point that we have been in 10 years with two active long-term rentals and this one proposed on Short Term Rental. And so, it is still within the characteristics that we have seen over the 10 years and has been a relatively quiet neighborhood. So, that is really cool about that part. But, the other part about the characteristics and some of those other negative impacts people talking about our parking, and traffic, and trash and all that good stuff, which is same thing my friends and family, while other cities do not have those problems down there at the Oceanfront, don't they have too much traffic and too much parking issues and problems and people and noise and parties. I am sure you all hear those things and whatnot. We do not really hear that on Pinewood Drive and we have it. And, when we do and I tell my neighbor that is when we do it's us local residents. We have a gathering at our house specifically

we will have 10 to 15 cars there for Thanksgiving. Across the street, they will have their choreography and dance club, and 10 to 15 cars people visiting there. Across the street diagonally from us, they will have a big old barbecue in the backyard and will hear music late into the night, but that is residents hearing music. It is not the long-term or the short-terms have ever been a problem. And, then traffic and trash again, I am sorry but it's us local residents and what as we do the, we see revitalization. It is usually a contractor or us doing renovations, putting out stuff for bulk pickup and our waste management teams I know they do a great job. When there is storm debris that comes first. Our drywall or whatever stuff we have been tearing out ourselves and trying to do, that comes later. So, those kinds of things happen, but that's been us. But, the disturbances on the street, minor in 10 years, so, we actually create more noise than our renters, and even a little bit further down the street I think we heard, like that. You do not hear from the renters, those are pretty darn quiet on our street. So, thinking about the characteristics, I saw that in your workshop, it was like, I am glad you all are thinking about the neighborhood.

Ms. Dozier: Thank you for your comment, sir.

Mr. Haddaway: So, thank you very much, I appreciate the time.

Ms. Dozier: Next speaker will be Bruce Dubios. Please state your name for the record.

Mr. Dubios: Yes, my name is Bruce Dubios, I am a retired military officer, live across street of 514 Pinewood Drive at 517 Pinewood Drive. I am currently in a process of tearing my home down and rebuilding, and I know there is a process to do that and I like to follow processes. I think, it is nothing you can do about it but these Short Term Rentals I just feel it they are getting out of hand when it comes to residential properties. We are R-5S, which is once again single family residential is turning into commercial. We are getting more and more, weekly rentals coming into the neighborhood. And, with weekly rentals, you do not know who is coming in, you do not know who these people are. They are here for a week to have a good time, they are on vacation. The previous owner of this property did the same thing and there were issues. There was noise. I think there was one time there was five to eight cars parked out front. And, they are about to get in a fight with each other. You just do not know who is going to be there for the week. Some of the other issues, I guess code enforcement. I cannot get parking enforcement to come down the street and enforce parking on the street. I do not know how they are going to enforce Short

Term Rental codes. It sounds like a good idea but it does not work, they are just not enforcing anything, I guess we have to call the police to come over and break it up, but that does not help anything because the codes still are not being enforced it is just fixing the problem short-term. The house has been rented out all summer long on a weekly basis before this process is even complete. I had an issue with that. The house does not comply to the City Code, it has got a bathroom on the side of the house that was never permitted properly and encroaches on the side of the house. I mean, I say that because I am having to abide by City Code, I expect everybody else to have to abide by City Code when I am building my new home. It looks like an industrial all the way around concrete everywhere, parking lot in the front. He has been forced to put a fence up to, I guess, satisfy the city for parking at the house and it just does not even look good. So, once again be in the neighbor living right across the street I am just not in favor of Short Term Rentals in general. So, that is all. Thanks.

Ms. Oliver: Thank you.

Ms. Dozier: Daniel Neveu. Please state your name for the record.

Mr. Neveu: Daniel Neveu, I do not know how to say it, my parents gave me that name, so, it is what I got. So, I want to say good afternoon, ladies and gentlemen of the Planning Commission and I want to thank you all for the service you do for the City of Virginia Beach, I know it is a tough job to do and it is even tougher with this pandemic and I hope everybody is healthy here today, families as well. I have been living at 515 Pinewood Drive, now since 1994, we rented it for three years. We decided we were going to buy, we bought it in 95 and in 99, we decided we were going to build our dream home. So, we are going to tear it down, but we realized we needed a variance. So, before we move forward with all that, we went to the neighbors got the variance. And, we were approved for the variance went through the whole process. Fast forward we have seen the neighborhood come and grow I mean, a lot of houses have changes, a lot of development going on down there. My wife used to be in part of the Civic League, we are kind of in a limbo kind of place where a little bit of history of the neighborhood, Pinewood used to let out by the 7 11, at Pacific where the 7 11 is. And, then they close the road down, and that was a wonderful thing because it cut down on through traffic from Atlantic and Pacific cutting down our street, cut down to Mediterranean. So, that was the wonderful thing and it essentially made the neighborhood, a little bit of a gated community because the only way in and out is Pinewood or Lake.

And, in the fluxed of all that, our Civic League was kind of, we were like the redheaded stepchild so to speak, we weren't part of Shadowlawn, we weren't part of Old Beach. At one point, we had our own Civic League. And, so, we used to try to monitor these things and issues as they come up and for whatever reason, that kind of fell by the wayside. So, I do not even know where our Civic Leagues are on this whole issue of the short-term lease. And, that is all well and good, because in my mind that boat is already sailed to some degree, but I do appreciate the way you all have it set up, where each applicant and variance is its own unique individual case. In my instance, I live directly across the street from the applicants dwelling. Before they bought it, the person that was there had a Short Term Rental and I was not happy about the idea of them doing it, but I do not want to tell somebody to do what they can do with their property. But, I was a witness to how that went on, and the comings and goings in late hours of people and all that. I did not like it, I did not enjoy it, they were late hours at night, gatherings into the street. And, I think it is two different people you got, people who are homeowners who are in it for their, they are building a home they dream, and that is where they want to be, that is where they want to community. They want neighbors, whether you know the neighbors personally, or whether you see them and you give them their some side of the street.

Ms. Dozier: Thank you for your comments.

Mr. Neveu: You know who they are, they have a schedule, you know their comes and goings

Ms. Dozier: Thank you for your comments, sir.

Mr. Neveu: So, personally I.

Ms. Oliver: I am sorry, but your time is up, but I would like to just a quick question.

Mr. Neveu: Yes.

Ms. Oliver: Are you for or are you opposing or.

Mr. Neveu: I am opposing.

Ms. Oliver: Okay, that is. Thank you very much.

Mr. Neveu: From the history of what I have seen from living across the street.

Ms. Oliver: Thank you very much.

Mr. Neveu: Thank you.

Ms. Dozier: Madam Chair, that is all the speakers for this item.

Ms. Oliver: Great, thank you. Do we have any. Yes, Graham.

Mr. Graham: I was just going to, - is this a concrete front yard.

Ms. Oliver: It does appear to be.

Mr. Graham: And, has the applicant been doing Short Term Rentals this summer.

Ms. Oliver: We can ask him back up. Sir, would you please come back up? If you state your name again for the record, please.

Mr. Gregory: Yes, no problem Madam. Andrew Gregory. Sorry what was the question?

Mr. Graham: Have you done any weekly rentals this past summer.

Mr. Gregory: In the interests of honesty and full disclosure, yes. I have done a handful of rentals this summer. But, this needs a full story and you can talk to your Staff if you would like, my original hearing date was May 13. And, as mentioned earlier in my opening statements I began this process, back in 2019. Hence, I am not the kind of person to well raise of the pandemic and blame it, but this is a distinct example where things got delayed. I cancelled as many as I could, fiscally within fiscal reason as I could without taking a huge fiscal burden on myself, as well as considering that I had actually thought of this, that this process may go long that it may be extended into the summer and I may not be able to guarantee that income. Therefore, when I purchased the house in the fall 2019, I set aside six months of reserve funds to support myself and my family as a vacation on as it would be, I had, had no way to plan for 18 months of needing reserve funds and I think any small business owner would attest to that. So, it was a balance of canceling what I could and accepting rentals I could to manage my finances to get through the next season and get through this hearing process.

Mr. Graham: Okay, thank you.

Ms. Oliver: I have a question for you, Sir.

Mr. Gregory: Yes, Ma'am.

Ms. Oliver: You used a word that is interesting "small business".

Mr. Gregory: Yes, Ma'am.

Ms. Oliver: So, you do not reside in this house I take it.

Mr. Gregory: No, as I mentioned it was purchased as a vacation property to visit the in laws.

Ms. Oliver: Okay.

Mr. Gregory: And, my mortgage says as such I paid a large down payment to purchase it, so.

Ms. Oliver: Okay, so it is a business.

Mr. Gregory: It is a location of a business as your own records will attest, I have my business account through the city. I have written here business account number, I apologize I did not wrote it, 8000 and some.

Ms. Oliver: No it is fine.

Mr. Gregory: I believe by the city standards, I need to call it a business in order to collect the appropriate taxes and pay the appropriate taxes.

Ms. Oliver: Okay, thank you.

Mr. Gregory: Yes, Ma'am.

Ms. Oliver: We have any other questions for the applicant? Oh, sure. Can you speak to the front yard or the concrete pad.

Mr. Gregory: Yeah, I mean you can see in the pictures, it is a large concrete pad that was there when I purchased the home and it is been there for many years, it is how it is, if you were able to zoom out and look on Zillow, many of the properties around there have similar functions and actually I have a smaller apron maybe 12 or 16 feet. Most of the properties up or down the street utilize a maximum 24-foot apron, so, in terms of encroachment on easement, I am actually less than most of the neighbors and what is standard around me. In terms of compliance and appearance and my mentioning of this process, I did not want to belabor anyone with details. I work diligently with Bill Landfair and Kevin Hershberger. I actually returned 250 square feet of property on the back of the house, that the previous owner had taken from the city. I tore up 250 square feet of concrete, as well as a 20 by 20 foot shed that I had to tear down, as well as the fence that had to be moved in approximately 15-feet in order to bring the house up to code. As you can see there in the previous survey from the previous owner. I take the moment a little diversion here, but to address the comments of the two individuals referencing the previous

owner, there was a previous owner. It is not me, it is not germane to this issue. I will run and can attest to running a high end property. I have invested 10s of thousands of dollars in this property in the betterment. If we had the ability to show pictures you could see the before and after Zillow of the interior, which has been fully renovated, furniture, painting, fixtures, plumbing, multiple water issues that the previous owner had not addressed that I spent time and money addressing on this property to bring this property into the modern day, and to make it a high quality place for my family and other guests to stay it.

Ms. Oliver: Great, thank you very much.

Mr. Gregory: Yes, Ma'am.

Ms. Oliver: With that, we will close the hearing and open it up to the Commissioners. George, or anyone?

Mr. Alcaraz: I'd rather hear from other Commissioners, if any?

Ms. Oliver: Nobody has anything to say. Go ahead, Mr. Inman.

Mr. Inman: Having heard the opposition and considering the location of this property, even before hearing about the inappropriate use of it before having a permit or having a conditional use permit, I do not see this as compatible with a neighborhood at all and I would make a motion to deny it.

Ms. Oliver: Yes.

Mr. Graham: I agree with Mr. Inman and I will as well be voting against it.

Ms. Oliver: Yes, Mr. Redmond.

Mr. Redmond: Can I ask why?

Mr. Graham: I do not feel like it is compatible with the neighborhood. The applicant also was doing Short Term Rentals over the summer. And, we heard from two homeowners on the street. You are really speaking about the character of the neighborhood. I just do not feel like it is a compatible use.

Ms. Oliver: Go ahead.

Mr. Weiner: I disagree, respectively, and I am going to support it. I think one of the main reasons we actually, I noted some other people came in to talk neighbors but one of the main reasons we were going to hear this one because the applicant did not agree with the conditions. Besides that it

might have been, nobody came in to speak it would have went right straight to consent. So, I am going to be supporting.

Mr. Alcaraz: Alright, thanks. I mean, he meets all the criteria, he meets all what's asked for, but one thing I weigh in is on the neighbors, the neighbors are very important and having said that, I cannot support it after hearing the opposition.

Ms. Oliver: My concern goes back to along with the neighbors, but it was the disagreement with the conditions and granted, he mentioned that he agreed with them but he disagreed with them I am not quite sure exactly what that leads to at the end of the day. And, so, with that I am just, I cannot support this one. Yes, sir Mr. Redmond.

Mr. Redmond: I am not sure you are being fair about that. I have heard very clearly to say he intended in every way to comply with the conditions. So, you do not like him is one thing.

Ms. Oliver: Sir, I am sorry. (addressing a raised voice coming from audience)

Mr. Redmond: There are lots of people who do not like the conditions. He made very clear he intended to comply with the. I mean I think he is right you are getting way too caught up in semantics about that. The reason I asked a question, I am trying to get a handle on what constitutes incompatibility with a neighborhood. May I can say that about every single application and every single neighborhood, I am just trying to figure out what that, means I do not disagree with you, I am just trying to get a handle on with the everything and this thing is said.

Ms. Oliver: Dave, I am sorry, I am going to interrupt you one more time. Sir, if you burst out one more time, I am going to ask you to leave the building.

Mr. Gregory: Oh, I did not burst out Ma'am, I am sorry. I thought you just want me (inaudible 01:34:20)

Ms. Oliver: No, sir. This is closed and we were speaking amongst the Commissioners, I would appreciate if you would not do that again. Thank you.

Mr. Redmond: What I am trying to get at is something more objective. I do not know, I mean, there is no checklist that said what is or is not. So, I am just trying to understand what constitutes incompatibility. I do not necessarily disagree with you, I am just trying to get better handle on it.

Mr. Graham: My position has been, if it is East of Baltic, correct or wrong this is West of Baltic?

Ms. Oliver: Yes.

Mr. Graham: Okay. That is where my position since we talked about Old Beach.

Ms. Oliver: This is not an issue.

Mr. Graham: I know, but several weeks ago we denied an application that was just over in Shadowlawn that I thought was even more likely to be a Short Term Rental. But, we denied that, we heard opposition from the neighbors who felt like it was changing the character of the neighborhood. I feel like this changes the character of the neighborhood and I am going to vote against it.

Ms. Klein: I take more issue with the fact that it was operating before the hearing, and I can do my best to empathize with the situation that they are in about being out of work and it got pushed from May to October, so, that is the conflict I am considering right now.

Mr. Inman: I'll help Dave understand a little bit, where I was coming from. It bothers me when it is a nonowner occupied property, it is therefore more prone to have more rentals with less supervision, in a neighborhood like this, and as Whitney says west of Baltic it just does not fit.

Ms. Oliver: Alright then. Do I have a motion?

Mr. Inman: I made a motion.

Ms. Oliver: You made a motion, Mike made a motion, and I believe the motion was to deny. I need a second please.

Mr. Graham: I second the motion to deny.

Ms. Oliver: We will go ahead and call for the vote please.

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: No.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: This is yes to deny, is that right.

Ms. Oliver: Yes.

Ms. Klein: Okay. AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: No.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: No.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By recorded vote of six to three agenda item number 10, has been denied.

	AYE 6	NAY 3	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley		NAY		
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond		NAY		
Wall	AYE			
Weiner		NAY		

## CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 514 Pinewood Drive and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. Approval of a deviation from Category I landscape requirements and setback for the existing fence in front yard.
4. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 11  
Nichelle & Alex Mehrl (Applicants & Owners)  
Conditional Use Permit (Short Term Rental)  
1920 Millbrook Court**

**October 14, 2020**

**RECOMMENDED FOR DENIAL – HEARD**

Ms. Dozier: Moving on to the next item, item number, 11, Nichelle and Alex Mehrl, conditional use permit for Short Term Rentals, located at 1920, Millbrook Court.

Mr. Mehrl: Hello, I am Alex Mehrl.

Ms. Mehrl: I am Nichelle Mehrl and we currently live at 1920 Millbrook Court, Virginia Beach, 23453, and applying for a permit for Short Term Rental.

Ms. Oliver: Great, thank you. Would you like to take a few minutes and discuss your application.

Ms. Mehrl: Oh, sure. Yeah. Sorry, I do not really know this.

Ms. Oliver: Sure.

Ms. Mehrl: So, my husband and I, we have had long-term and Short Term Rentals and our Short Term Rental is in South Carolina, and we have been renting out our current home as our primary residence on the weekends during summer. And, we are a military family, so, we are going to have to move away, probably next year. And, right now the Local Government and the Federal Government, they are not really, requiring tenants to pay their rent. So, this is our only option.

Mr. Mehrl: We moved out here to Virginia Beach about four years ago, and from then we have made about \$50,000 worth of changes to the household to include the roof, flooring, interior, and exterior. If you look on Zillow right now you would not see the same house that we have invested heavily into.

Ms. Mehrl: And, then we do understand concerns of the neighbors, and you know they are our friends, so, we care about them too. There is some extra steps that we did to try to mitigate parties, because we did have one instance over the summer. And, we have had a noise monitoring system inside the home that is not recording. It just alerts you if it goes above 75 decibels, and then we have security cameras on the front and back. And,

then, we want to give a legal authority to one of the neighbors to kick anybody out if they need to.

Mr. Mehrl: On that note, we have also moved towards one complaint is commonly trash, we have increased our trash from one trash can to three just in case anything does occur. We have also extended the driveway to facilitate all vehicles to be able to be parked according to the local legislation.

Ms. Mehrl: And, we just saw this week installed argon gas windows, which reduces noise transfer by 25%. And, we also do a three-night minimum versus one-night minimum to try to eliminate a party.

Mr. Mehrl: And, another step to prevent parties as we also require them to be 21 years or older to book.

Ms. Mehrl: That is it. And, we have a Short Term Rental South Carolina. It used to be a long-term rental, but the long-term tenants kind of terrified the neighbors, so, now the neighbors help us keep watch over it and it is been pretty successful. And, that is it.

Ms. Oliver: Hold on one second please. Mr. Weiner.

Ms. Mehrl: Sure.

Mr. Weiner: So, you see might be leaving in about six months?

Ms. Mehrl: About a year.

Mr. Weiner: About a year.

Ms. Mehrl: Maybe.

Mr. Weiner: Maybe. When do you have a company to take care of that place while you are gone or look at.

Ms. Mehrl: We do it.

Mr. Weiner: Who is going to be the person to be called with that be in the house in 30 minutes, do you have somebody lined up for that?

Ms. Mehrl: I do, her name is Megdalia Sanchez, so, I used to clean Vacation Rentals in the area. So, I have been networking with other hosts to help me and like I said I would more than be happy to ask one of the neighbors to do it that live right next door.

Mr. Weiner: And, you live there now.

Ms. Mehrl: I do.

Mr. Weiner: And, you rented the house out this past summer.

Ms. Mehrl: Yes, on the weekends, while we went camping, and we were there during that period we would come by and check.

Mr. Weiner: How long have you been registered.

Ms. Mehrl: What register?

Mr. Weiner: You have not registered with the city of pay taxes.

Ms. Mehrl: Oh, we do. Yeah, we did that before we rented it out.

Mr. Weiner: Okay. So, when you want to get your file for conditional use permit, did you ask the question about renting it, because you are not supposed to be renting it out.

Ms. Mehrl: Oh, on the website it says as long as it is your primary residence you can.

Mr. Weiner: Is that correct?

Ms. Mehrl: Oh, it was in 2019.

Mr. Weiner: Hold on a second.

Mr. Tajan: It may be that they are referring to the allowance for home sharing, which is if it is your primary residence and you are there when the person is renting. I am unsure, which portion the website she is referring to, so.

Ms. Oliver: And, you did state that you have registered it with that Commission. Correct?

Ms. Mehrl: Yes.

Ms. Oliver: And, can you tell me when you did that again one more time.

Ms. Mehrl: October 2019. And, we rented it out the first time of June, I believe, of 2020.

Ms. Oliver: So, I am fairly sure that when you register they tell you, you cannot rent that house until you get your conditional use permit.

Ms. Mehrl: I just registered, I went just to City Hall and just register it.

Ms. Oliver: Right. Okay. And, they stamp it in red.

Ms. Mehrl: Yeah.

Ms. Oliver: That says you cannot rent it.

Ms. Mehrl: Oh, no. I did not say that. No, it is just a stamp with the date on it.

Ms. Oliver: Okay, thank you.

Ms. Mehrl: You are welcome.

Mr. Weiner: One more question. So, you all have not been there while renting the house.

Ms. Mehrl: We do go there, yes.

Mr. Weiner: You are there and renting the house, also.

Ms. Mehrl: Yeah, we come buy, and to make sure everything is okay.

Mr. Weiner: I mean you are not staying in the house and then renting a room, you are renting whole house out.

Ms. Mehrl: Yes.

Mr. Weiner: Okay.

Ms. Oliver: So, one of the questions we had for you, was that you neither agreed or disagreed with the City Council's recommendation conditions.

Ms. Mehrl: Oh, yeah we spoke with Mr. Miller about that and we told him yesterday that we agree. We were just unsure of what it meant. And, so, he clarified, and like I said we want the neighbors to be happy. So, this seems like a good compromise.

Ms. Oliver: Okay, thank you. Do we have any other questions for the applicant? No, thank you very much.

Ms. Dozier: Michael Hall. Please state your name for the record.

Mr. Hall: Michael Hall. I live at 1920 Millbrook, which is next door two houses down and they rented it all summer. As you can see when you took the pictures, it is rented during the week. It was all week, all summer, kids can't play out front because you have no idea who is in and who is out, and we're not three blocks from the beach, we were in Landstown. And, this is constantly going on. I am totally opposed to it, police have been

out, trash cans, I am in a cul-de-sac, one way in one way out, and this is what I am dealing with totally opposed to it. Thank you.

Ms. Oliver: Sir, I have a question for you. Can you speak to the parties that they refer to and people being now required to be over 21.

Mr. Hall: When I was 21, a college kid. I mean, that is the party house that is what they are doing. They rented out during the week, yeah, they come by check after we have been complaining. Its neighborhood, we're not down at the beach we are in way off the beach. If I was going to do that, I would live down the beach, I get it. You go to Nag's Head, you rent a beach house for a week, but this is in a community, I just do not want it at all.

Ms. Oliver: Yes, George.

Mr. Alcaraz: Do you recall just how many times you have complained?

Mr. Hall: Three or four times, I know the cops have been out twice.

Ms. Oliver: Thank you very much.

Mr. Hall: Thank you.

Ms. Oliver: So, do we have any other speakers?

Ms. Dozier: No Ma'am, no additional speakers.

Ms. Oliver: Okay. Great, thank you. We will go ahead and let the applicant come back up please. Anybody have any questions for the applicant?

Ms. Mehrl: I would like to address. We only had one incident and we went to each neighbor to ask them what happened. And, they told us that, the police were called and I asked them, why didn't they call us because they have our phone numbers. So, and we were there Monday through Thursday. And, we only had like one reservation that was more than for like three days.

Ms. Oliver: Alright. Okay. Yes, George.

Mr. Alcaraz: I just wanted to address, who just came up, he said three times. Did you get three calls.

Ms. Mehrl: No.

Mr. Mehrl: No.

Ms. Mehrl: No. We talked to each neighbor and they said there was only one incident, and it was that one party and that is when we regulated the parking. We sent out emails to all our people that were coming out and saying, hey, the neighbors had a bad experience if you were planning to do this we will give your full refund.

Ms. Oliver: Okay, thank you. So I'm going to close it to the Commission right now, and I will close it to public and open it to the Commission and discussion. Anyone?

Ms. Oliver: Yes, George.

Mr. Alcaraz: Again, we have certain criteria that you have to meet. And, it seems they meet it, but again I put a lot of weight on the neighbors. So, we have gotten one person come up but it is enough for me. So, I guess you guys know that I am not going to be supporting it.

Mr. Weiner: Unlike the last one, to me this is definitely a neighborhood away from the beach it is uncharacteristic for the neighborhood. That is probably the main is I am not going to support it. This is uncharacteristic to the neighborhood, and since I do not believe in Short Term Rentals anywhere far from the beach, so, I am not going to support this one either.

Ms. Oliver: Yes, Don.

Mr. Horsley I agree with that, I think it is in definitely in a neighborhood and we have got some conflicting reports from the neighbors, but it does put credence in some of the what they have had to say, but I just think it is not the right place. So, when you are be ready I will make a motion. I will make a motion we deny the application.

Mr. Weiner: I will second.

Ms. Oliver: Alright. We have a second by Commissioner Weiner and we will call the question please.

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: I abstain as I was not present for the discussion.

Ms. Cartwright: Okay. Mr. Redmond.

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver

Ms. Oliver: AYE.

Ms. Cartwright: We have Mr. Barnes absent, Mr. Coston absent, Mr. Graham absent, and Mr. Inman absent.

Ms. Cartwright: By a recorded vote of six with one abstention agenda item number 11, has been denied.

	AYE 6	NAY 0	ABS 1	ABSENT 4
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham				ABSENT
Horsley	AYE			
Inman				ABSENT
Klein			ABSTAIN	
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 1920 Millbrook Court and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.

12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 12**  
**Sean Reilly (Applicant & Owner)**  
**Conditional Use Permit (Short Term Rental)**  
**604 23<sup>rd</sup> & Half Street**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – HEARD**

Ms. Dozier: Okay, we will move on the next item. Item number 12, Sean Reilly conditional use permit for Short Term Rental located at 604 23rd and a Half Street. We have no speakers on this item.

Mr. Riley: I am a speaker; I am Sean Reilly. I believe I am here because we did not agree or disagree with the second condition requested by City Council for no more than one rental in a seven day period. And, we will accept that condition and that is all.

Ms. Oliver: Thank you. Anybody have any questions for the applicant. Thank you. All right, we will close it and if I can get a motion or discussion, please.

Ms. Klein: I will make a motion to approve the Short Term Rental for 604 23rd and a Half Street.

Ms. Oliver: Do I have a second please.

Mr. Alcaraz: Second.

Ms. Oliver: The second by Commissioner Alcaraz please.

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond.

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair, Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair, Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: Mr. Barnes is absent, Mr. Coston is absent, Mr. Graham is absent, and Mr. Inman is absent.

Ms. Cartwright: By recorded vote of seven to zero, agenda item number 12 has been approved.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham				ABSENT
Horsley	AYE			
Inman				ABSENT
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 604 23<sup>rd</sup> ½ Street (a.k.a. 23<sup>rd</sup> ½ Street) and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be

limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.

5. A fourth (4th) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
6. If, at the request of the homeowner of the subject address, the City Assessor's office reduces the official bedroom count of record from four to three, bedroom #3, as noted on the floor plan found in this report, shall not be used as a bedroom when the home is rented or leased for Short Term Rental purposes. In addition, such reduction would also eliminate the need for one off-street parking space. Thus, only three off-street parking spaces would then be required.
7. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
8. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two [2]) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
9. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
10. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
11. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

12. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
13. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
14. Accessory structures shall not be used or occupied as Short Term Rentals.
15. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
16. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
17. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
18. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
19. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
20. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 13**  
**Valerie Taylor (Applicant & Owner)**  
**Conditional Use Permit (Short Term Rental)**  
**3644 Britt Terrace**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – HEARD**

Ms. Dozier: Okay, we will move to item number 13. Valerie Taylor, Conditional Use Permit Short Term Rental for property located at 3644 Britt Terrace.

Ms. Taylor: Good afternoon. My name is Valerie Taylor, and this is my husband Robert Taylor. Thank you for giving us this opportunity to state my case. So, we are the proud owner of that lovely house on 3644 Britt Terrace, we are local residents, and we did purchase the house so that we could accommodate the overflow of our families coming in because we have a large family and they are spread out across the globe. So, when they come, sometimes, children and grandchildren, we do not have enough space at our house, which is about 15 minutes away from there. So, we spent a lot of time and pride decorating it and giving it that home touch that we ourselves would enjoy because it was for our children and grandchildren. And, then we decided that maybe we could have a dual purpose. So, we decided to apply for the short-term permit, so, when we are not using it, we would rent it. In that way, we have access to it when we want it. We will be more in control, other than doing our long-term permit. So, we are asking you today to consider our application, so that we can use it when we want it, and at the same time, get some Short Term Rental when it is available.

Ms. Oliver: Great, thank you.

Ms. Taylor: Thank you.

Ms. Oliver: I think there was a question if I recall was the extra parking space that you put in.

Ms. Taylor: Yes.

Ms. Oliver: So, I think there was a question of the material being used on that.

Ms. Taylor: Right.

Ms. Oliver: So, do you mind speaking to that.

Ms. Taylor: We are in agreement with all the recommendations from the Planning Office and we want to comply. One of the thing that we are environmental people, and we understand because we live about 15 minutes from this and we take care of our property and we like to see the environment. So, what we are researching right now is to see what type of material, because I really do not like that whole lot of concrete stuff. So, we are looking to see what material would be best not to make up, just to put the piece that the Planning Committee has suggested for us to make it more, because it is a lovely community and it is a lovely house and we want to keep it that way.

Ms. Oliver: Thank you. Do we have any questions for our applicant? No, I think that is it. Thank you very much.

Ms. Taylor: Thank you.

Ms. Oliver: So, I will close the hearing now and open it up to the Commissioners for discussion. Do we have any speakers?

Ms. Dozier: No, Ma'am. There are no other speakers.

Ms. Oliver: Okay, great. Thank you. So, we are going to close it and open it up to the Commissioners to make a motion and or for discussion.

Ms. Klein: I will make a motion that we approve the conditional use permit for 3644 Britt Terrace.

Ms. Oliver: Thank you do I have a second please?

Mr. Redmond: I second.

Ms. Oliver: I have a second by Commissioner Redmond.

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: I am going to abstain since I was in the hallway during this of the presentation.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond.

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: Mr. Barnes is absent, Mr. Coston is absent, and Mr. Inman is absent.

Ms. Cartwright: By recorded vote of seven with one abstention agenda item number 13, has been approved.

	AYE 7	NAY 0	ABS 1	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham			ABSTAIN	
Horsley	AYE			
Inman				ABSENT
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 3644 Britt Terrace and the Short Term Rental use shall only occur in the principal structure.

2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. As shown on the parking plan illustration within the "Site Layout and Parking Plan" section of this Staff report and unless a modification of material type and/or location is approved by the Zoning Administrator, one additional off-street concrete parking space shall be added to the existing concrete driveway and must always be available to the Short Term Rental occupants leasing the unit. A building permit for this additional concrete parking space must be obtained from the Permits and Inspections division of the Department of Planning and Community Development within 60-days of any City Council approval for the proposed Short Term Rental use.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71

(noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 14  
Red Lion Properties, LLC (Applicant & Owner)  
Conditional Use Permit (Short Term Rental)  
1009 Barclay Square**

**October 14, 2020**

**RECOMMENDED FOR DENIAL – HEARD**

Ms. Dozier: Moving on to item number 14. Red Lion Properties, LLC, a conditional use permit for a Short Term Rental at 1009 Barclay Square.

Ms. Sampson: Good afternoon, I am Dana Sampson, this is my husband Jason Sampson, and I do not have much of a prepared statement because I believe we probably would have been part of the Consent Agenda, but we disagreed with the conditions. All of our current application meets everything according to the current ordinance. My only issue, just to kind of address it, I am a little confused with the question that we agreed or disagreed to the conditions of the reduction in contracts and bedroom size. I guess I'm not really understanding how if the ordinance reads one way and City Council has voted on these additional conditions, why we have to agree or disagree to them? But, we have found we have been hosting at Chick's Beach property it is another two bedrooms. That has consistently been families of four or five staying between three and five nights. So, a reduction of two per bedroom and one per week is sort of not ideal, as to what we have been seeing over the last, I guess maybe, three or four summers. So, that is our reason behind that, but we meet everything according to all the other conditions.

Ms. Oliver: So, I appreciate your confusion. But, as going forward now, that is part of the condition, sort of, that comes from Council.

Ms. Sampson: Okay.

Ms. Oliver: So that is part of the application; it is two per bedroom and one per week. And, so, our question to you is, do you agree with that?

Mr. Sampson: No.

Ms. Sampson: No, unfortunately we do not agree with that.

Ms. Oliver: Well, then thank you, I appreciate that.

Ms. Sampson: Thank you, no problem.

Ms. Oliver: Oh, hold on.

Mr. Weiner: Can you come back for a second.

Ms. Sampson: Yes.

Mr. Weiner: You understand, we have two different ways to go about this, I mean, we can just vote no for it and you can go away and you would not have any short-term at all.

Ms. Sampson: Right.

Mr. Weiner: You could agree to it, we can go through it process here and you can have Short Term Rental.

Mr. Sampson: The biggest reason to disagree with this is because we currently have others within the City of Virginia Beach and at this point, we are grandfathered in with those. And, if we agree to this we are agreeing to basically close and not allow ourselves to do these moving forward when we are no longer grandfathered. So, we have to make a stand one way or the other and that is the reason.

Ms. Oliver: Okay.

Mr. Weiner: That is fine.

Ms. Sampson: Yeah. And, one of the things that Jason and I were talking about, and I do not know if Council has thought about it, but I get, probably, the two per bedroom thing. It is a bigger issue with the bigger homes, if you have got a four, five, or six bedroom you are looking at a heck of a lot of people, versus a two bedroom like us. It is essentially taking away a family of five; a mom and a dad, and three kiddos from staying in our place. We have got two bedrooms and a pullout couch or an air mattress, so, to say just two per bedroom is a little constraining, I would say, and it is like it has kept me up at night thinking about it, because this has been a long process, and then we really appreciate Planning Commission and especially our Staff Member Will, he has been excellent with answering any questions we have. But, there is something to consider, perhaps is maybe two per bedroom but giving an allowance for maybe a common area like a living room, where maybe we say two per bedroom but one or two additional. So, that way you can use the pull out couch for the extra kids and things like that. Also, we had seen (inaudible) and there is just a lot of changes and people bring things forward and there is the inconsistency when we participated in the initial talks about the ordinance

and all that stuff. We came to all the meetings at the beginning of January, agreed with it, we wholeheartedly agree that there needs to be restrictions and things like that on there. But, limited to one contract per week when the average family can only afford to go away three to five nights is a little silly, especially in high summer.

Ms. Oliver: Right. Okay.

Mr. Sampson: Yeah, that was a long weekend.

Ms. Sampson: Yeah, thank you so much.

Ms. Oliver: You are very welcome. Oh, hold on one second. I think Commissioner Redmond and Commission Klein have questions for you.

Ms. Sampson: Okay.

Mr. Redmond: I want to get away from this agree and disagree language. This is not what we are talking about. I get that you disagree with it. I am not sure I agree with it.

Ms. Sampson: Right.

Mr. Redmond: Law says one thing.

Mr. Sampson: Yeah.

Ms. Sampson: Yes, that is where our confusion is.

Mr. Sampson: It is contradictory.

Mr. Redmond: I agree with you. City Council imposes conditions on each application, can you hear me? Am I doing this

Ms. Sampson: Yes.

Mr. Redmond: The City Council's imposed applications on each one of these now. So, that is, you are going to get a denial unless you have two bedrooms. So, please stop saying agree and disagree, it is a question of whether or not you accept the conditions, if you do not accept the conditions you are not going to have a conditional use permit to operate the Short Term Rental.

Ms. Sampson: I know, and it is like.

Mr. Redmond: Okay. Time out please, I do not want to spend a whole lot of time on this because

Ms. Sampson: Very limit.

Mr. Redmond: We have not had people be very clear about this and we like to be very clear.

Ms. Sampson: Yeah.

Mr. Redmond: If you accept to the conditions, that means you will abide by the conditions.

Ms. Sampson: Right.

Mr. Redmond: That means two people per bedroom, one rental a week. That is not the same as agreeing or disagreeing with it. So, my question is do you accept the conditions and would you abide by the conditions, it is not whether you like it or not.

Ms. Sampson: Right.

Mr. Redmond: Because you are going to have to if you

Ms. Sampson: Yeah, and I understand that.

Mr. Sampson: See, again it is, the thing is, that was not the point originally when we applied for the conditional use permit, those were not conditions of an accept or not accept.

Mr. Redmond: Okay, hold on a second, please. Please I am asking you a straight question.

Ms. Sampson: Right.

Mr. Redmond: Do you accept or do you not accept the conditions.

Ms. Sampson: I would say probably in agreement that we would not accept those conditions because then it would be bound by chances are, a lot of our reservations are going to fall exactly within those parameters. So, we would naturally.

Mr. Redmond: I got this.

Mr. Sampson: We have also heard from the city and through talks.

Mr. Redmond: You have answered my question.

Ms. Sampson: Okay.

Mr. Sampson: If you are talking about in addition to not just a week but maybe so many reservations per year. So, there is inconsistency even with what is coming from the city.

Mr. Redmond: Excuse me.

Mr. Sampson: Yeah.

Ms. Sampson: Okay, thank you.

Mr. Redmond: You have answered my question and I thank you.

Ms. Sampson: I appreciate it.

Ms. Klein: One of the things that the Council is looking at is another revision to change the requirements as it comes to children.

Ms. Sampson: Right.

Ms. Klein: Does that impact your

Ms. Sampson: That would certainly be helpful, because we are not going to have more than four people if it is two couples traveling together, if it is only in a family situation.

Ms. Klein: Okay. Alright. Thank you.

Ms. Sampson: Thank you.

Mr. Sampson: We do not rent party houses.

Ms. Sampson: Yeah, we only rent to families and couples.

Ms. Oliver: Mr. Graham.

Mr. Graham: Were you here earlier this morning for the presentation.

Ms. Sampson: No I was not.

Mr. Graham: Okay, because there was a presentation this morning, Planning Commission and Council will be looking at Overlay Districts.

Ms. Sampson: Got you.

Mr. Graham: As a drop in, it will be allowed by right, if it is in an Overlay District and it will not be allowed if it is not in an Overlay District. This will not, under the current map right.

Ms. Sampson: Right. It is from outside of that.

Mr. Graham: That we saw this morning, this would be outside of the Overlay District, I just want to

Ms. Sampson: Yeah, and we have to make a business decision to do, what we needed to do if that was not the case.

Mr. Graham: Sure, okay.

Ms. Sampson: Thank you guys.

Ms. Oliver: Well, we respect that decision and we thank you very much.

Ms. Sampson: Thank you.

Ms. Oliver: Do we have any speakers on this.

Ms. Dozier: Yes, Ma'am. Mr. Andrews (Mr. Andrews was not present and did not speak).

Ms. Oliver: Thank you.

Ms. Dozier: That is the only speaker card I had for that item.

Ms. Oliver: Alright, thank you very much. Well then we will close this and open up the Commissioners for a motion. Mr. Redmond.

Mr. Redmond: Madam Chairman, I move that we deny the application.

Ms. Oliver: Second please.

Mr. Weiner: I will second.

Ms. Oliver: A second from Commissioner Weiner.

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond.

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: And Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: Mr. Barnes is absent, Mr. Coston absent, and Mr. Inman is absent.

Ms. Cartwright: By recorded vote of eight to zero, item number 14 has been denied.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman				ABSENT
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 1009 Barclay Square and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

3. The on-site garage parking space, as shown in the *Site Layout & Parking Plan* section of this report, must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, shall remain free of materials to ensure vehicular accessibility, and shall be continuously leased and available to the tenants of 1009 Barclay Square when the home is used for Short Term Rental purposes.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rental.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000.00) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 15**  
**Shelly Arnoldi (Applicant & Owner)**  
**Conditional Use Permit (Short Term Rental)**  
**3921 Whooping Crane Circle**

**October 14, 2020**

**RECOMMENDED FOR DENIAL – HEARD**

Ms. Dozier: Next item on the agenda item number 15, Shelly Arnoldi conditional use permit for Short Term Rental at 3921 Whooping Crane Circle in the Bayside District.

Ms. Arnoldi: Hello, sorry. I am a terrible public speaker. My name is Sharon Adnoldi. So, I am here requesting a Conditional Use Permit. So, I have owned this home since 1997. I bought it when I was in the military and then I had to leave due to career moves and I was overseas for the majority of time. I have been renting it long-term since then. I have had several turnovers and frankly, it has been hard to keep the property up. I kept it and I want to use it later, but I do not know if I will be able to come back to Hampton Roads. I live in Northern Virginia right now, but I do return to Virginia Beach as often as I can with my husband and I have four children. So, I found an opportunity to use it. So, I had two instances in 2016, one of my renters fell asleep and caused a fire and burned the kitchen down. So, I had an opportunity to totally renovate it due to the fire, it was an accident and was long-term rentals. I fixed it up thinking this is going to be my retirement home, maybe, and then I rented it out again, long-term and in three years it was almost destroyed again from pets. The problem of the house technically, it is supposed to be two bedrooms, but it is three bedrooms with three and a half bathrooms. It does not have suitable parking for the permitting process, but everybody has 26 houses in the cul-de-sac and there are three adults or more living in all the houses with three or more cars. So, it is a beach neighborhood with a lot of single people. There are a lot of parties, and frankly, my rental, I believe, is improving the neighborhood because I fixed it for my family to use. We come down and use it. There are a lot of noisy parties and it is kind of disturbing to people that live there. Now, I only used VRBO and I restrict it to 25 or older. I have a very large security deposit because I furnished it with very nice things because it is our second home. It is not for business, it is not for a profit. I was renting it only to capture some of the costs to renovate it. I also lost my job last summer; it was unexpected. So, I was hoping not to have to rent it at all, because, frankly, it is very nice. But, I

did rent it out, I looked into Short Term Rental and I looked at all the requirements. I followed them and I talked to my neighbors. I come down often to check out what is going on and I have a camera. I have not heard or received any negative complaints about actual people staying in the home. So, I have been asking, I talked to my neighbors and I do have support from neighbors and I have opposition from neighbors that you are going to hear. But, it has not been due to actual activities in the home or people because almost all of them have been families with small children, because it is a walking distance to the beach, but it's not Virginia Beach. There are no bars and it is not a beach area. It is a beautiful place for vacations, but also many of the people have been visiting military members, and sometimes there was a medical issue where they are visiting people to help them recover, but because I charged a lot and I want to keep it nice people have been very respectful and I have been very fortunate to keep it in the condition that is. So, I mean I really pray that I can continue to use it this way because the alternative is going back to long-term renting and I think that would just destroy the property and it would take away my ability to use it for my family. So, the area Civic League, we have lots of discussions and they are going to come talk to you. It is not a Homeowner's Association and we are not required to be part of it. But, like I said the cul-de-sac has 26 units in it, there are cars piled on top of each other on sidewalks. Many of the units are long-term rentals and they are in terrible condition. I brought photos I do not know if it is necessary, but I have new siding and windows and my house is perfect because I want to use it. And, so, I went through the issues that they have, and I just do not believe that I have any. There is nothing negative about the way I am using my home, despite what they are saying and they said so. The age is 25 or older, less than two cars, and no parties, I mean I restrict parties. There are no parties allowed and I have not had one party or noise incidents, and frankly, last summer there were two that I experienced living there where I had to ask people to turn their music down, so, those are long-term rentals or owners. So, although there are some objections, they appear to be totally anecdotal because I have gone on next door and asked for anybody to call or pm me if you have a problem and nobody has been specific as to an event that happened. The police had never been called, there is never been any problems, and quite frankly, my reviews on VRBO have all been five stars, they have all been great, and unless the only negatives have been the neighborhood, because it is too crowded, and there is too much noise. So, I would just

say, I do not believe I am bringing down the value in any way or causing any detriment to the neighborhood. Thank you.

Ms. Oliver: Thank you very much. Do we have any questions for the applicant?  
Thank you very much.

Ms. Dozier: Charles Hartman. Please state your name for the record.

Mr. Hartman: Hi there. I am Charles Hartman. I am the Civic League President for Aries on the Bay. We are tight knit community in the neighborhood that 3921 Whooping Crane Court is located. The Civic League opposes this applicant's STR permit application. We, the Civic League, oppose this applicant because this neighborhood has specific restrictive covenants barring rentals under 30 days, and because the neighborhood is unsuitable for STRs due to high density, limited parking, and intense neighborhood opposition. If you are not familiar with Aries on the Bay, take a look at the map on the right, you can see the density of neighborhood is clearly high. We consist of mostly three story townhomes and traditional single family homes. We're bordered on the west by Bay Lake Pines and we're part of Ocean Park. Of the 225 units that comprise Aries on the Bay 69 are rentals in 2020. As the applicant stated, Whooping Crane Court has 26 townhomes. 26, and the only real parking is at the entrance to Whooping Crane Court or eight townhomes on Purple Martin Lane, four on each side but up against the entrance, and have yards. Parking is the number one issue in Aries. On the court itself that the applicant resides, or the rental property resides, there are only seven public parking spaces. You can park seven to eight cars on the entrance, so, as a total amount of parking on Whooping Crane Court is about 20 to 25 cars. Bear in mind that in the summer, we are one of Ocean Parks public beach accesses and parking is extremely difficult. Townhome driveways, which she has here, maybe will allow two cars to be parked there and one of them will block the sidewalk. The applicant is a long-term resident as she stated, and she knew that by doing this she would probably anger the residents and the Civic League because we do have these restrictive covenants. She started her rental activity in the summer of 2019. That is when we first were informed that this activity was taking place. We are not an HOA as she stated, we are Civic League. So, our only tools are reason, shame, and lawyers. Well, none of the first two worked out, so, I went to the lawyer stage. How did this happen? Did she have a hearing we where not aware of? After looking at every minute of the Planning Commission from 2018 and 2019, we saw that she had never applied for a permit until December of 2019. The applicant was sent a cease and desist letter from

our legal team back in January. She states, however, that she does not have to abide by it because now that the city has enacted these STRs she is in essence, allowed to have this rental. There are other neighbors here that will attest to the opposition to this, but the reality is that as a Civic League, we cannot condone, nor do we wish to have STRs in our neighborhood. We are a tight knit community. When people come in from out of state with other state cars, we lose that tight knit cohesive neighborhood.

Mr. Dozier: Thank you for your comment, sir. Lisa Eure. Please state your name for the record.

Ms. Eure: Good afternoon. My name is Lisa Eure. I am a property manager for 14 vacation rentals throughout Virginia Beach. I am also a resident of Aries on the Bay. When I purchased my house in 2003, I was aware of the deed restrictions and covenants that existed in our neighborhood and knew that if I ever wanted to rent my property that I will not be able to do so for less than 30 days. While I agree that vacation rentals are an asset to the City of Virginia Beach, I do not think that they should be allowed in Aries on the Bay due to the existing parking and traffic issues that we deal with daily and because of the congestion and high density of our neighborhood. In addition, I see that Ms. Arnoldi is requesting a conditional use permit for a two bedroom Short Term Rental; however, it is still currently listed as a three bedroom rental on the vacation rental platform. She does not have the appropriate parking spaces, which is required by you all for three bedrooms, three parking spaces of 9 by 18. I am also aware of the fact that Mrs. Arnoldi lives in Northern Virginia, and you should be within 30 minutes of the vacation rental that you own. So, I highly opposed of it.

Ms. Oliver: Mrs. Eure.

Ms. Eure: Yes.

Ms. Oliver: I just want to question. I am just curious because you have several Short Term Rentals, don't you.

Ms. Eure: I do, I manage 14.

Ms. Oliver: Okay, that is what I thought because I have seen your name.

Ms. Eure: Throughout Virginia Beach.

Ms. Oliver: On applications before and, so.

Ms. Eure: So, I am very familiar with managing vacation rentals and the rules and regulations that I have to abide by. One being registered, which each one of mine are, with the City of Virginia Beach in a timely fashion. Prior to running it as a Short Term Rental.

Ms. Oliver: Great, thank you. Mr. Redmond.

Mr. Redmond: Ms. Eure.

Ms. Eure: Yeah.

Ms. Oliver: Come on back.

Mr. Redmond: For your edification and your husband's and everyone who might be listening, we do not officiate between private parties with regard to their Homeowners Association or deeds or covenants restrictions. Our role is purely land use.

Ms. Eure: Okay.

Mr. Redmond: The notice says it made that clear to you all, but that does not seem to have been clear. It is completely irrelevant to us, whether there are deed restrictions, covenants, or anything else that might affect that, purely land use. So, whether or not this use is appropriate in the given place according to the ordinance, and the other kinds of considerations that would normally go into conditional use permit that is all we do. We do not do anything with regard to that, so, going forward I would caution you that is not a part of our consideration. It would not be a part of City Council's consideration.

Ms. Eure: Okay.

Mr. Redmond: It is purely land use map.

Ms. Eure: Well, we do not have the parking in the neighborhood.

Mr. Redmond: I got you. I heard it the first time, I just want to make that clear.

Ms. Eure: The parking is the main issue.

Mr. Redmond: I heard you the first time, I just wanted to make that clear.

Ms. Eure: Okay. Anybody else?

Ms. Oliver: Commissioner Graham.

Mr. Graham: Mrs. Eure, I think what Mr. Redmond was getting at here, as he said we do not decide that it is really a civil matter that is a matter for a judge and for lawyers, we are here with regard to land use. So, I think there is really kind of two separate matters that you have one is civil and one is here, dealing with zoning.

Ms. Eure: Okay.

Mr. Graham: So, I am not disagreeing that there is a deed restriction. I am just saying that does not have anything to do with us.

Ms. Eure: Okay.

Mr. Graham: If there is a deed restriction a judge will decide that, not us.

Ms. Eure: Alright, but we do have a parking issue obviously, huge.

Mr. Graham: I hear you loud and clear on the other items. Thank you.

Mr. Alcaraz: So, do you live near this house.

Ms. Eure: I do.

Mr. Alcaraz: Do you live in the same model, and how many bedrooms do you have.

Ms. Eure: I personally have two bedroom.

Mr. Alcaraz: So, you do not live in the same model then.

Ms. Eure: No. Well, we had a three bedroom and we made it into a two bedroom. Mine backs up to her residence.

Mr. Alcaraz: Okay, thank you.

Ms. Eure: But, I live on Rookery Way, which is one street over from Whooping Crane. And, it is very congested throughout the whole neighborhood.

Mr. Alcaraz: But, my question was, originally it was three bedroom and you made it into two.

Ms. Eure: I did.

Mr. Alcaraz: And, you have the same model.

Ms. Eure: Yes.

Mr. Alcaraz: Okay, thank you.

Ms. Eure: But, I also reside there year around.

Ms. Dozier: Greg Lewis. Please state your name for the record.

Mr. Lewis: Good afternoon. Ms. Chair and Commissioners, my name is Greg Lewis, I am a homeowner at Rookery Way, which is on the back end of Whooping Crane, my property, actually, we have an easement between us, but I am actually Ms. Arnoldi's back neighbor and I am here to make a recommendation you vote against approving this as Chuck alluded, we are a beach neighborhood, we have beach access, it is beautiful place but it is first and foremost a neighborhood. I have been a homeowner there since, since 2014. I retired from the military there and I love our neighborhood, we have got a great mix of mostly long-term renters or owners that actually live there, great community, kids play together, we are friendly when folks come and visit, we understand, it is beach season. I do not think you will see anyone from our community involved in Floatopia and that is the type of thing that I think we might see more of if this turns into a Short Term Rental type of community, and you all know how that played out in the in the national news. In the past year I have heard a couple parties back there. It was actually my daughter who lives on the backside of her house that complained about the noise, it was back there in the evenings and several nights. We are a beach community there are some fun parties there as Ms. Arnoldi mentioned. So, I did not call the police at that stage. I had not actually called the police. I can say that there have been several parties back there and noise, my daughter can attest to that. If this does get approved I will probably start calling the cops when there are noisy parties. Again, it is a nice neighborhood and the parking situation is rough and has been talked to. I am a member of the Civic League, and I just say let us vote against this. Thank you. Any questions?

Mr. Wall: Are you saying that the parties are actually coming from Ms. Arnoldi's property, as opposed to any other.

Mr. Lewis: I believe some of them did. I knew there was sort of a window where there is about a week of loud parties and it was not there. So, I looked out, I believe it was hers, and we have about four different rentals behind us because it is townhouses, so.

Mr. Wall: Okay. Alright. Thank you.

Ms. Oliver: Thank you.

Mr. Lewis: Thank you.

Ms. Oliver : Do we have any more speakers.

Ms. Dozier: Yes, Ma'am.

Ms. Oliver: Okay.

Ms. Dozier: Stacy Kellam. Please state your name for the record.

Ms. Killam: Yes, my name is Stacy Kellam. Ladies and gentlemen of the Council, the Commission, and fellow citizens of Virginia Beach. I am Stacy Kellam and I am here today to express opposition to the proposed Short Term Rental conditional use permit for Ms. Shelly Arnoldi's townhouse at 3921 Whooping Crane Circle in the Aries on the Bay neighborhood, just off the Shore Drive. As a key element here, Aries on the Bay is a neighborhood, just like Keeling Wood, Chelsea, Kings Grant, Thalia, Hunt Club Forest, Fox Chase and any of those other great neighborhoods in Virginia Beach, Aries on the Bay is a neighborhood. I moved into my home 21 years ago, right next door to Ms. Arnoldi's property, 21 years. This is my home, I feel safe here, I feel comfortable. It is my neighborhood and it is my community. I have neighbors, the kind of folks you can lean on in times of need, to mow the grass if you have had surgery, or are down for six weeks, and watch out for each other's kids, which we have a lot of in our area. They are the kind who watch your house if you go out of town, they will walk your dog, and they will take up your trash cans. These are people you can depend on, and they can depend on me. Ms. Arnoldi has been operating her property as a motel for the past 18 months or two summers, anyway. Without City approval, without community approval, without anyone's approval. Because Ms. Arnoldi does not live here, she lives in the Alexandria area in Northern Virginia. She is not a neighbor, she is not anyone that we can depend on. She does not really care about Aries on the Bay or Virginia Beach. She just wants a place where she and her family can come for a few sporadic weeks during the year. Otherwise, she does not care anything about it other than it is rented. She does not know the people she is renting to. They might be good people, but they might be child molesters, rapists, drug dealers, or manufacturers, they could be crooks just casing the neighborhood, looking for easy targets and crime opportunities, they might just be nuisances bringing in three or four car loads of people with then taking up parking spaces that our small little court, just cannot accommodate, not attending to the trash, leaving cans in

the street, trash on the beach, dog poop in the people's yards, and run over landscaping timbers.

Ms. Dozier: Thank you for your time.

Ms. Oliver: Do we have any questions?

Mr. Alcaraz: Please, I do. Ms. Kellam, you mentioned some incidents. Did you call the owner.

Ms. Kellam: I am sorry.

Mr. Alcaraz: You mentioned some incidents that have happened while she was renting. Did you call the owner.

Ms. Kellam: Yes, parties and a fire in the backyard.

Mr. Alcaraz: Okay. How is the parking situation. The parking?

Ms. Killam: The parking, the parking is awful.

Mr. Alcaraz: Like?

Ms. Kellam: I mean the court is already.

Mr. Alcaraz: I am talking about the specific lot, this specific property the parking.

Ms. Kellam: She only has a two car driveway and it does straddle the sidewalk. And, I have seen many occasions where the renters brought four cars. I think they come from out of town and maybe have friends that live in Virginia Beach and they invite their friends to come over, so, they can all hang out together.

Mr. Alcaraz: Okay. When you had an incident and you call her, did she respond?

Ms. Kellam: I have called her in the one case where they were having a bonfire in the backyard, a trash can fire and she said, I will call them, but they did not put the fire out and we are wood-sided community, it was a windy night, there were embers blowing up, it was right under a tree, I was afraid that would be a fire, I do not want my house to catch fire. But, I am not her property manager and I live next door to the property, I do not want to be responsible for it. And, with her being absent, she was looking for me to be the property manager. She offered to pay me money to be the property manager. But, I do not want to be responsible for looking out for townhouse because it is attached to me. I have my own responsibilities.

Mr. Alcaraz: Okay.

Ms. Kellam: I do not need to take one another.

Mr. Alcaraz: And, you say you live next door.

Ms. Kellam: I am attached to her, yes.

Mr. Alcaraz: How many bedrooms do you have in your unit.

Ms. Kellam: My unit has three and her unit also has three. The last time I was in the unit, it was configured for eight people.

Mr. Alcaraz: Okay.

Ms. Kellam: But, it's a three bedroom and three and a half bath townhome.

Mr. Alcaraz: Alright. Thank you.

Ms. Oliver: Thank you very much.

Ms. Kellam: Thank you.

Ms. Dozier: Jim Severt. Please state your name for the record.

Mr. Severt: Good afternoon. I am Jim Severt and first I would like to thank the Planning Commission for hearing these comments regarding Ms. Arnoldi's property. I am actually here not to oppose, I guess I would from my observations of summer I would be in support of how she intends to use her property. My family is a military family and we just moved back the summer from overseas. So, we had to roam here for two weeks in July. So, my wife purchased our property which is right next door to hers in 2000, so, off and on we have been in the neighborhood for five or six of those 20 years. During the two weeks of July when we were there I think I saw three families or renters come to the unit. And, I did not witness any loud or abusive behavior, or things that would cause me concern. I cannot speak to the fire that was mentioned because I did not see that. Our unit is about a four minute walk to the beach, it is a beach neighborhood from Memorial Day to Labor Day it is that type of neighborhood where you are going to have individuals who are there to enjoy the beach and have a good time, there are sporadic parties, but with 200 units in Aeries on the Bay those parties could be from owners, long-term renters, short-term, or people just coming for the day. There is no way to identify one way or the other unless you actually know who is living in a particular unit. So, that is just the nature of this neighborhood. In summary, I believe how a tenant,

lessee, short or long-term renter, guest, or owner behaves has more to do with their values, habits, and to a lesser degree economic situation than the duration of their residents in any particular improvement on a property. So, all I can witness to is that during the two weeks that we were there this summer, we are currently stationed up North in DC, but we are using our property, we have been here three times since we have moved back from overseas. I have not witnessed any negative activity which would cause me concerns specifically with her unit, and having.

Ms. Dozier: Thank you for your comments, sir.

Mr. Severt: Thank you.

Ms. Dozier: Henry Farr. Please state your name for the record.

Mr. Farr: My name is Henry Farr. I am here to oppose the short-term lease, I live on Rookery Way behind her property. I am not opposed to people going out and having cookouts and celebrating, but seven days a week it is kind of tough. They are renting it out as a shore by the beach. And, they are there to party. We do not have security or cleanup crews, they go to the beach they bring glass bottles to the beach, who would bring glass to a beach I do not understand, but that is what they are doing and I am totally opposed to it. Thank you.

Ms. Dozier: Alyssa Gregerson. Please state your name for the record.

Ms. Gregerson: Hi, my name is Alyssa Gregerson, and I did not write anything down. I am just going to talk to you from what I have experienced. I live right across the street and I have witnessed many, many things from the property across the street. First of all let me tell you I have lived in Aries for 20 years, I lived 10 years on Purple Martin which is the street you need to go down to get to Whooping Crane. And, I have lived across the street for 11 years, and I have no idea who Shelley Arnoldi is, I have never met her, and I am also speaking for some of the neighbors that could not be here today because they have poor health conditions and because of COVID, they could not come here. They have sent emails and hopefully you have gotten them. But, I have witnessed many things from the past two summers, late night yelling, screaming, public urination. I have even had people walking their dogs in my yard, letting them poop, and then I knock on the window saying and pointing that I am not cleaning up after your dog. Like I said, the owner, she keeps on calling it her home. She has never lived there as long as I have been there. She has never come over to introduce herself. And, basically, what she is just trying to do is

make a little money and we are a very close-family neighborhood. We have a lot of small children, parking is horrendous. And, you need to drive very slow coming through there because of so many kids on their bikes and it is just very hazardous, and I am very much opposed. Thank you.

Ms. Dozier: That is all my speakers on this item.

Ms. Oliver: Applicant like to step forward please.

Ms. Arnoldi: Sorry, I did not know it is going to be such a long day. Yeah. So, I do not know a lot of those people personally, and I was surprised to hear a lot of that, because I have gone on Next Door and given my name, I did speak with Ms. Gregerson. I gave her my phone number, I do not know exactly where she lives. I have asked for any example of anybody who has done any damage or made any noise. And, none of that, that seems exaggerated not true honestly, but one tenant had a fire pit, I called, I asked them to control it, it is not illegal. The neighbor on the other side has a fire pit, it is not against the law. And, I mean I attended to it, I make sure it was out, I said pay attention to it, but the other thing that I will say the neighbors behind you have got a lot of people on Rookery. I have a recording in August of a party and I believe it was Lisa Eure's house, where someone was having a party at one in the morning, and I walked over and asked him to turn the music down. And, they literally flipped me off. And, another neighbor was there, I do not want to call the police. I do want to use it and I know this is a lot but, like, I understand and I do like the neighborhood. That is why I want to keep it. That is why I want to come back and stay here just because I do not know them personally. I have never put anyone out and I would not, and I did not ask her to manage my property, I have a property manager, I have someone that cleans it and takes care of it, comes in 20 minutes. I have a maintenance man. So, basically a lot of these people I do not know, I have tried to get in touch with the Civic League and said I will communicate with you and I will be honest about everything, but a lot of this is surprising to me because I want to use the house for me and my family. It is not about making money, it is not a business. So, I just hope you will consider allowing me to use my home, so, that I can maintain the home that I have created instead of letting it go back to this long-term rental where it gets destroyed again. So, that is all.

Mr. Alcaraz: I just want to get the bedrooms straight, and I am sorry I keep asking everyone because I looked it up, and I mean you are advertising three nice size bedrooms and with the bathrooms 400 feet from the beach.

Ms. Arnoldi: I am going to change it. Well, I was told that it could only be two bedrooms because of the parking and, so, I am going to turn the downstairs bedroom into a family room. I have agreed to do it. If it is not approved, I am not going to do it, and then I will go into either long-term renting or I will stop doing what I am doing. Yeah, all of the houses there have three bedrooms and I would say even the neighbors that are speaking have two to three people living there with two to three cars. So, I would reduce it to two bedrooms, and I will do the same number count, because I still want to use it for my family.

Mr. Alcaraz: I am just saying that you are advertising three nice.

Ms. Arnoldi : No, I have not changed it. I also have not got the million dollar umbrella insurance yet, I have a quote and I am ready, if this gets turned down I am going to cancel everything and reevaluate what I am going to do with the house. How I am going to use it, if I am going to sell it, I do not know. But, absolutely I can comply with the two bedrooms, making a family room. I asked, but I have spoke honestly with Will about it, everyone else in the neighborhood has three bedrooms, but if I have to have two bedrooms in order to use it will make it two bedrooms.

Mr. Alcaraz: Thank you.

Ms. Oliver: So, just a question, I assume you are registered with Commission.

Ms. Arnoldi: I am.

Ms. Oliver: And, yet there is some date questions about your managing a Short Term Rental for two summers.

Ms. Arnoldi: Yeah. I said last summer, it was the summer of 19, that is the last renters that moved out, that is when I decided to furnish it and I was not sure what I was going to do if it was going to be Short Term Rental, but I wanted to furnish it and use it for my family, and I lost my job beginning on August. So, that is when I decided to actually do Short Term Rental.

Ms. Oliver: To start renting as a Short Term Rental.

Ms. Arnoldi: Yes, I did. But, I did go to the Planning Office, like I got the ordinance and the requirements and I looked at, I mean I do not think I obviously did not do anything with the bedrooms, but I went and I spoke with someone to understand the process and the application. I did not know the timeline or the restrictions. So, I also did not even know about the Commission until Christmas, so, as soon as I learned that.

Ms. Oliver: I am just going to interrupt you real quick just for the sake of time here. So, you started short-term renting it about approximately about a year ago, which I sympathize with the fact that you have lost your job and I am sorry to hear that. And, then you went to the Planning Department and you got the copy of the ordinance and some paperwork, and you read through that and you did not understand it.

Ms. Arnoldi: Honestly, I did not understand what I was filling it out, I do not know it just

Ms. Oliver: You just did not get to it.

Ms. Arnoldi: I just was. Yes.

Ms. Oliver: Okay. And, then can you tell me the date in which you applied to the Commissioner of Revenue.

Ms. Arnoldi: I think it was December or January.

Ms. Oliver: Of this past year.

Ms. Arnoldi: Yeah.

Ms. Oliver: Okay. That is great. Thank you. Anybody else have any questions? Okay, thank you very much. Alright, I will close it and open it up for discussion amongst the Commissioners. Yes, Mr. Redmond.

Mr. Redmond: I do not know what to make about the neighborhood from what I have heard. That said, it is a very dense neighborhood. And, my concern with it is the way that court is arranged, everyone is affected. And, that is the part that I have trouble with, altogether too much he said, she said today for my liking. And, some irrelevant parts to, but this is a very tightly packed neighborhood, and this property is situated such that, there is just no way you cannot impact and affect one another. Now, do the Short Term Rentals have a greater impact than a long-term resident, or a long-term rental, I do not know. I know I have neighbors in my neighborhood near me who are longtime owners and they are loud and they have a lot of cars. But be that as it may, with regard to this particular use I cannot get over the fact that strikes me as a very difficult place to have a Short Term Rental. And, it really has much more to do with the site location of the property, the nature of the neighborhood, the parking considerations, the fact that people, even though you can tell them to bring only two cars, they might bring three or they might bring four and block the sidewalk and all the rest of it, it just does not seem like it would work to me. So, with that said, I will not support the application, and we will be happy to make a

motion shortly. Thanks. I did not make one yet, but I am happy to.  
Madam Chair, I move that we deny the application.

Mr. Graham: I second.

Ms. Oliver: I have second by Commissioner Graham.

Ms. Cartwright: I will call for the vote. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond.

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair, Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: And, Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: With Mr. Barnes absent, Mr. Coston absent, and Mr. Inman absent.

Ms. Cartwright: By recorded vote of eight to zero, item number 15, has been denied.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman				ABSENT
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

1. The following conditions shall only apply to the dwelling unit addressed as 3921 Whooping Crane Circle, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. As depicted on the floor plan found on page 8 of this report and titled, "Floor Plan," the first-floor "Family room" shall not be used as a bedroom when the home is utilized for short-term rental purposes.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).

7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 16**

**Justyce Swango (Applicant) Jason & Indian Swango Joint Revocable Living Trust (Owner)**

**Conditional Use Permit (Short Term Rental)**

**811 Delaware Avenue**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – HEARD**

Ms. Dozier: Item number 16. Justyce Swango, a Conditional Use Permit for Short Term Rental, located at 811, Delaware Avenue in the Beach District.

Ms. Swango: Hello my name is Justyce Swango.

Mr. Swango: I am Jason Swango.

Ms. Swango: I will start off by saying I am a homeowner in the Shadowlawn area, I actually live on Carolina Avenue, which is just a couple blocks down from Delaware. And, yeah, so, we will be open to any questions that you guys might have.

Mr. Swango: I will just state that I own the property at 811 Delaware. I own three properties actually in Shadowlawn, the one property on Carolina, 521 Carolina was just approved for a conditional use permit for a Short Term Rental as well. I have been in the community since 2001. I am local lawyer, I have a law office here locally, very active in the community and I have been a coach here for almost since I got here in 2001, for about 20 years. As far as, my daughter who will help manage this process lives three blocks away. This is actually the property that my father had lived in, but due to health reasons he has had to return back to Indiana. Currently, it is leased out on a year-to-year lease with a Special Forces guy in one of the military branches. I have no intent today, tomorrow, or certainly in the next year, to actually lease it out. Obviously, it is a Short Term Rental having it being tied up on a long-term lease, and hopefully they will stay there for as long as they want. Open to any questions that you would have regarding that particular space.

Ms. Oliver: I think the question on this application, can correct me fellow Commissioners if I am missing something was the agreeing of the conditions that are put forth in the application,

Mr. Swango: That is correct.

Ms. Oliver: You do agree.

Mr. Swango: Actually, I have a fundamental issue with that I am going to explain what that is, I think it is important. I think it is improper to ask someone, especially a lawyer, to agree to something without listening to the reason why there is probably a fundamental issue with it.

Ms. Oliver : I am going to interrupt you real quick and I respect that you are an attorney as my husband is one and he has a tendency to be a little argumentative as well.

Mr. Swango: I am not being argumentative, Chairwoman.

Ms. Oliver: No. I am not saying you are, but I am just saying it.

Mr. Swango: You are as well, you are assuming that I am being argumentative and that is not fair.

Ms. Oliver: No. There were go.

Mr. Swango: It is not fair.

Ms. Oliver: So I feel like I am in my kitchen. So, with that respectfully, the question that we had was that there is a paragraph in the application and the question going forward is, do you agree with the conditions in the application?

Mr. Swango: Right. And, as I was stating, I received an email from the Planning Commission that says, again, based on guidance from the City Council, these conditions are recommended by Staff, and are now included in every Short Term Rental conditional use permit Staff report, those who disagree with the recommended conditions will likely be called upon to address their view on the subject with the Planning Commissioners and the City Council persons during the Public Hearings. That was sent to me by Mr. Will Brown, so, that is the reason why I am asking to inform you on why I have a fundamental issue with answering that question.

Ms. Oliver: Well, then, I apologize for that because I was not copied on that email and I did not see that paragraph, so, if you would like to give us your view.

Mr. Swango: Sure. Would love to give my view. My issue is that the City Council has not yet made any determination regarding this particular Short Term Rental at all, but they are asking for us to agree to potential conditions that they do not even know needs to be imposed. Now, I do not know what they have actually stated to Mr. Will or anyone else in the Planning

Commission, but I find it inherently problematic to ask someone to provide a waiver to a group of people that they have the fundamental decision on my property rights here in the local city. So, if I say to you, I am accepting of conditions that aren't imposed in the statute, you are basically asking me to give a waiver on any future issues that I may have with the city whether it be in a more litigious way or not. And, I think that is inappropriate. My issue for you all is you impose those restrictions, not me. I did not impose those. You all came out to my property, took a look at it and said, we want to impose restrictions. Okay, if you want to impose those restrictions then vote on it and give me the restrictions, but do not sit here and ask me to agree to restrictions that quite frankly, are impossible for me to agree to.

Ms. Oliver: Well, sir, if they are impossible for you to agree to those conditions, put forth in the application then.

Mr. Swango: Well, I have whole diatribe here, of where I asked the Commission and would not answer the question. I have asked the question of them what is the purpose, like am I waiving anything and they would not answer the question. So, if the Planning Commission would not answer.

Ms. Oliver: Sir, I must stop you right here.

Mr. Swango: Okay.

Ms. Oliver: Okay. There is a list of recommendations and conditions in this application. One through 16.

Mr. Swango: Right.

Ms. Oliver: What the Planning Staff is asking you to go forward into your application, so, that you can move on from us and go right to City Council, where they will decide what they want, however they see fit, is do you accept these conditions for this application for you to have a conditional use permit to operate a Short Term Rental at this particular address?

Mr. Swango: Right.

Ms. Oliver: Okay, that is the question.

Mr. Swango: I understand.

Ms. Oliver: And, the answer is either, yes you do or no you do not.

Mr. Swango: The answer is not that simple Chairwoman, it is just not that simple. You are asking me to waive.

Ms. Oliver: I am not asking you to waive anything, I am just saying.

Mr. Swango: That is exactly what you are doing by asking me to answer a question that you are imposing on us, this is exactly what you are asking me to do. You are asking me to, because I have an issue with what the City does, and I have to go litigiously and go protect our property rights. Then they are going to ask potentially that I might ask the question, did you agree to this?

Ms. Oliver: I just want to ask you a question.

Mr. Swango: I would really like to answer it without being interrupted.

Ms. Oliver: Well, I am going to interrupt you.

Mr. Swango: Okay.

Ms. Oliver: Because, I am not going to get into an argument about this because this is fairly straightforward.

Mr. Swango: Yeah.

Ms. Oliver: Because we do land use, as Commissioner Redmond stated. You went to the Commissioner's Office, you filled out the form, you gave him the \$50, you agreed not to rent your house for a Short Term Rental. Correct?

Mr. Swango: Correct.

Ms. Oliver: They stamped it red, the lady said, you agreed to this.

Mr. Swango: I do not know if they stamped it red Ma'am, that is not accurate either. I do not know what you are talking about stamping it red and all that. I heard earlier in a previous hearing that they were supposed to stamp it and say no.

Ms. Oliver: Are we going to continue the banter or are we going to just stop and listen to me.

Mr. Swango: I am just trying to correct you. You are wrong that is all.

Ms. Oliver: Well, I appreciate that so much.

Mr. Swango: Thank you, Ms. Oliver.

Ms. Oliver: That is well. With that, you went online, you filled out the application, you submitted the application. Mr. Miller I believe is went out, he took pictures of the property, he asked you to put a sign out at a certain date; it is been up there for 30 days. The form had all these conditions in it, you signed, you checked the box, she signed it and here we are.

Mr. Swango: Correct, here we are in the same place we were two months ago and no one asked me if I needed to approve or if I agreed or not.

Ms. Oliver: If you sign everything on the application online then you accepted or you read it and now we get it.

Mr. Swango: I have accepted the conditions, why you ask me to accept it now? If I have signed and checked some box that does not make any sense. I have not accepted anything.

Ms. Oliver: Mr. Redmond.

Mr. Redmond: That was most fun I have had all day.

Mr. Swango: Thank you.

Mr. Redmond: And, I appreciate that.

Mr. Swango: You are welcome. It is not fun for me though.

Mr. Redmond: I think what she is getting at here, and I think it is important, is the conditions are conditions.

Mr. Swango: Yes.

Mr. Redmond: They have to be met.

Mr. Swango: Correct.

Mr. Redmond: If they not met, you cannot get your conditional use permit.

Mr. Swango: Yes, sir.

Mr. Redmond: If you do not get the conditional use permit you cannot operate the Short Term Rental.

Mr. Swango: Correct.

Mr. Redmond: And, we have had an issue lately with people who want to argue about what City Council's policy is. But, that is the City Council's policy. Okay. And, so what we are trying to do is ascertain whether or not, going

forward, people understand that, to accept means you have to follow the rules that are imposed as part of it. If you say I am not going to follow the rules that are part of it.

Mr. Swango: I never said I was not going to follow the rules.

Mr. Redmond: I understand that.

Mr. Swango: Okay.

Mr. Redmond: But, if you do not accept the conditions, you are not going to get your conditional use permit and we have had altogether too much lately, of people who want to complain about the conditions that City Council is setting and they are perfectly willing to do that. But, be that as it may, I personally am not going to recommend that we accept any application or approve any application unless somebody says, I am going to follow the conditions because those are the rules of the road.

Mr. Swango: I am a lawyer.

Mr. Redmond: You can disagree with it. You can hate it all you want.

Mr. Swango: I am the attorney in the area and I am a law abiding citizen and what I am telling you is that if the restrictions are imposed on us, then we have no choice as law abiding citizens that to follow them. But, if you are asking me if I agree to those conditions, the issue is do I agree to follow the law, of course, I do. I am not going to lose my license by not following the law, but do I agree to these particular conditions be imposed on us when it is really not in the ordinance itself. No. I have a fundamental issue with that.

Mr. Redmond: I agree with you. I do not think it is fair that the ordinance says one thing and there will be a blanket condition on everything else. I do not think that is right.

Mr. Swango: Right. So, then why I am being asked to agree to it then.

Mr. Redmond: Hold on a second, but be that as it may, that is the City Council's policy going forward; and they can do that.

Mr. Swango: Right.

Mr. Redmond: So, going forward, we want to ensure that people are simply going to abide by the policy or else you cannot have it.

Mr. Swango: Right.

Mr. Redmond: It is just that simple.

Mr. Swango: So, as a law abiding citizen, I am going to abide by whatever you agreed to.

Mr. Redmond: Nobody is questioning your law abiding citizen-ness; okay.

Mr. Swango: How is it not? You are asking me if I am going to abide by restrictions that are imposed by Council or by the ordinance. So, my answer to you is, yes, I have to abide by those ordinances, absolutely.

Mr. Redmond: Okay.

Mr. Swango: I do not why this is so difficult. This isn't hard.

Mr. Redmond: I do not know why you are making it hard.

Mr. Swango: We are not making it hard. I am saying I can't agree or disagree to a condition that you have put on me, except to say that if you impose that condition on me I am going to comply.

Mr. Redmond: That is not the point. The point is, if you are going to get a conditional use permit to operate a Short Term Rental and the only way you are going to do it, is with these conditions.

Mr. Swango: Correct.

Mr. Redmond: So, if you tell the Staff, no I do not agree with it, how do they interpret that?

Mr. Swango: I do not understand how hard it is for someone to grasp this concept. I do not personally, the man said it back there he unfortunately left, I do not personally agree with what Council is doing. I think that they are way out of bounds to be honest with you, quite honestly I think that they are infringing on our property rights, but that is not before us right now. What is before us, is whether you impose those conditions on us. We have no choice. You act like, I am saying, you impose one per week and two people per room then I am going to go put my stuff like other people have done on the market and advertise three bedroom or four bedroom whatever. And, let me say this, they keep saying in the applications that I have a three bedroom. We keep informing them that it is not a three bedroom, we are doing everything as we could do to inform you guys you can make a proper decision, but it is a roadblock after roadblock because of what.

Mr. Redmond: I do not know, but I do not like your odds.

Mr. Swango: Oh, you know what, I've lived with worse odds in my life.

Mr. Graham: Mr. Swango, I do not have any Short Term Rentals, but I have been an applicant in a lot of rezonings.

Mr. Swango: Yep.

Mr. Graham: And, the way it is, whether you are in Chesterfield County, Virginia Beach, Chesapeake, it does not really matter. You work with Planning Staff, and they come up with conditions, and you either accept those conditions or not. And, then it comes to us.

Mr. Swango: Yeah.

Mr. Graham: Okay. What I am hearing is, you do not accept the conditions.

Mr. Swango: I do not think you are hearing me then.

Mr. Graham: I am not going to get into that.

Mr. Swango: I do not think you are hearing me then.

Mr. Graham: Okay. I think I am, but I think you want to try to make this some sort of game or something.

Mr. Swango: Really, a game?

Mr. Graham: That is the way it seems. It is either you agree to the stipulations that the City put in the application or you do not. Do you want to move forward with the stipulations; all the conditions that the City has put in the application or not, yes or no.

Mr. Swango: That is why I am here to move forward.

Mr. Graham: Do you want to move forward under those. Okay. Well, then what is your answer. It is a yes or no?

Mr. Swango: It is not a yes, and I already gave you my answer.

Mr. Graham: I have no further questions.

Mr. Swango: And, I will tell you something else, since we are on record. Let me go ahead and just do this then. In my speaking with Mr. Mayor Dyer, he indicated to me that every decision that they are making, in a private call, every decision that they are making is arbitrary and capricious. This is

arbitrary and capricious guys. This is not fair to the citizens of Virginia Beach. It is certainly not fair to us. You are imposing restriction and ask me if I accept those restrictions. I accept the restrictions if you impose them, but I do not agree the City Council should be doing this when the ordinance says something else. I am with this man over here, but I do not understand what the disconnect is for you all. I mean that is pretty simple, right? You are imposing restrictions and I am saying if you impose them on me I have to abide by them. I do not agree with the fact that the City Council is doing this to us, but if they wish to do it because they are the ones with the ring and they want us to kiss it, then so be it. That is their choice. I do not understand what is so difficult about that,? Mr. Dyer himself told me it was arbitrary and capricious. And, that is exactly what's going on right now with this Commission; it is just not right. We just want to go in front of the City Council and say, here is our property, what are you going to do? That is it. That is all we are asking for. Whether they grant it or not, just like we went for the 521 and they granted it. They imposed restrictions on me on 521. They gave me the restriction of two per bedroom and one rental per week. I am complying with what the restrictions were. That is what City Council imposed on me.

Ms. Oliver: (Inaudible 03:01:47)

Mr. Swango: Well, I mean you ask me a question and I am answering the questions. I am trying to inform you on why I am making the decision I am making.

Ms. Oliver: Is this your way to informing us.

Mr. Swango: Well, yeah, that is the only way I have, right? I am supposed to stand up here at the podium and tell you guys what I have received and answer your questions. That is what I am doing. Do you expect something else for me?

Ms. Oliver: No sir. You are perfectly fair.

Mr. Swango: Okay. Thank you.

Ms. Oliver: Thank you. We appreciate it.

Mr. Swango: Thank you. Is that it? Any questions? Okay. Thank you.

Ms. Oliver: Madam clerk, do we have any other speakers?

Ms. Dozier: No, Ma'am. We have no other speakers, and this is our final item.

Ms. Oliver: Thank you very much. So, we are going to close this and open it up to the discussion with the Commissioners. Yes, Commissioner Klein.

Ms. Klein: Might I respectfully suggest to the Planning Committee that they look at revising the language. So, I understand the argument, people do not agree with wearing a mask, but they still wear one. So, I think that maybe that is where this agree or disagree is something like, I agree to abide by the conditions, may be more clear.

Mr. Redmond: Yeah, I agree with that. I think we are getting together, I mean we have wasted probably half-an-hour on semantics today. You have to agree to conditions, you do not agree to conditions, you do not get it. What is that? Oh, yeah, accept thank you. You have to accept the conditions, you can gripe about it or not like it at all, but you do not get your conditional use permit, and they are going to reject it and they are going to pull your conditional use permit if you do not abide by. But, I do not think it is asking a lot of people to ask them, do you accept the conditions. And, every single time we had an argument.

Mr. Graham: I totally agree.

Mr. Redmond: still do not know what, I am not quite sure what Mr. Swango was saying to.

Mr. Graham: I think what it was Mr. Redmond, I think it turned into a platform to voice a grievance.

Ms. Oliver: Mr. Weiner. Would like to say something?

Mr. Weiner: From what I got out of that kind of interesting, never seen or brought to us like that before, but it is 2020. He accepts the conditions, but he just does not like it; bottom line. That is what I got out of.

Ms. Cartwright: I do not want to interrupt, but we just need to make sure that all of your microphones are turned on when you are speaking.

Ms. Oliver: Yes, Mr. Alcaraz.

Mr. Alcaraz: So, I heard the same thing that Mr. Weiner said. He knows the conditions. He did not say no, he did not say yes. I am an advocate of, as long as they meet the conditions or as long as the write up shows that they meet the conditions and there are conditions here. Just a point of information, I did talk to the Civic League, there was no opposition. I went directly to the Civic League and I asked them, same thing I should have noted that for

the other one. But, because the other one did state they were not agreement, but this one did not. I am in an agreement with Mr. Weiner, I am going to go ahead and make a motion to approve it.

Mr. Weiner: I second.

Mr. Alcaraz: With the conditions as stated on the report.

Ms. Cartwright: I will call for the vote now. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond.

Mr. Redmond: AYE.

Ms. Cartwright: Mr. Wall.

Mr. Wall: No.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: No.

Ms. Cartwright: With Mr. Barnes absent, Mr. Coston absent, and Mr. Inman absent.

Ms. Cartwright: By recorded vote of six to two, agenda item number 16 has been approved.

	AYE 6	NAY 2	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman				ABSENT
Klein	AYE			
Oliver		NAY		
Redmond	AYE			
Wall		NAY		
Weiner	AYE			

**CONDITIONS**

1. The following conditions shall only apply to the dwelling unit addressed as 811 Delaware Avenue, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.

6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contracts during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those*

*administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

**Item # 17  
Lawrence & Suzanne Oleszko (Applicants & Owners)  
Conditional Use Permit (Short Term Rental)  
4005 Atlantic Avenue, Unit 117**

**October 14, 2020**

**RECOMMENDED FOR APPROVAL – CONSENT**

Mr. Weiner: Thank you, sir. The next two items are the short-term rental that has been put on Consent Agenda. The Planning Commission places the following applications for a Conditional Use Permit for Short Term Rental on the Consent Agenda as these applications meet the applicable requirements of section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition to this request for items number 9 and 17. And, saying that I would move for approval on the Consent Agenda items 1, 3, 6, 7, 8, 9, and 17.

Ms. Oliver: Thank you. Do I have a second?

Mr. Alcaraz: Second.

Ms. Oliver: Seconded by George Alcaraz.

Ms. Cartwright: I will call for the vote verbally. Mr. Alcaraz.

Mr. Alcaraz: AYE.

Ms. Cartwright: Mr. Graham.

Mr. Graham: AYE.

Ms. Cartwright: Mr. Horsley.

Mr. Horsley: AYE.

Ms. Cartwright: Mr. Inman.

Mr. Inman: AYE.

Ms. Cartwright : Ms. Klein.

Ms. Klein: AYE.

Ms. Cartwright: Mr. Redmond

Mr. Redmond: AYE.

Ms. Cartwright : Mr. Wall.

Mr. Wall: AYE.

Ms. Cartwright: Vice Chair Weiner.

Mr. Weiner: AYE.

Ms. Cartwright: Madam Chair Oliver.

Ms. Oliver: AYE.

Ms. Cartwright: By recorded vote of nine to zero, agenda Item numbers 1, 3, 6, 7, 8, 9, and 17, with one condition added to agenda item number 6, have been approved by consent.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 4005 Atlantic Avenue Unit 117, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of

neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.

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6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
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  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
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*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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