

Virginia Beach Planning Commission

Public Hearing

November 4, 2020

Ms. Oliver: Good afternoon. I'd like to call the November 4th 2020, Public Meeting of the Virginia Beach Planning Commission to order. My name is Dee Oliver and I am the Chairman of the Commission and before we get started, I have asked Commissioner Mike Inman to lead us in prayer and Commissioner Alcaraz George to lead us in the pledge, if you all will stand with me.

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

Chorus: "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, George and Mike. I ask Commissioner Robyn Klein to do the introductions of the commissioner please.

Ms. Klein: Thank you Madam Chair. First we have Jack Wall, a civil engineer from the Rose Hall district. George Alcaraz, building contractor from Beach District. 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. John Coston, retired Virginia Beach fire captain and member at large and myself Robyn Klein, social worker from Centerville district.

Ms. Oliver: Great. Thank you, Robyn and our planning director Bobby Tajan will introduce his staff.

Mr. Tajan: Thank you, Madam Chair. With us today we have our planning administration staff, starting with Will Dow, planner Marchelle Coleman, Bill Landfair and Jonathan Sanders and Carolyn Smith, the planning administrator. We also have Jenizza Badua and Ashby Moss with the SGA office, and our clerking team we have Pam Sandloop, Lynn Ronker and I think Carol Dozier and Nicole Garrido over here also. And also with the city attorney's office, we have Victoria Eisenberg and Kay Wilson.

Ms. Oliver: Thank you. And so, our first order of business is, we're going to have the explanation of our role with our city clerk court.

Clerk: 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 version of the rules. The complete set of rules is located in the front of the Planning Commission Agenda. Following is the order of business for this Public Hearing. Withdrawals and deferrals, the chairman will ask if there are any requests (0:04:00) to withdrawal or defer an item on the agenda. Consideration of these requests will be made first. Consent Agenda, the second order of business is the consideration of the Consent Agenda, which are those items that the Planning Commission believes are unopposed and which have favorable staff recommendations. Regular Agenda, the Commission will then proceed with the remaining items on the agenda. Speakers in support or opposition of an agenda item will have three minutes to speak, unless they are 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 here today leaves you feeling that you have been heard and treated fairly. Thank you.

Ms. Oliver: Thank you. And before we go to the next order of business, I just want to say a special thank you to Bill Landfair. He's been with the planning department for about two years, I believe, and has done a great job. And he's certainly held my hand through a few things. And Bill is going to be leaving us and going on probably, I don't know where you're going, but we wish you well and Godspeed in your next endeavors. And we will certainly miss you. So thank you so much for that. So we're moving on to our next order of business for the items to be deferred or withdrawn. So, please come forward if you have an item to withdraw. And if we do not, then we will go to the deferrals. Welcome.

Item # 1.

**Life in His Word Christian Ministries [Applicant] JR Moulton Family, LLC [Owner]
Conditional Use Permit (Religious Use)**

Vacant Parcel between 6620 & 6608 Indian River Road

November 4, 2020

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Oliver: Thank you. All right, our next order of business will address those that have been placed on the consent agenda and our Vice Chair, Commissioner Weiner will take care of this portion.

Mr. Weiner: Thank you Madam Chair. Today we have nine items on the consent agenda. First one is item one, Life in His Word Christian Ministries, for a Conditional Use Permit for a Religious Use on vacant property between 6620 and 6608 Indian River Road. Is there an applicant in the room here today? Thank you, sir. Please state your name for the record.

Mr. Flores: Hi, Good afternoon, Rodney Flores, Pinnacle Group Engineering. Madam Chair and other members of Planning Commission, I will be standing by for any questions you may have and also Pastor Ernie de Vega is available as well.

Mr. Weiner: Are all the conditions agreeable?

Mr. Flores: Sir.

Mr. Weiner: All the conditions agreeable?

Mr. Flores: Yes, sir.

Mr. Weiner: Okay, great. Thank you, sir. Appreciate that. Is there any opposition for this being placed on the consent agenda? Hearing none, Mr. Jack Wall is going to read this into the record for us, please.

Mr. Wall: The applicant is requesting a Conditional Use Permit for a Religious Use to construct a two story Church on a 0.75 acre vacant parcel zoned B2 Community Business. As the Zoning Ordinance requires freestanding religious uses be on a parcel of at least three acres, a deviation to the minimum lot area requirement is requested. The church building is proposed to be constructed in the rear of the property with parking situated in the front of the site with frontage along Indian River Road. One vehicular ingress egress access point along Indian River Road is depicted on their submitted plan. The rear property line abuts residentially zoned parcels,

therefore a 15-foot-wide Category IV landscape buffer is required. The proposed building appears to be generally attractive with prefinished metal wall panel, simulated wood plank, light grey accents, and a grey stone slate base. The proposed parking area consists of 37 parking spaces, which meets the minimum parking requirement of one space per five seats or bench seating space in the sanctuary as set forth in the Zoning Ordinance. Typically, Sunday service and Sunday school is planned from 11:00 a.m. to 12:30 p.m. While other services such as prayer meetings, youth groups, rehearsals and board meetings, which are less populated, will be held during the week, weeknights between 6:00 p.m. and 8:30 p.m. and on Saturdays 9 a.m. to 2 p.m.. Staff recommends approval and conditions are acceptable to the applicant. Therefore, we have placed this agenda on the consent agenda.

Mr. Weiner: Thank you. The next item, Item 16, which is a Short Term Rental, the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the consent agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition for this request for item number 16. So, in saying that, I move for approval on the consent agenda item 1, 2, 3, 4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second.

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? Alright.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz : Aye.

Ms. Sandloop: Mr. Barnes is absent. Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent. Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein : Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By a recorded vote of eight to zero, agenda items 1, 2 with conditions as amended, 3, 4 with Commissioner Weiner abstaining, 5 with conditions as corrected, 7, 8, 11, and 16 have been approved by consent.

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

CONDITIONS

1. The lot area for this Religious Use is 0.75 acres. This lot area is a deviation to the three acre minimum lot area required by the City Zoning Ordinance.
2. When the site is developed, it shall be in substantial conformance with the submitted site layout exhibit entitled, "LIFE IN HIS WORD CHRISTIAN MINISTRIES, prepared by Pinnacle Group Engineering, Inc., dated 8/31/2020, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. The exterior of the proposed building shall substantially adhere in appearance, size and materials to the submitted elevations entitled "LIFE IN HIS WORD CHRISTIAN MINISTRIES, prepared by Andre + Marquez Architects, Inc., dated 8/31/2020, which has been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development.
4. A Landscape Plan shall be submitted and approved by the Development Services Center Landscape Architect prior to final site plan approval.
5. The church shall not exceed one hundred & eighty-five (185) seats in the main sanctuary; however, the maximum number of individuals within the facility shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy and posted by the Fire Marshal.
6. Arrival and departure times shall be staggered on Sundays, with one hour between services, to avoid vehicular congestion.
7. 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.
8. 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.

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.

**Brandon & Samantha Hathaway [Applicant] Brandon Hathaway & et al [Owner]
Conditional Use Permit (Outdoor Recreation Facility)
5025 Cullen Road**

November 4, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Wall. The next item is item number 2, Brandon and Samantha Hathaway for a Conditional Use Permit for Outdoor Recreation Facility at 5025 Cullen Road, is the applicant available? Welcome, please state your name for the record.

Ms. Hathaway: Samantha Hathaway.

Mr. Hathaway: Brandon Hathaway.

Mr. Weiner: In our morning briefing, we looked at condition number one, and we have extended the hours from 8 AM to 9 PM. Is that – are you agreeable with that, acceptable?

Ms. Hathaway: Yes.

Mr. Weiner: Okay, just want to make sure and all the other items are acceptable with.

Ms. Hathaway: Yes.

Mr. Weiner: Okay, great. Thank you very much.

Ms. Hathaway: Thank you.

Mr. Weiner: Is there any opposition to this being placed on the consent agenda? Hearing none, Mr. Redmond, can you read this into the record for us.

Mr. Redmond: Thank you, Mr. Weiner. This is an application of Brandon and Samantha Hathaway for a Conditional Use Permit, and in particular, a batting cage out there at their home, very near where I live by the way, this is a 1.19 acre parcel that's zoned R-40 residential within Lakeview Park. The applicant was simply unaware that this batting cage which they use for their own personal use, for their children, and for their children's friends, required a conditional use permit brought to city's attention. And so they've applied in that regard. This morning in our discussion we came about the idea that in the summertime, it's light until 9 o'clock very, you know, very commonly and it's not inconceivable that kids would want to be in the batting cage, you

know, 8:30 – 8:45, something like that. So that was the purpose of extending those hours. Now, there are a couple of conditions that the city staff put on this opening the structure up. So the three sides of it are open such that it continues to be an Outdoor Recreation Facility. It's a very routine thing for people to have recreational facilities in their backyards for their children and their children's friends. So this is very much a housekeeping order. There is no opposition. Staff recommends approval and the commission concurs by consent. Thank you.

Mr. Weiner: Thank you. The next items, item 16 which is Short Term Rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the consent agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance, staff support the application and there is no known opposition for this request for item number 16. So in saying that I move for approval on the consent agenda item 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? All right.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items number one, number two with conditions as amended, number three, number four with Commissioner Wiener abstaining. Number five with conditions as corrected, number seven, number eight, number 11 and 16 have been approved by consent.

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

CONDITIONS

1. Use of the batting cage shall be limited to the hours between 9:00 a.m. to 8:00 p.m., daily.
2. The applicant shall maintain the existing six-foot tall privacy fence along the backyard property lines.
3. Subject to Section 221 (k) of the Zoning Ordinance, an annual review of the Outdoor Recreation Facility Conditional Use Permit, based on the date of City Council approval, shall be performed by the Planning Director or his designee to assure that the use does not conflict with any adjacent land uses.
4. Within ninety (90) days of City Council action, the applicant shall file all necessary permits with the City for review and approval for the batting cage structure.
5. The applicant shall add siding to the walled side of the batting cage structure so that plastic building wrap is not visible.
6. The batting cage structure shall remain open on at least three (3) sides.
7. The batting cage shall not be opened to the general public nor shall it operate for profit.

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.
Rosetta Denise Ciconta [Applicant] Kyrus-Perros, LLC [Owner]
Conditional Use Permit (Assembly Use)
2014 Atlantic Avenue**

November 4, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Redmond. The next is item number 3. Rosetta Denise Ciconta for Conditional Use Permit for Assembly Use at 2014 Atlantic Avenue. Is the applicant available? Welcome, please state your name for the record. I hope I didn't make it - tear it up too bad.

Ms. Ciconta: Rosetta Ciconta

Mr. Weiner: That was close, there you go. Are all the conditions acceptable?

Ms. Ciconta: Yes, they are.

Mr. Weiner: Okay. Thank you very much.

Ms. Ciconta: Thank you.

Mr. Weiner: Is there any opposition to this being placed on the consent agenda? Hearing none, Mr. Alcaraz, would you like to read this into the record for us.

Mr. Alcaraz: Thank you. Agenda item number three, at 2014 Atlantic Avenue for Conditional Use Permit for an Assembly Use. The 14,408 square foot parcel on property zoned Oceanfront Resort Form Based Code District has mixed retail on the first floor and 7,100 square feet space on the second floor which was formerly Shaka's Live entertainment venue. The second floor space is proposed to use as an indoor wedding and large gathering space. Therefore, a Conditional Use Permit for Assembly Use is requested. The applicant has been hosting ceremonies and receptions at the Virginia Beach oceanfront for the past six years. At this site, they will be proposing to hold indoor weddings and receptions and private events, live music and other celebrations daily. There's no parking requirements for this use. The proposed Conditional Use Permit for Assembly Use with the staff's opinion is acceptable with this venue within the vibrant mixed retail resort area aligns with the vision of the Resort Area Strategic Action Plan 2030 to accommodate events and gatherings in this area. Based on the considerations stated in the report, the Planning Commission has approved

or is recommending consent for the application with the conditions listed in the report. Thank you.

Mr. Weiner: Thank you. The next items, item 16 which is Short Term Rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the consent agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance, staff support the application and there is no known opposition for this request for item number 16. So in saying that I move for approval on the consent agenda item 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? All right.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items number one, number two with conditions as amended, number three, number four with Commissioner Wiener abstaining. Number five with conditions as corrected, number seven, number eight, number 11 and 16 have been approved by consent.

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

CONDITIONS

1. A Certificate of Occupancy shall be required prior to the occupancy of the Assembly Use in the building.

2. The maximum number of individuals within the facility shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy and posted by the Fire Marshal.

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.
CSA Virginia Beach, LLC [Applicant] Freedom Land Investment, LLC [Property
Owner]
Modification of Conditions
5070 Virginia Beach Boulevard**

November 4, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner; Thank you, Mr. Alcaraz. Next is CSA Virginia Beach for a Modification of Conditions at 5070 Virginia Beach Boulevard, here comes the applicant. Please state your name for the record.

Mr. Hodgson: Madam Chair, Commissioner, my name is Jeff Hodgson.

Mr. Weiner: All the conditions acceptable?

Mr. Hodgson: They are, we've seen them. They - no issues with those. I would like to thank Hoa for his guidance on this application. When I first submitted, he came back with some very good input on how we could make a better site plan and it resulted in a layout that was more conducive and basically internalized our parking. So I'd like to thank him for his help on that.

Mr. Weiner: Thank you.

Mr. Hodgson: Alright, thank you.

Mr. Weiner: Is there any opposition to this being placed on a consent agenda? Hearing none, Mr. Redmond, can you read this on the record for us please.

Mr. Redmond: Thank you, Mr. Weiner. This is an application of CSA Virginia Beach LLC for a modification of conditions to the site that they own on Witchduck Road, corner of Witchduck Road and Virginia Beach Boulevard. It pains me to think that we first did this in 2014. Could it have been 2004, six years ago? Good Lord. Is that right? The original conditional use permit had a proper site plan. And so because of the change that we have here today, it's necessary to modify those conditions. Specifically, this applicant would like to add 17,200 square feet of retail space in three buildings, two as you can see from the site plan, two which face the corner of Virginia Beach Boulevard and Witchduck Road and then an eating and drinking establishment farther east on Virginia Beach Boulevard. There's an existing building on the site that's about 50,000, a little more than 50,000 square feet, which houses an indoor shooting range. When you add these buildings

along with the shooting range this would technically be short of the parking requirement. However, in thinking about the shooting range use there are long corridors and large open spaces with bullets traveling through them where you know people don't go and so that you know that one size fits all requirement. Kind of doesn't really make sense. If you're familiar with this site, in fact, you can even see it on the aerial, if you'll go to the aerial, this site is you know its constantly under parked. So there is no issue with parking in this case. The design is, you know is quite attractive, they pushed these buildings up on the road where we would like to see them, the parking is behind it. And if you think about how Witchduck Road is oriented as we discussed this morning, there really isn't this kind of use on Witchduck Road. There is some retail on Virginia Beach Boulevard in either direction, but Witchduck Road I think this has a kind of adds to the diversity of product here, which very frankly, we found attractive. We are unaware of any opposition to this application. The staff recommended approval, makes sense to the commission and we therefore recommend its approval by consent. Thank you, Mr. Weiner.

Mr. Weiner: Thank you. The next items, item 16 which is Short Term Rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the consent agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance, staff support the application and there is no known opposition for this request for item number 16. So in saying that I move for approval on the consent agenda item 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? All right.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By a recorded vote of eight to zero, agenda items number one, number two with conditions as amended, number three, number four with Commissioner Wiener abstaining. Number five with conditions as corrected, number seven, number eight, number 11 and 16 have been approved by consent.

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

CONDITIONS

1. All conditions attached to the Modification of Conditions of the 2014 approval are hereby deleted and superseded by the conditions below.
2. A Landscape Plan shall be submitted to the Department of Planning and Community Development for review and approval at the time of final site plan submittal.
3. Unless the parking requirement can be satisfied, the applicant/property owner shall seek approval of a variance from the Board of Zoning Appeal.
4. No alcoholic beverages shall be served or permitted within the Indoor Recreation Facility (shooting range).
5. The hours of operation of the indoor recreation facility (shooting range) shall be limited to 6:00 a.m. to 8:00 a.m. for contract use and from 8:00 a.m. to 12:00 a.m. (midnight) for public use.
6. The applicant's 'Range Rules' shall be posted inside the indoor recreation facility and shall be adhered to at all times.
7. All locking devices on all exterior doors shall be high-quality security locking systems approved by the Crime Prevention Through Environmental Design (CPTED) Office.

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.

**Greg S. Horvath [Applicant] Greg S. & Carolyn M. Horvath [Property Owners]
Conditional Use Permit (Home Occupation)
2321 Vaughan Road**

November 4, 2020

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you, Mr. Redmond. Next item is item five, Greg Horvath for Conditional Use Permit for Home Occupation at 2321 Vaughan Road, is the applicant available? Thank you, sir, please state your name for the record.

Mr. Horvath: Good afternoon, Greg Horvath and Carolyn Horvath.

Mr. Weiner: Are all the conditions acceptable.

Mr. Horvath: Yes, thank you, sir.

Mr. Weiner: Thank you.

Mr. Horvath: Thank you.

Mr. Weiner: Is there any opposition to this being placed on the consent agenda? Hearing none, Mr. Inman, can you read this on the record for us.

Mr. Inman: Thank you, Mr. Weiner. This property is in AG1, AG2, agricultural district, and the applicant wants to have a home occupation to operate a home based business where he will process a limited amount of lumber for sale. The applicant is a member of the American Tree Farm System and Practices silver culture management seeks a use permit in order to produce the lumber for sale. The applicant says no more than three trees per year will be harvested from this property and processed and the lumber and selection and purchase of lumber will be done by appointment only by local woodworkers and hobbyists. Lumber will be stored inside the existing barn building until it is sold. The staff supports this proposed application and finds it consistent with typical uses in agricultural districts of Virginia Beach. The Department of Agriculture reviewed the request, has no objection, the impact to adjacent properties is inconsequential is only two or three trees are planned to be harvested each year. So, based on these considerations, there are several conditions that the sale will be by appointment only. Processing trees will not occur more than five times per calendar year and only occur between dusk – says only occur between dusk and dawn - dusk to dawn. I don't think that's right.

Mr. Tajan: I believe that might be reversed. I apologize for the record will ...

Mr. Inman: From dawn to dusk.

Mr. Tajan: Yes, from dawn to dusk, we will clarify the condition. Yeah, we don't want them to be cutting at 1 o'clock in the morning.

Mr. Inman: Yeah, yeah, I thought that'd be a lot of lighting involved in that. Any sign identifying the home occupation will not be eliminated and not be more than one square foot in area and mounted flat against the residence. Based on these recommendations and conditions, we put it on the consent agenda.

Mr. Weiner: Thank you. The next items, item 16 which is Short Term Rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the consent agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance, staff support the application and there is no known opposition for this request for item number 16. So in saying that I move for approval on the consent agenda items 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? All right.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By a recorded vote of eight to zero, agenda items number one, number two with conditions as amended, number three, number four with Commissioner Wiener abstaining. Number five with conditions as corrected, number seven, number eight, number 11 and 16 have been approved by consent.

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

CONDITIONS

1. The sale of lumber shall be by appointment only.
2. The processing of trees shall not occur more than five (5) times per calendar year and shall only occur between dawn to dusk.
3. Any sign identifying the Home Occupation shall be non-illuminated, not more than one square foot in area, and mounted flat against the residence.

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.

**Collier & Associates, L.P. [Applicant & Property Owner]
Conditional Rezoning (A-18 & A-24 Apartment, R-7.5 & R-10 Residential Districts
to Conditional PD-H2 Planned Unit Development (R-7.5 Residential, A-24 & A-36
Apartment Districts)
2352, 2348 & 4701 Windway Lane, 4753 Birdsong Lane; 2336 & 2324 Pleasure
House Road**

November 4, 2020

DEFERRED 30 DAYS

Ms. Oliver: Are there any more deferrals?

Mr. Tajan: Madam Chair, I don't believe the representative for the applicant is here. But we did receive in writing a request for item number six Collier and Associates for a deferral of their item so they can do continue public outreach and provide documentation for staff's review. That's item number six Collier and Associates

Ms. Oliver: Okay, great, thank you. Okay, great. Thank you. So I need a motion on the deferral items number 6, number 9, number 14, and 18 through 27, please.

Mr. Weiner: Madam Chair, I move for deferral for item six till December 9th meeting. Item number nine indefinite. Item number 14 for December 9th meeting and items number 18 through 27 for the December 9th meeting.

Ms. Klein: I will second, please.

Ms. Oliver: I think I have a second by Commissioner Klein, please.

Ms. Sandloop: Mr. Tajan, is the item number six an indefinite deferral.

Mr. Tajan: 30 days.

Ms. Sandloop: Okay. Calling for vote, Mr. Alcaraz

Mr. Alcaraz: Aye

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston is absent.

Mr. Coston: Aye.

Ms. Sandloop: Oh, I'm sorry. Sorry. Absent sorry, Mr. Graham is absent Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chair Weiner.

Mr. Weiner: Aye

Ms. Sandloop: And Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items 6, 9, 14 and 18 through 27 have all been deferred. Item six for 30 days, item nine indefinite, item 14 - 30 days, items 18 through 27 - 30 days.

Ms. Oliver: Thank you.

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

Item # 7.

**Rita M. Whalen & Michael J. Whalen Trust [Applicant & Property Owners]
Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)
Adjacent parcel north of 3652 North Landing Road**

November 4, 2020

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you, Mr. Inman. The next is item number seven, Rita Whalen, Michael Whalen for Subdivision Variance adjacent to 3652 North Landing Road. Welcome.

Mr. Bourdon: Thank you, Mr. Vice Chair. Chairman Oliver, members of Commission for the record Eddie Bourdon Virginia Beach Attorney representing the Whalen's. We appreciate this item being on the consent agenda. The one condition recommended is acceptable to us and want to thank Mr. Landfair as always for his excellent work. Thank you.

Mr. Weiner: Thank you. Is there any opposition to this being placed on the consent agenda? Hearing none, Mrs. Klein is going to read this on the record for us, please.

Ms. Klein: Thank you. This Subdivision Variance is requested at the adjacent parcel north of 3652 North Landing Road. The property was originally created by deed in 1970 - May of 1973 and recorded in the Clerk's office in June 1973, after the requirement to subdivide property by plat was in place. The parcel contains just under 1.2 acres and exceeded all the dimensional requirements of the AR district at the time the deed was recorded. However the parcel was never the subject of a recorded subdivision plat as required by the subdivision regulations and the property owners are requesting a subdivision variance to allow recordation of a subdivision plat to construct a single family dwelling. Staff recommends approval and the commissioners concur.

Mr. Weiner: Thank you. The next items, item 16 which is Short Term Rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the consent agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance, staff support the application and there is no known opposition for this request for item number 16. So in saying that I move for approval on the consent agenda item 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? All right.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items number one, number two with conditions as amended, number three, number four with Commissioner Wiener abstaining. Number five with conditions as corrected, number seven, number eight, number 11 and 16 have been approved by consent.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman	AYE			
Klein	AYE			
Oliver	AYE			
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 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 # 8.
Kendyl Teague [Applicant] Stewart Investments LLC [Property Owner]
Conditional Use Permit (Beauty Salon)
613 North Lynnhaven Road**

November 4, 2020

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you, Ms. Klein. The next is item number eight. Kendyl Teague for Conditional Use Permit for Beauty Salon at 613 North Lynnhaven Road, Mr. Bourdon.

Mr. Bourdon Again for the record Eddie Bourdon, Virginia Beach attorney representing Ms. Teague. All three conditions as recommended by Staff are acceptable and I want to tell Bill that we will definitely miss him and good luck in your next endeavor. Thank you.

Mr. Weiner: Thank you, sir. Is there any opposition to this being placed on the consent agenda? Hearing none, Mr. Coston., can you read this into the record for us, please.

Mr. Coston: The applicant Kendyl Teague is requesting a Conditional Use Permit for a Beauty Salon proposed within the existing commercial building along North Lynnhaven Road on a property zoned O2 office district. Zoning Ordinance identifies a beauty salon as a conditional use within the O2 Office District and as such a Conditional Use Permit is required. Beauty Salon and Spa will occupy 3800 square feet of the building with an additional 200 square feet proposed for storage. The remaining 2760 square feet of the building will be leased to a separate user for office space. The proposed salon will provide services such as hair treatments, facials, makeup, Botox, body waxing and massage therapy. According to the application, the beauty salon will have up to 12 employees, typical hours of operation will be from 9:00 a.m. to 7:00 p.m. The existing plant material of trees and shrubs shall remain along North Lynnhaven Road with additional turf areas and foundation plantings. The Staff recommends approval and Planning Commission concurs.

Mr. Weiner: Thank you. The next items, item 16 which is Short Term Rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the consent agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance. Staff supports the application and there is no known opposition for this request

for item number 16. So, in saying that, I move for approval on the consent agenda item 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? Alright.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent. Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent. Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By a recorded vote of eight to zero, agenda items 1, 2 with conditions as amended, 3, 4 with Commissioner Weiner abstaining, 5 with conditions as corrected, 7, 8, 11, and 16 have been approved by consent.

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

CONDITIONS

1. A business license for the beauty salon shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
2. The property shall be in substantial conformance with the submitted revised site layout exhibit prepared by Synertron Engineering, September 22, 2020. Said plan has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. Any on-site signage shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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 # 9.
St. John the Apostle Catholic Church and School [Applicant and Property Owner]
Modification of Conditions
1968 Sandbridge Road**

November 4, 2020

DEFERRED INDEFINITELY

Mr. Bourdon: Good afternoon, Chairwoman Oliver, members of the Commission, for the record Eddie Bourdon, Virginia Beach Attorney. St. John's Apostle Catholic Church and School item number nine, we request an indefinite deferral on that. Hope to be back by January. I've been working on this storm water situation for a year. Appreciate the commission deferring the matter. Thank you.

Ms. Oliver: Okay, great, thank you. Okay, great. Thank you. So I need a motion on the deferral items number 6, number 9, number 14, and 18 through 27, please.

Mr. Weiner: Madam Chair, I move for deferral for item six till December 9th meeting. Item number nine indefinite. Item number 14 for December 9th meeting and items number 18 through 27 for the December 9th meeting.

Ms. Klein: I will second, please.

Ms. Oliver: I think I have a second by Commissioner Klein, please.

Ms. Sandloop: Mr. Tajan, is the item number six an indefinite deferral.

Mr. Tajan: 30 days.

Ms. Sandloop: Okay. Calling for vote, Mr. Alcaraz

Mr. Alcaraz: Aye

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston is absent.

Mr. Coston: Aye.

Ms. Sandloop: Oh, I'm sorry. Not absent sorry, Mr. Graham is absent Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chair Weiner.

Mr. Weiner: Aye

Ms. Sandloop: And Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items 6, 9, 14 and 18 through 27 have all been deferred. Item six for 30 days, item nine indefinite, item 14 - 30 days, items 18 through 27 - 30 days.

Ms. Oliver: Thank you.

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

Item # 10.

**Burger Busters, Inc. [Applicant] Balboa, LLC [Property Owner]
Modification of Conditions
2902 Pacific Avenue**

November 4, 2020

RECOMMENDED FOR APPROVAL – HEARD

Ms. Sandloop: Thank you, Madam Chair. First agenda item is item number 10 Burger Busters Incorporated, an application for Modifications of Conditions on property located at 2902 Pacific Avenue in the Beach District.

Mr. Bourdon: Madam Chair, for the record Eddie Bourdon, Virginia Beach Attorney representing the applicant Burger Busters, Mr. Yanni Echelios is here representing my client. This applicant is a locally headquartered business that operates dozens of restaurants in Virginia and the Mid Atlantic. The CEO is Tassos Paphites who is a First Colonial graduate who I grew up with and played baseball with when I was a little boy. We both were as a matter of fact. This application involves the request to modify two conditions that were included with the 2018 approval of this special exception by City Council. The first is condition number two which involves the placement of actually two murals on the east facing wall of the Taco Bell adjacent to Pacific Avenue. When we filed this application we proposed one wall mural and when we met with the PDRC of RAC they were very pleased, very happy with what we were proposing to do, what my clients were proposing to do and asked if we would do two. And so my clients considered that and decided that sure they would. So, the application that's condition number two because all the elevations were part of the proffered approved special exception, that's why we are here, I like the wording of that - revision appreciate Jenizza's work on this, that wording will not require us to come back here in 10 years or whatever when we need to put a different mural up. So, that's something that the Planning Director will be able to approve at that time, if that happens. The other condition is condition number 8 which involves hours of operation. When - let me back up, this piece of property in the OR district can be utilized if we close the drive through we can have a restaurant there, outdoor seating serve alcohol till two in the morning. We can't do it as Taco Bell because of condition number 12 which we agreed to when we went through this process that alcohol sales is not allowed here but other than that condition and it being Taco Bell that is allowed by right. The properties that surround us, Mr. John Vakos and Mr. Richard Doumar own the properties, the three properties directly to our west. They have

absolutely no objection and they supported this application from the beginning in 2018. The Yee family and Murphy's which is a well-run establishment, that everyone is familiar with on Pacific Avenue directly adjacent to our Northern boundary they are also allowed to serve alcohol until 2 AM and they have a lot of outdoor seating but they run a great facility. The Kasir family owns the property directly to the south across 29th street, also operated by Chichos. They too serve alcohol till 2 AM, operate till 2 AM. By condition we took this to city council in 2018 working with Councilman Uhrin and the city council who overwhelmingly approved this application, we were asked while we can open the restaurant till 1 AM, not 2, close at 1 AM that because of concerns that there might be problems with disruptions because of the drive through, we agreed to midnight we close the drive through. There have absolutely no problems. This facility opened in March of '19 and has been operating for the last two summers. Haven't had a problem with anyone and have no knowledge of any problems whatsoever and so we were coming to do the mural and we would like to at the same time as the party application from the beginning to merry up the hours of operation so that the drive through can open till 1 AM just like the business and it's not open till 1 AM all the time. But the business closes at 1 AM, drive through closes at 1 AM. Staff has done all the research, we have operated the business, it's well run, it's clean, it's done everything that we promised it would do, hasn't been a problem for anyone. And so we are requesting that that condition number eight be modified so that business must close by 1 AM and cannot open until 7 AM.

You have two emails, I would even call them opposition emails but Mrs. Parker who was here, since she didn't plan on coming and speaking I think she wanted to speak about short term rentals but her email dated September 15th was to alert, she sent it to Mark Goldner but Lance Goldner actually operates the apartments that are not adjacent but are on 29th street and if you read Lance's email he is basically saying I am concerned that they may try to do it 24 x 7. He didn't say that he has had a problem because there haven't been any problems. He just doesn't want us to operate around the clock. We are not asking to operate around the clock. We are not asking to do anything other than merry up the 1 AM closing of the restaurant with the 1 AM closing of the drive through. Mrs. Parker's email also doesn't really express any concerns that there something is going to take place because of the drive through being open until 1 AM. With all the activity at the ocean front in the summer months and with the surrounding uses and as I said you know the issue - there are issues at the oceanfront but I don't think the issues that we have at the oceanfront have a darn full thing to do with drive

throughs. We have got a whole lot of problems, but drive throughs are not one of them. Certainly not a drive through that closes at 1 AM when all the business around us that are selling alcohol and again I am not down on that either but just the point that it's not Linkhorn Park, you know it's not linked to one part. You know it's not Croatan, And these are good local community oriented operators. They have a beautiful facility; they went to great lengths to design a facility that fits on that property and has not caused any issues or problems with anybody. Police have had no incident reports whatsoever in two summers of operation. And staff recommend approval, we would appreciate your recommendation as well, if we have to answer any questions.

Ms. Oliver: Anybody have any questions for Mr. Bourdon? Thank you.

Mr. Bourdon: Thank you, ma'am.

Ms. Oliver: Do we have any speakers on this application? No. Are there no speakers?

Mr. Tajan: No ma'am, we have no speakers for this item.

Ms. Oliver: Thank you. Alright then I am going to close it and open it up to the commission. Go ahead Mr. Redmond

Mr. Redmond: I move approval of the application

Ms. Klein: I will second.

Ms. Oliver: I do have a little bit of discussion on the hours. I am not comfortable with that we spent a long time when Taco Bell came in originally about those hours and so on that I would like to keep them as they were originally conditioned in the application.

Ms. Klein: Can you provide some background for those of us who weren't here, please?

Ms. Oliver: The background on that was that we had a concern on drive throughs at that time and whether they were a good neighbor to the apartments that had just been approved and built there. And so with that being a drive through that has a tendency to be loud with the speakers and cars coming through, we didn't have a problem with them having extended hours within the restaurant because that was inside the building, it was outside and the noise that went on and so. Go ahead.

Mr. Weiner: It didn't meet the form based code that was because drive throughs aren't permitted. So it came before us for variance on that or change on that. I

remember talking about the hours a long time ago when we really pushed it up to 12 o'clock then. I kind of the way Mr. Bourdon is bringing to us now it is true, I mean there is no opposition to it, so I don't know why. If there is some opposition to it and people in the apartment complex were coming out and saying there is opposition and the people who lived there say there is opposition but there is none. So it's kind of hard for me to say no to it.

Mr. Redmond: Yeah, I mean if the hours would be a problem if there is a problem with the hours but there is no problem with the hours. To hear Mr. Bourdon obviously wants to say something but give me my piece first okay, then you can go. Mr. Bourdon is not shocked but I am not either. If there were a problem then that would be one thing, so I don't know, I mean you are a bad neighbor if you demonstrated bad neighborliness in some way but Mr. Bourdon I think is exactly right, there is a lot that goes on at the ocean front that's a lot louder than a drive-through and a lot later than 1 AM and it's not connected to a Taco Bell. So I don't understand what the objection would be to extending those hours to match with the restaurant itself, if you can sit down in it why can't you drive through particularly in the ages of a pandemic when most people would prefer to drive through rather than to get out and go into a restaurant it seems to me that makes more sense. And I don't know what the problem would be.

And I have to say I love the murals. You know I think we don't spend enough time in my view on aesthetics in what we do and I mean if you can add some visual interest like that to a building particularly one that fronts a roadway like this one, I think it's a great improvement. And whoever designed that murals, murals at the oceanfront - kind of tend to look a little bit the same to me and this doesn't look like this. This is cool, I think so. I love the visual interest and the diversity that it brings to the building environment, I can't imagine what the issue is with the drive through, that's my view. Thanks. Alright there he is.

Ms. Oliver: Commissioner Klein.

Ms. Klein: I respect the concerns that you had initially when this Taco Bell went up. It sounds like based on the staff report that they have spoken with the police about the area they are having - in that time frame there haven't been issues. And so perhaps they have proven themselves to be a good neighbor. I like the idea of the inside and outside hours matching up or the outside hours being longer than inside hours is I think what we usually see. So, I hear your concerns and where they came from originally but it seems like at this point they have shown that they can be good neighbors.

Mr. Inman: Yeah, I think we clarified what our original concerns were about outside speaker and so forth but that would be disturbing to the apartments that had just been finished. One had been in place for a while and another building is just being occupied and were leased up. And so, sure there was an orange sign that went up to announce this application and this change and there is nobody here to say that there is a problem. So I guess there is no problem, that's my opinion.

Ms. Oliver: Jack?

Mr. Wall; I think originally I believe I opposed this application, if I can remember right. I think the grounds were, you know just that we wanted – or at least I personally wanted to comply with the standards that were in place and be consistent throughout the oceanfront. And there is in the standards, I don't think we have had any applications you know for additional drive throughs near restaurants of this nature at the ocean front since then. I mean that does mean that we won't have others. But, so I think that was my position at that time that, you know I think aligning the hours kind of makes sense. I don't know if an hour really makes that much, it's going to make that much of a difference, you know makes sense to align the hours. I mean I think there are Taco Bells throughout the area that actually have longer hours like 3:30 – 4 AM. So I think that's what somebody when they were saying 24 hours may have been implying was that they are stretching well into the morning. I mean not that 1 AM isn't already into the morning but, so yeah, that's my discussion.

Ms. Oliver: Thank you. Mr. Bourdon.

Mr. Bourdon: I wanted to make – if you can put the composite map up. Brian Large Ocean Realty is - a composite. When we were going through this process they were just beginning to construct the units along 30th Street. High end condominium units and they support this application and they have no problems with this. I just want to make everyone aware of that. There is a substantial distance between all of those. This is parking for Murphy's. The speaker for the drive through which is designed so it's right up against the building and they have a speaker that does – they have the best you can get, so you don't have any loud noise anywhere. So they have done everything because they are local people to make sure that this was and is a extremely well run and non-controversial facility and that was the promise we made to council and I will sit down and shut up.

Ms. Oliver: Thank you, Mr. Bourdon. Alright, right now we have a motion on the floor by Commissioner Redmond and a second by Commissioner Klein, can you call for the vote please.

Ms. Sandloop: Mr. Alcaraz

Mr. Alcaraz: Aye.

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein.

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chair Weiner

Mr. Weiner: Aye

Ms. Sandloop: And Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda item number 10, Burger Busters Incorporated has been approved.

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

CONDITIONS

All of the conditions of the Special Exception for Alternative Compliance approved by City Council on May 1, 2018, shall be deleted and replaced with the conditions below.

1. When the property is developed, it shall be substantially in accordance with the submitted site and landscape exhibit which shows a single curb cut entitled "PACIFIC AND 29TH STREET CONCEPT LANDSCAPE PLAN," dated July 17, 2017 prepared by Blakeway Corporation, with the exception of any conditions stated below. Said exhibit has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. When the site is developed, the structure constructed shall have the architectural features, and appearance of like quality and character to the architectural elevation exhibits entitled, " EXPLORER LIGHT, EXTERIOR ELEVATIONS," dated November 29, 2017, and " EXPLORER LITE, RIGHT SIDE ELEVATION WITH SCREEN WALL," dated March 23, 2018, as prepared by Mark D. McCluggage AIA, CCS, with the exception of any conditions below. These elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning and Community Development. In addition, a decorative mural feature may be added to the two white accent panels on the eastern building façade facing Pacific Avenue. The decorative mural design shall be as shown on the submitted rendering prepared by GLMV Architecture or other mural designs as approved by the Planning Director. Such mural features shall be hand-painted or digitally printed on a high-quality film product suitable for exterior surface applications with an expected life performance of at least five (5) years.

3. As part of the approval of this request for a Special Exception for Alternative Compliance, the required parking shall be reduced to fourteen (14) parking spaces. Employment by this business shall not render an individual eligible for a Residential

Parking Permit (RPPP). Applicant shall encourage employees who are able to walk, bike, ride-share and take the bus/trolley to work. Applicant shall assist those employees who must drive a motorized vehicle to work by:

- a. Organizing carpools and purchasing or participating in the purchase of monthly employee Parking Passes in the 31st Street Parking Garage; and
- b. The two (2) onsite Manager controlled Parking Spaces shall be used by the Managers or as directed by the Managers for Employee Carpool Vehicles. This shall include ferrying employees to and from satellite parking at the Applicant's restaurants on General Booth Boulevard and Great Neck Road as needed.

With the exception of the two (2) designated Manager controlled spaces, employees shall not be permitted to park on site.

4. As shown on the site plan exhibit, the drive-through lane and exit lane & parking area shall be improved with two (2) separate materials or surface treatments that substantially differ in appearance such that drivers are clearly guided to the correct aisle.
5. As part of site plan review, to ensure adequate screening is provided within the reduced 5-foot parking setback, the Development Services Center Landscape Planner may request up to 40% additional plantings than the minimum amount of plantings required by the parking lot street frontage regulations of the City of Virginia Beach Landscaping Guide. To ensure the growth of all plants, all landscaped areas shall be irrigated.
6. As part of site plan review, the applicant shall adjust all drive aisles to meet the minimum width supported by Public Works Traffic Engineering. Residual area shall be used to increase interior or perimeter landscape screening of the drive aisles.
7. As part of site plan review, as supported by Public Works Traffic Engineering, the applicant shall provide landscaping to the north and south of the on-street parking spaces located in the public right-of-way of Pacific Avenue.
8. The restaurant and drive-through shall not operate between the hours of 1:00 a.m. and 7:00 a.m.
9. All signage shall follow the Oceanfront Resort District Sign Design Guidelines. No window signage, interior or exterior, temporary or permanent, shall be used. No signage shall be used in the outdoor dining area. Signage shall not be provided on trash receptacles, fencing, furniture, bicycle racks, patio umbrellas, or drive-through canopies. The proposed screening wall shall not be included when calculating the amount of signage permitted by the Form-Based Code.
10. Pavers shall be used for the proposed patio space. The applicant is currently showing a fence surrounding the patio and a strip of landscaping separating the patio from Pacific Avenue. If desired by the applicant, at site plan review, the fence

and landscaping may be removed to provide less restricted pedestrian movement at the corner of the site. If fencing is used, it shall meet the Oceanfront Resort District Design Guidelines by being weather resistant and comprised of low maintenance materials.

11. To ensure this proposal contributes to the long term goals of the Oceanfront Resort District Form-Based Code and the Resort Area Strategic Action Plan, this Special Exception for Alternative Compliance shall be granted for no longer than a period of twenty-five (25) years from the original approval date May 1, 2018.
12. The sale and service of alcohol shall be prohibited on this property.

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.

Atlantic Park, Inc. & City of Virginia Beach Development Authority [Applicants & Property Owners]

Street Closure

Portion of south side of 20th Street between Pacific and Arctic Avenues; portion of south side of 20th Street between Arctic and Baltic Avenues; portion of west side of Arctic Avenue between 19th and 20th Street; portion of 19th Street between Pacific and Arctic Avenues; all alleys in block surrounded by Arctic and Baltic Avenues and 19th and 20th Streets

November 4, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you Mr. Coston. The next is item number 11. Atlantic Park Incorporated and City of Virginia Beach Development Authority for street closures, located on portions of south side of 20th Street between Pacific and Arctic Avenues, portions of South Side and 20th Street between Arctic and Baltic Avenues, portions of west side of Arctic Avenue between 19th and 20th Streets, portions of 19th Street between Pacific and Arctic Avenues, all alleys within blocks surrounded by Arctic and Baltic Avenues and 19th and 20th Streets. And I believe Mrs. Ashby is going to talk or is the applicant? Okay. Okay, thank you, sir, please state your name for the record.

Mr. Culpepper: Michael Culpepper on behalf of Atlantic Park Inc. and all the conditions are acceptable.

Mr. Weiner: Great. Thank you, sir. Any opposition to this being placed on the consent agenda? Here we go. Hearing none, Ms. Ashby Moss is going to come and read this in the record for us.

Ms. Moss: So the applicant is requesting to close portions of various rights of way on an assemblage of property owned by the City of Virginia Beach Development Authority. The area has been referred to as the Dome site consists of two blocks between 18th and 20th Streets Pacific to Arctic Avenues and the block between 19th and 20th Streets and Arctic to Baltic Avenues. If approved, the closed rights of way will become property of the City of Virginia Beach Development Authority, who will then enter into a long term lease of the combined Dome site property with the developer. The proposed street closures include basically two categories of street closures. The first 19th Street, all of 19th Street, the full width of the 80 foot right of way, is requested to be closed between Pacific and Arctic Avenue. This is above and below ground. This is an area where the wave pool, the surf

lagoon will be if everything gets approved and moves on. Also all of the alleys that are within what we refer to as the Treasurer's Block surrounded by Arctic and Baltic, 19th and 20th Street, those are full closures above and below ground. In addition, there is a portion of 20th Street on the south side of 20th Street between Pacific and Arctic Avenue, there is a full closure request for five feet, and then an additional underground only closure of 4.5 feet on the block between Pacific and Arctic, and then the south side of 20th between Arctic and Baltic, is a full closure two feet increasing to five feet, and then an additional 8.1 feet underground only. And lastly, the west side of Arctic Avenue midblock between 19th and 20th Street is a request for a full closure of 11.4 feet, and then an additional two feet underground only to accommodate the entertainment venue.

As required by City Code, a Viewer's Meeting was held on October 19th. The Viewers recognize that additional detailed studies and analyses are needed to determine what roadway and infrastructure improvements will be required to support the proposed development. These studies include but are not limited to a traffic impact study, site distance analyses and detailed site plan review. Therefore, the conditions below have been crafted to require the applicant to provide these studies and the improvements deemed necessary based on the information the studies provide. If necessary, the applicant may be required to adjust or modify the areas for closure. So with these added conditions, the Viewers determined that the proposed closures will not result in a public inconvenience. And therefore, they have been recommended for approval by staff based on the seven conditions and the Planning Commission also, I believe recommends approval.

Mr. Weiner: Thank you, Ms. Moss. Okay.

Mr. Redmond: Mr. Weiner

Mr. Weiner: Yes, Mr. Redmond.

Mr. Redmond: Ashby, don't go away, I just wanted to - before you do go away I just wanted to say thanks. I've asked some questions of you earlier and in the break I had the opportunity to visit with the applicant and better understand their process. So I appreciate your help earlier and your patience and so my questions were all resolved. So thanks again.

Ms. Moss: Okay.

Mr. Weiner: Thank you. The next items, item 16 which is short term rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental on the Consent Agenda as this application meets the applicable requirements of Section 241.2 of the Zoning Ordinance, staff support the application and there is no known opposition for this request for item number 16. So in saying that I move for approval on the Consent Agenda items 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? All right.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chair Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items number one, number two with conditions as amended, number three, number four with Commissioner Wiener abstaining. Number five with conditions as corrected, number seven, number eight, number 11 and 16 have been approved by consent.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
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 is normally determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council. However, no purchase price shall be charged for this street closure because the City of Virginia Beach Development Authority is an applicant seeking this street closure.
2. The applicant, or the applicant's successors or assigns, shall resubdivide the properties and vacate internal lot lines to incorporate the closed areas into the

adjoining parcels. The resubdivision plats must be submitted and approved for recordation prior to the final street closure approval. Said plats shall include the dedication of a public drainage easement over the closed portions of the alley or lanes to the City of Virginia Beach if it is determined by the Department of Public Works to be necessary, subject to the approval of the Department of Public Works, and the City Attorney's Office, which easement shall include a right of reasonable ingress and egress.

3. The applicant shall submit a Traffic Impact Study ("TIS") and Site Distance Analysis to be reviewed by the Traffic Engineer for the Department of Public Works prior to the final approval of the street closure. Based upon the results of the Traffic Engineer's analysis of the TIS and Site Distance Analysis, the applicant shall, if necessary, adjust or modify the areas proposed for closure to areas no greater than what is described herein and shown on the exhibit attached hereto, subject to the approval by the Department of Public Works.
4. The applicant shall, in accordance with the Public Utilities Design Standards Manual and to the extent agreed upon by the City, abandon all public water and sanitary sewer infrastructure within the area of 19th Street to be closed.
5. The applicant shall cause to be relocated public water and sanitary sewer infrastructure adjacent to the areas to be closed along or within 20th Street and Arctic Avenue if determined by the City that the said infrastructure will be impacted by the street closure in a way that causes the location of the infrastructure, in relation to improvements proposed by the applicant, to present an unacceptable risk to the City or the City's ability to maintain said infrastructure.
6. The applicant or the applicant's successors or assigns shall verify that no private utilities exist within the rights-of-way proposed for the closure. If private utilities do exist, easements satisfactory to the utility company, must be provided.
7. Closure of the rights-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 plats are not approved for recordation within one year of the City Council vote to close the rights-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 # 12.

**Rickert Family Living Trust [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
349 Norfolk Avenue**

November 4, 2020

RECOMMENDED FOR APPROVAL – HEARD

Ms. Sandloop: Our next item of business is agenda item number 12 and Madam Chair we do have four speakers for this one. Agenda item number 12, Rickert Family Living Trust, an application for a Conditional Use Permit Short Term Rental on property located at 349 Norfolk Avenue in the Beach District. Could the applicant or the representative approach the podium and state your name for the record.

Ms. Oliver: Hi welcome.

Ms. Rickert: Good afternoon and thank you for having Rob and I here. My name is Zinta Rogers Rickert and Rob Rickert. We would like to share with you our experience as long time second home resident owners and only a temporary short term renters for necessity rather than profitability. When we purchased the property in 2005 it was bought as a primary residence, Rob lived here in Virginia Beach, I live up in Fairfax City and for seven years it was the primary residence and only for the last eight years have we rented for approximately 12 weeks, no more than 15 in the course of 52 weeks. We are down here every single month, we have a 94-year-old mother and family in this area and it is our second home. Our tax person doesn't appreciate really the fact that we use it so much, it causes tax issues and all of that but at the time when he decided to move up to Fairfax because I had a long established clientele with my business we had four girls to go through college and five potential weddings for our girls to plan. So in order to keep the place we were one of the first in our community Lake Station to look into short term rentals because they are not in any way restricted in our condominium documents. So for eight years we have managed the second home and occasionally rented to non-family, non-smoking, no pets and generally one car and no more than four people to a unit. To give you some idea of who the people are that use these short term rentals, we have had people as far away from England and Australia. Recently someone came from Arizona for a wedding and more local to the area you have lots of people that come to rent to participate in the local cheer events, fishing and softball competitions. And our favorite families are those that come to spend

more time with their son or daughter before they see them off to serve in the military. Only once and I stress only once in eight years has a neighbor ever brought it to our attention that a renter was noisy and we immediately remedied the problem. Rob and I are at the condo once a month anywhere from three to seven days every month. As you can see I have my ECSC shirt on and we, actually I have Neptune on, we like to participate in a lot of the weekly events and we are a big promoters of the Virginia Beach over Ocean City type events to all of our friends and family and those that we advertise to in the Fairfax area.

I think it's important that this board understand our Lake Station community. There are a total of 32 units divided into three independent sections. The far west section has two town home style units both rented yearly and the same owner owns both and is responsible for all of its maintenance. The far east cluster of buildings has the total of 18 units with three separate entrances and they are responsible for all of their own maintenance. One family owns three of those units. The breakout of the section of three buildings has six units that are second homes, six are either full time rentals or short term rentals and six are full time owner residents. Recently one of those owners who wanted to change from a short term rental to a yearly rental had to within the first 30 days offer 3000 dollars to the tenants she had rented to, it was a father and son scenario, to get them to give up keys because there were so many complaints and violence and drug use by those tenants that she was trying to go to a yearly basis. Currently another unit may have, it's rumored that there may be a drug dealer in that section of buildings and neighbors are walking on eggshells there. On a yearly lease the rent is only about \$1500 a month whereas on a weekly rate you can rent it for \$1300 to \$1500 a week. So it's safe to assume that it's a much more affluent temporary renter even when there are problems that occur which again we have only had one in eight years. Our two building clusters has a total of 12 units. Three and half of them are full time resident owners, three full time rentals and five and half are second home owners of those 12. I have referenced it in that fashion because there is currently one owner that is between a full time resident and going to have to rent because he is in the military and may be transferred. This means half of our neighbors aren't even there most of the time summertime or otherwise. On a couple of occasions our second home neighbors from Pennsylvania have actually rented our unit too when more family was coming. What further makes our unit location within the community unique is we are in the Crux of a building. There is no access, nobody really sees our place, it's very private and great. It's a first floor unit as well, so nobody is walking behind us. We have no

way of accessing or exiting the community from the back of our place unless we go just around the building in our one neighbor's deck. As for any Shadowlawn neighbors we have one neighbor across the pond that can see our condo. Our community as a whole is an island in and of itself with an abundance of parking. There are 48 spaces for the 32 units. We sit and are located on a busy street Norfolk Avenue, it is well-traveled at all hours of the day and we are directly across the street from a seedy hotel called the Marlin. Except for roughly 90 days of the year Lake Station is a mini ghost town and many of us love it. With work, events, activities, restaurants and more it is rare that we run into any of our neighbors during any of those times except for an occasional trip to the dumpster. The 12 to 15 weeks a year that I referenced that might be rented out on a short-term basis is rarely in a row. It is not just during the summer months, this could be over the course of a whole year. We have had the same local manager and cleaning lady for those eight years. She lives approximately one mile from the condo. We have a lease, we require a cash deposit and all renters are 25 years or older with four adult maximum. We are very active in our community whether it's clean ups, organized clean ups for the pond and Rob has served on the Board for 10 years as the community president and has once again been elected to the Board. The community has no rules against short term rentals and we have self-managed with great care our second home. We want to keep the place and only by allowing for a few weekly rentals is that going to be possible for us. Our hope is that our kids and grandkids will continue to love their visits to Virginia Beach as we have and this allows us to be regularly here with family and Rob's 94-year-old mother who is in a memory care place. So with that I am here to answer any questions you might have.

Ms. Oliver: Does anybody have any questions for this applicant? Yes, Mr. Weiner.

Mr. Weiner: Did I hear you correctly you have been renting for eight years?

Mr. Rickert: Yeah.

Mr. Weiner: How long have you been registered with the city and paying taxes?

Mr. Rickert: When they sent me a notice back in, I want to say February of 2018, they send me a notice to go down to the city council. I mean I have always paid taxes through our accountant for rental income. They sent me a notice in February 2018 saying that you needed to come down here and register which I did.

Mr. Weiner: Okay, hold on a second. Question for staff, what is the date of the fathering / grandfathering? Isn't it July of 2018?

Mr. Tajan: That is correct, it is July 2018.

Mr. Weiner: So if he has been paying taxes, why isn't this grandfathered?

Mr. Tajan: That is a very good question, Mr. Weiner. When they said that I have been trying to search that as well at the moment. So, if you would like to keep going with the questioning I will see if I can find it.

Mr. Weiner: That's really it. No, we are just – we are going to check some things out, that's all I have right this second.

Ms. Oliver: Anybody else? Okay, thank you. I think we have a couple of speakers and so we will come back to you.

Ms. Rickert: Thank you.

Ms. Sandloop: Yes, ma'am, we have four speakers and before I call them I just want to remind everybody that speakers have three minutes each. First speaker is Benham Malcolm to be followed by Thomas Belvin.

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

Mr. Malcolm: Good afternoon. My name is Benham Malcolm and my family has lived at 319 Norfolk Avenue - I owned 319 Norfolk Avenue since 1998. My family and I have been heavily impacted by short term rentals for the last two and half years that have occurred within our community. This is a precedent setting application within Lake Station community of 30 2-bedroom units. If approved there will likely be five more applications, five within the next 60 to 90 days by other neighbors that are currently doing unregistered rentals. This is the start of a motel within our community that is zoned as a apartment 18. Everything about our building construction or parking, or the way it's structured, management company, contract, utilities, security, maintenance it's all designed for single family long term occupancy kind of residence.

Our community has spoken before on opposition to short term rentals. On July 8th this Planning Commission voted seven to two to deny the application for 323 Norfolk Avenue. For unit 323 the email opposition that was represented 47% of our community, for today 38% of our community has written opposition emails. During the Commission review of July 8th for the 323, Mr. Horsley said, "I think this is one incident where short term rental condition use permit has come to life that's made these problems evident

because the neighbors have the right to come and voice their opinion.” So I think this ordinance is really working here. So I want to support the motion for denial Mr. Alcaraz has made. Mr. Horsley is correct. The CUP process is working and our neighbors are opposed to approval of the application for 349 Norfolk Avenue. The overall message from our community is clear, we want to be a residents community, not a motel, please honor our desires. In terms of violations on June 29th the applicant was notified by enforcement by zoning authorities you need to register short term rental. From then through last weekend, 349 continued short term rentals. The applicant communicated that he has been paying his taxes for his grandfather short term rentals. We all believe them. So as a result we didn’t bother to complain or file for issues with the city during the course of 2020. Renting before approval same issue was discussed during the applicant interview for 323 when Ms. Oliver and Mr. Graham had the discussion and I quote, ”In the application they did not follow the rules, so by passing something in this way we are almost rewarding bad behavior. Approval of this application for 349 would be deemed rewarding bad behavior.”

A former long term member of the planning commission said that the developer has an obligation to minimize the impact to surrounding neighbors. In this case you are the developers of neighborhood impacting unregulated motel one room at a time with individual owners for every room. Please let’s put heads and hotel beds that are nearby, not in Lake Station condominium beds, please minimize the impact to our community by denying the CUP application for 349. Thank you for your time and what questions do you have.

Ms. Oliver: Does anybody have any questions for the speaker? Yes. Mr. Redmond.

Mr. Redmond: Can you speak to this unit in particular, I mean you said you have been impacted by short term rentals. Are you talking about what they own?

Mr. Malcolm: I am talking not about their community in general, it’s been impacted significantly by short term rentals.

Mr. Redmond: So you are not talking about this application?

Mr. Malcolm: This particular unit is not what I am referring to specifically but the application does include violations that were doing short term rentals on a weekly or less than weekly basis during the course of 2020 and as the applicants already indicated they are doing it for a long time.

Mr. Redmond: I appreciate it, you answered my question, I will say I entirely disagree. I think the Conditional Use Permit process in this has been a disaster. I think it's ripe for abuse, its altogether too objective. I think the course that we are on which I may not support in the end to make the law much more objective and much more certain about what does and doesn't qualify will make more sense than what we have been doing but thank you for your time

Mr. Malcolm: Thank you.

Ms. Oliver: Sir, I just want to clarify one sentence that you had, did you say you spoke to the applicant about his short term rental directly? Have you had a conversation with this applicant?

Mr. Malcolm: I have not had a conversation, I have had a conversation about short term rentals in our community associated with the last one with Rob, I did not have a conversation directly on 349. I did not know about it until the board showed up out on the street.

Ms. Oliver: Okay, thank you. I thought – wasn't sure if I had misunderstood because you said something about him being grandfathered that he had said he was grandfathered.

Mr. Malcolm: The word within the community was that Rob, we knew he was doing some rentals but we thought he was qualified and we had heard that he was paying his taxes, he told me that himself. And so that's why we didn't bother – we all thought he was grandfathered, when I contracted Summer about the application I asked why wasn't he grandfathered and she said well, "He wasn't paying his taxes."

Ms. Oliver: Okay, thank you, I appreciate it.

Mr. Malcolm: Good question.

Ms. Oliver: Alright, thank you very much. Oh, I am sorry, Mr. Inman.

Mr. Inman: Could you please tell us again your address and where you are relative to the applicant's property?

Mr. Malcolm: Yes, my address is 319 Norfolk Avenue, as was pointed out previously the community consists of a building of 18 units and a building of 12, I am in the building 18 units, I am up against Lake Holly

Ms. Oliver: Thank you very much.

Mr. Malcolm: Thank you.

Ms. Sandloop: Our next speaker is Thomas Belvin to be followed by Lee Jones Hubert.

Mr. Belvin: Hello. I am Thomas Belvin of 313 Norfolk Avenue, part of Lake Station condominiums. I am here to speak in opposition to the proposed CUP for 349. And here are some points that support my opposition. In our by-laws and rules for the condominium association the use of each unit is expressly restricted to single family use occupancy only. Two, while the mitigation of a rented parking space in the nearby parking garage maybe adequate solution for a short term rental using single family detached home, in this case a shared parking / guest parking does not work. There is no way to hold a short term renter accountable for not using the guest spaces thus impacting all other owners. Three, all owners personally share an inside stairwell, foyer, external keyed security door with each building section of six units. Management of the security door key and the constantly changing short term rentals will greatly increase risk to all residents. This is particularly troubling during a pandemic. Our community is not a hotel and it's not designed or constructed as one. Who do I or my family turn to night or day for noise, confrontation or security issues, call 911? The burden is on me and my family to confront, investigate and initiate enforcement. Number four, this application has not been reviewed or discussed or voted on by Lake Station HOA board or unit owners and it hasn't been signed by - the application itself hasn't been signed by the Board as per process.

So final few thoughts. The current Short Term Rental ordinance rules and regulations are really designed for single family detached homes. Condominiums with shared living spaces like security doors, internal stairwells, rear decks are shared, stair access and shared parking really do not apply. Two, there is no clear enforcement process for Short Term Rentals and condominiums. It's all on me, my family, my neighbors to regulate. Now if a renter misbehaves then the owner can just keep the security deposit, the city may fine the owner but there is really no accountability for following the rules especially in real time. I anticipate calls to 911. Also once approved the Short Term Rental owner has five years and an automatic renewal for the CUP. The requirements for the CUP keep changing it appears because they keep getting negotiated between the city and the applicants which is really strange to me. So given that the Short Term Rental ordinance is planning to be changed in January wouldn't it make sense...

Ms. Oliver: Thank you very much, Mr. Belvin.

Mr. Belvin: Okay.

Ms. Sandloop: Our next speaker is Lee Jones Hubert to be followed by Virginia Portalatin

Mr. Hubert: Good afternoon. In November 2013....

Ms. Oliver: Sir, before you get started, I just would like to ask you if you would state your name for the record.

Mr. Hubert: Oh, I am sorry. Lee Jones Hubert. Alright. In November of 2013 my wife and I purchased property at 325 Norfolk Avenue, Virginia Beach, Virginia 23451, Lake Station condominiums. This is our second home a place where we would come to relax and enjoy the new community as well as the beach. There have been many times that we have talked about even making this our primary home. We are aware that the investor in 349 has applied for CUP making Short Term Rentals legal in our community. We oppose this for the following reasons. Privacy. Privacy is a main concern of ours and we know many of the residents in our community and feel that if short term rentals become legal our privacy would be compromised. Short term renters come and they go and there is no way telling who is supposed to be on the premises and who is not at Lake Station. The community is not a hotel or a motel you know where you have like a desk clerk or a security guard or some means of social control there. There is no one to keep the peace except for the investor who lives 200 miles away. And the bottom line is then calling 911. And then there is lesser things we wouldn't call 911 like spillage of trash and things like this. So we want to be able to keep the peace in our community and notice the noise and safety, even though you might have four to six occupants in one unit as in the past, short term renters often have friends in nearby hotels and motels and they come over and join the party as well because there is a larger premises there. At times we have seen a dozen people on one of the decks that's made for about four people. Large amounts of trash collect in the parking lot large and in a lot of the common areas as well. As you have heard from the others you know we do have a corridor that you must go through before you get to your unit. Lake Station is being updated with, we are getting new doors and we are getting a coded keypad but in short the term rentals – if the Short Term Rentals become legal we would feel very unsafe knowing the code is out there and we would be given out to short term renters. So pets are allowed at Lake Station, however there is a leash law and lot of times short term renters aren't aware of this. And we have had some issues with that. Parking is another issue at Lake Station. Each condo is assigned a number of space and two guest passes and unnumbered space...

Ms. Oliver: Mr. Hubert, thank you very much. Time is up.

Mr. Hubert: Thank you.

Ms. Oliver: Oh hold on one second, Mr. Weiner has question for you.

Mr. Weiner; I am sorry, where is your condo compared to the Rickert's?

Mr. Hubert: It's in the building that's caddy cornered towards the building that he is in, on the same floor but it's in the other building caddy cornered to his maybe – to 850 feet part.

Mr. Weiner; How long have you been in yours?

Mr. Hubert: Seven years.

Mr. Weiner: Have you had any complaints at all against the renters in his condo?

Mr. Hubert: Well, we don't know where they are going when they go through the front door, whether they are going to his or somebody else's, we never kept track of it. We did have some issues with the parking where people coming and parking in the fire lane and leaving their vehicle there for a long time where they unloaded and then we pulled up like our spaces right next to the parking lot lane and they got very belligerent where there is like can't you park somewhere else. And they are not really understanding the concept that people live here, they think that we are just another short term renter like them. So there has been that and I don't know specifically that they were staying at that place and I don't know specifically that the trash they pick up out of the parking lot the day after somebody has been there is coming from that specific place. My main concern is we don't want to start a precedent here.

Mr. Weiner: How many units in your condo do you know, I don't know you may not know, how many units in your condo are short term rentals? I am just curious if you know because obviously we have received a letter from Thomas Ellis stating that since this is the first unit to officially be going in front of Planning the other units have withdrawn. I feel like speaking out. So I am just curious because he is saying in his email that there are no other units. I am just asking.

Mr. Hubert: Well, I am finding that out now but at the time that I am being confronted by this short term renter, I didn't know.

Mr. Weiner: I am just asking a question.

Mr. Hubert: Yeah, I didn't know at the time but I am learning that now.

Mr. Weiner: We will have to ask that question. Okay, appreciate that, thank you.

Ms. Oliver: Do we, Mr. Tajan, no I am just going to ask this while we are waiting. Do we know how many registered Short Term Rentals are in this building?

Mr. Tajan: According to the information we get from the Commissioner of Revenue, again these haven't been checked to see if there are – this just means they are registered and paying taxes, whether they did it before July 2018 or not has not been checked for these. There are four, two in the one building, where 349 is located and two in the adjacent building.

Ms. Oliver: And these are four rentals who presented in front of us?

Mr. Tajan: No, I believe that there was only – there was one in front of us, Summer, do you want to come up?

Ms. Peebles: So there has been one, that's been withdrawn, that went through the Conditional Use Permit process. There are four according to the Commissioner of Revenue's Office which are registered. Zoning office has received two Short Term Rental Registrations of those and received three letters because issues of notices of violations were sent to them that they were operating, they needed to come in conformance with the proper paperwork. We have received three letters that they have either stopped operating at these addresses – they have either stopped operating or doing long term home, share, they are not operating Short Term Rentals. And there is one in which there is a violation in process.

Ms. Oliver: Okay, great. So as of right now this is the only one that we have seen all the way through the process.

Ms. Summer: Yeah, the other one was withdrawn before city council.

Ms. Oliver: Okay, great, thank you.

Mr. Tajan: So, just to clarify, Madam Chair, it was heard that the commission recommended denial for that one application and the applicant withdrew it before it went to the city council, okay.

Ms. Oliver: Yeah, Mr. Weiner and then Mr. Redmond.

Mr. Weiner: I remember that, in that particular one we denied they went forward and they pulled it out but they were not paying – they were not grandfathered. I remember that complete list but they weren't grandfathered so that's why we denied it also, and a couple of other things too. There is a lot of things too but we denied that, I remember doing that, okay.

M. Tajan: If I may also, I apologize, the question that you asked earlier Mr. Weiner, we did contact the Commissioner of Revenue, according to the records they were registered as of February 2019 so they are not grandfathered.

Ms. Oliver: Mr. Redmond.

Mr. Redmond: Well, I was just going to ask where we are with regard to the question about the grandfathering thing, that was the one thing but I did want to add to that in case you didn't notice, we just asked some questions and Summer just ripped off a whole bunch of stats, that I thought was mighty impressive. So thank you for having all that information at your fingertips. She is obviously prepared.

Ms. Oliver: Okay, I am sorry for the interruption. So I believe we have one more speaker, is that correct?

Ms. Sandloop: Yes, ma'am, our last speaker is Virginia Portalatin

Ms. Oliver: Welcome and if you will state your name, please.

Ms. Portalatin: Good afternoon everyone. My name is Virginia Portalatin. I am an owner and resident located at 307 Norfolk Avenue at Lake Station. I have lived there for close to a year and a half. During this time I have experienced the full impact and implications that Short Term Rentals bring to our community. When I moved in 50% of the building was operating an AirBnB business. One of the units despite having received the letter last July continues to operate in my building. Among all the issues with short term rental guests which includes indiscriminately parking in any spot inclusive of mine, excessive noise when entering and exiting our shared hallway and deck staircases. My most serious concern revolves around the violation of privacy and safety.

My most recent disturbing incident occurred late last August, a group of men staying in the unit upstairs continuously used the deck steps to sit, smoke and make phone calls. At one point while sitting in my living room I heard a voice in very close proximity, I looked out to see one of the men sitting on the steps leading down just a few feet from my deck entrance close enough that I looked him in the eyes. He could clearly look into my unit from where he opted to sit. Allow me to include the same group used the charcoal grill at the bottom of the steps a few feet from the desk staircase and close by to the first floor unit. After they left I found that they had dumped the charcoal on the grass. I share and use the steps with my next door neighbors who are long-term renters. We use the deck steps regularly. This

young couple as well as their visiting friends have never made me feel that my safety or privacy is violated in any way. My personal perception is that short term renters come in with a hotel / motel mentality. There is an overall disregard with parking, noise and respecting privacy. It translates into a major safety issue for our community. I stand here before you pleading for your help to preserve the Lake Station community. Please do not approve the Conditional Use Permit for 349 Norfolk Avenue, please help us keep Lake Station a sanctuary for those of us who simply want to preserve our privacy, our sense of peace and our safety. Thank you so very much for your time and your consideration.

Ms. Oliver: Thank you very much. Do we have any questions? Yes, Mr. Alcaraz.

Mr. George: One question, I just want to get some clarification. You had said 50% of the building, is that your building that you live.

Ms. Portalatin: Yes, where I reside, when I moved in.

Mr. George: I mean just there is three buildings there, I was asking your building was 50% AirBnB.

Ms. Portalatin: Yes, if I could clarify there is three entrances, yes, in the same building that Benham Malcolm lives in facing Holly Lake. So there are six units and when I moved in 50% of the building, three units were running AirBnB, one continues as we sit here and speak.

Mr. George: Thank you.

Ms. Oliver: Do you have any other questions? Thank you very much.

Ms. Portalatin: Thank you.

Ms. Sandloop: No more speakers, Madam Chair.

Ms. Oliver: Thank you very much. Would the applicant like to come back up?

Ms. Rickert: Thank you. Though there are certainly items that both of us would like to respectfully disagree with, I have to say that I probably agree as a second home owner with everything that has been thus far said by those that live, every one of those four comments were made by those that live in the larger building and there has been some excessive issues in the past. When we speak with a potential renter, they are non-smokers, we don't allow pets, they are 25 years or older. We explain he has set a routine that he explains this is a residential community, we explain which parking space they have use of, we explain that there is something about the street parking which

we have additional passes for and the parking garage et cetera. Everything all of the concerns that they have raised whether it is noise, whether it is privacy, whether it is trash and boy have we picked up our fair share on our dog walks as well none of it necessarily is the short term renter. A short term renter comes there with a goal, they spend all day at various activities, they might be a participant of a particular event, they are there more so than even the local residents to spend time at the beach, check out the aquarium and all of those places. You could run into any of these noise, privacy et cetera, type issues with long-term renters and / or residents. We have had and heard because of his years on the board of long term owner residents harassing a number of second home owners, tenants et cetera. So all that they describe and are concerned about happens in just about every community. None of what they described has ever been raised with us and our 12 units between the two doors. When we bought the place there are six units, two are second homes, two are full-time rentals and two are what I had said earlier, in our particular building we have got three and half time residents and three full time renters / short term and then five of our units in our 12 section building are second homes. So people are coming and going whether it's family, friends or a Short Term Rental specifically. You had a couple of comments.

Mr. Rickert: Just a couple of things, I did have approval because at the time I first saw the application, Summer can back me up on this, I was previously on the Board, She checked with the City Attorney, he told me to re-sign it, that I was on the Board now so my application was within the system. So Summer can back me up on that with the City Attorney so that I could sign as a board member for the application. Less than 5% of my rentals have ever required a second parking, but that's just not been a problem with us because we have 16 extra spots on top the reserve. Less than 5% of the time has anybody ever needed a second car spot. The people that spoke to you earlier, one of them actually tried to actually buy a second unit that they were going to do a Short Term Rental they were unsuccessful in purchasing that unit. So now they are not worried about doing the short term rental. That's wonderful but they would have done it, had they. The other thing is these are the same folks that have talked to me in the past, you asked them have they talked to me, yes they talked to me and when I asked them earlier this year when a couple of the other people applied, "Well we have no problem with your unit, we have a problem with the ones who live in our building where they are not managed". I have been in management for 40 years that's why I manage mine so selectively on the people that I actually let come use my place.

Ms. Rickert: And I just want to remind everyone, this isn't your typical - we didn't buy this to make it a Short Term Rental investment property. We are here on a monthly basis with family, with activities, this is our second home and so it's important to us that it be maintained. We take great care in considering who is coming into the unit. Because we have that private entrance in the Crux of the building there, we have now put there a keyed lock for if there is an additional concern among our six in our building that they don't want them coming down the hallway, they don't have to come down the hallway. We are the ground floor unit. We as owners don't even run into half of the people that live there. At least two of the people here today I have never met in the 15 years that we have owned the place. So we are very isolated when it comes to our particular location and the care that we take with our rentals.

Mr. Rickert: And in terms of the security I mean I was on the construction for the last four years to get our building through - be on the board, we had the same key for 35 years that fit the doors. Just now we finally are changing out the doors and the key so that's never been - there was never an issue before with the keys, we are having the same key for 35 years.

Ms. Rickert; And we hope to retire here, so you know.

Mr. Rickert: I mean like I say they - I understand people have problems and there is no doubt about it, it's all about the way you manage something and I think that we managed it properly, we are just looking to continue to do that if it's okay with this committee here. That's all we are asking.

Ms. Rickert: Thank you.

Ms. Oliver: Commissioner Klein has a question.

Ms. Klein: I believe you said earlier that you have a local property manager for when you guys are in Northern Virginia.

Mr. Rickert; Like the lady lives up the street in Sawgrass who has cleaned for me for the last five to six years, she actually manages the entire place. She comes by and takes care of it and then she is the first on one the scene as soon as somebody leaves letting me know everything is fine before I refund the deposit. So she is my eyes and ears on the ground and she is also, she has done such good jobs, she used to clean all of our buildings for a while and she is also cleaning for some of the other people in the complex.

Ms. Klein: Is her information either available to or provided to your direct neighbors?

Ms. Rickert: Whether her information is provided to our neighbors. We are so readily available by our two cell numbers but they know that we have someone who if we can't physically be here within a short period of time but she is available to us. Because Rob grew up in this area, we have got over 40 volleyball friends that we could call on any one of them to replace a chain on the bike. We provide bikes, we provide all chairs. All of that is there because it's there for our use as well. So we regularly manage the place and are here to address any kind of issues.

Ms. Klein: I think one of the ordinances that either just passed or is under discussion is having somebody local and you said that you are readily available by cell phone. So do your neighbors have your contact information in your building?

Ms. Rickert: Yes.

Mr. Rickert: I mean even the people that stayed with us, they have my phone number, they have my email directly. I mean it's just – if you go read any of my reviews I have got 4.7 out of 5 star reviews for all my reviews which is probably close to 100. Communication with us is what they rave about they like about staying with us.

Ms. Rickert: And only one person that tried to smoke in our unit did we have to retain their \$300 cash deposit that they have to give us.

Mr. Rickert: One time.

Ms. Rickert: One time. And we don't rent during some of the events that the city chooses to hold in this area because we are looking to have conscientious renters.

Ms. Oliver: Mr. Redmond.

Mr. Redmond: Real quick, can you hit me with those dates again, you bought the unit when?

Mr. Rickert: I bought it 2005.

Mr. Redmond: 2005, and you started renting it when?

Ms. Rickert: Seven years later, we had a long distance relationship for seven years.

Mr. Rickert: My sister who lives in Sandbridge has a rental property and she was the one who suggested it to me at the time. She said you ought to be trying to bring income in while you are not living there, if you want to try and keep it. And I had watched several people in our community lose their property. But

they lose the property because like us they pay – we pay 275 for unit, the units went down to a value of \$200,000. So we were under water most of the time that we lived there, we just finally come back out of that but we just paid \$28,000 assessment to redo our property there.

Mr. Redmond: There are a lot of people who brought property in 2005 suffered the same.

Ms. Rickert: And everybody signs a lease, we have a lease.

Mr. Rickert: Yeah, my sister had a rental agreement...

Ms. Rickert: We have copy of their driver's licenses.

Mr. Rickert: My sister had a rental property in Sandbridge, she had a rental agreement so she gave me the rental agreement, that's what everybody signs off and initials for us. And like I say, again some of the folks I have talked to today, they talked to me about it before. In fact they just talked to me about it earlier this year, well, we don't have a problem with yours, it's the people in our building and they were correct – well, the people in the other building had management companies that completely mismanaged it and it was just a complete fiasco in the other building. I won't dispute that, that was it and I think that's why most of them gave up because of the fact being they couldn't manage it properly.

Mr. Redmond: Okay, thank you.

Ms. Oliver: Mr. Weiner.

Mr. Weiner: Okay. I got to go back to these dates real quick also. So you have been renting for last eight years.

Mr. Rickert; Right.

Mr. Weiner: So now or after you were talking about staff, you started paying taxes January of 2019.

Mr. Rickert; Yeah, she just corrected me, it was 2019. I got a notice in the mail and we went down to the court house

Mr. Weiner: I mean with everything going on in the world today, short term rentals in Virginia Beach, you didn't realize that you needed to start paying taxes before then Conditional Use Permits.

Mr. Rickert; Well, like I said, I mean I claimed the rental income on my taxes.

Mr. Weiner: Hold on, I'm just talking about the City, us in the City, you realize you are listening to the news and Short Term Rentals going on like ...

Mr. Rickert; Right exactly.

Mr. Weiner: And you didn't know that what needed to be done.

Mr. Rickert; I did not know anything else until I got the letter. I got the letter, we went down to the ...

Mr. Weiner: How did you get the letter, did the Commissioner of Revenue's office just send you a letter one day in the mail that somebody complained about you renting?

Mr. Rickert; I don't know how - when I got that I don't know how they got my name except now all of a sudden it said you need to come down here to the court house, register to start paying \$2 night and 8% of any revenues on my rentals which I have done since – and my apologies, it wasn't 2018, it was 2019.

Mr. Weiner: Okay.

Mr. Rickert; So, I mean last thing I will probably say is I understand you all have to make a decision but with our community, if they want to change things then it can change it with the by-laws. If the city okays it and says it's allowed that's what we are trying to do.

Mr. Weiner: They city can't do anything with the by-laws, by-laws is what you are and they aren't what we do.

Mr. Rickert; And I agree, that's why the board is okay with our rentals, Short Term Rentals.

Ms. Oliver: Okay, yes George.

Mr. Alcaraz: In the staff write up I just want to look into this with the complaint on June 30th you were cited for notice of violation for not applying for Conditional Use Permit. After you have been told to or asked to apply with the commissioner revenues office. So this is June 30th and you still hadn't after applying for the – whatever application you need for the Commissioner of Revenue on June 30th you were given a notice of violation for not properly submitting the Conditional Use Permit, still that was.

Mr. Rickert; I can't tell you the exact dates, I don't have ...

Mr. Alcaraz: I have it, it's in your report.

Mr. Rickert: Okay, that's fine. So I will just say it to you, Summer contacted me, I started working with her and then at some point whenever I will meet, our original thing was meeting like this and this was going to come up, we asked for a continuance at that time and this was the date that we have gotten.

Ms. Rickert: I think what you are referring to is back in 2019 when we went to the city we paid, we signed up, we get their letters on a weekly basis, we know what we had to do there. We stood there and asked them do we need to do anything more because all of that was just kind of getting started and the person that we stood there and spoke with said, there was nothing else we had to do because we would have gone and knocked that out at that particular time. Because of the issues that were going on in the other building and more attention was being paid as to the fact that they were now, we were the one and only Short Term Rental in anyway trying to maintain our place so that we would have it for our retirement all of those early years and as other people started seeing where that could be of benefit or profitability et cetera, because there were some issues in the other building someone brought ours to the attention. I mean there is some animosity between you know as there often is in the condominiums and as soon as we knew that we had to do kind of like the softball thing, didn't know until we got that notice that we had to somehow do it, we even believed for a period of time because we have been doing it so long that we were grandfathered in. So we apologize for any miscommunication there

Mr. Rickert: When they referred early to a building that they said was like 50% Short Term Rentals, there is a building that has 18 units. Each unit has got 6 units, that unit that has six units possibly half of those could have been short term rentals. It wasn't the whole building of 18, it was probably that building that had six units that had three Short Term Rentals.

Mr. Alcaraz: Okay, I am not finished, sorry. Back to your local manager, so she is your cleaning person.

Mr. Rickert: She is my cleaning person, she is my manager, I am just saying

Mr. Alcaraz: So she is professional manager for the property?

Mr. Rickert: Somebody has an issue has a problem she comes down there to correct it whatever it might be so that somebody is not going to be upset when ...

Mr. Alcaraz: She addresses it at all hours..

Mr. Rickert: All hours anytime, her phone number is right in there when you come inside my unit and I say her uncle and my father worked together for Sears for 30 years. Like I said I have known her for seven – eight years, she is a very hard working conscientious lady. She doesn't take anything and she is over there immediately.

Ms. Rickert: She is even monitoring some of the building stuff that's going on and bringing it to our attention and pointing it out. She is about 52-54 years old, she also cleaned for Lake Station common ground area and knew what was going on better than anybody else in that community.

Ms. Oliver: I got a question – I am just trying to get the date straight again because you have said a couple of things and I just want to make sure that – and maybe I am going to need Summer because Summer's name keeps getting tossed up. But, you mentioned that you thought you were grandfathered but previously you said you didn't know anything about the short term rentals. So, let me just kind of finish. You bought it in 2005, you started renting it in 2012, January 19th of 2020 you got a letter from the commissioner revenue, is that correct?

Ms. Rickert: I am sorry, what date did you just say, January?

Ms. Oliver: January 19th 2020? Oh I am sorry 2019, January 2019, sorry, I got too many 20s in here.

Mr. Rickert: And I don't know part of the confusion with the – our unit used to be in our name – we switched over to a

Ms. Oliver: So you – January 2019 you got a letter from the commissioner revenue out of the blue asking you about your Short Term Rentals.

Ms. Rickert: Actually I think it just said that now if we are running a Short Term Rental that we have to be paying taxes.

Ms. Oliver: So somebody has obviously brought your name up because I don't think Mr. Kellam can just pull that rabbit out of the hat.

Mr. Rickert: I mean you mean that somebody in our community just ...

Ms. Oliver: No, I am just saying I don't know that they do that and maybe they do and Summer can probably clarify that and then you didn't register or you got a complaint. I am sorry you got a complaint on June 30th 2020 that you were still operating without a CUP, without filing the paperwork or just operating illegally.

Ms. Rickert: We thought we had done what we were supposed to do in early 2019. So when the complaint came and we had to look into it and we thought at that point we thought okay ..

Ms. Oliver: But then you thought you were grandfathered.

Ms. Rickert: We thought we had done what we were supposed to do. We didn't know that there was a second step to this.

Ms. Oliver: Okay. I am just double checking. Okay, great. Thank you. Mr. Weiner, are we all done? Okay, thank you very much.

Ms. Rickert: Thank you.

Mr. Rickert; Thank you.

Ms. Oliver: So Summer, do you mind popping up here real quick.

Ms. Peebles: Yes.

Ms. Oliver: I was just curious as far as what conversation you had with them as ..

Ms. Peebles: Yes. So according to the Commissioner of the Revenue's Office they did receive notice in January of 2019 that they were operating Short Term Rental. From what I have heard there is a software that the Commissioner of Revenue may use in which they were notified of this and that they weren't registered, so I am sure that's why they reached out to them. And so in February is when they obtained their business license from the Commissioner of Revenue's Office. So as a result they do not meet that grandfathering requirement of July 1, 2018 for paying taxes. So then we had that year and those couple of months between November 1 2019 when the ordinance became adopted. And so June 29th of this year 2020 is when Kevin Hershberger received a complaint that they were operating without a Conditional Use Permit, he sent out the notice. About 30 days later is when I received the Conditional Use Permit application from Mr. Rickert, and so this is the process as it goes thus far.

Ms. Oliver: Okay, great, thank you. Alright, so we will close this – oh sure, go ahead. I am going to close it to the public and then go ahead and ask your question.

Ms. Klein: Granted this is a completely different department, do we know if it's in their workflow to advise registrants that there may be permits or other things aside from the registration that they need to do?

Mr. Tajan: I don't – I am unsure, I think it depends on which avenue you take whether you come in person or do it online. I will say that I believe during the process when I wasn't here for as far as the initial Short Term Rental process with the city that, it's my understanding that we sent out letters to folks that may have been operating. So those that were on the registered list potentially stating that they have to apply for Conditional Use Permit for the people that we had information on that they were operating. So that was part of our proactive outreach at the time based on the information at least that I am aware but we did send letters to folks to remind them they need to come in. Now, as you know we get them trickling in, saying they don't know. So I will take that for it's worth.

Mr. George: It would be real helpful to us if we knew the protocol that was used at the Commissioner of Revenue's Office and whether they have a script that they are supposed to follow in telling applicants so that – because we have had this, it comes up all the time. All the time, I didn't know, no one told us.

Mr. Tajan: Right. I believe the timeline that this happened when they went there we have gotten a better rapport with the Commissioner of Revenue, we are reviewing all the business licenses also as well and so we have a better rapport in providing information when there are issues and details that come up at that time. We do understand we have gone through some other applications. There was a gap where the city did not have any regulations in place, the Commissioner of Revenue was just collecting the taxes. So that gave this false sense of someone did enough to get in the door. I think it was a matter of the timing but yes, it is in the timeline. To this point we have updated our processes to make sure that we are from – moving forward since that issue came up providing better information to applicants.

Ms. Oliver: Yes. Mr. Redmond.

Mr. Redmond: I just – I mean to what you say, I mean we are so close to this we think everybody is supposed to know all this stuff. And we got a batting cage earlier in somebody's back yard, they didn't know they needed a Conditional Use Permit for it. And the assumption that everybody necessarily knows when things change and they have got to do this and they have got to do that, I think that's asking a lot sometimes of people. There are people who just operate without the legal right to do so, know full well they are operating without the legal right to do so and we know that that occurs. I think we assume too much if we assume that people necessarily know all these timelines and deadlines and once you filed with this thing, then you don't, then you have got to – I mean they don't always know all this stuff. I mean

that's one thing I figured out in this process is it is messy. Like you allude to, it's just a messy process and it's hard sometimes to sort it out.

Ms. Oliver: George.

Mr. Alcaraz: I know, I mean they meet the regulations at 241.2, and put a lot of weight on that but then I also put a weight on the neighbors, I put a weight on the parking, I put a weight on the management, I don't like the parking. I know staffs worked to get the parking but when there is one parking per unit, and they need to – or are they going to take someone else's parking, who monitors that, you know. I am not sure who or what happens when that happens but I can see that there is a controversy on the parking lot when that does come. And because of that and the opposition is here today, unless anyone else wants to say anything I am going to make a motion.

Ms. Klein: I also agree that the opposition can weigh heavily in these, community members feel very strongly. I think my focus is on the fact that the opposition was not towards their building and that no one here had a problem with their particular Short Term Rental which is in a different building. It sounds like the building that they are in which is all the same one is not a good place for additional Short Term Rentals but I didn't hear anything about their unit specifically which is in a separate location.

Ms. Oliver: David.

Mr. Weiner: Isn't this building the same as the other building as in shared access, shared balconies as the other building if I am not mistaken, Summer? Is that correct? I am sorry to get you keep walking back and forth. Isn't this building the same as the other one with the shared balconies, the shared access to the buildings?

Ms. Peebles; Yes, I believe this one is on the first floor from what the applicant said, it's just in a different condominium building I think. I believe Terry Champion was located where those three are connected and this one is located at the front too.

Mr. Weiner: But all units go through only the two doors.

Ms. Peebles: Yeah, there is the shared access ways, it's only for the ones within that building so perhaps six units sharing one common access way, yes.

Mr. Weiner: Sure, okay, thank you. That was one of the main reasons we denied the last one in this location, because of the close access and the shared balconies. That's....

Mr. Alcaraz: With Ms. Klein's comments, I mean, I agree, I just – it's also due diligence for the owner to manage it and I think there is some oversight that they – I don't know if it was intentional but it happened and I am weighing into that and I think Mr. Redmond has his hand up.

Ms. Oliver: Dave.

Mr. Redmond; Thank you, George. No, I agree with Robyn, I mean I agree with what these folks said too and you know it's – you're exactly right, the structure of these building is such that it would cause one concern but the objections I have heard general objections, they don't apply to this particular unit. And, I mean – that's why we are looking at each one individually and these folks strike me as fairly conscientious property managers. They seem to be screening people very closely. They seem to be particularly concerned about how they manage this. I will also say, I am inclined to support the application and for the reason said Robyn just stated. But I will also say in a situation where you have trash in the parking lot, parking in eastern end of Norfolk Avenue, you know the ocean front, there are going to be people parking there because they want to go to the beach, right, and they have nothing to do with the condominiums. There will always be parking problems at this property and there is always going to be trash in a multiunit environment like that and you don't know where it's coming from, it could be windblown for all we know. But in any event, you know in an environment like this where you do have a lot of second homes people live in one place, they have got a condo at the beach, they are routinely turning them over to friends and family, let your neighbor go down to your place at the beach, your nephew and his girlfriend go down for a long weekend. There is coming and going all the time, the idea that this is all restricted to Short Term Rentals coming and going and all that, I just don't believe that. I mean I think a lot of that has to do with people who own units, it's just with the nature of those kinds of properties. In any event I mean I don't like the opposition, what I mean by that is I am concerned by opposition, I am concerned by the nature of the buildings themselves but it seems to me if you look at these as individual cases, this seems to be one that is particularly well managed and I have seen places managed by professional property management companies, the names of which we all know who do terrible jobs doing it. Don't know the light is out, don't know what's in the place, don't know what the hours are, don't know when the cleaning people come and so that's not a panacea either but it does – it seems to me that gentleman said something very telling to me and that is communication is the key. And I think that's dead right. You know if you are talking to people and you are on top of it,

then these things run a lot better. So I am inclined to support it for those reasons. Thanks.

Ms. Oliver: Jack, hold on.

Mr. Wall; You know the last application we had was in the Lake Station condominium complex was very specific. The things there were very specific, you know faults with that application and it wasn't necessarily the shared balcony and you know things that very much stood out with that application that you know brought our attention that there were problems going on with that unit. With this one it seems like it's been operating fairly well and that its been operating within the requirements of units or type of residence that you would expect. You know I feel for the residents that don't feel that Short Term Rentals allow them to experience the sanctuary of home that they should have but in this case it just seems like this application and the people that are applying for are somewhat managing it fairly well. So I am going to support it.

Ms. Oliver: George? John.

Mr. Coston: I just joined this commission in February I believe and had it not been for my position I would have known nothing about requirements for Short Term Rentals. I missed on air rights on a piece of property I owned because I didn't know what was going on. So I understand sometimes when you are in business, there is something you might need to know that you don't know, I understand that and I think they have the ability to prove that they have been renting for eight years and just missed out on grandfathering only because I didn't know I needed to do something to protect my right to grandfathering. So, I am inclined to support this as well.

Ms. Oliver: George, back in your court. You were making a motion.

Mr. Alcaraz: I was and I still will so I make a motion that we deny it.

Ms. Oliver: Alright, I need a second please. I need a different – I need an ...what?

Ms. Klein; I will make a subsequent motion.

Ms. Oliver: Thank you.

Ms. Klein; That we approve the application.

Ms. Oliver: I need a second on the subsequent motion.

Mr. Weiner: I will second.

Ms. Eisenberg; Just to clarify it's not a subsequent motion or substitute motion because the first motion died since there wasn't a second so.

Ms. Oliver: Thank you, we don't typically have this. Council has this more often than us.

Ms. Sandloop: Calling for the vote,

Mr. Inman: Madam Chair.

Ms. Oliver: Yes

Mr. Inman: I have to abstain from vote on this, I my firm represents Lake Station condominium, I don't, I am a representative here don't know anything about, what, may be thinking about it but I don't, out of an abundance of caution I am not going to vote, I am abstaining.

Mr. George: And I am sorry your mic was not on but what are we doing here,

Ms. Oliver: We are voting to approve.

Mr. Alcarz: Okay, thank you.

Ms. Sandloop: Calling for vote on the motion to approve the agenda item number 12, Mr. Alcaraz,

Alcaraz: Nay.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Ms. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent, Mr. Horsley is absent, Mr. Inman is abstaining, Ms. Klein,

Ms. Klein: Aye,

Ms. Sandloop: Mr. Redman,

Mr. Redman: Aye,

Ms. Sandloop: Mr. Wall,

Mr. Wall: Aye,

Ms. Sandloop: Vice Chair Weiner

Mr. Weiner: Aye,

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye,

Ms. Sandloop: By a vote of six to one, six for, one against with one abstention, agenda item number 12 has been approved.

	AYE 6	NAY 1	ABS 1	ABSENT 3
Alcaraz		NAY		
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman			ABS	
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 349 Norfolk 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. A second (2nd) 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.
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 # 13.
Rachel A. Dio [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
5528 Cabin John Drive**

November 4, 2020

RECOMMENDED FOR APPROVAL – HEARD

Ms. Sandloop: Okay our next item of business is agenda item number 13, and Madam Chair, we do have two speakers on this one, it is Rachel A. Dio an application for a Conditional Use Permit Short Term Rental on property located 5528, Cabin John Drive in the Centerville District, will the applicant or the applicant's representative please step forward.

Ms. Dio: Hi, my name is Rachel Dio and I am a registered nurse, I am applying for a CUP for my single family detached home. I have noticed that there is a housing need for travel nurses and other essential employees with small pets. Hotels don't have dog parks and after a long shift people just want, you know, they just want to go home relax and, you know, play with their pets in peace. So I have kind of wanted to open my home up to people in that type of situation, thank you.

Ms. Sandloop: Our first speaker is Michael Kumetz followed by Barbara Messner.

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

Mr. Kumetz: My name is Michael Kumetz and I am, I live at 5869 Glen View Drive with my 98 year old Mother suffers from Lewy body dementia. I had open heart surgery this past February and I oppose the short term rental application. First of all there is not enough parking on the Cabin John. People, it is residential community, it lies in Centerville District subdivision of Alexandria. There are lots of people, lot of families that live on Cabin John, they have multiple cars, they can't put all their cars on the driveways so they park on the street. Perfectly normal, my understanding is that you have got to have a 9 x 18 foot space to park a vehicle according to the ordinance. One for each room, she wants to rent three rooms, this is a bedroom community, it is not a commercial business community. I, we don't need to have a Conditional Use Permit for Short Term Rentals; this is in, as I said, Alexandria subdivision in Centerville. There are no major or, actually I can say, there are no tourist attractions there. There is nothing, unless you consider Mount Trashmore too, which is down the road on Centerville Turnpike across from the church that is there as a major tourist attraction or

a historical attraction. Nothing exists there, I don't believe that, that we need to have a, what I would consider a flop house, ultimately, you know, I don't want to live next to a flop house. And so I ask that you deny the request, the application because there is no, there is no reason to have a Short Term Rental in a residential community. And if I might, Appendix (A) of Section 203 and 505 do not explicitly provide zoning regulations for single family domiciles in a R5D residential community seeking a Conditional Use Permit. And so I think you need to go and look at that.

Ms. Oliver: Sir, unfortunately that bell was your time up but I do have one question before you leave and I just want to make sure I understood you because you said, a couple of questions I guess, where are you located in proximity to this house?

Mr. Kumetz: Right next door.

Ms. Oliver: Oh! You are next door, okay, thank you and the other question or, I had is that, I probably misunderstood you, was that you said that she has three bedrooms as if she is going to rent out each individual bedroom versus,

Mr. Kumetz: That is what it appears from what I was able to discern.

Ms. Oliver: Discern from the application?

Mr. Kumetz: Yes,

Ms. Oliver: Oh! No, she rents, the application is for renting the house as one unit not as individual bedrooms, not as,

Mr. Kumetz: Oh! Okay,

Ms. Oliver: And so she would, the application is for her to rent it either on a, well actually because the way the ordinance is now she would rent it once every seven days, if she was able to do that more than once a month or whatever to of a family or one person whoever would want to rent it but she is not renting each individual bedroom out separately.

Mr. Kumetz: Well that is okay, alright.

Ms. Oliver: I just want to make sure,

Mr. Kumetz: That is fine, that is fine but the problem that I have is, okay you are going to have someone, you know, if she is lucky to have, you know someone come in and rent the house for no more than seven days. You know how often are you going to do that, you know we are in a pandemic, you have got to

have all sorts of protocols to try to keep ourselves safe from the Covid-19 virus.

Ms. Oliver: Right,

Mr. Kumetz: Okay and so we are going to have trash that mounts up, I don't know if that is going to get blown all over the place, it has blown on to my property. You know if there is tissues, whatever, it is a problem,

Ms. Oliver: I understand, yes sir, I think the Commissioner Weiner has a question for you.

Mr. Kumetz: Sure.

Mr. Weiner: You are talking about parking, have you had any problems at all with this particular residence for parking situations or any problems at all with this particular residence?

Mr. Kumetz: Yes, My property, that is, I can't, yes among the corner of the Glen View and Cabin John so my property is on the other side of that blue box. Okay, you see, you can actually see, right down by the,

Mr. Weiner Sir, can you get back to the mic,

Mr. Kumetz: Yes, I am sorry, you can actually see right down by the street in front of my house there is a vehicle parked. Okay my property line, as this blue box shows goes right down the side of their drive way to the drive way apron, the pin is there. And so it is always a vehicle parked in front of my property, my house and so it is a major problem. And during the evenings, as you can see there are other vehicles parked on the opposite side of the street on the Cabin John. You can't really park on where the house is located other than in front of my property.

Mr. Weiner: Okay sir, appreciate that, that is what I am going to find out, thank you.

Mr. Kumetz: Sure, thank you.

Mr. Redmond: Can I just Mr. Weiner, I would note, we have got some photographs here with 3 large pick-up trucks in the drive way, I am pretty sure that it meets the parking requirement.

Mr. Kumetz: But if I might sir...

Ms. Oliver: Sir. Thank you very much.

Ms. Sandloop: Our last speaker is Barbara Messner.

Ms. Messner: Good evening,

Ms. Oliver: Hello, Miss. Messner,

Ms. Messner: Thank you, Mr. Tajan and everyone else I tried to have this rescheduled because the elections really aren't over yet and I think it is outrageous to have this at 9.00 AM the day after the elections. It is total lack of due process, one of my objections to this meeting was it was only five days advertisement in the Beacon. Only about 50,000 people get the Beacon that is not how we should be notified, the entire city is being commercialized, I can't believe somebody cares more about, you know, taking care of somebody's dog on vacation. Our entire city is overrun with dogs, our beach is a dog park, you know, I listened to some of the things earlier today, it is just outrageous and, you know, some of the people here who have direct conflicts with the beach, this one isn't the beach district. And people who do abstain occasionally, they don't leave the room like Will Sessoms used to do. The increased traffic, you are also allowing businesses in neighborhoods. Some people can sell guns out of their home, they are opening day care, all type of things. Like I said, somebody said it is close to Mount Trashmore, the closest thing, there are shuttle buses that take people, the city is still planning to use the money for another something in the water and all of these events and shuttle people all over the city. You know they couldn't shuttle people to the polls, you know. As Mrs. Henley has stated even though she, you know, it is just one person voting no, you don't have enforcement, there aren't enough people to enforce. And you are destroying the neighborhood flexibility plus the ability for somebody to rent long term, for somebody to buy the house and to rent long term in the neighborhood is there shouldn't be short term rentals, a week especially during the pandemic, why don't you wait until the pandemic is over before you even consider any of these. What is the bloody rush. So I oppose, thank you.

Ms. Oliver: Thank you.

Ms. Sandloop: No more speakers.

Ms. Oliver: Would the applicant like to come back up, please,

Ms. Dio: While I can appreciate the concerns, there are few issues, my rental is not so much for, you know, activities, it is more for medical professionals. You know they come in here, they want to, you know, they need to find a place, they don't want to be by themselves, yes, they want to bring a pet to keep them company. And most of their contracts are for three months so it would

not be a weekly rental, they are here, yes, they might want to go to the beach, they are at Virginia Beach but, you know, there are lots of hospitals around, a lot of dialysis clinic and we need nurses, you know, we need essential personnel, you know, we would get more if they can bring, you know, their pets or families you know. And parking on the street is public parking, here as you can see in the pictures there is no issues with parking, I myself have multiple cars and I have never had problems with parking. So you know these are issues that are not valid. As you can see from the parking on the stop sign, there is plenty of parking there, plenty of other parking and the one by his - in front of his house, that is all public parking. That is not in front of his house, it is not my fault his driveway is short. But as you can see I can fit three F-150's in mine so I meet the regulations.

Ms. Oliver: Mr. Wiener

Mr. Weiner: Mrs. Dio, I know you just said that – are you renting your house up on monthly rentals, you are not going to rent your house on a weekly rental?

Ms. Dio: No, I am trying to get, you know, I am trying to help with the medical professionals. Like I said I am a registered nurse and we need help, you know and the people I know, travel nurses, they have, you know, they are single, they have, you know, a small dog or a cat that they want to bring with them,

Mr. Weiner: Okay, so you are, it is going to be, it is not going to be a weekly rental.

Ms. Dio: No, you know but I want to follow the rules, I got to,

Mr. Weiner: One second I have got question for staff, is that considered a Short Term Rental since it is a monthly rental that is less than 29 days, or less than 30 days?

Mr. Tajan: The term for Short Term Rental is dependent on the stay length, so it is anything less than 30 days is considered a short term rental. Ms. Dio, if you don't mind, Madam Chair, Mr. Vice Chair.

Mr. Weiner: No, go right ahead,

Mr. Tajan: Do you plan on renting out for less than 30 days to anybody at any point in time?

Ms. Dio: It depends on their situation.

Mr. Tajan: Okay so this is more for flexibility for you.

Ms. Dio: Yes,

Mr. Tajan: Do you plan on being in the home or when they are there or do you plan on renting the house?

Ms. Dio: It depends on the situation, I myself would like to become a travelling nurse,

Mr. Tajan: Okay,

Ms. Dio: Yes,

Mr. Tajan: Okay,

Ms. Dio: Yes.

Mr. Weiner: I have got a question so, sorry,

Mr. Weiner: For that question I think we should keep it as we are doing now because it depends on the situation she is doing for,

Ms. Dio: Yes I want to follow the rules so,

Mr. Weiner: Okay that is fine, I appreciate that, thank you very much.

Ms. Dio: Okay.

Ms. Oliver: George,

Mr. Alcaraz: Are your tenants all travelling nurses?

Ms. Dio: I don't, I don't have, I never tried that to, yes,

Mr. Alcaraz: You said you are trying to push for the medical field,

Ms. Dio: Right, you know, because it is the, if the permit is, is approved that is who I would like to, you know, mark it, I would tell my friends who know travelling nurses, hey, you know, I am available this and not so that is whom I am trying to cater to.

Mr. Alcaraz: Thanks.

Ms. Oliver: Mr. Wall,

Mr. Wall: So you currently live there?

Ms. Dio: Yes.

Mr. Wall: Okay, that is all.

Mr. Dio: Yes.

Ms. Oliver: Any other questions for the applicant? Thank you so very much.

Ms. Dio: You are welcome.

Ms. Oliver: Now we are going to close the commission, close the hearing to the Commission and open it up for discussion and or motion, please, yes.

Ms. Klein: I worked in patient at CHKD in the PICU and over at Norfolk General and I met some outstanding travelling nurses. Some of the best nurses I met were from other states and some of the best nurses I knew became travelling nurses. So I think that this is a great opportunity and I thank the applicant for putting it out there. I will be voting for it.

Ms. Oliver: Do we have a motion? You want to make a motion?

Ms. Klein: Sure, I move that we approve the application.

Mr. Weiner: I will second it.

Ms. Oliver: With a second by Commissioner Wiener, and call for the vote,

Ms. Sandloop: Mr. Alcaraz

Mr. Alcaraz: Aye

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston,

Ms. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent, Mr. Horsley is absent, Mr. Inman,

Mr. Inman: Aye,

Ms. Sandloop: Miss. Klein,

Ms. Klein: Aye,

Ms. Sandloop: Mr. Redmond

Mr. Redmond: Aye,

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye,

Ms. Sandloop: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Sandloop: Madam Chair Oliver.

Ms. Oliver: Aye,

Ms. Sandloop: By a vote of eight to zero, agenda item number 13 has been approved.

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

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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.
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 - 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.
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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 # 14.
617 Vanderbilt, LLC [Applicant & Property Owner}
Conditional Use Permit (Short Term Rental)
557 South Atlantic Avenue**

November 4, 2020

DEFERRED 30 DAYS

Ms. Oliver: Thank you. Are there any more deferrals? I believe we have one more. Welcome, if you will state your name.

Ms. Heiner: My name is Andrea Heiner. I'm here on behalf of the STR requests for 557 South Atlantic, we're requesting to defer for 30 days, which, excuse me, and that's item 14, I believe.

Ms. Oliver: Thank you.

Ms. Heiner: Yes, sorry. So we're requesting to defer for 30 days, as we're still waiting to hear back from the Croatan Civic League. We've reached out to them with some questions on the existing, not necessarily approved STRs that are currently operating in the community. So we're just waiting to get some more information back on that and we'll be able to get our ball rolling again. Great.

Ms. Oliver: Thank you very much.

Ms. Heiner: Thank you.

Ms. Oliver: Okay, great, thank you. Okay, great. Thank you. So I need a motion on the deferral items number 6, number 9, number 14, and 18 through 27, please.

Mr. Weiner: Madam Chair, I move for deferral for item six till December 9th meeting. Item number nine indefinite. Item number 14 for December 9th meeting and items number 18 through 27 for the December 9th meeting.

Ms. Klein: I will second, please.

Ms. Oliver: I think I have a second by Commissioner Klein, please.

Ms. Sandloop: Mr. Tajan, is the item number six an indefinite deferral.

Mr. Tajan: 30 days.

Ms. Sandloop: Okay. Calling for vote, Mr. Alcaraz

Mr. Alcaraz: Aye

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston is absent.

Mr. Coston: Aye.

Ms. Sandloop: Oh, I'm sorry. Not absent sorry, Mr. Graham is absent Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chair Weiner.

Mr. Weiner: Aye

Ms. Sandloop: And Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items 6, 9, 14 and 18 through 27 have all been deferred. Item six for 30 days, item nine indefinite, item 14 - 30 days, items 18 through 27 - 30 days.

Ms. Oliver: Thank you.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
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 557 South Atlantic 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. 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 (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).
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 # 15.
Anita West [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
121 South Kellam Road**

November 4, 2020

RECOMMENDED FOR DENIAL – HEARD

Ms. Sandloop: Our next item of business is agenda item number 15, Madam Chair we do have three speakers on this item. Anita West, an application for a Conditional Use Permit Short Term Rental on property located at 121 South Kellam Road in the Bayside District.

Ms. Oliver: Welcome, if you would state your name for the record, please.

Ms. West: Good afternoon, my name is Anita West, I am the property owner of 121 South Kellam Road. My Mom purchased this house in 2005, she moved here to be with me and my children. In January of this year she passed away, so we have the home. I have a lot of family members that come in the area and I would like to use this as a Short Term Rental. We have family members that come in the area and thought this would be good home base for them with a lot of memories where they could come and stay without the stress of renting a hotel or trying to find somewhere to stay. Of course, the family members are not going to be here 365 days a year. I have a nephew that lives in Florida who plans to relocate in 2021, next year. This is where he comes to stay when he comes to visit, he stays in that home and between time we want to rent it out like I said as a short term to families. Also as the young lady before me said travelling nurses, my daughter is a therapist, and she has contacts with a lot of people who come in the area who need places to stay. I have a cleaning crew that makes sure that the outside is maintained as well as the inside. We have a huge backyard and plenty of parking space. So we don't have to worry about the overload of parking in the street. We plan to rent to families, like I said and they have to be 30 and older and it is no smoking permitted in the property.

Ms. Oliver: Does anybody have any questions for Mrs. West? Thank you, we will come back to you.

Ms. Sandloop: Madam Chair there are three speakers, Donald Roberts to be followed by Terry Roberts.

Mr. Roberts: Yes, my name is Don Roberts, I live in Pocahontas Village. We just gave a copy that's a petition to the lady there at the desk. We have about 40 people that signed it that live beside, and in front, and in back of Ms. West and so we didn't have much time to get the stuff together because we just got these applications on Friday. But anyway, we got it together and we really do not want Short Term Rental in our neighborhood. We have lived there, most of us have lived there for around 50 or 60 years or more, ever since it was built on what used to be Holland Swamp. And Mr. and Ms. Barco and the gentlemen that built the houses built it for single family residences and that is what they have been all these years and we would like to keep it that way. I know you have heard about all this stuff about short term rentals in the last two or three hours or so. And we don't really want that in our neighborhood. There is already enough problems around here, we have a lot of older people, a lot of handicap people and we don't need more problems. We have a problem right on my road on Kaw Lane right sort of behind this house where that, they turned the camera stuff in the city police department because people were trying to steal the stuff there. And Ms. Hill is right just south of Ms. West and it is scared that something is going to happen to her and her house because they are already getting people at get up trying to break into car and getting in to the mail box and things and the next two ladies pass to us south of her, we are in the same boat and they are old, they are handicapped. And I have got problems, I live right behind Ms. West, we really don't want that kind of carrying on in our neighborhood, we don't need it and I ask you to, please don't let it happen.

Ms. Roberts: I will tell them and I have heard that 12 people were going to be able to rent it one time.

Ms. Oliver: Let me just stop you one second so we can do one speaker at a time,

Ms. Roberts: That is my Dad.

Ms. Oliver: I know, I appreciate that but he gets three minutes and then.

Ms. Roberts: Sorry, go ahead then.

Ms. Oliver: Well his three minutes are up now.

Ms. Roberts: Well, Dad it is over now.

Mr. Roberts: Okay

Ms. Oliver: Respectfully, sir, it is, now you will be introduced and you will state your name and we will wait for the city clerk to do that and then you will get your 3 minutes as well, okay.

Mr. Roberts: That is it,

Ms. Roerts: We have to wait, Dad,

Mr. Roberts: We have to wait.

Ms. Roberts: Yes I think so,

Ms. Oliver: So if you go ahead and call the next speaker,

Ms. Sandloop: Terry Roberts,

Ms. Roberts: That is me,

Ms. Sandloop: Terry Roberts to be followed by Barbara Mesner.

Ms. Roberts: I am here.

Ms. Oliver: Okay, Ms. Roberts, if you will state your name for the record and you have three minutes to speak,

Ms. Roberts: My name is Teary Roberts and I am a little slow because I just had brain surgery and I can't remember real quick.

Ms. Oliver: Well we will give you extra 30 seconds.

Ms. Roberts: And also my Dad had told me that they have it where they are going to rent it to 12 people at a time, I am sorry, but, you know what, it is a neighborhood and you don't put 12 people in a home to rent it. The homes don't fit 12 people, to be honest with you, I don't know if hers has three bedrooms or four but even if they have four bedrooms that is three people in a room within a week or 2 weeks at a time. And I don't want it to be where, I hate to say this, but I don't want it to be where all of a sudden this home is going to be either for drugs or prostitutes. We don't need that in this neighborhood and I will be perfectly honest with you, she is on Kellam Road, and the homes here and right across the street are town houses. Well the town houses, the people have to, they have to park on the road because they are town houses and there is no driveways and she is on the corner and she has got the driveway, well, you can't really park cars in front of that because that is Kellam Road, that is very busy. Walmart and Best Buy and all that, that is extremely busy road. You see what I am saying, I will be honest with

you it is a nice neighborhood, it is a family neighborhood, they don't need that, really they don't need that, I am sorry, they don't really need that, thank you.

Ms. Oliver: Thank you very much Ms. Roberts.

Ms. Roberts: You are welcome.

Ms. Sandloop: Our final speaker is Barbara Messner.

Mr. Roberts: I didn't know

Ms. Oliver: You are just doing fine, sir. Ms. Mesmer, welcome.

Ms. Messner: Thank you, I am appalled that the, that you put that one through for another elderly gentleman and he said they already have problems. These people who are older and have health issues and who take the time to come out today, they are not considered. You put things through anyway and as far as, this isn't the next one that is coming up but there are shuttle buses that have been shuttling people in residential neighborhoods for like 15 years. But most people don't know what goes on. But like I said you are all liable for, you should all go out there and talk to the neighbors and you should actually check out these things. That is what, you know, you are all supposed to do and most of you have some type of conflict. Like I said there, these people have no recourse. And you deny a few of them but, you know, like I said the only reason I knew you were still going to have this meeting even though there were official objections because of lack of due process and the fact that this room - this room is too small, I watched really these people line up against the wall, you know, before we had ballrooms, I think two and three, this room is not big enough and then there is going to be, you know, joint meetings. This, and half the people here including these tables that take up all this room, it is staff, staff takes up the seating. You are destroying the entire city by having short term rentals, shorter than six months. You know, same is for nurses and doctors, they can, you know, they are even people that are giving them not renting to them but giving them mobile homes and things. We are not responsible for everyone during a pandemic and if there is a pandemic you shouldn't be having people, I listened earlier and there somebody was bragging about people coming from foreign countries and foreign cities, hotspots, no one is checking on this. You know it is a gorgeous day, I don't really want to be here but, you know, I am on the record and you are on the record for your failure to protect the citizens and to put them first over the profit.

Ms. Oliver: Thank you, Ms. Messner, I believe your time is up.

Ms. Messner: Thank you.

Ms. Oliver: Thank you very much. Would the applicant like to come back up?

Ms. West: Okay, well, yes, I have heard what everyone said. I am a landlord, I am a property owner of several properties in Virginia Beach. So I am quite aware of some of the activities that they are speaking about. I have long term rentals and I have a rooming home; I have two agencies that have tried to contact me to use this property here as a rooming house. We wouldn't have to come before the Board, I took it into consideration about my neighbors and decided not to use it as a rooming house because that is a different type of environment and I didn't want that in the neighborhood. Like I said for the Short Term Rental we will screen the individuals who will come and stay, we have been trying to keep it as a family rental place. My nephew will have a room there and he will be coming back and forth periodically, so he is going to need his own room. So it is not going to be, I don't, it is not going to be as they said for prostitutes or drugs or anything like that. I have grandchildren, 16, 15, 9 and 6, so I am very conscious of who will be staying in the home, thank you.

Ms. Oliver: One question, Ms. West, with Mr. Weiner.

Mr. Weiner: This is not your permanent residence, correct?

Ms. West: No, it was my Mother's home and it is my home but I don't, now

Mr. Weiner: That is okay, thank you.

Ms. West: And again I guess I want to rent it on short term so someone will be occupying the house and it is not vacant year round. And I won't have family staying in all the time but I want to have it, you know, available.

Ms. Oliver: Ms. West, Mr. Alcaraz has a question.

Mr. Alcaraz: I think you just answered that but you said your nephew is going to live there but not full time.

Mr. West: Yes, my nephew lives in Florida and he is going to relocate, my Mom raised him, he is going to relocate back in 2021. He comes to visit like he comes for Thanksgiving, this is a place where he will stay. So when he is back and forth he is just living there and I just don't want to keep the house unoccupied the whole year round.

Ms. Oliver: Robyn

Ms. Klein: Is the house currently occupied?

Ms. West: No, we just renovated.

Ms. Klein: Okay. So to be clear, she is applying for a Conditional Use Permit before she is renting it out, okay,

Ms. West: Yes and I live less than a mile away and my two children, all of us live in three different areas but we live less than, I live less than a mile away, I live in Pembroke. My daughter lives by Mount Trashmore, my son lives less than half a mile from here. So if anybody needed to contact us we are there and my two neighbors on each side, Ms. Edner and my other neighbor, they agreed, they didn't have any objections to me doing this. And I don't live on the corner, I live the second house from the corner, so it is adequate parking space and like I said the driveway is large enough itself. We have four cars, six cars will easily fit in there but I don't plan on having 12 guests in the house at all.

Ms. Klein: Thank you.

Ms. West: Thank you.

Ms. Oliver: Thank you very much, Ms. Roberts, I am sorry it is closed to the speakers right now. Alright we will close this and open it up amongst the Commissioners please. Redmond.

Mr. Redmond: First up this is one of things where it is, you know, you would, it is troubling because you would think this is just the kind of situation where someone would want to avail themselves of a Short Term Rental. It is her Mom's house, she doesn't want to lose the house, this is a way to generate revenue from it and the applicant strikes me as being detail oriented. Nevertheless, I was part of one debate already and some of you were as well with City Council. This is not a neighborhood that has a lot of Short Term Rentals. That is not where you would expect to find Short Term Rentals. We had an agenda item in this neighborhood on consent and City Council, I think it is not unfair to say summarily rejected it. I don't believe anything has changed in that regard and particularly because in this case as it was in the prior one, there is opposition and compelling opposition. And specific opposition, not of general issue but I thought of a more specific nature than that. So as much as I am sympathetic to the applicant's desire to do this, I don't think this application is going to work. And I don't know that it should work and as

a result I am not going to support it and therefore I move for denial of the application.

Ms. Oliver: Mr. Weiner.

Mr. Weiner: I am going to second that and the reason I second is because not like this house, the last house, that was her primary residence and she lives there and, yes, she was going to rent it out but that was a residence and she lives there. This isn't a primary residence, this to me is more like a business and it is in a neighborhood looking at the map there is already one denied right down the road. So I will second the motion of denial.

Ms. Oliver: Ms. Klein

Ms. Klein: I intend to support the application, it sounds like it is only for short term use and until her nephew is able to move up here and while we can't forecast what is going to happen with the ordinances, we are moving in the direction that if it is not an overlay it won't be grandfathered in. So the maximum that she would have this is five years anyway.

Ms. Oliver: Yes, Jack,.

Mr. Wall: I think that Ms. West is a very considerate of her neighbors. I think, yes. I will repeat just what I said, I think Ms. West is, you know, would be considerate of her neighbors and conscientious of who rents the property but you know Pocahontas Village there has been consistency in not allowing short term rentals. There is also, it does appear to be more opposition not just because we hadn't any one or two speakers but there was a petition against that I believe, am I correct in that? That the gentleman did provide a petition and so I would tend not to support the application.

Ms. Oliver: Alright. Anybody else? If not then we have got a motion on the floor to deny by Commissioner Redmond and a second by Commissioner Weiner and so we can call for the vote.

Ms. Sandloop: Thank you, Madam Chair, calling for the vote motion for denial, Mr. Alcatraz.

Mr. Alcaraz: Aye

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston,

Mr. Coston: Nay,

Ms. Sandloop: Mr. Graham is absent, Mr. Horsley is absent, Mr. Inman, he is out, is absent, okay, Miss. Klein,

Klein: Nay,

Ms. Sandloop: Mr. Redmond

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall,

Mr. Wall: Aye,

Ms. Sandloop: Vice Chair Weiner.

Mr. Weiner: Aye,

Ms. Sandloop: Madam Chair Oliver,

Ms. Oliver: Aye.

Ms. Sandloop: By a vote of five for and two against, the motion for denial has been approved.

	AYE 5	NAY 2	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston		NAY		
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein		NAY		
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 121 South Kellam Road, 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 # 16.
Arica & Melvin L. Atkins III [Applicants & Property Owners]
Conditional Use Permit (Short Term Rental)
598 Pinewood Drive, Unit 205**

November 4, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. The next items, item 16 which is short term rental the Planning Commission places the following application for Conditional Use Permit for Short Term Rental at 598 Pinewood Drive, Unit 205 on the consent agenda as this application meets the applicable requirements of Section 241.2 of the zoning ordinance, staff support the application and there is no known opposition for this request for item number 16. So in saying that I move for approval on the consent agenda item 1,2,3,4, 5, 7, 8, 11 and 16.

Ms. Klein: I'll second

Ms. Oliver: We have a second by Commissioner Klein.

Mr. Weiner: Madam Chair, for the record, item number four which is CSA Virginia Beach, I need to abstain from, the applicant is my client.

Ms. Oliver: Okay. We're ready for the vote.

Mr. Alcaraz: I got it. I just need to disclose something. Sorry about that.

Ms. Oliver: No, it's okay.

Mr. Alcaraz: That I am the adjacent property owner to item number 16 and I will be voting on impartial but I will be voting for it. Thank you.

Ms. Oliver: Are there anymore? All right.

Ms. Sandloop: Calling for the vote. Mr. Alcaraz

Mr. Alcaraz: Aye.

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston

Mr. Coston: Aye.

Ms. Sandloop: Mr. Graham is absent. Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye.

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye.

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chairman Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items number one, number two with conditions as amended, number three, number four with Commissioner Wiener abstaining. Number five with conditions as corrected, number seven, number eight, number 11 and 16 have been approved by consent.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
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 598 Pinewood Drive, Unit 205, 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. 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.
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 (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).
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 # 17.
HDS Properties, LLC [Applicant] Ruth Vogel [Property Owner]
Conditional Use Permit (Short Term Rental)
600 South Atlantic Avenue**

November 4, 2020

RECOMMENDED FOR DENIAL – HEARD

Ms. Sandloop: Madam Chair, our last item agenda is number 17 and we have four speakers on this item. It is HDS properties LLC an application for a Conditional Use Permit Short Term Rental on property located at 600 South Atlantic Avenue in the Beach District. Will the applicant or the applicant's representative please step to the podium.

Ms. Chapman: Good afternoon. My name is Margie Chapman, I am the property manager for HDS properties LLC Incorporated and I am here to speak on their behalf. They have applied with all of your conditions and they will agree to all of your conditions as well.

Ms. Oliver: Thank you. Do we have any questions for Mrs. Chapman? Thank you.

Ms. Sandloop: Madam Chair, we have four speakers, first one is Ron Swan, to be followed by Barbara Messner.

Ms. Oliver: Welcome Mr. Swan, if you will state your name for the record please.

Mr. Swan: Thank you, Madam Chair, my name is Rob Swan, vice chairman, commissioners. I live in 825 South Atlantic Avenue. I am here representing the Croatan Civic League on the committee for short term rentals. I have lived in Croatan for 36 years and I will be briefer than what I thought I was going to be. We, only in the last couple of years have realized how many short term rentals we think we have. We are a diverse community, we often disagree with ourselves but we ran a survey on Next Door and 85% of the respondents were opposed to short term residents. We estimate there is approximately 60 short term residents and AirBnBs, apparently as best as we can tell the city record shows two. Last month at the October 20th city council meeting we were gratified to see a 10 to nothing disapproval with one council member, this was 809 Vanderbilt Avenue, sorry, it was one council member Guy Tower stating enough is enough and we feel the same way. Just as an aside, I have two friends and you probably know them, Alan Pyle and Tom Joint Jr, they were both long term residents of Croatan and when short term rentals became adjacent to their property they both moved

out of Croatan, they felt it wasn't safe. It's heart breaking for me that they had to do that. We have corporations buying short term rental homes in Croatan. They can't mitigate behavior no matter how hard they try. I have one across the street from me. On this particular one, 600 South Atlantic, on November 3rd. I think you have probably got a plethora of information on this one. I am sorry, but you received a letter from our President of the Civic League and in that letter he referenced everything I referenced but just did a better job at it, but he included a picture. And this is the backside of 600 South Atlantic Avenue. It's adjacent to a deeded ingress egress, private one for public use, but you can see it's caved in on the side. The property was concrete, fence around the swimming pool has caved in. We have erosion. That part of Croatan Beach is the narrowest part of Croatan Beach; it's a real problem. At high tide it's 20 feet. This house is a large house, it's a big house, we have – we didn't know that we were becoming a mini Sandbridge we had no idea until it got out of control. So we as a community, as a majority of the community in the civic league have taken a position that we are opposed to short term rentals in our neighborhood for all the reasons you hear all the time up here. And lastly, thank you for being here today after the elections and doing the city's business.

Ms. Oliver: Do we have any questions for Mr. Swan? Thank you.

Ms. Sandloop: Barbara Messner to be followed by Jan Periello.

Ms. Oliver: Welcome Mrs. Messner

Ms. Mesmer: Good evening. You know as I said earlier, I have – you all are aware you had a huge meeting on short term rentals and you were given a lot of input, people opposed it. But you haven't taken any of that to heart. As far as Croatan, you know I appreciate the fact that they are finally waking up and the number of homes over there for sale is unbelievable and part of the reason they are selling is because they don't really have a beach. The beach hasn't been replenished and it gets, you know dredged back for Rudee Inlet. Like I said, you have seen the signs, some of them are hidden and the one for 600 was, it wasn't really noticeable unless you stopped your car and got out to take a picture. So, you know everyone doesn't drive by and looking, everyone doesn't read the agendas. Like I said I see shuttle buses shuttling people back and forth and you know what the elderly couple said there is a lot of things that go on in this city that no one has any idea. And when you see the hotel strip there is plenty of police down there to protect the hotel industry but there aren't plenty of police. If there were plenty of police we wouldn't have all the violence in our neighborhoods and

long waits. I mean even if you call 311, sometimes there is a six minute wait. So I think because there are, you know, Croatan is organized and they have a little bit more clout that hopefully you will deny this one but the short term rentals and the fact that there is no requirements that where the people can come from, from out of the State, I guess you can rent the Cuomos, you know from New York. Like I say I don't appreciate being here and I don't appreciate the way my city is run and Mr. Tajan, I don't appreciate the fact that you do not ...

Ms. Oliver; Mrs. Messner, I am going to interrupt you right now, we are not going to do that to Mr. Tajan, you need to stay right to the short term rental. Thank you.

Ms. Messner: Okay.

Ms. Sandloop: Jan Periello followed by Cynthia Rickman.

Ms. Periello: Good afternoon. I am Jan Periello, my husband and I live on South Atlantic Avenue in Croatan. My letter of October 8th to Mr. Alcaraz stated the negatives and hazards of granting a CUP to now just 600 South Atlantic. So I am going to spare you and not go into those issues. I am sure you read the letter. Over the years I have watched my community change with a number of STRs overtaking us, legal and illegal. We all dread the summer months and watching our quiet community turn into chaos with the influx of renters bringing traffic and disruption. Without providing any spot checks or enforcement of the regulations while continually granting STRs the City has left us helpless to control the partying and event houses. The burden of trying to protect our right to the quiet enjoyment of our homes should not be our burden. These are our homes in a neighborhood where our children deserve to be safe while playing, bike riding, skateboarding, they should be able to sleep without being subjected to inebriated strangers roaming through their yard, loud noise and filthy language way into the night. I ask you to deny this particular application now and I am going to, like Mr. Swan quote our Beach District Councilman "enough is enough". Thank you.

Ms. Oliver: Thank you.

Ms. Sandloop: Cynthia Rickman followed by Amanda Robinson.

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

Ms. Rickman: Yes, I am Cynthia Rickman and I live at 512 South Atlantic. I am also neighbors with Jan. The problem we are having in Croatan is from my account there are about 30 of them. I am working with – to try to get

information on whether any of these are actually licensed to be doing this and I believe I am having a meeting after this to discuss it because I do not think that you should be approving things that you cannot police and when I ask how many are in Croatan there should be an answer just like that. I don't know if I have also mentioned, this house that would like to be a short term rental is on the market to be sold. So, who is going to be overseeing this if you were to say yes. Are they a rental or are they for sale? They can't be both. And Croatan right now where I live there are within eight houses of me, going in a two block radius, six short term rentals. I do not believe any of them are licensed. Some of them were grandfathered but I don't think they bothered to go ahead and get the license at that point. I would like to sit in my backyard and not listen to Marco Polo at 1 'o clock in the morning from the rental two doors down. And that's pretty much it.

Ms. Oliver: Do we have any questions?

Mr. Weiner: I have one. Mr. Tajan, does the CUP go with the property or the owner if its approved?

Mr. Tajan: It runs with the land.

Mr. Weiner: Okay, thank you, I just wanted to know. Thank you.

Ms. Oliver: Thank you very much.

Ms. Rickman: Thank you.

Ms. Sandloop: Madam Chair, our final speaker is Amanda Robinson

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

Ms. Robinson: Amanda Robinson, I live at 504 South Atlantic Avenue, I live next to a rental property which is at the beginning of the block and I have lived there for 9 almost 10 years and I feel I know all the difficulties that go along with living right next to rental property. I am opposed to the 600 South Atlantic house applying the CUP for an STR. I wrote a letter to Mr. Alcaraz last month and I will echo those sentiments I relayed to him. I am opposed for three reasons. First I value the community Croatan offers. I love knowing my neighbors and I am a Board Member of the Civil League and I am the Secretary and I also am in charge of the social activity. So I really do my best to foster friendship and camaraderie between my neighbors. I am also currently the President of the Women's Club. I don't want to see our neighborhood have any more STRs. I have two small children and we walk to the bus stop, they go to different schools, one will go to ODS and the

other (inaudible) and so the two bus stops are south of Vanderbilt and Twilight and the other one is Virginia Dare and Twilight and so that 600 house would have a big impact if all of the cars are allowed to park in that, what is that for six bedrooms they are allowed to have eight cars, is that right?

Male Spkr: Six cars.

Ms. Robinson: Yeah, so that would be a great increase of traffic and Twilight would bear the blunt of it and we are at the bus stops there are no sidewalks. I just want to make sure that it's safe for our kids to walk around. When you are on vacation you are not necessarily thinking about kids going to school and you are not necessarily paying attention. Additionally, as Rob Swan mentioned, the Moffet and Nickel Study about our beach shows that Twilight is at a critical point for beach erosion and having somebody that's not really interested in the health of our beach or the longevity of it just doesn't make sense to me. I feel like that is a poor decision for the entire community. And that's all I have, thank you very much for listening to my comments.

Ms. Oliver: Thank you very much. Any more speakers?

Ms. Sandloop: No, ma'am no more speakers.

Ms. Oliver: Would the applicant like to come back up please.

Ms. Chapman: Yes, I would just like to add that I have been doing short term rentals for 22 years now and Croatan has always been in our inventory I mean, Croatan is like part of our resort area. And then each just – it goes from Croatan all the way to you know to north end to the bay. So you know I don't think it is unusual to ask for a conditional use permit for this property being like Croatan has always been, like it's just considered part of our resort area and part of our vacation area where people want to come in and enjoy the beach and enjoy our city.

Ms. Oliver: Do you have any questions for Mrs. Chapman? Mr. Weiner?

Mr. Weiner; Are you already using this as a short term rental?

Ms. Chapman: No sir,

Mr. Weiner; Okay. How often does the owner come in?

Ms. Chapman: Currently it is rented right now, it's currently rented on a one year lease right now.

Mr. Weiner: And can you explain about it being getting ready to be sold?

Ms. Chapman: It was a situation where the owner is still trying to sell the property but if not, once this lease expires they may want to convert to vacation and short term rentals.

Mr. Weiner: What, I am sorry could you say that one more time, I didn't comprehend that?

Ms. Chapman: So, right now we have a yearly tenant in there. It's still for sale, if they are not successful with selling it, then probably the next term around they want to be able to rent it as a vacation rental.

Mr. Weiner: So he goes to sell it and that short term rental is going to go with the property and that person, we don't know who that person is going to be. You see where I am going with that.

Ms. Chapman: I see where you are going, yes.

Mr. Weiner: Okay, that's all I got, thank you.

Ms. Oliver: Mr. Wall? No, okay. So we have no more speakers I am going to close this to the public and open it up to the commission or to a motion please. Mr. Inman.

Mr. Inman: I have a question, I am just going to leave it on I am sorry I have got a question about the map that's in our material which shows a whole bunch of dots that are grey which says that they are registered and what does that mean? They were like grandfathered?

Mr. Tajan: No, registered means that they are paying their taxes. We have not yet had a chance to go through all of the applications whether or not they meet all the requirements of 241.2. So if you are paying your taxes and registered with the commissioner of revenue it shows up on the list that we utilized to mark on this on the staff report.

Ms. Oliver: So if they are, I want to piggyback on that, so if they are registered and paying their taxes then I would assume that they are renting, they are all operating as short term rental?

Mr. Tajan: I should say that they are registered, and whether they are paying their taxes or not it's just – I have submitted the paper work I will have to clarify that.

Ms. Oliver: Okay.

Mr. Inman: Yeah, well, that's kind of where I was going. I mean they are registered but they don't have conditional use permits yet but that ...

Mr. Tajan: They may or may not need one, so again we have – as the commission is fully aware we have been inundated with the conditional use permits. We have this next step as we transition with additional staff to dive into all these dots, but to all these applications are the ones that we have submitted. Currently right now we have 255 actual applications out of a number of these registered dots. So we don't even have all those yet. So we have been sending mail and reminding them to come see us. So we need to go through all those.

Mr. Inman: Because some of these grey dot properties have applications in that are being processed?

Mr. Tajan: Some of them could have a zoning permit application so that we can review to make sure they meet the parking and meet everything else and if they were registered and paying taxes prior to July 2018 they will be considered grandfathered. So there is still a zoning permit process or the conditional use permit process.

Mr. Inman: Yeah, I have a lot of concerns about this neighborhood. I mean the representation just made that Croatan has always been considered part of the resort area. I have been here 47 years, I have never considered Croatan part of the resort area and nor should it be treated as part of the resort area. And I have a major concern, I do understand and I believe that the representatives of the neighborhood, the residents who have come and the civic league members that there are short term rentals going on that maybe are not authorized yet. And I have concern with this especially this particular - size of this particular property and what it portends is for a lot of congestion related to it because of the size and the number of visitors that would be generated for that property. So I am opposed to this application.

Ms. Oliver: I have to go on with Mike, I am not going to admit to be here longer than Mike, as it will just start showing my age but – I can agree with him that Croatan has never been, as far as I know considered part of the resort strip. It's more of a cul-de-sac neighborhood if anything. And the fact that this house is for sale concerns me and that this conditional use permit would go along with the land, I am just not real comfortable with this at all and so I would not support this application. Mr. Redmond.

Mr. Redmond: I am completely untroubled by the fact people want to sell houses all the time and that's not typically inconsistent with people who also might want to

rent it, whichever one works. However I completely agree with both of you when I look at this, I say isn't that what Sandbridge is for. There are a lot of big houses in Sandbridge that are far more protected under Virginia law than anything else that we have done. I agree I find this an inappropriate application and with that I would move for denial of the application. Thank you.

Mr. Inman: Second.

Mr. Redmond: And what are you about 34, I am calling you 34?

Ms. Oliver: I am about 35 now.

Mr. Inman: I will second that.

Ms. Oliver: Great, thank you, did you get that. Okay. Perfect. Call for the vote then when you are ready.

Ms. Sandloop: Okay. We have a motion for denial. Mr. Alcaraz.

Mr. Alcaraz: Aye

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston.

Mr. Coston: Aye

Ms. Sandloop: Mr. Graham is absent, Mr. Horsley is absent. Mr. Inman

Mr. Inman: Aye

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye

Ms. Sandloop: Mr. Redmond;

Mr. Redmond: Aye

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye

Ms. Sandloop: Vice Chair Weiner

Mr. Weiner: Aye

Ms. Sandloop: Madam Chair Oliver

Ms. Oliver: Aye

Ms. Sandloop: By vote of eight to zero, agenda item number 17 has been denied.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
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 600 S. Atlantic 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 [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.
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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.
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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.

Items # 18,19,20,21,22,23,24,25,26 & 27
VTS Lynd Mayflower Owner, LLC [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
205 34th Street

November 4, 2020

DEFERRED FOR 30 DAYS

Ms. Oliver: Thank you. And before we go to the next order of business, I just want to say a special thank you to Bill Landfair. He's been with the Planning Department for about two years, I believe, and has done a great job. And he's certainly held my hand through a few things. And Bill is going to be leaving us and going on probably, I don't know where you're going, but we wish you well and Godspeed in your next endeavors. And we will certainly miss you. So thank you so much for that. So we're moving on to our next order of business for the items to be deferred or withdrawn. So, please come forward if you have an item to withdraw. And if we do not, then we will go to the deferrals. Welcome.

Mr. Beaman: Hi, thank you, Madam Chair. Mr. Vice Chair. For the record my name is Rob Beaman and I'm a local land use attorney with the Troutman Pepper Law Firm. I represent the applicant with respect to items 18 through 27. I'd like to request a 30 day deferral to work with our engineer to provide the city some additional information regarding the building code issue that came up in the informal session this morning. Thank you very much.

Ms. Oliver: Great, thank you. Do I have any opposition for this item being deferred?

Ms. Sandloop: Madam Chair, we do have some speakers for items 18 through 27.

Ms. Oliver: Okay, thank you

Mr. Tajan: Customarily, if it's being deferred, we normally would check with the people that would choose to speak, if they don't continue to speak or would like to come back at the next hearing, so. So we still have people that - even though it's being differed we do have, I believe two ...

Ms. Smith: I'm sorry, there's two speakers. Would you like them to come up now?

Ms. Oliver: Yes.

Ms. Sandloop: Okay. Rhonda Heron and then Erin Pearson.

Ms. Oliver: Welcome. If you don't mind if you will state your name for the record, please.

Ms. Heron: My name is Rhonda Heron.

Ms. Pearson: I'm Erin Pearson.

Ms. Heron: I know they've deferred the thing for the Mayflower but we live at the Mayflower and they have currently been Airbnb-ing already for the past four to five months. And we have recordings of people telling us they've been Airbnb. And now that they've just now put up the signs outside to say that the council meeting was today. We didn't know they weren't allowed to Airbnb and they just have like six or eight people in a studio apartments at a time and like party all night long. And we have children living in that building and we are concerned about it. We didn't feel like it was right for it to go on during the Coronavirus anyway because we live there year round, that's our home. I've lived there for years. And I had to go through a strict background check and credit check to be able to move in there and now then they're allowing these Airbnb people to just come in and stay overnight, and just wreck the hallways and wreck the elevators and be inappropriate in front of my children and I do not feel okay with it.

Ms. Pearson: Basically, yeah, I feel like I had to go through a background check. I had to have a credit check, both my husband and I did. These people aren't going to have to do that. We're not allowed. It's built into our leases that we are not allowed to Airbnb our apartments. So I just don't feel like if we can't do it, then they shouldn't be able to monopolize on that. There's so many things that go on in that building, whether it's - it's not clean. There are roaches. Unfortunately, I have to admit in front of everybody that I have to live with roaches. There's only two people to clean the entire 15 floors. There's three maintenance guys to repair everything the water is shut off daily, it seems like maybe more like weekly. But all of those things don't lend well to us who have to live there or two ...

Ms. Heron: We're stuck in our leases.

Ms. Pearson: Yeah, we're stuck in our leases. So we have to live there and to invite more people who are potentially criminals, predators of some sort. We don't know who these people are. It's supposed to be a secured building. We have keys that let us in, we have codes to let us in. And these people are just going to be given these things, and will be able to come and go, we feel like whenever they want, so I just, yeah, that's my opposition. So we know it was deferred, but felt like since we were here we would speak our piece.

Ms. Heron: Thank you for letting us come up here.

Ms. Oliver: Well, I appreciate you all coming down and waiting to hear it and it will go back on the agenda. When is it? December the 9th. So then obviously, you're welcome to come down and then I know there is, if you have any other problems, there is a number that you can call.

Ms. Heron: Yes, they gave it to us out there.

Ms. Oliver: Okay.

Ms. Heron: We appreciate your time. Thank you all.

Ms. Oliver: Thank you all very much. So we will move on to our next deferral.

Ms. Oliver: Okay, great, thank you. Okay, great. Thank you. So I need a motion on the deferral items number 6, number 9, number 14, and 18 through 27, please.

Mr. Weiner: Madam Chair, I move for deferral for item six till December 9th meeting. Item number nine indefinite. Item number 14 for December 9th meeting and items number 18 through 27 for the December 9th meeting.

Ms. Klein: I will second, please.

Ms. Oliver: I think I have a second by Commissioner Klein, please.

Ms. Sandloop: Mr. Tajan, is the item number six an indefinite deferral.

Mr. Tajan: 30 days.

Ms. Sandloop: Okay. Calling for vote, Mr. Alcaraz

Mr. Alcaraz: Aye

Ms. Sandloop: Mr. Barnes is absent, Mr. Coston is absent.

Mr. Coston: Aye.

Ms. Sandloop: Oh, I'm sorry. Sorry. He is not absent sorry. Mr. Graham is absent Mr. Horsley is absent, Mr. Inman

Mr. Inman: Aye

Ms. Sandloop: Ms. Klein

Ms. Klein: Aye

Ms. Sandloop: Mr. Redmond.

Mr. Redmond: Aye.

Ms. Sandloop: Mr. Wall.

Mr. Wall: Aye.

Ms. Sandloop: Vice Chair Weiner.

Mr. Weiner: Aye

Ms. Sandloop: And Madam Chair Oliver

Ms. Oliver: Aye.

Ms. Sandloop: By recorded vote of eight to zero, agenda items 6, 9, 14 and 18 through 27 have all been deferred. Item six for 30 days, item nine indefinite, item 14 - 30 days, items 18 through 27 - 30 days.

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

CONDITIONS

1. The following conditions shall only apply to the dwelling units addressed as 205 34th Street, Units 617, 719, 905, 1005, 1102, 1601, 1602, 1603, 1604, 1605, and the Short Term Rental use shall only occur within these listed dwelling units.
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. Unless an alternative parking plan is approved by the Zoning Administrator, 20 off-street parking spaces located at an off-site parking facility approved by the Zoning Administrator must be continuously leased while the subject units are 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 (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).
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.