

Virginia Beach Planning Commission

Public Hearing

December 9, 2020

Ms. Oliver: Good afternoon. I would like to call to order the December 9, 2020, Public Meeting of the Virginia Beach Planning Commission. My name is Dee Oliver, and I serve as Chairman of the Commission. Before we get started, I have asked commissioner Inman to please lead us in prayer and this will be followed by Commissioner Alcaraz leading us with the pledge, if you all please stand.

Mr. Inman: Dear Heavenly Father, we come to you today thanking you for your guidance and wisdom. As we begin this hearing today, guide our hearts and our minds in the spirit of fairness, right thought, and speech. Help us to remember our responsibility to serve our community and with great insight, guided by understanding, wisdom, and respect for all. As we make decisions today, help us to promote the common good as we work together for the betterment of our great city. As trusted servants, we seek the blessings on our deliberations and on our efforts here today. We also asked prayers to the family of my friend and great friend of this community and the city, Bob Miller who served on this commission for several years, and in many other civic endeavors to the benefit of our great city. Amen.

Mr. Alcaraz: "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. And, I have now as Commissioner Kline to introduce the members of the Planning Commission.

Ms. Klein: Thank you, Madam Chair. We will start with Jack Wall, civil engineer from Rosehall district. George Alcaraz, building contractor from Beach District. Chairman Dee Oliver, 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. Steve Barnes, former from Princess Anne District. Whitney Graham, real estate developer from Lynnhaven District, and myself, Robin Klein social worker from Centerville district.

Ms. Oliver: Thank you, Commissioner Klein. Before we explain the rules, we are going to do the election of Officers and Commissioner Inman and Commissioner Redmond are going to do that and after that, Commissioner Redmond is going to say a few words about one of our fines City Friends.

Mr. Redmond: You are trying to come up with officers in this bunch is very difficult because of course they are 11 qualified people. And, that is one of the things that makes a such a great thing, but we are blessed thankfully to have two particularly qualified folks who are ready to step into shoes into the leadership shoes and so it is my great privilege to nominate David Wiener as our next Chairman and Mr. Jack Wall is our next Vice Chairman. And, I also want to take this time to thank Dave for his service as Vice Chair, I did that job that is not an easy job Jack. You got a lot of loose ends to keep eye on and you have always done I thought a terrific job at it, and at same time thing Dee, who has been in our Chairman's role for two years that is not the easy job either. And, you get a lot of calls and you get a lot of, you have to carry a lot of things on your back and a lot of traffic like that. I know Dave is going to be particularly well suited to that, but we thank you for your service. You have done a superb job, and we will miss you, even though you are obviously going to be followed by someone who is very capable as well. So, it is my great pleasure to nominate those two. And, with thanks to the folks who have served and we will look forward to you folks in your new role.

Mr. Inman: I would like to second those nominations by Commissioner Redmond, these are fine guys and they are going to do a great job for the coming year.

Ms. Oliver: Thank you. And, Dave, do you want to say a couple words. Oh, do we have to vote on it. All right, let us take a vote.

Ms. Roenker: I will call for the vote.

Ms. Oliver: Thank you.

Ms. Roenker: Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Roenker: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Roenker: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Roenker: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Roenker:Commissioner Kline.

Ms. Klein: Aye.

Ms. Roenker:Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Roenker:Commissioner Wall.

Mr. Wall: Aye.

Ms. Roenker:Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Roenker:Madam Chair, Oliver.

Ms. Oliver: Aye

Ms. Roenker:I record a vote of nine to zero, you have approved the nominations for Chair and Vice Chair as stated.

Mr. Redmond: Thank you, Madam Chairwoman and Member folks, talk to me this morning and ask that I say a few words on the Commission's behalf and, gosh, it could be a million people's behalf. About our good friend Bob Miller, who might talk about briefly in his very appropriate prayer. He was a longtime member of this commission and very distinguished service, while he was here. But, he was so many other things in this community to so many other people. He led, one of the leading engineering firms in this region and was involved in all kinds of very complex, but in many cases, very advanced and beneficial things to this community. He was very, very, very deeply involved in civic affairs with the specifically with the Special Olympics, which is why, what I remember from, but a host of other things as well. You found him at forums all the time just contributing his thoughts and his expertise and it was a real contribution. He always came away with Bob's input, an awful lot better for having him there. My best recollection though, and I think a lot of people will recognize this Mike and I talked about earlier. Every time I ever talked to Bob Miller within 30 seconds I was laughing. He always had a smile. He is one of the most cheerful and affable and seemingly happiest people ever I ever knew certainly in this forum. But, I was always glad to see him. He was always nice to me whether I deserved it or not. He was always nice to me, and I am sure he was that way with everybody I think anybody who is around him, for a significant amount of time would recognize and I certainly hope

and agree with that. So, we are all the poor for his passing. He was a great guy. He was very accomplished Commissioner who contribute an awful lot to this community and he will be sorely missed. So, on behalf of this commission, our best to his family and we will remember him very fondly and take a little bit of his attitude and everything we do probably would be a great way to respect his legacy and I will certainly try to do that. Thank you.

Ms. Oliver: Thank you, Dave, for those kind words for one of great citizens of the City of Virginia Beach. Before we move on, I do want to just. There are two missing Commissioners, one is not here due to, he has to have some surgeries so he wants to kind of stay tucked in the house and Mr. Horsley unfortunately he is having some back issues, so, we are missing them greatly today and we wish them well. And with that if our Clerk will go ahead and read us the rules of the day. Thank you.

Ms. Dozier: Thank you Madam Chair. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved, understand how the commission normally conducts its meetings. It is equally important that everyone treat each other, and the members of the Commission with respect, and civility. The Commission requests that if you have a cell phone please either silence it or turn it off. This is an abbreviated explanation of the rules, the complete set of rules is located in the front of the Planning Commission Agenda. The following is the order of business for this public hearing, withdrawals and deferrals. The chairman will ask if there is any request to withdraw 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 recommendation. Regular agenda, the Commission will then proceed with the remaining items on the agenda. Speakers in support or opposition of an agenda item will have three minutes to speak, unless they are solely representing a large group, such as a 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.

Item # 1.

Franklin Johnston Group Management & Development, LLC [Applicant] Wildwood Park, LLC [Owner]

Conditional Change of Zoning (B-2 Community Business District to Conditional A-24 Apartment District)

925 S. Military Highway

December 9, 2020

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you, Madam Chair. We have seven items in total today on the Consent Agenda. First one is item number one, Franklin Johnston Group Management and Development, LLC for a Conditional Change of Zoning from B-2 Community Business District to Conditional A-24 Apartment District at 925 Military Highway. Can we have Mr. Beaman come on forward?

Mr. Beaman: Thank you, Madam Chair, Mr. Vice Chair, and Members of the Commission for the record, my name is Rob Beaman. I am a Local Land Use Attorney at the Troutman Pepper Law Firm here today on behalf of the applicant Franklin Johnston Group. And, we have had a chance to read the conditions, they are acceptable and we certainly appreciate being on the consent today. Thank you.

Mr. Weiner: Thank you, Sir. Is there any opposition to this being placed on the Consent Agenda. Hearing none, Mr. Redmond read this in record for us.

Mr. Redmond: Thank you, Mr. Weiner. This is an application of Franklin Johnston Group Management and Development, LLC for a Conditional Rezoning from B-2 Community Business District to Conditional A-24 Apartment District. Specifically, this is a request to rezone a 9.45 acre parcel on South Military Highway for a multifamily residential use. It is an existing relatively urbanized corridor and surely there are some particular considerations that go with that. And, because it was an industrial site, it appears to be some small environmental concern which the applicant is well prepared to address. The plan depicts five, three story and four story multifamily buildings, one story clubhouse building, an outdoor swimming pool, and a stormwater facility. The landscape has a landscaping plan which so far appears to meet the City's guidelines, that of course like so many other

things is ultimately subject to final plan review. It is very appropriate development for this site, it is an improvement to this site, and it provides a need in housing, which is very deep within this community. The Staff supports it, we are unaware of any opposition and the Commission therefore approves it by consent. Thank you.

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda if these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before, I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of nine to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

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

PROFFERS:

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to “offset identified problems to the extent that the proposed rezoning is acceptable,” (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

Proffer 1:

When developed, the Property shall be developed in substantial conformity with the conceptual site plan entitled “New Multifamily Development, 925 S. Military Highway”, dated September 23, 2020, and prepared by Cox, Kliewer & Company, P.C (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 2:

The quality of architectural design and materials of the multifamily residential buildings constructed on the Property, when developed, shall be in substantial conformity with the exhibit prepared by Cox, Kliewer & Company, P.C., entitled “Conceptual Elevations 925 S. Military HWY Apartments”, and dated October 7, 2020 (the “Elevations”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 3:

The number of multifamily residential units located on the Property, when developed, shall not exceed a total of two hundred twenty (220).

Proffer 4:

Landscaping installed on the Property, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Timmons Group, entitled “Conceptual Landscape Plan, 925 S. Military Highway,” and dated October 19, 2020 (the “Landscape Plan”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council. The exact species of the various types of landscaping shall be determined at final site plan review.

Proffer 5:

The community identification sign on the Property shall be a monument-style sign not exceeding eight (8) feet in height, and the design and the materials used for the sign will be compatible with the building materials and design used for the multifamily residential buildings depicted on the Elevations.

Proffer 6:

The community clubhouse for this development shall be located substantially where shown on the Concept Plan. The design and building materials used for the community clubhouse will be compatible with the building materials and design of the multifamily residential buildings depicted on the Elevations. The final elevations of the community clubhouse will be subject to approval of the Planning Director.

Proffer 7:

Further conditions lawfully imposed by applicable development ordinances may be required by the Grantee during detailed site plan and/or subdivision review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

Staff Comments: Staff has reviewed the Proffers listed above and finds them acceptable.

The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

Items # 2 & 3.

**Performance Collision Centers, LLC [Applicant] City of Virginia Beach [Owner]
Conditional Rezoning (A-12 Apartment District & R5-D Residential District to
Conditional I-1 Light Industrial District)**

Conditional Use Permit (Automotive Repair Garage)

212 Fair Lady Road

December 9, 2020

RECOMMENDED FOR APPROVAL – HEARD

Ms. Dozier: Items number 2 and 3 is a Conditional Rezoning on property located at 212 Fair Lady Road. Is the applicant present or the applicant's representative? Please state your name for the record.

Mr. Bourdon: Madam Chair and Members of the Commission for the record Eddie Bourdon, Virginia Beach Attorney representing Performance Collision Center, with me today is Mr. Don Smith, Vice President of Corporation, Barry Frankenfield who is the landscape consultant on the project, he was supposed to be here, may be here outside I am not sure. This application involves a property, containing 2.76 acres, that was assembled by the City. It is in the APZ-1 accident potential zone number one, and the highest noise zone proximate to NAS Oceana. The City acquired this property, using taxpayer funds to help protect Oceana from encroachment. This property is located at the intersection of Potters Road and London Bridge Road, also is adjacent on the west side to Fair Lady Road. For those of you who may not be aware of this, Fair Lady Road was the London Bridge Road, which was a significant two lane arterial roadway in Princess Anne County and the City of Virginia Beach, for a century. It became Fair Lady Road in 2003 and 2004 with the new London Bridge Road that we all drive and know where that is, but prior to that time it was an extremely busy, two lane arterial London Bridge that being what is now Fair Lady Road. I want to thank Staff and most particularly Marchelle Coleman for their work with us on this project. You see up there the project property is basically a triangle. There are no adjacent residential properties, there are properties across Fair Lady formerly London Bridge Road from the property. The proposal is to construct a 15,000 square foot one-story building in which all the office functions and work on vehicles and storage of any manner will occur. All behind closed doors and no vehicle per the lengthy list of conditions that is under the state of being repaired can be stored outside. If it is vehicles being

worked on, it has to stay inside at all times until it is completed. The building itself has high quality exterior building materials, as well as architecture with white board and batten siding with white and gray architectural metal siding accents and shutters. There are three glass overhead garage doors, one facing Potters Road, two facing due south in the back. There is customer parking provided in front of the building between the building's frontage and Potters Road, and there is a large parking area in the rear. That area is completely fenced. There is a six-foot mandatory vinyl fence around the entirety of that lot, and there are also gates to that, which I will talk about in a second. The fencing is set back over 25-feet from London Bridge Road, it set back 20 feet from Fair Lady. On the Fair Lady side, it is heavily, heavily landscaped. And, it is also very well landscaped on the property itself on all other sides of it. The two access points for City's requirements are on Fair Lady, the primary one being the northern one. There is a gate between the western side of the building that closes off the rear parking area and there is also a gate that will close off the secondary entrance exit, more than entrance on the southern end of the frontage on Fair Lady. The per condition no vehicles can be delivered to this site or removed for the site for that matter between the hours of 6:00 in the morning and 8:00 at night. The gates will be locked and there will be no access other than the fire department. The operation of the business, not just the building will be between 07:30 in the morning and 6:00 in the evening on six days of the week. The business, it is a one story building the business, if it is as successful we hope it will be, there will be probably an average of three vehicles, being brought to the site on a daily basis, some days more, some days less but over the course of a year probably around three maybe three or four vehicles a day for work, all of which has to be performed by condition, inside the building with all of the doors to remain closed. The business will employ 18 people at max, I forgot to mention too, there is a dumpster on the property, the dumpster is within the fenced area in the back at the south east corner of the lot, it is furthest away from Fair Lady and inside the lot that is fenced and landscaped on the outside. We have got landscaping around the dumpster enclosure inside the enclosed lot itself, so, you cannot get more enclosed for a dumpster to meeting again, meeting all requirements the landscaping we believe exceeds all requirements and we know that the setback on the Fair Lady side exceeds what is required and the width of the landscape buffer exceeds what is required. As I mentioned at the beginning, the property is in APZ-1 highest noise zone. The property used to be a trailer park, Mr. De Hart had a house on the corner on Potters Road where the house was part of most of the road is now. But, where this is was a trailer park and not a particularly nice one either back in the day, I

had the privilege my Uncle and Aunt lived on the opposite side of what was then London Bridge Road from this property for many, many decades for the past. All the conditions that Staff has recommended on the use permit are acceptable for my client. It is also heavily proffered as you all know, Staff has recommended approval. We hope that you will see fit to make the same recommendation to City Council, I would be happy to answer any questions that you may have.

Ms. Oliver: Does anybody have any questions for Mr. Burdon. No, thank you.

Mr. Bourdon: Thank you very much.

Ms. Dozier: We have two speakers on this item.

Ms. Oliver: Okay. And, before we get started, I just want everybody to be mindful there is a three minute time limit on speakers and so just be cognizant of that as you start. Thank you.

Ms. Dozier: Susan Betts.

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

Ms. Betts: My name is Susan Betts. And, I just wanted to say, I have resided on Casey Court for 10 years. I am a little nervous. I have never been in this situation before but as long as I have lived there, there has never been a trailer park on that parcel of land and this is a community of neighbors, and families who walk their pets and children down that street and where school buses come. It is zoned residential I do believe now and zoning it industrial will bring tow trucks and rollbacks down a street that you know in a quiet neighborhood where we have London Bridge Boulevard already. And, further down the street is already zoned industrial and I am under the impression they already are off of Central Drive, so, I am not sure why they have to relocate, but it is definitely not going to help the curb appeal in our neighborhood where our families and children and pets go. And they have to come in on Fair Lady and not London Bridge which is already busy and I do remember too when it was one lane both ways before the on ramp came to right there where they build the on ramp, which makes it nice but there is already a lot of traffic down there, so, I do not see how that is going to help. And, I do not see if it is zoned residential why they cannot put more residence or another business it is not zoned for light industrial. So, I think if something like this was going up in your backyard, I do not know how you feel about it but I certainly think they could put that land to better use than

something like that, especially when their place is a stones thrown down the road. I thank you for your consideration and time. And, I would like to keep it green, I mean I was listening earlier about how Virginia Beach needs more bike paths and things like that, but a dog park and my other neighbors of Apiary, they have young kids said, hey, how about a children's playground but I guess people want to pave paradise and put up a parking lot, so to speak. I hope that does not happen but it is kind of out of my control but I wanted my voice heard. Thank you.

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

Mr. Dozier: Jay Augustan.

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

Mr. Augustan: Good morning. My name is Jay Augustan. Thank you everyone for having me here today. My name is Jay Augustan and I am a proud homeowner in the Fair Lady Place, the ten home cul-de-sac you will see on the top part of that screen right across from the blue, directly across from the site. We have four children in our house, ages 3, 6, 9, and 14 and I am here speaking today in opposition to the rezoning request. My primary reason for this is that noise that will bring to the area. It is a collision repair center that is being proposed between tow trucks, flatbed trucks, delivery trucks, dumpster trucks with their backup beeping, the noise of loading cars and the noise out resonate from the building from the repairs themselves. That will bring disruptions to a very peaceful area. This is why zoning ordinances normally for businesses of this type typically reside in industrial areas rather than in or at an entrance of a neighborhood. I do agree that the structure the building is attractive. But the cars coming there and the noise that will bring will not be. In fact nine dwellings on Fair Lady Road will directly be affected as they will be either directly across or contrary to what the gentleman said earlier, there is a dwelling that is right next door. There is a duplex with two families that live in that dwelling. Personally, I like to see a park in that area, if not more housing of some sort. However, I understand that due to AICUZ neither are possible as stated by the landscape designer and former Planning Commission member on the zoom call that developer kindly hosted. With that said, I know that Virginia Beach is not in the business of owning land and using revenue for the city's preservation. Thus it is a matter of time before a business of some sort will eventually be there, especially due to its location. However, no offense but I oppose any industrial type business on that piece of land due to its close proximity to the residential family dwellings. Personally, the next ideal scenario in my

opinion, would be a professional office space like what is currently across the street on Potters Road that has Doctor's Offices and a Physical Therapy Center. If not that maybe a coffee shop or donut shop, or a bakery or something of that nature would be much more complimentary to a neighborhood, other than an industrial business. In my opinion Performance Collision Center, would be much better suited across London Bridge, which you cannot see. Preferably at the former Commerce Park at the corner of Virginia Beach Boulevard and the Expressway where London Bridge is, and this would give them it an even better location in terms of access, the visual from the expressway and not have any residential concerns and not alter the way they operate their business. As you search for win, win scenarios between the business, the City, and residents, this would be it. Otherwise, should all parties involved and voting on this choose and move forward despite these concerns that I believe that we need to address the following. Number one, first and foremost, can we move the entrance on Fair Lady Road to London Bridge. Both entrances on the site will be on a road that currently residents ride their bikes, like the young lady had said earlier today.

Ms. Dozier: Thank you for your comments.

Mr. Augustan: Oh, sorry. Is that my time.

Ms. Oliver: Yes, sir, it is your time.

Mr. Augustan: No worries.

Ms. Oliver: Thank you very much.

Mr. Augustan: Thank you so much.

Ms. Oliver: Madam Clerk, do we have any more speakers.

Ms. Dozier: No, Ma'am.

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

Mr. Bourdon: Thank you Madam Chair, I want to thank Ms. Betts and Mr. Augustan for their constructive comments and for their being here today. I will address a couple things I have neglected to mention. I passed out before the hearing and you all have a letter of support from a family on Fair Lady, as well as from the London Bridge Baptist Church I have provided all those, they should have been at your chairs when you came back from lunch, letters of support of this project. One thing I want to point out that may not be

something that the speakers were aware of is that, I said, the property is in the APZ-1, Accident Potential Zone number one and the highest noise therefore it cannot be developed residentially that is the reason why the City acquired in the first place and it is been in our Comp Plan been known for decades now that this property and others like it with the appropriate type of landscaping, development restrictions etc. would be some form of light industrial that is the only thing that can go there. The uses that were described for almost every one of them is not allowed now, because of conflicts with NAS Oceana, and the Airfield. The entrance to this facility is not directly across from the entrance to Fair Lady to be clear, and we have intentionally shifted it so that it, we never wanted it to be lined up with the entrance to Fair Lady, so, there is no conflict there. We have a huge BMP on the south end of the property that is larger than probably three lots combined, four lots combined in Fair Lady before you get to the duplex that is located to the south of us, it is not a part of any neighborhood it is been there frankly for probably 50 to 60 years maybe even longer quite honestly. So, the application is an excellent application for this location. We have placed the entrances where we have been instructed to place the entrances by City Policy by City Staff, and we have met with the community, my client is an upstanding member of this community. He will abide by all the conditions and we will make sure the landscaping is to the point you would not be able to see what is going on there in a short period of time, but nothing will be going on other than vehicles being parked because everything will be closed and everything is done inside the building. There is one house on Fair Lady Place that is the side of the house faces London Bridge Road, that is the only house that is really in close proximity, but again it is on the opposite side of London Bridge Road landscaping on the east side of that property as well. And, with that, I would be happy to answer any questions if you may have any.

Ms. Oliver: Anybody have, Mr. Alcaraz.

Mr. Alcaraz: Mr. Bourdon, I was just looking at, so, I just want to clarify something, maybe your client can answer this, but you guys are showing a fence detail and it looks like it is kind of like as you call it corrugated, is there is that for sound, because it is kind of got thick structure to it.

Mr. Bourdon: It is a high-quality maintenance free vinyl fence and it is solid. But in terms of the.

Mr. Alcaraz: It is got a detail and it looks like two inches thick.

Mr. Bourdon: It is not a thin little fence, you are absolutely correct. But I would say that it would not keep the jet noise away, which this area, again, highest noise zone. But with what we have attempted to do with Barry Frankenfield's help is to create a very solid landscape buffer that will be the best noise attenuator, much more so than just a fence but between the fence and the heavy landscaping that all up and down Fair Lady on that side where we get the heaviest landscaping. That is the noise attenuation, the better noise attenuation than just the fence. The noise will bounce off the fence. The heavy landscaping absorbs some of the decibels.

Mr. Alcaraz: Alright, thanks. Just hold on, Mr. Tajan, Mr. Bourdon mentioned residential uses. But Mr. Augustan actually asked and I just want to confirm it on the uses for office, coffee shop, doctors office. Can you confirm that?

Mr. Tajan: Yes, sir. Mr. Alcaraz. So, in APZ-1 which is one of the higher Accident Potential Zones other than the Clear Zone those types of uses as retail food services are not permitted per the Zoning Ordinance. So, many of those retail uses that allow for folks to be located there for longer periods of time due to the safety concern are not permitted use.

Mr. Alcaraz: Okay. Thank you.

Mr. Wall: But, commercial uses would be, you are just saying that it is.

Mr. Tajan: It is very limited, this is one of the more limited ones other than the Clear Zone. So, reading through the use table, regular retail sales is not permitted. Even the retail sales of food, eating and drinking establishments, so, those are the typical, even personal services which cover the majority of the other uses Mr. Wall. So, they would not be permitted in the APZ-1, so, they could not be a use permitted on site.

Mr. Bourdon: You all do not see applications to put APZ-1 commercial uses because Mr. Tajan is correct, it is exceptionally narrow in APZ-1.

Ms. Oliver: Thank you. Does anybody have any more questions? Mr. Graham?

Mr. Graham: Regarding an access point, right in and right out on London Bridge Road, I understand that it is limited access road. And Traffic Engineering has looked at it and it is too close to the two intersections. Is the applicant opposed to having an entrance on London Bridge, if they were able to get it.

Mr. Bourdon: Mr. Graham that we have been told that it is City Policy that there would not be access onto London Bridge Road. A right in and right out personally I do not see that being a problem. If there is not room to have a median break and a full entrance really. But, based on my years of experience, I do not know how the right in and right out is a safety issue. However, we are abiding by and have every desire to abide by what the City Policy, as I understand it was set by City Council some time ago is, but certainly we are doing what we are told.

Mr. Graham: Sure.

Mr. Bourdon: And, if City Council wants to tell us to move it to London Bridge Road, I am certain we would not be looking for any median break.

Mr. Graham: Okay. I mean, it seems like it is a low traffic impact. So, a lot of other uses, not that there are very many uses, but any other uses. I mean, they are going to have to have access from Fair Lady as well.

Mr. Bourdon: That is correct it that is 100% correct. And this truly is a low impact and we are restricting the hours of operation and the utilization of it in order to minimize any impacts.

Mr. Graham: Okay. All right. Thank you.

Mr. Bourdon: Thank you.

Ms. Oliver: There are any more questions? Yes, Jack.

Mr. Wall: Can you Mr. Bourdon. Can you speak a little bit more on the parking for this property, as I see an enormous amount of parking for this facility that you would not expect for it typical auto repair.

Mr. Bourdon: One of the situations, there a couple situations that we are dealing with. One is that we do not want to have any overflow whatsoever onto the adjacent streets so we eliminate that entirely with having a larger parking area in the back. There will be vehicles that are not under repair, that repairs have not started that we have to store they are waiting for parts and then put them in, get the work done and get them get them out. So, that is one of the reasons for the size of the lot. But the primary one is to make no doubt in anyone's mind that there is going to be no impact of what goes on here in any of the communities that surrounded it as far as parking is concerned. If there were to be a concern about reducing the size of the of

the area, my client would be amenable, but this was something that in the conversations with Staff and with City Representatives, we did not want there to be any impact and we want to make sure that it will be solidly screened, so, no one and in a very short period of time will even know what is going on there or see what is going on there, but other than Zoning Inspectors are welcome. But we are not going to do any work other than in the building.

Mr. Wall: Okay, can you follow up and can you speak on the architecture also, of the facility.

Mr. Bourdon: I tried to do that in the presentation, board and batten, fiber siding, metal accents, we got lots of windows, not what you typically see, as Mr. Augustan even acknowledged, it is a very attractive building. And I think it is extremely attractive building and it is very similar to the one of the two industrial buildings that is on the opposite side of London Bridge Road adjacent to the Gate Wood Park Neighborhood that were built again on similar situation acquired properties of the City. So, for development that lines up with the entrance to the south end of Fair Lady. One of those buildings is very similar architecture and I believe that building even got a design award from this Commission a number of years ago when it opened.

Mr. Wall: What is the use of that building.

Mr. Bourdon: It is an industrial zoning, it is not it?

Mr. Wall: It is a fleet supply?

Mr. Bourdon: I am sorry.

Mr. Wall: Is it fleet supply?

Mr. Bourdon: I believe that is correct. I do not want to suggest that it is an auto repair, but it is an industrial use on industrial property.

Mr. Wall: Okay. All right, thank you.

Ms. Oliver: Anybody else? Okay. Thank you, Mr. Bourdon.

Mr. Bourdon: Thank you.

Ms. Oliver: All right, the hearing is closed now. We will open it up for discussion amongst the Commissioners unless we have a motion on the floor. Mr. Redmond.

Mr. Redmond: I recall the City acquired this property for the purpose of the use similar to this. This is a consequence of Base Realignment and Closure Commission, where Mr. Bourdon says for decades it literally has been close to 20 years that we have been on this quest to place similar businesses in this part of the City, APZ-1. I am impressed, the architecture is quite attractive, it exceeds on landscaping, it exceeds on parking, the goodness, the dumpster enclosure, I am looking at this in the dumpster enclosure seems to have been thought out with a great deal of care and the fencing. I mean, there is a lot to like about this. If you accept and I think we have to accept that this is the kind of use it is going to go on this property that I think this is a very well thought out application, where a great deal of care has been taken to that. So, I certainly understand and sympathize with these folks who just do not want anything built there. Okay. And, I get that too. That is why the City acquired it and in given that, it seems to me, we could do an awful lot worse on this property than what we are presented with. So, I am going to support it and George's neck of the woods, I am going to wait for him to make his move. But, I think it has a lot to recommend it quite frankly. Thank you.

Ms. Oliver: Yes, Mr. Wall.

Mr. Wall: I have got a few things. One is, this could be for Marchelle or for anybody with the City, will this unfairly provided an advantage to this business that is, that is provided with the City parcel in an area that zones and you are currently residential A-12 Apartment District as opposed to a typical industrial area that we have. I believe within the past few years approved auto repair and even collision repair businesses, tucked away off of London Bridge in a more of an industrial setting. And, maybe that is just a question that is hard to answer. But, it almost seems like it does provide them on a somewhat key intersection near Potters and London Bridge, well-traveled, heavily traveled trafficked road, I mean, possibly an advantage over other businesses that have located in more of an industrial setting. So, I do not know if anybody can answer that or it can be answered.

Mr. Tajan: I do not know if we can answer that Mr. Wall. As you as we know, this is a City parcel that has been requested and deemed as excess by the City. And, there was a proposal to come forward from the applicant with this proposed development, which is why it is in front of you. The economics behind it, I do not believe we can answer any of for you.

Mr. Wall: Okay. All right, thanks.

Mr. Alcaraz: All right, well.

Mr. Wall: I have a couple other things. One thing is this would catch me, I am not a fan of this, it would catch me off guard if I lived there. It is an open space; we know there has been some discussion on that this is the best use. Well, I do not know if it is the best use, possibly open space. And it may have been acquired as part of the protection within the AICUZ area against additional residential. But, on the flip side, the architecture blends with recent precedents and very good architecture. And, the landscaping it cannot get better I do not think then what has been proposed at this point for this type of use. So, I am little torn on that. Okay, that is it, sorry George.

Mr. Alcaraz: Good, Jack thank you. And, I agree with Mr. Redmond, this is the, I guess, the worst case scenario of an APZ-1 your crash zone, your noise zone, it is the worst case, and the applicant has submitted a plan with the restrictions on the property that, minimal and they picked the site and the design of it. And, I am sorry with the concerns with the opposition, but I am going to make a recommendation for approval.

Ms. Oliver: Do I have a second.

Mr. Redmond: Second.

Ms. Oliver: The second by Commissioner Redmond. Can you call for the question please.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Nay.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Nay.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: Madam Chair, Oliver.

Ms. Oliver: Aye.

Ms. Porter: By a recorded a vote of seven to two, agenda item number 2 and 3 have been approved.

	AYE 7	NAY 2	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes	AYE			
Coston				ABSENT
Graham	AYE			
Horsley				ABSENT
Inman	AYE			
Klein		NAY		
Oliver	AYE			
Redmond	AYE			
Wall		NAY		
Weiner	AYE			

PROFFERS AND CONDITIONS:

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to “offset identified problems to the extent that the proposed rezoning is acceptable,” (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

Proffer 1:

When the Property is developed, it shall be developed, fenced and landscaped substantially as shown on the two (2) page exhibit, entitled “EXHIBIT FOR PERFORMANCE COLLISION CENTER CONDITONAL REZONING AND CONDITIONAL USE APPLICATION 212 FAIR LADY ROAD VIRGINIA BEACH, VA”, dated 7-30-2020, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).

Proffer 2:

The exterior of the building depicted on the site Plan shall be substantially similar in appearance to the elevations shown on Exhibits labeled, “PERFORMANCE COLLISION AT POTTERS AND LONDON BRIDGE ROADS – CONCEPTUAL RENDERINGS”, “View 1”, “View 2”, “View 3”, and “View 4”, dated July 29, 2020, prepared by Finley Design Architecture + Interiors, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Renderings”).

Proffer 3:

The exterior building materials on the Performance Collision facility shall be as depicted and described on the Renderings of View 1 and View 2.

Proffer 4:

The freestanding monument sign designated on the Site Plan shall be internally illuminated using the base material and colors, substantially as depicted on the “Monument Sign Exhibit – Performance Collision at Potters and London Bridge Roads”, dated 7/29/2020, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Sign Exhibit”).

Proffer 5:

The enclosure for the dumpster as designated on the Site Plan shall utilize the material and colors substantially as depicted on the “Dumpster Enclosure Exhibit Performance Collision at Potters and London Bridge Roads”, dated 7/29/2020, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Dumpster Exhibit”).

Proffer 6:

All vehicular repairs shall be performed inside of the building and all vehicles under repair shall remain inside the building while under repair.

Proffer 7:

No materials, supplies, equipment, trash or refuse shall be stored on the Property, except inside a building.

Proffer 8:

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

Proffer 9:

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

Staff Comments: Staff has reviewed the Proffers listed above and finds them acceptable.

The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

CONDITIONS:

1. The applicant shall obtain all necessary permits for the installation of a paint booth for the proposed use. If the required permits for the paint booth are not obtained, the painting of vehicles shall be prohibited on the site.
2. Vehicles under repair must be stored/kept inside of the building at all times while under repair.
3. The garage bay doors shall remain closed during the hours of operation, except for the ingress and egress of vehicles.
4. Hours of operation shall be limited to 7:30 a.m. until 6:00 p.m., Monday through Saturday.
5. The towing of vehicles to the site shall be limited to no earlier than 6:00 a.m. and no later than 8:00 p.m.

6. There shall be no outside storage of equipment, parts, tires, or materials.
7. No motor vehicle repair work shall take place outside of the building.
8. No motor vehicles shall be parked within any portion of the public right-of-way.
9. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
10. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.
11. There shall be no portable or nonstructural signs or electronic display signs on the site.
12. All outdoor lighting shall be shielded to direct light and glare onto the premises; said lighting and glare shall be deflected, shaded, and focused away from adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet.

Item # 4

Scarlet Dawn Windley [Applicant] Brandon Bullock & Jennifer Williams [Property Owners]

Conditional Use Permit (Home-Based Wildlife Rehabilitation Facility)

4933 Gulfstream Circle

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Redmond. Next is item number four, Scarlet Dawn Windley for Conditional Use Permit for Home-Based Wildlife Rehabilitation at 4933 Gulfstream Circle. Do we have an applicant available? Please come forward. Hi, welcome. Please state your name for the record.

Ms. Windley: Scarlett Dawn Windley.

Mr. Weiner: And are all the conditions acceptable.

Ms. Windley: Yes, sir.

Mr. Weiner: Thank you very much.

Ms. Windley: Thank you.

Mr. Weiner: You can sit down, thank you. Is there any opposition to this being placed on the Consent Agenda? Hearing none, Mr. Wall has been asked to read this to the record.

Mr. Wall: Thank you, Mr. Weiner. This is a Conditional Use Permit for a Home-Based Wildlife Rehabilitation Facility. The applicant is requesting for a home-based wildlife rehabilitation facility to provide emergency care for juvenile wildlife, located in the Lark Downs neighborhood. For the last seven years, she has held a license through Virginia Department of Game and Inland Fisheries to rehabilitate orphaned and baby mammals. The applicant obtains a Conditional Use Permit in 2017, for this use at her previous residence in Virginia Beach. Animal Control noted that there were no reports or complaints associated with her operation. The applicant works closely with the refuge in Suffolk. This request is necessary that for the applicant to provide emergency care for abandoned and injured infant

squirrels, opossums, and raccoons on the property. No adult animals will be accepted or treated. The raccoons will receive rabies vaccinations, at around 12 weeks old. Animals will be kept indoors until two weeks before their planned release. At that time they are transferred outdoors within a proposed enclosed 5-foot wide by 10-foot long by 6-foot tall structure with the concrete floor at the southeast corner of the backyard. That is entirely enclosed by a 6-foot privacy fence. The proposed enclosure will meet the required 5' rear and side yard setbacks as required by the Zoning Ordinance. No animals will be released on site and according to the application all releases will occur on wooded lots in Hampton Roads with appropriate permission. The applicant is amenable to the conditions. There is no opposition and Staff recommends approval. Therefore we have placed this item on the Consent Agenda.

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda if these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of nine to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

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

CONDITIONS:

1. The applicant shall comply with all the provisions of Section 242.3 of the City Zoning Ordinance pertaining to a Home-Based Wildlife Rehabilitation Facility.
2. The applicant shall comply with all provisions established for wildlife rehabilitation by the Virginia Department Game & Inland Fisheries.
3. No animals shall be dropped-off or released at the subject site or within the neighborhood.
4. The outdoor enclosure shall be screened from view from the right-of-way and all adjacent properties.
5. All mammals kept onsite shall be properly vaccinated for rabies and proof of rabies immunization shall be kept onsite.
6. Animal waste shall be removed daily in a lawful manner.
7. All animals shall be properly and humanely contained either in the dwelling unit or within the outdoor enclosed structure. Animals shall not be allowed to roam freely out of these structures at any time. If any animal does escape, the City of Virginia Beach Animal Control Department shall be notified immediately.

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

Shawnda M. Bentley [Applicant] Shawnda M. & Enoch A. Bentley [Property Owners]

Conditional Use Permit (Home-Based Wildlife Rehabilitation Facility)

1204 Orkney Drive

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Wall. Next item is item number five, Shawnda M. Bentley for Conditional Use Permit for Home-Based Wildlife at 1204 Orkney Drive. The applicant please come forward. Welcome. Please state your name for the record.

Ms. Bentley: My name is Shawnda Bentley.

Mr. Weiner: And are the conditions acceptable.

Ms. Bentley: Yes they are. Thank you very much.

Mr. Weiner: Thank you. Is there any opposition to this being placed on a Consent Agenda? Hearing none, Ms. Klein has been asked to read this into the record.

Ms. Klein: The applicant is requesting a Conditional Use Permit for a Home-Based Wildlife Rehabilitation Facility to provide emergency care for juvenile wildlife in an R-20 Residential District located in Bellamy Manor. Animal Control noted that there were no reports of complaints associated with the home-based rehabilitation operation. The applicant plans to provide emergency care for infant small mammals, birds and waterfowl. No rabies vector species will be kept on the premises and no animals will be released at the residence. During the initial phase of rehabilitation all wildlife will reside inside the existing garage within enclosures appropriately sized for the species. Prior to release animals will be transitioned outdoors to an existing 10-foot by 16-foot accessory structure located behind a large hedge in the backyard. The structure is enclosed with a half-inch steel hardwood cloth that extends six inches below ground level and is located 42 inches from the rear property line. Based on this encroachment into the 5-foot rear yard

setback, a deviation to the setback is requested. This structure is completely enclosed by a 6-foot tall privacy fence. The applicant is a licensed category 4 wildlife rehabilitator with the Virginia Department of Game and Inland Fisheries and works under the supervision of a category-2 rehabilitator sponsor. There is no known opposition to this request and it is placed on the Consent Agenda.

Mr. Weiner: Thank you, Mrs. Klein.

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda if these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of nine to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

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

CONDITIONS:

1. The applicant shall comply with all the provisions of Section 242.3 of the City Zoning Ordinance pertaining to a Home-Based Wildlife Rehabilitation Facility.
2. The applicant shall comply with all provisions established for wildlife rehabilitation by the Virginia Department Game & Inland Fisheries.
3. No animals shall be dropped-off or released at the subject site or within the neighborhood.
4. The outdoor enclosure shall be screened from view from the right-of-way and all adjacent properties.
5. All mammals kept onsite shall be properly vaccinated for rabies and proof of rabies immunization shall be kept onsite.
6. Animal waste shall be removed daily in a lawful manner.
7. All animals shall be properly and humanely contained either in the dwelling unit or within the outdoor enclosed structure. Animals shall not be allowed to roam freely out of these structures at any time. If any animal does escape, the City of Virginia Beach Animal Control Department shall be notified immediately.
8. The outdoor wildlife enclosure structure shall be located no closer than 42 inches from the rear property line as depicted on the exhibit entitled, "Shawnda Bentley Concept Layout," and dated November 2020. This location is a deviation to the five-foot setback required by the Zoning Ordinance.

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

E & R, Inc. [Applicant] Chesapeake Beach Commons, LLC [Property Owner]

Change in Nonconformity

4600 Lookout Road

December 9, 2020

RECOMMENDED FOR APPROVAL – HEARD

Ms. Dozier: Our next item is item number six, which is a Change in Nonconformity located at 4600 Lookout Road. Is the applicant present?

Mr. Coleman: Hello, my name is Rich Coleman, I am the owner of HK on the Bay. You all heard this morning, what we are trying to accomplish. And, the reason why I was not here, I am going to basically just change the construction of something that was approved 10 years ago, to make it more aesthetically pleasing. It is also going to be keeping our guests from the elements, so we can see them when it rains and when it is cold. You have the letter from Phil, next door neighbor with the objections. We have met with Phil, me and the landlord. And, we have come to a compromise on everything he is asking for. And, that is the reason why he's not here, he has already left. So, we are summarizing that in a letter to Phil, and he is good, now. The other objection, I think, reference a part of the parking situation and what we are doing does not affect parking at all. There is no gain or loss of spaces. Where we're going to put the 12 by 12 foot deck with no roof is right now there are just a couple of bushes there. So, we remove a couple of bushes. Does anybody have questions?

Ms. Oliver: Thank you for taking the time to come down and address those issues. We truly appreciate it, I know this is Mr. Redmond's district, but my husband is also in the restaurant business. So, I know how important these patios are especially in these times.

Mr. Coleman: Yes, because we have lost seating due to the social distancing.

Ms. Oliver: Absolutely. I applaud you on your design. I think it is absolutely beautiful and wish you well in your new, enclosed patio, because I think it will serve you very well in these times. And, hopefully, there will be short lived.

Mr. Coleman: Yes. Thank you.

Ms. Oliver: Thank you. Mr. Redmond, do you have any questions?

Mr. Redmond: I do not, I have no questions for the applicant.

Ms. Oliver: Does anybody have questions for the applicant. Okay. Thank you very much.

Mr. Coleman: Thank you all.

Ms. Dozier: We have two speakers on this item.

Ms. Oliver: Okay. Thank you.

Ms. Dozier: Philip Delsignore.

Ms. Oliver: I do believe that the applicant had said that he might have left earlier, but if you want to try one more time.

Ms. Dozier: Philip Delsignore if you are in please come to the podium.

Ms. Oliver: Okay, so, he appears to be gone.

Ms. Dozier: Bill Parr.

Ms. Oliver: Both of our speakers are gone, it appears. Okay, well with that, we will go ahead and close the hearing now and open it up for discussion and or motion. Mr. Redmond.

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

Mr. Weiner: I second.

Ms. Oliver: We have a second by Commissioner Weiner. Can you call for the question please?

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: Madam Chair, Oliver.

Ms. Oliver: Aye.

Ms. Porter: I record a vote of nine to zero, agenda item number 6 has been approved.

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

CONDITIONS:

1. The conditions of the 2010 Expansion of a Nonconforming Structure request are hereby deleted and superseded by the following conditions below.
2. When the property is developed, it shall be in substantial conformance with the submitted Concept Plan entitled, "HK on the Bay Concept Plan", dated November 1, 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 elevations entitled, "EXTERIOR IMPROVEMENTS FOR HK ON THE BAY", prepared by Altruistic Design, dated 10/21/2020, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning & Community Development.
4. The applicant shall file all necessary permits with the City for review and approval of the proposed alterations.
5. There shall be no speaker system or the playing of music anywhere outside the main building.

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

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

Item # 7

Collier & Associates, L.P. [Applicant and Property Owner]

Conditional Rezoning (A-18 & A-24 Apartment, R-7.5 & R-10 Residential Districts to Conditional PD-H2 Planned Unit Development (A-7.5, A-24 & A-36 Apartment Districts))

2352, 2348 & 4701 Windway Lane; 4753 Birdsong Lane; 2336 & 2324 Pleasure House Road

December 9, 2020

RECOMMENDED FOR APPROVAL – HEARD

Ms. Dozier: Item number seven is a Conditional Rezoning located at addresses 2352, 2348, and 4701 Windway lane, 4753 Birdsong Lane, 2336 and 2324 Pleasure House Road. Is the applicant present?

Mr. Nutter: Yes, thank you. For the record. Yes, thank you very much. My name is R.J. Nutter .I am an attorney and I represent Collier and Associates for the Windsong Apartment expansion. It is a pleasure to be here and I thank you very much. Just I want to echo everything Mr. Bourdon said about your service Dee, and certainly Mr. Weiner as Vice Chair and certainly about your comments regarding Bob Miller. So, I look forward to next year, all of you will be here, and but we truly miss our good friend Bob. There is no question. So, anyway, let me begin by telling you about this application it is for Windsong Apartments. There are 272 units there today. It was built in the mid-70s, mid late 70s, it is been pretty well maintained to be honest with you and they had a good record, their occupancy rate, it is about 95% in most cases. They do, however, suffer from a very, very high turnover rate between 60 and 70% per year, which means there are constantly people coming in and out of that apartment complex for any number of reasons, some cases they are military, they are reassigned. In other cases, they just want to move to a better place than this because the units are older, they do not have central air, they have very few amenities and have one swimming pool. And, they are very small, they do not have unit, washer dryers in their units. So, those kind of things would become norm in the industry, and they do not exist at that location. So, my client, Bonaventure also came into picture and said, we think we could find a way to redo those apartments, bring them into the next century, make them economically viable, and have them viable for the next 30 years. So, do that they are

zoning the property in part to A36 and in part to A24, it is about 15-acre parcel, little over five acres is being zoned to A36 in the rear, and the balance of the property is being zoned about 9 acres is being zoned to be A24, which is the majority of the site. I want to thank Mr. Tajan for allowing us to do that he was not keen on that idea. But, we want to show the neighborhood that the A36 would be restricted to the rear of the property. But the balance of the property in the largest part would be A24, not A36. So, a couple things I want to point out to you that are not really in Staff's write up, although I will commend you Staff's write up is outstanding. They looked at every single issue in this case, it is a lengthy review and it is a very thorough review. And, we are happy to have their recommendation. But, a couple things they did not report only because we made changes since we filed this application almost two years ago. And, I want to point those out for you. The first thing we were asked to do is reduce the density on this application than we had originally filed at 435 units and we have reduced it to 411 about a 13% reduction in the density. We were asked to look at reducing the number of three bedroom units in the complex and we reduced those by 25%. We were asked to again to split the zoning, which we have done, as I indicated. We also you do not see it from this picture, but the L-shaped building at the beginning used to go the length of it on Pleasure House use to run all the way down to where that single family home is. And, the Civic League said that is too long a structure on Pleasure House, we would like you to reduce the size of that. So, my client agreed and took off about 140 feet of that facility. Only enough to the cover where the internal amenities are for the pool and the outdoor activities they have inside a complex. And, that in turn let them allow for greater open space on Pleasure House and it allowed to keep the single family property that you see the single family home there, that they had attended to purchase to make a part of the complex. Now that will be developed just as it is a single family home, it is zoned R7.5 and it will stay R7.5 with a PDH2 overlay. So, in addition to that we restricted access on the adjacent streets Powells Point to the left, Greenwell to the right and of course, there is no access on north end of Boulevard. We were asked to look at that by Civic League members of that access way to Northampton Boulevard. And, we were told very flatly no by both Chesapeake Bay Tunnel Authority as well as the City of Virginia Beach. So, I just wanted to know those things because we have had a lot of movement on my client's behalf to try to address those issues. So, for that we sent it out this just to have three new buildings. The one up on Pleasure Houses is three stories, although the entranceway is a one-and-a-half story feature, we tried to step up the building. We thought the mass

was perfect by reducing the size as they requested. We have gone with a coastal inspired architecture, just like the Shore Drive Advisory Design Guidelines require. In fact, we gave Staff a 12-page line-by-line item of why we comply with every single component of the Shore Drive Design Guidelines as part of this. But, the nice part for the public is that these units of all top rate materials, have all the greatest amenities and like you expect, you are going to have a gym, you are going to have an infinity pool, you are going to have lounge areas both inside and out of the facility, fire pits, bocce ball courts, all of the type things that people insist upon in the complexes that are being built today. As for the existing units, the significant changes are being made to those as well. Those units are being completely re-faced, brand new roofs, new central air, all new kitchens. But, in addition to that those units, they have no balconies and no patios. So, there is no outside capability, if you look at the building the bottom, right now they are having is Juliet balconies on the front and patios in the rear. We are also recessing the access ways because when you come into the building, today, you are in the rain there is no cover for you whatsoever, for recessing those access ways since you have covered entrance into the buildings. The total capital investment here is just over \$40 million. That is frankly in excess of what a typically cost to build a brand new apartment complex. But, it will give you the level of quality and investment that is being invested here. So, I look at a couple things, I would like to talk about one of the benefits that we see in any redevelopment today and we are seeing this all over the City. And, that is one of the benefits is stormwater. The currently this site has no stormwater criteria whatsoever, nothing. If sheet flow off the property into the lakes. So, our engineers went to bty, we found old model that the City gave us at the time that, that looks at the lake have the impact on the lakes and off site. And, we are not only going to be completing the storm water system that makes us required by law, reduced by about 20% from what existing conditions are. Our client agreed to go over and above that and they asked the engineers to come up with an approximation of how can they increase that by about 50%. That works out to them holding additional water on site above city requirements about another 10,000 cubic feet of water. So, in addition to your new requirements, we are going well above that by this additional area, it is a significant impact. From a traffic perspective, we performed a traffic study even though one was not required and I will read from the report very briefly, just says that project will not negatively affect traffic flow on Pleasure House and will have no significant impact on the intersection. And, that is after a considerable amount of study by both us and your City Planning Department and Traffic Engineering

Department. One other thing we have heard in one of our meetings with residents and citizens was that there was concern that we might be raising the rents too high and that would chase out some of the residents who live there today. So, this is something unheard of and I have been doing this for a long time, but Bonaventure agreed to set up a fund of \$200,000 to assist residents in relocation or in as the rents go up to help them pay for the rent. They did not stop there, they went to Catholic Charities, who you are going to hear from in just a minute. Catholic Charities stepped in and agreed to match that amount of money with in-kind services to the residents and those services have already begun today to those residents. In fact, we hold weekly job meetings, job fairs, we hold weekly resume sessions. We also hold meetings we are taking the residents by bus to other Bonaventure facility so they can see what they are like and we have had Civic League Members attend those as well. And, we have had a large amount of outreach I am happy to tell you. And, while we have had Civic League Meetings and so forth and I know there is an opposition from the Civic League. We have, however, been very cautious about reaching out to people who are really the most affected by this. If you see, it is top of that where Bay Wind Court is, just the top of right in there. The development just above that you see a sort of L-shaped piece right there. There is like 16 single family detached units called Tranquility by the Bay. We have met with them twice now, they are immediately affected by this. The entire Civic League is in favor of this, not one person in opposition. And, unfortunately, Jordan Heppenstreet, who is the President, who many of you may have seen in the video could not be here, he is out of town, but his entire Civic League is in support of this. We also went down the other end of Greenwell Road and we have met with a large number of the residents on Greenwell Road, actually I met 11 or 12 of them. And those 11 and 12 have been thankful. We need some improvement over there. We are thankful we were not cutting through the Greenwell to be honest with you. They were also thankful that we were making the improvements that we were the property. And, finally we met with most recently Dadson Court at their Dadson Arms Apartments. They are located just to the north of Greenwell Road, I do not know if you can see that, I met with him and I am happy to have their support as well. I know a lot of information to pass along to you in a short period of time, but I am happy to answer any questions.

Ms. Oliver: Do we have any questions for Mr. Nutter? Yes, Ms. Klein.

Ms. Klein: Will any residents be displaced during the renovation.

Mr. Nutter: There will be, what we will be doing during renovation is, first of all give everybody notice and letting them know which buildings are coming first, we will be taking out one building, right the beginning by having all the short-term, we will take the building where people have moved out and move the people from that building into that building while it is being renewed. We do follow that pattern, if you will, and in some cases they chose to move and some cases buy a home. And, so, those funds are available to help them do that if they wish.

Ms. Klein: But, the residents who will be displaced they will receive that assistance relocating to a different building.

Mr. Nutter: Yes. Even if they want to relocate to another apartment complex, we will help you pay their moving fees. Catholic Charities will tell you more about it. They've been wonderful. But yes, Madam, it is very important to us.

Ms. Oliver: Anybody have any more questions for Mr. Nutter. No. Alright. Thank you.

Mr. Nutter: Thank you, Madam Chair. I will standby.

Ms. Oliver: Please do.

Ms. Dozier: We have another speaker.

Ms. Oliver: Will you call for the first speakers.

Ms. Dozier: Okay. Thank you. Andrew Bon.

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

Mr. Bon: Andy Bon. Madam Chairman and Members of the Commission, thank you for allowing us to speak. I live at 2711 Poinciana Drive in Virginia Beach. I am a member of the Cape Story Civic Association and I am active with the Shore Drive Community Coalition. I was also the Chairman of the Planning Commission in the town that I used to live in. So, I have been seated where you are and was confronted by issues that are similar to the ones that you confront. And, one of the factors that I thought it was important is in environmental factors. And, right now on the property, there is no stormwater provision at all and so the new plan will retain more water, which

will prevent and minimize pollution runoff and flow into Lake James and Lake Bradford. So, I am in favor for that reason. The project is just down the street for me. So, we are neighbors, and so I am grateful for your taking the time. Thank you very much.

Ms. Oliver: Thank you, Mr. Bon. Do we have any questions? All right, thank you very much.

Ms. Dozier: Harry Sellers.

Ms. Dozier: Madam Chair as this person approaches I thought I would go ahead and give you a heads up that we have 18 additional speakers.

Ms. Oliver: Thank you.

Mr. Sellers: Good afternoon.

Ms. Oliver: If you will state your name for the record, please, Mr. Sellers.

Mr. Sellers: Harry Sellers. So, I am here today just, I am for this and see the changes that they are doing. I live in the Ocean Lakes, which is couple neighborhood away from here, saw all the improvements that they are doing on this property, was excited about it because I actually want to move into this property when it is finished. It needs many improvements, what I believe and I think it is a good thing for the area, it is going to raise the area, keep Chicks Beach, I guess area being very successful and upper class. So, I just want to come in and say that I am definitely for this. Thank you very much for your time.

Ms. Oliver: Thank you for yours.

Ms. Dozier: Connie Meyer.

Ms. Oliver: Welcome.

Ms. Meyer: Thank you, Madam Chair and Members of the committee for allowing me to speak today. My name is Connie Meyer, and my husband and I own two businesses. One is Meyer Group Insurance, we do employee benefits for businesses. And, the other is Hampton Roads Weekly, which is a new community paper. And, one thing that we are constantly asked for by the

owners and the employees of the businesses we represent is more and lovely housing. And, I have been to Bonaventure Properties in Chesapeake and in Norfolk. And, they do not just build a building they build a sense of community. And, I think our homes and communities are even more important at this time, with COVID. And, unfortunately this existing property, much like I feel when I wake up in the morning sometimes is perhaps a little bit old and a little bit long in the tooth. So, the idea that these new innovative buildings will have resort amenities, they will have special facilities that would enable somebody in a wheelchair to be able to live there, that does not exist now. That AC and the HVAC again, the newness of it and the ventilation is more important to us in these COVID times. So, we are excited that this will be our neighbor. We live three streets off of Shore Drive towards the eastern end of it, but we love and enjoy everything that we do off Shore Drive in the corridor and Chicks Beach. So, thank you.

Ms. Oliver: Thank you Ms. Meyers.

Ms. Dozier: Rob Edwards.

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

Mr. Edwards: Thank you very much. Just as a point of clarification, there are a number of folks from the Civic League who have planned parts of the speech and I was part of that. Is there a way to reroute the calling of folks or if not, I can go ahead. Okay. Good afternoon. My name is Rob Edwards, I am the pastor of the Bayside Christian United Church of Christ on Greenwell Road in Chicks Beach. And, I am here to join my voice with many others from the Civic League and asking you to vote no on this proposal. There is no disagreement that something needs to be done to improve the conditions at Windsong Apartments. But this proposal is not the way to go. It is not in the best interest of the community. I do not think it is in the best interest of the City. I want to take a moment and highlight one facet that you will hear many others from other speakers from the Civic League in a few moments. Many of the current residents of Windsong work in our restaurants and hotels, they serve in our military, but they are among the lowest wage earners in our community. And, during this time of pandemic and especially now that the numbers are increasing they are probably at our greatest risk and our most economically fragile residents in our city. According to the current rental rates provided on the Windsong Apartments website, units are barely affordable as they currently are for folks who are in low wage

jobs, who are on disability, or who are in some way otherwise economically disadvantaged. Despite what Mr. Nutter said earlier, and this is the first time that we in the Civic League and I as the pastor of the only church in the community in Chicks Beach have heard anything about the outreach in terms of job postings or job fairs or anything of that nature, their work with Catholic Charities or anything else. Even though, I was promised I would be involved in that conversation with them. This is the first we have heard of it. And, while the developers have not yet committed to what their rent structure will be for the improved existing apartments. They did say at a community meeting at Morningstar Baptist back in the end of 2019, the rent would probably increase 15 to 20%. Approval of this project will have a devastating impact on the current residents because the smallest apartment at 650 square feet, currently rents for about \$950 a month according to their website. And, if you increase that by 15 to 20%, that puts the residents of Windsong taxpayers in Virginia Beach at risk for becoming homeless. And, so, I hope that you will seriously consider that before you cast your vote today. The critical lack of available affordable rental housing in Virginia Beach means that they will have to move to other cities to find a safe, decent, and affordable place to live. This project is being funded by private monies and although they have indicated they have set money aside to assist folks in moving. We will wait to see how that happens.

Ms. Oliver: Thank you very much.

Mr. Edwards: There is also an economic impact and I encourage you to vote no and thank you for your time much.

Ms. Oliver: I am sorry, sir your 3 minutes are up. Thank you very much.

Ms. Dozier: Next speaker is Quinn Zimmerman.

Ms. Oliver: Mr. Zimmerman, are you.

Mr. Morgan: I am sorry, I am the president of the Civic League and I was told that I was, I submitted a list earlier this week that the series of how we would speak, and since I got the first speaking opportunity I was allowed to go 10 minutes, is that correct.

Ms. Oliver: Mr. Tajan do you want to address the out of order.

Mr. Tajan: It appears there was a miscommunication on Staff side, so if he is representing the Civic League, he does have 10 minutes. We will get it squared away moving forward.

Ms. Oliver: Okay, great. Thank you. Go right ahead sir, if you will state your name for the record.

Mr. Morgan: Dr. T.J. Morgan. Just a point to note, we did not receive the Staff report until December 3, and it contains vital information that we have not had time to view adequately. It is customary to have that 30 days in advance, that is what my understanding is, is that correct.

Ms. Oliver: Sir, Mr. Hughes has just stated that typically the agenda is released on the Thursday before the Wednesday at the Planning Commission. Thank you.

Mr. Morgan: Okay, all right. I am new to this, so I am learning as I go.

Ms. Oliver: That is all right.

Mr. Morgan: Ladies and gentlemen, good afternoon. My name is Dr. T.J. Morgan and I am the current president of Chesapeake Beach Civic League, I served in the Chesapeake Beach Civic League as an officer for over 10 years. As a Civic League we lose our integrity and credibility, if we oppose every change that happens in our neighborhood. We are selective about which issues are most important and need to take a high-level priority to oppose. For that reason, we would not be standing here if we did not feel that the current plan to redevelop the Windsong Apartments is bad for our community for a number of reasons which I will lay out. You will also be hearing additional qualified speakers from our organization who are opposed to the plan as set forth. Many of the speakers are specialists in the field to the portion of the plan that we oppose. Chesapeake Beach, which is also known as Chicks Beach is a very unique community, much like Old Virginia Beach at the Oceanfront. And, that many of the small beach cottages like mine were built in 1950 or earlier. As a matter of fact, Chesapeake Beach just celebrated its 100th year anniversary in 2019. Most of the infrastructure was created at a time when the number of people living and working in Chicks Beach was not nearly what it is today. In many ways, it has not changed. Much of our identity is steeped in our rich history. One of the unique qualities of Chicks Beach is our diversity. We do not share all the same backgrounds, but yet we choose to live in this little nook off Shore

Drive on the beaches of the Chesapeake Bay. It has been the affordable housing for our labor force for generations. Windsong residents are seeing raises in rent and additional fees being placed in an insidious fashion to slowly push them out. Where will they go in the midst of a pandemic crisis. Many of them hold jobs and local businesses. Most of them live in the apartment complexes along the stretch, a Pleasure House Road from Shore Drive to Lookout Road. For many of us it is painful to see the tides of change occurring all around us, because we are so invested in our community. We would like to see common sense changes instead of steamroll change that is driven only by the almighty dollar. I am a native of Virginia Beach and I grew up vacationing at Chesapeake Beach, and I have seen many changes in my 55 years. We do know that change is inevitable. Yes, Chicks Beach is valuable waterfront community. It is why many of us, including myself have brought our businesses here, and why so many developers are moving in. The Civic League understands the need to improve, we welcome improvements. We support our local businesses and expect change. We understand that the Windsong Apartments are aged and in some cases in disrepair. It is long overdue. The Civic League has been amicable to discuss and even compromise with the developers about what could be done to renovate the complex. I have been meeting with representatives of Bonaventure for nearly two years now in hopes that we could find a resolution. The initial plan was put forth, was bad for Chicks Beach then and there has been little change since. So, I will proceed with our opposition. Pleasure House Road, I mentioned our antiquated infrastructure. Pleasure House Road is a two lane road that has ingress and egress points for a large majority of people and most of our neighborhood. The intersection at Pleasure House and Shore Drive is currently rated an E by the City's Traffic Engineers, not an A, B, or C, but an E. We border on one of the largest naval bases in the country and when they are backed up, it pushes the traffic on Pleasure House Road as far back as the old fire station. The city knows how bad it can be because it realized what a nightmare the intersection was, and they decided to relocate the fire station to Greenwell Road because our first responders were being delayed. The mere fact that there is a no left turn during peak hours at the Wawa on the corner of Pleasure House and Shore Drive is an admission of an issue with traffic. The developers plan to rezone most of the Windsong Property they are proposing an increase of a minimum of 139 units. According to code, that would be approximately 280 additional drivers on a C road that is already rated an E. I want you to imagine the major thoroughfare coming out of your neighborhood. Now imagine, adding 280

additional cars every day. We have many concerns about the developers plan, but first and foremost, it is their desire to rezone to A36, which sets a dangerous precedent for our community. As a matter of reference the City Code states in Section 600 of the Virginia Beach City Ordinance, Appendix-A, A36 apartment districts are created in recognition of the existence of develop areas where multifamily dwellings exist as a density already 36 units per acre. It is not the intention to create additional A36 districts to enlarge the limits of existing A24 or A36 districts, except in cases to promote infilling in areas already zoned A36. Nowhere in all Chesapeake Beach do we have any A36 zones, nowhere. This also violates the City's Comprehensive Plan, the developers are asking for a change in zoning which is in direct conflict with the Virginia Beach Zoning Ordinance. The city has a comprehensive plan for our growth and density that does not include this type of density. Chesapeake Beach is not in a "strategic growth area" of the city, and only in those strategic growth areas can a city change the zoning. A36 is in the Comprehensive Plan only in infill small pockets that are in need. Additionally, this rezoning is in direct conflict with the city's own Shore Drive Overlay District. As a community, we have grown accustomed to new development, we are familiar with the City's Comprehensive Plan and Shore Drive Overlay District, which already allows for increased density. Chicks Beach is seeing an annual increase in density with current R5R zones where our little cottages are being razed and 3-story duplexes are going up every month. We believe that creating an A36 zone in the heart of Chicks Beach opens the door for all neighboring multifamily complexes to overdevelop. On March 18, 2019 I invited the representatives of Bonaventure to our Civic League general meeting and attendance were Delegate Chris Stolle, Councilman Lewis Jones, Commissioner Dave Redmond, Shore Drive Community Coalition President Todd Solomon, and Presidents from Bay Lake Pines, Ocean Park, Cape Story by the Sea Civic Leagues. There were over 200 people in attendance, Bonaventure gave their presentation and then fielded many questions by our members. At the conclusion of our meeting, we voted on whether to endorse their request to rezone to A36. Our Civic League voted unanimously to oppose Bonaventure's request to rezone to A36. Let me be clear though, as a group we are not opposed to renovation on the current zoning. Many from our group are developers themselves and came up with very good ideas on alternative ways to improve the property. As a matter of fact, we have had numerous meetings with the representatives of Bonaventure in hopes to appeal to some sort of healthy common sense resolution. We were consistently told that to make the numbers work, they

have to resort to the plan that they have instituted. Their standard answer to our recommendations was that, that is not what we do, we only do apartments, no other options period, even when there clearly were better ones that would benefit all parties and still reap a return on investment for the owners. Because they were obtuse and only do this project one way we see this clearly as a self-imposed hardship. As much as we do want to see the Windsong Apartments improved it should not be the City's or at our neighborhoods expense. If this should pass, our fear would be Bonaventure's potential strategy would be one of mission creep. After the starting out with limited new construction and some renovation, the next phase would be to demolish the old units and build 36 units per acre with no variance needed. This potentially would bring the total number of units from 417 to 563 and an increase in this much density would make our intersection at Pleasure House and Shore Drive a bottleneck nightmare. Our Emergency Medical Services and Fire and Rescue would be compromised as response times would be lengthened and potentially setting up for potential disaster. One should pose this question, how is this project a benefit to Chicks Beach. As you probably already know Chicks Beach has a water problem, with the current rise in sea level, we are seeing more and more issues with flooding and standing water throughout our community. We feel that the city needs to make it a priority to create solutions to already existing problems. Why allow a preventable problem like increased density and increased traffic requiring capital improvements, when we are dealing with problems like flooding. This simply does not make sense, especially when you know that it goes against the city's own ordinance, comprehensive plan, and Shore Drive Overlay. Ladies and gentlemen, I thank you for your time. I appreciate your no vote.

Ms. Oliver: Thank you, Dr. Morgan. Is anybody have any questions, Mr. Redman. Dr. Morgan.

Mr. Redmond: No, I just wanted to mention that March meeting of 2019, you left out Rosemary Wilson, she was there too.

Mr. Morgan: I apologize.

Mr. Redmond: There you go, I feel better.

Ms. Oliver: Thank you.

Ms. Dozier: Mark Walker.

Ms. Oliver: Welcome, if you will state your name for the record when you arrive, Mr. Walker.

Mr. Walker: Good afternoon Madam Chairman, Planning Commissioners, my name is Mark Walker. I am a registered architect and resident of Chicks Beach for 41 years. I am also co-chair of the Architectural Preservation and Zoning Committee for the Chesapeake Beach Civic League for the past 19 years and I am opposed to this conditional rezoning request. The applicant wishes to abolish the current R10 and A18 zoning completely. An A18 zoning currently occupies over 50% of the existing 14.7 acre parcel. When you do the math, using the existing 272 housing units divided by current acreage, the result is 18.5 units per acre basically matching A18 zoning. Yet the applicant wants to convert the entire parcel with the exception of 0.2 acres to A24 and A36 zoning at about a 60-40 split. How is this justified, where is the hardship and furthermore where is the precedent. There does exist a small 2-acre parcel, which is zoned A24 and is part of the 14.7 acre site. As a reference article six of the Virginia Beach Zoning Ordinance gives the legislative intent for apartment districts, A24 and A36 as follows, and "the A24 and A36 districts are created in recognition of the existence of developed areas where multifamily dwellings exist and densities between 24 and 36 dwelling units per acre". At 18.5 units per acre this current density is not even close to justifying the creation of additional A24 and A36 zoning according to the ordinance. The ordinance further states it is not the intention to create additional A24 and A36 districts, except in cases to promote infilling in areas that are already zoned or developed at densities between 24 and 36 dwelling units per acre. There are no parcels zoned A36 within miles of Windsong Apartments in all directions to justify infilling of existing densities, between 24 and 36 units per acre. Approval of this rezoning will add 139 new units to the existing 272 for a 51% density increase. Expanding A24 and creating A36 zoning at Chicks Beach will create a precedent, which is unjustified and clearly not allowed by the ordinance. The Bayfront corridor is already 25% more dense than the rest of Virginia Beach, please do not approve this rezoning, unsupported, unjustified 51% density increase. Thank you very much.

Ms. Oliver: Thank you.

Ms. Dozier: Matt Baumgarten.

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

Mr. Baumgarten: Matt Baumgarten. Good afternoon distinguished members of the Virginia Beach Planning Commission, my name is Matt Baumgarten and I have been a resident of Virginia Beach since 1992, I moved to Chicks Beach in 2006. I currently serve as the co-chair of the Architectural Preservation and Zoning Committee of Chesapeake Beach Civic League. I have been in commercial construction and real estate development for over 24 years, while Colliers and Associates are trying to accomplish at Windsong Apartments makes sense to me from a business perspective, but as a resident of one of the finest and historically significant sections of Virginia Beach I am deeply concerned with how this project is being presented by the owner today. Currently, the site has 272 very small one and two bedroom apartments. The rezoning application does not provide any data on the number of bedrooms currently on the property or for the proposed 411 units. Why is a bedroom count a significant factor? Because in this area of Virginia Beach we have many brave service members and hardworking blue collar workers that like to buddy up and live together, so, they can afford to live near the beach. More bedrooms means more adults living on property and that translates directly to more cars associated with the property. Assuming a balance split of one and two bedroom units the existing 272 units should result in approximately 408 total bedrooms. However, with 411 units that now include three and four bedroom units that bedroom count could be as high as 1000 bedrooms. According to this application, the new Windsong complex will only produce 76 school aged children. Therefore, it is safe to assume that the majority of the bedrooms will be filled with adults. Adults that work or go to school and that own a car, but what if this proposed plan is just step-one for developing this site. I see huge mission creep potential. Why would a property owner developer stop at 411 units? If this was my property, I would want to maximize its earning potential. So, let us say they get 411 units approved here today with a section of the property zoned A36, I would be back in 5 to 10 years and turn the entire property into A36. When we look at the site plan for Windsong they are leaving 13 of the old building still standing. Having a mix of brand new class-A apartments with at best class-C apartments on the same property does not make sense to me. This creates tension between residents, a feeling of haves and have nots will develop. I bring your attention to what Lincoln Military Housing has done right here on Shore Drive, they built brand new multifamily units adjacent to the 1960s era

multifamily units. The tension they created as a major reason you keep seeing like in military housing in the newspaper for inadequate service and subpar living conditions. With the entire Windsong Property rezoned to A36 the owner will be allowed by right to build a total 528 units, bedroom count for 528 units could go as high as 1300. That would be a 500% increase from what Windsong is today. Again I say to you, I see huge mission creep potential here. We the citizens of Chicks Beach and the overall Shore Drive Corridor Community have invested long term in our choice of the place that we call home. We are the ones that are forced to live.

Ms. Oliver: Thank you, Sir.

Mr. Baumgarten: Thank you Ma'am.

Ms. Dozier: Wally Damon.

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

Mr. Damon: I am Wally Damon. I live in Chesapeake Beach Good afternoon. I have lived in the Shore Drive corridor most of my life. My background is construction management and critical path method scheduling, and that is why I oppose this application. I know what it is going to be like. Chesapeake Beach was a beautiful little community when my family and I moved there in April of 1957. Pleasure House Road was then and still is one lane in and one lane out. At first we lived on Lauderdale Avenue between Pleasure House Lake, and the Bay. A big sand dune with our backyard down to the Bay and it is hard for me to explain how wonderful that was. It was a very safe place to grow up, my brothers and I played on that sand dune all the time. It is all gone. In the 30s Chesapeake Beach was mostly farmland. By the time we moved there, there were weeping willow trees and wild strawberries growing all along Guam Avenue where we lived west to a large patch of water oaks, where the Chesapeake Bay Bridge tunnel is today. As kids we would climb to the top of those water oaks and go from tree-to-tree on vines and never touched the ground. There was a virtual canopy that blocked the light from coming down through the trees, all the kids loved it. It is all gone. Pear trees and Muscadine grapes grew along the Lookout Road. Apple and blackberry trees around Lake Drive. There were fig trees and persimmons throughout Chesapeake Beach. There were small cottages for people to live in. Most driveways were either sand or crushed oyster shells. It is all gone. In the early 70s

apartments started popping up along Pleasure House Road. My wife recently counted 22 apartment complexes that feed traffic onto Pleasure House Road. It is so crowded that many residents now use Greenwell Road, the road that I live on, or Indian Hill at the West End of Lookout Road to enter or leave Chesapeake Beach. Windsong Apartments was called Collier Apartments when I rented a garage from them for a few years while my brother Gus was living there. I got to know Clyde Collier Junior pretty well and we went to Bike Week in Daytona together with our motorcycles. I have to get this off my chest. My main complaint about this application is the density it will add to the neighborhood, and the potential for even more. Pleasure House Road is one lane please remember that, a change in zoning of the A36 will be just that, a hardship that Chesapeake Beach cannot live with. And, if they get the right to overcrowd us even more than we are now, what will other apartment owners want to do. Where will we be then with all of the meetings I have attended about this, they would never answer my questions. Why cannot they comply with the current zoning. I have asked seven times, seven meetings I have been to, everybody wants to live in Chicks Beach. Ladies and gentlemen everybody can't. We just can't do it, we cannot have all those people coming in there. We have got to do something better about Pleasure House Road critical path method scheduling remember, it is important.

Ms. Oliver: Thank you sir.

Ms. Dozier: Gaylon Montgomery.

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

Mr. Montgomery: My name is Gaylon Montgomery. I am currently the Chesapeake Beach Civic League Secretary, and I have been a resident of Chesapeake Beach for 21 years. I am opposed to rezoning to A36 or even A24. This increase in density will put a heavy burden on our traffic situation for both Pleasure House Road and neighborhood streets used as alternate routes to Shore Drive. Even A24 rezoning would increase the development by over 125 units, at the normal 2.15 vehicles per unit that is conservatively 280 more vehicles on Pleasure House Road averaging four trips per day. Pleasure House Road cannot handle 1100 more vehicles per day, does not take a friend in Traffic Engineering to figure that out. Unlike other properties Bonaventure has shown us Windsong has entry and egress only to Pleasure House Road, a two lane road. Pleasure House Road is the main

thoroughfare for Chesapeake Beach, Chicks Beach, and Bay Lake Pines residents. It is the main avenue for visitors to our four awesome restaurants and brewery. Spring and summer beach goers enjoy historic Chicks Beach. Driveways and parking lots are packed all summer, and the City makes quite a sum on speeding tickets and illegally parked cars, because we are already overburdened. The intersection of Pleasure House and Shore Drive rated E, is already maxed out during the beach season and during peak commute hours, year around. The City recognizes this traffic issue and has enacted no turn regulations, extended turn lanes on Shore Drive and Northampton Boulevard, reduced speed limits on portions of Pleasure House and they even moved our Fire Department off of Pleasure House to get better access to Shore Drive. They recognize that slowing down emergency vehicles may very well cost a life. In 2015, I was in a trauma ambulance with a broken vertebrae and concussions from a ladder accident at my home. It took the trauma ambulance 20 minutes to arrive, while a neighbor pinned me to the ground. Time was of the essence. It makes no sense to make this worse. This is a very pedestrian neighborhood. We have had one neighbor killed, hit by a car right in front of 711 on Pleasure House, and another recently hit and killed on his bike at the intersection of Shore and Pleasure House. It is only a matter of time before a child will be struck by a vehicle going around cars, waiting to turn across traffic, they are lined up there every day. City sidewalk improvements have been cancelled because of lack of funding. This increase in zoning will set a precedent for the apartment owners and developers on the Short Drive Corridor. With Windsong today, there are eight major apartment complexes, all of which are ageing, all of which are on that one-mile stretch of Pleasure House Road, all of which have access only via Pleasure House Road, and all of which will be asking you to do the same for them if you approve an A24 and A36 voting. Thank you for voting a resounding no, as the residents have asked you to do.

Ms. Oliver: Thank you, sir.

Ms. Dozier: Quinn Zimmerman.

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

Mr. Zimmerman: My name is Quinn Zimmerman, and I am here in opposition. My family has been in residence of Chesapeake Beach for more than 41 years. I am an environmental scientist with a deep bore license of master onsite soil

evaluator. For the past 20 years I worked in environmental and public health, with respect to inground disposal of wastewater. I have also personally and professionally in many sites where stormwater runoff has negatively affected clients and my family. It is said that no one raindrop believes it is to blame for the flood and the same can be said for any square foot of impervious surface. In the past several decades flooding due to a combination of factors is becoming a bigger, bigger issue in the region. In Chesapeake Beach increased development by-right has exacerbated issues to the point that Lakes Pleasure House and Bradford, parts of which this property drained to are already, one of the major city stormwater projects. The proposal before you plans to deal with onsite stormwater using underground chambers designed to promote onsite infiltration. Like any tool these chambers have advantages and disadvantages. Specifically, they work well in sandy soils with a deep water table. This is the opposite of what is present on Windsong site. USDA soil maps of the area show that the native soil type is Tetotum series. This soil has both high-clay content and a high seasonal water table. In order to keep chambers from being crushed by vehicular and other traffic, the bottoms of commonly used chambers are three to four or four or more feet underground. Instead of stormwater flowing into these chambers and soaking into the ground, they will be underwater for much of the year and will not work properly. Any runoff entering the chambers will force a mixture of stormwater and groundwater out the other end, instead of reducing runoff from the site. Thus increasing the amount quantities of stormwater entering the surrounding area. I have already discussed two of the lakes. Let me mention Lake Joyce, that the other property also drains to. This lake only outfalls is a small drain with small diameter pipes under Indian Hill Road and these pipes are smaller than many of the pipes that discharge stormwater into the lake. These outfall pipes pale in comparison to larger outfall weir's and box culverts at other sites such as Lake Smith. Of course installing these stormwater improvements would be a significant capital investment to the City and disruptions to traffic over a prolonged period of time. Sadly, it gets worse. The concentrations of pollutants in stormwater are high, to reduce bacteria nutrients and other pollutants to low levels and prevent groundwater pollution, you need a significant depth of dry unsaturated soil with these chambers which is not going to happen due to the high seasonal water table. By putting stormwater directly into the water table, contamination of the near surface aquifer can occur. This contamination could also spread beyond the Windsong site. City spent a

lot of money trying to fix problems in our area. We do not need this kind of precedent being set. I implore you to vote no on this proposal.

Ms. Oliver: Thank you, sir.

Ms. Dozier: Michelle Zimmerman.

Ms. Zimmerman: Good afternoon and thank you for having us here today. As my son just told you, I am a 41-year resident as is he.

Ms. Oliver: Madam if you could state your name for the record, please.

Ms. Zimmerman: I am Michelle Zimmerman and I live in Chesapeake Beach. I have for 41 years, and I am here in opposition to the proposal of the Collier Bonaventure folks to rezone the Windsong Property. I completely oppose this plan, this conditional rezoning again as my neighbors have stated the density requested creates a burdensome hardship and danger to the health and safety of our residents. As you all know, great density and public safety, are incompatible. And, all of our first responders and our liaison police officers with our Civic League can attest to the difficulty that density causes in terms of family violence, in terms of fire risks, and in terms of accidents. To the density and the egress and ingress on Pleasure House Road, Pleasure House Road is a basically a side from carrying automobiles from a Shore Drive and the other areas to the Lookout Road area is also utilized by children on bikes, by parents walking babies in strollers, by general pedestrians. We have already heard about accidents that have happened there. We have seen accelerated destruction of the environment and a degradation in our environment due to the increased density. The Collier plan as you can see, includes requests for minimal setbacks from the road, one of the setbacks is from 30-feet to 5-feet of Pleasure House Road. There is barely room for a six-inch sidewalk there. And, we have all of these people going up and down the road. I will quickly try to tie up, in the summertime between late April and late September, density increases by probably tenfold and we have no place to keep our cars.

Ms. Oliver: Thank you, I am sorry you time is up.

Ms. Zimmerman: Okay.

Ms. Dozier: Christopher Tan.

Mr. Tan: Good afternoon, Madam Chair and the Planning Commission and Members of the Planning Commission. My name is Christopher Tan and I am the CEO of Catholic Charities of Eastern Virginia. I am here to just talk briefly about our partnership with the developers and what we would plan to do. And, I would just state very quickly that I Catholic Charities, I do not know about all the traffic stuff and all that stuff and I do not even have the pleasure of living in the City of Virginia Beach, I actually live in Norfolk, but we have two offices in Virginia Beach, but Catholic Charities really care about people and that is important to us. So, I will let other people talk about the aesthetics. But, for us at Catholic Charities, we really pride ourselves on doing the right thing and trying to partner with people that are trying to do the right thing by people. So, we are excited to be a part of the project in helping the current residents who may need help with rental assistance, may need help with moving expenses, may need help with determining whether they can afford the property that would be moving forward, Catholic Charities would provide all of that assistance free of charge. So, we have already started working with a resident who suggested that this may be may happen was interested in buying her first home. And, so, Catholic Charities can provide them with credit counseling helping them repair credit, first time home purchase counseling that helps them think about what it would take to buy a home, and then getting them in the right direction, so, we have already started that with one of the residents already. This is all provided by Catholic Charities free of charge to anybody who is interested, residents of the apartments and anyone else to be quite frank in the public. And, so, it is really important to us as I said to partner with somebody who we feel at least has the best interest of those who they are trying to help as a part of that process. We have seen it many times in working with the poor and the working poor, where developers come in and do not even think twice about building properties and not put any money aside to help them determine what is best for them and their families. And, so, Catholic Charities stands ready to help in any way that we can. We have a rich history of working in financial and housing counseling and a rich history of working for with and for the City of Virginia Beach. We currently have distributed almost \$350,000 in rental assistance in the Hampton Roads community related to COVID. We distributed 40,000 diapers in the City of Virginia Beach alone and Catholic Charities was honored to also be a part of and the case managers for the victims of the municipal shooting as well. So, we try to do the right thing every chance we get. So, I am happy to answer any questions you have and thank you for your time.

Ms. Oliver: Ms. Klein.

Ms. Klein: In addition to a security deposit for someone who is looking to relocate out of the Windsong Properties, is their ongoing assistance or is it that initial security deposit that you all provide.

Mr. Tan: So, I think it will depend to be quite frank on what the need of the resident is. So, for example, the good news is in some sense that there is a pool of funding that Bonaventure have set aside that Catholic Charities has some significant discretion on determining what is in the best interest of the residents. So, part of that would be if they are looking to move, clearly helping with their moving expenses and helping with a security deposit if it is another rental property. Our hope is to help them think through if purchasing a home is what their goal is to help them do that and we can set aside money for those type of things as well, helping them figure out what the cost would be for home inspections and all kinds of different things. At Catholic Charities, I hope that the goal would be to take each individual case as unique and Catholic Charities with our agreement has a lot of discretion to determine what that is, there is limitations clearly and, but it could be rental assistance, it could be helping them stay, if they want to stay. And, then the other part that we would provide is helping them to feel like whether that can be affordable or not. I mean I sympathize with a lot of the comments here, we see it all the time but we also at Catholic Charities are somewhat responsible in helping to educate mentor and coach people into making sure they can afford or they want to stay. I always say to some of the clients that we have like my wife and I would love to live in a house right on the beach but that is not in our budget. I work for nonprofit. So, I think, helping them figure that out as well is going to be a part of that. So, it can go way beyond that, but it would be based on their needs.

Ms. Klein: It looks like the current rent is about \$1,000, what does that market look like in the Norfolk, Virginia Beach area for someone.

Mr. Tan: That is hard to answer, I can only answer it this way like we are in COVID assistance for many people who have lost jobs, the average assistance amount that we are assisting with one month's rent for the most part is between \$800 and \$1200. We received very little less than 800, we see as much as you know 15 and 1600 at times, it depends on the size. So, I cannot answer you know what that would be like average wise but for our

COVID assistance related to Virginia Beach and Norfolk and the surrounding areas, the average is probably 1000.

Ms. Klein: What about the density of available housing in that price range.

Mr. Tan: This is totally my opinion in some sense I do not want to speak for Catholic Charities in that perspective, I think we are really challenged with affordable housing in this entire community, you can you can pick any city you want in my opinion, and where that affordable housing is located is also a challenge. I think what you would see from the clients that we serve instead of give you a picture we serve about 75% of clients that we would consider the working poor, which is 200% of poverty or below. So, an average family of four that's \$44,000 a year, but we see rentals oftentimes well within 12, 13, \$1400 for that type of family, and it is a challenge. And, so, I definitely think at the low end of the spectrum affordable housing is a tremendous challenge. I do not know exactly how the new rates would apply.

Ms. Klein: Thank you.

Mr. Tan: Sure.

Mr. Graham: Thank you. I know you are not an apartment specialist but you are seeing rents with your clients that, it is increasing whether a property's renovated or not, is that accurate.

Mr. Tan: Sure. Yeah. I think, I would say, again not knowing exactly the specifics of the rental in that particular area that for the poor and the working poor you know rent is going up, and whether it is being renovated or not really does not matter in that sense. In a previous position, I worked for a city that was spending out significant amount of time renovating and redeveloping areas, we were advocates for families at the time and we saw the same thing, it has not changed. So, I absolutely would say that rent is going up wherever you are in that sense.

Mr. Graham: Yeah. Okay. The developer I believe is committed to \$200,000, the funds set aside, do you see that very often where somebody redeveloping a property like this and expanding a property or adding units that they set aside \$200,000. I know it does not go as far as we would like it to go but do you see that very often.

Mr. Tan: So, this is the first time I have testified for a Planning Commission if that answers your question. So, I have never seen it, we have never been asked, we have been doing financial and housing counseling for tremendous amount of time. We have never been asked to do it, we have been doing and again we do this work in relation to the community. So, it is very rare in my mind, we have never seen it and I would say that the significant part of the money set aside as well as that like Catholic Charities we're taking a very small portion to actually administer the funds, so, 80% of that money is going literally directly to the people that are in need. And, we also allowed to give you an example, this has not been approved and we have not received any money just to make sure everybody knows that, but we are also helping some of those residents right now with their COVID response assistance because they do not have jobs related to COVID. And, so, we are connecting them with the Virginia Beach Relief Organizations and other emergency food and shelter programs that we have, helping them now and we are doing that throughout numerous cities in the area, and so. But to answer your question, no, we do not see that often.

Mr. Graham: Okay, well thank you for everything you do.

Mr. Tan: Yeah, I appreciate you time.

Ms. Oliver: Do we have any other questions? Thank you so much for your time and your service.

Mr. Tan: Thanks for your time.

Ms. Dozier: Rebecca Bump.

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

Ms. Bump: My name is Becky Bump and I have been a resident of Chicks Beach for 22 years. I purchased my home in 1998, and it was built in 1937, within the first year of living on the lake, my home experienced flooding problems. In fact, much of the entire community has experienced a lot of flooding over the years. The problem is not really sea level rise, but stormwater. For years Lake Chubb and Bradford have been the major stormwater repositories for the Northwest corner of Virginia Beach, including Chesapeake Beach as well as Thoroughgood. The stormwater flows into and through Lakes Chubb and Bradford and exit through a long outfall

system that runs through Little Creek, through a weir and ditch and finally ends up in Little Creek Bay. In the early 2000s several million dollars were spent by our City to out and stop flooding by improving the drainage at Pleasure House Lake which dead ends at the end of Pleasure House Road on Lookout. Pleasure House Lake has no outfall. So, they spent the money to connect Pleasure Lake by pipe to Chubb Lake, so that when it overflowed we would add even more water into the stormwater system. Unfortunately, continued development and resulting density in Chesapeake Beach and the loss of open land, the tremendous removal of about every Live Oak Tree living there has exacerbated the flooding issues to the point that after the enormous flooding of Hurricane Matthew in 2016, finally a CIP was completed, was issued to study the problem of the water and the stormwater. The engineering has been done and the report states that the City will need to spend \$32 million to mitigate the flooding at Lakes Pleasure, Chubb, and Bradford, that's before Bonaventure increased density here. Unfortunately, while the engineering is complete, there is no budget allocated at this time, so, with having a plan without a budget is not really helping us. In the meantime, the new Windsong project will add to the stormwater problem in an already very flood weary neighborhood. As Mr. Zimmerman pointed out the proposed underwater storage systems proposed for Windsong will not work based on the water table that is there it is a nice idea but it is impractical for their location. As added to the paving of an enormous amount of area that is now currently open space, you can only imagine how much more difficult the flooding will become. I lost my house, my home during Hurricane Matthew. For those of us who live in Chicks Beach and particularly for those of us who have been on these Lakes, we are paying very high taxes.

Ms. Oliver: Thank you very much, Ma'am. Your time is up.

Ms. Bump: Thank you.

Ms. Dozier: Theresa Pearson.

Ms. Pearson: Thank you Madam Chair and members of the Planning Commission. My name is Teresa Pearson, I live in Throughgood 23455. I am the Director of Admissions for Marian Manor Assisted Living, it is a nonprofit assisted living community. Oftentimes I get folks who come into my community, because of a change in a life event, they may be downsizing, or they may have experienced the loss of a spouse or any other number of reasons for them

to move. They come to our community looking to find another place to live, to be members of a community, to stay in their neighborhood to enjoy all of the things that they have had for years. However, a lot of them are not in need of the services that we provide right away. But, they are also very cautious of their monies because as we all know, care for elderly is very expensive, and an opportunity to be able to present a community like Windsong that is a 100% rent community, that would allow them to move downsize, preserve their monies for when they do need assisted living and be able to not be taxed with the sale of another home is an absolutely wonderful opportunity for me to be able to offer to these folks, because again, they want community, they are independent, they do not need our services now, but they will someday, and we need to help them preserve their funds for as long as possible. One of the beauties of the community that I work in is that we provide a home for life because we are sponsored by the Catholic Diocese. I have had the pleasure of working with Bonaventure and seeing their rendering, I live in that corridor. I hope someday to maybe as I downsize, relocate there because it is my neighborhood. And, I have also had the opportunity to participate in a job fair that they put on in December of 2019, prior to COVID. We had the great pleasure of being able to hire an exceptional individual out of that job fair that has now become a very viable staff family member in taking care of these residents who entrust themselves to us. So, I stand here and speak for the approval of this community. I think it can serve a lot of good, I am not into the environmental aspect and the aesthetic aspect, but I do support what they are trying to do there. Thank you.

Ms. Oliver: Thank you.

Ms. Dozier: Bill Curtis.

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

Mr. Curtis: Good afternoon, my name is Bill Curtis, and I am a retired Naval Officer, I am Chairman of the Board of Directors of Staff Incorporated which is a community action agency. Remember of the Hampton Roads Black Caucus and also a former Vice President of my Homeowners Association. I come before you in support this initiative. In addition to those and I am not representing any of them. I just want you to know that I am active in the community and I understand what is going on. I also spent many years living in Northern Virginia and one of my concerns is that Virginia Beach not

become Arlington or Alexandria. Having lived there that is not desirable. So, I view this initiative with a great deal of promise. I think that it is presenting a need that even though redevelopment is, in many cases not desirable, it is going to be inevitable. Now, I live in the Three Oaks Area near Red Mill, so, I understand the comments of the people the residents, but I also recognize that you want to have responsible development that meets the needs of the community and I think Bonaventure does a great job with that. I think that they are going to provide an opportunity for military people, for those who are changing their residences, and we have to keep in mind that this corridor is highly desirable. So, you are going to see redevelopment and you are going to see density increases. I think this has a measured approach. And, I think that it would benefit the community and the City and I encourage you to approve it. Thank you.

Ms. Oliver: Thank you very much.

Ms. Dozier: Madam Chair, the next four speakers are WebEx speakers, so, if you will bear with us for a moment. They are online and Kevin is prepared. Kim Mayo. Kim if you will pause two or three seconds we will unmute your mic and you can begin your comments, please do not ask if we can hear you. If you will pause two to three seconds, we are going to unmute your mic and you can begin your comments. That would be, Cami Jones. Cami if you could pause for two to three seconds, we will unmute your mic and you can begin your comments.

Ms. Best-Jones: Hi, good afternoon, Madam Chair and Committee Members, my name is Cami Best-Jones, my husband and my 9-year-old, and our super cute aussie-doodle dog live in Chesapeake Beach. We own a single family home there. Our street is just off of Pleasure House Road, it is across from the property we are talking about. I feel like that is really important to note. We have heard from six individuals in support of this, none of which live in Chicks Beach. We have got someone from Cape Story who thinks that looks nice. Ocean Lakes who wants to move to our community, someone nearby that likes to visit. Folks from an organization to help relocate people out of our neighborhood, an organization to help locate people into our neighborhood, and someone who has lived in Arlington, Virginia, as have I actually, that is where I relocated from living in Arlington, see a lot of complexes like the one we are talking about today, and we actually sought out Chicks Beach for the neighborhood itself and relocated here. So, I can tell you that what you are hearing from the community and that is the Chicks

Beach community is a strong resounding opposition to the rezoning of A36. I do commend the developers, and Mr. Nutter's clients for certainly addressing some of our concerns there. No longer is a plan to have a 4-story apartment complex building right off of Pleasure House Road which was initially what they came to us as a good idea, so, I am glad to see they at least moved it a few feet back from the street that does not have a sidewalk. However, this committee really has a great opportunity to help us facilitate growth and development in Virginia Beach, but to still keep the integrity of our community by not approving this property to be rezoned as A36. I would not harp on that too much because I know others have talked about that specifically. But the Virginia Beach Comprehensive Plan does include this as part of the suburban area of the Bayfront Community. According to the Staff Plan that you all looked at it clearly states that includes preserving and protecting the character, economic value and the aesthetic quality of the neighborhood while also achieving the lowest reasonable density for residential use. So, I would say that A36 does not even come close to being protected in this, again definitely I would love to see them absolutely transformed this development with an infinity pool and beautiful kitchens and a gym, but that can certainly be done within A24 zoning or less. So, I have been told I am a talker, I will be clear and what I am asking for today, I asked the committee not to approve the rezoning request for A36.

Ms. Dozier: The next speaker is Duncan Byers. Duncan if you will pause two to three seconds, we will unmute your mic and you can begin your comments.

Mr. Byers: Yes. My name is Duncan Byers. I am a resident of Chicks Beach along with my wife and my just over 2-year-old daughter. I am going to keep this very, very short. Most of the important points I think have been hit on by the other members of the Civic League, but just so you know. I am not only a member of the Civic League but I also serve in an unofficial capacity as legal counsel and provide legal advice. I am a partner of Patten Wornorm Hatten and Diamonstein with a single point that I need to make to the committee today is that, if the committee, actually sends this up to the City Council for approval and the City Council does approve it that would be in direct violation of the existing zoning ordinances, the existing zoning in the site does not meet the prerequisites to allow the City Council to increase the zoning to A24 or A36 by the very language of the zoning ordinance, and the Virginia Supreme Court has already held that to do so in a separate case but facts that are exactly on point. To do so, is arbitrary and capricious and

is a void act. And, so, as this committee considers whether or not to send this up to the City Council for consideration should also take into consideration the legal ramifications of it as well. Because what is going to end up happening quite frankly is that there is going to be a legal challenge and whether or not that comes out, in favor of the new zoning or not of course it is going to be up to the courts, but the committee needs to take that into account while it is considering this. And as a consequence, I oppose the plan as it stands right now.

Ms. Oliver: We have a question for the speaker please.

Mr. Weiner: Mr. Byers can you give us some legal citations, as to where you determined that this was an improper action in terms of our ordinance or State law.

Mr. Byers: Yes. Yes, I can. First off, we need to look at the language of the ordinance itself that says, specifically and I am quoting here, the A24 and A36 apartment districts are created in recognition of the existence of developed areas where multifamily dwellings exist at densities between 24 and 36 dwelling units per acre. It is not the intention to create additional A24 or A36 districts, or to enlarge the limits of existing A24 or A36 districts, except in cases to promote infilling in areas that are already zoned or developed at densities between 24 and 36 dwelling units per acre. So, what we have there is we have conditions precedent, to being able to change the zoning. None of the existing area actually falls in between A24 and A36 as required by the ordinance. And, so, they do not meet the conditions precedent and according to the Supreme Court in the case of Rancho, the County Board of Arlington County and I will give you the specific citation that is 272, Virginia 369. If he looks specifically at language, forgive me I have to flip through to my marked up version I was going to be there today but could not physically. And in considering the case and I would recommend strongly that the Council look at it in detail. I will give you the summary and then you all can review it and consult with Council as necessary to understand what I am talking about. The Supreme Court said here, the County acted in direct violation of its zoning ordinance. When the County rezoned a portion of the property from one zoning classification to another without complying with the eligibility requirements set out in its own ordinance, its action was arbitrary and capricious and not fairly debatable. Therefore, rendering the rezoning void, and of no effect. And that is the first part of the paragraph, just prior to the conclusion. It was a decision from 2006, and the holding was written by Justice Kinzer.

Mr. Inman: Thank you very much.

Ms. Oliver: We have any other questions for the speaker? Thank you very much sir.

Ms. Dozier: Next speaker is Melissa Griffith. Melissa if you can pause for two to three seconds we will unmute your mic and you can bring in your comments. Did you wish for me to call the other WebEx participant who did not respond, if you wish for me to call for her again. That would be the end of our speakers Madam.

Ms. Oliver: Thank you very much. Mr. Nutter, would you like to come forward, please.

Mr. Nutter: Thank you very much. I would like to just a couple of the points and I know, I believe I have three minutes, if I am not mistaken on rebuttal.

Ms. Oliver: Probably with all our questions you will end up with more than that. So, I think we will just start.

Mr. Nutter: Thank you. First of all, I am not here to threaten if you do not approve this by the way. There is plenty a lot of support to the Council's ability to adopt rezonings. But, even if we play that little game, I would point out to you that the density here is 28 units to the acre right between 24 and 36. The only reason I want to make this point, we originally zoned this property and submitted it as A36, the whole thing with a density restriction to 411. And, we were told by the Civic League that you are trying to trick us and you will come back. So, they said, if you can divide this up so that the maximum density is 36 and 24, so, you cannot possibly come back. And, originally Mr. Tajan rejected that idea, so, that is ridiculous. He said we do conditional rezonings all day long limiting the density. All day long, you do it, you have seen that every probably once a month at least. So, we did it, we amended the application with A36 and A24. And, we told the Civic League, if there was an A28 zoning, we would do it. There is no A28 zoning and that is what led us to the situation we are in today. So, I point out specifically because we did this to prevent the very thing they are concerned about which is this zoning creep concept that has been dreamt up. This is the maximum we can do on this property, period. We cannot come back and tear down old buildings, because we cannot park them. It is just that simple. This is it for Windsong. This is it for its next 20 years to make it viable. So, I want to defeat that idea that somehow that we are doing zoning creep, we are not.

That we are threatening to sue you, because if you do not grant this, we are not doing that, because we believe you got more than enough discretion to approve this application. I would like to address couple of points though about stormwater, because I will direct you to page eight of your write up, and I would direct the opposition to the same page, that says that in this case we did more than most applicants. We went to and got the actual stormwater models for Lake Bradford and Lake Joyce. And, we also did our own geotechnical investigations, the soil samples in and around the property to know what kind of stormwater systems will work and what will not. So, I am happy to tell you that we can not only comply with the ordinance as we said, so, those who are concerned about flooding and stormwater, this is the only answer that is being proposed by anybody that help and fixing the problem. I will have to stop there, Madam Chairperson unless I have additional questions.

Mr. Alcaraz: Can I go on with what you are getting to them.

Mr. Nutter: Yes, sir.

Mr. Alcaraz: So, the stormwater so you did borings.

Mr. Nutter: Yes, sir. We did geotechnical work on the site, and they have looked at the soil types. They are very comfortable what we are proposing. That is why we even put in the proffer, I am getting some feedback, we would not put in proffer that we would increase the amount of stormwater by 10,000 cubic feet above what the city requirements will be. And, your own report says that will result in a significant benefit to the residents in the area.

Mr. Alcaraz: What was the required.

Mr. Nutter: The required amount is that we reduced the amount of flow off the property by 20% from what is going off today. So, we do that, as we have to meet that requirement period. What we have done, however, is not only that we are holding an additional 10,000 cubic feet of water on the site before releasing it. We are almost doubling the holding capacity on site on the property.

Mr. Alcaraz: So, you are holding it. You are not treating it.

Mr. Nutter: We will treat it too. You have to treat it as well. But, you have to hold and treat it so then what is released is number one is treated, and it is released at a much, much slower lower volume, not just actually two different things it is released in a lower capacity, and it is reduced at a lower volume. So, it sounds less water coming off that site.

Mr. Alcaraz: And, currently you have nothing on site.

Mr. Nutter: There is currently nothing out there.

Mr. Alcaraz: Thank you.

Mr. Nutter: Yes, sir.

Ms. Oliver: And, currently the water that is running off of this site is not being treated, is that correct.

Mr. Nutter: That is correct. There is absolutely nothing on this site at all.

Ms. Oliver: There is a couple things I had questions on. Can you speak to the setback on Pleasure House Road, please.

Mr. Nutter: I would be happy to do so. In this case as your Staff points out and the reason why they did not oppose this request, and this request to by the way is not a variation, this is just as Mr. Tajan has said, this is part of it, he said PDH overlay so we get to set the standards. And, in this case, what happened is that we were asked to make a 5-foot dedication of property to for the city so when they come along and do road improvements as are proposed in 2024, that you will have sufficient right of way for sidewalks, road improvements, drainage and so forth. And, all of those are in your CIP program today. So, by the way, there will be a full sidewalk across the entire frontage of this property, I want everybody to know that. But the reason why Staff was supportive of this because one, we were dedicating property to the city to widen the road and under your ordinance you measure setbacks not from where the right of way is, but from where the reservation of the dedication line is. So, we are actually more than 10-feet away from the current right of way is. So, what we did, was we measured from where the actual roads are and there is a turn lane into the apartment complex we will have to build will be 27.8 feet from that turn lane and the through lane that people drive on every day will actually be 38.7-feet from that lane . So,

these numbers can be just deceiving sometimes, will be set back from what the public sees about 38-feet.

Ms. Oliver: Thank you.

Mr. Nutter: Yes, Ma'am.

Ms. Oliver: Do we have any other questions? Yes, Ms. Klein.

Mr. Nutter: Yes Ma'am.

Ms. Klein: What is the expected rental increase on the new renovated properties.

Mr. Nutter: It is going to vary and I am glad you brought that up because it will be about \$100 to \$125 a month increase. The benefit, though, is that the bulk of these building 12 of these buildings, remain the same. They get redone. But they are still small, the units are real small, and they still won't have washers and dryers in the units. So, what we can charge for those the bulk of those units as you can see, is to be much, much less than what is available in the marketplace. The higher rents are going to be in the newer apartments that have 9-foot ceilings, all the goodies and, but everybody gets to benefit by the amenity packages, everyone gets the benefit of that. But, what it means is, we will have two different tiers of rents in that complex, one for the new units which will be more expensive and ones for the older units, which will still be well under well under the market. In fact, the new units at The Pearl, at Marina Shores, which is the rent assures a one bedroom unit is \$1790, a two bedroom unit is \$2500 a month. We are well under market out here. Now this isn't on the water, but I would tell you look at them one by Franklin Johnston, they have already left. A beautiful project we did for them down at Diamond Springs Road. They are in the \$1700, a month range and they have different variations with one with a den and so forth, but, basically about \$1600 to about \$2200 for one to two bedrooms. So, as you can see, if we increase rents are \$100 to \$125, we are still well under marketplace.

Ms. Klein: So, for the older buildings that are being renovated, that is a \$100 to \$500 increase.

Mr. Nutter: About \$100 to \$125 somewhere in that range.

Ms. Klein: 100 to 125.

Mr. Nutter: Yes, Ma'am, somewhere in that range. And, so, but there will be at least much nicer, as well.

Ms. Klein: And, how is that compared to the similar complexes in the area.

Mr. Nutter: I do not know, Pleasure House has a lot of small complexes, I do not know if you have driven down there, but they have a lot of small apartment units with 6 units, 12 to 18 units and those kinds of things. So, I do not know what their rent ranges are, I just know that we have to do something to improve what we see and what we have, that is the biggest problem and how do you do that financially viable, take care of your tenants, and find out for their manner and stay within the city's traffic concerns and meet stormwater requirements and add on additional stormwater requirement that is about \$100,000 extra they are paying just for that additional capacity. So, it adds up and like I said, but they have done everything you can see to keep rates as low as again, and to help clients. In fact, they are the only company I have ever seen, that is helping people pay to move out of their complex.

Ms. Klein: Thank you.

Mr. Nutter: Yes, Ma'am.

Ms. Oliver: Mr. Graham.

Mr. Graham: Thank you. Can you talk a little bit about the traffic impact.

Mr. Nutter: Thank you. I would be happy to. Ric did a great job on the report by the way. Ric has a minimal base upon which, if you do not meet X number of capacity in a roadway, you do not have to do a traffic study. This was under that level, so, we did not have to do one. But, we went to Ric and said we would like to do one the neighborhood's going to want one. So, he said let us assume the following, because you are going to be well under anything you can do. He said let us assume that you are at a higher density, even though we lowered it to 435 units. He said we already knew 80% of the traffic coming out of Windsong goes directly to Shore Drive and 20% goes out the other way, for whatever reasons, wherever they are going. He said assume 100% go toward Shore Drive. So, do not give yourself any credit

or any traffic generation, by virtue of these there are storage units out there. So, do not take that into consideration. To make this as worst case scenario you could possibly have. And, we did that and what he found was that we would increase the timeline you would be at the intersection Shore Drive and Pleasure House about 1.9 seconds. So we ran, independent of that, we said let formula that at the 20% split with 411 units. And, yes, there are people out there using those storage units. And, it came out to 1.4 seconds delay there. And, that is why he said there is a measurable difference. There is no discernible difference in his report. In fact, his report even says, before we even there is additional capacity on this roadway to staying in the same level of service. We could add 3662 vehicle trips a day, more than what this complex has and still be within a capacity of the roadway.

Ms. Oliver: Yeah. Mike do you have a question.

Mr. Inman: Could you tell us what the timeframe is going to be for this development including the renovation of the existing ones that are going to remain.

Mr. Nutter: Yes, sir. I think the plan was, if this is approved by Council and we go to Council next month, as you know, we would hope to have site plan approval in late summer of this year and look at maybe starting the renovations and demolition because some of the units have to be demolished. So, in those senses that we will start, probably in the latter part of that this time next year, if things go well.

Mr. Inman: I mean, completing the entire apartments.

Mr. Nutter: Completing the apartment. One of the detriments of not having your client right with you and my apologies, I am not sure I know the answer of that. 22 months from start to beginning because of the timeline.

Mr. Inman: Okay. All right. And, as far as this two tiers rent program, I am just curious as to whether or not Bonaventure has done this in another community where they have had a mix of brand new and renovated.

Mr. Nutter: This is Jeremy Moss. He is with Bonaventure.

Mr. Inman: I recognize him.

Mr. Nutter: Oh, that is right. The question was has Bonaventure done any projects like this with, old and new components.

Mr. Moss: Good afternoon Madam Chair. My name is Jeremy Moss from Bonaventure for the record, Mr. Inman we did a similar renovation at the Amber Apartments, which is on Volvo Parkway in Greenbrier right at the corner of Eden way. Very, very similar and that we took existing apartment buildings, renovated them from the inside out and added additional units. So, we have operated them on a two tiered approach as you described. You know what is interesting and I heard questions from Commissioner Klein in particular about the rents, our rents are changed every day as Mr. Nutter described, they are constrained somewhat by the unit size. So, as we talk about affordability of units we are really talking about here is a mix of units that is different than what you are going to find in a brand new apartment complex and that is part of the reason that we kept the buildings that we kept is to have that unit mix. I heard concerns about the haves and the have nots. And, I simply based on my experience in multifamily development, I do not think that that is going to happen here. We do not have such a varied difference in unit type, it is the same amenities, it is the same access to everything, it is simply the unit size and you would not know from going to the mailboxes whether you have a big unit or a little unit, whether you have a renovated unit when you are at the pool or whether you are at one of the newer units. So, yeah, I certainly appreciate and understand those concerns but I do not know that it is founded.

Mr. Inman: Thank you. Last question I have for R.J. is about tree preservation, what are you doing on that.

Mr. Nutter: Yes, sir. I will what tell you we did. We went out with actually one of the members the Civic League, and if the portion property where you see the single family home if you move to the left of that along there. There is a large, large stand of existing tall trees along there. Some of them are in this dedication area we are giving. But we found a large number of them and these are big trees, these are like 20-inch diameter trees and larger. We found about seven to eight of those can stay and our goal was to have when you look down Pleasure House Road to really see pretty much the same thing you are seeing with the exception of that one new building, which is three stories, and that is about where the Tranquility units as you may know Mr. Inman, are two and three-story units, mostly three-story units. So, just like them and, but to see this large stand of trees out there. And, that was

the goal of the tree preservation. Also they asked us to identify the tree preservation along Northampton Boulevard all of those trees along there you see the different colored lien, if you will, versus the old versus the new in the plan, those will be preserved as well.

Mr. Inman: Yes, sir. Thank you.

Ms. Oliver: Any more questions, Mr. Nutter. Yes, Jack.

Mr. Wall: So, my question is what are the constraints of redeveloping this property of from what I have heard that and what I have understood over the years is that Shore Drive and Pleasure House Area is a fairly desirable area to live, the constraints of redeveloping it within the zoning that is existing.

Mr. Nutter: Well, this has the strangest zoning I have ever seen on it today, it has a combination of R10, R7.5, A12, and A24. I am not sure the history of that by the way. But, I would tell you that we have kept the density as low as we can to be able to do with it that is why we have reduced it from our original application from 435 to 411. So, we have kept that as low as we could and we also kept the matter of new construction to a minimum and this as well to also keep down costs.

Ms. Oliver: Anyone else. No, thank you Mr. Nutter.

Mr. Nutter: Ma'am Chair, my pleasure.

Ms. Oliver: All right, this hearing is now closed and we will open it up for discussion amongst the Commissioners.

Mr. Redmond: Thank you, Madam Chairwoman. First off, I would like to thank everybody for being here today. I know it is been a long afternoon requiring a lot of patience and I appreciate folks taking time out of their workday to be here and those folks who joined us on WebEx and those who are watching us on VBTV. We do appreciate your participation. I want to correct a couple misrepresentations, because I think that is important. The site is not being rezoned to A36, I got dozens of emails telling me do not rezone this A36, it is being rezoned to a portion of which A36 is less than half. So, let us start with that, it would be an A28 site. The A36 in fact would be pushed up against Northampton Boulevard where trucks rumble off the Chesapeake Bay Bridge tunnel, it is not a meandering country lane. It is one of the

largest and most industrial oriented roadways, certainly in Virginia Beach. So, and that is why those buildings are set that way, so, I think we have to look at that realistically and accurately. Pleasure House Road does not operate at a level of service E. Pleasure House Road operates level of service E in the evening peak hour, which is to say, rush hour. I do not know an intersection in Virginia Beach, which at rush hour is not crowded, in the entire United States that is not crowded, so, that ought not be a surprise. I think, but it ought to be represented accurately. It is not the case, manifestly not the case that a site that has never had stormwater control, and then get stormwater control to the very high standards that we set today. And, not only that but then a greater contribution on that, will be worse for stormwater than it was, than it is today. I mean that is just not, I mean, water is wet, the sky is blue. I can understand those things and I can understand that something that does not have anything but then it has much greater is going to be a contribution in that regard. So, I think there is all things that we have to keep in mind, they are as clear as the sun comes up tomorrow morning. Those are facts that we know. I think we have to keep in mind what Windsong is today, Windsong in my view is one rung on the ladder above blight. This is a very old, very rundown property with few amenities, if any. It is a site that is ripe for redevelopment, okay. This is not greenfield development, we are an infill development that is whatever a 15-acre parcel. You know that is pasture land or something. It is a very rough site in a very wonderful neighborhood, okay. But, it is proposed to be redeveloped and revitalized as a residential project. These projects in my mind are the least impactful use, drop a Home Depot on 15 acres. Drop a Target on 15 acres and see what traffic would be if something like that were proposed we would all freak out, it is not it is just a place where people live, and I will bet you, if this is successful, and it is constructed, we would hardly notice the impact on traffic, and the idea that little babies are going to be run over in the street because the traffic will be so giant an increase is just ludicrous, it is just made up. So, let us go back and start now, we have Windsong, it is one rung on the ladder in my view, above blight. What is proposed here is an improvement in a number of very substantial ways, it improves stormwater, it improves the community by virtue not just at the aesthetics, it looks a lot better than a whole bunch of stuff on Pleasure House Road. If you look at these renderings and you look at the design, it is a very high quality development, there is no question about it amenities and all. What then would be the objection to it, so far as I can tell when you sort through all those misrepresentations, I think that really is an issue with some folks is the density. But that is just a concept, what I want to know is what is the

impact of that, what is the significance of that. To hear the Staff tell it, the intersection we are speaking of Pleasure House Road and Shore Drive, well the intersection operates over capacity at a level of service E, in the evening peak hour. The additional apartment units will not result in a significant increase in vehicle delay or queuing. The engineering staff review the analysis and concur with the finding so it is not going to hurt traffic, says in the report does not have a significant impact on schools. It is not upon Pleasure House Road the A36, it is back against Northhampton Boulevard which is not a bucolic meandering country road. So, I do not really see what the impact is that we should fear, but it greatly lifts up a very banged up old property and revitalizes a part of the city and very frankly we need way, way, way more of it in the city and we will see more of it, there is no question. And, it is the single best way we have of revitalizing the city of addressing stormwater and of lifting people up in various places. So, from a land use perspective, which is what we do here. We do not count up what rents are and whether or not people should pay more rent or that should pay less and from a land use perspective if we look at it from that point of view, I cannot get around that. I do not see what the negative impact is that would cause me to want to throw out those benefits which are clear and identifiable. So, we have been through and I have been to two Civic League meetings, I have had I don't know how many conversations on the telephone with these people. At the end of the day, you still get back to that calculation. And, it seems to be there are a lot more things lining up in the pro-column than line up in the con-column. So, I would argue that on balance. You know this is a fine project, I do not know anyone that is perfect. I do not know what they are keeping that little house for it, it just does not seem to make any sense to me. Be that is it may I am going to recommend that we that we recommend approval on this application, and I will certainly support it. Thank you.

Ms. Oliver: Well, before I give it to Mike, I think, my understanding was and R.J. you can correct me if I am wrong about the little house just, so, that we have that on the list because I was going to bring that up with Mr. Nutter that it was asked by the Civic League not to tear it down so that the street when you went down it looked as it always had along with the trees and the house.

Mr. Redmond: I am saying it is not perfect. I object that is the plan that they have proposed, but that looks to me like the spot zoning on this site right. It is a kind of thought thing that sticks out like what's weird about the site.

Ms. Oliver: But it was the developer agreed to keep the house there versus tearing it down, so, that when everybody went down Pleasure House Road it continued to look as it was originally.

Mr. Nutter: We are keeping the zoning on that P-star R-7.5 as well.

Ms. Oliver: Mr. Inman.

Mr. Inman: I agree with what Dave has said overall I want to emphasize a couple points. First of all, I got to say to you that we have tremendous amount of staff analysis, we have staff and analysis of reports generated by the applicant, that they have reviewed and found acceptable and valid. We need to rely on that we have heard some of the opponents to indicate that they do not think they are valid, but I understand maybe they do not, but I want to rely on what we know from our staff. And, unless proven wrong by someone and the stormwater aspect of it is so important to the city and the stormwater requirements, that we have in the city now are very, very strenuous, very difficult to achieve and expensive, and we should be so happy that we have a developer who is going to come in and take a site that is got a lot of impervious surface and manage it. From a stormwater standpoint it is going to be very expensive to do that, no matter what happens to this property in terms of redevelopment that is going to be a component of it and it is expensive to do. This project is in need of renovation for sure, I do not think anybody disagrees with that, or everybody agrees on that. The aesthetics that are being achieved by the renovation is a benefit to community, generally and to the Chicks Beach community for sure. The last thing I think is that the affordable housing aspect, we critically need affordable housing in Virginia Beach, I think that this provides a level of affordable housing that is important. It may not be the most affordable housing in Virginia Beach, but it is going to be quality affordable housing in that category. And, I think this developer has gone a long way to work with the community, work with the Chicks Beach community, and work with the Staff to achieve what I would hope to be a big plus for the area. Thanks.

Ms. Oliver: Mr. Weiner.

Mr. Weiner: So, I agree with Mr. Inman and Mr. Redmond. I have known about this for a while and I think it is been up for a while in that timeframe, but one of the biggest things that has stuck with me when this first came out, is kind of the only thing we should be thinking about is an apartment complex with 139

units, because this existing ones been there for so long now. And, another thing we need to think about in the City of Virginia Beach is really no new places to build, we have to redevelop, and this is a perfect spot to redevelop, they are going to fix up the old place and build new. When it comes to drainage and water, what has to be done with this is beyond us, I mean this is all state regulated, all the new conditions that need to be done, and it need to be followed. It is superb, but it is not just going to help this place, it is going to help out Chicks Beach. And, I know it is hard to understand that and I am sure a lot of you do understand that but it is in the future, I think things are going to get better. I am going to keep this short but I am going to support this also.

Ms. Oliver: Go, ahead. Mr. Graham.

Mr. Graham: Okay. The stormwater regulations that that changed in July of 2014 are very strict. And, to see that this developers not only meet what he has to do or they have to do the new stormwater. They have to abide by the new stormwater regulations but to go even beyond that with water quality and water quantity. I think it is a big plus for the community. And, I really appreciate and I understand the community's concerns, but I just do not agree with them, I have lived in Virginia Beach most of my life and I love that area over there and I tell you this apartment community is in need of renovation. And, this is a very attractive project. It really is. And, to know that it is going to take care of stormwater regulations, beyond the regulations and they have proffer number two, it caps the number of units that they can have at 411, so, I know that there is concern about that but they are proffering that. So, I am going to support this project, things evolve and you want them to evolve and this is a good project for the community and for the city, so anyway, I am going to support this.

Ms. Oliver: Ms. Klein.

Ms. Klein: I agree that the complex is in desperate need of renovation and that the current plan is very attractive, I hear the concerns of the Civic League residents regarding traffic and density and also noted that none of those are in favor of our neighbors. My greatest concerns are those shared by the pastor, I know the difference of \$100 per month increase in expenses can make on a monthly budget. I appreciate Bonaventure efforts to assist with the wellbeing of their tenants including their partnership with Catholic Charities. However I am a social worker also on a nonprofit salary. I

engage with clients who do not have the luxury of choices and I remain concerned about those residents for that reason I plan to vote against.

Ms. Oliver: Mr. Wall.

Mr. Wall: I think that the members of the Civic League in the opposition were very well spoken. They had very solid and very sound arguments. Concerning existing zoning and I really appreciate that they pointed out that piece right out of our zoning ordinance concerning A24 and in the A36 zoning. But, I think that this development and the density, it helps justify updating and modernizing existing and ageing apartment buildings. I think that the architecture is very sound, very desirable. And, I think it can add value to the community. So, also the traffic, I know traffic was an issue and it is an issue. I know that you know the heavily traffic corridor of Shore Drive can be a challenge to navigate through, but I think that the analysis that was done was acceptable. I do not see it necessarily setting a precedence but if it does then maybe it is not such a bad precedent that it sets and the redevelopment of complex. So, I am in favor and aye vote.

Ms. Oliver: Anyone else. All right, well, I want to reiterate what Commissioner Redmond said, I just really appreciate all the time and effort and all of you all coming down and spending your day here, we have been here for quite some time and we are all not even through yet. And, we always appreciate and want to hear everybody's voices and, so, I do believe that we have a motion from Commissioner Redmond.

Mr. Inman: No, not yet.

Ms. Oliver: Oh, I am sorry I thought you did at the very beginning. I apologize. Mr. Inman go right ahead.

Mr. Inman: I want to point out that Mr. Redmond did not make a motion, so, I will make a motion to approve the application.

Mr. Redmond: Second.

Ms. Oliver: So, we have a motion by Mr. Inman, seconded by Commissioner Redmond, and I will call for a question please.

Ms. Garrido: Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Garrido: Commissioner Barnes. Commissioner Barnes is absent. Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Garrido: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Garrido: Commissioner Klein.

Ms. Klein: Ney.

Ms. Garrido: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Garrido: Commissioner Wall.

Mr. Wall: Aye.

Ms. Garrido: Commissioner Weiner.

Mr. Weiner: Aye.

Ms. Garrido: Commissioner Oliver.

Ms. Oliver: Aye.

Ms. Garrido: By a recorded a vote of seven to one item number 7 has been approved.

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

PROFFERS:

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers to “offset identified problems to the extent that the proposed rezoning is acceptable,” (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

Proffer 1:

The Property, when redeveloped, shall be constructed in substantial conformity with the conceptual site plan prepared by Lorax Design Group, entitled “Windsong Apartments, Concept Site Plan” and dated October 2, 2020 (the “Concept Plan”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 2:

The number of multifamily residential units located on the Property, when redeveloped, shall not exceed a total of four hundred eleven (411).

Proffer 3:

The architectural design and quality of materials of the multifamily residential buildings constructed on the Property, when redeveloped, shall be in substantial conformity with the four-page exhibit prepared by J Price Architecture, entitled “Windsong Apartments, Conceptual Elevations” and dated August 29, 2019 and September 17, 2018 (the “Apartment Elevations”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 4:

The architectural design and quality of materials of the exterior recreational and clubhouse amenities, when redeveloped, shall be in substantial conformity with the exhibits entitled “Windsong Apartments, Pool Concept Sketch Plan” and dated October 3, 2019 (the “Windsong Amenities”), copies of which are on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 5:

The landscaping to be installed on the Property when redeveloped shall be substantially as shown on the “Concept Plan” referred to in Proffer No. 1.

Proffer 6:

The regulations for the R-7.5, A-24 and A-36 zoning districts shall apply except for the following changes:

A-24

Minimum side yard setback – 10 feet, except adjacent to Pleasure House Road where setback is 5 feet

Maximum height for structures – 52 feet

Minimum parking spaces required – 2.15 per unit

Parking spaces shall be shared with A-36 zoned property

Maximum lot coverage of 70%

A-36

Minimum side and rear yard setback – 10 feet

Minimum lot width – 125’

Minimum parking spaces required – 1.19 per unit – Parking spaces shall be shared with A-24 zoned property

Proffer 7:

In addition to meeting the required stormwater requirements for the Property when it is redeveloped, Grantor shall provide an additional 10,000 cubic feet of storage capacity beyond the City’s minimum requirements.

Proffer 8:

A lighting plan for the exterior portions of the Property when redeveloped shall be provided as part of the final site plan submittal. All exterior lighting shall be directed down and inward toward the property and away from adjacent properties.

Proffer 9:

Any trash compactors located on the Property when redeveloped shall be screened in accordance with the Virginia Beach Landscaping Guide.

Proffer 10:

Further conditions lawfully imposed by applicable development ordinances may be required by the Grantee during detailed site plan and/or subdivision review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

Staff Comments:

Staff finds the proffers acceptable as they provide a high level of predictability related to the ultimate site layout, vehicular ingress/egress, landscaping, building architecture and exterior building materials. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

Item # 8

**Atherton Construction & Development, Inc. [Applicant & Contract Purchaser]
Open Door Chapel, Inc. [Property Owner]**

Modification of Conditions (Religious Use)

3177 Virginia Beach Boulevard

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: The next item, item number eight Atherton Constructions for Modification of Conditions at 3177 Virginia Beach Boulevard. Is there an applicant available? No applicant available.

Mr. Tajan: Give us one moment to make sure.

Mr. Weiner: Okay.

Mr. Tajan: It is being played real time in the other room, so, if you want to repeat it the applicant is available in the next room.

Mr. Weiner: Yeah, no problem.

Ms. Dozier: Thomas Atherton. Mr. Atherton is a virtual participant in today's meeting. Mr. Atherton if you could unmute your mic, and pause for three seconds, we will begin your speaking, go ahead and feel free to begin your comments.

Mr. Atherton: This is Thomas Atherton. Can you hear me? The conditions are acceptable, and we appreciate the recommendation for approval.

Mr. Weiner: Is there any opposition to this being placed on the Consent Agenda. Hearing none, Mr. Alcaraz has been asked to read this in the record, please.

Mr. Alcaraz: Thank you. Agenda item number 8 at 3177 Virginia Beach Boulevard, is zoned B2 Community Business and is located within Lynnhaven Strategic Growth Area. The applicant seeks to modify the boundary of the site that is associated with the Conditional Use Permit for Religious Use that was granted by City Council in 1978. The applicant seeks to allocate almost one-acre of the northern portion of the property in order for redevelopment

of the site for retail. The concept submitted depicts the area as a new parking lot for a new retail development that can be constructed with the B2 Community District as a matter of right. The remaining 6.2 acres exceeds the minimum 3-acre requirement for freestanding church and the removal the acreage leaves 286 parking spaces which exceeds the requirements. Based on these considerations the Planning Commission has recommended approval for this request subject to the conditions and the Staff report and we have placed it on a Consent Agenda.

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda if these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of nine to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.



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

CONDITIONS:

1. All conditions attached to the Conditional Use Permit granted on January 16, 1978 are hereby deleted and superseded by the following conditions.
2. Prior to site plan approval for the redevelopment of the property to the north that depicts the 0.58-acre portion of the church's property to be incorporated into that site as a parking lot, the applicant/owner shall submit a subdivision plat to the Department of Planning & Community Development for review, approval, and recordation.

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

**Verdad Real Estate & Construction [Applicant] SRGS, LLC, Penny R. Pitts
Revocable Living Trust, & Adams Outdoor Limited Partnership [Property Owner]**

Conditional Use Permit (Automobile Service Station)

4493 Shore Drive

December 9, 2020

DEFERRED INDEFINITELY

Ms. Oliver: Thank you. The next order of business is to address those items to be deferred or withdrawn. The Chair is aware that the following items have requested to be withdrawn, number 9, 10, 11, and 12 for an indefinite deferral, and items 21 through 30 for 30 days. These are deferrals. And, are there any other items that are up for deferral or withdrawn. No, we do not have any objections to the ones that are being deferred. I need to have a motion please.

Mr. Weiner: Madam Chair, I move for approve the deferral of items 9, 10, 11, and 12 to be indefinitely deferred. And 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 for a 30-day deferral.

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

Mr. Redmond: Second.

Ms. Oliver: Call for the vote.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: Madam Chair, Oliver.

Ms. Oliver: Aye.

Ms. Porter: By record a vote of nine to zero, items number 9, 10, 11, and 12, have been indefinitely deferred with items numbers 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30, with a 30-day deferral.

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

Item # 10

Hunt Club of Virginia Beach, Inc. [Applicant] Hunt Club Farm A-1-A [Property Owner]

Modification of Conditions

2356, 2380, 2400, 2412 & 2416 London Bridge Road

December 9, 2020

DEFERRED INDEFINITELY

Ms. Oliver: Thank you. The next order of business is to address those items to be deferred or withdrawn. The Chair is aware that the following items have requested to be withdrawn, number 9, 10, 11, and 12 for an indefinite deferral, and items 21 through 30 for 30 days. These are deferrals. And, are there any other items that are up for deferral or withdrawn. No, we do not have any objections to the ones that are being deferred. I need to have a motion please.

Mr. Weiner: Madam Chair, I move for approve the deferral of items 9, 10, 11, and 12 to be indefinitely deferred. And 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 for a 30-day deferral.

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

Mr. Redmond: Second.

Ms. Oliver: Call for the vote.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: Madam Chair, Oliver.

Ms. Oliver: Aye.

Ms. Porter: By record a vote of nine to zero, items number 9, 10, 11, and 12, have been indefinitely deferred with items numbers 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30, with a 30-day deferral.



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

CONDITIONS:

1. All conditions attached to the Modification of Conditions granted on December 2, 2014 and November 17, 2015, are hereby deleted and superseded by the following conditions.
2. The activities held on the site shall operate in the locations and facilities as depicted on the submitted site plan entitled "EXHIBIT, HALLOWEEN EVENT ACCESS PLAN – OVERVIEW OF FACILITIES AT HUNT CLUB FARM, MODIFICATION OF CONDITIONS, OCTOBER 14, 2015", (the "Site Plan") dated July 10, 2014 and prepared by Gallup Surveyors and Engineers, Ltd.
3. The Petting Farm hours of operation shall be 8:00 a.m. to sunset. The sale of petting farm admission, animal feed, and other agriculturally related products shall be permitted in the adjacent shed building, as depicted on the submitted Site Plan entitled "Exhibit A: Petting Farm & Recreation Map".
4. The Farm Market hours of operation shall be 7:00 a.m. to 8:00 p.m., with the following exceptions. During the Halloween Event, the Farm Market hours of operation shall be 7:00 a.m. to 11:00 p.m. During the Winter Wonderland Event, the Farm Market hours of operation shall be 7:00 a.m. to 9:00 p.m. Items sold at the Farm Market shall be those included below in the "Details of Proposal" section.
5. The Halloween Event shall be limited in operation to between the last week in September through the first week in November. The event shall be limited to a maximum of 25 nights. The hours of operation shall be 6:30 p.m. to 11:30 p.m., and ticket sales shall stop at 10:00 p.m. The activities included with this Event shall be those included above in the "Details of Proposal" section.
6. The Fire Prevention Bureau shall inspect the site and all areas and structures associated with the Halloween Event each year, prior to the Event beginning on October 1st.
7. The Fall Harvest Fair shall be limited in operation to between the last week in September through the first week of November. The hours of operation shall be 9:00 a.m. to 6:00 p.m. The activities included with this Event shall be those included above in the "Details of Proposal" section.
8. The Annual Children's Fall Harvest Party may be held only one (1) weekend day during the month of October. The hours of operation shall be 11:00 a.m. to 4:00 p.m. The activities included with this Event shall be those included above in the "Details of Proposal" section.
9. The Winter Wonderland/ Holiday Display may be held only one (1) weekend day during the month of December. The hours of operation shall be 9:00 a.m. to 9:00 p.m. The holiday display shall be located in the barn identified as "Christmas Barn" on the submitted site plan. In addition, the barn may be used in the operation of the

Summer Camp and for occupancy during charity events and special events as identified in Condition 15.

10. The Easter Egg Hunt may be held each year only on the Friday, Saturday and Sunday of Easter weekend. The hours of operation shall be 9:00 a.m. to 6:00 p.m. The activities included with this Event shall be those included above in the "Details of Proposal" section.
11. The Summer Fun Camp shall be limited in operation to between the months of June through August. The hours of operation shall be 9:00 a.m. to 5:00 p.m. The activities included with this Event shall be those included above in the "Details of Proposal" section.
12. The Farm Tours and Field trips shall be operated as described in the "Background / Details of Proposal" section of the Modification of Conditions report approved by City Council on December 2, 2014. No more than 250 people shall be scheduled to arrive within a 30 minute period.
13. The activities and operation included with the birthday parties held on site shall be limited to those included above in the "Details of Proposal" section.
14. Company, family, and military picnics may be held year-round. The picnics shall be limited to Sunday through Thursday, from 10:00 a.m. to 11:00 p.m. and Friday and Saturday, from 10:00 a.m. to 11:30 p.m. The activities included with the picnics shall be those included above in the "Details of Proposal" section.
15. Charity fundraisers and Special Events shall be limited to no more than 24 events, other than those specified with this Conditional Use Permit, per year. These events shall be limited to Sunday through Thursday, 10:00 a.m. to 9:00 p.m., and Friday and Saturday, 10:00 a.m. to 11:00 p.m. The activities included with these events shall be limited to those included above in the "Details of Proposal" section.
16. Two weeks prior to every charity event and special event, as described in Condition 15, the applicant shall notify the following City agencies: Police Department, Fire Marshal Bureau, Commissioner of Revenue, Zoning Department, Current Planning Department, and Health Department. Notification shall be given by contacting the City of Virginia Beach, Resort Management Special Events Department. There shall be no fee or separate application process associated with this notification for the 24 events permitted per calendar year. Additionally, the applicant shall appear before the Virginia Beach Special Events Task Force four times per year to inform the Task Force of all upcoming events in the coming months.
17. Traffic and parking management during events generating a high volume of traffic, including but not limited to the Halloween Event, Winter Wonderland Event and Easter Egg Hunt, shall operate as depicted on the submitted Site Plan entitled Hunt Club Farm Special Event Parking" and as detailed in the "Special Event Traffic Management Plan."

18. A certified Police Officer and certified traffic monitors shall assist with traffic control during events that generate high volumes of traffic, including but not limited to the Halloween Event, Winter Wonderland Event and Easter Egg Hunt, and events that use the additional “overflow parking” area as shown on the submitted site plan.
19. Two handicap spaces shall be provided in the gravel parking area adjacent to the Farm Market, as per the submitted site plan. These spaces shall comply with all ADA requirements.
20. The temporary curb cut to London Bridge Road shall be restricted to passenger vehicles only and shall meet ADA requirements. The temporary curb cut shall be egress only and shall be limited to a right-out onto London Bridge Road.
21. If deemed necessary, a legal agreement shall be maintained with the owner of the adjacent property (GPIN# 24058121850000), for the use of the property as “Additional Overflow Parking.”
22. All structures used to accommodate events or where people congregate, including the “Barn,” “Farm Market,” “Village of the Dead,” “Camp Clubhouse,” “Greenhouse,” and “Christmas Barn” shall obtain and maintain all required permits from the Planning Department, Permits and Inspections Division, and the Fire Marshal’s Bureau. These City agencies shall be consulted to determine the permits that are required.
23. All required permits, certificates of occupancy and improvements necessary to comply with the Building Code, as detailed in the “Building Code” section below, shall be obtained/completed/maintained by the applicant. The applicant shall acquire all necessary permits and certificates of occupancy from the Planning Department, Permits and Inspections Division. The Permits and Inspections Division shall verify compliance with the Building Code upon completion of required work or when a permit is ready to be finalized.
24. An Operations Plan shall be updated to reflect the changes in the parking plan and amended conditions for the overall operation of Hunt Club Farm, as well as more detailed operation plans for each of the facilities used on site. A copy of the updated plan shall be submitted to the Planning Director and the Fire Marshal Bureau within 30 days of City Council action.
25. The applicant shall comply with all life and fire safety measures as detailed in the “Life Safety” section below. The applicant shall verify compliance with the Fire Prevention Bureau.
26. There shall be no weddings or Change of Command ceremonies held on the site.

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

Old Dam Neck, LLC [Applicant and Property Owner]

Conditional Rezoning (AG-2 Agricultural District to Conditional B-2 Community Business District)

South side of Old Dam Neck Road

December 9, 2020

DEFERRED INDEFINITELY

Ms. Oliver: Thank you. The next order of business is to address those items to be deferred or withdrawn. The Chair is aware that the following items have requested to be withdrawn, number 9, 10, 11, and 12 for an indefinite deferral, and items 21 through 30 for 30 days. These are deferrals. And, are there any other items that are up for deferral or withdrawn. No, we do not have any objections to the ones that are being deferred. I need to have a motion please.

Mr. Weiner: Madam Chair, I move for approve the deferral of items 9, 10, 11, and 12 to be indefinitely deferred. And 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 for a 30-day deferral.

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

Mr. Redmond: Second.

Ms. Oliver: Call for the vote.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: Madam Chair, Oliver.

Ms. Oliver: Aye.

Ms. Porter: By record a vote of nine to zero, items number 9, 10, 11, and 12, have been indefinitely deferred with items numbers 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30, with a 30-day deferral.

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

Item # 12

617 Vanderbilt, LLC [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

557 South Atlantic Avenue

December 9, 2020

DEFERRED INDEFINITELY

Ms. Oliver: Thank you. The next order of business is to address those items to be deferred or withdrawn. The Chair is aware that the following items have requested to be withdrawn, number 9, 10, 11, and 12 for an indefinite deferral, and items 21 through 30 for 30 days. These are deferrals. And, are there any other items that are up for deferral or withdrawn. No, we do not have any objections to the ones that are being deferred. I need to have a motion please.

Mr. Weiner: Madam Chair, I move for approve the deferral of items 9, 10, 11, and 12 to be indefinitely deferred. And 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 for a 30-day deferral.

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

Mr. Redmond: Second.

Ms. Oliver: Call for the vote.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: Madam Chair, Oliver.

Ms. Oliver: Aye.

Ms. Porter: By record a vote of nine to zero, items number 9, 10, 11, and 12, have been indefinitely deferred with items numbers 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30, with a 30-day deferral.

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

Item # 13

Red Lion Properties, LLC [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

401 21st Street Unit 5

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda as these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications, and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right, before, I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter : I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner : Aye.

Ms. Porter: By recorded vote of nine to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes	AYE			
Coston				ABSENT
Graham	AYE			
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 401 21st Street, Unit 5, 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 # 14

Scott & Jeannie Williams [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

223 64th Street

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda as these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications, and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier : Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before, I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of eight to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes	AYE			
Coston				ABSENT
Graham	AYE			
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 223 64th Street and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. 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 # 15

4500 Oceanfront, LLC [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

4500 Oceanfront Avenue

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda as these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications, and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before, I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of eight to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

	AYE 8	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Barnes	AYE			
Coston				ABSENT
Graham	AYE			
Horsley				ABSENT
Inman	AYE			
Klein	AYE			
Oliver			ABS	
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 4500 Ocean Front 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.

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

Walter Lee Burnette [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

926 Maryland Avenue

December 9, 2020

RECOMMENDED FOR DENIAL – HEARD

Ms. Dozier: Next item is item number 16, Walter Lee Burnett, an application for Conditional Use Permit Short Term Rental at property located at 926 Maryland Avenue. Is the applicant present?

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

Mr. Burnett: Walter Lee Burnett.

Ms. Oliver: And, can you tell us a little bit about your, I am sorry we are on number 16. Great, thank you. Tell us a little bit about your rental property, please.

Mr. Burnett: Sure. I bought the property about two years ago it was in need of renovation. I invested about \$25,000 into it, worked with my neighbors next to me where we paved the parking area which had not been paved in years. We stay there probably just as much as we do rent it as well. So, I am a native of Virginia Beach I grew up here, went to Green Run High School. And, we basically rent it out to help pay the payment. I live in Richmond at this time. But we are down here quite a bit and have quite a few friends on Maryland Avenue, that we all support each other and taking trash out making sure grass is cut; things like that.

Ms. Oliver: Okay, thank you. I am sorry you had your hand up George, and you are currently renting it?

Mr. Burnett: Not right now.

Ms. Oliver: Okay. When was the last time.

Mr. Burnett: My last rental was in August, after I spoke with zoning.

Ms. Oliver: Great. Thank you.

Mr. Burnett: Thank you.

Ms. Oliver: Madam Clerk we have some speakers today.

Ms. Dozier: Yes, Ma'am. We have two speakers for this item. Carrie Copenhaver.

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

Ms. Copenhaver: My name is Carrie Copenhaver I live at 603 16th Street. I also have a rental property at 941 Maryland Avenue, and I am in support of Lee's Short Term Rental. I work with him with that as far as being his support, so if he is ever out of town or needs anything, I am right there to take care of it. We also have our cleaner Laura, who lives on Maryland Avenue as well so we are there to help support him while he operates that and he comes in visits and we socialize and whatnot, so, we are in support of his continuing to use that as a Short Term Rental.

Ms. Oliver: Thank you.

Ms. Dozier: Bill Wright. Calling again for Bill Wright. That would be all the speakers Ma'am.

Ms. Oliver: Okay, thank you very much. All right, we will go ahead and close this hearing and open it up to the Commissioners.

Mr. Alcaraz: I just had some questions for the applicant.

Ms. Oliver: Do we have questions.

Mr. Alcaraz: Yes.

Ms. Oliver: Okay. Go right ahead. You have questions.

Mr. Alcaraz: For Mr. Burnett, yes.

Ms. Oliver: All right, Mr. Burnett would you please come to the podium. Thank you.

Mr. Alcaraz: Hi, Mr., Burnett there was some opposition that did contact me just recently I was aware of the both of them. But, anyway the question I had is, they said recently you have been renting Short Term Rentals.

Mr. Burnett: I have not rented, when I spoke with Mr. Miller in August to figure out how the process should work. That is when I stopped renting.

Mr. Alcaraz: Okay, you live here.

Mr. Burnett: I live in Midlothian and I am from here, but I do spend four to five months a year here.

Mr. Alcaraz: Okay, the opposition, they are close proximity to you. And, what I was told is there were some problems and it was not taken care of in a timely manner. Do you have a manager locally that is going to handle that and is that contact information, public.

Mr. Burnett: I have never heard of any problems. I have a 4.98 rental average on VRBO.

Mr. Alcaraz: How do you get that.

Mr. Burnett: How did I get it.

Mr. Alcaraz: Yeah. How did you get that rating.

Mr. Burnett: Oh, man I take incredible pride in making sure that I do everything to take care of the property really. I put in sod in the yard, I put up a new fence.

Mr. Alcaraz: Who rates that.

Mr. Burnett: The people that have stayed in the past.

Mr. Alcaraz: That is what I am asking, how many of those did you have.

Mr. Burnett: I do not know the number, actually. This year it is not been as many as the year prior. The year prior I had probably 25 maybe I am not 100% sure of that number.

Mr. Alcaraz: So, my concern is we need a timely manner if there is a problem, and I need to make sure that for the neighborhood, for quiet enjoyment it is taken care of in a timely manner and that is what I want to know is who is your manager locally. And, are they available and is it public record on who they can contact if there is a problem.

Mr. Burnett: So, the answer is I have Carrie Copenhaver, obviously that is available, she lives close by, I have Laura, our housekeeper that lives right down the sidewalk from me. I also have Kelly Trebor here who is number 17, on this list that we are neighbors in Richmond and neighbors in here and we all support each other. Like I said, I did grow up here. The people that are renting have my phone number. They have my wife's number.

Mr. Alcaraz: I am talking about the neighbors if there's a problem. How do they know who to call.

Mr. Burnett: The neighbors. I do not know the answer to what the neighbors, certain neighbors they may, some neighbors have like my next door neighbor and two doors down for example, Brian has my number. My neighbor on the other side has my number. So, there are multiple neighbors that do have my phone number.

Mr. Alcaraz: Okay. And, the reason I bring this up the opposition was actually one of the guys just walked in, so, I let them divulge that. Thank you. Thanks.

Mr. Burnett: Thank you.

Ms. Oliver: Madam Clerk I think our other speaker might have just walked in.

Ms. Dozier: Would you like me to recall him.

Ms. Oliver: Yes, please.

Ms. Dozier: Bill Wright.

Mr. Wright: Hi, my name is Bill Wright. I live at 904 Maryland Avenue and I am opposed to this Conditional Use Permit. We live in a quiet neighborhood, and we do not want to commercialize the neighborhood. This property has been listed since March 2019, so, we have some experience with some of the renter's there. There has been a lot of traffic. There has been several parties in

that facility. There is also at times, I think some commercial trucks have been parked in there. I think there is some construction crews that come in and rent the place as well. So, there has been a lot of traffic. And, we are concerned about the parking issues there. I think there is supposed to be three spots but there is no on-street parking there, so, we are concerned about that. There is no real on-street parking it is those three spots there, so, we have had construction trucks parked there, and this has been a lot of activity over the past year or so there. There is also, I believe he has an outdoor shower in the back and although I have not been a witness to it, I have heard that there has been occasions where there has been some nudity in the backyard and there is kids in the neighborhood and that sort of thing, so, we are concerned about that as well. So, I just wanted to stand in opposition to it.

Ms. Oliver: Do we have any questions. Thank you very much. Mr. Burnett would you come back up to the podium, please. I think Commissioner Weiner has a question for you.

Mr. Weiner: How long have you been paying taxes on your short term rental.

Mr. Burnett: Since day-one.

Mr. Weiner: When was that.

Mr. Burnett: Well, I bought the house in November of 2019. I did some renovations, I believe. I went to City Hall in March or maybe February of. I bought the house in November, I am sorry of 2018.

Mr. Weiner: Okay.

Mr. Burnett: I went to City Hall in probably February of 2019, to do the business license and things like that.

Mr. Weiner: And, that is when you start paying your taxes then.

Mr. Burnett: Yes, sir.

Mr. Weiner: And, they did not tell you about Conditional Use Permit then.

Mr. Burnett: Not at that time, no.

Mr. Weiner: Okay.

Mr. Burnett: It was later in the year that they came out with that first set of rules.

Mr. Weiner: Did you buy this house specifically for Short Term Rentals.

Mr. Burnett: Not necessarily. Like I said, I am from here my parents obviously lived here until they retired. When my parents moved away I decided, we were coming down here and spending time with friends. And, I just was tired of, basically staying in people's houses and staying in hotels and this and that, and I do stay in the house quite a bit. I would like to address Mr. Wright's additional comments also, if I may. There is a shower on the side of the house, my property is surrounded about six-feet tall privacy fence and the shower is also surrounded by a privacy fence. So, I am not sure how people walking around nude in theory would be something that someone will see personally, but I have a strict, very strict no party policy. And, I have never heard anyone say, I will be glad to share my contact information with Mr. Wright. I do not know him, and I have never met him before. But as far as trucks parking, it is only been in the last few months that the city has come up with the three parking. I advertise my house for two cars. And, if there has been a work truck it may have been a rental that came in, I do rent to people that want to work here supposedly. Sometimes it is two weeks maybe it is four weeks or whatever, but I do not ask them what kind of vehicle they drive. But, like I said, I do have a strict no party policy, I am aware of that house at all times. I take great pride in that house; I did a lot of work on that house. It is something that I am going to keep, I am just a few years from retirement. And, I will be more than happy to share my contact information with any neighbor that is interested.

Ms. Oliver: Anybody else. No, thank you very much.

Mr. Burnett: Thank you very much.

Ms. Oliver: All right, we will close this hearing now and open it to the Commissioners.
Ms. Klein.

Ms. Klein: I think one of the problems that I am noticing for vacation homes, is that it is hard for neighbors to tell who is having the party, because they do not always know when the owner of the property is in town. So, if you have a

gathering that is boisterous, how is the neighbor supposed to know it is the owner versus it is a renter. That seems to be a theme in people who use the house as a second home.

Ms. Oliver: Okay. Anybody else, George.

Mr. Alcaraz: Thanks. Well, I do not know whether the other person is going to come, I think it was the anonymous one which I did talk to, but neither here. I took into consideration what I was told. Again, I am all about the neighborhood, I am all about the quiet enjoyment. These townhouses are close together, there is single family homes just to the east of it. It is a community that I think I need to listen and I have heard two people and I am going to go ahead and recommend denial for my district.

Ms. Oliver: I have motion on floor for denial, do I have a second.

Mr. Wall: I will second.

Ms. Oliver: Okay. I will call for the question.

Ms. Garrido: Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Garrido: Commissioner Barnes is absent. Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Garrido: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: No.

Ms. Garrido: Commissioner Klein.

Ms. Klein: Nay.

Ms. Garrido: Commissioner Redmond.

Mr. Redmond: No.

Ms. Garrido: Commissioner Wall.

Mr. Wall: Nay.

Ms. Garrido: Commissioner Weiner.

Mr. Weiner: Aye.

Ms. Garrido: Commissioner Oliver.

Ms. Oliver: Aye.

Ms. Garrido: By a recorded vote of four to four item number 16 has been recommended for denial.

Mr. Tajan: So, with a four-to-four vote that means that.

Ms. Garrido: Motion fails.

Mr. Tajan: Yeah, the motion fails. So, I guess technically the floors open for a another motion.

Ms. Oliver: All right, I am going to close it again, and ask for another motion. Do we have a motion on the floor. Mr. Inman.

Mr. Inman: I will make a motion to approve. The reason I am is I am impressed with the applicants concern and I find him credible, I am concerned about the party allegations and I think he is ready to deal with that. And, I think he is been responsible, and he has met all the criteria otherwise. That is why I am making a motion for approval.

Ms. Klein: I will second.

Ms. Oliver: Do you call for the question Madam Clerk.

Ms. Garrido: Commissioner Alcaraz.

Mr. Alcaraz: Nay.

Ms. Garrido: Commissioner Barnes is absent. Commissioner Coston is absent.
Commissioner Graham.

Mr. Graham: Nay.

Ms. Garrido: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Garrido: Commissioner Klein.

Ms. Klein: Aye.

Ms. Garrido: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Garrido: Commissioner Wall.

Mr. Wall: Aye.

Ms. Garrido: Commissioner Weiner.

Mr. Weiner: Nay.

Ms. Garrido: Commissioner Oliver.

Ms. Oliver: Nay.

Ms. Garrido: By a recorded vote of four-to-four motion fails.

Mr. Tajan: With that, then you have done both, so, the recommendation is denial by
the Planning Commission.

There were two motions and two votes on this agenda item.

This reflects the votes on the MOTION TO DENY:

	AYE 4	NAY 4	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley				ABSENT
Inman		NAY		
Klein		NAY		
Oliver	AYE			
Redmond		NAY		
Wall		NAY		
Weiner	AYE			

This reflects the votes on the MOTION TO APPROVE:

	AYE 4	NAY 4	ABS 0	ABSENT 3
Alcaraz		NAY		
Barnes				ABSENT
Coston				ABSENT
Graham		NAY		
Horsley				ABSENT
Inman	AYE			
Klein	AYE			
Oliver		NAY		
Redmond	AYE			
Wall	AYE			
Weiner		NAY		

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 926 Maryland 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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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 # 17

James & Kelly Trebour [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

939 Maryland Avenue

December 9, 2020

RECOMMENDED FOR APPROVAL – HEARD

Ms. Dozier: Item number 17, James and Kelly Trebour application for a Conditional Use Permit for property located at 939 Maryland Avenue. Will the applicant please come forward.

Ms. Oliver: Hi, would you state your name for the record, please. Do you mind speaking into the mic or adjust the mic, so, that we can hear you a little bit better. Thank you.

Ms. Trebour: Hi, I am Kelly Trebour, you can really hear me now.

Ms. Oliver: Hi, how are you, you want to tell us a little bit about your rental unit please.

Ms. Trebour: Certainly, it is at 939 Maryland Avenue, it is a three bedroom 1400 square feet town home. And, my husband and I recently purchased it. We closed in November and we intend to enjoy that property as well as rent it. We live across the street from the Burnett's in Richmond and they live across the street here. I am really sad to hear that you have denied his Short Term Rental because he has improved that property that he lives in incredibly so. So, the neighbor over here it is only helping his property value. I am a real estate agent I sell real estate, we know that if you have properties that are not well maintained and you have long-term rental with absent owners. The property it is basically abandoned and it looks terrible. And, you can tell in the communities in his community as well where he lives, they have several homes that are not being maintained very well at all. And in this community, we do have long-term rental that is not being maintained. With a Short Term Rental you have to maintain it to make it look good so people will pay to stay. And, I do not see how that is a distraction to the community or going to hurt somebody else's property value. And, if there is something going on in the home, that is disturbing the other neighbors. The other neighbors already have the contact information. So, I do not understand that at all. It

does not make sense on a value side, it does not make sense on your real estate value side as well as tax base for Virginia Beach. So, I do not understand that one bit. But, we intend to enjoy this property. I grew up in Richmond, and grew up coming to Virginia Beach all my childhood, and I love it here. So, that is our intent. So, we have already started to improve the property. Excuse me, I am sorry.

Ms. Oliver: That is okay. So, you bought the property for a Short Term Rental.

Ms. Trebour: I bought the property first and foremost to enjoy it.

Ms. Oliver: And, to rent it out.

Ms. Trebour: And, secondly to rent it. Yes.

Ms. Oliver: And, is it currently being rented?.

Ms. Trebour: I have a long-term lease right now.

Ms. Oliver: And, are you registered with the Commissioner of Revenue?

Ms. Trebour: No. On my Short Term Rental application it said that you register after this hearing.

Ms. Oliver: No, ma'am. You have to register with the Commissioner of Revenue prior to this, unless we have changed something.

Ms. Trebour: That was not my understanding and now it is not the direction, it even states in there that you register with the Commissioner after you get your approval.

Mr. Tajan: If she is not operating as a Short Term Rental.

Mr. Inman: Why would you need to register before you operate as a, it is not a prerequisite to apply for the use permit to register right.

Mr. Tajan: That is correct, if they are operating already we do tell them they need to register and pay back taxes, but if they are not operating currently typically we do not require them to register.

Ms. Oliver: Okay, because that is not my understanding was that you had to register with the Commissioner of Revenue first, pay the fee. Okay.

Mr. Inman: Well, the point would be that if you apply and you are denied for a use permit, why would you ever want to register?

Ms. Oliver: Well, that is true.

Mr. Inman: You are never going to do a Short Term Rental.

Ms. Oliver: It is fine.

Ms. Klein: Do you have to register if you do long term rentals?

Mr. Inman: No.

Ms. Klein: Okay.

Ms. Oliver: No, anything under 30 days is considered a short-term. Okay, thank you very much.

Ms. Trebour: Thank you.

Ms. Oliver: Oh, Mr. Weiner has a question for you, ma'am.

Mr. Weiner: Who is the property manager for your Short Term Rental?

Ms. Trebour: Carrie Copenhaver.

Mr. Weiner: So, same people, taking care of yours. Okay. Yours is just a little different. Okay, that is what we are looking at, okay. This has been looking like that.

Ms. Oliver: Mr. Graham.

Mr. Graham: Carrie, is she a licensed real estate agent?

Ms. Trebour: Yes, she is.

Mr. Graham: Okay. All right.

Ms. Oliver: Okay, thank you very much.

Ms. Trebour: Thank you.

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

Ms. Dozier: Yes, Ma'am there are two speakers. Carrie Copenhaver.

Ms. Copenhaver: Hi, again Carrie Copenhaver. I live at 603 16th Street, and also own 941 Maryland Avenue. And just to clarify, I do not manage her property, she manages it but I am the point of contact. So, if there is an emergency that happens or you need somebody immediately, I am the person that would respond to that and that is what is registered in her application as well. I would like to address a couple of issues. One, let us talk about parties, because I think there is a misperception that people that come and rent the Short Term Rentals are partiers and that may be a tiny percentage of the people that are renting them and they are kind of, it is kind of easy to pick up on who they are. So, we are able to weed them out pretty easily. Believe me, that is not what we as Short Term Rental owners want at all, is to have people partying in our place. For the most part, they are coming here to visit their family in the military. They are coming and have somebody at a different location that is here for a long-term hospital visit, they are here for over a month and they have got to meet with doctors. There is a variety of reason that bring people here, there are the Short Term Rentals are a better option for them than a hotel, and it is an important amenity that we are offering to our tourists that come here. So, we are not taking away from hotels, we are actually adding to and providing another service for them. Specifically, I am very sensitive to partying, we have Laura that again she is a cleaner that lives right there. To my knowledge, we have only ever had one party ever on Maryland Avenue and that got shut down very quickly because we knew what was happening and so we went in, I literally walked in and had everybody exit before it even got to be anything, it is bunch of kids from Ocean Lakes. So, I am not clear what he is referring to, and I would love more information about that because to my knowledge, it is a townhouse community I do not know that you can decide who in that townhouse community is having a party. We do not have any issues with parking, that entire community has issues with parking. There are residents or tenants that have commercial vehicles that are parking on Indian Road with their food trailers and food trucks and whatnot. So, I do not know if he is confusing us with them or what is happening there, but it is a pretty

transient community in those townhouses because you have a lot of tenants and you have some owners. The tenants do not take great care of their properties and homeowners do, as short-term owners we take excellent care of our properties as well because we want to keep them maintained. I have two there 941 and 948. I take excellent care of my townhouses, we have added roofs, made improvements. So, again I am in support and I want you to understand that we want to be good neighbors and that is our intent, and I make myself available, I have spoken to all of our neighbors. This gentleman lives just up further east of us, I am not quite sure what issues he is concerned about, but I would love to discuss that with him later so that we can resolve any disputes or challenges he may have. Thank you.

Ms. Dozier: Bill Wright.

Ms. Oliver: Hello, Mr. Wright.

Mr. Wright: Hi, thank you again, its Bill Wright. And, I am rising in opposition to this Conditional Use Permit for some of the same reasons. I am not so concerned about the maintenance or the appearance of the properties, all property owners should be keeping their residences up to code and keep them nice. What I am worried about is just the traffic on the street and the parking, you can see that the way that these cars are parked in this particular situation, there is two going in and one parked parallel behind them. So, I just think it looks crowded, and it is just does not look like it is an easy way to do it. And, we are just concerned about the traffic, the short term renters coming in and turnover every week and what happened that is my reasons for opposing this.

Ms. Oliver: Great, do we have any questions for Mr. Wright. Go ahead.

Mr. Alcaraz: Mr. Wright, any history on this one?

Mr. Wright: Not for this particular one, I am not sure that they are even doing any Short Term Rentals at this point, I think she said that they are longer lease is there right now, so, nothing here.

Ms. Oliver: Thank you. So, I am going to close the hearing at this time. Well, we can if she would like to, do you want to come back up.

Ms. Trebour: I just wanted to address the parking issue that he brought up, which is not a nonissue, as a Short Term Rental it is advertised for two cars, not three. The parking here is to meet your requirements to park three cars, can actually get three cars in without having that parallel there, but I was not here in Virginia Beach to make that example, so, you could see it. So, that is what was taken and given to you all and it is a satellite taken right off of the Google streets. So, two units down, they get four cars in the same space parked behind each other. So, I do not know what this gentleman is talking about, the townhome community is a very transient community. There are tenants that are coming and going. That is the nature of that kind of a dwelling, and I just cannot fathom that there is all this traffic going down Maryland Avenue with Short Term Rental traffic. If my family were living there full time, we would have four cars parked there. And, so, there would be four cars, and then my daughter and all of her friends would have their cars coming and going from our house. So, I do not understand the difference between home ownership in parking and Short Term Rental and parking, it makes no sense at all. Anybody who has children there that are driving age, you are going to have people coming and going. So, that is what I wanted to talk to you about and dispute that comment on parking.

Ms. Oliver: Mr. Weiner.

Mr. Weiner: I know we have a little backup with COVID, but when did you apply for your Conditional Use Permit?

Ms. Trebour: I put my application in September I think it was, it is on the form.

Mr. Weiner: But you did not purchase the property till November.

Ms. Trebour: I was under contract for purchase, but we closed on the property on November 2nd.

Mr. Weiner: Okay.

Ms. Oliver: Mr. Alcaraz.

Mr. Alcaraz: Yeah, I just want to clarify something you said you only need two parking spaces, so, you have how many bedrooms?

Ms. Trebour: We have three bedrooms, but we only advertise for two cars, only two cars can park there.

Mr. Alcaraz: Okay. So, the three was required by the ordinance.

Ms. Trebour: That is right.

Mr. Alcaraz: Okay. Thank you.

Ms. Oliver: Any other questions? Thank you.

Ms. Trebour: Thank you.

Ms. Oliver: All right, we will close the hearing now. One thing I have to say is that one, the previous applicant had been renting his house since 2018, and is now just coming forward or bought it and in February 2019, he was renovating it from November 2018 and then started to rent it and pay taxes on it in 2019, so, that is quite some time before, and then was told by the City to please stop renting. So, I have a problem with that, it just seems that there is a lot of Short Term Rentals in a small area, and I do have a problem with that. But, anyway that is where I am with all of this. There are nine that I count on the map, unless somebody counts something different. And, I know that we have had these discussions on how many is in a square block or two blocks do we want, especially in a townhouse area but anyway. That is my concern with these, because she just mentioned that there were two more was hers, plus the other gentleman. So, anyway.

Mr. Alcaraz: Well, sorry to say I am going to stay consistent here on this street, so, I am going to recommend the denial and let the Commissioners decide also.

Ms. Oliver: Yes, Mr. Weiner.

Mr. Weiner: This is really strange you have two of them across street from each other, but two totally different scenarios. And, I am going to tend to support this one. I like this because how things are going and she just purchased it she is going through right procedures. And, so, everything checked, all the boxes check on this so I am going to support this one.

Ms. Oliver: Thank you. He made a motion. So, we have our motion on the floor for a denial for this application, I need a second please. I do not have a second.

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

Ms. Oliver: Do I have a second for the substitute motion?

Ms. Klein: I will second.

Ms. Oliver: Ms. Klein seconds it, can you call for the question please?

Ms. Garrido: Commissioner Alcaraz.

Mr. Alcaraz: Nay.

Ms. Garrido: Commissioner Barnes is absent. Commissioner Coston is absent.
Commissioner Graham.

Mr. Graham: Aye.

Ms. Garrido: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Garrido: Commissioner Klein.

Ms. Klein: Aye.

Ms. Garrido: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Garrido: Commissioner Wall.

Mr. Wall: Aye.

Ms. Garrido: Commissioner Weiner.

Mr. Weiner: Aye.

Ms. Garrido: Commissioner Oliver.

Ms. Oliver: Aye.

Ms. Garrido: By a recorded vote of seven to one, item number 17 has been recommended for approval.

	AYE 7	NAY 1	ABS 0	ABSENT 3
Alcaraz		NAY		
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
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 939 Maryland 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.
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 # 18

Kim deRocheblave Barker [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

3625 E. Stratford Road

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner : Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda as these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications, and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of nine to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes	AYE			
Coston				ABSENT
Graham	AYE			
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 3625 E. Stratford 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. 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.
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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.
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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 # 19

Timothy G. Lee Sr. [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

544 General Booth Boulevard

December 9, 2020

RECOMMENDED FOR DENIAL – HEARD

Ms. Oliver: Madam Clerk, I believe that is our last report. We have one more?

Ms. Dozier: Yes, Ma'am we have one more.

Ms. Oliver: Sorry.

Ms. Dozier: Item number 19, Timothy Lee Senior, application for Conditional Use Permit for Short Term Rental at 544 General Booth Boulevard. Will the applicant please come forward.

Ms. Oliver: Welcome.

Ms. Lee: Hello, how are you guys.

Ms. Oliver: We are fine I did not mean to forget you.

Mr. Lee: It is okay, my first meeting, so, I am impressed by the work you guys are doing. So, I wanted to give you a thumbs up for that. Well, it has been great working with the City, so, I appreciate that. I bought this property back.

Ms. Oliver: Sir, one second I am going to interrupt you real quick, if you will just state your name for the record, please.

Mr. Lee : It is Timothy Glen Lee Senior. So, I bought the house back in October of last year, it was being rented out since I think there were three or four college students living there at the time, the owner decided to sell it. So, he did refurbish the property. I purchased it, I refurbish the exterior. I had multiple people come by and thanked me for cleaning the property up making it more appealing to the curb side. I kind of stumbled into this by

accident. I stood up with my partner, so, I was looking for income for the property last, I guess I thought of it around Labor Day of this year. So, I went through and did some research, and ran across the VRBO site. I did create a listing sort of accident because it is so easy, if you go on and in two minutes you have a listing. And, so, I listed it to see what interest it might gauge. And, I was looking to do maybe a couple of weekends, a month. So, this is my full time residence, what I will be doing is maybe six days a month something like that I do live there. I do travel somewhat. I do go to Outer Banks a lot in the summertime so it is available, but this is not something I want to, this is my home. I am very proud of the home it is a very nice home. I really enjoy the neighborhood, the neighbors have been fantastic and they have voiced some concerns, which I will address. I do have a fire pit in the back and I do probably three to four times a week have a fire during these COVID times and I did get some feedback, not directly but through Will that they had complained about some noise and I am 100% sure that noise was my noise. I do have a large family they visit probably once or twice a week. If I am out of town sometimes people will come and stay at the property, friends of mine from college or work, or his family members. So I did do I believe it was six days in September, I had tried to reach the Planning Commission and I left a message couple of times. Anyway, I was not able to make contact. After, I listed the property I got a call from the Treasurer's Office who told me to come in and register. I did that, they hooked me up with Will at that point, they advised me to do no further rentals and that is what I did. So, here we are and it has been a learning process for me as well. And, like I said I am not looking to have a whole bunch of renters, I do not want parties, it is my home. I am looking to rent it maybe once or twice a month at the most, so, that is where I am at.

Ms. Oliver: Thank you. Yeah, George.

Mr. Alcaraz: So do you live there fulltime.

Mr. Lee: I live there, yes.

Mr. Alcaraz: I am very familiar with the house. On the right side, it is a one-story, what is that.

Mr. Less: On the right side.

Mr. Alcaraz: Yeah, it is one-story residence and then it is a three story.

Mr. Lee: Yeah, the original property was built in 1950. I believe the previous owner was a builder. I cannot remember his name was Jeffrey Wilds, I believe it was. So, I believe about 10 years ago, the house was updated and they actually added on to the house three-story dwelling, but it is all one full of a house. It is not separated anyway.

Mr. Alcaraz: So, what is downstairs in that one-story.

Mr. Lee: It is listed as a four bedroom. So, one of the bedrooms on the first floor was the previous, when it was a one-story little rancher back in the 50s, that was a living room. So, I am assuming when the previous owner rented it out, he made that into a bedroom. So, I guess the way to list it now it is three bedrooms downstairs. It is lot of open area, it is a large house, I think it is 3600 square feet. The entire second floor is the living space, kitchen, family room, and the entire third floor is a master bedroom.

Mr. Alcaraz: So, I am going to ask you this. It could be hearsay, but is there a kitchenette on the first floor.

Mr. Lee: No.

Mr. Alcaraz: Okay. All right.

Mr. Lee: There is a dog shower.

Mr. Alcaraz: And, as far as the parking recently, I saw the pictures that were sent last night you had a bunch of parking on Grace Avenue.

Mr. Lee: Well, I had a neighbor that complained about someone parking on side of their yard, so, they had a picture. That is a City parking, it is legal city parking. I do not know whose car it was or the people that parked on Grace Avenue beside my yard, every day of the week.

Mr. Alcaraz: I saw pictures in your yard, next to the crape myrtles.

Mr. Lee: Well, I do not know about that, I mean that is possible. I do know that when I bought the property when it was being rented as a long-term rental, those

were actually parking spaces, they would park between those crepe myrtles.

Mr. Alcaraz: And, I just happen to look up, and one of the complaints I guess it was a review it was not a complaint more or less, they would like to stay in there but they also said the parking was inadequate for four cars. That was one of your reviews.

Mr. Lee: I do not think so, I mean I could put easily four cars in the front if I wanted to, the back driveway, I could put five cars behind my house, and I have a garage. So, there is no shortage of parking. If you get a diagram, you see the garage, you see three or four, actually the spot behind the garage that has a concrete pad that they use for parking before. And, so just in the back you could easily put four cars and then you have two more spots in the front. And, I know you do not count Grace Avenue parking, but my neighbor's park in my yard every day of the week on Grace Avenue.

Mr. Alcaraz: And, so, when you do rent the Short Term Rentals. You go to Carolina, you go to Outer Bank.

Mr. Lee: Sometimes I do, I have four children, so, I have lots of places to hang out and I travel quite a bit for work. So, if I rent it for a couple of days I will go to the Residence Inn for the weekend.

Mr. Alcaraz: So, when there is a problem who do the neighbors call.

Mr. Lee: Well I heard that question earlier and I think it is a good point. I mean, if there is a way that you can recommend that we make our information available to neighbors, I am certainly happy to do that. At the current time, really the only way to do it is neighbors that you are in contact with and the renter themselves. One way might be to list the number on the property. I know you are allowed to have a certain amount of signage, so, put a put a phone number there if there's other recommendations of how neighbors can contact other neighbors, I am certainly happy to hear that I mean that is not unique to VRO. I do not think that everyone's problem.

Mr. Alcaraz: So, if you are out of town, do you have someone that can tend to that issue if there is any concerns.

Mr. Lee: I am usually not more than hour and a half away, and typically I have been in town.

Mr. Alcaraz: I am bringing this up because I think the opposition will be bringing up, there is been some concerns or some history here, so, I'll let them bring that up. But, thank you.

Mr. Lee: Anything else. Thank you.

Ms. Oliver: Thank you very much.

Ms. Dozier: Susan Thompson.

Ms. Thompson: They are supposed to also be a virtual people coming in, are they still.

Ms. Oliver: Madam, if you will just state your name.

Ms. Thompson: Susan Thompson.

Ms. Oliver: Thank you, Ms. Thompson, I do not know that and our Clerk will let us know when that happens.

Ms. Thompson: Okay. So, if we just to give you some perspective Rudee Heights neighborhood is bounded by the south end of the Rudee Inlet Bridge down to the Aquarium General Booth, the streets parallel to, and abutting Lake Wesley and Lake Rudee. If we could see the first picture on the city, the white fence to the left is my house.

Ms. Oliver: Ms. Thompson are you representing the Civic league.

Ms. Thompson: No.

Ms. Oliver: Okay, thank you.

Ms. Thompson: You are welcome. And, then if you can look at the picture on the handout that I just gave you, the 544 General Booth is the house in the top right, and you can see how close all those houses are and how they are directly affected by any kind of rentals and parties, whether they be loud or not, out on the decks, there is the second floor deck, third and the crow's nest on the top. The white fence in the foreground is approximately 60-feet from

the balconies, so, it is all very, very close. If you could please show the site parking plan, the owner has provided four spaces, two on General Booth and three or four on Grace. However, his renters do not abide by that, you cannot put four cars on General Booth, because when you do, it goes over the sidewalk, and when it blocks the sidewalk the people to the north of that cannot see traffic. If you look at the second picture on the handout, unfortunately, that was not taken when they were parked there, but you can see his driveway is the second one just in front of the second mailbox that four cars in there clearly come over the sidewalk. That sidewalk is heavily trafficked by pedestrian and bicycles, as I say it is a traffic hazard because you cannot see trying to get out of your driveway past the vehicles. It is blocking the roads, the vehicles coming. There has already been management problem with this house. It has been being rented Short Term Rental, hopefully the neighbors that are supposed to be calling them can address that better but according to them it has been occupied just about every weekend since Labor Day weekend. I know there were people there over Thanksgiving. I have no way to verify whether they are family members or not. Rudee Heights is a long established quiet single family home neighborhood. People did not move there to be part of the boardwalk hotel area.

Ms. Oliver: Ms. Thompson, thank you very much.

Ms. Thompson: Okay. Thank you.

Ms. Oliver: Do we have any questions for Ms. Thompson. No. Thank you.

Ms. Dozier: Karen Groslies.

Ms. Oliver: Do you want to try again, just in case she is outside.

Ms. Dozier: Karen Groslies.

Ms. Oliver: Okay, madam clerk, we have another speaker.

Ms. Dozier: Ron Keene.

Ms. Oliver: All right, here it comes. Welcome, if you will state your name for the record, please.

Mr. Keene: Good afternoon, Madam Chairman and Commissioners. My name is Ron Keene and I live at 540 General Booth adjacent to 544, in which they were requesting the STR. And, let me be quick to say, I am just very impressed by this Commission and what you are doing. I have been sitting here all afternoon and I think it is just great the way you are handling this. And, I am also very clear in saying I did not expect to say anything. I just sent in a list of considerations and concerns that we had for this site Short Term Rental. But, I am happy to do that and say something. We are about 20-feet from the 544 and their decks in the back look right down on our decks in our backyard and any talking that is going on or any anything that is going on we can very clearly hear it. And, of course, they can see everything that is happening. So, our privacy is completely gone and the great concern that we have is that, number one, if the cars on General Booth at 544 are parked in tandem, one behind the other, then it obstructs the visibility to the south. So, when you are driving out, you cannot see the traffic that is coming and you cannot see any pedestrians that may be walking or skateboarding or riding their bikes in the sidewalk there. And, it is very common or it has been to see cars parked in tandem there. The other concern once again, is the noise level from the decks in the back and who would be contacted, were there reasons to need to make a report that is just too noisy and there is too much going on there, that is interfering with our home life and how quickly would they respond and how quickly would we know that it was being taken care of. So, thank you, that is my concern there. It is a quiet neighborhood and I was very surprised really to hear that this was being put up for a Short Term Rental. And, yet the homes as you know were very, very close to one another they are adjacent, so, any additional outside interference. Thank you.

Ms. Oliver: Sir, just one second, we have one question for you, George.

Mr. Alcaraz: Have you had problems next door. I mean, have you called, have you experienced any concerns.

Mr. Keene: No, I have not, I have been in the backyard only to see different people on the second deck and hear them talking, I mean if they are just talking you can hear everything they are saying, but I have had no reason no.

Mr. Alcaraz: Okay, thank you.

Ms. Oliver: Thank you very much.

Ms. Dozier: The remaining speakers are virtual participants.

Ms. Oliver: Hold on one second, you want one question. Sir, do you mind coming back up one more time, Commissioner Redmond has something to say or a question for you.

Mr. Redmond: No, I was just going to say. You have not had any problem but you can hear people up on the deck talking, how would that be different than this gentleman and his four children if they were up on the deck talking, I do not know how the impact is any different. Would not four children be kind of noisy.

Mr. Keene: The difference would be on Short Term Rentals for a person or a couple of them coming in 2, 3, 4, or 5, whatever to enjoy the beach area down there you can just sort of anticipate that there is going to be different than the family members who would respect you as a neighbor, and therefore would not be exceedingly loud or whatever. These are people that are coming in to have a good time down near the beach, most likely. And, so, it would need to be managed very closely.

Mr. Redmond: Okay. Thank you.

Ms. Oliver: Madam Clerk, go ahead with your virtual.

Ms. Dozier: Peggy Farrell. Peggy, we will unmute your mic if you will pause two to three seconds, you can begin your comments.

Ms. Farrell: Good afternoon, I am Peggy Farrell I live at 401 Grace Avenue, which is next to 544 General Booth. I have lived here for over 10 years, so, I have had the long-term rentals and now the last three months since Labor Day, the home has been rented out with this Short Term Rental and I just find it not consistent with people that are working. The decks and the fire pit are all advertised on the rental sites, they face our house and we do hear noise from that and no, Tim is not noisy, but some of the guests have been. We have had people out on the second floor deck, at 04:00 in the morning. We have had people open the double doors and play music into the night, and I have screamed out my window to have them quiet down. I also work from home and will work from home permanently and my office is on that side of the house. Previously, the rental people maybe did not take care of the

property as well as Tim does, but they were not college aged students, they were like 30 years old and they all had jobs and so they all have a similar pattern. I feel this Short Term Rental is very disruptive to a neighborhood of hardworking people. I do not know of a complaint process, I would be happy to use one if we had one I did not want to call the police because they have enough to do. And, I do not want to live next door to a motel that is not why I bought my house here, I feel it is very disruptive and it, it changes the character of our neighborhood and this will be the third residence in our neighborhood that is now or would be a Short Term Rental.

Ms. Oliver: Ma'am we have one question for you, hold on just one second, please.

Mr. Alcaraz: Ms. Farrell, when you did have concerns that you call Tim. Did you contact him and discuss it.

Ms. Farrell: I did not have contact information.

Ms. Oliver: Thank you very much.

Ms. Dozier: And, our final speaker on this item is James Farrell. James, we will unmute your mic if you will pause two to three seconds and begin your comments.

Mr. Farrell: Hello, my name is James Farrell. I live at 401 Grace Avenue. I am a current member of Rudee Heights Civic League and a former President of Rudee Heights Civic League. Mr. Lee, the owner of a property purchased this house late last year and did some nice cosmetic renovations to it. And, he started renting it early in the summer, all summer, every weekend without consultation to any of the neighbors for his plans or our concerns before he decided to make it a weekly rental party house. He advertises the place to this day on VBRO and he advertises it as a fire pit close to the beach party place. I live on Grace Avenue, there are no sidewalks but from the grass on one side of the street to the other side of the street is 17-feet. A normal car is around six-feet wide, a truck probably around seven-foot wide. These vehicles were parked down Grace Avenue every weekend, all summer. The parties were constant, movement of people were constant. Mr. Lee, since that time has not been following the rules. He is been renting this property knowing that it is not in an area that is approved for Short Term Rentals. So, why now after he would get approved, do you think he would follow any of the current rules and zoning regulations concerning the open fire pits, the parking situation of his guests, not with him but of his guests. On October

23, early Friday morning I had a massive heart attack. I am lucky it was early enough Friday that his guests had not arrived, because of the emergency response equipment would not have been able to get down Grace Avenue without rolling up on other people's lawns, just to get down the street. After my situation there were several other incidents that required emergency medical treatment and their equipment in the neighborhood. Those are concerns that should be a concern for everybody in the city, not just us. They should not be letting house guests block access to emergency vehicles. Grace Avenue on its own, there is no parking restriction and it should have a parking restriction.

Ms. Dozier: That was of our last speaker, Ma'am.

Ms. Oliver: Thank you very much. Mr. Lee, would you like to come up?

Mr. Lee: I love my neighbors and it makes me sad that they are unhappy. My rental record as a matter of fact on VRBO, it is easily verified. I have had three rentals, I can bring you the records and I can show you. The fact that someone would come here and misrepresent the facts, it saddens me greatly, and I would be happy to provide you with a full documentation of what has been rented, on what days and when I stopped. It is available and one of the great things about VRBO, I had three rentals in September, two days each that is it. So, that is all I have. Is there any questions.

Ms. Oliver: Mr. Weiner.

Mr. Weiner: Yes, I got one question. You mentioned, you are usually an hour-and-a-half away, so you have not hired a leasing agent or anybody like that take care of. So, because in the ordinance there is a timeframe that you have to comply with if there is a problem you need to have somebody there within 30 minutes. Right.

Mr. Lee: Right. I did not know that, but if that is the case I can certainly arrange to be in town.

Mr. Weiner: But, that is on the Staff report you signed. Okay, you have to follow that.

Mr. Lee: Right.

Mr. Weiner: Okay. So, I am just saying that is really important.

Mr. Lee: I can make arrangements to be in town, I would agree with my neighbors that there should not be parking on Grace Avenue, but there is. I do not want people parking in my yard every day, but they do.

Mr. Weiner: And, who were those people.

Mr. Lee: Neighbors, their houses have six cars there and rather than park it in their driveway, they park in my yard. Do I like it. Is that congestion he is talking about? That has been going on for a long time and this did not start with me, my record is clear and it is easily verified. And, if someone misrepresent that, it is disappointing. Like I said, I am not here to have a party house, the rental says no parties, if the fire pit is a problem, I take it away. I mean, these are easy mitigating circumstances. No one's called me, Jim has my phone number. No one's ever called me. But, either way I appreciate your time. I respect your decision and from what you have done here today I am more than happy to be fine with what you decide it is not a life or death thing for me, it is just something I enjoy doing and people enjoy visiting the beach.

Ms. Oliver: Thank you very much.

Mr. Lee: And, by the way, there is no access for the top floor of my house, it does have a crow's nest. And, I have requirements. That area is closed, if I need to lock that area out, I can do that. So, like I said, these are all easily addressed items. And, I thank you for your time.

Ms. Oliver: Thank you very much. I am going to close the hearing, and we will open it up for some discussion. Mr. Wall.

Mr. Wall: That is just a general question, can City Staff address for me, discuss the 30-minute representation condition.

Mr. Tajan: Currently as the Zoning Ordinance is written Commissioner Wall, it says that the representative of the applicant has to be able to respond within 30 minutes to the issue, it does not mean they have to physically respond, so, they can respond to the people renting by phone. So, that is the current requirement of the ordinance.

Ms. Oliver: Yeah, the issues that are being brought up are what is in our current ordinance right now and that is the problem is that they start renting, and they start doing this and they have not read the ordinance and so you have this incompatibility in the neighborhood because he is not performing, according to what we are already asking. And, therein lies the issue and I am not quite sure when he filled out the application did he. I mean, he still was not aware that there was this response time or all the other things that are required of him. I do not know.

Mr. Alcaraz: As I stated, I am pretty familiar with the property. I lived on this street and I lived down the street for 30 years. And, I just sold my house, I did move six months ago. So, I am very familiar what is been going on. I did sell the house, two months ago or a month ago. So, I am very familiar with the parking situation, but I do not own the property now, but, so I just wanted that front and center. But, I hear the complaints and my biggest concern again is to have the neighborhood with their quiet enjoyment. I think it is our duty to make sure of that and preserve the neighborhood. But, one thing I always bring up, it is management. I stress the management and I am going to keep stressing the management on the Short Term Rentals and quick response and due diligence to make sure that the adjacent property owners are, not that we are trying to do everything we can to make them happy, but we are trying to make sure that they are enjoying the property that they own, and having said that, I am going to recommend denial for this application.

Ms. Klein: Is this in a proposed Overlay District. Thank you.

Ms. Oliver: This neighborhood is just North of Croatan it is on the other side of Rudee Bridge. Yes, Mr. Inman.

Mr. Inman: This particular house is just in a bad location for a Short Term Rental. We have heard time and again what we got obstruction of view it is just going to happen. Obstruction of the sidewalk, just going to happen, it is going to keep happening. I do not know how anybody would not there could stop it. The close proximity of the houses, the number of people that could be here for a Short Term Rental is greater than your typical I think. I do not know and it is in a neighborhood, I am looking at the map showing what other Short Term Rentals are supposed to be going on as I do not see anything for several blocks or may be one way up. So, I am going to support George's view on it, and I would deny it.

Ms. Oliver: Madam Clerk, anybody else.

Mr. Inman: Second.

Ms. Oliver: I have a motion for denial and a second by Mr. Inman. Can call for the question please.

Ms. Garrido: Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Garrido: Commissioner Barnes is absent. Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Garrido: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Garrido: Commissioner Klein.

Ms. Klein: Aye.

Ms. Garrido: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Garrido: Commissioner Wall.

Mr. Wall: Aye.

Ms. Garrido: Commissioner Weiner.

Mr. Weiner: Aye.

Ms. Garrido: Commissioner Oliver.

Ms. Oliver: Aye.

Ms. Garrido: By a recorded vote of eight to zero, item number 19 has been recommended for denial.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
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 544 General Booth Boulevard 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 # 20

Wright Turn, LLC [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

938 Delaware Avenue

December 9, 2020

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you, Mr. Alcaraz. The next items are the Consent Agenda from the Short Term Rentals. The Planning Commission places the following applications for Conditional Use Permit for Short Term Rentals on a Consent Agenda as these applications meet the applicable requirements of Section 241.2 of the Zoning Ordinance, Staff supports the applications, and there is no known opposition to the request of items 13, 14, 15, and 18. With that being said, I move for approval on the Consent Agenda items 1, 4, 5, 8, 13, 14, 15, and 18.

Mr. Redmond: I will second it.

Ms. Dozier: Excuse me, I believe we had item number 20 on the Consent Agenda as well.

Mr. Weiner: Oh, I am sorry. That is right for a Short Term Rentals. I am sorry item 20 also, I am sorry.

Mr. Alcaraz: I do not think the opposition's here. Thank you.

Mr. Weiner: Yeah, item 20 is on the Consent Agenda. Thank you. I am sorry.

Ms. Porter: I will call for the vote.

Ms. Oliver: Right before I need to abstain from item number 15, 4500 LLC at 4500 Oceanfront Avenue Virginia Beach, Virginia, 23451. I am the sole owner of that property and the sole managing member of the 4500 LLC.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: By recorded vote of eight to zero with one abstention from Madam Chair Oliver on item number 15, items number 1, 4, 5, 8, 13, 14, 15, 18, and 20, have been approved by consent.

Mr. Tajan: Just to clarify for the record, Madam Chair Oliver you also vote on the Consent Agenda.

Ms. Oliver: Yes, I do. Thank you.

Mr. Tajan: Thank you.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes	AYE			
Coston				ABSENT
Graham	AYE			
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 938 Delaware Avenue and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (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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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 # 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30.

VTS Lynd Mayflower Owner, LLC [Applicant and Property Owner]

Conditional Use Permit (Short Term Rental)

205 34th Street, Units 617, 719, 905, 1005, 1102, 1601 through 1605

December 9, 2020

DEFERRED FOR 30 DAYS

Ms. Oliver: Thank you. The next order of business is to address those items to be deferred or withdrawn. The Chair is aware that the following items have requested to be withdrawn, number 9, 10, 11, and 12 for an indefinite deferral, and items 21 through 30 for 30 days. These are deferrals. And, are there any other items that are up for deferral or withdrawn. No, we do not have any objections to the ones that are being deferred. I need to have a motion please.

Mr. Weiner: Madam Chair, I move for approve the deferral of items 9, 10, 11, and 12 to be indefinitely deferred. And 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 for a 30-day deferral.

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

Mr. Redmond: Second.

Ms. Oliver: Call for the vote.

Ms. Porter: I will call for the vote. Commissioner Alcaraz.

Mr. Alcaraz: Aye.

Ms. Porter: Commissioner Barnes.

Mr. Barnes: Aye.

Ms. Porter: Commissioner Coston is absent. Commissioner Graham.

Mr. Graham: Aye.

Ms. Porter: Commissioner Horsley is absent, Commissioner Inman.

Mr. Inman: Aye.

Ms. Porter: Commissioner Kline.

Ms. Klein: Aye.

Ms. Porter: Commissioner Redmond.

Mr. Redmond: Aye.

Ms. Porter: Commissioner Wall.

Mr. Wall: Aye.

Ms. Porter: Vice Chair Weiner.

Mr. Weiner: Aye.

Ms. Porter: Madam Chair, Oliver.

Ms. Oliver: Aye.

Ms. Porter: By record a vote of nine to zero, items number 9, 10, 11, and 12, have been indefinitely deferred with items numbers 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30, with a 30-day deferral.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes	AYE			
Coston				ABSENT
Graham	AYE			
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.