

Virginia Beach Planning Commission

Public Hearing

January 13, 2021

Mr. Weiner: Welcome and I call the meeting to order. Good afternoon everyone and thank you Planning Commissioners and the public participation today. My name is David Wiener, I am the chair of the Virginia Beach Planning Commission, and I welcome you to the January 13, 2021, virtual Planning Commission Hearing. I call this meeting to order. Today's meeting is being conducted electronically in accordance with Virginia Code Section 2.2/3708.2, Virginia Code Section 15.2/1413, and the City's continuity of government ordinance adopted September 15, 2020, in chapter 1228 of the 2020 acts of assembly as amended. Please note that this meeting is being recorded and will be posted within 10 days in the Planning Commission website. Today Commissioner Barnes will not be in attendance today, but everybody else is here. I have asked Staff to describe the order of business and the rules of today's meeting. Ms. Coleman.

Ms. Coleman: Thank you Mr. Chair. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties participating. It is important, they are all involved understand how the commission normally conducts its meetings. It is equally important that everyone treat each other and members of the Commission with respect and civility. Following is the order of business for this public hearing, withdrawal and deferrals. The Chairman will ask if there are any requests to withdraw or defer an item on the agenda. Consideration of these requests will be made first. The Consent Agenda, the second order of business is the consideration of the Consent Agenda, which are those items that the Planning Commission believes are unopposed and which have favorable staff recommendation. The Regular Agenda, the commission would then proceed with the

remaining items on the agenda. Speakers in support or opposition of an agenda items 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. Speakers who are participating virtually today, please mute any additional devices you have in the room to avoid any unnecessary background noise and or the possibility of echoing and reverberation. Please note that once your name is called, you should wait three seconds before speaking, to ensure the Planning Commission hears your complete remarks. Please begin your comments by identifying yourself. 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 be approved or disapprove an application will be made by the City Council. The commission thanks you for your participation and we hope that your experience here today leaves you feeling that you have been heard and treated fairly. Thank you.

Item # 1

City of Virginia Beach

An Ordinance to Adopt and Incorporate into the Virginia Beach Comprehensive Plan the Virginia Beach Active Transportation Plan 2021 which will supersede the Virginia Beach Bikeways and Trails Plan 2011 and to Amend Section 2.1 (Master Transportation Plan) and text pertaining to Active Transportation

January 13, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

Item # 2

The Marianna Berkley Revocable Trust [Applicant & Property Owner]

Street Closure

50-foot wide by 125-foot long portion of Holly Road between 319 49th Street & 401 49th Street

January 13, 2021

WITHDRAWN

Mr. Dao: The Next items are to withdraw items, there is one item for withdrawal and that is Agenda Item number two.

Mr. Weiner: Thank you. Can I get the motion for withdraw for item number two, please.

Mr. Wall: Mr. Chairman, I make a motion that we withdraw Agenda Item number two.

Mr. Horsley: Second.

Mr. Weiner: Thank you. We have a motion by Commissioner Wall and a second by Commissioner Horsley. We call for vote.

Ms. Coleman: Okay. If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chairman Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By a recorded vote of 10 for and zero against, Agenda Item two has been withdrawn.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

Item # 3

**George Randolph Webb & Lelia Graham Webb [Applicants & Property Owners]
Street Closure**

**50-foot wide by 125-foot long portion of Holly Road between 319 49th Street & 401
49th Street**

January 13, 2021

DEFERRED FOR 30 DAYS

Mr. Weiner: Thank you, Ms. Coleman. Today, the first order of business is the consideration to withdraw or defer an item. Mr. Dao.

Mr. Dao: There are 11 items requesting a deferral, first is item number three requesting a 30 day deferral to the February 10th Planning Commission Meeting. And, Agenda Items 28 through 37 requesting an indefinite deferral.

Mr. Weiner: Thank you. First, Can we get a motion for that? Do I have a motion to defer these items, please?

Mr. Wall: Mr. Chairman, I move that we defer agenda items number three for 30 days and agenda items number 28 through 37 indefinitely.

Ms. Klein: I will second the motion.

Mr. Weiner: Thank you. We have a motion by Commissioner Wall and a second by Commissioner Klein. Call for the vote please.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chairman Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By a recorded vote of 10 for and zero against, agenda item number three has been deferred for 30 days and items 28 through 37 have been indefinitely deferred.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

Item # 4

**Wilson R. Balance, Jr. [Applicant & Property Owner]
Conditional Rezoning (AG-2 Agricultural District to Conditional R-5D Residential
District)
621 Dam Neck Road**

January 13, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By a recorded vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT

Coston	AYE			
Graham	AYE			
Horsley	AYE			
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 the Property is developed, it shall be subdivided into two (2) single family residential building lots with a shared vehicular driveway entrance from Dam Neck Road with a home constructed on each substantially as shown on the exhibit entitled, “REZONING EXHIBIT FOR PARCEL 1, SUBDIVISION PLAT OF NORMA P. LANCASTER AND PARCEL B (M.B. 261, PG. 93) VIRGINIA BEACH, VIRGINIA”, dated 10-27-2020, prepared by Gaddy Engineering Services, LLC, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter “Rezoning Exhibit”)

Proffer 2:

The architectural design of the two (2) homes depicted on the Rezoning Exhibit will be substantially as depicted on the exhibit entitled, “PROPOSED ELEVATIONS LOCATED AT 621 DAM NECK RD, VIRGINIA BEACH”, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 3:

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

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.

Item # 5

Michael & Felicia Juliano [Applicants & Property Owners]

Street Closure

7.5-foot y 50-foot portion of an unimproved alley adjacent to 804 Vanderbilt Avenue

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By a recorded vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer, 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT

Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

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

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

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

Item # 6

Janice Hart [Applicant & Property Owner]

Conditional Use Permit (Home-Based Wildlife Rehabilitation Facility)

1203 Gunn Hall Drive

January 13, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Dao: Mr. Chair, we have seven items on today's Regular Agenda. The first item on the agenda is item six. The application of Janice Hart, for a Conditional Use Permit for a Home-Based Wildlife Rehabilitation Facility located at 1203 Gunn Hall Drive in the Princess Anne District. The applicant is Janice Hart. Janice Hart, please wait for your mic to be unmuted and then you can make your comments.

Ms. Hart: Hi, yes. I am Janice Hart, I live at 1203 Gunn Hall Drive. I am asking for a Conditional Use Permit to be able to do wildlife rehabbing in my house for infant and baby wildlife. I am a licensed Category 4, applying for a Category 1 once I get my Conditional Use Permit. I am sorry. I am sponsored by Evelyn's Wildlife Refuge. The animals will be housed inside my house. I am currently a registered nurse of 38 years. So, this is a passion of mine to do to help the wildlife. They will be inside my house, I do care for them there and they will be cared for inside my house. I do have a fenced yard on the backside. I do have a six-foot easement in the back. I do have a six-foot fence as you can see there. I do have a couple of cages that the animals will go out at the end there to get used to the outside and then they will go to Suffolk to Evelyn's Wildlife Refuge. They will not be released at my property here in Virginia Beach, they will go out to Suffolk.

Mr. Weiner: Okay, Ms. Hart thank you very much. Please stand by. I think we have one speaker, if I am not mistaken, one speaker.

Mr. Dao: Yes, sir. We have a speaker signed up, Mr. Travis Ronnie. Mr. Travis you have three minutes to make your comments please wait to be unmuted before you make your comments.

Mr. Travis: Yes. Good morning, everyone. My concerns with this permit, so my property is adjoining property next to Ms. Hart. My concerns, first one would be with increase of infant baby mammals, occupying her backyard. The concern would be for an increase of predatory animals such as hawks, snakes, raccoons, opossums that may have could be lowered into the area. And, secondarily would be if a mammal were to escape the property. It would then enter the community or the neighborhood and those were my two concerns. Just based on the letter I received in the mail is very vague, not a whole lot of details. So, this meeting really brought a lot more information. So, those are my two concerns with this permit. Thank you.

Mr. Weiner: Okay, thank you sir, does anybody have any questions. Ms. Hart, do you have any comments that you would like to make.

Ms. Hart: Yes, I do. I have posted out on my signs since I posted the sign 30 days ago that I had a letter inside there that anybody could contact me with any questions that they may have and I had a brief description of what they may have. I believe he lives, two doors down for me, and I did not hear from him. I will have opossums and squirrels which are natural habitats of our area anyway. If they did get released they are natural wildlife in our area, so, they would not be any harm to any of our animals. I do have a couple dogs myself, so, they would not be any harm to animals in the area, they are natural wildlife in our area.

Mr. Weiner: Okay. Thank you. Does anybody have any questions for Ms. Hart. Okay, thank you ma'am.

Mr. Horsley: Mr. Chairman, this is Don.

Mr. Weiner: Yes sir, go ahead Mr. Horsley.

Mr. Horsley: I had a question for Ms. Hart, I think if I heard her right, she keeps the animals in her home until they are ready to go outside just prior to taking them to be released, is this correct?

Ms. Hart: Yes, that is correct, they will be inside my house and then the last two weeks before they are ready to be released, they go outside into a cage so that they can become acclimated to the environment.

Mr. Horsley: How often do you have animals outside? Are they out there all the time?

Ms. Hart: Currently, I have none there since I am not doing it yet, but at places that I have worked it is typically like two or three times a year, at the times before they are getting released.

Mr. Horsley: The total number if you were full, how many animals do you think you would have?

Ms. Hart: It would vary, I mean opossums we could have maybe five to 10, but they would be in varying times and squirrels depending on storms there, so it would vary, but I mean, I would not take over my capacity. There are many other wildlife rehabbers that we share and transfer in between if any of us are loaded.

Mr. Horsley: I think that concern of some people is that in the small area the area that you live the homes are so close together and to put this in the middle of a residential area where everybody is so close may be some concern there.

Ms. Hart: Yeah, I believe my other neighbor, that is on the other side I think that she is. Brittany Bookout, she is at 1201, she is on my other side, my direct neighbor.

Mr. Horsley: Is she in support?

Ms. Hart: Yeah, she is in support.

Mr. Horsley: I do not have any more questions, Mr. Chairman.

Mr. Weiner: Thank you Mr. Horsley. Okay, does anybody else have any questions first.

Mr. Wall: I have a question.

Mr. Weiner: Okay.

Mr. Wall: Ms. Hart can you describe the cage, in which they are going to be placed in the exterior enclosure.

Ms. Hart: The pictures that are up there are ones that I am going to get. I mean it is kind of hard with Virginia Beach because until you are approved for a Conditional Use Permit, it is kind of hard to invest in getting a cage. They are quite expensive because they run between \$300 and \$400, so, I have not purchased one as of yet, but the pictures there are ones that I am looking into getting there and they are quite good and well-built there so. Can you see the pictures that are up there?

Mr. Wall: I can see them yeah, yeah that is great. Thank you.

Mr. Weiner: Okay. Anybody else. Thank you, Ms. Hart. Okay, we will close this to the public and open it up amongst ourselves, Mr. Horsley and Ms. Klein.

Ms. Klein: So, we have approved several of these in the year that I have been here, are we aware of any issues that other home-based facilities have encountered. This is probably a better question for Planning Staff. Once we approve them, is there are there ongoing violations or concerns about their safety.

Mr. Wall: We will have to defer that to Mr. Kemp.

Mr. Kemp: Yes, we have not had any recent issues with home-based wildlife rehab. In fact, if I can remember the last one was, it was a raccoon rehab out near the Oceanfront. That was the last issue and that was probably five or so years ago. So, a lot of issues come up before Planning Commission. You are hearing problems that might be but as far as official zoning complaints coming in through us and investigations, they are few and far between.

Mr. Weiner: Sounds good. Mr. Horsley.

Mr. Horsley: Yes, Mr. Chairman, I have never really understood that people have such a passion for this, but there are a lot of people who have a passion to do this and we have approved many of them over the years and like Mr. Kemp says I do not think we get reports of any of the problems that have arisen from the approval. So, with that said, I recommend that we approve the application.

Mr. Weiner: Sounds good. Do we have a second.

Ms. Klein: Second.

Mr. Weiner: Okay. Mr. Horsley and Ms. Klein has made a second. We are ready for the vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By a recorded vote of 10 for and 0 against agenda item six has been recommended for approval.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT

Coston	AYE			
Graham	AYE			
Horsley	AYE			
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 of Game & Inland Fisheries.
3. No animals shall be dropped-off between the hours of 10:00 p.m. and 7:00 a.m.
4. The applicant shall maintain the existing six-foot high privacy fence such that all activity associated with the Home-Based Wildlife Rehabilitation Facility Center and the pre-release facility are screened from view from the right-of-way and all adjacent properties.
5. No animals shall be released at the subject site or within the neighborhood.
6. The pre-release cage depicted on the site layout shall be equipped with a double door system for the protection of the handler and the mammals prior to occupancy by any mammals.
7. All mammals kept onsite shall be properly vaccinated for rabies and proof of rabies immunization shall be kept onsite.
8. Animal waste shall be removed daily in a lawful manner.
9. All animals shall be properly and humanely contained either in the dwelling unit or within the pre-release 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 # 7

**St. John the Apostle Catholic Church and School [Applicant] and The Roman Catholic Diocese of Richmond [Property Owner]
Modification of Conditions (Religious Use and Private School)
1968 Sandbridge Road**

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By a recorded vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer, 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT

Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. All conditions attached to the Conditional Use Permit for a Religious Use and school, dated August 24, 1993, are hereby deleted and superseded by the conditions below.
2. The site shall be in substantial conformance with the submitted site layout exhibit entitled, "CONCEPTUAL MASTER PLAN – ST. JOHN THE APOSTLE CHURCH AND SCHOOL – Virginia Beach, VA ", prepared by WPL, dated 12/12/2019, 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 buildings shall substantially adhere in appearance, size, materials to the submitted elevations entitled " ST. JOHN'S ARCHITECTURE" prepared by Waller Todd & Sadler, dated 12/12/2019 , which has been exhibited tot the Virginia Beach City Council and are on file in the Department of Planning & Community Development.
4. A Landscape Plan shall be submitted and approved by the Development Services Center Landscape Architect prior to final site plan approval.
5. The applicant shall obtain all necessary permits and inspections from the Department of Planning and Community Development, Permits and Inspections Division; the Health Department, and the Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official's office prior to the use of the proposed additions.
6. 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.
7. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

8. The plan for complying with the Stormwater Regulations submitted to the Development Services Center at Site Plan Review shall be in substantial conformance with the preliminary plan design and strategy for achieving compliance as submitted and preliminarily reviewed by Staff, unless otherwise approved by the Development Services Center.

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

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

Item # 8

William T. & Carolyn Dale Weems [Applicants & Property Owners]

Conditional Use Permit (Outdoor Recreation Facility)

1420 Claudia Drive

January 13, 2021

RECOMMENDED FOR APPROVAL – HEARD - CONDITIONS MODIFIED

Mr. Dao: The next item to be considered is Agenda Item number eight. The application of William T. and Carolyn Dale Weems for a Conditional Use Permit for Outdoor Recreational Facility located at 1420 Claudia Drive in the Bayside District. We have nine registered speakers on this public request. The first speaker is Carolyn Weems followed by Bill Weems. Ms. Weems you can start making your comments. Thank you.

Ms. Weems: Can you hear me. Hello.

Mr. Dao: Yes, madam. We can hear you, please start your comments.

Ms. Weems: Thank you, members of the Planning Commission thank you for listening to our comments and concerns today. My name is Carolyn Weems and my husband Billy and our granddaughter Brylan live at

1420 Claudia Drive. A few days ago we were made aware that many in our neighborhood have been given misleading and inaccurate information about us, our yard, and this zoning process. This is frustrating and disappointing. So, I hope today to clear up any statements and assertions for both our neighborhood and you the Planning Commission. But, first and foremost, I would like to explain what is actually happening at 1420 Claudia Drive. At the very back of our two-acre yard hidden behind and underneath trees is a strip of dirt, a portable net also used for soccer, a ball machine, and three lights. The ball machine releases yellow rubber balls aimed at the ground that is rolling them, there is no pitching. The rolling ball is scooped up and tossed into the net about five feet away. We set this area up 24 years ago, let me repeat 24 years ago, when our family and our five kids moved into this wonderful neighborhood. Our son Beamer loved to play baseball and wanted to practice outside of his school and team practices. Within a few months, he asked if we could have lights since he was getting home from school and practice after dark. We put up three down lights, these are not floodlights, they do not brighten up a large area, but instead they face straight down towards the ground, so, the ground ball can be tracked as it rolls across the dirt. You cannot see these lights from Cullen Road, Lakeside Drive, or Claudia. There is no hitting, no batting of balls, no throwing balls. In 24 years we have not received one complaint, not one zero. Not one complaint about any noise coming from the ground ball area, noise coming from kids in our yard, noise coming from our driveway or on Claudia Drive, or noise coming from a leaf blower. In 24 years we have never had a complaint about lights in this area, lights in our yard, or car lights leaving our driveway. Not one complaint about traffic or parked cars. Not one

complaint about any of our guests, adults, teenagers or kids, or the number of people visiting our home. 24 years and not one complaint, until recently, a complaint from our neighbors who live across the street, who have had 12 years and ample enough time and opportunities to let us know their concerns, I sure wish that they would have. Embedded in their two page complaint and in their presentation of the issues to neighbors, I believe false statements have been made and false assumptions have been insinuated. I would like to offer a fact check for some of these rumors. One, the Weems petitioned the City for an Outdoor Recreation Facility Special Use Permit in order to build a structure, a facility, a park, even a baseball field with bleachers has been mentioned. Fact, we simply responded to zoning who responded to a complaint. We did not believe we needed a permit for this 24-year-old play area in our backyard, that we paid the money and follow the process and attempt to avoid unnecessary neighborhood drama. Two, the Weems wanted to sneak this past the neighbors, so, they hit the orange zoning sign. Fact, we put this sign in the exact spot when Mr. Sanders told us to. Three, if the Weems get this permit and build something, it is going to attract all sorts of people, undesirables to the neighborhood. Fact, we have established, we are not going to build, add or change anything that has not already been here for decades. We are not a park, we are not open to the general public, the kids that come here to play are family and friends. We do not run a baseball business. We do not charge to play. We do not want to. Billy, my husband, played in college, coached at Old Dominion and Virginia Wesleyan has helped with several high school and middle school teams and travel teams. He does this for fun, in our lives we are scaling down, not adding. Four, the almost daily use of

backpack blower noise for hours at a time to maintain this facility is disruptive and unacceptable. Fact, in the fall, Billy does blow off this dirt area, our two trampolines and our back deck. It takes two or three minutes, not two or three hours. Five, Claudia Drive has been blocked and has disrupted UPS delivery vehicles. Fact, if cars have ever been blocked or a UPS truck delivery has been blocked, we have never been notified. We are the only driveway on this gravel road, UPS drivers have to come down there just to deliver to us. I did speak to Sandra Lane this morning at our local UPS terminal in charge of this neighborhood and she said, "No driver the 24 years you have lived there has ever complained about being blocked. They have only been surprised that you live at a dead end street". Six, activities become tiresome and on weekends and holidays when lesson schedule is expanded. This is actually opposite of what is happening, during the weekends there is virtually no activity with this groundball area. This has been consistent for 24 years, kids who want to play extra and practice actually play on other teams, and they play games, when do they play games on the weekends, they are usually out of town. I cannot remember the last time anyone was over here on a Friday, Friday night, Saturday or Saturday night. On Sundays, one of our friends does bring his two boys regularly after church because their week is so hectic. Additionally, I facilitate a bereavement group on Sundays at 4:30, perhaps our neighbors have seen those cars and have assumed they were here to play baseball, instead of work through their grief. This is the only activity on the weekends. Seven, the Weems requested this variance under the pretense of providing a safe place for children to play in response to restrictions imposed by a global pandemic. Fact, again, we have had this fun safe place for children to play for over two decades.

However, as you all know, last year our schools were closed, baseball seasons were cancelled, REC centers, the Aragona Baseball Complex and all fields were shut down. A friend of ours who helps coach one of our high school baseball teams lives a couple streets over. He did call and asked Billy if some of his infielders could come and use our ground ball area to practice, we said yes. Incidentally, we know you have two more people in our neighborhood who have done the same for soccer players in their yards who have had a hard time practicing this past year. So, for a few months we have had more cars and people here than normal. Because of COVID, Billy told the coach only one kid at a time could go in the back and practice. So, the others did have to wait in their cars. The kids and parents did tell us our neighbors were taking pictures of them, so, we are assuming the monitoring of traffic and kids has been during this rare time. Our neighbors never once told us about any inappropriate behavior, vandalizing, litter, urination, or any noise from these kids or their parents. But, since we have been notified and learned that the concern seems to be around the traffic, the cars parked, and actually the car lights. We have instructed all of our visitors, family, friends, my Bereavement Group, Bunco Group, Spanish Tutors, baseball players, anybody not to park on the street, to pull all the way in our driveway and we have plenty of room. Also, we have asked them to turn off their lights as they leave. We trust that this has and will continue to help. In closing, we do hope you will grant this permit, but we do not agree with a couple of the restrictions. The first one the lighting, we do not think it is necessary to remove the down lights from the back of our yard on this ground ball area. These lights are not visible to anyone on Cullen or Claudia and they only shine straight down on the dirt area. We know that tennis courts can have

lights, batting cages can, basketball hoops on driveways, back yard archery range, swimming pools, and desks can have lives. We hope that we are able to keep these lights up. We are not back there using that area much at all past 8 o'clock anyway. And, number two, the dusk time restriction, we do not think our family and friends and our granddaughters should have to stop playing in this section of our yard when dusk hits, by the time they get out of school or have an afternoon activity it is already dark. Brylynn, our granddaughter and her friends also play hopscotch out there, look for wild animal tracks, they have a hideout out there, they pass back and forth, and they along with their dads and run their remote control cars on the flat dirt area. We are hopeful, just as you approved the batting cage down the street from nine to 9 pm, that we will be able to use this part of our yard past dusk. You have also asked that we put an extension of a six foot fence. We have no problem with that if you think that would help. We will be glad to put up another fence on down the line and extend the fence it is already there. We do have signatures and we do have eight or nine letters of support from families who have actually lived on this gravel road, two houses on Claudia Drive. Mr. Calhoun also from the Civic League wrote you a letter, he sees no problem with the area. But of course, like anybody, we want to solve any concerns of traffic or parking and we feel like we have already done that and we will certainly continue to do that. We love this neighborhood; we have lived here our whole lives. We do run a business from our home called Simply Sales, it's an advertising speciality, and it totally has nothing to do with this. We do this for fun. Thank you. We would never harm anything in this wonderful neighborhood and I hope that you would consider our request. Thank you so much.

Mr. Dao: Thank you, Ms. Weems. The next speaker is Bill Weems followed by Brian Weems. Mr. Weems you please begin by stating your name for the record and you have three minutes.

Mr. Weems: Hi, my name is Billy Weems, can you guys hear me.

Mr. Dao: Yes, sir.

Mr. Weems: I am just going to read a letter from my son about when we first started this. My name is Beamer Weems, I grew up in the Bayside Area of Virginia Beach, specifically at 1420 Claudia Drive. I vividly remember when our parents first took us to the property and house as potential buyers. My four siblings and I love the place. The yard was huge on a gravel dirt road and on a dead end street. To top it off, we had access to Lake Smith, this was truly a kid's paradise. My parents quickly made an offer and we moved in in the spring of 1997. My fondest memory of childhood and young adult home was the ground ball area that my dad and I pounded out. It was a strip of dirt that is surrounded by trees and is located the back of our two acre lot. My dad made a ball machine that pointed downward and we release yellow rubber balls, these balls would roll and I would scoop them up, and then toss them in a net a few feet away. I was an avid baseball player and wanted to practice all the time. I wanted to be the best defensive shortstop around. At that time I played on several teams along with my school team. Since I did not get home from school or team practices until well past dark, I asked my dad to put up lights, so, I could practice at night. The lights face down to the ground so the rolling ball can be tracked. During a typical team practice or game, an infielder only gets a handful of ground balls. In my backyard, I could easily take a couple 100 balls

at night. I invited teammates and friends to come and practice as well. My dad played baseball for Clemson, played professionally for the Houston Astros, and coached the ODU on Virginia Wesleyan. He was helped with several of our high school and local travel teams. He knows baseball specifically and infield defense. For the last 24 years, he has graciously shared his expertise to any kid who wants to practice and get better. This groundball area has granted us as a family. It is a place to hang out, practice, play, and become the best that we could. The other alternatives offered to kids back then and now are not nearly as favorable. My dedication did pay off as I was able to play Baylor University before being drafted my junior year by the San Diego Padres. I was able to play almost a decade before an injury ended my career. I am now passing along my baseball knowledge to youngsters in my area. During my childhood and teenage years, we never had one complaint of noise, lighting, traffic, etc. Believe me, we had a lot more going on when the five kids lived there and all participated in multiple team sports. Our backyard is family and kids friendly. It is hidden at the end of a dead end gravel road. The groundball area has never been a source of excessive lighting, noise, or traffic. It is a place for kids to do something positive. It is a place to dream and strive to make those dreams come true. Thank you.

Mr. Dao: Thank you, Mr. Weems. Next speaker is Brylynn Weems followed by Zach Holtzhausen.

Ms. Weems: Yes, this is Ms. Weems, Brylynn our granddaughter did not finish her schoolwork, so, she is not going to be able to join us right now she is in there virtually taking a test. I am sorry about that.

Mr. Dao: Thank you, next speaker is Zack Holzhausen followed by Jen Holzhausen. Mr. Holzhausen, please start by stating your name for the record, and you can start your comments. We will move on to the next speaker Jen Holzhausen, followed by Dennis Miller. We will move on to the next speaker, Dennis Miller, followed by Cindy Lewis. Mr. Miller, please start by stating your name for the record.

Mr. Miller: My name is Dennis Miller and my wife and I owned the property at 4917 Cullen, which is adjacent to The Weems property on the map that you had shown was right above The Weems property, intersection of Claudia, and Cullen. My real question has to do with what I read from the complainants about looking at the Ordinance and looking at Section 501, and specifically towards B, paragraph five. And, most of their comments and trying to put stipulations on this are based on that. And, when you look at paragraph five, it starts with an accessory activity operated for profit in a residential dwelling unit where, and I think that says everything, because the basis for their complaint has no validity because this is not a for profit operation. If you look at their complaint and they talk about traffic and they talked about visible or audible evidence detectable. All of those things are completely within paragraph five. But, paragraph five has no standing in this entire discussion based on the fact that this is not a for profit operation, it is a recreational use of private property for the kids in the neighborhood and their friends. I believe that Ms. Weems is absolutely correct, there should be no reason to remove the lights because this is not a for profit endeavor. And, on top of that, I cannot find anywhere within the ordinance whether it is a necessity for them to have even applied for a Conditional Use Permit except they were told to by City Staff. So, with that, I will repeat I am fully in favor of them being able to use the facility at

normal hours that they have used them in the past and have the lights remain in place. Thank you for your time.

Mr. Dao: Thank you, Mr. Miller. The next speaker is Cindy Lewis followed by Mary Howell. Ms. Lewis, please start by saying your name and your comments.

Ms. Lewis: Can you hear me.

Mr. Dao: Yes, ma'am.

Ms. Lewis: Sorry, I cannot hear you guys.

Mr. Dao: Yes, ma'am. You can start your comments.

Ms. Lewis: Can you hear me.

Mr. Dao: Yes, we can hear you.

Ms. Lewis: Can you see me. I really want you all to see me.

Mr. Dao: No, the public webcams are not turned on. You can start your comments.

Ms. Lewis: Okay.

Mr. Dao: Mr. Chair, if it is alright, we move on to next speaker.

Ms. Lewis: Oh, sorry I am here. Can you hear me.

Mr. Redmond: Why do not you start your comments please.

Ms. Lewis: Okay, yeah. My name is Cindy Lewis, my husband and I wer hoping you could see me because I am standing in my backyard which is

directly behind The Weems backyard, the baseball field actually backs up to my property. Me and my husband have lived here for 11 years, we have never once seen the lights in our backyard at night. We actually have floodlights in our backyard. We have never been bothered by the noise, we have never heard anything. However, I just wanted you to know that they are respectful, they are responsible neighbors. We have never been bothered and we will be truly just have to go away. But, it is literally in my backyard, it is never even distracted us. I have had two small babies in this house we lived here for 11 years it is never once been an issue ever. We live in a family friendly neighborhood and it would just be sad to see it go away. That is it.

Mr. Dao: Thank you for your comments Ms. Lewis. The next speaker is Mary Howell followed by Tammy Otani.

Ms. Howell: Hi, this is Mary Howell, can you hear me. Can you hear me.

Mr. Dao: Yes, ma'am, please start your comments.

Ms. Howell: Okay, thank you. I am Mary Howell, I live at 1417 Claudia which is just across the creek from The Weems property. I was approached on Halloween day by Carolyn Weems to sign her petition that she said was because of the noise or the Halloween party for some neighborhood kids. I thought it was a little strange, but I signed it because that is what I had understood. I have since come to find out that it is specifically for, I guess a conditional usage, whatever it is agreement. I am here to defend the neighborhood, I am not here for Carolyn, I am not here for Jen and Zack. It is a shame that the neighborhood is now at each other's throats. This should not be. This is a neighborhood where all the lots are an acre or more. We are

very peaceful, quiet neighborhood that is what everybody loves about the neighborhood. Some of us are gardeners, some of us are birdwatchers, some of us have pools. Nobody is here to irritate anybody else. The fact that they need this license tells me that it is irritating. We have lived with the batting cage for years, we hate it, it is noisy. We never complained because we want to keep the peace in the neighborhood. It sounds like they are setting up some kind of a park that is not appropriate for a neighborhood. We should look at things that are beneficial to all our neighbors, not just one neighbor. Actually, Jen and Zack are here to appear, evidently their computer was not working. So, I am going to turn it over to them but please, please think in favor of the neighborhood and what is good for the neighborhood and that is peace and quiet and willingness to work with your neighbor, and that is all I have to say, thank you.

Mr. Dao: Thanks for your comment Ms. Howell. We will let the Chair decide you would bring Mr. and Mrs. Holzhausen back for comments, but we are going to call in the next speaker, which is Tammy Otani.

Mr. Redmond: Excuse me Mr. Weiner I have a question for the last speaker.

Mr. Weiner: Yes, go ahead.

Mr. Redmond: Yeah, Ms. Howell. So, you are saying you have had problems with noise. Is that correct.

Ms. Howell: That is correct, the batting cage when they had it up was noisy it is whack, whack. My husband and I do not complain about anything, we have been here for 40 years. We believe in the keeping peace with our neighbors and we just sucked it up.

Mr. Redmond: Is it noisy now.

Ms. Howell: No, it is not noisy now, the batting cage isn't there.

Mr. Redmond: Right, okay. That is kind of my point. Do you see the lights, do you have a problem with the lights.

Ms. Howell: No, the way our house is faced we are in the den at night and we do not face that property.

Mr. Redmond: Okay, thank you very much. Thank you, Mr. Chairman.

Mr. Weiner: Yes, sir. Hoa.

Mr. Dao: The next speaker is Tammy Otani, followed by Zack Holzhausen.

Ms. Otani: Hi, my name is Tammy Otani and I am a former renter in the neighborhood. I am talking to this group today because it came to my attention from friends in the neighborhood that there was concern raised about the impact of the neighborhood regarding The Weems use of their property. Our family rented a house at 4921 Cullen Road, which is right next door to Claudia Road, which is next to The Weems. We rented that property for a couple of years from Zack and Jennifer Holzhausen. During that time, we were not aware that there were lights at the back of the house. I have been to their home and in their backyard on several occasions, and even that point in the evening, I was not aware of any intrusive of lights or noises. I was aware that Billy Weems was coaching baseball. Families did park on the street in front of the Weems home, but only for short periods of time, and only for a couple times a week. I am a stay at home mom and I never had a problem with anyone coming or going from the Weems home. In fact the Weems' home is one of

the few properties in the area that have not had most or all of their trees removed adding to the privacy. Living in that house in Claudia, I could not even see the Weems home, let alone anything that was going on in the backyard. I always found The Weems to be very considerate neighbors. When their son was married in their backyard, both Carolyn and Billy came to us to let us know the event would take place, and asked that we call if we had any problems with any of the guests. Their guests were very considerate and we had no problems. My children were two of the many children who were invited to play in the Weems magical backyard. When you say that you hate to see the neighborhood suffer for a few people or a few neighbors, there are many children from all over the neighborhood, who would play in that backyard and who have formed many wonderful childhood memories in that backyard, and not just because the yard, but because The Weems and their hospitality. I would also ask the question if people struggled with the problems going on, why would you be quiet, instead of giving The Weems the opportunity to correct that. In fact it bothers me a little bit that taxpayer money and time is being used to solve this when so many people say they have problems with it for so many years. This is not the first place you go to solve the resolution. If you are truly a good neighbor, you go to your neighbor and you address that issue with them and try and resolve it. I never had to try to resolve an issue with The Weems. They were always the first to bring up any potential problem there was and resolve it that way. So, I would hope that since there is nothing changing over what has been happening last few years and as the last speaker said, there has not been the same.

Mr. Dao: Thank you for your comments. Ms. Otani, your three minutes time is up.

Mr. Weiner: Does anybody have any questions to the speaker. Okay, thank you.

Mr. Dao: The next speaker is Zack Holzhausen, followed by Jen Holzhausen.
Ms. Holzhausen, please start your comments.

Ms. Holzhausen: This is Jen Holzhausen, can you hear me.

Mr. Dao: Yes, ma'am. Will you be the only one making all comments.

Ms. Holzhausen: No, my husband is on his way something is amiss with our computer and we were not able to speak earlier when you called on us.

Mr. Dao: Okay, thank you. You can start your comments.

Ms. Holzhausen: Well, my notes are not quite as organized as my husband's are meant to be which he was supposed to be reading before me. But, thank you for the time to speak and for hearing our concerns. Also, I apologize, I am a little nervous and emotional about this, we have owned our home for 12 years and we have lived there for 10. And, we have tolerated baseball lessons since 2008, since we moved and trying to be good neighbors. And, the zoning sign went up on Claudia in December we knew this was our time to be heard. I have right here in my hand over a year's worth of notes on how to business at 1420 Claudia affects us and how often it affects us. Why, did I start keeping this log, I noticed an increase in traffic and I saw a customer actually discipline his child in our yard after lessons. I started keeping notes and yes, I took some pictures in case I needed to refer back to this. I personally have lost my tolerance for this. On January 21, 2019, Claudia Drive was filled with cars. And, when I went into my own backyard to get wood, there was a man leaning on my mailbox,

smoking cigarettes. And, I know that he was there waiting for lessons because I asked him why he was standing in the street in the dark. This spooked me, as my husband was not home. I should not have to tolerate this when I go outside that strangers are milling about. Please do not misunderstand this, this is not a complaint against our neighbors. It is opposition to our neighbor's business, and clientele it brings to our backyard. Our family is heavily affected and some of the concerns and issues we have personally at 1421 Claudia have dealt with, is the excessive traffic two to four hours a day, three to four times a week. Parked cars filling up the dead end streets, yes, it does limit access to the UPS and FedEx, emergency vehicles if they were to show up. The City itself sends a backup garbage truck down this road because it is small and there is no turning space. And, a lot of cars do park on our property line. It does limit access to our property, which does run the length of Claudia. Sometimes, I cannot mow my grass for concerns of the parked cars, I do not want to throw stones on them or sometimes they are parked on grass that I want to mow. Sometimes, it is difficult for us to get our boat in and out or our utility trailers in and out of our parking lot area in our backyard, because we do not have a staked driveway does not mean we do not have access to our yard. Access to our mailbox had been blocked by the parked cars. We do listen to the sound of backpacker blower, yes, as they prepare the field. People attending the outdoor recreation events at 1420 Claudia, have been addressed for urinating on our property, adults and children. They have been addressed for trespassing on our property, we have witnessed and changing their clothes in the street adjacent to our yard. We witnessed them disciplining their children, as I said,

smoking, using our yard and our mailbox as leaning posts in a social gathered area. We have asked them to get off.

Mr. Dao: Ms. Holzhausen your time allowed is up, I will let the Commissioner who is sure to continue.

Mr. Weiner: Yes. Any questions. Mr. Redmond.

Mr. Redmond: Yes. Okay. So, Ms. Holzhausen I want to go over that just a little bit with you okay because I want to separate things that might occur or very vague from things that are very specific. You have seen people urinating in whose yard.

Ms. Holzhausen: Yes, sir, my yard.

Mr. Redmond: And, these are who, children?

Ms. Holzhausen: I have seen children and adults.

Mr. Redmond: Okay. And, the parking problems that you described, how many cars we are talking about.

Ms. Holzhausen: Some days it is up to six cars and some days it is 12 cars, some days it is four cars. Like I said, I have records since October 2019, where I have counted cars, because at times they show up is usually dinnertime. When my windows are open and I am setting the table, so, I see them come very clearly.

Mr. Redmond: Did you share those records with anybody.

Ms. Holzhausen: I have given some of these records to the City. Yes.

Mr. Redmond: Okay. Thanks very much.

Mr. Weiner: Any other questions. Thank you. Hoa.

Mr. Dao: The last speaker is Zack Holzhausen. Mr. Holzhausen, please begin your comments and you have three minutes.

Mr. Holzhausen: Can you hear me.

Mr. Dao: Yes, sir. Please start your comments.

Mr. Holzhausen: Okay. I had prepared statement, unfortunately it is at my house. My name is Zack Holzhausen. I have got 24 years in the United States Navy, I am a master chief and integrity is very important to me. I take pretty seriously the accusations of dishonesty that The Weems have leveled at us. But, let us be clear. The issue we take here is not with kids playing in the yard, nobody has a problem with kids playing in the yard and nobody has ever complained about kids playing in the yard. You do not need a permit for that. What we are talking about is baseball lessons being conducted for profit by Billy Weems on the property. There is nobody of baseball playing age that lives on the property, Billy's son that he was talking about the plays baseball lives in Texas. We are talking about a business Billy has told us personally on several occasions about his customers and the lessons that he charges for and just the amount of traffic, and the disruption that we deal with on a daily basis is beyond what anybody should be expected to endure and I understand that maybe some of the people who live on the other side of the property, where the lessons are actually occurring aren't as affected as we are. But, the fact is that we are the people who have to deal with the traffic and the disruption. Our property runs the entire 315 foot length of the dirt road that is Claudia Drive on that side of the property. We have had cars parked up all the way up past our mailbox, we have had people

wandering in our yard, we have had people destroying our property. I have had people confront me as if I was somebody who did not belong there. As recently as a couple days ago, as four large diesel pickup trucks were ripping out of his driveway after dark and I was trying to check my mail, a pickup truck slowed down, built up RPMs and accelerated out there kicking rocks intentionally at me as I was trying to check my mail. Yesterday, I had a guy parked in the middle of that road while I was trying to rake leaves, staring at me like I did not belong in my own backyard. This is the issue we have. This is not kids playing, nobody has a problem with kids playing. Nobody has a problem with Brylan's friends coming over, right. We are talking about young men high school age and college age possibly, right. And, I would stipulate that there are 19 baseball facilities within 15 miles of this place, right. So, if it is a baseball opportunity, it exists. And, if those facilities are closed due to considerations for a global pandemic, then why should these people be allowed to congregate and park basically in my backyard and on the Weems property. That is our issue, it is not kids, it is not families. It is the businesses being run out of the residence. Thank you for your time. Sorry, I am a little loud right now, I just had to run across the across the street to get here.

Mr. Weiner: Are there any questions to the speaker. No. thank you. Dave Redmond.

Mr. Redmond: Mr. Holzhausen, we all have smartphones in our pockets, did you all ever take any photographs of these intrusions on your property. Are there six to eight cars parked on the edge of my property and the wheels are such that I cannot cut my grass, I would probably have taken some photographs of them by now, did you all ever do that.

Mr. Holzhausen: Yes, absolutely. We have all kinds of documentation of these kinds of issues and we address these issues with The Weems and got no resolution. Occasionally, they will take around turn on things and tighten up their sharp a little bit and for a week, things will be a little better, but it is like trying to tell somebody not to expect litter outside of a McDonald's, it is basically what we are dealing with, these are not their friends, these are their customers, right. And, each new batch of customers that comes in, has to relearn this stuff all over again, we have pictures going back for plenty of time just showing exactly what we are talking about.

Mr. Redmond: Okay. Thank you very much. Thank you, Mr. Chairman.

Mr. Holzhausen: Yes, sir.

Mr. Weiner: Thank you. Any more questions. Okay.

Mr. Dao: Mr. Chair, there are no more registered speaker on this item.

Mr. Weiner: Okay, Ms. Weems, would you like to have any other comments ma'am.

Ms. Weems: Yes, thank you. I would like to say we do not have customers, we do not have clients, these are family and friends. Our granddaughter actually also plays softball and has little girls over here doing the same thing in that area. We no longer have people parking on that street. We will definitely, and again I wish I would have been told this, we went over there twice to our neighbor's house when this first came out and said, what can we do to help, what can we do to help, and we got nothing. So, on our own we have told people not to park there. Yesterday there was a gentleman young guy high schooler

that did come over, he called and he parked there for about five seconds and my husband ran out there and said please come around back, please park in the driveway. We want to be good neighbors we want to continue to be good neighbors. We will definitely make sure people do not park there, and people will not be out there, congregating again it was different last year, because we did allow that one coach to bring over his guys and they had to wait out there because of COVID we would not let but one child back there at a time. And, so it was different, it was unique and I am sorry for that and it is not going to happen and, and again for the noise, there is no noise. That machine, and I wish the people that were here would turn it on, makes less noise than my dishwasher. There is no batting cage, there are three batting cages in our neighborhood, we do not have one, so there is no sound of a bat hitting the ball. So, we want to continue this and again we will be very, very purposeful to make sure none of our visitors, no matter what they are there for, will be parking on that street, and will be congregating and not any whatsoever. Thank you.

Mr. Weiner: Thank you, I think we have a couple questions here. Mr. Redmond.

Mr. Redmond: Ms. Weems, thank you for that. So, I want to explore this a little bit because I am not sure frankly that I am comfortable with the promise that we will ask people not to park there, I am more inclined to add a condition to that effect. Frankly, I do not care whether or not anybody is charging a fee to the service, it is an impact on other people and of course later in this agenda, we are going to have how many agenda items that we always have with regard to short-term rentals, and it is all about noise and traffic and the impacts on other people. So, that is what I think is really the issue that we have to be

particularly concerned about. So, tell me about, I have got this map, where is it you are asking your patrons I will leave the word that because I do not want to judge it, there is obviously quite a disagreement about that. Where is it that you are asking your patrons, the folks that come to your house that do not live there, come from someplace else where you are asking them to park.

Ms. Weems: There is not a close up there.

Mr. Redmond: Yeah, we got what we got, unfortunately. And, Google on, you do have a very wooded neighborhood, so, Google earth has not help I am not sure.

Ms. Weems: If you come down off Cullen Road off that gravel road of Claudia Drive. Claudia Drive has three sections, we are in the middle section, we are actually the only house on that little section, it dead ends. If you come to the dead end where our mailbox is, you can then take a little left and circle around, and there is a huge, huge area to park. There is no problem in getting people to park, again I did not know this was an issue. My son was over, not too long ago, and there was no cars in our driveway he just parked at that dead end street because it is kind of like you just pull on there and park. So, we told him no, no do not park there. But, our driveway actually circles around and makes a big circle, and so, they can park anywhere there. Yeah, they just pulled around, and it is a gravel driveway, and it circles around at our mailbox and it goes back and connects to Claudia.

Mr. Redmond: Okay.

Ms. Weems: Yeah, we can even put a sign up or as people, we will just tell people that do not park on the street anymore and that they have not been and I know it is hopefully it is been helpful to our neighbors. They will not be parking there anymore.

Mr. Redmond: Okay, thank you.

Mr. Weiner: Mr. Alcaraz, do you have a question.

Mr. Alcaraz: Yeah. Mr. Redmond I agree with your concerns, I just want to express my concerns. Ms. Weems in your presentation again you stated that on occasion you got to have them wait and I do not know how many cars you are asking to wait. But, I do not have a problem with it when it is family, but when you are inviting people from all over and they are having to wait on the property or down the street, or down the next streets, that is where I have concerns of. How many cars have you had stacked up out there at one time.

Ms. Weems: Again, this is not usual like I said, usual is Sunday afternoon so we have a friend to bring his kids over. This has been unusual because of that coaches asking us to let his infielders come, so, we did allow that. So, last year was unusual, it is not typical. There were several cars out there, the only reason why we made them wait just this one group of infielders from one of our local high schools was because COVID, because the groundball area in the back is not very big, and we did not want even two kids out there. Normally, like the person that comes our friend that comes in Sunday his two boys go back there with each other, and they take their groundballs. And, so if there are two or three kids back there, or my granddaughter and her friend's back there that is fine but because of COVID because these kids did come and again that was unique, that is different, that is not the

norm. We did make them wait because we did not want kids back there. So, that is not happening anymore, that was a unique condition and hopefully now baseball will start back up, but it was not typical for us to have a line of cars and have people wait, that did happen because of COVID. And, now that we know we will make sure that never happens again. That does not happen that was not normal activity.

Mr. Alcaraz: Do you advertise this or is it.

Ms. Weems: No.

Mr. Alcaraz: How do people know in schools and localities, how do they know.

Ms. Weems: Well, we have had five kids in sports, I play tennis, I know tennis community, my daughter knows the volleyball community, my other knew the soccer. The coach that asked us actually used to live in a neighborhood and took groundballs with my son. So, he knew about the area and when these kids grow up and even though he is not here anymore, there are kids in our neighborhood who are now doing what Beamer did. They play on several teams. They play on several travel teams. They tell kids they get really bad and they are like, how would you get so much better. They are like, oh my gosh, in our neighborhood The Weems have the groundball area and so they just word of mouth it is all people that we know except for again this situation with this one group is because a coach lives two streets over. He has been here before himself when he was younger and so he knew about us and my husband.

Mr. Alcaraz: Thank you.

Mr. Weiner: Mr. Wall.

Mr. Wall: Ms. Weems, can you address the neighbor's concern about people urinating that has been brought up.

Ms. Weems: I have never seen or heard from them anything about anybody urinating on anybody's yard. Of course, that is just awful and I know that if I was in a situation and my neighbor had friends over and one of their cars or friends urinate on them I would go straight over and if that would have happen we would have really gotten down to the bottom of it. I do not condone that, I have never heard of that, I have never seen anybody litter, I have never seen anybody on their property, I am not saying it is not true. I have never seen or heard any of these complaints until I read the letter of complaint. I do not condone that and we do not even let people throw their cigarette butts our driveway. I totally agree that is unacceptable and if it happened I am so sorry, but I have never heard of it or seen it.

Mr. Weiner: Mr. Graham, have a question.

Mr. Graham: Thank you, Mr. Chairman. This is a question for Ms. Weems, who does your husband coach now.

Ms. Weems: Does he coach now, no. We are kind of older in age, but people know that he knows his baseball, but he does not coach at all. He has coached probably 15 different teams, but no longer.

Mr. Graham: Right, but they are coming to work with your husband groundballs, but there is not hitting.

Ms. Weems: No, there is no hitting at all. When we moved here, we had a batting cage in our old neighborhood at Lake Smith Terrace, when we

moved here 24 years ago, we did have the batting cage up, that was taken down I believe 15 years ago. My husband does go out there in the back and talks to these kids, he will help them if they want his help. Obviously, sometimes they are out there just playing around, but he is always willing to help any kid that wants to get better, because he does know his.

Mr. Graham: I understand baseball and I know there was not a lot of places to get (inaudible) and to be able to practice. It just sounds like kids coming from high schools and it is people coming it is not.

Ms. Weems: I am sorry I cannot hear anything.

Mr. Weiner: Did we lose Mr. Graham, we lost Mr. Graham. He is out. Ms. Oliver, do you have a question.

Ms. Oliver: I do. Ms. Weems can you address your reluctance maybe I am going to make sure I understand it, let me rephrase that. Can you address, whether or not you are in agreement with all the conditions as far as the lights, the dusk, and ending playing at dusk and the back yard.

Ms. Weems: Yes, thank you. No, we do not agree with removing those three down lights back there in the back, because they shine downward and the neighbors that have complained and the other person that they cannot see the lights, my neighbor that is directly behind that fence (inaudible) really lights that shine down on that area, but obviously like when our granddaughter she is now playing softball and a couple of her girlfriends, but the time they get through with school on some days, it is almost dark. And, again, we are not out there late at night, but in the winter months where it gets dark so early and, school doesn't get over, she has got Spanish and piano by the

time she is done with that, if you do not have any light by there you cannot play. She and the girls next door and down the street, they go back and forth through the gate back there, they have got a little hideout place there, they do their remote control cars back there. I just do not think it is reasonable to limit that part of our yard to dusk. So, I would like to be able to keep those lights up

Ms. Oliver: Well, let me ask you this, if you do limit it as to dusk and the lighting then that, I am not referring to that neighbors that abut you from that side, but to the neighbors on the side that are having to deal with a lot of comings and goings that would reduce the hours of people coming and going and practicing.

Ms. Weems: I am not really sure again, I do not know I think that it is just really hard for kids, especially now when we are trying to promote outdoor activity and play and I am all about practicing and refining your skills and getting better. I just wish that we would not say that you cannot do that past dusk on certain. I mean, obviously, in the summer, it does not matter because there is light a little bit longer. But, I get what you are getting at, it is not really about the lights, it is about the car lights.

Ms. Oliver: It is about the number of people coming and going, and the traffic that is being created by the fact that you have lights to have practice a lot longer. And so, with that if you cut those hours back then maybe it would not be so impactful to the neighbors that are having issues.

Ms. Weems: Yes, and I know that you all okay sometime the other day from 9 to 9, we are not asking till 9 o'clock every night, we are not out there at 9 that much really. Maybe there are kids that go out there a couple

times a week, maybe the lights aren't turned on that much but I just think that is too much of restriction, but I will definitely be great with limiting cars.

Ms. Oliver: I do not see how you can do that, I think really to follow with the conditions. Well, I am up for that too, Dave.

Mr. Weiner: Hold on second, Mr. Inman has had his hand up, let him say something real quick, please.

Mr. Inman: Thank you, David. Ms. Weems what number of people would you be willing to restrict to be on the property at any given time that are not resident in your house in this activity.

Ms. Weems: Okay, like Sundays there is the dad with his two kids. I mean a couple people spying again and I do not want you all to think that we are just like bringing in car loads of kids from all over that we do not know, that is not the case. I think the difference is why the car lights have been a problem and I think, besides a personal little matter I think the main concern is because there has been more cars because of this that we did say tell this coach that his infielders could come over. That is not the norm, so, I do not want you all to think that we are just getting baseball teams over here to practice, that is not correct, but the cars have been more because this one group. So, I would be glad to limit that, if it is okay for them to come and use this during COVID, if they could four of them pile on one car or if they could just limit that I will be fine but I do not know if two cars in our drive is that too much, three cars that is fine, three cars is fine. I mean I have got my bereavement group on Sunday 4:30 to 6:30 which is on the dark, and there is six of us, there is six different cars for that. I mean, I will be glad two or three cars that is fine because it was just that rare

situation with that one coach that asked us as a friend to help his kids out and during this time. I am glad we did and other people in the neighborhood have done it for soccer players as well.

Mr. Inman: We are trying to deal with the number of people on your site at one time, it appears to be a problem. And, so, we are going to have to deal with that, I am trying to give you a chance to tell us and I think you have given us an indication. What we were talking about your participants in the baseball equipment and sight in the back of your house. Is there a backyard fence already there is a condition that says it is going to be a solid 6' tall fence along the backyard property line, is that something that is already there.

Ms. Weems: But, the condition is to extend that fence all the way down till it gets to that ball machine, which we are fine to do. And, again no ball is pitched and no ball is hit, so, no balls can go over a fence, they roll but that is fine if that would help we will be glad to extend that fence all the way down, we have never seen a need for it, but if that would help we would certainly be glad to do that.

Mr. Inman: All right, and condition number one talks about hours since 9:00 am to dusk, how about if it was 9:00 am to 9:00 pm.

Ms. Weems: That would be very acceptable to us.

Mr. Inman: Okay. That is all questions and comments I have from Ms. Weems.

Mr. Weiner: Mr. Redmond.

Mr. Redmond: Yeah. Thank you, Mr. Chairman, I want to make sure that we are addressing things that are problems and not just kind of limiting for limiting sake. I agree with Mike, people do things past dusk and I

mean, I do not know where that condition came from, but I think it is too much, does anybody have any more, I kind of like to get into discussions and anybody having more questions for Ms. Weems, I do not need to think we need to have her on point here if we can go ahead and go to the discussion about how we resolve this as best we could.

Mr. Weiner: Any more questions for Ms. Weems? All right, we will close this and go to discussions. Mr. Redmond, this is your area anyway.

Mr. Redmond: Yes, thank you, Mr. Chairman. I think it is possible that more than one thing can be true. I think it is very possible that people have had a wonderful time and I have been here before to Ms. Weems house, that was a long time ago probably about 15 years ago or something. I have been here before, it is a beautiful neighborhood, it is a big piece of property, and I will bet you there have been for many, many years, a lot of family and friends and neighbors who have enjoyed themselves there and in that regard probably is a very, very good thing. It is also the case pretty obviously it seems to me that some neighbors who have been very negatively impacted at times by the cars that are encroaching on their property. I do not know that is a function necessarily of the number of folks who are there, but where they are parking which is why I think the most and I am not saying we do not need to have some sort of restriction necessarily on the number of cars, but I do not think that is a big problem because they do have a big driveway. I think would be much more sensible to add a condition that restricts parking for this facility to the applicants property and that they not park on the public part of Claudia Drive. That way, the neighbor does not have people parked on the grass when try to cut the grass or people who

go to the bathroom in their yard, because there is not going to be the people there and I think that is the most sensible way to do it and I do not know exactly how to word it all, I think I kind of said it about right. But, I want to make sure that one that Mr. Inman got that we want to make sure what we are dealing with is a backyard neighborhood recreation area, right. And, not a training facility that you would think would be a high school ball field. And, I can walk to Independence Middle School, I can walk to Thoroughgood Elementary School, there are lots of ball fields around that do have people on them all the time. So, I mean if it is a commercial training facility or something that is more of a broader scale than simply a family's backyard, I think that is a different matter. But, it does not sound that way to me at least, except perhaps this one instance where there are a whole bunch of people there, which Mr. and Mrs. Weems I would urge you not to ever do again, because very obviously it is caused you a big problem. So, I would like to add a condition that says that anyone outside of the family, help me with the wording folks, but that for this use parking be restricted to the applicant's property and that there not be any parking on a public street. Does that make sense.

Mr. Weiner: Yes. Mr. Coston. I am sorry, did you have a hand up, did you want to say something.

Mr. Redmond: Mr. Inman, I am not saying the limit is not, it is kind of a different matter but that is the thing that most concerned to me was, where are these cars.

Mr. Weiner: Mr. Coston, did you want to comment.

Mr. Coston: Yeah, the complainants said that they had shared some of this information they had gathered and I was wondering if Staff has been aware or seen into this information since they recommended approval.

Mr. Tajan: Mr. Coston thank you, we had looked through the complaints that we have. Based on the information that we have in the system, it does not appear that we the Planning Staff actually received the photos of the complaints, I am not sure and I do not know if it maybe went to the police for parking in a public way or something like that, that was blocking Claudia Drive portion, so, we did check our files and we did not find any of the photos or anything was provided by any complainant.

Mr. Coston: Okay, thank you.

Mr. Weiner: Any other questions or comments, Ms. Klein.

Ms. Klein: Thank you. A couple of things, first I want to say that just because this recreation activities have been going on for 24 years does not mean that they did not require a permit to begin with. So, it just took this long for whatever reason for it to be brought to the City's attention, it also sounds like there is been a lot of brewing resentment over the last couple of years that may or may not have been addressed directly or indirectly, but clearly multiple neighbors have very strong feelings over what is going on in the backyard. As someone currently embroiled of mine own issues or something like that I can appreciate the contention and the frustration from all sides. I do have concerns over the volume of activity that is happening at the property, and the examples that were brought forth by some of the neighbors about the things that have been going on over the last couple of

years. Confrontation can be scary and it sounds like they have done the best that they can. And, we cannot say what we would do in a situation until we are actually in it. So, I do not think it is fair to say, if someone was peeing on my property, I would say something. At this point I am inclined to vote in opposition. I agree that there are multiple additional conditions that need to be put in place. And, if the applicant were agreeable to those I may be willing to vote in support, but at this time I am leaning in opposition of the application.

Mr. Weiner: Mr. Inman, you had the hand up.

Mr. Inman: Yes, I did. I agree with the lot of what Mr. Redmond had to say, think it is hard to put a number on the number of people that could be on the property as I was talking about earlier. I do believe that The Weems are good people and intend to be good neighbors and they kind of let it get out of control during this COVID situation. I think they are pretty much on notice that they are now, more or less under scrutiny that they have not been for the past 24 years. I think that will mean a lot to them, I think they do want to be good neighbors. So, that said, I would propose the condition number one be modified to be 9 o'clock to 9:00 pm, leave in a six foot fence, the lighting, nobody is concerned about the lighting. Nobody seems to be adversely affected by the lighting, it is down lighting it is only three lights. And, I just do not see why there is a problem with the lights I have not heard anybody. I have heard people say that there is no problem, testimony that there is no problem with the lights, people who live behind them. And, so, I do not see any reason to remove the lights. So, I would delete item three condition three and I would add a condition that the number of whatever vehicles are visiting the

property must be parked on the property, and not on the street. And, if those things were done I would proposed that we pass it.

Mr. Weiner: Mr. Redmond.

Mr. Redmond: I cannot agree more with Mike. Mr. Inman, but I do have a couple of quick questions for staff. So, 24 years she said, 24 years a pretty long time. How did this come to our attention? Were there complaints specifically about the use and about the property that caused us to get into this.

Mr. Kemp: Mr. Redmond, this is Kevin, I can address that. Yeah, this came to our attention with a zoning complaint that was called into our office. As you can see throughout all this discussion, with a site like this and its location, we would not have caught it just driving through the neighborhood on our own volition, so, it came in as a call to the Zoning Office.

Mr. Redmond: What was the nature of the complaint.

Mr. Kemp: The nature of the complaint was that they were operating this facility and it was concerns with parking, noise and lights.

Mr. Redmond: Okay. All right, thanks. My second question and I do not know if it is for you Kevin is, what is the purpose of the condition about the lighting is that just kind of something we kind of feel compelled to throw in when were there lights anywhere but just like Mike said I would struck all along, where I just look at the pictures and tell you they point downward. But, I have not heard anybody really who had any problem with the lighting unless as you say that was part of a complaint that you had called in, but I just did not get that.

Mr. Kemp: Right. After hearing the neighbors, I tend to agree with you on that, the lights were not the predominant thing or the complaint, it was the parking that is really what sparked it. The lights are standard in regards to protecting the neighboring properties, if it is screened enough where the lights are not an issue. I do not see how the Zoning Office would have an issue removing that condition, but they were not what brought the complaint to our attention.

Mr. Redmond: Okay, thank you Kevin. Yeah, Mr. Chairman.

Mr. Weiner: Hold on a second, Mr. Inman has his hand up one second, Ms. Oliver, and Mr. Wall can we go around real quick.

Mr. Inman: I was going to say, I would add a condition to that this be reviewed again in a year forth to ensure compliance.

Mr. Weiner: Sounds good. Ms. Oliver.

Ms. Oliver: They have a beautiful piece of property and I just want to sort of designate where parking on their property is, because that is a huge piece of property and I am trying not to nitpicking, but I do not know how many acres they have which is fabulous but it is a gorgeous piece of property with plenty of room for a lot of cars, Dave are you asking them to stay on the driveway or can they park anywhere on their face property.

Mr. Redmond: I do not know, I frankly I am uncomfortable trying to define where cars would have to be parked on someone's private property. As long as it conforms with all the applicable ordinances. If you come out to my property, I do not want somebody to show me as long as I own my property that you can only park next to the garage and not

at the end of my driveway. It seems to me if you are on their property and not on a public street, then I think that is probably as far as we should go and, I think that is a lot.

Ms. Oliver: I guess that is a question for Kevin then, how does that work as far as zoning and parking goes.

Mr. Kemp: In regards to parking on their property or parking in general, parking zoning ordinance in general is really silent as to where they park on their property. They are required to have two spaces for single family residence, but the zoning ordinance does not enforce other parking. If there were excessive parking throughout, it would probably get kicked to the Department of Housing for junkyard or junk vehicles type of complaint concerns but Zoning does not enforce it.

Mr. Redmond: Mr. Chairman.

Mr. Weiner: Go ahead, Mr. Redmond. My concern was about the neighbor who had the problems with the guy leaning on the mailbox, with the urination, with the cars abutting their property. If you are on The Weem's property then it seems to me those, those problems go away, I do think it is kind of, I am not nitpicking, but I do not know that it is, I think we get the parking on the applicants property, it seems to me we have accomplished what we are trying to accomplish in that regard and protect that neighborhood from the encroachment on their property.

Mr. Weiner: Mr. Wall, do have a comment.

Mr. Wall: Mr. Chairman, I do. I think that Holzshausen's they have got some real concerns, that are valid. But, I also think the sort of things that

Dave and Mike had spoken about, pulling the traffic off the public right-of-way. I have plenty of people that I can look at my window and I can see their cars and they are on the public right-of-way, but they are not parking on the grass and in this case it does seem like that is occurring on the neighbor's property as well as some other activities. I think that by keeping an eye on The Weem's property that there would be valid, to help address some of their concerns as well as allowing that to continue to have a backyard pitching machine in operation. I think that some of the City's conditions to help limit the activity with the lights, but it is hard to see where that actually directly correlates to their operation. So, I would in support of removing that condition also.

Mr. Weiner: All right, thank you. Mr. Inman.

Mr. Inman: Thank you, I have a question for Staff, can any Staff member tell us how many vehicles could park in the paved or gravel parking area driveway on The Weems property, approximately.

Mr. Tajan: Give us one moment.

Mr. Sanders: Hi, this is Jonathan Sanders. The Planning Commission members that did go out to the site, we were able to park at least four or five vehicles in the driveway along with the two that the applicants had. So, probably at least seven vehicles.

Mr. Inman: Okay. Having heard that I am inclined to and I am going to honor Ms. Oliver's comments, but from an enforcement standpoint, it really sort of needs to be defined and if they can park that many cars in the driveway, then that should be enough to take care of business.

Not to make a point, I would favor restricting the parking to be in the driveway.

Mr. Weiner: That sounds good. Would you like to make a motion to put all that together.

Mr. Inman: I can. I would move the condition number one that is to be changed to from 9 o'clock to 9:00 pm. And, that condition number three be removed. That parking of visitor vehicles or any vehicles on a property be on the driveway. And, that this application permit will be reviewed in one year for compliance.

Mr. Redmond: For Administrative Review.

Mr. Inman: Administrative Review.

Mr. Redmond: I second the motion.

Mr. Weiner: What about the lights, I did not hear anything about the lights.

Mr. Redmond: Yeah, he said remove it.

Mr. Weiner: Okay. We motion and a second. Mr. Alcaraz, do you have a question.

Mr. Alcaraz: No.

Mr. Weiner: Okay. So, we have a motion from Mr. Inman and a second by Mr. Redmond.

Mr. Horsley: Mr. Chairman, I have a question.

Mr. Weiner: I cannot see you, I am sorry.

Mr. Horsley: Okay. Well, I am good to be seen anyway today. The condition number four, what is the reasoning behind that, I mean not open to the general public or shall not operate for profit, does that carry any validity.

Mr. Weiner: Say that one more time Mr. Horsley, I am sorry.

Mr. Horsley: I say, the condition number four by not being open to general public and shall not operate for profit. Does that condition really need to be in there, does that carrying validity to the situation we got here. My assumption is that some of The Weems, Ms. Weems is probably there all the time anyone comes anyway, so, I do not think they are going to just let anybody come in like a general park and things like that. I do not understand why that condition is in there.

Mr. Tajan: Mr. Horsley, we put that condition in there because it was requested of us in the discussion with the applicant that there are people that were coming here were not advertised to come here, as they had told us and hearing that it is not a business that they are making no profit from and, then also that they are not actively advertising to the general public. That is what that condition is meant to say is best to reflect how they stated their application.

Mr. Horsley: So, they actually requested to put that in that. Okay.

Mr. Tajan: They did not ask, but that is reflective of what they had explained to us in their application.

Mr. Horsley: Okay.

Mr. Weiner: All right, so we have a motion and a second. We are ready for the vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: No.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: No.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chairman Wall.

Mr. Wall: Yes.

Ms. Coleman: Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By recorded vote of eight for and two against, Agenda Item number eight has been recommended for approval with the addition of conditional one, to reflect a 09:00 am to 09:00 pm time. The removal of condition number three, and a condition added to restrict parking to the applicant's property and not on Claudia Drive. Administrative approval is already noted on condition number five.

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

CONDITIONS:

1. Use of the Outdoor Recreation Facility shall be limited to the hours between 9:00 a.m. to ~~dusk~~ 9:00 p.m., daily.
2. The applicant shall maintain a solid, six-foot tall fence along the backyard property line adjacent to the outdoor recreation area.
3. ~~The existing lighting along the backyard fencing for this use shall be removed. No lights shall be used in conjunction with the Outdoor Recreation Facility.~~
3. Parking for this use shall be limited to the subject property driveway and not within the public right-of-way.
4. The Outdoor Recreation Facility shall not be opened to the general public nor shall it operate for profit.
5. Subject to Section 221 (k) of the Zoning Ordinance, an annual review of the Outdoor Recreation Facility Conditional Use Permit, based on the date of City Council approval, shall be performed by the Planning Director or his designee to assure that the use does not conflict with any adjacent land uses.

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

Asia Mitchell [Applicant] and Touzos Family LP [Property Owner]

Conditional Use Permit (Beauty Salon)

4654 Haygood Road, Suite D

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. A business license for the beauty salon shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
2. Any on-site signage shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

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

Items # 10 & 11

Old Dam Neck LLC [Applicant] and Old Dam Neck, LLC, Frances G. Willis, William E. Gilbert, Bonnie J. Garrett, Catherine D. Meredith & John J. Weinbrecht, Jr. [Property Owners]

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

Conditional Use Permit (Mini-Warehouse)

1081, 1087, 1089 Old Dam Neck Road & adjacent parcel west of 1089 Old Dam Neck Road

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
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 the Property is developed, it shall be developed substantially as shown on the exhibits entitled, Layout Plan for General Booth Blvd Mini Price Storage Virginia Beach, Virginia", dated November 20, 2019, and prepared by Site Improvement Associates, Inc. ("Site Plan") and "Conceptual Landscape Plan, General Booth Blvd Mini Prince Storage Virginia Beach, VA", dated November 20, 2019 ("Landscape Plan"), which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 2:

The exterior of the building depicted on the Site Plan shall be substantially similar in appearance, architectural features and materials as depicted on the two (2) exhibits entitled, General Booth Boulevard – Mini Price Storage Conceptual Renderings", dated November 20, 2019 and "General Booth Boulevard Mini Price Storage Building Elevations", dated November 20, 2019, prepared by Finley Design, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Elevations").

Proffer 3:

As depicted on the Site Plan, the access to this commercial property shall be solely from General Booth Boulevard using the existing shared commercial entrance with the adjacent Dam Neck Crossing Center. Until the pending Cross Access (Ingress and Egress) Easement with the adjacent property is fully executed and recorded to provide the access depicted on the proffered Site Plan, the Property cannot be developed.

Proffer 4:

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 as they provide a high level of predictability with regard to building location, design, and exterior materials; as well as information on vehicular access. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

CONDITIONS:

1. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.
2. 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.
3. The final stormwater plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the preliminary stormwater analysis utilizing the same basis of design, unless otherwise approved by the DSC.

Items # 12

Woodhouse Limited Partnership [Applicant & Property Owner]

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

1805 Estates Court

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled "Conceptual Site Layout Plan of 1805 Estates Court, Virginia Beach, Virginia," and prepared by Orbis Landscape Architecture, dated October 26, 2020, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. Prior to the issuance of the Certificate of Occupancy, the applicant/property owner shall install the plant material as depicted on the exhibit entitled "Conceptual Site Layout Plan of 1805 Estates Court, Virginia Beach, Virginia," and prepared by Orbis Landscape Architecture, dated October 26, 2020, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
3. When the property is developed, the residential dwellings constructed shall vary in size and design and shall be of high quality materials and

architectural features that are compatible with the surrounding development, as determined by the Planning Director.

4. There shall be one shared driveway to access all three proposed residences.

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

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

Items # 13

Xpert Services, LLC [Applicant] and VB Investments, LLC [Property Owner]

Conditional Use Permit (Car Wash Facility)

4937 Broad Street

January 13, 2021

RECOMMENDED FOR APPROVAL – HEARD – CONDITIONS MODIFIED

Mr. Dao: Yes, Mr. Chair. We are back to item number 13, for a record XPERT Services, LLC. Mr. Bourdon, can you hear us. Please state your name and comments.

Mr. Bourdon: Yes, I can hear you, it sounds like we got back feed.

Mr. Dao: Mr. Bourdon, please start your comments.

Mr. Bourdon: Can you hear me.

Ms. Smith: So, Eddie, if you mute any other devices in the room that will eliminate that feedback.

Mr. Bourdon: All right, I turn the computer off, that was probably the source.

Mr. Dao: Okay, that is working better Eddie. Thank you.

Mr. Bourdon: Sorry, first of all, before I get started let me apologize to the Commission and for any speakers as most of you know I am not technologically very adept and apparently there is a problem with the speaker on this new laptop they got me. All right, Mr. Chairman and Members of the Commission, Eddie Bourdon Virginia Beach Attorney representing XPERT Services, LLC. This is an application by the owners of this property who own A & G Auto Sales. The property is zoned B2 general commercial district, which is all of you know permits scores of by-right commercial and retail uses. Some of those

uses are commercial kennels, animal shelters, childcare centers, eating and drinking establishments, food take out, liquor stores, all manner of personal service businesses, wine tasting rooms, all manner of retail uses and beverage manufacturing. Almost seven years ago, my client leased this property to Forever Home, a large dog rescue operation, which was a commercial kennel use. It operated here until September of 2019. The kennel housed scores of large dogs mostly Pit Bulls in the structure and the fenced rear yard. Frankly, they were far from a stellar tenant and I can attest to that because I was in the building. They defaulted, the building was in unbelievably bad shape, terrible, feces everywhere, a lot of barking dogs. We are certain that the residents across Broad Street and in the vicinity were happy when my client was finally able to retake possession of the property from the tenants. When my client regained possession, they had to expend over \$40,000 in interior, repairs, and exterminating services and cleanup in and around the structure. My clients still have to paint the exterior of the structure, which is planned for this year and the roof will need to be replaced in a few years. My clients were approached by another commercial kennel operator about leasing the property for a kennel a doggy daycare, however, my clients felt, given their experience with forever home that they should go in a quieter and cleaner direction. In addition, the circumstances that they are dealing with, with a rented space at the West End of Broad Street that they have used for detailing for some time, have pushed them to relocate. Unconditional B2 zoning exists along the entirety the south side of this section of Broad Street to the west, this site is a large chain link fence enclosed vehicle storage yard. To the south is another chain-link fence close storage yard for jet skis, motorcycles, and some vehicles,

along with structures housing repair and maintenance facilities for motorcycles and jet skis as well as The Rising Sun boat repair business. To our East there is an undeveloped B2 commercial parcel. With the exception of the structure on my client's property, there are no structures located and adjacent to the south side of the Broad Street in this block that are remotely residential in character, nor can any property, including my client's property be used residentially. Also, there are no other similar properties on this block that host two very large oak trees as my client's property does. Unfortunately, the washing of motor vehicles on a commercially zoned property, which is not and cannot be occupied as a residence such as this property, requires a Conditional Use Permit under Section 228.1 of the Zoning Ordinance for "carwash facilities." The term or designation, carwash facilities is not defined in our CZO. Webster's includes a definition of facilities as a plant or installation. And, Subsection B of Section 228.1 of our Zoning Ordinance provides a minimum of three off-street parking spaces for automobiles, shall be provided for each carwash space within the facility. Unless otherwise provided in a condition of the use permit. Clearly this code section is dealing with commercial carwash facilities. It is likely that the required characterization of my client's desired use of his property as a carwash facility has caused confusion in this case, as there is no publicly available facility for the washing of cars for a fee being proposed for construction or installation on this property, no additions to the property at all. There is no public retail carwash component of this use on this property as proposed by the owners, I make that very, very clear. The owner is solely desire to hand wash and detail their own vehicles which they sell on their auto sales lot. As Staff is also fully aware no more than two employees will be on the site, one will wash cars with a hose one

at a time and hand chamois dry the car. The other is in the garage structure that opens up to the back of the property, where he will be detailing the already washed and dried car in the garage. And, this is not visible from Broad Street. A car will not be washed at any point in time or detailed prior to 09:00 am or after 05:30 pm, Monday through Saturday and it would not happen every day, and no more than six to eight cars max can be done per day. No cars will be parked in front of, the side, or in the road around the property, Broad Street, or the sub-street that will be accessing the back of the property. There is no signage that will be placed on the property. There will be no traffic generation, other than the moving of the limited number of vehicles from the car lot to the site for washing and detailing and, one or two at a time. Frankly, the traffic generation would not exceed the average generation of residents on the property. And, while we asked for the ability to park two employee cars, the two employee cars in the existing front parking lot, which is a commercial lot, even though it is small on the site and four cars being washed and detailed in the back for a total of six. Staff recommended only four on the entire site, which my client can deal with and we will work within that limitation. This is obviously an interim or holding pattern use, but as strictly conditioned, and I would absolutely characterize these nine conditions in your report as strict and if you want to add some more we will listen. I frankly cannot envision a use of this B2 zone property, which is fronting on and only accessible from Broad Street that could be less impactful to the residential uses on the north side of Broad Street than this one. If the site were to be redeveloped as opposed to this adaptive reuse of the existing property, the two large oak trees and the existing converted former residential structure would be removed and there would be

far, far more traffic including trips by persons not familiar with the area looking for whatever business or businesses were on this property, and that would occur only using Broad Street. We respectfully, but clearly disagree with Staff's recommendation. We do, however, appreciate both Hoa and Carolyn Smith working with us and we are in agreement with all of the proposed conditions. We would request that the Commission recommend approval of this use as strictly limited by the Staff's conditions, and I will be happy to stand by for questions and appreciate being given the opportunity to respond to any opposition. Thank you.

Mr. Weiner: Thank you, Mr. Bourdon. Do have any questions for Mr. Bourdon. Mr. Alcaraz.

Mr. Alcaraz: Yeah, Mr. Bourdon, I guess we heard some opposition emails, but there is a noise factor that was brought up. Are you saying they are doing everything inside as far as the detailing and the vacuuming and all that.

Mr. Bourdon: Correct. Everything is done in a big garage, other than the exterior hand wash with a hose and hand chamois to dry the vehicle and then moved vehicles in the garage and all of the detailing work is within the garage and the only opening is to the south towards the Boulevard.

Mr. Weiner: Any other questions. Mr. Wall.

Mr. Wall: What is being done in the back with the gravel lots, you may have mentioned and I may have missed it, but because you can't even get in the garage currently.

Mr. Bourdon: I am sorry, that is a very good question Mr. Wall. The back that they will have to do a partial site plan, they are going to have to put in a BMPs most likely be bio-retention beds, but the back of the property

because that is where the dogs tore it up, and they were mostly pit bulls and they dug, and dug, and dug the back of the back of the property is a nightmare in terms of the grounds. I mean, they will they will have to make improvements to the back of the property per a site plan which will have to be submitted and reviewed to include BMPs for the minimal amount of water but they still have to capture the water one of the conditions requires that. So, the back of the property will have to be refurbished and that will probably involve some manner of fill whether it is sand, a combination of sand and gravel, but that is to be determined through the review process. We certainly want to minimize to the greatest degree possible the amount of stormwater runoff period, but that is something that will be handled during the site plan review, but that is an excellent question.

Mr. Weiner: Any other questions for Mr. Bourdon. Okay, Hoa, do we have any more speakers.

Mr. Dao: We have two speakers registered for this item, the first speaker is Lorraine Samko, followed by Beauregard Mabe. Ms. Samko, you have 10 minutes to speak as you represent a Civic League, please by stating your name for the record and begin your comments.

Ms. Samko: My name is Lorraine Samko, and I am the president of Aragona Village Civic League. And, I have a prepared statement, everybody can hear me. Good afternoon ladies and gentlemen of the Planning Commission. I appreciate your time today and your service to our City. I am the Lorraine Samko, I am the president of Aragona Village Civic League, and I am a 30-year resident of Sirine Avenue in Aragona Village. Aragona Village is opposed to allowing the property of 4937 Broad Street to be granted the variance to convert the property to a carwash. Residents have weighed into their Civic

League through our media communications via email, Facebook, next door, and Zoom meetings. The majority of residents including 90% of the responses to an online poll, being no, a carwash is not the right business to locate at 4937 Broad Street. Your vote to preserve our neighborhood and protect our residents from further egregious encroachment of this section of our community must be made. Aragona Village was conceived and brought to life by John Aragona in the late 1950s. He envisioned comfortable homes at modest prices. Homes for families, and where the children in those families can safely play and with streets that are vehicle and pedestrian safe for residents. We are the first planned development on the western side of the city and boasted over 3,000 homes with inception. First time buyers, many returning after military service abroad travelled on mud and dirt roads to see the new models named after ducks, such as the Teal and the Mallard. Today Aragona Village still captures much of the charm of its beginnings. Most of our families are basic working middle class and our neighborhood is still one of the most affordable for single family homes in the city. We were in the midst of change since the initial owners for passing the torch and a new generation takes route. Many of our homes on the market now first purchase by renovation buyers and sold with beautiful updates thus increasing our value. We now have 2989 homes according to the City of Virginia Beach tax records, making us the second largest neighborhood in the City. And, we are consistently in the top 10 of real estate tax revenues produced out of 856 neighborhoods. Based on calculations and estimates derived from the City of Virginia Beach Real Estate Assessors annual reports posted from 2016 to 2020. We are normally fourth, fifth, or sixth, which is not bad for 60-year-old neighborhood.

The origins of how Broad Street, mainly between Rosemarie and Southgate, have become commercial on its Virginia Beach Boulevard side is still being researched. It is also still in question that the City actually plans at some point to protect residents by modifying access to Broad Street and installing screens, fencing to buffer the commercial parchment. With evidence today indicates the intention and initial design for both sides of Broad Street, from Rose Marie to Southgate, was residential housing. Several residences on the commercial side of Broad Street remain and are matching the original home still existing. Additionally, it would be unusual to build homes to front facing to either the front or back of commercial property. Yet, 15 homes do just that. The current commercial environment along Broad Street consists mainly of second hand car dealerships. Neighbors have had problems for years with these car dealerships, having no concern for our neighborhood our the residents. They speed and test drive vehicles, load and unload commercial trucks daily, and park their excess inventory into the side streets, causing traffic hazards for residents and dangerous walking conditions for children. And, yes, neighbors in Aragona Village Civic League have brought the City officials attention, and the offenders claim up their act for about a week, and then return their shameful abuse. We requested reports obtained from Virginia Beach Police Department, they were 292 speeding and excess of 25 mph traffic violations in the corner of Broad Street, Rose Marie, Dorset, and Jeanne Street in a 3-year period. This is directly, the three block radius across from the applicant's property. Many main roads do not see that much activity. Through the years the applicants which were involved the ownership of some of the adjacent car dealerships along with the other car dealerships have done nothing to

permanently remedy this egregious behavior. It is likely, if the owner has given this inch, he will take a mile. This is to refresh your memory, the location that was leased to a pet rescue in 2017, and which the adopted pet killed a family member in the Pembroke Manner neighborhood into which he was adopted. It is reasonable to believe that the owner will begin parking even more cars onto the property and into the neighborhood interior if this plan is allowed. As well, we suspect attempts will be made to lease or acquire the adjacent vacant lot to continue expanding their dealerships into the neighborhood interior. And, final concerns the environmental expert about oozing from the carwash as well as the additional traffic that will come from such a proposed facility is troubling to residents and the right to a quality of life and quiet enjoyment of their property. And, yes, we are well aware of the type of car wash facility being requested and it is not welcomed. We would welcome a low staff, no foot traffic, quiet, clean, and passive business at the location, since it is zoned for business use. We do not accept the current proposal for the carwash and ask that you support our residential neighborhood of Aragona Village and vote no, to the proposed variance. I thank you again for your time and I will be happy to answer any questions.

Mr. Weiner: Thank you, are there any questions. No, questions. Hoa, next speaker please.

Mr. Dao: Last speaker is Mabe Beauregard. Mr. Beauregard please start by stating your name for the record and you may begin your comments.

Mr. Mabe: Hello, my name is Beauregard Mabe, and I reside on Rose Marie Avenue. I am here to speak about my disapproval of this plan for a carwash, for myself and my neighbors. Understand that the side of

Broad Street is commercial. Even though the buildings look exactly like my house where my two daughters and wife live with me. We live in a tri-level house, just like a good portion of Aragona resides. A few houses on that side of Broad Street still have families living in them. And, they are 5009, 5005, and 5001, which is between Grenfell and Dorset. XPERT services is already located a block away from A & G auto in an actual steel frame commercial building alongside other businesses further down Broad Street. So, why move into a house further away, may you ask. Well, most of my neighbors asked that same question, per the site, as this plans new location has six existing parking spots, which face residential houses. Xpert services currently location only has parking facing Virginia Beach Boulevard per detailed description on the application. The last sentence they stated, was the facility will be operated in a first class manner and only operational, ready to drive, ready to sell vehicles belong to A & G will be on the property any given time. To me, that sounds like dealer overflow parking. We have already lost houses on that side where dealers have started tearing down houses, tearing down other big trees, just like the owner states that the two oak trees that are currently on this location. And, they paved over lots, and four put gravel down to make extra parking for cars. We fought all this business for years, and we did win one where they put up fences and bushes right behind the Volvo dealership which is adjacent to this location. At that part of Broad Street is an eyesore and we do not need another active business with a consistent supply of vehicles, trash, noise, traffic, environmental issues. There is a vacant lot next door as Lorraine stated that my daughter actually plays at, and so does a lot of other residential children on this side of Aragona,

because we do not have many green spaces. And, I ask you to please, please say no to this. And, thank you for your time.

Mr. Weiner: Thank you. Any questions for the speaker. All right, Hoa, that is a last speaker, that is correct.

Mr. Dao: Yes, sir.

Mr. Weiner: All right. Mr. Bourdon are you still unmuted.

Mr. Bourdon: Thank you, Mr. Chairman. A lot of the comments, the ones that at least were not slanderous were, actually I am agreeing with a lot of them. What needs to be made as clear as I can, is that my clients are moving to this location because the facility that they are currently renting in a building of multiple facilities has other businesses that are doing not only detailing but they are doing car modification work, and they park everywhere. My clients have never parked and do not park any of their vehicles in any public right of way. And, and because of these other people who are working in other flex suites and this other building, they have cars parked in their three parking spots some of the time. It is been a nightmare with some of the other tenants and that is, we are a tenant in that building and they want out of there. And that is why they want to use this property in a manner that truly will be far, far less impactful than any business use would take place in this property. And that is all they can take place on this property, and I know you will recognize that fact. My clients do not operate the way other businesses down there are operating and my clients do not ever park their cars in any public right of way. And, obviously, you all read the conditions attached to this, no vehicles can be parked in front of this property, none can be parked in the street. Only four on-site at any given time, and there would not be anybody coming and going there other than the employees

bringing the car from the For Sale lot here to the wash and detailed and back. It is not a parking lot. It is not a maintenance facility, they have a separate maintenance facility elsewhere, and it is on Newtown Road. There is no use for this property, other than to store company documents, records in the building, and the very extremely limited use to wash and detail by hand cars behind the building in the fenced-in area. And that is to suggest that is going to create traffic and all the hazards and the and what have you. I would hate to be the gentleman's daughter playing next door when all those pit bulls were there and we agree, my clients tried for years to get them out of the property. It is unfortunate that is you know who it was leased to by, my clients they thought it was a good thing that they were doing to rescue dogs. But, when they were approached by putting another although, certainly not of that caliber, facility in their daycare in a kennel itself. We had had enough, I cannot imagine that the people across the street would want to see another kennel there or any number of other uses that are allowed by right. This gives the neighborhood the opportunity, they can put their eyes on it and their ears on it and see, day in and day out that it is not be impactful for them. And, if you want to put a condition on it that Staff reviews it compliance with a year something like that, we are fine with that too. We are trying to be good neighbor. We are not imposed and feel bad. Forever Home was a tenant and my clients did not have anything to do with their operations whatsoever. And, they had a hard time getting them out. I would be happy to answer any questions about the specifics of the conditions. I cannot imagine that any of the conditions that are attached this application, do not already clearly address the concerns that were expressed.

Mr. Weiner: Sounds good, hold on one second Mr. Redmond. Staff, Mr. Wall is trying to join us back in, if you can try and see if he can bring him in. He is offline. Mr. Redmond, do you have a question.

Mr. Redmond: Yes, I have a question for Mr. Bourdon. Mr. Bourdon can you address the comment about cars ready for sale and the meaning of that.

Mr. Bourdon: No car that is brought to this site to be hand washed and detailed, can be in any state of disrepair. This is not a repair facility where no work is going to be done on any car. So, that was a wording that was put in there because we want to make it clear that this was in no way a facility that will be used to modify a vehicle or a repair a vehicle or do anything to the vehicle, other than to simply hand wash with a hose and detail in the garage. That is it just like a lot of residents do on weekends on their own cars. Obviously, it is a little bit more than that, but, frankly, compared to all the other uses that this property could be put to. I just have a hard time that there is any less impactful use and one that would continue to maintain those trees and that structure for the future, not necessarily forever, but my client has no intent and nor could they attempt to put a car dealership on that piece of property or that piece of property in the one that he is talking about that we do not own that I believe is owned by Cycle World. We are trying to do that with all the landscaping. I mean you talked about the landscaping in front of the car lot that Volvo has, it goes all the way out to the edge of Broad Street, the Staff requiring us to do the same thing in front of this structure. Again, no cars, based on these conditions we parked in the parking lot that exists in front of this structure on this property. Thank you.

Mr. Redmond: Thank you.

Mr. Weiner: Mr. Inman, do you have a question for Mr. Bourdon.

Mr. Inman: I do. I am thinking maybe the question, Mr. Redmond had to do with selling cars on this site, and the conditions do not prohibit having vehicles marketed on the site. Number two, condition two says there will be no more than four vehicles parked on the subject property any one time. And, in no case shall the number of vehicles brought to the site and for detailing exceed 10 per day. So, perhaps we need to add a token to that condition and the vehicle shall not being shown for sale on that particular site, so, that this does not become a sales location as opposed to storage and preparation location. Is that suitable?

Mr. Bourdon: Mr. Chairman, can I respond.

Mr. Weiner: Yeah, sure can you go ahead Mr. Bourdon.

Mr. Bourdon: First of all, that would necessitate a Conditional Use Permit for motor vehicle sales which is not the case here, but we have no objection to any condition that you wish to place on there about the fact that no cars will be offered for sale, marked for sale. There will be no markings whatsoever on the vehicles, these have to be licensed, operable, ready to be sold. So, any conditions you all wish to place on there in that regard we are in full agreement with this, not a Conditional Use Permit to sell vehicles and I would never have even dreamed of trying to put that on this property on this street. Thank you.

Mr. Weiner: Mr. Graham, do you have a question.

Mr. Graham: I do. Mr. Bourdon, is your client extending with the exterior of the building.

Mr. Bourdon: Mr. Graham, it kind of broke up on my, he is going to paint the exterior of the building this year. It has not been done yet because he spent the \$40,000 fixing the interior of the building and Staff actually has pictures we sent them some before and after pictures of what this place looked like when they got it back from the Forever Home folks, but yes, the exterior of the building will be painted this year and in regardless I believe it will be painted this year. Although, if this use is not permitted it will be, I am not sure what use other than going back to talking about earlier, but yeah, so painted this year, and it will have to be landscaped per the condition, all along the front of the property. We have proposed some foundation landscaping but if we put the full landscaping across the entire frontage, I do not know that the foundation landscaping would even be visible. But the answer to your question with painting is yes, if that is all the question was Mr. Graham I did break up on me.

Mr. Wall: Yeah, that was my question. The building, obviously, it is in bad shape. Normally we would be doing some renovations to a building or tearing it down and building a new building. It sounds like to put a coat of paint on it and upgrade the lane is what we are looking for.

Mr. Bourdon: Mr. Chairman, if the building were going to be torn down and an investment made of that nature then clearly, this use would not make any sense on the property. It would be something far more intrusive and far more generating of traffic. If given all of the uses that are allowed that the Planning Commission and City Council etc. do not even have any, and the neighborhood have to say so over. So, I mean this is an attempt to try to maintain, improve it, a lot compared to what it was with the Home Forever folks, but to improve it make it look a lot nicer and at the same time minimize the use to one that is

already present at the West End of Broad Street in a facility with our moving out. Hopefully, there will be some attention given and it would not be pointed at my clients, because one of the emails I read basically is trying to accuse them of being the source of the problem down there, which is nothing could be further from the truth. And, we have not done any parking of vehicles on any streets down there. We are operating at a minimal with the three parking spaces in the flex suite, doing pretty much the same we are talking about doing here, six to eight vehicles a day, and not necessarily every day inside the flex suite with the three parking spaces out front as was described. And, we want to get away from there because it is problematic. A lot of what was said we agree with entirely with regard to down there. But we are trying to get away from that and we will be out there on the island, you will be able to see that we are complying and doing everything that we say we are going to do. And at the same time, I believe such a betterment for this piece of property over tearing it down, taking out the trees, putting a bigger parking lot in, and a new building of some sort. Or allowing another dog facility to go in there and there is already an interest there, but this was we thought the best thing we could do for our own peace of mind, getting away from where they are today, and not imposing on the people who have had to live across the street. These folks do not and again, I do not in any way attempt to suggest that they are a lot of their concerns about some of the things that may be going on the West End of Broad Street are not valid, we think they actually are. But, we are not a part of that and we want to make sure it is clear that we are not a part of that and that is what this will provide as well as, again just adaptively reusing the property. But, we certainly would not tear the house down, the former house down that

cannot be used as a residence. We certainly would not tear that down and then you do it for this very, very limited purpose. That would be something more substantial clearly.

Mr. Weiner: Ms. Klein, do you have a question.

Ms. Klein: Mr. Graham addressed it. Thank you.

Mr. Weiner: Okay, Thank you. Are there other questions for Mr. Bourdon. All right, and that is all of our speakers correct. Mr. Redmond, we are going to send this to you.

Mr. Redmond: Mr. Weiner, first thing let me say is Aragona is a great neighborhood. I think Aragona is one of the greatest potential investment opportunities in the City. So, let me just say that, I have a lot of friends in Aragona, the great houses, great lots, I could go on and on and on and on and on so I cannot speak enough about Aragona. However, all that said, I have to agree with what Mr. Bourdon said in the sense that, I am having a hard time figuring out what would be the less impactful than what this application is asking for, A. it is a commercial property, it is zoned B2, which is the least restrictive commercial zoning that there is. They are talking about six to eight, the conditions that the Staff put in the application say not to exceed 10 per day, which means what one an hour, one-tenth of a car an hour. That would be coming to this site where only two people would work, they are been washing cars. I washed my car by hand, it is not impactful to any of my neighbors, and none of them complain when I wash my car. So, I do not understand I think there may well be a very, very deep misconception about what is meant by a car washing facility. This is not an Auto Bell, it is simply a private use of a very small number of vehicles in a commercial property, which as far as I can tell has some very strict limitations that make it

extremely unimpactful, if there is such a word. So, very frankly I have to tell you, I went over there a couple times and I am well familiar with the street anyway. But, it is not that busy, this is not Independence Boulevard it is part of Broad Street. So, the idea that there are these great dangers that are attached to the idea of a couple of guys washing eight cars a day, I just do not see how that's you know even possible. So, in any event, I think it is an appropriate use for this structure, it is kind of an oddball looks like a house, it was a house but it is a B2 property on the commercial side of the street. I just cannot seem to figure out what is going to cause any kind of harm with this use. So, I am going to support it.

Mr. Weiner: Sounds good. Any other comments, Mr. Inman.

Mr. Inman: Thank you, Mr. Weiner. I want to ask the Staff, is there any definition of carwash in the zoning code.

Mr. Dao: In the Zoning Ordinance, there is a bunch of uses that fall under the umbrella for a carwash facility and the detailing services of motor vehicles is under that umbrella. Therefore, that is why the request is for a carwash facility, does that answer to your question?

Mr. Inman: Yes, it does answer my question. It is rather curious, but in any event, therefore, even if this is an academic question, I really do not expect this to happen, but assuming that there was no car washing with water on the this property would it require a use permit and I think from your last answer sounds like well, they are doing detailing, it is still a carwash.

Mr. Dao: That is correct Mr. Inman.

Mr. Inman: Okay.

Mr. Kemp: Yes, I can add just a little bit of background, that was an interpretation made by my predecessor Karen Lasley, years ago. So, it is one we are bound by.

Mr. Inman: Okay. All right. Nevertheless, I have to say that I think what is being proposed here is. I am sorry that I think a lot of opposition has been misled by the use of word carwash. I think maybe the orange sign that is posted say carwash.

Mr. Dao: Yes it does.

Mr. Inman: Okay. So, therefore, they are immediately thinking Auto Bell. And, that has generated all this concern. And, there is probably some misconception or misunderstanding on the part of the public that one can create all these conditions which they have, which basically addresses all of their concerns, and we are using this applicant wants to use this facility for very, very strict and basic preparation of vehicles for sale. And, with washing it on the other side away from Broad Street and it gets very unimpactful, using that word David was struggling with too. On the community, there is just not going to be that much activity here, the parking is limited to four. I am going to propose an additional condition that says that there shall be no sale of vehicles or for sale signs on any vehicle on the property, which Mr. Bourdon indicated would be fine because you would have to have a different use permit to do that. Anyway, but I think that might give some comfort to the citizens that are opposing this, that this is not going to mutate into something that they were worried about. And, I think there are very strict conditions on this that Mr. Bourdon has gone over. And, I think with that additional condition, I would hope that the opposition would be comforted by how restricted the use will be.

Mr. Weiner: Thank you, Mr. Inman. Any other questions, Mr. Wall.

Mr. Wall: I agree with all that and one thing though is, I think that I cannot speak for the Civic League President or for the Civic League or anything about Aragona. But it does appear is that they are trying to improve and maintain a strong neighborhood. And, it may not necessarily be this one business, because I certainly do agree with all the low intensity that this business will provide. But, I think that it is more of the infringement impacts of the whole aspect of what goes on out on Virginia Beach Boulevard with car sales, operation and businesses themselves, infringing into the neighborhood. So, that is what I see with the opposition with this application as it is not just this it is the whole element of the business moving on the Broad Street and to infringing into the neighborhood. That is all I have.

Mr. Weiner: Ms. Oliver.

Ms. Oliver: Thank you. Couple of things, I do not think from listening to the President of the Civic League, they were under the impression this was an Auto Bell. She stated very clearly when she read her opposition letter that they very clear as far as they understood what the use was going to be. I do have a question for Staff, how long has this applicant owned this piece of property.

Mr. Dao: That would be an appropriate question to ask Mr. Bourdon.

Mr. Bourdon: I know they have owned the property for at least eight years they may have owned it for longer than that, I know that most of the leasing of the property to the dog rescue operation. I do not think that they have owned it for like 30 years, but I know they have owned it for at least eight and it could somewhat longer than that.

Ms. Oliver: Great, thank you. So, I appreciate that, Mr. Bourdon. So, to be honest with you all we were out there and stood around that piece

of property and if the applicant has owned it for that long and this left it in that kind of conditions, I have to go with Staff on this. One, it is definitely in disrepair and has seemed like it has been in disrepair for some time. And, I am going to have to support the Staff on this one. But, thank you.

Mr. Weiner: Any other comments.

Mr. Coston: Yes, this is Coston. I think the number four condition covers that car should not be there for sale, it talks about them having to be there awaiting detailing only. I also think that we are only doing this because the properties are not connected. This is what you would consider an ancillary use, which is a byproduct of being in the business of selling cars and needing to wash them. And normally, you do not have to have a Conditional Use Permit to wash cars at a car dealership. So, I am going to support approval.

Mr. Weiner: Okay. Mr. Redmond.

Mr. Redmond: Mr. Chairman, I move approval of the application.

Mr. Weiner: All right, we have made approval of the application by Mr. Redmond. Do we have a second.

Mr. Coston: Second.

Mr. Weiner: We have a second by Mr. Coston. Do we want to look at any conditions, Mr. Inman are we good.

Mr. Redmond: Yeah, Mike, you wanted to add I am sorry let me get Mike in here. I want to add a condition that no car shall be displayed or offered for sale on the property, and no car shall have any kind of signage advertising them for sale, while on the property.

Mr. Weiner: Sounds good.

Mr., Inman: That is it what I had suggested.

Mr. Redmond: Okay, great. Thank you.

Mr. Weiner: All right, we have a motion by Mr. Redmond and a second by Mr. Coston, we are ready for the vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Weiner: It looks like Mr. Graham is offline.

Ms. Coleman: Okay, I will mark him as absent. Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: No.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: No, and Mr. Graham text me and said he cannot get back in to vote, and he said he might need some help.

Mr. Weiner: Yeah, I think he need to.

Ms. Coleman: Okay, we will work with him to do that. Vice Chair Wall.

Mr. Wall: No.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Mr. Weiner: And, just for the record Mr. Graham is back online.

Ms. Coleman: Okay, Mr. Graham do you have a vote for this item.

Mr. Redmond: Was he able to hear that motion.

Ms. Coleman: The motion was to approve the application with the added condition.

Mr. Graham: It is no.

Ms. Coleman: Okay, he said no. Okay. By recorded vote of six for and four against, Agenda item 13 has been approved with the added condition that there should be no sale of vehicles on the site and no signage advertising vehicles for sale on the property.

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

CONDITIONS:

1. Except for the ingress/egress point and where possible, the applicant shall install and maintain a minimum six-foot tall hedgerow along the entire length of the property on Broad Street. New plant material shall be at least four feet tall at the time of installation and appropriately spaced as per the species. A Landscape Plan shall be submitted to the Planning Department for review and ultimate approval. Plant material required by the approved Landscape Plan shall be installed prior to the issuance of the Certificate of Occupancy for the Conditional Use Permit.
2. There shall be no more than four (4) vehicles parked on the subject property at any one time. In no case shall the number of vehicles brought to the site for detailing exceed 10 per day.
3. Vehicles associated with the operation, employees or otherwise, shall not be parked on any portion of the public right-of-way or the paved roadway/driveway west of the building.
4. There shall be no automotive repair work performed on this site nor shall there be any outdoor storage of materials, vehicles, equipment, or vehicles other than those awaiting detailing and as conditioned herein.
5. All automotive detailing shall be limited to only inside the garage, and the handwashing of vehicles within the enclosed fenced in area in the rear of the site.
6. The hours of operation shall be between 9:00 a.m. to 5:30 p.m., Monday through Saturday.
7. There shall be no sale of vehicles or signage on-site to identify the business.
8. The proposed use shall comply with the provisions of Section 228.1 of the Zoning Ordinance for a Car Wash Facility.
9. The existing vehicular access point shall be upgraded to a commercial entrance that meets Public Works Standards. All approvals and permits associated with this upgrade shall be obtained prior to the commencement of any work in the right-of-way.

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

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

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

Items # 14 & 15

Home Depot, U.S.A., Inc. [Applicant & Property Owner]

Conditional Use Permits (Bulk Storage Yard & Truck & Trailer Rentals)

2324 Elson Green Avenue

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The location of the outdoor storage areas, and the trucks and trailers and construction equipment rentals shall be limited to the areas depicted on the submitted plan entitled, "THD #4643 TRC Prepare For The Home Depot," prepared by Kimley Horn and Associates, Inc., dated November 16, 2020, (Site Layout Plan) which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, and shall be subject to all applicable Building and Fire Codes.
2. The outdoor storage areas shall be fenced and screened as depicted on the Site Layout Plan and submitted plan entitled, "Concept B," which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development. This is a deviation to the perimeter fencing and landscaping required by the Zoning Ordinance.
3. The mulch shall not be stored outdoor more than five months per calendar year.

4. There shall be no signage installed within the area, on the fence, or immediately adjacent to the area other than professionally prepared traffic control signs.
5. The outdoor storage materials shall not be stacked higher than the installed hedgerow and/or fence screening.
6. The proposed landscape depicted on the submitted Site Layout Plan shall be installed and maintained for the duration of the use.

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

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

Items # 16

Five Points, LLC [Applicant & Property Owner]

Modification of Proffers

2005 Lynnhaven Parkway

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
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:

Proffer numbered 3 of the Original Agreement is hereby modified with regard to the Property only by adding the following language:

“Notwithstanding the requirements of Proffer #3, the drive-through lane depicted on the Property (known as Outparcel 4) may encroach by up

to 200 square feet into the portion of the 25 foot landscape buffer ("25 Foot Landscape Buffer") depicted on the original "LANDSCAPE PLAN OF DEVELOPMENT OPTIONS, INC. SHOPPING CENTER" prepared by Engineering Services, Inc. dated January 2, 1996 ("Original Landscape Plan"), with a retaining wall, curbing and pavement, in the manner depicted on the exhibit entitled "12' DRIVE THRU ENCROACHMENT EXHIBIT, PRINCESS ANNE ROAD, VIRGINIA BEACH, VA" dated December 17, 2020 ("Encroachment Plat"), which Encroachment Plat has been exhibited to City Council and is on file with the Planning Department. In order to supplement the Original Landscape Buffer on the Property, GRANTOR will add additional landscaping in the manner and locations depicted on the Encroachment Plat. Moreover, in the event that the construction of the retaining wall and improvements depicted on the Encroachment Plat causes the trees in close proximity to the retaining wall to die, GRANTOR will remove and replant such tree or trees."

Proffer 2:

Those proffered covenants, restrictions and conditions contained in the Original Agreement, which have not been modified herein, shall remain in full force and effect.

Proffer 3:

Further conditions lawfully imposed by development ordinances may be required by the GRANTEE during detailed site plan review and administration of applicable City Codes by 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 # 17

Brant Feldman [Applicant & Property Owner]

Conditional Use Permit (Outdoor Recreation Facility)

1708 River Court

January 13, 2021

RECOMMENDED FOR APPROVAL – HEARD – CONDITIONS MODIFIED

Mr. Dao: The next item for consideration is item 17, the application of Brant Feldman for a Conditional Use Permit for Outdoor Recreational Facility. The property is located 1708 River Court in Lynnhaven District, the applicant's representative is Mr. Leslie Watson. Mr. Watson, you have up to 10 minutes. Please give the Staff a minute to unmute your microphone before you make your comments. I think Mr. Watson is not available, would you like me to call on the next speaker who is also applicant representative on the application.

Mr. Weiner: You are on item 18, correct.

Mr. Dao: Number 17.

Mr. Weiner: I am sorry 17, okay. That is fine, if they are available.

Mr. Dao: Mr. Nathan Lahy. Mr. Lahy please state your name for the record and begin your comments.

Mr. Lahy: Yeah, this is Nathan Lahy. There is some corrections here, Leslie Watson was representing on States Court which was approved through the Consent Agenda. Mr. Brant Feldman is actually on this call, he will be representing himself on this project and I will stand by to answer any questions that may come up about the regarding specifics.

Mr. Dao: Thank you for that clarification. Mr. Brant Feldman, please start by saying your name and start your comments.

Mr. Feldman: Good afternoon, this is Brant Feldman I am joined with my wife Carrie Feldman. We appreciate the opportunity to speak with you today and first I want to apologize that this is coming before the Planning Commission after the ramp was already constructed and I was unaware that permit was required and I recognize it ignorance is no excuse of the law, so I want to apologize. Second, point, I wanted to bring up immediately, was that we are certainly willing to accept the Staff recommendations and conditions in order to have approval for the ramp. There were a couple of conditions that we were simply hoping that the Commission would consider possibly changing, given some extenuating circumstances, so, I will hit those quickly. The first that I wanted to bring up is item number six, which is a chain will be secured across the ramp when the ramp is not in use so that ramp cannot be used. When we bought this home as you can see it had a seven-foot security fence, all the way around the property and the property is all the way down at the end of River Court, and we get no traffic down here, the ramp has been up for I want to say probably in excess of four months and we have never had anybody come down to this end of the Court. And, the only reason why I had any objection, but a thought on it was just the chain banging against the skate light can tend to damage the ramp and also having it on there, I think the kids with a chain out there was another thought. So, just given the position of the house and the security fence around it, we just felt that it was unnecessary but again it is something that the Commission feels very strongly about we would certainly accept. And, the one that we may have a little bit more concern about what was item number seven, it says at least

one adult will be outside the house and present when the ramp is in use. We really did not understand the full purpose of this condition, we bring our children to prior to building this to all the other skate ramps, the City of Virginia Beach, we would bring into that skate ramp and there is no requirement an adult be there. There is no adult supervision at Virginia Beach Mt. Trashmore. There is a ramp located at WRV and one at Coastal Edge, and both of them are proceed its own risk. There is no adults out there, there is no adults, and there are people just drop their children off. And, so, we felt maybe that this one, we did not really understand why we had to stand outside. The only thought was it was something for safety, but we require our kids to wear safety equipment when they use it. And, one of our kids falling on the ramp while standing outside is not going to prevent them from falling. So, we did rather than have us stand out, than we would treat this ramp similar to how we treat our swimming pool and our trampoline, there is always an adult present at the house when the kids are using these things. So, in the event if there is an emergency or something that we can respond, so, we were either having out one item number seven either remove or potentially amended just to say to have an adult home while the ramp was in use. That concludes our comments. Thank you very much for consideration.

Mr. Weiner: Thank you, sir. Any questions for Mr. Feldman. No questions. Okay. Any more speakers.

Mr. Dao: Those the only speakers we have for this item.

Mr. Weiner: That is all the speakers we have. All right, we are going to close it and open it up for discussion and this would go to Mr. Graham.

Mr. Graham: So, Staff recommended approval with the conditions, and correct me if I am wrong, the applicants now willing to accept all the conditions.

Mr. Weiner: He is, but the item number six and number seven not in there, the chain over the ramp it is not there, and an adult outside while the ramp is in use.

Mr. Graham: Yeah, I think the chain on the ramp should be there to prevent kids that aren't welcome from skating there. The adult outside I don't know that is necessary. That is just my opinion, but we did receive some opposition, I received a letter from a neighbor, which I saw just earlier this morning, where I guess there is foul language being used out there, which kind of makes you wonder if an adult does need to be there. So, I guess I am torn a little bit, I think it is great that the kids have something to do. There is a lot worse things they could be doing. So, I just a little torn on this. Dee, you received the email as well.

Ms. Oliver: Yeah, I did and that is sort of flagged this a little bit and that they were complaining about the amount of noise. And, really it was the foul language that was really a concern of hers, which I can appreciate that nobody wants to be out there in yard and have to listen to that all day, however, long she is listening to it. So, she requested, I was trying to look and read the letter, was the hours or adult supervision while being used. So, I do not think, I am not worried about her home values as much as I just general being outside and having to listen to bunch of foul language. But, maybe the applicant can. Did you close this David, that just curious as to, I do not know that is my problem with it.

Mr. Weiner: I did close, would you like to ask some questions to the applicant.

Ms. Oliver: I would be curious to find out just how much this is used and do they have a problem with that. I am little torn on this with as Whitney is.

Mr. Weiner: Mr. Feldman are you still available.

Mr. Feldman: This is Brant Feldman, I am still available.

Mr. Weiner: Ms. Oliver has a question for you.

Ms. Oliver: I do not know if you could hear me or not, but we got a letter in about the skateboard and the amount of foul language that is being used and how loud it is, and what a disruption it is to a neighbor of yours.

Mr. Feldman: Yes, Ma'am, that was the first we have heard of any foul language, that was never brought to our attention, obviously. We have two young boys 11 and 13, and I do not tolerate that type of language with my children. So, I will certainly speak to them about and ensure that when we are using the ramp that they are being courteous or not being loud and certainly not cursing. When we learned that there was some objection to the ramp, we immediately took additional measures to work with our neighbor again things we do, we filled the coping with foam and I spent another \$1,000 to have end caps covered, because that reduces the noise, we had insulation put underneath it. We told them there are concerns or some of the sound when they like to sit outside at sunset. We are good neighbors, we said, hey if you are ever outside and this ramp is bothering you, call us, we'll pull our kids inside. Because the ramp is not used that frequently, when we first brought it my son used it probably every day for two weeks, I would say he's been on it once in the past 30 days. And, so my younger son is not a skateboarder, so, this my oldest son is 13. In the summer time, I am sure it is going to be used for a couple of days a week until they are tired of it. But, I will certainly ensure that and my wife as well they are not being loud

or cursing. As I have said, we want to good neighbors to all our neighbors and if they are having concerns by all means, we will address it. If there are times they are outside and they do not want the ramp being used, we are happy to work with them.

Ms. Oliver: Right, thank you.

Mr. Feldman: Yes, Ma'am.

Mr. Weiner: Mr. Wall.

Mr. Wall: I have got a question for Mr. Feldman. So, can I see the location of the ramp on the property. Oftentimes people push their use of these to the property line. Can you speak to the siting and placement of the ramp.

Mr. Feldman: Yes, sir. There is a large open area next to our house, and as you can see it kind of where we put it, there is a driveway there. It was basically placed in an area where it was not encroaching on the setback line, and we did not want it too close to our neighbors and the site was mostly chosen because it was a flat area. The ramp is about 16 feet wide and requires a level ground, so, honestly the site was chosen just because that was the flattest portion of that area. In terms of its stand off from the fence, and I think Nathan who may be able to comment on that distance from the fence, I do not have the exact measurements in front of me.

Mr. Wall: Okay, thanks.

Mr. Weiner: Ms. Klein, do you have any question.

Ms. Klein: I have a comment, not so much for Mr. Feldman, but for the group. With 11 and 13 year old boys I am surprised to hear that suddenly language is an issue. You think that either is or is not, if they have a pool and a trampoline they are likely outside pretty frequently with or

without friends. So, I am surprised to hear that all of a sudden there is a language issue. I also think that speaks to the neighborliness the fact that he seems to have gone out of his way to alleviate some of the noise with the expensive additions that he has made to the ramp itself to reduce the impact on his neighbors.

Mr. Weiner: Thank you, Ms. Klein. Mr. Tajan, do you have something.

Mr. Tajan: This to Mr. Wall's question, the siting of the ramp also is in that location because it is outside of the 100 foot Chesapeake Bay Preservation Area buffer, where they would need to obtain another variance from the CDPA Board if it were located closer to the water essentially. So, it is in the location that is environmentally better although it does require a waiver of that setback.

Mr. Weiner: Any other comments.

Mr. Horsley: Mr. Chairman, this is Don.

Mr. Weiner: I am sorry Don. Mr. Horsley go ahead.

Mr. Horsley: Did the applicant say that he was not in agreement with condition number six, a chain to secure the ramp?

Mr. Weiner: That is correct. Item number six and item number 7.

Mr. Horsley: Was he concerned about safety issue with a chain there, possibly could not get unhooked before kids used it and trip the kid up or something, is that the reason he was. I mean I do not want to require something that is not safe thing to require. Is that the reason he did not like that.

Mr. Weiner: Mr. Horsley, he said it was sliding the chain back and forth around the over the ramp that could damage it in time to come. Like you are saying, I personally I am not in favor of the chain, either. That is my opinion.

Mr. Horsley: Yeah, the safety thing for the youngsters it looks to me like if it was left up for some odd reason and kids started skating and that thing tripped them up, it could hurt them or other things in such. I would be in favor of eliminating number six myself, but anyway. Thank you.

Mr. Weiner: Thank you, sir. Mr. Graham.

Mr. Graham: I agree with everything. And, if it was a swimming pool there or something else or basketball court you are going to have the same type of language. These kids have something to do to, it's keeping them busy. I am okay with removing the condition for the chain and for the adult supervision, and I would like to make a motion that we approve the application. I recommend approval.

Mr. Inman: I will second.

Mr. Weiner: Do we have a second. Okay. So, a motion for approval by Mr. Graham with eliminating item six and item number seven in the conditions and a second by Mr. Inman. We are ready for the vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.
 Mr. Inman: Yes.
 Ms. Coleman: Ms. Klein.
 Ms. Klein: Yes.
 Ms. Coleman: Mr. Redmond.
 Mr. Redmond: Yes.
 Ms. Coleman: Ms. Oliver.
 Ms. Oliver: Yes.
 Ms. Coleman: Vice Chairman Wall.
 Mr. Wall: Yes.
 Ms. Coleman: Chairman Weiner.
 Mr. Weiner: Yes.

Ms. Coleman: By recorded vote of 10 for and zero against Agenda Item number 17 has been recommended approval. With the removal of condition number six and seven.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The skateboard ramp structure shall be located no closer than 32 feet from the front property line as depicted on the exhibit entitled, "Conceptual Site Plan of 1708 River Court Virginia Beach, VA," by Orbis Landscape Architecture, dated September 24, 2020. This location is a deviation to the fifty-foot setback required by the Zoning Ordinance.
2. To reduce the level of sound emanating from the ramp when in use, the following shall be utilized on the construction of the ramp: (a) the underside of the skating deck shall be insulated; (b) wood sheathing shall be installed at each end of the deck platform; and (c) the coping shall be filled with spray foam.
3. The skateboard ramp shall not be open to the general public nor shall it operate for profit.
4. Within ninety (90) days of City Council action, the applicant shall file all necessary permits with the City for review and approval for the skateboard ramp structure.
5. The use of the skateboard ramp shall be limited to the hours between 10:00 a.m. to dusk, daily.
6. ~~A chain shall be secured across the ramp when the ramp is not in use such that the ramp cannot be used.~~
7. ~~At least one adult shall be outside the house and present when the ramp is in use.~~
8. Subject to Section 221(k) of the Zoning Ordinance, an annual review of the Outdoor Recreation Facility Conditional Use Permit, based on the date of City Council approval, shall be performed by the Planning Director or his designee to assure that the use does not conflict with any adjacent land uses.

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

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

Items # 18

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

Conditional Use Permit (Automobile Service Station)

4493 Shore Drive

January 13, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Dao: Yes, sir. The next item for consideration is Agenda number 18, the application of Verdad Real Estate and Construction, a request for a Conditional Use Permit for an Automobile Service Station located at 4493 Shore Drive in the Bayside District. Mr. Grady Palmer is the applicant's representative for this request. Mr. Palmer, please start by stating your name and you can start your comments. Mr. Palmer, please start your comments. Mr. Chair, would you like to move on to the next item and circle back.

Mr. Weiner: Did we try Mr. Bourdon again. Mr. Bourdon, so he can comment it.

Mr. Dao: Mr. Palmer can you hear that.

Mr. Palmer: Yeah, Hoa, I am here.

Mr. Dao: Okay. All right, please state your name and begin your comments.

Mr. Palmer: Sorry for the technical difficulty, seems to be with attorneys today. My name is Grady Palmer, local attorney here representing the applicant on this application. Chairman Weiner, Vice Chair Wall, Members of the Commission, and Staff, I want to thank you for the opportunity. And, I want to thank Staff for their recommendation. It has been a pretty meticulous review of this application as you know it is in the Shore Drive Corridor Overlay District, we have been to the

Bayfront Advisory Commission two times, received unanimous support for the design, the layout, and also the architecture. I think the result of the review process is really bringing a very high quality project to the Corridor in to Shore Drive and I am proud to be a part of it. Couple of things I want to note out of the Staff report and I think that this redevelopment project is going to be real benefit to the Corridor, but also being sensitive to understanding that there are neighbors nearby. I have done a lot of these projects where major corridors that butt up against an existing established neighborhood and we really try to work hard to be sensitive to neighbors and to design and address things that will make the benefit over the current situation. And so, a couple things that the staff report notes that noise items are being moved away from residences and there is a significant enhancement of buffering and landscaping on the property. We have got an eight foot fence that divides the 7-Eleven from the neighbors to our south. For the Shore Drive Corridor we are reducing the number of ingress-egress points from three to one on Shore Drive, and I think probably significantly we are reducing the amount of impervious surface. And those things where we try to look for those opportunities to make these projects work better for existing neighbors. I know that there is some concern out there about the gas tanks and living next door to the gas station, I will get to that in a minute. But we try to be very sensitive to designing these things in a way that they can coexist with neighbors. As you know, this site is zoned B2, so, there is a significant amount of by-right development that can happen on the site. We think the Conditional Use Permit process is a good one, particularly in this location, to shape a project in a way that makes it much more compatible with its neighbors than by-right development. Some of the safety concerns I know that our

neighbor to the south has expressed concerns about living next to a gas station. I will tell you I think that these are some of those highly regulated of all the business commercial uses. I know there is annual inspections and state regulations and I think that I can stand here before the Commission and say that this is a safe operation. I do want to note, there was discussion about whether there are other services stations, 7-Eleven's, and Wawas in Virginia Beach that are adjacent to residential. Note to the Commission that just to our West down Shore Drive at the Pleasure House Road intersection there is a Wawa. If it is not closer than we are, it is about the same location, immediately adjacent to residential and that I do not know of any issues with that. Maybe Staff can address that in a little bit more detail. But, I think this is a very good project that we are bringing to you and I am proud to be to be a part of it. I do want to note that I have with me on the phone today Jeremy Yee with Kimley-Horn, who can answer any engineering questions that you have. We have got Brett Skinner with the applicant Verdad who was the developer and then Ashley Bodner, who is with 7-Eleven corporate who can answer any questions from 7-Eleven end. I want to thank you for the time and I will stand by for any questions that you got. Thank you.

Mr. Weiner: Thank you. Any questions. Okay. Mr. Dao.

Mr. Dao: The next speaker is Julie Jimenez followed by Enrique Jimenez. Mr. Jimenez, please start by stating your name for the record and begin your comments.

Ms. Jimenez: Good day everyone. Can you hear me.

Mr. Dao: Yes, ma'am.

Ms. Jimenez: Good day. Thank you for allowing me to express my concern, but I want to start to say that I am not opposed to any development in

Virginia Beach City. I am a resident of Virginia Beach City since 2008. I am very happy living here and I just wanted to share with you all my concern. I am the owner of the house that is right beside the project that you have for this gas station and I am very concerned because I live here with my mother she is 86 years old. I have my husband who is in sick condition, he has heart condition. He has problems breathing sometimes and he was hospitalized twice due to this condition. As I received the letter about a development close to my house, first thing that caught my attention was a gas station. There is 16 pumps and, that for me is a high risk for my family. We are less than 50 feet from this location, and I been going around, checking on gas stations, and I can see that there is no gas station so close to a residence. I started doing research to see if I am not correct or wrong and I find several information that you might be already aware of. That there are high concerns having gas station close to neighborhoods because of the harmful to human health that release from the gas station during the vehicle fueling or underground storage tanks. There are compounds in those fumes that are adverse to health effects, that can cause nausea, cancer, anemia, and even increase the sensitivity and infections. What we have lived in 2020, with all this pandemic, I believe that probably right now the codes for how we build gas station close to a residence might have to revisit and change. Here in Virginia, I believe the code or the law for having that gas station is it cannot be more or less than 50 feet, which I am less than 50 feet from this location. But, if you do more research you will find that there is many, many environmental health groups that bring to the attention of the City's or Planning Commission that gas station should not be less than 300 feet from a residence. I also not understanding why the City would allow a gas station, when this gas

station would right in front of another gas station, less than 100 feet. There is another Sunoco we have in Shore Drive and we have another gas station less than 100 feet. Then we have the Kroger and we have the Wawa. So, the need of the gas station is not the reason.

Mr. Dao: Ms. Jimenez that is all the time you are allowed. The next speaker.

Mr. Weiner: Hold on one second Dao, I want to see if anybody questions for her. Does anybody have questions. Okay, thank you.

Mr. Dao: The next speaker is Enrique Jimenez.

Ms. Jimenez: This is Julie Jimenez and I will be speaking behalf of my husband and he is here with me.

Mr. Dao: Mr. Chair, would you like her to speak on behalf of her husband.

Mr. Weiner: That is fine.

Mr. Dao: All right, Ms. Jimenez, please start your comments, you have three minutes.

Ms. Jimenez: Okay, so, as I was saying I do not see the need for another gas station. As I say, when I started, I am not in oppose of development, I am here because I want us together to find a resolution for my family. My family and I are hardworking people and we chose this house because of the safety, that this house was given under peace in the area. I mean a gas station here 24/7 will take away that safety that we had during all these 12 years living here. I will call and sales, crime it will increase, filling all cars close to my house would increase crime. The insurance of the house would raise for me, we are hardworking people, we cannot afford getting more in our financials to pay more insurance. I have teenager here who is happy, living, she is a high school student. She had been in the principal list, because I provide to her safety and peace. I want to urge you to

please not to approve this unless there is something that can help me to maintain my safety. I mean a wall here is not an option. That will not mitigate the risk that my family and my 86 years old mom, my husband with a heart condition. With all what happened with this pandemic we have to revisit how we do things because this gas station can harm our health, and I beg you, please. I had a person that was arrested with DUI over my house because he hit my car, turning from Shore Drive to Greenwood Road, hit my car. We have weeks trying to get to get another car, and the anxiety that that brings to us because we was afraid someone else would come and hit our house. Bringing a gas station close to my house, you are bringing back that worry to me and my family. So, I asked you please to review very good this and think about my family. Same way when you close your door and you go to your bed, and you are safe. I want you to think of my family same way that my mother is 86 years old, and my son who is at work for right now. He lives with me and he is going to college to help him with his college and let him live with that. And, he have to go every morning, and he work in the unit for COVID. I ask that you allow him have this peace.

Mr. Weiner: Ma'am, thank you for comments. Your time is up, thank you very much. Does anybody have any questions. Okay, thank you very much. Do we any more speakers.

Mr. Dao: No, I believe there is no other speakers, the remaining speakers are on the applicant's team and I would turn back to you.

Mr. Weiner: Okay. Mr. Palmer did you have any rebuttal.

Mr. Palmer: No, Mr. Chairman, I will see about the questions.

Mr. Weiner: Okay, any questions Ms. Oliver.

Ms. Oliver: Mr. Palmer, do you mind addressing her concerns as far as the proximity of everything to her house, please.

Mr. Palmer: Yes. So, we meet all the state regulations. The state highly regulates the placement of underground storage tanks. It meets all the distance requirements your Staff has reviewed it. We certainly understand the concerns, but just looking around the area, there are very similar situations not far down Shore Drive where these things are in close proximity and maybe even closer proximity at the intersection of Shore Drive and Pleasure House Road with no issues. And, I think if you look in a wider scope through Hampton Roads you are going to find a lot of these that have been approved over the years with no issues. No impacts to the community or individual health.

Mr. Weiner: Any other questions, Mr. Coston.

Mr. Coston: Yes, for the attorney, does not the store portion of the business, is that what is closest to her house and does that not provide some type of buffer between where gas is being pumped versus right up against their house.

Mr. Palmer: Yeah. The building is on the east side of the property, so her property is separated by a buffer like a 15-foot buffer yard, I believe it is 15 feet. But, most importantly, there is an eight-foot fence that we have run the entire southern property line between our property and the houses that are just to our south, and so there will be a significant amount of landscaping and fencing that will separate the properties that do not currently exist right now. So, I think that alone will provide a major buffer and separation from the gas pumps, which are probably about I am trying to see the measurement on the site plan,

but I would say it is at least 50 feet off the property line separated by a significant amount of landscaping and an eight-foot fence.

Mr. Coston: Okay, thank you.

Mr. Weiner: Any other questions, Mr. Wall.

Mr. Wall: This question is for Mr. Palmer, we see the land use out there right now, but it almost appears that the lot that is on the corner that is adjacent to Ms. Jimenez was formerly a gas station. I mean I could be wrong, but there is some historical buildings that the facility almost looks like it, may not have any bearing on this applicant but it is just of interest. It is kind of interesting that one time it may have been a gas station right there. Mr. Palmer could speak on that if he has any knowledge of it. I appreciate it.

Mr. Palmer: Yeah, I do not recall what this is. As long as I have been going up and down Shore Drive it is been a car dealer, so, I am not exactly sure what predated that dealership.

Mr. Weiner: All right, thank you, sir. Any other questions. All right, we are going to close this and Mr. Redmond.

Mr. Redmond: Mr. Chairman. So, look these are two commercial properties in a commercial corridor that are very much unloved. If you go to page seven of the Staff report on this application, what you see is a very detailed, very well thought out site plan that would by any stretch of the imagination be a very substantial upgrade to the built environment and in a very appropriate place. Shore Drive is a big roadway. If gas stations and gas pumps and underground storage tanks were dangerous, we would have all dropped dead by now and all the people who work at them would have dropped dead by now. They are not inherently or intrinsically dangerous in any way and nor do they cause crime. So, I do not understand it very frankly

the assertion. This is by all accounts very appropriate and positive application. And, I am certainly going to support it unless anybody else has any comments, I am going to make a motion in just a minute.

Mr. Weiner: Do I have any other comments.

Mr. Coston: I have got one other comment. With the developers be adverse to maybe installing some bollards along those parking area next to the house.

Mr. Weiner: We would have to ask Mr. Grady that information to that question.

Mr. Palmer: We certainly would be willing to do that.

Mr. Coston: Okay.

Mr. Weiner: I would like to make a statement if I could. Probably two years ago we approved a 7-Eleven just like this half-a-mile from my house and it is in a residential neighborhood and the store, gas pumps everything else are just as close to the houses as they are here. It is being built right now as a matter of fact, and it is making the area look so much better than what it was there before. So, I personally like Mr. Redmond says I do not see a health hazard. They are a highly regulated, they have to be checked and Mr. Coston told us about during the informal about how the groundwater and everything else, alarms will go off if something happens. So, personally I am going to be in favor of this. Mr. Redmond.

Mr. Redmond: Mr. Chairman, I move approval of the application.

Mr. Wall: I have a couple of things before we.

Mr. Redmond: Of course.

Mr. Wall: I am not opposed necessarily either, I think that there probably should be something in the Zoning Ordinance that provides a buffer

between a use like a gas station, I think there are studies out there. So, I do not want to discount Ms. Jimenez's comments concerning health hazards or that it is people dropping dead. I think the long term effects upon an extra gas station here, there may be so I am not necessarily person to state one way or the other. But there are studies, I believe out there that she has reviewed and that are available. So, but she did bring up a good point that I think that the City should look into potentially revising or reviewing their ordinance concerning the location of fueling stations, next to residential properties. In this case, there is a buffer, aesthetics are very good and compatible with the Shore Drive Corridor. So, I am in favor of it for those reasons.

Mr. Weiner: All right, sounds good. Mr. Coston, I have a question for you, instead of actually installing bollards in those locations, what about parking bumpers that go on the ground and when the wheels hit the cars will stop. You got a pretty long distance between those parking spaces and the wooden fence after the buffer goes in. If a car goes through that, I do not think bollards are not going to stop.

Mr. Coston: Well, my thought process was that you can see that the actual parking spaces are what abuts to her house and that might give her some comfort at a minimal expense. Because a parked car, if you floor will jump that little bumper in front of the car, but the bollards are usually three feet deep maybe, and would give you a little bit more protection. But, I am going to support it.

Mr. Weiner: Okay. Mr. Redmond, you made a motion that you want to amend anything on that motion.

Mr. Redmond: No. Obviously, he did not have to add this to a site plan and then I simply think that is a conversation that having had this conversation that seems to be the applicant can address that before City Council.

Mr. Weiner: Okay. We have a motion, do we have a second.

Mr. Coston: I second.

Mr. Weiner: We have a motion by Mr. Redmond and a second by Mr. Coston. We are ready for the vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By recorded vote of 10 for and zero against Agenda Item 18 has been recommended for approval.

Mr. Weiner: Okay. Want to back and try number 13 one more time.

Ms. Smith: Could I interrupt you for one quick second just for some clarification.

Mr. Weiner: Sure, you can.

Ms. Smith: This is Carolyn Smith, was that with bollards to be placed parking spaces along that Southern property line, was that with that new condition or not.

Mr. Weiner: No, that condition did not make it in there.

Mr. Redmond: There was no new condition. The applicants is going to get to adjust things before City Council.

Ms. Smith: Okay, thank you for that clarification.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			

Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. When the property is developed, it shall be in substantial conformance with the submitted concept plan entitled, "CUP Exhibit - 4493 Shore Dr, Virginia Beach, VA" ("CUP Exhibit"), prepared by Kimley-Horn, dated ~~October 2020~~ January 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. When the property is developed, the exterior of the convenience store building and fuel canopy shall substantially adhere in appearance, size and materials to the elevations entitled, "Review Board Elevations - 7-Eleven Store #1048169, Shore Drive and Greenwell Road, Virginia Beach, VA 23120," prepared by Intrépide Design, dated October 12, 2020 and October 15, 2020, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. When the property is developed, the monument sign shall substantially adhere in appearance, size and materials to the elevations entitled, "SVE_1048169_Shore Dr Virginia Beach VA_R3," prepared by Harbinger, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. Signage for the site shall be limited to:
 - a. Directional signs.
 - b. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set in a brick base, as noted in condition 3.
 - c. No striping shall be permitted on the fuel canopy.
 - d. There shall be no other signs, neon signs, or neon accents installed on any wall area of the building, on the windows and/or doors, canopy, light poles or any other portion of the site.
5. At the time of site plan review, a Landscape Plan that reflects the plant material depicted on the submitted CUP Exhibit, along with all applicable requirements of the Zoning Ordinance, shall be submitted for review to the Development Services Center and shall obtain approval prior to the issuance of a building permit.
6. The dumpster shall be enclosed with a solid brick wall in color and material to match the building and any required screening shall be installed in accordance with Section 245(e) of the Zoning Ordinance.

7. All air pumps shall be screened from the right-of-way with plant material of a size and species acceptable to the Development Service Center's Landscape Architect, all of which shall be depicted on the Landscape Plan.
8. Outdoor vending machines and/or display of merchandise may be permitted only if fully screened from view from the rights-of-way as approved by the Planning Director.

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

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

Items # 19

Boaz Benjamin Brothers [Applicant & Property Owner]

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

1944 Pleasant Ridge Road

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled "Resubdivision of Property of Boaz Benjamin Brothers", dated August 10, 2020, and prepared by WPL Site Design, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

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

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

Items # 20

Thomas A. Brown [Applicant & Property Owner]

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

2888 Indian River Road

January 13, 2021

**RECOMMENDED FOR APPROVAL – CONSENT – WITH ADDED CONDITION OF 20’
BUFFER**

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled "Exhibit Showing Proposed Resubdivision of Property of Thomas A. Brown Known as 2888 Indian River Road and J.C. Davis Parcel 2 Ac. +/-", dated September 30, 2020, and prepared by Hayden Frye and Associates, Inc. Land Surveyors, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. Legal ingress/egress for Parcels 4 and 5 to Indian River Road via the private lane to be known as Lauren Lane shall be maintained at all time, through ingress/egress easement(s). The easement(s) shall include an all-weather surface for the 15-foot wide private lane to be installed and maintained. Said easement(s) shall be depicted on the final plat and recorded contemporaneously by deed.

3. A 20-foot tree preservation buffer shall be maintained along the property lines which border the West Neck Village Subdivision. This buffer shall be shown on the resubdivision plat to be reviewed by the City of Virginia Beach.

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

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

Items # 21

Jonathan West [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

4814 Lake Drive

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application numbers 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20, with the added condition for the 20-foot buffer, and 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 4814 Lake Drive and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. 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.

Items # 22

Alfred Nicoll [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

113 55th Street Unit A

January 13, 2021

RECOMMENDED FOR APPROVAL - HEARD

Mr. Dao: That is correct. Item 22, the application of Alfred Nicoll for a Conditional Use Permit for Short-Term Rental located at 113 55th Street, Unit-A in the Lynnhaven District, the applicant is Gus Nicoll. Mr. Nicoll, you have 10 minutes, please start by saying your name for the record and begin your comments.

Mr. Nicoll: Hi, good afternoon everybody and thank you to the Planning Commission for giving me an opportunity to discuss my intentions. I applied for a short-term rental application. I have lived in Virginia Beach for 30 years, I am a retired naval officer, the last decade I have lived in the North End of Virginia Beach. I have raised my family here, I only mentioned that so that you all know I have the same intent of ensuring that Virginia Beach remains a wonderful place to live and raise a family. My intention is to, on a very limited basis, have the ability to rent my home. This is my primary home, it is my only home and occasionally over the last year or two, I have had occasion to travel for work and for pleasure, and we would like to have the opportunity on a very limited basis to be able to execute short-term rentals in my property. So, I will be brief in my comments, but happy to answer any questions from the Commission or anybody else. Thank you.

Mr. Weiner: Thank you, sir. Are there any questions. No questions.

Mr. Dao: We have one speaker registered for this item, however, Staff is [inaudible] the individual on the list at this time. So, no more speakers.

Mr. Weiner: We have no more speakers, this would be Lynnhaven, Mr. Graham is he back online. Mr. Graham is not back online.

Mr. Dao: Mr. Graham is back online.

Mr. Weiner: Does anybody have any comments about this short-term rental they would like to share before Mr. Graham comes on.

Mr. Wall: I have got one thing, and it is actually for Staff and I am not opposed to this application just brings up a point. At this point, and there is Mr. Graham, but for Staff, for Conditional Use Permits, they run with the land. So, this gentleman's interested in part time or occasionally using his property as a short-term rental. But, there are changes in the future, possibly. But, at this point if this is in perpetuity. So, Staff if you can chime in on this, yes or no, is that the conditioning is permanent, which is, he could go and sell the house, and it is still there for short-term rental at this point. Can somebody answer that.

Mr. Miller: Yeah, the Conditional Use Permit under the current ordinance would allow it to continue for five years and then can be administratively renewed. If during that time there is an issue or problem, it can be revoked. So, if he were to sell the house and whoever the new owner is has some issues, then it could be revoked and this is all under the current ordinance, not even discussing the one that is going forth.

Mr. Wall: Okay, thanks.

Mr. Weiner: Okay, we have Mr. Graham with us. Mr. Graham, this is your neck of the woods. Item 22.

Mr. Graham: Yeah. And, I apologize, I missed a good deal of the presentation. I am not quite prepared. I was off, I lost internet.

Mr. Weiner: Let us let George takeover. George's good with us, he is pro at short-term rentals.

Ms. Smith: So, Mr. Graham, I will say, this is Carolyn Smith, that there was no speaker in opposition. One had signed up but they did not, they were not still on the line, so you did not miss any conversation about any opposition, just wanted you to be aware of that.

Mr. Graham: It sounds like I missed some of the conversation and most of the Commissioners, if I can be updated it would be helpful.

Mr. Weiner: Mr. Graham, we really have not talked about anything, we are waiting for you. So, we did hear that this is his primary residence and he rented out when he is not in town, which personally I tend to like, he has met all the requirements. So, I am going to support it, since there is no opposition.

Mr. Graham: Yeah. Okay, I thought I had missed more, I was scrambling to try to get back, I apologize. Correct me if I am wrong, if we move forward with the Overlay Districts, this will be in an Overlay District as designed today.

Mr. Weiner: That is correct.

Mr. Graham: I do not have any opposition to this. If there is not any opposition, I would like to go ahead and recommend approval.

Mr. Weiner: We have a motion for approval. Do we have a second.

Mr. Redmond: Second.

Mr. Weiner: We have a motion by Mr. Graham for approval and second by Mr. Redmond. We are ready to vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed please say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Tajan: Mr. Inman is currently not in the meeting Marchelle.

Ms. Coleman: Okay, I will mark him as absent. Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By recorded vote of nine for and zero against, agenda item 22 has been recommended for approval.

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

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 113 55th Street, Unit A, 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.

Items # 23

Karen & Joe Allen [Applicant] and Old Hickory Investments, LLC [Property Owner]

Conditional Use Permit (Short Term Rental)

1361 Goose Landing

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20, with the added condition for the 20-foot buffer, and 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 1361 Goose Landing, 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 # 24

Bao Lo [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

619 25th Street

January 13, 2021

RECOMMENDED FOR DENIAL - HEARD

Mr. Dao: The last item on the agenda is the application of Bao Lo for a Conditional Use Permit for Short-Term Rental located at 619 25th in the Beach District. The applicant is Bao Lo. Mr. Bao Lo, please state your name for the record and make your comment. Mr. Bao Lo, please make your comments. Mr. Bao Lo, please make your comments.

Mr. Lo: Can you hear me.

Mr. Dao: Yes, sir. Please state your name and start your comments.

Mr. Lo: I am sorry, I have my representative Scott on the line, he wants to speak for me.

Mr. Dao: Mr. Chair, is that permitted.

Mr. Weiner: Yes sir. Just please state your name for the record, before you start your comments please.

Mr. Dao: Mr. Westfall, please state your name for record and begin your comments. Mr. Westfall we can hear you. So, if you would like to start the comments.

Mr. Westfall: So, sorry. Can you hear me now. All right, I apologize, very much. Thank you guys, Planning Commission for your time today. I have to say you guys are marathon endurance runners, so, thank you. I know

we are last, I will keep this brief. My name is Scott Westfall, I am an Associate Broker with Broadsight Realty and have been professionally managing short-term rentals and realty vacation rentals in Virginia Beach. I am at the Oceanfront since 2010. I am here today representing Bao Lo owner of 619 25th Street. And, before I get into the details of his application, I would love to just give you a little bit of background of Mr. Lo. Mr. Lo and his family live in Northern Virginia with his wife and his children. They also have family here in Virginia Beach. For the last 25 years, Mr. Lo and his family have visited Virginia Beach four to five times a year to visit family and to vacation. Every time that they have come, they have stayed in short-term rentals and vacation rentals for a week at a time. And, it is been their dream to own their own second home so that they can one-day retire down at the Oceanfront. That dream came to fruition last October when they purchased this property. I had the pleasure of meeting Mr. Lo after he purchased the property, but I do know that he was aware of the short-term rental conditions and made sure that the property met all of these conditions before he purchased the property. When he purchased the property, he also inherited a long-term lease, so the property is currently being rented long-term through the month of May and Bao is honoring that. If granted the permit, Mr. Lo's intentions, and that is really what I want to convey to you guys today, with the property is not to profit from it or to necessarily run a business out of it. In fact, their goal is to have a second home that they can visit and to use themselves when they visit family. And, then secondly, on kind of a secondary goal, would be to offer the home to other families to allow them to have the same experience, to introduce them to Virginia Beach, the same way that they were introduced to Virginia Beach through a vacation home. And, ultimately their goal

is in the next 10 years to retire here and to move here. So, Mr. Lo's thoughts of that, it is definitely in his best interest not to make enemies with his neighbors. And in order to comply with City regulations and to really minimize the impact on the neighborhood, Mr. Lo has agreed to no events, the new conditions for seven nights, so only one contract in seven nights and really Mr. Lo's goal would be to only allow seven night minimum rentals in the summer, and his plan would be to, if any rentals are allowed in the winter, to be monthly because that is the time his family likes to enjoy the property. He also, in addition to having family members nearby, will employ professional onsite management. So, they do plan to market the property on VRBO, not Airbnb, but only VRBO. They are going to be in communication with guests pre and post stay and are able to provide a professional onsite management company with a number for both neighbors and tenants, 24/7 emergency onsite maintenance, as well as response to any kind of issues that may arise. With that said, Mr. Lo wishes to honor the neighborhood and to respect the neighborhood, like I said they come down here often and will be a part of this community, although they do not live here permanently. They are here often as I said to visit many family members in the area. And, with that, I would love to answer any questions. I do personally feel that this property meets the requirements and kind of what vacation rentals have been in Virginia Beach for a long time, the goal is not to be a nightly rental or three night rental or to really be a profit center, but to be a second home and to be able to offset some of the costs that are associated with that.

Mr. Weiner: Thank you, sir. Any questions or questions. No questions. Hoa, next speaker.

Mr. Dao: The last speaker is Carrie Chick. Ms. Chick, please start by stating your name for a record before beginning your comments. Ms. Chick, you may begin your comments.

Mr. Weiner: Does it show that she is online?

Mr. Dao: That was the last speaker.

Mr. Weiner: Let us give her one minute.

Ms. Smith: Can you hear us Ms. Chick.

Ms. Chick: Can you hear me now.

Mr. Dao: Yes, ma'am. Yes, please start your comments. Ms. Chick, please start your comments.

Ms. Chick: Hello, can you hear me now.

Mr. Dao: Yes, we can hear you.

Ms. Chick: Awesome, thank you so much. One, I do not want to be the last person holding everyone up from getting home today and I appreciate the well-thought out discussion about the new neighbors and I appreciate some of the obvious responses to many of our neighbors and my considerations and concerns. So, my name is Carrie Chick, I live on 625 25th Street, the direct neighbor of this house, and, I have submitted a letter as well as more detailed information in there, but I also just wanted to make sure that I was getting a little more contextual information in case any of that came up and provide a voice to a name as well. So, my main concern is at the end of the day this application has a different feel than a lot of the other short-term rentals that are in this area, and some of the concerns have been addressed, but I still have some other ones. One, being if you have ever driven by this house, this house is very different than the small cottages that generally make up a majority

of the homes in Old Beach. So, I am questioning whether or not setting precedence for tearing down these cottages and building up these larger houses that look very similar to Oceanfront houses and creating rental properties from them. And, generally speaking, the Old Beach neighborhood is a historic neighborhood, that is based around preserving the historic status of Old Beach, and it is the first residential area of the Oceanfront Resort Areas and it provides new opportunities for new and redeveloped resort residential areas. So, while it is near the Oceanfront, it is nestled back far enough that it is a neighborhood, and it does not have a lot of tourists that do come back there. So, the recent purchase of the house allowed for the current long-term renters stay there for a period of time before switching over to this new short-term rental application. And, at no point, the current owners have ever lived there, despite the fact they have come and visited the area before. I know the neighbors have said that they tried to reach out to the owners and they have yet to reach back out to us and that was a little bit of concern, but some of that has been addressed. But, one of the areas that we are still concerned about is some of the short-term rental requests that are in the area. So, for example, it says that it is four bedroom house, this is actually a five bedroom house and four bedroom house there is apartment below, so, is that being rented separately or is that part of the overall rental. If that the case, than the actual occupancy needs to be adjusted as well as parking. Parking is also a concern because we have had previous problems and there has been more restrictions put in the area. But, people parking in the streets and blocking houses and just walking in the road in general. And, then the other area of concern is around how is that going to be enforced. While there are other short-term rentals in this area, they are small, they are one to

three bedrooms, they fit a family. And, generally speaking, it is not going to be a loud party. This house has four very large balconies, where people can party outside within neighboring vicinities of the houses, and because this is a neighborhood it echoes, you can hear everything. So, everyone in the area is genuine very respectful of the fact that people work the next day, that they have young children in bedrooms that are nearby, and the concern is that if you are going to be renting this out in general vacation mentality, those documents are amazing, however

Mr. Dao: Ms. Chick that is all the time you are allowed, thank you for your comments. Mr. Chair.

Mr. Weiner: Are there any questions to the speaker, Ms. Oliver.

Ms. Oliver: I am sorry, I do not have one for the speaker, I have one for the Staff.

Mr. Weiner: All right, any questions for the speaker, Mr. Inman, Mr. Alcaraz.

Mr. Alcaraz: Okay. Are you still there?

Ms. Chick: How is there going to be regulations on the individuals that are going to be there.

Mr. Weiner: Ma'am. Your time is up and we have questions for you from the Commission, please. Hello, can you hear me? Ma'am can you hear me. Hello, ma'am are you there?

Mr. Dao: She is on Mr. Chair. But I believe she cannot hear us.

Mr. Weiner: Mr. Alcaraz, would you like to make a comment or do you have a question?

Mr. Alcaraz: I just wanted to know where she lived, I think she said she lived next door and she live in a duplex or single family. I was just going to see where she lives.

Ms. Chick: I apologize I could not hear the question.

Mr. Alcaraz: Yes, ma'am. Ms. Chick you said you live next door is that you facing the house, are you on the left and right, are you in a single family house, are you in a duplex?

Ms. Chick: I am in a single family house on the left.

Mr. Alcaraz: Okay.

Mr. Weiner: Mr. Inman, do you have a question.

Mr. Inman: Yes, I'd like the speaker to go back to the comment about you tried to reach out to the owner and was not successful. Can you elaborate on that.

Ms. Chick: I apologize. Is that a question for me?

Mr. Inman : Can you hear me.

Mr. Weiner: Yes, Ms. Chick that was a question for you.

Ms. Chick: Okay. I did not reach out because there was no contact information. That was in reference towards other neighbors stating that they reached out to them and did not get a response.

Mr. Inman: Okay, thank you.

Mr. Weiner: Any other questions for Ms. Chick. Okay, thank you ma'am. Did the applicant's speaker want to make any more comments or rebuttal?

Mr. Westfall: Yes, I would like to address a few of her concerns, if possible. We fully understand your concerns and really do want to address that the property is in the tax records a four bedroom and I do not know the fifth room you are talking about. We addressed this with the Planning Department and the Staff when we were going through the application and it needed to meet what the tax record said. We had agreed to keeping it to two people per bedroom, so, the max

occupancy of adults would be eight total. So, it is a four bedroom and to just address the concern of what will be used in that space, it will not be used for additional guests, we are not looking to pack the house. And, Mr. Lo is truly looking for a family. Also, on the parking, if you can look at the survey, we only added four spots but there is an additional space for another spot in the driveway as well as two spots in the garage and I cannot remember the specifics on the garage right now or where that actually is at, but we do address that we do not plan on using any kind of street parking or permits from the City to give to guests, only the parking in the driveway. And, finally, on just addressing tenant impact and we cannot control guests, but I firmly believe that communication is key and that is why the Lo's want to be a part of the process and communicating with the guests on the front end of what their expectations are with the house, how the house is supposed to be handled, and also letting them be aware that this is a neighborhood that they also will be a part of. So, to address that I think The Lo's just want to make sure that they are communicating to their guests and it will be clear to them, the expectations that are set.

Mr. Weiner: Okay, thank you sir. Any questions for the speaker? No questions. Okay, that was our last speaker. Hoa, Correct.

Mr. Dao: That is correct.

Mr. Weiner: Thank you, we will close this to the public and open it up amongst ourselves. I think Ms. Oliver, did you have a question you wanted to ask Staff?

Ms. Oliver: Well, I guess I can, I am not sure I understand the fifth bedroom. Is that a separate apartment or is it a fifth bedroom.

Ms. Peebles: I can answer, that is actually according to the Assessor's Office is not considered a bedroom, so, it is a study-den and essentially it is not actually a fifth bedroom. So, we were able to work out when he submitted his application, according to the City Assessor's record, it does not meet the definition of a bedroom, which is why we have this as four bedroom and so it is a den-study.

Ms. Oliver: Thank you.

Mr. Weiner: All right, Mr. Alcaraz.

Mr. Alcaraz: I am having trouble too, so just bear with me. I have received some opposition, my concern is that it is not in our future plans or where we want to have the short-term rentals and because of that, I have got some reservations about it. I wanted to hear from the other Commissioners their thoughts, but other than the next door Ms. Chick, I have gotten a couple emails, but I guess my concern is voting on this with knowing what is coming down the pipe for this area, and more or less a residential R5-S Residential District, but I would like to hear from the other Commissioners.

Mr. Weiner: Mr. Inman.

Mr. Inman: Thank you, first the question for Staff. It looks like the little map and material shows a number of other existing short-term rentals in the immediate area or applications pending in that market. Am I interpreting that right?

Ms. Peebles: Correct.

Mr. Inman: I have got a lot of concern about this particular one, and as soon as I saw it, when especially when I saw the parking plan, which of course does meet requirements. But, immediately envisioned how many people could be there, not just the visitors and I know the restrictions

on staying there overnight could only be eight. But, even so, I just do not see this fitting into this neighborhood. I see potential problems and the fact that it does have that extra parking on site makes it frankly more concerning to me that it gives the opportunity for more cars to be there, and more people to be there. I am just thinking this is not a good fit for the neighborhood. That is it.

Mr. Weiner: Any other comments, Mr. Graham you had a hand up.

Mr. Graham: Obviously, it is west of Baltic Avenue, it is actually as far west as you can go in the Old Beach Area. I share the concern that a couple of the other Commissioners have expressed. Unless, I hear something different will not be supporting it.

Mr. Weiner: Any other comments.

Mr. Coston: Yeah. I do not know, you just deny a person who meets all the conditions, except for his house is a little bit bigger or he can fit a few more cars on this parking program. So, I will be voting in favor of it, it looks like the ideal situation. Someone who cares enough and wants to move here eventually and looks like what you would rather see less rentals, as in he visits often with family and friends, so, I will support it.

Mr. Weiner: Mr. Redmond.

Mr. Redmond: Yeah, I am not sure how anybody could come away with any sort of confidence in the consistency of what we do, if we criticize them for having not enough parking and then criticize them for having too much parking. So, is it too hot or is it too cold, is it to somewhere in there. I guess the porridge is supposed to be the right temperature, but I thought having adequate parking was supposed to be a good thing and like Mr. Coston, I think when you check all the boxes and we have ample parking, probably you have done, you got

something that you ought to be rewarded for. So I am going to support it as well.

Mr. Weiner: Mr. Inman.

Mr. Inman: My last ditch effort will be to say, what if we were to have reduced the occupancy to two bedrooms. That way, it can be used for that purpose to short-term rental purpose when the family is not staying there themselves or having friends visit. Does anybody, care to support that?

Mr. Weiner: Ms. Oliver, has her hand up, let us see what she has to say.

Ms. Oliver: As much as I would like to support that Mike, I do not even know how we begin to monitor anything like that. And, my problem with this is that everything that we have discussed, this is not going to be part of the Beach District Overlay. So, I am not quite sure what we wanted to do with this, because of that and everything that we have got going forward, I just am not going to be able to support this one. So, that is where I am with that; just so everybody knows,

Mr. Weiner: Anybody else? I would like to add something, if I could. I know we have been talking about the North Beach North End Overlay, we do not even know if we are going that direction. So, I am not even keeping that in the back of my mind right in the second. I personally do not like it and I am probably not going to support it. So, I am not going to go that direction, but I am going to go back to what Whitney said, as a Commission being consistent, we about a year ago, we sent it to Council anything less than Baltic in this area that we did not want short-term rentals and we sent that and we have not approved one since we sent that and I think that is consistent. If we stay with that this is a historic area and if you remember we did that, we sent it to Council like that so I am going to stick with that and

I am not going to be able to support this one either. In saying that, no other comments. Anybody want to make a motion? Mr. Alcaraz, is it your area.

Mr. Alcaraz: Yeah. As I stated, because of the opposition and I think because where we are going for that area, just east of it and this being in our R5-S district, I am going to go ahead and recommend denial for the application.

Mr. Weiner: Do we have a second?

Mr. Graham: Second.

Mr. Weiner: So, we have a motion for denial by Mr. Alcaraz and a second by Mr. Graham. We are ready for the vote.

Ms. Coleman: If you are in favor of the motion please say, yes. And, if you are opposed say, no. The motion is to deny the application.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: No.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: No.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: No.

Ms. Coleman: Mr. Redmond.

Mr. Weiner: I think he said no.

Ms. Coleman: Okay, thank you. Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chairman Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Commissioner Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By recorded vote of six for and four against Agenda Item Number 24 has been recommended for denial.

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

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 619 25th 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. 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.

Items # 25

Quan Le [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

1612 Tallwood Manor Court

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20, with the added condition for the 20-foot buffer, and 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 1612 Tallwood Court, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The garage space within the unit must remain a minimum of 18-feet by 18-feet, contain a minimum 16-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of

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

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

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

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

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

Items # 26

William Joseph Wright, Jr. [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

911 Pacific Avenue, Unit B

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favour of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20, with the added condition for the 20-foot buffer, and 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 911 Pacific Avenue, Unit B, 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. Proof of ability to use at least one off-street parking space at a location acceptable to the Zoning Administrator shall be provided to the Planning Department on an annual basis as long as the Conditional Use Permit is active.
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 Rental.
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.

Items # 27

D&D Creations, LLC [Applicant] and Daniel David and Kellie David Revocable Trust [Property Owner]

Conditional Use Permit (Short Term Rental)

2621 Highland Meadows Way

January 13, 2021

RECOMMENDED FOR APPROVAL - CONSENT

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Weiner: Thank you. Our next order of business is the Consent Agenda, which the Vice Chair will take over.

Mr. Wall: Okay, thank you Mr. Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The Planning Commission places the following applications on the Consent Agenda. Application number 1, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with an amended condition or with an added condition concerning forested buffer. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission supports the applications, and there are no speakers signed up to comment. These include agenda items number 21, 23, 25, 26, and 27.

Mr. Weiner: Thank you Commissioner Wall. Can I get a motion to approve the items on consent, please.

Mr. Wall: I make a motion that these items be approved by consent.

Ms. Klein: Second.

Mr. Weiner: Okay. I got a approval by Commissioner Wall and a second by Ms. Klein, ready for vote.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chair Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By record vote of 10 for and zero against, agenda items 1,4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 19, and 20 with the added condition for the 20-foot buffer. 21, 23, 25, 26, and 27 have been approved on the Consent Agenda.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 2621 Highland Meadows Way, 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.

Items # 28, 29, 30, 31, 32, 33, 34, 35, 36 & 37

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

Conditional Use Permit (Short Term Rental)

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

January 13, 2021

DEFFERRED INDEFINITELY

Mr. Weiner: Thank you, Ms. Coleman. Today, the first order of business is to consideration, the request to withdraw or defer an item. Mr. Dao.

Mr. Dao: There are 11 items to request for deferral, first is item number three requesting for a 30 days deferral to the February 10 Planning Commission Meeting. And, Agenda Item 28 through 37 are requesting for indefinite deferral.

Mr. Weiner: Thank you. First we get a motion for that. Do I have a motion to defer these items, please.

Mr. Wall: Mr. Chairman, I motion that we defer agenda items number three for 30 days and agenda items number 28 through 37 indefinitely.

Ms. Klein: I will second the motion.

Mr. Weiner: Thank you. We have a motion by Commissioner Wall and a second by Commissioner Klein. Call for the vote please.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no.

Ms. Coleman: Mr. Alcaraz.

Mr. Alcaraz: Yes.

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

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: Vice Chairman Wall.

Mr. Wall: Yes.

Ms. Coleman: And, Chairman Weiner.

Mr. Weiner: Yes.

Ms. Coleman: By a recorded vote of 10 for and zero against, agenda item number three has been deferred for 30 days and items 28 through 37 have been requesting an indefinite deferral.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			