

Virginia Beach Planning Commission

Public Hearing

July 14, 2021

Mr. Weiner: Call to order, July 14, 2021 public meeting of the Virginia Beach Planning Commission. My name is David Weiner. I'm the chair and very nice to see everybody back in here and smiling faces. Like to start off, Mr. Coston is going to lead us in prayer and Mr. Horsley will lead us in the pledge, please stand.

Mr. Coston: Eternal God our Father, we thank you for this glorious day, we thank you God for your many tender mercies and benefits. God we asked today as we come to discuss the business of this City, God that you will look on us and bless us with your wisdom and your understanding. God guide us into each and every decision. Let it be for the benefit of those we serve. God we ask that you will continue to have favor on us and bless us. In your name we pray. Amen.

Mr. Horsley: Please join me in the pledge. [Group Pledge] I pledge allegiance to the Flag of the United States of America, and to the Republic, for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Mr. Weiner: Thank you. Mr. Redmond has volunteered to introduce the members.

Mr. Redmond: Thank you Mr. Weiner. We'll start on that side of the dais over there. That pretty lady on the end is Kay Wilson. She is a Deputy City Attorney. I think I got the title right, who is in-charge of land use matters and is here every month helping us in our jobs. Next to her is Mr. John Coston, John is a retired fire captain who represents the Centerville District, and he represents the City At-Large. Next to him is Robyn Klein. Robin is a social worker. So she has a busy day. Next to Robyn is George Alcaraz, George represents the Beach District, he is a contractor. He's a restaurant owner, he's an events promoter. He does a whole bunch of things. I can't keep up. I can't keep up with Dee either. She's got like five different jobs. Dee Oliver serves At-Large. She was most recently our chairman, vice chairman before that. And gosh, you don't have a lot of time left.

Ms. Oliver: Thanks. I am not that all.

Mr. Redmond: No that wasn't what I meant. You start getting sad this time of year when people start to get towards the end of their terms anyway. She's very capable and we're glad to have her. Of course, next to her is Don Horsley. He is a farmer. He is all things Princess Anne District, but he serves At-Large. In the middle, there is Mr. Weiner, David Weiner is our chairman, he represents the Kempsville District and he is a commercial salesman in the building industry. Normally, next to him would be Jack Wall. Jack's not here today. Jack is our Vice Chairman, and he's an engineer who represents the Rose Hall District. This is Michael Inman. He is an attorney, a really good attorney. He also serves At-Large. My name is Dave Redmond. I represent the Bayside District. I'm a commercial real estate broker. Whitney Graham is not here today. I don't know where he is, Whitney is probably on vacation. It's a vacation time of year. He represents the Lynnhaven District and then we have one member who recently resigned which is why we have an open seat here. And that is Mr. Bobby Tajan. He is the Planning Director and he's going to share some of his staff names and personalities with you, Mr. Tajan.

Mr. Tajan: Thank you, Mr. Redmond. Clerking today we have, Nicole Garrido and Pam Sandloop, also assisting with clerking is Lynn Roenker. As far as planning staff, the rest of the Planning staff, we do have Carolyn Smith, the Planning Administrator, Hoa Dao and Marchelle Coleman with the current planning group in Planning Administration, as well as Hank Morrison and Ashby Moss from our Zoning Division. For those that are unaware, Ashby is the Acting Zoning Administrator now, as Kevin Kemp has moved on to other things. We also have Tori Eisenberg who's with the City Attorney's Office that always assists as well. Whitney McNamara, planner in our environmental section. Our interns that we have Grace Pullen and Maddie Lowman and our City Traffic Engineer Ric Lowman, and Don Piron, with Public Utilities as well.

Mr. Redmond: Thank you, Mr. Tajan. And I will add, by the way, because I have to, the two interns gave presentations this morning in our informal session. They both did, I thought a terrific job. So I hope you're enjoying your summer. Thank you, Mr. Chairman.

Mr. Weiner: Thank you Sir. Next, Madam Clerk would you read the rules about how the meeting is gonna go today please.

Madam Clerk: Sure, today we will have both in person speakers and speakers participating via WebEx. When an agenda item has been called, we will recognize the applicant or their representative first, whether they are in person or via WebEx. Following the applicant or their representative, in person speakers will be called next, and then the speakers participating via WebEx. For WebEx speakers, please wait two to three seconds to begin to ensure the Commission hears your complete remarks. Please note if the speaker does not respond or if a technical issue occurs, which renders the comments unintelligible, we will move on to the next speaker or the next order of business. Now, I will read the public hearing rules. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved understand how the Commission normally conducts its meetings. It's equally important that everyone treat each other and the members of the Commission with respect and civility. The Commission requests that if you have a cell phone please either silence it or turn it off. This is an abbreviated explanation of the rules. The complete set of rules is located in the front of the Planning Commission agenda. Following is the order of business for this public hearing. With withdrawals and deferrals, the chairman will ask if there are any requests to withdraw or defer an item on the agenda. Consideration of these requests will be made first. Consent agenda, the second order of business is a consideration of the consent agenda, which are those items that the Planning Commission believe are unopposed and which have favorable staff recommendation. Regular agenda, the Commission will then proceed with the remaining items on the agenda. Speakers in support or opposition of an agenda item will have three minutes to speak unless they are solely representing a large group such as a Civic League or Homeowners Association, in which case they will have 10 minutes. Please note that the actions taken by the Commission today are in the form of a recommendation to the Virginia Beach City Council. The final decision to approve or disapprove an application will be made by the City Council. The Commission thanks you for your attendance. And we hope that your

experience here today leaves you feeling that you have been heard and treated fairly. Thank you.

**Item # 1**

**City of Virginia Beach**

**Ordinance to Amend Section 242.1 of the City Zoning Ordinance to delete the requirements for Tattoo Parlors and Body Piercing Establishments not to be located within six hundred (600) feet of another Tattoo Parlor or Body Piercing Establishment**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Mr. Weiner: Thank you. Next order of business is the consent agenda. And our Vice Chair Mrs. Oliver will take over. Thank you.

Ms. Oliver: Welcome. Today we have 12 items on the consent agenda. First item is item number one. And our City Attorney Kay Wilson is going to talk about this ordinance for us.

Ms. Wilson: Okay. This is an ordinance to amend section 242.1 of the Zoning Ordinance in regard to tattoo parlors and body piercing establishments. At this time, there is a requirement that they be located 600 feet away from another tattoo parlor or body piercing establishment. We will be deleting that requirement so that they may be closer together. We've had an influx of what are called personal makeup. And that is still considered tattooing, even though that's done in a lot of beauty parlors. So that's why we feel it's – it's appropriate to get rid of the 600 feet distance.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The

broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That’s a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma’am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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

**Items # 2 & 3**

**Virginia Beach Development Authority & Lynn-Lynne, LLC [Applicant & Property Owners]  
Modification of Proffers**

**Conditional Change of Zoning (Conditional B-2 Community Business District to  
Conditional B-2 Commercial Business District (0.70-acre) & Conditional I-1 Industrial  
District (0.52-acre))**

**1941 General Booth Boulevard and portion of Corporate Landing Business Park**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Thank you. The next items are items number two and three, which is Virginia Beach Development Authority, is the applicant, Virginia Beach Development Authority and Lynn-Lynne LLC. It's a Modification of Proffers. The address is 1941 General Booth Boulevard and portion of the Corporate Landing Park in the Princess Anne district. Is there a representative for this item?

Mr. Richardson: My name is John Richardson and I am going to represent the applicant. We're happy to answer any questions, we understood it was on consent.

Ms. Oliver: Great.

Mr. Richardson: Thank you.

Ms. Oliver: Thank you. Do we have any opposition to this being on the consent agenda today? All right, hearing none. Commissioner Horsley has been asked to read this into the record for us.

Mr. Horsley: Thank you Mrs. Oliver. A portion of the property known as Dr. Johnny's Appliances was rezoned in 1994, from AG-2 to B-2 Community Business. Now, the Corporate Landing which backs up to this property, this request is including to modify the conditional rezoning or agreement associated with Corporate Landing to remove 0.73 acres from the business park, which is the Corporate Landing Business Park to Dr. Johnny's to expand his operation and build a warehouse and the addition of the warehouse is consistent with the comprehensive plan. And the, I think the change of ownership from the industrial authority to the appliance business is totally exactly what – what this is all about when they established the commercial business park. So there was no opposition to this taking place. I think it's a good community business that's taken place down there. And no opposition to it, and staff agreed to it. So we put it placed it on the consent agenda.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

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Mr. Redmond: As do I.

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Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

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Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
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 Parcel A is developed, it shall be developed substantially as shown on the Sheet C200 (Layout Plan) of that certain concept plan entitled “DR. JOHNNY’S APPLIANCES SITE PLAN,” prepared by Land Planning Solutions, dated October 4, 2019, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Planning Department.

**Proffer 2:**

The site design of Parcels B and C, as identified on the Layout Plan, shall be in substantial conformance with the Layout Plan.

**Proffer 3:**

Parcels A, B, and C (collectively, the “Property”) shall be landscaped substantially as shown on Sheet C500 (Landscape Plan) and Sheet C501 (Landscape Details) of that certain site plan entitled “DR. JOHNNY’S APPLIANCES SITE PLAN,” prepared by Land Planning Solutions, dated October 4, 2019, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Planning Department. Required landscaping shall also include all plantings on Parcels B and C that were installed per applicable City ordinances including but not limited to interior parking lot landscaping, streetscape landscaping and foundation plantings

**Proffer 4:**

Vehicular access to the Property shall be in substantial conformance as depicted on the Layout Plan as a shared, single ingress/egress point along General Booth Boulevard.

**Proffer 5:**

When Parcel A is developed, the exterior building materials, architectural design, appearance and height shall be substantially as shown on the renderings, consisting of 4 pages entitled: “Dr. Johnny’s Appliances East Elevation 09/04/2019”, “Dr. Johnny’s Appliances West Elevation 09/04/2019”, “Dr. Johnny’s Appliances South Elevation 09/04/2019” and “Dr. Johnny’s Appliances North Elevation 09/04/2019”, prepared by Land Planning Solutions, dated September 4, 2019, all of which have been exhibited to the Virginia Beach City Council and are on file in the Virginia Beach Planning Department.

**Proffer 6:**

For Parcels B and C, the building elevations, architectural design, building materials, appearance and height of one-story building shall be substantially as shown on the photos identified as Exhibits P-1 through P-8, which have been exhibited to the Virginia Beach City Council and are on file in the Virginia Beach Planning Department

**Proffer 7:**

Freestanding signage shall be of a monument design with a brick base and internally lighted as depicted on the photo entitled “Frontage-Sign” and “Frontage-Sign 2” which have been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Planning Department.

**Proffer 8:**

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.

**Proffer 9:**

Exterior storage of any materials, motor vehicles, or equipment shall be prohibited.

**Proffer 10:**

The use of fencing on the Property, other than to screen dumpster and trash receptacle areas as required, shall be prohibited.

**Proffer 11:**

The following uses shall be the only uses permitted on Parcel B and Parcel C relating to the current B-2 Business District. Those uses requiring a Conditional Use Permit from City Council shall continue to do so. By City Council accepting this proffer does not grant the right to operate or place such uses on Parcel B and Parcel C.

- a) Bakeries, confectionaries, and delicatessens, provided that products prepared or processed on the premises shall be sold only by retail and only on the premises.
- b) Business studios, offices, and clinics.
- c) Communication towers and temporary communication towers.

- d) Daycare centers and child care education centers.
- e) Drugstores, beauty shops and barbershops and other personal service establishments.
- f) Eating and drinking establishments without drive-through windows, except as specified in the Zoning Ordinance.
- g) Financial institutions.
- h) Florists, gift shops, and stationery stores.
- i) Furniture repair and upholstery, repair services for radio and television and household appliances other than those with gasoline engines; carpet and linoleum laying; tile setting, sign shops and other small service businesses.
- j) Grocery stores, carry-out food stores, and convenience stores in a structure with a gross floor area of less than five thousand (5,000) square feet.
- k) Laboratories and establishments for the production and repair of eyeglasses, hearing aids and prosthetic devices.
- l) Laundry and dry cleaning agencies.
- m) Medical and dental offices and clinics.
- n) Museums and art galleries.
- o) Newspaper printing and publishing, job and commercial printing.
- p) Personal service establishments, other than those listed separately.
- q) Public utilities installations and substations, including offices.
- r) Repair and sales for radio and television and other household appliances and small business machines.
- s) Retail establishments, other than those listed separately, including the incidental manufacturing of goods for sale only at retail on the premises; retail sales and display rooms.
- t) Specialty shops.
- u) Storage garages.
- v) Veterinary establishments and commercial kennels, provided that all animals shall be kept in sound-proofed, air-conditioned buildings.

- w) Wind energy conversion systems, roof mounted.
  
- x) Accessory uses and structures which may be reviewed and approved by the City of Virginia Beach Zoning Administrator which are clear incidental and subordinate to principle uses on the premises in accordance with the Virginia Beach Zoning Ordinance.

**Proffer 12:**

The following uses shall be the only uses permitted on Parcel A relating to the current I-1 Light Industrial District. Those uses requiring a Conditional Use Permit from City Council shall continue to do so. By City Council accepting this proffer does not grant the right to operate or place such uses on Parcel A.

- (a) Building-mounted antennas meeting the requirements of section 207.
- (b) Business, medical, financial, nonprofit, professional and similar office buildings.
- (c) Communication towers meeting the requirements of section 232(j) and temporary communication towers meeting the requirements of section 207.
- (d) Eating and drinking establishments.
- (e) Establishments such as linen suppliers, freight movers, communication services and canteen services.
- (f) Establishments which deliver merchandise in bulk or by truck or van.
- (g) Indoor storage of motor vehicles.
- (h) Fiber-optics transmission facilities meeting the requirements of section 233.15.
- (i) Manufacturing, processing, extracting, packaging or fabricating establishments; provided that the following uses shall not be allowed: (i) Explosive manufacturing, storage and distribution; (ii) petroleum processing; (iii) processing or outside storage of salvage, scrap or junk.
- (j) Motion picture studios.
- (k) Printing, lithographic or publishing establishments.
- (l) Public utilities installations and substations including offices; provided storage or maintenance facilities shall not be permitted; and provided further, that utilities substations, other than individual transformers, shall be surrounded by Category VI screening solid, except for entrances and exits; and provided also, transformer vaults for underground utilities and the like shall require only Category I screening, solid except for access opening.
- (m) Recreational facilities other than those of an outdoor nature.

- (n) Repair establishments; provided that no outside storage is included (excluding mobile operative equipment).
- (o) Small wireless facilities meeting the requirements of section 207.
- (p) Vocational, technical, industrial and trade schools.
- (q) Wholesaling, warehousing, storage or distribution establishments.
- (r) Wind energy conversion systems, roof-mounted.

**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.

### Mod of Proffers - Corporate Landing Business Park

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:**

Parcel A (consisting of approximately 0.21 acre) and Parcel B (consisting of approximately 0.52 acre) shall be removed from the Corporate Landing Business Park Proffers.

The remainder of the Authority Parcel shall remain subject to the Corporate Landing Business Park Proffers, which remain in full force and effect.

**Staff Comments:** Staff has reviewed the Proffer listed above and finds it acceptable. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

**Item # 4**

**Bonney G. Bright Sand Company [Applicant & Property Owner]**

**Modification of Conditions**

**200 Princess Anne Road**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - HEARD**

Madam Clerk: Okay, our first agenda item is agenda item number four, Bonney G. Bright Sand Company, an application for Modification of Conditions on property located at 200 Princess Anne Road in the Princess Anne District. Would the applicant or the applicant's representative, please step to the podium.

Mr. Weiner: Welcome, sir.

Mr. Jones: Morning, Mr. Chairman, members of the Commission. My name is Harold Jones. I'm with Sigma Environmental and I represent Bonnie Bright Sand Company this morning. As you're well aware of this application is requesting authorization to expand an existing mine that's been in operation since the late 1970s. This is the most northern portion of the mine, is going to be about 17.3 acres of expansion and it's been reviewed by staff. And they have developed some additional conditions for the authorization. We are now at 23 individual conditions, some of which have been modified and changed. And I believe three new ones were added since the Conditional Use Permit was reauthorized for an additional 10 years, last year in 2020. So we are in acceptance of those – of those conditions and we're working with staff to work out some of the details on a longer groundwater management and recharge plan. So it's been a pleasure working with staff on this particular project. We appreciate it. Any questions? Thank you.

Mr. Weiner: I think we have a speaker, so standby, just in case you want rebuttal. Thank you, Madam Clerk.

Madam Clerk: Yes, we have one speaker via WebEx, Lisa Clarkson. If you would wait two to three seconds and then state your name and begin your comments, please. (Note that Ms. Clarkson was not online when called to speak) So, no other speakers.

Mr. Weiner: No other speakers. Mr. Horsley, do anybody have any questions? No questions, Mr. Horsley? So we have no more speakers. So we're going to close this and open it up to us up here for.

Mr. Horsley: We would have probably place this on a consent agenda, I was thinking we were going to have a speaker. But anyway, oh, this pit has been operational, as Mr.

Jones said for 40 plus years and Mr. Bright has ran one of the best pit operations around and is supplying sand to the City of Virginia Beach and other surrounding areas that it's very much needed for us to continue to prosper and develop as we need to be. I think this request for this 17 acre expansion is very good and the conditions, 23 conditions. I mean to keep up with 23 conditions. Mr. Jones, you are going to have a job. But anyway, that's what – that's what Mr. Bright pays you to do so. So we think, it's fine. I think it's fine, if people in the area – in the rural area, are very appreciative of what Mr. Bright does for the community and all down there and the supplies – that he supplies when they're needed. So if anybody got any other questions don't, I'm going to make a motion for approval.

Mr. Weiner: We have motion for approval. We have a second?

Mr. Coston: Second.

Mr. Weiner: Motion for approval by Mr. Horsley, seconded by Mr. Coston.

Madam Clerk: Vote is open. By a recorded vote of eight in favor, and zero against agenda item number four has been recommended for approval.

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

**CONDITIONS**

1. All previous conditions attached to the Conditional Use Permit approvals of November 28, 2000 and February 9, 2010 and the Modification of Conditions Permit approvals of February 14, 2006 and September 15, 2020 shall be voided and replaced with the following conditions below.
2. Activities on the site shall meet all the requirements identified by the Virginia Department of Mines, Minerals and Energy. Additionally, the applicant shall renew their permit and license with the Department of Mines, Minerals and Energy before October 21, 2021.

3. No excavation or restoration of the borrow pit expansion shall be allowed without first obtaining any necessary permits from the appropriate Federal, State and Local agencies, required as a result of the expansion of the existing borrow pit operation. In addition, the applicant shall renew the Non-Metallic Mineral Mining General Permit from the Department of Environmental Quality for the proposed expansion.
4. No excavation or restoration of the borrow pit shall commence until such time that a site plan has been reviewed and approved by the Development Services Center. The site plan must include a specific street and highway contingency plan that addresses the repair and replacement of any damaged roadway surfaces associated with the borrow pit operation. The site plan shall also detail the truck watering schedule currently utilized for the abatement of the dust generated by this operation and must indicate the sequence of construction for maintaining 3:1 side slopes on the borrow pit within 60 days after the excavation is complete.
5. No access to or from Pocahontas Club Road shall be permitted for the borrow pit operation.
6. Operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday.
7. No encroachment into existing easements will be allowed. Access to drainage easements must be provided by the applicant overall output systems within the site.
8. No encroachments into natural drainage channels shall be permitted.
9. The existing buffer of pine trees along Princess Anne Road, the double row of Loblolly and Virginia pine trees, an understory row of wax myrtle shrubs and the three to four-foot-high berm along Pocahontas Club Road used for screening and buffering shall remain undisturbed.
10. A row of pine trees shall be planted along Princess Anne Road continuing north from the existing trees that will be used as screening and buffering for the expansion of the borrow pit. The required pine trees shall be allowed to grow and be maintained at a height of no less than 30 feet.
11. Undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitos and other insects.
12. The 100-foot buffer between the cemetery in the southeast corner and the excavation site must remain undisturbed.
13. The maximum depth of the proposed expansion shall not exceed an elevation of -25.00 feet below ground surface from elevation 0.00 feet below ground surface. The applicant shall not breach the confining layers regardless of depth.
14. Dewatering of the pit will be allowed and the following are required:
  - a. A permit from the Virginia Water Control Board is required to discharge any water from dewatering into a state waterway.



- b. The operator of the borrow pit shall be responsible for continuous water service for the private wells up to 1,000 feet from the borrow pit operation and those within 2,500 feet if proved to be affected by this operation.
15. The maximum number of truck trips generated by the borrow pit shall be 75 per day. A truck trip shall be considered one round trip, in and out of the borrow pit.
16. All trucks and equipment used in conjunction with the borrow pit operation must be stored, repaired and fueled on the borrow pit site or on property zoned for such use.
17. The applicant and/or operator of the borrow pit shall provide sufficient information to further the knowledge of the impacted subsurface geology by providing a Monitoring Well/Bore Hole Installation Plan and to estimate existing and projected recharge of dewatering operation discharge water. The applicant shall provide a Groundwater Recharge Plan, which shall include all phases of the expansion, subject to the approval of the Director of Public Utilities or designee.
18. The Groundwater Recharge Plan shall provide for the retention of water onsite to the highest degree practical. As one means to achieve this, the flooding of depleted mine areas shall be implemented to the maximum extent practical and outlined in detail in the Groundwater Recharge Plan, accounting for all phases of expansion and reclamation. The applicant and/or operator of the borrow pit shall provide a reliable quarterly report to the Department of Public Utilities to include the analysis of the recharge system. This plan shall contain the amount of water pumped from the borrow pit, the amount of groundwater recharged on the site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes were determined. The plan shall be subject to the approval of the Director of Public Utilities or designee.
19. Testing shall be performed at each monitoring well a minimum of four times a year and analytical results shall be provided to the Director of Public Utilities or designee. The Director of Public Utilities or designee may reduce monitoring frequency to annual testing at each well. If, in the judgement of the Director of Public Utilities or designee, such results indicate that salt water intrusion is occurring to such extent that private drinking water wells are threatened, the applicant shall cease dewatering of the borrow pit at the cost of the borrow pit operator.
20. Extension of time for operations is ending in June 2030, to include restoration of the property.
21. When mining is complete, the applicant shall redevelop the sides of the pit to a 3:1 slope within 6 months as depicted on the plan for the borrow pit entitled "Reclamation Plan", dated October 3, 2007, revised September 10, 2009, revised July 1, 2021, prepared by Gallup Surveyors and Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
22. The applicant shall submit a site development plan in accordance with the Zoning Ordinance, Article 2 C Section 227 Borrow Pits to the Development Services Center of the Planning Department for review and approval prior to any excavation of the additional areas depicted on the submitted site plan entitled "PROPOSED BORROW PIT EXPANSION PLAN FOR BONNEY G. BRIGHT", dated October 3, 2007, revised September 10, 2009,

revised March 12, 2021, prepared by Gallup Surveyors & Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.

23. Trucks that haul material to and from the property shall not use Princess Anne Road as an ingress and egress for the operation. All trucks in association with the mining operation shall use the entrance in North Carolina to enter and exit the site. If the entrance from Princess Anne Road is used to haul material than the following shall apply: the operator shall install a left turn lane on Princess Anne Road into the borrow pit entrance, the property owner shall dedicate as deemed necessary by City Staff any additional right-of-way to accommodate the turn lane, the entrance from Princess Anne Road shall be paved and the pavement shall extend 50 feet back from the property line and then graveled an additional 50 feet, and an entrance plan shall be required subject to the review and approval by Department of Public Works/Traffic Engineering.

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

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

**Item # 5**

**H. Martin Snead, III & Linda P. Snead [Applicants & Property Owners]**

**Street Closure**

**7.5-foot by 50-foot portion of an unimproved alley adjacent to 828 Vanderbilt**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Great. Thank you. The next item is item number five. Is there a representative for this?

Mr. Bourdon: Thank you Commissioner Oliver, members of the Commission, Eddie Bourdon, Virginia Beach attorney representing the Sneads. Appreciate being on the consent agenda. All four conditions recommended by staff are acceptable to my clients.

Ms. Oliver: Great. Thank you. Any opposition to this being on the consent agenda today? Great, thank you. This is an application for Mr. and Mrs. Snead for a Street Closure, which is a 7.5 foot by 50 foot portion of the unimproved alley adjacent to 828 Vanderbilt in the Beach District and Mr. Alcaraz is going to read this into the record for us.

Mr. Alcaraz: All right, thank you. Again, this is an application for a Street Closure for Mr. Martin Snead and Ms. Linda P. Snead. And they are requesting a closure of portion of the platted, unnamed and unimproved alley that is adjacent to the rear lot line, as shown on the submitted street closure exhibit on the plan and in the report. The proposal includes closure of half of the 15 foot wide alley totalling 375 square feet, and incorporating the land into the adjacent residential lot, identified as lot 3, block 14 Croatan Beach, and with the staff recommended conditions, the Planning Commission has put it on consent agenda for approval.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe

I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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	AYE 8	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT

Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
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**

**KABP Development, LLC [Applicant & Property Owner]**

**Conditional Use Permit (Eating and Drinking Establishment)**

**Corner of Fisher Arch & Princess Anne Road, West of 2033 Fisher Arch**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: The next item on our agenda is item number 6, KABP Development LLC, located at the corner of Fisher Arch and Princess Anne Road for an eating and drinking establishment. Is there an applicant – representative for this application here today? Is there any opposition to this being on the consent agenda today? Hearing none, Commissioner Horsley is going to read this into the record please.

Mr. Horsley: No appearance means that they will have to accept the conditions that we've proposed today. But the applicant is requesting a Conditional Use Permit for Eating and Drinking Establishment located on some O-2 office – in O-2 Office District. There's a requirement that the eating and drinking establishment cannot occupy more than 10% of the floor area which this doesn't, it's a health based eating establishment and they kind of coexist with the health activities take place there in that office building. So there was no opposition, staff seemed to think it was alright, and we do also so we placed it on a consent agenda. So this means that the conditions will be approved also.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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

## CONDITIONS

1. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office.
2. The maximum number of attendees or the occupancy load shall be determined by the City of Virginia Beach Building Official's Office.
3. No amplification of music or use of speakers shall be permitted except within the enclosed building.
4. The Eating and Drinking Establishment, in conjunction with this principle use, shall in combination not occupy more than ten (10) percent of the total floor area.
5. Any onsite signage for the health and wellness center shall meet the requirements of the City Zoning Ordinance, and there shall be no neon or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. The building signage shall not be a "box sign." There shall be no window signage permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of the signage.

*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**

**Wakefield Development, LLC [Applicant] Marlin Beiler, Trustee of the Elva Y. Beiler Trust & of Elva Y. Beiler Land Trust [Property Owner]**

**Conditional Chang of Zoning (R-15 Residential District & AG-1 Agricultural District to Conditional R-10 Residential District for construction of 86 swelling units at a density of approximately 2.14 units per acre)**

**2328 & 2264 Salem Road**

**July 14, 2021**

**DEFERRED INDEFINITELY**

Ms. Weiner: Thank you, Madam Clerk. Next is the deferral items, if we have an item to be deferred, please come forward. Welcome.

Ms. Murphy: Good afternoon Chairman, Vice Chairman, members of the Planning Commission for the record, my name is Lisa Murphy, local zoning attorney. And I'm here requesting that you defer items 14, 15, 16 and 17, street closure and conditional change in zoning for the Marlin Bay project.

Mr. Weiner: And that's for 60 days, correct?

Ms. Murphy: For 60 days, yes.

Mr. Weiner: Okay, great. Thank you.

Ms. Murphy: Thank you.

Mr. Tajan: To be clear, that is to the September public hearing.

Mr. Bourdon: Thank you, Mr. Chairman. For the record Eddie Bourdon, Virginia Beach attorney representing Wakefield Development, case number seven, for an indefinite deferral, but hopefully see you as early as next month.

Mr. Weiner: Thank you. Sounds good, thank you, sir. Any other items? The chair has been told items 28, 29, and 30 also are indefinite deferral, and Madam Clerk, do we still have a speaker on item 17?

Madam Clerk: Yes, we do.

Mr. Weiner: So we will let him to come forward now.

Madam Clerk: Daniel Murphy.

Mr. Weiner: Welcome, sir.

Mr. Murphy: Thank you. Thank you for your service. I really appreciate it.

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

Mr. Murphy: My name is Daniel Murphy. I am the President of the Ocean Park Civic League. I am in favor of the deferral today for the Marlin Bay project. I would just ask that there be a little bit better communication on deferrals. We had a number of residents who were very concerned about the meeting and would like to provide input during the September meeting. So, if Mr. Tajan and his staff could ensure that letters go out properly, and it's publicized, I would appreciate the notices. Thank you.

Mr. Weiner: Thank you, sir.

Mr. Tajan: To clarify, Mr. Weiner, the action of the deferral has to be taken by the Planning Commission. So there's no – there's no mailing that we do in between of those, but we do our best to notify the public the best way we can, especially if they've contacted us. So we will continue to keep open that line of communication.

Mr. Murphy: Thank you.

Mr. Tajan: Yes sir.

Mr. Weiner: Thank you. Okay, can I get a motion?

Ms. Oliver: I have a motion to defer items 7, 14, 15, 16, 17, 28, 29 and 30.

Mr. Weiner: Motion by Mrs. Oliver, second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, and zero against agenda item 7 has been deferred indefinitely, 14, 15, 16, and 17 have been deferred to the September meeting, 28, 29 and 30 have been deferred indefinitely.

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

**Item # 8**

**Elias Properties Virginia Beach Independence, LLC [Applicant & Property Owner]**

**Conditional Rezoning (Conditional B-1 Neighborhood Business to Conditional B-2 Community Business)**

**2749 S. Independence Boulevard**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Great. Thank you. The next item is item eight, which is the Elias Properties in Virginia Beach Independence, LLC. Hi. How are you?

Mr. Beaman: Thank you Madam Vice Chair. For the record, my name is Rob Beaman, local land use attorney with the Troutman Pepper Law Firm, here today on behalf of the applicant. We've had a chance to read the conditions and they are acceptable and we appreciate being on the consent agenda. Thank you very much.

Ms. Oliver: Thank you. Is there any opposition for this being on the consent agenda today? Hearing none, Commissioner Klein is going to read this into the record for us.

Ms. Klein: The applicant proposes to rezone a 2.17acre parcel from B-1 Neighborhood Business District, excuse me, to Conditional B-2 Community Business District in order to operate a commercial retail store in the vacant building on the site. The property was rezoned from PDH-2 to conditional B-1 back in 1995 for a pharmacy. In order to operate a general retail space, it needs a rezoning to B-2. It was previously a Rite Aid that was developed in 1997. It has since been vacant since 2005. The applicant is proposing a Dollar Tree in the space and no major structural changes are proposed. Based on the application and the considerations, the staff recommends approval of this request subject to the proffers and the commission agrees.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on

an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

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Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond			ABSTAIN	
Wall				ABSENT
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:**

The Property shall be developed in substantial conformity with the conceptual site plan entitled “Dollar Tree – Independence Boulevard, Virginia Beach, VA, Conceptual Development Plan”, dated June 14, 2021, and prepared by Timmons Group, Inc. (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Proffer 2:**

The quality of architectural design and materials of the retail building on the Property shall be in general conformity with the elevations entitled “Dollar Tree – Former Rite Aid”, dated February 1, 2021, and prepared by RRMM Architects (the “Elevations”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Proffer 3:**

The following uses will be prohibited on the Property: automobile repair garages and small engine repair establishments; automobile service stations; bars or nightclubs; beverage manufacturing shops; bicycle and moped rental establishments; boat sales; body piercing establishments; borrow pits; building-mounted antennas other than those meeting the requirements of Section 207 of the City Zoning Ordinance; bulk storage yards and building contractor yards; car wash facilities; commercial parking lots; parking garages, parking structures and storage garages; craft breweries; craft distilleries; dormitories for marine pilots;

eating and drinking establishments with drive-through windows; liquor stores; mini-warehouses; mobile home sales; motor vehicles sales and rental; passenger transportation terminals; public utility storage or maintenance installations; radio and television broadcasting stations; satellite wagering facilities; storage garages; tattoo parlors; and wine-tasting rooms.

**Proffer 4:**

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

**Staff Comments:** Staff has reviewed the Proffers listed above and finds them acceptable. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

**Items # 9, 10 & 11**

**Winner's Properties, LLC [Applicant] Haynes Furniture Co, Inc. [Property Owner]**

**Conditional Rezoning (A-12 Apartment District and B-2 Business District to Conditional B-2 Business District)**

**Conditional Use Permit (Auto Storage Yard)**

**Conditional Use Permit (Car Wash Facility)**

**349 & 361 Nelms Lane**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL – HEARD**

Madam Clerk: Our next agenda items are 9, 10, and 11. Winner's Properties, LLC, an application for a Conditional Rezoning A-12 Apartment District and B-2 Business District, to Conditional B-2 Business District on property located at 349 and 361 Nelms Lane in the Kempsville District.

Mr. Weiner: Welcome sir. How are you?

Mr. Garrington: Thank you Mr. Chairman, ladies and gentlemen of the Planning Commission for the record, Billy Garrington on behalf of the applicant, I also had Mr. Kyle Korte with Wollcott Rivers with me here in the audience. Mr. Chairman the request that you have in front of you today is for Winner's Property, LLC. The property is located at 349, 361 on the north side of Nelms Lane. I'm sure most of you by this time have figured out Winner's Property LLC, is actually the Checkered Flag Motor Company, which operates in the City of Virginia Beach, car dealerships spread out all throughout the city. And if you have had the chance to look at one of them or to visit one of them and buy something from them, you will notice that every location they have is well maintained, well taken care of. I think it's a good asset to the City of Virginia Beach. So the request that we have today is for this, property in this area that you see in blue here, little bit more than three acres that would there's a two step process that we're doing here. Phase one is for an auto storage yard, bulk storage is probably what the application that we submitted says because that's what – that's what it has to be worded as. Although bulk storage doesn't sound like it's very good to a residential neighborhood. But it is bulk storage because you're storing in bulk. We're storing automobiles is all we're storing. And this is a lot that will be used in conjunction with a new Audi dealership that just got approved on the northeast corner of Nelms Lane and Virginia Beach Boulevard, which will be under construction very soon. Phase two of the request would be for the carwash building that will be placed on the building. And when I say a carwash, everybody thinks that it's a car wash, it's gonna be like an Auto Bell or something like that just for the general public. That is not the case here at all. This carwash that is planned on this piece of property is for their inventory vehicles only. And with regard to that



carwash building, there are some new condos that just got built just to the north of this property and we have worked with your staff extensively. The carwash building will be built with the same building materials, the same color scheme as those condos next door to us roofing etc. So we worked with your staff on that to make sure that that was something that was agreeable. And Mr. Inman, I heard you bring up a pretty interesting question this morning in regards to the carwash building. That carwash building needs to be relocated. And this is what we have come up with as a relocation for that building that moves it farther to the south and farther to the west, and gets it much closer to the Boulevard which is the commercial corridor on this piece of property than where it was originally designed all the way back on the – on the north side of the property. So we like – we would like to move it even closer to the boulevard but Mr. Inman the problem we have with that is, is that the front part of this property is still owned by Haynes Furniture, and we only have a lease. So we can't build it on their property when we have a stipulation that if they ever need that property back for additional parking, we have to vacate the property immediately. So we've moved as far south and as far west as we can. With regards to traffic in this area, we think that the request that we are having, that we have put in front of you today would be far less traffic than if this was developed as residential. I mean, just that, you probably wouldn't have 10 or 15 trips a day, if you're using it just for a vehicle storage yard. Stormwater treatment will be by underground infiltration systems. So you won't have unsightly BMP retention pond sitting on this piece of property. And with regards to that perimeter landscaping, we have worked with your staff and we have not only met the requirements for the perimeter landscaping, we have exceeded it. So again, it's our intention that once the landscaping gets mature, which we think will happen pretty soon, it will make it much more agreeable to the surrounding properties that you have around it. So with that in question, with that in mind, we would answer any questions that you may have, any suggestions that you may have. In the staff write up, there are eight conditions for the storage yard, and six for the carwash. We're in agreement with all those conditions with the exception if you don't mind, the condition number eight with the storage yard, said we have to vacate that interior lot line. And again, that can't be done. So other than that part of that condition, we're in total agreement with it, but that lot line can't be vacated, because that's still the property that's owned by Haynes furniture. So with that in mind Mr. Chairman, if anybody has any questions, we understand the neighbors concern about having a residential zoning in your area, but unfortunately, the only way we can have a storage yard there is to zone it commercial, which is the reason why we did conditional B-2 zoning because we're telling you, and we're telling them, you're not gonna wake up one day and there's gonna be a gas station there, you're not gonna wake up, and there's gonna be a fast food restaurant there. This is the only use that can be on that property based upon this condition B-2 zoning to make it more agreeable to the neighbors. So I appreciate you taking our time to hear us and we'll answer any questions that you may have.

Mr. Weiner: Any questions? All right, let's listen to speakers. I'm sorry. I'm sorry.

Mr. Inman: Could you be more descriptive about the landscaping and how it has been enhanced over what was required?

Mr. Garrington: I think the minimum requirement is a 10-foot landscaping buffer and I think our buffer is 20 feet, which we have exceeded; we've made it bigger and wider around the perimeter of the property. And we have a six-foot privacy fence, is a six or eight foot?

Mr. Dao: The requirement for a bulk storage yard is a 10 feet wide landscape buffer with a six feet privacy fence.

Mr. Inman: And what's that fence made out of? Is there a material specified?

Mr. Garrington: I don't think the material has been specified, Mr. Inman.

Mr. Inman: It's not in the write up. Okay. And as far as the height of the plantings, it looks like there are several types of plantings going in this 15 foot strip?

Mr. Garrington: This is the category five, if I'm not mistaken?

Mr. Dao: It's a category six.

Mr. Garrington: Category six, which grows to a much higher heights than the other ones.

Mr. Inman: Green shrubs are coming from crepe myrtles, crepe myrtles in here. Okay. I have a hard time reading this. All right, that's all I got.

Mr. Weiner: Alright, let's listen to speakers. All right, thank you. Madam clerk.

Madam Clerk: Mr. Chair, we have two speakers that will be speaking together. And they're representing the Garnett Point Lake Condo Association, Janice Figueroa and Maureen Jacques.

Mr. Weiner: Welcome, ladies. Please state your name again for the record.

Ms. Jacques: Good afternoon. I'm Maureen Jacques. I'm the Vice President of the Garnett Point Lake Condo Association.

Ms. Lopez: I'm Janice Figueroa Lopez. I am the President of the Association.

Mr. Weiner: Okay.

Ms. Jacques: We thank you very much for hearing us today. We're not used to public speaking. So we're a little nervous and I'll try not to go like a freight train. As we stated, we're on the Board of the Garnett Point Lake Condo Association. And we're here speaking in opposition to the Winner's LLC, Checkered Flag proposition and rezoning and we do concur with your staff. The recommendation that the rezoning not be approved and the conditional use permit not be issued. The residential area that would be affected by this rezoning consists of over 200 residences in eight separate areas. Nelms Lane is a narrow road that is the sole entrance and egress to our neighborhood. But this road is also used by walkers, joggers, parents pushing strollers, kids on bikes, folks walking dogs and school buses picking up and dropping off children. One such bus stop is that the entrance to Adkins Reserve, which is right across the proposed emergency exit for the storage lot. The primary entrance proposed for the storage lot is across from a HUD and what we know is the Habitat for Humanity housing area. How will those huge tractor trailers maneuver down our small narrow lane and negotiate into the driveway? Also, I'm going to extemporaneously question the lighting situation. As we reviewed the plans, we noticed what we thought were almost 40 lights ranging at 15 feet tall with a downward direction. So if you have a six foot fence with plantings and 15 feet lights numbering 40, that's going to look like a football field over there. Currently on the corner, as we have heard, Checkered Flag is in the process of putting in a new Audi dealership. Currently, they are storing cars on that lot and their employees' park there. We understand that the new dealership will need the new storage lot. Where are those employees going to park? Are they going to park in the new storage lot? We really don't want a B-2 zoning approved. We wish to remain a community, pretty much shielded from all the hustle and bustle on Virginia Beach Boulevard. We do have an abundance of green space, mature trees, bushes, and wildlife. Please keep our zoning A-12, thank you, Janice.

Ms. Lopez: Dear members of the Virginia Beach Commission, I apologize because not only am I nervous but English is my second language. I will try to speak slowly. My name as you she stated is Janice Figueroa, I reside at Garnett Point Lake Condos, located near this proposed area referred to be rezoned. Like Maureen and I, like Maureen stated I am the president of the Condo Association. I have been a resident of Virginia Beach for over 30 years and have owned several properties. I purchased this property five years ago. When I went shopping for a home, this was the first property I saw in the area and fell in love with it. I liked it so much that I consciously made an offer higher than the bank assessed market value, because I knew this will become my dream home. All this was before the current real estate surge. I know this area very well as I pass by it almost every day. I walk from and to work; I walk the area to exercise and walked out my dog. This vicinity area is enclosed, meaning that there is only one entrance and one exit on a small two lane road. It feels safe and secure at all times day and night. This is like a hidden gem for all residents. There is a playground at Grand Lake; one of the eight neighborhoods back there and other than that there is no other open space in that

area. The land in question is the place where people and nature meet. This is like a mini forest where you will see baby hawks, bald eagles, red foxes, numerous bunnies and a variety of songbirds. It is also the place in which you will see a father teaching football to his son, children selling lemonade to help themselves and their parents, a man in a wheelchair interacting with his trained dogs, people picking wild blackberries, neighbors from different neighborhoods meeting each other. Needless to say we're all from different economic backgrounds. We know this area is not ours and that it will eventually be developed. We also recognize its owners have the right to develop it. However, in my opinion, the subject combine parcels are better suited for a residential development than for commercial. We could only hope that the city would preserve it or create a park that did not affect the trees as part of the city's Community Plan for a Sustainable Future. One of the things this plan states is and I quote, "we are a model community of great places, both manmade and natural that are inherently beautiful and are accessible to all rich in cultural, educational and recreational opportunities, with ample choices regardless of age, physical limitations or income, and recognizable with unique character." Our urban and suburban communities feature a range of housing choices, accommodating a diverse community, like we are, integrated with natural open space and places of historical and cultural significance. Farmland remains abundant in the southern part of the city and every resident has access to fresh local foods. We need a natural area here. Without this open space, we wouldn't have any other space within walking distance. Rezoning this land for – this land of natural beauty to accommodate a commercial development will be detrimental to our community and other communities nearby, because it would simply open the door not only for the now proposed business, but also to some other incompatible land use in the future. All this being said we at Garnett Point Lake Condos strongly oppose this rezoning application and kindly ask the Virginia Beach Planning Commission to reject this request. Thank you for giving us the opportunity to be heard.

Ms. Jacques: May I state one more thing because you have on the map.

Mr. Weiner: Yeah, 10 minutes, so you can.

Ms. Jacques: I'm sorry.

Mr. Weiner: Yeah, till lights go off. So you have time.

Ms. Jacques: Thank you. On the map to the right, upper right corner where the blue is, you see that? Thank you Janice.

Mr. Weiner: Is a pointer right here on the podium.

Ms. Jacques: Go to the right Janice, no, where you, yes. In there is now built doesn't show it on this map. But there are 21 brand new townhomes that have been built by Bishard and they started at \$300,000 and went upwards close to \$400,000. So that was an enhancement for our neighborhood. So it is not a vacant space over there.

Ms. Lopez: We are also going to have...

Mr. Weiner: Ma'am, ma'am, can you come back to the podium, please, so we can hear, just want to hear you.

Ms. Lopez: I wanted to point, and I'm going to speak about this, here. Okay. Sorry.

Ms. Weiner: No problem.

Ms. Lopez: We're also concerned about that space because everything is going to be blocked. And that small space there will become a dump site or some sort of an unsafe space because it's going to be surrounded by walls, there's going to be – it is to us is also a safety, it will be a safety hazard.

Ms. Jacques: We thank you very much.

Mr. Weiner: Does anybody having any questions? Any questions, Mr. Redmond.

Mr. Redmond: Yes. Would you take a moment please and just point out on that aerial if we can see it where your residents are located.

Ms. Jacques: Where we live?

Ms. Redmond: Yes. Where do you live?

Ms. Jacques: I don't think we're on their Janice.

Ms. Lopez: Yeah, but we go here Garnett Point Road at the end right there.

Ms. Jacques: We're up on there, if you look at the, up at the far right where it looks green. That is a lake I believe. And if you go up past that our condos are on the other side of Garnett Point Road, we're up on Witchduck Lake or Garnett Lake, or it's got a lot of different names, but that's where we live. So, we access to ours through there.

Ms. Lopez: Yeah, there's eight neighborhoods and ours is the very last, so we enter, we only have the one entrance. So we enter through Nelms Lane, go around. Garnett Road and at the end, that's where we are at.

Ms. Jacques: And we're only 16 units.

Mr. Weiner: Okay. Thank you.

Ms. Jacques: Thank you.

Mr. Weiner: Any other questions? Questions? Okay. Thank you. Thank you ladies. Any other speakers?

Madam Clerk: No more speakers.

Mr. Garrington: Thank you very much. And I would like to point out also she talked about the condominiums that have just been built by Mr. Bishard. We have a letter of support from Mr. Bishard because he looked at our request, and he was in – he was not in opposition to it. He was in support of it because of the landscaping and because of the design that we have done with the car, with the carwash building. With regards to tractor trailer trucks, there's no tractor trailer going to be in this parking lot. Okay. No tractor trailer is going to try and get down that two lane Nelms Lane to get back there and offload the cars. The cars will be offloaded on the new dealership that's going to be built on Virginia Beach Boulevard. And with regards to the traffic people, bicycle riding, roller skating whatever, you're going to have far less traffic on that road as a result of this request than you would if you had 30 or 40 new condos built back there so. With regard to the light poles, there is a condition in the staff right up that we can only have light poles that are 14 feet high. They have to be directed inward so that it doesn't illuminate the property outside of it, when we go through detailed site plan review that is always looked at by your staff. And again, it's not going to be lit up 24 hours a day, and it's not going to look like a football field. So I apologize for us putting you in a position that you're into where you have to decide between who's right and who's wrong, but unfortunately, this is the only place we have to come in order to get this approved. We have tried to be as respectful as we can to the surrounding properties. We've tried to work with your staff and come up with some guidelines that we think will be agreeable to you. And in the conditions that are in the staff write up, with that one condition to – we just asked you not to make us vacate that lot line, we're in a total agreement with what your staff has required us to do.

Mr. Weiner: Any questions? Mrs. Oliver?

Ms. Oliver: Mr. Garrington, I guess the back half of that where butts against Garnett Point Lane.

Mr. Garrington: Yes ma'am.

Ms. Oliver: And Nelms lane is just sort of interchange there. There're basically three houses. That butt up against it on the Google Maps. Did anybody have any conversations with those?

Mr. Garrington: We tried to meet with the people and they said, look, there's no sense in this meeting with you, there's nothing you can say that's going to change our mind. So but we did offer that to meet with them. Before we got here to show them what we were asking for, and see if they had any suggestions that we could incorporate into it, and they just didn't want to meet.

Ms. Oliver: And the two buildings across the street, they almost, there are two large buildings, not quite sure what those are?

Mr. Garrington: I'm gonna say one of them was the Habitat for Humanity. I don't know what the other one is.

Ms. Oliver: All right. And so and then, Mr. Bishard has already written a letter on townhouses that don't show on that one big lot.

Mr. Garrington: He has given us a letter of support based upon the landscaping and the fact that we incorporated the materials and the color schemes that he used on his project in our car wash one, and we're now moving on even farther away from his project.

Ms. Oliver: And the lighting you said not 24 hours, it's just?

Mr. Garrington: Nobody lights up – Nobody lights up a car dealer 24 hours a day, at nighttime after 9 o'clock all you have is security lights to turn on and all the rest of the lights go off and it's just for security purposes.

Ms. Oliver: Thank you.

Mr. Garrington: Thank you.

Mr. Weiner: Ms. Klein.

Ms. Klein: Excuse me, could you use the pointer and show me where those apartments are now on the map because the site plan looks like you guys are right up in that corner.

Mr. Garrington: Do you have a pointer that works?

Mr. Redmond: Probably not for five years now.

Mr. Garrington: You are talking about the new apartments?

Ms. Klein: Yeah, the site plan looks like the – your lot goes all the way up into the corner of Nelms and Garnett, Turtle Creek, thank you.

Mr. Garrington: The new apartments, Mrs. Klein?

Ms. Klein: Yes.

Mr. Garrington: This piece of property that you see right here is the ones that Steve Bishard just developed, and he gave us a letter of support.

Ms. Klein: That's where they are. Okay. Thank you.

Mr. Weiner: Mr. Redmond.

Mr. Redmond: Mr. Garrington, can you point out where that car dealership is going – the new Audi dealership?

Mr. Garrington: The new car dealership goes right here. That would be the new Audi dealership. It originally was going to be Jaguar Land Rover; Jaguar Land Rover was put up at Kings Grant and Virginia Beach Boulevard, so now Audi is going here on that northeast corner. And this would be just an overflow lot for their inventories for that dealership.

Mr. Redmond: Okay, thanks.

Mr. Garrington: Thank you very much. And again, we apologize for putting you in this position.

Mr. Weiner: No other questions? Alright, thank you, sir. Are there speakers?

Madam Clerk: No more speakers.

Mr. Weiner: We're gonna close this and open it up for discussion.

Mr. Inman: One of the ladies who spoke, come back up for a minute, I need to ask you a question. The question is, what is the exact name of your condominium?

Ms. Lopez: Garnett Lake Point Condos.

Mr. Horsley: Okay. Thank you.

Mr. Weiner: Alright, we're going to close this and open it up for discussion.



Mr. Inman: Mr. Chairman, I won't be participating in any further and I have a conflict of interest That condo association I represent, my firm represents so.

Mr. Weiner: Okay.

Mr. Inman: I am out.

Ms. Oliver: I do have a question for the Civic League, I have one question. Where are your condos? If you don't mind coming up here, no, I have, I just want them to answer the question.

Mr. Weiner: Can you go back to the picture that Okay, here you go.

Ms. Oliver: Thank you.

Mr. Weiner: With the pointer up there works now, on the pointer.

Ms. Oliver: Can you zoom out a little bit on that photo for me?

Mr. Weiner: Ma'am, the pointer on the – on the right there.

Mr. Redmond: It's a static map that she can't pull out.

Ms. Oliver: That's okay. Zoomed out, good enough.

Ms. Lopez: That's where we are, yeah. Right on the lake.

Ms. Oliver: Okay. And can you? Can you sort of circle where Garnet Lake Condos is?

Ms. Lopez: Yeah, exactly. That's it. That's right there, where she's pointing at. It's not on the map, because the lake is over there. We are on the lake.

Ms. Oliver: Okay. Great. Thank you.

Ms. Lopez: And I am surprised that you haven't received any other because we have spoken to other people that supposedly were going to speak against.

Ms. Jacques: And they weren't Bishard. Some of the owners, because Bishard doesn't own it anymore.

Mr. Weiner: Right, thank you. Okay, so we've opened it up for us to discuss. Who wants to go, Mr. Redmond?

Mr. Redmond: Yes, I do. I don't particularly care for this application. In the sense that, I mean, I would just kind of prefer apartments or condos on a site that's zoned for multifamily as it is, it's very hard to rezone things to multifamily, these days, because most people think they're getting a casino or something. Oddly, here's an instance where some folks think it would be better to have, you know, something that would fit into A-12 zoning designation. And I agree with that, I personally think it would be better if it were residential. Nevertheless, it seems to me a perfectly appropriate use for this piece of land. There's a giant furniture store, right next door to it, it's associated with an existing or soon to be car facility, I mean, I can throw a baseball and hit Virginia Beach Boulevard. So it's hardly nestled back in the, you know, in the farthest reaches of things. I just don't find enough wrong with it. That would cause me to think that it's not an appropriate use of this land. And I might prefer something else, but I think there's a certain property interest, where unless something is just kind of wrong, or doesn't really meet certain minimum standards, and seems to me ought to be able to make some choices about how you use your own land, and what commercial uses might apply in a residential as a commercial use, in many ways. So that's a long way of saying, I'm going to support the application; I would prefer that it be a different product, but I don't think there's anything wrong with this product. And it strikes me is entirely reasonable and appropriate, an application in this spot. Thank you.

Mr. Weiner: Anyone else? Yes. Mr. Coston?

Mr. Coston: Where did the attorney go? Mr. Garrington?

Mr. Weiner: Do you have a question for Mr. Garrington?

Mr. Coston: Yes.

Mr. Weiner: Can you come back up Mr. Garrington please?

Mr. Coston: Does your property for the dealership, adjoin the A-12 property in any place?

Mr. Garrington: No sir.

Mr. Coston: Okay.

Mr. Garrington: Here's the property that we have right here now and then here's the other property, but this one portion of it is the part that's owned by Haynes Furniture that we're only leasing. That's the part that we don't own.

Mr. Coston: Okay, so you can't get there from that?

Mr. Garrington: No sir.

Mr. Coston: Okay. All right.

Mr. Weiner: Good, anybody else? Mrs. Klein.

Ms. Klein: I appreciate what they're trying to do, I think that the level of traffic is going to be minimal as an overflow lot. And I think that that is a great place for it. At the same time, we're constantly talking about how we don't have enough space for housing and this area is beautiful green space, and I would prefer to save it for housing than to develop it, since it is not just a vacant area, it's a green space. So I'll be voting against it.

Mr. Weiner: Okay. Anybody else? George?

Mr. Alcaraz: I'm gonna just say I'm okay with it. I mean, I appreciate the enhanced landscape buffer. I checked out the carwash, its existing off Rosemont Road, couldn't hear anything. I saw the whole landscaping that he had on site. We really couldn't see the cars and the adjacent one, adjacent property owners is more or less, sending his approval for the individuals up front looks like they're about maybe 1000-2000 feet away from this property. I haven't heard anything from any other adjacent property owners, so I'm going to support it.

Mr. Weiner: Okay. Anybody else. Mr. Horsley.

Mr. Horsley: I think you need, to be honest - to me when you put down the picture back up there, I think it is, the property fits more in the commercial area than it does the residential area, to me it does with the big box of Haynes and all right beside it, with the way they've buffered it from the residential area, I think it's, and I don't think it's gonna create traffic down Nelms Road, I don't see that. They don't drive any cars up and down the road there, they'll unload and put them in the parking lot until they, till they have sold. So, you know, I'm supportive of the idea.

Mr. Weiner: Ms. Oliver?

Ms. Oliver: I will, I do know the applicant, Checkered Flag, and I know how they, how they operate their businesses. And the one thing I can honestly say about them and their family is that they've lived in this area for generations, and they run and operate businesses, they excel at what they do. And when they say they're going to do something, they do it, their word is just as old fashioned as everything. And they keep everything neat and tidy, and they will protect the neighborhood and go above and beyond basically what is written, they always have and they always will, they are, they are one fine family of a family run business for generations. And so I can't speak highly enough about them, and the way they conduct business and in the community. So I will support them.

Mr. Weiner: Okay. I just want to say a couple of things real quick. Since this is the Kempsville area, the couple of things that I really like what the applicant said that the lights are not going to be on 24/7, there's just going to be security lights after a certain time. And we know for a fact that tractor trailers are not going to pull down Nelms Lane to block the school buses to block anything and I'm, I'm pretty sure in fact, I'm positive that this is going to be even less traffic than any type of residential use on that property. So I'm going to be supporting it also. Saying that, would anybody make a motion? Mr. Redmond.

Mr. Redmond: Mr. Chairman, I move approval of the application but with striking condition number eight about vacating internal outlines.

Mr. Weiner: Okay. You want to say anything?

Mr. Tajan: Yes, sir. Mr. Chair, if I can, the applicant provided a plan noting that the building would be moved as well. We should probably include in the motion if the commission chooses to, to utilize this layout which moves the carwash facility to the south.

Mr. Weiner: Mr. Redmond.

Mr. Redmond: Mr. Chairman, I make a motion that we approve the application, however, deleting condition number eight and including there in the new site plan showing the relocation of the carwash facility to the more central location within the lot.

Mr. Weiner: Right. We have a motion.

Mr. Redmond: Thank you, Mr. Tajan.

Mr. Weiner: We have a second by Mr. Alcaraz.

Madam Clerk: Vote is open. Mr. Inman.

Mr. Inman: I'm just trying to abstain but it's not working.

Mr. Redmond: His button is not working.

Madam Clerk: Okay. Hang on. Bear with us a second. Okay, can we do that again, vote is open.

Madam Clerk: All right. By recorded vote of six in favor, one against and one abstention, agenda items number 9, 10 and 11 have been recommended for approval with modifications or removal of condition number eight and including the new site plan.

	AYE 6	NAY 1	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman			ABSTAIN	
Klein		NAY		
Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
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, the entrance, streets, landscaping and fencing shall be substantially in accordance with the “CONCEPTUAL SITE LAYOUT PLAN OF CAR WASH W/ BULK STORAGE FOR CHECKERED FLAG – NELMS LANE”, dated 04/16/2021, prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (“Concept Plan”).

### Proffer 2:

To the extent that the Property is developed with a car wash facility, there will be no more than one (1) enclosed building as depicted on the Concept Plan.

### Proffer 3:

When the Property is developed, all outdoor lighting will be shielded to direct light and glare onto the premises, said lighting and glare will be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting will not be erected any higher than fourteen (14) feet.

### Proffer 4:

When the Property is developed, the storage yard as depicted on the Concept Plan will be completely enclosed, except for necessary opening for ingress and egress, by a fence no less

than six (6) feet in height, except where prohibited by Section 201(e)(1) and Category VI landscaping as per Section 228 of the Zoning Ordinance.

**Proffer 5:**

When the Property is developed, the Property will utilize Category VI landscaping, and will include evergreen shrubs or a combination of trees and shrubs, which will better screen the proposed use from the surrounding residential uses.

**Proffer 6:**

To the extent that the Property is developed with a car wash facility as depicted on the Concept Plan, said facility will restrict any water produced from said facility from falling upon or draining across public streets or sidewalks or adjacent properties.

**Proffer 7:**

To the extent that the Property is developed with a car wash facility as depicted on the Concept Plan, said facility will include the required minimum parking spaces as required by Section 228.1 of the Zoning Ordinance.

**Proffer 8:**

Further conditions may be required by the Grantee during the detailed review of the Conceptual Plan and Review Set and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

**Staff Comments:** The proposed proffers provide assurance for enhancing screening of the site and minimize vehicular impact to the surrounding residential community. Staff has reviewed the Proffers listed above and does not believe the proffers provide protections to the surrounding residential community. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

**RECOMMENDED CONDITIONS FOR AUTO STORAGE YARD**

1. When the site is being developed, it shall be in substantial conformance to the site layout entitled 'Conceptual Site Layout Plan for Phase 1 of Checkered Flag – Nelms Lane Virginia Beach, Virginia, prepared by Orbis Landscape Architecture, dated April 16, 2021, which has been exhibited to the City Council and is on file in the Planning Department.
2. Any lighting for the Auto Storage Yard shall be limited to light packs installed on the building and fence, as well as pole lighting not to exceed a maximum height of fourteen (14) feet. All lighting shall be shielded and directed downward to limit the amount of light overspill outside the property boundary.
3. The Auto Storage Yard shall be limited to vehicles from the applicant's dealership only.

4. Vehicles associated with this use, including but not limited to, tractor trailers use for transporting vehicles from and to the site, shall not park within the right-of-way.
5. The loading and unloading of vehicles from tractor trailers shall be limited to the subject property and not within the right -of-way.
6. No driveways or vehicular access points shall be permitted along the northern property line.
7. The existing driveway entrance on the eastern property line shall be removed with the curb and sidewalk replaced in compliance with the Public Works Design Standards Manual requirements.
8. ~~Prior to site plan approval, the applicant/owner shall submit a subdivision plat to the Department of Planning & Community Development for review, approval, and recordation to vacate all interior lot lines of the parcels.~~

#### **RECOMMENDED CONDITIONS FOR CAR WASH FACILITY**

1. When the site is being developed, it shall be in substantial conformance to the site layout entitled 'Conceptual Site Layout Plan for Phase 2 of Checkered Flag – Nelms Lane Virginia Beach, Virginia, prepared by Orbis Landscape Architecture, dated April 16, 2021, which has been exhibited to the City Council and is on file in the Planning Department.
2. When the site is being developed, the design and architectural materials of the building shall be in substantial conformance to the elevation plan entitled 'Checker Flag – Nelms Lane – Future Car Wash Building, prepared by Covington Hendrix Anderson Architects, dated June 10, 2021, which has been exhibited to the City Council and is on file in the Planning Department.
3. The Car Wash Facility shall be limited to vehicles from the adjacent dealership only that has frontage along Virginia Beach Boulevard to the south and shall not be opened to the general public.
4. Washing, drying, vacuuming, or detailing of vehicles outdoors shall be prohibited.
5. No driveways or vehicular access points shall be permitted along the northern property line.
6. The existing driveway entrance on the eastern property line shall be removed with the curb and sidewalk replaced in compliance with the Public Works Design Standards Manual requirements.

**Items # 12**

**Witchduck Medical Associates, LLC [Applicant & Property Owner]**

**Conditional Rezoning (A-12 Apartment District to Conditional O-1 Office District)**

**4501 N. Witchduck Road**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Great. Thank you. The next item is item number 12, Witchduck Medical Associations, LLC located at 4501 N Witchduck Road in the Bayside District.

Mr. Bourdon: Chairman, Commission members, Eddie Bourdon, Virginia Beach attorney representing medical – Witchduck Medical Associates LLC Conditional Rezoning all the proffers, we appreciate being on the consent agenda. Thank you.

Ms. Oliver: Great. Thank you. Is there any opposition to this being on the consent agenda today? Hearing none, Commissioner Redmond is going to read this into the record for us.

Mr. Redmond: Thank you, Ms. Oliver. This is a Conditional Rezoning from A-12 Apartment District to Conditional O-1 Office District. This is in the Bayside District very near what we used to call Bayside Hospital. I guess we call it now Sentara Bayside Facility of some sort. This building has been here for 46 years, this is a housekeeping matter. You know, it's an office building in an A-12 Apartment District; none of the offices will change. They are adding a fence to better screen the property. There is no opposition to this request, the zoning much better matches the, you know, the real use that occurs on this, and the commission therefore places it on consent. Thank you.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe



I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

	AYE 8	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
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:**

The Property shall be developed in substantial conformity with the conceptual site plan entitled “Dollar Tree – Independence Boulevard, Virginia Beach, VA, Conceptual Development Plan”, dated June 14, 2021, and prepared by Timmons Group, Inc. (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Proffer 2:**

The quality of architectural design and materials of the retail building on the Property shall be in general conformity with the elevations entitled “Dollar Tree – Former Rite Aid”, dated February 1, 2021, and prepared by RRMM Architects (the “Elevations”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Proffer 3:**

The following uses will be prohibited on the Property: automobile repair garages and small engine repair establishments; automobile service stations; bars or nightclubs; beverage manufacturing shops; bicycle and moped rental establishments; boat sales; body piercing establishments; borrow pits; building-mounted antennas other than those meeting the requirements of Section 207 of the City Zoning Ordinance; bulk storage yards and building contractor yards; car wash facilities; commercial parking lots; parking garages, parking structures and storage garages; craft breweries; craft distilleries; dormitories for marine pilots;

eating and drinking establishments with drive-through windows; liquor stores; mini-warehouses; mobile home sales; motor vehicles sales and rental; passenger transportation terminals; public utility storage or maintenance installations; radio and television broadcasting stations; satellite wagering facilities; storage garages; tattoo parlors; and wine-tasting rooms.

**Proffer 4:**

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

**Staff Comments:** Staff has reviewed the Proffers listed above and finds them acceptable. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

**Items # 13**

**Design by Eleni, Inc. [Applicant & Property Owner]**

**Change in Nonconformity**

**2416 Seaview Avenue**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Thank you. Next item on the agenda is item number 13, Design by Eleni Incorporate, a Change of Nonconformity located at 2416 Seaview Avenue in the Bayside District. Hello.

Mr. Garrington: Good afternoon. Thank you, Mr. Chairman, ladies and gentlemen of the Planning Commission, for the record I am Billy Garrington, on behalf of the applicant Designs by Eleni, for this Nonconforming Change of Use. There are two conditions in the staff write up, we're in total agreement with those two conditions. Thank you very much for considering this on the consent agenda. Thank you.

Ms. Oliver: Thank you. Is there any opposition to this being placed on the consent agenda today? Hearing none, Commissioner Inman is going to read this into the record.

Mr. Inman: Yes, this is a Change in Nonconformity, kind of unusual application, the existing land use is R-10 on the Shore Drive Overlay, the applicant is seeking this change in order to redevelop the existing 1455 square foot non-conforming duplex with a taller and larger 2500 square foot duplex and there is a request to allow the nonconforming structure to be enlarged, extended, reconstructed by resolution of the city council. The elevations of the three-story structure depict a coastal inspired architecture with architectural roof shingles, Hardie plank lap siding and black metal roof. So, the staff's analysis is that this is a replacement. And it's acceptable, increases lot coverage from 1400 to 2500 square feet. In addition, on-site parking is not provided for the duplex but now the residents of this parcel are parking within the right-of-way so this development will correct that problem. So, the redevelopment of the property will result in a replacement of an aging structure has no historical significance with an attractive structure designed with coastal theme. Based on these considerations, staff recommended approval; we decided to put it on the consent agenda.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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

**CONDITIONS**

1. When the property is redeveloped, it shall be in substantial conformance with the submitted concept plan entitled, "Concept Plan – The Northern 83.9' of Lot 19, Block 2", prepared by WPL, revised June 18, 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 redeveloped, the architectural design and exterior building materials shall substantially adhere in appearance, size and materials to the elevations and renderings from pages 7 through 10 of this report, which has been exhibited to the Virginia Beach City Council and is on file in 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 # 14 & 15**

**JTR,LLC [Applicant] JTR,LLC; Bayliner Building, LLC; &Shore Drive Area Properties  
[Property Owners]**

**Street Closures**

**Adjacent Address: portion of Ocean Tides Drive, south of Shore Drive and north of  
Clipper Bay Drive, and a portion of Clipper Bay Drive right-of-way south of Shore Drive  
and west of Ocean Tides Drive**

**July 14, 2021**

**DEFERRED TO SEPTEMBER 8, 2021**

Ms. Weiner: Thank you, Madam Clerk. Next is the deferral items, if we have an item to be deferred, please come forward. Welcome.

Ms. Murphy: Good afternoon Chairman, Vice Chairman, members of the Planning Commission for the record, my name is Lisa Murphy, local zoning attorney. And I'm here requesting that you defer items 14, 15, 16 and 17, street closure and conditional change in zoning for the Marlin Bay project.

Mr. Weiner: And that's for 60 days, correct?

Ms. Murphy: For 60 days, yes.

Mr. Weiner: Okay, great. Thank you.

Ms. Murphy: Thank you.

Mr. Tajan: To be clear, that is to the September public hearing.

Mr. Bourdon: Thank you, Mr. Chairman. For the record Eddie Bourdon, Virginia Beach attorney representing Wakefield Development, case number seven, for an indefinite deferral, but hopefully see you as early as next month.

Mr. Weiner: Thank you. Sounds good, thank you, sir. Any other items? The chair has been told items 28, 29, and 30 also are indefinite deferral, and Madam Clerk, do we still have a speaker on item 17?

Madam Clerk: Yes, we do.

Mr. Weiner: So we will let him to come forward now.

Madam Clerk: Daniel Murphy.

Mr. Weiner: Welcome, sir.

Mr. Murphy: Thank you. Thank you for your service. I really appreciate it.

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

Mr. Murphy: My name is Daniel Murphy. I am the President of the Ocean Park Civic League. I am in favor of the deferral today for the Marlin Bay project. I would just ask that there be a little bit better communication on deferrals. We had a number of residents who were very concerned about the meeting and would like to provide input during the September meeting. So, if Mr. Tajan and his staff could ensure that letters go out properly, and it's publicized, I would appreciate the notices. Thank you.

Mr. Weiner: Thank you, sir.

Mr. Tajan: To clarify, Mr. Weiner, the action of the deferral has to be taken by the Planning Commission. So there's no – there's no mailing that we do in between of those, but we do our best to notify the public the best way we can, especially if they've contacted us. So we will continue to keep open that line of communication.

Mr. Murphy: Thank you.

Mr. Tajan: Yes sir.

Mr. Weiner: Thank you. Okay, can I get a motion?

Ms. Oliver: I have a motion to defer items 7, 14, 15, 16, 17, 28, 29 and 30.

Mr. Weiner: Motion by Mrs. Oliver, second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.



Madam Clerk: Yes ma'am.

Madam Clerk: Vote is open. By recorded vote of eight in favor, and zero against agenda items seven have been deferred indefinitely, 14, 15, 16, and 17 have been deferred to the September meeting, 28, 29 and 30 have been deferred indefinitely.

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	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman			ABSTAIN	
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
Weiner	AYE			

**Items # 16 & 17**

**MP Shore, LLC [Applicant] JTR,LLC; Bayliner Building, LLC; &Shore Drive Area Properties & City of Virginia Beach [Property Owners]**

**Conditional Change of Zoning (B-2 and PD-H1 Districts to Conditional B-4 Mixed Use District)**

**Conditional Use Permit (Multi-Family Dwelling)**

**3829 & 3785 Shore Drive, adjacent parcel between Marlin Bay Drive and 3829 Shore Drive**

**July 14, 2021**

**DEFERRED TO SEPTEMBER 8, 2021**

Ms. Weiner: Thank you, Madam Clerk. Next is the deferral items, if we have an item to be deferred, please come forward. Welcome.

Ms. Murphy: Good afternoon Chairman, Vice Chairman, members of the Planning Commission for the record, my name is Lisa Murphy, local zoning attorney. And I'm here requesting that you defer items 14, 15, 16 and 17, street closure and conditional change in zoning for the Marlin Bay project.

Mr. Weiner: And that's for 60 days, correct?

Ms. Murphy: For 60 days, yes.

Mr. Weiner: Okay, great. Thank you.

Ms. Murphy: Thank you.

Mr. Tajan: To be clear, that is to the September public hearing.

Mr. Bourdon: Thank you, Mr. Chairman. For the record Eddie Bourdon, Virginia Beach attorney representing Wakefield Development, case number seven, for an indefinite deferral, but hopefully see you as early as next month.

Mr. Weiner: Thank you. Sounds good, thank you, sir. Any other items? The chair has been told items 28, 29, and 30 also are indefinite deferral, and Madam Clerk, do we still have a speaker on item 17?

Madam Clerk: Yes, we do.

Mr. Weiner: So we will let him to come forward now.

Madam Clerk: Daniel Murphy.

Mr. Weiner: Welcome, sir.

Mr. Murphy: Thank you. Thank you for your service. I really appreciate it.

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

Mr. Murphy: My name is Daniel Murphy. I am the President of the Ocean Park Civic League. I am in favor of the deferral today for the Marlin Bay project. I would just ask that there be a little bit better communication on deferrals. We had a number of residents who were very concerned about the meeting and would like to provide input during the September meeting. So, if Mr. Tajan and his staff could ensure that letters go out properly, and it's publicized, I would appreciate the notices. Thank you.

Mr. Weiner: Thank you, sir.

Mr. Tajan: To clarify, Mr. Weiner, the action of the deferral has to be taken by the Planning Commission. So there's no – there's no mailing that we do in between of those, but we do our best to notify the public the best way we can, especially if they've contacted us. So we will continue to keep open that line of communication.

Mr. Murphy: Thank you.

Mr. Tajan: Yes sir.

Mr. Weiner: Thank you. Okay, can I get a motion?

Ms. Oliver: I have a motion to defer items 7, 14, 15, 16, 17, 28, 29 and 30.

Mr. Weiner: Motion by Mrs. Oliver, second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Madam Clerk: Vote is open. By recorded vote of eight in favor, and zero against agenda items seven have been deferred indefinitely, 14, 15, 16, and 17 have been deferred to the September meeting, 28, 29 and 30 have been deferred indefinitely.

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	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman			ABSTAIN	
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
Weiner	AYE			

**Item # 18**

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

**Street Closure**

**Portion of 18<sup>th</sup> Street adjacent to 1880 & 1881 Pacific Avenue, 319 18<sup>th</sup> Street**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: The next item on our agenda is item 18, Atlantic Park, Inc. and City of Virginia Beach Development Authority located in the Beach District for a Street Closure. Is there an applicant representative for this?

Mr. Culpepper: Yes, ma'am. Members of the Planning Commission, my name is Michael Culpepper, I'm here on behalf of the applicant Atlantic Park Inc. and we accept all the conditions to the application.

Ms. Oliver: Great. Thank you. Is there any opposition to this being placed on the consent agenda today? Hearing none, Commissioner Alcaraz is going to read this into the record.

Mr. Alcaraz: All right, thank you. The applicant Atlantic Park Inc. and City of Virginia Beach Development Authority is requesting a Street Closure north side of 18th Street between Pacific and Arctic Avenue. They are requesting to close a portion of 18th Street to be incorporated with an assemblage of property owned by the City of Virginia Beach Development Authority. This assemblage which has been referred to as the Dome site consists of two blocks between 18th and 20<sup>th</sup> streets and Pacific and Arctic Avenues and the block between 19th and 20th Street and Arctic and Baltic Avenue. Similar to the previously approved closures for 20th Street and Arctic Avenue, the proposed street closure for 18th Street includes an area to be fully closed above and below ground where proposed buildings overlap on the right-of-way and subject closure underground only beyond that to accommodate the underground foundation and pilings. The ground and air above the subject closure will remain public right-of-way. Based on the application, the planning commission is recommended for consent agenda.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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

**CONDITIONS**

1. The City Attorney’s Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City is normally determined according to the “Policy Regarding Purchase of City’s Interest in Streets Pursuant to Street Closures,” approved by City Council. However, no purchase price shall be charged for this street closure because the City of Virginia Beach Development Authority is an applicant seeking this street closure.
2. The applicant, or the applicant’s successors or assigns, shall resubdivide the properties and vacate internal lot lines to incorporate the closed areas into the adjoining parcel. 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 street to the City of Virginia Beach if it is determined by the Department of Public Works to be necessary, subject to the approval of the Department of Public Works, and the City Attorney’s Office, which easement shall include a right of reasonable ingress and egress.
3. The applicant shall submit a Sight Distance Analysis to be reviewed by the Traffic Engineer for the Department of Public Works prior to the final approval of the street closure. Based upon the results of the Traffic Engineer’s analysis of the Traffic Impact Analysis and Sight Distance Analysis, the applicant shall, if necessary, adjust or modify the areas proposed for closure to areas no greater than what is described herein and shown on the exhibit attached hereto, subject to the approval by the Department of Public Works.
4. The applicant shall cause to be relocated public water and sanitary sewer infrastructure adjacent to the area to be closed along or within 18<sup>th</sup> Street if determined by the City that said infrastructure will be impacted by the street closure in a way that causes the location of the infrastructure, in relation to improvements proposed by the applicant, to present an unacceptable risk to the City or the City’s ability to maintain said infrastructure.
5. The applicant or the applicant’s successors or assigns shall verify that no private utilities exist within the rights-of-way proposed for the closure. If private utilities do exist, easements satisfactory to the utility company, must be provided.
6. Closure of the rights-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not

accomplished and the final plats are not approved for recordation within one year of the City Council vote to close the rights-of-way, this approval shall be considered null and void.

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

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



**Item # 19**

**Atlantic Park, Inc. [Applicant] City of Virginia Beach Development Authority [Property Owner]**

**Alternative Compliance**

**1880 & 1881 Pacific Avenue, 319 18<sup>th</sup> Street**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Great, thank you. The next item is item number 19, Atlantic Park Inc. and City of Virginia Beach Development Authority. It's an Alternative Compliance at address 1880 and 1811 Pacific Avenue, 319 18<sup>th</sup> Street. Is there a representative for this?

Mr. Culpepper: Yes, ma'am. Thank you again, Michael Culpepper with Atlantic Park, Inc. and we agree with the conditions set forth.

Ms. Oliver: Great. Thank you very much. Is there any opposition to this being placed on the agenda today – consent agenda? Hearing none. Commissioner Alcaraz is going to read this into the record please.

Mr. Alcaraz: All right, bear with me.

Ms. Oliver: Sure.

Mr. Alcaraz: The applicant Atlantic Park, Inc. is requesting an Alternative Compliance for maximum building height, building setbacks and several conditional uses. The Atlantic Park development proposal consists of two mixed use buildings and residential commercial structured parking and an indoor outdoor entertainment venue with an outdoor Surf Park. Additional retail and mechanical buildings surround the park also. Development Project as anticipated has a variety uses, some of which ordinarily require a Conditional Use Permit. These include an outdoor recreational facility, the Surf Park, open air markets like food trucks, farmers market, etc. Assembly for indoor component entertainment venues and reoccurring outdoor special events for outdoor components an entertainment venue with outdoor – with other outdoor events. While the full range of commercial uses has not been finalized and will likely vary over time. Additional anticipated conditional uses include bars, nightclubs, craft breweries, distilleries, and wineries will come forth. The request of the Alternative Compliance includes the use is listed above with deviations from form requirements as described below. The applicant is seeking Alternative Compliance to exceed the 75-foot maximum limit on the south half of the back and 45 foot height on the north half. In addition, the applicant proposes to encroach into the 5-foot minimum building setback on this block as

proposed, the building is placed on the property along the 20th Street and Arctic Avenue, resulting in a zero foot setback instead of the standard 5-foot setback. At the north block similar to the northwest block the applicant is seeking Alternative Compliance to exceed the 75-foot maximum height limit on the south half of the block and 45 foot height limit on the north half. The proposed building is approximately 84 feet from the grade on the north side and steps down to a height on the south side. As with the Northwest block, the applicant proposes to place the building on the property according – encroaching into the required 5-foot building setback on 20th and Arctic. At the Surf block, the applicant is seeking Alternative Compliance to construct a one story commercial building type for beach, I'm sorry, on two beach frontage types, I missed that, 18th Street and Arctic Avenue frontage sights. So having said that in addition, the applicant proposes to place the mechanical building on the property encroaching into the required 5-foot setback on 18th Street. With those conditions stated, Planning Commissioners recommended approval for consent agenda.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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

## CONDITIONS

1. The project will be developed in substantial conformance to the exhibit package entitled "Atlantic Park – Conceptual Massing" by Gensler and Venture Realty Group dated 06/16/2021, which has been exhibited to the City Council and is on file with the Planning Department.

2. Roadway improvements as identified in the Atlantic Park Traffic Impact Analysis, once finalized, that are not to be constructed by the City shall be constructed by the applicant and incorporated into the applicant's construction sequencing plan for the overall project.
3. The applicant shall submit a Sight Distance Analysis to be reviewed by the Traffic Engineer for the Department of Public Works prior to the final approval of the site plan.
4. The applicant shall work with the Resort Management Office to develop a traffic management plan to be implemented during events at the entertainment venue, including but not limited to events involving the closure of Arctic Avenue.
5. All streetscapes bordering and within the development project shall include sidewalks, street trees, and pedestrian lights. Dimensional details will be determined during site plan review.
6. No outdoor amplified music is permitted between 11:00 p.m. and 10:00 a.m.

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

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

**Item # 20**

**Wesley D. Boyd [Applicant] Capital Finance, Inc. [Property Owner]**

**Modification of Conditions (Tattoo Parlor)**

**172 S Plaza Trail, Suite E**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Thank you. The next item is on our agenda is item number 20, Wesley D. Boyd, Capital Finance, Inc. It's a Modification of Conditions at 172 South Plaza Trail, Suite E in the Beach District. Is there a representative for this today? Is there any opposition for this been on the consent agenda? Hearing none, Commissioner Alcaraz is going to read this once again to the record. Did you have this?

Mr. Alcaraz: Not ready for that one.

Ms. Oliver: You're not?

Mr. Alcaraz: No. I'm still recuperating from that last one.

Ms. Oliver: Hold on.

Mr. Alcaraz: Thank you.

Ms. Oliver: You're welcome.

Mr. Alcaraz: The applicant Wesley Boyd is, Modification of Conditions for a tattoo parlor. The applicant is requesting to modify the conditions of a previously approved Conditional Use Permit to expand a tattoo parlor located in the shopping center at the southeast corner South Plaza Trail in Daytona Drive. The applicant received the Conditional Use Permit in April 2019 to operate a tattoo parlor in suite E of the shopping center. The adjacent suite – Suite F, is now vacant and the applicant proposes to modify the conditions to allow operation the tattoo parlor in both suites. The hours of operation will be between 10 am and 9 pm seven days a week. No exterior changes of the proposed building will be affected, and Planning Commission's recommend approval for consent.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.

Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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

**CONDITIONS**

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment 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 # 21 & 22**

**Robert Nelson, et al. [Applicants & Property Owners]**

**Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)  
Floodplain Variance (Section 4.10 of the Floodplain Ordinance)**

**Vacant parcel on West Landing Road approximately 5,998 feet west of West Neck Road**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - HEARD**

Madam Clerk: Our next items are agenda items number 21 and 22, Robert Nelson et al, an application for a Subdivision Variance; section 4.4(b) of the subdivision regulations, and a Floodplain Variance, section 4.10.B.3 of the Floodplain Ordinance on a vacant parcel on West Landing Road, approximately 5,998 feet west of West Neck Road in the Princess Anne District.

Mr. Bourdon: Mr. Chairman, members of commission, for the record Eddie Bourdon, Virginia Beach attorney representing the family members whose family have owned this piece of property for 50 years plus, as well as Frank and Debbie Mason, who are under contract to purchase the property subject to the lot being recorded by a plat. Whitney McNamara and Bobby and staff have done an excellent job with this application. You all have seen applications similar to it. More often than not, they don't involve a floodplain situation, but that's come before this Commission as well. The lot was created; the parcel was created in 1972. It met all of the required dimensional aspects in the AG Zoning District at the time was created. And, but for the October 2001 adoption of the Floodplain Ordinance subject to special rules, for lack of a better way to put it, in October 2001, it would still meet every dimensional requirement. And, as the staff report indicates, physically, it's high and dry. But a good portion of it is in the Floodplain Subject to Special Restrictions. The reason we're here is because a lot was created by deed rather than by plat. There was a – it was divided into two pieces. The other piece was on a plat and this was the remainder, but they didn't show it on the plat. But it met the requirements, just as the piece that was divided into two, met requirements at the core of the code at the time, and it's been taxed and has a GPIN ever since. And so we're just asking that the Commission approve the variance that's required today to record the plat. And then secondly, there's a plan to build a house on pilings, so it won't be a situation where it could flood, minimal filling, no trees being taken down whatsoever. The end of West Landing Road, there's a little hamlet down there with the number of houses. And the folks in that little area have no objections whatsoever to this. My understanding is that the person who signed up to speak against this item is the same person who's signed up to speak against Mr. Bright's Borrow Pit, doesn't live in the area where this is located. And all the conditions that



have been recommended are acceptable to my clients and I'll be happy to answer any questions you may have.

Mr. Weiner: Any questions to Mr. Bourdon?

Mr. Horsley: Mr. Bourdon, am I correct saying if this had been recorded, you wouldn't be here?

Mr. Bourdon: We wouldn't be here. They didn't put a plat to record and that happened all the time between the late 50's and up until the mid 70's. And this Commission and City Council have seen these clean-ups, they come along, sometimes in bunches sometimes, there aren't many left at this point, but this is one of those because the same family has owned this parcel for all these years.

Mr. Weiner: Thank you.

Madam Clerk: Mr. Chair. There had only been one speaker signed up. It was Lisa Clarkson and she emailed us to withdraw her desire to speak. So no speaker.

Mr. Weiner: So we're going to close this and open it for the vote. Mr. Horsley.

Mr. Horsley: Mr. Bourdon said it's kind of a housekeeping thing, we need to make this legal because it wasn't recorded back then. We've had a lot of these down in the rural area that were lots created by deed but they weren't recorded and so I'm making a motion for the application to be approved.

Mr. Weiner: We have a motion for approval by Mr. Horsley. Second?

Mr. Redmond: Second.

Mr. Weiner: Second by Mr. Redmond.

Madam Clerk: The vote is open. By recorded vote of eight in favor, zero against agenda items number 21 and 22 have been recommended for approval.

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	AYE 8	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			

Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
Weiner	AYE			

**CONDITIONS**

1. The lot shall be legally recorded substantially as depicted on the submitted exhibit entitled “Boundary Exhibit of Property of Olivia J. Neilson being the remainder of 22 acres, more or less” dated March 29, 2021 and prepared by Fox Land Surveying, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.
2. When the property is developed, it shall be in substantial conformance with the exhibit entitled “Boundary Exhibit of Property of Olivia J. Neilson being the remainder of 22 acres, more or less” dated March 29, 2021 and prepared by Fox Land Surveying, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.
3. Fill shall be limited to the minimum necessary for placement of the septic system and associated drainage field and driveway, in accordance with the requirements outlined in Section 4.10 B.4 of the Floodplain Ordinance.
4. The residential dwelling shall be elevated using a pile foundation to further minimize the use of fill on the property.

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

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

**Item # 23**

**Jeff Heitkamp [Applicant] Melinamea & Jeff Heitkamp [Property Owners]**

**Conditional Use Permit (Home Occupation – Retail Sales (Firearms))**

**1140 Cordova Court**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - HEARD**

Mr. Weiner: Thank you. Right on to the item 23.

Madam Clerk: Yes, sir. Our last agenda item for today. Number 23, Jeff Heitkamp, an application for a Conditional Use Permit Home Occupation Retail Sales - Firearms, on property located at 1140 Cordova Court in the Princess Anne District, would the applicant or the applicant's representative please step forward.

Mr. Weiner: Welcome sir.

Mr. Heitkamp: Good afternoon Mr. Chairman, members of the Commission. My name is Jeff Heitkamp. And I am the applicant and resident at 1140 Cordova Court.

Mr. Weiner: Okay,

Mr. Heitkamp: I'd like to establish two things today hopefully, is one, answer any questions you may have.

Mr. Redmond: Excuse me Mr. Heitkamp. We're having trouble with our sound system today. Do you mind speaking up some up, we are having a hard time.

Mr. Heitkamp: Two things I'd like to do today. One is answer any questions you may have and also, hopefully try to ease the fears of some of my neighbors who are in attendance that are in opposition. I've limited time to reach out to all of them. But I did contact some, and tried to explain what my wife and I would like to do with the permit in the house. One of the things, obviously that's paramount is safety. We are very conscious of safety not only in our own home, but for the neighborhood. So everything we do will be in complete compliance with all the local ordinances, laws, both state and federal, and everything, so we're compliant 100%. We realize that the neighbors have a concern about traffic. And we've tried to relay that the fact that we will not be increasing traffic in the neighborhood, because we're going to limit the amount of gun transfers that we would do in a month, I believe in the application we put four. So you know, roughly one a week is what we're looking at, as far as a any type of traffic in the neighborhood. We would definitely limit that two hours of the day that are conducive to business, eight to five. And these people

that we're dealing with are not going to be – they're not gonna be open to the public, put that way, we're not going to be advertising to anyone, just anyone, they're going to be people we know, people we vetter, friends and family that we have in the law enforcement, military communities. So those are the people that we want to start with, initially. And then in the future, our plans are to get a storefront, get an offsite location that would be a commercial location. But those are the things that we wanted to help our neighbors understand that we're – we're not going to try to do anything that would have people coming all hours of the night, have increased traffic, especially with children in the area, or firearms in general. I know a lot of times when people hear that it's a negative connotation but there's definitely a way to do it safely. And I believe that not only FFL, but most law abiding gun owners are the most responsible in the country. So if you have any questions, I'd be more than happy to answer.

Ms. Klein: What is your firearms background?

Mr. Heitkamp: So I worked, for the better part of 13 years overseas, in support Department of Defense, Department of State Contracts. I was in security and security operations over there. So I've held firearms, carried them not only for my protection, but protection of US citizens abroad. And I have a pretty good background with them. I've taught both my sons at a young age, how to respect them, how to use them safely and so I've worked for security companies and in the industry as well.

Mr. Weiner: Any other questions? I want you to do something for me, for your neighbors sake, and for the public, start off from the beginning, we've never really done before, exactly what you're doing, how you're going about doing it, how you're getting these people's names, and so forth? So people understand what you're doing, because I know it's gun sales, but what we need to say gun transfer is more likely what you're doing is not really 100% gun sales, and then going to what's actually recommended by you by the FFL, yeah, what's recommended? How much because this is a very tight regulated business, and just go into that a little bit for your neighbors, so they know what's going on?

Mr. Heitkamp: Yeah, so one of the conditional, one of the Conditional Use Permit, if it's if it's approved, and granted, then the City of Virginia Beach Police Department comes out to do a security assessment. That's one of the things that we have to comply with. And then we also have an interview with an ATF agent. So federal agent will come, we've been in communication with him over the course of the entire application process. And they have a very regulated regimented interview process that they conduct. That's exactly the same across the country for all applicants have FFL licenses, I believe its 88 pages long. So it's pretty, it's pretty inclusive. It's very in depth, they do background checks, I've had a security clearance for quite a while up to the point of a top secret. So they do their own security clearance or background checks as well as and the local police department. So there's a lot

of vetting that goes along and everything's recorded, every transaction has to be recorded because the ATF can come in at any time and ask for those records and documents. And you have to make sure that that's very well, you know, your attention to detail there.

Mr. Weiner: Okay, all right. Anymore questions? Thank you, sir. Let's listen to other speakers.

Madam Clerk: Mr. Chair, we have four speakers. Brian Fields followed by Jeff Pilgrim. Brian Fields.

Mr. Weiner: Please come forward, sir. Welcome.

Mr. Fields: Good afternoon. My name is Brian Fields and I live on Cordova Court. And my wife and I live on Cordova Court with our young children and are not in support firearm sales from the residence of 1140 Cordova Court. Regardless of the number of transactions or type of clientele, there are a number of risks that would be introduced which do not include – that do not exist today, including an increase traffic to the neighborhood on a dead end street where my little kids ride their bikes and where my daughter learned to ride her bicycle for the first time. It's our little cul-de-sac on that thing and, and a new risk of crime or robbery as a result of firearms being associated with the residents via the FFL. The risk to safety, threatening life and property, the introduction of hazardous material and toxins to the neighborhood, the negative impact, the desirability and value of the surrounding properties, the increased probability of fire given the introduction of volatile materials in a heavily wooded area. Finally, the following of acquisitions of permits and the initial required safety requirements and checks, there are not regulations in place that are rigorous or frequent in order to ensure compliance through the duration of the business in the residence. For these reasons, we believe that this business is better suited for a commercial location and is not compatible with the surrounding neighborhood. Thank you for taking the time into these risks into consideration, continue to uphold the safety, quality and character of Lago Mar, I appreciate your time.

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

Madam Clerk: Mr. Pilgrim, followed by Betty Plamquist.

Mr. Weiner: Good afternoon sir.

Mr. Pilgrim: Good afternoon. I live in 2200 Manzanita Drive in Lago Mar and I'm opposed to selling firearms in a residential section of Lago Mar. Firearm sales would deviate from the provisions of residential zoning. Nearly every day individuals being killed or maimed by intentional or random shootings, drive by shootings is a phrase used by the media describe the killings. Radio and TV there are stories every day about

shootings or somebody getting shot. Last week a 10-year-old, picked up a loaded gun from inside his house and shot a friend. Last March, two individuals were killed and eight individuals were injured in the oceanfront of Virginia Beach. Tragedy follows gun possession; we remember very well the mass tragedy and building to a municipal center when 12 people were killed and four people were injured. Within 10 miles of Cordova Court, there are two businesses selling firearms in commercial areas across Oceana Commissary and beyond Hooters on General Booth. There is no reliable count on the number of firearms in Virginia Beach, but with the advent of shootings that take place every day, it would be an injustice to our citizens livelihood to authorize a source that would introduce more firearms. Thank you.

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

Madam Clerk: Betty Plamquist followed by Megan Zazuski.

Ms. Plamquist: Good afternoon everybody. My name is Betty Plamquist. I'm a neighbor. First, I'd like to say that they are good neighbors. I live right next door, actually 20 feet away from them. I'm not against firearms. I feel strongly that a business selling, transfer firearms doesn't belong 20 feet away from my home. The property line is 10 feet from my house, their's look the same. My property value may also be affected. From the first email March the 11th, which I didn't get a copy, friends gave it to me because my name was sent on list that they had. I understand, I understood the business was engraving on firearms. Now finding that the machine needs ventilation for possible toxic air and makes noise that may not be part of the business. I can't see a way to enlarge their house to accommodate this, only firearm left. If FFL approves their house, the address is made public I understand. Who will be at the house when they go away for a few weeks, months at a time. Safety is very important for our 35 homes that their clients must past coming and going after turning off Camino Real. There's no other way out. I asked – I asked the applicant, yeah, I asked them to explore connecting with an established business until they have the funds and the clientele to open their own business. I also asked the applicants if their relatives wanted to move next to a house that's FFL approved, well they say they may want to think secondly, so that couldn't hamper my selling the house. I just asked them to please think of others, they had – there's plenty of other places that they could have this business in a commercial setting that are safer. That's my whole opinion. Thanks for listening.

Mr. Weiner: Thank you Ma'am. Any questions? Thank you.

Madam Clerk: Our final speaker is Meghan Zazuski.

Mr. Weiner: Welcome.

Ms. Zazuski: Thank you.

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

Ms. Zazuski: My name is Megan Zazuski. I'm speaking in opposition in the CUP request for selling or transfer of customized firearms. My husband and I live on this – have lived on the street for eight years and are parents to two children, ages five and three. They play on the road with Brian's kids all the time. We couldn't have selected a better community to raise our family in and my biggest issue with application is the impact to have neighborhood safety. I'm greatly concerned about traffic. The staff notes there's a recommendation of four sales per month, but this does not equate to four additional vehicles on our street. Based on our discussion with the applicants, they're planning on providing customized engraving or firearms. This means at least one consultation visit, one visit to drop off the firearm in person and one visit to pick it up again. They stated they need the FFL with it because engraving will require the weapon to be held for more than 24 hours. This means at a minimum, there will be three trips per sale per month. And although this may seem insignificant to staff, the design of our street is very unsafe. The current minimum centerline radius requirement for minor street is 125 feet, our street has approximately 75 foot centerline radius, there's extremely poor visibility as you enter and exit the road, which is made more unsafe by the fact that vehicles have to share the roadway with pedestrians. The older section of Lago Mar does not have any sidewalks, so when running, walking or biking, which we do daily is at risk around the blind curve. Unfortunately, you can't see what's coming around the curve until you're in the middle of turning and although residents who frequent this road are aware of the turn, it can easily be miss maneuvered by unaware drivers. I understand that the street was designed under older requirements based on the age of our subdivision, but what is currently an unsafe condition will only be made worse by commercial customers who don't have the same vested interest in our neighborhood. We also live at a dead end street meaning that these commercial customers will encounter the turn twice for every visit they make. I asked how the proposed sale quantities are enforced and was told by the staff planner, it's up to the applicant themselves to limit their sales and then rely on the neighbors to report excessive cars. The system seems inherently flawed and unrealistic. In addition, having an FFL associated with the residential address opens up the potential for theft and robbery. I understand they're planning to keep it limited, a limited inventory on hand but just the assumption that they have firearms poses a risk for crime. Lastly, I firmly believe that any commercial business to residential neighborhood adversely affects and changes the character of the neighborhood, similar to the addition of short term rentals. We live in the oldest most established neighborhoods in Virginia Beach, we specifically chose Lago Mar and our dead end street as a place to raise our family. The addition the CUP will not enhance the neighborhood as stated in the staff notes. We already have a great place to live, the only thing that needs to happen is to maintain the fact that it's only residential; the applicants are very kind people. They're extremely

smart. We wish them tons of success in new business. We just asked this to be done in a more appropriate, more safe commercial location. Thank you for your time.

Ms. Klein: I have a question.

Mr. Weiner: Yes.

Ms. Klein: If one of your neighbors was selling jewelry or foods or anything else on the street, the expectation would be that there were increased volumes of traffic. And it's my understanding we cannot regulate firearm sales, so we have to view this as a retail business.

Ms. Zazuski: Yes.

Ms. Klein: So if your neighbor was instead selling jewelry or operating a daycare, how would your thoughts be the same or different?

Ms. Zazuski: My thoughts be exactly the same. I mean, I wish you could see the blind curve entering our roadway. It's a hazard every single day. So I don't think any commercial business should be done on a residential street, especially one with a poor design like ours.

Ms. Klein: Thank you.

Mr. Weiner: Thank you. Any other questions? Thank you. That's the last speaker correct?

Madam Clerk: Correct.

Mr. Weiner: Would you like to come back up for rebuttal?

Mr. Heitkamp: So yes, after listening to those in opposition, duly noted all their – their concerns. I would respectfully disagree with a few. The storage of hazardous chemicals and materials, I'm not storing any – any materials or hazardous waste. I've had my own personal firearms there for a while in a safe, obviously, and I don't anticipate having any large volume of firearms there, above and beyond that, maybe one or two. And they can also be parts; they don't have to be complete firearms. As far as the traffic's concerned, I have the ability to go ahead and if I have a client or customer I can go to them, retrieve the part that they'd like to modify or, you know, customize, bring it back to my house and then again return it to them. So the increase of traffic there would not be anything more than my own personal driving back and forth in the neighborhood. I do understand the long term effects of a possible home value, devaluation or valuation depending on how that goes with the license that's why our long term plan is to move it, we do not intend this to be a, you know, when I



say long term, definitely less than, you know, three to five years at the most. I mean, I wouldn't even see it going that far before we can move into a different venue.

Mr. Weiner: Any questions?

Mr. Alcaraz: Just some general questions, so maybe I missed it. I excuse myself for a minute, but when a part or gun or whatever you have is being delivered? Is that being delivered by mail carrier? Or you picking it up? Or someone bringing it to you? How does that work?

Mr. Heitkamp: It could be all three. If it was an online purchase, then yes, it could be delivered via UPS or FedEx or the postal service.

Mr. Alcaraz: And you have that regularly down your street?

Mr. Heitkamp: Yes.

Mr. Alcaraz: Okay.

Mr. Heitkamp: With an Amazon.

Mr. Alcaraz: And just a general question. I mean, I have a gun. I didn't want one, my dad made me get one. So I got one. So just curious if I was to want to sell it, what do I have? I'm just asking, and I'll tell you why? What do I have to go through to sell it to somebody?

Mr. Heitkamp: Well, the laws, you can do a person to person sale obviously, every state is different. In Virginia, I'd have to look at the details of if you wanted to do an individual to individual, you can take it to an FFL, they can sell that for you if you prefer.

Mr. Alcaraz: What if a friend comes into my house and wants to buy my gun?

Mr. Heitkamp: You can – you can write up a receipt and do a transaction.

Mr. Alcaraz: That's all I have. That's all.

Mr. Alcaraz: I'll tell you why, when he's done.

Mr. Weiner: Any other questions?

Mr. Horsley: So, you will do basically, or somebody tells you they want a gun, certain gun that they want to get. And you will order it and then just transfer it to them, that's – is that type thing?

Mr. Heitkamp: Almost, they would – they would order and pay for it, but they would have to list an FFL to send it to, correct.

Mr. Horsley: Send it to you to.

Mr. Heitkamp: Correct.

Mr. Horsley: For the transaction. So really, the safety part is kind of a moot issue, it looks to me like.

Mr. Heitkamp: Yes, and like I said, all, everything that will be coming to me whether limited basis will be stored in a safe and again, the police department is gonna do a security assessment on that as well as the ATF.

Mr. Horsley: I mean, the other people in the neighborhood could have more guns in their homes than you do and nobody knows about it right now. So and the traffic issue, I mean, that's, you know, there's more delivery trucks to go up and down the road every day, you know, everybody is buying stuff online now. So delivery truck after delivery truck making drops to people's homes, so I would never think that would be more of a concern and the traffic that you're gonna generate, but I want you to say, I don't, you probably won't generate more than one vehicle a day probably.

Mr. Heitkamp: For myself you mean? Oh yes, yes.

Mr. Horsley: And that would be a max because you're not planning on moving but one gun a week somehow?

Mr. Heitkamp: Correct.

Mr. Horsley: Okay.

Mr. Weiner: Any questions. Thank you, sir. No more speakers. We're gonna close this and open it up for us. Before we do that, Mrs. Wilson, can you give us our little spiel on firearms?

Ms. Wilson: The Commonwealth of Virginia is the entity that regulates firearms. The City has no authority to regulate; buying, selling anything in regard to firearms. The federal ATF and the State of Virginia are the people who regulate firearms. As such, we don't have an ability to base our decision on the fact that the sale is of a firearm.

We have to call it retail sales and we do, it is just like selling anything else. Wheels, what was your example?

Ms. Klein: Jewelry.

Ms. Wilson: Jewelry, anything out of your home, it's just a retail sale. You have to look at it as a generic sale in retail and not as a gun sale.

Mr. Weiner: Thank you.

Ms. Klein: I have a comment.

Mr. Weiner: Yes.

Ms. Klein: So I'm a social worker. I work in mental health. I have a young child who recently learned how to ride his bike and I took the letters from the neighbors very seriously. I reached out to the staff, Antionette, and I had her send me information about the similar applications that were submitted and she was able to go back as far as 2014, 1, 2, 3, 4, I have only been present for one other of them. Of those four, all were approved by the Planning Commission and the City Council approved them except one was withdrawn. I asked Antoinette to let me, to see if there were any complaints from neighbors. Because if you don't have any control over once it's there, you can at least let the city know, hey, it's not working. And she said of all three of the currently active FFLs that are residential, zero have received any complaints. And so I – that meant something to me. I do hear the concerns of the people that I've had in front of me, I find those gentlemen, to be of the utmost integrity and people that if there were going to be firearm sales next to my house, those are the ones that I would want to be in charge of it. Because it's not something that as the commission we can, we have much control over. So I did take your concerns very seriously based on retail sales, only. I intend to approve the application and if there are traffic concerns, I urge you to bring them up to traffic. I've had to do the same thing in my own neighborhood because of safety issues.

Mr. Weiner: Anybody else? George?

Mr. Alcaraz: Yeah and the reason I was asking the question, I was just curious, because I know a lot of individuals have guns, and they keep them in their houses. And if they're interested in selling to a friend, it could happen. You never know. But I commend this applicant because he wants to do a lawful application to do it. He wants to get security clearance to do it. He wants to vet the customers. He wants to have a secure place to do the transaction. And not only that, he's very familiar with the arms and having said that I'm very comfortable and you know, approve it also.

Mr. Weiner: Anybody else? Mr. Horsley?

Mr. Horsley: I'll make a motion, we approve the application.

Mr. Weiner: Motion for approval by Mr. Horsley. Do I have a second? Second by Mr. Redmond.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against agenda item number 23 has been recommended for approval.

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

## CONDITIONS

1. Any firearm or firearm parts kept on the property shall be stored in a locked, secured vault or similar container. The applicant shall contact the Police Department's Crime Prevention Office to arrange for a meeting at the property for the purpose of conducting a security assessment. A report shall be written by the Police Department, a copy provided to the applicant, the Planning Department, and a copy retained by the Police Department. Failure to meet with the Crime Prevention Office within one (1) month of the granting of this Conditional Use Permit shall result in revocation of the Conditional Use Permit.
2. The applicant shall obtain and maintain a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) in order to conduct business.
3. All small arms ammunition, primers, smokeless propellants and black powder propellants stored or awaiting transfer at the residence shall comply with Section 3306 of the Virginia Statewide Fire Prevention Code and NFPA 495.
4. There shall be no sign identifying the business on the exterior of any building on the property or within the yard of the property.
5. There shall be no more than four (4) hand-to-hand transactions per month at the dwelling.

6. Not more than twenty (20) percent of the floor area of the dwelling unit and accessory structures shall be used in the conduct of activity with the home occupation.
7. There shall be no more than one (1) employee, other than the homeowner, on the property associated with this home-based business.
8. This Conditional Use Permit is limited to the applicant only, as the main provider of the Firearm Sales Home Occupation.
9. Delivery of firearms to the property shall be received on the applicant's property only, secured by the applicant's signature.
10. There shall be no test firing of firearms on the site.
11. The home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.

*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**

**Linda Cortez [Applicant & Property Owner]**

**Conditional Use Permit (Residential Kennel)**

**3200 Barlborough Way**

**July 14, 2021**

**WITHDRAWN**

Mr. Weiner: Thank you. Next are withdrawals, any items to be withdrawn? Please come forward. The chair is aware of items 24, 26 and 27 to be withdrawn. Can I have a motion for that please?

Ms. Oliver: I'll make a motion for items 24 and 26 and 27 to be withdrawn.

Mr. Weiner: I have a motion, second?

Ms. Klein: I'll second.

Mr. Weiner: Motion by Mrs. Oliver, second by Mrs. Klein.

Madam Clerk: Vote is open. Mr. Redmond and Mr. Inman, Mr. Redmond, your vote please?

Mr. Redmond: No, I will not. I'm going to abstain on this. I have a letter on file with the City Attorney's Office. One of these is an STR application. I routinely abstain on all STR applications for reasons which I've already stated and which are on file with the city attorney's office.

Madam Clerk: By recorded vote of seven in favor, zero against and one abstention, agenda Items 24, 26 and 27 have been withdrawn.

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



**Item # 25**

**Cosmo's Corner, Inc. [Applicant] KNRM Enterprise, LLC & Nelson Industries, LLC  
[Property Owners]**

**Modification of Conditions (Commercial Kennel)**

**503, 505, 507 & 511 Central Drive**

**July 14, 2021**

**RECOMMENDED FOR APPROVAL - CONSENT**

Ms. Oliver: Thank you. All right. The next on our agenda is item number 25, Cosmo's Corner, KNRM Enterprise LLC and Nelson Industries, LLC. It's a Modification of Conditions and 503, 505, 507, 511 Central Drive in the Beach District. Is there a representative for this today? Welcome.

Ms. Sincavage: Thank you. I'm Nicole Sincavage from Cosmo's Corner. I'm an applicant and we appreciate being put on the consent agenda today.

Ms. Oliver: Great, thank you very much. Is there any opposition to this being put on the consent agenda today? Hearing none, Commissioner Klein is going to read this into the record for us.

Ms. Klein: In August 2008, City Council granted a Conditional Use Permit for a Commercial Kennel. The applicant is now seeking a Modification of Conditions to expand the existing 2100 square foot kennel to a total of 8000 square feet. The kennel meets the standards is an allowable light industrial use that is compatible with the navy easement and surrounding character of the area. Staff recommends approval and the commission agrees.

Ms. Oliver: Great. Thank you, Chairman that was the last item on the consent agenda and I move for approval for items 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25.

Mr. Inman: I have to make a disclosure.

Mr. Redmond: As do I.

Mr. Inman: Pursuant to state and local government Conflict of Interest Act, I have a letter on file making the following declaration on July 14 agenda items been financed or may be financed by Towne Bank. Those are number four, number six, number eight, and number 9, 10 and 11. As such, I have made this disclosure that I'm on an advisory board of Towne Bank which makes no decisions on loans and I believe I can participate in this transaction decision fairly, objectively and in the public interest. And I will participate and vote on these items.



Mr. Weiner: Thank you, Mr. Redmond.

Mr. Redmond: Mr. Chairman, while I will support the items on consent, I want to be clear that I'm specifically recusing myself from agenda item number eight Elias Properties. The broker for the owner is a broker in my office with whom I often work and share business with from time to time and the address is 4525 Main Street in Virginia Beach, Virginia. All this is memorialized in a file – on file with the city attorney. So I will specifically recuse myself from agenda item number eight.

Mr. Weiner: Thank you sir. We have a motion for approval for the consent items.

Ms. Wilson: Mr. Inman, are you abstaining from voting on 14, 15, 16 and 17? Which is actually Marlin Bay, MP Shore.

Mr. Inman: That's a deferral.

Ms. Wilson: Okay, you should have abstained from voting on that one, on deferrals. If we could make sure that's in the record, there is a document on record with the clerk.

Madam Clerk: Yes ma'am.

Mr. Weiner: All right, circle back around. We have a recommendation for approval on consent items by Ms. Oliver. Do we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, zero against, with one abstention by Mr. Redmond on agenda item number eight, agenda items number 1, 2, 3, 5, 6, 8, 12, 13, 18, 19, 20 and 25 have been recommended for approval by consent.

Mr. Weiner: Thank you. Thank you for everyone who had an item on the consent agenda. They will be scheduled in the future with City Council and you will get the date on that. Next, we will move on to the regular items to be heard.

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

## CONDITIONS

1. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
2. The dog kennel structure and indoor dog training area shall be maintained in a safe and sanitary condition.
3. All animal waste from the dog kennel shall be collected and disposed of in a lawful manner on a daily basis.
4. All signage on the site must be in accordance with sign regulations of the Zoning Ordinance.
5. All dogs shall be kenneled indoors in the dog kennel structure between the hours of Monday-Friday 6:00 a.m.-7 p.m., Saturday 8:00 a.m.- 4:00 p.m. and Sunday 10:00 a.m.- 4:00 p.m. for pickup and drop off only.
6. All dogs while being escorted shall be leashed at all times unless inside the designated training area.
7. Dog shows shall be prohibited.
8. The applicant shall comply with the terms and conditions of the Grant of Easement governing this property including the following:
  - a. No training (i.e. basic obedience, agility, canine good citizen, free style, fly ball, etc.) shall be conducted on the property;
  - b. Only office space maintained in connection with the allowed use of bulk storage/parking shall be permitted;
  - c. No retail sales shall be conducted, except as an auxiliary function of enterprises permitted;
  - d. No storage, distribution or handling of explosives, petrochemicals or petroleum related products shall be allowed at the facility;

- e. Nothing on the property shall exceed the height restriction over the property; and
  - f. No unidentified use in violation of any other easement restrictions shall be permitted.
9. The dog kennel structures shall be constructed to be soundproofed and air-conditioned.

*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 # 26**

**Vincent Smith & Diana Garcia [Applicants & Property Owners]**

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

**319 23<sup>rd</sup> Street, Unit 1**

**July 14, 2021**

**WITHDRAWN**

Mr. Weiner: Thank you. Next are withdrawals, any items to be withdrawn? Please come forward. The chair is aware of items 24, 26 and 27 to be withdrawn. Can I have a motion for that please?

Ms. Oliver: I'll make a motion for items 24 and 26 and 27 to be withdrawn.

Mr. Weiner: I have a motion, second?

Ms. Klein: I'll second.

Mr. Weiner: Motion by Mrs. Oliver, second by Mrs. Klein.

Madam Clerk: Vote is open. Mr. Redmond and Mr. Inman, Mr. Redmond, your vote please?

Mr. Redmond: No, I will not. I'm going to abstain on this. I have a letter on file with the City Attorney's Office. One of these is an STR application. I routinely abstain on all STR applications for reasons which I've already stated and which are on file with the city attorney's office.

Madam Clerk: By recorded vote of seven in favor, zero against and one abstention, agenda Items 24, 26 and 27 have been withdrawn.

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	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond			ABSTAIN	
Wall				ABSENT
Weiner	AYE			

**Item # 27**

**Brad Hibbard [Applicant & Property Owner]**

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

**2321 Madison Avenue**

**July 14, 2021**

**WITHDRAWN**

Mr. Weiner: Thank you. Next are withdrawals, any items to be withdrawn? Please come forward. The chair is aware of items 24, 26 and 27 to be withdrawn. Can I have a motion for that please?

Ms. Oliver: I'll make a motion for items 24 and 26 and 27 to be withdrawn.

Mr. Weiner: I have a motion, second?

Ms. Klein: I'll second.

Mr. Weiner: Motion by Mrs. Oliver, second by Mrs. Klein.

Madam Clerk: Vote is open. Mr. Redmond and Mr. Inman, Mr. Redmond, your vote please?

Mr. Redmond: No, I will not. I'm going to abstain on this. I have a letter on file with the City Attorney's Office. One of these is an STR application. I routinely abstain on all STR applications for reasons which I've already stated and which are on file with the city attorney's office.

Madam Clerk: By recorded vote of seven in favor, zero against and one abstention, agenda Items 24, 26 and 27 have been withdrawn.

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	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond			ABSTAIN	
Wall				ABSENT
Weiner	AYE			

**Item # 28**

**Bowers & Jones Properties, LLC [Applicant & Property Owner]**

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

**903 Pacific Avenue, Unit A**

**July 14, 2021**

**DEFERRED INDEFINITELY**

Ms. Weiner: Thank you, Madam Clerk. Next is the deferral items, if we have an item to be deferred, please come forward. Welcome.

Ms. Murphy: Good afternoon Chairman, Vice Chairman, members of the Planning Commission for the record, my name is Lisa Murphy, local zoning attorney. And I'm here requesting that you defer items 14, 15, 16 and 17, street closure and conditional change in zoning for the Marlin Bay project.

Mr. Weiner: And that's for 60 days, correct?

Ms. Murphy: For 60 days, yes.

Mr. Weiner: Okay, great. Thank you.

Ms. Murphy: Thank you.

Mr. Tajan: To be clear, that is to the September public hearing.

Mr. Bourdon: Thank you, Mr. Chairman. For the record Eddie Bourdon, Virginia Beach attorney representing Wakefield Development, case number seven, for an indefinite deferral, but hopefully see you as early as next month.

Mr. Weiner: Thank you. Sounds good, thank you, sir. Any other items? The chair has been told items 28, 29, and 30 also are indefinite deferral, and Madam Clerk, do we still have a speaker on item 17?

Madam Clerk: Yes, we do.

Mr. Weiner: So we will let him to come forward now.

Madam Clerk: Daniel Murphy.

Mr. Weiner: Welcome, sir.

Mr. Murphy: Thank you. Thank you for your service. I really appreciate it.

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

Mr. Murphy: My name is Daniel Murphy. I am the President of the Ocean Park Civic League. I am in favor of the deferral today for the Marlin Bay project. I would just ask that there be a little bit better communication on deferrals. We had a number of residents who were very concerned about the meeting and would like to provide input during the September meeting. So, if Mr. Tajan and his staff could ensure that letters go out properly, and it's publicized, I would appreciate the notices. Thank you.

Mr. Weiner: Thank you, sir.

Mr. Tajan: To clarify, Mr. Weiner, the action of the deferral has to be taken by the Planning Commission. So there's no – there's no mailing that we do in between of those, but we do our best to notify the public the best way we can, especially if they've contacted us. So we will continue to keep open that line of communication.

Mr. Murphy: Thank you.

Mr. Tajan: Yes sir.

Mr. Weiner: Thank you. Okay, can I get a motion?

Ms. Oliver: I have a motion to defer items 7, 14, 15, 16, 17, 28, 29 and 30.

Mr. Weiner: Motion by Mrs. Oliver, second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, and zero against agenda items seven have been deferred indefinitely, 14, 15, 16, and 17 have been deferred to the September meeting, 28, 29 and 30 have been deferred indefinitely.

---

	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT

Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond			ABSTAIN	
Wall				ABSENT
Weiner	AYE			



**Item # 29**

**Petar Yordanov Popov [Applicant & Property Owner]**

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

**927 Pacific Avenue, Unit A**

**July 14, 2021**

**DEFERRED INDEFINITELY**

Ms. Weiner: Thank you, Madam Clerk. Next is the deferral items, if we have an item to be deferred, please come forward. Welcome.

Ms. Murphy: Good afternoon Chairman, Vice Chairman, members of the Planning Commission for the record, my name is Lisa Murphy, local zoning attorney. And I'm here requesting that you defer items 14, 15, 16 and 17, street closure and conditional change in zoning for the Marlin Bay project.

Mr. Weiner: And that's for 60 days, correct?

Ms. Murphy: For 60 days, yes.

Mr. Weiner: Okay, great. Thank you.

Ms. Murphy: Thank you.

Mr. Tajan: To be clear, that is to the September public hearing.

Mr. Bourdon: Thank you, Mr. Chairman. For the record Eddie Bourdon, Virginia Beach attorney representing Wakefield Development, case number seven, for an indefinite deferral, but hopefully see you as early as next month.

Mr. Weiner: Thank you. Sounds good, thank you, sir. Any other items? The chair has been told items 28, 29, and 30 also are indefinite deferral, and Madam Clerk, do we still have a speaker on item 17?

Madam Clerk: Yes, we do.

Mr. Weiner: So we will let him to come forward now.

Madam Clerk: Daniel Murphy.

Mr. Weiner: Welcome, sir.

Mr. Murphy: Thank you. Thank you for your service. I really appreciate it.

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

Mr. Murphy: My name is Daniel Murphy. I am the President of the Ocean Park Civic League. I am in favor of the deferral today for the Marlin Bay project. I would just ask that there be a little bit better communication on deferrals. We had a number of residents who were very concerned about the meeting and would like to provide input during the September meeting. So, if Mr. Tajan and his staff could ensure that letters go out properly, and it's publicized, I would appreciate the notices. Thank you.

Mr. Weiner: Thank you, sir.

Mr. Tajan: To clarify, Mr. Weiner, the action of the deferral has to be taken by the Planning Commission. So there's no – there's no mailing that we do in between of those, but we do our best to notify the public the best way we can, especially if they've contacted us. So we will continue to keep open that line of communication.

Mr. Murphy: Thank you.

Mr. Tajan: Yes sir.

Mr. Weiner: Thank you. Okay, can I get a motion?

Ms. Oliver: I have a motion to defer items 7, 14, 15, 16, 17, 28, 29 and 30.

Mr. Weiner: Motion by Mrs. Oliver, second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, and zero against agenda items seven have been deferred indefinitely, 14, 15, 16, and 17 have been deferred to the September meeting, 28, 29 and 30 have been deferred indefinitely.

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	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT

Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond			ABSTAIN	
Wall				ABSENT
Weiner	AYE			

**Item # 30**

**Sue W. Kent [Applicant & Property Owner]**

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

**901 Pacific Avenue, Unit D**

**July 14, 2021**

**DEFERRED INDEFINITELY**

Ms. Weiner: Thank you, Madam Clerk. Next is the deferral items, if we have an item to be deferred, please come forward. Welcome.

Ms. Murphy: Good afternoon Chairman, Vice Chairman, members of the Planning Commission for the record, my name is Lisa Murphy, local zoning attorney. And I'm here requesting that you defer items 14, 15, 16 and 17, street closure and conditional change in zoning for the Marlin Bay project.

Mr. Weiner: And that's for 60 days, correct?

Ms. Murphy: For 60 days, yes.

Mr. Weiner: Okay, great. Thank you.

Ms. Murphy: Thank you.

Mr. Tajan: To be clear, that is to the September public hearing.

Mr. Bourdon: Thank you, Mr. Chairman. For the record Eddie Bourdon, Virginia Beach attorney representing Wakefield Development, case number seven, for an indefinite deferral, but hopefully see you as early as next month.

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Madam Clerk: Daniel Murphy.

Mr. Weiner: Welcome, sir.

Mr. Murphy: Thank you. Thank you for your service. I really appreciate it.

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Mr. Tajan: To clarify, Mr. Weiner, the action of the deferral has to be taken by the Planning Commission. So there's no – there's no mailing that we do in between of those, but we do our best to notify the public the best way we can, especially if they've contacted us. So we will continue to keep open that line of communication.

Mr. Murphy: Thank you.

Mr. Tajan: Yes sir.

Mr. Weiner: Thank you. Okay, can I get a motion?

Ms. Oliver: I have a motion to defer items 7, 14, 15, 16, 17, 28, 29 and 30.

Mr. Weiner: Motion by Mrs. Oliver, second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of eight in favor, and zero against agenda items seven have been deferred indefinitely, 14, 15, 16, and 17 have been deferred to the September meeting, 28, 29 and 30 have been deferred indefinitely.

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	AYE 7	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Coston	AYE			
Graham				ABSENT

Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond			ABSTAIN	
Wall				ABSENT
Weiner	AYE			