

Virginia Beach Planning Commission

Public Hearing

August 11, 2021

Mr. Weiner: Welcome to the Public Meeting of Virginia Beach Planning Commission. My name is David Weiner. I'm the Chair of the Commission. At this time, I have asked Mr. Coston to please lead us in prayer, everybody please stand.

Mr. Coston: Eternal God, our Father, we thank you for this glorious day. God we thank you for all the benefits of life God that you have afforded us. Now God we ask as we come to discuss business, God, that you would give us your wisdom and your direction. Lead us in the proper way "Oh god". God, we ask that you will continue to be with us and guide us in all that we do, bless this City and all its citizens in Jesus name we pray, Amen.

Mr. Horsley: Would you please join me in pledge to flag. [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. Next, Mr. Redmond has graciously volunteered to introduce the members.

Mr. Redmond: Welcome everyone. Start right over there. That pretty lady on the end is Kay Wilson. She is the Deputy City Attorney in-charge of land use matters and she's here every month assisting us in generally keeping it straight. Next to Kay is Mr. John Coston, John is a retired fire captain who serves At-Large. We're down a couple people today so it's a little bit of a truncated group. Next is George Alcaraz, George is in -- he's got a bunch of different things that he does. He's a businessperson, he's a contractor, and he owns some restaurants. And he represents the Beach District. Dee Oliver does a number of different things too. She's in the funeral business. She's an author. She's a restaurateur. She's -- I don't know what else I'm leaving out. So, don't be offended. But she does a lot of things and she is our past Chairman and Vice Chairman of our Commission and she is -

- she serves At-Large. And next to Dee is Mr. Donald Horsley. He is a farmer and a Hokie, and he represents -- well, he serves At-Large, but he knows more about the Princess Anne District than anybody I know. So, we basically just do whatever he says down there. In the center there is Mr. David Weiner. He is our Chairman. He represents the Kempsville District. He is a -- he is a commercial salesman in the building industry. Jack Wall to Dave's left is an engineer. He represents the Rose Hall District, and he is our Vice Chairman. This gentleman to my right is Mr. Michael Inman. He is an attorney; he too serves At-Large. My name is Dave Redmond. I'm a commercial real estate broker. I represent the Bayside District. That gentleman is Whitney Graham. He is a developer and property manager and owns a number different types of real estate and he represents the Lynnhaven District. That fellow is Bobby Tajan. He is our Planning Director and he's going to introduce the members of his staff. We all rely on him for any number of things of course and he will keep up with everyone else. Mr. Tajan...

Mr. Tajan: Thank you, Mr. Redmond. Clerking today we have, Nicole Garrido and Pam Sandloop, starting with the rest of the Planning staff, we also have Carolyn Smith, our Planning Administrator, our Current Planning team Hoa Dao, Marchelle Coleman. Along with them we have our two interns that are interning with the Planning Administration team, Grace Pullen and Maddie Lowman. We have Ashby Moss our interim Zoning Administrator, Hank Morrison, also in Zoning. Aubrey Trebilcock in Development Services Center and Rick Lowman, the City Traffic Engineer as well as Will, I'm trying to look around. Will Miller is Zoning Enforcement with our Short-Term Rental team. Online we also have Carrie Bookholt, the Development Services Center Administrator as well.

Mr. Weiner: A very talented group.

Mr. Tajan: Thank you Mr. Chairman.

Mr. Weiner: Thank you Sir. I appreciate that. Next, to our business, Madam Clerk could you read the rules and the explanation of procedure of work today.

Madam Clerk: 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. 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. 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 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

Jerrett Simmons [Applicant]

Jerrett Simmons & Marlana Begley-Simmons [Property Owners]

Conditional Use Permit (Alternative Residential Development)

2841 W. Gibbs Road

August 11, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you. Next we will move on to the consent agenda and our Vice Chair Wall will take over the consent.

Mr. Wall: Thank you, Mr. Chair. These are applications that are recommended for approval by staff and the Planning Commission concurred. And there are no speakers signed up in opposition. We have five items on the consent agenda today. First item is Jerrett Simmons for Conditional Use Permit for Alternative Residential Development at 2841 West Gibbs Road. Is there a representative for this item? Please come up. Please state your name for the record.

Mr. Simmons: Jerrett Simmons.

Mr. Wall: And are the conditions of the application acceptable?

Mr. Simmons: Yes.

Mr. Wall: Okay.

Mr. Simmons: Thank you.

Mr. Wall: Is there any opposition for this -- is there any opposition for this item being placed on the consent agenda? Hearing none, we've asked Mr. Horsley to read this into the record.

Mr. Horsley: Thank you Mr. Wall. First of all, the first thing I've got to read this letter pursuant to these State and Local Government Conflict of Interest, I'm making the following declaration. I'm executing this written disclosure regarding the Planning Commission discussion and vote at the August Planning Commission meeting on Item #1 one, Jerrett Simmons, 2841 West Gibbs Road. I farm the property to the rear of the applicant's property. However, there are more than three adjacent properties. So, I'm a member of a group. As such, I derive no financial interest from this application. Therefore, I will disclose that I am a member of a group of adjacent properties that have no financial interest in this application, and I will vote. Please

record this declaration in the official record of the Planning Commission. Now to the real business. The applicant for this application is requesting a Conditional Use Permit for Alternative Residential Development to construct one single family dwelling on this slightly less than 12 acre parcel of AG1 and AG2 agricultural land. This is kind of a normal thing that happens down in a rural area. The question to me was why there was a statement put on the subdivision plat and I will read that subdivision plat. Statement, the intent of the request is to satisfy a note on the subdivision plat record in 2008, which states Parcel B is not a building site until a Conditional Use Permit for Alternative Residential Development has been approved by the Virginia Beach City Council and approval for the installation of an onsite sewage disposal system and private well have been granted by the Virginia Beach Department of Public Health. So that being said, we still don't know why that was put on the subdivision plat because most all homes down there have to have a health permit for a septic system and a well, so really whether that is on the plat or not. So anyway, there couldn't be any reason for that found for putting that on the plat, but this is a very normal thing to build single-family dwellings on the sized parcel down there. So there wasn't any objection, we just wanted to clarify that one little glitch, so we decided to put it on the consent agenda. Thank you.

Mr. Wall: Okay, thank you, Mr. Coston. That was the last item on the regular consent agenda. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission support the applications and there are no speakers signed up in opposition. These are agenda items number 13, 14, 15, 16 and 17. Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items number 1, 8, 9, 10, 11 and Short-Term Rental items # 13, 14, 15, 16 and 17.

Mr. Weiner: We have a motion for approval for the second. We have a motion Mr. Wall as second by Ms. Oliver and we have any one abstaining?

Mr. Graham: I have a letter pursuant to the state and local government Conflict of Interest Act. I have a letter on file making the following declaration. The agenda item #1 is financed by Towne Bank and I hereby make this disclosure that I serve on an advisory board at Towne Bank, which makes no loan decisions. And I believe that I can participate in this vote.

Mr. Weiner: Mr. Inman.

Mr. Inman: Likewise, I would like to make the following declaration. Agenda item #1, being financed by Towne Bank. I serve on the Advisory Board of Towne Bank, and make no decision on loans and feel like I can participate fairly in this vote.

Mr. Weiner: Mr. Redmond, short term rentals.

Mr. Redmond: Yeah, I am happy to do it now, we are not there yet, but...oh, we are there. Okay, I have a letter on file with the City Attorney's Office and have for some months. I have a client who is in the travel industry and has some business that is involved with short-term rentals, therefore, I do not vote on any Short-Term Rental applications or any of the ordinances with regard to Short-Term Rentals and I repeat that that letter, which I renew monthly is on file with the City Attorney. Thank you.

Mr. Weiner: Madam Clerk, that's everything.

Madam Clerk: Okay, vote is open. By recorded vote of 9 in favor and 0 against agenda items 1, 8, 9, 10 and 11 have been recommended for approval. By recorded vote of 8 in favor, 0 against with one abstention. Agenda items 13, 14, 15, 16 and 17 have been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the site layout entitled "SITE PLAN OF PARCEL B, SUBDIVISION OF PROPERTY, VIRGINIA BEACH, VIRGINIA", prepared by Tim Fallon Land Surveyors, LLC, dated March 30, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed building shall substantially adhere in appearance, size, and materials to the submitted elevations entitled " PLANS PREPARED FOR: TUCKER HOMES, THE MYRTLE MODEL, EXTERIOR ELEVATIONS", prepared by Mayfield Designs, Inc., dated March 31, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. There shall be no more than one single-family dwelling located on this lot.

4. The existing landscaping and planting areas surrounding the property, as depicted on the attached plan on file with the Department of Planning shall be maintained.
5. The 50-foot wide, vegetative buffer shall not be required and is a deviation to the landscape buffer requirements set forth in the Rural Area Development Guidelines of the Comprehensive Plan.

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 # 2 & 3

Samet Properties [Applicant]
Taylor Farms Land Company, LLC [Property Owners]

Conditional Rezoning (AG-1 & AG-2 Agricultural District & Conditional I-1 Light Industrial to Conditional I-1 Light Industrial District)

Conditional Use Permit (Bulk Storage Yard)

2097 Harpers Road

August 11, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Thank you ma'am. Thank you for all those who were on the consent agenda. Your items are now being moved up to City Council and we will let you know when that will be scheduled. Now, we will move on to items 2 and 3.

Madam Clerk: Okay. Agenda items 2 and 3, two applications submitted by Samet Properties. First being for a Conditional Rezoning AG1 and AG2 Agricultural District and Conditional I-1 Light Industrial to Conditional I-1 Light Industrial District and an application for a Conditional Use Permit, Bulk Storage Yard on property located at 2097 Harpers Road in the Beach District.

Mr. Bourdon: Thank you Mr. Chairman, members of commission, thank you Ms. Sandloop. Eddie Bourdon, Virginia Beach attorney representing the applicant, I want to first of all let you all know that I am going to make some few brief remarks, but Randy Royal, Kimley-Horn and Associates, has done the big lift on this and has all details, so I am going to have Randy come up and finish the presentation, but first of all I want to let the Commission know that both Linda Taylor Chapel whose property this is, is in attendance as well as Hunter Nichols and Brian Hall with Samet properties and as I said Randy will be finishing up the presentation. The property looking at the big picture has been in the Taylor family for almost 70 years. It is subject to an AICUZ easement. The development rights have been restricted by the Department of Navy, that is over 40 years old. Our Comprehensive Plan for over 45 years has designated this area as Light Industrial development area. In the current Comprehensive Plan it is called the Special Economic Growth Area #3, South Oceana. I am familiar with all this because our family owns significant farm land that is close to being adjacent across Dam Neck into the west on the Dam Neck. On both sides of Dam Neck, we have the same circumstance and situation. So this property as for as long as since I was in early college years has been industrial, that's the future of this property in this area. So it is in the highest noise zone and there are no houses I don't believe that exist that can see this from their house. So just be clear. Randy has had public meetings on the applications and I

think there is only one speaker signed up in opposition to this, but this is exactly why this property is here, perfect for what is being proposed. The other application is for the data center. This piece is a part of this, but this piece is three and a half times larger than that was, yet the building is only about 23% larger than that building was, but there is a lot more parking associated with it. So with that I am going to let Randy come up and make a few points and then be happy to answer any questions. I would note that Randy is whole lot more seasonally appropriately dressed than I am.

Mr. Royal: Good afternoon. Again, Randy Royal, Kimley-Horn and Associates, 4525 Main Street. As Eddie said, I met with the neighbors. There is not a good way to reach out to the neighbors. There were not organized civic leagues. So what I did was I reached out to the same folks that had helped me, the folks in the community and said please send out a notice and I sent them a notice saying what time, rented a room, etc. I had eight people show up from various neighborhoods but met with them, answered all their questions, primarily concerned with traffic and storm water. Storm water, of course, we've gone through the preliminary design process. You can see from the concept plan, we've got two ponds, we've also got underground storage, not only to accommodate our site, but there's some backup from existing areas. All of that has been handled with staff. We will work out the final details with the final site plan, but the preliminary design it doesn't show it up there but shows that we can mitigate and have zero impact on the downstream system there. From a traffic standpoint, this particular user, it's a 24/7 seven operation. But that also allows them to set the shifts for times that are off peak times. Likewise, the distribution aspect of it, all of that happens in off hours. Everything goes out from 9:50 to 10:50 in the morning, which is not a rush hour, they are out all day. They come back at like 8 o'clock at night. So based upon that there was no impact on a.m. peak hour and there was a very nominal small impact on the p.m. peak hour and Mr. Lowman is here and has reviewed the traffic study, so again, no problems there. Didn't really have anything, we couldn't answer for the folks at the neighborhood, but I will stand by for questions. Staff has recommended approval. We hope you will do the same.

Mr. Wall: I mean I see that there are 1500 parking spaces there.

Mr. Royal: That was the question that the neighbors asked too, I probably should have covered that. This operation, we've got 200 employees that work in the warehouse. We also have employees that come in and run the distribution or run the vans out. So and that's really part of the CUP, the Conditional Use Permit for Bulk Storage is really just vans parked out there and space to load the vans in between it. That's why we need all the spaces we do. It's a well run operation. And that's why we got all the spaces. Very good question.

Mr. Wall: What about maintenance of those vans. I mean that is not being done onsite, because it looks like that's...

Mr. Royal: That building is primarily stuff comes in at night with the tractor trailers and I should have said that too. Tractor trailers come in from I think it's 8 at night or 10 at night till like 6 in the morning, loads up the warehouse, and then they load everything, the deliveries go out the next day and then hit repeat. Any repairs and things like that would be done off site at the appropriate facilities. The warehouse is just for distribution.

Mr. Wall: Okay, thank you.

Madam Clerk: We have one speaker, Steven Johnson.

Mr. Johnson: Thank you all for let me come and speak today. I was at the meeting. It was very good meeting. Some questions came up and I contacted Randy about them and we haven't been able to resolve all the issues. We're not opposed to the distribution center. We're opposed to some of the impacts the distribution center is going to have on our neighborhoods and our property rights. Our main concern is traffic. And if you look at the traffic study, it does not account for any of the delivery vans, it only accounts for the employees coming in. Mr. Royal said the vans go out in the morning come back at night. I believe the vans will come out in the morning, the intermittently coming back and filling up and going back out again with multiple trips of some 800 vehicles. Traffic study is limited to the intersection of Harpers Road and Dam Neck. Our main concern is the intersection of Dam Neck Road into London Bridge Road. That is the main access the back gate of Oceana. So therefore, in the morning, it is heavily backed up. Sometimes if you want to go out onto the intersection you sit for two or three light cycles to get through it. Also, London Bridge Road has now become one of the main thoroughfares getting from Sandbridge in south eastern part of the City of Virginia Beach to get to the interstate. We have ambulances, fire trucks, rescue vehicles, all kinds of first responders as well as tractor trailers, and RV vehicles coming through. Noise, I've been living in Lake Placid for a while. I was there before Dam Neck Road was there. We went to the public hearings on Dam Neck Road. At that time, the City offered to build a sound barrier between our neighborhood and Dam Neck Road. That changed. We have woods between my house and Dam Neck Road. Further down, they have a large berm, the City says that's enough. I live there at night. It is not enough. We're now going to be adding 25 trucks in the middle of the night driving back and forth there. It's going to disturb our neighborhood. Now, with all the vans moving back and forth, that's not a concern. The site plan indicates that they are electrical vans so there should be minimal noise during the day. It's the noise at night that's going to concern us. Site, if you see the larger site plan, I don't know if they can put it up or not. To the east of the site are two public schools, Corporate Landing Elementary School and Corporate Landing Middle School.

According to the Virginia State guidelines, you cannot have a school near a Light Industrial Zone. So who's going to pay the \$90 million to relocate those schools? Last time the rezoning was here, they only requested to rezone the one parcel where the data center was. They're now requesting to rezone that entire section. Once that's re-zoned as Light Industrial, the owners can, by right, put in what they want and have access to Dam Neck Road. And if you bear with me, I have one last item if I can. Site lighting, currently the City doesn't have any site lighting standards. I've been through this; I have talked with Barbara Henley. She's looking into it. Some were submitted about two years ago, they're still looking for them. The recommended actions in the report do not indicate dark skies compliant lighting fixtures. They are very general statements saying lights will be pointed down, minimal, but the pictures rated dark skies, we get less light into the City. There's no limit on the lighting levels indicated. They can blast the parking lot to 20 foot candles or they can keep down to five. We don't know, there are no limitations. There's no requirement to reduce the lighting levels after hours. You look at the site plan, they've got a huge lot for parking the vans. They said they're not going to use the vans at night. Why should those be fully lit at night? We can reduce that lighting level, reduce the light pollution.

Mr. Weiner: Okay, thank you. Where is Lake Placid on, is it down towards London – is it down towards London Bridge Road and Dam Neck?

Mr. Johnson: Yes, it is at the corner of London Bridge and Dam Neck.

Mr. Wall: Put the map back up.

Ms. Weiner: It doesn't show up on the map. Any other questions?

Mr. Wall: So Lake Placid is behind – there is... the Junior Mart and the Miller Mart. Yeah, okay. It is the light pollution and this is kind of – and you see it straight down London Bridge, kind of left hand.

Mr. Johnson: Tonight and tomorrow, I am going out to watch the meteor shower. We put this in without any restrictions on up lighting; I may not be able to see it next year.

Mr. Bourdon: First of all, if you could put the aerial photo wide shot that was up a second ago. I appreciate it. Appreciate Mr. Johnson's thoughts on this application. Now the one that's the aerial photo that has got -- you can see...Here we go, very nice. Alright, so I'm not sure where in Lake Placid Mr. Johnston lives, but the woods if he is in proximity to Dam Neck Road, the woods that are behind his house are on one of my family's properties that will one day have light industrial on it. The woods that you see the site in black to the left or to the west. There's one piece that we don't own but as you get further to the west, it's wooded. Our farm includes a property

at the bottom left and all the woods that are between it and Dam Neck are on our property. Lake Placid, you go back to the original picture that you had up there, the composite. You could not see this property from Lake Placid, which is outside the red box there on the far left. And there's commercial, not just the Junior Market, but two other commercial buildings that are also on London Bridge Road adjacent to Lake Placid. This property with all the woods and everything else, they will not see anything, period. I don't know if I understood the backup he was speaking about, I don't think I'm sure it wasn't at Harper's, because that doesn't exist as far as a backup of three light cycles. My family has owned all this property, my grandfather, and family have owned this property for close to 90 years. And once again, it's all one day going to be light industrial, that's what our Comprehensive Plan has called for, for 45 years. So this particular applicant with this particular application is doing, is doing everything that should be done. Staff is in favor. The lighting, there's a specific condition about lighting. It's not going to light up their neighborhood in any way, shape, manner, or form. It's all got to be directed downwards. And it's certainly not going to have any impact on Lake Placid or any of the other residential neighborhoods for that matter. As far as the traffic question, I'll let Randy take that on because he's more familiar with the traffic impact study than I am. But I'll be happy answering if anybody has anything.

Mr. Royal: Hello. So vans, they were in the traffic study, they do not go in and out. They go out as I said, between 09:50 or let's say 09:50 and 10:50, they are out all day, they come back at the end of the day. They do not go in and out. Harpers Road is our primary access. We have shown improvements on Harpers Road, from Dam Neck Road, not from the other end, from Dam Neck Road, which is where everybody will be directed to come, to come in that way to go out that way, not down the other way. That's why we're widening the road, putting in appropriate turn lanes as we've worked out with Rick Lowman in Traffic Engineering. Dam Neck Road itself is at about 50% capacity. That's a heck of a lot of capacity out there. There are problems with intersections now, but we're not impacting that, because the problems, as everybody knows, are usually at a.m. and p.m. peak hour and we don't have traffic then. We offset that with what we do. The site lighting standards, we do have a stipulation in there about directing down. We're not necessarily dark sky, but they are directed down. The City does not have foot candle levels, but they do look at our site plans to make sure that we have enough foot candle levels. They're not going to light this to 20 foot candles. That's not prudent for them, it's not necessary and it costs a lot of money. And if there's rationale for lowering the lights, at the end of the night when there's nothing happening except inside the warehouse, I'm certain they will. But we can't arbitrarily say we should lower it to 50% or whatever it is; these folks know what they're doing. So again, there are up lighting restrictions that propose to have all the lights turned down. And it's not specifically dark sky. That's a whole criteria in itself, but I just can't imagine that there would be an issue there. So again, any other questions, I'll standby...

Mr. Weiner: Ma'am Clerk.

Madam Clerk: No speakers.

Mr. Weiner: All right. Can you close this and open it up amongst us, just a thought. Mr. Alcaraz is the Beach Area where you put in your thoughts. This is your area.

Mr. Alcaraz: Well after hearing everything I am okay with it. I am supporting it. I was hoping to see if there are any concerns that you guys have.

Mr. Weiner: Mr. Horsley?

Mr. Horsley: I think this is exactly what this property is supposed to be. I mean, we're protecting Oceana with the air rights and to allow the land owners to do something else with the property. Light industrial is the right thing to put there. And I think this is exactly what needs to be there. And I think they've done all they can do to protect and in those neighborhoods. I don't see anything that's really, really close to it right now. But, but anyway, I'm in favor, but I don't know how it got it in Beach district. I thought it'd be in Princess Anne. I mean, those soybean fields, they've looked beautiful for many years, but they can't, and they're not going to be there all the time and we realize that so. So this is this, I think this is the ideal use for this property.

Mr. Weiner: Anybody else, Jack?

Mr. Wall: Well, it's a lot of imperviousness with that 1500 parking spaces and a 200,000 square foot warehouse, but it looks like that fairly robust storm water management plan and it's gone through initial review with the City. I think they have had some issues. I don't know if anybody at the City can confirm that, you know, Lake Placid on the downstream and I think it's had some flooding issues in the past. But it doesn't look like this is going to impact that. In fact, you know, that may address some other problems if I understood Mr. Royal correctly, that they are adding capacity for potential other issues.

Mr. Weiner: Anybody else, Mr. Redmond?

Mr. Redmond: Mr. Chairman, I move approval of application items #2 and #3. There was a motion of approval of the second.

Mr. Weiner: Motion by Mr. Redmond for approval, do I have a second, and disclosure by Mr. Inman?

Mr. Inman: Yes. One of my law partners represents the landowner in this. I do not have any representation of the landowner and I'm not involved in this matter. And I believe I can vote without any conflict.

Mr. Weiner: Sounds good. We're ready to vote.

Madam Clerk: Vote is open. Mr. Redmond?

Madam Clerk: By recorded vote of 9 favor, 0 against agenda items #2 and #3 have been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

PROFFERS

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

Proffer 1:

When the Property is developed, the layout of the building, improvements, access and onsite circulation shall be substantially in accordance with the exhibit entitled "PROJECT DOOR CONCEPTUAL SITE PLAN FOR DISTRIBUTION CENTER ON A PORTION OF PARCEL "A" PROPERTY LOCATED AT 2097 HARPERS ROAD, VIRGINIA BEACH, VA", dated July 20, 2021 and prepared by Kimley-Horn and Associates which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (hereinafter "Site Plan").

Proffer 2:

When the Property is developed, the site landscaping shall be planted and maintained substantially in accordance with the exhibit entitled "PROJECT DOOR CONCEPTUAL LANDSCAPE PLAN FOR DISTRIBUTION CENTER ON A PORTION OF PARCEL "A" PROPERTY LOCATED AT 2097 HARPERS ROAD, VIRGINIA BEACH, VA", dated July 20, 2021 and prepared by Kimley-Horn and Associates which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (hereinafter "Landscape Plan").

Proffer 3:

The exterior of the distribution center building depicted on the Site Plan shall be substantially similar in appearance with the exhibit entitled "EXTERIOR ELEVATIONS PROJECT DOOR 2097 HARPERS ROAD, VIRGINIA BEACH, VA 23454" dated July 2, 2021 and prepared by Prime Engineering Incorporated which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (hereinafter the "Elevations").

Proffer 4:

The exterior building materials on the distribution center building shall be as designated, depicted, and described on the Elevations.

Proffer 5:

When the Property is developed, the party of the first part, Grantor, shall dedicate the additional necessary right of way and make those right of way improvements to Harpers Road substantially in accordance with the exhibit entitled ""PROJECT DOOR HARPERS ROAD IMPROVEMENTS EXHIBIT" dated July 20, 2021 and prepared by Kimley-Horn and Associates which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning and Community Development (hereinafter the "Right of Way Improvements").

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

CONDITIONS

1. Items stored within the Bulk Storage Yard shall be limited to company vans associated with the distribution center.

2. There shall be one freestanding sign on the property, as depicted on the sign exhibits shown on pages 14 and 15 of this report. The sign shall be no taller than eight feet in height measured from the ground to the top of the sign and shall meet all signage requirements of the Zoning Ordinance.
3. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
4. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties.
5. Roadway improvements as identified in the Harpers Road Delivery Station Traffic Impact Study, once finalized, and approved by the Director of Public Works or designee, shall be constructed, and installed by the applicant.

Item # 4

Wakefield Development, LLC [Applicant]

Merlin Beiler, Trustee of the Elva Y. Beiler Trust & of Elva Y. Beiler Land Trust [Property Owner]

Conditional Rezoning (R-15 Residential District & AG-1 Agricultural District to Conditional R-10 Residential District)

2328 & 2264 Salem Road

August 11, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Thank you. On to the next item.

Madam Clerk: Our next agenda item is agenda item #4, Wakefield Development, LLC. An application for a Conditional Rezoning R-15 Residential District, and AG1 Agricultural District, to Conditional R-10 Residential District on property located at 2328 and 2264 Salem Road in the Princess Anne District, is there a representative.

Mr. Weiner: While the representative is coming up, I just want to remind everybody that I didn't do this before. When you come up to the podium to speak, the yellow light will come on when the other light comes on. You'll have 30 seconds to wrap up your comments and when the red light comes on your time will be up. Thank you.

Mr. Bourdon: Thank you, Mr. Chairman, again, for the record Eddie Bourdon, Virginia Beach attorney representing Wakefield Development, LLC on this Conditional Rezoning application. I want to thank Marchelle and Bill Landfair, because he handled this before he left because this has been in process for over a year dealing with storm water and you've got the staff recommendation that this will be able to meet the storm water requirements under our current ordinance. The property with the exception of about 30,000 square feet upon which up in the far upper corner has one of the Bieler family homes on it. That's the only part of this is not zoned R-10. Everything else is zoned R-10, excuse me, R-15. I apologize, my mistake. And the request is to rezone to conditional R-10 as Marchelle explained this morning, but with all the open space and with the 1.3 acres of dedicated right of way along Salem Road 56 feet wide to include installation of multi-purpose trail along the frontage of this property on Salem Road. The actual density is only 2.14 units per acre. If approved, there'll be 84 additional homes above the two Bieler homes for which lots are created with this subdivision plat again up in the top right. And then called out the existing single-family Bieler residence, so that'll be a part of the subdivision. We have proffered a very detailed plan that includes pedestrian accesses, eight that are eight feet wide, within a 20-foot easement that'll be owned and maintained after they're improved by the developer. By the mandatory membership Homeowners Association, that's also proffered, all these houses will

be in one Community Association mandatory membership. When we first started with this project, the City wanted traffic engineering, wanted the stub street that's up in the far left hand corner? I think it's South Cross Court, but it's the South Cross Road, comes down and then there's a Court that goes to the west and then as a dead end stub street at the side of this property. From past experience and from the reality that this would be a cut through to Dam Neck Road, if it were extended. We said we weren't going to do that. And I'm quite certain that the folks in Newcastle and the people who live on that street, there's just two houses in Newcastle, don't want that street that goes through. And this process is going to see that that doesn't happen if this is approved. And the same thing we've added a multi use path going from the other cul-de-sac to Lisbon, which I think is actually I'm not sure is the City road, but I don't think it's a public road. But we're providing access there. And also access from the cul-de-sac down to far would be the Southwest portion of property so that people within neighborhood can get all around the neighborhood using you know, Lisbon on their bikes, their rollerblades, pushing a stroller, whatever running. And also similarly, they can run or walk through the New Castle community up to Dam Neck Road. Every street within the neighborhood, we have got, you know, in the proffers there's a five-foot sidewalk on both sides. Street trees on both sides. Community Park that's on here, and then the storm water maintenance, storm water pond, but it's going to be in the amenity for the neighborhood, it's a large pond, and there are wetlands that are being preserved on the site that extend all up in between the homes in Village Bend, which is our point 0.75 zoning above this piece of property. Excuse me, so everything is also Community Park down the bottom right as well. So there are actually two different park sites on here. Note that the church that this goes around there, they have dedicated additional right of way previously for Salem Road. So that trail could be extended across there. But there are two homes, existing homes not a part of this separately owned for many years, so getting the trail cross there is going to require some City effort in the future. The staff report, you know, deals with the fact that we're only adding about 20 houses above what the existing zoning would permit and you're getting dedicated property, high-end quality project elevations or elevations of homes that are being built today in Kingston Estates on West Neck Road just down the street. From here, the value, the prices we expect to achieve with these homes will be 550,000 and above. They all have two car garages; they all use high quality exterior building material. Again, it's going to be a very high quality neighborhood. The only thing I can stand up here and say that that fail to do was name the neighborhood, so we can brand this but the marketing people for whatever reason can never come up with a name. So it's just the Bieler property for now. But it won't be when it goes to the market. Be happy to answer any questions that any of you may have...

Mr. Weiner: Any questions.

Mr. Wall: So the developer is the same as Kingston, is that correct?

Mr. Bourdon: That's who will be developing the property, that's correct.

Ms. Wall: Okay.

Mr. Weiner: Any other questions?

Mr. Wall: I don't know if you can speak on this. But in terms of storm water which way is -- so maybe preserving some of them, you need large mature trees that are existing on the site through the preservation of that wetland area? Is that correct? Because I see small area, you know, the wetlands, that area is very large, mature, you know oak trees, then a large stand. I mean, that's just the casualty of new developments. But looks like...

Ms. Bourdon: That area will be, but the storm water to be clear -- the storm water requirements, the remainder, again, all that all that area, you see, to the northwest of the BMP, that will be preserved. But where the lots and all and the roads are, because of the storm water requirements, they there really is not much of a way, unfortunately, to preserve trees, because we have to elevate and now with the one and a half feet of sea level rise, etc., there will be fill have to be brought in, although the elevations are 12 and 13 feet above sea level today. I mean, it's not it's not low land, but you know, what we have adopted into play to plan for all the sea level rise and additional rainfall moving forward. But all the water is directed inward, nothing will go on to any of our neighboring properties.

Mr. Wall: What is -- I don't know if you can speak on this, but what is the pattern? Like where is it going?

Mr. Bourdon: I think -- you make sure is Anthony... is engineering, he's got more knowledge about this. I don't want to, I mean I got I know a little bit about storm water, but enough to be dangerous. So I'd rather have an engineer talk about it then. Is he here? Anthony? If you got some specific questions, he's better suited to answer those than I will be.

Mr. Wall: Hey, Anthony. How are you doing?

Mr. Anthony: I'm doing well. How are you sir?

Mr. Wall: Good. So what is the pattern? Like where it is going from...

Mr. Anthony: The storm drainage will be collected by the one central BMP, and it will flow down to Salem and enter into the existing storm drainage system there.

Mr. Wall: So is there water coming up side there, that wetland area? It is coming from the north or the top of the page? Is there offsite coming through? And then going into...

Mr. Anthony: No sir. Village Bend does not come down into or a matter of fact; I designed that several years ago. So I'm familiar with the drainage there. And that actually flows north into their BMP which is just visible there at the top of the page central top of the page.

Mr. Wall: So that is just a wet area right there.

Mr. Anthony: Yes, sir.

Mr. Wall: Designated?

Mr. Anthony: Yes, sir. Yeah. And actual wetland impacts are, I think, in the range of a 10th or less very small if any wetland impacts associated with this project?

Ms. Wall: Okay. It drains towards Salem, then where does it go from Salem?

Mr. Anthony: It runs into the Salem ditch system and runs down into the canal.

Mr. Wall: Okay, the canal to the right or the crest of the right.

Mr. Anthony: Straight down south.

Mr. Wall: Straight down, okay. First of all it says there will not be any impacts but then in the third paragraph under the project storm water design staff summary, it says the model shows slight increase in peak water surface elevations along Salem Road and in the downstream receiving channel, but these increased flows are expected to be adequately conveyed without impacting any areas of flooding.

Mr. Anthony: Yes, sir. We submitted the preliminary design as required; we're still working with the city and the city engineers to refine the model. But as it says, in the report, there's little to no impact. And the idea would be to make sure there are zero impacts. Yeah, I don't know if people downstream would agree or would accept that. But okay, all right, thank you.

Mr. Anthony: You are welcome.

Mr. Bourdon: The model that Virginia Beach has is by far and away the most restrictive, detailed, and nowhere in the State of Virginia is anything close to it, okay, and it takes into account a foot and a half of sea level rise. And they this, this has gone on for a year. And none of these come forward that have been through this process without they -- you're talking close to 100 grand that people are having to pay to run these models over and over and over again. And they don't let you come forward until they are extremely confident that you're going to have no impact not only on the

people around you, but upstream and downstream, they won't let you come forward if you're a 100th of an inch off. So you want to make sure that people who are listening to us understand this isn't the way it used to be. There's no there's not going to be and this is what the increased 20% more rainfall than the model than then than we used to use. And it's a foot and a half of sea level rise. So anyone who suggests that there's going to be impacts that are discernible by anybody with these new models and what's being required is mistaken.

Mr. Weiner: Thank you, Madam Clerk.

Madam Clerk: Our first speaker is Jonathan Jarrett.

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

Mr. Jarrett: My name is Jonathan Jarrett, 2240 Meadow Ridge Lane. The ditch that you were referring to downstream is through my property. And so I wanted to come and speak to voice my concerns because exactly what you said, increase in peak water surface elevation is concerning to me being that the 100-year floodplain already is near my property. And you know, the 10 years revision of the FEMA maps could include my house. So thank you for bringing that up. But to backup, I'm representing two other families that live on the cul-de-sac that are affected by the downstream drainage. Just as a point of note, we're not against the subdivision in any circumstance, but we want to make sure that these few items are addressed. So, the one is the increase in density reading through the submittal. It says that density would be decreased. As a result of this rezoning although it was mentioned that 20 more lots would be allowed with the current zoning. It doesn't make a whole lot of sense to me. I'm a civil engineer. So this is very common to me. So that I'd like a little more information on that why this is smaller lots means less density. With most speakers, traffic and storm water are the main issues. Traffic is a concern of mine as well. Meadow Ridge Lane is a one street subdivision called Salem Acres. And currently, it is very difficult to turn off of my street left or right, it's on the other side of Salem Road and introducing any volume of additional traffic on the Salem Road is making a problematic situation worse. So that's one of my concerns as well and then on storm water. Kindles Way was built several years ago. I guess it's only been a couple of years. And that abuts to my property as well. And they also raised their grades up several feet when they built that subdivision. And so any overtopping of this ditch is going to be on my side of the ditch. So that's why it's problematic that there's any adverse impact to water surface elevation.

Mr. Weiner: Thank you for your comments

Mr. Alcaraz: Sorry, when you mentioned your address, you said the downstream flow goes right through your property. Do you mean adjacent or right through it?

Mr. Jarrett: Well, the ditch is partly on my property.

Mr. Alcaraz: But on the street side, but not through the property. When I say there, is it going right through your property or is it adjacent to the front side?

Mr. Jarrett: The ditch is partly on my property.

Mr. Alcaraz: Just want to make sure it is going through.

Mr. Horsley: Can you show us on the map where you live?

Mr. Weiner: There is pointer right here on the...

Mr. Jarrett: Here, the ditch was this way, my property is here. The ditch was to the canal here.

Mr. Weiner: Any other questions.

Mr. Jarrett: I'm a runner. I do appreciate the paths. Thank you.

Madam Clerk: Mr. Chair. We have two more speakers. They are both WebEx. Okay. The first one is Tina Milligan. She is speaking on behalf of the New Castle Civic League. Ms. Milligan if you would wait two to three seconds, please state your name and then begin your comments.

Ms. Milligan: This is Tina Milligan. I don't want to proceed until I get verification that I'm heard.

Mr. Tajan: Ms. Milligan, we can hear you. Please go ahead and go with your comments. We cannot converse with you because of the way the technology is run in the Council Chamber, so please go with your comments.

Ms. Milligan: Okay, thank you so much for that clarification. I'm here representing our adjacent neighborhood of Newcastle Elementary. I've been a resident there since 1997. I'm an original homeowner. So I've been there for 26 years. And during the 26 years, I've watched the neighborhoods around us be built. First, it was Cromwell. Cromwell created a big flooding issue at the end of the intersection of Salem and Dam Neck Road which still exists at this time. But that was the first one, Cromwell. The second one was Village Bend, which is adjacent to our neighborhood as well. Village Bend was recently built, completed two or three years ago, I am uncertain

of the exact date. But during the development of that property, our concerns were not heeded by the developer or staff, or anybody. And when the grading of the lots was done, it was graded improperly, and the grade actually drained into the backyard of our residence. So, even so with the proffers that were in place and our constant contact with city representatives, and inspectors, our concerns went unheeded. So that's why I'm here today, because of past history that we've had. Currently, those houses had the flood, water mitigation. When it gets heavy rains, it floods in their backyards. We have pool liners that have been damaged. The backyards are now soggy messes were before they were high and dry. So please know that this new neighborhood is adjacent to more of our houses. And I wanted to express our concerns that it was that we wouldn't have a repeat show. And Mr. Bourdon went there for the show previously and is well aware of our concerns. And I appreciate you guys listening to me today. You listened to me when Village Bend was going on. But moving forward, I just need reassurance that that will not happen again. The neighborhood that is proposed, it looks lovely. But we are concerned with the flooding. Also wanted to note, the builder has had some previous issues with flooding, which causes concerns as well. Finally, I wanted to bring up one thing, if the site plan is constructed as it is right now, all the trees will be removed that are adjacent to the houses on South Cross Drive. There are two houses right on the corner. They have huge pine trees that are going to be exposed; there will be no barrier for them whatsoever. And they're going to be a hazard to the residents. So I wanted to bring forth that problem. There's about eight in 2144 South Driving backyard, and three in 2148 backyard South Cross Drive. As private owners, when those trees come down, it's 1000s of dollars that's going to be placed on our homeowners to make their homes safe and get those trees removed. So I would like to kindly request that if those residents do decide those trees need to be removed that it'd be done so at the developer's costs. My husband's going to speak next. So just again, I will need to point out existing flooding down Salem Road where the drainage ditch is heading toward North Landing that floods, so bad right now currently, flooding occurs on the intersection of Dam Neck and Salem Road currently. And that is without any development of this land that we are speaking about today by Wakefield Development. Thank you so much for your time and consideration. Thank you...

Mr. Weiner: Thank you.

Madam Clerk: All right. Our last speaker is Joe Milligan. Mr. Milligan if you would wait two to three seconds to state your name and begin your comments, please.

Mr. Milligan: All right, my name is Joe Milligan. Can I get a confirmation that you can hear me?

Mr. Weiner: We can hear you. Yes, sir.

Mr. Milligan: Great, thank you. Thank you for the opportunity to speak. I'll make this pretty short. I think my wife had most of the high points that I was concerned with. As she said, we've been there for a while. And we've seen storms come and go. And we had absolutely no flooding problems whatsoever for probably the first 10 years. And then we started seeing some flooding in the neighborhood when they built Cromwell and then this last major storm that we had after they built Village Bend, I saw something for the first time I've never seen and that was actual water being forceful or coming out forcefully from the storm drains along South Cross Drive, which made no sense to me. But instead of draining, they were actually going in reverse. So probably, you know, I don't know if those storm drains need to be smoke tested or checked or what, but there's something going on there. The trees that my wife spoke of, there there's large pine trees that are probably over well over 100 feet tall, and once that forest is removed, those trees can go either direction in a hurricane and reach any of the houses on South Cross and also the houses and the new developments. So that probably needs to be addressed. And then my last concern is the grading of the lot that abut South Cross Drive, I just want to make sure that because of all the problems we've had in the past, that grading that water movement, on all the properties all the way to the back of those houses on the west side of this project, or north side, rather north, northwest side, that they drain towards the other side of the neighborhood, and not create additional problems for us. And those are the points that I wanted to hit on. So thank you for your time.

Madam Clerk: No more speakers.

Mr. Weiner: No more speakers. Mr. Bourdon?

Mr. Bourdon: First of all, I want to thank all three of the folks who spoke and their comments were totally understandable. I'm going to start with Tina Milligan and Tina is very reasonable and very involved. And it is very, very much regrettable that the problems that they had with the development of Village Bend. And I can guarantee you that will not repeat here. For one thing, the whole circumstance of how the City, as I said previously, handle storm water is upfront, not in the back. So with that having been said there are there are the two homes in Newcastle that abut this property. If those folks do want their trees removed, my clients will and the applicant is the developer in this case, that was not what happened with Village Bend, they will be more than willing to remove the trees on the back of their property if they feel that there's a danger, or whatever their feelings are, if that is what they wish to do. What Joe Milligan said is exactly the case now, all of the water from this, it's not a drain forward drain back, it will all drain forward, there will be no water, and no water is permitted to drain off this site onto an adjoining property. That's the deal now, that's what these plans, you know, 100% do. And that's why this has all been done ahead of time whereas before it was done after the fact with a completely different regime. These Dewberry models, they're very

detailed and the policy that changed last June of 2020 is totally different than what it was previous, and the problems were experienced with Village Bend development in Newcastle will not be repeated in this circumstance. But the asks, of the tree removal, which you know, they're 100% right, we will have to remove the trees -- we have to remove the trees to create positive drainage. And it's all held on site. Okay, we cannot discharge into the ditch that Jonathan Garrett was talking about, we cannot, you know, increase the rate and have any impact on the flood levels, you know, downstream. Now, that means holding water on this site. And so, you know, it based on everything that's being done today, under today's requirements, that won't happen. His concerns are certainly understood. And based on past experience, I'm sure it hasn't been. In other circumstances nothing is perfect, but this is far, far, far closer to being perfect than anything that we've done in the past. And that's the best way I know how to summarize it and appreciate the concerns. Salem Road will be widened in front of the property. There will be left and right hand turn lanes so they won't affect through traffic at all. And I've said about 20 houses above what is already at some point.

Mr. Wall: So how are they going to keep water from draining from the back of the properties that abut on the South Cross Drive and either way there, I am just curious because...

Mr. Bourdon: The lots are going to be filled, Mr. Wall and graded. That's what has to happen. I mean, if there's a slope going down for two or three feet, you know. I just told you that's what the requirements are. And the entire property is going to be graded so that the water flows inward not outward. Is there going to be a height differential? Yes, answer your question. But what is not going to be able to flow uphill.

Mr. Wall: One thing is that their property's drain, so in either way, so how if they...

Mr. Bourdon: Either way as I understand it at 20 foot natural area or some sort that's behind. Now at bay, I don't see it on the map, but I got a call from one of the people up there and it may just be the two that are on the natural area that remains there. But their drainage has got to be handled in the way it's always been handled.

Mr. Wall: When you say planned development you would expect and hope that that would address...

Mr. Bourdon: There may need to be, but I suspect there is, but I can't speak to that particular aspect of it and this still has to go through site plan review, But as all the engineers who've been through this for the last year plus, and in some cases, two years, will tell you that there is no stone left unturned, none, and getting this to this point and then getting to full site plan approval. We're probably 80% of it because of storm water, but there's still another 20% going forward.

Mr. Weiner: Any other questions?

Mr. Tajan: Mr. Wall just so that -- to answer that question, the City's information has that there is rear drainage as A and B drainage where it goes to the front end to the back on Eva, there is installed pipes that take the drainage from the rear of the property to their storm water management system. So that could explain why there is the thought of the standing water that's out at that location because it is going backwards to the drainage easement or to the drainage and the drainage easements that are going to their storm water management facility. Okay, as Mr. Bourdon noted and is correct, the current design that Mr. McCoy has is "A" drainage which goes from front to back, which will go into the storm water management facility when they rise again. This has all not been vetted through full site plan review. But of course, I will have to convey it appropriately potentially with swales and other structured elements in order to get the water in the right place.

Mr. Weiner: No more speakers Madam Clerk?

Madam Clerk: No more speakers.

Mr. Weiner: All right, we will close this up and bring amongst ourselves and Mr. Horsley.

Mr. Horsley: Well, I think the storm water has been adequately addressed today. I mean, I think with the changes we've had over the last year or so, in storm water, it's hard to sneak by those people and do something that it's not right on storm water. So I've got faith in the storm water and I think the density is very compatible to other densities in the in this area. Appreciate the people who have expressed some concerns, but I think it was probably due to some engineering woes or whatever that took place on their developments. But as far as this development is concerned, I feel good about the storm water. And I think the density fits the area and I'm in support of application.

Mr. Weiner: Anybody else? Mr. Redmond?

Mr. Redmond: Just note a couple of things. First off, I agree with everything he said. I'm absolutely comfortable with storm water. We have not only the most stringent storm water requirements in the State, by far, and no one gets through site plan approval today without adhering to them. So, and this is, I have no doubt that this will be the most intensely engineered site, you know, anywhere in this area. Like Mr. Horsley and I'm looking down here 2.14 units to the acre two units to the acre is not a particularly dense development. It fits in I think very nicely with the pattern of development around it. There are a number of amenities I think that are you just don't find today and frankly in a lot of places that, you know, there's a giant pond right in the middle of it, there are sidewalks all around. And with regard to -- I mean,

I see more landscaping on that plan than you typically see. And that's a lot to ask for and in a place like we have where we have a critical housing shortage. When you meet all those tests, and you get up a bar that high it seems to me you're probably done. I think this is probably going to be one of the most careful and as I say intensely engineered developments in this entire part of the city and I'm sure a fine development is finished. So I agree with Mr. Horsley and I'll be happy to support it.

Mr. Weiner: Anyone else. We have a motion?

Mr. Horsley: I make a motion that we approve the application.

Mr. Weiner: I have motion by Mr. Horsley for approval, second by Mr. Redmond.

Madam Clerk: Vote is open. By recorded vote of 9 in favor, 0 against agenda item #4 has been recommended for approval.

Mr. Redmond: Thank you all very much, I appreciate it.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

PROFFERS

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

Proffer 1:

When the Property is subdivided and developed, it shall have entrances, neighborhood identification sign, street sections, landscaping, and open spaces substantially as depicted and described on the exhibits entitled,

“BEILER PROPERTY – Virginia Beach, Va. CONCEPTUAL DEVELOPMENT PLAN” dated July 30, 2020, “BEILER PROPERTY – Virginia Beach, Va. ENLARGED PLAN” dated July 30, 2020, and BEILER PROPERTY VIRGINIA BEACH, VA Conceptual Turn Lane Exhibit” dated July 30, 2020, prepared by Timmons Group, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter, the “Conceptual Subdivision Plans”)

Proffer 2:

When the Property is developed, it will be subdivided into no more than eighty- six (86) single family residential building lots. The eighty-four (84) new homes will be built with a crawlspace or a raised slab foundation and they will contain a minimum of 2,400 square feet of living area for a two story dwelling and 2,000 square feet of living area for a one story dwelling. Each home shall have the architectural features, exterior building materials and no less than a two (2) car garage substantially as exhibited and described on the three (3) page pictorial exhibit designated “Beiler Property – House Product Examples” dates July 30, 2020, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (the “New Home Depictions”).

Proffer 3:

When the Property is developed as noted on page 1 of the “New Home Depictions”, the materials to be used on the front, sides, and rear of all new residential structures shall consist of brick, masonry (stone), cementitious siding (e.g., “HardiPlank”), or high-quality vinyl siding or substantially similar material Vinyl siding shall be minimum of 0.044 inch thick lapped or beaded siding only. Dutch lap siding shall not be permitted.

Proffer 4:

When the Property is developed, the party of the first part shall record a Declaration submitted the building lots and all of the other properties, and where applicable any easements outside the public rights of way to a mandatory membership Home Owner’s Association which shall be responsible for maintaining the community park, all open spaces, common areas, vegetated buffer easement, entrance feature signage and landscaping and other improvements, including the eight foot (8’) wide multipurpose path and surrounding landscape buffers within the twenty foot (20’) wide Open Space Parcel to be deeded to the Home Owner’s Association, on the Property as depicted on the Subdivision Plans.

Proffer 5:

Further conditions may be required by the Grantee during detailed Subdivision and/or Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

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

Items # 5, 6 & 7

Two Farms, Inc. dba Royal Farms [Applicant]
Holloman-Brown Funeral Home, Bayside Chapel, Inc. [Property Owner]

Conditional Rezoning (O-2 Office to Conditional B-2 Community Business)

Conditional Use Permits (Automobile Service Station, Car Wash Facility)

Parcel at the southeast corner of General Booth Boulevard & Princess Anne Road

August 11, 2021

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk: Our last agenda items are agenda items 5, 6, and 7. Two Farms, Inc. doing business as Royal Farms, an application for a Conditional Rezoning 0-2 Office, to Conditional B-2 Community Business and a Conditional Use Permit Automobile Service Station, Car Wash Facility on a parcel at the southeast corner of General Booth Boulevard and Princess Anne Road in the Princess Anne District.

Mr. Nutter: Thank you very much, Chairman, thank you, pleasure to be here. For the record my name is RJ Nutter to represent the applicant Two Farms, Inc, which by the way goes to the Royal Farm Convenience Stores. This is a site, by the way, they have spent a lot of time on. And what I mean to commend the people in the church who are very involved in its application. But also would like to commend my client who has given me the authority to do things they've never done before. I can guarantee you this will not look like any Royal Farms you will ever see anywhere in the United States. So they gratefully accepted that challenge. And I'm glad they stepped up to the bar.

Mr. Weiner: I'm sorry. People are having a hard time hearing you, can you speak up a little bit?

Mr. Nutter: Yeah, I'm sorry. Yeah, I'm a little dry here. Two hours here, you get dry, but I want to just commend our client and the people in the church. They've worked very closely together. Not everyone agrees. I wish everyone could agree on things. That's just the nature of things as they are today. But I can tell you they've been respectful through the meetings. My client has given me great authority to address the issues of concern to them. So I think you'll see that in the application. If I could go to the site plan if I could. This is an amazing site with the corner of a major intersection and access way to Sandbridge as we all know, and yet it's next to one of the oldest most historic churches in the city. That required a lot of thought and attention to detail. But to give you some example, this site is 3.28 acres. It has 1.58 acres of it is either preservation or landscaping. Over 48% of this site is landscaped or buffered. The site was moved furthest to the intersection as possible without interacting with any easements and so forth, the city has for the expansion

of these intersections. We have reduced the number of gas facilities from five islands to four. And so in addition to that, among the big issues we had with the church, as we went through our first meetings, and we had three meetings with the church, back in February, April, and again in May, and then in June, we made another final concession which I will go over in a second. But anyway, the first meeting centered around an access way that we will be sharing with the church. Now, staff didn't point this out in the right-of-way in their presentation, but we found the application, staff was going to give us the right-in/right out on Princess Anne Road, a right-in on General Booth. And if you come down further, I don't know if you can, if you have an exhibit that shows it Hoa, but we were going to have a shared access way with the church that was permitted by staff. And at our first meeting with the church, they said, that's a major concern. They did not want to share that access way with Royal Farms. But from Royal Farms perspective, it was the only access way there that was a full access as a median break. So the only opportunity for them to turn left out of that site. So it took us about three weeks to convince them it was the right thing to do. And that's when we went back to the church after their traffic study, to tell them we've eliminated that access way. So that's why you see on old Princess Anne Road, all that area in green can be preserved today. The other nice part about it is the church owns a piece of land. Just below we see old Princess Anne Road and so what enabled the church to do by us staying out of that area is to close old Princess Anne Road and bring all that property into the church's property. So they'll own all the way down to – here's the area I'm talking about right in through here. They own all that property. In fact, they've already hired Mr. Bourdon to file a Street Closure Application if this application is approved. But that wasn't first major concession by my client. And of course, that put additional pressure on us to have a right-out on General Booth. And I won't repeat the discussion we all had this morning, which we're very insightful for all of us. But my client does need and want the access way right-in/right-out on General Booth as well. And that's why we would ask you to drop condition #1, on the presentation by staff. As we went forward, another concern came because we said we originally had the carwash over here. And even then it was over well over 100 feet to 150 feet to where the church was. But as our last meeting after we went through the access issue and several others I'll go through is that can you relocate the carwash. So Royal Farms agreed to move it from here to here. The carwash today is over 350 feet to the church. And I point that out to you because it should get what condition #8 eight had to restriction on hours of operation, I'm going to suggest to you in fact, I'll tell you right now, Princess Anne Road, the new Princess Anne Road, is 260 feet to where the church is, the distance from here to the church is 260 feet, this is over 100 feet further away than Princess Anne Road. So there's no impact of noise from this. And that doesn't count the eight foot fence we're proposing along here, which the church requested, instead of six foot they wanted an eight foot fence. And this, all this area then preserves the natural space. So the carwash is going to be over here, 350 feet from the church, behind an eight foot solid, you ought to see this fence, eight foot solid fence

and in here over 80 feet of preserved preservation or trees in that area. Finally we went to the – I say finally, the Historic Preservation Board and we went through two meetings and a site visit with them. And they did a great job and very thorough job if any of you ever been before, you go through every detail. This building is now all brick, covers have been reduced, the signage has been significantly reduced. Every detail of the carwash had been gone over in detail. Every lighting fixture has been amended per their request. Location and features around the building have been addressed. The roofline has been changed from their standard. And in addition to that they wanted us to use canvas awnings over the front; we wanted to use metal because it lasts longer. They said canvas is more natural. So we've gone to canvas, I will tell you, it's quite a record that Mark Reed and his staff put together and the vote before them was unanimous. And of course, they don't address land use; they address all the issues of the building, design, and compatibility. But they found those to be compatible and issued the Certificate of Appropriateness. So as a result, you've got an application that's been through the Historic Review Board. A site plan that's modified considerably by the applicant to comply with to reduce any impacts on the church and one, which I'm happy to say is really, I think one of could be one of the better neighbors they could have on this property. If it were developed O-2 much more land could be impacted for parking than this would be, and also point out to you on stormwater based on the last discussion in the previous case. You will see no stormwater pond here. We got plenty of room for a stormwater pond on this property, except it takes out trees. So the applicants agreed to an underground system, which is far more expensive, more expensive to maintain, in order to preserve these large areas beside it. Well, I say almost 50% of the site is today preservation area or landscape. So I'll answer any questions you all might have, happy to do so. Thank you for the pointer. I'll leave it up here, Hoa.

Mr. Weiner: Any questions for Mr. Nutter?

Madam Clerk: We have several speakers.

Mr. Weiner: Okay.

Madam Clerk: Melody Jeffrey to be followed by Ronnie Guganti.

Mr. Weiner: Welcome ma'am. Please state your name for the record.

Ms. Jeffrey: Melody Jeffrey. Can you hear me? I have been a member of Nimmo United Methodist Church for 22 years. I am the Community Garden Coordinator. So you've probably seen the garden when you drive down General Booth, for 12 years. And I'm in support of Royal Farms proposal, I guess you should say. I attended two of the three meetings, I attended the first one because as the Garden Coordinator, I was concerned about groundwater because we grow organically

and we give our food away. So we have to be, I was concerned. Those concerns were dispelled. And I heard the concerns that came up at the meeting. And I went to the later meeting, I think it was May. And I was really impressed by the concessions that were made, by the follow up, by the listening to our concerns. And that gave me some assurance that I would trust Royal Farms as a good neighbor. So I don't know what more we can ask for from my perspective, I don't know what more we can ask. I feel like they've done a good job of hearing us and responding. And, and in writing. So I trust them as a good neighbor. Thank you.

Mr. Weiner: Thank you any questions?

Mr. Redmond Can I just say I'm a gardener too and you have a very nice garden. So well done.

Ms. Jeffrey: Thank you so much. Appreciate it. We were at 1000, over 1000 pounds given away so far. And we give to food pantries and to seniors up at Sullivan House, basically anybody who needs it. So thank you so much.

Mr. Weiner: Good for you, you're doing Lord's work.

Madam Clerk: Ronnie Gauganti followed by Jack Calhoun.

Mr. Weiner: Welcome ma'am.

Ms. Gauganti: Hello, everybody. I've been a resident 24 years down here. And I don't know if you all know through experience that promises made are never promises kept. Basically, I trust no one. Why? Because we have already on that street a 7-Eleven, we have a Harris Teeter with gas. Across the street from that on Upton Drive we have another 7-Eleven and then farther down, you've got a Mini Mart. Tourists coming back, going west, stop in the Mini Mart. That street there, going in Princess Anne which is not even completed yet, it's like a minefield there, is what I call a kill zone. Because somehow these Royal Farms and I've been in them, it's a convenience store. Nothing more, nothing less. Their claim to fame is chicken. But you can get chicken at the Harris Teeter, you could get chicken at Food Lion, you could get chicken at Wal-Mart. And if you're really adventurous, you can go to KFC, which is a half a mile away. There is nothing special about this. It doesn't add anything to our neighborhood. It makes it more dangerous, because people on General Booth coming in to go to Sandbridge are going to make hairpin u-turns to get to the Royal Farms, where I've already almost been clipped by the hairpin u-turns at Upton going into the 7-Eleven. This is poor planning. It is poor road planning. You have not even finished Princess Anne yet. And if you want a good use for the facility, and you want a good use, you should put an EMS station there. You know why? Because from Friday night to Monday, all there is constant -- constant accidents. I can't even tell you how many times I've just sat there and shook my head because people driving, holding their phones or drunk, usually on a Sunday are running into ditches, roads, I hear the guards going constantly back

and forth. You should put an EMS station there because Sandbridge needs it. Give those guys a break, all they do all weekend is addresses the crashes. And for some reason Royal Farms is the Pied Piper. Although you have other convenience stores, I've traveled Route 13 with Royal Farms. It's a convenience store. Thank you.

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

Madam Clerk: Jack Calhoun, followed by Rene Haynes.

Mr. Weiner: Welcome Sir.

Mr. Calhoun: Good afternoon. My name is Jack Calhoun, and I'm a member of Nimmo United Methodist Church. I've been there for about 35 years besides that, but I'm just a youngster as far as the church is concerned. It's been there for over 230 years. And it has seen a lot of things in its time. It's been the site of tent meetings. It was used as the hospital during the Civil War, many, many things. A lot of prominent citizens of Virginia Beach were members of Nimmo and are today, and some of them were buried out there in that cemetery. Many of my friends are buried out there in that cemetery and I go out there often. And I see people. They're out there visiting loved ones who passed before them. And I'm concerned about the noise that's going to be generated. Not maybe so much from the carwash, I don't know. The graveyard is really my concern and just the aesthetics of this historic place. For me build that columbarium out there. The Historic Review Board is very careful that we placed it so you couldn't see it from General Booth and I'm not sure that's going to be the case today. I mean in the future if it is built. I've seen people out there mourning quietly. I've seen them singing to grave sites. I've seen a man dressed in kilts playing his bagpipe walking back and forth. People when they go to mourn their loved ones, they want a quiet, serene place. And I'm afraid that little by little that quiet little country church, things are being chipped away slowly, but surely. Thank you for your time.

Mr. Weiner: Thank you sir, any questions?

Madam Clerk: Renee Haynes, followed by Donna Franken.

Mr. Weiner: Welcome.

Ms. Haynes: Hello, my name is Renee Haynes, and I'm a lifelong resident of Virginia Beach and a 16-year member of Nimmo United Methodist Church. I am opposed to the rezoning of the parcel of land adjacent to the church, where Royal Farms convenience store, gas station, and carwash are proposed to be built. I've heard all the reasons why the land was sold to Mr. Jones and what the members originally

thought was going to be built on the land. And I of course sympathize with them. But my main reason why I believe the zoning should not be changed is because of the historic nature of the church. It is a landmark jewel of Virginia Beach. Nimmo Church was built in 1791 and has seen so much history. It has survived damage from federal troops, hurricanes, and unfortunately severe water damage, which has led us to here now. In my capacity of running Nimmo's Garden food pantry, I've been asked to give tours for people just stopping by on vacation to visit the old church. It was also a stop on the tour for Juneteenth. Many citizens are amazed at how old the church is and its history. So no matter how nice the gas station will be, and I harbor no ill will towards Royal Farms. It still will be a gas station and it will drastically impact the look of the church. I feel it's just not compatible with the church that has been around since the days of George Washington. All the history of the church needs to be showcased and prized by the City of Virginia Beach. I understand that Councilman Mr. Louis Jones owns the land. But I would hope that he would want to leave a different legacy to Virginia Beach instead of just another gas station, surrounded by a sea of gas stations. A museum, a park, a welcome center, and yes, even a funeral home would be a better legacy. And one he could truly be proud of. One that all Virginia Beach citizens could be proud of too. Thank you.

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

Madam Clerk: Donna Franken to be followed by Bob Longworth.

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

Ms. Franken: Donna Franken. Thank you. You're welcome. I'm here today for my family, myself, because we have been both physically and spiritually involved in our church, Nimmo United Methodist for decades. My husband and I have been members for 41 years, a long connection with Nimmo. I am in opposition on the zoning change from or 0-2 to B-2, further a 24/7 gas station is so far removed from the first proposal of a funeral home. Allowing Royal Farms to build and operate a 24/7 business directly in front of Nimmo Church and a sacred cemetery is unacceptable. The change of zoning is not compatible with the historic land, that Nimmo Church, my church and its cemetery have been since 1791. Allowing a change of zoning will adversely affect Nimmo Church now and I feel in the future. On a personal note, I feel and have felt deeply a deep responsibility to protect Nimmo, my church. I feel as though a baton had been handed to me as the gatekeeper for past generations. I think of the past members like Floyd Kellam, Murray Malbon, John and Mildred Wilson, Donovan Bonnie, Betty Miller. All were prominent, respected citizens, pillars of Nimmo United Methodist Church, I learned a lot. They were here raising their families in our beautiful city. They and others would strongly resist at what is being proposed. They would wonder what has happened to the city government of Virginia Beach. They deserve our, they deserve your, deep respect.

So in closing, I strongly urge you to vote "NO", and denying the request for the zoning change. Your "NO" vote will ensure the protection for historic Nimmo United Methodist Church and our cemetery. This is what I feel -- this is what's best for our city, your city, our children, your future and our future. Thank you very much.

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

Madam Clerk: Bob Longworth, followed by Gene Estes.

Mr. Weiner: Welcome, sir.

Mr. Longworth: Good afternoon, sir. I am Bob Longworth, President of Nimmo Cemetery Association. I come here today to speak on behalf of those who have rights to be buried in historical Nimmo United Methodist Church cemetery and to speak for those cannot be here, those mortal souls now resting within the cemetery. We are against this proposed gas station adjacent to the cemetery. This will have a potential financial impact as well as not being able to sell plots along the western boundary of the gas station, which in turn will affect the perpetual care funds in maintaining the cemetery in the near future. Many founding families of the old Princess Anne County and of this City of Virginia Beach now rest in the cemetery, the Kellams, the Malbons and Ethridge's, to name a few. They would all be against this project. And again it is not compatible to this area. Imagine conducting a funeral service in there and the cemetery listening to car washes and vacuums and all the noise that goes with a gas station. At the last meeting of the Historical Review Board members said it was not in their purview to yea or nay on the project, just the architectural design, but members opposed to this also stated it was the worst use of this land. On Sunday, the 1st of April, Beacon shows the legal notice of the board meeting and the words Royal Farms and Hollomon-Brown Funeral Home. It is not Hollomon-Brown profiting from this sale. It's Louis Jones, the owner Hollomon-Brown, a sitting city council member making a profit of the land. It clearly shows that Louis Jones does not care about preserving the historical cultural district of the church and the cemetery. Is this how the city regards the historical preservation of this area? Thank you, gentlemen.

Mr. Weiner: Thank you. Any questions?

Madam Clerk: Gene Estes, followed by Daniel Franken.

Mr. Weiner: Welcome, sir...

Mr. Estus: Good afternoon. I'm Gene Estes. Let me first say I appreciate, I've been involved in the meetings that Mr. Nutter has had with us regarding this project, and I appreciate the concessions that the applicant has made to the historic church and to lessen the impact on the church. But I still oppose the Royal Farms proposals

on the grounds of incompatibility with the Nimmo Church historical and cultural district in which that property resides is not adjacent to it, it's in that -- it's in the district. I'm a 45-plus year member of Nimmo United Methodist Church, and by marriage a member of the Ernest Brown Family some of you may recognize that name. A family that's worshipped at the church since its founding in 1791. For decades, Nimmo Church has been proud to have lent its name to the city's historic and cultural district program. Over 230 years of historic, religious, cultural, and inspirational contributions to the community stand as a beacon to light our way into the future. I'm not opposed to the development of the property in accordance with the current O-2 zoning. An office or professional building would achieved desired compatibility with historic and cultural district objectives. And I understand that the city cannot dictate who buys a property, who sells a property, or decide whether there's a market for the use of that property. But I believe that the city does have a responsibility and an obligation to control the use of a property. And that's why you guys are here. As I read Article 13 of the City Code, I believe that that obligation with regard to a historic and cultural district is broader than the Historic Review Board's architectural review and approval. Article 13 says, and I quote, that it is the intent of the City Council to protect the historic significance and integrity of the properties within such districts. In that light, today's consideration, I believe, must address whether it contributes to preservation of the historical and cultural foundations of the city. Does it preserve the city's legacy of cultural, inspirational and other benefits for future generations of city residents? Does it protect the historic significance and integrity of the properties within historic and cultural districts? Article 13 goes on to say that the intent is to assure that new structures will be in harmony with their settings and environment. I don't believe that the proposal will achieve those objectives. Can you imagine burying your father, your wife, your child in the Nimmo cemetery against the backdrop of automobile and carwash noises? In the last six months I've buried both my wife and my mother-in-law and that cemetery. I cannot begin to imagine what those services, what standing over their graves today will be like if Royal Farms operation comes in and adversely impacts the traditional peace and tranquility.

Mr. Weiner: So thank you for your comments. Any questions?

Madam Clerk: Daniel Franken followed by Susan Patrick.

Mr. Franken: Good afternoon. I want to follow up with Gene's comment for...

Mr. Weiner: Your name for the record. State your name for the record.

Mr. Franken: Daniel Franken.

Mr. Weiner: Thank you.

Mr. Franken: Two vignettes from my life that are relevant to this discussion here today. When I was in high school, I worked for Fritz Younger, a farmer, for 50 cents an hour, room and board and a side job I had was mowing our churches cemetery, and gravel road and farming Iowa. And I had plenty of respect for cemeteries before I had that job, but two years of working on a cemetery and having people come and visit and come talk to you while you're mowing late in the day or on Saturday and you really get an appreciation for the specialness to many people. Like Gene right there and us, we are planning to be buried there, about a cemetery. It really ought to be treated as a sacred place. And I don't think anywhere in this whole discussion Nimmo, writ large, is being treated as a sacred place. I think the categorical imperative, the overall imperative; this project ought to be that Nimmo is not harmed. And frankly, I think right now, with what's got momentum to happen there, it'll be an existential threat to Nimmo's long-term viability. We all know about church attendance across the nation and all that. And this will change the environment forever. Big 100 foot trees densely packed will all have to come down, the ruts as well for tanks, concrete in there, and the vista, the setting for Nimmo will be forever changed and not in a good way. And I just say that from experience and having been there 40 some years of Nimmo and 50 some years of Virginia Beach. I think this is something that we really ought to say no to. Now, the strategic context for this discussion couldn't be more of a paradox. Global warming arrived this week in a very official way, it's here with us. It's all hands on deck, that's a red alert warning. And we're having a discussion about at its core, putting in a gas station, which is a sunset legacy system, which 10 or 15 years from now, all of a sudden all the gas stations are going to be on the market in Virginia Beach, as electronic vehicles have made a fast approach. And I think they'll be embraced faster than we know and expect and all of a sudden we're going to have a whole bunch of poisonous tanks to have get rid of. I'd be happy to answer questions about an alternative use for this property if you ladies or gentlemen like to ask. Thank you for your time.

Mr. Wall: Any questions?

Mr. Horsley: Mr. Franken, what do you think an alternative use would be?

Mr. Franken: I think the original proffer was pretty good. And that was a proffer between a bunch of very distinguished ladies and men from Nimmo and Mr. Jones. And I think I a funeral home, that may not be a very up market right now, would be suitable their property in those trees, leave a bunch of standing trees and have a sufficient size funeral home that's not 24/7, and it doesn't destroy the landscape. The landscape shown in here is going to be destroyed, the front of the face of Nimmo which looks north northwest will now be looking at a very, very unusual scene that's never been in it's 250 year history. Never out the front of the church, where you go into go into the sanctuary, those flanks of Nimmo are bordered now by a more distant Princess Anne Road, and General Booth Boulevard. And the flanks are relatively benign, as behind the church is woods and residents; the front is what's going to get

destroyed. And I think over time, we've been there 40 some years. We've heard a lot of people come in there, why they stay, why they like the church. It's history, the people, the heritage, and all that will destroy it. And then you'll be in the same boat that so many churches in this country are in and not making it. The second vignette from my life, working in college at a truck stop before I went to Navy, trying to stay alive because I was a starving student, 11 in the night and 7 in the morning, three nights a week, 24-hour truck stop. You know what happens in 24 hour operations? Everything. Another alternative use, the city could buy that property. Make it a green spot. It's got carbon water absorbing potential right there, it's already acting as a giant carbon sink and water consumer, if you could build a city that had those bordering its roadways, we'd have a lot less water runoff problems, we're going to destroy it all.

Mr. Horsley: Did you did the church ever consider buying it for future cemetery expansion?

Mr. Franken: I don't know of that history about it. I do not know that. I don't know. But the church cemetery is getting fuller. There's a specialty about that church and it's hard to articulate. You have to spend a lot of time there. But it'll all be destroyed by this going in there. All of this boundary and all that stuff is low level stuff. We're talking about what this colonial church looked at for the last couple of 100 years.

Mr. Horsley: Just to let you know that it appears to me that this outfit has done an excellent job of trying to preserve as much of the trees and whatnot as they possibly can. If you put go with an office building, they're probably going in there and all the trees to be gone. And then you got parking spaces. So but that's just a thought, you know, and I'm wanting to know if the church had ever considered you know, if you thought they'd ever considered expanding.

Mr. Franken: I don't think they have that kind of money. I'll tell you another use for this place. It may sound pretty unusual. This is the basically the boundary between the city and the county on South. That'd be a wonderful welcome center or rest area for travelers. In and out, leave a lot of the trees there, walkways, whatnot. Put a memorial up there memorizing Louis Jones 40 years of service to the city. I'm serious. I'm serious. I'm serious.

Mr. Horsley: Thank you, sir. I appreciate it.

Mr. Franken: All right, thank you sir.

Madam Clerk: Susan Patrick followed by Kenny Watson.

Mr. Weiner: Welcome ma'am. State your name for the record.

Ms. Patrick: Excuse me. I'm Susan Patrick. Thank you. And as a member of Nimmo United Methodist Church, I am speaking to issues not mentioned by your staff planner in his review. First Royal Farms, Mr. Nutter and Mr. Louis Jones, was told by the Historic Review Board that they had met the needed specifications asked for by the Board. But each person on the Board also stated that the land use was better suited for other uses, than the present request. The Board said that their input was limited, but they apologized. Also in the application of evaluation and recommendation, it refers to Nimmo as the Church, but never mentioned the cemetery that is situated between the church and the property in question. At the Historical Review Board, I was the one that suggested that they move the carwash because the proximity was unbelievable. And I was the one that told the architects how they should move it, crazy for a school teacher. So we are not just talking about the church, we're talking about the cemetery also. The carwash sits right behind cemetery. He measures from the church, not the cemetery. At the Historical Review Board, I would suggest moving it further back, and Royal Farms did agree to do so. But the materials used in its construction have little sound abatement materials such as brick, rather than glass windows. Not much help. Mr. Nutter himself asked me at an open meeting at Nimmo if I would agree to the project if he used brick on the carwash. The question did not merit a reply. However, they know it is an issue. Imagine losing a loved one or a friend, and listening to the whirling and clanging of the carwash during a funeral service, or while visiting the resting place of someone you care for. Is that what you want for your family or friend? The carwash is totally inappropriate since there are several close by. What the community does not need is another gas station, nor carwash. Also who will oversee the Royal Farms will actually fulfill their promises into perpetuity and is in writing. One would think that Mr. Louis Jones.

Ms. Weiner: Ma'am, thank your comments. Any questions for speaker?

Madam Clerk: Kenny Watson.

Mr. Weiner: Welcome.

Ms. Watson: I'm Kenny Watson. I've been a resident of Virginia Beach in the greater Tidewater area, almost my whole life just as a background. I love Virginia Beach. I wouldn't want to really live anywhere else. I do object to this Royal Farms being put on this property for the reasons that everyone else has objected. So I won't go into all of that. I do understand that it's in a historic cultural overlay district. Not sure what that means. But I just think it's a shame to destroy a historical area of this sort. Flooding is a big issue for me. Right now, I don't I'm not aware of flooding being taking place right at the corner of General Booth and Princess Anne Road. And that shouldn't take down all those trees. Trees can absorb up to 150 gallons a day of water or liquid. What happens to this water? You know, if you plant trees 10 miles away, it's not going to help this corner. I think it's just a real issue here. Also,

the trees help filter air. And it's a noise reduction already from the trees that have been cut down in the median along General Booth. Not that many trees but enough trees. The people that live in that side of the crescent have seen a great noise increase. The other thing is we don't really need another gas station of any kind, right in that area. Maybe in other areas. I think that Royal Farms wants to build a gas station in Virginia Beach. I think there are a lot of areas where they wouldn't have to tear down all these trees and put it in a historic area. I guess that's about it. But I thank you for listening. I hope you will take it into consideration what everyone has said.

Mr. Weiner: Thank you, ma'am. Any questions?

Madam Clerk: Louis Miles.

Mr. Miles: My name is Louis Miles. I'm a Virginia Beach resident. As matter of fact, I live on Matthews Green road. I just moved here from Los Angeles about five years ago, my wife and I, both retired healthcare workers. And we found this beautiful city. And we moved here and we absolutely loved our neighborhood. That 7-Eleven is in our backyard, that was just built there, that's in my back yard. I'm sitting in family room, I am in my master bedroom, or in my guest bedroom, we're looking right at that gas station, we hear all the noise, you know, that emanates, though, that will emanate once it opens from that gas station. This Royal Farms, I'm going to be able to look right at that Royal Farms, again, another gas station that we absolutely do not need. I'm opposed to a Royal Farms, or any other type of gas station coming into this neighborhood. I was not prepared to speak today. I just went outside and put my name on the list just two minutes ago. So you know, please excuse me, this is going to be short. I just want to express my opposition to this. And primarily because we live there, and we and our home, we're looking at these gas stations, 7-Eleven. And I will be able to see and hear this Royal Farms all night long, as well as the 7-Eleven gas station. 100% in opposition. Mr. Jones, I'm not sure who he is, as I said, I just moved here. If he's the former mayor, I wrote a letter to him once we moved here. Telling him what a great city this was and how happy we were to be here. I had no clue that all of these changes would be coming. But in any case, please consider in maintaining the integrity of this Nimmo Methodist Church and its historic cemetery and maintain the integrity and the beauty of Virginia Beach. And you know, this city and this neighborhood. Please consider my opposition to Royal Farms. Thank you.

Mr. Weiner: Thank you, any questions?

Ms. Oliver: I have a question. Sir, what street did you say you lived on?

Mr. Miles: I'm on Matthews Green road.

Ms. Oliver: I cannot find it.

Mr. Miles: I am right behind the 7-Eleven. I am looking right at it.

Mr. Weiner: Is this your house at 90 degree turn right there. There's a pointer right in front of you.

Ms. Oliver: Okay, so I see Matthews Green, so you are in there right here.

Mr. Miles: Yeah, Matthews Green Road. I think there is a 7-Eleven right there are the bottom there. And when that opens, it is not open yet, but as I said I am going to hear and see everything and that means Royal Farms, right down that corner same thing. I am going to be look out and see and hear everything that is going on. Car washes, people, you know, playing the music as they pull in at 2 or 3 o'clock in the morning or whatever. I can hear and see all of that. And you know, I was so happy when we moved into this neighborhood, you know, just one of my neighbors here Red and, you know, he can tell you just how happy and pleased we were. It was a beautiful neighborhood. Please do not destroy the integrity of the neighborhood and Virginia Beach, you know, Virginia Beach, we were so proud and happy to move here and we looked all over. My wife and I, we decided on Virginia Beach and I just think it is a great place to be in and after all of this I am going to pack up and move.

Ms. Oliver: Oh, don't leave.

Mr. Alcaraz: I know you just said you bought the house, I don't know when, but that 7-Eleven has been there for over 20 years.

Mr. Miles: That 7-Eleven was another 7-Eleven that had no gas station, and that 7-Eleven was totally hidden by trees. We couldn't see that 7-Eleven. Once they put in this new 7-Eleven they ripped out all of those trees and put up this huge 7-Eleven with a gas station. It's not even open yet. It's about to open pretty soon. And it's going to be the exact same thing. As I said, I will be able to see that Royal Farms is coming and hear it all night long.

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

Madam Clerk: We have one final speaker and it's via WebEx, Natalie McCarthy. Ms. McCarthy if you would please wait two to three seconds and then state your name and begin your comments.

Ms. McCarthy: Hello, my name is Natalie McCarthy. I'm a resident of Virginia Beach. And I would like to oppose this proposal. While I'm not a member of the Nimmo Methodist Church, I am from that neighborhood of Virginia Beach. And driving around that

corner with the grouping of trees and seeing the historic church has always been a really special memory of Virginia Beach for me. And I would also like to recognize all of the hard work that Royal Farms has been putting into this proposal. And I appreciate that the concessions that have been made. But I think the core problem is that this is just not an appropriate site for a gas station. And in addition to the statements that have been made by others, already, in this meeting, I would like to point out that the proposal recognizes that this current property is 1.16 acres of wetland, that's the number provided in the proposal. And, and that over one half of that number would be impacted by this development. In addition to the trees that are being taken down, for right of ways into that new 7-Eleven, or the updated 7-Eleven. And the extension of the new Princess Anne Road, that's a significant amount of tree loss. And while I appreciate that there has been work done on site to understand how storm water will be affected, I think where we get into trouble here is looking at storm water as a parcel by parcel problem. And when really we have to look at it at city wide, and also the historic character of this area would be severely impacted by the location of a Royal Farms. As others have pointed out directly across the street from the 7-Eleven that provides similar services. I know that work has been done to address the historic character of the architecture and the buildings and but there is just no getting around the fact that it is a 24 seven gas station next to the oldest continuously run Methodist Church. As others have pointed out next to a cemetery, next to a beautiful community garden, and the impact environmentally, the chemicals and gas and carwash on wetlands, and adjacent to all of these other facilities. So I just wanted to state my opposition. Thank You.

Madam Clerk: No more speakers.

Mr. Weiner: No more speakers? Mr. Nutter?

Mr. Nutter: As I said, as we began this, it was clear that we would have to take a lot of issues with the church to make sure that the area was preserved. And I'm very proud of the fact that the application that's submitted does exactly what we said we would do. Couple of things I'd like to point out, Historical Review Board just does not exterior materials of the buildings, it reviews the site plan. In fact, the very document that, one of the speakers, Mr. Franken, spoke off. It has to also prove that it is in harmony with the objectives of their ordinance, which is to preserve historic features. They voted unanimously, in this case, unanimously, but they're not the be all and end all you are, and the council is of course. So my point to you is this site was never going to remain a fully treed site, ever. It was going to be developed one way or the other. And I would submit to you that an application for a gas station, at this location is more than appropriate. That's where they're located. This they're not located at the perimeter of residential areas, they are located at major intersections. They worked with staff on the access ways. And we've indicated to you, right in right out on General Booth has will not affect the

impact on General Booth. And more importantly, if we didn't have the access right out on General Booth, we would have a greater impact on the intersection, which we don't want to do. So I would submit to you that the application meets all the objectives you have. That the applicant of this case has generated amazing restraint by preserving as much of the trees as possible on the site. And it comes to you with all of that, and I'm sorry we couldn't have more supporters here. Many of them, two of our speakers tested positive for COVID last week, several speakers are at work today and couldn't appear in favor. But I guarantee you we work with the church; this is not the only position that you're hearing today. So if I could, I'd like to address the two conditions as I did earlier, namely that we would oppose condition #1 and 8. One, condition #1 restricts which restricts the access, right-in only on General Booth. We propose to right-in/right-out on General Booth, so we would like to suggest that you remove condition #1, which restricts the right in only access on General Booth where we proposed to right in right out. And secondly, condition #8, which restricts the hours of operation for the carwash. As indicated to you this car wash is over the full length of a football field from the church. In fact, Princess Anne road is 100 foot closer to the church than this carwash would be. So there's no reason to restrict use of the carwash to the hours that were suggested to you, none whatsoever. I'll also point out to you that they use silencers in this process, and the only noise that comes from this is fully automated is the blowers at the end of the system. And they're largely contained within the building. So at any rate, we're not going to have an impact on those properties. It is going to be a change and change is hard, I understand that. But I don't think anyone's come to you with an application to preserve this much trees, you only utilizing 48% of the site, with full cooperation with Historical View Board. So Mr. Chairman, I thank you for the opportunity to speak today. I hope you've been able to hear me and I appreciate. I'm happy to answer any questions you might have.

Mr. Weiner Miss Oliver

Mr. Nutter Yes, ma'am.

Ms. Oliver: Mr. Nutter, can you tell me whether or not this property, you know, and I understand that Mr. Jones doesn't want to develop another funeral home in that area, which is understandable. But was that property ever offered to the church?

Mr. Nutter: Yes ma'am, it was. According to Mr. Jones, when he got the property under contract. And by the way, one of the letters to you all indicated that Mr. Jones bought the property from the church, that's not correct. Now, Mr. Jones, bought it from a third party, and when he got it under contract, he went to the church and offered it to them to not to flip it for profit, but to sign the contract to them. What I understand they could not afford at that time. Later, years later, he went back to them and indicated that he would accept an offer for the property and no offer was tendered. I don't know all the facts. I wasn't there to either these meetings, but at two separate occasions, he's gone to the church with an offer for this property.

Ms. Oliver: Mark Reed, he is very thorough, very thorough in his position and so I don't doubt that he was very careful and thoughtful in that regard. It's unfortunate that the church was not able to purchase the property for expansion of their cemetery. And I really understand that and it is unfortunate in that regard, but the other thing, I just want to clarify. I think it's the other map, do you? Am I correct? It's about an acre between the carwash of solid wood in their natural state? Yes, ma'am. Is that correct?

Mr. Nutter: That's correct. You see that?

Ms. Oliver: There's one acre there along the border of the cemetery because I pulled it up on Google just so I could see the cemetery's location according to the carwash with a privacy fence, and can you describe the privacy fence? Please?

Mr. Nutter: That's okay. I wish I have never in my life seen a fence this dense. We proposed an all-weather low-maintenance fence to the Historical Review Board. And we proposed it in a light brown. And they rejected that. They wanted a fence with greater texture. They wanted it darker. So we found a fence that looks like real wood that has greater density than the wood we're looking at right now to absorb sound. It is eight foot tall. I'm sorry we didn't bring it today because I've never seen a fence like this in my entire career. And so that is going into that whole area. In fact the reason it went to eight foot is at the last meeting with the church, they said would you make it eight feet instead of six. And we said yes. So in fact, one of the members of the Historic Review Board said you make a motion. They've done everything we've asked. Everything we've asked. So I don't think there's one thing that we haven't considered.

Ms. Oliver: So RJ at the narrowest point on that between the woods and they're leaving, I just want to make sure I understand that, that area to be preserved, is in its natural state. It will stay that way, right?

Mr. Nutter: One could change, I'll tell you. The narrowest point, which we are closest, is a 35-foot wide area. And inside that 30-foot wide, it's a 25-foot wide easement. If you see there, the power lines -- so the board members asked us said that would you consider asking Royal Farms to put in low level shrubs that wouldn't grow more than like 13-14 feet because you can't hit those lines. So at the narrowest point when we consider that and we said yes, we would. So in addition to preserving the trees off of that area, within the easement area, we were going to try to plant shrubs in that narrowest portion, it was 35-feet wide for the buffer.

Mr. Weiner: Any more questions.

Mr. Wall: So the parallel easement runs the entire length of the property line, is that right?

Mr. Nutter: Yes sir, its 25 feet.

Mr. Wall: It's not full dense. That area to preserve, it's not...

Mr. Nutter: It's not as thick, right. They don't have the big trees like we do on the other sides.

Mr. Wall: And that easement is actually on...

Mr. Nutter: It's on their property, yes sir. In fact we walked that line to make sure we were not impacting any grave sites along that area to make sure. So we took that very seriously, obviously, and we also did some searching with some sonar equipment to make sure there was nothing in there and we haven't found anything.

Mr. Wall: How did it become part of the historic district?

Mr. Nutter: It's a great question because it really was added relatively recently.

Mr. Wall: The districts are typically. I mean, the private homes, I mean, districts are the 12. And they're very specific to the location and so that wooded area right there is actually since it's not on the church property, I'm surprised that it would have been included in the district itself.

Mr. Nutter: I wouldn't be surprised if the church wanted it put it in there to be honest. It would have been offered so that they could at least control the architecture and site plans and so forth.

Mr. Wall: Probably nobody has.

Mr. Nutter: And frankly, to Royal Farm's credit, the new stores like, I mean, it's nothing like you're going to see at other of the stores, even got down to the colors. They had raw brick, they said take that out, this is supposed to be a simple quiet area. Anyway, we agreed all everything they requested.

Mr. Wall: What about – did anybody requests? I'm just curious about the carwash? It seems like that's kind of passé. I've seen many locations, current gas stations and they are boarded up. They're not used anymore. I mean, there plenty of car washes, automated car washes in business, but I mean, I know one at Independence and Lynnhaven that boarded up.

Mr. Nutter: I think with the travel at this location -- they're not expecting any issues there. I mean them...

Mr. Wall: It was more just the use because it seems like a big issue is the noise generated? And I know it's generally been addressed, maybe technology is improving on that

and I think you brought up the blower at the end. I think one of the bigger issues is the carwash itself. And it seems like it's an accessory unit to this structure.

Mr. Nutter: Their guests frequently use it and onsite is one reason to come here. It's easy to get in and out. And they offer a discount like many gas stations do if you buy gas there; you get a discount on the carwash. So it's an important element. And that's why we moved it because we can move it without impacting their operations and still apply with what the church was concerning with, about distance and noise.

Ms. Oliver: What are the hours that they?

Mr. Nutter: We were requesting 24 hours like...

Ms. Oliver: 24 hours for a carwash?

Mr. Nutter: You'd be surprised in the evening people coming on the way home or on the way to work or early morning.

Ms. Oliver: So the conditions are eight-to-eight. That's what I was asking. I thought that was.

Mr. Nutter: Yeah. Very few car washes have any these days have the restrictions like that, particularly locations like this.

Mr. Weiner: Any other questions? I appreciate your time. All right, we will close this and open up for discussion and Mr. Inman.

Mr. Inman: I have to admit, when I first saw this application, I was really surprised. I was surprised. Not necessarily because it was next to Nimmo Church, although that was part of it. But because what we have going up across the street, what's down the street, around the corner? That's the same. I couldn't believe they wanted to get in there and compete with all that. But also, that being what it is, it is zoned O2 offices, zone for office. An office park, small office park up to three buildings would be nice in there. Apparently, nobody's thought that's a great idea yet. But is this really the highest and best use of their property? That's how we judge things for zoning, changes of zone, what's the highest and best use of this property? Well, don't we have to take into account that it is in fact located in a historic and cultural overlay district. That's what it is. That's what we're being told it's in our comprehensive plan. It's in an overlay district, for historic and cultural. I don't see anything historic and cultural about a gas station and a carwash that adds anything to the property in that context. It has a negative impact, many negative impacts that people have talked about. We've got traffic issues that nobody seems to be able to get totally comfortable with in the right in and right out access issues. I was impressed with the cemetery speaker. I mean, think about those aspects of, of the use of the property. Maybe that's why it was put in a historic and cultural overlay

district. I'm blown away that they were able to get a letter saying that it was, and yeah, give them all the credit for making all these adjustments in architecture and materials and all that but, it's still a gas station, and a carwash and gas pumps and 24 hours. Is that really consistent with the comprehensive plan? Is that in harmony with as the gentleman I think was Gene, whose stated you know, read from the, from the text that I don't have in front of me for the Historical Review that new structures are supposed to be in harmony with the existing. They tried, but I don't -- I don't know that that's really in harmony, in my opinion. An office park design could be managed, so that there would be trees remaining sufficient to not have the impact on the neighbouring properties visually and sound wise. I'm opposed to this application. I don't think its right for the area and it is not right with this property.

Mr. Weiner: Mr. Graham?

Mr. Graham: I agree with Mr. Inman and I am kind of ashamed to myself for really kind of focusing on the right-in/right-out and I think after hearing the speakers and really thinking about it, this is a high impact use. At the end of the day, it's a high impact use. It's a traffic generator, it makes noise. I mean, we're hearing that it's impacting a neighborhood, it's impacting the church, and it's impacting a cemetery. I mean, I get it, it's a busy corner. It's a great place for a gas station from a business standpoint. But from a land use standpoint, I don't know that it's the best use for the site and again, high impact. I'm afraid I'm probably not in support of this, unless I hear anything different.

Mr. Weiner: Anyone?

Mr. Redmond: I don't agree with that, don't agree with Mike either. It's a corner lot on General Booth Boulevard. And it's a stand of trees. It's not a structure. It's not a church built in 1791. It's a piece of land. There's nothing historical about one piece of land over another piece of land. The Harris Teeter shopping center not far from us is within the historical and cultural district. There's a bank on site. There's a grocery store on site, there was at one point I think a Tropical Smoothie, sell your stuff on eBay store. So the designation -- they lay these broad designations over these, you know, large areas, whether they're buildings, new old land, or just about anything else, I think that probably says more about the nature of our historic and cultural districts not being anywhere particular enough to me than anything else. It looks to me like if I thought this would impact the church negatively in some way. I'd be right there against you. I don't know that would have any impact on the church whatsoever. It has a huge buffer, a fence in place. The church has been here, was founded in 1791. So it's survived the Civil War, two world wars, countless recessions, depressions, and rotten presidents are all the rest of it, I have every expectation that Nimmo Church will survive having the property which is adjacent to which in which they don't own being developed in a way that frankly, I find compatible because of all that buffering. And all that by I'm not sure you even know

it's back there, -- the car wash is 350 feet from the church. And I think the decibel level, we measure these things from time to time, and it comes out, you know, the car washes have a decibel level is something like you know, a box fan and a kid's you know, college room or something like that. So I don't I mean, I don't see this as a particularly crazy piece of property in any way. And it seems to me there's a great deal of care that's been taken in terms of its design, its layout, and its architecture. Mr. Nutter is exactly right? You go to architectural review boards, it is not like they go, "Okay, easy." I mean, they put you through it and if it got unanimous approval at an Architectural Review Board, then you better have done your thing right, and that's what I think they have. So, General Booth Boulevard is not a meandering country lane. And I have no expectation that that use is going to be any less compatible than are all the cars on General Booth Boulevard today. So if you're visiting someone's grave in that cemetery, by the way, I'm sorry to hear about your wife and your mother-in-law. I got to believe you're going to have a far greater impact from all cars on General Booth Boulevard than you would from this very well buffered fenced and well-designed site. So it's just this is to me is high quality development. And it's appropriate development for the land parcel that it sits on. And it does not in any way to seem to me impact the church's operations. So I don't see any reason not to support it with regard to the two items that Mr. Nutter I agree with him on both of those things. We had some discussion this morning about the right-in/right-out. Mr. Lowman referred to as conflict points. If that's a conflict point there are 250,000 of them in the City of Virginia Beach. What term you call it the people go in and off of roadways all the time, it seems to me that's appropriate too. So, I'm going to support the application, I think it's a very well and carefully designed site plan with an appropriate use. The reason people develop these is because they are a convenience to so many people. We all drink coffee, we all have cars, we all want to stop and get a muffin, or we want to pick up a bag of ice or something. And that's how we approach I think. Land use in many ways is do they serve a public purpose? A lot of the public would like this kind of amenity, it is an amenity. It's the way I see it. So I'm going to support it, and I'll be happy to support. Thank you, Mr. Chairman.

Mr. Weiner: Mr. Horsley?

Mr. Horsley: I don't usually do things like this. But anyway, I came here this morning with the intention of supporting this wholeheartedly because I think it fits this corner. And I think the right-in/right-out on General Booth, if you don't have this project there, is a must. I think it creates too many other problems if you don't put it there. And I think that it's an ideal development. But I guess one or two people have struck my nerve this afternoon. And, you know, I guess this, this isn't the right thing for this area. So I guess I have to not support the application. But like I said I think the applicant has done everything in the world the church could ask for. And I'm not sure that the next project that comes down the line, if this one doesn't go through is going to be any better. It may not be as good. And we may wish we'd gone back

to this one. Not too often do I change my mind like that. But I am going to have to not support this application this afternoon. Because I just think that it's probably not the right thing for this corner, even though it is the right thing for this corner. But if the church wasn't there, there wouldn't have been any questions at all, but by the church being there with the historic significance of the church and there's a lot of a lot of Virginia Beach history in that from that church. And I am concerned that the church hadn't been able to secure their property, that would be my ultimate goal is for them to do secure it, if they didn't do anything with it. And there are enough people there probably to try to do that if they put their heads together. But, but at this time, I'm not going support application.

Mr. Weiner: Ms. Oliver.

Ms. Oliver: I'll give it a go. So what one thing of my concern is the 7-Eleven. Is there not a buffer behind that new 7-Eleven? Because there used to be? And why is it not when they redid it, because we all know the 7-Elevens are redoing it. And I do like the design to put gas stations in it. But where's the buffer?

Mr. Tajan: Ms. Oliver if I remember correctly when that came in last year or so, for the approval, it did note the relocation of the proposed building and then replanting a buffer in that area. I don't have it in front of me right now. I have to have staff pull it up. But that's my recollection is that suitable construction?

Ms. Oliver: So, That would be great if somebody could look into that, because I'm concerned about the gentleman who could hear it or see it, because on the Google Map, he really doesn't show that he should be able to hear it or see the 7-Eleven from where he is, so if they've cleared it out, maybe we should -- maybe we should take a look at that. And, you know, review that one review it again, and just to kind of see where that is. But on the other note, you know, this corner is I mean, by the way it's designed and we do land use it's the it calls for everything. It should be is this is a gas station or an office building. It's unfortunate that Councilman Jones, well not unfortunate, but it just it would have been a great, a great funeral home, especially in adjacent to the cemetery. I know that Oliver's has a funeral home adjacent to Eastern Shore Cemetery, and my late husband is buried there, my parents, my grandparents, my great grandparents, my brother and it's a beautiful cemetery. And I wish it had the buffer this has. And I've been in a lot of cemeteries, and unfortunately, they get sort of squashed if they're not protected, and Eastern Shore Cemetery certainly has had that happen. I mean, when I stand at John Oliver's grave, I get to see the back of Regency Shopping Center. We don't have a buffer, we have an anchor fence, and it is not pretty, or the 18 wheelers or everything that goes with it. And I identify with having to want that quietness, then we've got Oceana flying across, and it is not that at all. But in itself, it is a beautiful

cemetery. And it's just unfortunate that it didn't get the buffer when that shopping center was developed. That being said, this applicant has taken great strides to preserve and to protect the back end of that cemetery. Back end cemeteries usually are up against a wall, or road or something along that they just, it's the nature of -- everybody wants the front row, so to speak. But I can't, it's hard for me when I look at one acre between the back of the cemetery, to that carwash of the original and Mr. Nutter said they will not touch the wooded area, and then plant underneath the power lines that's going to impact that cemetery that much. I mean, I just, I don't see it with noise and stuff. I don't like the 24-hour carwash, and I'm not into that, because I don't think anybody needs to wash the car 24 hours, I don't understand that. But I wish in the perfect world, it could just remain that way. I'm sorry that the church was unable to purchase the property. And I don't know that in the future, you'll get an applicant that's going to make this much that's not going to go in there and just really plow down those woods and then really impact the church and the cemetery. I wish there was a better solution to it. But I think that this applicant has gone and done a lot to help minimize the impact of its self against the church.

Mr. Inman: They have done that. It's still a gas station, it's still a carwash, it's still going to make noise, it is still going to attract and create a lot of noise. It's clearly impacting the church. It's clearly, you heard the people, they live there, they been going to that church for years. It's going to impact the church. I don't care how far away that carwash. So I just don't see it. Its zoned O-2, it's for office. It's a great use for that property. And they're not going to plow down the trees. They're going to have to follow a site plan. That is vetted by staff and there's going to be tree preservation I guarantee you when that's done, and it's zoned O-2. I think that's the highest and best use considering it's in a historic, despite what Mr. Redmond as disparage the historic and preservation and cultural overlay, still, it's in there, and it's got a church next door and it's got a cemetery next door and it doesn't need to be a carwash and it doesn't need to be a gas station and a convenience store. I'll make a motion to deny the item.

Mr. Wall: Got more people to talk first.

Mr. Coston: Well, I like from the county they came in thinking yeah, I don't know that I've been completely swayed against that yet. My concern is that there's an expression about the devil that you know, is better than the devil that you don't know. And I've actually had the opportunity to assist in burying somebody in that cemetery. And it was noisy. The traffic along there is, is just a lot of it. So I'm kind of leaning towards supporting the application.

Mr. Wall: Yeah, I think the application does provide buffering. You know, definitely screening, its part of that buffering that is in that power line easement. I'm not sure to what effect that undergrowth can you replace the screening there that's existing.

The Historical Review Board did review it, and provided comments, you know, some improvements, they have decided to look at the building and that is a plus for the application that they feel that have blends near to their, you know, approval, at least, you know, with, with the historic district. You know, in the O-2 use, I don't see any offices around there that have any trees preserved, you know, the offices have come in and clear cut everything. So, you know, at least this provides some preservation of some of the existing trees. So that's, yeah, I mean, all the offices along there, and very few have preserved any of the existing landscaping. But with that said, you know, I don't think it's compatible with the, you know, historic cultural district. And I don't necessarily think that this merits changing the zoning from, from O-2 to B-2, so I won't be supporting it.

Mr. Alcaraz: I'm good. I'm, I mean, I'll voice my opinion, if you want. I don't mind. I'm up here. I'm kind of, you know, I took in what Mr. Redmond said and corner lot, you're going to have this happen. It's going to always happen, every corner lots is going to have that high potential use that's going go there. I see the need for it. I've heard the pros and cons. They came forward to us and I'm going to be supporting it.

Mr. Weiner: So I want to go back to the 7-Eleven that is there now and about two years ago, I've been dealing with the 7-Eleven side, historic Kempsville for 15 years. And about three years ago, we had a 7-Eleven come at the corner of Parliament and Princess Anne road. And if you all remember, we had one person in opposition; the gentleman lived right behind it. And he was literally 75 feet behind that 7-Eleven. He still lives in, there's a six foot privacy fence and a couple of trees. And I I've talked to him a few times and it's open, it's running. And right now he says it's not as bad as I thought it would have been. I hear cars, I don't, but it's not 24/7, he doesn't hear it at all that much anyway. I'm really torn on this and I really kind of know which I'm going, but for those of us who know Mark Reed and for the Historic Review Board to get involved in this and what they said here, as in the Certificate of Appropriateness indicated the structure as designed will be in character with the historic district. Like I said, if anybody of us know Mark Reed, and they put that in here, that really means something. So I'm going to be in favor of it. And I think be careful what you wish for. If you want an office there, I'm not really sure you're going to get what you want, because they're going to build it and they're not going to ask you, what do you think I should put here, they're going to do it. They're just going to put something there and I guarantee you're not going to like it. As for the carwash, I'm not going to be in favor for the 24 hours. I can't do that, but I am for the right-in/right-out, I would in favor for that. So I'm going to be supporting. Mike you want to make motion. We can need a motion.

Mr. Inman: I make a motion to deny the application.

Mr. Weiner: We have motion to deny by Mr. Inman and second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of 4 in favor and 5 against the motion to deny has been denied.

Mr. Weiner: All right, we need another motion. Mr. Redmond?

Mr. Redmond: Mr. Chairman, I move approval of the application with the removal of condition #1.

Mr. Weiner: I can support that.

Mr. Weiner: I am sorry, what was that condition?

Mr. Redmond: I said condition #1.

Mr. Weiner: That's not 100% correct. Condition #1 should state that vehicle access right in only, okay, they say right-in/right-out.

Mr. Redmond: I amend my motion to say I thought that would accomplish the same purpose. I will amend my motion say that I motion for approval of the application with an amendment to #1 one providing for a right-in/right-out on General Booth Boulevard. However, you guys can make that work Bobby.

Mr. Weiner: We have motion by Mr. Redmond. Motion for approval by Mr. Redmond. Do we have a second? Second by Mr. Coston.

Madam Clerk: Vote is open. By recorded vote of 5 in favor and 4 against agenda items 5, 6 and 7 are recommended approval with a modification to condition #1.

	AYE 5	NAY 4	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham		NAY		
Horsley		NAY		
Inman		NAY		
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall		NAY		
Weiner	AYE			

CONDITIONS AND PROFFERS

Proffers

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

Proffer 1:

When developed, the Property, shall be in substantial conformity with the preliminary site plan entitled “Concept Site Plan”, dated June 2nd, 2021 prepared by Kimley-Horn Associates (hereinafter “Site Plan”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 2:

When developed the elevations and building materials of the convenience store, fuel pumps, canopy areas and the car wash shall be building in substantial accordance with the six-page exhibit prepared by Ratcliffe Architects entitled “Royal Farms #445, Virginia Beach, Virginia” and dated June 3rd, 2021 a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 3:

When developed, a photometric plan for the exterior portions of the Property shall be provided as part of the final site plan submittal. All exterior lighting shall be directed down and inward toward the property and away from adjacent properties.

Proffer 4:

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

Proffer 5:

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.

Proffer 6:

All references hereinabove to zoning districts and to regulations applicable thereto, refer to the City Zoning Ordinance of the City of Virginia Beach, Virginia, in force as of the date the conditional zoning amendment is approved by the Grantee. The Grantors covenant and agree

that (1) the Zoning Administrator of the City of Virginia Beach, Virginia shall be vested with all necessary authority on behalf of the governing body of the City of Virginia Beach, Virginia to administer and enforce the foregoing conditions, including (i) the ordering in writing of the remedying of any noncompliance with such conditions, and (ii) the bringing of legal action or suit to ensure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages or other appropriate action, suit or proceedings; (2) the failure to meet all conditions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate; (3) if aggrieved by any decision of the Zoning Administrator made pursuant to the provisions of the City Code, the CZO or this Agreement, the Grantors shall petition the governing body for the review thereof prior to instituting proceedings in court; and (4) the Zoning Map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning of the subject Property on the map and that the ordinance and the conditions may be made readily and accessible for public inspection in the office of the Zoning Administrator and in the Department of Planning and that they shall be recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia and indexed in the name of the Grantors and Grantee. Upon acquisition of the Property by Contract Purchaser, Contract Purchaser shall succeed to all rights and obligations of the "Grantors" under this Agreement, and Owner shall have no further rights or obligations of a "Grantor" under this Agreement.

Staff Comments: With the exception of the proffered concept site plan that shows a right-out access point on General Booth Boulevard, the Proffers listed above are acceptable. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

Recommended Conditions for Automobile Service Station & Car Wash Facility

1. Vehicular access along General Booth Boulevard shall be limited to a right-in only in conjunction with the turn lane depicted on the concept plan noted in proffer 1 above.
2. A maximum of 36 parking spaces shall be permitted unless approved by the Planning Director pursuant to Section 203(b)(9).
3. When the property is developed, any freestanding monument sign shall substantially adhere in appearance, size and materials to the elevations entitled, "Royal Farm – Store 445 Virginia Beach, VA," prepared by Absolute Signs & Neon, dated February 2, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. Signage for the site shall be limited to:
 - a. Directional signs.
 - b. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set in a brick base, as noted in condition 3.

- c. No striping shall be permitted on the fuel canopy.
 - d. There shall be no other signs, neon signs, or neon accents installed on any wall area of the building, on the windows and/or doors, canopy, light poles or any other portion of the site.
5. At the time of site plan review, a Landscape Plan that reflects the plant material depicted on the submitted Conditional Use Permit Exhibit noted in proffer 1 above, along with all applicable requirements of the Zoning Ordinance, shall be submitted for review to the Development Services Center and shall obtain approval prior to the issuance of a building permit.
 6. All air pumps and vacuum stations shall be screened from the right-of-way with plant material of a size and species acceptable to the Development Service Center's Landscape Architect, all of which shall be depicted on the Landscape Plan.
 7. Outdoor vending machines and/or display of merchandise may be permitted only if fully screened from view from the rights-of-way as approved by the Planning Director.
 8. The hours of operation of the automated car wash and vacuums shall be limited to between the hours of 8:00 a.m. to 8:00 p.m. daily.
 9. All light poles shall be no taller than 14 feet in height and all lighting shall be shielded to be contained on site.
 10. Any onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals, and there shall be no neon, other than individual channel letters lighted with internal neon and as approved by the Zoning Administrator, 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. There shall be no window signage permitted. The building signage shall not be a "box sign" and the proposed sign package shall be submitted to the Zoning Administrator.

Item # 8

Virginia Beach Development Authority [Applicant]

Virginia Beach Development Authority & FROB, LLC [Property Owners]

Modification of Proffers

Portion of Corporate Landing Business Park

August 11, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Wall: Okay, thank you Mr. Horsley. The next item on the consent agenda is agenda Item #8, Virginia Beach Development Authority, and Virginia Beach Development Authority, and FROB, LLC Modification of Proffers. Address is portion of the Corporate Landing Business Park. Is there a representative for this item?

Mr. Royal: For the record, Randy Royal, Kimley-Horn and Associates. I'm kind of tagging that John Richardson was formerly representing it, but I was representing Economic Development. On this, I guess I can stand in if need be.

Mr. Wall: Are the proffers acceptable?

Mr. Royal: Yes sir.

Mr. Wall: All right.

Mr. Royal: Thank you.

Mr. Wall: Is there any opposition for this item being placed on the consent agenda?

Mr. Weiner: We are going to go ahead and read it. Mr. Redmond is going ahead and read this into the record, if that's okay.

Ms. Smith: Excuse me, if we can make a clarification -- Mr. Royal.

Mr. Weiner: We understand that the Development Authority is the actual applicant.

Ms. Archer: I'm on the Economic Development department staff that helped, write that, and I'm standing by.

Mr. Wall: Thank you. So I guess the proffers are acceptable in that case? So again, is there any opposition for this item being placed on the consent agenda? Hearing none, here we have asked Mr. Redmond to read this into the record.

Mr. Redmond: Thank you, Mr. Wall. This is an application by the Virginia Beach Development Authority, owners of the property of Virginia Beach Development Authority and FROB, LLC, which is an adjacent property owner. And this is a Modification of Proffers. Specifically, the application is seeking a Modification of Proffers to update the design criteria for a portion of Corporate Landing Business Park. Park property was rezoned in 1988, and the design criteria was adopted in 1990, with an amendment added in 1998. The new design criteria seek to ensure the Corporate Landing Business Park remains relevant for current and future market opportunities, reduce redundancy and to better align the document with current codes and requirements. To consolidate multiple subsequent amendments into one user friendly and attractive document, permit more flexibility with new and innovative materials and construction methods and provide more guidance on light industrial and advanced manufacturing building types. In short, the purpose of this amendment is to modernize the design criteria -- the 31-year old design criteria for Corporate Landing Business Park, which very recently has enjoyed a burst of interest and activity of which we all should be quite happy and proud. If you think about it, the car you drove 31 years today is quite a bit different than the one you might have today. And design criteria for a project the size of Corporate Landing, very probably ought to be modernized just as your transportation means would be as well. There is beginning on page three of the staff report on this particular item, a table which lists the changes from the current design criteria to the updated design criteria. I will not recite them all here. If anybody has any questions about how specifically the criteria are changing, I would urge you to consult the staff report on this. In short, it is a modernization of how Corporate Landing Business Park is to be designed. The city and adjacent property owners are the applicants. There is no opposition to the request. Planning Commission therefore places it on consent, Mr. Wall.

Mr. Wall: Okay, thank you, Mr. Coston. That was the last item on the regular consent agenda. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission support the applications and there are no speakers signed up in opposition. These are agenda items number 13, 14, 15, 16 and 17. Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items number 1, 8, 9, 10, 11 and Short-Term Rental items # 13, 14, 15, 16 and 17.

Mr. Weiner: We have a motion for approval for the second. We have a motion Mr. Wall as second by Ms. Oliver and we have any one abstaining?

Mr. Graham: I have a letter pursuant to the state and local government Conflict of Interest Act. I have a letter on file making the following declaration. The agenda item #1 is financed by Towne Bank and I hereby make this disclosure that I serve on an

advisory board at Towne Bank, which makes no loan decisions. And I believe that I can participate in this vote.

Mr. Weiner: Mr. Inman.

Mr. Inman: Likewise, I would like to make the following declaration. Agenda item #1, being financed by Towne Bank. I serve on the Advisory Board of Towne Bank, and make no decision on loans and feel like I can participate fairly in this vote.

Mr. Weiner Mr. Redmond, short term rentals.

Mr. Redmond: Yeah, I am happy to do it now, we are not there yet, but...oh, we are there. Okay, I have a letter on file with the City Attorney's Office and have for some months. I have a client who is in the travel industry and has some business that is involved with short-term rentals, therefore, I do not vote on any Short-Term Rental applications or any of the ordinances with regard to Short-Term Rentals and I repeat that that letter, which I renew monthly is on file with the City Attorney. Thank you.

Mr. Weiner: Madam Clerk, that's everything.

Madam Clerk: Okay, vote is open. By recorded vote of 9 in favor and 0 against agenda items 1, 8, 9, 10 and 11 have been recommended for approval. By recorded vote of 8 in favor, 0 against with one abstention. Agenda items 13, 14, 15, 16 and 17 have been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

PROFFERS

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

proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

Proffer 1:

The Property is hereby removed and released from the Existing Proffers and said Property will now be subject to the proffers contained herein.

Proffer 2:

Excluding the Property specifically described on Exhibit A, the remaining parcels of land located within Corporate Landing and not owned by the Applicants shall remain subject to the Existing Proffers, which remain in full force and affect.

Proffer 3:

Further conditions may be required by the City during detailed Site Plan review and administration of applicable City codes by all City agencies and departments.

Proffer 4:

Except for permanent facility construction, exterior storage shall be prohibited.

Proffer 5:

Fencing on the Property, other than for screening purposes and where it is necessary for the security of certain facilities or necessary to funnel visitors to designated entry points, is prohibited. The VBDA shall approve all proposed fences for material, color, location, coupled plantings and overall impact.

Proffer 6:

Temporary facilities, other than construction related facilities, shall not be permitted within the front yards and when located in the rear yards, shall be removed immediately upon completion of the permanent facility.

Proffer 7:

All loading docks and dumpster areas that are visible from the lake area or street shall be screened with a wall a minimum of 8 ft. that matches the materials used on the building. Dumpsters shall also be gated. The screen wall shall be softened in its entirety with shrubs and trees. The extent of the screen wall and landscaping shall be subject to VBDA approval.

Proffer 8:

Those uses permitted in I-1 and B-2 zoning are permitted on the Property. Those uses requiring a Conditional Use Permit from City Council shall continue to do so.

Proffer 9:

The following lists the minimum parking lot setback requirements:

- a) Adjacent to Dam Neck Road 50 ft.
- b) Adjacent to Residential Neighborhoods 50 ft.
- c) Adjacent to General Booth Blvd. 30 ft.
- d) Adjacent to Corporate Landing Parkway 25 ft.
- e) Other Public Streets 20 ft.
- f) Side & Rear Property Line 15 ft.
- g) Between Parking Lots and Buildings 10 ft.
(excluding sidewalks)

Proffer 10:

The following are the parking requirements:

- a) Off-street parking must conform to Section 203 of the Zoning Ordinance as amended.
- b) The City's parking requirements shall not relieve the site owner or lessor of the responsibility of providing ample on-site parking for actual user demands. Parking on access roads and dedicated streets shall be prohibited.
- c) Parking lot landscape standards shall conform to the City of Virginia Beach Landscape Guide as amended.

Proffer 11:

The Corporate Landing Business Park Design Criteria, dated July 2021, is attached hereto as Exhibit B and incorporated herein by reference for additional specifications, conditions and requirements related to design requirements, land use, responsibilities of the VBDA, grading, drainage, utilities, plantings, lighting, building design and orientation, building materials and color and signage in Corporate Landing.

Staff Comments: The Proffers provide more flexibility for developments within the Park to create a more marketable and comparative business park in the region. 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.

1996 Proffers That Remain in Effect for The Remainder of The Park

1. All uses permitted in the R & D Research and Development Office Warehouse District (R & D) shall be permitted within the MDO Medium Density Office Use District (MDO). Likewise, all uses permitted within the MDO district shall be permitted within the R & D district.
2. In addition to the uses identified in the prior proffers, within the R & D and MDO districts the following uses are permitted:
 - Manufacturing
 - Public buildings and grounds
 - Heliports. Provided however, that no portion of a heliport may be located within 500 feet of residentially zoned property.
3. Except as modified herein, the prior Proffers shall remain in full force and effect.

1989 Proffers That Remain in Effect for The Remainder of The Park

1. The following uses shall be the only uses permitted within each district. Those uses requiring a conditional use permit from City Council shall continue to be required to obtain said conditional use permit, and City Council by accepting this proffer, does not grant the right to place any conditional uses within the property.

R&D: RESEARCH AND DEVELOPMENT OFFICE WAREHOUSE DISTRICT

This classification refers to the development of one and two story office/warehouse buildings.

USE

1. Business, medical, financial, nonprofit, professional and similar office buildings in conjunction with an office/warehouse environment.
2. Establishments such as linen suppliers, freight movers, communication services and canteen services.
3. Establishments which deliver merchandise in bulk by truck or van.
4. Light assembly, processing, extracting, packaging or fabricating establishments.
5. Motion picture studios.
6. Printing lithographic or publishing establishments.
7. Public utilities installations and substations including offices.
8. Radio or television transmission and relay stations.
9. Wholesaling, warehousing, storage or distribution establishments.

10. Eating and drinking establishments in connection with other permitted uses (no free-standing restaurant sites).
11. Accessory uses and structures which may be reviewed and approved by the City of Virginia Beach Zoning Administrator which are clearly incidental and subordinate to principal uses in accordance with the Virginia Beach Comprehensive Zoning Ordinance.

MDO DISTRICT: MEDIUM DENSITY OFFICE USE

This classification refers to the development of mid-rise office buildings.

USE

1. Business, medical, financial, nonprofit, professional, and similar office buildings.
2. Eating and drinking establishments in connection with other permitted uses (no free-standing restaurant sites).
3. Motion picture studios.
4. Printing, lithographic or publishing establishments.
5. Recreational facilities of an outdoor nature in accordance with the Virginia Beach Comprehensive Zoning Ordinance.
6. Vocational, industrial and trade schools.
7. Recreational facilities other than those of an outdoor nature.
8. Public and private schools, colleges and universities.
9. Public utility facilities.
10. Accessory uses and structures which may be reviewed and approved by the City of Virginia Beach Zoning Administrator which are clearly incidental and subordinate to principal uses in accordance with the Virginia Beach Comprehensive Zoning Ordinance.

MXD2 DISTRICT: MIXED USE DEVELOPMENT

This classification refers to the development of a mixed use complex that would provide retail shops, restaurants, office space, and similar uses.

USE

1. Automobile service stations or repair facilities that perform the same functions as cited in Section 111 of the Virginia Beach Zoning Ordinance.
2. Bakeries, confectioneries and delicatessens, provided that products prepared or process on the premises shall be sold at retail and only on the premises.
3. Business studios, offices, and clinics.
4. Car wash facilities, provided that: (i) no water produced by activities on the zoning lot shall be permitted to fall upon or drain across public streets or sidewalks or adjacent

properties; (ii) a minimum of three (3) off-street parking spaces for automobiles shall be provided for each car wash space within the facility.

5. Child care and child care education centers.
 6. Drugstores, beauty shops and barbershops.
 7. Eating and drinking establishments without drive-through windows.
 8. Financial institutions.
 9. Florists, gift shops and stationery stores.
 10. Service and repair services for business machines, sign shops and other small service businesses.
 11. Grocery stores, carry-out food stores and convenience stores any of which are not freestanding but are in a structure with a gross floor area of less than five thousand (5,000) square feet.
 12. Laboratories and establishments for the production and repair of eye glasses, hearing aids and prosthetic devices.
 13. Laundry and dry cleaning agencies.
 14. Medical and dental offices.
 15. Museums and art galleries.
 16. Job and commercial printing.
 17. Personal service establishments, other than those listed separately.
 18. Athletic clubs.
 19. Public utilities installations and substations, including offices.
 20. Repair and sales for radio and television and other household appliances, except where such establishments exceed two thousand five hundred (2,500) square feet of floor area.
 21. 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.
 22. Veterinary establishments and commercial kennels, provided that all animals shall be kept in soundproofed, air-conditioned buildings.
 23. Accessory uses and structures which may be reviewed and approved by City of Virginia Beach Zoning Administrator which are clearly incidental and subordinate to principal uses in accordance with the Virginia Beach Comprehensive Zoning Ordinance.
2. The following chart lists the building requirements within the various classifications for minimum lot area, width, yard spacing, floor area ration, and coverage:

	R & D	MDO	MXD2
Minimum Lot Area	3.5 Ac	3.5 Ac	1.0 Ac
Minimum Lot Width	100'	100'	100'
Minimum Yard Setback Adjacent to General Booth Boulevard	75'	--	75'
Minimum Yard Setback Adjacent to Corporate Landing Drive	75'	75'	75'
Minimum Yard Setback Adjacent to Other Public/Private Streets	50'	50'	50'
Minimum Yard Setback Adjacent to Residential Neighborhoods	75'	75'	75'
Minimum Yard Setback Adjacent to Side Property Lines	30'	30'	30'
Minimum Yard Setback Adjacent to Rear Property Lines	30'	30'	30'
Maximum Floor Area Ratio	.50	.90	.90
Maximum Building and Paved Area Coverage (excluding outside plaza and gathering areas)	75%	60%	75%

3. The following chart lists the parking lot setback requirements within the various classifications of the property.

	R&D	MDO	MXD2
Minimum Yard Setback Adjacent to General Booth Boulevard	75'	--	75'
Minimum Yard Setback Adjacent to Corporate Landing Drive	50'	50'	50'
Minimum Yard Setback Adjacent to Other Public Streets	50'	50'	50'
Minimum Yard Setback Adjacent to Private Streets (excluding access drives & parking lot drive aisles)	25'	25'	25'
Minimum Yard Setback Adjacent to Residential Neighborhoods	75'	75'	75'
Minimum Yard Setback Adjacent to Side Property Lines (excluding common drive aisles between parcels)	15'	15'	15'
Minimum Yard Setback Adjacent to Rear Property Lines	15'	15'	15'
Minimum Yard Setback Between Parking Lots & Buildings (excluding sidewalks)	20'	20'	0'

4. The maximum building height for the various use classifications located within the property are as follows.
 - A. R&D: 35 Feet
 - B. MDO: Not to exceed a height equal to twice the distance from the building to the vertical projection of the center line of the nearest public street; however, no building shall exceed 100' in height, and no building within 300' of the right-of-way of General Booth Boulevard shall exceed 40' in height.
 - C. MXD2: 35 Feet
 - D. Notwithstanding the above, no building or other structure shall exceed the height limit established by the Virginia Beach Comprehensive Zoning Ordinance regarding air navigation.
5. General Requirements Applicable to all use classifications located within the property.
 - A. Parking Requirements: The minimum number of parking spaces and dimensional requirements on any site shall be as follows:
 1. One parking space for each 250 square feet of gross floor area used for offices.
 2. One parking space for each 500 square feet of gross floor area for research and development or one space per employee on the highest working shift, whichever is greater.
 3. One parking space for each 200 square feet of gross floor area for commercial/retail.
 4. One and one-half parking spaces per hotel room.
 5. As required by the City of Virginia Beach Comprehensive Zoning Ordinance for other uses permitted within the property.
 6. The size of parking stalls and handicapped allowances shall be as required by the City of Virginia Beach Comprehensive Zoning Ordinance.
 7. The width of parking lot drive aisles shall be a minimum of 24 feet.
 8. The color of parking lot stripping shall be white. Special stripping shall be as required by the City of Virginia Beach.
 9. These requirements shall be accepted as minimum standards, however, such requirements shall not relieve the site owner or lessor of the responsibility of providing ample on-site parking for actual user demands. Parking on access roads and dedicated streets shall be prohibited.
 - B. Loading Areas
 1. Loading docks shall be designed and located so that they are not visible from public roadway view, adjacent residential neighborhood view, and view within the park. The uses of berming and landscape screening shall be employed to screen loading areas.
 2. The location of any loading dock areas shall be subject to approval by the Virginia Beach Development Authority.

C. Landscape Requirements (Minimum)

1. The Development Authority will provide in the 75 foot setbacks adjacent to the existing residential neighborhoods of Strawbridge and Princess Anne Hunt Club subdivision a rolling earthen berm (minimum height four (4) feet up to approximately ten (10) feet with appropriate evergreen plantings to provide a buffer between the park and these residential neighborhoods. Where the parking abuts property not currently developed for residential use the Authority will reserve a 75 foot strip of land for the future placement of a berm and evergreen plantings should said adjacent property be developed into residential neighborhoods.
 2. The developer of the individual sites shall provide a continuous evergreen and/or low berm screen along any side of a parking lot that abuts a public street right-of-way. Such buffer shall be located within the parking lot setbacks established by Section 3.
 3. The developer of any site that abuts a storm water retention lake or canal shall provide a landscape buffer (minimum width 15 feet) between said lake and/or canal and any proposed parking lot. This buffer shall be planted with a mixture of deciduous and evergreen plant materials.
6. The Development Authority shall not extend the existing residential street known as Wandsworth Drive into the property. The Development Authority shall not grant right-of-way over the property for connections into residential neighborhoods not yet developed except those streets so designated on the City of Virginia Beach Master Street and Highway Plan. Roads shall not be extended into Princess Anne Hunt Club subdivision and/or Strawbridge from the property.

Item # 9

**TVT I, dba Tower Ventures c/o Lou Katzerman [Applicant]
Pleasant Valley Associates, LLC [Property Owner]**

Modification of Conditions (Communication Tower)

4221 Pleasant Valley Road

August 11, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Wall: Okay, thank you. The next item on the consent agenda is Item #9 TVT I, LLC, d/b/a Tower Ventures c/o Lou Katzerman and Pleasant Valley Associates who is the property owner. This is for Modifications of Conditions for a Communications Tower. Is there a representative for this item? Could you please state your name for the record?

Mr. Katzerman: Lou Katzerman.

Mr. Wall: And are the conditions acceptable?

Mr. Katzerman: Yes sir, thank you.

Mr. Wall: Is there any opposition for this item to be placed on the consent agenda? Hearing none, we've asked Mr. Graham to read this into the record.

Mr. Graham: Thank you. This is an application by TVT I, LLC, d/b/a Tower Ventures c/o Lou Katzerman. This is at the Pleasant Valley Shopping Center. This is a request for Modifications of Conditions for a Communication Tower. In 2008, City Council granted a Conditional Use Permit for the installation of 132-foot high flagpole communication tower on this property. The approval included a deviation to the setback and the screening and landscaping requirements. The tower was constructed following the approval, however, it was removed from the site in 2017. A new cell tower operator, the applicant, seeks to install a new 134-foot high monopine communication tower. This is a cell tower designed to resemble a pine tree at the location. As the proposed tower will have a significantly different design than what was previously approved and is taller by two feet, a Modification of Conditions is requested. While the previous tower was designed as a flagpole with internal antennas, the proposed tower will have external antennas and mimic the shape of a pine tree. Staff has asked the applicant to consider a different design more of a flagpole. However, the pine tree design apparently has -- the previous design cannot accommodate the internal antennas. So anyway, planning staff recommends approval, and we agree with planning staff.

Mr. Wall: Okay, thank you, Mr. Coston. That was the last item on the regular consent agenda. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission support the applications and there are no speakers signed up in opposition. These are agenda items number 13, 14, 15, 16 and 17. Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items number 1, 8, 9, 10, 11 and Short-Term Rental items # 13, 14, 15, 16 and 17.

Mr. Weiner: We have a motion for approval for the second. We have a motion Mr. Wall as second by Ms. Oliver and we have any one abstaining?

Mr. Graham: I have a letter pursuant to the state and local government Conflict of Interest Act. I have a letter on file making the following declaration. The agenda item #1 is financed by Towne Bank and I hereby make this disclosure that I serve on an advisory board at Towne Bank, which makes no loan decisions. And I believe that I can participate in this vote.

Mr. Weiner: Mr. Inman.

Mr. Inman: Likewise, I would like to make the following declaration. Agenda item #1, being financed by Towne Bank. I serve on the Advisory Board of Towne Bank, and make no decision on loans and feel like I can participate fairly in this vote.

Mr. Weiner: Mr. Redmond, short term rentals.

Mr. Redmond: Yeah, I am happy to do it now, we are not there yet, but...oh, we are there. Okay, I have a letter on file with the City Attorney's Office and have for some months. I have a client who is in the travel industry and has some business that is involved with short-term rentals, therefore, I do not vote on any Short-Term Rental applications or any of the ordinances with regard to Short-Term Rentals and I repeat that that letter, which I renew monthly is on file with the City Attorney. Thank you.

Mr. Weiner: Madam Clerk, that's everything.

Madam Clerk: Okay, vote is open. By recorded vote of 9 in favor and 0 against agenda items 1, 8, 9, 10 and 11 have been recommended for approval. By recorded vote of 8 in favor, 0 against with one abstention. Agenda items 13, 14, 15, 16 and 17 have been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. All conditions attached to the Conditional Use Permit granted on December 2, 2008 are hereby deleted and superseded by the following conditions.
2. The communication tower shall be constructed as a stealth tower as shown on the site plans entitled, "VA 1005 Sun Devil II," prepared by Foresite Group, LLC, dated December 28, 2020. The site plan has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.
3. The tower shall not exceed 134 feet in height (AGL).
4. As provided by Section 232 of the City Zoning Ordinance, the setback requirement and the landscaping and screening requirements for the tower are modified to the minimum setback of 40 feet and screening shown on the plans referenced in Condition 2 above.
5. In the event interference with any City emergency communications facilities results from the use of this tower and antennas, the user(s) shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated within a reasonable time, the user shall immediately cease operation to the extent necessary to stop the interference.
6. As required by Section 232(r)(4) of the City Zoning Ordinance, should the antennas cease to be used for a period of more than one (1) year, the applicant shall remove the tower, antennas and related equipment from the property within ninety (90) days.
7. No signage shall be permitted on the communication tower.
8. The lease area, as depicted on the site plans entitled, "VA 1005 Sun Devil II," prepared by Foresite Group, LLC, dated December 28, 2020, shall be surrounded by a solid fence, including the gate, with a minimum height of six (6) feet. Chain link or barbed wire shall not be permitted.

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

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

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

Item # 10

Ted Tignor [Applicant & Property Owner]

Change in Nonconformity

501 Carolina Avenue

August 11, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Wall: Thank you, Mr. Graham. The next item on the consent agenda is agenda item #10, Ted Tignor for Change in Nonconformity at 501 Carolina Avenue. Is there a representative for this item? There is not. However, he has expressed to the staff that he finds the conditions acceptable for this application. Is there any opposition for this application to be on the consent agenda? Hearing none and we've asked Mr. Alcaraz to read this into the record.

Mr. Alcaraz: Thank you. The applicant Ted Tignor has asked for a residential expansion for nonconforming use. The site is developed with two detached single-family dwellings constructed in 1945; principal dwelling fronts Carolina Avenue. In 1950, a smaller secondary dwelling was constructed on the rear portion fronting on Baltic Avenue. Following the adoption of the Zoning Ordinance for the City of Virginia Beach in 1957, the presence of more than one single family dwelling on a single lot was prohibited within the R-5S Residential District. Therefore, the use of this site is considered legally nonconforming. The applicant is proposing a 1020 square foot addition and renovations to the principal structure to include replacement of the vinyl siding with Hardie plank siding, construction of a living room, play room, entertainment room, bedroom and bathroom, elimination of the existing rear deck and a conversion of the front downstairs bedroom to a sunroom. No changes are proposed to the 600 foot dwelling unit. The dwelling unit is grandfathered for short-term rental uses. The maximum lot coverage permitted for a single family dwelling in R-5S district is 40%. With the proposed addition the calculated total lot coverage including the rear secondary dwelling will increase from 41% to 46%. The staff along with Planning Commission, their opinion is that the scale and location the proposed addition is appropriate and in the character of the surrounding residential community and, therefore, no detrimental impacts to surrounding properties. For the record staff has stated that the applicant has accepted the conditions for the 21 x 16 and 6 inch addition. For that reason we're putting on consent agenda

Mr. Wall: Okay, thank you, Mr. Coston. That was the last item on the regular consent agenda. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission support the applications and there are no speakers

signed up in opposition. These are agenda items number 13, 14, 15, 16 and 17. Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items number 1, 8, 9, 10, 11 and Short-Term Rental items # 13, 14, 15, 16 and 17.

Mr. Weiner: We have a motion for approval for the second. We have a motion Mr. Wall as second by Ms. Oliver and we have any one abstaining?

Mr. Graham: I have a letter pursuant to the state and local government Conflict of Interest Act. I have a letter on file making the following declaration. The agenda item #1 is financed by Towne Bank and I hereby make this disclosure that I serve on an advisory board at Towne Bank, which makes no loan decisions. And I believe that I can participate in this vote.

Mr. Weiner: Mr. Inman.

Mr. Inman: Likewise, I would like to make the following declaration. Agenda item #1, being financed by Towne Bank. I serve on the Advisory Board of Towne Bank, and make no decision on loans and feel like I can participate fairly in this vote.

Mr. Weiner: Mr. Redmond, short term rentals.

Mr. Redmond: Yeah, I am happy to do it now, we are not there yet, but...oh, we are there. Okay, I have a letter on file with the City Attorney's Office and have for some months. I have a client who is in the travel industry and has some business that is involved with short-term rentals, therefore, I do not vote on any Short-Term Rental applications or any of the ordinances with regard to Short-Term Rentals and I repeat that that letter, which I renew monthly is on file with the City Attorney. Thank you.

Mr. Weiner: Madam Clerk, that's everything.

Madam Clerk: Okay, vote is open. By recorded vote of 9 in favor and 0 against agenda items 1, 8, 9, 10 and 11 have been recommended for approval. By recorded vote of 8 in favor, 0 against with one abstention. Agenda items 13, 14, 15, 16 and 17 have been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. There shall be no development of the site beyond the improvements shown on the submitted site plan entitled, "ADDITION AND REMODEL TO 501 CAROLINA AVENUE," dated June 14, 2021 and prepared by Residential Designs, LTD., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The principal dwelling unit shall not be used for Short Term Rental.
3. The gravel parking area located between the principal dwelling unit and Baltic Avenue shall be restored to a pervious surface area and shall not be utilized for parking unless the appropriate permit is obtained from the City.

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

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

Item # 11

Thomas A. Brown [Applicant & Property Owner]

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

Property located on the east side of Indian River Road, 620 feet south of S. Independence Boulevard

August 11, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: The next item on the consent agenda is agenda item #11, Thomas A. Brown for Subdivision Variance. The address is Indian River Road. Is there a representative for this item?

Mr. Bourdon: Thank you Commissioner Wall, Chairman, members of the Commission, for the record Eddie Bourdon, Virginia Beach attorney representing Mr. Brown. First of all, I want to thank Aubrey for his work on the application. All three conditions as recommended are acceptable. Because it came up as informal, we will provide a new exhibit before it goes to Council, showing the shared driveway between parcels C1 and C2. It will split the property line that is shared between them and go back at least 30 feet before it, splits off, but we will provide that, but I want to put that on the record. Thank you for putting it on the consent agenda.

Mr. Wall: Is there any opposition for this item to be on the consent agenda? Hearing none, we've asked Mr. Coston to read this into the record.

Mr. Coston: Thank you sir. The applicant Thomas Brown is proposing to subdivide two lots along Indian River Road. A parcel designated as 1.9 acres and residual of partial C is 0.24 acres. In order to create a total of three lots on property zoned R10 residential zoning district. The dimensional standards for lots in this district require a lot size of at least 10,000 square feet and a minimum lot width of 80 feet which is measured at the 30-foot front yard setback. The proposed lots will all exceed the minimum lot size with areas of 35,869 square feet, 42,852 square feet and 13,718 square feet. However, one of the lots will be 4.19 feet shy of the minimum lot width required of 80 feet. The proposal will result in three residential lots with lot areas as stated before, all above the minimum requirement. Staff recommends approval and the Planning Commission concurs.

Mr. Wall: Okay, thank you, Mr. Coston. That was the last item on the regular consent agenda. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission support the applications and there are no speakers

signed up in opposition. These are agenda items number 13, 14, 15, 16 and 17. Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items number 1, 8, 9, 10, 11 and Short-Term Rental items # 13, 14, 15, 16 and 17.

Mr. Weiner: We have a motion for approval for the second. We have a motion Mr. Wall as second by Ms. Oliver and we have any one abstaining?

Mr. Graham: I have a letter pursuant to the state and local government Conflict of Interest Act. I have a letter on file making the following declaration. The agenda item #1 is financed by Towne Bank and I hereby make this disclosure that I serve on an advisory board at Towne Bank, which makes no loan decisions. And I believe that I can participate in this vote.

Mr. Weiner: Mr. Inman.

Mr. Inman: Likewise, I would like to make the following declaration. Agenda item #1, being financed by Towne Bank. I serve on the Advisory Board of Towne Bank, and make no decision on loans and feel like I can participate fairly in this vote.

Mr. Weiner: Mr. Redmond, short term rentals.

Mr. Redmond: Yeah, I am happy to do it now, we are not there yet, but...oh, we are there. Okay, I have a letter on file with the City Attorney's Office and have for some months. I have a client who is in the travel industry and has some business that is involved with short-term rentals, therefore, I do not vote on any Short-Term Rental applications or any of the ordinances with regard to Short-Term Rentals and I repeat that that letter, which I renew monthly is on file with the City Attorney. Thank you.

Mr. Weiner: Madam Clerk, that's everything.

Madam Clerk: Okay, vote is open. By recorded vote of 9 in favor and 0 against agenda items 1, 8, 9, 10 and 11 have been recommended for approval. By recorded vote of 8 in favor, 0 against with one abstention. Agenda items 13, 14, 15, 16 and 17 have been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Subdivision Exhibit of Parcel Designated as '1.90 Ac.' and 'Residual of Parcel C'" dated January 28, 2021, prepared by Gaddy Engineering Services, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter, the "Subdivision Plans").
2. Access to Parcels C-1 and C-2 shall be provided via a singular curb cut in order to reduce impact to Indian River Road.
3. No structures shall be constructed on Parcel C-1 within 90 feet of the Indian River Road right-of-way, as depicted on the exhibit identified in Condition 1 above.

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

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

Item # 12

Murphy's of Virginia Beach [Applicant]
Stephen Yuen Yee Family, LLC [Property Owner]

Alternative Compliance

2914 Pacific Avenue

August 11, 2021

DEFERRED FOR 30 DAYS

Mr. Weiner: Any items to be deferred or withdrawn? The chair is aware that item #12 was going to be deferred for 30 days. May I have motion please...?

Mr. Wall: Mr. Chair, I make a motion that we defer Agenda Item #12 Murphy's of Virginia Beach, for 30 days.

Mr. Weiner: I have a motion do I have a second?

Ms. Horsley: Second.

Mr. Weiner: Motion by Mr. Wall and second by Mr. Horsley.

Madam Clerk: Vote is open. By recorded vote of 9 in favor and 0 against agenda item #12 has been deferred for 30 days.

	AYE 9	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

Items # 13, 14, 15, 16 & 17

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

Conditional Use Permit (Short Term Rentals)

205 34th Street, Units 1601, 1602, 1603, 1604 & 1605

August 11, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Okay, thank you, Mr. Coston. That was the last item on the regular consent agenda. The Planning Commission also places the following applications for Conditional Use Permit for Short-Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and the Planning Commission support the applications and there are no speakers signed up in opposition. These are agenda items number 13, 14, 15, 16 and 17. Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items number 1, 8, 9, 10, 11 and Short-Term Rental items # 13, 14, 15, 16 and 17.

Mr. Weiner: We have a motion for approval for the second. We have a motion Mr. Wall as second by Ms. Oliver and we have any one abstaining?

Mr. Graham: I have a letter pursuant to the state and local government Conflict of Interest Act. I have a letter on file making the following declaration. The agenda item #1 is financed by Towne Bank and I hereby make this disclosure that I serve on an advisory board at Towne Bank, which makes no loan decisions. And I believe that I can participate in this vote.

Mr. Weiner: Mr. Inman.

Mr. Inman: Likewise, I would like to make the following declaration. Agenda item #1, being financed by Towne Bank. I serve on the Advisory Board of Towne Bank, and make no decision on loans and feel like I can participate fairly in this vote.

Mr. Weiner: Mr. Redmond, short term rentals.

Mr. Redmond: Yeah, I am happy to do it now, we are not there yet, but...oh, we are there. Okay, I have a letter on file with the City Attorney's Office and have for some months. I have a client who is in the travel industry and has some business that is involved with short-term rentals, therefore, I do not vote on any Short-Term Rental applications or any of the ordinances with regard to Short-Term Rentals and I repeat that that letter, which I renew monthly is on file with the City Attorney. Thank you.

Mr. Weiner: Madam Clerk, that's everything.

Madam Clerk: Okay, vote is open. By recorded vote of 9 in favor and 0 against agenda items 1, 8, 9, 10 and 11 have been recommended for approval. By recorded vote of 8 in favor, 0 against with one abstention. Agenda items 13, 14, 15, 16 and 17 have been recommended for approval.

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

CONDITIONS

1. The following conditions shall only apply to the dwelling units addressed as 205 34th Street, Units 1601, 1602, 1603, 1604, 1605, and the Short Term Rental use shall only occur within these listed dwelling units.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. Unless an alternative parking plan is approved by the Zoning Administrator, 14 off-street parking spaces located at an off-site parking facility approved by the Zoning Administrator must be continuously leased while the subject units are used for Short Term Rental Purposes.
4. Prior to using any proposed apartment unit for Short-Term Rental purposes, the 16th floor, which is where all five of the proposed Short-Term Rental units are located, must come into compliance with the Uniform Statewide Building Code.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.

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

18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.
19. No more than five (5) dwelling units within the building located at 205 34th Street may be used for Short Term Rental purposes.
20. Standpipe connection shall be available on the 16th floor in the stairwell.

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.