

**Planning Commission Public Meeting
September 8, 2021**

Mr. Weiner: My name is David Weiner. I'm the chairman of the commission. Before we get started, Mr. Coston is going to lead us in prayer and Mr. Horsley in the pledge, please stand.

Mr. Coston: Lord thou has been our dwelling place in all generations, before the mountains were brought forth whatever the highest form the earth in the world, even from everlasting to everlasting. Lord, you are God. God, we come today to thank you for the many benefits and blessings God that you have bestowed upon us. Now, God as we come to deliberate, deliberate issues that concern this great city God, we ask that you would grant us of your wisdom and your understanding and your knowledge of God, that we may consider all the facts and come to the right conclusions. And God, we ask that you would bless all of these who have assembled in Jesus name we pray, Amen.

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

Mr. Weiner: Thank you, gentlemen. Next, I will ask Mr. Redmond to introduce the members please.

Mr. Redmond: Thank you, Mr. Chairman. Welcome, everyone. So I'm going to start on that side on which if you're sitting out there would be on the left side of the desk. That is Ms. Victoria Eisenberg. She's an Assistant City Attorney. She is filling in for Kay Wilson who is absent today, and I'm sure she'll do a great job, always does. City Attorney, of course, helps us follow the rules and keeps us out of trouble and otherwise just helps us in any way they can. Mr. John Coston is a retired fire captain who serves At-Large. Robyn Klein is a social worker. And she too serves At-Large, no, God I can't remember these things, Centerville district, all right, thank you. So that empty seat is George Alcaraz. He represents the Beach District. He's a contractor has a number of different business interests. He's not able to be with us today. Moving around the corner Dee Oliver, she serves At-Large; she is a former chairman, a former vice chairman, and also has a number of business interests in publishing and restaurants and funeral industry quite the trio. So she's obviously multitalented. That's Dee Oliver, sitting next to her is Don Horsley. He is a farmer, a very accomplished farmer and a Hokie and he is the longest serving member of this body so you can imagine we listen to him quite a bit. In the center there of the day is Mr. David Wiener. David is our chairman and he represents the Kempsville District. He is a contractor in the building industry, contracts probably not the right term, but he works in the building industry. Next to David is Mr. Jack Wall. Jack is our vice chairman. He is an engineer by trade and he represents the Rose Hall

District. This gentleman to my right is Michael Inman. He is an attorney. He too serves At-Large. He's also a guy we listened to a lot. I'm David Redmond. I'm a commercial real estate broker. I represent the Bayside District. This gentleman is Whitney Graham. I'm using the term gentlemen a lot loosely, but I'm using a lot. Whitney Graham is a developer and property manager and he has a number of business interests and he represents the Lynnhaven District. David Bradley is our newest member. We have to tell people more about yourself a little bit later on. He's worked for the city for a number of years. He represents the Princes Anne District. This is his very first day on the job. So let's go easy on David. But he's very capable. I'm sure he can handle it. Anyway, next to David is Bobby Tajan, Bobby is our planning director. And he as always will introduce a few key members of his staff who are in attendance today and always do a great job helping us as always, thank you all for lunch and for all you do for helping us, Bobby.

Mr. Tajan: Thank you Mr. Redmond. Clerking today we have Nicole Garrido and Pam Sandloop. And starting with our planning administration team, we have Carolyn Smith, Hoa Dao, and Marchelle Coleman. We also have with us on our zoning team, Ashby Moss, Hank Morrison, and I thought I saw Brandon Hackney, our newest planner. We also have folks with our Development Liaison Group and Carrie Bookholt, our Development Services center Administrator and I believe also Ric Lowman, the City Traffic Engineer is here as well.

Mr. Weiner: Thank you, Mr. Tajan, thank you, Mr. Redmond. Thank you. Appreciate that. Next, we're gonna go the explanation of the rules and how it's going to work today and madam clerk.

Madam Clerk: Thank you, Mr. Chairman. 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. We request that if you have a cell phone to either silence it or turn it off. Following is an abbreviated explanation of the rules. The complete set of rules is located in the front of the Planning Commission agenda. 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 the 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. 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 the representative first. Following the applicant or their representative in person speakers will be called next. And then the speakers participating via WebEx. 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. For WebEx speakers, once your name is called, please pause for two to three seconds to begin to ensure the commissioners hear your complete remarks. As only one audio feed can be opened at a time, do not ask can you hear me as you will not be able to hear a response. If a 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. 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.

Mr. Weiner: Thank you, Madam clerk. Next, we're not aware of anybody have any items can be deferred. No items to be deferred. What about withdrawn? Is there an item to be withdrawn? Good afternoon, sir.

Mr. Bourdon: Good afternoon, Mr. Chairman, members of the Commission. For the record, Eddie Bourdon Virginia Beach Attorney, representing Ocean Rental Properties, LLC, items 12, 13 and 14. They've requested that those items be withdrawn.

Mr. Weiner: Thank you, sir.

Mr. Bourdon: Thank you.

Mr. Weiner: All right. Items 12, 13, and 14 would be withdrawn; can I have a motion please?

Mr. Wall: Mr. Chair, I make a motion that we withdraw agenda items 12, 13 and 14.

Mr. Weiner: Have a motion. Can we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley, motion by Mr. Wall.

Madam Clerk: The vote is open. By recorded vote of 10 in favor and zero against agenda items 12, 13, and 14 have been withdrawn.

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

Mr. Wall: Thank you, Mr. Chairman. We have six items on the consent agenda today. The first item is agenda item number one, City of Virginia Beach an ordinance to amend section 602 of the city's zoning ordinance pertaining to dimensional requirements

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Item # 1**

City of Virginia Beach [Applicant]

An Ordinance to amend Section 602 of the City Zoning Ordinance pertaining to dimensional requirements in Apartment Districts

RECOMMENDED FOR APPROVAL – CONSENT

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

Mr. Wall: Thank you, Mr. Chairman. We have six items on the consent agenda today. The first item is agenda item number one, City of Virginia Beach an ordinance to amend section 602 of the city's zoning ordinance pertaining to dimensional requirements of apartment districts. And we've asked the City to read this into the record. Mr. Hank Morrison. Actually, state your name for the record.

Mr. Morrison: My name is Hank Morrison.

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

Mr. Morrison: No, sir.

Mr. Wall: Good. Hearing none, please proceed.

Mr. Morrison: All right, so this request is to amend Section 602 of the City's Zoning Ordinance pertaining to setbacks for yards adjacent to streets in A12 through A36 Apartment Districts. The purpose of the proposed update is to relocate but not change the standard related to the 30 foot minimum setback for structures adjacent to streets in an apartment zoning districts. When it was originally drafted, the requirement for side yards adjacent to a street was placed at the end of the ordinance stating that it applies to all side yards adjacent to streets. The location of this requirement has often causes it to be overlooked, which has created some confusion for city staff as well as property owners and the development community. So the proposed amendment would remove section 602G and insert that 30 foot setback requirement into each of the dimensional requirements and each dimensional requirement charts in Section 602(A) through 602(E), so staff is recommending approval of this ordinance as it's essentially just reformatting the code.

Mr. Wall: Okay, thank you, Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items 1, 2, 3 and four, 5 and 10.

Mr. Weiner: All right, we have a motion for approval. We have a second.

Ms. Oliver: Second.

Mr. Weiner: We have a motion by Mr. Wall, second by Mrs. Oliver.

Madam Clerk: The vote is open. By recorded vote of 10 in favor, zero against agenda items 1, 2, 3, 4, 5 and 10 have been approved by consent.

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

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Item # 2**

City of Virginia Beach [Applicant]

An Ordinance to amend Section 1306 of the City Zoning Ordinance to add Assembly Uses as Conditional Uses in the Historic & Cultural Districts

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Okay, thank you. Okay, the next item is agenda item number two City of Virginia Beach as well, in an ordinance to amend section 1306 of the City's Zoning Ordinance to add assembly uses as conditional uses in the historic and cultural districts. And the city, we've asked the city to speak on this item. Is there any opposition for this item being placed on the consent agenda, hearing none, Mr. Morrison, can you please read this one?

Mr. Morrison: Alright, so this request is to amend Section 1306 of the Zoning Ordinance to add assembly uses as conditional uses within historic and cultural zoning districts. So an assembly use is defined as one that involves the gathering of individuals or groups in one location such as an arena, assembly hall, auditorium, bingo hall, civic center, eleemosynary establishments, private clubs, union halls and excluding religious uses. So adding these uses would provide property owners with a little bit more flexibility and options for utilization of their property. Staff is recommending approval of this ordinance as the appropriateness and ultimate approval of any assembly use would be at the discretion of city council through the conditional use permit process.

Mr. Wall: Okay, thank you.

Mr. Morrison: Thank you.

Mr. Wall: Okay, thank you, Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items 1, 2, 3 and four, 5 and 10.

Mr. Weiner: All right, we have a motion for approval. We have a second.

Ms. Oliver: Second.

Mr. Weiner: We have a motion by Mr. Wall, second by Mrs. Oliver.

Madam Clerk: The vote is open. By recorded vote of 10 in favor, zero against agenda items 1, 2, 3, 4, 5 and 10 have been approved by consent.

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

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Items # 3 & 4**

Lynnhaven Dive Center [Applicant]
Blue Water Properties, LLC & SLMD, LLC [Property Owners]

Conditional Use Permit (Vocational School)

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

2204 Poplar Point Road, 1413 N. Great Neck Road

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: The next agenda item is actually two items, agenda items three and four for Lynnhaven Dive Center for conditional use permit for vocational school, as well as subdivision variance, section 4.4(b) of the subdivision regulations. The address is 2204, Poplar Point Road and 1413 North Great Neck Road. Is their representative for this item?

Mr. Rossfear: Good afternoon, Mr. Chairman. Rossfear with Access Global Enterprises representing Lynnhaven Dive Center.

Mr. Wall: Thank you, are the conditions acceptable?

Mr. Rossfear: They are.

Mr. Wall: Okay.

Mr. Rossfear: I'm very much looking forward to this project. This is a four-year project.

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

Mr. Rossfear: Not that I know.

Mr. Wall: Okay. Go ahead.

Mr. Rossfear: I just wanted to say on behalf of the family that is building this, this is a 40 year old project. Lynnhaven Dive Center has been serving the community for 40 years, just recently, Big Mike Hiller, passed away fighting an 18 year battle with cancer. And there's a great photo of him and his son, little Luke at the time, and Mike digging this pool originally out by hand back in the early 80s. And they're very excited now to bring a whole new generation of divers and swim leaders in the community. So we're very excited about it.

Mr. Wall: Thank you. That's great. Thank you. We've asked Mr. Graham to read this into the record.

Mr. Graham: Thank you, Vice Chairman. And as the applicant's representative said, it's been there a long time; I was actually certified to Scuba Dive there in 1987. So this is a conditional use permit application as well as a subdivision variance application, and the applicant seeks to expand and relocate the existing dive facility to the adjoining parcel. The proposed facility is 9000 square feet that's 7000 square foot new building and 2000 square foot existing building and offers scuba diving training and certification, which for zoning purposes is classified as a vocational school. A conditional use permit is required for a vocational school greater than 7500 square feet in the B2 community business district. The applicant also seeks to consolidate five parcels into a single lot. The new L shaped configuration will have frontage on North Great Neck Road and Poplar Point Road, a minimum lot width of 100 feet is required. The proposed lot is 92.5 feet wide on Poplar Point Road; therefore, subdivision variance is required, the subdivision I mean they submitted elevations are similar in design as to what's there today. The proposed development on the property includes reduction of the number of ingress/egress points from two to one; streetscape and foundation plantings are proposed which don't exist today. Staff recommends approval and we agree with staff and recommend approval of this item.

Mr. Wall: Okay, thank you, Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items 1, 2, 3 and four, 5 and 10.

Mr. Weiner: All right, we have a motion for approval. We have a second.

Ms. Oliver: Second.

Mr. Weiner: We have a motion by Mr. Wall, second by Mrs. Oliver.

Madam Clerk: The vote is open. By recorded vote of 10 in favor, zero against agenda items 1, 2, 3, 4, 5 and 10 have been approved by consent.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz				ABSENT
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			

Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. When the property is redeveloped and landscaped, it shall be in substantial conformance with the submitted concept plan entitled, “Lynnhaven Dive Center – Virginia Beach, VA – Conceptual Planting Plan”, prepared by Timmons Group, dated June 29, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. When the property is redeveloped, the exterior of the dive center building shall substantially adhere in appearance, size and materials to the elevations and renderings entitled, “Lynnhaven Dive Center – Virginia Beach, VA – Exterior Elevations / Exterior Views”, prepared by TMA Tymoff + Moss Architects, dated July 1, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. Prior to site plan approval, the applicant/owner shall submit a subdivision plat vacating the interior property lines to the Department of Planning & Community Development for review, approval, and recordation.
4. Any new 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 for review and acceptance prior to the issuance of a sign permit.

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.

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Item # 5**

**Yvonne Lee Hypes Lucas & Esther Diane Schneider, Co-Executrixes of the Estate of
Varenia Craig Hypes Ryan [Applicants]
Ryan Varenia H. Estate (Property Owners)**

Rezoning (B-1 Business District to R-5R Residential Resort District)

4504 Guam Street

RECOMMENDED FOR APPROVAL – CONSENT

Okay, thank you. The next agenda item on the, next application on the agenda item number five;
Yvonne Lucas and Esther Schneider for rezoning from B-1 Business District to R-
5R residential Resort District.

Mr. Bourdon: Thank you Mr. Vice Chair, Chairman, and members of commission again, Eddie
Bourdon, Virgin Beach Attorney representing the co-executrixes is of Ms. Ryan's
estate. We appreciate this item being on the consent agenda. Want to thank Bob
for his help with this application. Thank you.

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

Mr. Redmond: Thank you, Mr. Wall. This is an application of Yvonne Lee Hypes Lucas and Esther
Diane Schneider co-executrixes of the state of Varenia Craig Hypes Ryan.
Specifically, this is a rezoning from B-1 Business District to R-5R Residential
District. The purpose of this application is to housekeeping application. This is a
4945 square foot lot in the Bayside District that was planted in the 1930s before
we had a zoning ordinance or anything else that made a whole lot of sense. Well,
it's actually zoned for a neighborhood commercial use, it's a residential property,
and house has existed on this for a very long time. And so the applicant would like
to have it rezoned to R-5R, which is the predominant zoning district in a lot of these
neighborhoods on Shore Drive and actually, throughout much of the water, you
know, the communities had water, the water in Virginia Beach, it's entirely
appropriate, actually is much more appropriate than its current zoning. There is no
opposition. The staff obviously recommends approval and the commission
concur, therefore, consent, thank you. Mr. Wall.

Mr. Wall: Okay, thank you, Mr. Chair that was the last item on the consent agenda. I move
for approval of agenda items 1, 2, 3 and four, 5 and 10.

Mr. Weiner: All right, we have a motion for approval. We have a second.

Ms. Oliver: Second.

Mr. Weiner: We have a motion by Mr. Wall, second by Mrs. Oliver.

Madam Clerk: The vote is open. By recorded vote of 10 in favor, zero against agenda items 1, 2, 3, 4, 5 and 10 have been approved by consent.

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

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Items # 6, 7, 8 & 9**

ITEMS 6 & 7 – Street Closures

JTR, LLC [Applicant]

JTR, LLC; Bayliner Building, LLC & Shore Drive Area Properties (Property Owners]

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

ITEMS 8 & 9 – Conditional Rezoning & Conditional Use Permit

MP Shore, LLC [Applicant]

JTR, LLC; Bayliner Building, LLC & Shore Drive Area Properties & City of Virginia Beach
(Property Owners]

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

Conditional Use Permit (Multi-Family Dwellings)

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

ALL RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: I want to say a couple of words real quick before we get started. We like doing this, Planning Commissioners, and just wanted to take a few seconds to say a couple of things. And we as Planning Commissioners, we actually have a role, and the role of a Planning Commissioner is look at proper land use, okay, whether it would be stormwater, natural resources, traffic, things like that. And I'm looking at people out here and I just want to point out one thing, please treat people the way you'd like to be treated. Okay, I've not had any problems with anybody on the phone. I've talked to quite a few people on the phone. I've had quite a few emails from everybody. Let's just treat everybody with respect, okay, and courtesy, and we will have a lot of fun up here. I want to point out a couple things. If you are here to talk as a group, or talk for a group or a Civic League, you'll get 10 minutes. Okay, for that one person, everybody else will get three, you'll see a yellow light come on, on the podium. When the little yellow light comes on, you have 30 seconds to finish up your comments. And when the red light comes on, we're going to ask you to stop. We have a lot of speakers and we want to hear everybody and give everybody the fair amount of time to talk. Okay, thank you.

Madam Clerk: Okay, our next orders of business are agenda items 6, 7, 8 and 9. Items six and seven are an application by JTR LLC for street closures on a portion of Ocean Tides Drive, south of Shore Drive and north of Clipper Bay Drive and a portion of

Clipper Bay Drive right of way, south of Shore Drive and west of Ocean Tides Drive in the Bayside District. Eight and nine are an application by MP Shore LLC for a Conditional Change of Zoning (B-2 and PDH-1 Districts to Conditional B-4 Mixed Use District) and a Conditional Use Permit (Multi-Family Dwellings) on property located at 3829 and 3785 Shore Drive, adjacent parcel between Marlin Bay Drive and 3829 Shore Drive in the Bayside District. Would the applicant or the applicant's representative please step to the podium.

Mr. Weiner: Good afternoon.

Ms. Murphy: Good afternoon Chairman, Vice Chairman, members of the Planning Commission, Mr. Tajan and Ms. Eisenberg and Planning staff. For the record, my name is Lisa Murphy and I'm a local zoning attorney with an office at 440 Monticello Ave, Suite 2200 in the City of Norfolk. I'm here today on behalf of the applicants Marlin Bay LLC, JTR, Shore Drive area properties and Bay Liner LLC, in connection with agenda item six and seven, which are the Street Closure applications, and items eight and nine, which are the Conditional Rezoning and Conditional Use Permit applications. These would allow for the redevelopment of approximately 6.3 acres from B-2, and PD-H1 to B-4 SD Overlay in order to construct and operate 197 unit multifamily apartment building with an existing active boat sales facility with space for additional complimentary retail uses. By way of background, the owners of the subject properties, the McCleskey and Browning families are long term landowners who are very active in the community. They carefully selected the Terry Peterson Companies as the developer for the properties based on the company's stellar reputation as a local developer with a long track record of high quality projects and a long term investment philosophy. As you all know, the Terry Peterson Companies will develop a project and they will continue to own it, they won't flip it to a, you know, a hedge fund out of Northern Virginia or New York they will own it, they will maintain it and they have a very good track record of doing so. The proposed redevelopment project and rezoning reflects years of study, analysis, market research and outreach and represents really the highest and best use of this prominent gateway to the City along Shore Drive. As you know, this is one of the City's primary East-West connectors. The Marlin Bay mixed use project involves as I mentioned the redevelopment of approximately 6.3 acres from B-2 and PD-H1 to B-4. And as I said it allows for the demolition of a boat trailer, storage yard, and indoor and outdoor boat and RV storage building, and then the construction of the new high end residential apartment community with the existing boat dealership and an additional space left over. Just wanted to touch on a few high points, the applicant after conducting outreach as you all know with various stakeholders reduced the total unit count of the project by 30 units from 227 to 197 units. Doing this allowed the applicant to reduce the height of the section of the building and you all talked about this a little bit at your informal from four stories to three stories. That's that wing that faces the intersection of Shore Drive and Marlin Bay Drive. The section of the wings of the building that will remain four stories

conceal the parking structure, which provides full parking for all of the complex as the staff report indicates, with a combination of uses, they still have one more parking space than they're actually required to have. It's important to note, you all discussed the fact that this complies with the Comprehensive Plan, the Shore Drive Guidelines and the Corridor Overlay. The applicant in this case, although they could, is not requesting deviations from any of the standard requirements; they meet all of the requirements of the Zoning Ordinance, including the Shore Drive Overlay. The apartment community itself will feature high end amenities including resort style courtyard pool, multi-story clubhouse and fitness facility, bike storage, kayak paddleboard, package delivery and a conference facility. It's also going to have a two story clubhouse and fitness facility, so this will be consistent with other very high end apartment communities in the city. The architecture of the building is designed to blend with the Bayfront community, and to create a bold statement to define this strategic focus area. The applicants have proffered the installation of a 10-foot multi use trail along the entirety of the frontage on Shore Drive together with providing pedestrian pathways throughout the development and a striped crosswalk to access the Pleasure House Point area. I wanted to just touch briefly on the street closure, it's the section of – that's not the pointer. There we go. Let's get back, it's the section of Clipper Bay from Shore Drive. There we go. It exists here right now. That's Clipper Bay from Shore Drive to Ocean Tides and then Ocean Tides will remain as part of this street closure requirement. The reviewers went out and evaluated that area and determined that there would not be an inconvenience to the public, to go ahead and close that and include it in the overall redevelopment of these five parcels. Let's take a look at your staff analysis, as a result of the carefully planned placement and design to the proposed improvements, the mixed use redevelopment project complies as staff indicates with the Comprehensive Plan, the Shore Drive Corridor Overlay District requirements and the design guidelines. It's located within a mixed use zone of the Shore Drive corridor where the Comprehensive Plan and the design guidelines encourage revitalization and reuse of existing commercial properties. In fact, it stresses that uses should avoid the over commercialization and be mindful of land use compatibility. So we've got 3.2 acres that's currently in B-2 that's actually going to be reduced to just over an acre that will be in that commercial component. As the staff report indicates, because the subject property is within the mixed zone of the Shore Drive and front Shore Drive, a higher density development is more appropriate. Less than a half mile from the site, there are apartment buildings within the mixed zone that are over 15 stories tall. Most of the buildings nearby are three stories or taller. And in fact, on the 3.2 acre portion of the property currently, which is zoned B-2, the owners could build a 200 foot building by-right and this is indicated in your staff report. The redevelopment of the unsightly boat trailer storage yard with a high end department community with an active boat dealership provides a much more desirable and more compatible transition of uses from Shore Drive to the residential dwellings within Ocean Park. Likewise, the design and orientation of the building, the setback from the intersection, which I think Mr.

Inman had a question about that, from the road itself, the building is set back 60 to 80 feet. And at that intersection, if you see there, it actually looks like there's we haven't measured it, it's more than 80 feet. And that was something that the applicant did at the request of the community to sort of pull the project away from the intersection. That gives us the ability to do more open space, more passive uses. So, it's very, there'll be lush landscaping; you've got the open space. You'll also have an art design feature which will be an iconic identification feature. And then as I indicated, the multi-use trail ensures that the proposed development is complimentary to the natural resource and open space of the city's Pleasure House Point Park. The multi-use trail as Mr. Lowman indicated is something that the city is going to be developing in phase four the Shore Drive improvement project. This is a big section of Shore Drive that the applicant will actually be dedicating and improving so they can continue this very nice resource for the people that live along Shore Drive. Most everybody agrees, you know, you look for the things that people agree on most, everybody agrees that the project is very attractive, and it will make this a much more appealing and impressive gateway to the city. As I mentioned, it will enhance the Shore Drive corridor to reflect the area's unique character, making the corridor functional and attractive scenic gateway and access way to the resort destination. Wanted to touch on a couple of more things, the benefits. Stormwater impacts, the subject property is currently improved with gravel, paved parking and buildings. It's almost entirely impervious, and it was developed at a time when the city did not have stormwater regulations in place. By redeveloping this property, the applicant is actually reducing the impervious cover by over a half acre and they're bringing it up to the current high standard regulations. Stormwater management facilities will be underground and stormwater will be treated before it is discharged both for quantity and quality. As a result, the total area will continue that will continue to drain into Shore Drive and Marlin Bay and Ocean Tides has actually been reduced both in area and impervious cover. The new traffic impact analysis, the applicant studied the area, the signal timing, and as the staff report indicates, with changes to the signal timing at the intersection of Shore Drive and Marlin Bay Drive that allows for more green time for Marlin Bay Drive movements. And then the installation of left turn lane into the property for westbound Shore Drive, all of the intersections will continue to operate at the same level of service. So this is not going to have a negative impact on traffic. The applicant, and this is something that normally comes up quite a bit, has proffered that it will reduce existing curb cuts through the revised, the new site plan. So instead of having four curb cuts, which you have now long Shore Drive, there'll be one on Shore Drive and then the one of Marlin Bay. This will impact, this is something that normally doesn't get looked at, but the city's economist has looked at this even with the reduced number of units, and they're predicting that over the next 20 years, the project will result in nearly \$4 million in net revenue to the city. So it's very rare that you have a residential project or mixed use project that actually contributes net revenue to the city. In conclusion today, you will hear, no doubt you have heard a lot of negative speculation and conjecture regarding the impact of the proposed

redevelopment project on the community. Despite the applicant's best efforts to get out the facts and to address community concerns, through months of outreach and studies resulting in significant changes to key components of the project. The speculation and conjecture you will hear regarding the impact of the proposed project simply ignores the facts recognized by your professional planning staff and city engineers. This has been studied by the technical folks whose job it is to study this and they are comfortable. The Marlin Bay mixed use redevelopment project will revitalize and upgrade this critical gateway and access way to the city and is the highest and best use of this valuable corner. As the staff report indicates and as I've mentioned already, it does comply with the Comprehensive Plan, the Shore Drive Corridor Overlay and the Shore Drive design guidelines. Commissioner Oliver had a question about the siding. We had, as Hoa indicated, that was not something that had come up before the Bayfront Area Advisory Commission, when they looked at the building materials, they didn't take issue with any of the building materials. It's our thought after really researching this, that that would be that vinyl would be an appropriate siding and would actually stand up better and look better over time than the hardy plank type products, but if you know, because the multifamily is a Conditional Use Permit that's something certainly that if the Commission felt strongly about, that we could add a condition to address that. As I indicated, staff is recommending approval of all four applications. We respectfully request that you also recommend approval and I'm happy to answer any questions that you have. And if not, I'll stand by for rebuttal.

Mr. Weiner: Any questions? Yes.

Mr. Graham: I'm sure I'll have more questions after we hear the speakers. I just saw the siding. Is it a premium quality vinyl siding? Or is it, can you or the builder or developer described the siding?

Ms. Murphy: Yeah, it is a high quality premium vinyl siding where they've actually looked into what's going to stand the test of time. John, do you want to come up and address the siding? Because again, until very recently, this wasn't a question that had come up with us.

Mr. Peterson: Good afternoon. John Peterson, representing MP Shore LLC.

Mr. Weiner: Good afternoon.

Mr. Peterson: The siding that we would be proposing is the premium vinyl siding. The way that's typically measured is based on thickness. It's 0.44 inches. And it has several benefits over the cementitious siding, hardie plank, everything from color to wear and tear, and even some environmental impacts as well. That's why we've chosen to use that material.

Mr. Graham: This is a little bit of a loaded question, I guess, because I have hardie plank on my house and hardie planks. I love hardie plank. But the problem with it is that it does need to be repainted, recaulked, and it does fade. This vinyl siding, how does color – how long does it last before it starts fading?

Mr. Peterson: The color should be indefinite. That's the one of the major benefits of it. I think that to put some context on this, vinyl siding today is not what vinyl siding was 30 years ago. And it's because of the fact that hardie plank and the other brand of cementitious siding gained popularity. So vinyl manufacturers had to figure out what was deficient about their product and they've improved it tremendously. Color, you know, retaining color is one of the biggest things and you don't have to paint it.

Mr. Graham: This has the same appearances as the hardie plank?

Mr. Peterson: It does.

Mr. Graham: That I just wanted to kind of clarify that. It is, you know, we'll get more into it later. I think it's important that whatever goes here will last.

Mr. Weiner: Mr. Redmond.

Mr. Redmond: I hope this isn't out of turn. But I just wanted to mention in kind of as a corollary to what you just said. This question of premium siding first came up that I remember here, when we were looking at a an apartment complex off of Newtown Road called Nexus that Boyd Companies built. You're a developer, you're familiar with it I'm sure, that was the first time I ever heard the term of premium siding and the same question came up and in the course of that debate, they'd said it's thicker. You don't see seams as much, it doesn't warp, doesn't bend, it doesn't you know, it's durable, it's much more durable, it doesn't fade anywhere near as well. You go down that and that was some years ago, if you go down Newtown Road, that's a pretty good looking project. It's very attractive project and sticks out like a sore thumb on that part of Newtown Road simply by virtue of it's, you know, of its fine appearance. So I've just wanted to add that because I forget about it later on.

Mr. Weiner: And it was a long time ago. That was a while ago. That was a while ago. Yeah, that project still does look good.

Mr. Redmond: It still does look good.

Mr. Weiner: Okay, any other questions?

Ms. Klein: I have one for the attorney, what is the price point for the apartments?

Ms. Murphy: John, do you want to? Do you just want to address the price point for the apartment?

Mr. Peterson: At this point, it is just projections, but I think that you could look at a one bedroom that'd be probably starting around \$1,400.

Ms. Klein: And how many square feet is that?

Mr. Peterson: Around 800 square feet.

Ms. Klein: Thank you.

Ms. Murphy: That's what I was gonna say. It's keeping in line with the Pearl Project, which is I don't know if you were on the commission at the time that was done, it reassures.

Mr. Inman: Well, he's on that topic, what's the mix of number of bedrooms, three bedroom, two bedroom, one bedroom?

Mr. Peterson: Right now we're projecting, and this could change when we get into actual design. It's a roughly 40 to 43%, one bedroom, and then about 50, I can't do the quick math 50, a little over 50% two bedroom, and there's only a handful of three bedrooms.

Mr. Weiner: Mr. Wall, any questions?

Mr. Wall: Can we get to the layout for the apartment complex? There's a couple things to that one. A couple of things, so the question was asked this morning, which ones are the three, not the three, the three story and the four story I think that was just to set the context?

Ms. Murphy: This section right here, facing that intersection, right was the one they were able to reduce to three stories. And then right here is your parking structure. And then around the parking structure, you've got the four stories that are meant to conceal the parking structure. So you're not seeing our construction.

Ms. Wall: What about the club? I mean, obviously that the pool was in the center. Where's the clubhouse that you? You said it was a two story clubhouse?

Ms. Murphy: Yep.

Mr. Peterson: It's actually just two and, you know, playing right out of the pool itself. It's actually built into the building.

Mr. Wall: Okay, so it's part of the structure.

Mr. Peterson: That's correct.

Mr. Wall: But that's four stories right there. So is that?

Mr. Peterson: Two stories of the common area, and then there'll be two stories of apartment.

Mr. Wall: Okay, all right. And the landscaping, there's the access drive on the kind of the south side on the bottom that connects to Marlin Bay Drive. What is – so there's landscaping on that side adjacent to the existing properties, right there. What is that maybe I over looked at, what is that? What is the plan to be?

Mr. Peterson: The requirement in this zoning category is a 15 foot landscaping buffer, so those are the – I don't know the exact species, but they'd be very tall, dense trees.

Mr. Wall: But right there, that's four stories. So I mean, they have to be pretty tall too. because they'd be looking, those four stories would be looking down into the existing, kind of existing properties, because those are only generally two stories that are adjacent, there.

Mr. Weiner: Mr. Bradley?

Mr. Bradley: I've got a question just about parking in general. And maybe this is kind of a preliminary stage for you. But I know you meet the minimum zoning, but how are you going to allocate it when you got one bedroom, two bedroom, three bedroom. In my experience, when I go to apartment complexes, there is always very few guest parking spaces available, and it's hard to access them a lot of times.

Mr. Peterson: Well, we had not determined whether we would do assigned parking spaces. That's a kind of a market question. Candidly, we think that the parking ratio that's required as a minimum is higher than necessary. And that's not conjecture that's based on experience of the other couple thousand apartments that we either are managing or own. And we have parking ratios that are typically lower than the parking ratio that we have here. And we don't have any parking issues there. So that's based, that's how we kind of arrived at parking numbers, but ultimately, we had to meet the minimum in working with the planning staff.

Mr. Inman: How many parking spaces are there?

Mr. Peterson: I don't remember the number.

Ms. Murphy: I believe, it's 390. Let's see 390 spaces, actually 391 spaces, 358 for the multifamily, and then you've got 32 spaces for the commercial building.

Mr. Inman: How many for the residential?

Ms. Murphy: 358 for the multifamily part of it.

Mr. Inman: Thank you.

Mr. Weiner: Any other questions? Thank you. Oh I am sorry.

Mr. Wall: So this is kind of a general question. But so the reference guidelines and reference documents from the Comprehensive Plan, I think you analysed these referenced Comprehensive Plan shows the Shore Drive Corridor Plan, which are both fairly dated in early 2000s, even late 1990s, I think is from the ULI. They were approved and included and they included even the Pleasure House Point Park, as you know, fairly large developments. Did you all review those? And, you know, in terms of when you were, you know, doing your research? It's kind of an open questions, but I'm just curious what your review, because it's, those are dated. You mentioned the apartments aren't from the late 1990s. It even says apartments aren't, weren't even viable. They mentioned the Marina Shores as being viable. But I guess the market conditions have changed to the point that apartments are now. I mean, clearly, there are other apartment complexes on Shore Drive, but.

Ms. Murphy: Yeah, and I can tell you just from having represented them, the other project at Marina Shores, The Pearl, they're actually getting rents in excess of what they've projected in their early pro-formas. Because there's so much demand in the corridor. So you've got not only do you have younger people that we're trying to attract as part of our workforce to the city, but you also have older folks who want to stay in the corridor, you know, sell their home and they can stay in an apartment and be around their grandkids and go to the same restaurants that they always go to. So, you know, in the 20-25 years since the plan was done, you've seen a tremendous increase in the need for multifamily, high quality multifamily, but you've also seen a real decrease in the need for retail. If you look up and down that corridor there are empty strip centers, you've got vape shops, you know, local breweries here and there, but there's a real struggle now for retail. And so one of the things that the applicants did was they really studied, okay - what's going to be successful here? What can the market support and that retail piece of it no matter how they looked at it, no matter where they looked? There really is not a big demand because you don't have although it seems like a big population, a lot of areas that you're covering is water. So there are fewer people that you would think within the projected area.

Mr. Graham: Mr. Wall, you done? I was going to kind of follow up on that if I could. I drive by this every day and there's a lot of – there's two bank buildings, former bank buildings that are vacant. One of them has about three foot high grass out front. There is a – there's a tobacco shop. I think there's maybe two or three vape shops, laundromat, I mean there. The Shore Drive area and Great Neck area and I live in the area, I think is one of the best places to live in Virginia Beach. We have had a

revolving door of restaurants and retail and I would love to see some of the stuff that's along Shore Drive go away. But that's a whole another subject.

Mr. Weiner: Any other questions? Right, we will get back to you, thank you. Madam clerk.

Madam Clerk: Okay. First speaker, is Danny Murphy here? Okay, Danny Murphy, followed by Cole Trower.

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

Mr. Murphy: Danny Murphy. President of Ocean Park Civic League.

Mr. Weiner: Sir, can you move here and handed it over to the clerk and she'll take care of that. So you can start speaking.

Mr. Murphy: Thank you. Again, my name is Danny Murphy; I am the president of the Ocean Park Civic League. And first of all, I'd like to thank you all. I've been kind of stalking you over the last couple of months, watching what you do. And I know that you are very considerate and thoughtful. I've spoken to a number of you. I've spoken to a number of the city staff, and you're all very professional, I appreciate that. I'd also like to take the opportunity to thank the developers and the owners of the property. We need to remain friends after this no matter what. I know, there's a lot of stiff opposition to it. But I really do think that this isn't the only thing going on. I'd like to apologize to them also for the graffiti that was placed on their banner, we do not condone that. We should operate in a civil manner. So I hope you will take my sincere apology for that. I don't know who did it. And if I did, I would certainly have words with them. So you kind of got me off, because I thought we were doing two different ones here. It's the street closure. Okay. Well, first of all, I'd like to tell you that we do oppose it, we have met with them a number of times, twice, you know, we kind of did the little dance or the poker game where they came in with 227 the first, you know, 27, broke it down to 197. And since then, there really have not been any negotiations whatsoever. I will say there was some discussions about other properties within the community. But there was no serious discussion on the number of units. Our biggest issue is density. Everything is a waterfall from density, all the issues that we have with traffic, with parking, with the environmental impact comes from the density of this, this unit or the project that they're trying to do. I'll start off first telling you a little bit about the density. The plan says that there is 31.77 units on that lot there. That is because we're using the boat sales lot to call that a zoning lot. They've taken the straight away, they're going to put an alley there so they can get through the mixed use or they can get to the zoning lot with only a 20 foot alleyway in between, they can then use the 6.2 acres, as the calculation for the density is effectively over 40 units per acre. And that's significant. The other thing is they're using mixed use being business. We just heard that retail is not being used very often on Shore Drive, if there's not much of

a need for there. Yet, they're telling us well, we're going to put this boat sales, we're going to have retail commercial there. But we already know it doesn't work. So what's going to happen in 5 or 10 years, they're going to proffer that they're not going to develop it. We know how proffers work. We've seen it at Marina Shores with tennis courts there, come back in a couple of years and say, Hey, you know, there's a 40 per unit building here. Let's put 25 or 30 per unit on this other one. The biggest problem with that is a zoning lot is that it's not true mixed use in terms of what the city had designed, It is strictly or not strictly, it is supposed to be used for more urban settings, such as Town Center, strategic growth areas, and not in the strategic focus areas of residential. The biggest issue they have with that right now is that if you look at the – if you look at the definition of mixed use, it says two or more separate uses allowed as a principle or conditional use, that are physically and functionally integrated. So we've got an existing boat sales, we're going to take, we're going to say, hey, let's lock it all together and call it a zoning lot, it's not integrated. It actually is only using 2000 square feet for anything other than the boat sales and to boot, they don't have the parking requirements for that 32 spaces for 12,000 square feet is nowhere near enough. They're fine on the apartment side, but they're not talking about that and the Comprehensive Plan points that out. The other problem is that zoning or mixed use says it must be within the same structure. That is clearly two structures. There's going to be the apartment complex, and then there's going to be the retail and it straddles that, and if you look at the definition, clearly not within that. The other issues that I have with it, obviously the guidelines when we talk about that, it does not meet the intent to develop mixed use as a principle tool for redevelopment as a preferred land use pattern in the strategic growth areas. Shore Drive is not a strategic growth area. As I mentioned, the proffers, talked a little bit about density in the packet that I gave out to you there. We know that the Comprehensive Plan says that the infill should be compatible with the density and preserving and protecting the character of established neighborhoods and achieving the lowest reasonable density for future residential uses. As you can clearly see, as I said, effectively that's 40 units per acre they're putting there. If you take it, and you look at and say, what are they actually developing, they are not developing the boat sales, they're only developing the one, the two lots actually PD-H1 and B-2 there. You'll notice that I pulled the open data set of address points and I plotted those out individually and I also plotted the 197 units that they want to put on that four acres of land. You'll see that there are roughly 1563 units in Ocean Park. I include Aries on the Bay, Pelican Dunes with that because the primary egress and access is from Shady Oaks Drive. If you look at the density of those other ones, the closest one is 50 units per acre, and that's at the Chesapeake House that was built in 1975. That was even before we had a Comprehensive Plan. If you look directly across the street, there's A-18 that was a B2 project that was turned similarly into apartments, A-18 those condos, the density is significantly lower on those, it's only 12 per acre. If you look at the other B-4 properties within that area, the Villas at Ocean Park, Vintage Point, Townhomes at Roanoke, Pendleton, Bar Harbor condos, Bay Vista. They're all

below that 31 point and significantly, as you get closer to Pleasure House Point in the green zone. Yes, it is in the mixed use of the Shore Drive area, but it's on the border of the green zone, meaning Marlin Bay is the dividing line. It sits on the very edge right next to the pristine 118 acres of Pleasure House Point. Yes, it's reclaimed natural area, but it gets significant traffic. Let's see, I think the biggest concern is what it's going to do for the neighborhood, to be honest. I look at what they're trying to do. I'm not insensitive to the building costs, I understand putting the garage and the retention vaults and everything costs money. And I know that, you know, currently, we're certainly experiencing a lack of affordable housing. I think we would have to go far to stretch that this is may not be affordable housing. It's called luxury apartments for a reason. Not that I'm not going to say it's not going to have any impact. But I believe the impact putting 200 units on four acres within a historic Bayfront community is certainly going to have a huge impact. It's going to have cascading effects. I expect my other colleagues will talk somewhat about that, walk you through the individual points. But at this point, I'd like to know who has the first question.

Mr. Weiner: Questions. Yes, Mr. Redmond.

Mr. Redmond: First off, I appreciate your call. I'm one of those guys that you had a good conversation with. And the other thing I want to say is I appreciate your apology. I was appalled frankly at the vandalism on this site. Vandalism has no part, not only in any public policy debate, doesn't have any part in the city at all. So it's property crime. So and you're the first person who's ever – I've heard express that. So I think that was important. And I appreciate that. You did a good job.

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

Mr. Wall: So would you be opposed if they – I'm not saying this is anything that we would recommend but, I mean, let's say the apartments just, any apartments there would you be opposed?

Mr. Murphy: Oh, I'm not opposed to apartments whatsoever. We don't care. I mean, you could put condos there, 200 condos that have the same effect. I believe that we do need apartments within the city. It's not the apartments I oppose, or you know, I think we oppose. We're looking for, you know, I think what they presented is the maximum use for that property with 200 units. What I asked – what I think it's incumbent on you is to find the optimal use and that's taken into the factors in account of what the density is and looking at the neighborhood. So it isn't the apartments we oppose.

Mr. Wall: So how many people are part of the Civic League?

Mr. Murphy: We have about 300 members, but there's contained family members as well. So it's more and then I've represent roughly 1400 of those are in Ocean Park. As I said, Pelican Dunes and Aries on the Bay have separate home ownerships and Baylake Pines is separate as well.

Mr. Wall: Okay, so this, this map represents Ocean Park.

Mr. Murphy: And Aries and Pelican Dunes, because they use the Shady Oaks Drive that comes up to the Marlin Bay intersection. So that's their main point of egress and ingress.

Mr. Wall: Where is Pelican Dunes?

Mr. Murphy: It would be on the top left for you. And is the green one, so the top left there put up.

Mr. Wall: Okay, so that's the Dunes up there.

Mr. Murphy: Yeah, that's way too. So it'll be at the end of Shady Oaks.

Mr. Wall: Okay.

Mr. Murphy: But they use that same entrance where the light is.

Mr. Wall: Okay.

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

Mr. Murphy: Thank you.

Madam Clerk: Our next speaker is Cole Trower and is Teesh Frazier here, okay, following Mr. Trower will be Cheryl McCluskey.

Mr. Weiner: Good afternoon, sir.

Mr. Trower: Good afternoon. It's a great day to be in the greatest city in Virginia in the entire country of Virginia Beach. My name is Cole Trower, I am a homeowner. At the age of 29, I bought my own home on the very street that he said that everybody is going to drive to and go to the beach, 3970 Aires Way; I have 10 years in the restaurant industry having experience as a waiter or bartender, even washing dishes. You know, it's not a glorious job. But you've got a lot of restaurants and folks on Shore Drive, that that's how they make their living. And I think a lot of my neighbors here; I might have served them an Orange Crush or Crab Dip once or twice. I also have 10 years of experience working – not 10 years of experience working for the City of Virginia Beach, one year of experience working for the City of Virginia Beach

briefly in economic development. And during my time for economic development, I focused on business retention and acquisition. And the City of Virginia Beach tax dollars, millions of dollars each year go towards business retention and acquisition. That's what makes our City great. We have great businesses, and people enjoy working here. One of the pillars of having economic development being so strong and when you are pitching these companies for the city is we sell them on our quality of life, and that we have places for their workers to live. And right now, young people in this city cannot find a place to live. I just got a text five days ago. Hey buddy, how's it going? I just moved back and I'm looking for a place near Chicks on Shore Drive. Do you know anywhere? I don't know anywhere. No one knows anywhere. We have all of these young people that go off to college. And then we say why don't they return? It's because number one, they don't have a place to live, that's affordable, that safe and nice. And I live and own a home, my girlfriend owns a home on the same street. And I am a member of the Aries on the Bay Civic League. And I was briefly the parliamentarian of the Ocean Park Civic League for a month or two wasn't a great job, trust me. So I will tell you this, it is not unanimous that this that are my neighbors don't want this development. You know, I think sometimes we get caught up in details and details are important. But I think sometimes we need to take a step back and look at the bigger picture here. Our city is growing. And that's a good thing. We have people that want to live here and work here. We must make a plan for those people to thrive in our city. Because, you know, it is our future and that's the decisions made here today will impact not only our residents, our businesses, and then also you know just everything how we conduct our daily life. And I would just encourage Commissioner Wiener's comments as I run out of time. I have been slandered, attacked and just vilified on Facebook and Next Door by some people sitting behind me that have just trashed anyone that would stand up just to say, Hey, I think this might be a good idea. And I think if that wouldn't have happened, some of my neighbors might be here today saying the same thing. I appreciate your time, your public service. And I hope that we have a good lengthy debate today on the issues and stay away from vitriolic attacks like we've seen on Facebook.

Mr. Weiner: Thank you for your comments. Any questions? Thank you sir.

Madam Clerk: Cheryl McCleskey followed by John Pharr.

Mr. Weiner: Welcome.

Ms. McCleskey: Good afternoon Mr. Chairman, Vice Chairman and members of the Planning Commission. For the record, my name is Cheryl McCleskey. Thank you for your service to the community and helping make Virginia Beach a well planned community. The McCleskey and the Browning families have owned property and Ocean Park neighborhood for over 50 years. The McCleskey family has allowed the public to benefit from the vacant open space during our ownership, including

the land that is now Pleasure House Point. My dream has been to fulfil my late husband's vision by developing quality, reasonably priced multifamily residential units that will allow new families to become part of this beautiful Bayfront neighborhood. We have teamed up with the Terry Peterson Residential, a family company with a stellar reputation and long term commitment to the community. John Peterson and Tuck Bowie are known for building high quality multifamily rental housing. We have also selected the well-respected Timmons Group to provide excellent project engineering and Cox Cleaver to provide design quality. Together we will create an engaging community of coastal living along Shore Drive. During this planning phase of the project, we have listened to the concerns of the neighbors and government officials and that is why we reduce the density from 227 to 197. The current zoning allows us to develop a full scale commercial and retail business without any further permission from the city government. However, we think the highest and best use of our land, our company and our community is to build multifamily housing. As you know, the housing stock in Virginia Beach is down significantly from last year for both single and multifamily housing. This development will provide reasonably priced apartment rental properties that are needed for the citizens. The city's economic impact report shows that this rezoning will have a \$3.78 million net positive impact over 20 years for the city, very rare for this kind of development project. The traffic impact study demonstrates that there is a reduction in traffic from uses allowed under the current zoning. The combined average daily trips for our current business zoning is estimated to be 2074. However, if we build 197 multifamily units, the number of average daily trips will be an estimated 1448, which is 30% less than the use is allowed under the current zoning. We have also exceeded the requirements for the number of parking spaces for residents to prevent parking on neighborhood streets. Parking will be shielded from the street. The school's impact study shows our project will have minimal amount on schools.

Mr. Weiner: Thanks you're your comments, any questions for Ms. McCleskey.

Ms. McCleskey: I just want to say based on all these comments along with Planning Staff recommendations for approval on behalf of my company and our trustworthy building partners we ask you to approve our application. Thank you so much.

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

Ms. McCleskey: Thank you.

Madam Clerk: John Pharr followed by Andrina Fisher.

Mr. Weiner: Welcome, sir.

Mr. Pharr: Good afternoon. All right. Thank you for giving me a couple of minutes to speak today. My name is John Pharr, and my family lives at 2105 Woodlawn Avenue. We've been there 11 years and can't imagine being anywhere else. The appearance, character, and longtime residents are some of the many reasons why we love Ocean Park. We value our privacy but welcome many to our Bayfront community. It's an excellent flow that is currently manageable. Change is inevitable in life. Many of us are asking for change that is reasonable and considerate of our beloved Ocean Park. The current Marlin Bay proposal is too aggressive and too dense for many residents. Multi story housing complex is the exact opposite of our single family homes. I believe many of us are asking to be heard. And frankly, just want to find somewhere to meet in the middle. Thanks for your time.

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

Madam Clerk: Andrina Fisher followed by Mike Wills.

Mr. Weiner: Welcome.

Ms. Fisher: My name is Andrina Fisher, my husband and I own the townhouse at 3836 Ocean Tides Drive. When we purchased the townhouse a little over three years ago, we thought that the lot behind our home would not remain empty forever. We thought eventually the boat dealership would expand or perhaps some additional townhouses or duplexes would be built. Never could we have imagined that someone would have the idea to build a four story nearly 200 unit apartment complex right in our backyard. If you look at the plat map, our townhouse is the last end unit on the left side of Ocean Tides Drive. I've stated in my previous letters to all of you that our home would arguably be one of the most negatively impacted, should this project be allowed to move forward. The apartment complex could potentially reach heights of 50 feet or more. The developer plans to build a street directly behind our fence where no street currently exists, and trash facilities would be built close by. They also plan to close the cross over to Ocean Tides Drive. What does all of this mean for us and our neighbors? It means that we would no longer enjoy any privacy in our backyard. It means the apartment building due to its towering height will likely block most of the early to late afternoon sunlight that we currently enjoy. It means constant traffic noise from apartment residents, visitors and service vehicles entering and exiting the complex. It means light pollution at night and noise pollution all hours of day and night. We can currently access our street by turning left off of Marlin Bay Drive. But once the project is complete, we'll have to drive up the road and make a U-turn to get to our house. I don't consider that a small inconvenience. I also fear the value of our home will be negatively impacted if this development is approved. We don't want to sell, we love the charming character of the neighborhood. But the apartment complex would destroy the character of Ocean Park. I assume that many of you live in single family homes. And I'd ask each of you to imagine how you would appreciate a project of

this size being built right behind your backyard. I've noticed that those speaking in favor of it don't live directly next to it like our home is. Can you honestly say that this wouldn't negatively impact your quality of life or the value of your home? I'd ask you if your role in the planning commission is primarily to further the interests of developers or are you also here to protect the interests of the residents that would be negatively impacted by a development of this size? I hope the latter is also true. We aren't against appropriate development. But the proposed Marlin Bay apartment complex does not fit in the existing footprint. Hundreds of residents have reached out to you and asked you not to approve this project. Please listen to them and to us and vote no, thank you.

Mr. Weiner: Any questions?

Ms. Oliver: Do you mind using the pointer and pointing right where your house is placed?

Ms. Fisher: Okay, I haven't used one of these before.

Ms. Oliver: It doesn't work very well. I don't think.

Ms. Fisher: Which button? I've got it backwards. Oops, I must have forwarded, sorry. I don't see a red button. Hang on. Okay, get the slide back and I found the red button. We are right here. So the shadow from the 15 foot tree line that they spoke about is ironically longer than the shadow from the building which could be 50 feet. So you can imagine that the shadow actually that would be cast by this building on our property is going to take all the sunlight.

Ms. Oliver: So explain to me just because I don't – why you have to make a U-turn?

Ms. Fisher: Because currently when you come from Marlin Bay along here, you can turn left in the Ocean Tides Drive. There's a little median strip, median strip. But the plan is to close off this median strip to create an access into the street that goes to the apartment complex. At least it was at the first plan that I saw. So right now it's an empty lot and I understand, you know, an empty lot won't remain empty forever. But you see they're building – they're planting trees directly on our fence line. Where currently there aren't any trees and there'll be 15 feet high. That's closing this in my opinion. And then you have the residents here and the four stories which I imagine they're gonna have to build up, you know, about seven to eight feet above the current elevation and then build on top of that four stories. So we'll have people that live here and here, looking directly into our backyards and into our windows.

Ms. Oliver: I would imagine that's why the trees are there.

Ms. Fisher: Trees are only 15 feet high. The building could be close to 50-55 feet high.

Ms. Oliver: Thank you.

Ms. Fisher: Any other questions?

Mr. Weiner: Thank you, ma'am.

Ms. Fisher: Thank you.

Madam Clerk: Mike Wills, followed by Carley Swift.

Mr. Wills: Good afternoon Commissioner, Planning Commission members. My name is Mike Wills and I appreciate the opportunity to speak to you today about this application. I moved into Ocean Park back in 2000 and into a duplex condo. So I've been in there over 20 years, love the neighborhood, but we have seen a lot of changes, and it's getting more and more dense and nowadays, it's summer weekend, you can barely drive your car down the road, you know, with cars parked on both sides of it. So it's changed a lot. And, you know, and there are many reasons why, you know, we're opposed to this. I'm personally opposed to it, you know, number one you've heard is the density, I just don't feel that it's compatible with the existing neighborhood, and not in compliance with the Comprehensive Plan in the Shore Drive Corridor District. And by all means, I'm not against growth and redevelopment, I really feel like this property is prime for redevelopment, but it needs to be done within the existing zoning rules of the property and does not warrant the change. I owned a heating air conditioning electrical contracting business does a lot of new construction. Like I said, I'm all for growth and smart development. But it needs to be at the right and the right place, and not at the detriment of the existing property owners that have lived there for a long time and made Ocean Park their home under the current zoning regulations of this property as well as their own. So it needs to be developed within the existing densities of the surrounding community. And just to give you a couple of examples, you know, talk is cheap, but I want to give you a couple examples of where I personally and as well as the community put our money where our mouth is. Back in 2004, I was lucky enough to find another property in Ocean Park, a duplex, basically a duplex rental property that built in the 50s. And I decided to tear it down and build a single family home. And that's where I reside today, you know, of course, I could have put another duplex on it and made quite a bit of money. But I didn't think that was the right thing to do. We didn't need more density in Ocean Park. Then as an executive member of the Ocean Park Civic League, which I served on for many years, back in 2006-2007, we sold the old Fire and Rescue building and property that we owned in Ocean Park and again zoned R-5R we could have sold it you know to a developer let him put in a duplex on it. But we decided to put a deed restriction on it that could only be redeveloped as a single family residence. And so thus, we took a much lower value for the property than we could have otherwise received. So I asked you to please don't condone the smoke and mirrors, you

know, scheme to include property in this whole proposal that isn't even part of the redevelopment and do not approve this application as proposed. Thank you.

Mr. Weiner: Any questions?

Mr. Inman: Yes. Can you tell me, didn't you mention that there are a lot of cars parking along Marlin Bay Drive?

Mr. Wills: No, not necessary Marlin Bay, I live on the other side of Shore Drive but like along Powhatan, where I come in and out of my section of neighborhood. There are cars every weekend parked on both sides; you can barely get your one car down the middle of the street. It's gotten really bad.

Mr. Bradley: Does that relate to this development?

Mr. Wills: Well, I just think, you know, with all these apartments, you're gonna have lots more visitors to the area. Obviously the people that live there are going to have visitors and they're just gonna, they're gonna be inviting people to come to the beach, obviously and just to put a continuous strain on the parking that's available in Ocean Park.

Mr. Inman: In what ways does the design or the proposal for this project not comply with the Shore Drive Development Guidelines?

Mr. Wills: Well, it says it should be within the existing character of the surrounding neighborhood, essentially and existing density which is far exceeds the existing density. And it's not in character with the rest of the neighborhood. There are no other apartment buildings in Ocean Park. It's all townhouses, duplex you know, things of that nature, single family homes.

Mr. Inman: Okay.

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

Mr. Wills: Thank you.

Madam Clerk: Carley Swift followed by Andrea Lindeman.

Mr. Weiner: Welcome.

Ms. Swift: Good afternoon. Thank you for your time. Thank you for hearing our comments. I would like to highlight a few points.

Mr. Weiner: State your name for the record.

Ms. Swift: Oh, I'm sorry. I'm Carley Swift. I'm an Ocean Park resident and business owner for 31 years and oppose this project in its current plan. So I'd like to reiterate and highlight a few points from Faith Christie's letter that you may have received on September 1st, who, as you probably know, has been a previous worker for the City Planning and also helped with the Shore Drive Corridor Plan and participated in the BAC. We are not opposed to development for these properties. We would like to see these properties developed with a project that complements the surrounding residential areas. And as you have indicated in your previous report, this area is identified as a suburban focus area in the Comprehensive Plan. A plan that recommends low dense, low to medium residential density and development of structures that are complimentary to surrounding uses. A proposed development of a four and a half story building with 197 units contained within it is not low to medium density, low to medium density is 12 to 18 units to the acre, which is keeping of the existing densities in the area. The proposed height and bulk of the building is not complimentary, or in keeping with the existing residential or commercial uses in the area, and the height and size of the building will overwhelm the existing residential uses. The proposed reduction of impervious areas indicated in the report looks good on paper. But until the proposed improvements, including stormwater management are made to this section of Shore Drive, there will be increased problems with drainage and flooding. This section of Shore Drive, as I'm sure you currently know, is currently under design review. And the project is expected to begin possibly in 2024, maybe 26 or 27. The Shore Drive Corridor Improvements Phase 3 were scheduled in 2019 and have not begun. So filling a site to accomplish a seven foot elevation will cause adjacent properties to flood. Thank you for your time, appreciate.

Mr. Weiner: Any questions? Thank you.

Ms. Swift: Thank you.

Madam Clerk: Andrea Lindeman followed by Mark Faust.

Mr. Weiner: Welcome.

Ms. Lindeman: Thank you. My name is Andrea Lindeman. And I live in Ocean Park. And I want to be brief; I just want to make two points. Because you'll hear this the very same points probably. It strikes me every time that I drive home down Shore Drive; I drive by Marlin Bay Drive where Pleasure House Point comes all the way to Shore Drive. And it strikes me the sheer length and mass of this proposed building. And then I learned something from Mr. Dao's report, it gets worse. The buildings will in fact be taller than four and four and a half stories. In order to construct the stormwater detention system, the site will need to be filled in to an elevation of seven or eight feet above sea level. And so the measuring of four or four and a half stories, will

start from that elevated level. This is again, just a demonstration of the massing of the building, which goes against the Shore Drive design guidelines. The other thing I would like to say so this building will dwarf its surroundings. And so what are these surroundings? This location is not a blank slate; it's in the middle of Ocean Park. And I feel like the staff report that we read kind of glosses over giving this figure of 31.77 density. This is a huge increase over other recent projects. And so I went back and I looked at some of the staff reports for two recent projects that were okayed for Shore Drive. And they use the language of the Comprehensive Plan, talking about infill development, that infill development should be at a density that's compatible with the surrounding area. So at 3746, 3744 Shore Drive came in at 14 units per acre, 3739 Shore Drive came in at 17.4 per acre. And the staff reports use the language in the Comprehensive Plan about to justify the approval saying that this had to be compatible with the surrounding area. So I just want to say that we chose Ocean Park because it had atmosphere, history and personality. And I think that this has value not only to the neighborhood, but it has value to Virginia Beach City, to preserve this kind of neighborhood. It's blinking. So I hope you will listen to the language of the Comprehensive Plan.

Mr. Weiner: Thank you very much ma'am. Thank you for your comments, any questions? Thank you.

Madam Clerk: Mark Faust, followed by Debbie Cohen.

Mr. Weiner: Good afternoon, sir.

Mr. Faust: Good afternoon. Thank you for your time ladies and gentlemen of the Planning Commission. I'm Mark Faust. I've been a resident of Ocean Park for over 30 years during this time has grown as a vibrant neighborhood with wonderful blend of families and individuals. This proximity the natural area, the beach, local businesses, as well as being in a great school district make it a very desirable place to live. I'm strongly opposed to the proposal. I'm strongly opposed to the Marlin Bay apartment development. I'm concerned with the sheer volume of people in autos that will impact the neighborhood adversely. The traffic on Shore Drive at the proposed area is already overwhelming, including recent fatalities of drivers and pedestrians. Right on the corner of Shore Drive and Marlin Bay, a pedestrian was hit not long ago. As part of the Civic League that assists the Adopt-A-Spot that cares for Pleasure House Point, I've seen the impact of the increased use has in this fragile environment. Lots of trash, had fences and the disturbance of wildlife. Along the street there on Pleasure House Point side, it's only parking till, you can't park after dark. So everyone is supposed, if there's overflow of parking, they're not allowed to be there after dark, it is all going to be on this side of the street maybe, that's another concern. It's a wonderful place for people with families just starting out and growing, retirees and pretty much everybody in between. In my opinion, a high density project with almost 200 rental units will undoubtedly tip the balance of

the neighborhood in a negative and permanent way. And I urge you to say no to this project. Thank you for your time.

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

Madam Clerk: Debbie Cohen, followed by Todd Goforth.

Mr. Weiner: Welcome.

Ms. Cohen: My name is Debbie Cohen. And my husband and I live on Pendleton Avenue near Marlin Bay and Shore Drive. I've never been at a meeting like this, so little nervous. But I wanted to speak because I'm very concerned about what the proposed development will do to my neighborhood. My husband and I moved here a few years ago and we decided we wanted to live off a Shore Drive. We just fell in love with the area. We're really happy living here. We'd love walking at Pleasure House Point and in our neighborhood and going across Shore Drive to go to the Bay. It's like perfect location. But um, main thing, I mean, I support what the others have said the Ocean Park Civic League and the other speakers have said in opposition to the project. But my main concern is definitely like there's a lot of, there's a lot of units proposed in this apartment complex. And seems like a very high density compared to what I've seen in the surrounding areas. And also, recent development I've seen on Pendleton Avenue and in my area has all been three story townhomes and much, much lower density. I'm very concerned about having so many additional units coming into that small property. The other thing is I'm looking at the Bay Area Advisory Committee, which I think understands and supports our special Shore Drive community, they voted in opposition to the project. They indicated that there needs to be a reduction in the height considering the two story townhouses adjacent on Ocean Tides Drive and also saying the project is not congruent with the existing Shore Drive corridor guidelines and Comprehensive Plan and therefore they recommended denial of the application. So you know, as others has said, I'm not against development of the property. I just hope that whatever development it will preserve and protect our community, our neighborhood community. I appreciate your time and consideration. I know a lot of people are talking and sending emails letters, and I appreciate that you consider them all.

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

Ms. Cohen: Thank you.

Madam Clerk: Todd Goforth, followed by Todd Solomon.

Mr. Weiner: Welcome.

Mr. Goforth: Good afternoon. My name is Todd Goforth. I live at 3850 Ocean Tides Drive. My wife and I own a townhome there. And this development would back up right to our property line. Therefore, vehemently oppose the development. I've lived in the neighborhood for over 15 years. And just to flush out what everybody's been saying, there are so many people in our neighborhood that have been there for a decade or longer. We're very tight knit community. Most people don't know we don't have an HOA, Homeowners Association. We police ourselves and take care of what we have. And if you look at the field that they're talking about, there's no trash dumpster, no you know, broken down cars or anything. Our neighborhood does a really good job of taking care of itself and policing itself. I live at the end of Ocean Tides. That is by Pleasure House Point. And that takes me back to when Pleasure House Point was under question from another developer Fineman. The Sandlers came and made a great presentation, was an elegant speaker, great presentation. But the big elephant in the room has always been density, density. I don't care how great your presentation is, who you are, how much money you have? Its density that is the problem. Now to put a personal thing out if you live in our neighborhood long enough, you know about the young woman that died crossing the intersection there, it's Shore Drive and Marlin Bay, you know about people have been hurt. Now, as I look at this, the crosswalks, if people are gonna go to the beach or going to go straight across, they don't typically go down to the crosswalks. On a Saturday, traffic is tremendous on Shore Drive, people going to the beach. And the other thing that Mark Faust brought up, he's my neighbor across the street. If you look at Marlin Bay Drive, Pleasure House Point, what a fantastic thing that the city did along with other people. During the day, you can park on Marlin Bay Drive and access Pleasure House Point. But after dark, you have to move your vehicles, there's not supposed to be anybody in Pleasure House Point after dark. Therefore, it's an excellent opportunity if you live in those apartments, you come home, you can't find a parking spot where you gonna go, you know, the cars are leaving after dark especially in the winter, there will be cars lined up and down there. I see it on the weekends, there's cars lined up and down there already on the weekends, doing what we hoped they would do accessing Pleasure House Point. And the last thing I want to say, the beach. We all live around here. We love the beach. The density at the beach has got tremendous because we had no sand replenishment. What's that have to do with? Well, you have so many people where we can't watch kids anymore. It used to be there's just one person you had an open view, now that you're so crowded, you can't see the little kids anymore. And I would hate for that to be the straw that breaks the camel's back when some kid, we can't find them, or they get injured because there's so many people in that beach. And who knows when we're getting sand replenishment with COVID going on. So that's all I have to say.

Mr. Weiner: Thanks you sir, any questions?

Ms. Oliver: Yes, sir, and I just want to ask a question, because you're the second gentleman to mention the parking along Marlin Bay Drive in the dark and stuff, I'm trying to figure out what that has to do with the actual apartment complex because they have their own parking garage. So these people that live in the apartment building are obviously going to utilize the garage. So I'm just trying to, I'm trying to figure out.

Mr. Goforth: You are correct. In a perfect world, they have planned to the hilt. And anybody that comes to visit or lives there has his parking spot in the garage or that I'm just saying typically weekends everybody that you know when you move to the beach wants to come visit you, holidays, wants to come visit you. All of a sudden you got friends that you never knew you had and if you don't have a place to park and you see all this open spot, you know you're naturally going to park there.

Ms. Oliver: Okay.

Mr. Goforth: So that's my comment and it already happens now for people that come in our neighborhood can't find a spot park on there after dark.

Mr. Weiner: Any other questions? Thank you.

Madam Clerk: Todd Solomon, followed by Windy Crutchfield.

Mr. Weiner: Welcome.

Mr. Solomon: Good afternoon. My name is Todd. Hope you don't mind, I'm gonna keep my mask on. I was with 68,000 crazy Hokie fans this past weekend, so for your benefit, right, I don't want to get you if I am, so I'm not gonna pass it on. My name is Todd Solomon. I live off of Shore Drive. I'm representing the Shore Drive Community Coalition. I'm here to ask for your opposition of this project. At our May 24th meeting, the Shore Drive Community Coalition voted to oppose this development as it stands, again not opposed to development per se, but the density of this development. I've been up here many, many times talking about density on Shore Drive. So this isn't something new that you're going to be hearing about. However, some of the items are specific of the reasons behind the decision points of this one that are different than others. You did hear Ocean Park Civic League did vote to oppose this. The Bayfront Advisory Commission also voted to oppose this development. In the ULI study, which was 1997 study that kicked off all the Shore Drive Corridor plans, which you all know about, it does state specifically in there that the communities of Ocean Park and Chicks Beach, where zoning allows a transition from single family to duplex or higher density units, attention should be paid to the results of this intensification. The density of new developments in this area should not overwhelm these two communities, which have made fine homes and neighborhoods for their residents. Again, density, overwhelming, these

questions, these words, are used throughout. Staff has shown you on the properties all adjacent to this. If you've noticed they all were B-2s at one time rezoned, removal of commercial property to add higher density developments. All the B-2s along Shore Drive are going away. I understand it's mentioned in here about over commercial, don't over commercialize Shore Drive, I don't think they really meant remove all commercial property and make it all residential. I may have missed that in that discussion. Again per staff, the Comprehensive Plan recommends and you heard it before, future residential uses should strive to achieve the lowest reasonable density to be compatible with existing residential densities. There's no way that this is compatible with the adjacent densities. The largest density right across the street north of Shore Drive, A-18. And the last one I found most interesting, the City Code states for apartment zoning, that it is not the intention to create additional A-24 or A-36 districts. This is an A-24, actually is 31 and a half, something like that. But anyways, if you follow your apartment district code, you shouldn't go above A-18, which is similar to the zoning across the street. So worst case, knock it down to A-18, reduce the densities, sounds like everybody else would be happy with that, reduce the size. If you want to see a structure that's going to be very similar to this, Pine Well Station up on East Ocean View. Look at that, that's 145 units. Massiveness of that does not fit that neighborhood.

Mr. Weiner: Thank you, any questions? Okay. Thank you.

Madam Clerk: Windy Crutchfield, followed by Amanda Logsdon.

Ms. Weiner: Welcome.

Ms. Crutchfield: Thank you. My name is Windy Crutchfield. And I wanted to say thank you for the opportunity to share my observations and raise my concerns for this project. I have owned a townhouse adjacent to the property since 1992. It's on Ocean Tides Drive. And I wanted to refer to the Comprehensive Plan in my remarks, it's specified in the plans that the council should or the city should advance the interests of the larger community rather than simply responding to the needs of individual property owners. And you can see that the neighborhood has been very unified in their objection to the current proposal. Being that I've had the house across the – town house across the street since 92. I do know that there is a dog park that's there. It's been used by the Mariners Landing neighborhood, it's maintained as a previous speaker was saying, we are very good about maintaining our properties around here. We take care of it, mow it, trim the trees, supply dog waste bags and take the trash to the street weekly. Neighbors used it to bring their dogs out for a stretch when they get home from work. And also neighbors use this path as a crosswalk to or path to the beach. So they actually can see where they would go right through the paper street of Ocean Tides to Shore Drive and then use the crosswalk. So by eliminating that, you are actually taking a public use and changing it to strictly private use. The Comprehensive Plan says that the city should preserve or further

enhance the existing residential areas and amenities and Marlin Bay apartments does exactly the opposite. Being a witness to several storm events, there is actually no flooding or drainage issues there. The developer continued to say that the area is 100% impervious. But that is not true and I submitted pictures that show how much green space is there and there's never been a flooding problem there. Also that the development will more than double the density of any parcel in Ocean Park, we've got the expansion of Windsong Apartments, Westminster Canterbury, Point Overture isn't at full capacity yet. So we have all of that to add to the problems with traffic on Shore Drive. So I just wanted to wrap it up by saying it's, this is a stark contrast with the City of Virginia Beach's Comprehensive Plan, and the City's goal should be to protect the vitality of this area.

Mr. Weiner: Thank you for your comments, any questions? Thank you.

Ms. Crutchfield: Thank you.

Madam Clerk: Amanda Logsdon, followed by Matt Thompson.

Mr. Weiner: Welcome.

Ms. Logsdon: Thank you. As an Ocean Park resident and former real estate developer.

Mr. Weiner: Ma'am, can you state your name for the record, please?

Ms. Logsdon: I will. For the record, my name is Amanda Logsdon. As an Ocean Park resident and a former real estate developer, I think I can offer a unique perspective to the Planning Commission. And I appreciate your time this afternoon. I was born and raised in Virginia Beach and grew up as a devoted resident in service to the community. After graduating from high school and university over 20 years ago, I moved to Northern Virginia to pursue a career in commercial real estate as both a construction and development manager. I have built over 2.5 million square feet of mixed use real estate, studied planning and place making with the Urban Land Institute, and most recently developed and operated a luxury apartment and mixed use building in Arlington, Virginia with 591 apartment units that both complements and supports the surrounding neighborhood. Last year, I moved to Virginia Beach and currently work as a general contractor in the federal space, both at Norfolk Naval and at Little Creek. In April of this year, I purchased a single family home at the corner of Powhatan Avenue and West Stratford; thereby both working and living along the Shore Drive corridor. I believe in smart, strategic, sustainable urban growth. But as currently designed, I cannot support the Marlin Bay development for the following three reasons, parking, egress and storm infrastructure. Parking, currently planned density and parking ratio are not sufficient to support the future apartment residents and their guests. The Three Ships development across the street at a much lower density cannot support the current residents and already

overflow onto West Stratford and the surrounding streets. Coupled with public visitors and to the Bay and the Brock Center, the neighborhoods on both sides of Shore Drive will not be able to withstand the added cars from Marlin Bay. This will create more pedestrian safety issues within the neighborhoods and across an already dangerous Shore Drive much like the issues at Marina Shores and Great Neck Road. Egress, the proposed Ocean Tides Drive as egress for the apartments in addition to the Marlin Bay Drive. This intersection is already dangerous and without a streetlight and crosswalks will add to the congestion and danger at Shore Drive. Egress should be limited to entering only at Marlin Bay Drive, or a streetlight should be added. My home for storm infrastructure is one of the original houses to Ocean Park and sits at the lowest elevation in relation to the new development at West Stratford. I think that stormwater tension vaults at Marlin Bay should be increased to support the community's need. In summary, I think that the proposed density is not commensurate with the real residential area, at this portion of Shore Drive. And while I don't oppose multifamily mixed use development, I would ask that the Planning Commission and the stakeholders continue to work with the neighborhoods on these concerns to create a successful project.

Mr. Weiner: Thank you for your comments. Any questions? Thank you.

Madam Clerk: Matt Thompson.

Mr. Weiner: Welcome.

Mr. Thompson: Good afternoon. Thank you for your time. As for the record, I'm Matt Thompson. I raised my family in Ocean Park with my two daughters and one is a Hokie and one is a Duke now. I can just tell you since 2014, when I moved to Ocean Park, it doesn't resemble the same neighborhood. It's disheartening to see the number one the traffic that resembles more like Northern Virginia than Virginia Beach. And that's not an inconvenience to me. I can choose where I live. But it's dangerous. And you have seen as one of my neighbors pointed out very acutely, there's been an uptick in accidents. And it's become very dangerous. In addition to that, the development of these massive structures, and I would point to, and I'm not sure the name of it, the one east of the Lesner Bridge, which, after the Lesner was rebuilt, and put in there has blocked, it takes away from the aesthetic beauty of the area. So it's a situation where we're trying to get our cake and eat it too. And so, I also oppose this not because I oppose this property being developed, but because I oppose it based on the way it is written and being presented. One, it does not meet the definition of rezoning on a conditional permit. Nowhere in this proposal, can I see any criteria that meets mixed use, and as my neighbors have pointed out, the density. The density is a massive issue, and so to your question Ms. Oliver about the Marlin Bay Drive, when everybody brings their friends over for Floatopia, that's where they're going to park. And that's a problem for our neighborhood. So, with that being said, we are certainly open, we understand that this is valuable

property, but we would like done in a responsible manner. So thank you for your time.

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

Madam Clerk: Are Scott or Gaynelle Ayres here, or Phil Rous?

Mr. Weiner: Please come up, sir. Please. And what was your name? I am sorry.

Mr. Ayres: My name is Scott Ayres. Yeah, I got an email reply. Good afternoon. My name is Scott Ayres, and I've lived in Ocean Park for 35 years. First of all, I would like to thank you for your service. Having volunteered to serve on the Bayfront Advisory Commission for over 20 years, I understand the commitment you make to promote the city's growth to benefit the residents and our future generations. A number of years ago with the assistance of the Planning Department and the City Attorney's Office and assisted, we assisted City Council in formulating a plan for the future development of Shore Drive, as was one of the key recommendations of the City funded ULI study. The Shore Drive Corridor Plan and its designed guidelines were approved by the Planning Commission and City Council. The BAC was also assisted with this process by their liaisons from the Planning Commission and City Council. With their assistance, the plan and the guidelines were approved and made part of the City Comprehensive Plan. With the plan that BAC and the Planning Department now had a mechanism to guide the City's vision for the Shore Drive Corridor and enforceable code to follow, not one to be bent to fit the applicant's needs. Following the design guidelines meant consistent application of the principles for growth within the most densely populated corridor in the city. It is my opinion that the application you're acting on today is in noncompliance with the in place ordinances that were designed to govern growth within the Shore Drive Corridor, and specifically Ocean Park. With the exception of plan review by BAC, there has been no attempt by the applicant to sit down with the Ocean Park community and in good faith discuss what kind of project might benefit the community and the applicant. The applicant's answer to density has been if we don't get this many units to the project, it's not economically feasible. I asked the question whose problem is that? Certainly not the residents of Ocean Park. Ocean Park is not anti-growth or anti-development. The fact is the community looks forward to the development of the property but not as presented today by the applicant. Another fact is that directly across the street from the applicant's property sits a mixed use property. It's the only mixed use property in Ocean Park built and approved under the current guidelines. At first, it did not have the community support. But with the input from the community, Planning staff and the developer the design guidelines were followed. And the community supported the project. The developer followed the Shore Drive guidelines for mixed use. Why shouldn't today's applicant do the same? In my opinion, today's application under the mixed use guideline is a ruse. Virginia Beach, although a very young city...

Mr. Weiner: Thank you for your comments, any questions? Thank you, sir.

Madam Clerk: Mr. Chair, I believe that's the last of the in person speakers. We have two WebEx speakers remaining. Is there, what's your name? Oh, come on up. Sorry. I'm sorry. I apologize.

Mr. Weiner: It's fine, no problem. Welcome, ma'am.

Ms. Ayres: Good afternoon. My name is Gaynelle Ayres. I've lived at 3780 Jefferson Boulevard. As my parents did, as my grandparents did, so we've been there for almost 100 years. Ocean Park in the 50s didn't have running water. We didn't have city water. We did get, we had dirt streets, but no public services, fast forward to 2021. We now have city water, but an antiquated sewer and storm sewer system, along with narrow streets, that during an emergency, fire trucks, ambulances have a very difficult time getting by and that's on both sides of Shore Drive, not just on the Bay side. The Bayfront Advisory Committee did a study in 2011 and found that that corridor, Shore Drive Corridor had the highest residential real estate tax assessment per acre in the city. Interestingly, the least public school students per acre that's a big revenue winner for the city. Ocean Park platted in 1912 is one of Virginia Beach's, historic neighborhoods, and one the city should be very proud of. Ocean Park deserves better than the proposed Marlin Bay. On August 3rd 2021, City Public Works issued an update on Phase Four of the Shore Drive Improvement Project. The update states that the existing Ocean Park stormwater system is inadequate. You can ask the project manager Bill Purcell, who says Ocean Park needs major stormwater upgrades. The report states Phase Four will start and maybe start in 2026 and be completed by 2029. Phase Three time schedule, if Phase Three time schedule is any measure of accuracy, Ocean Park will be lucky to see the completed improvements this decade. Without completion of Phase Four, Ocean Park could be devastated by a storm like Ida that we just had. I remember being carried out on an army dock during the Ash Wednesday storm when our house fell in the water. I don't wish this on my family or anyone else's. Marlin Bay would nearly double the number of Ocean Park residents on the south side of Shore Drive and put unbearable strain on the existing Ocean Park infrastructure. And that could easily accelerate the failure during a major storm. This is something we all have to address. Consideration of the project at best should be deferred until the project until Phase Four is complete and environmental study is done.

Mr. Weiner: Ma'am, thank you for your comments. Appreciate it. Thank you. Any questions?

Ms. Klein: No, but I love your glasses. They look good.

Ms. Ayres: Oh thank you.

Madam Clerk: Is Phil Rous here, R-O-U-S? Okay Terry Browning.

Mr. Weiner: Good afternoon.

Mr. Browning: Good afternoon. My name is Terry Browning. I am the owner of 3829 Shore Drive along with my two brothers. My parents purchased this property nearly 50 years ago to run our family boat business. We've been in business since 1955 and 20 years into business, we moved to Virginia Beach, we saw the opportunity for growth. Our customer base was here in Virginia Beach, and we could expand our business. We've been operating in Shore Drive. We bought this property as it was look like a viable financial move for my family; we were able to afford this property by selling boats and being in the boat business. We've owned this property; we tragically lost my parents in 1999 in a plane crash. My brothers and I have had to run this business since then. And we found it very difficult now in going forward to support three families out of the boat business. My father and mother bought this property knowing that was going to be our future going forward. And we have lived through all the zoning changes and changes in the City of Virginia Beach. We have owned a beach cottage on Surry Road since 1951. Our family has spent summers in Ocean Park. And as you can imagine, Ocean Park looks quite a bit different now than it did in 1951. But as with everything, we know that things change, laws change, and we move forward, us as property owners tried to deal with these changes and conform to what's asked of us to develop our properties. We're at a point in our property now that we need to move forward and go from where we are now and develop this and try to pick out something on this property that we felt was good for our family and our future, our children, our grandchildren, and was good for the Ocean Park community. We have many choices of many things, we could do on our property. My property is zoned B-2. And I can do quite a few things on that. And soul searching and doing research on this, we felt like this was the best solution we could to go forward to be financially viable for us. I'm just a land leaser in this deal. I'm not the builder. But this is going to take care of my family in future years. And I know people are opposed to change, but change happens. And I want to thank you for consideration of this. And I feel like we need to move this project forward. I think this is the best we can do with this property. And with the rules they change now and the infrastructure needed, it does take this to build to be viable, financially viable.

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

Madam Clerk: Mr. Chairman, I believe that was our last in person speaker. We have two WebEx speakers remaining, Kim Mayo, followed by Martin Thomas, Ms. Mayo, if you would please wait two to three seconds and then state your name and begin your comments, please.

Ms. Mayo: I'm Kim Mayo, and I oppose this. I'm not personally against all development or change. I've lived many places including our Shore Drive Corridor for over 25 years. But I am against over development and its unintended consequences. Some on our Planning Commission unfortunately have a reputation for favoring big developer interests over citizens, especially in our neighborhood. Let's let McCleskey build under by right zoning. It would have far fewer negative consequences on our community. Those negative impacts include burdens on police given the current staffing shortages, increased pollution, noise, infrastructure challenges more traffic and impacts on our quality of life. Per my expertise as a conservationist, often the cost of development outweigh the tax benefits and I'm talking about actual dollar costs here, not just hidden costs. After Windsong and Tower of Westminster people are fed up. Residents having their sunlight blocked and rights infringed upon. My dear friend, a retired local college professor had a multi-story condo built right next to her property. Her charming cottage was literally engulfed by it. After 40 years of living there live oaks were ripped down, birds she loved so much disappeared. We can hardly turn our car around in her driveway anymore. And I truly believe the stress from this contributed to her stroke. That's what's happening. Her story needs to be heard. Who is protecting the rights of existing property owners. Specific to Marlin Bay apartments, I agree with civic leaders of Ocean Park and many surrounding communities and this is not in keeping with our master plan regarding density for Pleasure House Point or the Shore Drive overlay. Four and a half story buildings and 197 units is not low to medium density which is 12 to 18 units per acre and in keeping with the surrounding area. The proposed height and giant building size is not complimentary or in keeping with residential or commercial uses in the area. The height and size will overwhelm existing residential uses. Expert testimony from one of your own former planning council members as we heard shows the property across the street first came in as a four story building. The developer was asked to redesign the project to be consistent with the surrounding area, Staff cannot support the proposal. Why then should McCleskey get special treatment? Regarding Pleasure House Point, how would this high density development in a flood zone be complimentary? Our tax dollars have made a huge investment protecting this open space gem. The master plan reads quote "ensure that any development is complimentary with regard to both design and land use to our natural resource and open space amenity Pleasure House Point." It clearly is not. Based on my expertise on open space the idea of building high density developments is not in keeping with the surrounding area that about conservation land without proper environmental impact studies is not a best practice. Many who use Pleasure House Point have dogs and more fences with strain and further pollute our Lynnhaven River. I like seeing stars and not bright lights. Many other cities require the mitigation of light pollution on new development.

Madam Clerk: Our final speaker today is Martin Thomas. Mr. Thomas, if you would wait two to three seconds and then please state your name and begin your comments.

Mr. Thomas: Hello. My name is Martin Thomas. Thank you for the opportunity to be here, and I appreciate all your service. I know what it's like to serve on a public body. I know the challenges, often thankless; I've been a resident of Ocean Park for 60 years. I live on Roanoke Avenue. I'm not going to go over. I'm an attorney. And luckily everybody else has already said most of what I wanted to say so you don't get bored by another attorney. But I would like to comment on a couple of the aspects. As Mr. Solomon pointed out, you know, the Bayfront Area is unique in and of itself. But the ULI study singled out Ocean Park as being a different character than the rest of the Bayfront community. And it recommended that we not engulf it by having multi use, I mean multifamily projects that are incongruent with the duplexes and single family homes that primarily occupy Ocean Park. One of the members of the Commission mentioned that there was a lot of abandoned retail in the area. That doesn't exist on the west side of Lesner Bridge, which is Ocean Park. There are no abandoned retail places along there. And quite frankly, I'm not opposed to development. And I've wanted that lot developed for a long time. But I like to see real mixed use development. I'm not opposed to apartments either. But this is not a real mixed use development. This is tacking on a boat existing business to call it mixed use. It's not adding any retail. Why not have a mixed use on this lot, have some retail with some other parcels above it. One of the reasons that it's been difficult to develop retail along Shore Drive is because the commercial lots are so shallow. This is a deep lot that would allow for a lot of different uses in commercial vein, including mixed use. And I appreciate the opportunity to talk. I don't want to go over what everybody else has said although I agree with most of what they said. I just urge you to consider the ULI study and consider the impact on this neighborhood which is a very unique neighborhood. Thank you very much.

Madam Clerk: No more speakers.

Mr. Weiner: No more speakers. All right. Ms. Murphy.

Ms. Murphy: Good afternoon. Thank you all for your patience. I'll be very brief. I just wanted to address a few issues. Specifically, the B-4 SD District which is the one that we have proposed the conditional rezoning to specifically allows for density of 36 units per acre. What we've proposed is just over 31 units per acre. I know speakers have spoken about the apartment districts and infill in the apartment districts. This B-4 SD District is unique to Shore Drive and it was part of the Shore Drive Overlay and it provides for a mix of uses. I know a lot of folks when they think mix of uses they think Town Center and that's vertical. The Shore Drive mix of uses is really meant to be horizontal. If you look at again The Pearl, you've got the Surf Rider and you've got the apartments. It's not all in the same - in the same building. So this is conceptually very different than the Town Center type area. With regard to parking, there are 390 parking spaces, 358 are multifamily, 32 are for the 12,000 square foot buildings. The applicant could have because this is mixed use asked for a

shared parking arrangement. Obviously, the commercial use times especially with the boat sales is going to be different from the residential. So there will more likely than not be an excess of residential spaces because the residents are parking when the businesses are not necessarily open. What I've heard a lot about is parking on Marlin Bay Drive. If you look at the city's website, Pleasure House Point is 118 acres of city open space. It's part of the Parks and Recreation Department. And it's public for the whole city. The website says the parking is on Marlin Bay Drive because frankly, there is no other way to get into Pleasure House Point. Beaches on Shore Drive, which, you know, I live in the city, I frequent them just as much as anybody else. They are public beaches, and you know, where you have public beaches, it sounds like you're going to have parking issues. My family was in town last weekend; we left for the beach at 12:30. I told them that was too late and we couldn't find a parking space. So we went back home and went to the pool. You know, those challenges it sounds like are challenges that have to do with the public spaces, more so than what we're proposing. Obviously, this is going to be self parked; we're going to have more than enough parking on-site for the both of the uses. A lot of has been made of the character of the neighborhood, the fact that this is, you know, a residential neighborhood. This specific area because it's right along Shore Drive is in what the city staff report called the mixed zone. And the staff report finds that the density and use is appropriate in the mixed zone as a transition. So where you have a highly travelled, you know, major arterial roadway, you're going to want some sort of a transition back to the residential, the more single family residential uses. This type of use is a transitional use that would be appropriate. There was an Ocean Tides Drive and I think Ric Lowman came up for this as well. The part that we're closing is, is here, it's not used by anybody for vehicular access other than the boat facilities, I think she had a concern that this – somehow this was being closed. This is not being closed at all. It's just within the parcel itself. And as the viewers who are required to go out and look at the request for a street closure have indicated there are other ways to get across more specifically the signalized intersection where folks can walk across and nobody can actually use a car now, other than the folks entering the Browning and Lynnhaven Marine facilities. What they were looking at, I think, was people who might be walking to get across Shore Drive. But again, they found there wouldn't be a public inconvenience because you've got the signalized intersection to get folks across. The purpose of the landscaping, which is a Category Four landscape buffer, it will be 15-feet wide, the trees will grow up to 30 feet; you've got bushes that are grow up to five feet. The intention of that is to provide that buffer and really they'll just because of the view shed and the line of sight they'll screen a lot of the duplexes that back up there. There were comments made about height, I'm not sure where they came from. The staff report indicates that the section facing the intersection is three stories, which was a major reduction in height and in density from what was originally proposed. But the four and a half stories where that comes from is the parking garage. So, stories in a parking garage don't have the same height as stories in a residential building. So, the four stories in those wings of the

building will actually shield the parking garage. So, we're talking four and a half stories that's really kind of a misnomer. As far as maintenance as was mentioned, the Terry Peterson Companies and the McCleskey and Browning families are long term owners. They're not going to be selling this project. They will maintain it the way they've maintained all of their projects and properties in the city. And in some cases as was mentioned, they don't have a mandatory civic league or a property owners association. The maintenance of this facility will be top notch. I mean you can't say that for every area of the city where you don't have a commercial entity doing the maintenance. Proffer number four, there was a mention of lighting, proffer number four details that lighting on the property will be limited to that which is necessary for security and safety purposes, and it will comply with applicable law. So it'll be shielded to prevent glare and spill over onto other properties. This really is as we've heard, and as the staff report indicates the highest and best use for this property, it will be a tremendous upgrade, and really provide a gateway feature into Shore Drive and into the city itself. I'm happy to answer any questions. I think Ric Lowman can address traffic, but I think the traffic study and the professional review of that have indicated that there will not be a negative impact on traffic in the corridor and at the intersections.

Mr. Weiner: Any questions to Ms. Murphy?

Ms. Oliver: Ms. Murphy, I just want to clarify because you touched – when you first started on Marlin Bay, there's a new median break for the entrance to the parking garage. Further down on Ocean Tide, there is a median break. You're not closing that.

Ms. Murphy: No, we're not doing anything with that section of Ocean Tides at all.

Ms. Oliver: Just wanted to be very clear on that. Thank you.

Mr. Weiner: Any other questions? Jack?

Mr. Wall: So where are the dumpsters going to be located?

Ms. Murphy: The dumpsters will actually be at the rear, John do you want to address?

Mr. Peterson: They're proposed in this area.

Mr. Wall: Okay. Yeah. Simple enough, I mean, that's my, the follow up. I mean, your dumpsters when they, when they slam those things down. you can hear it a half a mile away.

Mr. Weiner: While you're up here real quick. Nobody's really touched base on what's going on in Shore Drive part of the apartments to Shore Drive, the sidewalk and everything, what's happening up there?

Mr. Peterson: You are asking me?

Mr. Weiner: Yeah, sorry.

Mr. Peterson: The first of all as you know, that area is drained by ditches. And so we're going to – we would be proposing to do curb and gutter. And then there would be a verge from that curb to the proposed 10 foot wide multi use path, which is again called for all the way the whole length of Shore Drive. And then there would be an additional setback to what would be the entrances out of the first floor apartments, so bit of a unique feature to try to create a more residential feel on the street, where there would be stoops that would actually exit out of the apartments down onto that multi use path. And then there's an additional main entrance way right where the pointer is, which is kind of another entrance into the entire building. And then, of course, landscaping and trees and everything that don't exist today.

Mr. Weiner: Yes sir.

Mr. Inman: And where are the other entrances to the building besides the one you just pointed to off of Shore Drive?

Mr. Peterson: This is the main entrance right here. You come in here and there'll be a leasing office. And that's a direct line through to the community center, recreation center. You also have, you have garage entrances, here and here. So access to the interior of the building will be secure.

Mr. Inman: And on the buffer that's between the lower wing of the building and the houses that backup to that, would you describe what that buffering is going to consist of?

Mr. Peterson: As I mentioned before, I don't have specific species, our goal is, of course, to have them be as tall as they can be for screening purposes, just to clarify, the 15 feet is the width of that easement. I mean, I'm sorry, the setback and so it's a 15-foot width and then we would plant as taller trees as was practical in that 15 foot width.

Mr. Inman: Yeah, the proffer looks like it's or the condition we have in here, trees have been permitted to grow and maintain the minimum height of 20 feet and a shrubs height of 5 feet.

Mr. Wall: About to tack on to that, the impacts to the residents sunlight, can you?

Mr. Peterson: So this is south, instead the sun essentially goes like this. And these shadows are a bit of an improperly placed. This would be, I am not sure when these would actually, the shadows would actually go this way.

- Mr. Wall: So the sun's not going to, it wouldn't impact any kind of height of trees or anything wouldn't impact the backyards in terms of sunlight hitting there, if somebody wants to grow something back there, their tomato, you know, something, would you say that this is not impactful to anything that they currently have in terms of sunlight hitting right that?
- Mr. Peterson: The intent is that, you know, again, shadows go this way. We haven't studied every possible sun angle, but the general idea is that the sun is in the south and shines.
- Mr. Wall: Right, any impact would probably be in the after late afternoon, if there is an impact. Okay. Building of the site 79 feet, up to elevation 79, which is the site in general or at least, but the storm, so you have to put the stormwater management under? Where's the stormwater draining? What's the general direction of, where it's gonna go once it leaves the site?
- Mr. Peterson: The outfall is this direction. It's an existing outfall that goes into the, there's actually a BMP inside of Pleasure House Point. And then it discharges into the, into the creek from there.
- Mr. Wall: So where would the stormwater management facilities? I know they're underground? But I mean, where are they going to be placed?
- Mr. Peterson: They are all throughout, all the areas that you see.
- Mr. Wall: So under the green space, under the parking lot.
- Mr. Peterson: Yes.
- Mr. Wall: So they are going to be down there. So to install those the sites may even have to be even more so to get, I don't know how tall they're going to one foot, two foot, three foot and you have cover over those. They're in the grounds of sandy soil, so some of that may infiltrate, what I'm getting at is the finished floor elevation, it may be higher than what, 7 to 9, do you know the finished floor elevation at this time?
- Mr. Peterson: I don't have a specific finished floor elevation, but I don't think it's, I mean, we're certainly not going to build it up any higher than we have to, I mean, it's going to be what's required in order to meet the code.
- Mr. Wall: Right to drain the site, which and then may bring it up a little bit just for architectural look of the site, okay. Okay.
- Ms. Murphy: The volume will be brought underground. I mean, currently the water is going north to Shore Drive where there's a drainage and Marlin Bay Drive to the south. And there's no stormwater management at all on the property.

Mr. Wall: Right. And it was mentioned, I think somebody said it was, you know, the whole site and probably but not really, I think what's already PD-H1, I think that's not impervious. So, what currently is the Browning property of course is...

Mr. Peterson: By the definition of the city stormwater regulations, it is impervious.

Mr. Wall: Gravel is impervious for water quality. Okay.

Mr. Weiner: Any other questions? No questions? All right, thank you very much. We will close this out and look at Mr. Redmond.

Mr. Redmond: Mr. Weiner.

Mr. Weiner: This is your neck of the woods.

Mr. Redmond: It is my neck of the woods. I rode my bike up Shore Drive when I was...

Ms. Eisenberg: Would you like to care to make...

Mr. Redmond: Oh, yes, Thank you for the reminder. I have a disclosure to make. There is a broker in my office; I work in real estate broker, as a real estate broker. There is a broker in my office who does some work for McCleskey and Associates, has a listing that sell some land for them. I do not – I don't participate in any way and that haven't received any remuneration ever from McCleskey or from Terry Peterson or from Mr. Browning or anybody else don't now, so it doesn't affect me in any way. And conflict of interest laws, of course, define me as just as you all would or any other, you know, broker in the real estate business. So, but I wanted to be sure to disclose that and I will be voting and commenting on the application, thank you Tori.

Mr. Inman: I have a disclosure to make also, as an attorney I have represented before, another project Terry Peterson, I'm not representing him currently and we don't – I don't have any financial interest in the project, in this project and or any other project they've done so I feel free to vote.

Mr. Weiner: Okay. Thank you.

Mr. Redmond: I was riding my bike up Shore Drive when I was about 14 years old, wasn't old enough to drive that would have been 79, 1979. So I'm well familiar with this corridor. And I want to be clear that we're talking about the entire Shore Drive corridor, and the Shore Drive plan and the Shore Drive overlay, and the Shore Drive, all of these things that I think we have to view in the broader Shore Drive context, and not merely in terms of Ocean Park. For the life of me, I don't understand how this is going to negatively impact Ocean Park. But I still think we

have to recognize that there's more than just this, you know, then just this one little pocket at the corner of Marlin Bay, and Shore Drive, there are a number of things about this application that I think are very attractive, you can stare at that slide and see there's a heck of a lot more green on it than exists today. There's more turf, there's more shrubs, there's more trees, there's stormwater that's going to be installed that doesn't exist today. At the same time, it reduces the impervious cover on site. So it's certainly a much greener application, the infrastructure is clearly an improvement. We don't have any infrastructure in terms of stormwater there today. The architecture, I think, is extremely attractive. I have driven the site in the context of this application five times specifically, including again, yesterday afternoon, and, you know, tried to make myself get lost is very hard, because I'm very familiar with this place, but just sort of noodled around back in the neighborhoods and then turned around and went all the way up to Great Neck Road and came back and just looked at the entire corridor. From this site, I can throw a rock and hit Bay Vista, Chesapeake House, 3556 on the Bay. If I go west, I'm going to run into the shopping center that has the Kroger in it and the four-story Victoria Place and then another small shopping center. On either side of this site are multi story buildings. All throughout the Shore Drive corridor are multi story buildings. Within Ocean Park itself, single family and duplex residences that are three stories themselves. And what's proposed for that corner is three stories. I don't understand. That reminds me of an old joke, How many Virginians does it take to change a light bulb? Three, takes three, takes one to change the bulb and two to admire the old one. And I just don't know what it is we're admiring about this site that would cause us to see that as a negative impact over the broken down storage yard, the building that's got the water stains on it, you know, it's got some of the material peeling off it that I saw yesterday. The streets that are to be closed, aren't streets, they are two dead ends. Somebody said they use it as a dog park. Alright, well, they're not streets, there's no reason to keep open streets that serve no useful public purpose for which we should maintain. And in fact, any redevelopment of that site, those two dead ends are going to be closed, you put a warehouse there, and they're going to need to close those streets. So in any event, you know, if I thought this would in some way damage the Shore Drive corridor, I would be a first guy saying, forget it. And in fact, that's the first thing I said to the applicant, when I first met with them seems like a million years ago that we've been talking about this is. You know, this has to be very high end. And from what I see from the elevations, from the landscape plan, from the infrastructure that's added and frankly, the appropriateness of the building height in the context of this broader character, that's what I'm talking about. I just don't see how this is anything, but a positive addition to the Shore Drive Corridor. And something I think in the end will be proud of. So I'm certainly going to support the application. I'll be happy to make a motion at the time. And then I'll just sit back and let y'all do your thing too. Thank you everyone who came here today. I had a lot of conversations with an awful lot of folks for many, many, many months. And as I said, I've been over there a million times now but I've known

it very frankly since I was a boy. So I didn't need to learn a whole lot more. Thank you, Mr. Weiner.

Mr. Weiner: Thank you, sir. Yes, Ms. Klein.

Ms. Klein: I took everything into account and wrote my thoughts down. So I want to start by saying every developer I've seen from the seat has said that their parking plans exceed the requirements and they've never had a problem with parking. I challenge them to talk directly to their residents. There is never enough parking. I'm very familiar with the housing shortage in my role, density changes are inevitable and cities across the country are revising their zoning guidelines to accommodate this need. In this particular case, however, I take issue most with the type of apartments proposed. If I had known at 18, that how the salary of a social worker translates into the real world I may have reconsidered. The average hourly wage to afford a two bedroom rental in Virginia is slightly under \$25 an hour, and it took me more than a few years to reach that number after graduation. I'm a Master's educated professional and I make well below the median household income in Virginia Beach, which is 98,000 as of 2019. The home I purchased in 2018 cost less than half of the median home price of \$324,000. My son and I live with our two dogs in a 1000 square foot home with two bedrooms, one and a half bathrooms and a mortgage of about \$800 per month. Owning a home is exhausting, and I miss apartment life. And a comparably sized dog friendly apartment in the city starts at \$1300, an increase of over 60%. If I'm willing to forego air conditioning that number drops to \$1200, renting in Virginia Beach without significant lifestyle changes is fiscally impossible for me. And we are pricing out the younger workforce, we are trying to attract. So for that reason, I will be voting no.

Mr. Weiner: Thank you. Mr. Graham.

Mr. Graham: I appreciate everybody that came in opposition. I've talked to a number of you and, you know, I live in, I've said it before, and I'm sure you guys are tired of hearing it, but I live in the Great Neck - Shore Drive area I drive by this property, you know, probably five times a week. I grew up in Virginia Beach, probably driven by this property, you know, 1000s of times. I agree with Mr. Redmond, you know, sometimes you kind of look at how it, you know, does it check all the boxes and you look at traffic. And to kind of go over this, this is a reduction in the traffic that could be created by the current zoning. If you were to build what the current zoning allows, you would create more traffic than what this project would create. The project is not going to promote neighborhood traffic. I mean it's right at a corner. People are going to drive in; they're going to go into their parking garage. I don't see them parking in the neighborhood or really driving through the neighborhood. You know, Mr. Redmond talked about the height. I'm not going to go into that. Yeah, some people have mentioned other uses for the property, retail and commercial restaurant. And it said that there's not any vacant buildings on this side

of the Lesner Bridge. Well, there may not be right now but there have been in the past and we all know that. At one point, there was a Harris Teeter that was going to go on the other corner of Marlin Bay. I know because I was the developer, I was working with Harris Teeter. And Harris Teeter turned the site down. Because when you in the world of commercial real estate, you look at demographic rings and when you do the demographic rings here, you pick up water, you pick up marsh; you don't pick up that many people. I know. It seems like a lot of people but in the world of commercial real estate, there's not enough demand to say we're going to do all commercial on the site. Matter of fact, one of the other planning commissioners brought up the dumpster. If you put restaurants there, you are going to hear dumpsters, a lot more dumpsters that you're going to hear from an apartment complex. I do think that that other building that's left I think that it has probably a better chance of getting developed or redeveloped or modified for a retail use. If we have this captured audience of apartments right there. You know, I think I view the site is as almost a gateway into the Shore Drive Great Neck Area. It is a very, I mean you look at these, these renderings. This is a very attractive project. Like I said, checks all the boxes. I don't think stormwater is going to be an issue. It's actually they're improving the stormwater. I know that change is sometimes uncomfortable but I do think that Shore Drive, this area, it needs to evolve. This is a great use, it's the highest and best use for the site. And I have talked to a lot of people in your neighborhood that are for and against it. And yeah, there's a lot of people in Ocean Park against it. I have tried to find a reason to not want to see this project approved. I've really tried it, you may not believe that, but I have tried. I'm going to support this project. I think it's great for the Shore Drive corridor. I think it checks all the boxes. I think it's gonna be an improvement. And so anyway, that's I am going to be supporting this project.

Mr. Weiner: Thank you Mr. Graham. Who is next?

Ms. Oliver: Is Ric still here?

Mr. Weiner: Ric Lowman, are you still here? There he is, come on up here, Ric.

Ms. Oliver: I hate for you to sit here all day and not, you know, get a chance, somebody asked you a question.

Mr. Lowman: Ric Lowman, city traffic engineer, licensed professional engineer.

Ms. Oliver: So Ric, just for clarification, on Shore Drive, because there's a lot of conversation about traffic and not traffic. And this morning and in formal, we talked about if by right, we use that piece of property for drive through restaurant and how much traffic that would generate and how much traffic that the apartment complex would generate, basically, the trips in and out for people going to work, and things like that, just for clarity, and how, what this road does. Because I thought what you did

this morning was a great presentation. Actually, I thought I knew a lot about Shore Drive till you did that. And I think it would be just good, just sort of put it on the record a little bit.

Mr. Lowman: Sure. So the first part of that was the by right, the by right land use and looking at the size of the site, you know, they could put a fast food restaurant on the site by right. With that, it would generate I think, I don't remember the exact numbers. But when you add that together with what they could put on the other part of the site, that zoned, the other part that's not zoned B-2, you could generate about 2000 trips a day. Most of that being the fast food with a drive through. With the apartments, they could generate about 1448 trips per day. So that would mean that there would be a net decrease in trips if this lot was developed with apartment versus a fast food restaurant. So I mean, that's just a fact. As David Bradley mentioned, you know, the trips are going to be different, because the apartments will generate more traffic in the afternoon. When people come home, and it'll generate some traffic in the morning, when people leave for work. Apartments are much different than single family homes, though. So apartments generate much less traffic than single family homes. So all these uses are different, but in the end, the traffic study considered all that. And the traffic study showed that, you know, this development is going to generate 30% less traffic per day, then the by right uses and I agree with that.

Ms. Oliver: And then maybe expand a little bit about the type of road that Shore Drive is?

Mr. Lowman: Sure, Shore Drive is considered a major arterial, urban arterial in the City of Virginia Beach. I mean, it's one of the, it's really the only, you know, East West streets, you know, north of Virginia Beach Boulevard. And as such it carries a lot of traffic. The one difference between Shore Drive and independence Boulevard is that Shore Drive doesn't have any major intersecting intersections, so it can carry a lot more traffic; your delays on roadways, your major roadways are going to be at your signalized intersections. Independence Boulevard has many signalized intersections that carry a lot of traffic like Rosemont, Independence Boulevard, Lynnhaven. Shore Drive doesn't have many of those big intersections. The only ones that really has is Great Neck and Pleasure House. As we discussed First Court is not that big but it's one of the, it's one of the bigger ones on Shore Drive in that stretch. So Shore Drive has the capability of carrying a lot more traffic because the city can give much more green time to Shore Drive. It doesn't have to give traffic you know, doesn't have to give green time to the side streets because the side streets are very, very light. And Marlin Bay is one of those, you know, light side streets, Marlin Bay slash Shady Oaks. So in that way, you know, Shore Drive can carry a lot more traffic than another, you know, four lane divided urban major arterial roadway, because it just doesn't have that many major intersections.

Ms. Oliver: Right. And thank you. Because I think that's extremely important for people to understand that particular artery in our city, and how it used. One thing I would do want to, one of the other things I'd like to ask you about is that, and I don't live on Shore Drive, so I don't know, was that there was a reference to this intersection about accidents?

Mr. Lowman: Okay, well, I took some notes.

Ms. Oliver: Oh, great.

Mr. Lowman: Yeah, I did. So I don't know of the crashes that they were speaking about. But I can tell you we do crash analysis. And we take the last three years of police reports that we have for all the signalized intersections in the city, and all the roadway segments in the city. So these are the numbers that came directly out of our annual report, the latest report being 2017 to 2019. So there's of the 378 signalized intersections that were studied, this intersection rank 194th out of 378. So in the bottom half, we are right about average for crashes, there were 11 crashes in the intersection. And the rank doesn't just count the number of crashes in the intersection. What it does it takes into account all the volume, the volume of traffic, so it's kind of a weighted average. And it also takes into account the severity of the crashes. So this puts this intersection, you know, right in the middle of all signalized intersections, it hasn't risen, you know, from say 2015 to 2017 to this period, you know, it's pretty average about 3.2 to 3.3 crashes a year at the intersection, and nothing really jumps out at us from that. I did check. There haven't been any crashes at the intersection this year, which is good news. There have been two crashes around the intersection one was a rear end crash on Eastbound Shore Drive past the intersection, just east of the intersection. And the other one was a really strange crash on Marlin Bay Drive, where a woman drove down the wrong. And I apologize, it may have been a woman or a man, I just saw a woman's name is part of the crash, but someone drove the wrong way on Marlin Bay. And they were cited for a DUI and it was in the middle of the day. It was weird.

Ms. Oliver: Right. So great, thank you.

Mr. Lowman: Any other questions?

Mr. Weiner: Any other questions for Ric? Thanks Ric.

Mr. Wall: It's not traffic, but the parking, people mentioned parking on Marlin Bay a couple of times?

Mr. Lowman: Yes.

Mr. Wall: And that's not necessarily traffic. But it's there's no parking, or what's the restrictions?

Mr. Lowman: The parking on the, I guess the west side of Marlin Bay Drive, it's restricted and I believe its 8 pm to 6 am. Don't quote me on those. But I know, it's to restrict people from parking there overnight and using the park. So that parking was generally for the, you know, for Pleasure House Point, but northbound, I know for at least the first block there's no parking allowed. I couldn't tell you exactly. We have a lot of roads in the city. I could do some research, but I know that southbound.

Mr. Wall: Right, it's southbound, right but it's northbound and there's no parking, I mean, they can park there.

Mr. Lowman: If it's allowed, they could park there. It's probably parking.

Mr. Wall: Public right away. Sure. Okay. All right. Thanks.

Mr. Weiner: Mr. Inman. Thanks Ric.

Mr. Inman: You are off Ric, for a minute.

Mr. Weiner: Yes sir, go ahead.

Mr. Inman: I just want to start by saying that we are, as Mr. Graham mentioned, we are looking here to see if this is the highest and best use of the property. And we need to have this in that context. Also, the context of its zone B, half of B-2 the other part is residential. And there are lots of possibilities with B-2 and we've just heard some recent discussion about that. So what do you do with this property and why is it still sitting there after all this time? B-2 is a very liberal, commercial zoning category. Lots of things can be done in B-2 including what we just talked about. The traffic study the restaurant site, possibility. So what did we do with this property, then I heard a lot of even the opposition speaker say that they didn't have a problem with apartments, they just have a problem with these apartments in a way it's designed. Well, actually, the Bayfront Advisory Commission in that report, they said that they were great with the architecture and in fact there was a response to their concerns about architecture that were met by the applicant in terms of reducing the height of that western portion of the structure. But they also wanted the southern portion of the structure reduced. And because they, the applicant said that we can't do it without 197 that's the best we can do to reduce it from 227 to 197. They disapproved the project, although they liked the architecture, as it turned out in the end as I read the report. So apartments aren't bad there according to the sort of a consensus. And so then the developer has to figure out well, okay, they want more aesthetics to the approach from the west. So they set it back, and we reduce the height. And we enclosed parking, which is part of the

guidelines that everybody's supposed to be following on apartment developments, not to have parking outside the buildings, right, that's accomplished, that's not cheap to do. But it also sort of forced the building toward the east. And that, unfortunately, is having some impact, obviously, on some homeowners who have spoken to us today, and I respect that they're doing their best to offset that by planting strip, and the height of trees that will be adjacent on that strip to minimize that impact. Were it not developed as an apartment project, it would most likely be developed with a denser housing, and on that southern part of the property, which is zoned for housing now. So it's, and we know that we also have heard people comment about how retail is the problem, I mean getting that's probably a good reason why it hasn't been developed B-2 because everybody's afraid to make the investment in B-2. And I think that the traffic that is generated on Shore Drive, yeah, sure there are times, it's really bad. And I've lived here 40 some years, I've used to live up in the Great Neck area, I've driven Shore Drive a million times, I've been in the traffic. But the 197 units in here are not going to be a significant according that's not my opinion, this is the opinion of experts who have analyzed the data, and analyzed the sources and the time of day and all that business and I don't think the feeling or the impression that traffic is going to be severely impacted or worsened by this project is real. I don't think it's real. So that's my thoughts on it.

Mr. Weiner: Thank you sir. Mr. Wall.

Mr. Wall: I think the architecture is very good. I think the Peterson Company is great company. I think that, you know, they've worked with the Bayfront Advisory Commission to certain extents, you know, they didn't get quite the approval they were looking for. But they did reduce the number of units. I think it did impact the landscaping upfront on Shore Drive. I think it not proved, but I think it's been shown that the traffic, you know, won't negatively be, shouldn't be negatively impacted or should be negatively, shouldn't be impacted one way or the other. Economics are good, fiscal impacts positively for the city. I think they've shown parking shouldn't be negatively, shouldn't be impacted, negatively impacted. I think they've dodged, you know, a large bullet with when the Pleasure House Point Park was already zoned PDH-1 so that whole area could have been developed, it's huge track of lands. And I'm not sure that anything really is going to satisfy the homeowners within Ocean Park, you know, whatever, whatever goes there. However, the Comprehensive Plan there, this is suburban focus area one. And it's stated there to preserve and protect the character of established neighborhoods. I think the residents see this, that it will impact them negatively, the Bayfront Advisory Commission, the way that this is laid out, as pointed that it will impact the neighborhood. I'm not sure if it is best and highest use for the property. So I plan to not support it. And I will probably support the road closures, but not the project itself. Thank you.

Mr. Weiner: Mr. Bradley.

Mr. Bradley: I am hoping to have training wheels for another meeting, but I guess I need to take the training wheels off. I'm not too far from what was just discussed. There's a lot of positives with the project, I think it's a good looking apartment complex. And we need apartments in the city. I like the multi-use walkway that's going to be integrated into it. It's got nice landscaping. So, I think the project itself would look good. The fiscal impact, you know, as the former budget director in the city, I guess can't ever get that hat off, I guess. But you know, the fiscal impact is slight in the scheme of things. And I'm not minimizing that residential development generally doesn't pay for itself, because it's not just the roadways in schools. It's the calls for service for EMS and fire and police and more human services workers. So its slight and apartments generally are slightly fiscally positive because of the low school multipliers. But at the end of the day, you know, the stakeholders that live in this community thought that the zoning, you know had a zoning expectation and this is much denser than what they were expecting. And you know, one of the things that stood out to me in the formal discussion, I think the Civic League president brought it up today was this I think it's a second page, we talked about the density. And to me, it is a dramatic change from what the people that moved in that area that have invested in that area, you know, were expecting. Throw in the fact that the Bayfront Advisory Committee, which is a council appointed committee that looks at those issues in that area also did not support it. I'm gonna be voting against the application.

Mr. Weiner: Anybody else?

Ms. Oliver: So obviously this application, and I'll try not to repeat what everybody's said here. It's been on in the spotlight for quite some time. And interestingly enough, as we all know, we don't have a whole lot of land here left to develop and especially north of the green line. And I've been down in Florida a lot lately, just took my daughter down there to school, my parents live down there. My father was an executive down there for many, many years and Florida is a great state as far as how they seem to do this beautiful dance of single family homes and townhouses and three story and four story apartments and high rises all within the same area of each other. They do it well, and everything's landscaped and there's big, beautiful sidewalks and there's berms and transition from one area to another. And it's something that I always thought Virginia Beach should aspire or attempt or at least try to hit that target on some lines. I think we have not done it more often than we have done it. But my daughter lives in, I think it's a three story it's an apartment. And right down, literally across the street from her is a development called Baldwin Park, absolutely stunning. And right next to that is a high rise and right next to that is the prettiest street with restaurants and apartments on top of that, and a large park and I just thought Virginia Beach should try its very best to do something along the lines of that. And I think that as much as we look at this, it is, you know,

we've gotten a garage, which is centered in the building. So for once, we don't have to see a garage, parking garage, which we see a lot of those down at the resort. And so that's concealed. And we've got three stories, four stories, that's not that big. A three story house is not that tall. And a four story building is not that tall. We've got it set back, we've got this beautiful segue of this wonderful walk, front doors that actually face Shore Drive. And it's developed enough so that we can actually, as Mr. Trower had said earlier, granted, unfortunately, the rents are what they are today. I wish we could get around it, Lord knows the one I'm paying for my daughter down in Florida is a lot higher. But that's an economy thing and that's all over. But when you look at this, and as the landscaping matures, and to be able to walk from here across Marlin Bay, use the Brock Center, do all of that I just think that they've done a good job as far as trying to incorporate something that's a little bit higher scale design than what we typically see. So, I like the project and I hope I'd like to see it go forward.

Mr. Weiner: Mr. Horsley?

Mr. Horsley: Well, I look at these renderings here and then look at the pictures of the site plan, I said wow, what a difference and you know, I understand kind of what the neighborhoods are talking about density but they've really willing to drop down on some of that density and you know, it just like Mr. Inman, the highest and best use and to me right now this looks like the highest and best use for this piece of property. And I think it's more than just the highest and best use, it's an amenity for the city. Go along what Dee just said, you know, I think it's something that, you know, people coming down on Shore Drive and see this. These renderings here, really, I think it's pretty astonishing to have along Shore Drive. I don't live over there, I don't think I could stand to live over there in a place that's that tight and whatever. But a lot of people love it. And a lot of people don't like where I live. So that makes a good mix of everybody. But this is, if I was a young person, young professional person looking for a start and I could come to Virginia Beach and try to find me a job, I think this is somewhere I would probably like to pursue and you know, have that close vicinity to get to the beach and whatever. And I just think it's a good thing and I'll plan on supporting this.

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

Mr. Coston: Yes sir. I kind of want to go along with Robyn here. But money is what the money is. And I don't know how some people afford to start out and live in places like this nowadays and my wife agrees with the community, of course. But I've had probably Mr. Peterson's displeasure of having inspected a few of his properties over the years. And he does a lot better job than a lot of other people in the profession. I mean, I've seen places where I've written three and four pages and wait three or four months to get things corrected when here is the exact opposite. Not that he

gets a rubber stamp, but he's proven thus far to be good at what he does, and I'll be supporting.

Mr. Weiner: Okay. Real quick. And I'm not going to get back to what everybody else has said. But I'm gonna go in a different direction. I like doing that. I'm gonna bring up something my colleagues are probably tired of me hearing but I have to because it falls in line what this is. So about 10 years ago, I was out there. I was out there where you are. I was sitting out there with you and there was a lot more people here and there was an apartment complex called 525 Apartments of Kempsville, Witchduck and Princess Anne Road. And everybody out there was not in favor of Mr. Horsley, he was up here and he says he remembers me but I don't think he does. And I was out there speaking and that apartment complex is in my backyard in Kempsville and nobody liked it, nobody wanted it, but I thought, you know, this is going to revitalize our area. And right now, there's a 185 apartments in there. And if you ask everybody in the neighborhood today, they'll tell you why we can't, we don't even know anybody lives there. We can't tell cars are coming in and out. It's clean. It brings development to our area. It's revitalizing the neighborhood. It has not lost one penny. Everybody out there said we're gonna lose value on our homes. It has not lost one value in the area. If anything, it's helped our area out in Kempsville. I'm also a member of another committee Envision 2040, which Mr. Horsley there started that committee back in 2012. And back in 2012, we had 440,000 people in the city. Right now we're at about 460,000. And our goal, not our goal, but it's – we're progressing by 2040 maybe have close to half a million people in the city. And where are we going to live? We can't find places to live now. And as Ms. Oliver said, we're running out of room to build. I think we really need to take a step back and decide how we're going to do this and we had to find places for people to live. Oceana if I'm not mistaken, Oceana, working on or is working on bringing another Squadron here. That's close to 3000 people. We just approved 100,000 square foot facility in the City of Virginia Beach last month. It's going to bring 400 to 600 more jobs here to the city. People are coming here to live, people want to live in this corridor. Mr. Redmond said it best back in Marina Shores when they wanted to put the apartment on top of the tennis court. People want to live in your area. I know you don't like it. It's changed. It's called change. But people want to come live in the Shore Drive corridor area. It's a beautiful place to live. They love it. We just have to find places for them to live there. So I'm going to be supporting. Mr. Redmond.

Mr. Redmond: Ms. Eisenberg, do I understand correctly? We need to vote on these six and seven as one item? Eight and nine as another.

Ms. Eisenberg: Yes.

Mr. Redmond: Okay. Therefore, I move approval of agenda items number six and seven.

Mr. Weiner: Street closure. Yes. We have a motion by Mr. Redmond.

Mr. Graham: I'll second the motion.

Mr. Redmond: Second by Mr. Graham.

Madam Clerk: Vote is open. By recorded vote of nine in favor, one against the agenda items six and seven have been recommended for approval.

Mr. Weiner: Mr. Redmond?

Mr. Redmond: Mr. Chairman, I move approval of agenda items number eight and nine.

Mr. Graham: I second the motion.

Mr. Weiner: Motion by Mr. Redmond and second by Mr. Graham.

Madam Clerk: Vote is open. By a recorded vote of seven in favor, three against agenda items eight and nine have been recommended for approval.

Mr. Weiner: All right. That is all we have, any new business, old business. Good. Good. Good. We're adjourned.

VOTE for Items 6 & 7 – Street Closures

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

CONDITIONS – STREET CLOSURES

1. The City Attorney's Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council. Copies of the policy are available in the Planning Department.

2. The applicant shall resubdivide the properties and vacate internal lot lines to incorporate the closed areas into the adjoining parcels. The plat must be submitted and approved for recordation prior to final street closure approval. Said plat shall include the dedication of a 25' wide public drainage easement along the eastern half of the proposed closure area of Ocean Tides Drive, subject to the approval of the Department of Public Works, and the City Attorney's Office, which easement shall include a reasonable right of ingress and egress.
3. The applicant or the applicant's successors or assigns shall verify that no private utilities exist within the right-of-way proposed for the closure. If private utilities do exist, easements satisfactory to the utility company, must be provided.
4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved for recordation within one year of the City Council vote to close the right-of-way this approval shall be considered null and void.

VOTE for Items 8 & 9 – Conditional Rezoning and Conditional Use Permit

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

PROFFERS - REZONING

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

Proffer 1:

When the Property is developed, it shall be as a 197 unit multifamily residential community substantially in accordance with the exhibit entitled, “MARLIN BAY – VIRGINIA BEACH, VA, Conceptual Layout – April 01, 2021”, prepared by Timmons Group, which has been exhibited to

the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (the "Concept Plan").

Proffer 2:

When the Property is developed, vehicular ingress and egress to the Property shall be limited to one (1) access from Shore Drive and one (1) access from Marlin Bay Drive substantially as depicted on the Concept Plan.

Proffer 3:

When the Property is developed, the MARLIN BAY apartment building shall have the architectural design, appearance and exterior building materials substantially as depicted and described on the exhibits labeled "MARLIN BAY NEW RESIDENTIAL DEVELOPMENT – SHORE DRIVE, VIRGINIA BEACH, VIRGINIA, PROPOSED ELEVATION – EXTERIOR MATERIALS", dated April 23, 2021, prepared by Cox, Kliever & Company, P.C., which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning and Community Development (the "Elevations").

Proffer 4:

All lighting on the Property shall be limited to that necessary for security and safety purposes and to comply with applicable laws and shall be shielded to prevent glare and spillover onto adjacent properties.

Proffer 5:

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

Staff Comments: Staff has reviewed the Proffers listed above and finds them acceptable. They provide assurance that the development of the site will be as depicted on the proffer concept plan, elevations and renderings. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

CONDITIONS - CONDITIONAL USE PERMIT

1. When the Property is developed it shall be no more than 197 multi-family units with vehicular ingress and egress limited to one (1) access from Shore Drive and one (1) access from Marlin Bay Drive with a layout in substantial conformance with the exhibit entitled, "MARLIN BAY – VIRGINIA BEACH, VA, Conceptual Layout – April 01, 2021", prepared by Timmons Group, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (the "Concept Plan"). In no case shall the area labeled "Existing Boat Sales" and the associated parking lot be developed with any dwelling units.
2. Consistent with the concepts of the Shore Drive Corridor Plan adopted by the Virginia Beach City Council on March 28, 2000, the applicant shall construct and provide a public

pedestrian/bike easement for the 10-foot wide multi-use trail depicted on the concept plan exhibit entitled, "MARLIN BAY – VIRGINIA BEACH, VA, Conceptual Layout – August 30, 2021", prepared by Timmons Group, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development. The multi-use trail shall be paved with a material acceptable to City Staff and the easement shall be recorded with the Clerk Circuit Court prior to final site plan approval.

3. A Landscape Plan shall be submitted that is in substantial conformance with the submitted concept plan entitled, "MARLIN BAY – VIRGINIA BEACH, VA, Conceptual Landscape Plan – August 30, 2021", prepared by Timmons Group, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development. A Site Plan shall not be released until the Landscape Plan is approved by the Development Service Center Landscape Architect. Any dead, diseased, or dying plantings shall be replaced by the next planting cycle.
4. The required Category IV landscape buffers shall be planted with evergreen trees and shrubs. The trees shall be permitted to grow and be maintained at a minimum height of 20 feet; the shrubs shall be permitted to grow and be maintained at a minimum height of five (5) feet.
5. Dumpster(s) shall be enclosed with a solid brick wall on three sides in color and material to match the building and any required screening shall be installed in accordance with Section 245(e) of the Zoning Ordinance.
6. The freestanding Community Identification Sign shall be located substantially at the location identified on the exhibit referenced in Proffer 1 and limited to a monument style sign with a brick base, no taller than eight feet high and eight feet length, externally lit, constructed with materials and colors that complement the exterior of the apartment building.
7. An iconic, freestanding feature shall be installed on the property as a visual amenity at the entrance from Shore Drive. Said feature shall be depicted on the final site plan and submitted to the Planning Director for review and ultimate approval authority.
8. 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 for review and acceptance prior to the issuance of a sign permit.

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.

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Item # 10**

Jenita White [Applicant & Property Owner]

Conditional Use Permit (Family Day-Care Home)

1109 Malcoms Ways

RECOMMENDED FOR APPROVAL – CONSENT

The next agenda item is number 10 Janita White, conditional use permit for family daycare at home. The address is 1109 Malcolm's Way. Is the representative for this item?

Madam Clerk: Mr. Vice Chair. Janita White is via WebEx. Janita White, please wait two to three seconds and then state your name.

Ms. White: Janita White.

Mr. Wall: Thank you. Are the conditions acceptable, Ms. White?

Ms. White: Yes, sir.

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

Mr. Coston: The applicant is requesting a conditional use permit for a family daycare home to care for up to 12 children within a single family dwelling. A 2000 square foot home is zoned R-7.5 Residential District and is located the Birnam Woods neighborhood. A family daycare home with four or less children is allowed by-right in residential zoning districts. With a number of children cared for increases to five or more children, excluding the provider's own children and those who reside in the home. Both state licensure and conditional use permit are required. According to the applicant, she has 30 years of experience caring for children; designated outdoor play area is located in the backyard enclosed by six foot tall privacy fence. Typical hours of operation are proposed as 6 am to 6 pm Monday through Friday. The staff has recommended approval and the Planning Commission concurs and has placed this item on the consent agenda.

Mr. Wall: Okay, thank you, Mr. Chair that was the last item on the consent agenda. I move for approval of agenda items 1, 2, 3 and four, 5 and 10.

Mr. Weiner: All right, we have a motion for approval. We have a second.

Ms. Oliver: Second.

Mr. Weiner: We have a motion by Mr. Wall, second by Mrs. Oliver.

Madam Clerk: The vote is open. By recorded vote of 10 in favor, zero against agenda items 1, 2, 3, 4, 5 and 10 have been approved by consent.

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

CONDITIONS

1. Arrival and departure times shall be staggered to avoid vehicular congestion.
2. The Family Day-Care Home shall be limited to the total of twelve (12) children, other than children living in the home.
3. The applicant shall maintain a license with the Virginia Department of Social Services for childcare.
4. No more than one (1) person, other than the applicant, shall assist with the operation of the Family Day-Care Home at any one time.
5. Any sign identifying the home occupation shall be non-illuminated, not more than one (1) square foot in area and mounted flat against the residence.
6. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.
7. The applicant/owner shall maintain a six-foot privacy fence around the perimeter of the rear yard for the duration of the use.
8. There shall be only one Home Occupation, the Family Day-Care Home, operating on the property associated with this Conditional Use Permit.
- 9.

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.

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Item # 11**

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

Alternative Compliance

2914 Pacific Avenue

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Welcome, sir. Wait, she's just got to read it in for the record here.

Madam Clerk: Our next item is agenda item number 11, which is Murphy's of Virginia Beach, an application for alternative compliance on property located at 2914 Pacific Avenue in the Beach District.

Mr. Weiner: Welcome.

Mr. Garrington: Thank you, Mr. Chairman, ladies and gentlemen Planning Commission for the record Billy Garrington on behalf of the applicant, the applicant in this case is Mr. Tom Mooney, owner of Murphy's Irish Pub 2914 Pacific Avenue. And, Mr. Chairman, I think there are actually two speakers, not just myself, so okay; Mr. Fine is here in the audience. And I know Mr. Fine for a very long time; have the utmost respect for him. And I think he has some concerns, one of the neighbors to the west of us. So the request we are here in front of you today is for the Alternative Compliance for the recurring outdoor events on this property at 2914 Pacific Avenue. This is the Mooney's restaurant that has had music there for some time since it's been going on and to the best of my knowledge, I don't think there have been any complaints from any of the surrounding properties. Mr. Mooney reached out to all of the businesses that were right adjacent to this before we came up to make sure that none of them had any problems with it. I think he's even supplied to city staff with some letters of support from Atlantic and Pacific and some of the other people but that doesn't mean that we don't have somebody else who's concerned with it and should be because that's people's homes and we want to make sure that we're good neighbors. I think if you look at the staff right up, staff tells you that we have oriented the stage that we are here today to ask for permission for which is these soundproof walls and the roof that goes over top of it. We have oriented toward faces towards the southeast. The residential properties to the west of us that we're trying to protect and make sure that we are not a nuisance to them, and if you also look at the conditions, there are nine conditions in the staff right up, you look at condition number two, this says we cannot have any amplified music permitted between the hours of 11 pm and 10 am. Obviously, we're not going to, but condition number three is really the one that is the catch all,

it says the operation shall not disturb the tranquillity of the residential areas or other areas in close proximity or otherwise interfere with a reasonable use, and enjoyment of neighbouring properties by reason of excessive noise, traffic, lighting, or overflow parking. I think that one condition right there very well sums up that we can't be a nuisance to any of the surrounding properties. And if we do, we risk losing our use permit. So, the staff right up the chair in front of you has a total of nine conditions, including those two that I just read to you. We're in total agreement with all those conditions. If you remember, this request was set to be heard last month, and we had to pull it for two reasons. Number one, we had to remove, relocate the stage because there was a problem with the vision triangle, we had to submit our landscaping plan to the resort area advisory committee and get their permission. We did both of those. And we also had a seating area around the fire pit that had about six inches of the back of the seat that was encroaching into the city property that has all been taken care of. We're back in front of you today to ask for your approval of this request. Last but not least, the gentleman who is in opposition to this or who is concerned lives next door to the West, I will promise you and him that I will set up a meeting before we go to city council with him, myself and Mr. Mooney, the two of them should meet personally. And he can get Mr. Mooney's personal cell phone number. So in case there are any problems at night-time, he's not calling to the restaurant and just getting somebody that's blowing him off saying I don't know what you're talking about. You talk directly to the owner, if any problems come up, and I will promise each one of you that I will make that meeting happen before we get to city council.

Mr. Weiner: Any questions?

Mr. Garrington: Oh, and I will apologize for the fact that they're already under construction out there, as I have explained to you. That is really an oversight of your city staff because the city staff said, look, the stage that you're wanting to build is not what you're asking for the alternative compliance for it's the walls and the roof. And they gave him a permit and told him he could go to work.

Mr. Weiner: He keeps saying, I got a question for staff. We were told that there wasn't going to be a roof.

Mr. Garrington: It shows right on the plans, but it's only over top of the stage. It's not over the entire seating area.

Ms. Oliver: We had thought you were talking about a roof over the whole outdoor area.

Mr. Garrington: No, it's just over top of the stage.

Mr. Weiner: Okay, okay. Okay.

Mr. Garrington: And the maximum height is eight feet.

Mr. Weiner: Thank you very much. All right.

Madam Clerk: Mr. Chair. I'm only aware of one speaker and call Morris Fine.

Mr. Weiner: Welcome sir.

Mr. Fine: Ladies and gentlemen. I'm Morris Fine. I'm an attorney. I'm also a developer of sorts. I also represent Mr. Lance Goldner. Mr. Goldner and his family have owned the property to the west for some 35 years on which Mr. Goldner has built 71 apartments in the last seven to eight years. He is very concerned about the noise factor that will arise from this special use by Murphy's. It wasn't this property that he owned was there at the same time a Chinese restaurant was there and then it turned into Murphy's. And Murphy's first was a restaurant Murphy's, then they expanded to the outdoors and have outdoor service. And that was okay. But now we have this potential of noise from an open stage that's going to be built there. And on this stage, there's going to be amplifiers, there's going to be live music, there's going to be movies, there are the activities that we don't know about. And Mr. Goldner is very concerned, that his dance will be affected. Personally, I don't see how they cannot be affected. If somebody wanted to sit on their balcony and go to sleep at 8:30 or 8 o'clock or 9 o'clock at night or have babies, it's going to be affected by this noise. The noise doesn't stop at the property line. The noise is still there when you have a setback. The noise is going to be there forever and that's why there's a requirement that there be a special deviation. It seems to me maybe, I'm talking lawyer talk too much but the burden should be on the special applicant to come before you and say I will not infringe on your freedom from noise. We haven't heard anything from them to say that the noise won't infringe on my client's tenants, I must say that my client did not bargain for bands and live music when he put up his property and I don't think that the Murphy's has shown any reason to get a special exception and I would ask you to vote this down. Thank you.

Mr. Weiner: Sir, stand by one second. Does anybody have any questions? I have a question. Has your client received in the past any comments or anything about loud noises or bands playing, bands have been playing out there, acoustic music, for a while now?

Mr. Fine: I can't say because I don't know. He's here. Lance. Do you? Have you heard any complaints?

Mr. Goldner: Yes sir, I have.

Mr. Weiner: Sir, why don't you come up to the podium please.

Mr. Goldner: I am Lance Goldner. I'm the property owner of the 71 units. And we have the next day after is when I get the phone calls from the tenants. They hear the music up to 11-12 o'clock at night and Chicho's last week was playing till 2 o'clock in the morning. So it is an ongoing problem. And it vibrates right through the units, the front units.

Mr. Wall: You know my question, first thing is okay, so you mentioned Chicho's or is it Murphy's? It's hard to tell.

Ms. Oliver: First Ashby, is Ashby here? Ashby quick question on Chicho's, do they have, and I know you might not know this live music and what if they do are they permitted for it? And what is the deal with them with Chicho's? Do you know?

Ms. Moss: They don't have some kind of; they don't have this for recurring special events outdoors. But traditionally, restaurants, bars do have live entertainment. And at some point, it's enough if it's outdoors to warrant needing this special exception for recurring events. Another reason this one was a little bit different is because the nature of their events proposed is a broader variety than just bands performing or music performing. So I don't know the frequency. I don't know if zoning has heard complaints or if the police have gotten noise complaints. They should not be having any outdoor music after 11 pm.

Ms. Oliver: Might be able to.

Mr. Goldner: I was there Saturday night at 11:30 and they had a band outside playing. I called the police and they told me they had to wait for a supervisor and we've got 45 minutes for an hour.

Ms. Oliver: And was Murphy's?

Mr. Goldner: No, it's Chicho's.

Ms. Oliver: Chicho's, so we might Mr. Tajan might see if we can't, maybe delve into that a little bit deeper, see what possibly is going on over there.

Mr. Goldner: It's been going on.

Mr. Fine: But the problem of policing should not be put on Lance Goldner, and the whole issue of this noise should have been brought in some fashion before you said they're not gonna have any noise. Not just a little bit but not.

Mr. Weiner: Understand, Mr. Wall.

Mr. Wall: Can you point out your properties? There's a pointer, there's a pointer right here on the podium.

Mr. Fine: I have a picture here.

Mr. Wall: Those two, that are closer to Chicho's.

Mr. Goldner: Well, close to both. There and there.

Ms. Oliver: Chicho's is, okay got it, thanks, Ashby, got it.

Mr. Weiner: Any other questions? Jack?

Mr. Wall: This is not necessarily on the same application, but they talk about, do you have any problem with the noise from?

Mr. Goldner: No.

Mr. Wall: Okay.

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

Mr. Garrington: Mr. Chairman, I'll be brief as I can. This will not be happening at 2 o'clock in the morning, like they're saying, because of the conditions that you have and the staff write up. Mr. Fine says that the onus is upon us to tell you that we're not going to do this. And we have told you that because condition number two, that's one of the conditions that we have agreed to, we will not damage or interfere with the tranquility of the surrounding properties with noise, light, traffic, overflow parking any of that, that's one of the conditions that the staff has put on us, if we don't agree to that condition, our use permit would be null and void, he would have spent a tremendous amount of money for something that he doesn't even have the ability to use anymore. And last but not least, we have told you or we haven't told you, but I'm telling you now that this is only going to be 10 to 15 special events a year, this is not going to be something that's going to be going on out there every night of the year. So he has said that it would be a maximum of 15 events a year. And that's what we're here to ask for your approval for today.

Ms. Oliver: If that's the case, Mr. Garrington, then does the number want to be in the conditions of a number of 15?

Mr. Garrington: That's fine, I have no problem with it. And last but not least, again, regardless of the outcome today, I will have Mr. Goldner and Mr. Mooney and myself meet personally, so that he can get his phone number, if there are any problems in the future. He knows who to call, to where he can get to the right person on with one

phone call without calling over there and getting someone who just doesn't do anything about it. And we apologize for putting you in this position. But this is where we have.

Ms. Oliver: One more question for you.

Mr. Garrington: Yes ma'am.

Ms. Oliver: Live music, define his version of live music, does that include a drum set?

Mr. Garrington: I'm sure it probably does it sometime. I mean, I'm not a musician, but.

Ms. Oliver: No, I just see how big a band it is.

Mr. Garrington: Yeah. But again, the walls are the sound absorbing and the roof also, and I think that's going to be critical to this to make sure that it does absorb as much of the noise as possible, rather than being outside like it has been for the last couple of years that they've been doing.

Ms. Oliver: Okay.

Mr. Weiner: For the record, I'm going to point out my concern, which doesn't, I know, it has nothing to do with you. It has less to do with what our city did with the permitting. But I don't agree with pulling up on site last week and watching half the stage has already been built and that just sent me wrong way and I didn't like that. And I still don't. But I understand what happened, so it is what it is. We have taken it on.

Mr. Garrington: If I will be in our position, I would feel the same way, but again, I just want you to understand that he did what the city told him he could do.

Mr. Weiner: I understand.

Mr. Garrington: That's where you have to go. Thank you, sir.

Ms. Oliver: So we're gonna add that condition of 15.

Mr. Garrington: Yes, ma'am. I'll be more than glad to.

Ms. Oliver: Thank you. Okay. thank you, sir.

Ms. Klein: I have a question for him.

Mr. Weiner: Sorry, Mr. Garrington. Okay, thank you sir.

Ms. Klein: So if I wanted to have a party at my house, and the noise ordinance is 11 pm to 7 am. Does that mean that as long as the party was done by 11 pm, my neighbors would not have grounds to complain?

Mr. Tajan: Bit of a nebulous hole to send me down to be honest. You would not technically be able to violate the noise ordinance, I'll say that. Sorry to give you the Weasley answer and also depending on the number of people is what also triggers the need for a special event permit depending on how many people you have in house.

Ms. Klein: But in terms of the noise violation, as long as the party is over by 11?

Mr. Tajan: As long as you don't go over, I'm sorry, I'm gonna give you the zoning administrator type answer on this one, as long as you don't go over the decibel level as measured by the ordinance past 11 pm then you would not be in violation.

Ms. Klein: Okay. Thank you.

Mr. Wall: So you're saying there is a decibel requirement before 11?

Mr. Tajan: Tori, You're more familiar with that code section.

Ms. Eisenberg: I believe it's after 11.

Mr. Tajan: Yes after 11 there is a decibel level that you cannot go over that is measured very specifically.

Ms. Klein: So then in response to that, that seems to be the biggest issue right now based on these complaints, you know, and I certainly would want the city to follow up with Chicho's and their noise until 2 am based solely on that, I would be in support of the project.

Mr. Weiner: Okay. Mr. Wall.

Mr. Wall: So in fact the noise ordinance, so it doesn't, it wouldn't apply prior to 11. Is that what I'm?

Ms. Eisenberg: It's also enforced by the police department. So that might be why it's throwing planning staff a little bit of a curveball. So it is enforced by the police department. So if there are noise complaints, it should be the police department that's contacted.

Ms. Wall: I mean that's kind of subjective. It's tough to because it's, what is it four feet inside the wall, four feet from the wall, 75 decibels, I can't remember what the decibels are, okay.

Mr. Weiner: Anybody else?

Mr. Inman: I have a question about the parking arrangement? I'd like to have more detail on it Mr. Garrington. I'm just not clear on how the parking arrangement is made with the city.

Mr. Garrington: He has an offsite parking agreement with this 31st street parking garage right across the street that he has to keep in, keep current for 13 parking spaces in that garage next door.

Mr. Inman: Are they assigned the spaces?

Mr. Garrington: I'm not sure if they're assigned or not, but he has to, there is an agreement that he has with that parking garage for 13 parking spaces.

Mr. Inman: Then there will be available?

Mr. Garrington: That's correct.

Mr. Inman: Alright. Thank you.

Mr. Weiner: Any other questions? Comments? Motion? Mr. Redmond.

Mr. Redmond: I move approval of the application with the addition of Ms. Oliver's condition limiting the number of events to 15 per year.

Ms. Klein: And I will second.

Mr. Weiner: I have a motion by Mr. Redmond, and second by Mrs. Klein.

Madam Clerk: The vote is open. Mr. Wall. By recorded vote of 10 in favor and zero against agenda item number 11 has been recommended for approval with conditions as amended. Mr. Chair, do you want me to read all four of these together?

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

Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. All new, permanent structures shall substantially conform to the renderings depicted in “Murphy’ Outdoor Exhibit,” dated August 27, 2021, by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
2. No amplified music shall be permitted outdoors between the hours of 11:00 p.m. and 10:00 a.m.
3. The operation shall not disturb the tranquility of residential areas or other areas in close proximity or otherwise interfere with the reasonable use and enjoyment of neighboring property by reason of excessive noise, traffic, lighting, or overflow parking.
4. The height of the stage walls shall not exceed eight (8) feet and shall be soundproofed with acoustic foam paneling.
5. A parking validation agreement for at least eight (13) parking spaces shall be maintained at the 31st Street Parking Garage with Republic Parking System or in a location as approved by the Zoning Administrator.
6. An off-site parking agreement for at least fifteen (15) parking spaces shall be maintained at the “Parking Parcel” indicated in the attached agreement. The applicant shall be responsible for maintaining this agreement, or provide 15 parking spaces in another location as approved by the Zoning Administrator.
7. A minimum of 10 bicycle parking spaces shall be provided on site.
8. Landscaping shall substantially conform to the renderings depicted in the “Murphy’s Outdoor Dining Landscape Plan,” dated August 6, 2021, by Winn, Winn & Associates, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
9. Four (4) replacement London Plane trees or large street trees of a species acceptable to the DSC Landscape Architect shall be planted in the verge between the sidewalk and 30th Street. The trees shall be placed in conformance with the “Planting Plan, 30th Street,” dated December 14, 2005 by WPL, which is on file with the City of Virginia Beach Department of Public Works and Engineering Division and is shown on page 16 of this report. The trees shall have a minimum caliper of 2 ½” at breast height at the time of planting.

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.

**Virginia Beach Planning Commission
September 8, 2021 Public Meeting
Agenda Items # 12, 13 & 14**

Ocean Rental Properties, LLC [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

525 26th Street, Units 1, 2 & 3

WITHDRAWN

Mr. Weiner: Thank you, Madam clerk. Next, we're not aware of anybody have any items can be deferred. No items to be deferred. What about withdrawn? Is there an item to be withdrawn? Good afternoon, sir.

Mr. Bourdon: Good afternoon, Mr. Chairman, members of the Commission. For the record, Eddie Bourdon Virginia Beach Attorney, representing Ocean Rental Properties, LLC, items 12, 13 and 14. They've requested that those items be withdrawn.

Mr. Weiner: Thank you, sir.

Mr. Bourdon: Thank you.

Mr. Weiner: All right. Items 12, 13, and 14 would be withdrawn; can I have a motion please?

Mr. Wall: Mr. Chair, I make a motion that we withdraw agenda items 12, 13 and 14.

Mr. Weiner: Have a motion. Can we have a second?

Mr. Horsley: Second.

Mr. Weiner: Second by Mr. Horsley, motion by Mr. Wall.

Madam Clerk: The vote is open. By recorded vote of 10 in favor and zero against agenda items 12, 13, and 14 have been withdrawn.

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