

Planning Commission Public Meeting Minutes October 13, 2021

David Weiner:

I call to order the public meeting of the Virginia Beach Planning Commission. My name is David Weiner, I'm the Chair. Before we get started, I've asked Mr. Coston to lead us in prayer. And we have a dual pledge by Commissioner Oliver and Commissioner Horsley. Please stand.

John Coston:

Eternal God, our Father, we thank you for this glorious day which you have made. God, we thank you for your many benefits. Now, God, we ask that you would look on this meeting, God, as we come to conduct business, God, that you would give us wisdom and that you would lead us and direct us. In Jesus, name we pray. Amen.

Group: Amen.

Group:

We 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.

David Weiner:

Thank you. Next up, I'll ask Mr. Redmond to introduce the members please. Mr. Redmond.

Dave Redmond:

Thank you, Mr. Wiener. Welcome everyone. I'll start over here on this side of the dais. That's Kay Wilson. She is a Deputy City Attorney, and she handles planning matters and handles them very capably and we always appreciate her work. Next to her is Mr. John Coston. John is a retired fire captain, and he serves at large.

Dave Redmond:

Next to John is Robyn Klein. Robyn is a social worker, and she represents the Centerville District. George Alcaraz is a contractor, a developer, and a business owner, and he represents the Beach District. Dee Oliver, she also has a bunch of different jobs. She is in the funeral business. She's an author. I'm going to leave out 10 or 20 of them. But in any event, she does quite a bit. She is a past chairman. She is a past vice chairman. And she serves at large.

Dave Redmond:

Mr. Horsley, Donald Horsley, is a farmer. He serves at large. He's our longest tenured member. And he's represented the Princess Anne District for many years. Is typically the smartest guy here.

Dave Redmond:

In the center of the dais is Mr. Wiener. David Wiener represents the Kempsville District. He is our current chairman. He is a former vice chairman as well. He's a contractor, I mean, he is a salesperson in the building industry.

Dave Redmond:

Next to David is Jack Wall. Jack is an engineer by trade. He represents the Rose Hall District. He is also our vice chairman. And what did I miss? Rose Hall, right?

Dave Redmond:

This fellow, Mike Inman is not here today. He's an attorney. He serves at large. He's also a very capable fellow and a good friend.

Dave Redmond:

My name's Dave Redmond. I'm a commercial real estate broker licensed in Virginia and North Carolina. I represent the Bayside District. This is Whitney Graham. He does a bunch of stuff too. He's a broker, he's a developer, he's a manager of properties. He represents the Lynnhaven District.

Dave Redmond:

David Bradley is a retired city employee. What are you doing now? Anything more than that?

David Bradley:

I'm enjoying retirement.

Dave Redmond:

He's enjoying retirement. He now represents the Princess Anne District. And I think this is David's second meeting, so everybody go easy on him.

David Bradley:

That's true.

Dave Redmond:

Next to him is Bobby Tajan. Bobby is the Planning Director and he has a number of very capable staff with us, whom he will now introduce. Mr. Tajan.

Robert Tajan:

Thank you, Mr. Redmond. Clerking today we have Pam Sandloop and Nicole Garrido, who we are blessed to have had the opportunity to promote to a Planner I recently. Also with that, with the Current Planning Staff we do have Hoa Dao, our current planning manager, planning evaluation coordinator, and Marchelle Coleman. Our two new planners in the group that have also joined, Elizabeth Nowak and McKayla McKinney.

Robert Tajan:

We have Tori Eisenberg, who's also with the City Attorney's Office is with us. And we also have Tasha Martinez, who is assisting you all with your FOIA issues with your tablets right now. So I believe that is all for our staff.

Dave Redmond:

Thank you, Mr. Tajan. And thank you, Mr. Chairman.

David Weiner:

Thank you, sir. Appreciate that. Next, we're going to ask Madam Clerk to go over the rules, the explanations, of today's meeting.

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.

Madam Clerk:

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 is located in the front of the Planning Commission agenda.

Madam Clerk:

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.

Madam Clerk:

Consent agenda. The second order of business is a consideration of the consent agenda, which are those items that the Planning Commission believe are unopposed and which have favorable staff recommendation.

Madam Clerk:

Regular agenda. The commission will then proceed with the remaining items on the agenda. When an agenda item has been called, we will recognize the applicant or the representative first. Following the applicant or representative, registered speakers will be called next. 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.

Madam Clerk:

Please note that the actions taken 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.

Madam Clerk:

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.

**Virginia Beach Planning Commission
October 13, 2021 Public Meeting
Agenda Item # 1**

**Schaffer Construction [Applicant]
Joe P. Covington, Jr., Janet R. Covington and B. Harrison James, III & Karen Bonney
Fleming & Julie Bonney Crockett [Property Owners]**

Conditional Use Permit (Automobile Service Station)

152 Newtown Road, 5790 Princess Anne Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our only agenda item today is agenda item number one, Schaffer Construction. It's an application for a Conditional Use Permit Automobile Service Station on property located at 152 Newtown Road, 5790 Princess Anne Road, located in the Kempsville District.

David Weiner:

Welcome, sir.

Rob Beaman:

Thank you, Mr. Chairman, Mr. Vice Chair, Members of the Commission. For the record my name is Rob Beaman, I'm a local land use attorney with the Troutman Pepper Law Firm. Here today on behalf of the applicant, Schaffer Construction. This application involves the redevelopment of the commercial site located on Newtown Road and Princess Anne Road in the Kempsville District. This was formally the site of a BP gasoline station and a small commercial strip center, which is actually still on the property.

As this site is located in the Newtown SGA, we've worked hard with staff over the past several months to make sure that this is an attractive addition to this corridor. To that end, the applicant has flipped the orientation of the building from what you typically see with a gas station. Here, the building would be up against the corner on the right of way, and the gas pumps would be in the rear.

Additionally, we've added some articulation to the rear elevation with some glazing and an entryway feature that you can see on the elevation to dress up the back to make it more look like a front elevation. And then finally we've added additional landscaping and berm at the corner and along both rights of way to really accentuate this property as a gateway to the city.

The other thing I wanted to mention is that we will be closing three of the existing five access points on the property to consolidate access and make for a safer, more efficient, traffic path. We are leaving open two access points, one on each right of way. For all these reasons, we

believe that this use will be an attractive addition to this corridor and is in keeping with the Newtown SGA plan.

I did speak with Ms. Turner, Donna Turner, who's a representative of the Commercial Condo Association located to the east of the property, and as a result of that conversation, I wanted to put a couple of things on the record for you today.

First, my client is willing to add a fence. Right now we're showing a landscape buffer between the two uses. We're also agreeable to add a fence and we will be modifying the site plan between Planning Commission and Council to reflect that fence. And then additionally, there was a question for Ms. Turner regarding the access from the egress from the commercial condo up to Newtown Road, through the 7-Eleven site. We are not intending to block that off and we'll make that clear on the site plan if we need to between Planning Commission and City Council.

I do understand that Ms. Turner is here to express some questions and concerns from the Association, and we look forward to continuing the conversation with her and the Association even after today. So, with that, appreciate y'all's time and consideration and we'll stand by for any questions.

David Weiner:

Any questions? All right, we'll talk with you later.

Rob Beaman:

Thank you.

Madam Clerk:

Mr. Chair. We have two speakers. Calling Donna Turner.

David Weiner:

Welcome, ma'am.

Donna Turner:

Hello. Is it okay to take my mask off?

David Weiner:

Sure is.

Donna Turner:

Okay. I am vaccinated.

David Weiner:

In part so we can hear you.

Donna Turner:

Okay.

David Weiner:

Thank you.

Donna Turner:

Good afternoon Commission and everyone who is here. I do have handouts that will describe what I am going to be talking about. I am representing the Newtown Professional Park Owners Association. We are a Virginia-

David Weiner:

Ma'am, if you wanted to hand them over there, then she could send them around to us, if you'd like to do that. Thank you.

Donna Turner:

As I said, I am representing the Newtown Professional Park Owners Association. We are a Virginia condominium, and we are governed by the laws of Virginia. We have a Board of Directors consisting of a President, a Treasurer, Secretary, as well as one additional Director. That additional Director is me, the lucky ducky.

As you get the handout, I would like to take a second or two to introduce myself the same as you did. I am a 49 and a half year retired veteran of NASA Langley Research Center, and a couple of other federal installations. I am also not an engineer, and so I hope you will have some level of tolerance for whatever it is that our owners have asked me to report to you.

The Newtown Professional Park is consisting of 14 individual, individually owned office condos. Each office condo is governed by the Virginia Condominium Laws and all of us have come together to express some concerns as well as questions. We neither oppose or approve or support this project. And we do not-

Donald Horsley:

Can I ask something? Sorry. Can I just ask, just for clarification, are you next door to this? Where are you?

Donna Turner:

We're east, so behind the new site. We are the two U-shaped buildings.

Donald Horsley:

Thank you. I just didn't know where you were. Thank you. Sorry to interrupt.

Donna Turner:

All right. So let me just jump into this. And again, I have a list of concerns and questions, and they are an amalgamation from all of the owners.

Donna Turner:

The first thing that is on page two, the concern is that the placement of the underground gasoline tanks along the north side of the property, we feel like that is problematic in that it inhibits access by fire protection officials and fire vehicles. Also, placing the underground gasoline tanks so close to our property line may lower our property values due to the hazardous materials, i.e., gas, stored in these underground tanks, and the potential emission of biohazardous vapors. This is well known in gas stations and service stations, and it is benzene, and so we are very concerned about that.

For each of the concerns or questions we have, we have a recommended solution and, where necessary, I have put a footnote in to describe where I am getting this information from about benzene releases and fire concerns and so forth. So that is our first concern about the placement of the gas tanks.

Now, I will tell you that our owners had some aesthetic input in terms of we want, blue and not red, or we want trees and not bushes, or whatever. Those are in here. It is up to you to take into consideration these aesthetic recommendations, but where there is a safety or any kind of proposal that may inhibit our ability to continue to conduct business in a productive way, that will make our clients feel comfortable, that is in here also.

Concern number two has to do with the proposed location of the three dumpsters. Those three dumpsters are sitting right directly in front of the entrance to building A, which is at 156 Newtown Road. And on this diagram, the words dumpster enclosure is written right on top of building 156, and that building has all of the A units, from A1 to A7. And what we would like to ask is that those dumpsters be relocated. I don't think any of you would want to willingly have dumpsters sitting at the front entrance of your building or place of employment. We are very concerned about the ongoing problem with rodents, particularly Norway rats, in the Kempsville area, and so we know that, because we have a dumpster, we know that mitigation of pests, rodents, flies, smells, and picking up trash, making sure that things look attractive, is an ongoing concern with convenience stores. We know that. We have a dumpster and we know what that can be like.

Again, we have a recommended solution to perhaps move the dumpsters either to the Princess Anne Road side or closer to the new proposed 7-Eleven building.

Concern number three we think may have been addressed. The entrance to our Professional Park from Newtown Road is a one way entrance in, and it is sitting right next to the entrance

into the newly refurbished old Chartway Federal Credit Union building. I think that's what everybody refers to it. Where the DroneUp offices are now. So our entrance on Newtown is a one way entrance in, and we were very concerned about the appearance there would be no exit onto Newtown Road. But as Mr. Beaman has explained, the exit will be through the 7-Eleven parking lot and back out onto Newtown. We do not prefer that, we prefer that our exit remain where it is, but we believe that if that is not possible, we can probably live with it. We will be unhappy, but we can probably live with that.

Concern number four has to do with building line and setback regulations. Now, Mr. Beaman shared that the city planners worked very closely with the applicant to come up with this particular site plan and that the recommendation is that the rear of the building be on a slant and that it face the entrance, or gateway, into the city of Virginia Beach. That appears to be a little bit odd to us. First of all, because it is not following what we understood to be setback rules or any other current building line regulations as established by the City Planning Department. So we're a little bit confused about that.

Aesthetically, we have ideas about how that could be better, but, again, it is aesthetics. And we believe that perhaps if the entire thing was flipped where the building back faced our building and the pumps faced the intersection of Newtown and Princess Anne might look a little better. Again, I will say aesthetics.

Number five, we believe that we may have gotten an answer about that. We know now that there will be fencing and there will be softscape plantings, as well as some type of short or low brick wall. We are concerned about trash mitigation. We are concerned about whatever it is that we need to do to keep our area clean and neat.

Number six is access and circulation. Again, there is a strong recommendation from the staff that this be a walkable area and that there be bike racks and that there is an outdoors seating area for eating outside and lots of pedestrian walking traffic. We are, and will continue to be, alert to whether or not pedestrians or people who are driving may find not a parking space on the site, and then come around and park into one of our parking spaces and walk over to the convenience store.

Number seven, parking areas. Same thing. Number eight, landscaping. We may have a answer to that. Number nine is access to the site. We've talked about that, and we believe we would in fact prefer to have the current access out onto Newtown Road.

David Weiner:

I don't mean to cut you off. Go ahead and take your time, just start wrapping up since you're almost out of time.

Donna Turner:

Number 10 on here is that we have no comments about natural features, storm water management, lighting, or signs.

David Weiner:

That was quick. Thank you. Seemed very thorough here. Any questions?

Dee Oliver:

I do. Mrs. Turner, I have a question for you. I'm on Google Maps and currently there's a strip, or there was, a strip mall between you all and, I guess, the BP gas station that was there at one point. I'm getting a nod yes. It looks like you're parking lot just sort of... You all parked against that back.

Donna Turner:

Yes. And that is partly why we are concerned about a couple of things. At one time just until the recent past, there was the Virginia Winery located in that strip building. And while it was nice to have a winery close by, it was difficult for winery patrons to find it or access it or figure out how to get in there, and so we would often have numerous cars parked in our parking lot, and people would walk around onto Newtown, onto Princess Anne, and walk around and find the winery entrance there.

Dee Oliver:

Can you tell me about where, because I know you are concerned about the location of dumpsters, and I don't see them on Google maps, where you all have your dumpsters.

Donna Turner:

Can I walk over and show you?

Dee Oliver:

There's a pointer right there on the podium.

David Weiner:

It should work.

Dee Oliver:

It's on the ceiling. There you go.

Donna Turner:

So, this is our building, this is the B building, and our dumpster is right here, all the way in the back. And there is a driveway back here, even though you see a lot of tree overhanging, there is a single lane driveway back here, and that empties out onto Princess Anne.

Dee Oliver:

Okay. Thank you.

David Weiner:

Jack.

Jack Wall:

You talked about your ingress and egress from the site and I think I followed it somewhat, but can you describe that a little bit more, the existing pattern and what you're trying to achieve or what you would like to see?

Donna Turner:

Yes. So right now, when you come off of Newtown you come in right here and you are able to turn in right here. And this is a one way in. If you want to go to the old Chartway building, you take the same entrance and go this way. So when you want to egress out onto Newtown, you come back through the parking lot and the exit onto Newtown is right here. Because this is a one way one lane in, and this is a two lane out or in, to get back onto Newtown.

Donna Turner:

We're really concerned about, first of all, having to go onto the property of the 7-Eleven to exit, and our clients are probably going to be concerned about that because the only other exit out is here onto Princess Anne, and this would necessitate, because there is a median, it would necessitate a right turn to go to the light, to turn right, to go wherever they're going.

Jack Wall:

But I think that it's proposed that there's still going to be access now, to that entrance off of Newtown.

Donna Turner:

This entrance will be here, but it's a one way in, it is not out. It's a one way in. And what we're being told is that to get out onto Newtown, we have to drive onto the 7-Eleven property and go out right here. Now our current exit is right here where this little symbol is.

Jack Wall:

All right, thank you.

Dave Redmond:

So, where the current exit is, is that on the property of the little retail strip center?

Donna Turner:

It is an easement that is shared by both and it has been in place for just about 50 years.

Dave Redmond:

Okay, so you have an easement there.

Donna Turner:

Yes. And the easement is shared.

Dave Redmond:

Gotcha.

Jack Wall:

So they're going to maintain that easement, just shift it down to that one that's a little bit further south.

Dave Redmond:

So you have an easement, you'll still have an easement. Is that correct?

Donna Turner:

My understanding is that if one of the people, businesses, whatever, who shares the easement has to get permission from the other easement owner. So the easement, in my understanding is that it is co-owned by the Covington Building people, the people who own that, and the Newtown Professional Park.

Dave Redmond:

Gotcha.

Donna Turner:

And so we have not gotten, and maybe that's something that's coming, but we have not received any kind of request to modify the easement or change it in any way.

Whitney Graham:

I'm assuming that where you have an exit now and where you have an entrance from off Newtown, it seems like they're very close together.

Donna Turner:

Yes, they are.

Whitney Graham:

I would assume traffic probably didn't want them that close together, is my guess.

Donna Turner:

That could very well be.

Whitney Graham:

It's a safety thing.

Donna Turner:

It could very well be. But the point is, we are being asked to drive onto someone else's property to exit rather than use our portion of the easement.

Whitney Graham:

Gotcha.

Donna Turner:

And again, it could be that the easement request, or whatever has to happen, will happen. It has not happened yet.

David Weiner:

I've got a question for staff real quick. Mr. Tajan, that existing easement, the shared easement, is that recorded somewhere or is the owner just being kind enough to let them use that exit?

Robert Tajan:

I think it may be best to ask Mr. Beaman to see what legal easements exist.

David Weiner:

No problem. I understand.

Robert Tajan:

I will confirm for Mr. Graham that they are currently driving over the existing property of the Covington property to that exit. As typical, as Mr. Graham noted, the location and proximity of that one entrance to the other existing entrance, which services multiple properties, is of concern, which is why traffic engineering has that one closed during this redevelopment and requires the shifting away to have the proper distance.

David Weiner:

I noticed when we were onsite actually discussing this, that was my main concern, I said, "Wow, you're going to still keep that opening, and they're very close to each other." And traffic engineering is still allowing since they're still very close.

Robert Tajan:

Well not the closest one, but the further one-

David Weiner:

The further one is, yes. Any other questions?

Donna Turner:

I want to say about that, we would be okay with some other arrangement, we just want to be able to exit onto Newtown as well as exit onto Princess Anne. So whatever it is, it certainly can work out to be to everyone's advantage, and we're not hard over on keeping what we have, we just need a safe Newtown exit.

David Weiner:

What kind of businesses are in there?

Donna Turner:

We have accounting businesses, attorneys. Some of you may have seen the Escape Room facing Princess Anne Road. We have a private ambulance business, another accountant, we have another attorney. So mostly professional services.

David Weiner:

All right, sounds good. Any other questions? No?

Jack Wall:

I just have one.

David Weiner:

Okay.

Jack Wall:

It just seems also, this is just general statement, it seems like it's going to be more open with the strip mall gone, meaning that it'd be more visible, all those businesses.

Donna Turner:

Well, what Mr. Beaman just told us is that there will be a six foot fence all the way across the entire perimeter, as well as softscape that will grow to approximately 15 feet and be dense, so it will be more open, but not, and more attractive rather than looking at the rear of a building.

David Weiner:

I have to say, I live in Carolanne Farms and from what's been there for the last 20 years I've lived in Carolanne Farms, this is going to make it look more attractive.

Donna Turner:

Well, I think soft scaping and fencing will be a good thing. And some of this is TBD, to be very realistic about it. We hope that people won't park in our parking spots. We hope that the trash will be manageable. But we need to talk about this now. We can't go back in two years and say, "Okay, 7-Eleven, you need to help us pick up trash."

David Weiner:

Mr. Redmond.

Dave Redmond:

That's what the dumpster enclosure is for.

Donna Turner:

Dumpster picker upper trucks do not ensure that tops are back down on dumpsters. And this is a large size 7-Eleven with an emphasis on onsite food preparation, so it's the new style 7-Eleven, so we believe that there will be more Big Gulp cups and wrappers and whatever it is they're cooking.

Dave Redmond:

Thank you, ma'am.

Donna Turner:

Thank you very much.

David Weiner:

Another speaker?

Madam Clerk:

Yes, one more speaker. Joel Chou.

David Weiner:

Welcome, sir.

Joel Chou:

Thank you everyone. May I take this off?

David Weiner:

Yes, please.

Joel Chou:

Okay. I do have two shots. And thank you for all the city's leaders and officers and the experts. And allow me to say I'm one of the 14 owners in next door, Newtown Professional Park. I'm there for close to 35 years. I'm living in this region. Actually, I bought my first house near the Newtown Library or gas station there, a townhouse. I live there for six years. But my office there.

Before I become self-practicing, I'm an architect. That's my career. And I work for the largest architecture design firm. They're branch office located in [inaudible 00:36:50], now it's the international corporation. So I'm familiar with the area, I'm familiar with the 7-Eleven. They used to have three 7-Elevens on this street. There's another one close to Princess Anne, so I know their business expand.

They are nice, nice people, and they run good business. People like them. I welcome they build a new one here. I'm exciting. But now I do have some opinion. Doesn't mean I against. The reason is I want to modify they're drawing design because I use my knowledge, if I can give contribute a little bit and also offer to the city to consider this, I think would be very helpful for this one.

The first one was mentioned by Donna for this one. The first four concerns were written by me, so she include. But I just try to add a little bit sense in for this hearing.

The first thing is this... Can you put that site plan again? So we have the major, consider this north side, architectural north, on the Newtown Road and the west side is... How do you call this? Princess Anne Road.

These two are most congested road here, and if you go there maybe every day in the morning or in the afternoon, always congested. The problem is that people make turns. The car always stuck there. Both side. This is really a good area for business, but it's the worst area for traffic. So for this, since if you see this drawing very clearly, then see the photograph underneath, it's vague. The current our entrance is the easement for both their property, our property, has been there for more than 50 years. And that was good location because-

David Weiner:

Sir, I need to ask you to start wrapping it up, okay? See the red light is on?

Joel Chou:

My time is up?

David Weiner:

Your time is up. Keep going though.

Joel Chou:

I'm sorry. I'm really sorry. I didn't realize so quick. So first thing I want the easement on this side to entrance and this side to enter into this property, I think the city engineer should pay attention to this one because the first and last thing we should do is a little bit of traffic study.

When you add traffic of this gasoline stations, fill stations, that increase lot, and the convenience increase lot of traffic. That really can stop the traffic during the rush hour. And that's first thing.

The second things is, their new entrance on the Newtown Road, actually it's a new entrance, it's not a current entrance. So our entrance become, make a u-turn into their property and then out. They also make the entrance narrower, like 20 feet wide, current one is 35 feet wide. It's good one. It's not only for the entrance to this property also from this way, people enter their properties and our properties. Donna didn't mention that.

David Weiner:

I do appreciate it. Thank you very much. Any questions?

Joel Chou:

I'm sorry.

David Weiner:

No problem. No problem. I will say, though, I have talked to traffic engineering because I had a little bit of concerns. What they've come up here with, I think is a very good situation because... Mr. Beaman will explain why the building really needs to be like this. Not only is part of the Newtown Comprehensive Plan, out of our Comprehensive Plan, but we're doing it as an urbanized type of feel, where the back of the building is up against the road and the gas pumps are on the inside. It's something we do in the city.

Joel Chou:

This is my profession too, I develop architecture site plan for all the developers and the government agencies, include federal agencies. I do have a lot of experience and I'm also familiar with the ordinance and the laws. So when developing [inaudible 00:41:06] not just from

this [inaudible 00:41:08] also from an aesthetic point of view, and also for the neighborhood, the concern.

There's a lot of change. People don't realize when they build a new facility that will increase a new problem too, and also the good things too. So basically, we try to do a minimum the problems.

David Weiner:

I understand.

Joel Chou:

This is the way I want to contribute something. I totally agree if I can just further do this to help the developer, all they need is have a really good, experienced... What do you call this? Architects or engineers make a new architecture site plan. It's more appropriate to follow ordinance. That's my contribution.

David Weiner:

I appreciate it. Thank you. Any questions? Thank you, sir.

Joel Chou:

Thank you for everything. For opportunity.

David Weiner:

Mr. Beaman.

Rob Beaman:

Thank you, Mr. Chairman. First, I did want to say that we do appreciate all the feedback we've received from the condo association. And I spoke with Mr. Chou before the hearing today as well and gave him my contact information and we certainly look forward to continuing our conversations with them and working through these issues and giving them additional information.

Couple things I just wanted to point out. With respect to the trash issue and the buffering and so forth, I did want to add that, I think it has been mentioned, currently there is no buffering between the properties now. We're proposing a double layer across the entire rear of the site and evergreen landscaping, and then also a fence. And then with respect to the dumpster itself, there will be a third layer of buffering with a dumpster enclosure that the city requires as well, which is on the elevations.

With respect to parking, we are currently over parked. We're proposing more parking than is required under the code minimum, and all of that of course is pushed up against the building on

the opposite side of the site, so I don't think there's much reason or opportunity for folks to park on the condo's property. In addition to that, there will be fence dividing those properties, which will dissuade folks from doing that as well.

Then in terms of access and traffic, this use is pretty much a passed by use where most of the traffic that uses this site is already on the corridor and is entering the site. Doesn't create a lot of destination trips and a lot of new users on the corridor.

Additionally, from a traffic perspective, we are proposing a new deceleration right lane in on Newtown Road, which will be helpful. And of course, the two entrances instead of five will also make it a safer, more efficient, traffic pattern. So those are the things I wanted to emphasize or add. Thank you.

David Weiner:

Any questions? Yes?

Robyn Klein:

The Newtown Road access point that's there now, is that currently on this property?

Rob Beaman:

Yes, ma'am. There are actually a couple of them on Newtown Road currently. And the access that the condominium uses, which was described a few minutes ago, is currently on the strip center property, I believe, which is part of this larger development.

Robyn Klein:

So, they're still driving on the property now?

Rob Beaman:

That's my understanding, yes.

Robyn Klein:

It's just getting moved a little bit. It's not like they weren't and then now they are.

Rob Beaman:

That's my understanding. And I'm looking at our engineer to confirm for me, but I believe that's the case.

Correct.

Rob Beaman:

Yes, ma'am.

Robyn Klein:

Thank you.

Rob Beaman:

Yes, ma'am.

David Weiner:

Jack.

Jack Wall:

So there is an ingress/egress easement currently?

Rob Beaman:

Yes, sir.

Jack Wall:

It's going to be replatted to be-

Rob Beaman:

The intention is to leave their access open, it's not to disturb their entrance. Of course, we have the easement to contend with and the language in the easement, but also city regulation. So, between those two, we're going to arrive at a solution which pleases the city and the condo association, but certainly the intent is not to affect their access at all.

Jack Wall:

Okay.

David Weiner:

Any other questions? Yep. Jack.

Jack Wall:

The dumpster. I kind of feel for them, but at the same time, that just seems like the right spot for the dumpster. I mean, you could put up against the roadways.

David Weiner:

I think it's a natural fit.

Jack Wall:

There's the buffering right there. I don't-

Rob Beaman:

Yeah, no, there are limited opportunities because we're on two rights of way and it's such an important corridor, and so that does seem like the natural fit. And I think we've tried to address that with the three layers of buffering. And, as Ms. Turner mentioned, the evergreens that are intended to be planted along the entirety of that back line will grow to 10 to 15 feet, so it should provide a nice buffer. Hopefully they won't even see the dumpster, not a lot of opportunity for things to blow on the site or anything like that.

Jack Wall:

What about the fuel? She mentioned about the fuel tanks.

Rob Beaman:

Yes, so fuel tanks located right adjacent to the canopy. I understand from our engineer those will meet all the current safety regulations, they'll be double walled with a monitoring system and so forth. So it's kind of a new world with gas stations and there's a lot of protections that are built in to the required codes.

Jack Wall:

So those protections would protect against fumes from the benzene and from potential hazards of risk for fire?

David Weiner:

Ms. Oliver.

Dee Oliver:

You mentioned the fence, which is not in the application, but y'all are going to add that in between now and Council.

Rob Beaman:

Yes, ma'am.

Dee Oliver:

Can you describe the height of the fence and what kind of fence are you all thinking about?

Rob Beaman:

We are proposing six feet on the fence, and the reason for that's a good height of a fence, but also, it'll be backed up by the 10 to 15 feet of evergreen landscape. We have not decided on a material yet.

David Weiner:

Any other questions? No? All right, thank you, sir.

Rob Beaman:

Thank you very much.

David Weiner:

All right, we'll close this and open it up for discussion. Who wants to go first? Anybody? Mr. Redmond.

Dave Redmond:

I move for approval of the application.

David Weiner:

We have a motion for approval. Do we have a second?

George Alcaraz:

Second.

David Weiner:

We have motion by Mr. Redmond, a second by Mr. Alcaraz.

Madam Clerk:

The vote is open. What's that?

Dee Oliver:

Hold on for Bobby.

David Weiner:

I'm sorry, Bobby.

Robert Tajan:

I think Ms. Oliver was getting to a good point. It was said on the record, but it was probably to assure that we get what is being proposed by the applicant. We should vocalize those conditions. So I think we should probably add that a six foot solid fence shall be added to the southern property line.

David Weiner:

That's not on the conditions already?

Dee Oliver:

No.

David Weiner:

I thought it was.

Dee Oliver:

Was the landscaping, the double landscaping, in the application?

Robert Tajan:

It is shown, but not the minimum height. So, I would also suggest that there's another condition that would state that the landscaping along the eastern, I'm sorry, the eastern property line shall be allowed to grow and be maintained at a minimum height of 10 feet.

Dee Oliver:

Perfect. Thank you.

David Weiner:

You catch all that?

Whitney Graham:

Sort of. Did y'all not talk beforehand, though, is what my question is?

Robert Tajan:

I think that was a quickly changing situation.

Rob Beaman:

It is evolving. We tried to communicate it to Ms. Turner. I told her I intended to address that.

Dave Redmond:

Let's see. You might have to give me some crib notes. I move approval of the application with the addition of two conditions. One is that there be a... All right, help me out. Six foot property fence, six foot fence along.

David Weiner:

Boundary. Eastern.

Dave Redmond:

Along the Eastern boundary and landscaping on the... Which boundary?

Robert Tajan:

Eastern.

Dave Redmond:

Thank you. Eastern boundary, which will grow to a height of no less than 10 feet.

Dee Oliver:

10 feet.

Dave Redmond:

I said 10 feet.

Dee Oliver:

I didn't hear you. Sorry.

Dave Redmond:

All right. 10 feet. Thank you.

David Weiner:

We have a motion by Mr. Redmond.

George Alcaraz:

Second.

David Weiner:

Second by Mr. Alcaraz.

Madam Clerk:

Vote is open. By a recorded vote of 10 in favor, zero against, agenda item number one has been recommended for approval with conditions as amended.

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

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the submitted Concept Plan entitled "CONCEPTUAL SITE PLAN, 7-ELEVEN PRINCESS ANNE ROAD & NEWTOWN ROAD (VIRGINIA BEACH, VA)", prepared by Kimley-Horn, dated September 09/08/2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed building and the fuel canopy which shall remain free of a logo and stripping shall substantially adhere in appearance, size and materials to the elevations entitled "7-ELEVEN STORE, 5790 PRINCESS ANNE ROAD, VIRGINIA BEACH, VA, prepared by buf STUDIO, dated 09/15/2021, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning & Community Development.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning and Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy. The Landscape Plan shall be reflective of the plant material depicted on the submitted Landscape Plan entitled "CONCEPTUAL LANDSCAPE EXHIBIT, 7-ELEVEN PRINCESS ANNE ROAD & NEWTOWN ROAD (VIRGINIA BEACH, VA)", prepared by Kimley-Horn, dated 09/08/2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. As depicted on the Landscape Plan, a 6-foot tall white vinyl privacy fence shall be installed along the eastern property line with a row of evergreen trees installed and maintained at a height of no less than 10 feet.
5. The freestanding sign shall be monument style, be no taller than eight (8) feet in height measured from the ground to the top of the sign and substantially adhere in appearance, size, and materials to the submitted freestanding sign exhibit entitled "Monument Sign",

prepared by Everbrite, LLC, dated 09/03/2021, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning & Community Development.

6. All signage on the site shall meet the requirements of the Zoning Ordinance unless otherwise approved by the Board of Zoning Appeals (BZA). A separate sign permit shall be obtained from the Department of Planning & Community Development for installation of any signage.
7. Outdoor display of merchandise shall be permitted and screened from view from the public right-of-way, as depicted on the conceptual site plan referenced in Condition 1.
8. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties.
9. Lighting for pedestrians shall be provided from storefronts using either indirect illumination from the building or direction illumination under canopies or awnings.
10. The dumpster shall be enclosed with a solid wall in a color and material to match the building and any required screening shall be installed in accordance with Section 245 (e) of the Zoning Ordinance.
11. The applicant/owner shall submit a subdivision plat with the City of Virginia Department of Planning & Community Development to vacate the interior property lines. Said plat shall be subject to review and approval of the Department of Planning & Community Development, and plat shall be recorded with the City of Virginia Beach Circuit Court Clerk's Office within 365 days from the date of the City Council action.

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
October 13, 2021 Public Meeting
Agenda Item # 2**

**Virginia Beach Distilling, LLC [Applicant]
Oceana Crossings, LLC [Property Owner]**

Conditional Use Permit (Craft Distillery)

1375 Oceana Boulevard, Unit 142

RECOMMENDED FOR APPROVAL – CONSENT

David Weiner:

Thank you, ma'am. Next we will go to the consent agenda. Vice Chair Wall will take over.

Jack Wall:

Thank you, Mr. Chair. These are applications that are recommended for approval by staff. The Planning Commission concurred and there are no speakers signed up in opposition. We have one item on the regular consent agenda today. That item is Virginia Beach Distilling LLC, which is the applicant, and the owner is Oceana Crossing LLC, for a Conditional Use Permit for Craft Distillery at 1375 Oceania Boulevard, Unit 142. Is there a representative for this item? Is there any opposition for this item being placed on the consent agenda? Hearing none. The Planning Commission has asked Mr. Alcaraz to read this into the record.

George Alcaraz:

Sure. Thank you. You don't want to wait? You want to keep going?

Jack Wall:

Yeah.

George Alcaraz:

Okay. Just making sure.

Jack Wall:

You're good.

George Alcaraz:

Agenda number two, Conditional Use Permit for a Craft Distillery. The applicant is requesting Conditional Use Permit to open a Craft Distillery in Unit 142 at the shopping center along Oceana Boulevard, zoned B, Conditional B2, Community Business District. The property

contains a Craft Brewery as well that was originally granted by City Council in 2018 and recently improved this summer for an expansion. An open air market for a food truck was also part of that request.

George Alcaraz:

The 6,933 square foot Craft Distillery proposes to produce and sell vodka. The unit will be divided in 2,282 square foot for the production area and 4,651 square feet for the tasting room, patio, and office space. No changes to the existing building will be proposed or are proposed. The hours will be from 12:00 PM to 10:00 PM, Wednesday through Saturday, and 12:00 PM to 6:00 PM on Sundays.

George Alcaraz:

The proposed application for a Conditional Use Permit for the Craft Distillery in staff's opinion is acceptable. The business is in keeping with the policies and goals set forth in the Comprehensive Plan and its guiding principles of supporting and sustaining great neighborhoods with complementary non-residential uses. Consistent with the existing approved Conditional Use Permit on this same site for the Craft Brewery, conditions are recommended that prohibit live outdoor music to ensure no disruption to the nearby residences.

George Alcaraz:

With that being said, and the conditions stated in the report, we put it on the consent agenda.

Jack Wall:

Thank you. The Planning Commission also placed the following applications for Conditional Use Permit for Short Term Rental on the consent agenda. As they meet the actable requirements for section 241.2 of the zoning ordinance. Staff and Planning Commission supports the applications and there are no speakers signed up in opposition. These include agenda item or application number four, Sue Kent, and number five, Peter Yordanov Popov.

Jack Wall:

Mr. Chair, that was the last item on the consent agenda, and these were the last items. I move for approval on the regular consent agenda, agenda item number two, and on the short term rental agenda, number four and number five.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I have a disclosure to make. I will be voting in support of the consent agenda. However, I will be specifically abstaining from agenda items number four and five, dealing with

short term rentals. I have a letter on file with the City Attorney's Office. As a matter of policy I abstain from all short term rental applications individually and also from any ordinances that might apply. Short story is I have a small client in the travel industry. Thank you.

David Weiner:

All right, we have a motion by Mr. Wall. Do I have a second?

Donald Horsley:

Second.

David Weiner:

Second by Mr. Horsley for the consent agenda.

Madam Clerk:

The vote is open. By recorded vote of 10 in favor, zero against, agenda item number two has been recommended for approval by consent. By recorded vote of nine in favor, zero against with one abstention, agenda items number four and five have been recommended for approval by consent.

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

CONDITIONS

1. An occupancy load for the Craft Distillery shall be established by the City of Virginia Beach Building Official's Office.
2. A Certificate of Occupancy shall be obtained prior to operation of Craft Distillery.
3. Any conditions associated with the license issued by the Virginia Alcoholic Beverage Control Board shall be incorporated as conditions with this Conditional Use Permit.

4. All signage onsite shall meet the requirements of the City Zoning Ordinance. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in, or on the windows, or on the doors. A separate sign permit from the Planning Department shall be required for the installation of any signage.
5. Hampton Roads Sanitation District approval shall be obtained prior to any discharge of sewage.
6. As per Section 230 of the Zoning Ordinance, live music will only be allowed inside the establishment when all the doors and windows are closed. No live music will be permitted on any outdoor patio area.
7. There shall be no sale or consumption of alcoholic beverages on the premises between midnight and 10:00 a.m.

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

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

**Virginia Beach Planning Commission
October 13, 2021 Public Meeting
Agenda Item # 3**

James D. White Revocable Living Trust [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

407 18th Street, Unit D

RECOMMENDED FOR 30 DAY DEFERRAL

David Weiner:

Thank you, Madam Clerk. Next, does anybody have any items to be withdrawn or deferred? Please come forward. None. The Chair has been told that item number three will be deferred for 30 days. Does anybody have any objection with that to be withdrawn for 30 days? None. Can I have a motion please?

Jack Wall:

Mr. Chair, I make a motion that we defer agenda number three for 30 days.

Donald Horsley:

Second.

David Weiner:

We have a motion by Mr. Wall and a second by Mr. Horsley.

Madam Clerk:

The vote is open. Mr. Wall. Thank you. By recorded vote of 10 in favor, zero against, agenda item number three has been deferred for 30 days.

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

**Virginia Beach Planning Commission
October 13, 2021 Public Meeting
Agenda Item # 4**

Sue W. Kent [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

901 Pacific Avenue, Unit D

RECOMMENDED FOR APPROVAL - CONSENT

David Weiner:

Thank you, ma'am. Next we will go to the consent agenda. Vice Chair Wall will take over.

Jack Wall:

Thank you, Mr. Chair. These are applications that are recommended for approval by staff. The Planning Commission concurred and there are no speakers signed up in opposition. We have one item on the regular consent agenda today. That item is Virginia Beach Distilling LLC, which is the applicant, and the owner is Oceana Crossing LLC, for a Conditional Use Permit for Craft Distillery at 1375 Oceana Boulevard, Unit 142. Is there a representative for this item? Is there any opposition for this item being placed on the consent agenda? Hearing none. The Planning Commission has asked Mr. Alcaraz to read this into the record.

George Alcaraz:

Sure. Thank you. You don't want to wait? You want to keep going?

Jack Wall:

Yeah.

George Alcaraz:

Okay. Just making sure.

Jack Wall:

You're good.

George Alcaraz:

Agenda number two, Conditional Use Permit for a Craft Distillery. The applicant is requesting Conditional Use Permit to open a Craft Distillery in Unit 142 at the shopping center along Oceana Boulevard, zoned B, Conditional B2, Community Business District. The property contains a Craft Brewery as well that was originally granted by City Council in 2018 and recently

improved this summer for an expansion. An open air market for a food truck was also part of that request.

George Alcaraz:

The 6,933 square foot Craft Distillery proposes to produce and sell vodka. The unit will be divided in 2,282 square foot for the production area and 4,651 square feet for the tasting room, patio, and office space. No changes to the existing building will be proposed or are proposed. The hours will be from 12:00 PM to 10:00 PM, Wednesday through Saturday, and 12:00 PM to 6:00 PM on Sundays.

George Alcaraz:

The proposed application for a Conditional Use Permit for the Craft Distillery in staff's opinion is acceptable. The business is in keeping with the policies and goals set forth in the Comprehensive Plan and its guiding principles of supporting and sustaining great neighborhoods with complementary non-residential uses. Consistent with the existing approved Conditional Use Permit on this same site for the Craft Brewery, conditions are recommended that prohibit live outdoor music to ensure no disruption to the nearby residences.

George Alcaraz:

With that being said, and the conditions stated in the report, we put it on the consent agenda.

Jack Wall:

Thank you. The Planning Commission also placed the following applications for Conditional Use Permit for Short Term Rental on the consent agenda. As they meet the actable requirements for section 241.2 of the zoning ordinance. Staff and Planning Commission supports the applications and there are no speakers signed up in opposition. These include agenda item or application number four, Sue Kent, and number five, Peter Yordanov Popov.

Jack Wall:

Mr. Chair, that was the last item on the consent agenda, and these were the last items. I move for approval on the regular consent agenda, agenda item number two, and on the short term rental agenda, number four and number five.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I have a disclosure to make. I will be voting in support of the consent agenda. However, I will be specifically abstaining from agenda items number four and five, dealing with short term rentals. I have a letter on file with the City Attorney's Office. As a matter of policy I

abstain from all short term rental applications individually and also from any ordinances that might apply. Short story is I have a small client in the travel industry. Thank you.

David Weiner:

All right, we have a motion by Mr. Wall. Do I have a second?

Donald Horsley:

Second.

David Weiner:

Second by Mr. Horsley for the consent agenda.

Madam Clerk:

The vote is open. By recorded vote of 10 in favor, zero against, agenda item number two has been recommended for approval by consent. By recorded vote of nine in favor, zero against with one abstention, agenda items number four and five have been recommended for approval by consent.

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

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 901 Pacific Avenue Unit D, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.

3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. The garage space within the unit must remain a minimum of 18-feet by 18-feet, contain a minimum 16-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
5. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
6. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
7. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
8. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
9. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
10. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
11. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
12. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

13. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
14. Accessory structures shall not be used or occupied as Short Term Rentals.
15. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
16. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
17. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
18. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
19. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
20. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the Short Term Rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

21. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and

are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

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
October 13, 2021 Public Meeting
Agenda Item # 5**

Petar Yordanov Popov [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

927 Pacific Avenue, Unit A

RECOMMENDED FOR APPROVAL - CONSENT

David Weiner:

Thank you, ma'am. Next we will go to the consent agenda. Vice Chair Wall will take over.

Jack Wall:

Thank you, Mr. Chair. These are applications that are recommended for approval by staff. The Planning Commission concurred and there are no speakers signed up in opposition. We have one item on the regular consent agenda today. That item is Virginia Beach Distilling LLC, which is the applicant, and the owner is Oceana Crossing LLC, for a Conditional Use Permit for Craft Distillery at 1375 Oceania Boulevard, Unit 142. Is there a representative for this item? Is there any opposition for this item being placed on the consent agenda? Hearing none. The Planning Commission has asked Mr. Alcaraz to read this into the record.

George Alcaraz:

Sure. Thank you. You don't want to wait? You want to keep going?

Jack Wall:

Yeah.

George Alcaraz:

Okay. Just making sure.

Jack Wall:

You're good.

George Alcaraz:

Agenda number two, Conditional Use Permit for a Craft Distillery. The applicant is requesting Conditional Use Permit to open a Craft Distillery in Unit 142 at the shopping center along Oceana Boulevard, zoned B, Conditional B2, Community Business District. The property contains a Craft Brewery as well that was originally granted by City Council in 2018 and recently

improved this summer for an expansion. An open air market for a food truck was also part of that request.

George Alcaraz:

The 6,933 square foot Craft Distillery proposes to produce and sell vodka. The unit will be divided in 2,282 square foot for the production area and 4,651 square feet for the tasting room, patio, and office space. No changes to the existing building will be proposed or are proposed. The hours will be from 12:00 PM to 10:00 PM, Wednesday through Saturday, and 12:00 PM to 6:00 PM on Sundays.

George Alcaraz:

The proposed application for a Conditional Use Permit for the Craft Distillery in staff's opinion is acceptable. The business is in keeping with the policies and goals set forth in the Comprehensive Plan and its guiding principles of supporting and sustaining great neighborhoods with complementary non-residential uses. Consistent with the existing approved Conditional Use Permit on this same site for the Craft Brewery, conditions are recommended that prohibit live outdoor music to ensure no disruption to the nearby residences.

George Alcaraz:

With that being said, and the conditions stated in the report, we put it on the consent agenda.

Jack Wall:

Thank you. The Planning Commission also placed the following applications for Conditional Use Permit for Short Term Rental on the consent agenda. As they meet the actable requirements for section 241.2 of the zoning ordinance. Staff and Planning Commission supports the applications and there are no speakers signed up in opposition. These include agenda item or application number four, Sue Kent, and number five, Peter Yordanov Popov.

Jack Wall:

Mr. Chair, that was the last item on the consent agenda, and these were the last items. I move for approval on the regular consent agenda, agenda item number two, and on the short term rental agenda, number four and number five.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I have a disclosure to make. I will be voting in support of the consent agenda. However, I will be specifically abstaining from agenda items number four and five, dealing with short term rentals. I have a letter on file with the City Attorney's Office. As a matter of policy I

abstain from all short term rental applications individually and also from any ordinances that might apply. Short story is I have a small client in the travel industry. Thank you.

David Weiner:

All right, we have a motion by Mr. Wall. Do I have a second?

Donald Horsley:

Second.

David Weiner:

Second by Mr. Horsley for the consent agenda.

Madam Clerk:

The vote is open. By recorded vote of 10 in favor, zero against, agenda item number two has been recommended for approval by consent. By recorded vote of nine in favor, zero against with one abstention, agenda items number four and five have been recommended for approval by consent.

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

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 927 Pacific Avenue Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.

4. The garage space within the unit must remain a minimum of 18-feet by 18-feet, contain a minimum 16-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
5. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
6. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
7. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
8. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
9. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
10. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
11. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
12. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
13. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.

14. Accessory structures shall not be used or occupied as Short Term Rentals.
15. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
16. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
17. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
18. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
19. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
20. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the Short Term Rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

21. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of

all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

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.