

Planning Commission Public Meeting Minutes November 10, 2021

David Weiner:

Welcome to the November 10, 2021 Virginia Beach Planning Commission formal session. My name is David Weiner. I'm the Chair of the Planning Commission. And before we get started, Mr. Coston, I've asked Mr. Coston to lead us in prayer. Please stand.

John Coston:

Eternal God our Father. We thank you for this glorious day God, we thank you for the many blessings and benefits, God, you have bestowed upon us. Lord, as we come to deliberate and to discuss and to act on behalf of this City, God, we ask that you would grant us of your peace, your love and your fellowship. Then Lord that you would grant us wisdom and understanding, God, that we may make right to see in Jesus name we pray. Amen.

Crowd:

Amen.

Crowd:

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.

David Weiner:

Thank you. Next Mr. Redmond has volunteered to introduce the members.

Dave Redmond:

Actually, I didn't volunteer. I recall you appointed me. Let's just put truth in advertising. I'm going to start on this end of the dias. That pretty lady at the end, Kay Wilson is a Senior City Attorney. Part of her portfolio is Planning and Community Development. She does a great job guiding us in our work. So as always, thank you Kay. And the gentleman next to her is Mr. John Coston, he serves At Large. He is a retired fire captain. Robyn Klein represents the Centerville District. She is a social worker. That occasion too need social workers in my family, in my life. So I certainly admire what you do too. George Alcaraz does a whole bunch of things. He's a businessman, he's a contractor, he's a general manager of the East Coast Surfing Championships. He's got some very creative businesses and he represents the Beach District. And he wants to start a museum. What do you not do? Dee is another one. Yeah, Dee is another one who also works her head off because she has a whole bunch of different things. She does... She's in the funeral business. She's an author, she's a speaker. And she and her husband are involved in the restaurant business. She also serves At Large. She is a former Vice Chairman and a Chairman of our Commission. Donald Horsley serves At Large. He is a Hokie and a farmer and he... Good Lord, does he work hard. David Weiner represents the Kempsville District. He is also a former Vice Chairman. He is our current Chairman for another month anyway. And he is a contractor in the building industry. Jack Wall is a Civil Engineer. He represents the Rose Hall District. He is currently our Vice Chairman. When the new year comes, Jack will serve as our Chairman, so as much as we admire Dave, we're also looking forward to that. And I should also mention that George Alcaraz in the new year is going to be our new Vice Chairman. So certainly looking forward to those guys, new roles. Mike Inman, to my right. He serves At Large. He is an

attorney and a really superb attorney if you should need a real estate attorney, I know one, and he also has one more month, but he's a very capable fellow who we all listen to.

David Weiner:

Whitney Graham is in the development and management business, I guess it would be the best way to put it, he represents the Lynnhaven District. David Bradley is our newest member. He is a retired city Budget Director and Deputy City Manager. Titles mean something. He represents the Princess Anne District and he's off to a fast start. So we're certainly glad to have him. That is Carolyn Smith. She is the Planning Administrator. She, today is filling in for the Planning Director, Bobby Tajan, who could not be here today. And she too is very capable. And she is going to introduce the other members of the staff who are here with her and we will go easy on you.

Carolyn Smith:

Thank you. Excuse me. Helping us keep track today of today's meeting, to my left we have Nicole Garrido and also Pam Sandloop. And then on the front row, we have the Interim Zoning Administrator, Ashby Moss, and Hoa Dao, who is the manager of all things related to the Planning Commission. And then next to him, we have Marchelle Coleman who is one of our senior planners. And we also have Kevin Fairley, who doesn't get enough credit, with IT. And so thank you for being there and hiding behind that screen. On the first row we have Carrie Bookholt, she's the Development Services Center Administrator. We have Tori Eisenberg. She's one of our attorneys and one of your attorneys with the City Attorney's Office. Also Hank Morrison with Zoning. And then on the second and third row, we have Antoinette Folks, Elizabeth Nowack, Michaela McKinney, and Levi Luckenbach. Levi, do you want to stand up? He is our newest hire. I just met him yesterday. He is in the Zoning Division. So he is observing today and we are very happy to have him with us. So welcome. And then we also have Aubrey Trebilcock rounding us out today and that's the team that has worked on today's agenda. And I do believe we have Ric Lowman with Traffic Engineering on call if we need him today.

Dave Redmond:

Thank you, Ms. Smith. Levi. Welcome. And thank you, Mr. Chairman.

David Weiner:

Thank you, sir. Appreciate that. Next order of business. Madam Clerk, could you please help fill us in on the rules?

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 their representative first. Following the applicant or 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 solely representing a large group, such as a civic league or homeowners association, in which case they will have 10 minutes.

Madam Clerk:

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

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 1**

City of Virginia Beach, a Resolution to amend the City of Virginia Beach Comprehensive Plan 2016 to address the citywide stormwater impacts for discretionary land use applications.

RECOMMENDED FOR DENIAL – HEARD

Madam Clerk: Thank you, Mr. Chair. Our first agenda item is agenda item number one, City of Virginia Beach, a resolution to amend the City of Virginia Beach Comprehensive Plan 2016 to address city-wide stormwater impacts for discretionary land use applications.

David Weiner: Welcome.

Ms. Bookholt: Thank you. Good afternoon, Commissioners. I'm Carrie Bookholt. I'm the Development Services Center Administrator, and I'm here to bring forward a proposed amendment to the Comprehensive Plan, which is necessary to fulfil the components of the recently passed City Council Resolution and Bond Referendum. On September 7th, City Council passed a Resolution that stated should the Bond Referendum pass, the Comprehensive Plan would be revised or amended within three weeks to include language that would essentially require projects that come before you for a discretionary request, not create an impact or increase demand in the stormwater system. Our staff report proposes the language that we would like to amend the Comprehensive Plan, and it states that based on the Resolution by City Council, all rezonings and conditional rezonings should demonstrate no impact on current or future in stormwater infrastructure, and must provide a stormwater analysis, demonstrating this has no impact as part of their Planning Commission application process. The amendment also removes any reference to the Integrated Site Design Guide which is a policy document that was not adopted by City Council and is not in place at this time. The Planning Department and Public Works Department have been hosting a series of storm water workshops with a focus group to include CVBIA, which was the former TBA group, consulting engineers, developers, and two City Council liaisons. And this amendment was discussed at length in those meetings, it was decided that the amendment would only apply to rezonings or conditional rezonings. The City Council staff liaisons were comfortable and staff was comfortable that should a proffer be volunteered for a conditional rezoning project, that a less intense storm water design, preliminary design, could be submitted through our office before receiving a positive recommendation. So with that, we had to act quite quickly. The resolution that was passed in September, only gave us three weeks to get this before you and to City Council, should the bond referendum pass and it did. So even with us being on the agenda for December 7th for City Council, we're a week behind, but we had to act quickly. We did propose, I do want to reiterate, we sent our proposed language to our stakeholder group, including CVBIA. We received one minor comment back. We amended the proposed language to include their comment. And then we received reassurance that they were on board with the proposed language that we presented in our staff report today. Any questions?

David Weiner: Mr. Redmond?

Dave Redmond: Who gave you that reassurance? I have to tell you I've heard quite otherwise.

Ms. Bookholt: So, Claudia Cotton is the representative that we've been communicating with, as the representative for CVBIA.

Dave Redmond: Okay, well, just so you know, I got a telephone call right after our informal meeting saying, meant to call you earlier about this, but we were very uncomfortable with the speed at which this is moving and feel like this process has been somewhat disingenuous. There are folks who are part of that stakeholder group, that you describe, that don't feel that this has been entirely proper and that it is moving too fast and that they were surprised by the language that I think we were surprised by. So I don't mean to criticize you, but I think the suggestion that everything is copacetic with regard to, that the stakeholder group, which I don't know, other than the person who called me, I don't know anybody who was on it. Nobody from the Planning Commission, I understand, was on it. I think, I have been told something quite different than that and this very morning. So, that gives me great pause and I'm sure that City Council will be hearing comments to that effect. So, certainly is going to, well, we're going to get into this discussion here shortly, but I just wanted to put that on the record. It's not comfortable for me to do it, but that's what I'm hearing and people reaching out to me saying just that.

Ms. Bookholt: Understood.

Dave Redmond: Thank you, Mr. Chairman.

David Weiner: Yes, ma'am?

Madam Clerk: We have one speaker...

David Weiner: Yes, ma'am. Okay. Anybody with the comments?

Dee Oliver: No, I mean, other than, and I guess I can wait for close, but just to reiterate what I had stated earlier this morning, just so that we do have it on the record, so to speak. And again, appreciate all your time and effort presenting all of this and your work on it. But the stakeholder meetings that I think and correct me if I'm mistaken, that you'd said that were weekly for about a month, it's unfortunate that the Planning Commission had not been included in those for something that's getting ready to be put into the Comprehensive Plan, which is something that we haven't seen in three years. Not to mention that along with that, there's a Resolution that was put forth and I'm not quite sure, I haven't been briefed, or I don't know who on the Commission has in more, in-depth of where that resolution that came from one of our council members, I believe it was Mr. Moss. How that speaks to this. And are they still two separate or have they been in integrated because the wording in that was completely different than the wording in this. So, I stand along with Commissioner Redmond on that, that it gives me great pause because I have been in many other board meetings with the same stakeholders and those same people have not expressed thumbs up on this, by any stretch of imagination. So I

would like more time to be briefed on this, so that we have a better understanding of where we are. Because this is extremely important, as we all know going forward.

Ms. Bookholt: And I should clarify that, when I say that we had consensus, it wasn't, as it relates to the Resolution. The Resolution with the language that was included was done at City Council level on September 7th. So the consensus that we achieved last week, via email, as we were passing the language back and forth was the language that's proposed for the Comprehensive Plan. So they're very, well maybe some folks that aren't on board with the Resolution language, but that has already been passed.

Dee Oliver: Right. And so it's just a little not, I'd like to see it a little more straightforward. I'd like to see everything, basically, is when it comes down to it. But again, I appreciate all your effort and hard work.

David Weiner: So I have a question. So the language in that we have here compared to the language that was in the Resolution, put that together for us?

Ms. Bookholt: So the language in the Resolution was written a little bit looser. And so we met with the Council liaisons. We met with Councilman Moss to talk about what that would look like in practice. And in practice, we discussed applying a preliminary storm water analysis requirement to conditional rezonings, or rezonings only, instead of all discretionary applications, since it's those two types of applications that could change the land cover characteristics the most. And it was through those discussions as well, that they agreed that they would be open to a less intense preliminary analysis. And essentially just reiterating that we would not be creating any impact or any demand, that if the City is going to spend half a billion dollars on flood protection projects, that we don't want to rezone out that capacity of the system.

David Weiner: And I got another question. Why did it have to be... Not putting you on the spot or anything, but why did it have to be three weeks? There was a reason why it had to be three weeks after the referendum question?

Ms. Bookholt: That I do not know. That's how it was written in the City Council's Resolution. I'm not sure if the attorney has any other...

Ms. Wilson: I have no insight.

David Weiner: No. Okay. And I'm just curious...

Ms. Bookholt: That's how it came down to us.

David Weiner: As Mr. Redmond said earlier today, I mean, that's like three seconds or whatever, however you put it. It's crazy to me it's quick. Okay. All right. Just that's good. Yeah, we have one speaker.

Michael A. Inman: I got plenty to say.

Madam Clerk: Eddie Bourdon

David Weiner: Welcome, Mr. Bourdon.

Eddie Bourdon: Thank you, Mr. Chairman. For the record, Eddie Bourdon, Virginia Beach attorney, land attorney, been practicing in Virginia Beach for 37 years. First of all, I was at the City Council meeting when this Resolution was adopted, but there was no opportunity for anybody to discuss. And frankly, couldn't be more ecstatic and proud of our City for having approved the referendum 70% plus. And I frankly don't think anybody at that point who cares about the future of the Virginia Beach was going to stand up and start asking questions about what they were doing. So, but this is a different circumstance. This is a deliberative body that is here for the purpose of the Comprehensive Plan. I didn't know anything about these meetings every Friday, either. I obviously know they didn't include anybody on the Planning Commission and, some of this, I'm not opposed to it, but I'm definitely concerned about, there hasn't been enough deliberation and enough input from people who might have a little bit of, and I'm not suggesting that Councilman Moss or Councilman Jones don't, but this has been half baked. The northern part of the City, which is what this applies to, is 95% developed. And there's hardly any zoning up there that's agriculture. And so the idea that we're going to have, well, and let me back up before I get into that, rezonings. Not conditional rezonings, rezonings. No one's done an analysis of the rezonings that have come forward in the last five or 10 years, because I can assure you that there have been almost none and those that have come, they're typically down zonings of already developed properties. So, but I don't understand why we put rezonings in there because if you're going to, to create, I think, Carrie used the word drastically, or even significantly increase impervious surface with a rezoning, I don't think there's been any of those. Now with a conditional rezoning, that's conceivable. Certainly is a case in the southern part of the city, middle part of the city. But I don't think there's been a lot of, I mean any analysis of what the impact of this, basically a moratorium on rezonings might be. And I certainly, I'm not opposed to the idea, although we have to do this anyway. I mean, the site plans got to be done anyway. So you're basically telling somebody who might have a very... And let me back up, Hackers today. And there's another one that recent, oh, Pembroke Mall. They don't have to worry about this because they're reducing their impervious surface by 10%. And that takes it out, you don't have to worry about that. If that came along today, I don't know that that's covered in here, maybe it is. I'm not sure that it is, but they don't have to comply because they're reducing by 10% their impervious surface. So, and you got all these other people who can add on to stuff that's already zoned and they have to do the same thing, go through of the site plan and still comply. So it's like, we're adding an extra layer of handcuffing or because you got to come in and if you want to rezone your property and you don't want to spend thousands of dollars before you can even get here, you have to say, well, we will meet the requirements. Well the word no, is important, no impact. Well, these models are not meant for going in the weeds to that point. And I went on today's agenda, it's taken us a year and a half. And I'll explain that when we get to Atlantic Development, we don't get any credit for saving 89 acres of tree forested land. No, no, at all. And we can't have one 100th of an inch, which isn't even measurable, leave the property. Okay. So no, and if there's not at least the tiniest amount of discretion on the part of our professional staff, we are basically saying we're not open for

business and that's what I'm concerned about. And I think there's some ways that this can be, at least, come across as being less prohibitive and more balanced.

David Weiner: Does anybody have any questions for Mr. Bourdon? Any questions?

Eddie Bourdon: Thank you.

David Weiner: Thank you, sir. Appreciate it. Well, I guess we can just close this and get right into it with us. We'll close it and start comments. Who's going first? Mr. Inman.

Michael Inman: Well, as I said, in the informal session, we are taking this on, with virtually no notice. This is the Comprehensive Plan amendment. This is a big deal, but we all know that. The intent of what is going on in this Comprehensive Plan amendment is good. I mean, we all are, we're very aware of the storm management issue. We all want City of Virginia Beach to be open for business. It's getting a reputation of not being open for business, part because of our storm water management implementation. So, it's really important to get this right. And here we've had no invitation to, as a body, to participate in all these deliberations that have taken place. No idea that they were going on, even through a public, we weren't advised that we could even go attend. A Resolution was passed in September by City Council to move forward with this Comprehensive Plan amendment, as I'm understanding it. But not until the referendum passed, if it passed, which thankfully it did. Okay. So then we got three weeks. Who thought of that? I don't know. I mean, it's in the operation of a municipality, the size of Virginia Beach. Making a storm water decision in three weeks seems preposterous to me. I know we're in a hurry. I know it's important. So, we didn't know about the Resolution. We got the language late last week in our package to study and without any real background and the intent is good, but the devil is in the details, we all know that. It's a legal document, it's a Comprehensive Plan. So I can't imagine how we could... I would not be able to vote in favor of it today.

David Weiner: Mr. Redmond?

Dave Redmond: Well, a little bit different from what Mike said. The thing that I struggle with here is I think you're exactly right. And I hate to have to say it, but this City is getting a reputation for not being open for a business, in a lot of different ways. And that I think is probably a conversation where you need to have it. I know we are having it at some levels, but we need to have a bigger one. And this is part of it. But the notion that there is a process for amending the Comprehensive Plan. Now I get that City Council calls the shots around here. No disputing that, right? This is their prerogative, I understand that. The City Council can certainly amend their three week deadline for figuring this out. As I said this morning in the informal session, we're not going to spend 568 million bucks in the next three weeks. All of these projects have an enormous amount of engineering to be done, before they get underway still. And so I just don't understand the rush involved in that. And just today, somebody who was supposedly involved in these discussions, they feel like it has been all together too rushed. So I'm not offended that the Planning Commission isn't involved in a panel or a discussion or something like that. I certainly think that probably would've been preferable, but I mean you

don't want to include us. I'm not going to feel like I didn't get invited to prom or something, but I still think like Mike does, that this really could have been done a lot better. And if you've got them with a Comprehensive Plan, there's a process to do that, that's much more deliberative than this. This is the bums rush, trying to do something much more quickly than it needs to be done. And stuff doesn't get done right that way. And so that's my concern about it as well. So, I think, I would, in Mike's camp as I often am, but I'm in Mike's camp, that I'm not comfortable supporting this today. If you only got two choices, yes and no. I'm a no, for those reasons. So it doesn't make sense, Ms. Wilson, and I respect her too. Ms. Wilson says it doesn't make sense to defer it, in which case we got one or two choices. And I'm just not able, frankly, with those concerns to be able to support it. Thank you.

David Weiner: Mr. Graham?

Whitney Graham: I agree with my fellow Planning Commissioners. I, too, will not support this. I just feel like it was too rushed. I hear all the time that from other developers that feel that City of Virginia Beach is difficult to do business in. The storm water models, it takes forever. You do model after model after model, it's very expensive. It's not just submitting a storm water model. There's back and forth, back and forth, back and forth. And it's expensive. And I'm concerned that it's going to really shut down any redevelopment in the city. I just don't think it was well thought out. And I feel like it's too rushed and I will not support this.

David Weiner: Ms. Bradley?

David Bradley: I got a question for Ms. Bookholt, if it's okay.

David Weiner: Sure. She doesn't mind coming back up, do you?

David Bradley: So just, obviously, 70 plus percent of the voters approved it. So, this is an important issue to our citizens. And I was talking to you a little bit after the informal. So, in the southern part of the city, this process already exists. In the northern part of the city, this is where this would be implemented. But as the previous speaker said, there's probably not much opportunity because it's already fully developed. And I guess, maybe my question is, when you get to site development review, is anything changing because of this? Because that's where I think the rubber really hits the road on implementation of these things.

Ms. Bookholt: Right. The same type of analysis is still required at a site plan level. The type of analysis is not going to change. The only thing that would change is that for projects, if you came across a property where there was capacity in our existing storm water system, which is rare to find, in that case, you would not be able to increase the flooding levels. So, the same process is still going to exist. The only thing that would change is that you would have to hold to that same exact...

David Bradley: Meaning, you have to be able to show that you have no impact on storm water for your individual...

Ms. Bookholt: From your individual project. You haven't increased the demand leaving into our public system from your project. So that'll be required. Yes.

David Bradley: Thank you.

David Weiner: Wait here. I don't think personally, we don't really have a... There's a little bit of an issue of how the process is, but I think more than anything, we're just trying to rush this through and we've never rushed anything through before on a Comprehensive Plan, because this is something we take our time and look at and vet and talk to people and things like that. But one question I wanted to ask you, last speaker said about the 10% pervious and they didn't have to worry... What do they... When it's 10%, they're taking away 10% of pervious parking, what does that do?

Ms. Bookholt: So, that they can satisfy certain storm water requirements by reducing their impervious cover. And even if projects moving forward, if this were to, if the Comprehensive Plan is to be amended, if you reduce the impervious cover on your site, your analysis is much less complicated, and you can satisfy your storm water requirements by providing a reduction in impervious cover.

David Weiner: Okay. So that didn't change at all?

Ms. Bookholt: No.

David Weiner: Okay. Just want to make sure.

Ms. Bookholt: Yes.

David Weiner: Any other questions for? Okay. Thank you, ma'am.

Ms. Bookholt: Thank you.

David Weiner: Any other questions or concerns or talk? So, I'm torn, I'm really upset of the fact that we're rushing this through, but the Ordinance already been passed by Council. It's some stuff we already do anyway. I don't think that's the issue. I just don't like the part that it's rushing through. I don't like that. And I think we need to sit back and look on it. So, I'm not going to support it either. So anybody wants to make a motion. Somebody?

Michael Inman: I'll make a motion.

David Weiner: Okay. Make a motion.

Michael Inman: I make a motion that we turn down the Resolution to amend the Comprehensive Plan on item number one.

David Weiner: Right. You have a motion. Have a second?

Whitney Graham: I'll second.

David Weiner: Right. We have a motion by Mr. Inman, a second by Mr. Graham.

Madam Clerk: Okay. The motion is to deny. Vote is open. By recorded vote of 11 in favor and zero against, agenda item number one has been denied, recommended for denial.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 2**

The Friends School [Applicant & Property Owner]

Modification of Conditions

1537 Laskin Road

RECOMMENDED FOR APPROVAL – CONSENT

David Weiner:

Thank you. Now we'll move on to the Consent Agenda and Vice Chair Wall will take over.

Jack Wall:

Thank you, Mr. Chair. We have seven consent items on the agenda today. The first item is agenda item number two, Friends School, a Modification of Conditions. Address is 1537 Laskin Road in the Beach District. Is there a representative for this item?

David Weiner:

Two representatives.

Jack Wall:

Welcome. Hi, please state your name for the record.

Mr. Roethlisberger:

Good afternoon. Todd Roethlisberger with Poole, Brooke, Plumlee PC on behalf of the applicant and with me is Billy Almond who's on behalf of the site planner.

Jack Wall:

Okay. Are the conditions acceptable?

Mr. Roethlisberger:

Yes, we accept all conditions.

Jack Wall:

All right. Thank you.

Mr. Roethlisberger:

Thank you.

Jack Wall:

Is there any opposition for this item to be placed on the consent agenda? Hearing none. The Planning Commission has asked Mr. Inman to read this into the record.

Michael Inman:

Thank you, Mr. Wall. This is an application for Modification of Conditions and has to do with a private school on Laskin Road, Friends School. Been there for quite a long time. It's also existing zoning is B2 and A18 apartment. So, it's located in the Hilltop SGA, and the applicant's now seeking to reduce the acreage of the site because the rear portion of the property has been sold. Approximately 6.63 acres will be removed from the Friends School property and about four acres will be remaining. Agenda item three will reflect here next, the new property owners desire on how to redevelop it. The staff has stated that the request for the modification is acceptable. Per the city's Zoning Ordinance, a 15-foot wide buffer, landscape buffer. The category four landscaping is required along the property lines abutting residential or apartment districts. However, the applicant proposes to install a 10-foot wide landscape buffer instead of 15 feet. But with the addition of a six-foot tall, solid cedar wood fence with cap and evergreen plantings reaching them minimum of 10 feet in height. So, staff is supportive of this deviation to the code requirements, and we have decided to put on the Consent Agenda for that reason.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I'd like to make a disclosure of my own. I have a letter on file with the City Attorney's office. I have a client in the travel industry and some time ago I disclosed pursuant to the Conflicts of Interest Act that Mike just mentioned. I am unable to vote on either individual applications for short term rentals or for any ordinances that apply to short term rentals. So when I vote on these yeah, on these consent items, I am excluding the short term rental application from my vote. Thank you. Sounds good.

Jack Wall:

Mr. Graham,

Whitney Graham:

I, like Mr. Inman, am making a statement, in accordance with state and local government Conflict of Interest Declaration the following items that are on the agenda. Number nine, Winner's properties, LLC. Number 13, Atlantic Development Associates, and number 16, James D. White Revocable Living Trust. I serve on an Advisory Board at Towne Bank, which makes no loan decisions. And I believe I can participate in this transaction fairly, objectively and in the public's best interests. I intend to participate in the vote.

David Weiner:

Okay. Thank you anymore? All right. We have a motion by Mr. Wall and second by Mr. Horsley, for the Consent Agenda.

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda items two, three, four, five, 11, 13 and 15 have been recommended for approval. By recorded vote of 10 in favor, zero against with one abstention, agenda item number 16 has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. All previous conditions attached to the Conditional Use Permit approvals of May 28, 1996 and September 14, 1999 shall be voided and replaced with the following conditions below.
2. A 10-foot wide landscape buffer with Category VI landscaping is proposed for this site. This is a deviation to the 15-foot wide landscape buffer with Category IV landscaping, as required by the City Zoning Ordinance.
3. When the property is redeveloped, it shall be in substantial conformance with the Conceptual Site Layout entitled "MASTER PLAN – PHASE 1, VIRGINIA BEACH FRIENDS SCHOOL, Virginia Beach, Virginia," prepared by WPL, dated October 14, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The exterior of the proposed building addition shall substantially adhere in appearance, size, and materials to the submitted elevations entitled "VIRGINIA BEACH FRIENDS SCHOOL – EXTERIOR RENDERING," prepared by HBA, dated October 14, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. The modular classrooms shall be located on the site as depicted on the diagram entitled "TEMPORARY MODULAR CLASSROOM SITE DIAGRAM – VIRGINIA BEACH FRIENDS SCHOOL, Virginia Beach, Virginia," prepared by WPL, dated August 16, 2021. The modular classrooms shall be limited to a five year time frame from the date of City Council action or within six months following final occupancy approval by the Building Official's Office, or whichever is sooner.
6. The student enrollment of the school, including all future facility expansions, shall not exceed 400 students.
7. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.

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
November 10, 2021 Public Meeting
Agenda Item # 3**

1537, LLC [Applicant & Property Owner]

Modification of Conditions

1537 Laskin Road

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:

Okay, thank you. The next item on the Consent Agenda is agenda item number 3. 1537 LLC, for a Modification of Conditions at 1537 Laskin Road in the Beach District. Is there a representative for this item?

Lisa Murphy:

Good afternoon, Chairman, Vice Chairman, members of Planning Commission. For the record my name is Lisa Murphy, local zoning attorney, and I'm here for the applicant and owner of 1537 LLC. I appreciate all the time that Marchelle spent on this. One thing I'd like to just correct, is that there aren't any conditions associated with this Modification of Conditions because we are removing the use permit from the property.

Jack Wall:

Understood. Okay. Thank you.

Lisa Murphy:

Thank you.

Jack Wall:

Is there any opposition for this being placed on the consent agenda? Hearing none. Appointing commission has asked Ms. Klein to read this into the record.

Robyn Klein:

The applicant is seeking to modify the previously approved Conditional Use Permits to remove the 6.63-acre property from the permit in order to construct a five building multifamily development. The proposed use is consistent with the existing zoning of the property and can be developed as a permitted use of by right in Zoning District. Staff recommends approval and the Planning Commission agrees.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I'd like to make a disclosure of my own. I have a letter on file with the City Attorney's office. I have a client in the travel industry and some time ago I disclosed pursuant to the Conflicts of Interest Act that Mike just mentioned. I am unable to vote on either individual applications for short term rentals or for any ordinances that apply to short term rentals. So when I vote on these yeah, on these consent items, I am excluding the short term rental application from my vote. Thank you. Sounds good.

Jack Wall:

Mr. Graham,

Whitney Graham:

I, like Mr. Inman, am making a statement, in accordance with state and local government Conflict of Interest Declaration the following items that are on the agenda. Number nine, Winner's properties, LLC. Number 13, Atlantic Development Associates, and number 16, James D. White Revocable Living Trust. I serve on an Advisory Board at Towne Bank, which makes no loan decisions. And I believe I can participate in this transaction fairly, objectively and in the public's best interests. I intend to participate in the vote.

David Weiner:

Okay. Thank you anymore? All right. We have a motion by Mr. Wall and second by Mr. Horsley, for the Consent Agenda.

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda items two, three, four, five, 11, 13 and 15 have been recommended for approval. By recorded vote of 10 in favor, zero against with one abstention, agenda item number 16 has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 4**

James B. Richards, Jr & Linda Champion-Richards [Applicant & Property Owner]

Street Closure

Adjacent Address: 7.5 foot by 50 foot portion of an unimproved alley adjacent to 733 Vanderbilt Avenue

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:

Perfect. All right. Thank you. The next item on the Consent Agenda is agenda item number four, James B. Richards and Linda Champion Richards for Street Closure at 733 Vanderbilt Avenue. Is there a representative for this item?

Eddie Bourdon:

Thank you. Commissioner Wall, Chairman, members of the Commission for the record, Eddie Bourdon, Virginia Beach attorney representing the Richards family. And we appreciate this application being on the Consent Agenda. All the conditions recommended by staff are accepted. Okay, thank you.

Jack Wall:

Is there any opposition for the side to be placed on the Consent Agenda? Hearing none. We've asked Ms. Oliver to read this into the record.

Dee Oliver:

Thank you. The applicants here are requesting to close a portion of the platted and unnamed and unimproved alley that is adjacent to their rear lot of address 733 Vanderbilt Avenue. The proposal includes closure of half of the 15 foot wide alley. And then that's totally 375 square feet. To incorporate that into their land in adjacent residential lot. The site is developed consistent with the other residential lots in the Croatan neighborhood with single family homes and fenced in backyards. And currently the area proposed to be closed as fenced in and has been used and maintained by the applicant. Staff recommends approval. There is no opposition to this item and therefore Planning Commission has put it on the Consent Agenda.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I'd like to make a disclosure of my own. I have a letter on file with the City Attorney's office. I have a client in the travel industry and some time ago I disclosed pursuant to the Conflicts of Interest Act that Mike just mentioned. I am unable to vote on either individual applications for short term rentals or for any ordinances that apply to short term rentals. So when I vote on these yeah, on these consent items, I am excluding the short term rental application from my vote. Thank you. Sounds good.

Jack Wall:

Mr. Graham,

Whitney Graham:

I, like Mr. Inman, am making a statement, in accordance with state and local government Conflict of Interest Declaration the following items that are on the agenda. Number nine, Winner's properties, LLC. Number 13, Atlantic Development Associates, and number 16, James D. White Revocable Living Trust. I serve on an Advisory Board at Towne Bank, which makes no loan decisions. And I believe I can participate in this transaction fairly, objectively and in the public's best interests. I intend to participate in the vote.

David Weiner:

Okay. Thank you anymore? All right. We have a motion by Mr. Wall and second by Mr. Horsley, for the Consent Agenda.

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda items two, three, four, five, 11, 13 and 15 have been recommended for approval. By recorded vote of 10 in favor, zero against with one abstention, agenda item number 16 has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

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

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

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

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

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 5**

**The Ashe Revocable Trust [Applicant]
Michael I & Mitzi S. Ashe [Property Owners}**

Street Closure

**Adjacent address: 7.5 foot by 50 foot portion of an unimproved alley adjacent to 729
Vanderbilt Avenue**

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:

Thank you. The next item on the Consent Agenda is agenda item number five, the Ashe Revocable trust. And as the applicant, Michael and Mitzi Ashe are the property owners for Street Closure at 729 Vanderbilt Avenue. Is their representative for this item?

Eddie Bourdon:

Push replay again for the record. Eddie Bourdon, Virginia Beach attorney representing Mr. and Mrs. Ashe and their Trust. Again, all the conditions are acceptable. Appreciate being on the Consent Agenda. Thank you.

Jack Wall:

Okay, thank you. Is there any opposition for this side to be placed on the Consent Agenda? Hearing none. Ms. Oliver, can you read this into the record?

Dee Oliver:

I can. This is their next door neighbor, and this applicant is also requesting to close a portion of the platted and unnamed an unimproved alley that is adjacent to their rear lot on 729 Vanderbilt avenue. This proposal includes closure of half of the 15 foot wide alley, totally in 375 square feet and incorporating that land into their adjacent residential lot. This site is developed consistent with the other residential lots in the Croatan neighborhood with a single family home and a fenced in backyard. And currently the proposed area is fenced in and has been used and maintained by the applicant. The staff has recommended approval and there are no opposition to this. So the Planning Commission has put it on the Consent Agenda.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I'd like to make a disclosure of my own. I have a letter on file with the City Attorney's office. I have a client in the travel industry and some time ago I disclosed pursuant to the Conflicts of Interest Act that Mike just mentioned. I am unable to vote on either individual applications for short term rentals or for any ordinances that apply to short term rentals. So when I vote on these yeah, on these consent items, I am excluding the short term rental application from my vote. Thank you. Sounds good.

Jack Wall:

Mr. Graham,

Whitney Graham:

I, like Mr. Inman, am making a statement, in accordance with state and local government Conflict of Interest Declaration the following items that are on the agenda. Number nine, Winner's properties, LLC. Number 13, Atlantic Development Associates, and number 16, James D. White Revocable Living Trust. I serve on an Advisory Board at Towne Bank, which makes no loan decisions. And I believe I can participate in this transaction fairly, objectively and in the public's best interests. I intend to participate in the vote.

David Weiner:

Okay. Thank you anymore? All right. We have a motion by Mr. Wall and second by Mr. Horsley, for the Consent Agenda.

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda items two, three, four, five, 11, 13 and 15 have been recommended for approval. By recorded vote of 10 in favor, zero against with one abstention, agenda item number 16 has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
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CONDITIONS:

1. The City Attorney’s Office shall make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the “Policy Regarding Purchase of City’s Interest in Streets Pursuant to Street Closures,” approved by City Council. Copies of the policy are available in the Planning Department.
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3. The applicant shall verify that no private utilities exist within the right-of-way proposed for the closure. If private utilities do exist, easements satisfactory to the utility company, must be provided.
4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved for recordation within one year of the City Council vote to close the right-of-way this approval shall be considered null and void.

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

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

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

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 6**

Mutts with a Mission [Applicant & Property Owner]

Conditional Use Permit (Commercial Kennel)

2700 Shirley Landing Road

RECOMMENDED FOR APPROVAL – HEARD

David Weiner:

Great. All right. Before we move on to item six, I want to point out something to everybody. When you come up here to speak, there's a little yellow light that will start blinking. And that yellow light means that you have 30 seconds to start wrapping up your comments. And when red light comes on, that's when your comments need to stop. Okay?

Madam Clerk:

Our next agenda item is agenda item number six, Mutts With A Mission. It's an application for a Conditional Use Permit Commercial Kennel, on property located at 2700 Shirley Landing Drive in the Princess Anne District. Would the applicant or the applicant's representative, please step to the podium.

David Weiner:

Welcome. Please state your name for the record.

Brooke Corson:

My name is Brooke Corson.

Brooke Corson:

Good afternoon. As I said, my name is Brooke Corson and I'm the Executive Director of Mutts With A Mission. First of all, on behalf of Mutts With A Mission, I would like to thank the Planning staff and especially Marchelle, who's gone through this process with us and the Planning Commission for reviewing and considering our application today. This is our first time being involved in something like this and it's been a big learning experience for us. Just so you know, this is Ike. He's one of our dogs in training. So he's 16 months old. We appreciate all this Planning staff's time and guidance with our applications components and the information they provided prior to Mutts With A Mission, purchasing the property. Mutts With A Mission was founded in 2008 to fulfill a desperate need for high quality service dogs, specifically for Veterans, Wounded Warriors, and later on, we added first responders and law enforcement with

either line of duty or service connected disabilities. We were very proud to say we are one of three Virginia based service dog organizations accredited by Assistance Dogs International. Assistance Dogs International accreditation means that our veteran teams are eligible for benefits through the Veteran's Administration for their service dogs. And that our teams are also allowed to travel internationally and be recognized as service dogs in foreign countries. Additionally, our accreditation means that our facility dogs placed with law enforcement departments in Virginia are recognized per state law. We are aware of the opposition and have worked diligently with the Planning and Zoning Departments to mitigate some of the opposition's concerns. There have been misunderstandings because we don't fit neatly into a category, like having to apply for a commercial kennel license, even though we don't fit the commercial or the definition of a commercial kennel, because we needed to receive money for our dogs. They're actually donate... We give them to our recipients, nor are we open to the public. So we don't bring in dogs from the public to do... There have been questions about daycare, about overnight boarding or training. We don't do that. We only work with our puppy raisers, and our recipients and their dogs. As we have learned how to work through the process, we have scaled back our initial request. We are requesting to utilize the existing barn and fields as a training facility, as detailed in the application before you. Additionally, we are requesting a few clarifications to the following conditions. Is this the appropriate time to ask that or?

David Weiner:

Sure.

Brooke Corson:

Okay. Thank you. So our first request is on item number one, or I'm sorry, recommended condition number one, which states there should be no more than 20 dogs on the property at any time. Our request is that we have an exclusion for our trained and placed our work, what we call our working service dogs. These are service dogs who have been placed with their handler and are now fall under the Americans with Disabilities Act as a service dog to exclude them off of the property, if we were to have a graduation and graduated dogs and things like that, if they attended, which they do, they come back to support the puppy raisers and the people that are graduating, to exclude them would put us at risk with a Department of Justice complaint. So, because these... It would be to exclude our placed, our finished, our previously trained service dogs. It would be like saying, we can only have 20 wheelchairs on the property and then saying, oh, number 21, sorry, you can't come because you're in a wheelchair. These dogs, once they've graduated our program, are considered medical equipment by federal law. They fall under the American with Disabilities Act. So we are requesting that it has an exclusion for, that number one has an exclusion for what we call working service dogs. These are dogs that have completed their training and are no longer in training with us and they're working with their recipients.

David Weiner:

So I don't understand what you're asking for?

Brooke Corson:

So in the condition, it says there should be no more than 20 dogs on the property at times. So we're asking that trained service dogs, that fully trained service dogs are excluded. Dogs that we have placed and are no longer in our training program that have graduated, that they be excluded from that 20 dog limit.

David Weiner:

How often will they come back?

Brooke Corson:

We have graduations. Two, generally one to two times a year. So they would come back for a graduation or if we had like an event, which we know we would have to go and get a permit for, but they would probably come back for that event. So adding some of our graduates... Now, all of our graduates are not here in Virginia. We have graduates throughout the country. So, we have several that do come back for our events or just to come back and support a graduation, things like that.

Michael A. Inman:

I understand what she's asking for. Service animals is a defined term in federal law. And there are laws about...

David Weiner:

There's a difference between service animals and actually trained animals.

Brooke Corson:

Yes sir. Yes, so there's a difference in Virginia and in federal law. And then also, for number one, we request that it say, instead of just saying 20 dogs, have say 20 adult dogs and the reason for this is because in the proposal, we will be, sometimes throughout the year, we will be whelping out puppies. So if we were to have a litter of puppies and then had adult dogs on the property as well, it would just cause an issue. And I know the other Conditional Use Permits that have been issued in Virginia Beach and especially in our area do specify adult dogs versus puppies. Generally our puppies is, as you seen in the application, if we whelp out a litter, those puppies will go to their puppy raisers between 8 and 10 weeks old. So they will actually then go off property. But we're requesting that adult dog... I'm sorry?

Michael A. Inman:

What constitutes an adult dog?

Brooke Corson:

So I think, by what standards are, is two, but we would be willing to say a year. I mean, really, truly like when we say an adult dog, we place our dogs when they're two, once we're through training, but by saying, we're just asking that the puppies that we whelp out and have to raise to a certain age, not only by law, but by responsibility that they not be included in this 20 dog limit.

Michael A. Inman:

I understand.

Brooke Corson:

Yes, sir.

David Weiner:

Okay.

Brooke Corson:

And then the last one would be, so number four, all dogs shall be kenneled within the single family dwelling between the hours of 9:00 PM and 7:00 AM with an exception to breaks for urination and defecation. In the initial discussion that we had had with the staff planners, the planning staff, I'm sorry. We had also said that, in the discussion we had, that the exception, there are several dogs that live on the property with... Okay, so I live in the house, my family and I live in the house, to be completely transparent right now. And we have our own personal dogs. So what we're asking for number four is that it also be put in there that resident dogs that they're allowed to be walked and worked with either before or after those hours, because I will... It's nothing when it's light out at six o'clock in the morning for me to go take the dogs for a walk in the field, prior to going to work. Because I know that they're going to like see you guys later once I go to work. So we're just asking that as long as the dogs are monitored in the hours, in between that time period that they be allowed to get out and exercise and or train, and those would be resident dogs.

Donald Horsley:

How many resident dogs do you have?

Brooke Corson:

4.

Donald Horsley:

If it's over 4, you got to have a...

Brooke Corson:

That's why we've applied for our conditional use permit

Donald Horsley:

You just turned one out, didn't you?

Brooke Corson:

Four dogs over the age of six months, I think is the city regulation right now.

David Weiner:

So basically, what you're saying on number four is your personal dogs.

Brooke Corson:

Yes or also, so Ike lives with me right now. I'm Ike's puppy raiser. So if I'm out in the morning, I go take him for a walk. It would be residential dogs on the facility or at the property. Yes, sir. Because I mean like, does that mean, if I have to follow this, that means Ike doesn't get to go for a walk in the morning. But they would be monitored. They wouldn't just be turn loose to go run willy nilly and bark, because I know the barking is a concern and things like that. They would be monitored.

David Weiner:

When you take your dogs for a walk, do you leave your property?

Brooke Corson:

No, sir. The entire property's fenced in.

David Weiner:

Okay.

Brooke Corson:

And personally, I have terriers and as much as they would love to go run free, I can't do that in good conscious.

David Weiner:

I understand. Just curious. Okay.

Brooke Corson:

Yes. No, so they stay on the property.

David Weiner:

All right.

Brooke Corson:

So those are our requests. And prior to the purchase of property, we did preliminary consultations with Planning and Zoning. With the property having a conditional use for horse boarding and a riding academy, as well as an active breeding kennel next door. It seems that this use would be in keeping with the character of the area. As such, we look forward to continuing to serve wounded warriors, veterans, and line of duty injured first responders. Thank you for your consideration.

David Weiner:

Any other questions?

Robyn Klein:

I have a question. Is it possible that you could have three sets of puppies at one time?

Brooke Corson:

Do you know the amount of work that goes... No, so it's entirely possible, but we want to mitigate that. We don't want that to happen. And the reason why is there's a difference between raising regular puppies and then raising service dog puppies. And because we're part of what's called the Assistance Dogs International Breeding co-op, the puppies that whelp will actually go out to other programs within the country, we'll keep X amount and then put them with our puppy raisers. So there's an extra level of what we have to do with these puppies those first eight weeks. So to have... Say you have anywhere between five to ten puppies, to have 30 puppies at once you would never be able to do the training and be able to do everything that you would need to do to really give these puppies a good start so that they have a chance to make it as a service dog.

Brooke Corson:

And we always tell people, not every dog can be a service dog. And so it's even added pressure for us because we have to send these out to other programs. We don't want them to get a dog from Mutts With A Mission and go, "They send us garbage. Thanks for the puppy. Now we have to place it somewhere in a home and it can't be a service dog." So no, we would try, whether that be we skip a heat cycle or something like that, we would honestly prefer to have one litter on the ground at the facility at a time. Now, if we had a competent puppy raiser down the road

that wanted to raise one at their house, that's totally separate, but no, we're not trying to be a breeding facility. We will have puppies, but it's our intent to focus on training these dogs.

David Weiner:

Mr. Bradley.

David Bradley:

I just want to clarify the first thing you said, and then I'll ask you a second question. So the 20 dogs-

Brooke Corson:

Yes, sir.

David Bradley:

So you want more than 20 dogs for just the four events that you can get a year or even in addition to that?

Brooke Corson:

In addition. But with those additional 20 dogs, it's not that we want... So we're fine with the 20 dogs, but we need there to be an exclusion for trained service dogs, for finished service dogs that are out working in the public. Not that we can have... It's basically like they don't fall into that category if they've graduated.

David Bradley:

So reading the letters of opposition, can you talk a little bit of what a typical day would look like as far as traffic to, and from that site? In other words, if there were 20 dogs on site do all 20 cars come at once, is it...

Brooke Corson:

No, sir.

David Bradley:

Tell me what it looks like on a busy day.

Brooke Corson:

Okay. So yes, sir. So usually, generally, Wednesdays are our busiest day. We start training about 10 o'clock and then depending on where dogs are in their stages of training, because we have dogs anywhere from eight weeks old to getting ready to graduate and we graduate our

dogs at two years. So we want to make sure they're temperamentally and physically mature. So puppy raisers would come for about an hour. Generally we'll have anywhere from one to, I would say probably at most four puppy raisers, maybe five depending on the ages of the dogs in for a class. If you have too many puppies, you can't make sure everybody's doing what they-

David Bradley:

So five cars in that situation, probably?

Brooke Corson:

Roughly. Yes, sir. I mean, it-

David Bradley:

And they leave in another five or?

Brooke Corson:

And then maybe an hour later one shows up. It's not a constant stream of traffic. No, sir. There's more traffic with construction going or renovations going on or people coming and turning around in the circle and things like that. Our people come down, they park, they train and then they leave, no sir, it's not a business, it's not a constant stream. And we are a non-profit and we are able to schedule... Our puppy raisers are volunteers, so we do work with their schedules and so maybe we'll have somebody who can come at noon and then I have another person maybe at two or something like that, but it's not-

David Bradley:

So why would you need the 20 then? I guess it's-

Brooke Corson:

So if we have an event or if puppy raisers want to come meet up one day, one afternoon and say, we're going to have... So the 20 dogs includes when we... About two months out of a graduation, we'll bring back the dogs that are getting ready to graduate. Now we are a smaller organization, we're not like Canine Campaigns For Independence who's graduating 500 dogs a year. Right now we have 26 dog... 27 dogs in training. So we don't have huge graduating classes. One thing we pride ourselves on is being a family organization that people come in and they feel like they are part of the family. And so, if we had 20 dogs we may have five dogs that are getting ready to transition or go through what we call transition camp, which is the two weeks when we pair them up with their veteran or their, or their law enforcement, their recipient. So we may have five dogs on site and then you have my four personal dogs, my two and two of my kids dogs. And then, there may be, say five puppies that they've grown up together and the

puppy raisers want to come, let them play in the field or something like that or work through some of the equipment. So we're just trying to make sure that all our bases are covered.

David Bradley:

If I can have just one last follow up here?

David Weiner:

Sure.

David Bradley:

So I've been out to the site. The parking is in front of the barn, is that so the gate would be open or whatever was there? I can't remember if there was a gate there.

Brooke Corson:

We did put a gate in there. Yes, sir. That just so-

David Bradley:

So there would be no need to park on the street?

Brooke Corson:

No, sir. Not for regular everyday traffic. If we had an event, then of course we would work through the city with parking and everything like that, but no Sir, with the amount of puppy raisers that we have and the limited staff we have, that it would be... A normal working day, there would be no need to park on the street. There is parking around the building.

David Bradley:

Thank you.

David Weiner:

Whitney, do you have a question? Or Jack?

Jack Wall:

Sure. So you actually have employees?

Brooke Corson:

Yes, sir.

Jack Wall:

More than one. So you have a couple employees, a couple full-time or is that-

Brooke Corson:

So we have a total of two full-time employees and then we have three part-time employees, but two of those part employees work remotely, one lives down in Florida and one lives out in Las Vegas.

Jack Wall:

So I guess they're the trainers?

Brooke Corson:

No, sir. I'm the trainer.

Jack Wall:

Oh, you're the trainer. Okay. All right. So the noise, it was mentioned that these dogs aren't the yelping hunting dogs.

Brooke Corson:

No, sir. They're not, no.

Jack Wall:

That would typically be kenneled.

Brooke Corson:

Correct.

Jack Wall:

Yeah, I guess this is subjective, but would you say that it's a nuisance? I mean any noise coming from the barn?

Brooke Corson:

I think there's five to six of our service dogs in training in this room right now.

Jack Wall:

Oh Really?

Brooke Corson:

Yes, Sir.

Jack Wall:

Okay.

Brooke Corson:

So, no, sir. No. I will admit, I have terriers and when I work them they get excited and they bark. But they're not allowed, that you can ask my husband he's back there, they're not allowed to just sit there and bark randomly. And we do try to be cognizant of the noise, but I would say there's no extra noise than the dogs on either side of us or across the street or down the road. No, sir. Especially not our service dogs, no. I mean...

Jack Wall:

Okay. And I completely agree and understand the adult dogs, the 20 adults dogs.

Brooke Corson:

Yes.

Jack Wall:

But you also have, from what you're saying is that the puppy raisers get them at 10 weeks?

Brooke Corson:

Eight to 10 weeks. Yes, sir.

Jack Wall:

Eight to 10 weeks. So it's really after that 10 weeks that it's just going to be either the resident dogs, or it's going to be those that are being trained.

Brooke Corson:

Correct.

Jack Wall:

So, why wouldn't it just be up to age 10 weeks instead of up to age one or-

Brooke Corson:

Well, if we were to have... I mean this is worst case scenario in all honesty. Taking care of 20 dogs and then still having to go to work and train everybody, that's a lot, but this is worst case scenario that if someone were to be unhappy with us and come back and says, they have a litter of 12 puppies right now. And then we have to ship some of our puppies, once we have them. We do have to ship them throughout the U.S, or the programs will come and get us. We've driven down to Florida a couple of months ago and picked up four puppies from Southeastern Guide Dogs. So they may have to be housed until we can... Usually what we do is we house them in house until we get their first vet appointment with us. And then once they have their vet appointment, then they go out to their puppy raisers. Because we want to make sure we're not sending out an unhealthy dog with intestinal parasites or something like that. So this is just kind of making sure that we have all our bases covered.

Jack Wall:

Okay. All right.

David Weiner:

That's... Yes, Ms Klein?

Robyn Klein:

You are currently working out of a facility in Suffolk?

Brooke Corson:

No, ma'am. We rented a building over in Portsmouth off of High Street.

Robyn Klein:

Okay, so in your Portsmouth building, how many dogs would you say that you had at any one time at the facility?

Brooke Corson:

So at that facility, the most that we ever had at that building was... I'm trying to think. Excluding an event or just-

Robyn Klein:

Excluding an event.

Brooke Corson:

Okay, excluding an event. Probably the most we would ever have at one time was 21. Now I'm going to make a qualifier, with COVID, we had to bring back dogs and they wound up staying with us. They wound up staying with me a lot longer because we had planned transition camp in

for March. And then, because of all the regulations that came down, we wound up pushing that to, I think it was May or June. I forget exactly, I think it was June. So we had upwards... And then we had those dogs that were ready to transition, they were ready to transition that were there because we lived in Suffolk, so I couldn't just leave them home for-

Robyn Klein:

You used to live in Suffolk?

Brooke Corson:

Yes, ma'am. For long periods of time. So they would be there and then we'd still have our training dogs come in and out throughout the day.

Brooke Corson:

But they're not... You wouldn't walk into the training facility and go, oh my gosh, this is... It's nothing like a dog daycare or anything like that. These dogs are quiet. The only time they really bark is if they were to alert. If we had someone who was hard a hearing or that if they zoned out and physical touch wouldn't be enough, but that noise would startle the person out of maybe a dissociative state or something like that. But we do discourage barking for the most part.

Robyn Klein:

And when you do have litters, based on the types of dogs that you have, what would you say is the maximum number of puppies in a litter?

Brooke Corson:

That's a hard question.

Robyn Klein:

Maybe a rough estimate.

Brooke Corson:

So a rough estimate, so we mainly use labs, goldens, and then we've been getting lab golden mixes from the breeding co-op so, 10 ish? Say 10. I just saw online today a friend sent me, their Malinois had 16 puppies, I'm like, "Oh my gosh. I can't because they all bite by the time they get their teeth. So no, I'm good." But I would say ten-ish, yes ma'am.

David Weiner:

Okay. Let's go ahead and listen to the speakers and you and I can come back up here for rebuttal.

Brooke Corson:

Sounds good. Yes, sir.

Madam Speaker:

Okay, first one of our speakers, is Alan Heilman here? Followed by Patrick Flanagan.

Alan Heilman:

Hello.

David Weiner:

Please state your name for the record.

Alan Heilman:

Alan Heilman. I'd like to start out by saying that all of us here appreciate what they do for the veterans. Our issue that has come into the neighborhood with no thought or consideration given to how it would be affecting the residents. There was no effort to talk with us as a group, to plan or an action or even consider what our concerns might be moving into this neighborhood. I will say the first time I met Brooke and speaking with her was November 5th. This corporation has grown, in the past five years, to a multimillion dollar identity with donations totaling 13.8 million. By their own admission they are still learning on how to handle their growth. Our concerns have been noted and passed to the Commission, as you all have seen, the pictures that we sent and gave you all was encouraged by Ms. Coleman to document our concerns.

Alan Heilman:

I used the word corporation because that is what they are. They were a nonprofit formed and license in New Jersey 2009. In our opinion, they are hoping your hearts go out to them and they are approved based on the work with the veterans. It should be based on what is best for the neighborhood, both for coherency and curb appeal for the involved. The special events that we are concerned about can possibly go up to 250 people at these events, four times a year, which has already been discussed. The main thing we are asking for the Commission to see, is that the corporation is not what the neighbors need here and how the growth will have to endure from the city. How many more calls, emails, planning meetings will it take? The original application that was submitted in July had 6,000 square foot administration building, the existing barn converted into a training facility, which was 5,800 square feet, 5600 square feet worth of kennels, 1300 square feet of maintenance sheds, 1500 square feet of dog kennel, dog care facility, 2500 square foot kennels, 4,000 square feet of shade structures broken into five at 800 square feet each, Memorial garden, various parking lots and a thousand foot square diving pool.

Alan Heilman:

This was not a dream of an architect. It was drawn up for Mutts With A Mission from their input for this property, that's what they initially wanted. This was their plan until they were told by Ms. Coleman that what would be needed to accomplish it, which was a lot. Now they are just trying to get the doors open so they can open, and expansion will continue. As you have seen-

David Weiner:

Thank you very much for your comments. Any questions for the speaker?

Whitney Graham:

It's more of just a comment. Maybe we're used to seeing it every day, but it's common for an applicant to think of a wishlist, "This is... I'd love to have all this." And then when they come into staff, staff will work them to a point where really for the applicant, sometimes it's almost what can you live with application wise to make this work so that we can support you. So I think that's what you saw there, an applicant probably came in, asked for a lot and by the time staff got done with him it was less, but it's something that would work for this applicant.

Alan Heilman:

Okay.

Whitney Graham:

So I just wanted to comment on that, that's not out of the ordinary.

David Weiner:

Okay. Any other questions? Jack.

Jack Wall:

So, where do you live on-

Alan Heilman:

2720, I'm next door.

Jack Wall:

You're right next door, okay. Are you next door to the south or next door to the left of the...

Alan Heilman:

From their location to the right or if you're looking at it, it would be to the right.

Jack Wall:

Okay.

David Weiner:

Thank you, sir.

Madam Clerk:

Okay. Patrick Flanagan followed by Jack Lockman.

David Weiner:

Welcome, Sir.

Patrick Flannigan:

Hello. As I said, my name is Patrick Flanagan. This is my service dog Knox. Hang on. I have to apologize. He just woke up.

Patrick Flannigan:

Okay. I guess... I'm so sorry. Background about myself, just a little brief background. I, like many veterans, we went and did our thing, came back from the Middle East primarily over the last 20 years, and had some issues that came back with us. So Knox is... I fought it for a long time, but he is a godsend. He has allowed me to one, go out in public and not really be on guard or ready to hurt anything that perceives a threat. He is smelling something right now.

Patrick Flannigan:

He is... How would I say? I think he would be like a, my wife hates this, a private school kid, if you will. He's very straight stick, very black and white, he doesn't bark, he's traveled all throughout the country with me. Mutts With A Mission has given me numerous countless positive effects. So... Apologies, I'm not good at speaking in public. So from my perspective, Mutts has... Over the last two years, he's just over two years old, over the past two years, training him myself has helped me to realign my thinking in the way I function in society. I've also seen other individuals, other veterans benefit from their dogs. I've actually watched and I'm sure people watched me grow with him. I watch them grow with their dogs and it's amazing. It's very miraculous. So I would say that Mutts With A Mission is by far a very needed thing in society. And especially with the amount of veterans you have walking around with unforeseen issues, unforeseen challenges. Now of course, the facility they were at was in Portsmouth, so I felt like I was back in Ramadi sometimes, but the new facility is a great place and very good as far as training goes and the training applications that they can do there. So I'm just going to stop rambling. Thank you very much for your time.

David Weiner:

Thank you.

Dee Oliver:

Thank you for your service.

David Weiner:

Thank you very much.

Donald H. Horsley:

Excuse me, sir. You don't live on Shirley Lane, do you? You don't live on Shirley Lane?

Patrick Flannigan:

No, sir. I do not. I live in Chesapeake.

Donald H. Horsley:

Okay.

David Weiner:

Thank you.

Patrick Flannigan:

Thank you.

George Alcaraz:

You got a question over there.

David Weiner:

Oh. Oh question.

David Redmond:

What did you say your name was, sir?

Patrick Flannigan:

Patrick Flanagan.

Speaker 7:

Oh, Mr. Flanagan. Thanks, sir.

Patrick Flannigan:

Thank you.

David Weiner:

All right, you guys. Thank you.

Carolyn:

Jack Lockman followed by Lindsey Hebert.

David Weiner:

Welcome, Sir.

Jack Lockman:

Good afternoon, my name is Jack Lockman. I am a retired Navy vet, served my time and I am also a disabled vet, something that I don't talk about. I've lived with my fiancé and homeowner Ansley at 2701 Shirley Landing Drive, just on the other side of the new facility. First and foremost, let me say I support any cause, any cause, in helping disabled vets, first responders and police officers. I am a dog owner and an animal lover. Sadly after reading the letters of support from Mutts With A Mission we are being accused of, by several, of being stupid and selfish, because we don't want this facility next to our houses on our street. Clearly that's not the case. We retired with the goal of living in peace in beautiful Blackwater. Since May, when Mutts With A Mission became our neighbor all of this has changed. We've lost our wide open country views that we had come to love over the years, due to a solid six foot fence that runs the entire length of our property. You stand on the ground and instead of seeing the country, you see a white wall. You won't see it anywhere else in Blackwater, you won't see it anywhere else in Pungo.

Jack Lockman:

We are very concerned about the negative impact on our property. We walk our dogs on leash on our dead end street with six homes, almost on the daily, weather depending. And now we have to endure with traffic that we never had to endure before. Granted, we are not saying it wasn't because they're doing facility upgrades and turning a horse stable into a dog training facility or a dog kennel. We have been dealing with traffic like you had not seen in this neighborhood ever. The residents have never experienced any of this in this little neighborhood. Our area needs no more traffic. Just yesterday there were two accidents on Blackwater Road,

less than a mile from our home, our street. Sadly, one of those was a fatality, less than a mile from our house. Another one. And they're happening all the time. We are not against what they want to do. We're against the location of where they want to do it, right beside our home. Ask yourself this question would you want this to happen beside your home? Where you live? Just ask yourself that question. Thank you for your time.

David Weiner:

Thank you, sir. Any questions? Thank you.

Jack Lockman:

I'm sorry.

Speaker 8:

It's good. I have one question. You live at the dead end?

Jack Lockman:

Yes, sir. We live in the court, dead end, in the court. That is literally right beside the building.

Donald Horsley:

Didn't we approve a-

Jack Lockman:

That's not the right slide I don't believe.

Donald Horsley:

We approved a residential kennel down there, I think.

Jack Lockman:

Yes, sir. You did.

Donald Horsley:

Is that on your property?

Jack Lockman:

Yes, sir. It is.

Donald Horsley:

Okay. That yours?

Jack Lockman:

Yes, sir. It is. And when it was approved, not a bolt, screw or anything was done until it was 100% approved by the City. And then the City made us put it on the back of our property, 325 yards from our house, which is the furthest away from all the neighbors. And this one is going to be right beside our home and it just doesn't make any sense. We've never had a complaint, we also provide service dogs. Channel 3, did an episode of a wounded warrior going into his brand new home in Yorktown, in a wheelchair with one of our puppies in his lap. That was going to be, and is to this day, his service dog. We're not against what they do. We're against the location of which they're going to do it. And again, ask you if you wanted to have it next to your house.

David Weiner:

Mr. Inman.

Jack Lockman:

Yes, sir?

Michael A Inman:

Can you conceive of any way it could be done that this project at a lower level of activity?

Jack Lockman:

I haven't even given it any thought. We haven't even... It's just been a nightmare. We haven't slept a full night, I was up at 2:27 this morning, just saying, it's been stress, but I don't know I can't answer on a whim.

Michael A Inman:

Are you aware that the property's zoned AG-1 agriculture?

Jack Lockman:

And horses were a whole lot more fun.

Michael A Inman:

Do you know what uses are allowed on AG-1 are?

Jack Lockman:

I'm sorry?

Michael A Inman:

Do you know what the scope of uses on AG-1 are?

Jack Lockman:

No, sir. I don't.

Michael A Inman:

Okay.

Jack Lockman:

No, sir. I don't. I just know that we like living in the country, the quiet peace of the country.

Donald H. Horsley:

If that horse barn had been built further over towards the west, it wouldn't be right beside you.

Jack Lockman:

Correct.

Donald H. Horsley:

But they purchased the property. The barn was already there so therefore that's the reason it's there. If the City had an opportunity to before construction, before a barn was built, but they're using a facility that was already there and you're aware of that, because you were there when the horses were there.

Jack Lockman:

Correct.

David Weiner:

Jack?

Jack Wall:

And you're aware that's not a kennel. That's just their training facility.

Donald H. Horsley:

Training facility.

Jack Lockman:

Right? My question to you all is look at their growth plan. Look what they dreamed of first and look what they want to do. You're talking about a multimillion dollar organization. Again, I'm not against the organization, I think what they do is very, very heart wrenching as it should be for every one of you. My only opposition, our only opposition and everybody on our street signed a petition against it, including people just off our street, everybody within a mile radius down there, signed the petition against this. We're asking you to stand up for the little guys, the little people. We're not a multimillion dollar organization. We're just for residents. We enjoy the country living.

David Weiner:

How many dogs do you have in your property?

Jack Lockman:

We have four house dogs and 10 breeding dogs. And we're authorized to have 15, but we don't.

David Weiner:

Do you train dogs also?

Jack Lockman:

We do not. We refer them out to Ansley's late husband, Mark Hackathorn was a master dog trainer. He knew... You all know Cesar, him and Cesar were very good friends. Mark was a phenomenal... I never met him, I wouldn't be where I am if I did, but I met Ansley after he died a couple years after he died. Somebody made mention, we read these letters that were sent to you all and I'm sure you've scanned them or read them that we were a puppy mill. I challenge anybody to come and look at our facilities. Our dogs live better than some human beings in this country. And that's a fact. Yeah.

David Weiner:

Mr. Evan.

David Redmond:

I don't care. We're talking about this application.

Jack Lockman:

Thank you.

David Redmond:

So let's not, I'm not concerned about that. I'd really much more rather focus on the application that's before us. About how large is your property?

Jack Lockman:

6.7 acres.

Speaker 9:

Okay.

David Redmond:

And this one's 20?

Jack Lockman:

Correct.

David Redmond:

Thanks very much.

Jack Lockman:

My pleasure.

David Weiner:

Any other questions?

Robyn Klein:

I have a question for staff.

David Weiner:

Okay. Thank you, sir.

Jack Lockman:

Thank you.

David Weiner:

Yes, go ahead, Robyn.

Robyn Klein:

When we authorize commercial kennels is 15 the standard for dogs allowed?

Carolyn Smith:

Unlike daycare, child daycare, we don't have a standard for dogs. It's really based on what is requested. And then it's a subjective decision based on the acreage.

Robyn Klein:

Okay. So there's a variance in terms of-

Carolyn:

We've never had, that I can recall, a request where a request has never been approved with more than 20 dogs, 20 adult dogs I should say.

Robyn Klein:

Sure. Thank you.

Donald H. Horsley:

If I remember correct, Carolyn, most of the time it's a hunter who comes and has a group of hunting dogs and he has 12 to 15 dogs and that's usually what we approve. That's how that 15 number probably came became about.

Donald H. Horsley:

Yes, sir.

Carolyn Smith:

Okay.

David Weiner:

Okay. All right. Madam Clerk?

Madam Clerk:

Lindsay Hebert followed by Joe Corson.

David Weiner:

Welcome, ma'am.

Lindsey Hebert:

Thank you. Do I have to wait for the little light? Just to make sure I'm doing it right. Good morning. My name is Lindsey Hebert, I am a 10 year Virginia Beach resident. I'm also a U.S Navy veteran and I'm here to speak on behalf of Mutts With A Mission and their conditional use application to train service dogs. Before I get into everything, I would like to say and rebute the fact that they're a corporation. They're not a corporation, they're a charity that donate service dogs to wounded veterans. And I just find it a little offensive, so I would like to clear that up, they're a nonprofit charity. I've been to the property numerous times, I'm the realtor that helped them purchase it. So I've been involved with Mutts With A Mission for many years. And the traffic or the parking just looks like a normal house with a couple extra cars. There's never an increase that I've been there. I've been there many times at different times of the day. I've never had a problem.

Lindsey Hebert:

And I assure you, I'd rather this facility live next to me with dogs where there are the six in the room that have not made a peep than normal dogs that are untrained, but that's just my personal opinion. My husband is a recipient. That's why I'm standing here today. He's a wounded veteran of 20 years. He was Navy EOD for 20 years and suffered multiple traumatic injuries, brain injuries, and sorry, I get a little emotional about it. Brooke and Mutts With A Mission saved his life. I have no other way to say it. They saved his life. They gave my children, their father back, my husband can go out on his own now, he's no longer a fall risk because of his dog. They gave me my life back in a time that I was drowning and I will be forever grateful. Hence, the reason I'm standing here. I know that there are complaints about there's a fence and I can't see the country view and maybe a noise complaint. And I think maybe there're some misunderstandings, but my point is that to me, those are irrelevant. My point is, that to me, those are irrelevant. The point is that 22 veterans a day are dying from suicide, 22. I have friends that I've buried many times in the past few years, and Brooke and Mutts With a Mission and her team are actively trying to stop that. My husband would've been a statistic and that's hard for me to stand up here and say in front of public, that he would've been a statistic had we not wandered into that facility that day and Brooke looked me in the eyes and said, "How can I help you?" She saved my husband's life. She saved my family. And every veteran that has received a dog from her, well, we could bring in them in here one by one, and they would all say the same thing. "They saved my life." So I think that if there's a happy medium for the neighborhood and the facility and everybody that we should find it. Sorry, I got totally off what I'd written down. I'm very passionate about this. I'm so sorry. I will be forever grateful. And if Mutts and their organization can keep one more of my friends from dying from suicide, then I think it's worth the compromise. Thank you. And thank you for listening to my emotional ramble and thank you for the consideration.

David Weiner:

Thank you ma'am. Any questions?

Lindsey Hebert:

Oh, sorry. I just walked away.

Madam Clerk :

Okay. Mr. Corson no longer wishes to speak. So our final speaker is Adam Welborn.

Adam Welborn:

Ladies and gentlemen. As you can see, Brooke has really helped me out a lot through the years. Army veteran, representing the Army branch here today. And I would like to say, and just speak of the character of this organization. From day one, they looked after me and what's going on with me. And they looked after my dog to see what's going on. But one thing from day one that Brooke has constantly brought to me is who we represent, that we are representing Mutts with a Mission when we're out in public. So it's not only just the dogs or the service members. True character, strength of character, that no matter where you're at you are representing the organization, and showing the people and the citizens and the public how well we are. So not only do we continue to serve, even after we left our service, but with Mutts with a Mission, we continue to serve and show the character that they have. That's all I have to say.

David Weiner:

Any questions? Thank you. No more speakers?

David Weiner:

Ma'am would you like to come back up and address anything?

Brooke Corson:

Lost my page. So, I'd like tread gently in these rebuttals. I mean, we are trying to be good neighbors because we do have to live on the street. You know, when we initially put in our application, I guess you guys have seen the progression of what we initially put in and then what we've scaled down to be? Is that a correct assumption?

Dee Oliver:

No, we don't get to see that.

Brooke Corson:

Oh, okay. So I apologize. I say guys, I mean guys and girls. It's just how I was raised. So it's no slight, please don't be offended. So initially we were told when we went to the planning staff that we should present our broad view, like what we want to do long term, you know ...

Brooke Corson:

And so we took that in our veteran mindset to, okay. We need to give the planning staff what we would like one day down the road, 10, 15 years down the road, 20 years down the road. So we presented them with a plan that one of the gentlemen was talking about was like, "Eventually, maybe one day down the road, we'd like to do this." And so that's the plan that they saw. And that's what's been stuck in their heads. But this was our ultimate dream, right? But what we've done is we've scaled it down to what we need at this point. You're not going to see us in here every week saying ... this isn't an end around this, this isn't we're just trying to get by.

Brooke Corson:

Initially when we bought this property, what we wanted to do was to convert the barn into a dog training facility, as we've come forward to ask now. I think we just gave too much information all at once. And some of the stuff we've decided that we don't really need, some of the things that were on that plan as well, as we kind of reevaluate. One goal of Mutts with a Mission is never to become so big that people like, you know, Lindsay and her husband don't come in and say, "I feel like family," you know? Or that Patrick can't come in and hang out if he's having a rough day or need some extra training with his dog or something like that. We don't want to become so big that we lose that, and so sterile that we lose that.

Brooke Corson:

The fencing was put up with the intent of being a good neighbor. You know, there's dogs on one side of us that we put up the fence so that they wouldn't have to bark at our dogs and you know, reciprocate. And then on the other side of the property, there's an active breeding facility. And we wanted to keep our dogs separate from their dogs, because their kennel fencing runs pretty close to our property line. So the intent there was to make sure that we kept those dogs separately and that we didn't stress out their breeding, their kennel dogs, when our dogs are out walking around the property with their handlers or things like that. So it wasn't done out of spite. It wasn't done out of malice. It was actually done out of, you know, trying to be a good neighbor and trying to reduce stress on the dogs. Cause no dog wants to just sit there and bark continuously. It's not a healthy mindset for them.

Brooke Corson:

I think one thing that I'd like to address as well is, you know, they're talking about all the traffic with the construction traffic. At the same time that we were doing our renovations, the neighbor in the circle ... So there's the neighbor right in the little, not our direct next door neighbor, but the neighbor on the other side of them was having a two story garage built. So all that traffic, it was our traffic combined with their construction traffic as well. So I think that that's something that needed to be addressed as well, because I think that we kind of got the blame for all of the construction traffic, even though there was a large structure being built. And that's all I have for my rebuttal.

Michael Inman:

Can you tell us a little more about the construction activity on your property? What was it? How long was it? And is it over?

Brooke Corson:

Thankfully, yes, it's over. So what we did was we built ... and we have our, our final inspection is on I think Monday. We constructed within the barn three office spaces, and then there's been painting, there's been, we replaced the air conditioning system. There's been some renovations, like paint, you know, we've painted. We've put up some, you know, the drywall, the trim, the things like that. We changed out the lighting. We've changed out, like I said, the HVAC system. We replaced the outside arena lights with a more efficient lights. Oh, and then the fencing, I think the fencing project was the one that took the longest. That was supposed to have been started back in June. But somehow it didn't get started until I think almost August.

Brooke Corson:

And so there was, you know, trucks bringing in fencing and dropping it off. And the guys would work on it for a couple weeks and then realized they needed more materials and they couldn't get the materials because you know, the lag still from COVID. Really, the fencing project took about a month and a half and they just finished it several weeks ago. So that's done. And the fencing inspector came out and signed off that the project is complete to standard.

Brooke Corson:

So on that property line next to the breeding kennel, we do have people coming. We're either slated for this week or next week. There's one part where the fencing company did make a mistake and they put up six foot fencing all the way to the boundary where it's allowed to be. It's actually supposed to be four foot that last 50 foot section. They screwed up, they admitted they screwed up and they have since ordered the materials and it should be here. And we're slated either this week or next week for them to remove the six foot, the 50 foot worth of panels and put it with the four foot panels.

Michael Inman:

So the length of time was somewhere in the summer.

Brooke Corson:

Yes sir. Oh, and they didn't finish until, yes, sir.

Michael Inman:

... All the things you mentioned going on.

Brooke Corson:

Yes, sir. But the fencing really was the one that drug on forever. I mean, the exterior fencing, it took forever. Yes, sir. But it's all done now. We're done.

David Weiner:

Mr. Inman. I'm sorry, Mr. Redmond

David Redmond:

He's better looking than I am. First off, you can't get a bathroom renovated in six weeks these days. So the idea that that's a lot of time for construction is crazy to me. I mean, that strikes me for all that you were doing as a really, really quick timeframe. And frankly, you don't have to be kenneling dogs to make renovations to a barn or to get new HVAC. And, you know, you could be growing dandelions on there for a living and choose to fence your property. So none of that strikes me as troubling. What I would like to do, however, is ask you to tick through again, what your requests were with regard to the conditions.

Brooke Corson:

The initial request?

David Redmond:

Yes ma'am. In your earlier presentation, you started with condition number one, no more than 20 dogs on the property at one time. And you wanted to exclude trained service dogs from that condition. Can you take us through the changes that you had asked for earlier so that we can be certain precisely, what your request is?

Brooke Corson:

Yes, sir. So the first request is that we would have an exclusion from number one. So number one states, "there should be no more than 20 dogs on the property at any time." We are requesting an exclusion to that for our trained service dogs. These are dogs that have been placed with their handlers.

David Redmond:

Okay. Got it.

Brooke Corson:

And then also with number one, that instead of saying "20 dogs on the property" that it say "20 adult dogs," please.

Donald Horsley:

For number one?

Brooke Corson:

For number one. Yes, sir.

Donald Horsley:

And you define an adult dog by how much?

Brooke Corson:

I think normally it's defined by two years. That's generally ...

Donald Horsley:

But you said you would accept one year, a while ago.

Brooke Corson:

We would. Yes, sir. And then for number four, it states, "all dogs should be kenneled within the single family dwelling between the hours of 9:00 PM and 7:00 AM with an exception for breaks for urination and defecation." And we're asking that there's an exception for dogs that are being walked on the property or worked between the hours of 9:00 PM to 7:00 AM, but that they are attended, that they're not just let loose to run free and things like that.

David Redmond:

Say that again, I'm sorry.

Brooke Corson:

They would be walked and trained, but they would be attended, they would be with a person. It would be attended. They would not be unattended at that time. So it's not like we would just open the gates and be like, "Run free, dogs." They would love that. And they would get in so much trouble, too. Because terriers are trouble.

Dee Oliver:

Would you be training the dogs after 11 o'clock at night?

Brooke Corson:

So probably not 11 o'clock, no ma'am. But I mean after 9:00 ... So my personal dogs, if I've got a long Wednesday and I'm not done till, you know, 8, 8:30 at night, then I may bring my personal dogs out and work them a little bit, because I do have dogs that compete in different

sports. I mean, one of my dogs was on America's Top Dog this season. Or I may go work them earlier in the morning, but it would be, you know ...

David Redmond:

I think the point you're getting at is people walk their dogs after 9:00 PM all over planet Earth. Or 7:00 AM, their personal animals. So that's number four.

Donald Horsley:

You walk your dogs on your own property. You don't walk them down the street, correct?

Brooke Corson:

No, sir. I don't.

Whitney Graham:

So why even have that in there? I mean, it's your own property, it's 20 acres. I mean, to me, maybe I'm missing some something, but I don't even think that should even be in there.

Brooke Corson:

We recognized the complaints and we were just trying to be, you know ...

David Redmond:

I want to get through the rest of your conditions. Anything else?

Brooke Corson:

I don't have anything. No. Those are the three points. I appreciate it.

Kay Wilson:

I have a question. I hope I didn't misunderstand, but you wanted to exempt your personal dogs too? Out of one. I don't want to miss something.

Brooke Corson:

I would love to, but that's not ...

Kay Wilson:

That wasn't that wasn't part of your asks?

Brooke Corson:

Correct. It wasn't one of our asks. No, ma'am.

David Weiner:

We'll work that out. We'll work that out. Okay. Mr. Coston?

Brooke Corson:

Yes, sir?

John Coston:

Someone said something about 250 people. Do you expect that many people out of graduation?

Brooke Corson:

No sir. No. In all honesty, I think the former conditional use permit when it was a horse training facility and boarding facility, that was if they had a horse show or something like that. That's what they were looking at. And so we were just going off of what their previous permit was. But no, because we deal a lot with veterans with PTSD and things like that, to bring in 250 people that they don't know ... I mean, our dogs do well, but they're not the magic pill people wish they were, but they don't fix everything. So to have 250 people, that's just a lot. So I mean, I don't that's not like a four time a year thing, you know, that we would be having 250 people. But again, we just wanted to follow, you know, that's worst case scenario. If we were to have like a gala or something like that, like I know Equi Kids, they have their Stall Ball on facility. If we were to have something of that magnitude, we would go off location for something like that. Just because we couldn't support support, something like that there.

Donald Horsley:

So you really don't need the 250 limit. If they said 150, you'd be fine with that.

Brooke Corson:

Yes sir. I don't even know.

Donald Horsley:

You don't even need a number.

Brooke Corson:

I was going to say, I don't think the number's in here. Yes sir. that's a special permit that we'd have to apply for through ...

Donald Horsley:

If you're not going to have that many people, you don't need a special permit.

David Weiner:

Over 150 people you'd have to apply for it.

Brooke Corson:

I mean that would be something we'd have to ... I'm not a hundred percent sure about how that special permit goes.

Donald Horsley:

How much reaching out to your neighbors have you done? I'll be honest with you. I live in Blackwater. I've lived here 50 some years, and I don't recognize anybody here except for Walter Potter, he doesn't live in Blackwater. So I mean, you're all new people to me. You're all new people. And you know, they said so many people had opposed this, and so many people had for it, and I have yet to hear from anybody. To be honest, I had as a Planning Commissioner, I've been on Planning Commission down here for, for years, going on 40 years. I've not had anybody to call me in opposition. I've not had anybody call me supporting this, but we've got all these letters. So evidently, they coming from outside of Blackwater or something. So it helped me there because I don't recognize any of you people.

Brooke Corson:

Right, right. I understand that. I did initially, it was probably like June, July time-ish, I did speak with Alan's wife. She came over. And I spoke to her, explained to her what we were doing. The neighbors that live on the first house on the street, I'm terrible with names. So the two neighbors that live on the first house on the street, I've talked with them. They have a little Cairn terrier mix. That's how I remember them, is by dogs. They regularly walk and we regularly talk to them and I explained to them what we do and things like that.

Brooke Corson:

I did speak with Ainsley. We've spoken a couple times about things. I did not speak with Mr. Lockman. The first interaction that we had was, I will admit, it was a negative interaction. And it was over the fence. They were getting ready to go on vacation and he was concerned about the fence and things like that. And then Allen, aside from several ... I want to say it was October 30th or something like that. Both sets of neighbors came outside the gate. And as we were driving out, we stopped and spoke with them for about two hours and tried to help answer some of their questions and things like that. Otherwise, we did post on Nextdoor, that app.

Donald Horsley:

I understand something like that ...

Brooke Corson:

That's a big thing apparently, yes sir. I didn't know it either, but we did post because you could do it within your community. So I did do a post on Nextdoor because someone told me there was a post about this 40 kennel, commercial kennel going up in Blackwater, had anybody heard about it. And so I got in there and kind of said, "This is what we do. This is what we do. We train service dogs and things like that." And so just to kind of, you know, let them know what we do and answer any of the surrounding neighbors' questions and things like that. And we had a fairly positive response, and you know, people did get on there and ask questions and some people were like, "Oh, you're going to board." And I'm like, no, that's not what we do. You know? So, I think that as far as community involvement within that app, we were able to get in there and answer some questions and get the information about what we do out to the people of Blackwater.

Donald Horsley:

Well, anything that you can do to spread the word of the good will that you're doing, I think will help you immensely in the rural area of Blackwater.

Brooke Corson:

Yes sir.

Donald Horsley:

Cause the people down there very sensitive to things like this. So even sensitive to what Mr. Lockman is doing too, you know? I was on Commission when we approved his permit. so we're very sensitive to that type of thing. And we're very sensitive to our communities down there too, you know. But we're getting a lot of infield of new people coming in down there. It's pretty evident here. But you know, I applaud you for what you're doing. I just want you to be very careful because if something goes wrong, we will hear about it.

Brooke Corson:

Yes, sir. Now I'm sure.

Donald Horsley:

If you got plans to put up a Taj Mahal or something, I know you got 20 acres of land. If you got a plan to do that, we need to know it now because we don't want to come back and try to strike you down later.

Brooke Corson:

The storm water requirements for putting up something that large alone are staggering. So yes, no, we're not, we're not planning on putting up a Taj Mahal. Things that we would like to do down the road are maybe put up a kennel building, maybe. But that's not, I mean, we trained out of a building ...

Donald Horsley:

A kennel building you'd had to come back before us to change it.

Brooke Corson:

Exactly. Yes, sir. So everything that we would want to do, we know that we would have to come back and get basically like a new conditional use permit. Yes. So we know that we have to get approved. Anything that we want to do going further from what we already have now, unless we want to put up like a shed or something like that, that we have to come back before the committee. Marhcelle was very, very good about making sure that we were clear on any further development.

Donald Horsley:

My last question. Behind your house.

Brooke Corson:

Yes, sir.

Donald Horsley:

I don't go down that road very often, but I did ride down there yesterday or the day before, what is this area you've got tapered off? The black?

Brooke Corson:

The fence?

Donald Horsley:

Is that a fence?

Brooke Corson:

Yes, sir. The whole property's fenced off.

Donald Horsley:

I'm talking about behind your house. It looks like black plastic put up around a fence or something. I mean you trying to hide something?

Brooke Corson:

No, sir. But you know what, when people walk down the street all the time and are taking pictures of your dogs in your yard and your children in the yard and you're hearing about it from the city, it does start to wear on you after a little while.

Donald Horsley:

Oh, okay.

Brooke Corson:

So that's just because, you know, it's basically like having your every move ... I can't go out in my yard and let my personal dogs out, or my kids can't go out in the yard with their personal dogs because people are walking by taking pictures. And of course, what do you think? What does your mind go to immediately, worst case scenario, right? And my kids are 10 and 12. So that's there ... It gets stressful having people walking by taking pictures of your family all the time.

Donald Horsley:

Hopefully you can take that down shortly.

Brooke Corson:

I hope so. That would be nice. Yes, sir.

David Weiner:

Any more questions?

David Redmond:

I just want to make one point. I think when the gentleman was ticking through your wishlist of things, it might be wonderful if you could do them later on. He was talking 1500 feet for this and 4,000 feet for that. And 20 acres is 871,200 square feet.

Brooke Corson:

Yes, sir.

David Redmond:

So just make that point. Okay. Thank you, Mr. Chairman.

David Weiner:

Anyone else?

Brooke Corson:

Thank you all very much. Thank all y'all for your time.

David Weiner:

Alright, we are going to open this up and talk this through amongst ourselves. Who would like to start. Okay.

Robyn Klein:

I want to start by thanking Don, because I also was wondering why the barn was so close to the property line versus the other gentleman's kennel. So thank you for clarifying that. I find it inappropriate to include graduated service dogs in condition one, because as far as the ADA is concerned, they don't count as animals. Given the size of the property I recommend modifying the condition to stipulate no more than 20 untrained dogs over 12 weeks and a maximum of 10 under 12 weeks. I also find it reasonable to modify conditions one and four to exclude the applicant's personal dogs.

David Weiner:

Okay. Who's up?

Whitney Graham:

I'll just say this one gentleman got up. He, I think he said he had 6.7 acres, 15 dogs. So 15 dogs, 6.7 acres. That's 2.24 dogs per acre. She has 20 acres. Use the same math. That would be 44.8 dogs, if you wanted to keep things even. I mean, 20 acres is a lot of land. And correct me if I'm wrong, you can have four dogs in the City of Virginia Beach in a townhouse. Am I right about that? Okay. A townhouse that's on, what square foot lot? 5,000 square feet, you can have four dogs. I think we've made this very, very ... I think right now it's very stringent. And I agree we need to loosen this up. I don't live down in the county like Don. It seems like a good use and it's a great purpose. And I'm open for tackling some of these conditions.

David Bradley:

You know, I'm supportive of the request. The 20 dogs, based on what the Planning staff has said, it's consistent with previous City Council action. So I'm always one for consistency. You know, it's obviously a great cause. I do hope the applicant will spend more time with the neighbors. And that's obviously nothing we can mandate. I had a neighbor put in a driveway the other day and just warned me that there's going to be more noise around the house, you know? So it's just those kind of things that always make it a little better. But I'm supportive of this.

David Redmond:

I will say that that's a two way street. So you expect someone to be conversant and communicative with you and on a respectful basis, that's a two way street. I want to go back to what you said about one of your conditions, Robyn. I completely accept the idea that you would exclude trained service dogs from that calculation. And the reason I say that is because I want to make sure that some of the folks who have been served by this, like Mr. Flannigan, who came up earlier, if he wants to come back, or one of these other persons wants come back for some reason to that property, that there's not going to be something untoward, and there's going to be nobody out there with a clicker, like they're doing short term rental bedroom occupancy or something. But by the same token, I think we need to be clear that that's fine. And I think it should be fine.

David Redmond:

I agree with Mr. Graham, very frankly, I think the staff was perhaps a bit too stringent with some of these requirements. This property's 870,000 square feet and it's fenced. Nobody owns a view. My neighbor puts a fence up on his property. I'm not entitled to gripe because I can't see the rabbits again. So it may not be comfortable, but that's how private property works. And they did that for the purposes of trying to secure the animals that they have on their property in the same they that you would llamas or pigs or cows or anything else. So I very frankly found the applicant's presentation to be very compelling. The only thing I will disagree with, well, there's a lot I disagree with, but I got to say Mr. Flanagan said that he was not a very good speaker. No sir.

David Redmond:

You were one of the most compelling speakers I've seen, so good for you. And the courage it takes for people to come up and say, "I have a problem. This animal has helped me." That ain't easy. So to you folks who did, thank you. And I'm just delighted that there is an organization that can help you in that way. So I'm going to support this application to the greatest extent that we can. I think we were too tough on them, very frankly, staff. And I think we ought to loosen it up some and allow some of the things that she was very articulate and very detailed and quite convincing that we ought to do.

Donald Horsley:

Let me just speak to that. I'll take up for staff because this was a commercial kennel license for 50 dogs. And the normal kennel is 50 dogs barking at one time, is what they were thinking. This

is a different situation. These hunting dogs that you have out in the county and you go up there ... They know when feeding time is and you can't hear. You think a jet is loud. You don't, you know that. So I understand what they're talking about. Well, this is entirely different situation with these. These dogs aren't going to be housed there. They raise the puppies and they can raise them in the house. And I feel pretty comfortable with that.

Donald Horsley:

I don't remember all of Robyn's figures. I remember she did say eliminate her household dogs. I don't have a problem with doing that. And the 20 adult dogs that the lady mentioned, she was satisfied with that. That's fine with me. I'm going to support the application, like I said, I think it's a very great thing. But I think there's a misconception about the whole thing, about a 50 dog kennel. And I mean, I know people that have kennels across the field from me that I can hear barking and they don't have but five or six dogs, you know? But down here there are hunting guys that have bunches of dogs that bark. And that's normally what people think about really. And rightfully so, cause that's very annoying. That's very annoying. You can't tell them be quiet and they be quiet either. You know?

David Weiner:

Alright. Who wants to make a motion? Robyn, do you want to make a motion with your ...

Dee Oliver:

I got one question.

David Weiner:

Okay.

Dee Oliver:

Sorry. Marcelle. Did you come home with a dog? Just want to know.

Marchelle Coleman:

I did not.

David Weiner:

You want to make a motion with what you read?

Robyn Klein:

Sure. So I make a motion to approve the application with the following modifications. Condition one excludes graduated service dogs. It limits dogs over 12 weeks to 20 and a maximum of 10

dogs under 12 weeks. This does not the applicant's personal dogs. And as a modification to condition number four, does not include the applicant's personal dogs.

David Weiner:

Yes ma'am.

Carolyn Smith:

I'm sorry. You lost me there for a second. Yeah, me too. When you said limits 20 dogs over 12 weeks ...

Robyn Klein:

20 untrained dogs over 12 weeks.

Carolyn Smith:

Correct. And then maximum of 10 dogs?

Robyn Klein:

10 dogs under 12 weeks.

David Weiner:

For the puppies. For the puppies.

Donald Horsley:

If they have the mother's real prolific you're messing up.

Robyn Klein:

You know what, she can deal with that. Call me later. And then graduated service dogs excluded and personal dogs excluded.

John Coston:

Now what was the 12 weeks about?

Robyn Klein:

So 20 untrained dogs over 12 weeks and 10 under 12 weeks. So essentially one litter.

John Coston:

Okay. I got you.

Donald Horsley:

I've noticed, does the applicant understand?

David Weiner:

I was getting ready to ask her. Ma'am, does that sound...

Robyn Klein:

Does that work?

David Weiner:

Does that sound good or...

Donald Horsley:

Do you understand that?

Brooke Corson:

Yes, sir I understand it.

David Weiner:

Okay. Thank you. Alright, do we have a motion for approval?

Dee Oliver:

Wait, you...I think, there was a reference that did not include the hours of her being able to take her dogs out.

Robyn Klein:

Did you catch that Carolyn?

Dee Oliver:

Was that in there? Did I not hear that?

Robyn Klein:

I could have been unclear.

Dee Oliver:

Okay. I'm sorry. I probably just missed it.

Carolyn Smith:

I didn't get that, so thank you.

Robyn Klein:

Okay. So, modify condition four, to exclude the applicant's personal dogs.

David Weiner:

What about the timeframe?

Carolyn Smith:

The applicants four personal dogs.

Robyn Klein:

Four personal dogs.

Jack Wall:

Can we just strike four?

Robyn Klein:

I'm also okay with that. Yeah.

David Redmond:

Okay. I would be more comfortable, simply striking.

Donald Horsley:

Yeah. Cause we might have wrong verbiage in there.

Robyn Klein:

So, the removal of condition four.

David Bradley:

I'll second that.

David Weiner:

Second, okay?

Madam Clerk:

I'm sorry. Who was the second?

Robyn Klein:

Mr. Bradley.

David Weiner:

Okay. Are we okay with what we've done?

Carolyn Smith:

Yes, sir.

David Weiner:

Yes? Okay. All right.

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against. Agenda item, number six has been recommended for approval with condition one modified, and striking condition four.

David Weiner:

Thank you. Right. Thank you. All right. On the next one.

Donald Horsley:

Excuse me. Kay, was I supposed to say that, read this before I voted?

Kay Wilson:

Yes, but now that you've voted, your welcome to read it.

Donald. Horsley:

I don't have to read it?

Kay Wilson:

No, you do Mr. Horsley. You'd be surprised at who comes and looks.

Donald Horsley:

Oh. It says I'm executing this written disclosure regarding Planning Commission decision to vote on this application. I lease the farm and the property adjacent to this property, which is the farmland in the pretty green field, that can't be seen anymore. But, and as such, I derive no financial interest in this application. Therefore, I file this.

David Weiner:

We're having too much fun today. Okay.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. There shall be no more than 20 dogs on the property at any time over 12 weeks old and a maximum of 10 dogs under 12 weeks old on the property at any time. This count excludes all graduated service dogs and up to four of the applicant's personal dogs.
2. All dogs, when outside, shall be supervised at all times, and shall not be a nuisance to any other property owners or residents.
3. The dog kennel and dog training area shall be maintained in a safe and sanitary condition.
4. ~~All dogs shall be kenneled within the single family dwelling between the hours of 9:00 p.m. to 7:00 a.m., with an exception to breaks for urination and defecation~~
5. No dogs shall be kenneled within the indoor training facility (barn).
6. All signage on the site must be in accordance with sign regulations of the Zoning Ordinance.
7. All animal waste from the dog kennel shall be collected and disposed of in a lawful manner on a daily basis.
8. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
9. Dog shows shall be prohibited.

10. There shall be no breeding of dogs on this site.
11. All Special Events on the site shall be permitted by the Special Events Office and be restricted to up to four events per year or as deemed appropriate by the Special Events Office.
12. The applicant shall comply with Section 223 of the Zoning Ordinance.

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
November 10, 2021 Public Meeting
Agenda Item # 7**

VB Holdings, LLC [Applicant & Property Owner]

Modification of Conditions

608 Dam Neck Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our next item is agenda item number seven, VB Holdings, LLC. An application for Modification of Conditions on property located at 608 Dam Neck Road in the Princess Anne District.

David Weiner:

Hold on for a second, Mr. Bourdon.

Eddie Bourdon:

Can we do them together? I don't...

David Weiner:

We have to vote on them separately.

Eddie Bourdon:

We should hear them together. You can vote separately.

Madam Clerk:

Okay. Along with agenda item number seven, we'll be hearing agenda item number eight, Atlantic Associates, LLC, an application for a Conditional Rezoning, AG-1 and AG-2 Agricultural, and R-10 Residential District, to Conditional A-12 Apartment District, to construct 92 units at a density of approximately 1.2 units per acre, on property located at 580 and 608 Dam Neck Road in the Princess Anne District.

Eddie Bourdon:

All right. Thank you, Mr. Chairman. For the record, Eddie Bourdon, and I'm going to speak on both seven and eight. I'll start to give the background on seven and then we'll move into eight. But I want to start by saying that the esteemed Les Watson, actually represents VB Holdings and has been involved in this assemblage for close to two years. He represents the piece, that's

the subject of this Modification of Conditions application. This was a portion of the original Atlantic Shores property, which had a Conditional Use Permit on it, to develop a large number of age restricted dwellings. And we filed an application, or I filed on behalf of the applicant at number eight, the application to Conditionally Rezone, Ms. Huertas's property, which is a little over four acres, directly across from Bold Ruler, and the intersection at Dam Neck Road, two and a half years ago. And then, working with Les Watson and Bob Thornton, the realtor who represented or represents VB Holdings, we were able to add that in his assemblage and then started down this still long trek.

Eddie Bourdon:

The property here is 93 acres that VB Holdings owns, which under the very old CUP for Atlantic Shores, could have been developed with 64 age restricted units on it. And those units would undoubtedly, have been located on other parts of this developable acreage, as there are 55 plus acres of developable land on this total property. And most of it is on the Virginia Beach Holdings property. The principles of Virginia Beach Holdings were a part of Atlantic Shores from the beginning of that project. And when it was determined that the demand and this is my understanding, the demand wasn't sufficient to justify continuing with this additional part of Atlantic Shores, this property was conveyed to them. And I think they were a prime financier of Atlantic Shores to start with. When that was done, when this property was conveyed to VB Holdings, it was entitled to 64 age restricted units under the old conditional use permit.

Eddie Bourdon:

And so we're asking to amend that use permit to take that restriction off. And quite frankly, I don't think that has a thing to do with this. And I don't think that was actually, or is actually legally required. It's a Conditional Rezoning on the whole piece of property, but it wasn't worth getting into a fuss with the staff about, almost two years ago. So, we'll file it. But I don't really think that it's legally necessary when you're conditionally rezoning the entire piece of property. So, that's the reason we're here. The conveyance from Atlantic Shores, to VB Holdings, actually had a private deed restriction in the deed that precludes it from being developed as age restricted property, so we're consistent with that.

Eddie Bourdon:

When the negotiations took place two years ago, basically started, Mr. Watson was in direct contact with the management of Atlantic Shores and briefed them. And they were all on board with it. Now we've come to find out today that the management has completely changed and under new management, and new Board of Directors. Ann Crenshaw came down today and I have agreed we will go out and have a meeting with their Board and brief them on all of this, and absolutely believe that they will be in complete accord with it. Because, it's consistent all the way across the board. And it's less impactful of them and of the environment. So that's number one, number seven, excuse me, number eight. All right. So, first of I want to thank Marchelle Coleman and Carolyn Smith, and the Planning Director for having worked on this, which I think

is a great project, and just want to get that out of the way, because they have been patient, as have my clients.

Eddie Bourdon:

So we've got 97 acres on this assemblage, and with the proposed conditional rezoning only seven and a half acres will be developed. And that leaves over 89 and one half acres, all forested area to remain undeveloped. The project has one intersection, signalize intersection entrance across from Bold Ruler. The project is leaving over 46 and a half acres of developable land, untouched, and will remain forested. All together, it's 89, almost 90 acres of forested land that remains forested, and nowhere does my client get any credit for that. And that's something that has to change. State code allows, and I'm on the Green Ribbon Committee and we're pushing the City needs to, adopt the ability that these forested areas, large forested areas should get credit, as a BMP. We ran the city's model eight times, my clients, eight times, very expensive.

Eddie Bourdon:

Every time it showed no impact, one one-hundredth of an inch or less impact. We kept having to run the model and run the model, because it had to be perfect. What we wound up doing, and I just found this out, and I've been told this and I believe it's true, but I just heard this, today...

David Weiner:

Can you just hold for a second?

Eddie Bourdon:

Yeah.

David Weiner:

If that's not perfect, what is?

Eddie Bourdon:

It's not perfect in the eyes of our storm water model.

David Weiner:

Okay.

Eddie Bourdon:

And this is the part I, I just heard this today. And, I hope it's not true, but I was told today that the model treats wetlands, upland non-tidal wetlands, that aren't in a flood plain, as a hundred percent impervious surface. We had to expand the BMP, into some areas that were upland non-tidal wetlands. And it actually helps. Took down, had to take down trees to do it, it actually helps under the model.

Eddie Bourdon:

There's no credit given under this model, for preserving wetland areas with vegetation and trees. That's absurd if that's, if that's in fact true. And I think it is, but somebody else can correct me. That's insane, utterly insane. It's taken us a year and a half to get more than that to get here, running these models to help perfect the models. And, some of the development community is perfectly happy to try to help, but at some point, some common sense has to come into play. So, we're all on the same page and we're all trying to get to the same point and it's not, trying to, but that's the reality. And, there is no credit for all this forested area, which everyone knows is a huge, huge plus.

Eddie Bourdon:

And it's better to have that forested area than to chop the trees down, and dig a hole and put water in it. You're doing more damage, in my view by doing that. But even so, I don't want to get off the seven and a half acres out of 97 acres. And, so we put the development in the best place to make the least impact, the least amount of impervious surface, the shorter roads, the whole shooting match. And we've done that from day one. So just to be clear, we didn't start out trying to develop a whole lot more. We started out with this and it's still taken a very long time to get here. So just want you to understand that. And, we're glad to be here, and we're not trying, we don't want to sound like we're upset, but it's got to, and it is, I think it will get better, but it's..

Eddie Bourdon:

So anyway, and on the Virginia Beach development piece, there are 62 units out of the 92, the other 30 are on Ms. Huerta's piece, it's all one development. It's all mandatory membership, condo association and pool clubhouse. All the storm water, other than on the apron at the road on Dam Neck Road, that little apron will go into the ditches on Dam Neck road. All the other stormwater goes into the BMP and then out and through, most of its sheet flow through the woods. But it all goes to Redwing Lake, which is to the north of the property. None of our stormwater goes east again, other than, whatever might be on the apron on Dam Neck Road, and it has its own pump station. It doesn't have any, none of the effluent goes to the pump station that serves Fieldstone Glen, which is a thousand feet, something like that, to the east of this property. They're not contiguous at all.

Eddie Bourdon:

There's a lot of the wooded area we're preserving between us and them. It's a part of this property, but not the development. If you look at the big, if we get the big picture map up there. Okay. Yeah. See Fieldstone Glen is to the right of the purple area, the developable area, and

the stuff that's white, that's totally out of any environmental flood plain. They're way down there. None of our water goes down there. None of our effluent goes down there and we're a long, long way from them. And all this other area remains preserved. We have 33 guest parking spaces, all but 12 units have two car garages, and two parking spaces. And then there's the 33, there are 12 units with a one car garage, two onsite, two spaces outside the garage.

Eddie Bourdon:

And again, all that extra parking. So we won't have people that'll need to park on somewhere else because there's no contiguous parking available. So staffs, they recommended approval of this application. I don't think there's any hesitation on their part in recommending approval of it. I don't think we could have done this in a more, or my clients couldn't have done this in a more environmental way. And we have patiently, sometimes not so patiently, their lawyer, wasn't always as patient as they were, on going through this modeling over and over and over again. But we know we're not going to have any impact and that's even doubled down, because no credit whatsoever for all that forested area, that's going to remain forested area. Be happy to answer any questions. And, I will be meeting with the Board at Atlantic Shores, as soon as we can set something up before this goes to City Council, but we are not the least bit concerned that, that's going to be a problem. Because, the previous board and previous owners were, all on board with it. It makes perfectly good senses,

David Weiner:

Just an FYI. I'm putting this on our agenda for our next Green Ribbon Committee, we're going to discuss this.

Eddie Bourdon:

Well, I think we discussed it on the last one.

David Weiner:

We're going to get more in depth.

Eddie Bourdon:

But it needs to happen, it needs to happen. And if the model truly treats all forested wetland areas as impervious surface, that needs to change.

David Weiner:

Okay. Question Jack?

Jack Wall:

It's a pretty small impact compared to that, almost a hundred acres parcel, and then the remaining piece, but the only thing in there that preserves it, you're mentioning that it's going to

stay undeveloped, is there's a proffer in here from what I can see, which proffers can be changed in the future. There's nothing that new zoning, or anything that's...

Eddie Bourdon:

Can't change, unless it comes back through this process

Jack Wall:

Through the process, right? And it would have to come back to the room, which...

David Redmond:

You'd have to change the storm water model. Hmm. Oh, then you have to change the right.

Jack Wall:

You'd have to change the storm water model too.

Eddie Bourdon:

Well. Right. I don't have an answer. We've proffered, this is exactly, this is all that can happen on the site. So I think that, if we don't want to get crazy, if there's some type of an infestation in the forest and some trees have to come down to save the rest of the trees, but... no one's saying

Jack Wall:

No one's saying that. There's nothing permanently preserving that, it's just currently proffered. That this is the site plan and I'm just making a statement. It's not, it could be developed in the future.

Eddie Bourdon:

Well, I don't want anybody to take what I said, earlier, The City of Virginia Beach is on the right track, for our long term future, the bond referendum, and making sure that we are not flooding. So all I'm trying to do is suggest there are ways to make that model better. I'm not saying we get rid of it and we start tearing down the trees and building more on this property. I'm not saying that at all. And I know you're not either.

Jack Wall:

Okay. Thank you.

David Weiner:

We have speakers?

Madam Clerk:

We have speakers.

David Weiner:

Okay.

Eddie Bourdon:

Thank you.

Madam Clerk:

Ann Crenshaw, followed by Jennifer Dolhite.

Anne Crenshaw:

Good afternoon, Ann Crenshaw. I'm a member of Kaufman and Canoles law firm, serves as general counsel to Atlantic Shores. And I have had conversations with both Mr. Watson and with Mr. Bourdon. This was the first I saw the plans today, but I think it's not going to be a problem at all. And I appreciate their willingness to come out and meet with the Administration and, and the Board.

David Weiner:

Great.

Ann Crenshaw:

Thank you.

David Weiner:

Thank you. Any questions? Thank you. Ma'am

Madam Clerk:

Jennifer Dolehite followed by Michelle Zellers.

David Weiner:

Welcome.

Jennifer Dolehite:

Hi, thank you. Good afternoon. Good afternoon Chairman and the Planning Commission. My name is Jennifer Dolehite, and I am from the Fieldstone Glen community and have resided there since 2007. I was elected in September to the position of President of our Board of Directors. And we have others in attendance from both the present and prior board of directors, who carry a depth much greater than I do of the city matters. And I hope that they have had a chance to speak with you or to provide you their opinions as well. I want to express my appreciation to you, for conducting a thorough staff report, addressing our city's concerns. And I also wanted to let you know that the developer, for 580 and 608 Dam Neck Road, contacted our Association Manager, who coordinated a virtual meeting for the Board of Directors to ask questions about the proposed development.

Jennifer Dolehite:

I would've preferred an opportunity for our community to meet in person with the developer and ask each of their independent questions, but then they also have the opportunity to do that at this event for the Planning Commission as well. The developer has provided a well thought out community for a family-oriented, townhome, condominium community for larger in number of homes. Though it is larger in number of homes and acreage to our community. Likewise, is close to military bases, schools and parks. The buildings and the materials in the staff report are appealing. In layman terms, I have questions that remain unanswered for our community, after chatting with the developers. So I'm just going to provide you those questions at this time. Has the developer met the requirements to protect the environment, particularly where the natural habitat, including snakes and Bald Eagles, will remain undisturbed?

Jennifer Dolehite:

The second question is, what does the city or developer plan show, regarding utilities and sewage, and how will that be mitigated properly, so as not to adversely impact our community of Fieldstone Glenn? We do also have a federal government property connecting to our community. And our community has been there approximately 15 years now. And so things may have changed a little bit from that time to now, as far as the plan and development in our area. What mitigation efforts have been studied, or are provided to ensure the water flow upstream and downstream from the proposed, will not increase the already increased saturation levels from the surrounding bodies of the water and marsh into our community? Not only from the west, but north and easterly sides due to the...

Jennifer Dolehite:

I don't know if the visual is up there, showing the water bodies, but it feeds into the Redwing Lake. And then I think it's Tecumseh, and then there's a feeder for Dam Neck that goes along the easterly side as well, between us and the base.

Jennifer Dolhite:

What is the capacity for the current utility lines and sewage? And if it is not sufficient, what are the city's mitigation plans? And another concern relates to the traffic patterns. Traffic related to the NAS Dam Neck annex, already backing up past the light at Bold Ruler. And outbound traffic speeds at 45 miles per hour, make entering and exiting Fieldstone Glen community challenging. This speed coming out of the base, and with an anticipated change in the traffic like pattern, can cause difficulty entering and exiting the community. And do you have any mitigation plans to assist us in road safety, when considering this? I thank you, at this time, for your consideration of our community in the planning proposal. And that's all of the questions that I have at this time for you.

David Weiner:

Thank you ma'am. We have any questions? The applicant's representative has written down what you said, so I'm sure he is going to address it when he comes back up here, okay?

Jennifer Dolehite:

All right. Thank you sir.

.

Madam Clerk:

Michelle Zellers, followed by Buck Heffernan.

David Weiner:

Welcome.

Michelle Zellers:

Good afternoon, Mr. Chairman, members of the Planning Commission. My name is Michelle Zellers. Everybody keeps talking about the military service. So I've got, just short of 23 years. I retired from the Air Force, and moved to Virginia Beach. I've got three main issues I want to cover very briefly. Of course, the first one is that it's approximately 97 acres. They talk about building on seven and a half. In the evaluation recommendation, it talks about 1.2 buildings or units per acre. That's a little misleading since they're only building on seven and a half acres, so that really comes out to 12.26 units per acre, when you're looking at density. The next issue, to be a little repetitive with Jennifer, is they talk about 674 average daily trips adding to the congestion on Dam Neck, as she indicated, this doesn't take into consideration, the amount of traffic that passes through there Monday through Friday, going at least Monday through Friday,

primarily. Those days, going to the base at the end of the road, you have to go through that intersection at Bold Ruler and Dam Neck to get on the base.

Michelle Zelles:

There are no alternatives to get around that. So when you look at page five and traffic impacts, I think you really need to adjust that up, significantly. If you look at installations.militaryonesource.mil, it says that there are over 5,600 instructors, students, and support personnel on Dam Neck. A number of those students don't commute daily, I understand that, but the instructors and support personnel, supporting 12 tenant commands on that installation do. The last and final issue I bring to your attention, is that Virginia Beach, as you well know, item one that was just discussed, talks about the flood mitigation referendum, \$567.5 million. This part of Dam Neck has not had any flooding issues. A big part of that is the flood zone protections and so forth, all the vegetation that is located in that area.

Michelle Zelles:

Page six under storm water impacts, the very bottom of the page, says that the proposed conceptual storm water management strategy has the potential to successfully comply with storm water requirements. Well, everybody has a lot of potential whether you actually meet that potential or not is another question, as Mr. Inman says, it's really important to get this right. You said that with regard to the first item on the agenda, thank you for your attention. And again, I just bring those issues to you for your consideration. Thank you.

David Weiner:

Thank you. You have any questions? Thank you. Ma'am

Speaker 24:

Buck Heffernan, followed by Peter Vankeren.

Buck Heffernan:

Excuse me. I have no intention to speak.

David Weiner:

Oh, thank you.

Madam Clerk:

Sorry, who was that?

David Weiner:

What was your name sir?

Buck Heffernan:

Buck.

Madam Clerk:

Okay.

David Weiner:

Okay, Peter, Come on up.

Peter VanKeren:

Good afternoon, commissioners. Peter VanKeren. I'm a resident at the Fieldstone Glenn development, and I'm also a member of the homeowners' association Board of Directors. And the Board of Directors has not taken a position on this development, either in support or objecting to it. And so, but we did encourage the residents of our community to contact you individually and to provide either, their support or objection. We do have concerns, and the reason I'm speaking to you now is just some of the concerns, and some have been addressed. Very compelling presentation by the applicant's representative in terms of storm water. And it's the seems like a lot of the concerns there for storm water and for the wetlands and everything has been met. So, I won't really get much into that.

Peter VanKeren:

A primary concern that we have though is we are, in the report it does talk about a private utility line, the waste line. And so that line, that we own, runs the length of Dam Neck, and it will be in the frontage area of the development. So we're concerned that during construction, what could happen in terms of damage, to that wastewater or the, I'm sorry, the sanitary sewer line, not sure if it's possible. So when they start developing their construction plans and their site development, whether precautions can be taken, I certainly would like to see when they do, do their construction plans, that a sanitary sewer line is on their construction plans. That they are compelled to put that on their plans, so that when they do the construction, they won't damage that line.

Peter VanKeren:

Apparently in the past, there has been some incidents where that sanitary sewer line had been damaged by, or at least we suspect, it had damaged by other construction that had occurred in that area. And then, because it's a private line, it's an expense to us. And so we definitely would

like to make sure that that is identified in future plans for construction, once this has been approved and everything. I also was told, I would have 10 minutes since I'm representing the homeowners' association.

David Weiner:

Didn't the young lady, was she the representative?

Peter VanKeren:

She is the President of the Association, but when we signed up, I had signed up to represent the Association.

David Weiner:

Okay.

Peter VanKeren:

But, however you'd like to do it, you're in charge.

David Weiner:

Go ahead.

Peter VanKeren:

I am curious. Or, we're curious whether prior to and after construction, again, the sanitary sewer line is something that's very concerning to us during construction. It wasn't identified when we met with a representative for the applicant. Because the site plans and the construction hasn't gone that far, yet, he didn't know whether they were going to try to tap into the city's gravity sewer line or whether they're going to develop their own forced main. Those answers weren't provided to us. They haven't approached us about tapping into our sanitary sewer line. So we just don't know what the plan is for that. So as they move forward with that, again, if it's possible, to have that line prior to construction inspected at their expense, to make sure there aren't problems and after construction, if it could be inspected, that would be something that we would ask to be considered.

Peter VanKeren:

So I think I've talked enough about the sanitary sewer, but that is a major concern of ours. Another concern would be as construction begins, and there's wildlife habitat clearly in the wooded area, that's there. And we're just concerned that disruption of that habitat would have the wildlife, come into our neighborhood. Whether it's deer, snakes, other types of mammals. And, so if there's a way to guard against that, whether there's a length of where our boundaries, it'd be the boundary between us and them, excluding the military, if maybe a wildlife fence can be put up to guard against wildlife that would be disrupted, and potentially move into our

neighborhood. We would ask that the applicant consider that. But other than that, I think the staff report did a great job, outlining a lot of the concerns that could be there. So thank you very much for your time.

David Weiner:

Any questions? Yes.

Whitney Graham:

Yes. I just want to point out a lot of this is really site plan approval and we're really here for land use. Do you have any opposition to the use itself? The residential, going in?

Peter VanKeren:

I'm not authorized by the board to speak to that.

Whitney Graham:

You, personally.

Speaker 25:

As a personal individual, no, I have no opposition to the project. And we understand that this is just an application to change the zoning. In the staff report, where it talked about the next steps, it really didn't outline. So us, as citizens, we don't know when another opportunity would come to address site planning and construction development. Whether they're 30%, 50%.

Whitney Graham:

Yeah. Development Services Center kind of just takes over, if it makes it through City Council.

Peter VanKeren:

But yeah, we would definitely appreciate continued contact with the applicants, as this moves through the process.

Whitney Graham:

Okay. Thank you. Right. Right.

Madam Clerk:

Mr. Chairman, our final speaker is via Webex. Russell Greggs, if you would wait two to three seconds and then please state your name and begin your comments.

Russel Greggs:

Yes. My name is Russell Greggs. I am a member of the Fieldstone Glen community. Have a little to say. Different from the other members of the community, along the same lines. A lot of it has to do with construction after the zoning approval. The lawyer representing the company did clear up one question that I had, concerning where they were going to move the sewage to, which would not be on the substation on Dam Neck. The drainage of the property from the use of rezoning, I do have a issue with that, because of the destruction of the wetlands in this area. I've lived here about 10 years in Virginia Beach, but I crawled around in those marshes in the early 70s, doing training out on Dam Neck and it is wetland. As he talks about moving floodwater, or stormwater back toward Red Mill, pumping it north, not east, or any other directions, except the little flow over on Dam Neck Road.

Russel Greggs:

That is very concerning to me, because anytime it rains over half an hour, you can't play golf for two days over at the Red Wing Golf Course at this point with that. So I just don't believe it to be wise to start removing water in this area that we're at, because as one of the neighbors spoke earlier, unless we get torrential down rains, we have issues withstanding water in the area.

Russel Greggs:

As a former president of the community, we have had issues with moving water off of the piece of property that we already end developed. So putting anything else here, whether it's 7 acres or 93 acres of development, is not going to have a positive impact on the community, in my belief. To the board, well, I should say the Planning Commission, to your wisdom there, concerning the rush through of this resolution that we just bonded in Virginia Beach, it's the same thing here. I think we really need to slow down and make sure that what is being proposed will actually work from the wetlands and to reserve the habitat of the community of the area. And I want to thank...

David Weiner

Welcome back, Mr. Bourdon.

Eddie Bourdon:

Okay. Want to thank everyone for their coming down and commenting and Mr. Greggs for his comments via Zoom. Just maybe we are all assuming people have the same, I guess, level of understanding. We must retain on-site, all of our stormwater, so that we discharge from our BMP on-site into the drainage system that does go through Red Wing Lake, at the same rate that the property is currently discharging into Red Wing Lake. So we cannot increase the amount of water going in there, other than over a long period of time and that's why we've spent over \$100,000 running the city, it's the most extensive, restrictive, whatever you want to call it, modeling and ordinance on the Eastern Seaboard, over the last close to two years, so we've been slowed down as a city and as a community and we've been adhered to all of the above.

Eddie Bourdon:

And that's exactly what's in your recommendation. I'll understand this, is that we will be able to meet the requirements. In fact, we could cut down more trees and put a bigger BMP on the property and be way above the requirements, but we would actually be doing more harm than good in my view, because we're better off leaving the trees, the habitat, because they actually are a BMP for stormwater. The density question, and I do want to go ahead and correct this, when we went to the Navy with this, we believed that there were roughly 60-something acres of developable land. When we finished doing all the environmental, all of the things that we have had to do to identify, it's 55.34 acres of fully developable land, totally forested and treed and that actually yields a density of 1.6 units per acre, instead of 1.2. The Navy has no problem with 1.6 versus 1.2, because it's lower density than anything else out there.

Eddie Bourdon:

And that's based on the developable land. We didn't base that on the other 40 plus acres of either flood plain or upland nontidal wetlands or true wetlands. And no true wetlands are even being touched and they're just a de minimis amount of upland nontidal wetlands that are being touched, so the stormwater is not an issue. My clients developed Fieldstone Glen, okay? The requirements then were infinitely easier than today and none of this was done back then. They aren't flooding and this isn't going to, in any way, cause them to have any flooding. Traffic on this section of Dam Neck Road is certainly not failing, or anywhere close to failing. Granted, there's a considerable amount of traffic during peak hours. People going to or from Dam Neck, but that's it and the rest of the property out there is not really developable anymore.

Eddie Bourdon:

So unless Dam Neck gets a whole lot bigger, there's really not going to be any discernible increase in traffic beyond what you see here, because this also has the Navy circumstance, so there's really no reason to be fearful. The full four-way stoplight will also add to the breaks that Fieldstone would have. They do have a median break, but there's no light there at their entrance. So my clients did attempt to set up a meeting for a number of weeks. Had some difficulty getting one set up. We have no aversion to meeting with them further. The last thing, we will have a completely separate public force main. We won't be tapping into their private force main, won't be doing anything that will have any impact on their line and obviously if we damage their line in some form or fashion, we're responsible for that.

Eddie Bourdon:

And as I said, my clients developed Fieldstone and they will be glad to be in communication with them throughout the process, to make sure they understand what's happening and when, but we are not going to do anything that will have any impact on their sewer force main. We're not

tapping it, not using it. There's a private force main. This will be a separate public force main, going to the east, towards Atlantic Shores. If you have any other questions, I'd be happy to try to answer them. I tried to answer the things that they raised. I believe I did.

David Weiner:

Questions, anybody?

Eddie Bourdon:

Thank you very much.

David Weiner:

Thank you. All right. No more speakers?

Madam Clerk:

No more speakers.

David Weiner:

All right. We're going to close this and open this up.

Robyn Klein:

I have a question.

David Weiner:

It's fine.

Robyn Klein:

I thought that once you were greater and 65 decibels, it was incompatible with residential.

David Weiner:

That's a staff question.

Robyn Klein:

Staff.

Carolyn Smith:

So it's not quite that simple. It depends. There are sub-areas within the AICUZ and based on what sub-area you are determines your potential to possibly rezone, or even develop your site. So it's not quite that simple.

Robyn Klein:

Okay. I'm looking at the AICUZ planning map and it says that residential has to be less than 65, but for an APZ 2, it's conditionally compatible.

Carolyn Smith:

So this property is in sub-area two and properties in sub-area two have the potential to develop residential units, subject to certain provisions. And one of those is that the density be what's recommended in the Comprehensive Plan and then that density be similar, but no greater than what is surrounding the property. So we did an evaluation as to what the other density's worth in this area and it was up to 12.9 units per acre. And so we felt that this, at 1.6, is that what this is? 1.6 was certainly in line with and certainly less than what's surrounding.

Robyn Klein:

Sure. Thank you.

David Weiner:

Mr. Bradley, isn't this your area?

David Bradley:

You know, I think it's a good project. 7 acres out of what? 97, that are going to be developed. It doesn't seem like the impacts will be much and it is in an area of the city that I think is meant for something like this, so I'd be glad to make a motion, unless there's any questions.

David Weiner:

Any comment? Any more comments?

Michael Inman:

Oh, I want to make a comment.

David Weiner:

Okay.

Michael Inman:

Coming into this, I actually represent Fieldstone Glen, but I didn't know what position they were going to take. As you can hear from their commentary, that they've not taken a clear position at the moment, but they express concerns. So in an abundance of caution and the conflicts of interest, I guess I'm going to declare one now and I'm going to abstain from any discussion or voting on this application.

David Weiner:

Okay.

Michael Inman:

Though I did facilitate the meeting that they did have, one of the members of the applicant contacted me, because I'm a registered agent. And I got in touch with the condo manager and the manager then facilitated with the group and they had the Zoom meeting that was referred to you.

David Weiner:

Okay. Anybody ready for a motion?

Jack Wall:

I just want to say it's a fairly small impact, compared to both the land use with the overall site and as well as for the work center. Dam Neck generates quite a few more trips than what the site will, so I think that it's pretty small.

David Weiner:

Okay.

Jack Wall:

I support it.

David Weiner:

So we need two motions. One for eight, then one for nine.

David Bradley:

All right. I'll make a motion to approve the modification of the conditions, as summarized on agenda item seven?

David Weiner:

I'm sorry.

Dee Oliver:

Eight. It's eight.

David Weiner:

You're right. Seven and eight. Seven and eight. Yeah. You're right.

Whitney Graham:

I'll second.

David Weiner:

So we have seven first and then eight. Right. Yep. Okay, we have a motion by Mr. Bradley, a second by...

David Redmond:

Mr. Graham.

David Weiner:

Mr. Graham. Yeah. It's been one of those days.

Madam Clerk:

Okay. This first vote is on agenda item number seven. The vote is open.

Madam Clerk:

By recorded vote of 10 in favor, zero against, with one abstention, agenda item number seven has been recommended for approval.

Robyn Klein:

Right. Mr. Chair, I'll make a motion to approve the conditional rezoning for application number eight.

David Weiner:

Okay. We have a motion.

Michael Inman:

Since the light did not light up for my abstention, I want it on the record that I abstained.

David Weiner:

Okay.

Madam Clerk:

I noted in this. I noted it.

Michael Inman:

Okay.

David Weiner:

So we have a motion-

Dee Oliver:

Second.

David Weiner:

... by Mrs. Klein and a second by Mrs. Oliver.

Madam Clerk:

Okay. Agenda number eight, the vote is open.

Dee Oliver:

Mr. Horsley is leaving.

Madam Clerk:

Mr. Horsley, can we have your vote, please.

Donald Horsley:

I got to go.

Madam Clerk:

By recorded vote of 10 in favor, zero against, with one abstention, agenda item number eight has been recommended for approval.

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

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

**Atlantic Development Associates, LLC [Applicant]
Martha Fisher Huerta, VB Holdings, LLC [Property Owners]**

**Conditional Rezoning (AG-1 & AG-2 Agricultural & R-10 Residential District to
Conditional A-12 Apartment District)**

580 & 608 Dam Neck Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our next item is agenda item number seven, VB Holdings, LLC. An application for Modification of Conditions on property located at 608 Dam Neck Road in the Princess Anne District.

David Weiner:

Hold on for a second, Mr. Bourdon.

Eddie Bourdon:

Can we do them together? I don't...

David Weiner:

We have to vote on them separately.

Eddie Bourdon:

We should hear them together. You can vote separately.

Madam Clerk:

Okay. Along with agenda item number seven, we'll be hearing agenda item number eight, Atlantic Associates, LLC, an application for a Conditional Rezoning, AG-1 and AG-2 Agricultural, and R-10 Residential District, to Conditional A-12 Apartment District, to construct 92 units at a density of approximately 1.2 units per acre, on property located at 580 and 608 Dam Neck Road in the Princess Anne District.

Eddie Bourdon:

All right. Thank you, Mr. Chairman. For the record, Eddie Bourdon, and I'm going to speak on both seven and eight. I'll start to give the background on seven and then we'll move into eight.

But I want to start by saying that the esteemed Les Watson, actually represents VB Holdings and has been involved in this assemblage for close to two years. He represents the piece, that's the subject of this Modification of Conditions application. This was a portion of the original Atlantic Shores property, which had a Conditional Use Permit on it, to develop a large number of age restricted dwellings. And we filed an application, or I filed on behalf of the applicant at number eight, the application to Conditionally Rezone, Ms. Huertas's property, which is a little over four acres, directly across from Bold Ruler, and the intersection at Dam Neck Road, two and a half years ago. And then, working with Les Watson and Bob Thornton, the realtor who represented or represents VB Holdings, we were able to add that in his assemblage and then started down this still long trek.

Eddie Bourdon:

The property here is 93 acres that VB Holdings owns, which under the very old CUP for Atlantic Shores, could have been developed with 64 age restricted units on it. And those units would undoubtedly, have been located on other parts of this developable acreage, as there are 55 plus acres of developable land on this total property. And most of it is on the Virginia Beach Holdings property. The principles of Virginia Beach Holdings were a part of Atlantic Shores from the beginning of that project. And when it was determined that the demand and this is my understanding, the demand wasn't sufficient to justify continuing with this additional part of Atlantic Shores, this property was conveyed to them. And I think they were a prime financier of Atlantic Shores to start with. When that was done, when this property was conveyed to VB Holdings, it was entitled to 64 age restricted units under the old conditional use permit.

Eddie Bourdon:

And so we're asking to amend that use permit to take that restriction off. And quite frankly, I don't think that has a thing to do with this. And I don't think that was actually, or is actually legally required. It's a Conditional Rezoning on the whole piece of property, but it wasn't worth getting into a fuss with the staff about, almost two years ago. So, we'll file it. But I don't really think that it's legally necessary when you're conditionally rezoning the entire piece of property. So, that's the reason we're here. The conveyance from Atlantic Shores, to VB Holdings, actually had a private deed restriction in the deed that precludes it from being developed as age restricted property, so we're consistent with that.

Eddie Bourdon:

When the negotiations took place two years ago, basically started, Mr. Watson was in direct contact with the management of Atlantic Shores and briefed them. And they were all on board with it. Now we've come to find out today that the management has completely changed and under new management, and new Board of Directors. Ann Crenshaw came down today and I have agreed we will go out and have a meeting with their Board and brief them on all of this, and absolutely believe that they will be in complete accord with it. Because, it's consistent all the way across the board. And it's less impactful of them and of the environment. So that's number one, number seven, excuse me, number eight. All right. So, first of I want to thank Marchelle

Coleman and Carolyn Smith, and the Planning Director for having worked on this, which I think is a great project, and just want to get that out of the way, because they have been patient, as have my clients.

Eddie Bourdon:

So we've got 97 acres on this assemblage, and with the proposed conditional rezoning only seven and a half acres will be developed. And that leaves over 89 and one half acres, all forested area to remain undeveloped. The project has one intersection, signalize intersection entrance across from Bold Ruler. The project is leaving over 46 and a half acres of developable land, untouched, and will remain forested. All together, it's 89, almost 90 acres of forested land that remains forested, and nowhere does my client get any credit for that. And that's something that has to change. State code allows, and I'm on the Green Ribbon Committee and we're pushing the City needs to, adopt the ability that these forested areas, large forested areas should get credit, as a BMP. We ran the city's model eight times, my clients, eight times, very expensive.

Eddie Bourdon:

Every time it showed no impact, one one-hundredth of an inch or less impact. We kept having to run the model and run the model, because it had to be perfect. What we wound up doing, and I just found this out, and I've been told this and I believe it's true, but I just heard this, today...

David Weiner:

Can you just hold for a second?

Eddie Bourdon:

Yeah.

David Weiner:

If that's not perfect, what is?

Eddie Bourdon:

It's not perfect in the eyes of our storm water model.

David Weiner:

Okay.

Eddie Bourdon:

And this is the part I, I just heard this today. And, I hope it's not true, but I was told today that the model treats wetlands, upland non-tidal wetlands, that aren't in a flood plain, as a hundred percent impervious surface. We had to expand the BMP, into some areas that were upland non-tidal wetlands. And it actually helps. Took down, had to take down trees to do it, it actually helps under the model.

Eddie Bourdon:

There's no credit given under this model, for preserving wetland areas with vegetation and trees. That's absurd if that's, if that's in fact true. And I think it is, but somebody else can correct me. That's insane, utterly insane. It's taken us a year and a half to get more than that to get here, running these models to help perfect the models. And, some of the development community is perfectly happy to try to help, but at some point, some common sense has to come into play. So, we're all on the same page and we're all trying to get to the same point and it's not, trying to, but that's the reality. And, there is no credit for all this forested area, which everyone knows is a huge, huge plus.

Eddie Bourdon:

And it's better to have that forested area than to chop the trees down, and dig a hole and put water in it. You're doing more damage, in my view by doing that. But even so, I don't want to get off the seven and a half acres out of 97 acres. And, so we put the development in the best place to make the least impact, the least amount of impervious surface, the shorter roads, the whole shooting match. And we've done that from day one. So just to be clear, we didn't start out trying to develop a whole lot more. We started out with this and it's still taken a very long time to get here. So just want you to understand that. And, we're glad to be here, and we're not trying, we don't want to sound like we're upset, but it's got to, and it is, I think it will get better, but it's..

Eddie Bourdon:

So anyway, and on the Virginia Beach development piece, there are 62 units out of the 92, the other 30 are on Ms. Huerta's piece, it's all one development. It's all mandatory membership, condo association and pool clubhouse. All the storm water, other than on the apron at the road on Dam Neck Road, that little apron will go into the ditches on Dam Neck road. All the other stormwater goes into the BMP and then out and through, most of its sheet flow through the woods. But it all goes to Redwing Lake, which is to the north of the property. None of our stormwater goes east again, other than, whatever might be on the apron on Dam Neck Road, and it has its own pump station. It doesn't have any, none of the effluent goes to the pump station that serves Fieldstone Glen, which is a thousand feet, something like that, to the east of this property. They're not contiguous at all.

Eddie Bourdon:

There's a lot of the wooded area we're preserving between us and them. It's a part of this property, but not the development. If you look at the big, if we get the big picture map up there. Okay. Yeah. See Fieldstone Glen is to the right of the purple area, the developable area, and

the stuff that's white, that's totally out of any environmental flood plain. They're way down there. None of our water goes down there. None of our effluent goes down there and we're a long, long way from them. And all this other area remains preserved. We have 33 guest parking spaces, all but 12 units have two car garages, and two parking spaces. And then there's the 33, there are 12 units with a one car garage, two onsite, two spaces outside the garage.

Eddie Bourdon:

And again, all that extra parking. So we won't have people that'll need to park on somewhere else because there's no contiguous parking available. So staffs, they recommended approval of this application. I don't think there's any hesitation on their part in recommending approval of it. I don't think we could have done this in a more, or my clients couldn't have done this in a more environmental way. And we have patiently, sometimes not so patiently, their lawyer, wasn't always as patient as they were, on going through this modeling over and over and over again. But we know we're not going to have any impact and that's even doubled down, because no credit whatsoever for all that forested area, that's going to remain forested area. Be happy to answer any questions. And, I will be meeting with the Board at Atlantic Shores, as soon as we can set something up before this goes to City Council, but we are not the least bit concerned that, that's going to be a problem. Because, the previous board and previous owners were, all on board with it. It makes perfectly good senses,

David Weiner:

Just an FYI. I'm putting this on our agenda for our next Green Ribbon Committee, we're going to discuss this.

Eddie Bourdon:

Well, I think we discussed it on the last one.

David Weiner:

We're going to get more in depth.

Eddie Bourdon:

But it needs to happen, it needs to happen. And if the model truly treats all forested wetland areas as impervious surface, that needs to change.

David Weiner:

Okay. Question Jack?

Jack Wall:

It's a pretty small impact compared to that, almost a hundred acres parcel, and then the remaining piece, but the only thing in there that preserves it, you're mentioning that it's going to

stay undeveloped, is there's a proffer in here from what I can see, which proffers can be changed in the future. There's nothing that new zoning, or anything that's...

Eddie Bourdon:

Can't change, unless it comes back through this process

Jack Wall:

Through the process, right? And it would have to come back to the room, which...

David Redmond:

You'd have to change the storm water model. Hmm. Oh, then you have to change the right.

Jack Wall:

You'd have to change the storm water model too.

Eddie Bourdon:

Well. Right. I don't have an answer. We've proffered, this is exactly, this is all that can happen on the site. So I think that, if we don't want to get crazy, if there's some type of an infestation in the forest and some trees have to come down to save the rest of the trees, but... no one's saying

Jack Wall:

No one's saying that. There's nothing permanently preserving that, it's just currently proffered. That this is the site plan and I'm just making a statement. It's not, it could be developed in the future.

Eddie Bourdon:

Well, I don't want anybody to take what I said, earlier, The City of Virginia Beach is on the right track, for our long term future, the bond referendum, and making sure that we are not flooding. So all I'm trying to do is suggest there are ways to make that model better. I'm not saying we get rid of it and we start tearing down the trees and building more on this property. I'm not saying that at all. And I know you're not either.

Jack Wall:

Okay. Thank you.

David Weiner:

We have speakers?

Madam Clerk:

We have speakers.

David Weiner:

Okay.

Eddie Bourdon:

Thank you.

Madam Clerk:

Ann Crenshaw, followed by Jennifer Dolhite.

Anne Crenshaw:

Good afternoon, Ann Crenshaw. I'm a member of Kaufman and Canoles law firm, serves as general counsel to Atlantic Shores. And I have had conversations with both Mr. Watson and with Mr. Bourdon. This was the first I saw the plans today, but I think it's not going to be a problem at all. And I appreciate their willingness to come out and meet with the Administration and, and the Board.

David Weiner:

Great.

Ann Crenshaw:

Thank you.

David Weiner:

Thank you. Any questions? Thank you. Ma'am

Madam Clerk:

Jennifer Dolehite followed by Michelle Zellers.

David Weiner:

Welcome.

Jennifer Dolehite:

Hi, thank you. Good afternoon. Good afternoon Chairman and the Planning Commission. My name is Jennifer Dolehite, and I am from the Fieldstone Glen community and have resided there since 2007. I was elected in September to the position of President of our Board of Directors. And we have others in attendance from both the present and prior board of directors, who carry a depth much greater than I do of the city matters. And I hope that they have had a chance to speak with you or to provide you their opinions as well. I want to express my appreciation to you, for conducting a thorough staff report, addressing our city's concerns. And I also wanted to let you know that the developer, for 580 and 608 Dam Neck Road, contacted our Association Manager, who coordinated a virtual meeting for the Board of Directors to ask questions about the proposed development.

Jennifer Dolehite:

I would've preferred an opportunity for our community to meet in person with the developer and ask each of their independent questions, but then they also have the opportunity to do that at this event for the Planning Commission as well. The developer has provided a well thought out community for a family-oriented, townhome, condominium community for larger in number of homes. Though it is larger in number of homes and acreage to our community. Likewise, is close to military bases, schools and parks. The buildings and the materials in the staff report are appealing. In layman terms, I have questions that remain unanswered for our community, after chatting with the developers. So I'm just going to provide you those questions at this time. Has the developer met the requirements to protect the environment, particularly where the natural habitat, including snakes and Bald Eagles, will remain undisturbed?

Jennifer Dolehite:

The second question is, what does the city or developer plan show, regarding utilities and sewage, and how will that be mitigated properly, so as not to adversely impact our community of Fieldstone Glenn? We do also have a federal government property connecting to our community. And our community has been there approximately 15 years now. And so things may have changed a little bit from that time to now, as far as the plan and development in our area. What mitigation efforts have been studied, or are provided to ensure the water flow upstream and downstream from the proposed, will not increase the already increased saturation levels from the surrounding bodies of the water and marsh into our community? Not only from the west, but north and easterly sides due to the...

Jennifer Dolehite:

I don't know if the visual is up there, showing the water bodies, but it feeds into the Redwing Lake. And then I think it's Tecumseh, and then there's a feeder for Dam Neck that goes along the easterly side as well, between us and the base.

Jennifer Dolhite:

What is the capacity for the current utility lines and sewage? And if it is not sufficient, what are the city's mitigation plans? And another concern relates to the traffic patterns. Traffic related to the NAS Dam Neck annex, already backing up past the light at Bold Ruler. And outbound traffic speeds at 45 miles per hour, make entering and exiting Fieldstone Glen community challenging. This speed coming out of the base, and with an anticipated change in the traffic like pattern, can cause difficulty entering and exiting the community. And do you have any mitigation plans to assist us in road safety, when considering this? I thank you, at this time, for your consideration of our community in the planning proposal. And that's all of the questions that I have at this time for you.

David Weiner:

Thank you ma'am. We have any questions? The applicant's representative has written down what you said, so I'm sure he is going to address it when he comes back up here, okay?

Jennifer Dolehite:

All right. Thank you sir.

.

Madam Clerk:

Michelle Zellers, followed by Buck Heffernan.

David Weiner:

Welcome.

Michelle Zellers:

Good afternoon, Mr. Chairman, members of the Planning Commission. My name is Michelle Zellers. Everybody keeps talking about the military service. So I've got, just short of 23 years. I retired from the Air Force, and moved to Virginia Beach. I've got three main issues I want to cover very briefly. Of course, the first one is that it's approximately 97 acres. They talk about building on seven and a half. In the evaluation recommendation, it talks about 1.2 buildings or units per acre. That's a little misleading since they're only building on seven and a half acres, so that really comes out to 12.26 units per acre, when you're looking at density. The next issue, to be a little repetitive with Jennifer, is they talk about 674 average daily trips adding to the congestion on Dam Neck, as she indicated, this doesn't take into consideration, the amount of traffic that passes through there Monday through Friday, going at least Monday through Friday,

primarily. Those days, going to the base at the end of the road, you have to go through that intersection at Bold Ruler and Dam Neck to get on the base.

Michelle Zelles:

There are no alternatives to get around that. So when you look at page five and traffic impacts, I think you really need to adjust that up, significantly. If you look at installations.militaryonesource.mil, it says that there are over 5,600 instructors, students, and support personnel on Dam Neck. A number of those students don't commute daily, I understand that, but the instructors and support personnel, supporting 12 tenant commands on that installation do. The last and final issue I bring to your attention, is that Virginia Beach, as you well know, item one that was just discussed, talks about the flood mitigation referendum, \$567.5 million. This part of Dam Neck has not had any flooding issues. A big part of that is the flood zone protections and so forth, all the vegetation that is located in that area.

Michelle Zelles:

Page six under storm water impacts, the very bottom of the page, says that the proposed conceptual storm water management strategy has the potential to successfully comply with storm water requirements. Well, everybody has a lot of potential whether you actually meet that potential or not is another question, as Mr. Inman says, it's really important to get this right. You said that with regard to the first item on the agenda, thank you for your attention. And again, I just bring those issues to you for your consideration. Thank you.

David Weiner:

Thank you. You have any questions? Thank you. Ma'am

Speaker 24:

Buck Heffernan, followed by Peter Vankeren.

Buck Heffernan:

Excuse me. I have no intention to speak.

David Weiner:

Oh, thank you.

Madam Clerk:

Sorry, who was that?

David Weiner:

What was your name sir?

Buck Heffernan:

Buck.

Madam Clerk:

Okay.

David Weiner:

Okay, Peter, Come on up.

Peter VanKeren:

Good afternoon, commissioners. Peter VanKeren. I'm a resident at the Fieldstone Glenn development, and I'm also a member of the homeowners' association Board of Directors. And the Board of Directors has not taken a position on this development, either in support or objecting to it. And so, but we did encourage the residents of our community to contact you individually and to provide either, their support or objection. We do have concerns, and the reason I'm speaking to you now is just some of the concerns, and some have been addressed. Very compelling presentation by the applicant's representative in terms of storm water. And it's the seems like a lot of the concerns there for storm water and for the wetlands and everything has been met. So, I won't really get much into that.

Peter VanKeren:

A primary concern that we have though is we are, in the report it does talk about a private utility line, the waste line. And so that line, that we own, runs the length of Dam Neck, and it will be in the frontage area of the development. So we're concerned that during construction, what could happen in terms of damage, to that wastewater or the, I'm sorry, the sanitary sewer line, not sure if it's possible. So when they start developing their construction plans and their site development, whether precautions can be taken, I certainly would like to see when they do, do their construction plans, that a sanitary sewer line is on their construction plans. That they are compelled to put that on their plans, so that when they do the construction, they won't damage that line.

Peter VanKeren:

Apparently in the past, there has been some incidents where that sanitary sewer line had been damaged by, or at least we suspect, it had damaged by other construction that had occurred in that area. And then, because it's a private line, it's an expense to us. And so we definitely would

like to make sure that that is identified in future plans for construction, once this has been approved and everything. I also was told, I would have 10 minutes since I'm representing the homeowners' association.

David Weiner:

Didn't the young lady, was she the representative?

Peter VanKeren:

She is the President of the Association, but when we signed up, I had signed up to represent the Association.

David Weiner:

Okay.

Peter VanKeren:

But, however you'd like to do it, you're in charge.

David Weiner:

Go ahead.

Peter VanKeren:

I am curious. Or, we're curious whether prior to and after construction, again, the sanitary sewer line is something that's very concerning to us during construction. It wasn't identified when we met with a representative for the applicant. Because the site plans and the construction hasn't gone that far, yet, he didn't know whether they were going to try to tap into the city's gravity sewer line or whether they're going to develop their own forced main. Those answers weren't provided to us. They haven't approached us about tapping into our sanitary sewer line. So we just don't know what the plan is for that. So as they move forward with that, again, if it's possible, to have that line prior to construction inspected at their expense, to make sure there aren't problems and after construction, if it could be inspected, that would be something that we would ask to be considered.

Peter VanKeren:

So I think I've talked enough about the sanitary sewer, but that is a major concern of ours. Another concern would be as construction begins, and there's wildlife habitat clearly in the wooded area, that's there. And we're just concerned that disruption of that habitat would have the wildlife, come into our neighborhood. Whether it's deer, snakes, other types of mammals. And, so if there's a way to guard against that, whether there's a length of where our boundaries, it'd be the boundary between us and them, excluding the military, if maybe a wildlife fence can be put up to guard against wildlife that would be disrupted, and potentially move into our

neighborhood. We would ask that the applicant consider that. But other than that, I think the staff report did a great job, outlining a lot of the concerns that could be there. So thank you very much for your time.

David Weiner:

Any questions? Yes.

Whitney Graham:

Yes. I just want to point out a lot of this is really site plan approval and we're really here for land use. Do you have any opposition to the use itself? The residential, going in?

Peter VanKeren:

I'm not authorized by the board to speak to that.

Whitney Graham:

You, personally.

Speaker 25:

As a personal individual, no, I have no opposition to the project. And we understand that this is just an application to change the zoning. In the staff report, where it talked about the next steps, it really didn't outline. So us, as citizens, we don't know when another opportunity would come to address site planning and construction development. Whether they're 30%, 50%.

Whitney Graham:

Yeah. Development Services Center kind of just takes over, if it makes it through City Council.

Peter VanKeren:

But yeah, we would definitely appreciate continued contact with the applicants, as this moves through the process.

Whitney Graham:

Okay. Thank you. Right. Right.

Madam Clerk:

Mr. Chairman, our final speaker is via Webex. Russell Greggs, if you would wait two to three seconds and then please state your name and begin your comments.

Russel Greggs:

Yes. My name is Russell Greggs. I am a member of the Fieldstone Glen community. Have a little to say. Different from the other members of the community, along the same lines. A lot of it has to do with construction after the zoning approval. The lawyer representing the company did clear up one question that I had, concerning where they were going to move the sewage to, which would not be on the substation on Dam Neck. The drainage of the property from the use of rezoning, I do have a issue with that, because of the destruction of the wetlands in this area. I've lived here about 10 years in Virginia Beach, but I crawled around in those marshes in the early 70s, doing training out on Dam Neck and it is wetland. As he talks about moving floodwater, or stormwater back toward Red Mill, pumping it north, not east, or any other directions, except the little flow over on Dam Neck Road.

Russel Greggs:

That is very concerning to me, because anytime it rains over half an hour, you can't play golf for two days over at the Red Wing Golf Course at this point with that. So I just don't believe it to be wise to start removing water in this area that we're at, because as one of the neighbors spoke earlier, unless we get torrential down rains, we have issues withstanding water in the area.

Russel Greggs:

As a former president of the community, we have had issues with moving water off of the piece of property that we already end developed. So putting anything else here, whether it's 7 acres or 93 acres of development, is not going to have a positive impact on the community, in my belief. To the board, well, I should say the Planning Commission, to your wisdom there, concerning the rush through of this resolution that we just bonded in Virginia Beach, it's the same thing here. I think we really need to slow down and make sure that what is being proposed will actually work from the wetlands and to reserve the habitat of the community of the area. And I want to thank...

David Weiner

Welcome back, Mr. Bourdon.

Eddie Bourdon:

Okay. Want to thank everyone for their coming down and commenting and Mr. Greggs for his comments via Zoom. Just maybe we are all assuming people have the same, I guess, level of understanding. We must retain on-site, all of our stormwater, so that we discharge from our BMP on-site into the drainage system that does go through Red Wing Lake, at the same rate that the property is currently discharging into Red Wing Lake. So we cannot increase the amount of water going in there, other than over a long period of time and that's why we've spent over \$100,000 running the city, it's the most extensive, restrictive, whatever you want to call it, modeling and ordinance on the Eastern Seaboard, over the last close to two years, so we've been slowed down as a city and as a community and we've been adhered to all of the above.

Eddie Bourdon:

And that's exactly what's in your recommendation. I'll understand this, is that we will be able to meet the requirements. In fact, we could cut down more trees and put a bigger BMP on the property and be way above the requirements, but we would actually be doing more harm than good in my view, because we're better off leaving the trees, the habitat, because they actually are a BMP for stormwater. The density question, and I do want to go ahead and correct this, when we went to the Navy with this, we believed that there were roughly 60-something acres of developable land. When we finished doing all the environmental, all of the things that we have had to do to identify, it's 55.34 acres of fully developable land, totally forested and treed and that actually yields a density of 1.6 units per acre, instead of 1.2. The Navy has no problem with 1.6 versus 1.2, because it's lower density than anything else out there.

Eddie Bourdon:

And that's based on the developable land. We didn't base that on the other 40 plus acres of either flood plain or upland nontidal wetlands or true wetlands. And no true wetlands are even being touched and they're just a de minimis amount of upland nontidal wetlands that are being touched, so the stormwater is not an issue. My clients developed Fieldstone Glen, okay? The requirements then were infinitely easier than today and none of this was done back then. They aren't flooding and this isn't going to, in any way, cause them to have any flooding. Traffic on this section of Dam Neck Road is certainly not failing, or anywhere close to failing. Granted, there's a considerable amount of traffic during peak hours. People going to or from Dam Neck, but that's it and the rest of the property out there is not really developable anymore.

Eddie Bourdon:

So unless Dam Neck gets a whole lot bigger, there's really not going to be any discernible increase in traffic beyond what you see here, because this also has the Navy circumstance, so there's really no reason to be fearful. The full four-way stoplight will also add to the breaks that Fieldstone would have. They do have a median break, but there's no light there at their entrance. So my clients did attempt to set up a meeting for a number of weeks. Had some difficulty getting one set up. We have no aversion to meeting with them further. The last thing, we will have a completely separate public force main. We won't be tapping into their private force main, won't be doing anything that will have any impact on their line and obviously if we damage their line in some form or fashion, we're responsible for that.

Eddie Bourdon:

And as I said, my clients developed Fieldstone and they will be glad to be in communication with them throughout the process, to make sure they understand what's happening and when, but we are not going to do anything that will have any impact on their sewer force main. We're not

tapping it, not using it. There's a private force main. This will be a separate public force main, going to the east, towards Atlantic Shores. If you have any other questions, I'd be happy to try to answer them. I tried to answer the things that they raised. I believe I did.

David Weiner:

Questions, anybody?

Eddie Bourdon:

Thank you very much.

David Weiner:

Thank you. All right. No more speakers?

Madam Clerk:

No more speakers.

David Weiner:

All right. We're going to close this and open this up.

Robyn Klein:

I have a question.

David Weiner:

It's fine.

Robyn Klein:

I thought that once you were greater and 65 decibels, it was incompatible with residential.

David Weiner:

That's a staff question.

Robyn Klein:

Staff.

Carolyn Smith:

So it's not quite that simple. It depends. There are sub-areas within the AICUZ and based on what sub-area you are determines your potential to possibly rezone, or even develop your site. So it's not quite that simple.

Robyn Klein:

Okay. I'm looking at the AICUZ planning map and it says that residential has to be less than 65, but for an APZ 2, it's conditionally compatible.

Carolyn Smith:

So this property is in sub-area two and properties in sub-area two have the potential to develop residential units, subject to certain provisions. And one of those is that the density be what's recommended in the Comprehensive Plan and then that density be similar, but no greater than what is surrounding the property. So we did an evaluation as to what the other density's worth in this area and it was up to 12.9 units per acre. And so we felt that this, at 1.6, is that what this is? 1.6 was certainly in line with and certainly less than what's surrounding.

Robyn Klein:

Sure. Thank you.

David Weiner:

Mr. Bradley, isn't this your area?

David Bradley:

You know, I think it's a good project. 7 acres out of what? 97, that are going to be developed. It doesn't seem like the impacts will be much and it is in an area of the city that I think is meant for something like this, so I'd be glad to make a motion, unless there's any questions.

David Weiner:

Any comment? Any more comments?

Michael Inman:

Oh, I want to make a comment.

David Weiner:

Okay.

Michael Inman:

Coming into this, I actually represent Fieldstone Glen, but I didn't know what position they were going to take. As you can hear from their commentary, that they've not taken a clear position at the moment, but they express concerns. So in an abundance of caution and the conflicts of interest, I guess I'm going to declare one now and I'm going to abstain from any discussion or voting on this application.

David Weiner:

Okay.

Michael Inman:

Though I did facilitate the meeting that they did have, one of the members of the applicant contacted me, because I'm a registered agent. And I got in touch with the condo manager and the manager then facilitated with the group and they had the Zoom meeting that was referred to you.

David Weiner:

Okay. Anybody ready for a motion?

Jack Wall:

I just want to say it's a fairly small impact, compared to both the land use with the overall site and as well as for the work center. Dam Neck generates quite a few more trips than what the site will, so I think that it's pretty small.

David Weiner:

Okay.

Jack Wall:

I support it.

David Weiner:

So we need two motions. One for eight, then one for nine.

David Bradley:

All right. I'll make a motion to approve the modification of the conditions, as summarized on agenda item seven?

David Weiner:

I'm sorry.

Dee Oliver:

Eight. It's eight.

David Weiner:

You're right. Seven and eight. Seven and eight. Yeah. You're right.

Whitney Graham:

I'll second.

David Weiner:

So we have seven first and then eight. Right. Yep. Okay, we have a motion by Mr. Bradley, a second by...

David Redmond:

Mr. Graham.

David Weiner:

Mr. Graham. Yeah. It's been one of those days.

Madam Clerk:

Okay. This first vote is on agenda item number seven. The vote is open.

Madam Clerk:

By recorded vote of 10 in favor, zero against, with one abstention, agenda item number seven has been recommended for approval.

Robyn Klein:

Right. Mr. Chair, I'll make a motion to approve the conditional rezoning for application number eight.

David Weiner:

Okay. We have a motion.

Michael Inman:

Since the light did not light up for my abstention, I want it on the record that I abstained.

David Weiner:

Okay.

Madam Clerk:

I noted in this. I noted it.

Michael Inman:

Okay.

David Weiner:

So we have a motion-

Dee Oliver:

Second.

David Weiner:

... by Mrs. Klein and a second by Mrs. Oliver.

Madam Clerk:

Okay. Agenda number eight, the vote is open.

Dee Oliver:

Mr. Horsley is leaving.

Madam Clerk:

Mr. Horsley, can we have your vote, please.

Donald Horsley:

I got to go.

Madam Clerk:

By recorded vote of 10 in favor, zero against, with one abstention, agenda item number eight has been recommended for approval.

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

PROFFERS:

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

Proffer 1:

When the Property is developed, the community entrance, streets, landscaping, parking and fencing shall be substantially in accordance with the two (2) exhibits titled “CONCEPTUAL LAYOUT JADEN PLACE TOWNHOMES VIRGINIA BEACH, VIRGINIA” C-1.0 and C-2.0, dated 10/28/2019 and the “OVERALL CONCEPTUAL LAYOUT”, dated 10/28/2019, prepared by WPL Engineers, Surveyors and Landscape Architects, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Conceptual Layout” and “Overall Conceptual Layout”).

Proffer 2:

Vehicular Ingress and Egress shall be via one (1) signalized entrance from Dam Neck Road as depicted on the Conceptual Layout. Any freestanding community identification sign shall be a monument style sign, no more than eight feet (8’) in height with a brick or parge block base to match the skirt of the buildings.

Proffer 3:

When the Property is developed, there will be no more than ninety-two (92) residential townhome condominium units, within fifteen (15) buildings as depicted on the Conceptual Layout. Eighty (80) of the units will have a rear loading two (2) car garage and twelve (12) units will have a front loading one (1) car garage).

Proffer 4:

When the Property is developed, the residential structures and pool house depicted on the Conceptual Layout shall have the architectural design, features, exterior building materials and colors substantially as depicted and described on the exhibit entitled "ARCHITECTURAL ELEVATIONS – JADEN PLACE TOWNHOMES VIRGINIA BEACH, VIRGINIA", dated 10/28/2019, prepared by WPL Engineers, Surveyors and Landscape Architects, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development ("Elevations").

Proffer 5:

When the Property is developed, the party of the first part shall record a Declaration submitting the Property to the Condominium Act of the Commonwealth of Virginia which shall include a restriction prohibiting the rental of any unit for a term of less than thirty (30) days. The Condominium Unit Owners' Association shall be responsible for maintaining all drive aisles, sidewalks, amenities, open spaces, common areas, landscaping, stormwater management facilities and other improvements on the Property as depicted on the Conceptual Layout. Membership, by all residential unit owners, in the Condominium Association shall be mandatory.

Proffer 6:

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

Proffer 7:

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

Staff Comments: Staff has reviewed the Proffers listed above and finds them acceptable.

The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 9**

**Winner's Properties, LLC [Applicant]
The Runnymede Corporation [Property Owner]**

Conditional Use Permit [Motor Vehicle Sales & Service]

3736 Sentara Way

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our next item of business is agenda item number nine, Winners Properties, LLC. An application for a Conditional Use Permit, Motor Vehicle Sales and Service, on property located at 3736 Sentara Way in the Beach District.

David Weiner:

Hold on one second.

David Weiner:

For the record, do we need to state that Mr. Horsley's left?

Ms. Wilson:

Has he left for the day? Yeah. We'll put that on the record.

Billy Garrington:

Must be planting season, or harvest.

Dee Oliver:

It is.

David Weiner:

It is. Yeah.

Dee Oliver:

Actually it is. See, that's why he had to go. He's only got so much daylight left.

David Weiner:

Yeah. It just makes a difference if he gets home after dark.

Billy Garrington:

Okay. Are we ready to go?

David Weiner:

Yeah. We're ready. I'm sorry. Go ahead. I'm sorry. We're ready.

Billy Garrington:

Thank you, Mr. Chairman. Ladies and gentlemen of the Planning Commission, for the record, Billy Garrington on behalf of the applicant. The applicant in this case is Winner's Property LLC, which everybody probably by this point knows, is a Checkered Flag Motor Company in the City of Virginia Beach. Property is known as 3736 Sentara Way. 3.22 acre parcel of land, out in the Princess Anne borough. If you visited the property, you'd know that it is bordered on the north by Interstate 264 on the south by Sentara Way, bordered on the east by their Hyundai World dealership that they already own and on the west is the Sentara Nursing facility. The request that you have in front of you today is for motor vehicle sales and service on this B2 piece of property that your staff has looked at.

Billy Garrington:

Staff has recommended us favorably for approval, with the 11 conditions that are in the staff write up and I'm here to tell you that we are in total agreement with those 11 conditions. Wish I could sit down now and just leave, but I can't, because we've got opposition to the request that you have in front of you today.

Billy Garrington:

And I don't want to say anything disparaging about the opposition, but I do want to give you full disclosure. Someone, and I think it's the people that are here speaking in opposition, have been utilizing this property for some time now, for a use which your zoning office says is categorized as a recreational facility of an outdoor nature. That requires a Conditional Use Permit. There has not been one applied for, or granted for this piece of property. It requires on-site parking, which there is none, it requires restroom facilities, which it has none and it also requires the permission of the owner of the property, which has not been granted.

Billy Garrington:

So I am absolutely miffed that I have opposition to this, that is asking you to turn this down and they even categorized it as an ugly parking lot. Does that look like an ugly parking lot to you? Looks like something that our city staff and our city would be proud of, because it's economic development and economic development is what keeps this city viable and what keeps this engine going. They even talked about the tree removal and the vegetation that was going to happen and

I think there was even a hawk's nest that somebody spoke about. Let me tell you, there has already been a commercial site plan approved for this piece of property, when it was the office building. We are piggybacking on top of that and using the same stormwater mode that was done for the office building, so that we didn't have to go back through another stormwater review.

Billy Garrington:

So those trees and the clearing of this property has already been addressed and the previous site plan review that went through on this piece of property. Basically, if we wanted to go post all the development bonds that we want and E&S bonds, we could already be clearing the property. But there is a very nice, what I would say, recreational facility that's on this property, that has been utilized without anybody from Runnymede giving it their approval. So I'm here to tell you that the staff write up that you have in front of you, the 11 conditions that are in the staff write up, we're in total agreement with the request. That's what you're going to have if this thing gets approved and we're here today to ask for your approval of this use permit and I will try to keep it as brief as I can, in case there's any rebuttal, but I hope there's not.

David Weiner:

Any questions?

Robyn Klein:

Yes.

Dee Oliver:

I have a question for-

Robyn Klein:

Yeah.

Dee Oliver:

Oh, sorry.

David Weiner:

Go ahead, George.

George Alcaraz:

Mr. Garrington, I was there and I was amazed what I saw too, but just curious, because it's got some age to it. It's been there a while.

Billy Garrington:

I'm sure it has.

George Alcaraz:

I'm just wondering why it hasn't been addressed.

Billy Garrington:

That's a good question.

George Alcaraz:

Okay.

Billy Garrington:

Couldn't tell you. But no, the people at Runnymede say they're not familiar with it.

George Alcaraz:

It looks like someone spent a lot of time and effort.

Billy Garrington:

There is a lot of effort there. Matter of fact, one of the letters of opposition that we got, the person said that they were mentally involved in this project. How do you get mentally involved in something that you don't own? You're on somebody else's property. If I'm not mistaken, when I was growing up, that was called trespassing.

Dee Oliver:

Well, Mr. Garrington, has there been charges pressed against this group of people, just out of curiosity and why are they-

Billy Garrington:

Not that I'm aware of-

Dee Oliver:

... presenting?

Billy Garrington:

... because Winners has just recently made a purchase of the property for this conditional use permit. Before it was just whoever was doing the office building, but Winners has just gotten involved in it, in the last three or four months. But I don't even think-

Dee Oliver:

So Winners has just bought the property from...

Billy Garrington:

Pardon?

Dee Oliver:

So who owns the property? Winners now?

Billy Garrington:

Runnymede still owns it and we are the contract purchaser, based upon the use permit getting approved.

Dee Oliver:

And so what we have is obviously an illegal use on a piece of property where people are trespassing on.

Billy Garrington:

And I met with your zoning staff this morning and obviously your short staffed, but they didn't even know anything about it. And they asked me if I wanted to have someone go out there and I said, "No, that's not what I'm here for." I just wanted to make sure that this was something that required a conditional use permit under the current zoning, because it is a recreational facility of an outdoor nature and it requires a use permit.

Dee Oliver:

Well, I'm just not even quite sure why we're listening to them.

David Weiner:

Oh. They have the right to speak.

Dee Oliver:

No.

David Weiner:

They do.

Billy Garrington:

I agree.

Dee Oliver:

Okay. All right. I'm with you.

George Alcaraz:

Mr. Chairman, So I grew up in this neighborhood and I'm from there in WW, Windsor Woods and in the days it was a skate half pipe and all that. We did it in the Woods until it was developed, but I can see how this just went too far.

Billy Garrington:

But if somebody gets hurt on there, the owner of that property is going to have a liability issue.

George Alcaraz:

I don't understand why it got that far.

Billy Garrington:

Okay. All right.

David Weiner:

Let's listen to the speakers and we'll come back.

Whitney Graham:

I also skateboarded back in Windsor Woods. Everybody did, so anyway, but this is something different.

Billy Garrington:

I thank you, Mr. Chairman.

David Weiner:

Thank you.

Robyn Klein:

I had a question.

David Weiner:

Sorry, Robyn.

Robyn Klein:

Sorry. All right. While I don't condone the trespassing, I'm really turned off by your attitude on behalf of the applicant regarding this issue and among the letters of opposition, were just the fact that Winners has not been a good neighbor to the residential housing that's been right there. They've been parking illegally in the right of way, they've been loading and unloading, there's trash everywhere, there's lights pointed in the wrong direction. Forget about the trespassing part. They're not treating the people who are allowed to be there with respect.

Billy Garrington:

Okay. And the one facility, that is there now, is one that was already built when they obtained ownership of it. If you look at the conditions that are placed upon this one, there are conditions to make sure that none of that takes place. All the lighting has to be inward, all the landscaping. I'm not saying that there's a perfect situation out there, because there isn't. But all I'm saying is that this is a good use for this piece of property.

Robyn Klein:

But your client utilizes that property that's currently developed.

Billy Garrington:

Currently developed or currently undeveloped.

Robyn Klein:

Is it Checkered Flag?

Billy Garrington:

Yes, ma'am.

Robyn Klein:

Okay. So Checkered Flag uses that site and doesn't take good care of it, so even if they build this beautiful facility, why should I believe that will take any better care than the property that they already have?

Billy Garrington:

Ma'am, if you drive around the City of Virginia Beach and look at every one of their facilities, don't just look at the one that you're talking about here. Go look at all the other ones. Look at their Jaguar, look at their Land Rover, look at their BMW. Look at all of them. Everyone of them are very well maintained.

Robyn Klein:

Right. But those are also on Virginia Beach Boulevard. They don't back up to residences.

Billy Garrington:

All right. And whatever it is that you say is not taking place here and I will be willing to tell you that when I see Mr. Snyder on Friday morning, I will bring what you said to me to his attention and I think that he will give it his attention.

Robyn Klein:

I believe that you will. I don't believe that he will take it seriously, but that is my opinion.

Billy Garrington:

Ma'am, I think he will take it seriously.

Robyn Klein:

Okay.

Billy Garrington:

He's a resident. He's a lifelong resident and believe me, I think that if I tell him what you said, I think it will resonate with him.

Robyn Klein:

So why is he not currently invested in what's going on in the property?

Billy Garrington:

Ma'am, that's a good question. He's got a lot of dealerships and a lot going on, but I will make sure that what you said gets straight to his attention.

Robyn Klein:

Okay.

Jack Wall:

Can I... I do have a question, Mr. Garrington. So it's obviously car sales. Is it connected to the adjacent car sales?

Billy Garrington:

No, sir.

Jack Wall:

So it's completely independent for selling vehicles, but that's out of the way. Sentara Way, it's a dead end street. You're not really visible from anywhere. Usually you see in car sales, they're in heavily trafficked roadways. So my question is why is it so tucked away, that no one can see it? Sentara Way's going to be... It's a terminal end. At this point, there's no plans to connect Sentara way to Butternut Lane, on the other side of the interstate. And what I'm getting at is to preserve the viewshed, it's not necessarily to preserve the viewshed, but there are no plans to request or declare the trees between the property and the interstate.

Billy Garrington:

No, sir.

Jack Wall:

So why?

Billy Garrington:

Have you driven down the Boulevard lately and looked at how developed it is?

Jack Wall:

It's not the Boulevard. It's just Sentara Way.

David Redmond:

What you're saying is are there any alternatives sites?

Jack Wall:

No, not necessarily alternative sites. I just want to make sure that tree stand's going to be preserved.

Billy Garrington:

And that's on the BMP and that will be taken care of in the site plan review. And again, you're talking about a Genesis product here. You're talking about something that you could put it on Holland Road if you wanted to and the people are going to find where the dealership is at. It's like Tesla. And I don't mean to sit here and give any other brand any more verification than they need, but the people, when you build it, they will know where it's at.

Jack Wall:

They'll know where it's at. Okay. Okay. All right.

David Weiner:

Let's listen to the speakers and we'll go back to you, Mr. Garrington. Thank you.

Madam Clerk:

Mr. Chair, we have three speakers in total. Peter Burning, followed by Bill Brazier and then Connor Clifton.

David Weiner:

Welcome, sir.

Peter Burning:

Good afternoon. My name for the record's Peter Burning. I am speaking in opposition to this plan. I'm not part of the wooded recreational area. I've lived across the street from this dealership for about 20 years and I have two good reasons I think why you should vote against this permit. Firstly, the staff report recommends approval. It doesn't really tell you the whole story. The adjacent properties include my neighborhood, Windsor Woods, as well as the Rosemont Nursing Home, no longer owned by Sentara. The removal of these three acres of mature woodland will open a new noise vector, straight from the interstate into our neighborhood, as well as the nursing home. The submitted plan has no noise abatement measures and the staff report doesn't take any of these impacts into account. At the very least, they should conduct a more thorough study before resubmitting the request. The lighting levels expected from this expansion will make light intrusion into our neighborhood worse.

Peter Burning:

High ceilings. The full glass windows will just direct unshielded lighting directly into the backs of our homes and into our bedrooms. The ceiling heights effectively allow them to get around the 14 foot lighting fixture limitation on the outdoor lighting. These lights will shine directly into our homes. The plan doesn't provide for any off-street loading and unloading areas. The Checkered Flag dealership next door uses the street to offload the car carriers, all hours, day and night. And Checkered Flag is a known poor neighbor. They're noisy, they create more litter and the lighting just is very annoying in our neighborhood. They've even created their own no parking zone. They installed their own no parking sign to create a loading zone there on Sentara Way.

Peter Burning:

The current light fixtures they use exceed code limits and shine directly into our homes, especially when the leaves come down in the fall. Dealership employees use Sentara Way for their parking, leaving lots of personal and dealership litter there on the street and they even sometimes store dealership vehicles on the public right of way. So I think the Commission disprove this request, if not delay for another time. The bottom line is that none of you would want to live next to a Checkered Flag dealership like we have for the last 20 years and don't think they should be

allowed to expand, until they can prove that they can be a good neighbor. Thank you. And pending any questions that might come up. Yes?

Robyn Klein:

Before the Checkered Flag, was it Driver's World-

Peter Burning:

Yes.

Robyn Klein:

... in there? And that was owned by someone different?

Peter Burning:

I think it's owned by the same.

Robyn Klein:

Is it? Have you noticed any difference?

Peter Burning:

No change at all.

Robyn Klein:

No change?

Peter Burning:

Actually, it's gotten worse. They changed out light fixtures from regular incandescent bulbs into the bright LED. There's no shielding, the light shines straight into our homes every night.

Robyn Klein:

Really?

Peter Burning:

Yeah.

Robyn Klein:

Thank you.

Peter Burning:

Yeah. So I think any investigation that was done by the staff is probably done during the daytime, so you can't get a complete picture till you come there at night, as well as noise. I recommend a Friday or Saturday night when the interstate traffic is at it's worst.

David Weiner:

Okay. Thank you.

Peter Burning:

Yes, sir?

Jack Wall:

So where do you live? Do you live on Presidential Boulevard?

Peter Burning:

Presidential Boulevard.

Jack Wall:

Presidential Boulevard.

Peter Burning:

Right across the street, 104.

Dee Oliver:

There's a pointer right there, if you...

David Weiner:

All right. Any more questions?

Peter Burning:

Thank you, sir.

David Weiner:

Yes. Thanks.

Madam Clerk:

Bill Brazier, followed by Connor Clifton.

Bill Brazier:

Good afternoon. Thank you for allowing me the chance to be here and speak our concerns. My name is Bill Brazier. We are here today with the utmost respect for the property owner, the interested parties in the community surrounding this parcel. We're a group of Virginia Beach natives who love this city and want to stay here. We are a part of a community of bicycle enthusiasts. We regularly enjoy the skate parks that the city has graced with in the past decade. Thank you for your support in that and we hope that your understanding of a need for that in our community, will allow you to consider understanding a need for this place to remain as it is in our community, to continue.

Bill Brazier:

We're a particular part of cycling enthusiasts known as BMX enthusiasts, who take part in designing, building and riding dirt jumps, or as we call them, trails. The property at 3736 Sentara Way has been home to a set of BMX trails for at least 20 years, just to my knowledge. Maybe even longer.

Bill Brazier:

There have been different groups of riders creating trails at this location over the years, not all of which we are familiar with. In 2016, these trails began to be rebuilt and have since created a strong community of peers that promotes friendship, kindness and a brotherhood, sisterhood that is not found at the skate park. Above all else, these trails take hard work and dedication, requiring long hours of hard labor. Every time these trails are ridden, there is time spent preparing and dialing and the work never ends. It is a labor of love. We have spent years dedicating our time to building and refining these trails and have reaped the rewards of seeing other riders come out and enjoy the spot. Countless smiles, hoots and hollers. Friendships created have shown us that all of our hard work is well worth it. And that these efforts are about much more than our enjoyment. Hard work has proven to be about creating a place for younger riders to find hope and then avenue to pursue a passion outside of team sports or the skate park.

Bill Brazier:

Our community has tripled in size in the past three years. We have seen riders from across the country, international professionals, as well as our hometown BMX Olympian all ride at these trails.

Bill Brazier:

We have been motivated by the intense amount of gratitude and appreciation shown by every rider that enters these woods. When a young rider has helped us to create an obstacle that they have fun riding, it is an entirely different level of accomplishment than clearing the same obstacle at the skate park.

Bill Brazier:

Needless to say, we are somewhat heartbroken to see that this hearing is to determine whether this parcel will remain as it is or become yet another auto dealership. Do you guys know off the top of your head how many dealerships we have in Virginia Beach? It's got to be like a hundred or something, right? It's a lot.

Bill Brazier:

Please know that we are also humbly aware of the fact that this is private property and we are really the public here pleading our concern. If this parcel can remain as it is, then it will continue to produce smiles, be a place to forge friendships, make memories and inspire the youth.

Bill Brazier:

The place is also a vibrant area with green area within the city, and is host to abundant wildlife, including yes, Redhawks. We absolutely cherish the space and would love to see it go. But again, we are understanding of our limited position in this situation. If there may be any way the trails can remain, it would be endlessly indebted to your assistance and graciousness. I appreciate your time.

David Weiner:

Thank you, sir. Any questions?

Oliver:

I do.

David Weiner:

Okay.

Oliver:

Mr. Brazen, and as much as I appreciate the recreation that you all are using on this piece of property. You do understand one thing. It doesn't belong to you. You need more than my children coming onto your piece of property and setting up whatever recreation they would like to do.

Bill Brazier:

Absolutely.

Oliver:

It's not yours to use nor is it anybody else's. It's illegal and it's against the law and bottom line. That's what it is. If you all would, and I'm not saying you shouldn't have some sort of park like that,

then I suggest if you've put as much hard work and dedication into building this park, which all these men evidently think are great.

Oliver:

Which I'm sure I would, if I did that myself, but it's not a sport I'm going to take on. Then I suggest you purchase a piece of property, go through the proper channels, get it zoned and build a park. It's not saying you can't, you just can't do it here.

Bill Brazier:

Absolutely. And I totally understand.

Oliver:

And truly this is, I understand that you would love to have this piece of property. I'm just so disappointed that you all are doing this illegally. Regardless of whether this is a 7-11 or another park or a preschool or whatever this piece of property is developed into. You don't have the right to do this. And as a citizen of this city, you should be very proud of it and uphold these laws.

Bill Brazier:

Absolutely. And I come here with the outmost respect.

Oliver:

Do your parents know you're doing this?

Bill Brazier:

Absolutely. I do want to be clear that I've never seen a no trespassing sign on this property. And these were not created by us. These have been here long before us.

Oliver:

Because, and I'm having a real problem with this

Bill Brazier:

I'm 31 years old, I have a son now and I actually am a property owner in Chesapeake as well.

Robyn Klein:

How are they supposed to know?

Oliver:

Because they don't own the property. That's how they're supposed to know.

Robyn Klein:

But how do they know it's not public like city?

Dee Oliver:

Oh, he's 31 years old come on.

Robyn Klein:

I wouldn't, I don't know that every-

David Weiner:

Hey, hey, hey come on! Let's go, let's go.

Dee Oliver:

I'm not going back into that.

Bill Brazier:

No, I absolutely understand your concerns. And I appreciate you listening to us today.

Oliver:

I would suggest that you all go in and find a piece of property and do it.

Bill Brazier:

And that we are absolutely planning on attempting to do that. I'm a property owner now in Chesapeake. And I do intend to do that one day. I fully respect the laws and understand the frustrations that some may feel about this.

David Weiner:

Thank you for your comments. I do appreciate it.

George Alcaraz:

I want to say. Well, Mr. Grays, and I'd like to get with you, because I'd like to advocate to find a place for you. Okay?

Dee Oliver:

There you go.

Bill Brazier:

Absolutely. Thank you so much. I appreciate it.

David Weiner:

Okay Thank you sir.

Bill Brazier:

Thank you for your time.

David Weiner:

Next speaker.

Madam Clerk:

Our final speaker is Connor Clifton.

David Weiner:

Connor. You sure you want to come up here?

Connor Clifton:

Yeah, I'm fine.

David Weiner:

I'm just messing.

Connor Clifton:

I'm the reason why this place is here, man.

David Weiner:

I'm just messing with you.

Connor Clifton:

I mean, I'm the reason why this place is here man. I have a key. You are not allowed to ride this place unless I am there.

Oliver:

Which is not yours.

Connor Clifton:

I know that. We have nowhere else to go. We got ran out of Ipswitch in Chesapeake. They told us we weren't allowed to dig. We weren't allowed to have what we wanted to have there. We got ran out, man. I am my only child. My father passed away in 2009.

Connor Clifton:

I have been hanging out in these woods since 2004. My mom has been dropping me off in these woods to hang out. I've never seen this person. I've never seen Runneymede. I've never seen anybody from Hyundai, Car World, Drivers World. I've never seen any of these people. There's never been a no trespassing sign.

Connor Clifton:

I have literally up until this we've really had no idea what was going on with the property. Nobody shows up, we take care of it. We have trash cans there that are chained to trees. We take care of the street. The neighbors that are here with us.

Connor Clifton:

In support of us. It's a very touchy subject, man, because it's all my work. If these guys come ride it and yes they do help. But I'm the one that is there in the rain, the snow year round taking care of this property. I mean it's not mine. And so what's the reason it's for this right here. There is humanity and people have a heart.

Oliver:

I'm not saying you don't have a heart and I'm not saying that you-

Connor Clifton:

I know I have a heart.

Oliver:

We all do. And we are compassionate and we are sympathetic to your desire to have some place to go and to do this. Again, it's not your piece of property.

Connor Clifton:

I understand that. You all have property that runs across the back and so does somebody else. The whole beginning of this whole meeting was about storm water drainage. That runs right down the back of this property.

David Weiner:

Hold on a second. Listen, what it boils down to is there was no trespassing signs there. Nobody ever kicked you out. Okay. So I understand where you're coming from.

Connor Clifton:

Yeah. There's never been nobody that told us to not be there-

David Weiner:

But unfortunately it's time to develop it. Okay? Nobody can do anything about that. You don't own the property. So it has to go.

Connor Clifton:

Okay. That's why we're here, but just trying to get some closure.

David Weiner:

Okay. That's fine.

Connor Clifton:

I always knew this day would come.

David Weiner:

I feel sorry for you. I really do because you're out there in the-

Connor Clifton:

I mean, we don't have money, like car dealerships to buy property dude, I make \$20 an hour. These guys all make 20 hours an hour, man. What we got to do? Work the rest 20 years of our lives when we're 45, 50 years old. And then we can buy piece the property to do this.

David Weiner:

Understand-

Connor Clifton:

... You know what I mean? Like that's kind of a fucking joke.

Dee Oliver:

Whoa!

Connor Clifton:

I'm sorry.

Oliver:

Whoa! All right.

David Weiner:

Easy, easy. All right, we had enough. Thank you very much. Have a good day. Okay You sure want to come up here Mr. Garrington?

Billy Garrington:

I want to answer one question the business client had. When it was Driver's World that was not built by the Snyders. They were acquired that later on. So, that's a dealership that was built many years before that they have acquired. This plan will go through site plan review. We will look at the light fixtures to make sure that they're low enough, that they're not lighting up the adjoining properties. We will look at any way we can to make sure that there's no on street offloading of the vehicles. When they come in there, we can take a look at all that. But some of the things that's taking place at the old one, that horse is out of the barn.

Robyn Klein:

Right. When you move into property.

Billy Garrington:

That's right but I want to make sure, and I will make sure that Mr. Snyder hears exactly what you had to say about being a good neighbor, because it is about being a good neighbor. It's about them being a good neighbor and about us being a good neighbor. But when you are on somebody else's property and you don't have permission to do so that's bad. So there are 11 conditions in the staff write up we're in total agreement with all 11 other conditions. We're here today to ask for your approval.

David Weier:

Any questions, Mr. Redmond?

Mr. Redmond:

Couple of things. For first off, I'd like to just have everybody focus on the application.

David Weier:

Exactly.

Mr. Redmond:

Okay. Let's talk about the application. I will say one thing, the gentleman who spoke first, who was a neighbor, I thought made some very challenging questions. And I don't accept that, well, that's a different reason property and this is property it's this is the applicant who he says is

causing a disturbance in a number of ways that I think I hope anyway, Ms. Smith and the rest of the staff are here. That we're going to look into. I'm half inclined to want to defer this application based on what he said. So I do not accept Mr. Garrington that, "Oh, that's a different one. This is a new one. So it's all said and done." It doesn't work that way in my view. So, I do think those are issues that have to be addressed.

Mr. Redmond:

Now to the gentleman who I can't find where you are, but to the gentleman who spoke, who is the neighbor this does have the requisite conditions that say lighting has to be shielded and pointed down and all of those sorts of things, but all that stuff doesn't work if you actually follow it.

Mr. Redmond:

Right. I think those are very legitimate concerns and they apply to this application, not to something that is in the past, because this is the performance, and the behavior of the application on an adjacent property. And that to me is quite relevant. So I'd like to see that there's some attention made to that and perhaps greater than just saying I've got a meeting on Friday.

Billy Garrington:

Well. The only thing I can do is that's the next time I will be in touch with him and I'm going to make sure that all of these issues get brought to his attention.

Mr. Coston:

Mr. Redmond, I somewhat agree with you, but I expected the gentleman when he told me where he lived. I expected his house to be on the street, his backyard to be on that street there. And he's on the other side of the street with a whole row of houses between himself and the property that we're talking about.

David Weiner:

Any other questions? Thank you, Mr. Garrington. Going to close this and open it up, and is this the beach area, George?

Jack Wall:

No it's Rose Hall.

David Weiner:

Right. Beach goes up so far can't tell where it goes. Okay Jack, it's you?

Mr. Jack Wall:

Well, first of all, it's more about does it meet the requirements of the Comprehensive Plan? This is not a rezoning. It is a Conditional Use Permit for an Automobile Sales facility. In terms of Rosemont Strategic Growth Area, they're just a layout. It's not an office development that potentially was what was intended and in the Rosemont Strategic Growth Area plan, but it's similar.

Mr. Jack Wall:

The parking is similar, it's got a central structure that would be some similar to what would've been there otherwise. I feel that it generally meets the intent of the Strategic Growth Area. Future plans for a flyover are there, but there's nothing concrete and nothing set for flyover and connection of Sentara Way to Butternut Lane at this point.

Mr. Jack Wall:

Fears that they can't touch the buffer of trees between the interstate and the property that will hopefully help mitigate the noise vector, as mentioned by the first person who spoke on the lights. David Redmond mentioned that per the guidance that they should be shielded downward and not reflect into the neighborhood, it is a beau colic setting back there, there's a lot of material landscaping, which will remain a berm, which will be in place landscaping, hopefully similar to what's there for the Checkered Flag car facility which will be installed. So I support it. It's sad to see a community amenity, whether it's legal or illegal. It is a vibrant green area, which, you really can't have enough of, but yep.

Michael A Inman:

I'm making a motion to approve the application. This, it has lots of these conditions are, are loaded pretty well with restrictions on noise, visibility, aesthetics for an auto dealership. But when they comply with all those conditions in the normal fashion, that Checker Fag usually takes care of things, I think it will be fine. And it is zone B2 by the way. So it's zone for business and I think this works.

Mr. Redmond:

Second. I would like to mention one thing, because somebody raised it earlier and that was why would you have this parcel as opposed to being up on the Boulevard because it's adjacent to a dealership that this ownership owns. So it certainly makes sense for them to have a consolidated larger campus of that kind of thing. Not everything has to be up on Virginia Beach Boulevard necessarily to be successful. That's the point.

David Weiner:

We have a motion by Mr. Inman for approval, second by Mr. Redmond-

Mrs. Klein:

Wait comment.

Robyn Klein:

Oh, I'm sorry. Didn't see you.

Mrs. Klein:

So I don't intend on supporting the application, but I would ask that there be a condition added that clearly articulates that loading and unloading and of vehicles in the public right of way is prohibited. So that then if the neighbors see that happening, they can then call the Zoning Office.

David Weiner:

We good? We good? Did we catch that?

Carolyn Smith:

Yes, sir. Thank you.

David Weiner:

We're good. Okay. So approval by Mr. Inman second by Mr. Redmond and Modify Condition by Mrs. Klein.

Madam Clerk:

Okay. Vote is open. By recorded vote of nine in favor and one against agenda item number nine has been recommended for approval with conditions as added.

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

CONDITIONS:

1. When the property is developed, it shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis at Sentara Way", dated

September 30, 2021, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. Prior to Site Plan approval, a Landscape Plan shall be submitted to the Department of Planning and Community Development for review and approval. The Landscape Plan shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis at Sentara Way", dated September 30, 2021, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Landscape plantings shall be maintained for the duration of the use and shall be subject to the review and approval of the Development and Service Center.
3. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
4. All vehicles for sale or rental shall be located on a paved surface within the designated display area identified on the plan referenced in Condition 1 above. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
5. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
6. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
7. There shall be no outside audio speakers for any purpose.
8. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.
9. 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. No window signage shall be permitted.
10. 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.
11. No motor vehicle shall be displayed for sale or rental within the first five (5) feet of any front yard or side yard abutting the right-of-way line of a street to be measured from the property line to any displayed motor vehicle on the premises.
12. The loading and unloading of vehicles within the rights-of-way shall be prohibited.

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
November 10, 2021 Public Meeting
Agenda Item # 10**

Aswini Kumar Pradhan & Puspallata Pradhan [Applicants & Property Owners]

Modification of Proffers

Along Horse Pasture Road, between 1521 Taylor Farm Road and 2617 Horse Pasture Road

DEFERRED FOR 60 DAYS

David Weiner:

Right. Okay. How about deferrals? Anybody have any items to be deferred?

Hoa Dao:

The applicant representative for item 12 is a virtual speaker.

David Weiner:

10, item 10, right? Yes, it is item 10.

Madam Clerk:

The applicant is John Sandol. Mr. Sandol, if you will wait two to three seconds and then begin your comments. (silence)

Madam Clerk:

Okay. Let try again, Mr. Sandol, we are hearing your agenda item for a deferral. Please wait two to three seconds and then begin your comments.

John Sandol:

Thank you. We got echo. So we are, we've received comments from a neighbor on both sides of the property at Horse Pasture regarding the requests and modifying the proffers to reduce the side setbacks. So those comments were received very recently. We'd like to defer in order to have enough time to coordinate with those owners and with Planning Commission and be heard. Request defer to January 12th, please.

David Weiner:

Does anybody have any objection to this being deferred? Hearing none. Can I get a motion please?

Jack Wall:

Mr. Chair, may I make a motion to defer for 60 days which is agenda item number 10, modification of proffers.

David Weiner:

Right.

Donald Horsley:

Second.

David Weiner:

All right. We have a motion by Mr. Wall and a second by Mr. Horsley,

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda item number 10 has been deferred for 60 days.

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	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 11**

Holland Lakes Associates, LLC [Applicant & Property Owner]

Conditional Use Permit [Mini-warehouse/Self-Storage]

3478 Holland Road

RECOMMENDED FOR APPROVAL – CONSENT

David Weiner:

Thank you. Now we'll move on to the Consent Agenda and Vice Chair Wall will take over.

Jack Wall:

Thank you, Mr. Chair. We have seven consent items on the agenda today. The first item is agenda item number two, Friends School, a Modification of Conditions. Address is 1537 Laskin Road in the Beach District. Is there a representative for this item?

David Weiner:

Two representatives.

Jack Wall:

Welcome. Hi, please state your name for the record.

Mr. Roethlisberger:

Good afternoon. Todd Roethlisberger with Poole, Brooke, Plumlee PC on behalf of the applicant and with me is Billy Almond who's on behalf of the site planner.

Jack Wall:

Okay. Are the conditions acceptable?

Mr. Roethlisberger:

Yes, we accept all conditions.

Jack Wall:

All right. Thank you.

Mr. Roethlisberger:

Thank you.

Jack Wall:

Is there any opposition for this item to be placed on the consent agenda? Hearing none. The Planning Commission has asked Mr. Inman to read this into the record.

Michael Inman:

Thank you, Mr. Wall. This is an application for Modification of Conditions and has to do with a private school on Laskin Road, Friends School. Been there for quite a long time. It's also existing zoning is B2 and A18 apartment. So it's located in the Hilltop SGA, and the applicant's now seeking to reduce the acreage of the site because the rear portion of the property has been sold. Approximately 6.63 acres will be removed from the Friends School property and about four acres will be remaining. Agenda item three will reflect here next, the new property owners desire on how to redevelop it. The staff has stated that the request for the modification is acceptable. Per the city's Zoning Ordinance, a 15 foot wide buffer, landscape buffer. The category four landscaping is required along the property lines abutting residential or apartment districts. However, the applicant proposes to install a 10 foot wide landscape buffer instead of 15 feet. But with the addition of a six foot tall, solid cedar wood fence with cap and evergreen plantings reaching them minimum of 10 feet in height. So staff is supportive of this deviation to the code requirements, and we have decided to put on the Consent Agenda for that reason.

Jack Wall:

Okay, thank you. The next item on the Consent Agenda is agenda item number 3. 1537 LLC, for a Modification of Conditions at 1537 Laskin Road in the Beach District. Is there a representative for this item?

Lisa Murphy:

Good afternoon, Chairman, Vice Chairman, members of Planning Commission. For the record my name is Lisa Murphy, local zoning attorney, and I'm here for the applicant and owner of 1537 LLC. I appreciate all the time that Marchelle spent on this. One thing I'd like to just correct, is that there aren't any conditions associated with this Modification of Conditions because we are removing the use permit from the property.

Jack Wall:

Understood. Okay. Thank you.

Lisa Murphy:

Thank you.

Jack Wall:

Is there any opposition for this being placed on the consent agenda? Hearing none. Appointing commission has asked Ms. Klein to read this into the record.

Robyn Klein:

The applicant is seeking to modify the previously approved Conditional Use Permits to remove the 6.63 acre property from the permit in order to construct a five building multifamily development. The proposed use is consistent with the existing zoning of the property and can be developed as a permitted use of by right in Zoning District. Staff recommends approval and the Planning Commission agrees.

Jack Wall:

Perfect. All right. Thank you. The next item on the Consent Agenda is agenda item number four, James B. Richards and Linda Champion Richards for Street Closure at 733 Vanderbilt Avenue. Is there a representative for this item?

Eddie Bourdon:

Thank you. Commissioner Wall, Chairman, members of the Commission for the record, Eddie Bourdon, Virginia Beach attorney representing the Richards family. And we appreciate this application being on the Consent Agenda. All the conditions recommended by staff are accepted. Okay, thank you.

Jack Wall:

Is there any opposition for the side to be placed on the Consent Agenda? Hearing none. We've asked Ms. Oliver to read this into the record.

Dee Oliver:

Thank you. The applicants here are requesting to close a portion of the platted and unnamed and unimproved alley that is adjacent to their rear lot of address 733 Vanderbilt Avenue. The proposal includes closure of half of the 15 foot wide alley. And then that's totally 375 square feet. To incorporate that into their land in adjacent residential lot. The site is developed consistent with the other residential lots in the Croatan neighborhood with single family homes and fenced in backyards. And currently the area proposed to be closed as fenced in and has been used and maintained by the applicant. Staff recommends approval. There is no opposition to this item and therefore Planning Commission has put it on the Consent Agenda.

Jack Wall:

Thank you. The next item on the Consent Agenda is agenda item number five, the Ashe Revocable trust. And as the applicant, Michael and Mitzi Ashe are the property owners for Street Closure at 729 Vanderbilt Avenue. Is their representative for this item?

Eddie Bourdon:

Push replay again for the record. Eddie Bourdon, Virginia Beach attorney representing Mr. and Mrs. Ashe and their Trust. Again, all the conditions are acceptable. Appreciate being on the Consent Agenda. Thank you.

Jack Wall:

Okay, thank you. Is there any opposition for this side to be placed on the Consent Agenda? Hearing none. Ms. Oliver, can you read this into the record?

Dee Oliver:

I can. This is their next door neighbor, and this applicant is also requesting to close a portion of the platted and unnamed an unimproved alley that is adjacent to their rear lot on 729 Vanderbilt avenue. This proposal includes closure of half of the 15 foot wide alley, totally in 375 square feet and incorporating that land into their adjacent residential lot. This site is developed consistent with the other residential lots in the Croatan neighborhood with a single family home and a fenced in backyard. And currently the proposed area is fenced in and has been used and maintained by the applicant. The staff has recommended approval and there are no opposition to this. So the Planning Commission has put it on the Consent Agenda.

Jack Wall:

Thank you. The next item is agenda item number 11, Holland Lakes Associates for Conditional Use Permit for mini-warehouse self-storage at 3478 Holland road and Rose Hall District.

Eddie Bourdon:

Thank you very much. Chairman, members of Commission again, Eddie Bourdon Virginia Beach attorney representing Holland Lake associates, LLC. I want to thank Hoa for his efforts on this application. Nice redevelopment, and all of the conditions recommended by staff are acceptable to the applicant. Thank you.

Jack Wall:

Thank you. Is there an opposition for this being placed on the Consent Agenda? Hearing none. We've asked Mr. Redmond to read this into the record.

Dave Redmond:

Thank you, Mr. Wall. This is an application of Holland Lakes Associates, LLC for Conditional Use Permit for a mini warehouse and self-storage facility at an existing shopping center development on Holland Road. Specifically, the applicant sees a Conditional Use Permit for a 130,000 square foot, three story self-storage facility. This will require the redevelopment of a portion of the shopping center, which is on property zoned B2 Community Business District at the corner of Holland Road and Diane Lee Drive. There are two existing units at the front of the

property that will remain. And one of which will be added onto it as an interesting development. If you look at the shopping center, this is not shopping center style. It was in vogue at one point where it's in an L with a parking lot in the middle and they tend not to work very well. The property itself could use some tender, loving care. This applicant has proposed a number of improvements to this property in the course of this redevelopment that are very attractive. One of which is a green wall function where panels with vines will be grown on the side of the building to soften and green the appearance of the building... The building itself is a much more modern. Thank you. The building itself is a much more modern presentation than the buildings that are on the site today. There's a ton of retail up and down Holland Road, which is vacant. So simply rebalancing, the types of uses on Holland Road is in an... Of itself an improvement. There are a couple of minor deviations from the setback and landscape requirements, which really weren't the applicant's desire, but are simply defined by the characteristics of the property, where they are, where drainage easements lie. Staff found that none of those deviations would be de detrimental. And the Planning Commission agrees. Finally, the applicant has agreed to install a new monument sign, which will certainly improve. Thank you. Which will certainly improve and brighten the signage that's on the site there today. Long and short of it is, this is a great improvement to a property that could well have used some improvement. The applicant saw that and has done a fine job. I think of creating something that is much more beneficial and fits much better into both the built environment and just into the strategic balancing of resources within the Holland District. The staff recommends approval. There is no opposition to this. The Planning Commission saw fit to put it on our Consent Agenda. And so forward we go, thank you, Mr. Wall.

Jack Wall:

Okay. Thank you. The next agenda item is number 13, Atlantic Development Associates, LLC, for Subdivision Variance.

Eddie Bourdon:

Last one on consent anyway. For the record Eddie Bourdon, Virginia Beach attorney representing Atlantic Development. Appreciate Aubrey's work and all staff's work on this again, a good redevelopment of a piece property that at a lower density and all three conditions are acceptable to the applicant and appreciate being on the Consent Agenda. Thank you.

Jack Wall:

Thank you. Is there any opposition for this being placed on the Consent Agenda? Hearing none. Planning commission has asked Mr. Bradley to read this into the record.

David Bradley:

All right. Thank you. The applicant is proposing to subdivide two lots named lot five and lot six in order to create a total of three lots within the R5D residential zoning district. The dimensional

standards for lots in this district require a lot size of at least 5,000 square feet and a minimum lot width 50 feet with an additional 10 feet width for corner lots. Lots five and lot six were created by plat, recorded on map book 59, page eight and 1895. Although a single family home is currently present across both lots. A property line dividing lots five and six was never vacated. The proposed three lots 5A, 6A, 6B would all be 5,000 square feet in lot area with 50 foot lot width. Since proposed lot 6A has front edge on both Ansol Lane and Basset Avenue. The proposed 50 foot lot width would not meet the 60 foot lot width requirement for a corner lot. As lot 6A would not meet all dimensional standards required by the zoning ordinances for parcels in the RD5 or 5D residential district, a variance to section four, 4B of the subdivision regulations is required. Plan staff has recommended approval. There's no opposition, so we're putting it on the Consent Agenda.

Jack Wall:

Thank you. The next item on the Consent Agenda is agenda item number 16, James D. White Revocable Living Trust for Conditional Use. Oh, sorry. Misread that. Sorry. It is agenda number 15 Jose M. Rivera. My apologies. The applicant and KMP Enterprises, LLC property for Condition Use Permit for are Tattoo Parlor at 549 Newtown Road, Suite 109, Kempsville District. Is there representative to speak on this? Please state...

Jose:

Its Jose.

Jack Wall:

Okay. Are the conditions acceptable?

Jose:

Mm-hmm (affirmative).

Jack Wall:

Okay. Thank you.

Jose:

Thank you.

Jack Wall:

Appreciate it. Is there any opposition for this item be placed on the Consent Agenda? Hearing none. We've asked Mr. Coston to read this into the record.

John Coston:

Thank you, sir. The applicant is requesting to operate a Tattoo Parlor specifically for the application of permanent makeup known as microblading. The operation will occur within an existing 8,758 square foot unit in a shopping center along Newtown Road. According to the application, only one employee is anticipated. Hours of operation are proposed as 8:00 AM to 2:00 PM. Monday through Saturday by appointment. No exterior changes are proposed to the building or to the existing signage. The Conditional Use Permit request for the tattoo parlor is in staff's opinion acceptable, and the Planning Commission has agreed and therefore placed it on the Consent Agenda.

Jack Wall:

Thank you. That was the end of the items on the regular Consent Agenda. There is one Short-Term Rental on the STR Consent Agenda, and that is James D. White Revocable Living Trust for Condition Use Permit at 407 18th street. I think that's... And these... You're good. Yeah, you're fine, you can come up here. The Planning Commission places, this application for Condition Use Permit for Short Term Rental on the Consent Agenda, as it meets the applicable requirements of section 241.2 of the Zoning Ordinance, staff supports the application and there's no known opposition to the requests. Mr. Chairman. That's the last item on the regular and the STR Consent Agenda. I make a motion that we approve agenda items two, three, four, five, 11, 13, and 15. And on the short term rental agenda, number 16.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I'd like to make a disclosure of my own. I have a letter on file with the City Attorney's office. I have a client in the travel industry and some time ago I disclosed pursuant to the Conflicts of Interest Act that Mike just mentioned. I am unable to vote on either individual applications for short term rentals or for any ordinances that apply to short term rentals. So when I vote on these yeah, on these consent items, I am excluding the short term rental application from my vote. Thank you. Sounds good.

Jack Wall:

Mr. Graham,

Whitney Graham:

I, like Mr. Inman, am making a statement, in accordance with state and local government Conflict of Interest Declaration the following items that are on the agenda. Number nine, Winner's properties, LLC. Number 13, Atlantic Development Associates, and number 16, James D. White Revocable Living Trust. I serve on an Advisory Board at Towne Bank, which makes no loan decisions. And I believe I can participate in this transaction fairly, objectively and in the public's best interests. I intend to participate in the vote.

David Weiner:

Okay. Thank you anymore? All right. We have a motion by Mr. Wall and second by Mr. Horsley, for the Consent Agenda.

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda items two, three, four, five, 11, 13 and 15 have been recommended for approval. By recorded vote of 10 in favor, zero against with one abstention, agenda item number 16 has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
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, it shall be developed substantially as shown on the exhibits entitled, "Holland Lakes Storage Schematic Layout", dated August 2, 2021, and prepared by Silvercore Land Development Consultants and "Conceptual Landscape Plan, Holland Lakes Storage", dated October 11, 2021, and prepared by Frankenfield Design + Development, LLC, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning. This is a deviation to the 15 foot landscape buffer, streetscape plantings, and fencing requirements.
2. A Landscape Plan shall be submitted that contains the plantings and screenings references in Condition 1 above that includes but not limited to the following:
 - a. As depicted on the plan as the 10 feet landscape buffer, along adjacent properties that are residentially zoned, evergreen trees shall be installed at a minimum of six (6) feet in height and be allowed to grow and be maintained at a height of no less than ten (10) feet and the required shrubs shall be allowed to grow and be maintained at a height of no less than four feet;
 - b. As depicted on the plan, the "Green Wall" shall be maintained for the duration of the use.
3. The exterior of the building shall be substantially similar in appearance, architectural features and materials as depicted on the exhibit entitled, "Mini Price Storage Holland Road Virginia Beach, VA", dated September 30, 2021, prepared by Finley Design, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
4. When the property is redeveloped, the existing freestanding sign for the shopping center shall be removed and replaced with a monument style sign that is substantially similar as depicted on the exhibit entitled, "Design No. 30180", dated October 6, 2021, prepared by Cardinal Sign Corporation, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
5. All outdoor lights shall comply with the following:
 - a. Shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.
 - b. Lighting fixtures shall not be erected any higher than fourteen (14) feet.
 - c. Only motion activated lighting fixtures shall be installed at a height of no more than ten (10) feet along the easternly and southernly property lines that abuts the apartment district.
6. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.

7. The trailer on the property shall be removed within 120 days of 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.

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**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 12**

**Atlantic Development Associates, LLC [Applicant]
The Sara T. Atherholt Revocable Trust [Property Owner]**

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

111 73rd Street

WITHDRAWN

David Weiner:

Thank you, Madam Clerk. Next, does anybody have an item to be deferred? Please come forward.

Eddie Bourdon:

Withdrawal. Is that okay?

David Weiner:

No withdrawal, defer. Well, we can do withdrawal since you're here. Let's do a withdrawal. We'll do that one now. We will accommodate.

Eddie Bourdon:

Eddie Bourdon for Atlantic Developmental on Case Number 12 on 73rd Street, request withdrawal.

David Weiner:

Thank you, sir.

Eddie Bourdon:

Thank you.

David Weiner:

Anybody have any objections about this being withdrawn? No. Nothing. All right. Number 12 to be withdrawn. Can I have a motion please.

Jack Wall:

Mr. Chair, I make a motion to withdraw agenda item number 12 Atlantic Development Associates, LLC.

Whitney Graham:

I second.

David Weiner:

We have a motion by Mr. Wall. A second by Mr. Graham

Madam Clerk:

Vote is open. By recorded vote of 11 in favor zero against. Agenda item number 12 has been withdrawn.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 13**

Atlantic Development Associates, LLC [Applicant & Property Owner]

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

2744 Ansol Lane & 153 Basset Avenue

RECOMMENDED FOR APPROVAL – CONSENT

David Weiner:

Thank you. Now we'll move on to the Consent Agenda and Vice Chair Wall will take over.

Jack Wall:

Thank you, Mr. Chair. We have seven consent items on the agenda today. The first item is agenda item number two, Friends School, a Modification of Conditions. Address is 1537 Laskin Road in the Beach District. Is there a representative for this item?

David Weiner:

Two representatives.

Jack Wall:

Welcome. Hi, please state your name for the record.

Mr. Roethlisberger:

Good afternoon. Todd Roethlisberger with Poole, Brooke, Plumlee PC on behalf of the applicant and with me is Billy Almond who's on behalf of the site planner.

Jack Wall:

Okay. Are the conditions acceptable?

Mr. Roethlisberger:

Yes, we accept all conditions.

Jack Wall:

All right. Thank you.

Mr. Roethlisberger:

Thank you.

Jack Wall:

Is there any opposition for this item to be placed on the consent agenda? Hearing none. The Planning Commission has asked Mr. Inman to read this into the record.

Michael Inman:

Thank you, Mr. Wall. This is an application for Modification of Conditions and has to do with a private school on Laskin Road, Friends School. Been there for quite a long time. It's also existing zoning is B2 and A18 apartment. So it's located in the Hilltop SGA, and the applicant's now seeking to reduce the acreage of the site because the rear portion of the property has been sold. Approximately 6.63 acres will be removed from the Friends School property and about four acres will be remaining. Agenda item three will reflect here next, the new property owners desire on how to redevelop it. The staff has stated that the request for the modification is acceptable. Per the city's Zoning Ordinance, a 15 foot wide buffer, landscape buffer. The category four landscaping is required along the property lines abutting residential or apartment districts. However, the applicant proposes to install a 10 foot wide landscape buffer instead of 15 feet. But with the addition of a six foot tall, solid cedar wood fence with cap and evergreen plantings reaching them minimum of 10 feet in height. So staff is supportive of this deviation to the code requirements, and we have decided to put on the Consent Agenda for that reason.

Jack Wall:

Okay, thank you. The next item on the Consent Agenda is agenda item number 3. 1537 LLC, for a Modification of Conditions at 1537 Laskin Road in the Beach District. Is there a representative for this item?

Lisa Murphy:

Good afternoon, Chairman, Vice Chairman, members of Planning Commission. For the record my name is Lisa Murphy, local zoning attorney, and I'm here for the applicant and owner of 1537 LLC. I appreciate all the time that Marchelle spent on this. One thing I'd like to just correct, is that there aren't any conditions associated with this Modification of Conditions because we are removing the use permit from the property.

Jack Wall:

Understood. Okay. Thank you.

Lisa Murphy:

Thank you.

Jack Wall:

Is there any opposition for this being placed on the consent agenda? Hearing none. Appointing commission has asked Ms. Klein to read this into the record.

Robyn Klein:

The applicant is seeking to modify the previously approved Conditional Use Permits to remove the 6.63 acre property from the permit in order to construct a five building multifamily development. The proposed use is consistent with the existing zoning of the property and can be developed as a permitted use of by right in Zoning District. Staff recommends approval and the Planning Commission agrees.

Jack Wall:

Perfect. All right. Thank you. The next item on the Consent Agenda is agenda item number four, James B. Richards and Linda Champion Richards for Street Closure at 733 Vanderbilt Avenue. Is there a representative for this item?

Eddie Bourdon:

Thank you. Commissioner Wall, Chairman, members of the Commission for the record, Eddie Bourdon, Virginia Beach attorney representing the Richards family. And we appreciate this application being on the Consent Agenda. All the conditions recommended by staff are accepted. Okay, thank you.

Jack Wall:

Is there any opposition for the side to be placed on the Consent Agenda? Hearing none. We've asked Ms. Oliver to read this into the record.

Dee Oliver:

Thank you. The applicants here are requesting to close a portion of the platted and unnamed and unimproved alley that is adjacent to their rear lot of address 733 Vanderbilt Avenue. The proposal includes closure of half of the 15 foot wide alley. And then that's totally 375 square feet. To incorporate that into their land in adjacent residential lot. The site is developed consistent with the other residential lots in the Croatan neighborhood with single family homes and fenced in backyards. And currently the area proposed to be closed as fenced in and has been used and maintained by the applicant. Staff recommends approval. There is no opposition to this item and therefore Planning Commission has put it on the Consent Agenda.

Jack Wall:

Thank you. The next item on the Consent Agenda is agenda item number five, the Ashe Revocable trust. And as the applicant, Michael and Mitzi Ashe are the property owners for Street Closure at 729 Vanderbilt Avenue. Is their representative for this item?

Eddie Bourdon:

Push replay again for the record. Eddie Bourdon, Virginia Beach attorney representing Mr. and Mrs. Ashe and their Trust. Again, all the conditions are acceptable. Appreciate being on the Consent Agenda. Thank you.

Jack Wall:

Okay, thank you. Is there any opposition for this side to be placed on the Consent Agenda? Hearing none. Ms. Oliver, can you read this into the record?

Dee Oliver:

I can. This is their next door neighbor, and this applicant is also requesting to close a portion of the platted and unnamed an unimproved alley that is adjacent to their rear lot on 729 Vanderbilt avenue. This proposal includes closure of half of the 15 foot wide alley, totally in 375 square feet and incorporating that land into their adjacent residential lot. This site is developed consistent with the other residential lots in the Croatan neighborhood with a single family home and a fenced in backyard. And currently the proposed area is fenced in and has been used and maintained by the applicant. The staff has recommended approval and there are no opposition to this. So the Planning Commission has put it on the Consent Agenda.

Jack Wall:

Thank you. The next item is agenda item number 11, Holland Lakes Associates for Conditional Use Permit for mini-warehouse self-storage at 3478 Holland road and Rose Hall District.

Eddie Bourdon:

Thank you very much. Chairman, members of Commission again, Eddie Bourdon Virginia Beach attorney representing Holland Lake associates, LLC. I want to thank Hoa for his efforts on this application. Nice redevelopment, and all of the conditions recommended by staff are acceptable to the applicant. Thank you.

Jack Wall:

Thank you. Is there an opposition for this being placed on the Consent Agenda? Hearing none. We've asked Mr. Redmond to read this into the record.

Dave Redmond:

Thank you, Mr. Wall. This is an application of Holland Lakes Associates, LLC for Conditional Use Permit for a mini warehouse and self-storage facility at an existing shopping center development on Holland Road. Specifically, the applicant sees a Conditional Use Permit for a 130,000 square foot, three story self-storage facility. This will require the redevelopment of a portion of the shopping center, which is on property zoned B2 Community Business District at the corner of Holland Road and Diane Lee Drive. There are two existing units at the front of the

property that will remain. And one of which will be added onto it as an interesting development. If you look at the shopping center, this is not shopping center style. It was in vogue at one point where it's in an L with a parking lot in the middle and they tend not to work very well. The property itself could use some tender, loving care. This applicant has proposed a number of improvements to this property in the course of this redevelopment that are very attractive. One of which is a green wall function where panels with vines will be grown on the side of the building to soften and green the appearance of the building... The building itself is a much more modern. Thank you. The building itself is a much more modern presentation than the buildings that are on the site today. There's a ton of retail up and down Holland Road, which is vacant. So simply rebalancing, the types of uses on Holland Road is in an... Of itself an improvement. There are a couple of minor deviations from the setback and landscape requirements, which really weren't the applicant's desire, but are simply defined by the characteristics of the property, where they are, where drainage easements lie. Staff found that none of those deviations would be de detrimental. And the Planning Commission agrees. Finally, the applicant has agreed to install a new monument sign, which will certainly improve. Thank you. Which will certainly improve and brighten the signage that's on the site there today. Long and short of it is, this is a great improvement to a property that could well have used some improvement. The applicant saw that and has done a fine job. I think of creating something that is much more beneficial and fits much better into both the built environment and just into the strategic balancing of resources within the Holland District. The staff recommends approval. There is no opposition to this. The Planning Commission saw fit to put it on our Consent Agenda. And so forward we go, thank you, Mr. Wall.

Jack Wall:

Okay. Thank you. The next agenda item is number 13, Atlantic Development Associates, LLC, for Subdivision Variance.

Eddie Bourdon:

Last one on consent anyway. For the record Eddie Bourdon, Virginia Beach attorney representing Atlantic Development. Appreciate Aubrey's work and all staff's work on this again, a good redevelopment of a piece property that at a lower density and all three conditions are acceptable to the applicant and appreciate being on the Consent Agenda. Thank you.

Jack Wall:

Thank you. Is there any opposition for this being placed on the Consent Agenda? Hearing none. Planning commission has asked Mr. Bradley to read this into the record.

David Bradley:

All right. Thank you. The applicant is proposing to subdivide two lots named lot five and lot six in order to create a total of three lots within the R5D residential zoning district. The dimensional

standards for lots in this district require a lot size of at least 5,000 square feet and a minimum lot width 50 feet with an additional 10 feet width for corner lots. Lots five and lot six were created by plat, recorded on map book 59, page eight and 1895. Although a single family home is currently present across both lots. A property line dividing lots five and six was never vacated. The proposed three lots 5A, 6A, 6B would all be 5,000 square feet in lot area with 50 foot lot width. Since proposed lot 6A has front edge on both Ansol Lane and Basset Avenue. The proposed 50 foot lot width would not meet the 60 foot lot width requirement for a corner lot. As lot 6A would not meet all dimensional standards required by the zoning ordinances for parcels in the RD5 or 5D residential district, a variance to section four, 4B of the subdivision regulations is required. Plan staff has recommended approval. There's no opposition, so we're putting it on the Consent Agenda.

Jack Wall:

Thank you. The next item on the Consent Agenda is agenda item number 16, James D. White Revocable Living Trust for Conditional Use. Oh, sorry. Misread that. Sorry. It is agenda number 15 Jose M. Rivera. My apologies. The applicant and KMP Enterprises, LLC property for Condition Use Permit for are Tattoo Parlor at 549 Newtown Road, Suite 109, Kempsville District. Is there representative to speak on this? Please state...

Jose:

Its Jose.

Jack Wall:

Okay. Are the conditions acceptable?

Jose:

Mm-hmm (affirmative).

Jack Wall:

Okay. Thank you.

Jose:

Thank you.

Jack Wall:

Appreciate it. Is there any opposition for this item be placed on the Consent Agenda? Hearing none. We've asked Mr. Coston to read this into the record.

John Coston:

Thank you, sir. The applicant is requesting to operate a Tattoo Parlor specifically for the application of permanent makeup known as microblading. The operation will occur within an existing 8,758 square foot unit in a shopping center along Newtown Road. According to the application, only one employee is anticipated. Hours of operation are proposed as 8:00 AM to 2:00 PM. Monday through Saturday by appointment. No exterior changes are proposed to the building or to the existing signage. The Conditional Use Permit request for the tattoo parlor is in staff's opinion acceptable, and the Planning Commission has agreed and therefore placed it on the Consent Agenda.

Jack Wall:

Thank you. That was the end of the items on the regular Consent Agenda. There is one Short-Term Rental on the STR Consent Agenda, and that is James D. White Revocable Living Trust for Condition Use Permit at 407 18th street. I think that's... And these... You're good. Yeah, you're fine, you can come up here. The Planning Commission places, this application for Condition Use Permit for Short Term Rental on the Consent Agenda, as it meets the applicable requirements of section 241.2 of the Zoning Ordinance, staff supports the application and there's no known opposition to the requests. Mr. Chairman. That's the last item on the regular and the STR Consent Agenda. I make a motion that we approve agenda items two, three, four, five, 11, 13, and 15. And on the short term rental agenda, number 16.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I'd like to make a disclosure of my own. I have a letter on file with the City Attorney's office. I have a client in the travel industry and some time ago I disclosed pursuant to the Conflicts of Interest Act that Mike just mentioned. I am unable to vote on either individual applications for short term rentals or for any ordinances that apply to short term rentals. So when I vote on these yeah, on these consent items, I am excluding the short term rental application from my vote. Thank you. Sounds good.

Jack Wall:

Mr. Graham,

Whitney Graham:

I, like Mr. Inman, am making a statement, in accordance with state and local government Conflict of Interest Declaration the following items that are on the agenda. Number nine, Winner's properties, LLC. Number 13, Atlantic Development Associates, and number 16, James D. White Revocable Living Trust. I serve on an Advisory Board at Towne Bank, which makes no loan decisions. And I believe I can participate in this transaction fairly, objectively and in the public's best interests. I intend to participate in the vote.

David Weiner:

Okay. Thank you anymore? All right. We have a motion by Mr. Wall and second by Mr. Horsley, for the Consent Agenda.

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda items two, three, four, five, 11, 13 and 15 have been recommended for approval. By recorded vote of 10 in favor, zero against with one abstention, agenda item number 16 has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
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 developed, it shall be developed substantially as shown on the exhibit entitled, "Single Family Development Exhibit, Lots 5 & 6, Block 12", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter, the "Subdivision Plans").
2. The applicant shall grant a reservation for the property lines at the southeast corner of Lot 6A, where Ansol Lane and Bassett Avenue intersect, to be rounded with a radius of ten (10) feet as required by Section 4.1(j) of the Subdivision Regulations. This reservation shall then be conveyed to the City of Virginia Beach following the recordation of the plat for the sum of \$1.00.
3. All future development of these lots shall be in conformance with the Lynnhaven Strategic Growth Area Master Plan and in compliance with the Strategic Growth Area's Guiding Design Principles.

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
November 10, 2021 Public Meeting
Agenda Item # 14**

Hackers, LLC [Applicant]
Potter Properties Group, LLC [Property Owner]

Conditional Rezoning [B1 Business District to Conditional B-2 Business District]

1532 Laskin Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our final agenda item is agenda item 14 Hackers, LLC, an application for a Conditional Rezoning, B1 Business District to Conditional B-1 Business District on property located at 1532 Laskin Road in the Lynnhaven District.

David Weiner:

Long day. Huh?

Eddie Bourdon:

How're you sir?

Mr. Weiner:

I'm well, thank you for the record.

Eddie Bourdon:

A great day.

Mr. Coston:

We're down to the end.

Eddie Bourdon:

For the record am Eddie Bourdon, Virginia attorney representing Hackers, LLC, on this Conditional Rezoning application, Mr. Ed one of the principles of the applicant is with us and has been here for the most of the afternoon, along with Mr. Potter.

Eddie Bourdon:

So we had somebody here that Mr. Horsley recognized today whose family owns this property and has owned this and the surrounding shopping center for longer than I think most of us, if not all of us have been on this planet. The subject property is zoned B1, it is well buffered from the residential properties to the east, with a berm and landscaping on that property that was my understanding was actually put in place by the Potter family decades ago as a part of this property being rezoned decades ago. They agreed to put the berm and allow it to grow up and become a great buffer between the two properties.

Eddie Bourdon:

I know you all were anticipating as proffered that the application would be on the Consent Agenda except the staff is. And I want to thank Hank Morrison and, and Carolyn Smith and the staff on their work on this application. I heard what was stated this morning in the informal, passed it on to Mr. Ore, and Mr. Potter, they still want to pursue retaining the existing sign VDOT with Laskin Road project did not condemn the sign. Did not pay for the sign. But for the fact that these local investors and that's what this is, not some national franchise. This is, these are all local investors, local businessmen, but for the fact that they're, they have a concept that they think will be a winner. And that is the restaurant with the indoor golf simulators on which you can play every major known golf course in the United States with the exception of Augusta National, the Home of the Masters, which I personally as an avid golfer and Mr. Garrington and we're looking forward to this and I think there are a lot of other people who are for playing in bad weather, indoors, quiet. But, for that, the sign can stay. The restaurant doesn't need the rezoning. It's just the indoor simulators. And that's just a quirk of our 1973 Zoning Ordinance. So, they're investing a lot of capital to redo this entire building, revitalize the site and to purchase the simulators and everything else that goes along with opening this new business. That's a big risk, it's a big investment and it's a big risk. And unlike Top Golf, their visibility, isn't quite as good. They don't have a huge fence that you can see for miles around. So being able to people to know that they're there is important to them. So that's the reason they would like to keep that visibility. Now maybe at some point that can be removed, but to start that business for the initial number of years to get, and they've got a long term lease on this property. Again, they are making a large investment as a long term tenant under a land lease that signs of huge potential value to them to get that business recognized and understood that it's there. So, that's the reason they are aware of what normally happens in these circumstances. And I buy some of what you all had to say this morning. What we would like for you to do is move this onto City Council with an approval, but you can certainly put on the record and I will let every Council person know your feelings that the sign needs to be made conforming. If that's what your feelings are. That's what I heard this morning. I think Council hopefully will have a sympathetic ear, but one way or the other, they'll be the ones that make the decision, whether the sign comes down or the sign stays. And that's I think all this boils down to based on what I heard this morning. And so I'll leave it in your hands. If you have any questions, I'd be happy to answer them. But both the Potter family and my clients, the applicants are both desirous of trying to keep the sign. Thank you

David Weiner:

Any questions from Mr. Bourdon?

Mike Inman

How about to get the sign for two years and then they have to conform?

Eddie Bourdon:

Anything along those lines would be better than not having it.

David Weiner:

This business is going to take off, and once the word spreads. They're not going to need a sign. You are not going to need a sign.

Mrs. Klein:

It's on Laskin Road.

David Weiner:

What's the traffic count on Laskin? You know what I mean? This is people want, they're going to want into this place. The site location is huge. You sell beer.

Dee Oliver:

Everybody knows it's been empty for years.

David Weiner:

I know. In my opinion, who wants to get first go, Mr. Redmond.

Mr. Redmond:

Well, I think what he said, and I sort of said it this morning. I think that's the proper course. I do not support that sign. I think a monument sign would be more appropriate. I don't think anything would be served by a recommendation of denial for what is an obviously beneficial redevelopment. Okay. It's an eyesore of a property today and it's going to be a lot nicer property and it's not getting past City Council. I know City Council members who watch Planning Commission. This is the good news. They watch Planning Commission and they read the transcript. The bad news is the last debate we just had. So they probably saw all that. But I would say, I think it's for this to be approved by City Council, that non-conforming sign needs to be removed and replaced with a monument sign. That is my view. Okay. But I don't think any purpose is served by denying this application. Because it's a very fine redevelopment, but very

obviously the applicant doesn't want to, he's not going to take our word for, he's only going to take City Council's word for it is what I'm reading it to this situation. I let's not make a mountain out of this because that sign ain't going to be that way. It's just not. So I would urge that we all do. I'm not going to make a motion right now because other people have.. Dee is shooting arrows to me as I'm-

Dee Oliver:

I'm not shooting any arrows. I just feel bad because we've already just asked somebody else. We've just asked them to conform for their application. And they're not a big conglomerate either. So I just-

David Redmond:

Each application is different-

Dee Oliver:

... I didn't say each application isn't different, but the zoning ordinance sign thing isn't.

David Weiner:

Mr. Graham.

Whitney Graham:

Oh boy, I see this property all the time. And I've had probably a lifetime of sodium at the Japanese restaurant that used to be there. When my kids were little, glad they're older now. And that the restaurant's not there, but this is like I said, this morning, this is long overdue. I think it's a beautiful building. I think it's a fantastic concept. I think it's going to take off. The sign being there or not being there is not going to affect your business at all. You've got almost 30,000 cars a day going by this. You're close to a couple of golf courses, country clubs. I don't think you have any problem. I agree with Mr. Redmond and I agree with Mrs. Oliver. I feel like if we deny this or we recommend for denial that I don't think we're really helping anything. I think we send it on to City Council, let City Council deal with it. I think that Council they're going to look at this. I'm going to pick up the telephone. I just don't think that the sign is consistent.

Whitney Graham:

Most of the time, did it earlier today with one of your earlier one of your applicants, actually, we didn't even have to him to ask him to do it. He removed his pylon sign and did a monument, over on Holland Road. And your attorney knows that. It does disappoint me that you're not willing to work with us. But at the same time, I think it's a great a concept. And I will be voting in support with my suggestion to Council that that pylon sign goes bye-bye.

Mrs. Klein:

Right. I cannot in good faith vote for an application that I don't completely support. Although, I understand exactly what you're saying. We can't rely on City Council. And so I am voting against the application as it currently stands.

David Weiner:

Okay. Who's else, do you have a motion with a recommendation or however you want to make a motion, Mr. Redmond?

Mr. Redmond:

I move approval of the application.

Whitney Graham:

I'll second with the recommendation to City Council to remove the sign

David Weiner:

Can you do that? You can't really do that? Look at it'll be on the record on the record. If they read it

Whitney Graham:

Let the record state that the Planning Commission has made the suggestion that there by a monument sign, not a pylon sign.

David Weiner:

Recommendation for approval by Mr. Redmond, the second by Mr. Graham.

Dee Oliver:

What was your motion?

David Redmond:

Approval.

Dee Oliver:

I've got the approval. With?

David Redmond:

There's no such with.

George Alcaraz:

Did Mr. Redmond accept that?

David Redmond:

Yeah, I did.

George Alcaraz:

Okay.

Whitney Graham:

It's just a suggestion to the City Council.

Madam Clerk:

Vote is open. By recorded vote of eight in favor two against agenda item number 14 has been recommended for approval.

Eddie Bourdon:

Thank you all and I will make sure as well that all the Council people are aware of the fact that you all wanted the signed to be a monument style sign, there won't be as thank you.

David Weiner:

Well, this has been a really interesting day. Do this more often. Any other questions? Concerns old business. Y'all in the back. Thank you very much for being here. Thank you. All right. We are adjourned. Yes. All done.

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

PROFFERS:

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

Proffer 1:

When the Property is redeveloped, it shall be developed and landscaped substantially as shown on the exhibit entitled “ARCHITECTURAL SITE PLAN DIAGRAM ADDITION AND RENOVATIONS FOR HACKER’S AT HILLTOP,” dated August 31, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).

Proffer 2:

The exterior of the building depicted on the Site Plan shall be substantially similar in appearance to the elevations shown on the exhibits labeled, “ADDITIONS AND RENOVATIONS FOR HACKER’S AT HILLTOP SD101 AND SD202,” dated August 31, 2021, prepared by Altruistic Design (“Renderings”) with the exterior building materials being painted stucco, metal, glazing and wood as depicted on the Renderings, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 3:

The freestanding monument sign designated on the Site Plan shall be internally illuminated using the base material and colors, substantially as depicted on the “Monument Sign Exhibit – Hacker’s at Hilltop,” dated August 31, 2021, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 4:

The enclosure for the dumpster as designated on the Site Plan shall utilize the material and colors substantially as depicted on the “Dumpster Enclosure Exhibit Hacker’s at Hilltop,” dated August 31, 2021, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 5:

All outdoor lighting shall be shielded, deflected, shaded and focused to direct light down onto the premises and away from adjoining property.

Proffer 6:

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

Staff Comments: Staff has reviewed the Proffers listed above and recommends that the nonconforming sign on the property be removed and replaced with a monument style sign and that all other proposed signage also meet the minimum standards of the Zoning Ordinance. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 15**

Jose M. Rivera [Applicant]
K&P Enterprises, LLC [Property Owner]

Conditional Use Permit [Tattoo Parlor]

549 Newtown Road, Suite 109

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:

Thank you. The next item on the Consent Agenda is agenda item number 16, James D. White Revocable Living Trust for Conditional Use. Oh, sorry. Misread that. Sorry. It is agenda number 15 Jose M. Rivera. My apologies. The applicant and KMP Enterprises, LLC property for Condition Use Permit for are Tattoo Parlor at 549 Newtown Road, Suite 109, Kempsville District. Is there representative to speak on this? Please state...

Jose:

Its Jose.

Jack Wall:

Okay. Are the conditions acceptable?

Jose:

Mm-hmm (affirmative).

Jack Wall:

Okay. Thank you.

Jose:

Thank you.

Jack Wall:

Appreciate it. Is there any opposition for this item be placed on the Consent Agenda? Hearing none. We've asked Mr. Coston to read this into the record.

John Coston:

Thank you, sir. The applicant is requesting to operate a Tattoo Parlor specifically for the application of permanent makeup known as microblading. The operation will occur within an existing 8,758 square foot unit in a shopping center along Newtown Road. According to the application, only one employee is anticipated. Hours of operation are proposed as 8:00 AM to 2:00 PM. Monday through Saturday by appointment. No exterior changes are proposed to the building or to the existing signage. The Conditional Use Permit request for the tattoo parlor is in staff's opinion acceptable, and the Planning Commission has agreed and therefore placed it on the Consent Agenda.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

David Weiner:

Mr. Redmond.

Dave Redmond:

Mr. Chairman, I'd like to make a disclosure of my own. I have a letter on file with the City Attorney's office. I have a client in the travel industry and some time ago I disclosed pursuant to the Conflicts of Interest Act that Mike just mentioned. I am unable to vote on either individual applications for short term rentals or for any ordinances that apply to short term rentals. So when I vote on these yeah, on these consent items, I am excluding the short term rental application from my vote. Thank you. Sounds good.

Jack Wall:

Mr. Graham,

Whitney Graham:

I, like Mr. Inman, am making a statement, in accordance with state and local government Conflict of Interest Declaration the following items that are on the agenda. Number nine, Winner's properties, LLC. Number 13, Atlantic Development Associates, and number 16, James D. White Revocable Living Trust. I serve on an Advisory Board at Towne Bank, which makes no loan decisions. And I believe I can participate in this transaction fairly, objectively and in the public's best interests. I intend to participate in the vote.

David Weiner:

Okay. Thank you anymore? All right. We have a motion by Mr. Wall and second by Mr. Horsley, for the Consent Agenda.

Madam Clerk:

The vote is open. By recorded vote of 11 in favor, zero against agenda items two, three, four, five, 11, 13 and 15 have been recommended for approval. By recorded vote of 10 in favor, zero against with one abstention, agenda item number 16 has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.

4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

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

**Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 16**

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

Conditional Use Permit [Short-Term Rental]

407 18th Street

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:

Thank you. That was the end of the items on the regular Consent Agenda. There is one Short-Term Rental on the STR Consent Agenda, and that is James D. White Revocable Living Trust for Condition Use Permit at 407 18th street. I think that's... And these... You're good. Yeah, you're fine, you can come up here. The Planning Commission places, this application for Condition Use Permit for Short Term Rental on the Consent Agenda, as it meets the applicable requirements of section 241.2 of the Zoning Ordinance, staff supports the application and there's no known opposition to the requests. Mr. Chairman. That's the last item on the regular and the STR Consent Agenda. I make a motion that we approve agenda items two, three, four, five, 11, 13, and 15. And on the short term rental agenda, number 16.

Michael Inman:

Sorry.

David Weiner:

Oh yes sir, Mr Inman.

Michael Inman:

I need to make a disclosure pursuant to the state and local government conflicts of interest act in that these following agenda items have been financed or maybe financed by Towne Bank. That is number nine, Winner's property, 13, Atlantic Development Associates, 16, James D. White. Some of these will come up later in this meeting. As such I have made this disclosure. I serve on the Advisory Board for Towne Bank, which makes no loan decisions. And I believe I can participate fairly and objectively in the public interest. And I will vote on these items.

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Mr. Redmond.

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

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 407 18th Street 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 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
5. Two (2) parking spaces, 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.