

Jack Wall:

I call to order the February 9, 2022, Virginia Beach Planning Commission Public Meeting. My name is Jack Wall and I'm the chairman of the Virginia Beach Planning Commission. Before we get started, I've asked Commissioner Coston to lead us in prayer, followed by Commissioner Cuellar leading us in the Pledge. Please stand.

John Coston:

Eternal God, our father, we thank you for this blessed day. God, we thank you for all of the many blessings that you have bestowed upon us. We ask that God that you would continue to watch over this country and this great city in which we live. Now God as we come to deliberate and to make decisions, God, we ask that you would give us your wisdom and your direction and give us your will. We thank you in Jesus' name we pray. Amen.

Holly Cuellar:

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.

Jack Wall:

Thank you. I've asked Commissioner Redmond to introduce the members of the Planning Commission.

Dave Redmond:

All right. Thank you, Mr. Chairman. Welcome everyone. I'm going to start on this my right side of the dais. That lady in the black mask is Kay Wilson. She is a Deputy City Attorney, and she is in charge of all things Planning and land use and helps us out here each month. She also has another attorney that helps her with that too. I don't see her, but Tori is not here. Next to her is Holly Cuellar. She is a consultant, and she serves at large. Next to Holly, that handsome fellow over there, that's John Coston. He is a retired fire chief, captain?

John Coston:

Captain.

Dave Redmond:

Captain. Okay, thank you. Retired fire captain and he serves at large. This is Robyn Klein. Robyn is a social worker, and she represents the Centerville District. My name is Dave Redmond. I'm a commercial real estate broker. I represent the Bayside District. This fellow is Don Horsley. He is a farmer, and he too serves at large. He's also our longest tenured member. Right in the center there is Jack Wall. Jack is the chairman of the Planning Commission, and he is an engineer by profession. He represents the Rose Hall District. To Jack's left is our vice chairman, Mr. George Alcaraz. George does a whole bunch of things. He's a contractor. He is a restaurant owner. He is an events promoter. He is a Planning Commissioner, and he represents the Beach District. Did I leave anything out?

George Alcaraz:

No.

Dave Redmond:

Okay. Dee Oliver sits next to George. Dee is a past chairman of our body and a past vice chairman. She serves at large. She's another one of those people with five jobs. She is a funeral director and an author and a mom and a number of other things and she's here I think this is year nine.

Dee Oliver:

Yes.

Dave Redmond:

In year nine. David Weiner is sitting next to Dee. He too is a former chairman and vice chairman. He represents the Kempsville District, and he is a commercial salesman in the building industry. This is Whitney Graham's last meeting; we were saddened to learn this morning. That's that guy sitting next to Mr. Weiner. He represents, well for a little while, the Lynnhaven District and he is pressed for on a number of issues so this will be his last meeting. He is a developer and a manager of properties. And as I said, for now represents the Lynnhaven District and we will miss you, my friend. Seated next to him, David Bradley is a retired budget official for the City of Virginia Beach. Must be nice. He represents the Princess Anne District and to his left is Bobby Tajan. Bobby is our Planning Director and he's going to take a moment now and introduce his fine staff, people who help him and help us.

Bobby Tajan:

Thank you, Commissioner Redmond. Clerking today, we have Madison Harris who is one of our new planning technicians, as well as Pam Sandloop. As far as city staff, we have our Planning Administration team Carolyn Smith, Hoa Dao and Marchelle Coleman, Michaela McKinney and Elizabeth Nowak, as well as our Zoning Administrator, Hannah Sabo and Rick Lemon, our city traffic engineer as well.

Dave Redmond:

I will say before I turn things back to our chairman, we've a number of new staff folks here today that gave us some presentations this morning. They're all doing a wonderful job so far and we appreciate it.

Jack Wall:

All right, thank you. Next we've asked the clerk to describe the rules in order a business for today's meeting.

Madam Clerk:

Thank you, Mr. Chairman. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved, understand how the Commission normally conducts its meetings. It is 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 please put it on silent. Following is an abbreviated explanation of the rules. The complete set of the rules is located in the front of the Planning Commission agenda. The order of business for this public hearing will be 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. The consent agenda. The second order of business is the

consideration of the consent agenda, which are those items that the Planning Commission believes are unopposed and which have favorable staff recommendation.

Madam Clerk:

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. Once an agenda item has been called, we will recognize the applicant or their representative first. Following the applicant or their representative, in-person speakers will be called next and then the speakers participating via Webex. Speakers in support or opposition of agenda item will have three minutes to speak, unless they are solely representing a large group, such as a Civic League or Homeowners Association, in which case they will have 10 minutes.

Madam Clerk:

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 open 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 next order of business. Please note that the actions taken by the Commission today are in the form of a recommendation to the Virginia Beach City Council. The final decision to approve or disapprove an application will be made by the City Council. The commission thanks you for your attendance and we hope that your experience here today leaves you feeling that you have been heard and treated fairly. Thank you.

Jack Wall:

Thank you, Madam Clerk. The next order of business is consideration of requests to withdraw or defer an item. Please come forward if you have any items to be withdrawn.

RJ Nutter:

Yes, sir. Thank you very much. Thank you, Mr. Wall. Mr. Chairman, members of the Commission my name is RJ Nutter, we represent the item number one, Baker Road Properties on your agenda and have requested deferral for 30 days. We did notify the adjacent property owners in this case so everyone was aware, so I'm not expecting anyone to be here. Okay. Yes, sir. Thank very much.

Jack Wall:

Okay. Thank you. So that was for a deferral. Does anybody have any objection of this item to be deferred? Do I have a motion to defer agenda item number one for 30 days?

Dave Redmond:

So moved.

Jack Wall:

Okay.

Don Horsley:

Second.

**Virginia Beach Planning Commission
February 9, 2022 Public Meeting
Agenda Item #1**

Baker Road Properties, LLC [Applicant & Property Owner]

Conditional Rezoning (I-1 Light Industrial District to A-36 Apartment District for construction of 524 dwelling units at a density of approximately 35.67 units per acre).

1276 Baker Road

DEFERRED

Jack Wall:

Thank you, Madam Clerk. The next order of business is consideration of requests to withdraw or defer an item. Please come forward if you have any items to be withdrawn.

RJ Nutter:

Yes, sir. Thank you very much. Thank you, Mr. Wall. Mr. Chairman, members of the Commission my name is RJ Nutter, we represent the item number one, Baker Road Properties on your agenda and have requested deferral for 30 days. We did notify the adjacent property owners in this case so everyone was aware, so I'm not expecting anyone to be here. Okay. Yes, sir. Thank very much.

Jack Wall:

Okay. Thank you. So that was for a deferral. Does anybody have any objection of this item to be deferred? Do I have a motion to defer agenda item number one for 30 days?

Dave Redmond:

So moved.

Jack Wall:

Okay.

Don Horsley:

Second.

Jack Wall:

All right. I have a motion by Mr. Redmond and a second by Mr. Horsley.

Madam Clerk:

Vote is open.

Jack Wall:

Are there any Commissioners abstaining on these items to be deferred? Okay. Hearing none...

Madam Clerk:

The vote is open, Mr. Chairman.

Jack Wall:

Okay.

Madam Clerk:

By recorded vote of 11 in favor, zero against agenda item number one has been deferred for 30 days.

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

**Virginia Beach Planning Commission
February 9, 2022 Public Meeting
Agenda Item #2**

NMP-C4 Fairfield Shopping Center, LLC [Applicant & Property Owner]

Conditional Use Permit (Mini-Warehouse)

5312 Fairfield Shopping Center

RECOMMENDED FOR APPROVAL - HEARD

Madam Clerk:

Yes, sir Mr. Chair. Our first agenda item is agenda item number two, NMP-C4 Fairfield Shopping Center, LLC, an application for a Conditional Use Permit (mini-warehouse) on property located at 5312 Fairfield Shopping Center in District 3, formerly the Kempsville District.

RJ Nutter:

Thank you, Pam. Mr. Chairman, members of the Commission, thank you. My name is RJ Nutter I represent the applicant. Let me tell you a little about this before we get going on the specific application. This is part of the Fairfield Shopping Center, and which has gone under new ownership and has gone under a number of large changes at the shopping center. It had fallen on bad times, quite frankly, a number of years ago as the previous owners had refinanced just prior around 2008. And frankly, what happened with the downturn at that time, they had taken all the money out and the shopping center was in somewhat of a distressed situation. It was taken back and purchased by my client a few years ago. Since that time, they have been repairing, putting on new roofs, putting in new sidewalks, we're getting new signage applications for the properties, and also looking at major changes at the center.

RJ Nutter:

All of the time this is going on, the retail industry has gone through quite a bit of a shock as we all know. And so, the amount of retail that's actually occurring at this shopping center will be reduced, in addition to what's going on with this application. So, one of you asked, I think was David, you asked if one of the buildings would be torn down. No, I think Mr. Wall, it was you. And one of the buildings you pointed out is being torn down and replaced with some two or three out parcels in the front, instead of the long line. Now I turned to this application, which I want to begin by thanking Elizabeth and who actually did a terrific job working with us, answering every question that you could possibly think of at a shopping center application. One of the things they're doing is they're relocating where the retail is located.

RJ Nutter:

Much of the retail is located along all three major roadways, Lord Dunmore, Providence and Kempsville Road. What they're doing here on Lord Dunmore, which is largely a residential street, is taking away about 20,000 square foot of retail and putting in place a use that has a very low impact on areas around it. And namely as self-contained self-storage facility. So, the net effect is we lose about 20,000 square foot of retail and put in a low intensity use like this. As your staff report indicates, even with the high numbers of assumed traffic we have and I don't know if you looked at that number, Mr. Graham, but I would tell you that even if it's 173 trips a day, which I've never seen in a self-storage facility, that's still a reduction by 80% of the normal traffic that would go to this side of the property.

RJ Nutter:

So, it's a significant reduction in the traffic, significant reduction amount of activity that would occur on this property in lieu of the large number of retail spaces that it's replacing. Now, we started meeting with the current president of civic league and the previous president of civic league way at the beginning of this before signs got posted to look at the location of this, talk about issues and so forth, and also to brief them on the overall changes that were occurring at the shopping center, which are of great concern and interest to them. Let me go to the elevations, if I could for a second and show you the building, because the building everybody agrees is quite striking. It's very attractive. It's very contemporary looking. And among the issues we pointed out to them was that the bulk of the building, except for right here, is at about 35 feet in height, which is the normal height requirement for residential.

RJ Nutter:

As you know, this property zone B2, we're separated by a major street from any residential. So there is no height restriction in this district whatsoever. But nonetheless, we try to keep it around 35 feet, right along here and here and here. And the corner piece is higher just as an accent piece so it adds attractiveness to the center. This is an occupied building in large measure except for the office area so there's no one looking down on anybody here. It's a strictly self-storage facility entirely. Now, one of the concerns raised was, well, look, what about, some people in the neighborhood were concerned about height, even though there's no height restriction. So, they said, perhaps if you can soften this area with additional landscaping. Pardon me. One of the things we were doing was eliminating an access way here and putting in landscaping. With the revised plan I submitted this morning, we're taking out a total of, I think it's eight other parking spaces here.

RJ Nutter:

So, they have about 110 feet of landscape feature across the front of the building. Very unique and I think perfect for this area because Lord Dunmore is largely back here a residential street. And so I think it will be a nice softening for that area. Another concern, they had was, had to do with the signage, and we had a large sign, a lighted sign that was here facing Lord Dunmore. And there was concern that that bright light might still affect residents across the street. So we agreed that we'll not put a lighted sign here. We'd move the lighted sign here facing... This

actually faces Providence Road. It's a bit of a distance, but it's still you'll be able to see it from Providence Road. So that's where the lighted sign will be. And any signage on this side will be unlighted to avoid any problem with the residents across the street.

RJ Nutter:

And by the way, we're set back 55 feet and Lord Dunmore is an 80 foot right away. So we're about 135 feet from the closest residential property line. The other concern which staff raised, we originally had loading on this side of the building. We agreed to relocate the loading area to the rear of the building so there could be really no visibility to residents on anywhere around it, so letting would take place strictly in the rear of the building at these locations. A concern was to make sure that this was a one way alleyway, and this is a bit of a difference between us and the civic league president at this point, we have traffic coming in here, truck traffic that is coming at this location, partially because this access way serves a number of other users so trucks come in and out of this facility all the time, because there's loading back here to the other buildings along the center.

RJ Nutter:

So, we proposed our trucks for the loading into the building would come in here. There'd be a one-way alley here. We put in a sign here indicating that, caution when you're coming out. And second, we put in a speed bump here so to prevent people from just rolling right out of there to run any safety problems and they would exit here. Now, otherwise people coming just to, for in residential vehicle or a typical normal vehicle, can park and enter anyway they wish to, just like part of the center. But we agreed to that. We agreed to the warning that's here. We agreed to relocating the sign here, to immediately rate some of the concerns being raised. So, we've tried to address those concerns for everyone, but otherwise we think it's a great use. It's a reduction in terms of traffic, a reduction in terms of activity on this side of the center, while we relocate the new commercial properties over on Independence and Providence roads.

RJ Nutter:

But I'm happy to answer any questions you might have. I think I've hit all the new conditions we've agreed to. The ones that Elizabeth passed out are acceptable. So, I want to make sure we've captured everything in this process for you. I want to thank by the way Dr. Rippard, she's done a really good job representing her civic league. She had to field a lot of emails, I expect. There are 700 homes in Fairfield. And so a lot of questions, a lot of concerns so would actually research them in terms of there was concern about crime. She said she checked with the police department, no evidence of crime, these facilities, and so forth. So I think she has done a really good job. So, anyway, I know she's going to speak at some point here today, so I'll let her speak for herself, but I'm happy to answer any questions any commission members might have.

Jack Wall:

Okay. Are any questions? Nope. Okay.

RJ Nutter:

Thank you, Mr. Wall.

Jack Wall:

All right. Thank you. Are there any speakers signed up?

Madam Clerk:

Yes, sir. Mr. Chairman, we have two speakers. First will be Kelly Rippard followed by Paul Rakowski.

Kelly Rippard:

Hello.

Jack Wall:

Hello, please state your name for the record.

Kelly Rippard:

Well, my name is Dr. Kelly Rippard and I'm the president of the Fairfield Neighborhood Civic League.

Jack Wall:

Okay.

Kelly Rippard:

Okay. So, I just want to follow up on what Mr. Nutter said. And we have been working with them on this project and this proposal. We've met in person, on Zoom. We were even emailing at six o'clock last night after dinner and I, as the neighborhood representative, have spread the information in the proposal, out to the civic league, over 700 homes via email and social media, word of mouth, as best as I can, so that neighbors are aware and that they can share any concerns and point out any things that we haven't considered in this proposal.

Kelly S. Rippard:

So, today I'm going to present, really, both sides. The majority of the neighbors are in favor of the facility, but they have concerns and would like the council to consider some of the wording in the proposal. The people who are 100% against the facility, note that nobody wants an internal air temperature-controlled storage facility near their neighborhood. It doesn't add anything to the neighborhood. It's not a place for community. It's not a residence... it's not a restaurant, I mean. It's not a place we can shop at. It doesn't add anything to the community.

Kelly S. Rippard:

Another thing to consider is that the shopping center for over 30 years has been one story. And there's a house that's less than 200 feet, that looks at this one story currently, shopping center. And building a three story, taller than the entire shopping center, seems to be an eyesore and might lower property values. And that is a concern because there's about 30 homes at the front of the neighborhood who would be driving past this and be able to see it from part of their house.

Kelly S. Rippard:

A third thing that neighbors who are opposed have mentioned, is the traffic. So, Lord Dunmore Drive has long been a cut-through. And we've worked with the city to help reduce the cut-through traffic. That's including adding speed bumps, stop signs. Recently, they narrowed Lord Dunmore Road by putting double yellow lines and permanent parking spots. No through traffic, or no through truck signs, excuse me. And also adding a break in the median on Lord Dunmore Drive. Trucks coming in and out from behind the shopping center, now cannot go left. There's a break in the shopping center median. And they can turn, excuse me, they can't go right. They can go left, back out toward Providence Road so that we don't have big trucks coming down through our neighborhood anymore.

Kelly S. Rippard:

These are all valid concerns. And the people who are more supportive of this proposal and have sent me, "This looks a lot better than what I anticipated," because it is a very pretty, kind of looks like an office building. Doesn't look like a three-story brick wall like you would think. They have kind of three concerns that they liked the commission and the planners to really address.

Kelly S. Rippard:

The first thing being, in the proposal it states that there'll be no long term overnight motorized parking. We learned with the current Fairfield storage facility located behind this facility, that people would still park pods and things that are non-motorized in the parking spots. And so, neighbors feel like part of this proposal should strictly say, that should be revised to say that there is no long-term parking at all, of anything. Most long-term outside storage.

Kelly S. Rippard:

This seems fair considering that the parking spots are less than 150 feet from someone's front door. And we wouldn't want RVs and things parked in front of your house in a normal situation. The second thing, and this is the one thing we do disagree on, is the flow of traffic inside and outside of the storage facility. Right now, like I said, we have the big trucks coming out from behind the shopping center. They cannot make a right. They go left on Lord Dunmore. And we feel that all traffic flowing in here into the loading zone should flow in through the front of the

shopping center and out through the back, just like the trucks are now. A stop sign should be added. And then they will not go right down Lord Dunmore Drive. They can make the left because there's the break in the median. It clearly says no trucks. And it clearly says no right-hand turn.

Kelly S. Rippard:

I feel strongly that this should be done because of safety. The building next to this proposal is D-BAT, which is a baseball indoor batting cage area. They run camps in the summer, all the breaks. Large groups of kids are here and walking. Currently, it's a parking lot where they're parking. They don't have to cross streets and deal with trucks to get into the front of D-BAT's. But once this is built, it will push parking out across the street.

Kelly S. Rippard:

So, people coming out, if they come out the front of the shopping center or the truck, are going to have two walls up here. And as they pull forward, they're going to have to nose pretty far out before they can look and see any children. And we worry that it's an accident waiting to happen. We could eliminate this by requesting they come in through the front, where they can clearly see where people are walking, and exit out the back where the rest of the trucks are exiting.

Kelly S. Rippard:

The last point here is, since we're pushing all pedestrians into the parking lot across the street, we would ask that they put better crosswalks that are clearly marked for everybody, driving and walking. And that the current speed bumps that are there in front of D-BAT's would need to be altered, and made larger, maybe the more speed table kind to help the trucks coming in and out slow down. Because it's not usual that trucks would be in front. But now they will be.

Kelly S. Rippard:

And as a civic league, we generally really like what has been proposed. And we've enjoyed working with the planners and coming up with something that would work. We think it's visually appealing. And it would be more quiet than restaurants, and not add to the continuing failing commercial industry. And no one wants to look at an empty, dilapidated shopping center.

Kelly S. Rippard:

So, we feel because of those reasons that it's acceptable, but would like them to consider no outside storage at all, flow into the shopping center in a normal way and out like the other trucks do, and the safety of all of the children and walkers that will be, now, crossing over to enter into D-BATs. Thank you.

Mr. Wall:

Are there any questions for the speaker? Question?

David Weiner:

Well, before you go, I will ask staff a question because I've had some phone calls about...

Kelly S. Rippard:

I'm sure you have.

David Weiner:

Outside people parking overnight and containers, and that cannot be done with this conditional use permit because it's an inside storage facility. Isn't that correct? That's not part of this conditional use permit?

Mr. Tajan:

That is correct. They're not requesting a bulk storage. That would be considered a bulk storage yard and would require an additional conditional use permit. They're not getting that.

Kelly S. Rippard:

Good thank you.

David Weiner:

I just want to point that out, that's not going to be able to happen. But the other things we'll talk with the representative. See what he has to say. Okay.

Kelly S. Rippard:

Thank you so much.

Mr. Wall:

Okay. Are there any other questions for the speaker? Okay. Thank you. Thank you so much.

Madam Clerk:

Paul Rakowski.

Paul Rakowski:

Afternoon members of the planning board. Our civic league president just cut my presentation probably in half but I-

Mr. Wall:

Could you state your name for the-

Paul Rakowski:

Yes. I'm sorry, Paul Rakowski. I am a resident of Fairfield. I've lived there over 35 years. I actually live in the houses right across the street from the shopping center. So as a resident, I think I have a better view and background on what the traffic load is there. I am a professional engineer in Virginia. I'm representing myself. As the civic league president has mentioned, the key issue to me is the safety of traffic flow. And I believe, and I'm very grateful for the developer for working with the civic league. It's highly unusual developer and the property owner should be commended for that. It's the flow of traffic in and loading area, as civic league president mentioned, east side of the building. It's right adjacent slammed against D-BAT and you heard a civic league president tell you about the amount of children and other people that use D-BAT and also even from the neighborhood that walk across to try to get into the shopping center from the Fairfield neighborhood.

Paul Rakowski:

I believe the proposal that that Kelly Rippard presented to you is exactly spot on. I can tell you that even today, semi-trucks still use the main entrance on that side of Lord Dunmore to get to the shopping center. It's much more convenient. Most people use that and I guarantee you, anyone using a storage facility is going to use that main entrance. So that means they're going to come in along the north, excuse me, the south side of the building, which is the main entrance to the shopping center off for Lord Dunmore.

Paul Rakowski:

I fully agree as an engineer, the best thing would be is to make it one way and that they go in through D-BAT to the north and exit out the south. It's a 50-foot wide area behind this proposed north area of the building that exits onto Lord Dunmore with the lefthand turn. And that would drive the traffic back up Lord Dunmore and away from the Fairfield shopping center. In consideration, I appreciate that you would look into this with a developer before approving or constructing this facility once again. I want to thank you for your time today. Your patience, listening to me, and I just cut this thing at least than half, but thank you so much. Any questions?

Mr. Wall:

Are there any questions for the speaker? Thank you. Okay.

Paul Rakowski:

Thank you. Thank you very much.

Madam Clerk:

No more speakers.

Mr. Wall:

Okay. Thank you. The applicant, would you like to come up and speak?

RJ Nutter:

Thank you very much. And I want to thank the speakers for coming. As I indicated, they live there, they respect their neighborhood and so do we. Couple things if I could. I do think we think this project brings some use useful life to the neighborhood. By that I mean, a lot of people who live close to self-storage facilities use self-storage facilities. Businesses within this center will likely use these self-storage facilities so we think it adds the benefit. But to her particular questions about no outdoor storage, no long-term storage of vehicles out there, that's fine. I think your staff's already addressed it anyway. I think it's number eight in the conditions, but we don't have trucks out there. Don't want trucks out there.

RJ Nutter:

The speed bump issue, we're happy to take a look at. I mean, that's kind of a long-term issue doesn't really affect the application per se. But we're happy to sit down with civic league, take a look at that. The one-way issue is a perplexing. I am not an expert on either which way to go and when I'm loading a truck or for that matter, the safety of the children around it. But I can tell you, we both share the same thing. The applicant doesn't want an unsafe circumstance any more than the neighborhood does. So, what I might suggest, we believe, truck entering this way makes more sense only because that's where trucks enter in today.

Ms. Klein:

Mr. Nutter, excuse me one second. Jack, if you don't mind, can we switch the view to where it shows the site plan and the streets?

RJ Nutter:

Before, can I show that this only because I want to show you where the main truck access today is behind the center. But beyond that, Robyn, that's fine. If you want to go back to the other one. There we go.

Ms. Klein:

Okay. And so, if I'm understanding you correctly, to the left side of the building is the back?

RJ Nutter:

The back of that center...

Ms. Klein:

Is right that way.

RJ Nutter:

Yes ma'am.

Ms. Klein:

Okay. Thank you.

RJ Nutter:

That's okay. And we're closing this one off and this one become kind of revamped, nicer, new access way. Existing today, just not as nice as it will be. So, we were trying to keep this for vehicle traffic. So that, quite frankly, we felt like if we put vehicle traffic and truck traffic here, there'd be a conflict between cars coming in and out. In addition, if we come here, they have to turn right, excuse me, left and cross traffic, which can be more dangerous. So, we felt like if trucks come in this way where there's really very little vehicular traffic and more truck traffic go this way and just take a left out with a speed bump here to stop them, we felt like that was a safer approach. And so what we'd like to suggest is this. We'd like to start out with this scenario where it comes in this direction.

RJ Nutter:

I don't think this should be necessarily a condition of the use permit, to be honest with you but I do want to address it. When we start up with this and see if this is causing problems, last thing we want is a safety problem in the center. In which case we can reverse it and go that way. Because, the alley behind, could only address traffic one way or the other. So it's a question of which way you go. But I don't know how to address the issue other than to say that we don't want a safety problem here anymore than they do. We just think this is a safer approach for those people and for other traffic coming in out of the center than if we put the trucks in the main road. There you have it. Yes. I'm sorry Mr. Weiner.

Mr. Wall:

Go ahead.

David Weiner:

From what you said, they're coming out the way you're talking about there is going here...

RJ Nutter:

Come out here.

David Weiner:

Coming from the back side. When the trucks pull out or the vehicles pull out from the self-storage facility. I don't see what's blocking. I mean, they're going to be right there. The bat cage

is going to be next to it. There's nothing blocking them from seeing people coming from the batting cage, correct?

RJ Nutter:

That's correct. In fact, we put a speed bump here.

David Weiner:

You put a speed bump there according to your new site plan.

RJ Nutter:

Yes sir.

Ms. Klein:

So Dave, there's the shopping center across the street where the Kroger is, has one of these turns. And you have the buildings on either side of you and you have to inch out super slowly because people cross the street. There's cars that are coming in.

David Weiner:

I'm familiar with it. I know you're talking about.

Ms. Klein:

Right. So, I feel very conflicted because I absolutely hear the concern of the civic league. I agree, it's probably better for traffic flow, in general. But the left turn less safe, but still safer than trying to inch out of that spot.

David Weiner:

Well, the only reason this is different from what... Well, because there's still sidewalks over there, where you're talking about, between the two buildings. But what Mr. Nutter is talking about, because there's only one way in the back side of the building. When the delivery trucks and Food Lion, everything come out of that building, they can only come out on Lord Dunmore and make a left because that's the way the curbs meant. And, I mean, when he's talking about the new or the entrance and exit going in that way and turning in front of cars there, I think that in my opinion, I think that is going to clog things up more, be a little bit more dangerous.

Ms. Klein:

But what kind of delivery trucks are we talking about?

RJ Nutter:

These are only people moving in with U-Haul's. For the most part.

David Weiner:

It could be a car.

Ms. Klein:

So it's a car, it's a 20-foot truck. It's not an 18-wheeler, that's coming to offload groceries.

RJ Nutter:

We just think this is where the trucks come in today. We just think it's a little safer, that's all. It's a difference in opinion of what's the safest between the two.

David Weiner:

First thing like this... Mr. Redmond I thought you were going to say something.

RJ Nutter:

I would say that if there's a problem, we'd be, I mean, would revert. We'd talk specifically about it and come back. But that's why I don't want to, necessarily the condition which way we go, so we can address this the future as well. But we would like to start out with coming in this way just because that's where the truck traffic comes in today.

David Weiner:

Okay. Thank you.

RJ Nutter:

That's all. Yes sir.

Mr. Wall:

Let's see. But then there's some other points about... Were you finished? I'm sorry.

RJ Nutter:

Oh yes. I was.

Mr. Wall:

The no right turn on Lord Dunmore if I understood that, right. That currently the traffic coming from the business on the back side of the building, they're forced to turn back left towards Providence.

RJ Nutter:

They have to go right, they have to come out and come this way. Yes, sir.

Mr. Wall:

That's where everything that's coming out of that.

RJ Nutter:

And that's an existing condition, Mr. Wall.

Mr. Wall:

That they're supposed to make a left turn on...

RJ Nutter:

The, yes, sir. They make a left. And so we'd be coming in making a right. So without crossing traffic.

Mr. Wall:

Going out, if we maintain pattern that's... To make a left, turn that entrance and exit on the right side. So that's an existing condition in the...

RJ Nutter:

Yes, sir. That neighborhood did not want truck traffic going through the neighborhood.

David Weiner:

The city made that. The delivery trucks would not...

Mr. Wall:

That's for the delivery trucks, right? That's on the backside though.

David Weiner:

Yeah, but that's out on the road, on Lord Dunmore. That has to do with the city, not the shopping center.

Mr. Wall:

The trucks. So trucks being U-Haul's would be requested to...

David Weiner:

Well, they'd have to do the same thing.

Mr. Wall:

They'd have to do the same thing.

David Weiner:

Nobody, even a car coming out there, you can't make a right. You can only make a left.

Mr. Wall:

You can only make a left though. Yeah. Okay.

RJ Nutter:

So, but I think we addressed all of the ones that she said others were concerned about. But otherwise I had, again, the no outdoor storage, the one-way alley issue and the speed bump issue.

Mr. Wall:

And the better crosswalks?

RJ Nutter:

The better crosswalk, the speed bumps, I think. We're going to have to work with the property owners. It's really not part of the application, but we'll be happy to sit down specifically. New owners, new perspectives, so forth. But otherwise, the conditions are acceptable. And I think number eight does address...

David Weiner:

Your position Kelly, no outdoor storage. Is that right? Is that requested?

Mr. Wall:

Yeah, go ahead.

Kelly S. Rippard:

No, I just looked at eight and I just turned the page. It said something about no motorized...

Mr. Wall:

No motorized storage vehicles.

Kelly S. Rippard:

Outside storage of motorized vehicles. But it doesn't say anything about container things.

David Weiner:

If you want to put trucks-

Mr. Wall:

I'm sorry, I don't mean to interrupt, but I think that just by ordinance that can't do it. We have-

Kelly S. Rippard:

I just didn't see it, so...

RJ Nutter:

That's okay.

Mr. Redmond:

I should mention that around the city. I'm noticing that maybe one of the most violated things I see walk into all kinds of environments and there's just two big containers sitting at the edge of a shopping center, thinking to myself. Well, there's certainly no permit for this thing and that's not casting any aspersions on this.

RJ Nutter:

No, no. I understand.

David Weiner:

Or your application. We just need to keep a better eye on that sort of thing. We tend not to enforce a lot around here sometimes. Sorry.

RJ Nutter:

Yeah.

Mr. Wall:

Good. Thank you.

RJ Nutter:

Yeah, no objection to those, at all.

Mr. Wall:

Okay.

RJ Nutter:

Yes, sir. Thank you.

Mr. Wall:

Thank you.

RJ Nutter:

Thank you for your help.

Mr. Wall:

Okay. We're going to close it for questions and open it up to the Planning Commission to make a motion or to carry on discussion.

Mr. Redmond:

I didn't want to wait till we got to discussion before discussing, Mr. Nutter finishes his work. No, you're good. See, with regard to the issues that we raised. Look loading and unloading there, isn't a perfect way. I mean, there just, isn't a perfect way to do that. And I think we're really kind of down to real fine distinctions in this. I accept, I think what they have to say here. I understand these folk's concern, but I think it's adequately addressed in the application. And I completely accept what Mr. Nutter says, if there were a problem with safety or with circulation or with conflicts with other tenants or other tenants' patrons, they're going to be the first ones to want to try and fix it because it would seriously impact the viability of this new element to the shopping center. With regard to that new element of the shopping center seems to me, it's a huge improvement.

Mr. Redmond:

I mean, this end of the shopping center is a restaurant well didn't support what was there to begin with. And so, I mean, in lots of instances like this around the city, we ought to be looking for high quality redevelopment opportunities that add value. And this appears to me to be a high-quality redevelopment opportunity that adds value and done in a particularly attractive manner. It sounds like with a fair amount of care. So I do think it's an entirely appropriate application again, with regard to the loading. I mean, I accept what's been presented. I could sit down and draw one up. I don't know there would be any better or worse or any of us could. So I do think this is a fine application and I'll support it. Thank you.

Mr. Wall:

Okay. Ms. Klein.

Ms. Klein:

So I'm a little less optimistic in terms of what will happen after the applications move forward. I don't see and please correct me staff. There's nothing in the conditions about the direction of traffic, is that correct? Yes. Okay. So in theory, if I'm using the storage unit, I could use the first entrance to go and in, but the alleyway itself would be one way. So, essentially, I would not be able to go into the loading area that way. I'd have to pull into the main entrance and then make a left and go around the back of the building.

David Weiner:

Correct? That's correct.

Ms. Klein:

Okay. Is the loading area wide enough so that it doesn't have to be one way?

Ms. Oliver:

No.

Ms. Klein:

It's too narrow.

Ms. Oliver:

That's what Mr. Nutter said.

David Weiner:

No, it's singular vehicle.

RJ Nutter:

They ask that it'd be one way to avoid traffic. They didn't want too much traffic.

Ms. Klein:

To avoid traffic down that way.

RJ Nutter:

Based on the dimensions shown on here, the loading here. With the loading area being cut out and drive aisle that's left. It is only enough wide enough for one way.

Ms. Klein:

Okay. Yeah. I don't know that it's reason to deny the application, but I take issue with the safety concern of going between the buildings, absolutely.

Mr. Wall:

You mean in the direction that it's...

Ms. Klein:

In the current flow.

Mr. Wall:

Interference path with the baseball or with the batting cages.

Ms. Klein:

Right. Yeah. I mean, I don't like it on regular shopping centers, but the fact that there is such a high volume of kids there who don't know that they're not supposed to run in the street, even when they do, just the crossing. I hate getting stuck between them because you have to inch out whether it be a grown up or a child and inevitably someone still gets surprised to see you there.

Mr. Wall:

Mr. Weiner.

David Weiner:

I think Mr. Redmond hit it on the head. Well, there's really no way of determining right now until it gets built. I think the owner's going to be on top of things and going to be, if there's a safety issue, I think they're going to jump on right away. They're spending a lot of money on this shopping center redoing this, and they're not just building on this side. They're building on Kempsville roadside also. They're building new shops over there too. So they're spending a ton of money on this. I'm inclined to support it the way it is. Just sitting here, looking at it. I used to take my daughter to the batting cage when she played softball. There's a lot more, there's older kids in there at that place than younger at the softball, baseball thing. I don't think anybody's going to run out in the street, my opinion. And again, you can have accidents anywhere you go. You can't get out of that. So I'm going to support it the way it is, I like it the way it is.

Ms. Klein:

Mr. Tajan, if the application gets approved as written and there ends up being an issue that the community notices, is that something that they would contact the planning office for?

Mr. Tajan:

When you say issue, what do you mean?

Ms. Klein:

So let's say that the application is approved as written and six months from now, the residents notice that there's an increase of near misses coming out of that alleyway.

Mr. Tajan:

So this is internal to the shopping center. It's not a direct impact city infrastructure that where we would be able to influence that outcome. So right now the layout shows is wide enough for one way. It does not say which way the one way is going right now. So it could be in the discussions through the site plan review process that they decide which direction that they're going to go in. However, that being said, as noted, it would be in the best interest of the property owner to assure that his tenants and their clients are safe when they attend the location.

Ms. Klein:

Okay. But if, for whatever reason, something about it, doesn't work. It's an internal issue.

Mr. Tajan:

That is correct.

Ms. Klein:

With the property owner. Okay.

David Weiner:

This client will tell you one thing, you probably have one of the strongest civic leagues in the city and they are going to be on top of it. Then I'm sure they'll communicate with the owner of the shopping center, if there's a problem. They do now so I'm sure they will then.

Ms. Klein:

And I commend the applicant for working with, I mean, again, we don't see a lot of that.

Mr. Wall:

Anybody else?

David Weiner:

If not, I'd like to make a motion to approve with a couple of changes in the conditions. Condition number three, with the exception of no illuminated building sign shall be permitted on the west elevation of the structure and the front additional green space is up to 110 linear feet. Is that correct way to do that?

Ms. Oliver:

Would you mind repeating that? I'm sorry.

David Weiner:

Okay. No problem. The first condition, condition number three, which that was given to us within an addition that says with the exception of no illuminated building sign shall be permitted on the west elevation of the structure. And under the landscaping, under number two, to add the front green space to be up to 110 linear feet long, instead of the shorter one. I don't have a linear footage of the first one.

Mr. Tajan:

I would probably recommend saying 110 linear feet long as denoted on the conceptual plan.

David Weiner:

Okay. 110 linear feet long it's noted on the conceptual plan.

Mr. Wall:

Okay. I have a motion for approval with a modified condition, number two for 110 linear feet as denoted on the modified site plan.

Ms. Oliver:

Second.

Mr. Wall:

And I have a second. Okay. I have a motion by Mr. Weiner with a modified-

David Weiner:

Mr. Redmond

Mr. Wall:

Oh, sorry.

Mr. Redmond:

All right, thank you. You're doing your job. I should note, I am an independent contractor with a real estate company. Another independent contractor with my real estate company is a leasing agent for this property. I don't have anything to do with it. I haven't been there in years and don't receive even remuneration or anything of that sort. So I'm part of that class of folks.

Nonetheless, I make that disclosure. I do not yet have a letter on file, but will, with the city's attorney's office, because it just occurred to me this morning. Thank you.

Mr. Wall:

Okay. Thank you. All right. Anything else? Any other abstentions? Right. I have a motion of approval by Mr. Weiner and a second by Ms. Oliver with admitted condition number two, 110 linear feet to estimate on the admitted site plan. And then number three, with the exception that no illuminated building signs shall be permitted on the west elevation of the structure.

Madam Clerk:

Was that an extension by Mr. Weiner or disclosure?

Mr. Redmond:

That was a disclosure.

Mr. Wall:

Disclosure. Okay.

Madam Clerk:

Vote is open.

Mr. Wall:

Okay.

Madam Clerk:

By recorded vote of 11 in favor, zero against agenda item number two has been recommended for approval with modifications to conditions two and three.

Mr. Wall:

Okay. Thank you. Madam clerk.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Graham	AYE			
Horsley	AYE			

Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the concept plan entitled “Fairfield Shopping Center – Storage Site Exhibit”, dated 11/22/2021, and prepared by MSA, P.C., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning and Community Development for review and ultimate approval prior to issuance of a Certificate of Occupancy and shall be developed in substantial conformance with the landscape plan entitled “Fairfield Shopping Center Landscaping Plan”, dated 01/03/2022, ad prepared by Painted Fern Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. The exterior of the proposed building shall substantially adhere in appearance, size, materials to the submitted elevations entitled “Exterior Rendering,” dated 09/08/2021, and prepared by DDA Architecture, with the exception that no illuminated building sign shall be permitted on the west elevation of the structure. Said which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The color of the EIFS shall be a neutral and/or earth tone.
4. All signage shall be externally lit and no neon lighting visible from any adjoining property shall be permitted to be placed on the Property. 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.
5. All exterior lighting (as identified on the exhibit entitled “Fairfield Shopping Center – Storage Photometrics Plan,” dated 01/04/2022 and prepared by MSA, P.C.) shall be low intensity and residential in character. All other exterior lighting on the property shall also be building mounted or ground level lighting which is not directly visible from the (main road)/According to Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the mini-warehouse premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet.
6. There shall be no electric or diesel power generator or generator fueled by any other source of energy located outside of any building.
7. The storage units shall be used only for storage of goods. The units shall not be used for office purposes, band rehearsals, residential dwellings, or any other purpose not consistent with the storage of goods.
8. There shall be no exterior (outside) storage of motorized vehicles on the property.

9. Should any additional site area be required during final site plan review to accommodate stormwater management facilities and/or other standard code requirements, that site area shall be provided through a reduction in mini-warehouse building area, and not through the elimination of depicted office components of any buildings constructed on site, or through the reduction of setbacks or landscaped open space.
10. No barbed wire, razor wire, or any other fencing devices shall be installed on the roof or walls of the building or on the sliding gate surrounding the loading zone.
11. Parking above the maximum number of parking spaces shall only be permitted with approval by the Planning Director pursuant to Section 203(b)(9) 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
February 9, 2022 Public Meeting
Agenda Item #3**

Danielle Good & Cynthia Schott [Applicants]
Byler Lakes, LLC [Property Owner]

Conditional Use Permit (Tattoo Parlor)

522 S. Independence Boulevard

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

Are we good? All right, Mr. Chair, thank you. So, we now have seven items on consent agenda. These applications are recommended for approval by staff and the planning commission concurred and there are no speakers that have signed up for opposition. First item, item number three, Danielle Good and Cynthia Schott from Bay Lakes, LLC. Please come forward. Afternoon, can you please state your name for the record?

Cynthia Schott:

Cynthia Schott.

George Alcaraz:

And do you accept all the conditions?

Cynthia Schott:

Yes.

George Alcaraz:

Thank you. You may be seated. Is there any opposition to the item that was just called for item number three? Okay. Who is reading this one?

Dee Oliver:

Me.

George Alcaraz:

Oh, Ms. Oliver may you please read this to all of us.

Dee Oliver:

I will. This is an application requesting a Conditional Use Permit for permanent tattoo parlor, specifically for the application of permanent makeup known as microblading. It will be in an 872 square foot suite of an existing commercial office building on the property zone B2 Community Business District. The applicant intends to operate a vocational school known as Advanced Permanent Makeup Institute and that trains students in permanent makeup techniques. The business will have two employees, one permanent cosmetic tattoo artist and one permanent cosmetic tattoo instructor. The classes will have a maximum size of six students. Classes will be held from 10:00 AM to 2:00 PM on Mondays, Tuesdays, Thursdays and Fridays, and from 5:00 PM until 9:00 PM on Mondays and Wednesdays. The only proposed exterior changes accompanying this application will be an updated sign plate included on the existing building directory sign and the sign plate will match the existing plate configurations and lettering will be display the business name. The staff was good with this application and all the conditions were acceptable to the applicant and therefore we have placed this on the consent agenda.

George Alcaraz:

Good. Thank you. All right, Mr. Chair, that was the last item on the consent agenda. Planning Commission places the following applications on consent, agenda items 3, 4, 7, 9, 10, 11, and 12.

Jack Wall:

Okay, thank you. Do I have motion to approve by consent agenda items 3, 4, 7, 9, 10, 11, and 12?

George Alcaraz:

Chairman, I want to make a motion that we approve or consent items number 3, 4, 7, 9, 10, 11 and 12.

Don Horsley:

Second.

Jack Wall:

Okay. I have a motion by Mr. Alcaraz and a second by Mr. Horsley.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Oh, okay. Is there anyone wishing to abstain from this?

Dave Redmond:

Mr. Chairman, while I will vote in favor of the consent agenda, I want to be clear that I am specifically abstaining on agenda items number 10, 11, and 12. I have a letter on file with the city attorney's office. I have a client in the travel business which prevents me from voting on either ordinances or on individual short term rental applications. Thank you.

Jack Wall:

Okay. Thank you.

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against agenda items 3, 4, 7, and 9 have been recommended for approval by consent. By recorded vote of 10 in favor, zero against with one abstention by Mr. Redmond, agenda items number 10, 11, and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Graham	AYE			
Horsley	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. 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 tattooing shall be permitted.
3. 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.
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 pertain to this site.

**Virginia Beach Planning Commission
February 9, 2022 Public Meeting
Agenda Item #4**

Whitney Triplin-Pass [Applicant]
James Pass Jr. & Whitney Triplin-Pass [Property Owners]

Conditional Use Permit (Family Day-Care Home)

952 Timberlake Drive

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

All right. Thank you. The next item for consent is item number four, and that is the Whitney Triplin-Pass at 952 Timberlake Drive for a family daycare. Please come forward. Welcome. If you could state your name for the record, please.

James Pass:

Well, My name is James Pass.

George Alcaraz:

All right. Do you accept the conditions?

James Pass:

Yes, I do.

George Alcaraz:

Okay. Thank you. You may be seated.

James Pass:

Thank you.

George Alcaraz:

Is there any opposition for this item? All right. Hearing none, if we could have Mr. Weiner read this.

David Weiner:

Thank you, Mr. Alcaraz. The applicant is requesting a Conditional Use Permit to operate a family daycare for up to 12 children. The single family dwelling is located in Bellamy Manor

Estates. Typical hours of operation are 6:00 AM to 6:00 PM. Monday through Friday, with only one employee. The request for a Conditional Use Permit for family daycare is acceptable and we find this recommend approval and put it on consent agenda.

George Alcaraz:

Good. Thank you. All right, Mr. Chair, that was the last item on the consent agenda. Planning Commission places the following applications on consent, agenda items 3, 4, 7, 9, 10, 11, and 12.

Jack Wall:

Okay, thank you. Do I have motion to approve by consent agenda items 3, 4, 7, 9, 10, 11, and 12?

George Alcaraz:

Chairman, I want to make a motion that we approve or consent items number 3, 4, 7, 9, 10, 11 and 12.

Don Horsley:

Second.

Jack Wall:

Okay. I have a motion by Mr. Alcaraz and a second by Mr. Horsley.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Oh, okay. Is there anyone wishing to abstain from this?

Dave Redmond:

Mr. Chairman, while I will vote in favor of the consent agenda, I want to be clear that I am specifically abstaining on agenda items number 10, 11, and 12. I have a letter on file with the city attorney's office. I have a client in the travel business which prevents me from voting on either ordinances or on individual short term rental applications. Thank you.

Jack Wall:

Okay. Thank you.

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against agenda items 3, 4, 7, and 9 have been recommended for approval by consent. By recorded vote of 10 in favor, zero against with one abstention by Mr. Redmond, agenda items number 10, 11, and 12 have been recommended for approval.

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

CONDITIONS

1. The Family Day-Care Home shall be limited to a total of twelve (12) children, other than children living in the home.
2. The Family Day-Care Home shall have no more than one (1) additional employee/volunteer, who does not reside in the home, or on the premises at any time.
3. Any sign identifying the home occupation shall be non-illuminated, not more than (1) square foot in area and mounted flat against the residence.
4. The applicant shall maintain a license with the Commonwealth of Virginia for childcare. Failure to maintain a Family Day-Care Home license will result in revocation of the Family Day-Care Home Conditional Use Permit.
5. The arrival and departure times shall be staggered to avoid vehicular congestion.
6. When the Family Day-Care Home is not open for business, all play equipment associated with the daycare shall be located behind the front façade of the house.
7. The fence enclosing the outdoor play area shall remain and be maintained for the duration of the Conditional Use Permit while active.
8. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.

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
February 9, 2022 Public Meeting
Agenda Items # 5 & 6**

1252 Jensen, LLC [Applicant & Property Owner]

Conditional Use Permit (Bulk Storage Yard)

Modification of Proffers

1252 Jensen Drive and a portion of 1228 Jensen Drive

RECOMMENDED FOR APPROVAL - HEARD

Madam Clerk:

Okay. Our next agenda item, agenda items five and six. 1252 Jensen LLC. Applications for a Conditional Use Permit, Bulk Storage Yard and a Modification Of Proffers on property located at 1252 Jensen Drive and a portion of 1228 Jensen Drive in District Six, formerly the Beach District. Would the applicant or the applicant's representative, please come to the podium.

Scott Prunty:

Good afternoon, planning commission. My name's Scott Prunty. I am the owner of 1252 Jensen LLC and proposing the build. To be brief, in the description of everything.

Mr. Redmond:

Good luck man.

Scott Prunty:

What's that.

Mr. Redmond:

Good luck, we have trouble with pointers here.

Scott Prunty:

That's better than good luck with the proposal. Oh boy, here we go. So we are in the blue highlighted area here at vacant land. It was a combination of residential property and industrial use back in 2006, it was approved to be built on with a multitude of flex space. Here is the existing elevations that were approved in 2006, just shy of 30,000 square feet of building on it. And then a drive-through from Birdneck, which is on the east side, the right side of these photos, to left is the end of Jensen Drive.

Scott Prunty:

So, our proposal here is to bring in a 5,400 square foot warehouse building, and then a 5,600 square foot warehouse building and a bulk outdoor storage area as the main use for this property. There will be parking lots on the east side, which will be in the employee parking and in the customer parking, and then the interior parking lot will be shielded with fencing for company vehicles to be stored on beside the bulk outdoor storage area. The building to the left will be a small warehouse. If you could flip slide please. Thank you.

Scott Prunty:

Here's a 3D rendering. The building at the front is to be used by a company that I also own, Solid Structures, an outdoor living design build company. The outdoor storage space is a store fiberglass, pool shells, fencing, things like that. That'll all be enclosed with least a six-foot solid privacy fence around it so the neighbors will not see that. Just a couple more renderings of it. The front entrance on the top left. If you're looking in from Birdneck, and then below it, the southeast if you're looking at it, the bottom right corner would be from Beautiful Street. So, anybody on the residential side, looking towards the building, you wouldn't see anything that was being stored in the yard because the fence would be taller than it. The evergreen trees would actually be the four trees that are existing on the property now. And then the top is the building all the way to the west. It's a 5,600 square foot. You go to the next slide please? Is that everything? Any questions?

Mr. Wall:

Are there any questions for the applicant? I've got a few things. Just recently it changed the bulk storage yard to gravel. So why is it I think there's going to be turf?.

Scott Prunty:

It was going to be turf and under city's request to have the bulk storage yard stabilized. They wanted at least gravel put down and we agreed to that. That's also going to change. We have some storm water in these plans. We will have to increase storm water management because that is considered impervious surface.

Mr. Wall:

I was out there. It's fairly soft ground. I'm sure during the warmer months, it's not quite as soft, but I mean, trying to move anything now, it's it probably track mud on and off.

Scott Prunty:

It hasn't been dry for a couple months out there right now. So, and with our storm water management plans, we are going to move everything currently now into the storm system on Birdneck side, because Jensen Drive area has hit capacity for what it can hold. So we've been working with the engineers on that.

Mr. Wall:

So everything is going to Birdneck is that-

Scott Prunty:

Everything's going to Birdneck, we're going to have under a ground storage. So we're putting permeable pavers in bulk storage under any solid surface so that we can capture most of that water. Try to have it dissipate back down into the earth before it ever hit overflow. That would take it out to any of the existing drainage.

Mr. Wall:

So your site's probably going to have to come up in order to put the storage under the-

Scott Prunty:

Initial boring reports that we did on both the east and the west side, we have substantial area without bringing the property up. And the property is lower than the surrounding areas, but we also want to be mindful of our neighbors that we don't come up so high. We push water under their properties.

Mr. Wall:

So describe a little bit about that category to your landscape screening 25-foot vegetated buffer, what your plans are?

Scott Prunty:

Right about here, the forest ends, that's on the south side of the property. So it's heavily forested. So everything to the west that's going to include this area is going to remain the existing trees that are there. So there's 30 year old plus trees on the property with the lower level shrubbery as we get to the front section here and along the north side, there's residents here and church here, we're going to work with both the church and the resident on the north side to provide landscaping that they're both comfortable with and that's appealing for Birdneck road.

Mr. Wall:

Thank you. Anybody else? Thank you. Appreciate it. Madam Clerk.

Madam Clerk:

We have one speaker. Kevin Lewis.

Kevin Lewis:

My name is Kevin Lewis and I live on Beautiful Street and we have a problem with flooding on our street and Jensen Drive does not have any drainage. And the commercial roofs are actually pitched towards our backyards. I just wanted to make sure that's being taken care of.

Mr. Alcaraz:

May I ask what? So there's no building on this site. What building are you talking about?

Kevin Lewis:

I live in a house, but there's commercial buildings that are existing and their roofs are pitched towards our yard.

Mr. Alcaraz:

Existing building down the road on Jensen, not on this site? Undercover site?

Kevin Lewis:

My backyard is backed up to the Jensen.

Dee Oliver:

Hey, do you have an aerial view? There we go.

Kevin Lewis:

It floods our street out. It's all their work.

Mr. Alcaraz:

Can you see on there where-

Dee Oliver:

Your house?

Mr. Alcaraz:

You can use a pointer on the thing.

Kevin Lewis:

The one right there by Beautiful Street.

Dee Oliver:

There's a pointer on the podium right here, sir.

Mr. Alcaraz:

Right where it says Beautiful. Is that where your house is?

Kevin Lewis:

Right there, before that. I'm the second to the last house. But all that floods out. I've called the city out there. I've been on that street itself. There's no drainage and there was supposed to be a ditch or something put in back there and it was not put in. And the roofs to the buildings are pitched towards our backyards and got hoses off the gutters that push to our back fence. And it floods us out. I've seen it when I first moved in seven years ago where the house down street had six inches of water in it because of it. It's been an issue and I've been trying to talk to people about it. I've called the city. I've called whoever and nobody's done nothing and they've come out there and looked at it. One guy did and said somebody overlooked it. And didn't notice.

Mr. Wall:

Sir, can you speak up a little bit so we can hear you clearly.

Dee Oliver:

Can talk on the mic, it's hard for us to hear you?

Kevin Lewis:

I called the city and had them come out there. Because there's no drainage on the street where the household and roofs are pitched. It just floods us out every rain we get. I've already had to replace things in my shed because it floods my shed out with three inches of rain. And I've actually built my backyard up to try to help stop it because it's been so bad.

Dee Oliver:

Is there a ditch-

Kevin Lewis:

There's no ditch.

Dee Oliver:

... on Beautiful Street at all?

Kevin Lewis:

On our street, there is a ditch. But all our drainers runs to the ditch at the back of the street. So you got a road over there and commercial bonds with their roofs pitch to our... And they got their

gutters on the back, with big black hoses that run to our fence. So it all rushes to our backyards and it floods us out. And it's historical, a lot of older people out there and they didn't understand what was going on and I'm sure there's been a lot of insurance plans throughout the years and nobody come up with explanation for it.

Mr. Alcaraz:

I'm familiar with Jensen Drive. There's a BMP on the top left for Jensen Drive. It's a pretty good size lake. I don't know why it's not getting to that.

Kevin Lewis:

Talking about that little pond they got?

Mr. Alcaraz:

Yeah. There's a pond there and there's another pond on the other side.

Kevin Lewis:

You call that a lake?

Mr. Alcaraz:

There's a pond on the other side too. There's two.

Kevin Lewis:

I've been over, I've a lot of walking over on it. I'm familiar with the street but doesn't... You got commercial roofs pitched towards our backyards regardless on the back of their buildings, along with all that rain and all that stuff coming from where they're plan on buildings and what they got now, it floods us out and it's been going on for a long time. There's a lot of old people out there and they don't know what they can do. I just figured this, come speak upon it and see if maybe there's something we can do. Because nobody's done nothing. And I've been calling for the past seven years since I've been living there.

Mr. Alcaraz:

Mr. Lewis, I appreciate it. Thank you.

David Weiner:

Can I say something before you walk away? Our city has new water restrictions for all new developments and rezoning, and these people are going to have to comply with that. I'm not going to say it's going to help 100%, but we have learned in the past when the new developments build in the rezonings, they have to follow these water restrictions. It's going to help in that aspect. But I'm not clearly comprehending where you are to this. I mean, I know

what street you're on, but I don't know, you're right behind these buildings where it says Beautiful Street?

Kevin Lewis:

I'm the second to last house on. Towards the core. But there's on drainage on the road either.

David Weiner:

This development here has to meet some pretty sturdy water restrictions anything to be built there. So this isn't going to make it worse. Maybe you could get with some staff members here before you leave and see about getting what we can do to help you out and then on your street, something or other.

Kevin Lewis:

Well, I hope they will figure something out. Because there's no drainage I know there should have been and somebody didn't do their job when they built it.

David Weiner:

And it's been back there for a long time.

Kevin Lewis:

The pipes are sitting back there for the drainage and it wasn't done. A lot of older people and a lot of old people passed away throughout years and they were just old. They didn't know what was going on. Obviously I'm probably not the only one who knows about it now, but I just want to make sure you know.

Mr. Wall:

Hold on. Sir, Mr. Lewis Sir, I did look back there and I walked back there and I did look at those buildings. I would probably agree with you that-

Kevin Lewis:

There roofs are pitched towards our background.

Mr. Wall:

So there's an existing problem, it appears, but Mr. Tajan, is there anybody on staff that could talk with Mr. Lewis after?

Mr. Tajan:

We'll need to take a look at it. I'm trying to pull up some information right now about those structures that were constructed and when they were built and if they were, what ordinance they were built under, we can get your contact information and we'll make sure to reach out to you to see what's going on. Depending on the age of it. It may be something that the city can't inject themselves in. It's just someone doing something unlawful to put water onto somebody else but we need to take a look at it. So I need to get more information.

Mr. Wall:

Because there two things here, one thing is the existing problem, which hopefully we can get that addressed, but then the proposed application, which I think Mr. Weiner, hopefully you made it clear that the site approval process is very rigorous at this point in this.

Kevin Lewis:

I just don't want to make things worse than we are already having. We're already having the issue and building is going to probably make it worse in my opinion, but...

Mr. Wall:

I hope not. There's a buffer there that would hopefully buffer that.

Kevin Lewis:

That's pretty good back there. I've seen that whole court down there with three, four inches and it's-

Mr. Wall:

Miss Oliver.

Dee Oliver:

So Bobby. Thank you so much for bringing this to our attention. We did a group with Mr. Frankenfield a couple years ago. It's been about two years in that area with the ditches and walking the streets and stuff just for that particular reason. And it floods terribly. And a lot of that is just lack of maintenance to those ditches and the runoff of those buildings. And evidently it hasn't been addressed. Carolyn was probably part of a lot of that too, as well when we were working with that neighborhood for a long period of time and that it has a tendency to have a terrible, the infrastructure and the ditches just don't work properly.

Kevin Lewis:

There's a graveyard across the street and there's sink holes and stuff.

Dee Oliver:

I know it is. I've seen it.

Kevin Lewis:

Water. My kid almost went right in one and they're pretty deep.

Dee Oliver:

We'll see what we can do to work on that.

Kevin Lewis:

Thank you.

Dee Oliver:

Thank you.

Mr. Wall:

Thank you. Anybody else? Would the applicant like to come back up and rebut?

Scott Prunty:

Just a feedback on his concern. Mr. Lewis, your house, right in here? This one here or this one here in the right.

Kevin Lewis:

It's that one.

Scott Prunty:

That one. Okay. It looks like the ones all the way down here at the end of the court. So you're somewhere right in there. So under initial investigation to our storm water plan that we were going to have to do with the engineers out there, our initial plan was to use this BMP on the backside of Jensen to drain all our water to, all the water that makes it to that BMP is sheet flow across the concrete. So it's not going into any drainage pipes or anything. There's also a ditch that runs here that pops into another ditch here in the middle and runs and pops out.

Scott Prunty:

All of that is essentially at capacity where we cannot go ahead and put more water into it. That being his concern here, they've got pipes coming off, a slanted roof that comes towards the back of the property, it's never making to the front of the property to sheet flow into that BMP, which may be one of the big underlying reasons he's getting so much water, but also I believe all the Beautiful Street is just asphalt with some ditches on it. So there's no underground water

transport there. So as we mentioned, we're bringing everything out to the Birdneck side. So the entire property will have to be pitched that way. So nothing should negatively, from what we build, go towards the west. We should all be going towards the east.

Mr. Wall:

Anybody have any questions?

Scott Prunty:

Thank you.

Mr. Wall:

Thank you. So I'm going to up the floor for a discussion or to entertain a motion.

Robyn Klein:

I move that we approve the application.

Mr. Wall:

Do I have a second?

Mr. Alcaraz:

I'll second.

Mr. Wall:

So I have an approval by Ms. Klein and a second by Mr. Alcaraz. Is there anybody that needs to abstain?

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against agenda items number 5 and 6 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Graham	AYE			
Horsley	AYE			
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, it shall be landscaped substantially as shown on the exhibit entitled "Conceptual Layout of Solid Structures Headquarters Being Unit 6, Owl's Creek Commerce Center II" prepared by WPL, Civil Engineers, Land Surveyors, Land Planners and Landscape Architects, dated December 16, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the "Landscape Plan").

Proffer 2:

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled "Conceptual Layout of Solid Structures Headquarters Being Unit 6, Owl's Creek Commerce Center II" prepared by WPL, Civil Engineers, Land

Surveyors, Land Planners and Landscape Architects, dated December 16, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the "Layout Plan").

Proffer 3:

When the Property is developed, the elevations, architectural design, building materials, appearance and height shall be substantially as shown on the renderings and elevations submitted on December 9, 2021 prepared by Solid Structures, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the "Building Elevations").

Proffer 4:

The use of the Property shall be only office/warehouse/bulk storage yard.

Proffer 5:

The Grantor will erect and maintain a fence of not less than six feet in height on the south side of the Property so as to completely enclose the portion of the Property to be used for bulk storage.

Proffer 6:

All outdoor lighting on the Property shall be shielded to direct lights and glare onto the Property and focused away from adjoining properties.

Proffer 7:

The hours of operation of the office/warehouse/bulk storage yard facility will be between the hours of 6:00 o'clock a.m. and 9:00 o'clock p.m. daily.

Proffer 8:

Dumpster service on the Property is only allowed between the hours of 8:00 o'clock a.m. and 6:00 o'clock p.m.

Proffer 9:

No mechanical equipment shall be located on the roof of the building(s).

Proffer 10:

All stormwater management facilities, including swales, must be maintained by the property owner.

Proffer 11:

These proffers shall supersede the proffers previously recorded in the Clerk's Office as Instrument No. 20061031001650980 and 20110118000055120.

Proffer 12:

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.

CONDITIONS

In addition to the proffers volunteered by the applicant, Staff recommends the following conditions:

1. 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 property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

2. A Lighting Plan and/or Photometric Diagram Plan shall be submitted during detailed site plan review. Said plan shall include the location of all lighting fixtures mounted on buildings and poles as well as the listing of lamp type, wattage, and type of fixture. Lighting shall overlap and be uniform throughout the parking area. All lighting on the site shall be consistent with those standards recommended by the Illumination Engineering Society of North America. The plan shall include provisions for implementing low-level security lighting for non-business hours.
3. Any additional lighting added to the site shall be directed to the interior of the site and away from adjacent residential homes.
4. Light fixtures may remain on at any time, provided that the source of the light is shielded to not be visible from the property lines of adjacent properties and that the light be contained on the subject property
5. The equipment storage yard shall be enclosed with Category VI landscape screening, as specified in the Landscape, Screening, and Buffering Specifications and Standards for the City of Virginia Beach, and including a minimum six-foot tall fence.
6. The proposed landscaping shall meet or exceed the standards required within the City of Virginia Beach Landscaping Guide.
7. Signage on the site must be in accordance with sign regulations outlined in the Zoning Ordinance.
8. Any freestanding signs shall be limited to a maximum height of eight feet with materials that relate to those used on the exterior of the building.
9. In addition to required Category VI landscape screening for the Bulk Storage Yard, a minimum 25-foot wide area of existing mature vegetation that presently exists along the southern edge of the property shall be retained and maintained to additionally buffer this development from residential properties located on Beautiful Street.
10. Prior to operating on the site, proof of compliance with the Navy Restrictive Easement shall be provided to City Staff.

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
February 9, 2022 Public Meeting
Agenda Item # 7**

Tan Dang [Applicant]
Regency Hilltop Associates [Property Owner]

Conditional Use Permit (Tattoo Parlor)

1940 Laskin Road, Suite 311

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

Thank you. The next item on consent agenda is item number seven, Tan Dang for a tattoo parlor at 1940 Laskin Road, Suite 311. Can I have a representative please come forward? Is there any opposition? All right. Having none, if I could have Ms. Cuellar, please speak on that.

Holly Cuellar:

The applicant is requesting a Conditional Use Permit in order to operate a tattoo parlor specifically for permanent makeup known as microblading within a portion of an existing 1200 square foot salon. The unit is located within the Regency Hilltop Shopping Center, alongside Laskin Road on property zone B2 Community Business District. Staff recommends approval of this application, and the Commission agrees therefore is on the consent agenda.

George Alcaraz:

Good. Thank you. All right, Mr. Chair, that was the last item on the consent agenda. Planning Commission places the following applications on consent, agenda items 3, 4, 7, 9, 10, 11, and 12.

Jack Wall:

Okay, thank you. Do I have motion to approve by consent agenda items 3, 4, 7, 9, 10, 11, and 12?

George Alcaraz:

Chairman, I want to make a motion that we approve or consent items number 3, 4, 7, 9, 10, 11 and 12.

Don Horsley:

Second.

Jack Wall:

Okay. I have a motion by Mr. Alcaraz and a second by Mr. Horsley.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Oh, okay. Is there anyone wishing to abstain from this?

Dave Redmond:

Mr. Chairman, while I will vote in favor of the consent agenda, I want to be clear that I am specifically abstaining on agenda items number 10, 11, and 12. I have a letter on file with the city attorney's office. I have a client in the travel business which prevents me from voting on either ordinances or on individual short term rental applications. Thank you.

Jack Wall:

Okay. Thank you.

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against agenda items 3, 4, 7, and 9 have been recommended for approval by consent. By recorded vote of 10 in favor, zero against with one abstention by Mr. Redmond, agenda items number 10, 11, and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Graham	AYE			
Horsley	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 23-51 of the City Code.
2. 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.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. All signage on the site shall be in accordance with the sign regulations of the Zoning Ordinance and all signage on the door and windows of this unit, Suite 311, shall be removed unless deemed in compliance with 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
February 9, 2022 Public Meeting
Agenda Item # 8**

Alliena Westleigh [Applicant]
Alvin Westleigh & Cynthia Allie Westleigh [Property Owner]

Conditional Use Permit (Residential Kennel)

4512 Whitechapel Court

RECOMMENDED FOR APPROVAL - HEARD

Madam Clerk:

Mr. Chair, our last agenda item for the day is agenda item number 8. Alliena Westleigh, an application for a conditional use permit. Residential kennel on property located at 4512 Whitechapel Court in District 4, formally the Bayside district. Would the applicant, or the representative please step to the podium.

Alliena Westleigh:

Good morning. My name's Alliena Westleigh. Thank you for hearing me today. I was in the informal. I don't know if I can address some of issues now, but what I'm asking to do isn't to run a kennel or a rescue from my residents it's to maintain my companion animals that Miss McKinley had mentioned the seven that I have, the two that are with me currently for foster, through Hope for Life are pending applications. So they are getting ready to be adopted out from my house.

Alliena Westleigh:

The other concern was the netting. When Next Door opened up, I reached out to my neighborhoods through Next Door and asked what were some of the concerns of the four animals I had at the time. This was back in July of 2020. It was in July of 2020 that the netting went up on my yard, in October, when animal control came out, I did have a roommate living with me. So at the time I was told about a potential use permit for more than four. And I had the fifth dog being their dog. I asked them to move out shortly after that because of complications. So I didn't pursue the conditional use permit in 2020. I recently left my 16 year career at the shipyard last year, and I decided to move forward with rescue aspirations. And I have a partner and a business license for training.

Alliena Westleigh:

We are trying to move forward to obtaining a location to run our own rescue. But that is not the purpose of this permit. The purpose of this is just to maintain the companion animals that are at the residence. Know that several people had expressed concerns in my neighborhood regarding

the animals' behavior or temperament. And according to Planning Commission, they stated that they would do this with a condition of putting up a privacy fence.

Alliena Westleigh:

So I'm in the process of applying for that currently right now, to instate a privacy fence around my property and the dogs in questions, I've agreed to staggering when they go out into the backyard so that it's not a pack mentality. It's just individual dogs in the backyard so that they're not all chasing the fence line at the same time. I don't know what else to say right now at this point, but I did bring with me my business plan proposal, as well as my LLC and my degrees in fundamentals behavioral studies for the council members. If you'd like to see them.

Mr. Wall:

I don't. So are there any questions for Ms. Westleigh?

Mr. Alcaraz:

Yes. You're saying you do have a permitted out to get a privacy fence in your whole backyard.

Alliena Westleigh:

I'm the process of the application for it. The reason being is there was some sort of misunderstanding. It's a corner lot. So I have to figure out which type of privacy fence I'm permitted to put up.

Mr. Wall:

Ms. Klein,

Robyn Klein:

You said four of the dogs are yours and then you have two rescues?

Alliena Westleigh:

No, ma'am, there's nine dogs currently at the residence. So there are nine on the property, two belong to Hope for Life. They are not my dogs. They're just there as fosters because they had temperament issues that needed to be worked on the other two that are be out so then there's three above the allowed four. So those are the three that I'm asking permission to keep, pretty much is to have seven animals. I don't need up to 10. I just want the seven.

Dee Oliver:

Thank you for clarifying.

Mr. Wall:

Mr. Redmond.

Mr. Redmond:

Well, you said a lot telling me that you work with Hope for Life. I'm well familiar with Hope for Life Rescue. It's a small organization. It's a superb organization, but it's a small facility. I imagine there are some instances where they have animals that probably need a little bit more care than they can in that very enclosed environment that they have, bless their hearts, money doesn't grow on trees. I think with regard to your application, obviously, that privacy fence is an important part of that application. I'm comforted that you're looking at that already because it's that's going to be necessity.

Alliena Westleigh:

Thank you, sir.

Mr. Wall:

Anybody else?

Dee Oliver:

There was one incident here where you said two of the dogs were unvaccinated.

Alliena Westleigh:

Yes. I've since submitted that paperwork, to animal control for those two animals. Those at the time they were unvaccinated because they weren't my animals. I did not have their paperwork on site. They were Hope for Life's animals. I asked for that to retain files. I do keep a binder with every animal, every vaccination, as well as a separate container for all their medications, compartmentalized per dog, so that they're getting their flea and tick treatment on time. Their heartworm on time. I do have Operation Doggy Duty, come out twice a week to help with waste removal so that it's done properly. And then I have an agreement with Active Environmental. They come out and treat the yard for me every three months to make sure that there's not an outbreak of fleas at my property.

Dee Oliver:

I was just reading through. Great. Thank you.

Mr. Wall:

Thank you.

Alliena Westleigh:

Thank you.

Madam Clerk:

We have two speakers, Mr. Chairman, Jackie Savage followed by Jerry Richter.

Mr. Wall:

Please state your name for the record.

Jackie Savage:

My name is Jackie Savage. And I am a resident of Pembroke Meadows neighborhood. I would like to address you this afternoon regarding the proposed conditional use permit at 4512 Whitechapel Drive. And this permit does state that it would allow up to 10 dogs at the residence. That's how the permit was filed on the record. This neighborhood home, these dogs are rescues and on next door, which I brought the whole printout from next door neighbor. She has said that these dogs have all come from rescues and that she is hoping to rehabilitate these unadoptable dogs, because these dogs were...

Jackie Savage:

Many of these animals by her words were considered to be unadoptable due to being used, such as fight dog baits, so that these animals may exhibit aggression and do not belong in a neighborhood setting. Across the street from a daycare center, a shopping center, a block from an elementary school, two blocks from a neighborhood park and from a neighborhood recreational pool area. Pembroke Meadows is a quiet neighborhood. It was built in the late '60s and early '70s. And many of the original residents still live there. Many of the children that grew up there have bought homes and moved back into that neighborhood. It is very family oriented and child friendly and myself as well as many of the homeowners in Pembroke Meadows, feel that this residential kennel does not have a place in such a neighborhood.

Jackie Savage:

This residential kennel does not enhance or bring value to this neighborhood. The companion dogs that she was referring to, and in next door neighbor, she said not more than five would she have on her property than later on state seven currently has nine. So even though she's telling you that there's only going to be seven dogs there, I don't have faith in what she's saying, because she told us on next door neighborhood, there would be no more than five. There are currently nine dogs in her home. Now she says seven of them will be companions. The companions are not her companions, but dogs, she uses companion dogs for the dogs that she's training, the unadoptable dogs. This home that has these animals and this family living in it is only 1,463 square feet. And it has a small corner lot with a small backyard.

Mr. Wall:

Ms. Savage. I appreciate it but your time. You had three minutes and I appreciate it. Should have let you know about the yellow light in the morning.

Jackie Savage:

Okay.

Mr. Wall:

Are there any questions. Mr. Redmond?

Mr. Redmond:

I hate to have to put you through this, but can you take that pointer and show us? We're very pointer challenged here. If you could take that pointer and show us where your house is in relation to this property?

Jackie Savage:

Where my house is in relation to this property?

Mr. Redmond:

Yes.

Jackie Savage:

How do you use the pointer? My house is over here. You go down Abbey Drive. It turns into Severn Dr. And my house is probably about right there.

Mr. Redmond:

So you're not anywhere near this house.

Jackie Savage:

I walk the neighborhood and my husband walks the neighborhood and we take our grandchildren through the neighborhood. I drive by this home every day, because this is the main entrance to the neighborhood. This is the daycare center.

Mr. Redmond:

I know, believe me, I'm well familiar with it.

Jackie Savage:

My home is not adjacent to this home, but I drive past it every day coming and going from my home to leave for work and to come home from work, to go to the grocery store, coming home

from the grocery store. Anytime I'm going in and out of the neighborhood, I drive past that home or walk past the home. I did bring pictures because the pictures in this were not representative of the entire structure. They were only taken from one view and I brought pictures of the other view and I would love to leave them with you all to look at.

Mr. Redmond:

Will pass them on. And then we'll leave them over here and you can pick them up.

Jackie Savage:

Did anybody have any other questions for me?

Mr. Wall:

Are there any other questions for Ms. Savage?

Carolyn Smith:

Sorry. We'll have to keep the pictures if she gives them to you or make a copy for you if you need them back.

Jackie Savage:

No, you can keep them.

Mr. Wall:

We can keep them. Alright. Thank you. Madam clerk.

Madam Clerk:

Our final speaker, Jerry Richter.

Jerry Richter:

You'll leave that picture up, right quick. That corner house is the corner house up at Whitechapel and Pembroke Boulevard. If you're walking in the neighborhood or you're driving in or out-

Mr. Wall:

Actually could you please?

Jerry Richter:

We're using Whitechapel Drive and you're stopping right here at the stop sign.

Mr. Wall:

Excuse me. Can you use the pointer that's on the podium. If you can use it.

Jerry Richter:

This is the exit and entrance for everybody over here on side of Pembroke Meadows, you have to stop here at the stop sign to let traffic coming up and down, Pembroke Boulevard are coming across from the shopping center. This particular yard, if you go back to the picture you had before, no, that actually showed the yard.

Carolyn Smith:

We're getting there. Sorry. Thank you for your patience.

Jerry Richter:

That one, perfect. If you notice 10 dogs, they're big dogs and they put out approximately two loads of dog waste a day, which is 20 a day multiplied by seven. That's 140 loads a week. And she is having someone supposedly coming to pick up twice a week. Doesn't smell too good. There is no grass. There is an aboveground pool. There's also a trampoline. What you're seeing here is the mess that's along Whitechapel Drive.

Jerry Richter:

This goes along Pembroke Boulevard, these particular weeds growth and vines come out and come across the sidewalk, it's an eyesore. It's not beautiful right now. And that's winter. It gets worse. It's not a place for a business kennel. And she does want to have that as a business. I commend her for working with the dogs, but really those dogs are hers. She only has two rescues there. The others are private dogs. The requirement is of course you can only have four. And it wasn't until she was caught that we now have... Excuse me. That we now out the application for a kennel. A kennel there is not acceptable and it is going to be a business she's already applied for financing to start a business there. We don't approve as neighbors.

Mr. Wall:

Please stay up there, are there any questions?

PART 3 OF 4 ENDS [01:33:04]

Robyn Klein:

The brush, the weeds, they, it looks like that they're on the common area side of the fence.

Jerry Richter:

Well, this is her property. Okay. This is her property. It goes back this way. And the sidewalk, which you can't see, is right here. So this comes out and it goes beyond her property.

Robyn Klein:

So are you saying that they start on her property and then climb over the fence?

Jerry Richter:

Yeah. Well, they come this way. Yeah. They have it on her property, but it also comes over be... This is her property. These are all her weeds.

Robyn Klein:

Because what I'm asking is, sometimes when there's a corner property, it abuts to common area, which abuts to the sidewalk.

Jerry Richter:

The easement. Pretend it's over here. The easement would be over here, except her easement is down this way. This is all her property.

Robyn Klein:

Okay. So they fenced inside the property line.

Jerry Richter:

It's inside her property. Yes. Yes. And the part that's coming over the fence, that's really her responsibility to maintain, but they don't.

Dee Oliver:

Jack I have a question.

Jack:

Ms. Oliver.

Dee Oliver:

So from the photos, this side of where the hedge is, or the climbing binds are, that's chain link fence?

Jerry Richter:

Behind that is chain link fence I think.

Dee Oliver:

SO The photos show just-

Dee Oliver:

One second, please. The photos show that there's chain link fence in there. And that it's not... One of the photos. If you look real close, Robin, you'll see towards the house, it looks like it's chain link fence. And that is not able to be, obviously she can't screen that. Because she can't because of the bush. The climbing vine.

Jerry Richter:

The growth.

Dee Oliver:

Right. Which looks like that's on, faces public sidewalk going into the neighborhood,

Jerry Richter:

Correct. Correct.

Dee Oliver:

If I'm correct. So that seems to be...

Jerry Richter:

That's an eyesore. If you look at her property there, and I understand with 10 large dogs, you're not going to have grass. I mean, she can't have grass. And I understand that, but it becomes... In the rain, in the summer, and the heat, it becomes poop soup, which is basically the best I can say. I mean, where is all this waste going to go?

Jack:

Okay. Mr. Redmond

Dave Redmond:

Well, number one, it's in this application that she picks it up each time they go outside. And she has a commercial operation that comes.

Jerry Richter:

I think she just stated. Coming in twice a week,

Dave Redmond:

I didn't interrupt you. So could you take that pointer and show me where your house is as well?

Speaker 7:

I'm on Abbey Drive. Go around. It's just Abbey Drive. I'm right down here.

Dave Redmond:

So you're down here.

Jerry Richter:

But for walking, I'm going to be going to Food Lion, I walk the animals. If I'm going back to the park, I have to go this way. To the pool, I go over the school back here. I work at the school also. I'm a volunteer.

Mr. Wall:

Thanks. Okay. Thank you. Are there any other questions? Okay. Thank you. All right. Going to open up for... Oh yeah. Please come up for rebuttal, sorry. My apologies.

Alliena Westleigh:

I do have copies for... I'd like to just submit this. To draw in the question, the business. In the business plan, which you'll find in the back of that document, we actually have four proposed locations that we're looking to go to. So my house will not be the business. We are proposing different sites that we're looking into currently to apply for the business loan, to get the location, and then to run the operation from that space. As far as the five dogs, the reason why I say that seven companion dogs right now. Before I adopt these animals out, I make sure that they go to their canine good citizens award and get that certification to prove that they're capable of being in any environment. They can walk through Lowe's, Home Depot. They can walk it at the park. They're ready for life outside of just being in a backyard.

Alliena Westleigh:

In regards to operation Doggie Duty that comes twice a week. Now it's because of the winter time that they come twice a week. In the summer, because of the amount of my animals, they do come three times a week. And I also do have a bucket in the backyard that I pick up with regularly eliminate that. I've never had grass in my backyard since as long as I can remember. I've been living at this residence for 31 years. I'm one of the children that Ms. Savage spoke about that ended up buying my parents' house because this is where I wanted to be. In regards to the eyesore that is on the corner. And yes, it is an eyesore. I will admit to that. That bush is overtaken by wisteria vine. And so I am in the process of cutting that down. It's a long tedious process, but I had to wait for winter for it to happen because in the summertime it's in full bloom. It's green. You can't cut into it.

Alliena Westleigh:

The animals are not all large. Most of them or about 35, 45 pounds. That's the average of these animals. I do have one that's 18 pounds. And then I do have one that is up for adoption. That's 135 pounds. That's the Great Pyrenees. I would like to address any other questions that are in place. My neighbors that I live in, I live in a cul-de-sac and all five of my neighbors have signed that they're favorable for me moving forward, keeping the companion animals.

Speaker 8:

Just one quick question, the fence in the interior you're going to replace, right? You're going to replace the metal fence going against the side sidewalk?

Alliena Westleigh:

So I am actually going to be replacing all sides of my fencing, including the gate.

Speaker 8:

So that's going to have to come down before you replace the fence?

Alliena Westleigh:

Yes.

Speaker 8:

Okay.

Alliena Westleigh:

And I'm in the process of cutting that down. I've gotten several quotes. And I understand what they're saying. I can sit here and tell you all day, but there's actually processes in place. The pools actually been drained and is coming down on this weekend. And then as far as the bush and the shrubby goes, we're going to be cutting most of that down. The wooden privacy fence, because the city actually cuts the bush that's on the street side, and they cut it off the sidewalk. But in the backyard, there's about a foot gap between the bush and my backyard, and then the chain link fence. So that's where the privacy fence will be put up.

Speaker 8:

Okay.

Speaker 3:

Yeah.

Jack:

Anyone else?

Speaker 3:

Bobby.

Dee Oliver:

Bobby.

Speaker 3:

Bobby.

Bobby:

If I can, Mr. Wall?

Jack:

Yeah.

Bobby:

Mr. Meyer to the point, the fence keeps coming up as a concern. Please note that condition number four requires the existing chain link fence to be replaced with a six foot privacy fence.

Speaker 8:

I saw it. A disaster. Yes. Agree.

Jack:

Okay.

Robyn Klein:

I have a question.

Jack:

Yes. Ms. Klein.

Robyn Klein:

This might be for the staff, given the conditions for this permit, who then is the authorizing body that will confirm that this was done in order to move forward?

Bobby Tajan:

It is a condition of the conditional use permit, which will be inspected by our zoning inspectors.

Robyn Klein:

Thank you.

Alliena Westleigh:

Thank you.

Donald Horsley:

Thank you, Mr. Chair. I'm still trying to just get ahold. How many of the nine dogs do you own that are just your personal dogs?

Alliena Westleigh:

Five.

Donald Horsley:

Okay.

Alliena Westleigh:

There are five that are my personal dogs, that my name is on their rabies tag registration. Two are pending adoption through Hope For Life. And then two are in the process of finalizing their-

Donald Horsley:

That's how you get to nine? Those two?

Alliena Westleigh:

Yes.

Donald Horsley:

Gotcha.

Alliena Westleigh:

Yes, sir. And then the two that are finishing up their canine good citizens test, and then they'll be available for adoption.

Dee Oliver:

So you really only have room for five other dogs, because you're keeping the five you have?

Alliena Westleigh:

I'm keeping five, but I have no intention of bringing more animals to the property. That's the reason-

Dee Oliver:

Your conditional use permits says 10. I don't have a problem with 10 or nine. I just... You're keeping the five.

Alliena Westleigh:

Yes ma'am.

Dee Oliver:

Okay.

Alliena Westleigh:

Yes. And on there, I can point to which five-

Dee Oliver:

No, no, no, no. That's all good.

Alliena Westleigh:

... if you to see them, but I am planning on keeping the five and then the two would be, where if I needed to train another dog, I could train the dog overnight and then return it to the facility.

Jack Wall:

One thing is your operation, that you're the rescue. That you're planning, you need to operate as a business. Let's say, you currently have nine, you have this four pending or in the new training process in your pipeline. If you had at your business in an offsite location, would those four be at that location? Or would they...

Alliena Westleigh:

The four that are ready for adoption?

Jack Wall:

Uh-huh (affirmative).

Alliena Westleigh:

They would be at the facility so that they're getting the most exposure. And so that they're getting the more hands on versus just at the home. They wouldn't be staying at the residence when I'm not there.

Jack Wall:

Okay. So you'd only have your domestic Companion dogs that at your property after you have your business?

Alliena Westleigh:

Yes. And the animals that I do have, yes. They're all rescue in one form or another. And it's not that they weren't adoptable, it's that their temperament was not favorable for a typical person to just walk in off the street and handle an animal that they're not prepared to handle.

Jack Wall:

Ms. Oliver.

Dee Oliver:

It looks like you're looking to relocate your business?

Alliena Westleigh:

Yes.

Dee Oliver:

To a more favorable.

Alliena Westleigh:

Yes. And that's why I said, the animal as that are there will not exceed that. I won't adopt out the four and then bring in four more to my property. By that point, we're hoping to have a facility where the business will actually be operating.

Dee Oliver:

... out of the neighborhood.

Alliena Westleigh:

Yes. Ma'am.

Dee Oliver:

With that though, Mr. Tajan, there's a city ordinance that she can only have four dogs.

Bobby Tajan:

Correct. She would still need the conditional use permit.

Dee Oliver:

For the five?

Bobby Tajan:

To have the five.

Alliena Westleigh:

Yes. Ma'am.

Bobby Tajan:

Hearing this additional information about what is happening with the other dogs and them leaving and the potential move or the intention to move the business. There is a condition that we would normally have put, that says as the dogs leave, you can't bring dogs back to replace it. And if the commission would want that condition in instead, that would be one, I would have recommended it if I knew this information earlier.

Alliena Westleigh:

Yes.

Dee Oliver:

I would recommend that we would put that in and that would probably make the neighborhood a little less disgruntled, maybe.

Dave Redmond:

No, I don't agree with that.

Dee Oliver:

Why?

Dave Redmond:

Well, number one, can we just deal with the application that we have at present? Not about a future location of the business. This condition of use for a kennel, because she's got more than four dogs. It's not that hard. I think it'd be wonderful if you could get this established in another location two years down the road. If you're not, then what we're doing today is really going to still be that important. Okay.

Dee Oliver:

Well, it's only what if. It's a what if condition. If she moves-

Dave Redmond:

Let's deal with the application today and not worry about our crystal balls is my view.

Bobby Tajan:

Well, one thing is-

Dave Redmond:

Can I finish please? Can anybody let me just finish?

Bobby Tajan:

Sure.

Dave Redmond:

Go over again. I failed to understand what the relevance of the state of your bushes or the state of your backyard is to the appropriateness of this application. The city maintains what?

Alliena Westleigh:

So the side that you're seeing White Chapel Drive, I actually live in White Chapel Court, but the street side that's White Chapel Drive headed towards-

Dave Redmond:

I was in front of your house this morning.

Alliena Westleigh:

Yes. So that street, the city cuts that bush. As soon as it hits sidewalk, they cut it. Now that's not long term goal by any means. And I was just addressing the bush issue because, clearly there's neighborhood concern that it's an eyesore, but as far as the kennel license or the permit or the care and maintenance of these animals and their behavioral progress, it's a bush that they like running through. I'm sorry.

Dee Oliver:

There's no problem with bushes in your yard. They have nothing to do with that.

Dave Redmond:

Apparently.

Dee Oliver:

I don't.

Dave Redmond:

I commend you for what you're doing. And I agree with your characterization that there are some animals that are not in shapes and necessarily be adopted right away and they need additional care and you're providing that care. So in my view, you're doing Lord's work with regard to these animals, you fill a gap that's not easily done in other places. And it has to be done. Or they're going to be in far worse shape than it would be today? So I'm ready to get on with this.

Jack:

So are there any other questions. Okay. Thank you very much.

Alliena Westleigh:

Thank you so much.

Jack:

Thank you. Okay, I am going to close and open for discussion or for motion.

Donald Horsley:

About two months ago, or a month ago, we were wrestling with a residential kennel in the country. People had 20 acres and we didn't want them to have 20 dogs. And there we got a quarter of acre lot or something like that, and people want 10 dogs. Where is the balance here? I mean, it just looks to me like it's a little bit overload here. And I appreciate what she's doing, but I mean, I think we are overloading. It's in a tight knit community. That 20 dog deal was in a 20 acre parcel, in a little small developer. And it just looks like to me, it's a little bit overload. I appreciate what she's doing, but I just think her property is a little bit concise to do something.

Donald Horsley:

And if she says she just wants to keep her five dogs, but we approve a 10... If we prove a condition of use permit for 10 dogs, that stays with that property. So if she decides to sell her

property, the next person can come in, they can have 10 dogs. And because that stays. Am I right Bobby? Isn't that true?

Bobby Tajan:

Yes.

Donald Horsley:

I appreciate what she's doing but I think it's a little bit overload here for this. I don't think I can support the application.

Jack Wall:

Mr. Redmond.

Dave Redmond:

Well, I disagree. I was there this morning. All of her neighbors support the application. Go look at that and all those little blue stars on that graphic show that all her neighbors support the application. Now folks four blocks away do not. And I'm not particularly concerned about that. If you drive your car past the house on the way to Food Lion, and I don't know that that's going to be a big impact. So what I have not read... That's what I'm talking about. All of her neighbors were there. And I was in this court this morning. And the children were walking from those adjacent houses. Up the block, just across to the corner where Professional Circle meets White Chapel Drive to wait for the bus. I didn't see any great alarm.

Dave Redmond:

There were parents with their children. And it seemed like a perfectly normal residential block, to me. I'm unaware of any kind of incident that's occurred with her dog. It seems to me she's getting picked on, very frankly.

Dave Redmond:

I don't understand, very frankly, why the folks who are in most, in closest proximity wouldn't be most familiar with her situation. So I don't care what her backyard is like. I don't care her what her bushes are like. And off of bushes and backyards, The application itself to me seems pretty simple. And I think we should stick to that. Too often we stray. She's working with an organization that's entirely respectable and very, very highly respected. I mean, if all those blue stars were red stars, I'd be concerned. And I was this morning, before I went over there. That would make a difference. That seems to me to be very strong support for her. Her fence is going to be a privacy fence on all sides. Enough about the fence. It doesn't matter. I mean, we can see that. I fail to see what the impact would be of dogs that are inside her house or her yard. That's a lot of dogs. I mean, I'm unaware of any conflict yet.

Dave Redmond:

And all of her neighbors support it. That's what tells me that this is okay. I don't know what better to go on than the fact that the folks in closest proximity support her. And absent some sort of horror story of which I'm unaware, unless you're upset when you're driving your car on the way to Food Lion, then I don't understand what the challenge would be. It seems to be much simpler than we should spend an hour on.

Jack:

Okay.

Dave Redmond:

I certainly am going to support.

Jack:

Okay. All right. Thank you. Robyn Klein first and that I'll get to you.

Robyn Klein:

So I have had different change of feelings since we talked about it this morning. I will say I have two pit bulls who are discriminated against, and I take them to training and they'll never pass a canine citizen test. So if you're able to get these dogs to do that, bless you. My issue is more that the permit runs with the land and 10 dogs is a lot of dogs, nine dogs, seven dogs, five dogs is a lot of dogs for that property. So I would be more willing to support the application if it included a provision that as dogs leave the property, they can't bring anymore. So that ultimately when the house is sold, we're back to the four dog limit. That's all.

Jack:

All Right. Thank you, Mr. Graham.

Whitney Graham:

Could I ask staff of that, how that would be worded real quick. I just wanted to see how that could be worded or how does that be?

Bobby Tajan:

We have a condition that we have applied to other residential kennels. Add some more to that. I have the wording here that I can provide after discussion as necessary.

Jack Wall:

Okay. Right. Mr. Graham.

Whitney Graham:

And the current state of this application. And I love dogs. I have two dogs. That's a lot of dogs for a small property. I mean, five dogs is a lot of dogs for that property. Seven dogs, 10 dogs. I can't support it. It's just too many. And it runs with the land. And unless we can change it, I will not support it.

Jack Wall:

Thank you, Mr. Bradley.

David Bradley:

I appreciate Mr. Horsley bringing up the kennel issue from a month or two ago. Because that was in my district as well. And I went down there two or three times and looked at it and I've been struggling with this one because I think it is a very small property. Interestingly, it's isolated in the scheme of things. And I do recognize what Mr. Redman said, that was starting to tip the balance when I was reading the report that the immediate neighborhood supports it. But I like what Mr. Tajan and Ms. Klein was just talking about, I think I could get there if this does not run with the property forever. If we can word this in a way that... And I think the applicant was okay with that when it was asked. So I'd like to see something that allows this just to, as the dogs go away, that the number goes down.

Robyn Klein:

I'll make a motion if nobody... Unless do you have something to say?

Jack Wall:

Anybody else before we make a motion?

Dee Oliver:

Well, think that her goal is to take the business out of the residents. And so if we can...

Dee Oliver:

Bobby, could you let it do that?

Donald Horsley:

I would like to hear what-

Dee Oliver:

Who makes the decision of when the... I mean, how do

Donald Horsley:

Never heard of that before.

Dee Oliver:

What? Go ahead.

Donald Horsley:

Use permit going away.

Bobby Tajan:

The condition would replace condition one based on just the conversation that I'm hearing, the condition that we've used prior, it would read, "This conditional use permit shall be limited to a maximum 10 adult dogs. At any such time if any of the dogs covered by this condition use permit are removed from this property for any reason, no other dogs of any kind gender, age or breed shall be permitted on the property to replace the dogs. The applicant may keep up to four dogs as allowed by the zoning ordinance without a condition use permit."

Whitney Graham:

I'm good with that.

Bobby Tajan:

That's the language that we've used previously.

Dee Oliver:

Okay. So this has been done before, is that...

Bobby Tajan:

Correct.

Dee Oliver:

Okay. Because it seems fairly atypical in terms of the, but I would be okay with that. I see the mitigating. We've got some mitigating things with the fence.

Dave Redmond:

... things with the fence. And the fence is going to be there.

Dave Redmond:

It's part of the application.

Dee Oliver:

But I also feel that there's a reason for the ordinances and it's there for a reason. And it's to limit the large amount of dogs that people can hold and in a residential area. Yeah. So, I'd be in favor of with the condition that as the dogs leave the property, then no additional dogs would be...

Whitney Graham:

Nine. So my question is, she has nine dogs. Only two are adopted out.

Alliena Westleigh:

Four.

Whitney Graham:

Is that a definite four?

Alliena Westleigh:

Yeah.

Dave Redmond:

Yes.

Robyn Klein:

My issue is that if we say she can't have we say no, then there's five dogs that she has to rehome and these aren't sweet little golden doodles. These are dogs that-

Dee Oliver:

Five of them are hers.

Robyn Klein:

Well, sure. But I'm saying, if we say that she can't have the permit, she's then tasked with rehoming five of the dogs that aren't easily rehomed. But if we say that as the dogs are adopted out, they cannot be replaced. That brings it back to the ordinance whenever she ends up with four dogs.

Whitney Graham:

And the ordinance was in place before she got the five extra dogs.

Dee Oliver:

It's always been there.

Robyn Klein:

It's been years.

Dee Oliver:

It's just the timing of how long it takes her to do it.

Robyn Klein:

Yep.

Donald Horsley:

Do you make a motion?

Jack Wall:

Do we have a motion-

Dave Redmond:

Anybody care to consult the applicant here? I mean, I think that would be-

David Weiner:

She said she would be good with that.

George Alcaraz:

Can you come up and talk to us.

Jack Wall:

Yeah, come on up.

Alliena Westleigh:

I'm sorry. What was the...

Dave Redmond:

Pointed experts.

Alliena Westleigh:

What's the initial question? Sorry.

Robyn Klein:

So if we were to word the permit so that you are permitted a commercial kennel with a maximum of-

Dave Redmond:

It's not a commercial kennel.

Robyn Klein:

A residential kennel. Thank you. For the maximum of 10 dogs. However, as dogs are adopted out, they may not be replaced.

Alliena Westleigh:

Right.

Robyn Klein:

Until you have the residential ordinance limit of four dogs.

Alliena Westleigh:

I don't have a problem agreeing to those conditions, but as I was stating, there's four, so there's five. So I would still need the conditional permit for that fifth dog.

Robyn Klein:

Well, you would have it.

Alliena Westleigh:

Okay. Okay.

Robyn Klein:

If at one point the dog dies, you give it away, whatever. And you're left with four dogs in your home. You wouldn't be able to add additional dogs up at that point, but it covers you in the interim.

Alliena Westleigh:

In the interim. I just want to do what's best for these animals. And I do need the time to work with some of them. I want to do, whatever's going to be favorable for these animals. If that's agreeing to those conditions, I'll agree to those conditions.

Donald Horsley:

But then just to clarify, two of them are already pending adoption?

Alliena Westleigh:

Two of them are pending adoptions. Yes. Ma'am, we're waiting on heartworm results for one of them, because they said they will not take a heartworm positive dog. I can't control other people. And then the other dog is pending a home visit. So that's where they'll go to their home. And then they'll have two weeks to decide if this is a good fit for them or not.

Donald Horsley:

Okay.

Jack Wall:

Okay. Mr. Graham.

Whitney Graham:

Just one question. So during an adoption, are they ever returned? Because they can't handle them?

Alliena Westleigh:

That happens about 76% of the time with animals because they move and they can't take their animals or their behavioral issues were too great, which is why we try and limit that by ensuring they had that canine good citizens before they go out for adoption. Last year alone, I helped assist in 48 adoptions and two of which were returned.

Whitney Graham:

So 76% were returned?

Alliena Westleigh:

On average.

Whitney Graham:

So you can't bring them back

Alliena Westleigh:

By that point in the business plan itself, there's going to be a condition for how soon they can be returned. You have a timeframe, you have a three month timeframe because typically with rescue dogs, you want to do a 3, 3, 3 principle. Three days to decompress. Three weeks-

Whitney Graham:

What she's offering you, you can't-

Alliena Westleigh:

So after they're adopted out, I understand that I would have to then work with Hope For Life and find new placement for them at that point. By that time, if we get to that, I'm hoping to have my own location so that I can accept the animals back.

Whitney Graham:

As long as you're aware of that.

Jack Wall:

Good. Okay. Thank you.

Robyn Klein:

All right. So I would like to make a motion to approve the residential kennel permit with modification of condition one. Bobby, will you read that for me please?

Bobby Tajan:

Yes. Condition one will be changed to this conditional use permit shall be limited to a maximum 10 adult dogs at any such time. If any of the dogs covered by this conditioned use permit are removed from this property. For any reason, no other dogs of any kind gender, age or breed shall be permitted on the property to replace the dogs. The applicant may keep up to four dogs as allowed by the zoning ordinance without a conditional use permit

Dee Oliver:

Without a conditional use permit?

Bobby Tajan:

Yes. You're permitted to have up to four without-

Dee Oliver:

Right. No. So does the conditional...

Bobby Tajan:

It lingers on if she has five.

Jack Wall:

Until she only has four and

Dee Oliver:

Then, and then it and then goes away. Okay. Just

Jack Wall:

A second. Okay. So we have a, that motion by Ms. Klein and a, a second by Mr. Wiener for, for approval with amended condition. Number one, stop

Dave Redmond:

No, excuse me. I'm going to oppose this and I want to make clear it because I think it's overly restricted. Okay. Overly restrictive.

Jack Wall:

Okay.

Dave Redmond:

I mean, I support you in all these ways. I think we're doing you a bad turn from lots of folks. Who've never set foot near your property. And I wish, well, I would,

Jack Wall:

Sorry. Are there any abstentions? Okay. The vote is open.

Madam Clerk:

By recorded vote of nine in favor, two against agenda item number eight has been recommended for approval with condition one as modified.

	AYE 9	NAY 2	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Graham	AYE			

Horsley		NAY		
Klein	AYE			
Oliver	AYE			
Redmond		NAY		
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. There shall be no more than 10 dogs on the property at any time. This Conditional Use Permit shall be limited to a maximum of ten (10) adult dogs. At any such time if any of the dogs covered by this Conditional Use Permit are removed from this property for any reason, no other dog(s) of any kind, gender, age, or breed shall be permitted on the property to replace the dog(s). The applicant may keep up to four dogs as allowed by the Zoning Ordinance without a Conditional Use Permit.
2. All animal waste from the dogs shall be collected and disposed of in a lawful manner on a daily basis.
3. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
4. The existing chain link fence on the property shall be replaced with a 6-foot-tall solid privacy fence and shall be maintained in good condition for the duration of the Conditional Use Permit for the Residential Kennel.
5. There shall be no breeding of dogs on the site.
6. No more than four (4) dogs shall be permitted to be outdoors at one time and the dogs shall remain under the supervision of the caretaker at all times and shall not be a nuisance to any other property owners or residents.

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
February 9, 2022 Public Meeting
Agenda Item # 9**

**N3 Property Advisors, LLC [Applicant]
Virginia Beach Investment Company, LLC [Property Owner]**

Conditional Use Permit (Automobile Repair Garage)

6213 Indian River Road

RECOMMENDED FOR APPROVAL – CONSENT

George Alcaraz:

Thank you. The next item on consent is item number nine. That's the N3 Property Advisors, LLC for an automobile repair garage at 6213 Indian River Road. Will a representative please come forward?

Eddie Bourdon:

Thank you, Mr. Vice Chair. Mr. Chairman, for the record, Eddie Bourdon vis-a-vis attorney representing the applicant, Mr. Royce Barrington with Strickland Brothers is here in attendance. We want to thank Michaela for her hard work on this application. All conditions as recommended by the staff are acceptable to the applicant.

George Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

George Alcaraz:

Is there any opposition to this item being placed on the consent agenda? All right. Hearing none, I ask Ms. Klein to please speak on this.

Robyn Klein:

The applicant is requesting a Conditional Use Permit to operate an automobile repair garage on a 1.34 acre parcel zoned B2 Community Business District. The site is currently undeveloped, and the applicant is seeking to construct a 1,725 square foot building. The auto repair business will provide drive through limited maintenance services, such as oil changes, power steering, fluid service, and Virginia state inspections. All services to be provided are limited to those

where customers can remain in their vehicles. It is anticipated that up to 50 cars will be serviced daily. Staff recommends approval and the Commission agrees.

George Alcaraz:

Good. Thank you. All right, Mr. Chair, that was the last item on the consent agenda. Planning Commission places the following applications on consent, agenda items 3, 4, 7, 9, 10, 11, and 12.

Jack Wall:

Okay, thank you. Do I have motion to approve by consent agenda items 3, 4, 7, 9, 10, 11, and 12?

George Alcaraz:

Chairman, I want to make a motion that we approve or consent items number 3, 4, 7, 9, 10, 11 and 12.

Don Horsley:

Second.

Jack Wall:

Okay. I have a motion by Mr. Alcaraz and a second by Mr. Horsley.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Oh, okay. Is there anyone wishing to abstain from this?

Dave Redmond:

Mr. Chairman, while I will vote in favor of the consent agenda, I want to be clear that I am specifically abstaining on agenda items number 10, 11, and 12. I have a letter on file with the city attorney's office. I have a client in the travel business which prevents me from voting on either ordinances or on individual short term rental applications. Thank you.

Jack Wall:

Okay. Thank you.

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against agenda items 3, 4, 7, and 9 have been recommended for approval by consent. By recorded vote of 10 in favor, zero against with one abstention by Mr. Redmond, agenda items number 10, 11, and 12 have been recommended for approval.

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

CONDITIONS

1. The site shall be developed and maintained substantially in conformance with the submitted site layout entitled “CONCEPT PLAN OF 6213 INDIAN RIVER ROAD,” dated November 28, 2021, and prepared by NDI Engineering Company, Basgier and Associates Division. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. The design, size, and materials of the building shall be substantially in adherence, with the submitted elevation exhibits entitled “Strickland Brothers” dated November 22, 2021 and prepared by FRANZ Architects. Said elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning & Community Development.
3. The dumpster shall be enclosed by a wall on three sides, constructed of materials that match the building, not less than six feet in height, and any required screening shall be installed in accordance with Section 245(e) of the Zoning Ordinance and the City of Virginia Beach Landscaping Guide.
4. Development on this site shall be limited to no more than one use at a time unless a modification of this Conditional Use Permit is granted by City Council.
5. No motor vehicles in a state of obvious disrepair shall be stored outside of the building. All such vehicles shall only be permitted to be stored within the building.
6. No motor vehicle repair work shall take place outside of the building.
7. No motor vehicles shall be parked within any portion of the public right-of-way.
8. There shall be no outdoor storage of equipment, parts, tires, or materials.

9. All on-site signage shall meet the requirements of the City Zoning Ordinance. There shall be no signs that 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.
10. There shall be no portable or nonstructural signs or electronic display signs on the site.
11. 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 property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

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
February 9, 2022 Public Meeting
Agenda Items # 10 & 11**

C and C Development Company [Applicant & Property Owner]

Conditional Use Permits (Short Term Rentals)

501 22nd Street, Units A & B

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

Thank you. The next items for consent are items number 10 and 11 for C & C Development Company for a Short Term Rental at 501 22nd Street, units A and B. Is there a representative?

Eddie Bourdon:

Again, Eddie Bourdon vis-a-vis attorney representing C & C Development. I want to thank Mr. Morrison for his work on this application. All 19 conditions as recommended are acceptable to my clients.

George Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

George Alcaraz:

Is there any opposition to this item being placed on the consent agenda? All right. Seeing none, I ask Mr. Graham to please speak on this.

Whitney Graham:

The applicant has submitted a Conditional Use Permit request to operate two, three bedroom short-term rentals on the subject site. Property is currently being converted into two separate units for rental purposes. The property is located in the Oceanfront Resort District. Each unit will have three parking spaces to accommodate the three bedrooms in each unit. We are recommending approval of the application.

George Alcaraz:

Good. Thank you. All right, Mr. Chair, that was the last item on the consent agenda. Planning Commission places the following applications on consent, agenda items 3, 4, 7, 9, 10, 11, and 12.

Jack Wall:

Okay, thank you. Do I have motion to approve by consent agenda items 3, 4, 7, 9, 10, 11, and 12?

George Alcaraz:

Chairman, I want to make a motion that we approve or consent items number 3, 4, 7, 9, 10, 11 and 12.

Don Horsley:

Second.

Jack Wall:

Okay. I have a motion by Mr. Alcaraz and a second by Mr. Horsley.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Oh, okay. Is there anyone wishing to abstain from this?

Dave Redmond:

Mr. Chairman, while I will vote in favor of the consent agenda, I want to be clear that I am specifically abstaining on agenda items number 10, 11, and 12. I have a letter on file with the city attorney's office. I have a client in the travel business which prevents me from voting on either ordinances or on individual short term rental applications. Thank you.

Jack Wall:

Okay. Thank you.

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against agenda items 3, 4, 7, and 9 have been recommended for approval by consent. By recorded vote of 10 in favor, zero against with one abstention by Mr. Redmond, agenda items number 10, 11, and 12 have been recommended for approval.

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

CONDITIONS

1. The property shall obtain all necessary building permits and Certificate of Occupancy for the residential dwelling units prior to the operation of the Short Rental Use.
2. The following conditions shall only apply to the dwelling unit addressed as 501 22nd Street, Unit A and Unit B and the Short Term Rental use shall only occur in the principal structure.
3. 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.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions, or violations of any building, housing, zoning, fire, or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller’s responsibility to notify the new property owner of requirements ‘a’ through ‘c’ below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.

- a) A completed Department of Planning and Community Development Short Term Rental Zoning 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.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 12. Accessory structures shall not be used or occupied as Short Term Rentals.
 13. No signage shall be on-site, except 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.
 14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
 15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, 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).
 18. 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.

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

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

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

**Virginia Beach Planning Commission
February 9, 2022 Public Meeting
Agenda Item # 12**

Cynthia Laenger [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

2113 Atlantic Avenue, Unit 6C

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

Thank you. And the last item on the consent agenda is item number 12, for Cynthia Laenger for a short term rental at 2113 Atlantic Avenue, unit 6C. Is there a representative here?

Madam Clerk:

Mr. Alcaraz, Ms. Laenger is virtual. So, calling Cindy Laenger, please pause two to three seconds and then state your name and if the conditions applied to your application are acceptable.

Cindy Laenger:

Hi, I am Cindy Laenger and the conditions are acceptable.

George Alcaraz:

Is there any opposition for this item being placed on the consent agenda? All right. Mr. Chair, as right, we have no more on consent.

Jack Wall:

Mr. Bradley.

George Alcaraz:

Oh, sorry. Mr. Bradley, can you speak on this?

David Bradley:

Yes, I'll be glad to.

George Alcaraz:

Thank you.

David Bradley:

This is for a Conditional Use Permit for a short term rental at 2113 Atlantic Avenue, unit 6C. The applicant is requesting to operate a short term rental on a two bedroom, 1,235 square foot unit within a 15 unit condominium development located east of Atlantic Avenue. Currently 13 of the 15 units are used as short term rentals and most have been operating this manner without incidents since the building was constructed in 1984. Being located east of Atlantic Avenue where the predominant use is hotel, the proposed short term rental is compatible with the surrounding properties and would not have an adverse impact on residential neighborhoods. Planning staff has recommended this, and Planning Commission agrees and wants to put it on the consent agenda.

George Alcaraz:

Good. Thank you. All right, Mr. Chair, that was the last item on the consent agenda. Planning Commission places the following applications on consent, agenda items 3, 4, 7, 9, 10, 11, and 12.

Jack Wall:

Okay, thank you. Do I have motion to approve by consent agenda items 3, 4, 7, 9, 10, 11, and 12?

George Alcaraz:

Chairman, I want to make a motion that we approve or consent items number 3, 4, 7, 9, 10, 11 and 12.

Don Horsley:

Second.

Jack Wall:

Okay. I have a motion by Mr. Alcaraz and a second by Mr. Horsley.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Oh, okay. Is there anyone wishing to abstain from this?

Dave Redmond:

Mr. Chairman, while I will vote in favor of the consent agenda, I want to be clear that I am specifically abstaining on agenda items number 10, 11, and 12. I have a letter on file with the city attorney's office. I have a client in the travel business which prevents me from voting on either ordinances or on individual short term rental applications. Thank you.

Jack Wall:

Okay. Thank you.

Madam Clerk:

Vote is open. By recorded vote of 11 in favor, zero against agenda items 3, 4, 7, and 9 have been recommended for approval by consent. By recorded vote of 10 in favor, zero against with one abstention by Mr. Redmond, agenda items number 10, 11, and 12 have been recommended for approval.

	AYE 10	NAY 0	ABS 1	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Graham	AYE			
Horsley	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 2113 Atlantic Avenue, Unit 6C 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) of the City Zoning Ordinance or as approved by City Council.
4. 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.
5. 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.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. 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.
13. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
14. 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.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. 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).

17. 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.

18. 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.