

Virginia Beach Planning Commission
March 9, 2022 Formal Public Hearing Verbatim

Jack Wall:

I call to order the March 9, 2022 Virginia Beach Planning Commission public hearing. My name is Jack Wall, and I'm the Chairman of the Virginia Beach Planning Commission. Before we get started, I want to introduce our newest member, Mr. Barry Frankenfield. He is representing the Lynnhaven District, and he replaces Whitney Graham. He has quite a bit of experience in the planning realm, and we're glad to have him here on-

Barry Frankenfield:

See the other half is laughing. So there's an issue here.

Jack Wall:

Okay. Well, that's okay.

Barry Frankenfield:

Thank you. Thank you very much.

Jack Wall:

Okay. Yep. Okay. Before we get started, I've asked Commissioner Coston to lead us in prayer, followed by the Pledge of Allegiance by Ms. Klein.

John H. Coston:

Eternal God, our father, we thank you for this glorious day. God, we thank you for how wonderful you have been to us. And we praise your name. Now, Lord, we asked that you would look on this meeting today. God, that there would be peace and harmony deliberation. God, that brings forth the expected outcome. God, guide us and direct us, God, as we make these decisions on today. Jesus name we pray. Amen.

Group:

Amen.

Group:

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:

All right. Thank you. I've asked Mr. Redmond to introduce the Planning Commissioners.

Dave Redmond:

Thank you, Mr. Chairman. Welcome, everyone. I'm going to start on my right side of the dias over there with that lady is Kay Wilson. She is a Deputy City Attorney and part of her charge is she does a bunch of different things and that role, but one of them is planning and zoning matters. And so she keeps us on the straight and narrow. Next to her is Holly Cuellar. She serves at-large. She is a consultant, which means she does a bunch of things, too. John Coston over there who did a wonderful job per usual with our prayer. He is a retired fire captain, Virginia Beach fire captain. And he also of serves at-large. I was distressed to learn that Robyn Klein, who is a social worker and represents the Centerville District is not going to be with us for more

than a few months. She has a family move in the offering. And so I think in the summertime, she's going to be leaving us. And so sad about that today.

Dave Redmond:

So there, my name's Dave Redmond, I am a commercial real estate broker. I represent the Bayside District. This fellow to my left is Don Horsley. He also serves at-large, and he is a farmer. In the center there, center seat, is Jack Wall. Jack's an engineer. He represents the Rose Hall District. And this year he is serving as our chairman. That's why he's sitting in the center. To his left is George Alcaraz. George is a contractor. He's a business owner. He's an event's promoter. He represents the Beach District, and he is serving this year as our vice chairman. Dee Oliver, to his left, is a former vice chairman, a former chairman. She's a funeral director and a restaurant owner and has a number of other kinds of things that she does as well. And she also serves at-large.

Dave Redmond:

Mr. Weiner, David Weiner, the guy with the laptop there. He represents the Kempsville District. He is a commercial salesman in the building industry. David Bradley, who is sitting, he just waved, sitting next to Mr. Weiner. He's a retired Budget Director in the City of Virginia Beach and he represents the Princess Anne District. And then finally, we're getting on Barry today, because it's his first day. Barry Frankenfield is a retired Director of a whole bunch of things, but at one point, he was the Planning Director and not too long ago, he is now filling the Lynnhaven District seat that was recently vacated by our colleague, Whitney Graham. So Barry, welcome.

Barry Frankenfield:

Thank you.

Dave Redmond:

We look forward to having you and I'm sure you're going to help us an awful lot. And sitting to Barry's left is Bobby Tajan. Bobby is the Planning Director. He has a number of fine folks working for him and helping us. And so Bobby, if you would introduce those folks, I'd appreciate it.

Robert J. Tajan:

Thank you, Mr. Redmond. Clerking today we have Madison Harris and Pam Sandloop. Starting with the Planning Staff that's sitting out in the audience. We have Hannah Sabo, our Zoning Administrator, Hoa Dao, and Marchelle Coleman with our Current Planning team. Online, we have Carolyn Smith from long distance away, but she is paying attention. So if anybody wants to toss anything Carolyn's way, you're free to do that as well.

Robert J. Tajan:

We have Brandon Hackney, who's one of our Planners in Zoning. Levi Luckenbach, who's also a Zoning Inspector with us. He is assisting with short-term rentals now. Michaela McKinney, Hank Morrison, Carrie Bookholt, Elizabeth Nowak and Ric Lowman, who's our Transportation Engineer as well.

Dave Redmond:

Thank you, Mr. Tajan, and I will also note that we have David Couch with the Department of Economic Development who is with us in the room today as well. So he'll keep a good eye on us too. Thank you, Mr. Chairman.

Jack Wall:

Okay. Thank you, Mr. Redmond. Next I've asked the clerk to describe the rules in order of business for today's meeting.

Madam Clerk:

Thank you, Mr. Chairman. The Virginia Beach Planning Commission takes pride in being 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 cell phones be put on silent during this meeting. Following is an abbreviated explanation of the rules. The complete set of rules is located in the front of the Planning Commission agenda. The order of business for this hearing; withdraws and deferrals. The Chairman will ask if there are any requests to withdraw or defer an item on the agenda. Consideration of these requests will be made first.

Madam Clerk:

Consent agenda, the second order of business is the consent agenda, which are those items that the Planning Commission believe are unopposed and which have favorable staff recommendation. Regular agenda, the Commission will then proceed with the remaining items on the agenda. Today, we will have both in-person speakers and speakers participating via WebEx. 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 speakers participating via WebEx. Speakers in support or opposition of an agenda item will have three minutes to speak unless they are solely representing a large group, such as a civic league or homeowners association. In which case, they will have 10 minutes.

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

Jack Wall:

Thank you, Madam Clerk. The next order of business is the consideration of requests to withdraw or defer an item. Please come forward if you have any items to be withdrawn. Okay. Seeing none, please come forward if you have any items to be deferred. Okay, all right. Thank

you. The next order of this is the consent agenda and I'm going to turn that over to the vice chair to run that portion of the meeting.

George Alcaraz:

Thank you, Mr. Chair. Today we have four items on the consent agenda. These applications that are recommended for approval by staff and the Planning Commission have concurred and the... I'm sorry. And there are no speakers signed for in opposition at this time. Is that correct? Okay. Item number one, An Ordinance to amend Section 111 of the City Zoning Ordinance to add terms related to energy storage facilities, an Ordinance to add Sections 225.02 City Zoning Ordinance to add requirements to energy storage facilities, an Ordinance to amend Sections 1001 of the City Zoning Ordinance to include energy storage facility as a use permit with a conditional use permit in the I-1 and I-2 Industrial Districts, and I'm asking the Zoning Administrator, please come forward and present this agenda.

Hannah Sabo:

Thank you. Yes, this amendment was sponsored by Vice Mayor Wilson. It does include three portions. The first portion is an amendment to Section 111 of the City's Zoning Ordinance to add the definitions of energy storage facility and decommissioning. The second portion is adding Section 225.02 to the Zoning Ordinance that would add the requirements to the energy storage facilities as a new use, including a hundred foot setback and landscaping requirements and decommissioning. And then the last portion is an Ordinance to amend Section 1001 of the Zoning Ordinance to include energy storage facilities as a use permitted in the I-1 and I-2 Industrial Districts, both with a conditional use permit.

George Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? All right. Hearing none, I'm going to go to consent agenda item number two, Baker Road Properties, LLC for I-1 Light Industrial District Conditional A-36 Apartment District. Is there a representative here to speak? Please state your name for the record.

Rob Beaman:

Thank you, Mr. Vice Chairman. For the record, my name is Rob Beaman, local land use attorney with the Troutman Pepper law firm. Here today on behalf of the applicant, we've had a chance to read the conditions, they're acceptable and we appreciate being on consent. Thank you very much.

George Alcaraz:

Thank you. Is there any opposition to this being placed on the consent agenda? Hearing none, I've asked Commissioner Dave Redmond to read this for the record.

Dave Redmond:

Thank you, Mr. Alcaraz. Mr. Chairman, this is an application of Baker Road Properties, LLC for Conditional Rezoning from I-1 Light Industrial to Conditional A-36 Apartment District on Baker Road in the Bayside District. The applicant is requesting to rezone an almost 15 acre parcel from I-1, as I mentioned to Conditional A-36 Apartment to redevelop the property with a 524 unit multi-family residential community. That would result in a density of about 35 and a half units per acre. This property is located and there you can see the graphic showing the layout of the buildings. This property is located within the Burton Station Strategic Growth Area, and it's

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

City of Virginia Beach

An Ordinance to amend Section 111 of the City Zoning Ordinance to add terms related to energy storage facilities. An Ordinance to add Section 225.02 to the City Zoning Ordinance to add requirements to energy storage facilities. An Ordinance to amend Sections 1001 of the City Zoning Ordinance to include energy storage facility as a use permitted with Conditional Use Permit in the I-1 and I-2 Industrial Districts.

RECOMMENDE FOR APPROVAL – CONSENT

Jack Wall:

Thank you, Madam Clerk. The next order of business is the consideration of requests to withdraw or defer an item. Please come forward if you have any items to be withdrawn. Okay. Seeing none, please come forward if you have any items to be deferred. Okay, all right. Thank you. The next order of this is the consent agenda and I'm going to turn that over to the vice chair to run that portion of the meeting.

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George Alcaraz:

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George Alcaraz:

Thank you. Mr. Chair, that was the last item on the consent agenda. Consent agenda and the Commission places the following applications on the consent agenda, items one, two, four and five.

Jack Wall:

Okay. Thank you. Do I have a motion to approve by consent items one, two, four, and five?

Madam Clerk:

I'm sorry, Mr. Wall, who made that motion?

John H. Coston:

George made it.

George Alcaraz:

Yeah. I was going to make it.

Jack Wall:

Yes. Yeah, go ahead.

George Alcaraz:

Thank you. I make a motion to approve agendas one, two, four, and five in the consent agenda.

Jack Wall:

Okay, thank you. It's there a second?

Donald H. Horsley:

Second.

Jack Wall:

Okay.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Yes?

Dave Redmond:

Mr. Chairman, I am going to vote in favor of those items on the consent agenda. However, I should note that I have a letter on with the City Attorney's office. So I will specifically be abstaining on agenda items, number four and five, the two short-term rental applications. I have a client in the travel industry and I abstain from not just individual applications, but any sorts of ordinances that relate to that as well. Thank you.

Jack Wall:

Okay. Thank you. So we have a second. Do we have any other abstentions? Okay. The motion for approval is made by Mr. Alcaraz and seconded by Mr. Horsley.

Madam Clerk:

Thank you, Mr. Chairman. The vote is open.

Barry Frankenfield:

Let's see if I can do this. I've never done this before. I've never done it before.

Madam Clerk:

By recorded vote of 11 in favor and zero against agenda items one and two, are recommended for approval. By recorded vote of 10 in favor, zero against with an abstention by Mr. Redmond on agenda items four and five have been recommended for approval.

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

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

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

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? All right. Hearing none, I'm going to go to consent agenda item number two, Baker Road Properties, LLC for I-1 Light Industrial District Conditional A-36 Apartment District. Is there a representative here to speak? Please state your name for the record.

Rob Beaman:

Thank you, Mr. Vice Chairman. For the record, my name is Rob Beaman, local land use attorney with the Troutman Pepper law firm. Here today on behalf of the applicant, we've had a chance to read the conditions, they're acceptable and we appreciate being on consent. Thank you very much.

George Alcaraz:

Thank you. Is there any opposition to this being placed on the consent agenda? Hearing none, I've asked Commissioner Dave Redmond to read this for the record.

Dave Redmond:

Thank you, Mr. Alcaraz. Mr. Chairman, this is an application of Baker Road Properties, LLC for Conditional Rezoning from I-1 Light Industrial to Conditional A-36 Apartment District on Baker Road in the Bayside District. The applicant is requesting to rezone an almost 15 acre parcel from I-1, as I mentioned to Conditional A-36 Apartment to redevelop the property with a 524 unit multi-family residential community. That would result in a density of about 35 and a half units per acre. This property is located and there you can see the graphic showing the layout of the buildings. This property is located within the Burton Station Strategic Growth Area, and it's currently developed with a vacant and unfinished sports complex. You've probably seen... Thank you. You've probably seen that complex for many years. It was not successful. Consists of a football field, some support buildings, some paved areas, but it's not in great shape.

Dave Redmond:

The submitted site plan depicts two buildings, each four stories in height and each will have an extensive amenities package. As you can see, there are two stormwater ponds. There's a great deal of new landscaping. The development requires 930 spaces, 930 spaces by code parking spaces. It actually has 20 parking spaces beyond that. So it certainly is adequately parked. More importantly, the project helps to diversify the existing product within Burton Station. It replaces an aging and failing unfinished potential business with a highly desirable use, namely housing, which is in short supply and does so... Thank you again, laptop guru. With a modern design that will fit well into the Burton Station area. In short, it's a positive improvement on the property that serves a particularly needed use. There was no opposition today and the Commission therefore places it on a consent. Thank you, Mr. Chairman.

George Alcaraz:

Thank you. Mr. Chair, that was the last item on the consent agenda. Consent agenda and the Commission places the following applications on the consent agenda, items one, two, four and five.

Jack Wall:

Okay. Thank you. Do I have a motion to approve by consent items one, two, four, and five?

Madam Clerk:

I'm sorry, Mr. Wall, who made that motion?

John H. Coston:

George made it.

George Alcaraz:

Yeah. I was going to make it.

Jack Wall:

Yes. Yeah, go ahead.

George Alcaraz:

Thank you. I make a motion to approve agendas one, two, four, and five in the consent agenda.

Jack Wall:

Okay, thank you. It's there a second?

Donald H. Horsley:

Second.

Jack Wall:

Okay.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Yes?

Dave Redmond:

Mr. Chairman, I am going to vote in favor of those items on the consent agenda. However, I should note that I have a letter on with the City Attorney's office. So I will specifically be abstaining on agenda items, number four and five, the two short-term rental applications. I have a client in the travel industry and I abstain from not just individual applications, but any sorts of ordinances that relate to that as well. Thank you.

Jack Wall:

Okay. Thank you. So we have a second. Do we have any other abstentions? Okay. The motion for approval is made by Mr. Alcaraz and seconded by Mr. Horsley.

Madam Clerk:

Thank you, Mr. Chairman. The vote is open.

Barry Frankenfield:

Let's see if I can do this. I've never done this before. I've never done it before.

Madam Clerk:

By recorded vote of 11 in favor and zero against agenda items one and two, are recommended for approval. By recorded vote of 10 in favor, zero against with an abstention by Mr. Redmond on agenda items four and five have been recommended for approval.

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Alcaraz	AYE			
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Coston	AYE			
Cuellar	AYE			
Frankenfield	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 developed, the Property shall be developed in substantial conformity with the conceptual site plan entitled “Baker Road Apartments”, dated August 30, 2021, and prepared by Vanasse Hangen Brustlin, Inc. (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 2:

The quality of architectural design and materials of the building constructed on the Property, when developed, shall be in substantial conformity with the exhibits prepared by Cox, Kliever & Company, P.C., entitled “Baker Road Apartments - Elevation at Entrance, Material Key”, dated October 26, 2021, and “Baker Road Conceptual Rendering”, dated October 12, 2021 (together the “Elevations”), copies of which are on file with the Department of Planning and have been exhibited to the Virginia Beach City Council.

Proffer 3:

Landscaping installed on the Property, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Vanasse Hangen Brustlin, Inc., entitled “Conceptual Planting Plan”, and dated September 9, 2021 (the “Landscape Plan”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 4:

The community identification sign on the Property shall be a monument-style sign not exceeding eight (8) feet in height, and the design and the materials used for the sign will be compatible with the building materials and design used for the multifamily residential buildings depicted on the Elevations.

Proffer 5:

Further conditions lawfully imposed by applicable development ordinances may be required by the Grantee during detailed site plan and/or subdivision review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

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

**Virginia Beach Planning Commission
March 9, 2022 Public Meeting
Agenda Item #3**

North Independence Storage, LLC [Applicant]
Wells Fargo [Property Owner]

Conditional Use Permit (Mini Warehouse)

1612 Independence Boulevard

RECOMMENDED FOR APPROVAL - HEARD

Jack Wall:

Okay. Thank you. If you had an application that was on the consent agenda, your request will now be scheduled for an upcoming City Council meeting. Staff will contact you about the date. For those applications on the consent agenda, thank you for your participation. You can remain for the rest of the meeting either virtually or in person, but you are free to leave. All right. So, the next order of business is the regular agenda. Madam Clerk, we are ready for the first item.

Madam Clerk:

Thank you, Mr. Chairman. Agenda item number three, North Independence Storage, LLC, an application for a Conditional Use Permit Mini Warehouse on property located at 1612 Independence Boulevard, located in District 9, formerly Bayside.

R.J. Nutter:

And I appreciate it. Mr. Chairman, for the record, my name's R.J. Nutter. I represent the applicant in this case, North Independence Storage, LLC. Appreciate your time this afternoon and your willingness to look at this application. I want to begin by thanking staff though. Marchelle did a terrific job of keeping us informed along the way. I would tell you we've been working closely with residents of that area. And I always like to work closely with the District representatives, as you know, both here and on Council, whenever we have an application. So having said all that, let me tailor it about the property. This property is zoned Unconditional B2. It is sandwiched between a used car facility, that is also zoned Unconditional B2 and a small shopping center, which is also zoned Unconditional B2. All of these properties were developed years ago. None of them have stormwater facilities.

R.J. Nutter:

As you can see, many of them are almost all completely impervious. In fact, it's the Wells Fargo site in the center that has any degree of some non-impervious areas or pervious areas whatsoever. And I bring that up because one of the concerns we heard by raised by residents and in some of the emails you may have received, have to do with the stormwater system here.

And so I want you to know that all three these properties have no stormwater programs whatsoever, and they're adjacent to the townhouses, which apparently have experienced some flooding in the past. One of the nice parts about this application is you can see here is that we'll be putting in the first stormwater system of any of these three properties. And as you know, with the stormwater program, much of which you're going to hear later today, the City of Virginia Beach has the toughest stormwater program in all of Virginia.

R.J. Nutter:

None of that was applicable when these properties were developed previously, but I point that out to you because quite frankly, we'll be channeling all the water toward Independence Boulevard. In addition to that, one of the owners we spoke to yesterday indicated that there is a... The property slant with this... Anyway, the property slant in the back toward their townhouses. So, we went out there and looked at and she's absolutely right. So, what we'll have to do is grade that area away so that it no longer dips down toward their properties. So, we'll have to devise a system in there. But I told her yesterday we would do that after I'd put on the record, we would do that. So, the net effect of this will be, if there is water coming off this site today from this property into their townhouses, we'll be capturing it and putting away, forwarding into underground systems adjacent to Independence Boulevard, the parking area. None of that exists today.

R.J. Nutter:

But I want to point that out to you because it was a major concern that they heard, but as I indicated, these properties are all Unconditional B2. And this is a use as you know, in hearing these applications before, that has amongst the least traffic impact of any use. And it also has a great reputation being amongst the quietest, least problematic use that you can have. That's important because this property can be developed in any manner by right. And so, I would submit to you that when this all done, it will be far less impactful on the adjacent townhomes than the other adjacent uses namely a used car lot and a shopping center. So, it would have a far less impact than any of the use that you could have.

R.J. Nutter:

I'd also point out that uses like this are still storage facilities. And this one, as you know, it's fully self-contained, fully conditioned three stories. It only has three employees. So, it's basically an unoccupied building. So, no one's looking down behind them. No one's looking down. In fact, one of the staff things we looked at was putting in some fake windows in the back, but we didn't want the residents behind it to think that maybe there's somebody in the building, looking down. So, we did architectural features to the building to make it articulate well instead of fake windows, for that very purpose. Anyway, that's one of the things we looked at here. But the other thing about this type of use, these type uses are proliferating all over the city in major commercial areas. They're on almost every major road in the city, Virginia Beach Boulevard,

Holland Road, Shore Drive, Independence Boulevard, Indian River Road, Birdneck Road, Laskin Road, Lynnhaven Parkway.

R.J. Nutter:

If you've got a commercial quarter, you're likely to see a self-storage facility there. And as you know, the new ones look like office buildings. They don't look like one-story buildings with a whole bunch of garage doors. So, this is a use that's predominant in areas like this. It's a use that will have less impact than the use of adjacent to it. And it's a use that will frankly improve the conditions of the residents behind it. Now, a couple things I'd like to point out as well about this is that among the problems that we faced... But can I go back to the photograph that shows the townhouses in the front? If I could? Is one of the previous ones. There we go. This one on the left, as you can see, these homes are completely exposed to quite frankly, Independence Boulevard, and Independence has, as we know from Ric Lowman, amongst the highest traffic counts in the city. It also has a lot of emergency vehicles because the police department is just down the street, Bayside Hospital is just down the street.

R.J. Nutter:

And so there's a lot of emergency vehicles coming out here. This building will completely block the sound and lights visible from Independence Boulevard from those homes. This is the exact same condition, actually, Ms. Oliver mentioned it this morning on one Oriole Drive. And when we approved that application years ago with this Commission, we found that it actually blocked the sound and the noise of the condominiums directly behind it. So, this would have the exact same effect here on these properties. So, what we focused on in this process was how we minimize impact on the adjacent property. And so, we had a building design that looks like an office, number one, we did extra landscaping, and which was a big concern, frankly, of the district representative, Mr. Redmond sitting there, was very concerned about this. We put additional landscaping here in the front and we put additional landscaping in the back.

R.J. Nutter:

But we really emphasized a lot in the front to soften the look of the building. So that's been done. We eliminated vehicular access around the sides and the rear of the building. As you know, today, there's a drive through back there with two, three drive lanes and someone can go in there, reconvert that building in any number of things to have traffic behind those homes, behind the building. And all of that's eliminated by virtue of this application. Now what that did, however, if we do that and we did, it puts a lot of emphasis on the vehicular internal access in the front. So, we don't have the ability to go around the building. But at any rate, I didn't want to let you know that that's part of the reason why we were seeking two access points. Now, I will tell you, I sat in the earlier session and talked to my client in the interim, and we are willing to eliminate one, which is condition five.

R.J. Nutter:

We're willing to eliminate one of those two access ways. The benefit of that is from traffic from Ric's perspective and Ms. Oliver, from your perspective, perhaps is that, and certainly David is that allows us to put additional landscaping in the front of the building. So, we address Ric's problem. We address David's issue of additional landscaping beyond what the city would otherwise require. And so, we are happy to make that concession. As you can see, we've tried to address concerns of adjacent property owners. One of the things I'll tell you is that there's the used car facility next door. My client met with them on several occasions, and he was concerned about visibility. And this was, I've never seen a client do this, but these are really nice group here. They actually removed the 20-foot by 20-foot portion building there in the kind of lower right-hand corner of the building.

R.J. Nutter:

You see jobs out like that. They did that just to provide additional visibility for the people next door, even though this building now and then complied fully well setback requirements now, and then. So, you've got an application therefore for you that has lower impact than any existing uses. It has lower traffic impact. It shields the residents in the back from noise. It puts in the first stormwater system in that entire area, along the lines. And if I could address one other thing, condition number five is that we will comply with. Condition number seven relating to lighting. If I could address that a little bit, because there were some concerns raised about that with Ms. Jones that I spoke too yesterday. And I think she was concerned that it's in Section 7B that the light fixtures would not exceed 14 feet. I think she was thinking that was in the back of the building.

R.J. Nutter:

So, I think we'd like to put lighting fixtures in the parking lot would not exceed 14 feet. And finally, we told her that the only lighting we planned to put in, Mr. Coston, is the inventive fire department requires, lighting of our emergency door. We don't plan to have any lighting back there. We planned out to just leave it alone. And we think that's a benefit to everyone. So I would want to let everybody know that for the record as well. And we're happy to amend it to say that no lighting in the rear, which should only be lighting approved by the fire department for an emergency exit access way, Sir. But those are the conditions we wanted to touch base with you on, and I'm happy to answer questions you have.

R.J. Nutter:

One other thing I tell you, my client couldn't be here today. It's spring break for a lot of families and many people are out of town and unfortunately, but he went to an amazing length to try to outreach people here. And what I've learned is two things. Outreach is a two-way street. He went to put in the doors of every single townhouse, was about nine of them, invited people to a meeting before the signs went up, by the way, which was over two months ago and to a meeting and we rented a restaurant, invited them to come and no one showed up.

Dee Oliver:

Really?

R.J. Nutter:

No one showed up. And this happens, but we wanted to reach out to them. And in fact, you'll see in your package, we only sent a copy of what we sent. We sent the flyer that we put into people's doors and so forth. We also then went with the owner of the shopping center next door. At the time, she was perfectly happy. I can't explain the recanting of her position, but we met with her as well. And then of course, I've indicated, we met with adjacent property owner to the well, to the right-

Connie Jones:

we got a fire extinguisher so we can-

Jack Wall:

Excuse me. Hang on. Yeah.

R.J. Nutter:

So, at any rate, that's right, we met with him and that's what resulted in us taking off a corner of the building. As you can see, this is an applicant who's done a great job of outreach and a great job of trying to address issues that were brought to the attention. And we appreciate staff's recommendation, and we would ask for your recommendation as well and happy to answer any questions, Mr. Wall, as always.

Jack Wall:

Okay. Thank you. Are there any questions for the applicant? Mr. Redmond.

Dave Redmond:

I want to confirm a couple things you said. First off, it was probably what three months ago, you first approached me with this and said, I want talk to you about this application that's coming. And I will also confirm that both you and the applicant were very responsive to the concerns that I'd raised, and we talked about over many, many, many months. They were the appearance of the building and that I really hope that it could be really intensely landscaped up front to improve that appearance to Independence Boulevard, precisely because it does have a lot of traffic. And so all of that is absolutely true. It's not all that common that we get that. So, I do appreciate you doing that.

R.J. Nutter:

Yes, sir. Happy to do that. Happy to do so. And any other questions?

Jack Wall:

Anyone else?

R.J. Nutter:

No?

Jack Wall:

I've got a question.

R.J. Nutter:

Oh, Mr. Wall. Yes, sir.

Jack Wall:

Where's the stormwater going to go, stormwater management?

R.J. Nutter:

Yeah, it goes... We'll be putting very expensive underground tanks. And what'll happen, Mr. Wall, is we'll have to grade that property away. So, it now drains, it's now almost surface flow. It drops down right by the condos. The townhouse is right behind it, but that's only in about a 15-foot area. So, we got to regrade that area so that drains forward. We then capture that in stormwater systems back there, some manholes, and be piped into the stormwater system and the outfall will be into the public right away along Independence Boulevard. So, you won't see them in other words, but it'll be underground.

R.J. Nutter:

Yes, sir. And the city by the way, has to approve all that. And you go through quite a bit of analysis as you all know very well. And as the speakers who are coming to speak to you later are going to tell you about as well. So, you have a very robust stormwater system here. One thing I'll tell you, we won't be causing flooding. That's for sure. But I appreciate your question, Mr. Wall.

Jack Wall:

Okay. Thank you.

R.J. Nutter:

Thank you very much.

Jack Wall:

Okay, all right. Madam Clerk, are there any speakers for this item?

Madam Clerk:

Yes, sir. We have three. One is in person and two are WebEx. So, I'll call the in-person speaker first. Connie Jones.

Connie Jones:

That would be me.

Jack Wall:

Could you state your name for the record please?

Connie Jones:

My name is Connie Jones and I own one of the townhouses that's directly behind in the middle behind. I wanted to first say that I only became aware of the mini warehouse seven days ago when I received from the City of Virginia Beach notice that there was going to be a warehouse built there. And which is this. I immediately call my councilman, Louis Jones. And he told me to get more information, to call the city manager's office. And I did, and Karen Gest was able to get me the information to help. And I have spoken with each townhouse resident that is directly behind this development. I want to go back for just a second. And I want to say that when I got the notice, I envision a mini warehouse and I want to describe with this mini warehouse is. It is a building that will take up about an acre.

Connie Jones:

That whole thing is going to be a building and they have proposed that it'd be 40 feet high, a wall, 40 feet high. And actually, they can only do it 35 feet high because the code says that if you're within at 100 feet of a residence, it could not be higher than 35 feet. So, they're going to have to scale it down back a little bit to 35. And so you've got a three-story, 90,000 square feet of warehouse space. That's nine, zero, zero, zero, zero, 90,000. And it's going to be built. The back wall is going to be 15 feet. I don't know. I need to get my tape measure out, but I think you're about 15 feet from me. That's 35 feet high, and it's going to be take up an acre. Now that's a mini warehouse. I don't know what a regular warehouse is going to be.

Jack Wall:

Yep. Well, you're... Unfortunately, your time is... You only get three minutes.

Connie Jones:

Okay. So, I want to get right to it.

Jack Wall:

Okay. Just get right to it.

Connie Jones:

I talked to Mr. Nutter yesterday and Mr. Mentor. And I said about the flooding right now as he... That's why he brought it up. I told him, this is what I'm going to speak about today is that right now he's been there for 40 years. And the original plan was for the rear of our property was to drain back into a swell and will go to the-

Jack Wall:

All right. Yeah, we're going to have to wrap it up here.

Connie Jones:

And we have to make it a requirement that he doesn't dump the water. The stormwater goes to us.

Jack Wall:

Okay. So, your time is up, but how about I ask you a question?

Connie Jones:

All right.

Jack Wall:

So, what are your thoughts on the stormwater?

Connie Jones:

I'm sorry.

Jack Wall:

Can you please describe the existing conditions of the stormwater out there behind your townhouse?

Connie Jones:

The rainfall, when it rains, it hits the asphalt in back of us and it drains because of the slope. It drains right into us and with a B2 and he, this isn't his first rodeo. He's built two in Virginia Beach, two in Norfolk, two in Portsmouth, two... He's built them. He's been building them.

Jack Wall:

So, the stormwater-

Connie Jones:

And he builds it all the way to the lot line and then it drops everything, and he builds this land up and then it drops directly off. And when it drops off, all that water comes to us.

Jack Wall:

And one thing about that is that there is Development Services Center. They work very hard to prevent that kind of problem, that the adjacent property doesn't drain onto the residents that are directly adjacent to a development. And I think Mr. Nutter kind of addressed that their intent is to take everything from their site to the front. So, I think that's probably addressed fairly well.

Connie Jones:

That he's going to take everything to the front.

Jack Wall:

Yes. Yes, Ma'am.

Connie Jones:

Yes, I understand. There's an architect that lives next door to my townhouse. And he came to the planning department, looked at it and said that they cannot on their 40 foot or 35-foot-tall building, they can't just dump it onto us. They're going to have to take it underground and pull it to the front. But it's not only the water coming off his building, it's rainfall as the rain comes down and the slope is into us right now. And we have a 20-foot buffer between us and a road. Not only is that road going to be gone, our 20-foot buffer will become a 15-foot buffer. And the only plan is to worry about some shrubs, putting shrubs back there and a few trees. Well, it's not the trees and the shrubs, I'm concerned about direct water slide rainfall, and we have been flooded out and that the residents, several of them have put rain barrels.

Jack Wall:

It's Ms. Jones, correct?

Connie Jones:

Mrs. Jones. Connie Jones.

Jack Wall:

You currently have drainage problems. Is that what you're saying? Or do you have-

Connie Jones:

He is buying a problem that already exists. It will be no cost additional to him to take care of the drain problem and he can do it. And I talked to him yesterday and I talked to the owner, oh, the buyer, Mr. Mentor. And I said that you know this is a problem. It is a problem, we flood and it needs to be taken care of.

Jack Wall:

Okay, all right.

Connie Jones:

And I want it put in the regulations that this is required.

Jack Wall:

Yeah. So Mr. Weiner.

David Weiner:

I would love... I invite you to stay after this is over and listen to our workshop on stormwater, because what we're going to get involved in after this. You'll understand a little bit more because what application, what a development has to do these days to get the water moved away from you. It's not only going to move the water away from you, but it's going to help with your drainage too, okay? You're going to be surprised. So, it's something that our city's been working on for a couple years now, and it's pretty intense. And these builders have to follow these rules and regulations or they're not going to get passed. They're not going to be able to build. And there's stormwater models that have to be conducted and have to be gone through and make sure that it's going to work. So, it's not like we just started working on this. It's been going on for a few years now. So, I welcome you to stay afterwards if you like to, get into it. It's going to be interesting.

Jack Wall:

Okay, all right. Thank you. Are there any other questions for Ms. Jones? Anybody else? I really appreciate your time. Thank you for coming.

Connie Jones:

I just want to say that the only people I could get ahold of in the short few days was the residents there. The only people that got notice are the two owner occupants. That's the only two people. The third owner occupant is overseas and understand, she's trying to be a part of the Zoom, the web, so that she can hear what's going on, but she's stationed overseas and out of the country.

Jack Wall:

I do have one more question. Sorry. So, you're in the middle. You're an owner. Are you an owner... You own and occupy?

Connie Jones:

No, I own, but I have a tenant.

Jack Wall:

Do you have a tenant? And the only other, so you mean all the other ones are rentals? Is this what you-

Connie Jones:

No, three of the eight are owner occupied.

Jack Wall:

Owner occupied. Okay. Sure.

Connie Jones:

And those three people are the only ones that got notice. They got a flyer on their door. One of those three is stationed overseas in the military and did not receive theirs. So only two people got noticed, until the city by law, by state law notified us.

Jack Wall:

Understood. Okay. Thank you, Ms. Jones. I appreciate it very much. Madam Clerk.

Madam Clerk:

Yes. Thank you, Mr. Chairman. We have two more speakers, both WebEx. Calling Melanie Tuhl, if you'll please wait two to three seconds and then state your name and go directly into your comments.

Melanie Tuhl:

Hi, I'm Melanie Tuhl. In short, I think the stormwater drainage is wonderful. It's good that that's going to be a requirement. That was one of my main concerns was our drainage issue. We have gotten a hold of the bank that used to own the property, and we've had many letters submitted. I've called the city about this problem, and we've never really been able to get anywhere. Also, my due diligence was probably not into it at the time, but now that this huge building is going up behind us, it does scare me about the flood and the water coming into my home. I've had to buy new floor and furniture and things twice due to the flooding of that road that's behind us. My only other concern really is flood lights, which he addressed that he's only required to put with the fire department once out back.

Melanie Tuhl:

I don't want it to be 15-foot. I guess no one's addressed this, the property line. We have Verizon that runs behind our house. We actually have boxes that are in the corners of our backyard. We're going to have to be able to have more than just an alleyway. So, I want that to be readdressed with me, because I didn't really hear too much about where it is exactly going to go from our property line. 35-foot, from what understand, the whole thing has to be 35-foot or less. And it sounds like he's trying to do 40-foot in the front. So that needs to be addressed. Light, of course, none of us are going to get sunlight from this huge building. Yes, it'll be pretty in the front, but it's not going to be pretty on the side when we can see anything but a three-story building. Literally, throw a rock at it.

Melanie Tuhl:

Let me think. I also just want to say that I've been here for 25 years. I have owned it and lived here for 25 years and I just want to say that flyer, that they stated that they put on our door, that's awesome. But we get a lot of things on our door, pizza places, and things of that nature that we don't look at. If he really, really wanted to get a hold of us, he should have went door to door and just knocked on it and let us answer it and let him tell us face to face what he was planning. And I would have loved to have gone to dinner. I would have gone to dinner, and for no one to show up tells me that, yes, he tried to do something that shows he did something, but he really didn't want our input because he wants his building up. So...

Jack Wall:

Thank you for that... Your time was up and I'm sorry that was cut off that way, but that's just the way it is.

Madam Clerk:

Okay, Mr. Chairman, one more speaker. Oh, I guess we have one more in person. All right. We'll proceed with our next WebEx speaker. Ida Ortez. Ms. Ortez, if you would please wait two to three seconds and then state your name and proceed directly into your comment. You will have three minutes.

Ida Ortez:

Hi, my name is Ida Ortez, and I am the owner that is overseas temporarily. So I didn't get ahold of the message to be here. Ms. Melanie Tuhl has basically just displayed all my concerns as well for the storm, the water storm drainage and the lighting for the backyard. My townhome is one of the most affected one by flooding. My backyard gets completely covered by water when it rains. I think the layers of the streets of the Well Fargo is at the highest point facing my backyard. So that's one of the concern. Definitely the access from the backyard is another concern as well. And yes, probably a knock at the door so that I could have seen it with my

camera. Would've been definitely beneficial so that I could have gotten in touch with the, I guess, the owner of the property. Other than that, those are my concerns. Thank you.

Jack Wall:

Okay. Thank you. Madam Clerk, do we have any more speakers?

Madam Clerk:

Yes, sir. Mr. Chairman, we have two additional in-person speakers. Jeff Ward.

Jack Wall:

Can you state your name for the record?

Jeff Ward:

Yes, Jeff Ward.

Jack Wall:

Okay. Mr. Ward, you've got three minutes. And then you, when the yellow light starts to blink, then that's kind of a warning.

Jeff Ward:

Gotcha. Okay, great. Thank you. All right. I appreciate it. I just find out about this less than 24 hours ago. I live at 4731 Donelson Road. I'm a owner, occupant. My main concern's I've been in living 14 years. Definitely it's a very tall building. Ironically, I'm a real estate appraiser, been doing that for over 20 years, residential. One concern I have is property values. If I walk outside my door and I see this very large building, that's going above the residences that can definitely have an impact on value. If it bothers me, it would bother somebody that would want to buy my house. That's a concern I have. But this first I've heard about it 24 hours ago. They came by through the neighborhood yesterday with petitions. And so I just heard about it and I'm apologize I'm not totally prepared, but so I showed up today. But that's my main concern really.

Jeff Ward:

It seems like there's this is a very tall storage facility, looks like three or four-stories, 40 feet. That's something more you would see on Northampton Boulevard or Virginia Beach Boulevard. It's got a very... This is not really compatible to surrounding uses. Definitely a very... It's a good community, but it's always been commercial back there. We expect it would be commercial or something nonresidential, but something that's that high, it's definitely kind of an eyesore if... I don't live directly behind, but if I did, that would definitely be even bigger concern. But even just being across the street, just having that view, it's going to be something that's can possibly impact the value of the properties.

Jeff Ward:

And in regard to Independence Boulevard, that's not really a big impact. It's quite a few feet from it. I've never had a problem with traffic noise or heard about it. So that's currently not an issue. I like the fact it's always been kind of a small building right there. You got that little bit of space, but that's my main opposition to it. And I never, maybe he put the notices out. I work from home, but I've first heard about it till yesterday. So yeah, that's all I have.

Jack Wall:

Okay. Thank you. Are there any questions for Mr. Ward?

George Alcaraz:

I do. Can you point where your residence is, where you at?

Jeff Ward:

Yes.

George Alcaraz:

The pointer right there on your podium.

Jeff Ward:

Where is it? Oh, this right here. Okay. Let's see. Do I just... Let's see. Do I press a red button or...

George Alcaraz:

Can you just see something on the map, just to show?

Jeff Ward:

Yeah, it's actually cut off, but the top right hand corner. It's the fifth house from the end.

George Alcaraz:

And you, and...

Jeff Ward:

Yeah, right behind Smokey Road. If you can see that, right in the middle that road.

George Alcaraz:

Are you having drainage issues also?

Jeff Ward:

Not for my property. I know we do have some, I do remember when some people had major property damage that back right up to it. Then on us, also on Andrew Jackson lane, it gets backed up. Sometimes it gets a big puddle. But yeah.

Jack Wall:

Okay. Thank you. Anybody else? Okay. I appreciate it.

Jeff Ward:

Okay, great.

Madam Clerk:

Mr. Chairman, our final speaker, Eugene Chircu.

Eugene Chircu:

How you doing, everybody?

Jack Wall:

Good. Could you state your name for the record, please?

Eugene Chircu:

My name is Eugene Chircu and I own the property at the dealership right beside of it.

Jack Wall:

Okay. And just note that you've got three minutes. When the yellow light blinks, then you have 30 seconds.

Eugene Chircu:

That's fine. Yeah, I was just trying to talk in regards of all the people that live there because everybody approached me, and I wanted to know what's going on in there. So basically, I just wanted to talk about it that everybody's opposing, the back people in the back, the owner of the commercial thing, and I'm going to propose for it because of the massive building that's going to be over there. Stormwater is one thing. I don't know how they're going to manage that. I guess they're going to do something on the ground, but I shortly don't believe that the massive building that's actually going to be an acre on a whole property. The whole property is 1.3 acres, and the building is going to be one acre. So, it's telling me that the huge, massive building that's actually, I think is belonging to an industrial somewhere of long, i would say somewhere, not in this area, it's got to be constructed somewhere else, not here.

Eugene Chircu:

And at the same time, I'm thinking it's just too massive of the building. I talked with the actual guy who's trying to buy it. I didn't see the plans till I get them probably a couple days ago. And I see it that on a map, the way this building is going to be located at, it's going to be too big. So also, the traffic's going to impact over there. We also have a lot of traffic. It's already having a problem with the traffic because it's only a two lane well, actually gets to a three-lane close to Virginia Beach. When it gets close to the base, it's only two lanes go on one side and we're already having problems with the traffic coming along with it. Like I said, I'm just concerning about the massive building it's going to be. The walls that's going to face my business that I've been conducting over there for years. And the fact that the building that is going to stay right on my property line. That's kind of not acceptable to me.

Eugene Chircu:

So basically, I have course parked right on the side of it and I'm going to have a huge 35-foot wall right on the side of it. That's not acceptable to me. I know they did some changes to the building, and I appreciate that fact that they cut a little piece or whatever, something like that. But the fact that... I was thinking about it, is it's just going to be a huge building that does not belong there. I can't get to this idea that it's going to... I'm going to have... I have a small little office and a lot of parking lot of course, for the... What's the name? For the cars and stuff. But the fact that the building is going to stay that high, it's going to be so massive. I just can't accept it. That's all. I do. I appreciate you guys. Thank you.

Jack Wall:

Thank you. Hold on, before you leave. Does anybody have any questions for the speaker? I got a couple. So how long have you been there at the site?

Eugene Chircu:

The business, 30 some years.

Jack Wall:

30 some years. Wow. Okay.

George Alcaraz:

Point to it.

Eugene Chircu:

It's right over there. You can see a bunch of course. And that's my building right over there.

Jack Wall:

The right side, correct?

Eugene Chircu:

The right side of the building. And plus, that store, the actual strip mall has been there for a longer than that. She actually owns all their properties, the Wells Fargo and my property as well, long time ago. She had, I'm saying for years, years, years, 40, 50 years ago. And we all bought it from there a while back. So basically...

Eugene Chircu:

... like I said, I don't have nothing to... I am opposing just because of the size of building is. It's just too big of a building for that small of a property. I think such buildings got to be done somewhere over here where you can buy four or five acres and build that kind of building and plus yes, the water, I don't know what kind of, I guess nowadays the engineering, they can do something underneath of it. That's going to make it all pretty and nice that the water's going to get sucked in a front. But the fact it's 30 some thousand square foot building, three store high, all this water's going to collect and it's going to go somewhere.

Eugene Chircu:

My side sits a little higher, so the water's going to slope down, going to Pleasure House Road, but still, I know the people in the back is going to get affected, but I guess I don't know how they're going to do it so they can suck all this water out of it and bring it to the front. It's because of the size of the building is, that's all. That's why I'm concerned about the building. If this building would be a little smaller, so it can have access and some kind of drainages or more landscaping to be done on the left, but he wants to put this building straight on my private line.

Eugene Chircu:

I know this is the law. I know this is B2 district. But the fact is let's say it's a fire over there. So big of a building, how the trucks going to get there? Let's say the fire in the back of the building, whereas the apartments, how they going to get there? It's so narrow spaces in and stuff like that. That's what I'm afraid of it. And I don't care about the building, but that's what I'm afraid of. The bigger building and old is still old things.

Jack Wall:

Yep, okay. Thank you.

Eugene Chircu:

Thank you very much.

Jack Wall:

Oh, yeah. Sorry, Mr. Alcaraz.

George Alcaraz:

Oh, so you've been there 30 years.

Eugene Chircu:

Yes, sir.

George Alcaraz:

I just heard you, so your water or stormwater is sheet flow over the banks right now?

Eugene Chircu:

... I own a piece of land right beside of it. So it's just a graveyard and not a graveyard. It's just how and two pieces of property right beside of it. So it's just empty land. So a lot of water gets in there. That's why I'm not doing anything. I own it for a long time.

George Alcaraz:

I know you just mentioned your stormwater or rainwater goes to goes to Pleasure House. How does it get there?

Eugene Chircu:

Because the side is higher. Our side is higher. That's what I've seen it, that my side is a little higher. It basically goes down, but of course, it's got drainages on the road, on the main road. I guess the road has been constructed that way that it's got them, the water gets underneath of it.

George Alcaraz:

Are you talking in the front or the back?

Eugene Chircu:

The front. Oh, the back, also I have a drainage.

Eugene Chircu:

I have a big drainage that the water gets in there. Yeah. I have to clean it that's based on a planning. I have to clean it every time it's a big grill that the water gets in there. So it's sloped down there.

George Alcaraz:

That's what I wanted to know. Thank you.

Eugene Chircu:

Yep. All right.

Jack Wall:

Thank you. Okay. Anyone else? Okay. Thank you. I appreciate that.

Eugene Chircu:

Thank you.

Jack Wall:

Would the representative like to come up and for rebuttal?

R.J. Nutter:

Yes, sir. Thank you. Thank you all very much. I appreciate it. Couple things, first on the height, we designed this building, so it does comply the ordinance. We put the lowest part of the building in the back. We're under the height requirements back there.

Dee Oliver:

Mr. Nutter, can you speak a little louder?

R.J. Nutter:

Sure. I'm sorry.

Dee Oliver:

Sorry.

R.J. Nutter:

Thank you. Beg your pardon. In terms of the height, we designed this building so they would comply and be actually under the height requirement, the ordinance back there in the back. Stormwater sounds like everybody's pretty happy. That was their big issue. And I can see why. It's interesting to me that we're the only one of anybody who's opposed to this, who's actually fixing the stormwater problem. And the guy who just spoke at the exact same boat. In fact, we took off a piece of this building. He may not appreciate it, but my client did. In fact, it was over 10 days ago, because we had to submit all the drawings back to Marchelle so she could get them in time to get them to you guys in your writeup, which are in the writeup. So it was more than a few days ago.

R.J. Nutter:

Let me tell you the reason this last gentleman spoke, my client met with him on several occasions, multiple. His problem, which he mentioned, he called my client. He's got a dumpster in the back. You look at his property, back in that top corner on the right left-hand side of his property. He's got a dumpster right there and he's been using the Wells Fargo access way to get to his dumpster, and he can't get to his dumpster with this plan. We said, you can relocate your dumpster on your property. We're not going to provide an access way for your dumpster when you own that property. And apparently other properties beyond that. So that's what we've turned, that's it, if you've got a visibility problem, we'll take off this 20-foot piece.

R.J. Nutter:

I can't take care of his dumpster. He should. And he shouldn't put it back there next to those residents in the first place. We have no dumpsters by the way. So, it's just one more thing nice about this application. But I didn't want to address that for you in terms of the height I've already addressed it. Like I said, we've made accommodations to everybody along there. Made sure everybody knew what we were doing. I could tell you this. We went all the trouble to reach out to these people and I'm sorry, it didn't get to them. The owners naturally wouldn't have gotten them because they would've not been there. It'd been their tenants would've been gotten the flyer, but that's what outreach is all about. You got to try and that's what this applicant did. So, we appreciate it and appreciate your vote. Any questions, Mr. Chairman, Ms. Oliver?

Jack Wall:

RJ, before you leave. Ms. Oliver.

R.J. Nutter:

Yes, sir.

Dee Oliver:

Mr. Nutter, would you... I heard, I guess it was our last speaker made a comment about the building actually being on the property line. Can you address that please?

R.J. Nutter:

Yeah, I happy to, because as you can see, it is not, even though I will tell you there's a zero setback between B2 properties, zero. So, we've complied with a setback there. And the other thing we told the residents in the back, we're not only putting the 15-foot strip in the back, but as you can see, the only thing that touches the 15 feet are these certain points of the building. The bulk of that area back there, which is well over 20 feet, by the way. And the nice part about it is there's no cars back there. Whereas if the existing situation, it could be a road back there with cars, nighttime, all that stuff, and people doing some things you wouldn't want to know about back there, all that disappears with this application.

Dee Oliver:

And just one more. I know the one gentleman who doesn't live directly behind but lives around the curve mentioned that he was concerned about his property values and the side of the building. Can you address the landscaping, please?

R.J. Nutter:

The landscaping. I'm happy to, because we exceeded the landscaping requirements by the city. And another thing I point out is we met with people on Oriole Drive. They had some very expensive condominiums directly behind this site. Not only did they not reduce their property values, they increased their property values. It did cut out the noise. And many of you may know some of the residents of that complex. It's a very nice complex, but it cut out the noise from those people. It maintained their property values and their property values have not decreased one iota, not one. And in fact, if anything, if this guy's turns into a restaurant which could easily do, could open till 2:00 AM, B2, nobody has to stand here for a restaurant.

Dee Oliver:

True.

R.J. Nutter:

Nobody has to stand here for a restaurant and then everybody goes crazy. Anyway, thank you for your time and I appreciate your willingness to listen to everything.

Jack Wall:

Okay. Thank you.

R.J. Nutter:

Yes sir.

Jack Wall:

Thank you. Anyone else? Okay.

Connie Jones:

I have a question.

Jack Wall:

I'm sorry, it's closed at this point.

Connie Jones:

It's just making comments about ..

Jack Wall:

Ma'am, I'm sorry. Yeah. I'm sorry. Ma'am, we're close for comment. Robyn, do you have something?

Robyn Klein:

Yes. So, this is a staff question. I'm on the code site, looking at the things that qualify under B2. One of them is a grocery store. So for my reference, what is the maximum height of an Aldi or Lidl that would go in? Is that 40? Is that the same 40 feet limit?

Hoa Dao:

The same provision will apply that within a hundred feet from the property use of residential, it needs to be under 35 feet.

Robyn Klein:

Under 35 feet.

Hoa Dao:

Yep, within a hundred feet of the residential zone property.

Robyn Klein:

Okay. So, and maybe somebody else can clarify this, there isn't part... So, in theory, an Aldi could go into this space? But you're shaking your head now.

Dave Redmond:

It's way too small. It's 1.3 acres. You can't get an Aldi on 1.3 acres; you need two and a half acres.

Robyn Klein:

Okay. So, it was two and a half acres, it could be .. But I'm just saying it's the same, similar size building that could go in this property with the same elevation?

Jack Wall:

By right.

Robyn Klein:

By right.

Jack Wall:

That's right.

George Alcaraz:

A mom and pop grocery store. Yes.

Dee Oliver:

Or bar and grill.

Robyn Klein:

Right. That could have the same elevations, have the same sizes.

Dave Redmond:

But just remember now they're parking requirements that go with more intense retail uses. That scrambles that whole calculus. So this has a much smaller park than something like a grocery store would have. And that everything that they just said in terms of all the stuff, the setbacks, and all the rest of it, it's just a whole different end.

George Alcaraz:

I think she's getting at the size of the building though, what she's talking about. And then I think that was one of the... She's talking about the size of the building.

Robyn Klein:

Okay. Thank you.

George Alcaraz:

But you're talking about one of these other ones would require parks in the building would probably have to be smaller- have to be a smaller building.

Jack Wall:

Okay. So at this point, we've already had discussion, but let's have a formal discussion at this point. So who would like to lead off? Robyn's question was really directed for staff.

Dee Oliver:

Well, I'll start. I've done business with this company for many, many years. We've got three large storage units to the one that's fairly close to our neighborhood and it's a large building. I'll give it that. And it abuts a restaurant on Laskin Road and then three-story, very new, fairly new gated community with a lot of people that we know live right beside it. They're quiet. I've been in

there all kinds of days, times. They don't have a dumpster, which is extremely frustrating. So you have to haul all your junk away.

Dee Oliver:

And you're not allowed to use the restaurant dumpster. But they're well kept. They usually have no more than two employees. They're extremely quiet. They are under lit for something like this. They're always landscaped. I have to say it's one of the prettiest, nicest kept up storage units that I've... And that's why we use them and eventually I'll clean out and I won't have to, but right now, they do conduct their business very well. I have to speak with them.

Jack Wall:

Okay. Sorry. I saw Mr. Weiner. Go ahead.

David Weiner:

A couple things real quick. I'm just sitting here trying to think all the ones we've approved here in the last year or two or three or what I mean for a while now, we go back down Seatack, and they've always been next to a neighborhood as high as they are. We just approved one last month, right? Smack dab in the middle of Kempsville, on Lord Dunmore Drive.

Dave Redmond:

It was a lot larger.

David Weiner:

A lot larger. I don't believe it's not going to take any value away from any homes. It's not going to take any value away from homes. Just a quiet use. It's just a very quiet use. So, I'm going to support it.

Jack Wall:

Okay. Mr. Redmond.

Dave Redmond:

Yeah. Thank you, Mr. Chairman. A couple things as well. First off, the challenges is it just amazes me sometimes. The challenges that a number of people cite about this. The flooding in your yard has nothing to do with this application. It has to do with the state of this property and the two properties adjacent to it. There's impervious surface, which is to say asphalt all around you. And that's what this site is. But for a little bit of pervious towards the rear of the property, that's your flooding problem. It's not this, it doesn't exist today.

Dave Redmond:

Heard enough about flooding in somebody's yard. Well, the building hadn't been built, so it can't be them. What you have here is the opportunity to improve, if not entirely fix that drainage problem. So don't look down your nose at the fix. I mean, I'd be welcoming that if my big concern was flooding from this property. If you are concerned about property values, I would be far more concerned about the rundown shopping center next door, which could have used some investment decades ago and the used car lot next store, neither of the two of those exactly jacking up your property values.

Dave Redmond:

This building I think they really did take, make an effort to make an attractive building as Mr. Nutter, the attorney said looks more like an office building, which is one of the things I hit him with when we talked some months ago is God, look good. And the other was it's a vast improvement to me in terms of the landscaping all around it, particularly on Independence Boulevard and to the rear of the property for the residents back there, it is a vast improvement, it's just a vast improvement. It is undeniable. It's inarguable. That will be a softer, more attractive improvement to that part of Independence Boulevard. So, I hate to be that tough about it, but it just doesn't make any sense to me to argue that flooding and property values are going to be an issue, there're going to be improvements on both fronts. And I agree, certainly with Dee, she has personal experience with this kind of stuff, because she's got a lot of stuff. It sounds like in perfect world.

Dee Oliver:

No, I have too much stuff.

Dave Redmond:

What are you storing? They take the black can out every week. You can put some stuff in there, but in any event, I think it's a fine application. I think if it's built, I think it'll be completely benign. And so, I'm certainly going to be in support of it and prepared to make a motion when everybody gives me a wink and an off.

Jack Wall:

Okay, all right. Thank you. Mr. Bradley.

David Bradley:

I don't quite have the same feelings as the previous commissioners, but I might be able to get there. Could you put the picture of the conceptual one where the storage facilities behind the townhomes? Is that available? Not that one.

David Bradley:

It's not on, on there.

Dee Oliver:

It's on ours.

George Alcaraz:

I don't think that's what-

David Bradley:

Okay. I...

George Alcaraz:

Oh, there it is.

David Bradley:

Yeah, the one on the bottom right. And I went out there when I visited that on our site visit Thursday. My thought when I saw it is, "Wow! This is going to be tight." When we got the package, I didn't hear any concerns from citizens. So I said, well, maybe they're okay with it. And then I saw the supplement last night. Before this discussion, I probably was voting against it. My concern being the height and the property values and all that aside, if I lived in those homes and I saw that height behind me, I'd be concerned.

David Bradley:

I mean, that's the western side. You're not going to be feeling the sunset anymore, but three of the five speakers and I'm trying to weigh what I heard today, three to five speakers felt like the stormwater would improve, that the lighting would be minimized. The applicant has gotten rid of one of the access points and I'm going to rely on our traffic engineer that that is a good thing to do. So with all that aside, I think I'll support it. It's a close call for me, but those were my concerns going into this discussion. And we have seen some of these in the past and I agree this one just seemed tighter and closer to me than the other one.

Jack Wall:

Mr. Alcaraz.

George Alcaraz:

Yeah. I just want to say that the stormwater, and I guess I got to ask a question to Planning Department DSC. So it sounds like there's been a problem with stormwater on the townhouses. Most likely with townhouse, there's some sort of system on the entire length of that townhouse, because it's got to go somewhere and most likely the builder or developer had it move in to the rear and then the site on Independence had it moving to the rear. So what I'm getting at, there must be some sort of drainage system or facility that's taking that rear water. So when it comes

up, that's part of the view, right? If it's affecting what's there, they're going to have to adjust and make it accordingly to fit. If it's not working, it's going to come up?

Robert J. Tajan:

That's correct. They'll have to address their stormwater. They won't... If there are problems that are coming from the townhouse side, based on how it's graded that, of course, they will not solve that, but they will solve, they will address their stormwater problems on their side.

George Alcaraz:

Thank you. That's all I had because I'm supporting it also.

Jack Wall:

Okay. Hold on. Mr. Coston.

John H. Coston:

Yeah. I think I'm supporting it too. An improvement is an improvement and if you can improve the stormwater at this time, you can do the best with it that you can. I actually would've supported your second entrance, but since you withdrew it, I can't do that now. But I understand that people who drive, everybody thinks they can drive. Everybody thinks they can paint. And half of the people can't drive and half of can't paint. So I know that when you pull in and there's no space to back up a used truck, which you're not used to driving, it's kind of the potential for accidents. So, I'm supporting it as it is.

Jack Wall:

Hold on. I think it's a good look for Independence. It's tall on Independence Boulevard, maybe a little bit out of the ordinary for that location, but I think it's fine for driving along Independence Boulevard. I think that the adjacent neighbor, new business, you brought up some good points about the massing, just the scope and the scale of the project in terms of adjacent property. But I don't think that should necessarily negatively impact his property. I think that stormwater has been... We talked about that to a great extent, and it's expected that would be addressed during design and then during design review.

Jack Wall:

The adjacent neighbors, I think that I don't know, I mean, that 15 feet off the property line and then another 15 feet from the back of their homes, 20 feet may be to the property line. So it's only generally, gosh, 30 feet, maybe 35, 40 feet near the back of their homes. And I don't know if some of the examples that we've provided, if that's quite the same distance all along there. And I think the property owners do have a good point in terms of just the nearness and the scope and the scale and the size of the building in relation to their homes. I think it does affect

the suburban area. I think the comprehensive plan is against that. And so I'm not for it. So I'm not going to support it. Mr. Redmond.

Dave Redmond:

Mr. Chairman, I move approval of the application.

Jack Wall:

Okay. Is there a second?

George Alcaraz:

Second.

Madam Clerk:

I'm sorry, Mr. Chairman, who was the second?

Jack Wall:

Oh, I'm sorry. Mr. Alcaraz.

Jack Wall:

So we have a motion by Mr. Redmond and second by Mr. Alcaraz.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor and two against agenda item number three has been recommended for approval.

Jack Wall:

Okay. Thank you.

	AYE 9	NAY 2	ABS 0	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein		NAY		
Oliver	AYE			
Redmond	AYE			

Wall		NAY		
Weiner	AYE			

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the conceptual site plan entitled “OCEAN STORAGE – INDEPENDENCE”, dated January 25, 2022, prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed buildings shall substantially adhere in appearance, size, materials to the submitted elevations entitled “OCEAN STORAGE”, dated January 25, 2022, prepared by RBA Architects, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled “OCEAN STORAGE – INDEPENDENCE”, dated January 25, 2022, prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. When the property is redeveloped, the existing freestanding sign shall be in substantial conformance with the sign rendering entitled “OCEAN STORAGE”, dated January 25, 2022, prepared by RBA Architects, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. One of the two existing access points on Independence Boulevard shall be closed and be restored with curb, gutter, and sidewalk installation.
6. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
7. All outdoor lights shall comply with the following:
 - a. Shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.
 - b. Lighting fixtures shall not be erected any higher than fourteen (14) feet, except as noted below in c.
 - c. Only motion activated lighting fixtures shall be installed on the rear façade along the northeastern property line that abuts the apartment district and shall be installed no higher on the rear of the building than ten (10) feet from the ground elevation.
8. 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
March 9, 2022 Public Meeting
Agenda Item #4**

Georgi Stovanov [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

4005 Atlantic Avenue, Unit 115

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

All right. Thank you. The next item on consent is item number four for Georgi Stoyanov for Conditional Use Permit for a short-term rental, at 4005 Atlantic Avenue, Unit 115 and Planning staff will handle that.

Madam Clerk:

Mr. Vice Chair, the applicant is virtual today. Calling Georgi Stoyanov, if you would please pause two to three seconds, please state your name. And if the conditions related to your application are acceptable.

Georgi Stoyanov:

Georgi Stoyanov. Can you hear me?

Madam Clerk:

Mr. Stoyanov, are the conditions related to your applications acceptable?

Georgi Stoyanov:

Yes.

Madam Clerk:

Thank you.

George Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Are hearing none, I've asked Commissioner Dee Oliver to read this for the record.

Dee Oliver:

Thank you. This is a request for a Conditional Use Permit for a short-term rental located in District 6, which is formally the Beach district. The address is 4005 Atlantic Avenue, Unit 115. Previously, they already have, I believe nine short-term rentals in this condominium unit. And it is located in the OR Section of Virginia Beach, which is the Oceanfront Resort. They are approved for all the requirements for a short-term rental and therefore we've put it on the consent agenda.

George Alcaraz:

Thank you. Mr. Chair, that was the last item on the consent agenda. Consent agenda and the Commission places the following applications on the consent agenda, items one, two, four and five.

Jack Wall:

Okay. Thank you. Do I have a motion to approve by consent items one, two, four, and five?

Madam Clerk:

I'm sorry, Mr. Wall, who made that motion?

John H. Coston:

George made it.

George Alcaraz:

Yeah. I was going to make it.

Jack Wall:

Yes. Yeah, go ahead.

George Alcaraz:

Thank you. I make a motion to approve agendas one, two, four, and five in the consent agenda.

Jack Wall:

Okay, thank you. It's there a second?

Donald H. Horsley:

Second.

Jack Wall:

Okay.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Yes?

Dave Redmond:

Mr. Chairman, I am going to vote in favor of those items on the consent agenda. However, I should note that I have a letter on with the City Attorney's office. So I will specifically be abstaining on agenda items, number four and five, the two short-term rental applications. I have a client in the travel industry and I abstain from not just individual applications, but any sorts of ordinances that relate to that as well. Thank you.

Jack Wall:

Okay. Thank you. So we have a second. Do we have any other abstentions? Okay. The motion for approval is made by Mr. Alcaraz and seconded by Mr. Horsley.

Madam Clerk:

Thank you, Mr. Chairman. The vote is open.

Barry Frankenfield:

Let's see if I can do this. I've never done this before. I've never done it before.

Madam Clerk:

By recorded vote of 11 in favor and zero against agenda items one and two, are recommended for approval. By recorded vote of 10 in favor, zero against with an abstention by Mr. Redmond on agenda items four and five have been recommended for approval.

	AYE 10	NAY 0	ABS 1	ABSENT 0
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			

Frankenfield	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 4005 Atlantic Avenue Unit 115, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. 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 during any consecutive seven (7) day period.
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.

**Virginia Beach Planning Commission
March 9, 2022 Public Meeting
Agenda Item #5**

Jesse Ryan [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

909 Pacific Avenue, Unit C

RECOMMENDED FOR APPROVAL - CONSENT

George Alcaraz:

All right. Thank you. And next item's number five for Jesse Ryan and applicant for Conditional Use Permit for a short-term rental at 909 Pacific Avenue, Unit C. Is there a representative here today? Please come forward.

Jesse Ryan:

Yeah.

George Alcaraz:

If you can just state your name for the record.

Jesse Ryan:

Jesse Ryan.

George Alcaraz:

Okay. Do you accept all the conditions?

Jesse Ryan:

Yes, I do.

George Alcaraz:

Okay. Thank you. You may be seated.

Jesse Ryan:

Thank you.

George Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none, I've asked Mr. Coston to please read this for the record.

John H. Coston:

The applicant is requesting to operate a two bedroom, 617 square foot short-term rental unit within the Retreat by the Sea condominium development. Short-term rentals are prevalent on this property with currently eight approved Conditional Use Permits for the operation of short-term rentals. Two parking spaces are required for this request and the applicant has designated one parking space onsite and will provide a second one, which will be leased at the 9th Street parking garage. The item meets all conditions and it's in the proper area and we have therefore placed it on the consent agenda.

George Alcaraz:

Thank you. Mr. Chair, that was the last item on the consent agenda. Consent agenda and the Commission places the following applications on the consent agenda, items one, two, four and five.

Jack Wall:

Okay. Thank you. Do I have a motion to approve by consent items one, two, four, and five?

Madam Clerk:

I'm sorry, Mr. Wall, who made that motion?

John H. Coston:

George made it.

George Alcaraz:

Yeah. I was going to make it.

Jack Wall:

Yes. Yeah, go ahead.

George Alcaraz:

Thank you. I make a motion to approve agendas one, two, four, and five in the consent agenda.

Jack Wall:

Okay, thank you. It's there a second?

Donald H. Horsley:

Second.

Jack Wall:

Okay.

Dave Redmond:

Mr. Chairman.

Jack Wall:

Yes?

Dave Redmond:

Mr. Chairman, I am going to vote in favor of those items on the consent agenda. However, I should note that I have a letter on with the City Attorney's office. So I will specifically be abstaining on agenda items, number four and five, the two short-term rental applications. I have a client in the travel industry and I abstain from not just individual applications, but any sorts of ordinances that relate to that as well. Thank you.

Jack Wall:

Okay. Thank you. So we have a second. Do we have any other abstentions? Okay. The motion for approval is made by Mr. Alcaraz and seconded by Mr. Horsley.

Madam Clerk:

Thank you, Mr. Chairman. The vote is open.

Barry Frankenfield:

Let's see if I can do this. I've never done this before. I've never done it before.

Madam Clerk:

By recorded vote of 11 in favor and zero against agenda items one and two, are recommended for approval. By recorded vote of 10 in favor, zero against with an abstention by Mr. Redmond on agenda items four and five have been recommended for approval.

	AYE 10	NAY 0	ABS 1	ABSENT 0
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Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Frankenfield	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 909 Pacific Avenue, Unit C and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. 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.