

Chairman Wall:

I call to order the April 13, 2022 Planning Commission Public hearing. I'm the Chairman of the Virginia Beach Planning Commission. Commissioners Redmond and Costen will not be in attendance today. Before we get started, I have asked Ms. Cuellar to lead us in prayer, followed by the Pledge of Allegiance by Mr. Horsley. Please stand.

Ms. Cuellar:

Heavenly Father, we come to you today in this beautiful spring day in the City of Virginia Beach asking for your guidance, wisdom, and support as we begin our meeting. We're especially grateful to our first responders who are here with us today keeping us safe in our public setting as we engage. We ask that you allow us to grow closer as a group as we set forth to advance the City of Virginia Beach. In your name, we pray. Amen.

Mr. Horsley:

Would you please join me in the pledge?

All:

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.

Chairman Wall:

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

Commissioner Frankenfield:

Well, thank you, Chairman Wall. See if I can do this without any of problems. All right. So I'm going to go from me to the right and try to get everybody straight. I'm Barry Frankenfield and I am the newest Planning Commissioner, and I have a problem with my mouth sometimes so I will try to keep it calm here. David Bradley to my right is a retired Virginia Beach Deputy City Manager, was the best budget director of all times. He could find budget dust everywhere to make projects work. David Weiner is a commercial sales rep and is close to the longest continuous Planning Commissioner that we have... Planning Commissioner. I think there are quite a few of them. And Dee Oliver's a funeral director, and we have lots of things to say about her, but we're not going to say them today. We're just going to say she's a great person.

Commissioner Frankenfield:

George Alcaraz, a local contractor, entrepreneur, very active in the Beach District. And then, we have... It's not the same on here. It is Don Horsley. Oh no, sorry. See, I knew I'd mess this up. I'm reading this thing. It's Jack Wall is the Chairman and he's a civil engineer and very well known in the profession and the very reasonable, calm person that leads us all. Then we have Don Horsley who's a farmer, and other than the fact that he went to Virginia Tech, is a pretty good guy and has been on the Planning Commission also for a very long time.

Commissioner Frankenfield:

Robin Klein is a healthcare professional from the Centerville District. I didn't say that for everybody, so sorry. And her claim to fame is that she once worked for the Baltimore Orioles. It

was very important. And then last but not least, we have Holly Cuellar, who is, at large, she is a military wife and she has been active in government affairs her entire career. And her claim to fame is that she won the blue ribbon at the Virginia State Fair for her carrot cake. So things you didn't know about everybody, now you do. So thank you very much.

Chairman Wall:

Okay. Thank you. Can you introduce Kay?

Commissioner Frankenfield:

I'll get to Kay. Kay Wilson is our City Attorney and has for 30 or 40 years been trying to keep me out of trouble, and I really appreciate it. Thank you very much.

Kay Wilson:

I didn't do a good job.

Robert J. Tajan:

All right. Well, I'll go ahead and introduce the Planning Staff that's here supporting the Commission today. Clerking today, we have Madison Harris and Pam Sandloop. We also have our Planning Administrator, Carolyn Smith, our Zoning Administrator, Hannah Sabo, our Planning Administration staff, Hoa Dao, Marchelle Coleman, Elizabeth Nowak, and Michaela Kinny somewhere, as well as our Zoning staff that we have available, help assisting with short term rentals, which is Levi Luckenbach, who's one of our newer employees, as well as Channing Tuttle. We also have Brandon Hackney with our Zoning division, Aubrey Trebilcock, and Hank Morrison as well, who's with Comp Planning, and Aubrey who's with the Development Services Center.

Chairman Wall:

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

Madam Clerk:

Thank you, Mr. Chairman. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved understand how the Commission normally conducts its meetings. It's 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 public hearing: withdrawals and deferrals. The chairman will ask if there are any requests to withdraw or defer an item on the agenda. Consideration of these requests will be made first. The consent agenda. The second order of business is the consideration of the consent agenda, which are those items that the Planning Commission believe are unopposed and which have favorable staff recommendation.

Madam Clerk:

Regular agenda. The Commission will then proceed with the remaining items on the agenda. When an agenda item has been called, we will recognize the applicant or their representative

first. Following the applicant or representative, registered speakers will be called next. Speakers in support or opposition of an agenda item will have three minutes to speak, unless they are solely representing a large group, such as a civic league or homeowner's association, in which case they will have 10 minutes. 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.

---

Chairman Wall:

Thank you, Madam Clerk. The next order of business is consideration of requests for withdrawal or deferral. Please come forward if you have any items for withdrawal. Okay. Seeing none. Please come forward if you have any items to be deferred.

Eddie Bourdon:

Chairman Wall, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Nimmo United Methodist Church. Marchelle did a good job of explaining the need for the deferral for 30 days. We should be here next month. Okay. Thank you very much.

Chairman Wall:

Thank you. Anyone else? The chairman is also aware that agenda items number seven and eight have requested a deferral for an indefinite deferral. Does anyone have any objection for these items to be deferred? Okay. Hearing none. Do I have a motion to defer items agenda item number two for 30 days and a motion to defer agenda items seven and eight indefinitely?

Commissioner Bradley:

So moved.

Chairman Wall:

Okay.

Mr. Horsley:

Second.

Chairman Wall:

Okay. So I have a motion by Mr. Bradley and a second by Mr. Horsley.

Madam Clerk:

Okay. The vote is open.

Madam Clerk:

Mr. Frankenfield, can we get your vote please?

**Virginia Beach Planning Commission  
April 13, 2022, Public Meeting  
Agenda Item #1**

**City of Virginia Beach**

**A Resolution to amend the City of Virginia Beach Comprehensive Plan, 2016 to address City-wide stormwater impacts for discretionary land use applications.**

**RECOMMENDE FOR DENIAL – HEARD**

Madam Clerk:

Thank you, Mr. Chairman. Our first item today is agenda item number one, City of Virginia Beach, a Resolution to amend the City of Virginia Beach Comprehensive Plan, 2016 to address citywide storm water impacts for discretionary land use applications.

Chairman Wall:

Okay. Thank you. Mr. Tajan.

Robert J. Tajan:

Thank you, Mr. Chair.

Chairman Wall:

Can you state your name for the record?

Robert J. Tajan:

Robert Tajan, Planning Director of the City of Virginia Beach. As we have here, we have the Resolution to amend a chapter of the Virginia Beach Comprehensive Plan to address the Resolution by City Council. On September 7th, 2021, City Council passed the Resolution and support of the bond referendum, which had a number of things and one of them included a requirement for staff to bring forward an amendment to the City's Comprehensive Plan, which would require all discretionary applications, rezonings to provide essentially a preliminary storm water analysis showing that they would have no impact on the city's storm water system as they go through the process.

Robert J. Tajan:

The proposal would only impact those discretionary applications, while of course those that are by right developments or even Conditional Use Permits would still have to meet to the City's stormwaters to standards, which are in the Design Standards Manual. On February 15th, the City Council remanded this back to the Planning Commission to obtain additional public comment. As you know, you've already voted on this item. And we did hold at your last public

hearing a public comment session afterwards on this amendment. I stand by to answer any questions regarding this.

Jack Wall:

Are there any questions for Mr. Tajan? David.

Commissioner Weiner:

Yes. Okay. So I know I've asked this and you know I've talked about this, but for the record, I just wanted you to say this. What we have in a Comprehensive Plan now is for the Southern Watershed.

Robert J. Tajan:

That is correct. Yes, sir.

Commissioner Weiner:

What we're putting in there is for the rest of the City. Can you explain the difference between what's in there now and the difference what we're going to put in there to go in there for the rest of the city?

Robert J. Tajan:

Correct. So the Comprehensive Plan currently has language that says that the Southern Watershed is subject to special drainage considerations. So what has been required is what's known as a preliminary storm water analysis, which essentially right sizes the development, knowing that the site that's being proposed when it goes to a discretionary application in the Southern watershed can actually fit on the site and also still fit the storm water management. It is different than what is required of the Council Resolution. What's shown for the preliminary storm water analysis for the Southern Watershed that we currently do now just shows that it has to comply with the City's requirements.

Robert J. Tajan:

The key difference is that the proposed language states that you cannot have any impact upstream or downstream. Essentially, you cannot raise any water levels, even if it doesn't cause flooding. The current language in the Southern Watershed says that you cannot create flooding or exacerbate existing flooding. So there could be conditions where, in the Southern Watershed, that there is capacity and you could add water to it that would not cause the system to flood and that would be permissible. This new language in the comp plan would state that you cannot add water into the system. You would have to contain it on site.

Chairman Wall:

Okay. Yes, Mr. Frankenfield.

Commissioner Frankenfield:

Okay. So if this is not approved, does it really have any impact on site plan project approval? In other words, I'm asking, are those requirements in place in the Public Works Guidelines, regardless of whether this is included in the Comprehensive Plan?

Robert J. Tajan:

Yeah. So there are current regulations in the Public Works Design Standards manual that does not allow you to create flooding or exacerbate existing flooding. This, per the Resolution that's being proposed in this language, does make it more stringent though for discretionary applications. So it is saying that they cannot utilize any of the capacity in the system. As I said before, if there is capacity in the system, if you go through the discretionary process, you cannot add water to the system, based on this language that it is. And I'm having...

Chairman Wall:

I think, from what I'm understanding-

Commissioner Frankenfield:

He's going to interpret

Chairman Wall:

No, go ahead. You want to do it? Go ahead.

Commissioner Frankenfield:

No, go ahead.

Chairman Wall:

From what I'm understanding what he asked, if this isn't passed, is it going to change anything in this-

Robert J. Tajan:

No. This being passed does not change what our current design regulations are, if that's the question. It will not change the current standards that are in place.

Chairman Wall:

Anyone else? Okay, thank you. Madam Clerk, are there any speakers on this item?

Madam Clerk:

Yes, sir. We have four speakers signed up today. Brad Martin followed by Paul Wallace.

Brad Martin:

Barry, I think you need to turn your mic on when you're talking. Learn that. You'll get it by your sixth meeting or so.

Commissioner Frankenfield:

I just won't talk anymore.

Chairman Wall:

Please state your name for the record.

Brad Martin:

Good afternoon, Mr. Chair and Commission members. I am Brad Martin and I've been a civil engineer here in Tidewater for 29 years. Let me first say that the development community generally supports reasonable and measurable storm water analysis requirements. Even if they are more burdensome, 1.5 feet of sea level rise and 20% heavier rainfalls are proper protections that we're incorporating into our designs.

Brad Martin:

That said, these proposed changes to the Comprehensive Plan do not match the stormwater design standards adopted by the City Council in February and March of this year. Even beyond the change from 0.00 to 0.04, the verbiage of no-impact is incongruous with the allowances in the regulations, like Mr. Tajan said, if the local area does not experience current flooding, the project can increase the tailwater elevation in the pipes, as long as new flooding is not caused. A design result, specifically allowed in the regulations for almost two years, would be eliminated by this no-impact clause. I think it's also important to understand what is intended by no-impact as well; the dynamics and the results of this modeling software can be analyzed, and I expect in every single case, they will show that there has been some measurable impact on the public stormwater, maybe higher over here, but lower over there, or heavier flow rate earlier in the storm, which leads to a lower runoff volume later, there's always an impact, even if it's positive.

Brad Martin:

More importantly than the precision of our design analysis, though, is the fact that we now have to consider how an attorney or a judge would interpret these proposed changes to the Comprehensive Plan; I don't have to tell you that we've entered into a litigious era, with regard to these processes. Recent projects have made their way through the Planning Staff, the Planning Commission, and then the City Council approval, and subsequently, the disaffected stakeholder neighbors have filed suit to stop the projects. In cases like those, with this no-impact verbiage you're considering today, essentially tie the hands of the determining authority and disqualify a future project, even based on the most inconsequential impact with the overall

analysis being substantially positive. We're not talking about making things more difficult on the consultants or more risky, costly, and burdensome to the developers.

Brad Martin:

Think about the chilling effect this would have on the potential for future projects in our city when prospective developers would bypass Virginia Beach entirely because it's not worth the risk to begin the process for a development project. That could completely unravel because of a judge's interpretation of no-impact; the solutions for our stormwater and flooding problems can be found in the referendum the voters approved last November and a diligent maintenance and repair program, which should be the final word. Thank you, I appreciate your time and appreciate your service.

Chairman Wall:

Thank you. Thank you. Are there any questions?

Commissioner Weiner:

Mr. Martin, a question for you, and you didn't mention this, but the verbiage in the Comprehensive Plan, what about the proffer? The proffer that's being offered to people like you to say, "Okay, we're going to put a proffer there that says we'll deal with it. We'll get down the road." How do you feel about that?

Brad Martin:

I'm concerned about that because why do you have to proffer that you're going to follow the rules anyway. To me, I didn't understand that when it came out. I still can't quite understand how that lessens this regulation. There is still the challenge of this no-impact verbiage in the Comprehensive Plan. If Amazon decides to build a \$2 billion facility here, but it's going to raise the flood waters by an inch, is that development worth the cost, worth the bite at the apple at that? You have to consider that. I still don't understand how the proffer, saying that we're going to follow the rules, is going to help when this Comprehensive Plan burdens more than the rules do.

Chairman Wall:

Right. Okay. Thank you.

Brad Martin:

Thank you very much for your service.

Chairman Wall:

Anyone else? Okay. Anyone else? All right, thank you very much. All right.



Madam Clerk:

Paul Wallace followed by Eddie Bourdon.

Paul Wallace:

Good afternoon. I'm Paul Wallace. I'm 2022 President of the Coastal Virginia Building Industry Association. I'm also President of Wallace Brothers Homes, with offices here in Virginia Beach at 2525 Oconee Avenue. CVBIA advocates for a fair and balanced regulatory environment so that our members can create quality, affordable homes and apartment homes in Virginia Beach and throughout Hampton Roads. Our CEO, Claudia Cotton, spoke at your work session last month. Unfortunately, she had a family emergency and couldn't be here today, but we wanted to repeat our remarks for the record today.

Paul Wallace:

You already know the Comprehensive Plan is a policy document that serves as a guide for land use decisions, it does not apply to administrative acts such as engineered site plan review or where stormwater is addressed. Rezoning decisions, to our policy decisions regarding appropriate land use for property engineering for development, happen after the policy decisions have been made. At your work session last month, we raised a few questions, and we'd be interested in hearing any feedback you may have received from the staff. They were, "Do we know the capacity of all stormwater system improvements that the bond referendum projects will create?", "Do we know if that capacity will only address current land uses?", "Do we know if the built-out system capacity will address future development under existing zoning?", "Do we know if the built-out system capacity will address future development under the recommended land use in the Comp Plan?"

Paul Wallace:

If you look at stormwater as a public system or facility, such as road improvements, then rezoning and conditional rezoning requests evaluate impacts to the system. In a traffic impact study, if a rezoning does not add more or even reduces traffic impacts, then improvements are not required, shouldn't this work in a similar way? If a proposed rezoning, or conditional rezoning, does not increase; what would be added to the system under existing zoning conditions? There, effectively, is no impact, and we urge you to recommend against the resolution.

Chairman Wall:

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

Commissioner Weiner:

Yeah, I have a question. I want to get this right, and we need to get this right the first time. I like your questions. The one that I like the most is the capacity of the stormwater from the

referendum projects. I don't think that can be evaluated yet, could it? There's no way that could be evaluated, but in the future, if your questions were answered, would you have a problem with this going into the Comprehensive Plan?

Paul Wallace:

I think the issue for us, still, as explained to me, is that we are required to do full stormwater engineering and analysis at the rezone application, not knowing whether we're going to receive the rezoning; it's incredibly expensive, complicated, and time-consuming, and all those things will have to be done, after the rezoning was approved anyway, prior to the plan being completely approved; specifically, what I'm here in opposition to is having this as part of a rezoning application, rather than the overall engineering for any project.

Commissioner Weiner:

Okay. Thank you.

Chairman Wall:

Thank you.

Madam Clerk:

Eddie Bourdon followed by Chris Wood.

Eddie Bourdon:

Chairman Wall, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney, and I'm speaking for myself. First of all, certainly, my comments aren't intended in any way to impugn the motives behind this Resolution and anything that we're discussing today. Stormwater and resiliency is a significant issue for our great city, and it certainly deserves all the focus it's getting and will continue to get, and should get. This amendment to the Comp Plan, however, in my view, isn't an appropriate provision to be placed at this time in a long-term, 30,000-foot in the air aspirational view of our city's land-use future, which is precisely the purpose of our Comprehensive Land Use Plan. The City Council can pass ordinances and adopt policies, and they can instruct staff to put those staff through the city manager and put those policies in place that have to be followed.

Eddie Burdon:

This may be, unfortunately, that, because it may change, ever so slightly, what the policy is or the ordinances, which are all discussed. It doesn't belong in the city's long-term Comprehensive Land Use planning document, at least not at this time. When our great city encountered a major obstacle with the BRAC base closure process a couple of decades ago, great leadership within our city and our region stepped up and patiently, collaboratively, and I'll repeat, deliberately, and in hindsight extremely successfully, analyzed, worked through, and evaluated the major

problems bore down into the weeds that were presented by this BRAC MoU closing Oceana process, over, not only many months, but years. In that process, we as a City didn't act precipitously by amending our Comprehensive Land Use Plan at the onset or even in the middle of that process; we waited until we had figured out how we were going to deal with it. And we amended our Zoning Ordinance, and then, whatever was added to the Comp Plan, to reflect what our Zoning Ordinance had done.

Eddie Burdon:

Nothing, absolutely nothing, was done in haste. Our City has thousands of developed properties, and especially at the Northern half of the city, worth billions and billions of dollars in areas throughout the city where the public stormwater infrastructure and management infrastructure is at varying capacities, varying quality, developed over decades and decades during different times of policies and interpretations. Based upon the recently adopted assumptions, heavier rainfall, and one and a half feet of sea level rise being two of many.

Chairman Wall:

Thank you, Mr. Bourdon, your time is up.

Commissioner Weiner:

Hold on, Mr. Bourdon.

Chairman Wall:

Mr. Bourdon, hang on one second. Are there any questions?

Eddie Burdon:

Thank you. Yeah, I'd like to answer the proffer question.

Commissioner Weiner:

I have a question. Something caught my attention when you said that it shouldn't go into the Comprehensive Plan at this time. Now, we're going through a Comprehensive Plan review this year, is there a time that this should go, or do you think this might go, with proper wording, that this should go into the Comprehensive Plan?

Eddie Burdon:

Again, we have this policy that everyone's adapting to; the development community has been extremely patient, understanding that the city staff didn't understand these models any more than the consultants and the outside understood these models. And developers have spent tens and tens of thousands of dollars, Mr. Berlin was here, and they ran, he told me, the model about a dozen times on that property of prosperity in General Booth Boulevard, six figures. Everyone's been trying to be patient and work through the process. And this particular aspect has been

something that doesn't fit in that collaborative, deliberative process because these models aren't perfect. No one can expect perfect; we don't expect perfect of the consultant community, nor of the city staff, everybody's doing the best they can to put the focus on this problem and work through the modeling because there are problems with it.

Eddie Burdon:

And again, I'm not impugning anybody's motives. We cherry-pick and put this in a Comp Plan when we don't have it all figured out by a long shot. We don't have a comprehensive process moving forward when we should be trying to bring people together because of the redevelopment, and that's what 90 plus percent of the Northern half of the city, which this applies to, is because it's 90 percent plus developed. That's our opportunity to not have the public component pay to make it better, the development and redevelopment, redevelopment being the word I should have used, that redevelopment is an opportunity to make the system work better as well. And we don't talk about conditional use permits under the Shore Drive overlay, which is most of what you get on Shore Drive, and that's Chesapeake Beach, Ocean Park, where we get the biggest problem. Because of a foot-and-a-half of sea-level rise as everything goes into the river right there at the mouth.

Eddie Burdon:

I think, truly, everybody's trying to pull the thing in the right direction, but I think this is cherry-picking, and as Mr. Martin said, I think it has the potential, on more than one level, to be a negative and not a positive. And that's why I'm here; I'm not suggesting that all this emphasis isn't necessary. It is necessary. But I think sticking this in the Comprehensive Plan may have unanticipated consequences, and I'm not sure what we think we're accomplishing by putting it in there. And that's my view of it. As we did in BRAC, we have everything that the region, the Navy, everybody was in agreement on, but it took a lot of time, and then we implemented it by ordinance. And then, if it's put in the Comprehensive Plan referencing the ordinance, that makes sense. I'm not saying that mentioning it in the Comprehensive Plan is a problem, but this language, I think, is a problem, certainly at this time.

Commissioner Weiner:

Right. Okay.

Eddie Burdon:

Can I answer your proffer question?

Commissioner Weiner:

Sure. I'd love to hear your opinion.

Eddie Burdon:

I don't have the same opinion that Mr. Martin does. I believe that the ability to proffer that and to have the applicant that's going to develop the property or redevelop, and redevelop is what this is about, having them put on the record that they understand going in so they don't have to spend a \$100,000 dollars before they get zoning. That they're going to have to spend it, once they have zoning, that's not going to change what's required of them. I don't find that to be problematic.

Commissioner Weiner:

I'm going to go in another direction. What if you get to the end and find out it doesn't work?

Eddie Burdon:

That's the risk that the applicant takes.

Commissioner Weiner:

Okay. Okay.

Eddie Burdon:

But to tell something Mr. Martin talked about, and I don't disagree with him in terms of it has the potential, this I think, does. And again, not by itself but with other things thrown into it to keep people from wanting to come from outside of developing our area, maybe for local developers, maybe it protects it, I don't think so. I think it's going to cause problems for everybody.

Eddie Burdon:

Potentially, again, potentially, and this is small stuff in that regard, but right now, what you've had to do in this Southern end of the city is you had to be able to prove that you could do it, not come close. And that's why Mr. Berlin had to do it 12 times at six figures, and others had to do the same thing. You shouldn't have to spend that much money to get a chance to see if you can get it rezoned, but if you say you understand it, and you put it in writing, then you take that risk, and you have your eyes wide open. I think the city's protected in that regard, I don't find that to be problematic, and I think that's an important question that you asked.

Commissioner Weiner:

I don't think it's problematic either. I've talked to the people that I've talked to that don't want to take that chance.

Eddie Burdon:

Right. But then, they need to go somewhere else.

Commissioner Weiner:

Sure. I agree.

Eddie Burdon:

Right, because it's better to do it after you know you have the entitlement, in which case you can make your development smaller if you need to meet the requirements, et cetera. But you're not exposing the city, at that point, by having a development approved for X number of square feet, and you wind up being X minus 40% square feet to make the policy, to make the stormwater work.

Commissioner Weiner:

Okay. Thank you.

Eddie Burdon:

Thank you.

Chairman Wall:

Thank you, Mr. Alcaraz, did you have something?

Vice Chair Alcaraz:

I think he answered it because I was going to ask you, Mr. Bourdon, I think in the same realm. I wanted to ask the engineering, Mr. Martin, but the concern of the potential prospects, if you were to proffer that, being that you're on both sides as an attorney, a land-use attorney, do you see the risk with one side and not the other, or vice versa, with this proffer? Is the deal going to happen or not happen because of the no-impact proffer? Do you see?

Eddie Burdon:

I do but does the proffer say no-impact?

Robert J. Tajan:

I think we're blending a couple of things together.

Eddie Burdon:

Yes. Thank you.

Robert J. Tajan:

If you were talking only Southern watershed, it would mean that you understand that you would meet all the criteria.

Eddie Burdon:

Right.

Robert J. Tajan:

I think Mr. Bourdon has made clear that he doesn't believe that the one that would apply to the Northern part of the city would be appropriate. For the Southern watershed, it would say that they understand that they are required to meet, and they will meet the city stormwater requirements.

Eddie Burdon:

Yeah. I think that's where we've been doing for the proffers of the Southern part because this hadn't existed in the Northern part.

Robert J. Tajan:

Yes, sir.

Commissioner Weiner:

That's right. It is a proffer, though, in the Northern part, right? We do have a proffer?

Robert J. Tajan:

So this doesn't exist yet in the Northern part of the city.

Eddie Burdon:

Right.

Commissioner Weiner:

The proffer doesn't exist yet?

Robert J. Tajan:

The need,

Eddie Burdon:

No-impact.

Robert J. Tajan:

For proffer does not exist yet.

Commissioner Weiner:

Okay.

Robert J. Tajan:

I think we're getting blended together with a policy decision on what's required to get through the application process. I think we probably should stick around whether the policy.

Commissioner Weiner:

In the confidence part.

Robert J. Tajan:

Is an important part.

Eddie Burdon:

Well, as Bobby, as Mr. Tajan said, in the Southern part of the city, it's been fine, but again, we don't have this no-impact. If no-impact isn't somehow better defined, and the real problem with this is that it's going to get in the way of redevelopment; that's my biggest point because in the Northern half of the city development is going to be redevelopment. It's not going to be Greenfield development. And it doesn't deal with all of the existing by-rights that people already have and can add on, et cetera. To me, it's too cherry-picked, and we need every piece of property and every property in order to help solve this problem, not just the money at it through infrastructure, which we have to do that too. Thank you.

Commissioner Weiner:

I'm confused for a second explain this to me. In the stakeholder meetings that I was in, we were talking about the proffer. And the proffer that we were talking about wasn't the Southern watershed. It was the city, the other part, so the proffer is not in place yet for the Northern part of the city, only the Southern watershed?

Robert J. Tajan:

What we discussed in the stakeholder meeting was a way to simplify the preliminary stormwater analysis review, currently, right now, the preliminary stormwater analysis is only required for discretionary actions in the Southern watershed of the city.



Commissioner Weiner:

Right.

Robert J. Tajan:

Which is where it's applying right now.

Commissioner Weiner:

Mm-hmm (affirmative).

Robert J. Tajan:

That's a policy decision that staff has moved forward with to allow for the developer to determine whether they want to do the full analysis or provide the simplified analysis; by providing either allowing staff to impose a condition or provide a proffer stating that they'll meet the requirements.

Commissioner Weiner:

In Southern watershed?

Robert J. Tajan:

In the Southern watershed.

Commissioner Weiner:

Okay.

Robert J. Tajan:

There's no reason to have it in the Northern part of the city because there is no policy for the Northern part of the city.

Commissioner Weiner:

But if this goes in as a policy in the Comprehensive Plan, then it will be?

Robert J. Tajan:

Correct. But I think you should separate that portion from the policy discussion.

Commissioner Weiner:

I understand that. That's not a problem, that's what I was under the impression of, that once this does go into the Comprehensive Plan, the proffer will be in there also.

Robert J. Tajan:

It'll be an option for the developer to provide that.

Commissioner Weiner:

So it will be in there?

Robert J. Tajan:

Yes.

Commissioner Weiner:

Okay. I understand that. Okay, I'm so sorry. I'm good, I'm not confused.

Chairman Wall:

Okay.

Commissioner Frankenfield:

Cherry-picking. I can't pick the proffer alone and not the rest of the amendment, right? In fact, the proffer's not even in here.

Robert J. Tajan:

Correct. What the Planning Commission is considering is the change to the Comprehensive Plan, stating what is required for discretionary applications in the rest of the city.

Chairman Wall:

Okay. Madam Clerk.

Madam Clerk:

We have one final speaker. Chris Wood.

Chris Wood:

Good afternoon.

Chairman Wall:

Mr. Wood, you've got three minutes.

Chris Wood:

Thank you.

Chairman Wall:

Please state your name for the record.

Chris Wood:

Sure. My name is Chris Wood. I work for McClesky Associates, a local real estate management company. I wanted to say I appreciate the opportunity. I oppose the proposed change in the city's Comp Plan. The Comp Plan stated today is meant to be a guide for the future development, aspirational development, of our city. And it's not meant to be a technical bulletin. The Comp Plan doesn't specify setbacks, the number of parking spots, or what type of plants need to be planted, all of that is handled expertly and professionally by our staff. And they do a great job.

Chris Wood:

I would suggest that, like those other things, we let the staff do their job. There is simply no need for this proposed change, as Mr. Bourdon and Mr. Martin said. No projects are going to be approved without meeting Virginia Beach's stringent stormwater requirements, so nothing's going to change; this change will simply make it more difficult to do business in Virginia Beach. And I think we all know that's something that we're all trying to work on, to continue to get people to reinvest and come to Virginia Beach. As Mr. Martin said, there will always be some impact, no matter what the project is, in redevelopment or development; it's going to always have some impact. To say no-impact is not practical. I would simply ask that you guys vote against this proposal.

Chairman Wall:

Okay. All right. Thank you.

Chris Wood:

Thank you.

Chairman Wall:

Hang on one second. Are there any questions for Mr. Wood?

Chairman Wall:

Okay. Thank you.

Chris Wood:

Thank you.

Madam Clerk:

No more speakers.

Chairman Wall:

All right. Mr. Tajan, do you have anything to rebuttal?

Robert J. Tajan:

No, I don't believe that's appropriate for this discussion.

Chairman Wall:

Okay.

Robert J. Tajan:

I believe the deliberation with the Planning Commission is the appropriate next step.

Chairman Wall:

All right. Thank you. Okay. With that, I'll close it for comment and open it up for a discussion among the planning commissioners, would anybody like to start?

Commissioner Weiner:

I will. I think y'all know where I'm going with this. I'm not going to support this for a number of different reasons.

Commissioner Weiner:

If this goes into the Comprehensive Plan, there's not going to be any change to what's happening now; staff does their job. They're going to do their job. They're doing great at it. Luckily, I was part of the stakeholders, and I got to listen to quite a few people talk on this. Again, we didn't get into the Comprehensive Plan, but listening to the procedural of the stormwater and how they're going about it, it was very interesting.

Commissioner Weiner:

And they had everything great to say about staff; they thought staff is doing a good job, and they are doing a good job, they have a hard job. And our city has more requirements than probably any other city around. And we're very stringent on that. I don't believe the technical document needs to be a planning document. There's no reason for that. I've got to say, I talked to 10

different groups on the referendum and explained to them why we need to pass this referendum. And not one time did I talk about putting this in the Comprehensive Plan because I'll tell you the truth, I didn't know about it. I didn't know this was going to go into the Comprehensive Plan. And I have a funny feeling that 73 percent of the citizens of Virginia Beach who voted for this, probably five percent, knew it was going into the Comprehensive Plan. So I have no problem. I'm not going to support this.

Chairman Wall:

Anyone else?

Commissioner Frankenfield:

Oh, what the heck. I pretty much agree with Mr. Weiner. I think it's a detailed regulatory requirement masquerading in a policy document. I think it's redundant. It's unnecessary, and it sends the wrong message to the people trying to do development in Virginia Beach. And the reality is staff will not approve the project if it doesn't meet the requirements, period. And the perception is that not, there is a thought that I hear from people that, oh, well, the right people will get it approved, blah, blah, blah. The reality is that if you don't meet the requirements, you don't get approved. Your only choice may be to reduce the size of your project. So that's your choice. And so, I guarantee the Planning Director has never approved more units than were approved by City Council. Anyway, so I do not support this amendment also.

Chairman Wall:

Okay. Mr. Bradley?

Commissioner Bradley:

Well, I think I'm going to go in a different direction. The concern I have is when Council adopted the Ordinance, and it was unanimously adopted in September, this is the language that was used, "City Council urges the residents to carefully consider the issue of flood mitigation and plan to vote in November to assist the residents' deliberations. The City Council makes the following commitments with the exception of number four," which is another issue, "will be delivered within three weeks." And I know that didn't happen upon approval. I feel this is a public trust issue. In the way the referendum was set up, the Council is the elected officials of our City, they felt that this was an important commitment to make ahead of the referendum. And I know when it hit us in November, it was new. I didn't understand it at the time. I think we needed more information. Council sent it back to us to get public input, we've had six speakers, I think, counting the two last week or last month. I'm going to support the resolution in front of us.

Chairman Wall:

Anyone else? Thank you.

Commissioner Oliver:

I'll go. I know when the Comp Plan came around a few years ago, most of us here, were involved in it. The Comprehensive Plan is a guideline. It's a policy document book that outlines how we would like to see the city grow in different areas. And it doesn't address specifics and or requirements for development or redevelopment. That's left to our qualified departments and our city staff in order for them to make those judgments.

Commissioner Oliver:

This doesn't have any place in our Comprehensive Plan whatsoever, nor do we address anything like this in our Comprehensive Plan, and to put it in there is a wrong move, and I'm not going to support it. I'm not quite sure why it's in front of us to do this. I think that, as Mr. Bourdon, Mr. Martin, and Mr. Wood all addressed, the majority of the rest of our city is redevelopment. We don't have any green land left, and each of those pieces of property, on their own basis, should be addressed for stormwater, but that's a whole nother conversation, this is for the Comprehensive Plan, and this, at this point, does not belong in this particular document.

Chairman Wall:

Okay. Thanks. Anyone else?

Holly Cuellar:

Yeah. I wanted to comment, as well, that given that we are going through the process of a comprehensive review, we are going through the process of a comprehensive review that we do have this responsibility that it would be to our advantage, to hear from more stakeholders and to see where we want to be with Vision 2040, rather than Comprehensive Plan 2016. And by no means, I now will concur with my colleagues. Do we want to create a more arduous or an over regulatory process that's going to inhibit the growth of our city?

Chairman Wall:

Okay, thank you. All right.

Donald H. Horsley:

I'm not doing much talking today, a little hoarse, but I've been involved in the revision of several comp plans over my 10 year own planning commission. And I don't think we've ever put them in with specifics, like in this, in the Comp Plan, as Dee said, the Comp Plan is more of a guideline for us to go by. And then, they reference ordinances that we have in the comp plan for development to go by. And I just don't think it's the place for put this type of a resolution together and put it in the comp plan. Thank you.

Chairman Wall:

Okay. All right.

Commissioner Frankenfield:

Can I ask the city attorney something? May I?

Chairman Wall:

Sure you can.

Commissioner Frankenfield:

So, the ordinance commits that the City Council will put an amendment in the City's Comprehensive Plan. You're not recommending denial, but it does not have the same language, no impact that is in the actual amendment. So it seems like the amendment is perhaps a little more strict than what was promised by City Council. Yes? Is that a yes?

Kay Wilson:

No, it is not the same language. No.

Commissioner Frankenfield:

Right.

Kay Wilson:

Because some of the language that was there was not language that should have been put in the comp plan.

Commissioner Frankenfield:

Well, I agree with that.

Kay Wilson:

And so, we have interpreted the language and Mr. Tajan may wish to speak to that.

Robert J. Tajan:

Yes. So having spoken with the council liaisons at the Friday work group meetings, the language here that Mr. Frankenfield's discussing is where it talks about any project or

development that generates a net increase in water discharge demand in any watershed or in any drainage system in watershed over the capacity of net margin to meet the model discharge baseline of the drainage system at build out. So it was a little confusing. So we tried to distill it down to the language that we had. We did show it to the two council liaisons that were part of that group and they agreed that the language from that meant what we wrote in this proposal.

Chairman Wall:

Okay. Thank you. My thoughts are that I think the motives are correct and I think that it certainly brings attention to storm water management and flood risk management. It was pushed down back to us, we made a decision previously, and it's been pushed back to us to evaluate and receive public input. And I think the input that we received was generally negative concerning today, and then the workshop or the public hearing that we had previously. So, I think there are risks to areas that we would like to redevelop, risks that they're not redeveloped. And so, for those reasons, I'm not going to support it either. So Madam Clerk. Oh, no. Do we have a motion?

Mr. Weiner:

Chairman, I'll make a motion to deny the application.

Chairman Wall:

Okay. All right, we have a motion by Mr. Weiner. Do we have second?

Mr. Horsley:

I'll second it.

Chairman Wall:

Okay. We have a second by I heard Mr. Horsley.

Madam Clerk:

Oh, Mr. Horsley. Okay.

Chairman Wall:

Now, Madam Clerk?

Madam Clerk:

Okay. The motion is for denial and vote is open.

Chairman Wall:



Okay, one thing. Are there any abstentions? Sorry.

Commissioner Frankenfield:

I have a question. If it's for denial and I vote, I ...

Madam Clerk:

For denial.

Mr. Frankenfield:

Denies, okay. Got you. Sorry.

Madam Clerk:

By recorded vote of seven in favor and two against the motion for denial. Agenda item number one has been recommended for denial.

	AYE 7	NAY 2	ABS 0	ABSENT 2
Alcaraz	AYE			
Bradley		NAY		
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein		NAY		
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

**Virginia Beach Planning Commission  
April 13, 2022 Public Meeting  
Agenda Item #2**

**Nimmo United Methodist Church [Applicant]**

**Street Closure**

**Address: portion of the “old” Princess Anne Road right-of-way, south of 2040 Nimmo Church Lane**

**DEFERRED FOR 30 DAYS**

Chairman Wall:

Thank you, Madam Clerk. The next order of business is consideration of requests for withdrawal or deferral. Please come forward if you have any items for withdrawal. Okay. Seeing none. Please come forward if you have any items to be deferred.

Eddie Bourdon:

Chairman Wall, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Nimmo United Methodist Church. Marchelle did a good job of explaining the need for the deferral for 30 days. We should be here next month. Okay. Thank you very much.

Chairman Wall:

Thank you. Anyone else? The chairman is also aware that agenda items number seven and eight have requested a deferral for an indefinite deferral. Does anyone have any objection for these items to be deferred? Okay. Hearing none. Do I have a motion to defer items agenda item number two for 30 days and a motion to defer agenda items seven and eight indefinitely?

Commissioner Bradley:

So moved.

Chairman Wall:

Okay.

Mr. Horsley:

Second.

Chairman Wall:

Okay. So I have a motion by Mr. Bradley and a second by Mr. Horsley.

Madam Clerk:

Okay. The vote is open.

Madam Clerk:

Mr. Frankenfield, can we get your vote please?

Commissioner Frankenfield:

Oh, thank you.

Madam Clerk:

By recorded vote of nine in favor, zero against agenda item number two has been deferred for 30 days, and agenda items number seven and eight have been deferred indefinitely.

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

**Virginia Beach Planning Commission  
April 13, 2022, Public Meeting  
Agenda Item #3**

**Car Spa, Inc.** [Applicant]  
**General Booth Venture, LLC** [Property Owner]

**Conditional Use Permit** (Car Wash Facility)

**Address:** Portion of parcel on the northeast corner of General Booth Boulevard and Prosperity Road

**RECOMMENDED FOR APPROVAL – CONSENT**

Chairman Wall:

Okay, thank you. The next order of business is the consent agenda. And I'm going to turn that over to Vice Chair Alcaraz to run that portion of the meeting.

Vice Chair Alcaraz:

Thank you, Mr. Chair. Today, we have seven items on the consent agenda. These applications that are recommended for approval by staff and the Planning Commission concurred that there are... And if there's no speakers in opposition, that we will be putting them on the consent agenda. Agenda item number three is a Conditional Use Permit for a car wash facility at the Northeast corner of General Booth Boulevard and Prosperity Road, and the applicant, Car Spa Incorporated, is their representative. There you go.

Eddie Bourdon:

Thank you, Mr. Alcaraz. Members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney. I represent Car Spa. I wanted to mention that Mr. Bruce Berlin, with General Booth Venture, LLC, who are the owners and developers of the property and the extra parcel to the North of this parcel is under their ownership. My applicant, in this case, Car Spa, is contracted by this piece of property. Also, Danielle Dansing with Kimley Horn are civil engineers here as well. Thank Hoa for all of his diligent efforts on this application and all eight conditions as staff has recommended are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being on the consent agenda? Hearing none, I ask Commissioner Weiner to read this item for the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a request for a Conditional Use Permit for a car wash facility. In 2019, City Council granted a Conditional Use Permit request for operations of an automobile service station, Wawa, on the Northeast corner of Prosperity Road and General Booth Boulevard. The 9.48 acre parcel zoned B2 Community Business was proposed to be subdivided into two lots with the Wawa site occupying 5.51 acres in the Southern lot. There were no immediate plans for the remaining 3.97 parcel. The applicant now seeks to subdivide the Northern 3.97 acres into two lots with 2.21 acre and 1.76 acre lot. The applicant plans to develop 2.21 acre site with 5,700 square foot automated car wash facility. We recommend approval and put it on the consent agenda.

Vice Chair Alcaraz:

Okay. Thank you, Mr. Weiner. Agenda item number four is a Conditional Use Permit for motor vehicle rentals at 1112 Lynnhaven Parkway for Enterprise Leasing Company of Norfolk Richmond, LLC. Is their representative here to speak today?

Eddie Bourdon:

Thank you, Mr. Alcaraz and Commissioners. For the record, Eddie Bourdon, Virginia Beach attorney representing Enterprise. I believe Ms. Kayley Krug with Enterprise is with us this afternoon. And I want to thank Michaela again for a very thorough job in evaluating and keeping us on our toes with this application. All 15 conditions are acceptable to the applicant and we appreciate being on the consent agenda. Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none. I ask Commissioner Bradley to read this item for the record.

Commissioner Bradley:

Thank you. The applicant is requesting a Conditional Use Permit for motor vehicle rentals on a one acre parcel zone B2 Community Business District. The site is currently developed with a 3,200 square foot building with an overhead canopy and accessory structure. The buildings on site were constructed in 1975 and were previously occupied by a restaurant with a drive through and a short term loan title business. The applicant proposes to display no more than 25 vehicles at any one time on the site. No automobile repair is proposed and staff is recommending a condition to prohibit that activity. The Planning staff recommended this. There was no known opposition, so Planning Commission decided to put it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number five is a Conditional Use Permit for family daycare at the home at 1712 Moon Valley Drive for Nora Nimely. Is their representative here today? Please come forward and state your name. Hi.

Nora Nimely:

Good afternoon. My name is Nora.

Vice Chair Alcaraz:

Thank you. Do you accept all the conditions?

Nora Nimely:

Yes, I do.

Vice Chair Alcaraz:

Thank you. You may be seated.

Nora Nimely:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Oliver:

Thank you. This is a request for a Conditional Use Permit to operate a family daycare home for up to eight children within the applicant's single family dwelling in the Lake Placid neighborhood. The applicant has over 10 years of experience in caring for children and the designated outdoor play area is located in the backyard and is enclosed with a six foot solid privacy fence. The typical hours of operation are proposed as 6:30 AM to 6:00 PM Monday through Friday. Staff found the property to be well organized and well kept. This request for a Conditional Use Permit for a family daycare home, in staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the suburban area. Staff recommends approval of this request with the conditions listed below, and therefore we have placed it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number six for a Conditional Use Permit for home occupation located at 4500 Hollingsworth Lane, applicant Baking It, Caking It LLC. Is the applicant here? Please come forward. Hi, can you state your name for the record?

Brianna Small:

Brianna Small.

Vice Chair Alcaraz:

Thank you. You accepted the conditions?

Brianna Small:

Yes.

Vice Chair Alcaraz:

Thank you.

Brianna Small:

Thank you.

Vice Chair Alcaraz:

You can be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have Commissioner Klein to read this item for the record.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit for a home occupation to operate a commercial kitchen in the 460 square foot attached to garage of their single family dwelling in the Glenwood neighborhood. It is the applicant's desire to prepare baked goods and deliver them to customers at offsite locations. The applicant will be the sole operator of the kitchen. No other employees are proposed for this in-home business. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Agenda item number nine, Modification of Proffers at 5453 Wesleyan Drive for RVB3, LLC. Is their representative today here to speak with the item? Come forward and state your name, please.

Todd Roethlisberger:

Hi, good afternoon. Todd Roethlisberger, attorney with Poole Brooke Plumlee on behalf of RVB3, the applicant. Good afternoon, Mr. Chairman and members of the Commission, appreciate being on the consent agenda. We do agree to the terms set forth and appreciate Ms. Nowak's assistance with this application as well.

Vice Chair Alcaraz:

Great. Appreciate that.

Todd Roethlisberger:

Thank you. Thank you.

Vice Chair Alcaraz:

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

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Modification of Proffers. The applicant is requesting a Modification of Proffers to redevelop a former Sonic drive-in restaurant building into a Little Caesars restaurant. The building is located on a 25,204 square foot out parcel in Wesleyan Common Shopping Center. We recommend approval of the Modifications of Proffers and place this on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number 12, which is a Conditional Use Permit for a craft distillery at 712 Atlantic Avenue for Waterman Spirits, LLC. Please come forward.

Eddie Bourdon:

Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Waterman Spirits, LLC. Again, Brandon's done a very good job on this application, asked us a lot of questions, got a lot of answers from us, and all six conditions as recommended in the staff report are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.



Vice Chair Alcaraz:

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

Commissioner Bradley:

The applicant is requesting a Conditional Use Permit to operate a craft distillery at 712 Atlantic Avenue. The property consists of multiple structures and uses including The Shack, which is primarily an outdoor resort establishment with dining, entertainment, and outdoor recreation facilities that has become popular with both visitors and residents. There is an existing 9,300 square foot masonry building on the Southern portion of the property. The craft distillery will produce and sell spirits with an 1,800 square foot portion of the existing structure facing Atlantic Avenue. Planning staff recommended this conditional use permit and Planning Commission has put it on the consent agenda.

Vice Chair Alcaraz:

Thank you.

Kay Wilson:

Mr. Frankenfield.

Commissioner Frankenfield:

Oh, are we ready to vote?

Kay Wilson:

No, I'm just ready for you to abstain.

Commissioner Frankenfield:

I need to abstain from The Festival, LLC. I am a service provider for that company and my company is at 1400 Woodhouse Road, Virginia Beach, Virginia. Thank you.

Vice Chair Alcaraz:

All right. Agenda item number 15 is a Conditional Use Permit for a short term rental at 410 22nd street, Unit B for Coastal Accommodations, LLC. Is there a representative here today to speak on this item? Please come forward. Just state your name for the record.

Grace Morris:

Grace Morris.

Vice Chair Alcaraz:

Okay. Thank you. Are the conditions acceptable to you?

Grace Morris:

Yes.

Vice Chair Alcaraz:

Thank you. You may be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have asked Commissioner Klein to read this for the record.

Commissioner Klein:

This 20,800 square foot lot is zoned OR, Oceanfront Resort. According to city records, it is a two bedroom town home constructed in 2015. The owner submitted a Conditional Use Permit request to operate a short term rental on site. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Mr. Chair, that was the last item for the consent agenda. The Planning Commission places following applications on the consent agenda: items number three, four, five, six, nine, 12, and 15.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent of agenda items three, four, five, six, nine, 12, and 15?

Commissioner Weiner:

Second.

Chairman Wall:

Okay. All right. I guess he's already said you made a motion. Okay, thank you. Okay. So hearing seconds. Are there any Planning Commissioners besides Mr. Frankenfield that are abstaining on any of the agenda items that are on the consent agenda? Okay. The motion for approval is by Mr. Alcaraz, and the second is by Mr. Weiner.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor, zero against, agenda items three, four, five, six, nine, and 15 have been recommended for approval. Agenda item

number 12 by recorded vote of eight in favor, zero against, with one abstention by Commissioner Frankenfield, agenda item number 12 has been recommended for approval.

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

**CONDITIONS**

1. When the property is developed, it shall be in substantial conformance with the submitted exhibit entitled, “Full Service Car Wash Prepared for Car Spa – Site Landscape Exhibit,” prepared by Kimley Horn, dated December 31, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed building, post wash canopy, vac building, vacuum stations, and dumpster enclosure shall substantially adhere in appearance, size and materials to the elevations entitled, “Car Spa,” prepared by NCA Partners Architecture, which have been exhibited to the Virginia Beach City Council and are on file in the Virginia Beach Department of Planning & Community Development.
3. When the property is developed, the freestanding sign shall be in substantial conformance with the submitted exhibit entitled, “Car Spa,” prepared by S State Sign, Revised March 17, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. At the time of site plan review, a Landscape Plan that reflect the plantings depicted on the submitted Plan, noted in Condition 1, along with all applicable requirements of the Zoning Ordinance, shall be submitted to the Development Services Center for review and shall obtain an approval prior to the issuance of a building permit.
5. As depicted on the Plan, noted in Condition 1, the row of evergreen trees along the vacuum stations shall be installed at a minimum of four (4) feet in height and be allowed to grow and be maintained at a height of no less than six (6) feet.
6. All light fixtures on the site shall be no taller than 14 feet in height and shall be shielded to be contained on site.

7. The hours of operation of the automated car wash and vacuums shall be limited to between the hours of 8:00 a.m. to 7:00 p.m. daily.
8. Any onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals, and there shall be no neon, other than individual channel letters lighted with internal neon and as approved by the Zoning Administrator, or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. There shall be no window signage permitted. The building signage shall not be a "box sign" and the proposed sign package shall be submitted to the Zoning Administrator.

*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  
April 13, 2022, Public Meeting  
Agenda Item #4**

**Enterprise Leasing Co. of Norfolk-Richmond, LLC [Applicant]  
E T Enterprises, LLC [Property Owner]**

**Conditional Use Permit (Motor Vehicle Rentals)**

**Address:** 1112 Lynnhaven Parkway

**RECOMMENDED FOR CONSENT – APPROVAL**

Chairman Wall:

Okay, thank you. The next order of business is the consent agenda. And I'm going to turn that over to Vice Chair Alcaraz to run that portion of the meeting.

Vice Chair Alcaraz:

Thank you, Mr. Chair. Today, we have seven items on the consent agenda. These applications that are recommended for approval by staff and the Planning Commission concurred that there are... And if there's no speakers in opposition, that we will be putting them on the consent agenda. Agenda item number three is a Conditional Use Permit for a car wash facility at the Northeast corner of General Booth Boulevard and Prosperity Road, and the applicant, Car Spa Incorporated, is their representative. There you go.

Eddie Bourdon:

Thank you, Mr. Alcaraz. Members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney. I represent Car Spa. I wanted to mention that Mr. Bruce Berlin, with General Booth Venture, LLC, who are the owners and developers of the property and the extra parcel to the North of this parcel is under their ownership. My applicant, in this case, Car Spa, is contracted by this piece of property. Also, Danielle Dansing with Kimley Horn are civil engineers here as well. Thank Hoa for all of his diligent efforts on this application and all eight conditions as staff has recommended are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being on the consent agenda? Hearing none, I ask Commissioner Weiner to read this item for the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a request for a Conditional Use Permit for a car wash facility. In 2019, City Council granted a Conditional Use Permit request for operations of an automobile service station, Wawa, on the Northeast corner of Prosperity Road and General Booth Boulevard. The 9.48 acre parcel zoned B2 Community Business was proposed to be subdivided into two lots with the Wawa site occupying 5.51 acres in the Southern lot. There were no immediate plans for the remaining 3.97 parcel. The applicant now seeks to subdivide the Northern 3.97 acres into two lots with 2.21 acre and 1.76 acre lot. The applicant plans to develop 2.21 acre site with 5,700 square foot automated car wash facility. We recommend approval and put it on the consent agenda.

Vice Chair Alcaraz:

Okay. Thank you, Mr. Weiner. Agenda item number four is a Conditional Use Permit for motor vehicle rentals at 1112 Lynnhaven Parkway for Enterprise Leasing Company of Norfolk Richmond, LLC. Is their representative here to speak today?

Eddie Bourdon:

Thank you, Mr. Alcaraz and Commissioners. For the record, Eddie Bourdon, Virginia Beach attorney representing Enterprise. I believe Ms. Kayley Krug with Enterprise is with us this afternoon. And I want to thank Michaela again for a very thorough job in evaluating and keeping us on our toes with this application. All 15 conditions are acceptable to the applicant and we appreciate being on the consent agenda. Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none. I ask Commissioner Bradley to read this item for the record.

Commissioner Bradley:

Thank you. The applicant is requesting a Conditional Use Permit for motor vehicle rentals on a one acre parcel zone B2 Community Business District. The site is currently developed with a 3,200 square foot building with an overhead canopy and accessory structure. The buildings on site were constructed in 1975 and were previously occupied by a restaurant with a drive through and a short term loan title business. The applicant proposes to display no more than 25 vehicles at any one time on the site. No automobile repair is proposed and staff is recommending a condition to prohibit that activity. The Planning staff recommended this. There was no known opposition, so Planning Commission decided to put it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number five is a Conditional Use Permit for family daycare at the home at 1712 Moon Valley Drive for Nora Nimely. Is their representative here today? Please come forward and state your name. Hi.

Nora Nimely:

Good afternoon. My name is Nora.

Vice Chair Alcaraz:

Thank you. Do you accept all the conditions?

Nora Nimely:

Yes, I do.

Vice Chair Alcaraz:

Thank you. You may be seated.

Nora Nimely:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Oliver:

Thank you. This is a request for a Conditional Use Permit to operate a family daycare home for up to eight children within the applicant's single family dwelling in the Lake Placid neighborhood. The applicant has over 10 years of experience in caring for children and the designated outdoor play area is located in the backyard and is enclosed with a six foot solid privacy fence. The typical hours of operation are proposed as 6:30 AM to 6:00 PM Monday through Friday. Staff found the property to be well organized and well kept. This request for a Conditional Use Permit for a family daycare home, in staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the suburban area. Staff recommends approval of this request with the conditions listed below, and therefore we have placed it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number six for a Conditional Use Permit for home occupation located at 4500 Hollingsworth Lane, applicant Baking It, Caking It LLC. Is the applicant here? Please come forward. Hi, can you state your name for the record?

Brianna Small:

Brianna Small.

Vice Chair Alcaraz:

Thank you. You accepted the conditions?

Brianna Small:

Yes.

Vice Chair Alcaraz:

Thank you.

Brianna Small:

Thank you.

Vice Chair Alcaraz:

You can be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have Commissioner Klein to read this item for the record.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit for a home occupation to operate a commercial kitchen in the 460 square foot attached to garage of their single family dwelling in the Glenwood neighborhood. It is the applicant's desire to prepare baked goods and deliver them to customers at offsite locations. The applicant will be the sole operator of the kitchen. No other employees are proposed for this in-home business. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Agenda item number nine, Modification of Proffers at 5453 Wesleyan Drive for RVB3, LLC. Is their representative today here to speak with the item? Come forward and state your name, please.

Todd Roethlisberger:

Hi, good afternoon. Todd Roethlisberger, attorney with Poole Brooke Plumlee on behalf of RVB3, the applicant. Good afternoon, Mr. Chairman and members of the Commission, appreciate being on the consent agenda. We do agree to the terms set forth and appreciate Ms. Nowak's assistance with this application as well.



Vice Chair Alcaraz:

Great. Appreciate that.

Todd Roethlisberger:

Thank you. Thank you.

Vice Chair Alcaraz:

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

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Modification of Proffers. The applicant is requesting a Modification of Proffers to redevelop a former Sonic drive-in restaurant building into a Little Caesars restaurant. The building is located on a 25,204 square foot out parcel in Wesleyan Common Shopping Center. We recommend approval of the Modifications of Proffers and place this on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number 12, which is a Conditional Use Permit for a craft distillery at 712 Atlantic Avenue for Waterman Spirits, LLC. Please come forward.

Eddie Bourdon:

Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Waterman Spirits, LLC. Again, Brandon's done a very good job on this application, asked us a lot of questions, got a lot of answers from us, and all six conditions as recommended in the staff report are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Bradley:

The applicant is requesting a Conditional Use Permit to operate a craft distillery at 712 Atlantic Avenue. The property consists of multiple structures and uses including The Shack, which is primarily an outdoor resort establishment with dining, entertainment, and outdoor recreation facilities that has become popular with both visitors and residents. There is an existing 9,300 square foot masonry building on the Southern portion of the property. The craft distillery will produce and sell spirits with an 1,800 square foot portion of the existing structure facing Atlantic Avenue. Planning staff recommended this conditional use permit and Planning Commission has put it on the consent agenda.

Vice Chair Alcaraz:

Thank you.

Kay Wilson:

Mr. Frankenfield.

Commissioner Frankenfield:

Oh, are we ready to vote?

Kay Wilson:

No, I'm just ready for you to abstain.

Commissioner Frankenfield:

I need to abstain from The Festival, LLC. I am a service provider for that company and my company is at 1400 Woodhouse Road, Virginia Beach, Virginia. Thank you.

Vice Chair Alcaraz:

All right. Agenda item number 15 is a Conditional Use Permit for a short term rental at 410 22nd street, Unit B for Coastal Accommodations, LLC. Is there a representative here today to speak on this item? Please come forward. Just state your name for the record.

Grace Morris:

Grace Morris.

Vice Chair Alcaraz:

Okay. Thank you. Are the conditions acceptable to you?

Grace Morris:

Yes.

Vice Chair Alcaraz:

Thank you. You may be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have asked Commissioner Klein to read this for the record.

Commissioner Klein:

This 20,800 square foot lot is zoned OR, Oceanfront Resort. According to city records, it is a two bedroom town home constructed in 2015. The owner submitted a Conditional Use Permit request to operate a short term rental on site. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Mr. Chair, that was the last item for the consent agenda. The Planning Commission places following applications on the consent agenda: items number three, four, five, six, nine, 12, and 15.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent of agenda items three, four, five, six, nine, 12, and 15?

Commissioner Weiner:

Second.

Chairman Wall:

Okay. All right. I guess he's already said you made a motion. Okay, thank you. Okay. So hearing seconds. Are there any Planning Commissioners besides Mr. Frankenfield that are abstaining on any of the agenda items that are on the consent agenda? Okay. The motion for approval is by Mr. Alcaraz, and the second is by Mr. Weiner.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor, zero against, agenda items three, four, five, six, nine, and 15 have been recommended for approval. Agenda item number 12 by recorded vote of eight in favor, zero against, with one abstention by Commissioner Frankenfield, agenda item number 12 has been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			

Bradley	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

1. When the property is redeveloped, it shall be in substantial conformance with the concept plan entitled “LAYOUT AND LANDSCAPE PLAN”, dated 3/29/22 and prepared by TIMMONS GROUP., 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 building shall substantially adhere in appearance, size, color, and materials to the submitted elevations entitled “RENOVATIONS FOR ENTERPRISE”, dated 3/01/22 and prepared by COVINGTON HENDRIX ANDERSON 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 and Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy. The Landscaping Plan shall address all requirements of the Landscaping Guide including, but not limited to, the installation of street frontage plantings, building foundation plantings, and interior display plantings. All landscaping shall be maintained on-site in accordance with the approved Landscape Plan.
4. The northernmost access point along Lynnhaven Parkway shall be widened to meet the Public Works Standards of a minimum width of 30 feet.
5. The total number of vehicles displayed for rent shall be limited to 25 vehicles.
6. No more than 12 trucks for the purpose of renting shall be allowed on the site at any one time. Rental trucks shall be located only in the area on the site that has been designated on the exhibit entitled, “Layout and Landscape Plan,” as depicted on page 7 of this report.
7. Prior to operation of the Motor Vehicles Rentals establishment, the areas of the parking lot identified on the plan referenced in Condition 1 above shall be repaved and the entire parking lot shall be restriped to reflect all parking spaces required by the Zoning Ordinance, including handicap spaces in accordance with the Americans with Disabilities Act (ADA).
8. The freestanding sign on the property shall be a monument style sign not to exceed eight (8) feet in height.
9. 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.

10. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.
11. Vehicles shall be parked in the designated parking spaces and no vehicles shall be parked within any portion of the public right-of-way.
12. No maintenance, auto repair, or service of motor vehicles shall be permitted on site, other than handwashing and vacuuming.
13. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
14. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
15. There shall be no outside audio speakers for any purpose.
16. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties.

*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  
April 13, 2022, Public Meeting  
Agenda Item #5**

**Nora Nimely** [Applicant & Property Owner]

**Conditional Use Permit** (Family Day-Care Home)

**Address:** 1712 Moon Valley Drive

**RECOMMENDED FOR APPROVAL – CONSENT**

Chairman Wall:

Okay, thank you. The next order of business is the consent agenda. And I'm going to turn that over to Vice Chair Alcaraz to run that portion of the meeting.

Vice Chair Alcaraz:

Thank you, Mr. Chair. Today, we have seven items on the consent agenda. These applications that are recommended for approval by staff and the Planning Commission concurred that there are... And if there's no speakers in opposition, that we will be putting them on the consent agenda. Agenda item number three is a Conditional Use Permit for a car wash facility at the Northeast corner of General Booth Boulevard and Prosperity Road, and the applicant, Car Spa Incorporated, is their representative. There you go.

Eddie Bourdon:

Thank you, Mr. Alcaraz. Members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney. I represent Car Spa. I wanted to mention that Mr. Bruce Berlin, with General Booth Venture, LLC, who are the owners and developers of the property and the extra parcel to the North of this parcel is under their ownership. My applicant, in this case, Car Spa, is contracted by this piece of property. Also, Danielle Dansing with Kimley Horn are civil engineers here as well. Thank Hoa for all of his diligent efforts on this application and all eight conditions as staff has recommended are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being on the consent agenda? Hearing none, I ask Commissioner Weiner to read this item for the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a request for a Conditional Use Permit for a car wash facility. In 2019, City Council granted a Conditional Use Permit request for operations of an automobile service station, Wawa, on the Northeast corner of Prosperity Road and General Booth Boulevard. The 9.48 acre parcel zoned B2 Community Business was proposed to be subdivided into two lots with the Wawa site occupying 5.51 acres in the Southern lot. There were no immediate plans for the remaining 3.97 parcel. The applicant now seeks to subdivide the Northern 3.97 acres into two lots with 2.21 acre and 1.76 acre lot. The applicant plans to develop 2.21 acre site with 5,700 square foot automated car wash facility. We recommend approval and put it on the consent agenda.

Vice Chair Alcaraz:

Okay. Thank you, Mr. Weiner. Agenda item number four is a Conditional Use Permit for motor vehicle rentals at 1112 Lynnhaven Parkway for Enterprise Leasing Company of Norfolk Richmond, LLC. Is their representative here to speak today?

Eddie Bourdon:

Thank you, Mr. Alcaraz and Commissioners. For the record, Eddie Bourdon, Virginia Beach attorney representing Enterprise. I believe Ms. Kayley Krug with Enterprise is with us this afternoon. And I want to thank Michaela again for a very thorough job in evaluating and keeping us on our toes with this application. All 15 conditions are acceptable to the applicant and we appreciate being on the consent agenda. Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none. I ask Commissioner Bradley to read this item for the record.

Commissioner Bradley:

Thank you. The applicant is requesting a Conditional Use Permit for motor vehicle rentals on a one acre parcel zone B2 Community Business District. The site is currently developed with a 3,200 square foot building with an overhead canopy and accessory structure. The buildings on site were constructed in 1975 and were previously occupied by a restaurant with a drive through and a short term loan title business. The applicant proposes to display no more than 25 vehicles at any one time on the site. No automobile repair is proposed and staff is recommending a condition to prohibit that activity. The Planning staff recommended this. There was no known opposition, so Planning Commission decided to put it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number five is a Conditional Use Permit for family daycare at the home at 1712 Moon Valley Drive for Nora Nimely. Is their representative here today? Please come forward and state your name. Hi.

Nora Nimely:

Good afternoon. My name is Nora.

Vice Chair Alcaraz:

Thank you. Do you accept all the conditions?

Nora Nimely:

Yes, I do.

Vice Chair Alcaraz:

Thank you. You may be seated.

Nora Nimely:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Oliver:

Thank you. This is a request for a Conditional Use Permit to operate a family daycare home for up to eight children within the applicant's single family dwelling in the Lake Placid neighborhood. The applicant has over 10 years of experience in caring for children and the designated outdoor play area is located in the backyard and is enclosed with a six foot solid privacy fence. The typical hours of operation are proposed as 6:30 AM to 6:00 PM Monday through Friday. Staff found the property to be well organized and well kept. This request for a Conditional Use Permit for a family daycare home, in staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the suburban area. Staff recommends approval of this request with the conditions listed below, and therefore we have placed it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number six for a Conditional Use Permit for home occupation located at 4500 Hollingsworth Lane, applicant Baking It, Caking It LLC. Is the applicant here? Please come forward. Hi, can you state your name for the record?



Brianna Small:

Brianna Small.

Vice Chair Alcaraz:

Thank you. You accepted the conditions?

Brianna Small:

Yes.

Vice Chair Alcaraz:

Thank you.

Brianna Small:

Thank you.

Vice Chair Alcaraz:

You can be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have Commissioner Klein to read this item for the record.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit for a home occupation to operate a commercial kitchen in the 460 square foot attached to garage of their single family dwelling in the Glenwood neighborhood. It is the applicant's desire to prepare baked goods and deliver them to customers at offsite locations. The applicant will be the sole operator of the kitchen. No other employees are proposed for this in-home business. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Agenda item number nine, Modification of Proffers at 5453 Wesleyan Drive for RVB3, LLC. Is their representative today here to speak with the item? Come forward and state your name, please.

Todd Roethlisberger:

Hi, good afternoon. Todd Roethlisberger, attorney with Poole Brooke Plumlee on behalf of RVB3, the applicant. Good afternoon, Mr. Chairman and members of the Commission, appreciate being on the consent agenda. We do agree to the terms set forth and appreciate Ms. Nowak's assistance with this application as well.

Vice Chair Alcaraz:

Great. Appreciate that.

Todd Roethlisberger:

Thank you. Thank you.

Vice Chair Alcaraz:

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

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Modification of Proffers. The applicant is requesting a Modification of Proffers to redevelop a former Sonic drive-in restaurant building into a Little Caesars restaurant. The building is located on a 25,204 square foot out parcel in Wesleyan Common Shopping Center. We recommend approval of the Modifications of Proffers and place this on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number 12, which is a Conditional Use Permit for a craft distillery at 712 Atlantic Avenue for Waterman Spirits, LLC. Please come forward.

Eddie Bourdon:

Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Waterman Spirits, LLC. Again, Brandon's done a very good job on this application, asked us a lot of questions, got a lot of answers from us, and all six conditions as recommended in the staff report are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Bradley:

The applicant is requesting a Conditional Use Permit to operate a craft distillery at 712 Atlantic Avenue. The property consists of multiple structures and uses including The Shack, which is primarily an outdoor resort establishment with dining, entertainment, and outdoor recreation facilities that has become popular with both visitors and residents. There is an existing 9,300 square foot masonry building on the Southern portion of the property. The craft distillery will produce and sell spirits with an 1,800 square foot portion of the existing structure facing Atlantic Avenue. Planning staff recommended this conditional use permit and Planning Commission has put it on the consent agenda.

Vice Chair Alcaraz:

Thank you.

Kay Wilson:

Mr. Frankenfield.

Commissioner Frankenfield:

Oh, are we ready to vote?

Kay Wilson:

No, I'm just ready for you to abstain.

Commissioner Frankenfield:

I need to abstain from The Festival, LLC. I am a service provider for that company and my company is at 1400 Woodhouse Road, Virginia Beach, Virginia. Thank you.

Vice Chair Alcaraz:

All right. Agenda item number 15 is a Conditional Use Permit for a short term rental at 410 22nd street, Unit B for Coastal Accommodations, LLC. Is there a representative here today to speak on this item? Please come forward. Just state your name for the record.

Grace Morris:

Grace Morris.

Vice Chair Alcaraz:

Okay. Thank you. Are the conditions acceptable to you?

Grace Morris:

Yes.

Vice Chair Alcaraz:

Thank you. You may be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have asked Commissioner Klein to read this for the record.

Commissioner Klein:

This 20,800 square foot lot is zoned OR, Oceanfront Resort. According to city records, it is a two bedroom town home constructed in 2015. The owner submitted a Conditional Use Permit request to operate a short term rental on site. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Mr. Chair, that was the last item for the consent agenda. The Planning Commission places following applications on the consent agenda: items number three, four, five, six, nine, 12, and 15.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent of agenda items three, four, five, six, nine, 12, and 15?

Commissioner Weiner:

Second.

Chairman Wall:

Okay. All right. I guess he's already said you made a motion. Okay, thank you. Okay. So hearing seconds. Are there any Planning Commissioners besides Mr. Frankenfield that are abstaining on any of the agenda items that are on the consent agenda? Okay. The motion for approval is by Mr. Alcaraz, and the second is by Mr. Weiner.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor, zero against, agenda items three, four, five, six, nine, and 15 have been recommended for approval. Agenda item number 12 by recorded vote of eight in favor, zero against, with one abstention by Commissioner Frankenfield, agenda item number 12 has been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			

Bradley	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

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

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

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

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

**Virginia Beach Planning Commission  
April 13, 2022, Public Meeting  
Agenda Item #6**

**Baking It Caking It, LLC** [Applicant]  
**Briana Small** [Property Owner]

**Conditional Use Permit** (Home Occupation)

**Address:** 4500 Hollingsworth Lane

**RECOMMENDED FOR APPROVAL – CONSENT**

Chairman Wall:

Okay, thank you. The next order of business is the consent agenda. And I'm going to turn that over to Vice Chair Alcaraz to run that portion of the meeting.

Vice Chair Alcaraz:

Thank you, Mr. Chair. Today, we have seven items on the consent agenda. These applications that are recommended for approval by staff and the Planning Commission concurred that there are... And if there's no speakers in opposition, that we will be putting them on the consent agenda. Agenda item number three is a Conditional Use Permit for a car wash facility at the Northeast corner of General Booth Boulevard and Prosperity Road, and the applicant, Car Spa Incorporated, is their representative. There you go.

Eddie Bourdon:

Thank you, Mr. Alcaraz. Members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney. I represent Car Spa. I wanted to mention that Mr. Bruce Berlin, with General Booth Venture, LLC, who are the owners and developers of the property and the extra parcel to the North of this parcel is under their ownership. My applicant, in this case, Car Spa, is contracted by this piece of property. Also, Danielle Dansing with Kimley Horn are civil engineers here as well. Thank Hoa for all of his diligent efforts on this application and all eight conditions as staff has recommended are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being on the consent agenda? Hearing none, I ask Commissioner Weiner to read this item for the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a request for a Conditional Use Permit for a car wash facility. In 2019, City Council granted a Conditional Use Permit request for operations of an automobile service station, Wawa, on the Northeast corner of Prosperity Road and General Booth Boulevard. The 9.48 acre parcel zoned B2 Community Business was proposed to be subdivided into two lots with the Wawa site occupying 5.51 acres in the Southern lot. There were no immediate plans for the remaining 3.97 parcel. The applicant now seeks to subdivide the Northern 3.97 acres into two lots with 2.21 acre and 1.76 acre lot. The applicant plans to develop 2.21 acre site with 5,700 square foot automated car wash facility. We recommend approval and put it on the consent agenda.

Vice Chair Alcaraz:

Okay. Thank you, Mr. Weiner. Agenda item number four is a Conditional Use Permit for motor vehicle rentals at 1112 Lynnhaven Parkway for Enterprise Leasing Company of Norfolk Richmond, LLC. Is their representative here to speak today?

Eddie Bourdon:

Thank you, Mr. Alcaraz and Commissioners. For the record, Eddie Bourdon, Virginia Beach attorney representing Enterprise. I believe Ms. Kayley Krug with Enterprise is with us this afternoon. And I want to thank Michaela again for a very thorough job in evaluating and keeping us on our toes with this application. All 15 conditions are acceptable to the applicant and we appreciate being on the consent agenda. Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none. I ask Commissioner Bradley to read this item for the record.

Commissioner Bradley:

Thank you. The applicant is requesting a Conditional Use Permit for motor vehicle rentals on a one acre parcel zone B2 Community Business District. The site is currently developed with a 3,200 square foot building with an overhead canopy and accessory structure. The buildings on site were constructed in 1975 and were previously occupied by a restaurant with a drive through and a short term loan title business. The applicant proposes to display no more than 25 vehicles at any one time on the site. No automobile repair is proposed and staff is recommending a condition to prohibit that activity. The Planning staff recommended this. There was no known opposition, so Planning Commission decided to put it on the consent agenda.

Vice Chair Alcaraz:



Thank you. Agenda item number five is a Conditional Use Permit for family daycare at the home at 1712 Moon Valley Drive for Nora Nimely. Is their representative here today? Please come forward and state your name. Hi.

Nora Nimely:

Good afternoon. My name is Nora.

Vice Chair Alcaraz:

Thank you. Do you accept all the conditions?

Nora Nimely:

Yes, I do.

Vice Chair Alcaraz:

Thank you. You may be seated.

Nora Nimely:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Oliver:

Thank you. This is a request for a Conditional Use Permit to operate a family daycare home for up to eight children within the applicant's single family dwelling in the Lake Placid neighborhood. The applicant has over 10 years of experience in caring for children and the designated outdoor play area is located in the backyard and is enclosed with a six foot solid privacy fence. The typical hours of operation are proposed as 6:30 AM to 6:00 PM Monday through Friday. Staff found the property to be well organized and well kept. This request for a Conditional Use Permit for a family daycare home, in staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the suburban area. Staff recommends approval of this request with the conditions listed below, and therefore we have placed it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number six for a Conditional Use Permit for home occupation located at 4500 Hollingsworth Lane, applicant Baking It, Caking It LLC. Is the applicant here? Please come forward. Hi, can you state your name for the record?

Brianna Small:

Brianna Small.

Vice Chair Alcaraz:

Thank you. You accepted the conditions?

Brianna Small:

Yes.

Vice Chair Alcaraz:

Thank you.

Brianna Small:

Thank you.

Vice Chair Alcaraz:

You can be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have Commissioner Klein to read this item for the record.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit for a home occupation to operate a commercial kitchen in the 460 square foot attached to garage of their single family dwelling in the Glenwood neighborhood. It is the applicant's desire to prepare baked goods and deliver them to customers at offsite locations. The applicant will be the sole operator of the kitchen. No other employees are proposed for this in-home business. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Agenda item number nine, Modification of Proffers at 5453 Wesleyan Drive for RVB3, LLC. Is their representative today here to speak with the item? Come forward and state your name, please.

Todd Roethlisberger:

Hi, good afternoon. Todd Roethlisberger, attorney with Poole Brooke Plumlee on behalf of RVB3, the applicant. Good afternoon, Mr. Chairman and members of the Commission, appreciate being on the consent agenda. We do agree to the terms set forth and appreciate Ms. Nowak's assistance with this application as well.

Vice Chair Alcaraz:

Great. Appreciate that.

Todd Roethlisberger:

Thank you. Thank you.

Vice Chair Alcaraz:

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

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Modification of Proffers. The applicant is requesting a Modification of Proffers to redevelop a former Sonic drive-in restaurant building into a Little Caesars restaurant. The building is located on a 25,204 square foot out parcel in Wesleyan Common Shopping Center. We recommend approval of the Modifications of Proffers and place this on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number 12, which is a Conditional Use Permit for a craft distillery at 712 Atlantic Avenue for Waterman Spirits, LLC. Please come forward.

Eddie Bourdon:

Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Waterman Spirits, LLC. Again, Brandon's done a very good job on this application, asked us a lot of questions, got a lot of answers from us, and all six conditions as recommended in the staff report are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Bradley:

The applicant is requesting a Conditional Use Permit to operate a craft distillery at 712 Atlantic Avenue. The property consists of multiple structures and uses including The Shack, which is primarily an outdoor resort establishment with dining, entertainment, and outdoor recreation facilities that has become popular with both visitors and residents. There is an existing 9,300 square foot masonry building on the Southern portion of the property. The craft distillery will produce and sell spirits with an 1,800 square foot portion of the existing structure facing Atlantic Avenue. Planning staff recommended this conditional use permit and Planning Commission has put it on the consent agenda.

Vice Chair Alcaraz:

Thank you.

Kay Wilson:

Mr. Frankenfield.

Commissioner Frankenfield:

Oh, are we ready to vote?

Kay Wilson:

No, I'm just ready for you to abstain.

Commissioner Frankenfield:

I need to abstain from The Festival, LLC. I am a service provider for that company and my company is at 1400 Woodhouse Road, Virginia Beach, Virginia. Thank you.

Vice Chair Alcaraz:

All right. Agenda item number 15 is a Conditional Use Permit for a short term rental at 410 22nd street, Unit B for Coastal Accommodations, LLC. Is there a representative here today to speak on this item? Please come forward. Just state your name for the record.

Grace Morris:

Grace Morris.

Vice Chair Alcaraz:

Okay. Thank you. Are the conditions acceptable to you?

Grace Morris:

Yes.

Vice Chair Alcaraz:

Thank you. You may be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have asked Commissioner Klein to read this for the record.

Commissioner Klein:

This 20,800 square foot lot is zoned OR, Oceanfront Resort. According to city records, it is a two bedroom town home constructed in 2015. The owner submitted a Conditional Use Permit request to operate a short term rental on site. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Mr. Chair, that was the last item for the consent agenda. The Planning Commission places following applications on the consent agenda: items number three, four, five, six, nine, 12, and 15.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent of agenda items three, four, five, six, nine, 12, and 15?

Commissioner Weiner:

Second.

Chairman Wall:

Okay. All right. I guess he's already said you made a motion. Okay, thank you. Okay. So hearing seconds. Are there any Planning Commissioners besides Mr. Frankenfield that are abstaining on any of the agenda items that are on the consent agenda? Okay. The motion for approval is by Mr. Alcaraz, and the second is by Mr. Weiner.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor, zero against, agenda items three, four, five, six, nine, and 15 have been recommended for approval. Agenda item number 12 by recorded vote of eight in favor, zero against, with one abstention by Commissioner Frankenfield, agenda item number 12 has been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 2
--	-------	-------	-------	----------

Alcaraz	AYE			
Bradley	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

1. In accordance with Section 234(c) of the City Zoning Ordinance, there shall be no more than one (1) sign identifying the Home Occupation. Said sign shall be no more than one (1) square foot in area, shall not be internally illuminated, and shall be mounted flat against the wall of the residence.
2. In accordance with Section 234 (d) of the City Zoning Ordinance, the use shall not create noise, dust, vibration, smell, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.
3. There shall be no retail sales of any products or merchandise to the general public from the site.
4. The commercial kitchen equipment shall be removed if the home occupation ceases.
5. The garage shall not be converted into a dwelling unit unless permitted by 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  
April 13, 2022, Public Meeting  
Agenda Items # 7 & 8**

**AMERCO Real Estate Company** [Applicant]  
**Thomas Brill Trust** [Property Owner]

**Conditional Use Permits** (Truck and Trailer Rentals & Mini-Warehouse)

**Address:** the Southern corner of Holland Road & Stoneshore Road

**DEFERRED INDEFINITELY**

Chairman Wall:

Thank you, Madam Clerk. The next order of business is consideration of requests for withdrawal or deferral. Please come forward if you have any items for withdrawal. Okay. Seeing none. Please come forward if you have any items to be deferred.

Eddie Bourdon:

Chairman Wall, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Nimmo United Methodist Church. Marchelle did a good job of explaining the need for the deferral for 30 days. We should be here next month. Okay. Thank you very much.

Chairman Wall:

Thank you. Anyone else? The chairman is also aware that agenda items number seven and eight have requested a deferral for an indefinite deferral. Does anyone have any objection for these items to be deferred? Okay. Hearing none. Do I have a motion to defer items agenda item number two for 30 days and a motion to defer agenda items seven and eight indefinitely?

Commissioner Bradley:

So moved.

Chairman Wall:

Okay.

Mr. Horsley:

Second.

Chairman Wall:

Okay. So I have a motion by Mr. Bradley and a second by Mr. Horsley.

Madam Clerk:

Okay. The vote is open.

Madam Clerk:

Mr. Frankenfield, can we get your vote please?

Commissioner Frankenfield:

Oh, thank you.

Madam Clerk:

By recorded vote of nine in favor, zero against agenda item number two has been deferred for 30 days, and agenda items number seven and eight have been deferred indefinitely.

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



**Virginia Beach Planning Commission  
April 13, 2022, Public Meeting  
Agenda Item # 9**

**RVB3, LLC** [Applicant & Property Owner]

**Modification of Proffers**

**Address:** 5453 Wesleyan Drive

**RECOMMENDED FOR APPROVAL – CONSENT**

Chairman Wall:

Okay, thank you. The next order of business is the consent agenda. And I'm going to turn that over to Vice Chair Alcaraz to run that portion of the meeting.

Vice Chair Alcaraz:

Thank you, Mr. Chair. Today, we have seven items on the consent agenda. These applications that are recommended for approval by Staff and the Planning Commission concurred that there are... And if there's no speakers in opposition, that we will be putting them on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number nine, Modification of Proffers at 5453 Wesleyan Drive for RVB3, LLC. Is their representative today here to speak with the item? Come forward and state your name, please.

Todd Roethlisberger:

Hi, good afternoon. Todd Roethlisberger, attorney with Poole Brooke Plumlee on behalf of RVB3, the applicant. Good afternoon, Mr. Chairman and members of the Commission, appreciate being on the consent agenda. We do agree to the terms set forth and appreciate Ms. Nowak's assistance with this application as well.

Vice Chair Alcaraz:

Great. Appreciate that.

Todd Roethlisberger:

Thank you. Thank you.

Vice Chair Alcaraz:

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

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Modification of Proffers. The applicant is requesting a Modification of Proffers to redevelop a former Sonic drive-in restaurant building into a Little Caesars restaurant. The building is located on a 25,204 square foot out parcel in Wesleyan Common Shopping Center. We recommend approval of the Modifications of Proffers and place this on the consent agenda.

...

Vice Chair Alcaraz:

Thank you. Mr. Chair, that was the last item for the consent agenda. The Planning Commission places following applications on the consent agenda: items number three, four, five, six, nine, 12, and 15.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent of agenda items three, four, five, six, nine, 12, and 15?

Commissioner Weiner:

Second.

Chairman Wall:

Okay. All right. I guess he's already said you made a motion. Okay, thank you. Okay. So, hearing seconds. Are there any Planning Commissioners besides Mr. Frankenfield that are abstaining on any of the agenda items that are on the consent agenda? Okay. The motion for approval is by Mr. Alcaraz, and the second is by Mr. Weiner.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor, zero against, agenda items three, four, five, six, nine, and 15 have been recommended for approval. Agenda item number 12 by recorded vote of eight in favor, zero against, with one abstention by Commissioner Frankenfield, agenda item number 12 has been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			

Bradley	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
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:**

The property shall be developed substantially in accordance with that certain site plan entitled “Proposed Drive-Thru Exhibit” dated March 10, 2022, prepared by Hayden Frye Associates, Inc., a copy of which has been exhibited to the City Council of the City of Virginia Beach and is on file in the Planning Department of the City of Virginia Beach (the “Site Plan”).

**Proffer 2:**

Landscaping shall be installed on the Property substantially as shown on that certain exhibit entitled “Landscape Plan” dated March 7, 2022, prepared by William D. Almond, WPL, a copy of which has been exhibited to the City Council of the City of Virginia Beach and is on file in the Planning Department of the City of Virginia Beach (the “Landscape Plan”).

**Proffer 3:**

The uses permitted on the Property shall be restricted to medical/office, office, financial institutions, and freestanding restaurants with or without drive-through facilities, and retail.

**Proffer 4:**

The principal structure located on the Property shall be constructed primarily of brick with architectural masonry complements in a color that matches the color of the exterior brick materials used in the construction of the primary structure on Parcel A.

**Proffer 5:**

The roofs and architectural design of the principal structure located on the Property shall be constructed in conformity with the elevations prepared by Little Caesar Enterprises, Inc. dated

February 24, 2022, a copy of which has been exhibited to the City Council of the City of Virginia Beach and is on file in the Planning Department of the City of Virginia Beach (the "Elevations"). The visible exterior roof materials of the principal structure on these three parcels shall be either shingles or the same materials used in the principal structure on Parcel A and such roof materials shall be color coordinated with the other roof materials used on the property. Any exterior mechanical equipment located on the roof of the buildings on the property shall be screened by the roof treatment or parapet walls from view from the public right of way to or nearest to each parcel.

**Proffer 6:**

The primary structures located on the Property shall be located as close to the building setback line on Wesleyan Drive taking into account the necessary design features to serve these parcels. In addition, the area directly between the northernmost elevation of the principal structure on such parcel and Wesleyan Drive shall be restricted such that no parking spaces may be constructed or maintained within such area.

**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  
April 13, 2022, Public Meeting  
Agenda Item # 10**

**Atlantic Development Associates, LLC & WPL Ventures, LLC** [Applicants & Property Owners]

**Subdivision Variance** (section 4.4(b) of the Subdivision Regulations)

**Address:** 111 73<sup>rd</sup> Street

**RECOMMENDED FOR APPROVAL – HEARD**

Madam Clerk:

Mr. Chair, is it okay to call the next item?

Chairman Wall:

Yes, please call the next.

Madam Clerk:

Our next item is agenda item number 10, Atlantic Development Associates, LLC, and WPL Ventures, LLC. An application for Subdivision Variance Section 4.4B of the Subdivision Regulations on property located at 111 73rd Street, located in District six, formerly the Lynnhaven District.

Eddie Bourdon:

Thank you, Ms. Sandloop. Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing the applicant Mr. Brian Large, principal of the applicant with us. So I want to start out with very, very basics to try to clear up any ambiguity or confusion that may have been engendered by the briefing this morning. The subject properties, there are two legal lots that exist today. One is lot 12. It's a 50 foot by 150 foot, 7,500 square lot that was established many, many decades by plat before Princess Anne County adopted its first Subdivision Ordinance and its first Zoning Ordinance in 1952, 1953. This property is now zoned R5R and there was no such thing when this lot was created and not until the '70s was there an R5 zoning district.

Eddie Burdon:

And it is legally nonconforming as to the size for a duplex lot under our current zoning as is the case with 99% of the duplex development that exists at the North End of Virginia Beach. They are almost entirely on nonconforming lots because they're not 80 feet wide and they're not 10,000 square feet. Today, this lot can have built on it by right a duplex and in fact, my client has a duplex plan, it was going to be submitted. I'll get into that. Or it can be developed under the North End Overlay as two detached units on the same lot. So I'm going to repeat, it is a

legally nonconforming duplex lot. It has no architectural mandates or requirements, it has to meet the setbacks, got to meet the lot coverage, the impervious surface in the 35 foot height.

Eddie Bourdon:

If you did two detach units on the 50 foot by 150 foot lot, it would have to meet the architectural under the overlay that was adopted a number of years ago because the feeling is and it's been successful that we're better off with two small or two and a half story cottages or two-story cottages than having a big three-story bulk of a duplex. So either of those can happen on that lot. The second lot, again, legally existing build-able lot on the West side of lot 12 sharing a boundary line with lot 12 and it is 30 by 150 feet containing 4,500 square feet. Just like lot 12, it is legally nonconforming, and it can be developed as a duplex or by two detached single-family homes under the North End Overlay. Both lots can be developed with a single-family home.

Eddie Bourdon:

Both can be developed with a single-family home. The 30-foot lot was created in 1949 by deed legally because there was no subdivision ordinance, and that's the story. That's the only story. There was never any vacating of a property line or any of that stuff that was talked about this morning. It's meaningless talk. It doesn't have any relevance. There are many, many such legally nonconforming lots that exist throughout our city that were created because think of all the subdivision that existed before we had zoning or subdivision ordinance. Thalia, Old Beach, Lakewood off of Rosemont Road area, Chesapeake Beach are some of the areas and at the North End, there are also nonconforming lots, not quite as many, but there are those up there.

Eddie Bourdon:

My client owned this property for many, many years. My client entered a contract to purchase the properties from her and because he develops at the North End a lot, he said, "Let's go in and first of all, eliminate the nonconforming aspect of both of these lots by agreeing, by re-subdividing and agreeing that no duplex, because once you re-subdivide, you can't put a duplex on either one, nor can you do two separate units on either one of the two existing lots, lets re-subdivide and change the nonconforming 30 foot lot," which is nonconforming in lot size and in lot width, "to make it more conforming at 40 feet wide and lot width and totally conforming at 6,000 square feet for a single family home. And in order to do that, we are making lot 12, which is conforming for a single-family home today.

Eddie Bourdon:

And with this, we'll be conforming in every way to a single-family home except the lot width at 40 feet versus 50 feet." At the same time, Proffer proposed a single-family plan that meets all zoning requirements, no variances for anything. And with the exception of not being able to have a side loading garage meets the overlay architectural requirements. And that's what is before you today, and we're not in the overlay. Now, I can get into a lot of answers, some other things, but that's the basis of this. And to make it clear, I gave you all a copy of a variance application that was filed in December to build a single-family house on the 30-foot lot with a

decreased setback to five feet on the interior shared boundary with lot 12. Same boundary that's been there since lot 12 was created back in the early 1900s.

Eddie Bourdon:

And before we went to the Board of Zoning Appeals, we were approached by the residents on 73rd Street, some of whom are here today. Judge Whitlow, I think is signed up to speak and asked, "Do the single family plan. That's what we want. That's what we like and that's why we're here." That BZA variance application for the 30-foot lot, well, I've been doing this for 37 years with the hardship, the variance will be granted if we have to go that direction. That's not the direction we want to go. This is the way we think is best because we know the people on the street prefer it. Single family home. Perfect. I mean, that's what people want. They don't want to live behind somebody else's house. Some people do, but it's a more valuable and it's a better way to develop the property, consistent with the character of the street. Be happy to answer any questions and the conditions is recommended and the staff reporter acceptable to the applicant.

Chairman Wall:

Thank you. Are there any questions for Mr. Bourdon?

George A. Alcaraz:

Mr. Bourdon, the exhibit you've given us that's for single family, but by right, your client could do a duplex, right? If he wanted to fit it?

Eddie Bourdon:

Well, he absolutely can do a duplex on the 50-foot lot, and that's exactly what the alternative is. Two units on lot 12 and that unit on the 30-foot lot. Yes, technically you could do two units on the 30-foot lot. You'd need a greater amount of variance, and you'd have a problem with lot coverage to get four parking spaces on the property. So as a practical matter, legally, yes, practically the 30-foot lot would be one skinny, three story house. It doesn't meet the guidelines of the overlay, doesn't have to, but I'm not going to sit up here and tell you that I think anyone would develop a duplex on that lot.

George A. Alcaraz:

No, I just want to know the potential.

Eddie Bourdon:

Potentially, yes.

George A. Alcaraz:

Okay, that's all I need.

Eddie Bourdon:

But undoubtedly, not even close question, you can put a duplex on lot 12, which is exactly what we were going in that direction at one point and a single family just like is in that application on the 30-foot lot.

George A. Alcaraz:

All right. Thank you.

Chairman Wall:

Anyone else? All right, thank you.

Eddie Bourdon:

Thank you, Mr. Wall.

Chairman Wall:

Madam clerk?

Madam Clerk:

We have three speakers, Mr. Chairman. Chris Arias followed by Morton Whitlow.

Chairman Wall:

Mr. Arias, you've got three minutes when the red light ...

Chris Arias:

Yeah. Thank you.

Chairman Wall:

Please state your name for the record.

Chris Arias:

Yes, my name is Chris Arias and I'm representing the Arias family that owns 112 on 73rd Street directly across the street from the property that's applying for the variance. And I'd like to say, we are very much in favor of the application and the proposed design for two single family homes on the lots. We don't want to see a duplex or the alternative go in, and looking at the lots and the way they're designed. One's very skinny development.



Chris Arias:

There's one very skinny structure going in next to another one does not fit with the context of the neighborhood. Also, looking at congestion and burdens on the infrastructure for our little street and also, just trying to keep the character of the neighborhood. So, yes, I read through the staff's report and we were agreeing with that. So, yeah, we hope you guys approve it.

Chairman Wall:

Okay.

Chris Arias:

That's it. Any questions?

Chairman Wall:

Any questions?

Chris Arias:

Sorry. That's your job. Thanks.

Madam Clerk:

Our next speaker is Morton Whitlow followed by Gerrie West.

Morton Whitlow:

Good afternoon. Thank you. My name is Morton Whitlow. I live at 107 73rd Street. Before I start, I want to thank all of you for your service on the Planning Commission. It's a very, very important civic function and I appreciate your work in that regard. I'm in support of the applicant, our block simply wants two single family homes. It's a predominantly single-family block. Interestingly, over the last 25 years that I've owned my little cottage, almost everybody on the block's had a chance to tear down and start over or remodel. And one by one, two houses were torn down and single-family houses were rebuilt. Nine of us have chosen to rehab or remodel our existing old cottages.

Morton Whitlow:

And so, it stayed a single-family block uniquely, one by one, pretty special in the North End. So we'd like to keep it that way. I'm not aware of any opposition to this by the people on our block. I think you're probably all aware of the emails that have come in from almost every property owner, all in support of these two single family homes on the 40-foot lots. So we hope you'll agree with us. The one thing I note there was a letter was sent in by a representative of the

North End Civic League opposing this application. And first, all of us really appreciate the work of the North End Civic League folks in protecting our community. They do a lot of great volunteer work and we appreciate their efforts. We just respectfully disagree with their position in this case.

Morton Whitlow:

We think it ought be decided on a case-by-case basis. I noted in a letter there's a couple of things, I guess the retired lawyer and retired judge comes out in me when I look at this. So, I have to rebut a couple things that are in the opposition letter. There was some complaint that the houses would be too narrow at 24 feet in width, out of character with the neighborhood. Well, the house right next door at 109, Mr. McCardell's house, his house is exactly 24 feet wide. Same. My little cottage is the smallest house on the block at 107 it's 24 feet wide. So, 24 feet is in character, not out of character. Lastly, there was a mention that perhaps the residents of the 100 block had been misled by the developer. That is simply not accurate. I have not been misled. Thank you very much for your attention to this important issue to us and thank you for your time. If you have any questions, I'll be happy to answer them.

Chairman Wall:

Thank you. Are there any questions for Mr. Whitlow?

Commissioner Oliver:

I have one. Judge, there's a conversation about the design of the house. I'm just curious as to what your thoughts are as far as does it fit in with the street?

Morton Whitlow:

Well, it does. We've got, as I mentioned, two single family homes in the last decade have been torn down, single family homes, rebuilt single family homes, and both of those have front loading garages.

Commissioner Oliver:

Okay.

Morton Whitlow:

It's almost a necessity with these 50-foot lots. I mean, having something other than that is very difficult. It's possible, but difficult. Everybody would love to see a little cute cottage, but the truth is, square footage matters. And so, these houses, they'll be a lot bigger than my house, but they won't be much bigger than all the other houses on the street. And they look to be two and a half stories. I think they'll have some housing on the third level, but the way they appear to be designed, they look like two and a half story houses, which is compatible with our block, we

believe. But all the neighbors up and down the street as you got the emails were supportive of what's proposed.

Commissioner Oliver:

Great. Thank you.

Morton Whitlow:

All right. Thank you for your time.

Chairman Wall:

Anyone else? Thanks.

Gerrie West:

Good afternoon. I'm Gerrie West. I'm here on behalf of the North Virginia Beach Civic League.

Chairman Wall:

Okay. Ms. West?

Gerrie West:

Yes.

Chairman Wall:

I think you have 10 minutes, correct? Okay.

Gerrie West:

Oh, I probably won't need 10 minutes, but thank you. I'm here on behalf of the North End Civic League. We are in opposition, this re-subdivision because we think it sets a dangerous precedent on the North End. One of the things as an architect and a member of the Zoning Review Committee for almost 20 years now that I always ask the group at the beginning, when we're reviewing a variance request is what would the North End be like if everyone was given permission to do this? In this case, I think this is one of the more dangerous places to go. Our zoning codes clearly say that the minimum lot width needs to be 50 feet.

Gerrie West:

That allows for plenty of parking or better parking, I'll say. Everybody knows the North End has a parking issue. It allows for green space for storm water management, and that's the way the neighborhood has traditionally been laid out. A lot of the areas were laid out in 25-foot lots before the zoning code and people would buy 2, 3, 4 of them. So you see these 80-foot-wide

lots, or 100-foot-wide lots or 75-foot-wide lots because they bought the 25-foot ones. And also, some have been subdivided off into the 30-foot lot. They were always subdivided and bought for single family homes until duplexes became a thing. And then, when duplexes came in, the two cottage overlay was made an alternative to the traditional three-story duplexes on 50-foot-wide lots.

Gerrie West:

So I would like to respectfully disagree with Eddie, and I won't use the word legal because I know that's not the right word for this, but that subdividing these lots into two 40-foot-wide lots is making them more conforming. Because we're taking one lot that is already conforming and making it into a nonconforming lot. We are improving the 30-foot-wide lot, but we are not making it conforming. So the thought of making them more conforming is like being a little bit pregnant or not, in my opinion and in the opinion of the Civic League Zoning Review Committee that I am representing today. One of the things, I met with Judge Whitlow and let him know that the applicant can build exactly the same houses that he has in his hands and under the two cottage option without subdividing the lots.

Gerrie West:

There isn't really any difference at all, except that the garage needs to be set back six feet from the main part of the house, the main front of the house. It doesn't have to be side loading. It just has to be six feet back from the front face of the house, so recessed a little bit, otherwise, everything is pretty the same. They would be held to the two and a half stories, but it looks like the design that they have right now is two and a half stories. I haven't looked at it for compliance with some of the more esoteric parts of the design that are in that code, but I feel confident that very nice-looking houses could be built under the two cottage code and not subdivide the lot. The reason that the lot is here to be subdivided is that the developers can make more money on two single family homes, unencumbered by a condo document.

Gerrie West:

If he builds the two cottages on one 80-foot-wide lot, which is what makes the most sense, if you take the 30 foot and the 50 foot and vacate the property line, then you get an 80-foot-wide lot and the two houses can be side by side rather than front and back. They do not have to be front and back. That's what the diagram and the code show, but they do not have to be front and back. They can be side by side if you have a wide enough lot, and they do if you made it an 80-foot-wide lot. So, there would be no difference in the houses if you vacate the property line, then there would if you cut it into two 40-foot-wide lots, except for there would be no condo document. And therefore, greater profits could be reaped by the builder and the applicant.

Gerrie West:

We think it sets a really bad precedent. We have storm water issues and we have parking issues and then, we have what Judge Whitlow calls the traditional-ness of the neighborhood, the small houses and the ones that were developed as beach cottage type things. These two houses that can be built that he's shown meet all of those requirements, except that they would be condo-ed. If you thought ahead and said, "If this sets a precedent," and I believe it will, because there has already been one case of a developer taking three homes on 5 or 6 25 foot lots, I can't remember exactly what it was then and cutting them all up into 40 foot wide lots. So 5 houses now where there used to be 3. We thought that was a bad precedent setter and now we're seeing it come to fruition with this case. There really isn't any reason not to vacate the property line and make an 80 foot wide lot. Any questions?

Chairman Wall:

Okay.

Robyn Klein:

I have a question.

Chairman Wall:

Yep. Ms. Klein.

Robyn Klein:

So it sounds like, and Bobby please correct me, that they could also take the two lots that exist now and build a single family home and a duplex?

Gerrie West:

They could. And that's the fear of the neighbors and by all means, I agree with the neighbors. The preference of finishing off the development on their street with more single family cottage like homes is definitely preferable. But they have been told that it is possible to build a three story duplex on the 50 foot wide one and a skinny 14 foot wide, whatever, it could be a duplex, it could be two cottages like Eddie said, or it could be one single family home, but 14 foot wide without any variances.

Gerrie West:

I'm saying that the value in these two pieces of property is when you combine them and you can have a very nice one single family home, a larger one that's gorgeous, or you can have two smaller ones that are side by side that would also be gorgeous. I think either of those would suit the neighbors, but it is the threat of having that duplex or not the threat, but the ability to do the duplex if the applicant should so choose to do so, that has scared the neighbors into wanting to have it subdivided into two 40 foot wide lots.

Robyn Klein:

So it's not within our power, right? To say that it has to be one lot because it's technically ...

Gerrie West:

No, it's not.

Robyn Klein:

... two lots, right, Bobby? Okay, so is it the opinion of the Civic League that if it is technically two lots and the one lot is not an option that it be two 40 foot lots or one 50 foot lot, and one 30 foot lot?

Gerrie West:

The Civic League does not want to see it divided up into two 40 foot wide lots because that is substandard and it causes issues. If everybody was to do that and more and more, it would happen. If this is passed, you'll have 40 foot wide lots instead of 50 foot wide lots, thereby, creating more homes, more infrastructure needed, water, sewer, storm water management issues will get way worse. The more homes there are, you have to have two onsite parking spaces paved for every home. So you're paving more and more, less trees, less grass, storm water management problems everywhere, parking problems everywhere. So, it's the long-term precedent that we're concerned with.

Robyn Klein:

So if the 80 foot lot is not an option and you don't want to set the precedent of the two 40 foot lots, does that mean that your next best selection is the conforming 50 foot lot and the nonconforming 30 foot lot?

Gerrie West:

Well, combining it into 80, I'm sorry if I don't understand your question, but combining it into 80 would be perfectly fine.

Robyn Klein:

Right.

Gerrie West:

And having two or one homes on that.

Robyn Klein:

Right. But right now there's, two lots.

Gerrie West:

Correct.

Robyn Klein:

Right. So by-right, the developer could have the 50-foot lot and the 30-foot lot.

Gerrie West:

Correct.

Robyn Klein:

So, if the one 80-foot lot is not an option, and it's either two 40s or a 50 and a 30, does the Civic League prefer the 50 and the 30, because at least the 50-

Gerrie West:

Yes.

Robyn Klein:

Is conforming?

Gerrie West:

Yes, that is correct because it wouldn't be setting a precedent for the 40-foot-wide lots.

Commissioner Oliver:

Okay. So Gerri, I might have missed something in all of this because I'm... irregardless of whether we've got two 40s, a 30 and a 50 or an 80, we're still putting two single-family houses on this whole piece of property.

Gerrie West:

Correct.

Commissioner Oliver:

Regardless of how it's- the pie is sliced.

Gerrie West:

Yes.

Commissioner Oliver:

When you mentioned, and I'm maybe I misunderstood you as far of stormwater and infrastructure and stuff. It's still two houses. It's still the same amount of use on the same space of property.

Gerrie West:

Yes.

Commissioner Oliver:

So I'm just trying to figure out that's really not the issue, the amount of use on the piece of property-

Gerrie West:

Correct-

Commissioner Oliver:

Because two houses is two houses.

Gerrie West:

Yes, you're absolutely correct in that respect. It is the danger of having every lot every 80-foot-wide lot-

Commissioner Oliver:

Divided.

Gerrie West:

Divided into two 40-foot-wide lots, which would traditionally not be the case. So, if the majority of the lots started becoming that, then we would have more houses ultimately than we would if people were unable to create the substandard lots.

Commissioner Oliver:

Okay. Okay. It wasn't the amount of use on that-

Gerrie West:

Correct. Not on that specific lot, and that's why I say, we'd be happy if it became an 80-foot lot and had two houses on it. We're not against that, of course.

Commissioner Oliver:

It's the subdividing.



Gerrie West:

It's the subdividing. That's the only issue is the subdividing of the property.

Commissioner Oliver:

Okay. Thank you.

Chairman Wall:

Mr. Weiner.

Commissioner Weiner:

Mrs. West. I got a... well, so we were out there last week and we were standing in front of it and I asked staff to go please look into how many times this has happened in the past. Well, I wouldn't say that. So I've been doing this for a while, and I don't remember three houses becoming five. I don't know where that was-

Gerrie West:

It's between 74th and 75th street on the feeder road.

Commissioner Weiner:

Okay. I don't remember that, but-

Commissioner Oliver:

I do.

Commissioner Weiner:

Okay.

Commissioner Weiner:

So, the staff came back to us with since 1993, twice. This has only happened twice. I personally don't think this is going to set a precedent for the future. That's my opinion. Everybody has their opinion. So, I just don't see this happening as much as you think it's going to happen.

Gerrie West:

I would really hope that was the case. I really would, but we saw it once and now we're seeing it the second time, and what we're seeing is this cyclical pressure to have the homes torn down and rebuilt by developers, as opposed to the traditional, a person buys a lot, or a person buys a lot with this small house on it that's a tear down, or they want a bigger house than what's on the lot. So, they're developing that lot for themselves as opposed to someone coming in and saying,

"How can I make the most money by buying this property that's available?" That's the issue. Yeah.

Chairman Wall:

Anyone else?

Commissioner Frankenfield:

I guess I have question.

Chairman Wall:

Mr. Frankenfield.

Commissioner Frankenfield:

So, I'm just concerned about the form of the house and the relationships. So, if you condo the lot, the discussion has been you can get the same thing. What's the big deal? But the way I see it, you can't get the same thing because if you have to have the garage set back six feet, well then... and since there's no house to come out in front of the garage, that you basically have to set the entire house back six feet.

Gerrie West:

No. No, it's just that the portion of the house that has the garage door... let's say this is the main body of the house.

Commissioner Frankenfield:

Right.

Gerrie West:

The garage is here.

Commissioner Frankenfield:

Right.

Gerrie West:

It just has to be set back six feet from the face of that. So, the face of that one is at wherever you place it.

Commissioner Frankenfield:

So, it could be like a tunnel going back six feet with a garage?

Gerrie West:

Six feet isn't that far. It's like from-

Commissioner Frankenfield:

Well, whatever. Okay. I just-

Gerrie West:

From here to here.

Commissioner Frankenfield:

I'm having a hard time visualizing how it would work I'm not-

Gerrie West:

Well, there's a lot-

Commissioner Frankenfield:

Trying to argue with you. I'm just-

Gerrie West:

Yeah, there's a lot of examples on the north end that have been built that way. So, I know it's too late to go see them now, but-

Commissioner Oliver:

So Gerri, while we have you up, because I know you... so you're asking to follow the guidelines for the North End Overlay for the setbacks-

Gerrie West:

I'm asking this commission not to approve-

Commissioner Oliver:

No-

Gerrie West:

Creating substandard lots. That's what I'm asking.

Commissioner Oliver:

Right. No, no. Okay. You're right. All right. I'll-

Gerrie West:

I don't-

Commissioner Oliver:

No, I'll just move on.

Gerrie West:

I don't have any say so on-

Commissioner Oliver:

Right.

Gerrie West:

What a person decides to build.

Commissioner Oliver:

You're right.

Gerrie West:

So I don't want to presume that that's what you hear me saying. That's not what I'm saying.

Commissioner Oliver:

No, no.

Gerrie West:

Okay.

Commissioner Oliver:

Perfect. Thank you.

Gerrie West:

Okay.

Chairman Wall:

Anybody else? No?

Gerrie West:

Thank you very much.

Chairman Wall:

Okay, Mr. Bourdon?

Eddie Bourdon:

First, of all, I want to thank my good friend Gerrie West for being the one speaking today, so I didn't have to address some of the comments in Mr. Warren's letter, and Gerrie was very careful in the way she worded her comments because this is not a situation in any way, shape, manner or form where anybody's trying to browbeat or twist arms or anything else. In fact, Judge Whitlow called me. I didn't call him.

Eddie Bourdon:

The idea that this sets a dangerous precedent, a lot of the times, if you listen closely to what Gerrie said, she keeps referring to this as an 80-foot lot. It is not an 80-foot lot, and there is no... there are some 80-foot lots at the north end and an 80-foot lot in the north end would never get approved to be divided into two 40-foot lots ever.

Eddie Bourdon:

And I would.. as Mr. Weiner has asked staff, staff can take a look at the subdivision plats of all the blocks at the North End, and with the exception of the two or two and a half blocks that Gerrie lives on that were developed by Shore Realty, which have non-conforming lots, the rest of the North End doesn't have non-conforming lot. So, the idea that this is setting some dangerous precedent is just truly not accurate, just like it wasn't accurate to suggest that we were using a straw man or a boogeyman or whatever, trying to convince people of anything.

Eddie Bourdon:

It's not the city's, it never has been the city's, policy to encourage two-unit condominiums at any point in time. So, let's deal with what's true, and that is that there are two buildable lots, and this is not a subdivision. This is a re-subdivision. The 50-by-150 foot lot is a nonconforming lot. We are making it conforming as to density, and the Comp Plan talks about density. Gerrie's talking about density. That's exactly what we're doing and to... I don't want to get down the weeds, but

it's easier for me to do. If you tried to do the overlay side by side, and Gerrie is absolutely correct that you can do it side by side. This morning, I think it was suggested you couldn't.

Eddie Bourdon:

But the reality is if we did that, the house... and to meet the... you can't do a six-foot setback construction wise. It's very, very difficult for the garage to be set back. To do something under the overlay, what you would do is you'd build a shared driveway to serve both units, and you have 10-foot setbacks on the outside., and your shared driveway has got to be 18 feet wide because it's a shared driveway, and you wind up instead of having a 24-foot wide house, you wind up with a 20 or 21-foot wide house.

Eddie Bourdon:

So it's not exactly the same, and it can't be exactly the same. So, this notion that you're going to dictate how the property develops as a condo, as opposed to two lots, it's not the way this should be handled in any way, shape or form. If I believe for one second, or my client believes for one second, that you could take lots in the North End and just carve them up into 40-foot lots, that's not possible. It isn't possible. It may be possible, but the folks in the Shore Realty subdivision who... part of it who I'm representing all the street closures, they don't want to do that to their properties, and I don't think there are any in there that could even do that at this point.

Eddie Bourdon:

But this does not apply to 90... well, maybe not 90. Maybe 78, 80% of the North End. What Gerrie's saying is a bad precedent doesn't exist. This situation, if it exists anywhere else, I don't know of it, and it wouldn't be, if it did, more than one or two situations. It's not a circumstance that I think will ever be recurring.

Eddie Bourdon:

All we're trying to do is the best job... and it is truly more valuable for everybody concerned to do them a separate single-family homes, and it's easier for the city from a regulatory standpoint. Condos create a lot of additional issues. I'm not going to ask Miss Wilson to testify about that, but I think she'll nod her head. So why would we want to do a condo as opposed to doing two single families when we already have two lots that we can build a duplex and a single family on? I'd be happy to answer any questions.

Chairman Wall:

Okay. Any questions for Mr. Bourdon?

Eddie Bourdon:

Thank you all.

Chairman Wall:

Okay. Thank you. Okay. All right. I close it up for comment and open it up among the Planning Commissioners. Anybody like to start?

George Alcaraz:

I will.

Chairman Wall:

Go ahead.

George Alcaraz:

As I stated in informal, you got a situation where you have a house with a proper line going down the middle and something that Mr. Bourdon just said that just struck me, you got the definition of a subdivision, the definition of a re-subdivision. A subdivision is dividing one lot into two or more. A re-subdivision is changing the lot line, and in this case, they're changing it to the betterment of what's there. So having said that, I'm going to support it.

Chairman Wall:

Okay. Anyone else? Barry? Barry? Okay.

Commissioner Frankenfield:

I support it also, only because I can't figure out a way it would be better to condo the lot. The product that is there with an entrance, each having their own entrance, their own separate driveway, is a better solution than a setback garage or one house behind the other. So, it seems like a better... of all the choices, it seems to me like the best solution.

Chairman Wall:

Okay. Thank you.

Commissioner Weiner:

I'll say something real quick. It's a long time we've been doing this. I've never seen this before. Don't get me wrong. The North End Civic League does a great job with the design... what they do up there, but for everybody on the street to come in in favor of this, I've never seen that before. That means something, too. I'm definitely going to support it.

Chairman Wall:

Okay. Thanks. Yeah, I generally. I like the way it. I like the little cottage and the green space, but barring that, I also highly respect the civic league's opinion. I think that they have very good

input, and their strict adherence to holding on the layouts and dimensional requirements and standards is... I think that's fantastic. However, I think there's great value in the way that it's laid out in a single-family.... the support from the neighborhood, and I think it'll provide value to the neighborhood itself. So, I'm going to support it as well.

Chairman Wall:

Okay. Do we have a motion?

George Alcaraz:

I'll make a motion.

Chairman Wall:

Okay.

Chairman Wall:

Okay. Mr. Alcaraz makes motion for approval. Do we have a second?

Commissioner Frankenfield:

Second.

Chairman Wall:

Okay, Mr. Frankenfield for the second. Are there any abstentions? Okay.

Madam Clerk:

Vote is open.

Madam Clerk:

By recorded vote of nine in favor, zero against agenda item number 10 has been recommended for approval.

Eddie Bourdon:

Thank you all. I hope everybody has a wonderful holiday this weekend. Thank you.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Bradley	AYE			



Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Preliminary Concept Resubdivision of Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Subdivision Plans").
2. The homes to be developed on this site must use attractive, high quality materials capable of withstanding severe weather events as recommended within the North End Suburban Focus Area section of the Comprehensive Plan and as shown on the exhibit entitled, "Single Family Development Exhibit for Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Elevations").
3. The proposed lots 14A and 12A shall only be developed with one single-family residence on each lot.

*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  
April 13, 2022, Public Meeting  
Agenda Item # 11**

**Sacred Daggers, LLC** [Applicant]  
**The Percy Lee Jones, Jr. Family Trust** [Property Owner]

**Alternative Compliance**

**Address:** 1705 Mediterranean Avenue

**RECOMMENDED FOR APPROVAL – HEARD**

Madam Clerk:

Thank you. Okay. Our next agenda item is agenda item number 11, Sacred Daggers, LLC. An application for Alternative Compliance at 1705 Mediterranean Avenue located in District 6, formerly the Beach District. Will the applicant or the applicant's representative please step to the podium?

Chairman Wall:

Can you please state your name for the record?

Jackie Romano Smith:

Jackie Romano Smith.

Chairman Wall:

Okay.

Jackie Romano Smith:

I guess I understood that it was okay, but some people had some questions.

Chairman Wall:

Speak up just a little bit.

Jackie Romano Smith:

I understand some people had some questions, so I guess that's why I'm here, to answer them.

Chairman Wall:

Okay. Just, could you describe a little bit about your proposal?

Jackie Romano Smith:

We are a custom tattoo shop. We want to move into the vibe district so that we can be a part of that community with art. We are not a street shop or walk-in shop. People are booked out for months. So you can't just walk in. We are going to be part the studio and part an art gallery.

Chairman Wall:

Okay. Where's your... are you currently located someplace?

Jackie Romano Smith:

Yes. We're on Windsor Oaks and Holland Road.

Chairman Wall:

Okay. So you're already operating in the city?

Jackie Romano Smith:

Correct. We're not going to have two shops, though. We're going to move from that space.

Chairman Wall:

Okay. Okay. Any speakers?

Madam Clerk:

There are speakers.

Madam Clerk:

Mr. Chairman, we have two speakers. They were both in person. They both left. I think we have one online now. So I'm going to call virtually Danielle Good. Ms. Good, please pause two to three seconds while we unmute your audio feed, and then state your name and go right into your comments.

Danielle Good:

Can you hear me? You can hear me? Hello? Yes. My name is Danielle good, and I am a permanent makeup salon owner and school. I want to... it's a wonderful thing that the lady is going to be able to have a tattoo shop through alternative compliance. Congratulations, Jackie. I'm here because I would like you guys to also consider changing the planning department's ordinances. The permanent makeup industry has been very hurt in not being able to do their profession.

Danielle Good:

They're very restricted. We find them working in their homes or without a Conditional Use Permit. They don't have a health department permit, and it's a danger to the community. We're very restricted on what we could do. We belong in the hair, the nails, the med spas, the medical clinics, and that's where we have been and always will be. I would like the Planning Department to consider possibly even separating permanent makeup and tattoo.

Danielle Good:

The Department of Occupational and Professional Regulation separates it. We have two different licenses, one for tattoo, and one for permanent makeup. They're very, very different in their curriculum and their hours of education, although I do understand that the state does state the definition of tattoo, like the city attorney said. With that understanding, we're very different.

Danielle Good:

That really is all I have to say. I'm just concerned about my permanent makeup community, because they're not able to work in their profession because of the restrictions upon tattoo parlors. It would be a wonderful thing if they could move on and have it as an accessory use or do an alternative compliance or have some sort of variance to be able to do these services where they belong in the beauty industry, not necessarily in a tattoo parlor, in a zoned tattoo parlor area.

Danielle Good:

Thank you very much. That's all I have to say.

Chairman Wall:

We appreciate your comments. This is specifically for Sacred Daggers' operation of a tattoo parlor in the Vibe District, though. So it's a very specific application. I don't think we'd have any questions in regards to her comments. So, can we go ahead to the next speaker?

Madam Clerk:

Our next speaker was Cynthia Schott. She left.

Madam Clerk:

No more speakers.

Chairman Wall:

Okay. Since we have no more speakers, I'm going to close it for comment and open it among the Planning Commissioners.

Commissioner Oliver:

I make a motion to accept this application.

Robyn Klein:

I second.

Chairman Wall:

Okay. So, we have a motion by Ms. Oliver a second by Ms. Klein. Do we have anyone abstaining? Okay.

Madam Clerk:

Okay. Vote is open. By recorded vote of nine in favor, zero against. Agenda item number 11 has been recommended for approval.

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

### CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

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

**Virginia Beach Planning Commission  
April 13, 2022, Public Meeting  
Agenda Item # 12**

**Waterman Spirits, LLC [Applicant]  
Festival, LLC [Property Owner]**

**Conditional Use Permit (Craft Distillery)**

**Address:** 712 Atlantic Avenue

**RECOMMENDED FOR APPROVAL – CONSENT**

Chairman Wall:

Okay, thank you. The next order of business is the consent agenda. And I'm going to turn that over to Vice Chair Alcaraz to run that portion of the meeting.

Vice Chair Alcaraz:

Thank you, Mr. Chair. Today, we have seven items on the consent agenda. These applications that are recommended for approval by staff and the Planning Commission concurred that there are... And if there's no speakers in opposition, that we will be putting them on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number 12, which is a Conditional Use Permit for a craft distillery at 712 Atlantic Avenue for Waterman Spirits, LLC. Please come forward.

Eddie Bourdon:

Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Waterman Spirits, LLC. Again, Brandon's done a very good job on this application, asked us a lot of questions, got a lot of answers from us, and all six conditions as recommended in the staff report are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Bradley:

The applicant is requesting a Conditional Use Permit to operate a craft distillery at 712 Atlantic Avenue. The property consists of multiple structures and uses including The Shack, which is primarily an outdoor resort establishment with dining, entertainment, and outdoor recreation facilities that has become popular with both visitors and residents. There is an existing 9,300 square foot masonry building on the Southern portion of the property. The craft distillery will produce and sell spirits with an 1,800 square foot portion of the existing structure facing Atlantic Avenue. Planning staff recommended this conditional use permit and Planning Commission has put it on the consent agenda.

Vice Chair Alcaraz:

Thank you.

Kay Wilson:

Mr. Frankenfield.

Commissioner Frankenfield:

Oh, are we ready to vote?

Kay Wilson:

No, I'm just ready for you to abstain.

Commissioner Frankenfield:

I need to abstain from The Festival, LLC. I am a service provider for that company and my company is at 1400 Woodhouse Road, Virginia Beach, Virginia. Thank you.

Vice Chair Alcaraz:

Thank you. Mr. Chair, that was the last item for the consent agenda. The Planning Commission places following applications on the consent agenda: items number three, four, five, six, nine, 12, and 15.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent of agenda items three, four, five, six, nine, 12, and 15?

Commissioner Weiner:



Second.

Chairman Wall:

Okay. All right. I guess he's already said you made a motion. Okay, thank you. Okay. So hearing seconds. Are there any Planning Commissioners besides Mr. Frankenfield that are abstaining on any of the agenda items that are on the consent agenda? Okay. The motion for approval is by Mr. Alcaraz, and the second is by Mr. Weiner.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor, zero against, agenda items three, four, five, six, nine, and 15 have been recommended for approval. Agenda item number 12 by recorded vote of eight in favor, zero against, with one abstention by Commissioner Frankenfield, agenda item number 12 has been recommended for approval.

	AYE 8	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Bradley	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield			ABSTAIN	
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

## CONDITIONS

1. An occupancy load for the Craft Distillery shall be established by the City of Virginia Beach Building Official's Office.
2. A Certificate of Occupancy shall be obtained prior to operation of the Craft Distillery.
3. Any conditions associated with the license issued by the Virginia Alcoholic Beverage Control Board shall be incorporated as conditions with this Conditional Use Permit.
4. All signage associated with the Craft Distillery shall meet the requirements of the City Zoning Ordinance. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in, or on the windows, or on the doors. A separate sign permit from the Planning Department shall be required for the installation of any signage.
5. Hampton Roads Sanitation District approval shall be obtained prior to any discharge of sewage.

6. There shall be no sale or consumption of alcoholic beverages on the premises between 10:00 p.m. and 11:00 a.m.

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

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

**Virginia Beach Planning Commission  
April 13, 2022, Public Meeting  
Agenda Items # 13 - 14**

**Christopher & Cathleen Sprauer** [Applicants & Property Owners]

**Conditional Use Permit** (Short Term Rentals)

**Address:** 2200 & 2202 Mediterranean Avenue

**RECOMMENDED FOR APPROVAL – HEARD**

Chairman Wall:

Yes. Yep.

Madam Clerk:

Okay. Our last agenda item are agenda items 13 and 14, Christopher and Cathleen Sprauer. Applications for Conditional Use Permits, short-term rentals, at 2200 and 2202 Mediterranean Avenue, located in District 6, formerly the Beach District. Would the applicant or the applicant's representative, please step to the podium?

Christopher Sprauer:

Good afternoon.

Chairman Wall:

Good afternoon. Please state your name for the record.

Christopher Sprauer:

This is Christopher Sprauer and my wife, Cathleen Sprauer. You want to hear a little bit about the project?

Chairman Wall:

Just tell us a little bit about your application?.

Christopher Sprauer:

Yeah. So, we purchased 2200 and 2202 Mediterranean back in December. We've been-

Chairman Wall:

Sir, you can move the mic up so you don't have to lean down all the way.

Christopher Sprauer:

Absolutely. All right. A little tall. Yep. Purchased it in December. Since then, we've been renovating the property with the intent to use it as a short-term rental. We currently home share a property in Croatan that we use as a short-term rental, and we have one down in Sandbridge as well. So, we have experience as operators. So we pursued this project with the intent to file a CUP and use it as such. So, that's the project in nutshell.

Chairman Wall:

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

George Alcaraz:

I do.

Chairman Wall:

Okay, Mr. Alcaraz?

George Alcaraz:

So you'll be the onsite manager?

Christopher Sprauer:

That is correct. Yes.

George Alcaraz:

And you live close by?

Christopher Sprauer:

We do. We live in Croatan, so-

Cathleen Sprauer:

Seven minutes.

Christopher Sprauer:

Seven minutes away.

George Alcaraz:

Okay. Anyone else? Okay. All right. Thank you.

Christopher Sprauer:

Absolutely.

Madam Clerk:

Mr. Chairman, we have one speaker, Chris Wood.

Chris Wood:

Hello again.

Chairman Wall:

Hello.

Chris Wood:

My name is Chris Wood for the record. I own the property next door to the applicant. I'm here to voice my support. We met last week, and they're wonderful people. They appear to be very good managers. I had a little concern because the driveway that they were using for parking was on our property, about three feet of it, and there's a bunch of encroachments on our property, a patio, a fence, some other stuff. So, we have agreed that they will remove the encroachments and put up a fence between our properties. I have also given them permission to use three feet of our driveway, but I understand that staff wants them to expand their driveway so that parking's on their property, which makes sense. But we have no problem with it, as long as they remove the encouragement and put the fence up. I don't know them, but they were very professional and seemed like they are going to be good operators.

George Alcaraz:

Mr. Wood, is this your residence or a rental?

Chris Wood:

It's a rental.

George Alcaraz:

Okay. And you said no problems at all so far?

Chris Wood:

Well, they just bought it and they haven't rented it yet, but they seem to be really nice people and good operators, and they're very... the people who sold it were supposed to remove all the encroachments before they sold it, but they didn't do that. As I said, they're also welcome to use three feet of our driveway, if staff will allow that. If not, that's fine, too.

George Alcaraz:

I think that's great, that neighbors are working together.

Chris Wood:

Absolutely. That's the way it should be.

George Alcaraz:

For a change. In the OR district, too.

Chris Wood:

It's not the North End.

George Alcaraz:

Thanks.

Chris Wood:

Oh, sorry.

George Alcaraz:

Thank you.

Chris Wood:

All right.

George Alcaraz:

So I've got... so what you're saying is that they don't need that three feet, though. They've got... they're having to explain-

Chris Wood:

I'll let them comment on that, but I think that they do need it, but they need it for the parking. I'm happy to let them use mine, but I think staff wanted them to get their own.

George Alcaraz:

Okay. Right.

Chairman Wall:

Any other question for Mr. Wood? Okay. Thank you.

Chris Wood:

Thank y'all.

Chairman Wall:

Okay. If you all could come back up for a minute. Make a motion. Okay.

Christopher Sprauer:

Yes, sir. We do need the additional three and a half feet of driveway. We can either use Mr. Wood's, and then I think the Planning Commission recommended or suggested that we just pave three feet of driveway, which we could either do concrete or if they're okay with it, I can just expand it with gravel to the east, slightly on the north side, to fulfill the three feet it required.

Commissioner Oliver:

I have a feeling that whatever is in your staff report, that the city asked you to do, is probably in your best interest to go ahead and do it that way.

Robert J. Tajan:

Staff understanding that there's some... I don't want to say gray area, but gray area to the parking issue. As noted, the Zoning Administrator has to approve it. Any expansion on the property does have to be pervious per the regulations. So we'll work with the applicant to assure that they get that final three feet in an appropriate manner.

Christopher Sprauer:

Yeah. We'll certainly comply with whatever needs to be done to take care of the driveway and the parking issue. So no issues.

Chairman Wall:

Okay. All right. I'm going to close... Okay. Thank you.

Christopher Sprauer:

Yep. Thank you.

Chairman Wall:

Okay. I'm going to close for comment. Is there any discussion now. I'll open it up for discussion among the planning commissioners.

George Alcaraz:

I'd like to make a motion to approve it.

Commissioner Klein:

I'll second.

Chairman Wall:

Okay. So we've got a motion by Mr. Alcaraz. Do you have a second?

Chairman Wall:

A second by Robyn, Ms. Klein.

Chairman Wall:

Is there anyone needing to abstain? Nope. Okay. All right. Madam Clerk?

Madam Clerk:

The vote is open. By record a vote of nine in favor, zero against. Agenda items 13 and 14 have been recommended for approval.

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

## CONDITIONS

1. The following conditions shall only apply to the dwelling units addressed as 2200 Mediterranean Avenue and 2202 Mediterranean Avenue, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) Short Term Rental 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. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire, or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except that each short term rental shall have

- a) 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.
  - b) Signage, approved by the Zoning Administrator, that identifies each parking space as reserved for the unit shown in the approved parking plan.
14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
  15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
  16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
  17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
  18. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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

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

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

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

**Virginia Beach Planning Commission  
April 13, 2022, Public Meeting  
Agenda Item # 15**

**Coastal Accommodations, LLC [Applicant]  
22 East Neptune, LLC [Property Owner]**

**Conditional Use Permit (Short Term Rental)**

**Address:** 410 22<sup>nd</sup> Street, Unit B

**RECOMMENDED FOR APPROVAL – CONSENT**

Chairman Wall:

Okay, thank you. The next order of business is the consent agenda. And I'm going to turn that over to Vice Chair Alcaraz to run that portion of the meeting.

Vice Chair Alcaraz:

Thank you, Mr. Chair. Today, we have seven items on the consent agenda. These applications that are recommended for approval by Staff and the Planning Commission concurred that there are... And if there's no speakers in opposition, that we will be putting them on the Consent Agenda. Agenda item number three is a Conditional Use Permit for a car wash facility at the Northeast corner of General Booth Boulevard and Prosperity Road, and the applicant, Car Spa Incorporated, is their representative. There you go.

Eddie Bourdon:

Thank you, Mr. Alcaraz. Members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney. I represent Car Spa. I wanted to mention that Mr. Bruce Berlin, with General Booth Venture, LLC, who are the owners and developers of the property and the extra parcel to the North of this parcel is under their ownership. My applicant, in this case, Car Spa, is contracted by this piece of property. Also, Danielle Dansing with Kimley Horn are civil engineers here as well. Thank Hoa for all of his diligent efforts on this application and all eight conditions as staff has recommended are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being on the consent agenda? Hearing none, I ask Commissioner Weiner to read this item for the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a request for a Conditional Use Permit for a car wash facility. In 2019, City Council granted a Conditional Use Permit request for operations of an automobile service station, Wawa, on the Northeast corner of Prosperity Road and General Booth Boulevard. The 9.48 acre parcel zoned B2 Community Business was proposed to be subdivided into two lots with the Wawa site occupying 5.51 acres in the Southern lot. There were no immediate plans for the remaining 3.97 parcel. The applicant now seeks to subdivide the Northern 3.97 acres into two lots with 2.21 acre and 1.76 acre lot. The applicant plans to develop 2.21 acre site with 5,700 square foot automated car wash facility. We recommend approval and put it on the consent agenda.

Vice Chair Alcaraz:

Okay. Thank you, Mr. Weiner. Agenda item number four is a Conditional Use Permit for motor vehicle rentals at 1112 Lynnhaven Parkway for Enterprise Leasing Company of Norfolk Richmond, LLC. Is their representative here to speak today?

Eddie Bourdon:

Thank you, Mr. Alcaraz and Commissioners. For the record, Eddie Bourdon, Virginia Beach attorney representing Enterprise. I believe Ms. Kayley Krug with Enterprise is with us this afternoon. And I want to thank Michaela again for a very thorough job in evaluating and keeping us on our toes with this application. All 15 conditions are acceptable to the applicant and we appreciate being on the consent agenda. Thank you.

Vice Chair Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none. I ask Commissioner Bradley to read this item for the record.

Commissioner Bradley:

Thank you. The applicant is requesting a Conditional Use Permit for motor vehicle rentals on a one acre parcel zone B2 Community Business District. The site is currently developed with a 3,200 square foot building with an overhead canopy and accessory structure. The buildings on site were constructed in 1975 and were previously occupied by a restaurant with a drive through and a short term loan title business. The applicant proposes to display no more than 25 vehicles at any one time on the site. No automobile repair is proposed and staff is recommending a condition to prohibit that activity. The Planning staff recommended this. There was no known opposition, so Planning Commission decided to put it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number five is a Conditional Use Permit for family daycare at the home at 1712 Moon Valley Drive for Nora Nimely. Is their representative here today? Please come forward and state your name. Hi.

Nora Nimely:

Good afternoon. My name is Nora.

Vice Chair Alcaraz:

Thank you. Do you accept all the conditions?

Nora Nimely:

Yes, I do.

Vice Chair Alcaraz:

Thank you. You may be seated.

Nora Nimely:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Oliver:

Thank you. This is a request for a Conditional Use Permit to operate a family daycare home for up to eight children within the applicant's single family dwelling in the Lake Placid neighborhood. The applicant has over 10 years of experience in caring for children and the designated outdoor play area is located in the backyard and is enclosed with a six foot solid privacy fence. The typical hours of operation are proposed as 6:30 AM to 6:00 PM Monday through Friday. Staff found the property to be well organized and well kept. This request for a Conditional Use Permit for a family daycare home, in staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the suburban area. Staff recommends approval of this request with the conditions listed below, and therefore we have placed it on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number six for a Conditional Use Permit for home occupation located at 4500 Hollingsworth Lane, applicant Baking It, Caking It LLC. Is the applicant here? Please come forward. Hi, can you state your name for the record?

Brianna Small:

Brianna Small.

Vice Chair Alcaraz:

Thank you. You accepted the conditions?

Brianna Small:

Yes.

Vice Chair Alcaraz:

Thank you.

Brianna Small:

Thank you.

Vice Chair Alcaraz:

You can be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have Commissioner Klein to read this item for the record.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit for a home occupation to operate a commercial kitchen in the 460 square foot attached to garage of their single family dwelling in the Glenwood neighborhood. It is the applicant's desire to prepare baked goods and deliver them to customers at offsite locations. The applicant will be the sole operator of the kitchen. No other employees are proposed for this in-home business. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Agenda item number nine, Modification of Proffers at 5453 Wesleyan Drive for RVB3, LLC. Is their representative today here to speak with the item? Come forward and state your name, please.

Todd Roethlisberger:

Hi, good afternoon. Todd Roethlisberger, attorney with Poole Brooke Plumlee on behalf of RVB3, the applicant. Good afternoon, Mr. Chairman and members of the Commission, appreciate being on the consent agenda. We do agree to the terms set forth and appreciate Ms. Nowak's assistance with this application as well.

Vice Chair Alcaraz:

Great. Appreciate that.

Todd Roethlisberger:

Thank you. Thank you.

Vice Chair Alcaraz:

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

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Modification of Proffers. The applicant is requesting a Modification of Proffers to redevelop a former Sonic drive-in restaurant building into a Little Caesars restaurant. The building is located on a 25,204 square foot out parcel in Wesleyan Common Shopping Center. We recommend approval of the Modifications of Proffers and place this on the consent agenda.

Vice Chair Alcaraz:

Thank you. Agenda item number 12, which is a Conditional Use Permit for a craft distillery at 712 Atlantic Avenue for Waterman Spirits, LLC. Please come forward.

Eddie Bourdon:

Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing Waterman Spirits, LLC. Again, Brandon's done a very good job on this application, asked us a lot of questions, got a lot of answers from us, and all six conditions as recommended in the staff report are acceptable to the applicant.

Vice Chair Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Vice Chair Alcaraz:

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

Commissioner Bradley:



The applicant is requesting a Conditional Use Permit to operate a craft distillery at 712 Atlantic Avenue. The property consists of multiple structures and uses including The Shack, which is primarily an outdoor resort establishment with dining, entertainment, and outdoor recreation facilities that has become popular with both visitors and residents. There is an existing 9,300 square foot masonry building on the Southern portion of the property. The craft distillery will produce and sell spirits with an 1,800 square foot portion of the existing structure facing Atlantic Avenue. Planning staff recommended this conditional use permit and Planning Commission has put it on the consent agenda.

Vice Chair Alcaraz:

Thank you.

Kay Wilson:

Mr. Frankenfield.

Commissioner Frankenfield:

Oh, are we ready to vote?

Kay Wilson:

No, I'm just ready for you to abstain.

Commissioner Frankenfield:

I need to abstain from The Festival, LLC. I am a service provider for that company and my company is at 1400 Woodhouse Road, Virginia Beach, Virginia. Thank you.

Vice Chair Alcaraz:

All right. Agenda item number 15 is a Conditional Use Permit for a short term rental at 410 22nd street, Unit B for Coastal Accommodations, LLC. Is there a representative here today to speak on this item? Please come forward. Just state your name for the record.

Grace Morris:

Grace Morris.

Vice Chair Alcaraz:

Okay. Thank you. Are the conditions acceptable to you?

Grace Morris:

Yes.

Vice Chair Alcaraz:

Thank you. You may be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have asked Commissioner Klein to read this for the record.

Commissioner Klein:

This 20,800 square foot lot is zoned OR, Oceanfront Resort. According to city records, it is a two bedroom town home constructed in 2015. The owner submitted a Conditional Use Permit request to operate a short term rental on site. Staff recommends approval and the Commission agrees.

Vice Chair Alcaraz:

Thank you. Mr. Chair, that was the last item for the consent agenda. The Planning Commission places following applications on the consent agenda: items number three, four, five, six, nine, 12, and 15.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent of agenda items three, four, five, six, nine, 12, and 15?

Commissioner Weiner:

Second.

Chairman Wall:

Okay. All right. I guess he's already said you made a motion. Okay, thank you. Okay. So hearing seconds. Are there any Planning Commissioners besides Mr. Frankenfield that are abstaining on any of the agenda items that are on the consent agenda? Okay. The motion for approval is by Mr. Alcaraz, and the second is by Mr. Weiner.

Madam Clerk:

Okay. Thank you. The vote is open. By recorded vote of nine in favor, zero against, agenda items three, four, five, six, nine, and 15 have been recommended for approval. Agenda item number 12 by recorded vote of eight in favor, zero against, with one abstention by Commissioner Frankenfield, agenda item number 12 has been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 2
--	-------	-------	-------	----------

Alcaraz	AYE			
Bradley	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

**CONDITIONS**

1. The following conditions shall only apply to the dwelling unit addressed as 410 22nd Street, Unit B, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
5. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
6. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
7. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
8. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
9. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is

available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.

10. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
11. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
12. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
13. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
14. Accessory structures shall not be used or occupied as Short Term Rentals.
15. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
16. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
17. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
18. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
19. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
20. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen)

and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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

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

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