

Chairman Wall:

I call to order and welcome you to the May 11, 2022 Planning Commission public hearing. My name is Jack Wall and I'm the chairman of the Virginia Beach Planning Commission. Commissioner Dee Oliver will not be in attendance today. Before we get started, I've asked Commissioner Coston to lead us in prayer, followed by the Pledge of Allegiance led by Commissioner Klein.

Commissioner Coston:

Let us pray. Eternal God, our father, we thank you for the many blessings, God, that you have bestowed upon us. God, we praise you for this day. Now, Lord, as we come to deliberate and to discuss the issues at hand on this agenda, God, we ask that you would grant us of your wisdom. Lord, give us direction. God, let us have positive outcomes out of each and every item on God. Jesus name, we pray. Amen.

Commissioner Klein:

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 to justice for all.

Chairman Wall:

Okay, thank you. I've asked Commissioner Frankenfield to introduce the members of the Planning Commission.

Commissioner Frankenfield:

I'm not ready yet. No, I'm just kidding. All right. I did such a poor job last time. I'm trying to redeem myself. So, I'm Barry Frankenfield. To my left is the illustrious Planning Director, Bobby Tajan, who is very knowledgeable on every kind of issue you can imagine. To my right is David Bradley, a compatriot retired city employee, budget director, and avid fisherman. David Wiener is the Kempsville district. He's in construction sales and has almost, I guess the third longest running member of the organization. George Alcaraz is the Beach district. He is an entrepreneur, a contractor, a restaurant owner, and special events coordinator. So, I know more about him than you probably need to know, but, and that's George for you. Jack Wall is the Rosemont district, and he is a civil engineer and the thoughtful person on our group. Don Horsley is At Large, and he is our own resident farmer and knows everything about farming and agriculture in the southern part of the city. And he is the longest serving Planning Commissioner that we have something like 18 or 20 years or something

Commissioner Horsley:

More like 30.

Commissioner Frankenfield:

30, 30. Okay. So I knew, I knew it was a long time. And David Redmond is from the Bayside district, and he is in commercial real estate business. And, he is the second longest running member of the Planning Commission. Did I tell you? That David was the third. But anyway, and Robyn Klein is the Centerville district. And her claim to fame is that she was an intern for the Orioles after she got out of college.

Commissioner Klein:

That was a long time ago.

Commissioner Frankenfield:

And John Costin is a retired firefighter who I've known for many years and is now a welcome member of the group. And finally, Holly Cuellar, is At Large, representing Bayside. We're not sure which one or the other. And, she is a military wife and her ultimate claim to fame was her carrot cake won the Virginia State Fair blue ribbon award. Wow. And then not last, not last, but least, we have Kay Wilson who's a deputy city attorney. Now, did I miss anybody?

Bobby Taan:

I will introduce Planning staff. Clerking today we have Madison Harris and Pam Sandloop. With Planning Administration, we have Carolyn Smith, Hoa Dao, Marchelle Coleman, Michaela McKinney. I don't know why I always forget your last name for some reason. I don't know why. And, Elizabeth Nowack. With Zoning Administration, we have Hannah Sabo and Levi Luckenbach, and we also have Carrie Bookholt, our DSC Administrator, Hank Morrison with our Comprehensive Planning group, and Ric Lowman, our City Traffic Engineer is here as well.

Chairman Wall:

Okay. Okay. Thank you. Before we begin with the rules, I'd like to acknowledge a former Planning Commissioner. So, Whitney Graham, if you could come up here, please. We appreciated your service. We didn't get an opportunity to formally tell you and to acknowledge your benefits to the Planning Commission and you know, all the great, great things that you did while you were here for, I believe a little over three years. Your tenure ended or, you know, kind of abrupt land ended in February, but we appreciated everything you did. So, we really want to acknowledge and present a gift to you.

Whitney Graham:

I like gifts.

Chairman Wall:

In person so. You know, if you come up and accept this?

Whitney Graham:

Thank you.

Chairman Wall:

And if you want to say few things by all means.

Whitney Graham:

I just, I enjoyed my time on Planning Commission and getting to know all of you and also getting to know staff and working with them. It was, it was a good time. Thank you.

Chairman Wall:

Okay. Thank you. Okay. Next, I've asked the clerk to describe the rules in order 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 if you have a cell phone, to either silence it, to silence it 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. Consent agenda. Second order of business is 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 their representative, in person speakers will be called next. Speakers in support or opposition of an agenda item will have three minutes to speak unless they are solely representing a large group, such as a civic league or homeowners association, in which case they will have 10 minutes. 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 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:

Okay. Thank you, Madam Clerk. The next order of business is the consideration for a request to withdraw or defer an item. So we're going to begin with withdrawals. Please come forward if you have an item to be withdrawn. Okay. The Planning Commission has been made aware that agenda item 16 has requested a withdrawal. Do I have a motion to withdraw agenda item 16?

Commissioner Horsley:

Check. First.

Chairman Wall:

Okay.

Commissioner Weiner:

Second.

Chairman Wall:

First by Mr. Horsley. Second by Mr. Wiener.

Madam Clerk:

The vote is open.

**Virginia Beach Planning Commission
May 11, 2022, Public Meeting
Agenda Item #1**

City of Virginia Beach

An Ordinance to add Section 209.5, delete Section 242.1 and amend Section 901 of the City Zoning Ordinance pertaining to tattoo parlors and body piercing establishments as permitted uses in the B-2 Zoning District.

RECOMMENDE FOR APPROVAL – HEARD

Madam Clerk:

Okay. Thank you. Thank you, Mr. Chairman. Agenda item number one is the City of Virginia Beach, an Ordinance to add section 209.5, delete section 242.1 and amend section 901 of the City's Zoning Ordinance pertaining to tattoo parlors and body piercing establishments as permitted uses in the B-2 zoning district.

Hannah:

Good afternoon. I'm Hannah Sabo, Zoning Administrator for the City of Virginia Beach. So thank you for reading that again. This ordinance is to amend how tattoo parlors are permitted in the B-2 zoning district. This was specifically requested by Council in March 15th of this year. They requested that we go through and do an amendment to allow tattoo parlors, which are currently only permitted in the B-2 district currently with a Conditional Use Permit and do an amendment that would allow them by right in that B-2 district. It was requested by Vice Mayor Wilson and Councilmember Berlucchi.

Hannah:

The City Code takes the definition of tattoo parlor directly from State Code. And, because State Code defines that it is not something that the City can change or alter and tattoo parlor being defined as any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin of any person with ink or any other substance resulting in the permanent coloration of the skin, including permanent makeup or permanent jewelry by the aid of needles or any other instrument, any other instrument designed to touch or puncture the skin. This is important to note because we have, along with tattoo parlors, we also have a number of salons that offer microblading or permanent makeup. And, as I mention, permanent makeup is included under the definition of tattoo parlor by the City Code. And so the City will be regulating both the same.

Hannah:

So, this Ordinance does not change the City Code in relation to tattoo parlors. Chapter 23 of the City Code adds requirements that any tattoo parlors comply with the department of public health

requirements. And again, we're not changing any of those requirements. The department of public health still has their requirements for tattoo parlors, and that is not being amended. It also requires training by again, training by the department of public health that tattooing related procedures be carried out in a clean, safe, and sanitary manner. That the requirements for cleanliness safety, sanitation, sterilized equipment, all of that is listed in chapter 23, along within requirement by the department of public health, neither of which, none of which is being changed by this amendment that will all still apply. And, it also has a requirement for a record retention requirements. And again, that is not being changed.

Hannah:

Tattoo parlors will still be regulated by the Virginia department of health and by the Department of Professional and Occupational Regulations. So, as I mentioned, this amendment only affects the B-2 district. That's the only district currently where tattoo parlors are permitted. It is the Community Business District, and you can see the map here showing where those districts are. And, it is not listed as a permitted use in any of the other B districts. It, our amendment would change from that requirement from a Conditional Use Permit to being permitted by right.

Hannah:

Just a little bit of history here. We have had in the last five years about 27 applications for Conditional Use Permits that have come through all of which have had the same similar conditions applied to it. Those conditions, which we are now including in the amendment as proposed standards. So those conditions that were part of the Conditional Use Permits that came through this body previously would now be written into the Ordinance as a requirement. Those conditions being that there be compliance with the applicable requirements of chapter 23, which is that section, which relates to tattoo parlors. That tattooing and body piercing shall not occur in areas visible from the street or from the exterior establishment. So, it has to be behind a wall or in other way, in any other way, screened. And then there is a requirement for signage, the restriction on types of signage that we have for tattoo parlors.

Hannah:

We did get a large response from the public. We had two emails in support and then 11 emails against. And I do believe we have a number of people signed up to speak. So I will let them speak for themselves here. And, I won't go through all of these with you. But, staff does recommend approval of this amendment. As I mentioned, there were 27 applications that have come through in the last five years, none of which were denied, all had the same similar conditions, and this not be changing how tattoo parlors are regulated by the Health Department or by the Department of Professional Occupational Regulation. And, it does not change chapter 23, which regulates tattoo parlors. I'm available if you have any questions.

Chairman Wall:

Thank you. Are there any questions for Miss Sabo?

Hannah:

Okay.

Chairman Wall:

Okay. All right. Thank you. Appreciate it. Okay. Madam Clerk, are there any speakers to this item?

Madam Clerk:

Yeah. Mr. Chairman. We have six speakers signed up Eddie Bourdon followed by Ed Hallerin.

Eddie Bourdon:

Mr. Chairman speaking for myself and I'm speaking against my own interest, but I'm going to give the, want to give the Commission some history. I'm in favor.

Chairman Wall:

Before you start, could you state your name?

Eddie Bourdon:

I thought I did, Eddie Bourdon.

Chairman Wall:

Oh, did, you maybe did.

Eddie Bourdon:

I think I did. Maybe I didn't. I'm again, speaking against my own best interest, but I'm in favor of this and I will give you a little bit of history. I had the pleasure of representing one of the very first use permits when, when Planning Commission and City Council changed this to allow limited uses use permits, Virginia Beach, Inc, for two Virginia Beach police officers at Hilltop. We had one opposition, attorney Gary Byler represented an existing grandfathered tattoo parlor about two miles away. And he opposed it and for nothing but competitive reasons. And, it was approved by City Council. And, this is in Hilltop, and there were some people at Hilltop that weren't real keen back in those days about, but it's never been a problem for anybody. Still there today. I've had, I've represented a couple of other tattoo use permits since that time went through on consent.

Eddie Bourdon:

Never been a problem period for anybody, nobody complained. More importantly, I've represented a number of ladies like the lady who was here today, that's on your consent agenda

you already approved, doing microblading in a beauty salon. One in particular at Red Mill Commons, couple years ago, where there was already a Conditional Use Permit for microblading on one side of the building, she's on the other side of the building, can't even see each other and they're more than 600 feet apart if you go around the building. But, the interpretation was sorry, it's been 600 feet. This poor lady couldn't do microblading for that reason when every microblading, which we don't control, what the state says is tattooing, microblading. It's anti anything and everything, it's against what we should be doing as a city. There's, and to oppose this is basically saying, what is, what's the government purpose?

Eddie Bourdon:

We should, we should be regulating ourselves and we should make ourselves pay more money? No, there's no logic behind opposition to this. It's making it legal and you still have to meet all the same requirements. You just don't have to waste the staff's time and everybody's money on something that has not proven to be a problem at any point in time, since it's been opened up a little bit at a time. It just, the landlords make the, they're the ones that got to make the decision. It's the free enterprise system. So it, I think it's just anti competition. I don't see the logic behind not doing this. And, it's certainly for somebody like this lady at Red Mill, who couldn't even apply because she's "within 600 feet of another beauty parlor", like beauty parlors are a big problem. We need to have use permits for beauty parlor?

Mr. Wall:

Okay. Wait, are there any questions for Mr. Bourdon? Okay. Thank you.

Madam Cler:

Ed Halloran followed by Danielle Good.

Ed Halloran:

Yes. Ladies and gentlemen. Good afternoon. I'm Ed Halloran. I'm an attorney here for going on 45 years. Some of you may have recognized me in conjunction with the moving of the historic building at the end of Lord Dunmore and Princess Anne Road. I believe Planning went through that with me about 10 years ago. I'm here to talk about permanent makeup. I have a package that's being passed around to you.

Ed Halloran:

I have a package that's being passed around and I think it's for illustrative purposes, it'll help us walk through this much more quickly. If you separate the package from the clasp, there's nine exhibits here and they're all numbered, they're staple together. Number one is a picture of what my dog in the fight is. This is my building. I moved it out of the middle of the highway there, Princess Anne Road, a road widening project across the street. There's a map in your pack at that shows where it's located now. The finished product is the pictures towards the end of that, exhibit one.

Ed Halloran:

What I'm here today talking about is the second to the last picture. It's the first floor of the historic building. It used to be OB Mirror's property many, many years ago. The first floor is commercial. A photo of the site is the historic building is on the right side of the photograph. I practice now in little cottage building, it's my intent to move back into the upper floors of this other building.

Ed Halloran:

Why am I here today? I want to talk about the distinctions between tattooing and permanent makeup. I know you probably know more about it than I do because I'm new to coming to it. Because my tenant at the bottom of this building in the commercial area is intended to be a full service salon. Hair, nails, waxing, aesthetics. If you broaden your approach to this subject, these kids would like to do permanent makeup in the same fashion that you just approved on the consent agenda in a salon setting. What permanent makeup is, I'm here on behalf of Cindy and Danielle. Cindy Shot, this is her brochure. It's exhibit two. The services that they offer are set out on the back.

Mr. Wall:

Excuse me, Mr. Halloran. You're getting close.

Ed Halloran:

Okay. Danielle will yield a couple minutes of hers.

Danielle Good:

You can have the five minutes.

Ed Halloran:

The services rendered is set forth in the brochure. They fill in alopecia where hair falls out. Folks born...

Mr. Wall:

Mr. Halloran, we'll work through you through the questions.

Ed Halloran:

Okay.

Mr. Wall:

We appreciate your time, but unfortunately it doesn't work that way.

Ed Halloran:

If I can wrap it up, number three is tattoos and you can see there's a major difference. Nine is the regulations, statutes we're talking about.

David Weiner:

Hold on. I've got some questions for you.

Ed Halloran:

Sure, okay.

David Weiner:

I'm very well aware of your building. I'm part of the Historic Kempsville Committee. Nothing's in there right now in this building.

Ed Halloran:

The first floor has a Permanent Makeup Institute school.

David Weiner:

That's a school right now? Because you're actually in B-4K, zoning.

Ed Halloran:

Correct. It's just the school.

David Weiner:

Okay. Because about two years ago, we changed B-4K zoning in that area. Ms. Abbott was around and if we had it her way, she would've had tattooing in the B-4K but didn't go through. I like this. We need to get together, and you need to come in front of the committee, the Historic Kempsville Committee and discuss this with them. We need to come back to staff, maybe down the road. Can we do that, Bobby? I can get Michael Berlucchi involved and talk about it and then come back. Because Michael Berlucchi is one of the sponsors of this.

David Weiner:

I personally don't see an issue with this. That building, it's a beautiful building. I'm glad you moved in and didn't tear it down. But we need to get together and talk. Right now is not really good time to do this because it's another thing going on. But in the future, I'd love to sit down and talk to you about this and get Michael Berlucchi involved and we might be able to make this happen for you.

Ed Halloran:

Excellent. The last exhibit by the way, ironically is their application for permanent makeup, a 522 independence, ironically was my old office. They're in a position is, they have to go over there to practice their profession, but they can teach it over where I am. There's a big hypocrisy. Thank you.

David Weiner:

You have your contact information on here?

Ed Halloran:

Yes, I do.

David Weiner:

Okay. I'll be in touch with you. Thank you.

Ed Halloran:

Okay. I appreciate it. Thank you.

Speaker 3:

Okay. Danielle Goode followed by Gabriel Cece.

Danielle Goode:

Hi, my name's Danielle Goode. I have a permanent makeup school. Over the last few years I've taught 52 students, 22 of those students work in out of their home or work in a salon without a conditional use permit or being regulated by the Health Department. Four are out of state. Only 12 of them working in an established place that has a conditional use permit. That right there tells these girls, they graduate, they can't go and work. When I start class, the first day of class, I have to go through the whole city laws of Norfolk and here and show them where B-2 zones are and what you have to do to go get a conditional use permit. I tell them that the first day of class, because first off it's expensive. Second off, they're going to have a really hard time being able to do something like this in a salon, in a B zoned area that's not B-2. I am for having permanent makeup, tattooing, whatever it is you guys decide, to be in all B zoned areas that salons and spas are, the business districts. Thank you very much.

Jack Wall:

Okay, thank you. Are there any questions for Ms. Good? Okay, all right. Appreciate it.

Madam Clerk:

Gabriel Cece followed by Melissa Lucson.

Gabriel Cece:

Good afternoon. My name is Gabriel. I was told to ask for more time because I am representing the newly formed Tidewater Tattoo and Piercing Coalition, LLC.

Jack Wall:

If he's speaking for an organization, okay. Sure. Okay, 10 minutes.

Gabriel Cece:

I own Studio Evolve Tattoo, we've been in business for 12 years. I got an email a month ago asking for an opinion on this. I sent my opinion. My opinion and the opinion of the people who I represent is that the conditional use permit, even though nobody has ever been denied, is a useful vetting system for people who intend to do professional tattooing. I totally understand that nobody's ever been denied it. I get that, it's probably a waste of the city's time to a degree. However, it's a step in the direction of vetting professional tattooing and professional tattooers in what they intend to do. This isn't about what I had to go through when I opened, it's not about competition. It's about preventing the proliferation of tattooing in Virginia Beach. We are internationally recognized as a source of incredible tattooing. There are so many amazing tattooers in this area. Virginia Beach, Norfolk, Portsmouth, Chesapeake. I've worked in a lot of states and a lot of cities, I've never worked amongst people who are as talented as this group of people who are here.

Gabriel Cece:

What we are concerned about is that in removing the Conditional Use Permit and having the understanding that the idea of removing the B2 restriction is also on the table for future discussion, will invite people from out of state who know this is a great place to tattoo. The military supports us, our community supports us because of the military. This is an amazing place to tattoo. I've tattooed up and down the east coast, west coast, midwest. There has never been a community like the one that I know here. We're brethren and we support each other. There's some internationally recognized individual artists. This is one of the best places to get tattooed in the United States. People come from all over the country, people come from all over the world to get tattooed here. What we're trying to prevent is diluting the quality of our reputation.

Gabriel Cece:

You got 25 tattoo shops now, 25 permanent makeup places. They're quality, they're good. If you remove this restriction, if you remove the restriction of B-2 only, you're going to have anybody who wants to open up, open up. "I want to open up a tattoo shop. I got pissed off at my boss today. I want to open up a tattoo shop." "Okay, here you go." Or, "I'm going to come in from out

of state because I know there's liquidity here and lots of money to be made." It's taking away from our reputation, one.

Gabriel Cece:

Two, Health Department is great. I have a very good relationship with the health department and all of my contemporaries and fellow tattooers do the best to maintain that as well. We're concerned that with the 25 shops that we have now, if it becomes 125, then you're looking at the idea of the health department being overtaxed. If the health department is overtaxed, we can't keep the standards that we have now. We will, but how do we know that other people aren't? When the health department is taxed and they're not being able to do the inspections the way they're supposed to do the inspections, we're looking at mass infections. Cellulitis, MRSA.

Gabriel Cece:

We depend heavily on the military. I don't know if you all are aware, but people in the military weren't allowed to get tattooed for six months after our doors opened. They just weren't allowed to. If you have an increased infection count, military's going to hear about it because it's going to be their people. The military can very easily blacklist us, and then we're stuck with not able to tattoo our military, which is 50% of our clientele easily.

Gabriel Cece:

Again, it would degrade our reputation. This is an amazing place to get tattooed. There are amazing tattooers here. We all run solid businesses. We follow the rules, we do what we're supposed to do. We want to help. We want to be a part of a focus group and we want to help with this. This has nothing to do with competition. I'm not worried about competition. I house 20 tattooers, they're happy and they make enough money. My contemporaries who are here all do the same thing. It's not about money. It's about our reputation. It's about public safety.

Gabriel Cece:

Furthermore, there is a very clear distinction in the DPR and the state code that absolutely separates tattooing from permanent makeup. I am requesting, we are requesting that those distinctions be honored in the city of Virginia Beach according to state law, which would allow for permanent makeup to be anywhere. I fully support permanent makeup being allowed anywhere that cosmetics happen, cosmetology in general. Laser tattoo removal, dermatology, esthesiology.

Gabriel Cece:

If you're in a professional environment and you already provide these services, then there is no reason that you shouldn't be able to perform cosmetic tattooing, surgery, cosmetic surgery tattooing, like miss Danielle does, and micro blading. Micro blading is a little bit separate from tattooing. Nobody really knows micro blading. It's actually cutting the skin and jamming pink pigment in there, as opposed to using a needle with the tattoo machine that pokes holes.

There's probably more risk of infection in micro blading than in any field because it's a different kind of wound. I'm suggesting that we separate tattooing... Tattooing and piercing over here, permanent makeup, micro blading, micro blading, permanent makeup, go wherever you want. But reinstate the 600 feet boundary between tattoo shops.

Gabriel Cece:

I pulled into my parking lot one day and there was an orange sign for a conditional use permit for a tattoo parlor. My stomach hit the floor. I'm in Byler Lakes, I've been there for 12 years. I don't know how I got in there, but Pam Terry is how I got in there, who used to work at Byler before they moved to Pembroke Management. My stomach hit the floor. There is no signs there. I'm not allowed to have a sign, not by Byler, not by the city. I have worked really hard to create the reputation that I have. My stomach hit the floor when I saw that sign. But I ended up talking to Danielle and we have a good relationship and we're going to support each other. But if that was another tattoo shop, that tattoo shop in an office complex that looks like town homes is going to benefit from everything that I did.

Gabriel Cece:

Imagine if you remove the Conditional Use Permit, you remove the B2 zoning restriction, you don't put this 600 feet back, you're going to have tattoo shops from the ocean front to new town road. Virginia Beach Boulevard is going to be littered with tattoo shops because it's too easy. You could just show up and get a permit. That's not a good idea. It's not a good idea for our reputation, it's not a good idea for public safety, it's not a good idea for business either.

Gabriel Cece:

Because when you start to see that professional tattoo shops or people who have been existing have a hundred dollars minimum, like myself, and the new guy that just opened up has a \$30 minimum, where are you going to go? That's what's going to happen because we all practice good business ethics together. We all honor each other. We have a code. Tattooing is very self-regulating. We go above and beyond what health department recommendations are. We are a self-governing self-regulating industry. Nationwide, worldwide. We respect each other.

Gabriel Cece:

If you bring a bunch of people in who may or may not know what they're doing or just opening up a tattoo shop because they're mad at the boss or they come in from out of state because they know there's money to be made here because it's a port city, we're going to lose that. You're going to dilute the quality of tattooing. You're going to dilute the quality of our reputation. People are going to have to undercut each other in order to survive. Did I hit all the bases?

Jack Wall:

You're pushing your...

Gabriel Cece:

In my closing moment, Steve Kirschner is the Director of the Board of Barbers and Cosmetologists at the DPR. To regulation 18 VAC 41-50-10, creates a permanent cosmetic tattoo, sub license of tattooing and permanent cosmetic tattoo salon license that is a sub license for the tattoo parlor. This license-

Jack Wall:

Mr. Cece, your time is up.

Gabriel Cece:

Great.

Jack Wall:

Okay. Are there any questions for Mr. Cece?

David Weiner:

Anybody want to field this or? I will. Get guidance from our city attorney, but just to let that... You probably know this. We as a board, a city cannot separate tattooing and micro blading. That's a state thing.

Gabriel Cece:

No, it's not a state thing. The state thing is that they are separate.

David Weiner:

Hold on.

B Kay Wilson:

Okay, no. This Virginia code defines tattooing as including micro blading and permanent jewelry and makeup. As such, we don't have the authority to pull them out as two separate things. They will be together in the City of Virginia Beach until the legislature decides to mark through permanent makeup.

David Weiner:

I'm going to tell you a couple things here. To do that, you're going to need to get ahold of your state legislator in your area and discuss that with them. That has to be changed up in Richmond. That can't be changed here in the city of Virginia Beach.

Gabriel Cece:

But it is clearly separated in the DPR regulations.

David Weiner:

I'm just telling you that's...

B Kay Wilson:

Yes, it is. It is clearly separated in DPOR regulations.

Gabriel Cece:

Which is the problem of state law-

B Kay Wilson:

No, there's a hierarchy. The State code is here and DPOR regulations are here.

Robyn Klein:

I have the State code pulled up. Chapter 50 is tattooing regulations. In chapter 50, which is what you referenced, it talks about section 80 which is tattoo parlor, section 90 which is a tattoo license, section 120 which is permanent cosmetic tattooing licenses. But they're all under that tattoo umbrella, I think is the point that we're trying to make.

Gabriel Cece:

Can't you create that same umbrella?

B Kay Wilson:

Sure, Richmond can.

Gabriel Cece:

No. The city can because that's what the umbrella is.

B Kay Wilson:

No.

Gabriel Cece:

The idea is to allow for permanent cosmetics and micro blading to be wherever, but to keep tattoo studios 600 feet apart. That's the concern.

David Weiner:

No, we can't. Wish we could, but we can't. I've been doing this for nine years now.

B Kay Wilson:

We've been doing this since we allowed tattoos.

David Weiner:

It's been like this as long I've been here.

B Kay Wilson:

I promise, we've been doing this this way.

Gabriel Cece:

Who is my legislator?

B Kay Wilson:

I don't have any idea. Where do you live?

Gabriel Cece:

It's Virginia Beach.

Jack Wall:

Are there any other questions from...

David Weiner:

Yeah. I want to go another route with you real quick. I agree with what you're saying a little bit about making... In B-2, I didn't realize until you got up here, I like listen to other people's perspective on things. Vice Mayor Wilson and council member Berlucchi brought this forward. Before this goes to City Council, because they actually made the final approval for this, I would touch base with them, contact them, tell them your thoughts. You have to go up that far. We, as a body here, we decide approval or not, but they'll make the final approval. That's going to be your best bet on that.

Gabriel Cece:

Okay.

Jack Wall:

Okay. Any other questions?

B Kay Wilson:

We can just mark it out. You don't know, I really do wish...

Gabriel Cece:

Who do I talk to? I know Hannah. I have a good relationship with Anna at the health department. I would talk to Hannah if I wanted to talk more about rules and regulations and codes and stuff like that?

David Weiner:

I would go right to your legislator, whoever that is.

B Kay Wilson:

If you want to make a distinction, if you just want to talk in general rules and regulations, Hannah is certainly the Zoning Administrator and the person to talk to.

David Weiner:

She points you in the right direction.

B Kay Wilson:

She can point you in the right direction. You might even be able to figure out who your legislature is.

David Weiner:

Perfect.

B Kay Wilson:

That kind of thing. I would talk to Mr. Berlucchi, Councilman Berlucchi and Vice Mayor Wilson.

Gabriel Cece:

Great.

Jack Wall:

You're with Studio?

Gabriel Cece:

Studio Evolve.

Jack Wall:

Studio Evolve.

Gabriel Cece:

Evolve, yep.

Jack Wall:

It's near my house. All right. Anything else? We appreciate it. Thank you.

Gabriel Cece:

Thank you. Appreciate your time.

Speaker 3:

Melissa Lucsen followed by Katie Shamel.

Jack Wall:

Before you start, you've got three minutes and the yellow will warn you and then the red will...

Melissa Lucsen:

Got it. Speak at City Council regularly, I understand. My name is Melissa Lucsen. I am a studio owner. I have had three conditional use permits through the city of Virginia Beach for tattooing and body piercing. I have been a business owner and studio owner since 2010. I also was the first business owner to get a conditional use permit to go into the Lynn Haven mall. My husband and I owned Trilogy Tattoo until we consolidated our Bonnie Road space with our mall location, and we went to North Mall Drive. Let me just give you a little smidge of background here. I have been working with the health department since January on our, in my opinion, discriminatory permit fees. The most expensive permit fee with health department in the City is \$100 for public swimming pools. When tattooing was legalized, due to the discrimination we experienced from opposition basically coming to the city, the city thought it was a great idea to ping us for \$1,200 a year.

Melissa Lucsen:

The most expensive health department permit is a community swimming pool that they pay for \$100 for a year. But tattooing and body piercing is \$1,200. Guess what? I pay \$2,400 because my studio is not just tattooing, my studio is body piercing and tattooing. I pay \$2,400 a month, or I mean a year, I'm sorry, for my conditional use permits. I had been working with the health department on also looking at ordinances. I know that we had talked about speaking with Ms.

Wilson about getting the permit fees changed and just making a few ordinance changes. I'm at council, Michael Berlucchi, council member Berlucchi and Vice Mayor Wilson just out poof, out of nowhere, decides that they want to just get rid of conditional use permits. I'm like, "Why are you doing this?"

Melissa Lucsen:

This is why I'm in opposition. It has nothing to do with business competition. Listen, I don't care what everybody else does around me. I'm confident in the artists that I have, the business structure that I have. We do very well with the city. Asked the city, they've audited me in the past. Went through that with flying colors. From a public health and safety, I am also certified to do micro blading. I do not do tattoos, but I am certified. I paid to go to school, I understand. But I also understand about tattooing, it's what we do. I have a real problem with the city not having... The conditional use permit is what triggers a health department plan review, if you're aware. If we take away conditional use permits, how is the city handling plan review?

Melissa Lucsen:

Because I know as a business owner, when I go to renew my business license, which by the way, thanks for doing it online finally after all these years. But more importantly, because now it's online... When I would go to renew my business license, they would make a phone call to verify that I was in good standing with the health department, right? Does everybody know that, that that's how they do that? But they stop doing that. At least for a couple years, they didn't do it with me. Now that we've gone to online business license renewal, how is the city verifying that I'm in good standing with the health department? They're not. If you vote, I am asking you to indefinitely defer this for the moment so that we can reach out to build a step, so we can to delegate, delegate.

Melissa Lucsen:

I will reach out to all of the delegates and try to make this happen to separate off permanent cosmetics, so that you can do... As a city, we can separate these out. I don't have a problem with the 600 feet with permanent cosmetics. I have a problem with 600 feet for traditional tattooing and body piercing. I need you to understand that this is coming from a health and safety issue with the public. You, as planning, need to understand that there is a very valid concern here for those of us who are operating in this city and the fear we have of you removing this, it's a proliferation of a public health problem potentially. Just you know, micro blading and permanent cosmetic have less training required than professional tattooing.

Melissa Lucsen:

This now comes down to, let me put it to you in terms maybe some of you might understand, police and deputy sheriffs. Police and deputy sheriffs. They both are wonderful public servants, but there's a distinct difference in their training. You're talking about training with people who've

lost temporarily their constitutional rights and then people who are interacting with citizens every day. There's a difference in tattooing versus permanent cosmetics. I'm just going to ask that you and definitely defer this. Mr. Berlucchi, when I called him after I found out about this, he told me that they were doing it because nobody ever gets denied. They're just trying to clean up the agenda.

Melissa Lucsen:

I'm sorry. Don't delegitimize my profession because you are trying to clean up a consent agenda or you're tired of the same speakers coming and opposing everything. You just want to clean it up. This is what we do for a living, this is our business, this is our livelihood, this is what pays the bills. This will put my children through five years, or all those years, not all those years. Geez. All my five kids through public school in Virginia Beach. My tax dollars through my business and home ownership has done that. Sorry, that's my alarm going off. Husband, can you handle that? Thanks. I just hope that I convey...

Jack Wall:

I was expecting the lights to come on but the time is...

Melissa Lucsen:

Okay, cool. Awesome. Do you have any questions for me? I feel like I've exercised my opinion here. I think I've said what I needed to say. I'm just asking, just defer this until we can get further... Trust me when I tell all of you, I will be pursuing state delegates now that you have cleared up the why.

Jack Wall:

Okay, thank you. Are there any questions?

Robyn Klein:

I have question. You submitted your Conditional Use Permit, prompted health plan involvement. You got it. You got started. What happens the next year and the following year after your CUP was already in place?

Melissa Lucsen:

Once our CUP is already in place, what happens is every year in December, we have to renew our health department permit. It's for the year. I would just like to tell you that they used to let us pay quarterly because of the \$1,200. A couple years ago, somebody, there was new supervisor director that took over the health department. They just out of nowhere just said, "Nope, you have to pay the whole \$1,200 at the time. Because the city ordinance says that it's \$1,200 and you have to pay that one time." Hopefully everybody pays that in December, January.

Melissa Lucsen:

By the way, if you didn't know, that if you don't pay your permit, what can the Health Department do? They can't do anything because they don't have legal authority to do anything. If I don't pay my health department permit in December for the following year and I go renew my business license, I'm still able to operate. But guess what? The Health Department can't walk through my doors. They can't walk through my doors and inspect me because I don't have a valid Health Department permit.

Robyn Klein:

I'm going to pause you there. Mr. Taan, can you speak to... I don't know where this falls in you, but when you renew your business license when it's a health profession involved...

Mr. Tajan:

I cannot speak for the Commissioner of Revenue and what they require.

Robyn Klein:

In terms of the prompting of the Health Department engagement.

Mr. Tajan:

I'm not aware of what process the Commissioner utilizes for their approval process for that portion. I know where we interact.

Robyn Klein:

Okay. What I'm hearing is that she gets the permit that prompts it, but moving forward, the permit is not necessarily connected.

Melissa Lucsen:

That's my argument with Conditional Use Permit is because I look at the Conditional Use Permit just from your perspective as a, I don't know if I'm using it properly, but like the stop gap. If the conditional use permit is not there, then you can just go freely open a business like anybody else. You can get a business license and be truthful, not truthful. There's nothing stopping people from being truthful or not truthful about what their business is when they get their license. But that's my point, is that for what we do for public health and safety... I spoke to health department and said, "Why are you not doing plan reviews? Why are you not charging for plan reviews?" They don't even charge us for plan reviews.

Melissa Lucsen:

As a business owner, we know what we're getting into when we start a business. We know the investment that it takes and the fees that we have to pay with the City's and the Health Department, all these places, we understand that. I'm like, "Why are not charging for a plan review?" They're not. If we don't have a plan review, then is the Commissioner of Revenue now responsible? Is the city going to put in writing to make the commissioner of revenue responsible for making sure that there is a plan review? My point is, is that this was not thought through because of Council members and the Vice Mayor probably thinking they're...

Melissa Lucsen:

Listen, Mr. Berlucchi thought he was doing me the best thing in the world when he called me and was like, "I just think you're going to love this." I was like, "Why would you think that?" He said to me, "If business owners are opposed to this, we'll take it off the table." They know we're opposed to it. Here we still stand. I understand that you guys can football this right back off the City Council. But the reality is there's many of us that don't feel like City Council listens to us anyways. I can stand here for three or five minutes with you. I can stand to Council for three or five minutes with them, for them to just do what their will is anyway.

Melissa Lucsen:

That's why we're taking the time to hear... This is not about trying to stop permanent cosmetics. I understand, if I was trying to do micro blading business, I'd be like, "What in the world?" They still need to have the Health Department permits though, they still need to have the plan review. It still is important. I don't want people to stand here and let you think that micro blading is not a big deal because it is. Because what they're talking about with alopecia, that's tattooing, that's not micro blading. They're tattooing. When you are working with a patient that has alopecia or vitiligo is another example, vitiligo. My husband does patients who have... My Doctors, plastic surgeons in the city refer my husband for post-surgery corrections. Okay? That's tattooing. This is public health we're talking about.

Mr. Wall:

Okay. Well, we appreciate it. Thank you.

Madam Cler:

Our final speaker is Katie Shamel.

Katie Shamel:

Good morning. Afternoon.

Mr. Wall:

Can you state your name?

Katie Shamel:

Katie Shamel. I believe they've said just about everything that I was going to bring up, as well. So I'll keep mine short and sweet and just say that I am opposed to this. I think that the 600 feet needs to stay in. And I really believe that separating the microblading and permanent makeup, piercing and tattooing should definitely be something that should be followed through with. I have a license for all three of them, and I think that they need to be separated. And that's all I've got. You got any questions for me?

Mr. Wall:

All right. Any questions?

Mr. Wall:

Ms. Sabo.

Ms. Sabo:

Hello.

Mr. Wall:

Hey. Do you, did you have anything to add or do you,

Ms. Sabo:

Yes, I would just like to clarify. And I was chatting with Carrie that when that any permit that was going through a Conditional Use Permit would be a change of use and would require new Certificate of Occupancy. So, that would trigger us to review it at that point. The Conditional Use Permit is not as you guys know, it's not a yearly permit, so that doesn't trigger a year, anything yearly with the Health Department. And as I mentioned, I did reach out to the Health Department as part of the preparation for this amendment and they, they did not have any concerns about it, a massive influx of new applications that would prevent them from being able to do their required inspections. They did let me know that their inspections had their, the number that they do yearly had gone down because of COVID 19, that had significantly impacted their ability in the last two years. But they were not concerned about, about this change.

Ms. Klein:

So where would be, Excuse me.

Mr. Wall:

Oh, yeah. Hold on. Sorry. You finished?

Ms. Sabo:

Yes.

Mr. Wall:

Okay. Okay. Ms. Klein.

Ms. Klein:

So where would be a good place for the speakers today to present their concerns regarding health and safety?

Ms. Sabo:

I would recommend them to speak with a Council Member Berlucchi and Vice Mayor Wilson. I'm I'll defer also to,

Ms. Klein:

Because I see that there's a separate issue that is of primary concern it's a legitimate one. This isn't the right venue for that and so where can we direct them? Like is Council? So, I think it's twofold. So there are concerns about the, there have been discussions that are outside of what was referred to the Planning Commission from City Council. Right?

Mr. Tajan:

And so that requires additional discussion, regardless of what through, as Mr. Weiner had offered through the stakeholders that are a part of those where that may happen. So for, in one particular instance that dealt with a very specific zone district that has a group that looks at that. As far as some of the Health Department concerns, they are the regulators that are assigned to take care of those health and safety issues. And those should be raised with the Health Department. Definitely. Again, we, understanding that there are concerns about regulating for health safety welfare, but again, they are the ones tasked with that. So,

Ms. Sabo:

I would, I'll add to that I've spoken with Mr. Cece, and I offered to have myself join with his group and the health department representative, just to see if there was anything that we could assist with to move forward with that group. Again, is a separate item to this specific amendment.

Mr. Wall:

Okay. Mr. Horsley.

Mr. Horsley:

The 600 foot rule that was removed. When was that removed?

Ms. Sabo:

August of 2021.

Mr. Wall:

Okay. And that was between each one. And it had already been removed from other zoning areas.

Ms. Sabo:

Yes. The separation requirement from between tattoo parlors and schools, residential and apartment districts. Yeah. That had already been removed back in 2001.

Mr. Wall:

Anybody else? Okay. Thank you. I appreciate it. Okay. I'm going to close it and questions and open it up for discussion among the Planning Commissioners. Anybody like to start?

Ms. Klein:

So I'll start. We heard two arguments today. One of them was about health and safety concerns. And then the other one was about competition by a possible influx of applications. And I think that there is something to be said about the tattoo community here. I got my first one at Trilogy six years ago and a great experience, but I don't, if we're looking at it as a health profession, as an art it's, there are not the same type of limitations as there are with doctor's offices. There's can be two competing OBGYNs across the street from each other. We don't limit that and that's a serious thing. And you want to go to the doctor that provides you with the best care. And I imagine that the reputations will continue to speak for themselves. And that studios that do often open and offer subpar services will close just like any other business or at least that's my hope. So I hear the concerns. I think there are valid ones that can be addressed outside of this venue, but for this particular ordinance, I plan to agree.

Mr. Wall:

Mr. Redmond.

Mr. Redmond:

This is, to me is much simpler, I think than perhaps we've gotten into. This is about changing the C in the zoning table for this particular use in the B-2 district to a P so that it's now the permitted use as opposed to a conditional use. My own view is that this is perfectly appropriate as a permitted use. I frankly think it makes sense to limit to it, to B-2 because it is a change that may

be that is the least restrictive of our business districts. And it seems to me, that's probably the most appropriate place to have it. Anyway, you guys just got to shout out. Congratulations for that. I completely agree with her. This is going to be self-regulating. And to the extent that people who do operate quality businesses of all sort who watch their, who run their businesses with great attention to detail who dot their eyes and cross their Ts and do good work are going to be successful.

Mr. Redmond:

And the folks who don't, are going to fail. So I don't think that this is an appropriate use for a Conditional Use Permit. I just don't think it's necessary. There are other uses, as I mentioned this morning, so mean I certainly support this application for that reason. I don't think it's going to, I don't see any kind of public health pressures. This is a significantly regulated industry by depo and by the department of health, that's not going to change. And so I, in my view, we ought to just move forward and support this application. Thanks.

Mr. Wall:

Okay. Thanks. Anybody else?

Mr. Wall:

No. Well, one thing I, and it was good to hear about the world renowned locality that we are for tattooing and the one that's near me, or the closest is really one of the gentlemen said, it's, you can, you wouldn't know it was there unless, you knew it was there. You could pass by there. Many of the other ones aren't quite like that. But this one seems to be very viable and doing pretty well. So good to hear. I as well, support this. So, do we have a motion, Mr. Redmond.

Mr. Redmond:

Mr. Chairman, I move approval of agenda item number one.

Mr. Redmond:

Okay. We have a motion by Mr. Redmond. Do we have a second?

Mr. Horsley:

Second

Mr. Redmond:

Okay. By Mr. Horsley, we have a second.

Madam Clerk:

The vote is open. By recorded vote of 10 in favor, zero against. Agenda item number one has been recommended for approval.

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

**Virginia Beach Planning Commission
May 11, 2022, Public Meeting
Agenda Item # 2**

Ashdon Builders 1, LLC [Applicant]
David & Tammy Lee [Property Owners]

Conditional Rezoning (AG-1 & AG-2 Agricultural District to Conditional R-7. Residential District)

Address: 2487 North Landing Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our next agenda item is agenda item number two. Ashton Builders One LLC. An application for Conditional Rezoning AG -1 and AG- 2 Agricultural Districts, to Conditional R-7.5 Residential District on property located at 2487 North Landing Road in District 2, formerly the Princess Anne District.

Eddie Bourdon:

Chairman, members of the Commission, Eddie Bourdon Virginia Beach attorney representing Ashton Builders One LLC. Barry and Jenny Cross were here but I advised them this was on the consent agenda. And Jenny took advantage of that and made Barry buy our lunch over at Heirloom. So this is, as very thoroughly explained to the Commission in the informal this morning. This is a project that's been thoroughly vetted and recommended by the Historic Review Board, which for their part of this, not your part and the Transition Area, ITA Committee, it is a small, infill property. Our open space joins the open space for, I think it's West Neck Commons, the neighborhood off of West Neck. We have the elementary school on one side, and we have Dr. Watson's future animal hospital on the other. The density we've got residential across the street. We've got commercial across the street.

Eddie Bourdon:

It's in the Courthouse Village, if you want to call it that, but it's also in historic area. That's why I went to Historic Review Board. There that one little issue with the curb that's in this public right of way. That's just in, that's not on Dr. Watson's property at all, but it's in the right of way, slightly in front of the corner of his property. His property already has its proffered access, which just isn't it. And we've agreed to, if these houses are started to be constructed before the animal hospital, will put everybody on notice who wants to buy a house of that coming.

Eddie Bourdon:

My suspicion is it'll be the other way around, but we've agreed to that. And, Les Watson, his attorney has agreed that he'll give us the letter that staff says they need. So it's a great infill. It's not, it's less dense than what was recently approved on this property, on what was approved a number of years ago across the street and a little bit to the west and a couple other ones in the same village. It's the lowest one density wise. It's been approved. I'm not aware of what the opposition is. So I will sit down and ask the opportunity to rebut since this was on the consent agenda.

Commissioner Wall:

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

Eddie Bourdon:

Thank you.

Madam Clerk:

Mr. Chairman. We have one speaker, Sandra Shinabarger.

Commissioner. Wall:

Okay, please do. You've got, you need three minutes. And when the yellow light blinks, then it's warning and then the red, you know, it's...

Sandra Shinabarger:

Thank you. I didn't hear

Commissioner Wall:

Please. Could you please state your name for the record.

Sandra Shinabarger:

Oh, I'm Sandra Shinabarger.

Commissioner Wall:

Okay.

Sandra Shinabarger:

I'm and I'm, well I oppose this rezoning? I didn't hear any mention of the Virginia Marine Resources Commission or the Virginia Beach Wetlands Board vetting this item. Are they even aware of this? I wanted to mention that, oh, several things. Removing trees is a smog threat. This is also a threat to the \$567 million flood bond that became necessary, a necessary expense on the people due to approving so many items like this one. And my understanding is that this property is a wetland. I also wanted to remind the board of the Virginia Wetlands Act initially adopted in 1972. It's supposed to recognize the environmental value of tidal wetlands and establishes a permitting system for their protection. And I, oh gosh, I can go on and on. I'm going to flip through to the part where it says that boards shall preserve and prevent the defoliation and destruction of wetlands while accommodating necessary academic development in a manner consistent with the wetlands preservation and any standard set by the Commonwealth.

Sandra Shinabarger:

In addition to those identified in section 28.2-1308, to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards. I'll stop there. Also, my understanding is that West Neck Creek has water contamination. It's already listed as critically impaired and oh, I could. I don't know if I can fit all this in my three minutes, but okay. So I cut through that. One of the neighbors texted me and feels that it's creating, this is contaminating water sources. Apparently there are wells out there and that the city can't access that because it's below the green line. It's possibly creating a public nuisance. Maybe they can reduce the home. Maybe make them only build like two or three instead of seven. I just think, I just wanted to remind the

board, just all city planners to just be more careful with the number of trees we are removing and causing flooding and creating expensive problems for the taxpayers. I think that's all I had. Thank you so much.

Mr. Wall:

Okay. Thank you. Are there any questions for the speaker? Okay. All right, Are there any other speakers?

Madam Clerk:

No. Mr. Chairman, no more speakers.

Mr. Wall:

Okay.

Eddie Bourdon:

Mr. Chairman, Ms. Shinabarger, I may be mispronouncing the name. I didn't mention that this has been in process for two years. We have been through the city's storm water policy, requirements, running the models, et cetera, et cetera. The models show that this will meet the current storm water requirements. And that is a condition of its ultimate developability. There has also been a wetlands review. Firstly, there's no tidal wetlands involved. There's been a wetlands delineation and determination by the core of engineers on the property. We're not disturbing anything other than some very minor encroachments that have been permitted or will be permitted with rezoning. So it is, it's got the 50% open space and it is not a storm water threat or a flooding threat and will not be based on our one and a half feet of sea level rise, et cetera. So I'd be happy to answer any questions.

Mr. Wall:

Okay. Are there any questions for Mr. Bourdon?

Mr. Wall:

I've got a couple questions, So, you're not impacting or any wetlands?

Eddie Bourdon:

I'm sorry.

Mr. Wall:

Are you impacting wetlands, did you say you're not?

Eddie Bourdon:

It's been a determination from the issue from the core and there are, there's a small, little ditch scenario, but nothing, but that's nothing that's just nothing that they haven't already permitted.

Mr. Wall:

And what about preservation of in your existing material landscaping? Like any trees, any, because it looks like the park there and then the fringe around the edge of the property, it looks like that's going to preserve many trees.

Eddie Bourdon:

Yeah, we certainly are going to preserve and, or plant depending upon the circumstances, because again, until the final plans are approved through the site plan again, it's been shown that we can meet the requirements, but the final detailed engineering isn't complete. So there may certainly, we're not going to take any trees down that we don't have to take down, but you still have to create the drainage that will work to meet the requirements of the ordinances.

Mr. Wall:

Okay. Thank you.

Eddie Bourdon:

But we certainly, we want to keep as much and we hope to keep some trees on some of the lots, especially the first two that have a little bit of depth to them.

Mr. Wall:

Okay. Any other questions? Okay. Thank you.

Eddie Bourdon:

Thank you.

Mr. Wall:

All right. Going to,

Mr. Bradley:

You ready for question?

Mr. Wall:

Yes. Yeah. I'm going to close and open up for discussion among planning questions.

Mr. Bradley:

Mr. Chair, I just reiterate some of the discussion that we had this morning. This area of the city is kind of a sensitive area from the planning standpoint. There're several plans that come together and I want the speaker to be rest assured that there's been several committees that have looked at this development. Historical Review Board has looked at it to ensure its appropriateness for this area. Density is a big issue in this part of the city, the Transition Area we like to have one per acre, but as it gets closer to the municipal center, it's a touch denser. This is still the least dense or one of the least dense in this area of residents. Residential areas that have been approved. Storm water is a big issue for the city and this will have to work with our storm water regulation. So if there's no further discussion, I'd like to make a motion to approve it.

Mr. Weiner:

Second.

Mr. Wall:

Okay. Then I guess, does anybody have anything else?

Ms. Klein:

The staff report says that there's no increase in flooding for 100 year storm based on the storm water compliance evaluation.

Mr. Wall:

Okay. Great. Anybody else? All right. Now I'm going to support the application, so all right. Well we have a motion by Mr. Bradley and a second by Mr. Redmond?

Mr. Bradley:

Weiner.

Mr. Redmond:

Weiner! Okay. Mr. Weiner. Okay.

Madam Clerk:

Thank you. The vote is open. By recorded vote of 10 in favor, zero against agenda item number 2 has been recommended for approval.

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

PROFFERS

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

Proffer 1:

When the Property is subdivided and developed, it shall have the entrance, neighborhood identification sign, street sections, street trees, minimum front yard building setbacks,

neighborhood park and open spaces substantially as depicted and described on the exhibits entitled, "North Landing Conceptual Master Plan Virginia Beach, Virginia" dated September 25, 2021, "North Landing Signage and Lighting Virginia Beach, Virginia", dated September 25, 2021, and "North Landing Conceptual Play Area Plan, Virginia Beach, Virginia", dated September 25, 2021, prepared by Land Planning Solutions, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter collectively, the "Conceptual Subdivision Plans").

Proffer 2:

When the Property is developed, it will be subdivided into no more than seven (7) single family residential building lots. The seven (7) new homes will be built with a crawlspace or a raised slab foundation and they will contain a minimum of 2,400 square feet of living area. The home constructed on Lot 1 as designated on the Conceptual Subdivision Plan shall have its front entry facing North Landing Road with the architectural features and exterior building materials substantially as depicted on the elevation exhibit designated "NORTH LANDING", page "A2", dated 09/25/2021, prepared by Land Planning Solutions, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (the "Home Elevations for Lot 1"). The home constructed on Lot 1 shall have a side loading 2-car garage facing the cul-de-sac. The homes on Lots 2 through 7 as designated on the Conceptual Subdivision Plans shall have the architectural features and a two (2) car garage substantially as depicted on the Exhibits labeled "NORTH LANDING", page "A3", "NORTH LANDING", page "A4" and "NORTH LANDING", page "A5" which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter collectively "Home Elevations for Lots 2 through 7"). The exterior building materials on the homes on Lots 2 through 7 shall be chosen from those pallets approved by the Virginia Beach Historical Review Board with its Certificate of Appropriateness, in combinations that shall be submitted to, reviewed by and approved by the Board.

Proffer 3:

When the Property is developed, the party of the first part shall record a Declaration submitting the building Lots and all of the other properties, and where applicable any easements outside the public rights of way to a mandatory membership Home Owners' Association which shall be responsible for maintaining the community park, all open spaces, common areas, vegetated buffer easement, entrance feature signage and other improvements, including the trail upon the Open Space Parcel, to be deeded to the Home Owners' Association, on the Property as depicted on the Conceptual Subdivision Plan.

Proffer 4:

The final stormwater management plan for the subdivision submitted to the Development Services Center (DSC) shall be in substantial conformance with the preliminary stormwater analysis.

Proffer 5:

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

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

**Virginia Beach Planning Commission
May 11, 2022, Public Meeting
Agenda Item # 3**

**Winner's Properties, LLC [Applicant]
Evergreen Virginia, LLC [Property Owner]**

Modification of Conditions

Address: 3700 Sentara Way

DEFERRED FOR 30 DAYS – HEARD

Madam Clerk:

Our next agenda item is agenda item number 3, Winner's Properties, LLC. An application for a modification of conditions on property located at 3700 Sentara Way in District 3, formerly the Rose Hall district.

Billy Garrington:

Thank you, Mr. Chairman. Mr. Vice Chairman, ladies and gentlemen of the planning commission for the record, Billy Garrington on behalf of the applicant in this case, Mr. Chairman is Winner's Property LLC. I'm sure y'all have a very long memory. You remember when we were just here a couple months ago. This is the property of 3700 Sentara Way for the Checkered Flag Motor Company. Mr. Chairman, our disclosure statements, current, all of our fees have been paid. And we thank you for hearing this request today. So as you remember, we were here about four or five months ago. The request then was to build the new dealership on the wooded vacant parcel that is to the west of the existing car dealership. And you all remember, I'm sure very well, the problems that we had with that. Problems with the existing dealership that we have been working diligently to take care of with the owners and the neighbors around the area.

Billy Garrington:

But we also had concerns from the neighbors about all the mature vegetation that was going to be removed, and there was a lot of mature vegetation that was going to go away. What was going to happen to the wildlife that was on there? If you watched the city council meeting, they were talking about red hawks and bald eagles and opossums and foxes and everything. That is not a part of this request today. That parcel of land is no longer, even in the mix that we're in front of you here today. The new dealership that we're building will be built to the east of the existing Hyundai dealership that is on the property. A piece of property that has been used for automobile sales and service since 1997. That's 25 years this property has been used as an automobile dealership. It was the old Driver's World. Driver's Mart for a while.

Billy Garrington:

Now it's part of the Checkered Flag family. So what they're going to do is build this new 12,000 square foot Genesis dealership on the east side of the existing piece of property that is there and has been used for motor vehicles. As I told you, we have worked with the Checkered Flag. People have worked with the neighbors to take care of some issues with on street parking, with noise from the cars that were being delivered to the property and how they were being delivered to the property is if any of you have driven up and down with the boulevard, you know how

those car dealers, those new car carriers do. They want to get in and get out the quickest that they can. So we had an issue with that we have worked around. We had an issue with noise and with lighting that we are all trying to take care of.

Billy Garrington:

So the Checkered Flag can be a good dealer, a good neighbor to the people that live in Windsor Woods. And I think we've made great strides in taking care of all those, the complaints that were brought to our attention. So in the staff write up, there are 15 conditions that are a part of the write up of the request that you have in front of you. I have handed you a list of four or five modifications we would like to make, because some of those run in conflict with some of the conditions that's already in effect, especially where it says where you can and can't park vehicles, the banners that you can put on cars and all that. And with those changes that we have given you today, we would tell you that we are in agreement with the staff recommendations. And we're here today to ask again for your approval of this new dealership that will be built on the east side of the existing property there at 3700 Sentara Way.

Mr. Wall:

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

Billy Garrington:

I think one of the things that you'll see is there was a condition there about, you had to be parking on a paved area. This is not your typical car dealership that you see on the boulevard, where you have a street that goes right by you. They're way off interstate 264. So in the original or one of the original use permits back in 2003, they allowed them to park cars between the BMP and the interstate, because that's the only visibility that they have for the dealership itself. The other one, one of the other ones was talking about the dependence and banners.

Billy Garrington:

They want to be able to put just the Checkered Flag logo that goes on the antenna of the cars that are for sale. And those are the modifications that we gave to you that we were talking about. And one of them was about for the on street parking too, which doesn't really need to be a part of that anymore since there's no, we don't, they don't park on the street anymore. Everything will be on site parking for the employees. So there are two speakers here, to speak on this today.

Mr. Wall:

Okay. Before you, I do have a couple questions.

Billy Garrington:

Yes, sir.

Mr. Wall:

Some of these I'm not necessarily opposed to your modifications. Did you, for these proposed modifications, did you run these by the City before?

Billy Garrington:

Kyle? You gave them to Mr. Dao right.

Kyle Korte:

I've discussed them and we've also communicated with the neighborhood on this.

Mr. Wall:

Okay. On these, because these, yeah. That's, it seems like they would've been able to have worked these into the,

Billy Garrington:

Well, I think the problem was, it was so late when we got the conditions and then we wanted to make sure that the neighborhood was okay with them. So by the time we did that, the report had already been written, but we have communicated those with the staff and with the neighbors both.

Mr. Wall:

Okay. One thing about these is that they're not definitive, so it's not, they're not written to be incorporated or added and modified to the existing ones. That's I can have a problem with that because if you're look at number six, tires are currently lit, currently stored behind a privacy fence compound, and both the applicant and the neighborhood desire that this be allowed to continue. I don't know, storage of tires. And first of all, there's so... So there's an issue with that. Just that one, just the way that it's written.

Billy Garrington:

I think the purpose there was that there is an area on site already where any used tires are stored, that is completely enclosed in a compound, but on the new application, there was a condition that said you couldn't have any tires stored outside. So the two conditions go in conflict with each other, which was the reason why we made that modification.

Mr. Wall:

Okay. I've got a question for staff. So let's say we approve the conditions as they are written right now, would they have an opportunity to rework their conditions before City Council? Because these, we'll sit here for quite some time, I think, to try to, because if you look at them, I mean, I understand what Mr. Garrington's saying, but it's commentary it's this is, they're not conditions. They're commentary, they're commentary, right? Yeah. It's just common. And we're going to have to sit here and work through these. If it were one, you know, we might be able to do it. We got six, right?

Bobby Tajan:

Just, and just to clarify, staff to receive this at 11:30 yesterday, so we have, haven't had a chance to review or respond to this. So that being said, if the Commission chose to approve it, as it is knowing that the applicant may be requesting to change the conditions of the council. I don't know if we've done that before, without your recommendation on those conditions, unless you said, unless you directed us to work with them on these conditions, which I think we have done previously.

Carolyn Smith:

You could make a motion to say that you would like to add a condition that does X, Y, and Z. And we can write that for you, but,

Jack Wall:

Does XYZ, you mean does XYZ in terms of this?

Carolyn Smith:

Whatever you want, whatever you want, whatever you want it to be.

Mr. Redmond:

I think Jack's got a good point. And I think you guys have some concerns about these conditions, but it's 1, 2, 3, 4, 5, 6 conditions. If we're to write new conditions, that's going to take more time and ought to take more care than we're able to do here today. These are commentary on conditions. They're not propose new conditions unless you're proposing that we strike all of these conditions. So I'm not sure we're able to do that. I think which Jack's getting at, and I agree with him, is that if this application were to move forward, could the staff work with that applicant to maybe see if those concerns can be addressed in the meantime? Otherwise, I don't know that you want to deferral. So, Bobby, I mean, is that something staff..

Carolyn Smith:

If as Ms. Smith said, if during the motion, the Commission direct staff to work with the applicant on these conditions to provide something moving forward that will address each of these issues that the applicant has, then we can bring that forward to City Council.

Mr. Redmond:

We're not going to write six conditions or strike six conditions. So it's, there's going to be an unsatisfactory outcome of this somehow. And I think Jack's hit it on the head is probably the best way to do that is if in the end we do recommend approval of this application. Then maybe you guys can just get together and see if those concerns can be done. Hopefully with a little better lead time. It's a good point, Jack.

Mr. Wall:

Yeah. Yeah. Okay. Yeah. Ms. Wilson.

Ms. Wilson:

Make sure if you're going to do that you specifically say that you also want to include the recommendation of these conditions, that these conditions be included. At least the spirit of them. Because if not, they're not going to get included.

Mr. Redmond:

I'm not suggesting we include anything. I'm this is not the last stop before the train pulls into the station. That's at City Council. There's a whole process that can occur between now and City Council where we can make that happen. I'm not suggesting that we change things. Now, I'm just suggesting that we have a little bit of collaboration. So hopefully your concerns can be addressed.

Billy Garrington:

Correct.

Mr. Redmond:

In a way that we can't address them here today.

Billy Garrington:

Correct.

Mr. Redmond:

So I'm not trying to change stuff. Am I just all completely off? I'm just making a suggestion that our staff will get this out.

Ms. Wilson:

Okay. You want that? Okay. I am confused.

Mr. Redmond:

Okay.

Ms. Wilson:

I'll admit that. Are you so, okay. You want to make a motion to approve this application?

Mr. Redmond:

Yeah. Done.

Ms. Wilson:

Okay.

Mr. Redmond:

Done.

Ms. Wilson:

He gets the however many conditions there are?

Billy Garrington:

15.

Ms. Wilson:

Okay. That's what he gets.

Mr. Redmond:

Okay.

Ms. Wilson:

There you go. Can I document, unless he might want to defer this?

Mr. Wall:

Okay. The furthest, okay. He might want to. Okay. Mr. Garrington, if you say up there, one, one question I have is that there seems to be, I mean, these applied to just the dealership, that just

the building that, because applicant and because these seem to apply to the adjacent property as well.

Billy Garrington:

These conditions apply to the new Genesis building. That's being built on the property at 3700 Sentara Way.

Mr. Wall:

Because... Okay. Okay. All right. Somebody I, yeah. Mr. Weiner.

David Weiner:

Does your client do your client be okay with deferring this so that we can get all these conditions cleared up?

Billy Garrington:

Well be don't want to, but it looks like we're going to have to.

David Weiner:

Well, not necessarily. I think it's going to be a lot easier that way moving forward. Because between now and Council, you know, I'm not, I'm really not good at approving this the way it is now and going forward. But I do, I'm going to bring up one question. I'm not really going to have problem with number 13. I've never seen a car carrier unload after 10:00 PM at night.

Billy Garrington:

You're correct.

David Weiner:

Do they? Okay. I've never seen, I've been down Virginia Beach Boulevard late and I've never seen a car carrier.

Billy Garrington:

We've got two designated areas now to where they have to do it, which is not on the public right away, which is one of the conditions that we wanted to make sure that got put into this request.

David Weiner:

Okay. I just wanted to ask about that one. That's I'm just, that's kind of strange. I would prefer keeping a time on there because it is in a neighborhood.

Billy Garrington:

Okay.

David Weiner:

Okay. Even if it's they're unloading on site, they make noise. They make a lot of noise unloading them. That's just my opinion.

Billy Garrington:

You wanted to hear from the two people that are here to speak. And then if you want to do a 30 day deferral, I don't want to do it, but I don't think we're going to get anything else. So since they're already here, if you want to hear them speak, that would be fine with me.

Mr. Wall:

Well, let's do that. Yeah. Let's continue the process. Appreciate it. Thank you.

Madam Clerk:

Peter Burning followed by Sandra Shinabarger.

Mr. Wall:

Mr. Burning, you've got three minutes.

Mr. Burning:

Yes.

Mr. Wall:

And the yellow will warn you and the red will terminate the...

Mr. Burning:

Thank you. Okay. My name's Peter Burning. I live across Sentara Way, on Presidential Boulevard. We've been working very closely with the applicant and don't and myself and a number of my neighbors don't have any direct opposition to this new building. One of the issues we do have is with these conditions. It's not just 13, it's 48. If you go back all the way to 1997, you've got a list of 48 conditions that this dealership has to operate under. Those conditions aren't being enforced. I think they're in violation of a number of those conditions right now. And,

Mr. Burning:

I think they're in violation of a number of those conditions right now. And I submitted to each of you a consolidated list that I hope takes care of those conditions, reduces the redundancy, and eliminates the conflicting conditions that are on this property. So there's lots of problems, I think, with the organization of the conditions on this property. As residents, we don't know when to call the dealership or call the city if they're in violation because we don't have access to the conditions. We asked specifically for the conditions back in November and we're only given ones from 1998, when there were different ones from 97, 98, 2002, 2004, 13 to 18 and 22. We can't do that deep research to know if they're unloading car carriers at 10:00, which they do. We live right there. We see it, we hear it.

Mr. Burning:

They have made great strides, correcting a lot of these deficiencies. There's still ways to go. And the other stipulation I would ask is that if this were approved or when it does get approved, that any application that goes before City Council, I think the applicant should be in compliance with the conditions dating back... Whichever one still applied back 25 years before they go forward. Because there seems to be a pattern where they can apply and be approved with conditions without being in compliance with conditions they've had previously. There are very obvious ones. If you walk around with the list of conditions, you can see obvious violations that are still in effect. So there doesn't seem to be a check or balance or enforcement aspect to this.

So, even if you do approve these conditions, if there's no enforcement, they become meaningless and your list doesn't really mean much.

Mr. Wall:

Okay. All right. Thank you. Thank you. Are there any questions for Mr. Burning?

Robyn Klein:

I have a comment.

Robin Klein :

So, we discussed this condition this morning in the informal session. One of the reasons is that this most recent list of conditions is for the Genesis dealership specifically versus the other people on the property. And there was communication about, if and when this application is approved, merging all of those into one conditions list, because we had those same questions. I would advise you to contact zoning for any and all concerns. I know that we've had ongoing discussions with them and that you and I have had those discussions as well.

Mr. Burning:

So a quick question. Can you split a single property and give different conditions for parcels of properties? Can a condition apply to a part of a property and not another?

Robin Klein:

Yes. You and I could be on the same property and if you get there five years later you could have different rules. Okay.

Mr. Burning:

So I didn't see a conditional line drawn for each of these conditions and where they apply. Because the lights shine into our homes. The car carriers deliver when they deliver. So that'll be an interesting enforcement question. And we've submitted through the city's 3-1-1 system with almost zero results. So the conditions don't mean very much on the ground.

Mr. Redmond:

Mr. Chairman.

David Redmond:

Yeah. My experience with the city's 3-1-1 system is quite similar to yours. I would urge you to stop wasting your time with that and call a Zoning Administrator. I'm not sure quite what these conditions that are being violated that you're talking about. Those are obviously the subject of an enforcement action. So conditions being conditions. So, calling up some hotline, that's kind of there for show in my view, isn't going to get you anywhere. I would urge you to be more direct with the zoning department about that. If it's something that you feel is important to you.

Mr. Burning:

I'll stop using the city's website to report to the city. Thank you for that.

Mr. Wiener:

I've called 3-1-1 twice in my life and they were Johnny on it. So it depends.

David Redmond:

It's good for potholes, But anyway, waste time.

John Coston:

Could you give me an example of one of the obvious things that you say you see just walking across the property?

Mr. Burning:

Yes, sir. The lighting that was installed is above the 14 foot requirement for service area or car repair facilities. Those lights and the glare from those lights shine directly across the street into the homes. Every home along Sentara Way has all their windows shuttered, basically, because those bright L E D lights up at about 25 feet shine straight into their windows. All day, all night. The big giant Checkered Flag flagpole is required to have down lighting by the condition, I think from 2008. It's all up lit. So all that light shines up into the sky. Instead of the condition that presumably was set here has been either ignored or not enforced for years. So, and there's a list of 48 of them.

Mr. Wall:

Okay. So that's a good point. So for city staff, on one of the applications we had earlier today, there was a clear line between two properties, between two businesses. And I believe conditions probably on one and conditions on the other, and they may have been similar, but in this case, I don't really see a dividing line. So we have quite a few conditions. What Mr. Burning is mentioning, there's 48 in the staff report, whatever they are. The number in there. But they're listed in the staff report, but they don't apply to this application... Or do they apply to this application? We have new conditions for this application, but they don't apply to the adjacent property.

Bobby Tajan:

So I agree, Mr. Chair, there needs to be clearly delineated where the conditions start and stop based on what we're seeing. It shows the area that is being constructed and proposed to be new. So based on the plan, that's on the application, I would believe that would be the area that would be under these new conditions for the conditional use permit. But as noted previously, we have some conditions that the applicant also is not in agreement with that we may need to take some time to clean some of this up to assure that everyone has the same understanding.

Mr. Wall:

Right. Okay. Anybody else? Okay. Ms. Burning, appreciate it. Thank you.

Mr. Burning:

Thank you,

Madam Clerk:

Sandra Shinabarger.

Sandra Shinabarger:

Hello. Well, I was really hoping that there would've been some kind of consideration or effort to build upwards. I don't really have a problem with the building going where they want it to go, however it's creating a huge future problem with their phase two where there're still wanting parking. And they've over-doubled the original amount of parking that they're asking for. So this is still setting up for wanting to pave the woods that we've already come before Council twice about. And there have been flood photos all over the news, and particularly in that neighborhood of Windsor Woods, in 2016, and then another time in 2018 where it wasn't even a storm, it just rained one day and that created flooding actually on my street. I'm on the other side of Rosemont Road, actually behind...

Sandra Shinabarger:

And somebody thought it was a good idea, 30 or 40 years ago to build their building on stilts. Right. Within a half mile from this, right off Rosemont Road. It's built upwards. I'm assuming that's probably because there were some, either wetlands in the area, or I don't know why they would want to spend the money to do that, but anyway, another building has done this a while back. They thought it'd be a good idea. I wanted to mention that there's a vacant building, oh, just a few hundred feet away. There's a vacant building available for lease around the same size. It's 13,000 square feet. I don't know why it's vacant, but it is. Really pretty building.

Sandra Shinabarger:

So anyway, phase two is the issue I have with this because I really think it would be wiser to build this building upwards. And they mentioned that is expensive, but I really was hoping that they would at least look into some kind of climate funding. There are so many grants to look up and apply for that they might qualify for. It's definitely, you know, I know it's expensive to build up for, but it's also very expensive that \$567 million that we all have to pay for every time somebody... Because there's more flooding created by approving things like this. That's expensive, too. I don't think that's fair. So... Oh, what else did I have here? I just think business wise that it would be better for them to build upwards though, so you can increase the visibility of the building. And then they wouldn't be known for taking the woods out of Windsor Woods. And also, they have the list of previous violations that we already talked about, so I didn't want to bring that up again. So I think that... Well, the light's blinking so I guess I'm done.

Mr. Wall:

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

Mr. Wall:

Okay. Thank you. All right. Mr. Garrington,

Billy Garrington:

Thank you, Mr. Chairman. If you would allow us to request a 30 day deferral, but let me just also ask you, there are about 65 car dealerships in the City of Virginia Beach. Does anybody know if one of them is two story? If it was two story, we would still be in front of you today asking for a modification to the Conditional Use Permit. There just aren't any two story car dealerships in the city, and you know the logistical reason why is because of the construction purposes. So if you would allow us to defer this for 30 days, we'll get with staff and get back in and have something that hopefully you can come up with and approve.

Mr. Wall:

Okay. All right. Thank you. Thank you. Okay, well going to close it and open it to discussion you among the Planning Commissioners. Anybody have-

Mr. Weiner:

I'll make a motion to defer for 30 days.

Robin Klein:

I'll a second.

Mr. Wall:

All right. Well, we have a motion for deferral for 30 days by Mr. Weiner in a second by Ms. Klein.

Madam Clerk:

Okay. The vote is open. By recorded vote of 10 in favor, zero against. Agenda item number 3 has been deferred for 30 days.

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

CONDITIONS

1. The site shall adhere to all of the conditions attached to the existing Conditional Use Permits and Modification of Conditions approved by the Virginia Beach City Council on February 25, 1997, December 18, 2002, May 25, 2004, and November 12, 2013. Except, Concept Plans from previous requests shall be superseded by the Conceptual Site Plan submitted with this request.
2. When the property is redeveloped, it shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis – Virginia Beach, Virginia", dated March 24, 2022, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The proposed access on Hyundai World Way shall meet the Public Works Design Standards Manual.
3. Prior to final Site Plan approval, a Landscape Plan shall be submitted to the Department of Planning and Community Development for review and approval. The Landscape Plan shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan

of Checkered Flag Genesis – Virginia Beach, Virginia”, dated March 24, 2022, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Landscape plantings shall be maintained for the duration of the use and shall be subject to the review and approval of the Development and Service Center.

4. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
5. All vehicles for sale or rental shall be located on a paved surface within the designated display area identified on the plan referenced in Condition 1 above. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
6. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
7. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
8. The use of an outdoor amplified speaker system shall be prohibited.
9. 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.
10. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. No window signage shall be permitted.
11. No motor vehicle shall be displayed for sale or rental within the first five (5) feet of any front yard or side yard abutting the right-of-way line of a street to be measured from the property line to any displayed motor vehicle on the premises.
12. All light fixtures on the site that are within 25 feet of a property line from Sentara Way shall be no taller than 14 feet in height and all light fixtures shall be shielded to contain lighting on site.
13. The loading and unloading of vehicles within the public rights-of-way shall be prohibited. On-site loading and unloading of vehicles shall be limited to between the hours of 7:00 am to 10:00 pm.
14. On-street employee parking shall be prohibited.
15. Plant and lawn clippings and other waste from this property shall be disposed of in a lawful manner and shall be prohibited from being left in the public right-of-way.

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
May 11, 2022, Public Meeting
Agenda Item # 4**

BT Holdings III, LLC [Applicant & Property Owner]

Modification of Proffers

Address: Parcel on the southeast corner of Dam Neck Road & Harpers Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our next agenda item is agenda item number 4, BT Holdings III LLC, an application for Modification of Proffers on a portion of a parcel on the southeast corner of Dam Neck Road and Harpers Road in District 5, formerly the Princess Anne District. Will the applicant or the applicant's representative....

Eddie Bourdon:

So we doing just number four?

Eddie Bourdon:

Okay. So the answer is yes. Okay. For the record, Eddie Bourdon, Virginia Beach attorney representing the applicant. Mr. Mike Edelman, who is Barbara Taylor Creech's attorney, BT Holdings for Barbara Taylor, she is also here. Ms. Creech's family has owned this property for over a century. This particular part of the property, just under 29 acres, is zoned I-1 Light Industrial, as Marchelle explained this morning in the informal, it is subject to proffers that were created in 2015 for a bulk storage yard that was not developed. I will spare everybody from the long history of why. At this point, we are simply requesting that the proffers be modified by vacating the proffers and the property would then be zoned I-1, as we are proposing for the remainder of the property. Be happy to answer any questions there.

Mr. Wall:

Any questions for Mr. Bourdon? Thank you.

Madam Clerk:

Mr. Chairman, we have one speaker, Mike Jarred.

Mike Jarred:

Good afternoon, everybody. Mike Jarred, property owner against number 4. I didn't want you to think there was no opposition to this property. As it is now, it's overgrown but peaceful. After

three to four attempts at development they have left this alone, which is great for everybody in the neighborhood. The vacating conditions is the biggest concern. At the last change I believe we had a thousand people sign a petition against this property development, but in that situation we had weeks to prepare and get the word out. This property had conditions, and was planned out by the community and Mr. Bourdon and his people. It wasn't the best fit, but at least the neighbors got a sense of productivity and the shaping of the actual landscape. They had moved stuff back. They had it cutting all the way across neighbors and stuff. At this time, we've not had the appropriate time to publicize the changes. We got our mail letters on April 30th. I do ask for a deferral of this application. The orange signs, which we're never placed on this property. The two signs that were placed for four and five, were both placed after that little mark in the middle there, the break at number five, which I have video and pictures of, and I can forward to you. But thank you.

Mr. Wall:

Okay. Thank you. Are there any questions-

Ms. Klein:

I have a question. So the item four is just removing the previous zoning changes, item five is the building of this development.

Mike Jarred:

Right.

Ms. Klein:

Can you separate... So I hear your concerns for five. What are your concerns with just removing the previous zoning changes?

Mike Jarred:

So with five, you're going to find out here soon that there's no conditions, there's nothing working with the community so far, and we're already here.

Ms. Klein:

Right.

Mike Jarred:

So with four, we went through this over and over. We got a berm built, they had pushed back stuff because it had poked all the way out which really didn't make sense. And a lot of those

same concerns are going to come up with number five, that is why is this going this way? It doesn't really make sense to a lot of the members of the community.

Ms. Klein:

So is your concern with application four that they'll remove the berm and other things that they put in place?

Mike Jarred:

Right.

Ms. Klein:

Okay.

Mike Jarred:

The conditions that were there.

Mr. Coston:

So berm is already there?

Mike Jarred:

Right. The berm was put there in 2015. And it was moved from another property. It's overgrown. I think I sent pictures or something, but it's a huge berm. It's a hundred feet by 16 feet, so.

Ms. Klein:

So your concern is that if we approve the request, the berm will be removed.

Mike Jarred:

Right.

Mike Jarred:

As the pictures we're seeing, it becomes a lake that... I don't know how that becomes a lake, but it does.

Ms. Klein:
Thank you.

Mike Jarred:
You're welcome.

Mr. Wall:
Any other questions? That was the last speaker, correct?

Madam Clerk:
Yes.

Mr. Wall:
Okay.

Eddie Bourdon:
Maybe on the next time, we need a picture that actually shows an aerial of the property. Perfect.

Eddie Bourdon:
That's the berm. That berm was put there by Mr. Barber who developed Barber's Self Storage. If this was going to be a storage yard, it was a visual block for the last two houses in Prince George's Estates to so they wouldn't see what was stored in that open area that would've been graveled or asphalted behind the berm. There will be no bulk storage there now, so the necessity for a berm or whether it stays or goes will depend on the future use of this portion of the property. And it may very well be a lake, a BMP, but that should be perfectly fine as well because we're not needing to shield the view of a bulk storage yard. There won't be a bulk storage yard. So the bulk storage yard... I'm not sure if these dimensions are exact, but the bulk storage yard here, so that the tree line and this large berm are what would've shielded Mr. Jared, and I think one other property owner's, view of the bulk storage yard. It is there. And it could stay. I don't think it will ultimately stay, I'm pretty sure it'll stay for quite a number of years because there are no current plans to develop that section of the property, and just the part that there are plans to develop, you're still looking at probably two to four years before that comes online.

Eddie Bourdon:
The purpose for it has never come to pass. That's the only reason it was there. That's why what we're showing today is a berm which we'll talk about on item number five.

Mr. Wall:

Good. Okay.

Eddie Bourdon:

Any questions?

Mr. Wall:

I've got some questions. So is this area even part of the... I mean, it's part of the application, just being the whole rezoning of the site, but there's nothing on the layout showing that area.

Eddie Bourdon:

This is 28. I believe there is. There's 28 and three quarters acres of property out of the 161 acres. And at this point... Marchelle, can you put up the... You have it on here. You have it under number five, I'm sure. The most recent plan?

Eddie Bourdon:

As you can see, that's where the berm is. Part of the development agreement we'll provide when and if there is a development on the remainder piece, this berm and or lake. This will have to shield from view all the houses with this berm, that right now is shown here. Not sure what will happen back on the other piece. But the development agreement will provide that, and we'll talk about the rest on number five, that this berm will have to be extended and shield all the homes from any view. Well, any view of anything that's going on 10 feet, plus. It can be 20 feet or more once it's up. But at this point, that existing berm isn't going anywhere. Unless it needs to go for the purpose of a BMP. But those are all schematics at this point.

Mr. Wall:

Okay. Okay. Any other question? Anybody else? Okay. All right. Thank you. All right. I'll open up to discussion among the plaintiff commissioners. Anybody to like to start? Mr. Redmond.

Mr. Redmond:

Anytime, anyplace anywhere. If someone wants to remove zoning for a bulk storage yard, I'm probably going to be for it. And that's all this is to me. So, it really is about the larger application. We're wasting time here. Let's just get on with the big application because that's what this is really about. I don't know that property would ever be developed as a bulk storage yard, and ultimately the disposition of this berm and anything else is going to be wrapped up into the much larger development. So unless anybody else has anything to say, I'll be happy to make a motion, Mr. Chairman.

Mr. Wall:
Okay.

Mr. Weiner:
Second.

Mr. Wall:
All right. So we have motion by Mr. Redmond, second by Mr. Weiner.

Madam Clerk:
Vote is open. By a recorded vote of 10 in favor, zero against. Agenda item number four has been recommended for approval.

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

AMENDMENT TO VACATE & REMOVE PROFFERS

A proffer agreement has been submitted by the applicant to vacate and remove the Proffered Covenants, Restrictions and Conditions dated March 31, 2014, recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument Number 20150806000752550. As requested by the Grantor and as approved by the Grantee, those conditions contained in the proffers shall be repealed and vacated (Instrument Number 20150806000752550). Should this Modification of Proffers application be approved, the amended proffer agreement will be recorded at the Circuit Court and serve as the repeal and vacating of the proffer agreement restricting the physical development and use of the property as proposed with the previous change of zoning on the property.

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

**Virginia Beach Planning Commission
May 11, 2022, Public Meeting
Agenda Item # 5**

PDC TN/FL LPIV, LLC [Applicant]
BT Holdings III, LLC [Property Owner]

Rezoning (AG-1 Agricultural District & Conditional I-1 Light Industrial District to I-1 Light Industrial District)

Address: Parcel on the southeast corner of Dam Neck Road & Harpers Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Our last agenda item for the day is agenda item number five, PCD, TN/FL, LPIV, LLC. An application for Rezoning AG-1 and Conditional I-1 to I-1 on a parcel on the southeast corner of Dam Neck Road and Harpers Road in District 5, formerly the Princess Anne district.

Eddie Bourdon:

Thank you, Pam. Chairman Wall, Vice Chairman Alcaraz, honorable members of the Planning Commission. Again, for the record, my name is Eddie Bourdon, I'm a Virginia Beach attorney, and I have the privilege of representing Pannatoni Development Company, the PDC on the application, as well as, as I mentioned before, Barbara Taylor Creech, whose family has owned all 161 acres, 132 of which are involved with this application, for over a century. And Mr. Inman and Dave France is also here with Kimley Horn. Dave is the project engineer. Kimley Horn are the project engineers. Dave tells me that others are doing a lot of the work, most of the work, and Dave's going to follow me and also will assist in answering any questions that you all may have if necessary.

Eddie Bourdon:

Again, the part of the property we're seeking to rezone is 132 acres out of 161 total. It's located on the south side of Dam Neck Road extending eastward from the intersection with Harpers Road over 4,000 linear feet. The property has an existing tree berm along the entirety of the frontage along Dam Neck Road. The property is partially in the greater than 75 DBN highest noise zone around NAS Oceana and is partially in the 70 to 75 high noise zone. As we talked about there's 28 and three quarters acres that is zoned I-1 already for that bulk storage yard that we are seeking to remove, and you all have recommended in favor, as staff has.

Eddie Bourdon:

Most of that area is encumbered by a restrictive use easement taken by the United States of America in 1981 which limits the property's use to light industrial. That is, again, the piece that we were just dealing with. Our city's Comprehensive Plan has called for this property and all property in this area of the two highest noise zones that were not previously zoned or previously

residentially developed, that they be used for light industrial economic development to both diversify Virginia Beach's economic base, and to protect the continued viability of NAS Oceana.

Eddie Bourdon:

That longstanding land use recommendation and our Comprehensive Plan has been in place for the entire 40 years that I've been practicing law in my hometown. It was significantly strengthened 20 plus years ago after the BRAC process and the resulting regional memorandum of understanding with all the localities and the United States Department of the Navy, which has been implemented provisions in our Zoning Ordinance. This property is squarely within the strategic economic growth area number three, SEGA 3, as it is so designated in our Comprehensive Land Use Plan. This proposed development of a multi-story state of the art eCommerce robotics fulfillment center, which will employ approximately a thousand persons in good and excellent paying jobs with great benefits, and the very substantial capital investment that it represents in our community, is exactly the type of quiet, clean, environmentally compatible, light industrial development Virginia Beach has aspired to attract for all these last 40 years. Decades.

Eddie Bourdon:

The plan, which will be the subject of a development agreement between the applicants, the end user, and the City of Virginia Beach. If, Marchelle, you could put the plan up, I would appreciate it. It is a fulfillment center. It's an ultramodern, high-tech combination, warehouse, packaging, and shipping facility. Dave France is thoroughly familiar with these facilities and with their operation. He'll be able to provide you with insight into the operation of the facility and answer any questions you may have in that respect. The building is five stories. It is 650 square feet of footprint. It'll be located on the far northeastern most portion of the parcel adjacent to Dam Neck Road, and to what we've designated as Road A, which is, and will be a dedicated public right of way extending, basically three lanes, from a full signaled intersection with turn lanes at Dam Neck Road, down to London Bridge Road, where there is not and will not be the traffic based on the traffic studies for a signal at that intersection.

Eddie Bourdon:

If you see up there, it's a 300-foot corridor for the Southeastern Parkway which is not going to be built. The pink part on the eastern half, or maybe a little more than a half, of that corridor is where Dominion Virginia Power first choice is to locate their transmission lines, bringing offshore wind energy through to other substations all the way out in Chesapeake. Hopefully that'll be underground. It doesn't have any impact on this development, but we've had to work with them because of their desired location that hasn't been approved by the State Corporation Commission as of yet. So, the road will be on the western half or 150 feet of that corridor. The City of Virginia Beach owns the right of way from London Bridge up to just south of where Road B goes off into the property. Road B may be a public right of way, as you all discussed this morning, it may be private. That will depend and that will be a part of the development agreement with the city.

Eddie Bourdon:

But with this project, that road will be built. The end user requires access from two points and on two different roads where... That's their priority. So, we looked at trying to get the road onto Harpers Road and there are major obstacles to that. And there really is no other way to have a connection further east into Corporate Landing which could get you through to General Booth. So that is the alignment of the roadway.

Eddie Bourdon:

Mr. Jarred, who was up here previously and I'm sure will be up again, he opposed Ms. Taylor, or Ms. Creech, being able to use the full-on entrance to the property that's on Dam Neck Road. Senator DeSteph tried to change the access when access was lost because of the sale of the prime storage of the Barber Storage Facility without an easement. So, he tried to get it approved, Mr. Jarred opposed Ms. Taylor being able to use that access to access her property. If we use that access, it would make us have to put the building closer to the neighborhood. We wanted to put the building as far away from the residential as we could, and that's what we'd done.

Eddie Bourdon:

The access to this facility is going to come off of Road A and the truck access is right at the very top where it's a gated controlled access. The trucks delivering and taking away product unload in the loading docks on the north side and the east side. Again, as far away from residential as we could possibly make it and screened by the screening that's already there on Dam Neck Road which remain in place.

Eddie Bourdon:

We have proposed to not only put the required landscape screening, 25-foot evergreen double row landscape screening, along the back of the properties in Prince George's Estate that butt up against this property. We've also agreed to put up a six or eight foot vinyl, solid privacy fence. They can tell us six or eight feet and what color, they can tie the back of their fences, their side fences into it so there's not a double row of fencing. We'll put up that fence, put up that landscape area as required by ordinance and we've also agreed to continue that around the corner and come down the west side of Road A where there are other homes that back up to, currently, farm field to do the same thing even though there's not going to be industrial adjacent to them.

Eddie Bourdon:

On the other side of the BMPs, we proposed a 10-foot tall, 48-foot-wide berm with landscaping on top of it, which we have pictures y'all have seen, that will be basically a 20 plus foot with the landscaping, visual and sound barrier. Even though there will really not be any sound. The only activity that takes place in front of the building are people, employees only because there's no public component to this, employees going to and from the one entrance to the building, there's only one that everybody has to go in and out of for security reasons, and that is at the front of the building. The only activity that takes place outside of the building is the loading and unloading of trucks in that area directly behind the building and at the northeast corner of the building.

Eddie Bourdon:

I'll mention a couple other things we've agreed to do. We would like to put a berm up on the east side of Road A to help the few homes that would have potential visibility of this facility in Mayberry across the street. Dominion Power won't allow us to do that. We have suggested that it and power that won't allow us to do that. We have suggested that if they will allow it, we'll put up a wall along the side of the road to keep those folks from having any visibility, other than maybe from a second floor bedroom or something like that of the facility. It's above and beyond by a long shot what has occurred adjacent to the west side of this neighborhood. Because of concerns that were expressed, we have provided, that'll be a part of the development agreement, a letter from Ms. Creech, who is the owner of the property, that should, for any reason, this project not happen, and the property's still going to be zoned, that she guarantees the City that she will not allow the property to be developed without the berm that we're depicting. Although it may need to be located somewhat differently, depending upon how that development might take shape.

Eddie Bourdon:

But the point is that every home in there, in addition to having the fence and the landscaping in the 25-foot area would have the additional 48 foot wide, 10-foot berm behind the properties to shield them from view of anything going on behind that on the property with any industrial development that is not required under our ordinances at all. There are a lot of other aspects of the development agreement, but the development agreement between us and the City, which would be a publicly known document will be the document that will provide essentially, the protections that proffers provide. And I'll wait for questions before going any more into that. I'd appreciate the opportunity to rebut, and I'm available to answer any questions either now or after Dave speaks, or at the end of the opposition.

Jack Wall:

Okay. Do you have any questions for Mr. Bourdon?

Robyn Klein:

I have a question.

Jack Wall:

Okay.

Robyn Klein:

The egress, the truck access that's to the east of the yellow building, I see that there's an ingress and egress right there. Is the expectation that trucks leaving the facility will use that egress and turn right on that public road, or will they go left back towards Dam Neck?

Eddie Bourdon:

It is anticipated, I think it's an excellent question, Ms. Klein, thank you. It is anticipated they'll be basically telling their drivers and there's no reason to go any other way. The truck traffic coming in and coming out, coming in, they'll be coming off of 264 at London Bridge through Drake's Mile to Dam Neck overwhelmingly. It is conceivable that there might be a truck for whatever reason that comes off at First Colonial and comes down Oceana Boulevard to General Booth, and then comes in off Dam Neck. And it's also conceivable that there might be some trucks that come in off of Indian River Road on 64 and come down Ferrell Parkway, Princess Anne and come down Dam Neck. But all of the trucks will be coming on Dam Neck.

Eddie Bourdon:

The idea that they're going to turn off at London Bridge Road and go through multiple stoplights on a road, that's not access control like Dam Neck is, it isn't going to happen. Again, there may be an oddball every whatever, but the second entrance is for the purpose of protecting because they operate around the clock in protecting their operation and it's a time sensitive operation, but there's a turn lane. There's a turn lane off of Dam Neck onto road A, there's a turn lane into the site and there's a separate egress from that same entrance. It's a gated and controlled access, and the vehicles leaving will go out that way as well.

Eddie Bourdon:

And go up to Dam Neck, stoplight, take a left. The trucks that are leaving are taking products to the last mile delivery facilities, which are either their own or USPS, UPS or FedEx. And none of those facilities are South and East of here. So, there's just no reason other than an emergency situation that they would go South and take London Bridge Road. And that's the issue. Now, there will be some employee traffic, people who live south and east, but there should be ...

Robyn Klein:

No 18 wheelers driving?

Eddie Bourdon:

There should be very, very seldom when there's a reason that they have to come in that way. Because to come all the way around your elbow to get to your thumb with stop lights, and then go all the way back up there just doesn't make any sense.

Robyn Klein:

Okay.

Eddie Bourdon:

So hope that answered your question.

Robyn Klein:

Thank you.

David Redmond:

You threw the bait out there. So why no proffers?

Eddie Bourdon:

Okay. I didn't realize I had thrown it. See? That's a good question. All right. So, this industry or this business is extremely competitive and it's extremely evolving. I mean, looking at these types of facilities that have been developed elsewhere in the country over the last number of years, if you look at the first number of them, they've evolved dramatically and they will continue because they're reliant upon and really, Dave can get into this because he knows it a lot better than I do. It's reliant on robotics and new technology and new software, and if you proffer a plan, you have no flexibility. And as I mentioned before, the actual construction of this facility is probably two years away, could be a little longer.

Eddie Bourdon:

And that's how quickly things evolve in this business. So, it is conceivable that there may be a change here or there, minor though it may be in the footprint of the building in order to deal with the reality that exists when this is actually ready to be built. And we ran into the problem across the street, had to come back because they needed a bigger BMP, and had to go back through a four, five month delay, which no one's fault but that is just one example. But they need the flexibility. And because of the development agreement with the city, with the city, it's not just something that they can unilaterally change, but it's something that gives the ability to make tweaks and changes that don't require modification of proffers like we had to go through just to make a BMP bigger. So that's the reason it's not because of a lack of desire to do what we say we're going to do.

Eddie Bourdon:

It's just because we will be spending a lot of time. As you can see, there's a tremendous amount of storm water retention on site. And those issues that we have to go through could also result in pond being larger or smaller. We are directing all the water over to Harpers Road down that major drainage way that handles the southern half or southern percentage of Oceana. So it's just because we need to have some flexibility. We're not going to put the truck unloading and loading docks on the south side of his property under any circumstances, and under the development agreement city wouldn't permit that and we wouldn't even try to do that.

David Redmond:

Thank you.

Jack Wall:

Anybody else? I've got a question. Tell me about this development agreement and you don't have to give any specifics to it, but I'm just curious, what's so binding and what makes this such an integral part of this application. Because you keep referring to it that they can't do this, can't do the development agreement.

Eddie Bourdon:

Without the city agreeing to a modification, the development agreement, because there's going to be, and all the monetaries haven't been negotiated, but the city and actually, Mr. Adams is probably maybe a better person to answer this question than I am. But from the developer's perspective, we are working with and will continue to work with the city to be sure that what the city believes it's getting, they are getting. And that's the idea and that goes for the people who live in these neighborhoods and that's what we're doing. But that development agreement will have the same type of issues in there about the storm water, management ponds, about the berm, about the road improvements, who's going to make them.

Eddie Bourdon:

Whether we share the cost on the city road, road A, the one that may or may not be a public right of way. We are also dedicating all of that 300 foot right of way from a point just South of where road B goes off all the way to Dam Neck that the city does not own that's being provided free as a part of this deal. And that includes what the Dominion Power needs for their transmission line if it should go there. They won't have to condemn for that. But the development agreement should, if everything goes according to what we believe, and the end user has been involved in this all along, and this has been going on for a number of months, it should absolutely assure that the development will be what it appears to be including most importantly, the protections.

Jack Wall:

Okay. One question I have is, so that four to five month delay that was experienced on another project across the street, did that have anything to do with the Planning Commission or with City Council?

Eddie Bourdon:

No, no, no, no, no.

Jack Wall:

So it wasn't that process? It wasn't the delay, it was just going back through-

Eddie Bourdon:

No, it was going back through the modification of proffer process because they had to expand their BMP. And it's not intended as a criticism of anybody, but that's what had to happen. And it came back through here and went back to city council and it was approved. But in this business where we as a city are competing with cities all around who want these in their community because what they represent in terms of employment and investment and tax revenue, if something gets pushed back the way this process works with the end users, let's put it that way, if you're not on schedule, you get pushed to the back of the line.

Eddie Bourdon:

And so, they're very schedule conscious in everything they do, because the secret to their business is success is how quickly they get product to market, to the people who order it. So they're all about having a plan and sticking with it. But if I implied that the city was at fault in that, no, there's no city fault init, it's the proffer process takes a long time to modify, whereas, a development agreement to make small changes can be modified much more quickly without having to go through the time expense of this whole process.

Jack Wall:

Okay. The development agreement isn't established yet?

Eddie Bourdon:

The framework is, but, no, that agreement will have to be approved by City Council.

David Weiner:

Mr. Adams, can you come up and just explain real quick? Do you mind? I know you just want to come hang out with us all afternoon if you don't mind. Thank you.

Taylor Adams:

Thank you, Mr. Chair. Thank you, members of the Commission, for allowing us to be here today. Adding some context to the conversation on the development agreement. As is often common in projects of this size, some public investment is required to induce the prospect. We believe that that public investment, we are in a "but for" environment here where, "but for" the public investment this likely would not happen. We believe that public investment is what gives us the security that we'll be able to provide all of the design elements that Mr. Bourdon referenced earlier.

Jack Wall:

And those design elements being the road A, road B and I guess whatever infrastructure that goes along with the water sewer?

Taylor Adams:

Yes, sir. That's accurate.

Jack Wall:

Okay. And traffic stop light?

Taylor Adams:

That's right.

Jack Wall:

Okay. Mr. Bradley?

David Bradley:

And Mr. Adams, just to follow up on that because I've been involved in development agreements in the past, and we talked a little bit about this this morning. That will be something that has to go back to City Council, right? And there will be an opportunity for the public to comment on that as well. So the very things that we're talking about today that are still being worked through when they're finalized, the neighborhoods and the public will have an opportunity to comment on that development agreement, is that correct?

Taylor Adams:

Mr. Bradley, as you likely know better than anybody in this city, that is an accurate statement, yes. This absolutely would go back to City Council. The public would have an opportunity to offer a comment and be engaged in that process. And that would be publicly voted on as Mr. Bourdon mentioned, it'd become a public document following their approval.

David Bradley:

Thank you.

Jack Wall:

Yeah, Mr. Redmond.

Dave Redmond:

Mr. Adams, would you speak while you're here, I saw you looking at your watch earlier, but while you're here, would you speak a little bit about the competition for this facility and facilities like it?

Taylor Adams:

I'd be happy too. And forgive me for looking at my watch, the city manager and our mayor are meeting on another project of mine right now and so, I've been getting updates on that. But, yes, sir, for the competition for this is, without violating any of the confidences that have bound me on this project, I would tell you this is what I would tell you is one of the five most desirable clients in the world. Essentially every community, not just in the United States, but every community in the planet that I know of would be happy to have this flag flying their community.

Taylor Adams:

This is a project that I personally have been working on for more than two years. It was important enough to our, to our elected leadership and to the city manager that I was asked to work it personally as opposed to handing it off to staff. So we believe this project represents a healthy nine figure investment in our community. And as Mr. Bourdon mentioned earlier, we anticipate at least 1,000 jobs.

Dave Redmond:

Thank you.

Taylor Adams:

Thank you. Any other questions for me?

Jack Wall:

Any other questions? Or thank you. Okay.

Taylor Adams:

Thank you all very much again. It's an honor to be here with you today.

Jack Wall:

All right.

Madam Clerk:

Mr. Chairman, we have seven speakers. David France followed by Heather Gotlaboski.

Dave France:

Good afternoon. I'm Dave France with Kimley Horn. I'm the civil engineer working on the project and I'll give you a little bit of background just so that you're aware of what we've been working on. We're in due diligence on this project right now, but we've been working vigorously with staff for the last five months, maybe longer. In those examinations, what we're trying to do is make sure that this site does actually work. When you talk about things like access management as was mentioned with the roadway connections, that's a resiliency question. When we talk about resiliency in our communities, we also have to think about the resiliency of our businesses and keeping them up and operating.

Dave France:

And this is a solution that we came to working with staff and working with the potential purchaser here. Similarly, with storm water management, we've been doing our diligence, making sure that we have enough of the land set aside for storm water management. As you know, you've got a very, very stringent storm water ordinance in place, and we wanted to make sure that if we were going to press forward with asking you for this change in zoning, that we could still achieve the project that we wanted to achieve while meeting all of the standards and ordinances. One of my roles, I happen to sit here in Virginia Beach. I actually have a badge because I sit up there some days. I work here in the community and I grew up here too, but I also have the fortune of working with an eCommerce client here across the country on similar projects.

Dave France:

And so, what this thing does is pretty important to meeting the need that we have in our current community broadly. We all enjoy being able to use eCommerce and to have the reliability of ordering nearly anything and having it delivered to us in a timely fashion. It is simply what our community, all of us sitting and standing and in the audience have come to expect. And without facilities like this in place, that doesn't happen. So there's a really deep, rigorous process that has gone through to identify this nexus of where is population? Where are employees? Where is the transportation network? Even where is the water and sewer network to be able to serve a project? You have a unique opportunity here. And as a member of this community and a person who's deeply involved in trying to find locations for these sites across the country, I think that it is a huge win for us. And we are committed to working with you as a community partner to make sure that we deliver a project that is compatible with the community but brings a remarkable asset.

Jack Wall:

Mr. France, your time is up.

Dave France:

So, I'm here to answer any questions you have. Thank you for your time. I appreciate it.

Jack Wall:

Anybody have any questions for Mr. France? I've got a question. So, tell me about your storm water strategy for this project.

Dave France:

Okay. On the western side of this property is Harpers Road. Very tip of it touches Harpers. Going down the side of Harpers, there's a very significant channel, that channel moves its way down south into West Neck as it goes further, further south. So, what we're doing is setting aside, I think that we're somewhere in the neighborhood of about 35 acres of this develop-able parcel to create retention and treatment ponds to hold back and detain the water to meet the goals of the current storm water ordinance. As you know. You've got an ordinance in place that requires that we hold the rise to 0.0. We can't change what's going on downstream.

Dave France:

And so, the only thing that we can do is create huge holes in the ground to hold back that water. I don't particularly like this strategy as a policy, but it is what the policy is and we are here to make sure we meet it. So, we've been working with staff, we've gotten the SWMM models from them. We've done the initial analyses to determine that if the project is able to move forward, if we are successful with you, that we are able to meet and accommodate those goals. Deeper into that, there are issues with flooding currently in this area that we're going to have to accommodate. And so, as we go through the detailed process of engineering this with staff, we will absolutely be required to meet all those goals, do all the analyses, and make sure that we have a good performing project. As I stand here today, I feel confident that what we've shown is achievable and that we're not taking for granted the constraints that the city of Virginia Beach puts on us from a storm water perspective.

Jack Wall:

Are those BMP's modeled that are shown there or are they just in their actual location?

Dave France:

No, sir. They've been modeled.

Jack Wall:

All those on road A?

Dave France:

Yes.

Jack Wall:

And the one that's over by Prince George Estates?

Dave France:

Yes.

Jack Wall:

Okay. Because the water has to go all the way to Harpers, but the BMP's are on the ...

Dave France:

They're daisy chained together.

Jack Wall:

Okay.

Dave France:

Yeah, one of the things that we do in SWMM modeling, I heard in the introductions that you're an engineer. So the SWMM model, what it does is it takes into consideration everything all the way down to the final outfall. So we get from the city a model that is for the entire watershed. We're actually then taking that and putting it into SWMM, which is the same exact model that the city uses. And then, we're building out the design infrastructure in this. So what you see here is representative of probably 30% design on these bonds. It's not final design, it's not perfect, but we've done enough in that model, using the city's baseline, using the city's criteria to satisfy ourselves that as we consult to our client, that if they move forward with this project, we're going to be able to achieve it on this site.

Jack Wall:

Okay. Any other questions? Thank you.

Madam Clerk:

Heather Gotlaboski followed by Carl Smithson.

Heather Gotlaboski:

Good afternoon, Commissioners. Good afternoon, Planning Commission members. My name is Heather Gotlaboski and I am a longtime resident of Virginia Beach, a military officer, and here as a concerned citizen who recently moved into the Prince George Estates neighborhood just last year. I'm here in opposition to this proposal only with regard to the ingress and egress route that they have highlighted in orange that's actually going to be going between the Mayberry neighborhoods and the Prince George Estate neighborhoods. I just ask that the applicant try to move that ingress and egress route away from the major portions between the neighborhoods just so we can try to limit some of the concerns that we've already highlighted earlier, that were already highlighted earlier by the attorney for mainly the tractor trailer noise.

Heather Gotlaboski:

The 1,000+ employee traffic that's going to go in and out of the route and also, any lighting that would have to be on that particular road to allow people safe travel off of London Bridge into their place of employment. Our main questions and concerns really from the neighborhood is that we don't want to stop the project. We understand the viability to the City of Virginia Beach. We understand the great opportunity we have here to provide jobs and a ton of growth to the city, and we get that as citizens. We moved into these neighborhoods specifically so that we can remain in this wonderful city with the ability to stay close to wherever we're stationed, working or good schools for our children. We just ask that we try to keep the impacts as minimal as possible to the people living in those neighborhoods while also benefiting the applicant and their business.

Heather Gotlaboski:

We're asking them to please, although we do appreciate all of the things that they have put on here from the storm water ponds, what looks like will be fountains in there. I was in attendance on the 21st April informational session, so I did get the opportunity to meet them and speak with them, and they are doing everything they can to help us residents. We're just asking for one additional proposal, which is to just stop the rest of that road being built. If you don't mind that I approach the picture over here. We're not trying to stop the entirety of the road, just stopping it from where it's going to impact the residents here.

Heather Gotlaboski:

So, we understand coming in and off of Dam Neck Road, we understand that they will have to put in a traffic light on Dam Neck, but we do see that there probably is the ability to go off of

Harpers. Harpers and Dam Neck do already have a traffic light that exists, and if there is any of the components or time or money to be spent for the addition of the route between our neighborhoods can be spent improving Harper's Road for the traffic that keeps it away from the neighborhood and shields us. I see my light blinking, so I know my time's up, but I'm here to answer any of your questions.

Jack Wall:

Okay. Are there any questions for the speaker?

Heather Gotlaboski:

No? Thank you for your time.

Jack Wall:

Okay. Thank you.

Madam Clerk:

Carl Smithson followed by Mike Jared.

Carl Smithson:

Good afternoon, Commissioners. I think it's been a wonderful day today. I've seen some folks I hadn't worked with. I worked with the City for 46 and a half years as a storm water drainage engineer in Public Works Engineering and a capital projects coordinator. So my expertise is drainage, and I was glad to hear some of the comments that were made by their engineering Kimley Horn, wonderful firm, worked with them in the past, and they're very professional in what they do. I understand that this is a concept plan, and that's exactly what it is. There's no way we're into a final stage where I can even think about additional comments associated with downstream adequacy, upstream adequacy, or downstream impacts from tailwater.

Carl Smithson:

I've lived in Pine Ridge now for 34 years. I worked with this city to on many, many retrofits projects, including some at Asheville Park, Sherwood Lakes, Lake Placid and these were after thoughts, not before thoughts. And that's what our concern is within the Pine Ridge community along with, and I will defer to some of the other speakers in Prince George's, as far as the access connection between Dam Neck and London Bridge Road. Now, when it comes to the drainage, I'll be working with staff. Don't think I won't, because I want to look at the final product. SWMM modeling is excellent. I was involved with SWMM modeling when they first came out

and I'll tell you it's a good product, but it's the parameters that go into it and the parameters that come out of it that are the most important.

Carl Smithson:

Now Harpers Road, London Bridge Road, and what he claimed, not claimed, but he called it as a canal is actually an upper reach of the colony acres tributary, and downstream from that tributary, there's constantly major blockages. I'm glad to see the stormwater bond referendum come through and more money be dedicated to maintenance of these major tributaries and canals because when they get clogged up, it has what we call a tailwater effect upstream. I'll also talk to them about putting some J valves or some title eight valves on their facilities. This is what some of the cause and effects are when you don't keep the title influences out. And the average of four to five times a year in the last six or seven years, I've seen both Harpers Road and London Bridge Road and Dam Neck Road underwater. And it's because of the impact of back to back storms and or seasonal high ground water and the proper level of elevation. And with my light going yellow, I'll be more than happy to answer any questions y'all may have.

Jack Wall:

All right. Are there any questions for Mr. Smithson?

Carl Smithson:

And great to see some of these folks I worked with for years.

Madam Clerk:

Mike Jarred followed by Ray Odom.

Mike Jarred:

Good afternoon again. Mike Jarred, property owner. Against both applications in Prince George Estates. I'm speaking today for my property and all of Virginia Beach. These two permits will affect the entire city from 64 to 264 to London Bridge extended to Dam Neck hundreds of trucks a day, probably more. I actually found an article that said this type of facility would have up to 6,000 vehicles a day. Mr. Bourdon, I get it. This is his job. Unfortunately, this is our third rezoning with him. I'll rewind you back to 2015 when he told this panel that he was storing asphalt in the shape of a road. His word, his pictures, his plans really mean nothing to us. He just said he was looking for a quiet and clean facility.

Mike Jarred:

As we know this, facility's going to have 57 boarding docks for the 18 wheelers. I don't know how that's going to be quiet and clean. Given the limited time in seven days, we have collected 414 petition signatures against the application. Research. I asked you to do some research. Most has been emailed around. These buildings have caused traffic problems, environmental issues, and noise issues throughout the country. In Austin, Texas lines of trucks waiting to pull in, in Chicago trucks would pull in and then not have a place to go, so they would go park in the neighborhoods. Unconditional. I can't believe any property, especially next to neighborhoods would be unconditional. This makes zero sense.

Mike Jared:

We need and deserve conditions. Just looking at the picture, I would move things around. There's actually a road driving right towards a cul-de-sac up there at the top where the berm is straight at somebody's house. That can't be but 50 feet away from their house. There are a lot of unknowns with this property. The road splitting the neighborhood is crazy. We heard that the trucks weren't going to turn right. Anybody that drives an 18 wheeler sees two right turns, boom, we're right back on London Bridge heading out of town. 24 hours next to residential is also crazy. The city should have oversight, site planning and traffic building plans.

Mike Jared:

We mentioned Bill Desteph. He taught us that attempt on this property before that there are 250 year old trees on this property. We are going to save those trees. We don't know. Hurricane Matthew showed us our neighborhood two to three feet away from flooding our homes. Now we'll have 10 feet away from my house some kind of water storage system. After this is approved, if the applicant decides not to build, we just heard that we would have a promise again, but they could literally just turn this into a Conex box stocking field, or they could make it a junkyard. I appreciate your time. Any questions? We appreciate you guys.

Jack Wall:

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

Madam Clerk:

Thank you. Okay. Ray Odom followed by Allen Prince.

Ray Odom:

Good afternoon. My name is Ray Odom. For you Planning Commissioners who don't know me, I retired six years ago from the City with 41 and a half years with 36 and a half in Planning. I was the planner for the Development Services Center. I started doing Planning Commission reports as a Planning Tech in the early '80s in tandem throughout my career working with Current Planning. I live in the adjoining neighborhood of Prince George Estates and I'm the vice

president of the Homeowner's Association. We had a homeowner's meeting last night and I have been authorized to represent the neighborhood.

Jack Wall:

You're representing Prince George Estates?

Ray Odom:

Yes. Prince George Estates.

Jack Wall:

All right, so you've got 10 minutes.

Ray Odom:

Okay. I don't think this is going to take, but maybe. I figure six minutes. I'm not here to oppose this project. This is going to be a great access to our city and being a city planner and all, I wouldn't do that, but I do have some concerns. This is going to be a great asset to our city and can be compatible to joining the existing residential develops if more consideration is given to the joining communities. I am here to oppose placing the road adjacent to single family homes that will carry industrial traffic. And that zoning request is not a conditional change of zoning. Mr. Bourdon has said that road is going to be very benign, but I'm going in the other direction. Planning 101 teaches you that a perfect scenario is that you have residential office uses, commercial and then industrial. That's how it's supposed to flow. This is to separate commercial and especially the industrial uses from residential areas so as to avoid having loud noises, such as from machinery and heavy equipment, fumes, unpleasant orders, et cetera, so residents have a safe and healthy environment to live in.

Ray Odom:

Unfortunately, we cannot have a perfect scenario. We have a course. And industrial uses are going to be located adjacent to existing residential areas. We just have to use good design and make good decisions to make these uses compatible. Government's role is to protect the health, safety, welfare, and morals of its citizens in 1926. This is a Village of Euclid versus Ambler Realty. I quote, "The court in finding that there was valid government interests in maintaining the character of a neighborhood and in regulating where certain land uses should occur." What they had was industrial development encroaching upon residential areas.

Ray Odom:

In this case, the City of Virginia Beach is proposing to enter into a joint public-private partnership to construct a public roadway between two established existing single-family neighborhoods. And the applicant is proposing a private road from the public road. Each roadway is directly adjacent to single family homes. These roadways will carry industrial traffic, tractor trailers, and a large number of employees 24 hours a day.

Ray Odom:

My father was a truck driver. I grew up around 18 wheelers. Tractor trailers are very noisy. They give off toxic fumes and unpleasant odors. How is that protecting the health, safety, and welfare of these residents? I have never seen in my career a roadway, public or private, proposed that would carry industrial traffic adjacent to or through a residential area, and, in this case, promoted by the city of Virginia Beach.

Ray Odom:

There is a 3.8 million square foot Amazon Distribution Center located in Suffolk. It is located at the dead end of a one way out street with a 25 mile an hour speed limit. And its only exit is Portsmouth Boulevard. Mr. Bourdon got up here and said that this applicant right here, which we're not supposed to say who that applicant is, but they require two exit points for that facility. Obviously, they don't. This is a 3.8 million square foot facility. This is the largest building in the State of Virginia. The only other building in the State of Virginia that compares with this is the Pentagon.

Ray Odom:

All right. And it appears that a little one way street is sufficient. One way is sufficient for the largest building in the state. The proposed facility is located on four lane divided access control, major suburban arterial with a 55 mile an hour speed limit and will have its own signalization. An existing curb cut is loaded to the west, which Mr. Bourdon pointed out that curb cut is loaded to the west. It already exists, and should be utilized to connect the drive out, also located there to the western side of the building. This will provide the additional access provide and directly from Dam Neck Road. That's not sufficient access. This would eliminate the need for the roads adjacent to the single-family homes. Dam Neck Road may require revised designation from access control and a reduction in the speed limit, which will likely happen in the future with more development on this roadway.

Ray Odom:

Additional landscape screening could then be placed in an area of the private road to further both over the site from the joining homes. So why are we using our tax dollars to negatively impact these citizens? Why are we putting these roads here, adjacent to the residential area with the public road that leads to nowhere. It is only to benefit this facility. Nothing could be positive about putting tractor trailer trucks against single family homes. Would any one of us here want that road next to their house? If the city wants to spend some money, let them

improve Harpers Road. Harpers Road provides access to NAS in Oceana and to the Hilltop Area, there on Oceana Boulevard. It is currently a two-lane roadway with ditches on each side, and is designated as a four-lane collector on the master street and highway plan. This road needs upgrading and would be the benefit to everyone in the city in the area.

Ray Odom:

Also never in my career have I ever seen an intersection proposed on a curve. If you look at this, it doesn't really give it the judgment, that where that road is coming in there is on the curve. I have the public work standards right here. I do not believe this intersection meets the medium crossover space with the Prince George Estates intersection medium crossover. It also does not appear that visibility triangles requirements and the site distance requirements are being met for a non-signalized intersection. Basically, I did some rough calculations and measurements, and I don't think it comes close to meeting those requirements. I'm not saying that entrance can't go there. It just must be signalized possibly with a no turn on red and red light warning lights on each side of the approach of the intersection.

Ray Odom:

That's really how bad, because I went out there and stood and looked. You just don't have the visibility. It's not there. I have the police report for General Booth Boulevard to Dam Neck. I used to get these free when I was doing these reports. This one cost me \$68. There had been 910 traffic summons issued in the past five years with 396 for speeding, and 173 accidents. I believe traffic engineering caused London Bridge Road, a major collector, which it is. It collects all the residential traffic from the neighborhoods located from the Red Mill Area and beyond. I believe the speeding summons are people rushing to get in front of, to and from work. We do not need to place an additional 1000 employees rushing to get to and from work and mixing in with who knows how many tractor trailers are with the residential traffic by placing the proposed roadway connection to London Bridge Road.

Ray Odom:

Do we want to turn London Bridge Road into Hampton Boulevard? And never in my career have I ever seen a rezoning of this magnitude not submitted as a conditional change of zoning. The staff reports that indicates that the plan as we are being showed and they indicated are only conceptual plans only to reflect how the site is likely to be developed. So I guess no one really knows how exactly it is going to be developed. I do like how staff put in as the application is not accompanied by a conditional zoning agreement proffers.

Ray Odom:

I'm sure the staff has the same vote as I have with this not being a conditional zoning request. In addition, there are agreements between the parties, but there are also contractual time limitations. The only thing I think is certain in this world is that we are all going to leave this earth one day. It's not certain that the sun is going to rise tomorrow, and it's not certain that this

project is going to get built and the time limitations could run out and every agreement becomes null and void. And then the property owner has 160 acres of unrestricted I-1 zoning in our special economic growth area in adjacent to residential areas.

Ray Odom:

Do you recall what happened in Kempsville a few years ago? It was in all the papers and on the news. There were single family homes that backed up to the railroad right of way. Across the railroad right of way was under unrestricted industrial zoning that had been there for years. They built a computer terminal facility that had large fans to cool the equipment. The noise was so bad, the residents could not sit out in their yards anymore. There is a planning 101 term, not right for consideration. I don't think this application is any close for being right for consideration. I think the way this application has been handled and has been posed with the roadway connection to London Bridge located on the curb, the roads adjacent to the single-family homes, which are obviously not necessary. And the zoning request not being changed the zone, to me, I'm sorry, it's just totally incompetent and embarrassing to our citizen.

Mr. Wall:

Mr. Odom. I appreciate it. You did take your 10 minutes.

Ray Odom:

I am truly speechless. I don't know how to tell you what to do with this application. Never encountered anything like this before. Excuse me. I did as fast as I could.

Mr. Wall:

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

Ray Odom:

Thank you,

Madam Clerk:

Alan Prince followed by John Vogel.

Alan Prince:

How are we doing today? My name's Alan Prince for the record. Thanks for letting us voice some concerns that we have with this proposal. We built our home in 2010 and our house actually backs right up to where the road accessing London Bridge is. So we butt right up to that, with that road running right between my backyard and the Mayberry neighborhood. Every year for the last 12 years, we've fallen more and more in love with our neighborhood. We have a lot of kids. Kids all play together. It's a unique neighborhood that really everyone enjoys. We've never been naive enough to think that something may eventually go back in that cut over between us and Mayberry. We know that it's city land. We know that eventually something will happen. Just two months ago, we were talking about power lines, and then Ray actually approached me in my backyard the other day and told me about the Amazon, the road that would be possibly going back right behind our property.

Alan Prince:

So in doing that, we have a couple of concerns. The first thing about it is just really our way of life. Our backyard is open to neighborhood kids, to neighbors, to families. We have cookouts, we have parties. We have neighborhood functions at our house all the time. It's always something we've enjoyed doing. It's something we take pride in. And I can tell you that with a road, no matter what kind of tree you put in between us and the road that maybe should not be allowing 18 wheelers to use, that is going to change our way of life.

Alan Prince:

It's going to change our neighbor's way of life. It's going to change our neighborhood's way of life. I've never heard a noise free 18 wheeler. I'm a distributor for Boar's Head. We have six trucks. If you give any of my drivers a chance to take two right turns as opposed to a left turn in the equation at all, they will take right turns every time. It was also said that this is a very time sensitive industry. Two right turns is quicker than, than a left turn and a light. So maybe they shouldn't be doing that turn and accessing London Bridge Road, but they will.

Alan Prince:

Second, and lastly, I'm already flashing here, is the safety of that turn. Coming out of our neighborhood, I've gone in and out of it 10,000 plus times in 12 years. It is a hundred percent contingent on travelers on London Bridge going the speed limit. And news flash, they do not. So I don't know in what world it would make sense to allow an opportunity to throw 18 wheelers and cars of a thousand people into that mix.

Mr. Wall:

Appreciate it, Mr. Prince. Thank you.

Alan Prince:
So any questions?

Mr. Wall:
Any questions? Okay. Thank you.

Alan Prince:
Thank you.

Madam Clerk:
Our final speaker, John Vogel.

John Vogel:
Hi, my name's John Vogel. I've been a resident at London Bridge Road for 50 some years. And I was asked today-

Mr. Wall:
Hey, Mr. Vogel, could you just grab the microphone and pull it towards you? There you go.

John Vogel:
Is that better?

Mr. Wall:
That's a little bit better.

John Vogel:
Okay. Thank you. I lived on London Bridge Road for 50 some years. I've had a lot of people call me this week asking about this project. It was news to me. I don't know anything about it. And you kind of research it. You can't find anything about it. So, I had them ask me to come today and ask for a deferral and they want 30 days because they have a lot of questions about the

traffic on London Bridge Road, and they just want to be heard. That's all. They just have a lot of questions, and they would like it deferred, so they could be heard and somebody could listen to us. That's what I'm here for.

Mr. Wall:

Okay. All right. Thank you. Are there any questions for Mr. Vogel? Good. Okay. All right. Thank you.

Madam Clerk:

Mr. Chairman. We have one more speaker.

Mr. Wall:

Okay.

Madam Clerk:

Michael Myers.

Michael Myers:

Hey, good afternoon. My name's Michael Myers. I'm a resident in Prince George Estates. I'm a retired Naval officer, but I've been with a homestead in Virginia Beach for 21 years. Right. So I've been here a long time and I feel like a resident. I feel like it's home even though I'll always be from Pittsburgh in my heart. In the Navy, I worked on aircraft carriers. I worked on surface ships. I worked in a lot of high noise environments, right? So my wife's like, "Hey, we're going to buy this house. It's in a high noise environment." I said, "Okay." No change, right? No change at all. And when you buy a house near Oceana, you sign up for the jet noise and you sign up for the helicopter noise. And the other day, there was a helicopter flying low and slow over the house and woke everybody up, drove the dogs nuts, went outside to look. All the neighbors are looking at it. Part of an exercise. We sign up for that.

Michael Myers:

What we don't sign up for is we don't sign up to be in the group that says, "Hey, these people live in a high noise area. So, they won't mind listening to a hundred trucks idle 24 hours a day. They won't mind listening to trucks come in and out, honking horns, loading, unloading." Only feet from our house, from our backyard. We didn't sign up for that. We signed up for the sound of freedom. We take the jets, and we take the helicopters. But those events are not 24 hours a day. There are a couple hours a week probably, maybe 10 tops, right? They do exercises. It

ramps up, it ramps down. Some weeks, it's completely quiet. We put this facility in, it's going to be constant noise.

Michael Myers:

As I got up this morning to come down here, I looked out the front window. I heard a noise and I could look out and I could see from my window, I could see clear across the field that's in question. And I could see the other side of the field. And I imagine in my brain who would want to do that to a neighbor, to build a five-story facility? And I don't have a problem with the facility. I can look at it. I'll look at it for you, right? Every day. It's going to bring jobs to the community.

Michael Myers:

However, right, the building is quiet and clean. The trucks are not quiet and clean. The building is state of the art. The trucks are not state of the art, right? And my dad used to say whenever somebody offers you a really good deal, you have to be careful. Why are they agreeing to spend all this additional money to go over and beyond? And we heard them talk about how awesome it's going to be with all the berms and the trees and fences. And they're going to build roads here and there. There's something amiss. And I request that we defer this matter to look at it more thoroughly for traffic and noise and other social impacts the community. Thank you.

Mr. Wall:

Okay. Thank you. Are there any questions for Mr. Myers? Oh, Mr. Myers? Any questions? No. Okay. Thank you.

Madam Clerk:

No more speakers.

Mr. Redmond:

Okay, Mr. Bourdon.

Eddie Bourdon:

Thank you, Mr. Chairman, Mr. France may help me out on one of the issues if you all want to talk about it. I want to thank all of the folks that came and spoke today. And we certainly agree with Heather's comments, and we believe and are continuing, and we'll continue to do what Mr. Odom alluded to. And that is, try to do everything we can do to protect this neighborhood in the high noise zone, surrounded by industrial, including the industrial that surrounds the entire west

side of this community with nothing like what we are proposing with this development, not even in the same universe.

Eddie Bourdon:

The last gentleman, Mr. Myers, we have done a noise study, and I didn't go through this in my original presentation. The closest dwelling to the southwest corner of the building is two football fields away behind a 25-foot wide, heavily landscaped buffer behind a 48-foot wide, 10 foot tall with landscaping on top berm, closest to their residence.

Eddie Bourdon:

And then you've got the building, and the whole building on the other side of that is where any offloading would take place. The rest of those homes are even further, five, six, seven football fields from the front of the building. Okay. Behind the same landscape screening. The noise study indicates that any noise that they would hear from operations behind the building and on the east side of the building are below the ambient noise level at their backyard when there aren't any planes or helicopters or anything else flying around. Just to be clear.

Eddie Bourdon:

There's nothing taking place that's going to increase the noise level in their backyards from the operations behind and beside the building. And the fact that you'll have cars on road B, we've tried to minimize that with three entrances to the facility, to the parking lot on road A, entrances and exits. Road A, the pavement width within a 150 foot right of way will be 36 feet wide. We will have 55 to 60 feet between the edge of pavement and the back of any home lot, in which again, we've agreed to put up a fence and a landscape buffer.

Eddie Bourdon:

And there's additional land there. We could push the road further, but we have to stay 50 feet off of the Virginia... Hopefully the power lines will go underground here, where they should be. But if they remain above ground and that decision hasn't been made by the state corporation commission, we have to stay 50 feet off of their towers. Okay. So that's the only reason it's 60 feet. But that's exactly what we're talking about, which can be landscaped. But in saying all that, we're doing everything we can do, and I know the city will do the same. But I also believe that a lot of what you've heard has been extremely exaggerated as far as the idea that there's going to be a lot of trucks coming up and down this road. That will not be the case.

Eddie Bourdon:

And it's not to say there will never be a truck go up and down that road. But trucks, tractor trailers, including you go up and down London Bridge Road, and there are homes in that neighborhood that are right out on... Only handful couple on London Bridge Road, as there are

throughout the city. But the analogy to Hampton Boulevard is way off base. The development team city, we're doing all that can be done and will continue to do so to make the impact as little as we can feasibly make it. And everything is being done. I've been involved in for months now, as well as being done, trying to make it as least impactful as possible. But remember, this is the outlier if you will, because it's in the area that if it hadn't been developed back when it was, and didn't have zoning from way back, it would never have been developed.

Eddie Bourdon:

That's why that's mentioned that in my presentation. It's been 40 years that we have in our comp plans, said, we want to protect NAS Oceana, and we don't want incompatible residential. And there hasn't been any approved, but this was zoned way back. And so that's why it's there. And it's a nice neighborhood, not trying to try to knock anybody's neighborhood whatsoever.

Eddie Bourdon:

But what is happening here is we have been making every effort and will continue to make every effort to try to make sure that their peace and tranquility is not impacted anymore than would've been the case with the Southeastern Expressway and green belt going over that same right of way with an elevated road going over London Bridge Road, because that's what the plans... There was no intersection there. It had been elevated. And remember, that's going to cause noise to go out from that point. So that was there on the books before these homes were built as well. Be happy to answer any questions you'll have, and Dave's available to do so as well if you have any questions that he may be better off answering than I.

Mr. Wall:

All right. We'll start with Mr. Horsley and then Mr. Alcaraz.

Mr. Horsley:

Mr. Bourdon. Didn't you say that the products that have been brought here are brought in by trucks?

Mr. Redmond:

Yes, they are.

Mr. Horsley:

And then they're hauled out by trucks?

Eddie Bourdon:

Yes, they are.

Mr. Horsley:

Okay. So you got any rough idea how many trucks per day that is?

Eddie Bourdon:

Yes. The truck trips, and remember trips coming and going, truck trips a day, a total of 494, just under 500 trips per day, a trip being defined as a come to and leave.

Mr. Horsley:

Okay. And I think I heard you say they're going to go out and go down Dam Neck and go to this other distribution area?

Eddie Bourdon:

Yeah. The trucks that leave here with product that has been ordered from here go to the last mile distribution centers, which are their own facilities, which there is one that's been approved across directly Dam Neck Road. But there could be others of there in their system that this could go to, or they might go to. This is regional and to the United States Postal Service, the UPS, and FedEx. And there are none of those that would take a truck in the southeastern direction.

Mr. Horsley:

So that's what I was getting at. So there's no reason for them to come down the road to London Bridge. And there's no reason for them to go up there and turn right.

Eddie Bourdon:

Correct.

Mr. Horsley:

They go up there and turn left and go out.

Eddie Bourdon:

And that's a signalized intersection and you're on a limited access roadway. And that full on entrance that's there that we're not utilizing, which will be burned in landscape, which the community did not want to be used for the development of the western part of the property, that is too close to the proposed entrance to meet because of the limited access nature of the road and the maintaining of the speed. That is too close in order to be able to be signalized. So, it would be dangerous. And again, there's been a lot of time and effort looked into trying to look at all the alternatives to get a second point, basically emergency access.

Eddie Bourdon:

And this was the one that makes the most sense. Again, we've agreed to put a wall on the east side of the road, if Virginia Power will allow it and we can fit it in. And I think we can help the folks in Mayberry. And we will work with this community on the Prince George Estates to see if there's more that can be done in that 55, 60-foot area. But we're not talking about Hampton Boulevard right up on the back of somebody's property. I mean, the back of those houses, forget the lot, the houses themselves are going to be 85, 95 feet from the edge of pavement.

Mr. Horsley:

So, it appears to me that the traffic on the lower end would be mainly employee traffic, going and coming to work.

Eddie Bourdon:

Correct. And the trips per day, again, coming and going being a trip, is around 1,300. There's a lot of exaggeration. A thousand employees, that doesn't mean that there's going to be every day a thousand trips. But it's 1,321 is the total trips, coming and going being a trip.

Mr. Horsley:

And that's a 24-hour day.

Eddie Bourdon:

And that's a 24-hour day. And the number that would be coming from the southeast is a fraction compared to the rest of the city where the majority of the people working here will be coming from, the east or the west and the north. But I didn't go through it on the... It's in the study, but it's a smaller percentage, whether it's 30%, 25%. Don't know.

Mr. Horsley:

I submit, it'll probably more people using that road as a cut through to get to Dam Neck than it will be going to...

Eddie Bourdon:

Well, and that was a concern that was expressed at the public information meeting. And again, there's a willingness to look at possibly some traffic calming mechanisms to keep that from being as attractive because this will be a lot safer. I mean, Harpers Road, I'm very familiar with Harpers Road. Harpers Road is inferior. I mean, I'll agree with Mr. Odom a thousand percent on that, and anybody else would agree. It's not a dispute, but the ability to make that road safe and to improve that road is a major monumental task. And it's not just the section between Dam Neck and London Bridge. It's going all the way up by NAS Oceana.

Mr. Wall:

So just on the same theme, the roadway, that piece that's between Mayberry and Prince George Estates is owned by the city. And so the city's putting the road in... Uh-huh (affirmative). Yeah.

Eddie Bourdon:

Up to basically right in here. That right of way is owned by the city. Everything above it is not, but we'll be with this.

Mr. Wall:

Okay. And I think we can keep going on this, but the need for that, is it a need to extend that access off Dam Neck to London Bridge? And this may have been addressed, but I just want to...

Eddie Bourdon:

Dave, you want to talk about that?

Dave France:

I said something about resilience and resiliency, and one of the speakers brought up that there's only one point of access to the site in Suffolk. And that's a true statement. When this tenant was looking at this site, one of the things that stood out to them was wanting to have two means of ingress and egress that was not just limited to Dam Neck Road. It just didn't feel comfortable

that for the way that this site worked and given the environmental constraints and flooding that happens on Dam Neck Road, that they wanted to be limited to just one access point.

Dave France:

So, the need for that is really driven by the idea of having a resilient facility, keeping in mind that the type of investment that we're talking about here, the capital investment in the community is one of the largest investments that you will see in your community, just from strictly the dollar value of this facility compared to anything else that we have as an employer. This would be one of the largest ones that we have in the community. And so just like if you had a military base, just like if you had a steel, all of those other people, they're going to want to have a back door, an option that gets them safely out. And so that's what we were asked to try to come up with. And working with the city staff, we identified that old route through old southeastern expressway as a way to accommodate, providing that resilient access.

Mr. Wall:

So, you mentioned safety. It was brought up by someone about the safety of the location of that on the curve. Can you speak on that?

Dave France:

Sure. We've been working with staff on that exact issue. The thought that was put forth that in 40 years, the planning person's career, they'd never seen a road built on a curve must be an exaggeration, because certainly as a roadway engineer myself, I've done plenty. There are safe ways to do it. You just have to follow guidelines that are published by AASHTO that are Public Works manuals that guide all of that. So, there's a process for going through that we understand and know and have looked at. An example for instance, is the spacing between the existing entrance to Prince Georges, and where we have our entrance shown on the original sketch was too close. We're working on moving it over so that it meets the minimum spacing requirements. That's requiring us to go back and work with Dominion because we're trying to meet a lot of different criteria at the same time. We're certainly aware of them. We certainly intend to provide a safe facility. We would not be approved, when we get to the staff level approvals, to put a roadway in that didn't meet all of the city and regulatory standards.

Mr. Wall:

Okay.

Donald H. Horsley:

Just one comment. Maybe 30 years ago when the Southeast Expressway was voted on and approved, it was supposed to be a highway through here and it's never been built. I mean, this'll be one of the small portions of that highway that will actually be built if it goes through.

Dave France:

Precisely to your point, precisely why we looked at that as being an option, was that in the City's Comprehensive Plan for longer than I've been around doing engineering, before I was even out of school, the Southeastern Expressway has been a transportation corridor. Now, what we're talking about doing is certainly far less impact than what that corridor would've been. It should have been developed as a limited access highway. We're talking about, essentially, a two-lane surface roadway to provide secondary access for a community asset.

Mr. Wall:

Okay. Any other questions concerning the infrastructure? Particularly the roadways on this one. Okay, Mr. Alcaraz.

George A. Alcaraz:

Yeah. Mr. Bourdon, I'm going to ask in respect to the speakers of Mr. Tajan, some of the speakers said they weren't notified, and they want a deferral. Can you talk about the advertising and all, and just make sure it was all up to par?

Bobby Tajan:

Right. According to the mailing and the application that's in front of us, as noted by Mr. Bourdon, there's a portion that's being shown here that is actually city property and not a part of this application. But according to the mailing list that we have, we mailed all adjacent property owners and the applicant noted that they posted the signs accordingly. You may want to ask the applicant about the required signs. So.

Eddie Bourdon:

And Kimley-Horn handled all that. They've provided pictures to the City with the signage. As an adjoining property owner, I got notice of this from the city many number of weeks ago. We reached out to the President of the Castleton Community Association, the Mayberry Community Association, and it took a few more days to get in touch with the property manager for Prince George's Estates Association. There was no one listed for Pine Ridge. We got out notice and had a good turnout and a very good meeting with about a dozen of the citizens of those three communities about, I guess it was probably 25 days, 20 days ago, 15. I don't remember, but it's been more than a couple weeks. To go over everything.

Eddie Bourdon:

They were able to take pictures of the plans and we spent a considerable amount of time going over and answering questions and gave our information if anybody had any questions and wanted to discuss further. And I have had some discussion with some of the folks since that time, who were at that meeting. So it's-

Mr. Wall:

Outreach was done?

Eddie Bourdon:

And there's been a big social media presence of some of the folks that were here today. Spreading the word and trying to get signatures opposed and things of that nature. So it's not a secret, wasn't ever intended to be.

Mr. Wall:

Thank you.

Eddie Bourdon:

Thank you.

Mr. Wall:

Okay, Mr. Redmond.

Dave Redmond:

No, I was just going to- you're good. You're good. I was just going to ask before we go into our debate, I think it's appropriate. I see the City Manager's joined us and Mr. Adams is still back there. If they had anything more to add, I thought we might ask if they had anything to add. Don't have to, but I want give them that courtesy. They spent all afternoon with us.

Patrick A. Duhaney:

Yeah, I don't have anything. I just really came to... I was really just here to just listen to the deliberation and hear some of the concerns and hear some of the feedback about the project. I don't really have anything to add to the group. But as the developers mentioned, this is a pretty gigantic momentous project that is an opportunity for Virginia Beach that'll take us to another

level. We are definitely interested to see how it goes. Obviously, you all have a difficult decision as you weigh the merits on it, and also the impact of the community as well. So not really here to put my finger on the scale in any way, shape or form. We're really just kind of here to debate and hear the concerns so we can address them accordingly. Thank you for the time and opportunity to come here and speak before you.

Dave Redmond:

All right. Thank you. Thank you. Okay. Thank you for being here all afternoon, by the way.

Mr. Wall:

Okay. All right. Just...

Donald H. Horsley:

We've heard a lot about traffic today and we haven't heard from our traffic man. Ric, would you come up and I want you to tell me if you've heard anything today that threw out a red flag to you concerning the traffic situation here.

Ric Lowman:

Ric Lowman, Public Works, Traffic Engineering. No, I haven't. You know, the assumption about the trucks, that was an assumption that we worked with the developer on and we tried to figure out why trucks would make a right turn coming out of there, when their ultimate destination is not going to be London Bridge Road, or anywhere off of London Bridge Road. That's why the traffic signal's being provided there at Dam Neck Road, for safe, reliable, easy access. In fact, in working with one of these distribution centers, they said that their trucks can't make a left turn and they'd rather go to a traffic signal than, than not a traffic signal because of the safety factor. We took that into consideration. The only traffic that we really routed down Road A towards the London Bridge Road was employee traffic and a little bit of background traffic. Because we do realize that some people will use that roadway as a public roadway to get between London Bridge Road and Dam Neck Road. Although it's pretty much limited to the Castleton residents and maybe some of Prince George's Estates and Mayberry that find it attractive to use.

Donald H. Horsley:

Thank you, I appreciate your comment.

Ric Lowman:

The one other thing that I did want to point out, it was mentioned that London Bridge is a collector roadway. London Bridge is an arterial roadway. It carries over 16,000 cars a day. At one point, I think it carried 25,000 cars a day, but I think Nimmo Parkway and some other roadways the city's built has lessened the demand for that roadway. But at one point, London Bridge road carried over 25,000 cars a day. It's much more than a collector. It's a vital arterial through the City of Virginia Beach for trucks and vehicles. One last thing about active transportation on Road A. The city, through the development agreement, is going to push for both the sidewalk and a multi-use path to be placed along Road A to get from London Bridge road to the bike path on Dam Neck road. That's also a very big amenity for people getting from London Bridge up to Dam Neck and using that route through there.

Mr. Wall:

And that presumably would be on that Eastern side that Mr. Bourdon talked about?

Ric Lowman:

It'll be alongside the road. It'll be part of the roadway right away.

Mr. Wall:

Thank you.

Ric Lowman:

Any other questions?

Donald H. Horsley:

Thank you, Ric.

Mr. Wall:

Anybody else? Mr. Alcaraz.

George A. Alcaraz:

One of the speakers mentioned a concern about the turn lanes and the right turn, left turn. Do you see any problem there in the future, as far as the plan review?

Ric Lowman:

Down at London bridge Road?

George A. Alcaraz:

Mm-hmm (affirmative).

Ric Lowman:

You know, I took a look at it real briefly there on Google Maps after the comment was made. It isn't a curve, it's a very slight curve. I have full trust in Kimley-Horn and my design review engineers here at the city to make sure that all AASHTO, state, federal, and local standards are met as far as site distance.

George A. Alcaraz:

Great. Thank you.

Ric Lowman:

Sure. Appreciate it.

Eddie Bourdon:

Chairman, I'd like thank Ric. Because that was one thing I was remiss in not mentioning because we didn't tell the communities this. That there will be a multi-use trail connection going from London Bridge all the way to Dam Neck. And there is a fantastic multipurpose trail that runs along the north side of Dam Neck Road. You can go all the way to Red Wing Park, the Oceanfront, and all the way down to the Princess Anne Park soccer complex, which I've done many times in my younger years. And we got a positive response from that at the meeting that will happen, as well as sidewalks on the street as well.

Mr. Wall:

I do have a couple questions, a couple more questions.

Eddie Bourdon:

Sorry.

Mr. Wall:

Tell us a little bit of the history. Because there's an industrial area next to Prince George Estates. Can you give a little history, which went in first? Who was there before?

Eddie Bourdon:

Well, the Barber Storage came first and, but the Prince George Estates was right after that. The former Planning Commissioner who was here earlier this afternoon, Mr. Whitney Graham, developed the smaller storage facility with his partners also, and that was developed, I think it was after. I'm not sure that all of the homes in Prince George's Estate had been built when that storage facility was done. I can tell you from experience with Mr. Barber, Mr. Jarred referenced it. That's okay, he can blame me, but Mr. Barber made some deals with the original purchasers of those houses behind him that he wouldn't have to put the landscaping in and they've had, they had a lot of problems with that facility. But again, all that's there in some instances is just a fence. But there should have been landscaping. Mr. Graham did do his landscaping, now.

Mr. Wall:

That's an example of 25-foot buffer.

Eddie Bourdon:

Correct.

Mr. Wall:

Industrial next to resident.

Eddie Bourdon:

Correct. And that's the perfect juxtaposition versus what we're talking about here.

Mr. Wall:

Another question is, how many applications that you've been a part of, do not proffer anything with the application?

Eddie Bourdon:

This is, as you have heard from numerous speakers, not your everyday application, okay? And your typical application that I would come up here and talk about, is not this type of an investment. It's not in any way similar to this. This is unique. So, the answer to your question is, this is unique. But at the same token, development agreements to control large developments, I believe I could be, I don't want to paint too broad, I believe that Town Center was done under development agreements. Okay? And that zoning was created for Town Center. That's a development agreement. So, it's not unheard of at all, but personally I have... I can say I've done a lot of things, but this is something that's, as far as the level of investment on one piece of property, it's tremendous.

Mr. Wall:

How many would love to have no proffers with their application? Any of the applicants.

Eddie Bourdon:

Again, if you're doing a development agreement that accomplishes the same thing, because you're talking, as Taylor Adams explained, if you're doing something of that nature, that's exactly what you would want. Especially in the circumstances with this particular industry. This isn't a, for lack of a better way to characterize it, pedestrian type of development that we deal with on a daily basis and in 40 years of dealing with this stuff.

Mr. Wall:

Right.

Eddie Bourdon:

Development agreements will accomplish that. Again, I'm sorry, but the only risk that's involved with the development agreement versus the proffers is the berm and the landscape buffer coming down Road A and what else may come along that we may agree to on Road A. I don't know, but other than that, the rest of it is a better development than if you... I mean, look at all the other industrial that's out there. I'm sorry, it's not as nice as this will be.

Mr. Wall:

I would tend to agree. The only thing is if this doesn't get built, then it's open to, and if there's nothing in writing...

Eddie Bourdon:

Well, no, that's not true. That's what the development agreement with the letter you have from Ms. Creech would guarantee that what they're getting here... Now, as far as whether the road gets built or not, or whether access winds up being different because it's not as major of a facility, but what protects the neighborhood is the berm and the landscaping. Just as Mr. Jarred talked about, which they wanted for that storage facility. That's the protection, that blocks noise, it blocks all kinds of light, et cetera. It's the 25-foot landscape buffer, it can be adequate in certain circumstances, but in this case, it's a whole lot more. And that's what that letter guarantees that they will get if that should happen. That's really the issue.

Mr. Wall:

Well, the letter just says 25-foot landscape buffer and a 10-foot berm. That's all that letter says.

Eddie Bourdon:

It's a 48-foot wide, 10-foot-high berm with landscaping on top of it, in addition to a 25-foot buffer.

Mr. Wall:

Okay. Thank you. All right, thank you. Yeah. Mr. Bradley.

David Bradley:

Are you ready for discussion?

Mr. Wall:

Yeah, no more questions. So, let's close it and open it up to a discussion among the Planning Commissioners. Thanks.

David Bradley:

Well, this is in the Princess Anne borough. So, I would just start, it sounds like we have a real opportunity here. We've heard that from Taylor Adams and the City Manager, and I think it's going to be a real opportunity for the neighborhood too. I'd like to just explain that. As you drive from General Booth down Dam Neck towards Oceana, and you look at that whole area to the left to Corporate Landing Park, this property is ripe for development. It's been in our Comprehensive Plan saying that. It sounds like it's going to be a heck of a capital investment, but it also is an opportunity, I think, for the neighborhood through the development agreement.

David Bradley:

That's why I kept bringing up this morning, and this afternoon. I've worked with the leadership of the city. I have great respect for them. I think that they will incorporate the necessary protections for that neighborhood. We just heard about a bikeway, another opportunity there that could occur because of this. I would encourage the neighborhood to stay engaged with this process. That southeastern quarter, I started in the City in 1988, and it's always been intended to be a transportation quarter in some form. I think that's another opportunity through the development agreement to provide protection for the neighborhood. So, I'm going to support this.

Mr. Wall:

Okay. Thank you. Mr. Weiner.

David Weiner:

All right. I'll be quick, because really, all my concerns have been answered and I'm on board with Mr. Bradley here, everything he said. I do have to say one thing on the storm water. Wow. I've never seen a piece of property with so many BMPs. I don't see an issue there whatsoever. The only thing I've been looking at this for the last couple days, was the trucks. I didn't have this, what Mr. Bourdon gave us today. This is really interesting, because I did measurements here and really and truly, the truck entering and exiting the facility is only 400 feet from Dam Neck. I don't think they're going to want to go down to London Bridge if they're right there at Dam Neck, where they're coming in and out, they're going to be right there at the light. That was my biggest concern and I have no concerns now, looking at this. So, I'm going to support this also.

Mr. Wall:

Mr. Horsley.

Donald H. Horsley:

I think this is an excellent opportunity for the city also. I'm a newcomer to the city, I didn't come here until 1970, but I've been here ever since. It's always been assumed ever since I've been here and heard anything about what was going in the city that this area next to Oceana was going to be industrial development. We are finally getting there. It's taken 50-some years to get there, but we're getting there. I think it's an excellent opportunity to get an outfit as big as this one to put a building and invest as much capital in there for the city. I think the city needs to do what they can to make sure this deal happens. I think they are working on that hard. And the storm water, I mean, with the strict storm water we've got now, I appreciate what Mr. Smithson said about, he worked in drainage and storm water and all when he was here.

Donald H. Horsley:

I've worked in drainage in storm water for a pretty good long time too. I have more problems with storm water than most developments do, with the farm fields we got. That's the reason we stay constantly keeping up with that drainage. I understand that, and the new drainage requirements we've got go way beyond what I think it's necessary. I go along with them, but I think they go far more than... you can't predict a 500 a year flood and things like that. So anyway, in the road situation. I've had conversations with some of the folks about the road situation. I think they've done an excellent job and I appreciate the explanation of the two accesses that they needed. I can understand that.

Donald H. Horsley:

I also appreciate the idea that most of these trucks aren't going go down that road. Probably, I'm not going to say none, I'm sure I'll get the phone call, "Well a tractor-trailer just went by my house this morning." But I think the traffic doesn't have any reason to go that way. I think it's providing access for people who are going to go to work there to the facility from the London Bridge end. I think they've done an excellent job in doing this and I'm going to support it. My vote will be in favor of it today because I think it's the right thing. Mr. Lowman came up and put his rubber stamp on the traffic thing, that kind of sealed the deal for me. I will be voting in favor.

Mr. Wall:

Mr. Redmond.

David Redmond:

I'll just add a couple points. He said a lot of that much better than I can. I see this road, Road A, as a significant public benefit. I do not see Road A as wearing a black hat. I mean, this is about our entire city. It's about all of us. It's about all of us who utilize our road network. None of these roads we're talking about, Dam Neck Road and London Bridge Road, or little meandering country lanes there as Mr. Lowman pointed out, major urban arterials. The fact that we can add some infrastructure as part of this, in addition simply to this magnificent facility, to me is a real benefit. As Ric pointed out, particularly when you can add some amenities along it. Now it's more complex, because there's a power line and all that, and these folks got to sort it all out.

David Redmond:

But to me, that is a sweetener. It's not a detriment. There is not a facility in Virginia Beach that is as technologically advanced as this one is. As he said, the robotics, there's going to be tens of millions of lines of unique software that runs the facilities in this thing. It's surrounded by stuff like storage units, that all came about as a result either because they were already zoned that way or because brat came along and then we had to change our focus and put things in... This is a real gem. Not just in terms of its investment, the enormous amount of jobs that it will bring,

the prestige that it will bring with it, but the technological advancement that will be operating in Virginia Beach is very, very rare.

David Redmond:

It's not unique, but it's very, very rare. And we're very fortunate, I think, to have that. With all that, I will say, I do want to commend Mr. Adams and his superb team, and the City Manager. I know they've been putting in a lot of work on this that we didn't see. They spent most of their day here with us. That to me tells me that this is an enormous city priority. It should be when you look at it, based on the facts and all of the benefits that would accrue from it, on a piece of property that Mr. Horsley correctly has said, and Mr. Bradley correctly has said, was always going to be an industrial property anyway. Only this one is the gold standard of what you can expect from industrial development, particularly in the shadow of Oceana. Sorry to take so much time, but thank you, Mr. Chairman. I'm happy to support it. Thank you two again, for being here.

David Weiner:

Piggyback on Dave real quick.

Mr. Wall:

Okay.

David Weiner:

Just real quick. I want to go another direction real quick, because you brought something up that I meant to say, but I didn't. With the amount of employees coming to this facility and the amount of employees incoming to the other facility we just approved six months ago. Let's all remember when we get some apartments coming in front of us, people need to live somewhere. Okay. We're very short housing as the city of Virginia Beach. Please keep that in mind in the future. That's it.

Mr. Wall:

Ms. Klein.

Robyn Klein:

Okay. I do intend to support the project, but I hear the concerns of the neighborhood. I am not as optimistic as some of my peers regarding where the truck routes will go. I don't like making a left turn and I drive a sedan. I can't imagine driving a huge 18-Wheeler and having the option of a right turn versus a left, even if it's a little farther out of the way. I hope that the city will take that

into consideration as they move forward. The neighborhood overall seems amenable to the project, so I do hope that you take those concerns seriously. On a slightly more personal note, the City Manager and I are almost the same age, and I think that I chose the wrong job course here going into social work. I applaud you. But I do intend to support the project, and I appreciate the involvement of the neighborhood.

John H. Coston:

I too will support. Robyn brought up something about not wanting to make that left turn, but when you drive something that big, it's about the destination really. Can the truck fit, and how fast can I get there? I'm glad that there's going to be two ways in and out for public safety, because I don't want to see six heavy duties trying to get in at one end, and there's a bottleneck. In an emergency, you need those two paths of ingress and egress. I will be supporting it as well.

Holly Cuellar:

Yeah. I plan on supporting the project. This is probably the biggest project that I've had the opportunity to vote on, on my short tenure here on the Planning Commission, and it's something that I've been waiting for. Something that would be visionary and something that will give our economy an opportunity to boost. To further increase our profile on the national stage for the City of Virginia Beach, a city that is so close to my heart. I think I do hear the residents, all the stakeholders, but I believe the applicant will be a good neighbor. I feel like there's been many signs of good faith. There might be some growing pains along the way, but if we continue our communication, we eliminate any disinformation, then we together can work and just have an extraordinary partner here in the City of Virginia Beach.

Barry Frankenfield:

So, I guess we're all talking.

Mr. Wall:

Can't leave you out, right?

Barry Frankenfield:

Yeah, you can't leave me out. I am not a big fan of conditional re-zonings, believe it or not. I think they have way too much stuff in them, way too many conditions, way too many proffers. If you look at the one we did today, how many years of conditions did you have, and we couldn't keep them all straight. That being said, you have to have conditions or parameters, whatever. I have full faith in Economic Development, Mr. Adams back there, city staff, that they will provide the best quality and the best design with all the buffers that are required. I obviously will support it also.

Mr. Wall:

Okay. Okay. All right, thank you. I don't necessarily share the same new confidence that my Planning Commissioners have. I think that if there's not something in writing, if they're not willing to put something forward that says, "this is what we're going to do." And to provide some kind of level of protection to the adjacent homeowners, that throws up certainly red flags. While I have every confidence in the city staff and in the leadership of the city, it's just not good practice to just give up the ability to protect the neighborhood.

Mr. Wall:

While we have heard development agreements and 'we're going to do this, we're going to do that', at the end of the day, it's going to be, well, where's it in writing? Where's it say that you're going to do this? When something happens like, 'well, conditions have changed', and that's not going to be in favor. As many dollars as we've talked about and the benefit to the city and new technological advancements... To the poor individual that lives there, that's little assurance. I may not have full confidence, but I do have some confidence, and so I will be in support of it. But it's certainly with hesitation, with reservation. So, thanks.

David Bradley:

With that said, I'd like to make a motion to approve item five.

Donald H. Horsley:

I'll second it.

Mr. Wall:

We have a motion by Mr. Bradley, and a second by Mr. Horsley.

Madam Clerk:

Vote is open. By recorded vote of 10 in favor, zero against. Agenda item number five has been recommended for approval.

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

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

**Virginia Beach Planning Commission
 May 11, 2022, Public Meeting
 Agenda Item # 6**

Nimmo United Methodist Church [Applicant]

Street Closure

Address: Portion of Old Princess Anne Road right of way, south of 2040 Nimmo Church Lane

DEFERRED INDEFINITELY

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

CONDITIONS

1. The site shall adhere to all of the conditions attached to the existing Conditional Use Permits and Modification of Conditions approved by the Virginia Beach City Council on February 25, 1997, December 18, 2002, May 25, 2004, and November 12, 2013. Except, Concept Plans from previous requests shall be superseded by the Conceptual Site Plan submitted with this request.
2. When the property is redeveloped, it shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis – Virginia Beach, Virginia", dated March 24, 2022, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The proposed access on Hyundai World Way shall meet the Public Works Design Standards Manual.
3. Prior to final Site Plan approval, a Landscape Plan shall be submitted to the Department of Planning and Community Development for review and approval. The Landscape Plan shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis – Virginia Beach, Virginia", dated March 24, 2022, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Landscape plantings shall be maintained for the duration of the use and shall be subject to the review and approval of the Development and Service Center.

4. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
5. All vehicles for sale or rental shall be located on a paved surface within the designated display area identified on the plan referenced in Condition 1 above. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
6. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
7. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
8. The use of an outdoor amplified speaker system shall be prohibited.
9. 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.
10. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. No window signage shall be permitted.
11. No motor vehicle shall be displayed for sale or rental within the first five (5) feet of any front yard or side yard abutting the right-of-way line of a street to be measured from the property line to any displayed motor vehicle on the premises.
12. All light fixtures on the site that are within 25 feet of a property line from Sentara Way shall be no taller than 14 feet in height and all light fixtures shall be shielded to contain lighting on site.
13. The loading and unloading of vehicles within the public rights-of-way shall be prohibited. On-site loading and unloading of vehicles shall be limited to between the hours of 7:00 am to 10:00 pm.
14. On-street employee parking shall be prohibited.
15. Plant and lawn clippings and other waste from this property shall be disposed of in a lawful manner and shall be prohibited from being left in the public right-of-way.

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
 May 11, 2022, Public Meeting
 Agenda Item # 7**

Nimmo United Methodist Church [Applicant]

Modification of Conditions (Expansion of Religious Use)

Address: 2040 Nimmo Church Lane

DEFERRED INDEFINITELY

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

CONDITIONS

1. The site shall adhere to all of the conditions attached to the existing Conditional Use Permits and Modification of Conditions approved by the Virginia Beach City Council on February 25, 1997, December 18, 2002, May 25, 2004, and November 12, 2013. Except, Concept Plans from previous requests shall be superseded by the Conceptual Site Plan submitted with this request.
2. When the property is redeveloped, it shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis – Virginia Beach, Virginia", dated March 24, 2022, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The proposed access on Hyundai World Way shall meet the Public Works Design Standards Manual.
3. Prior to final Site Plan approval, a Landscape Plan shall be submitted to the Department of Planning and Community Development for review and approval. The Landscape Plan shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis – Virginia Beach, Virginia", dated March 24, 2022, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Landscape plantings shall be maintained for the duration of the use and shall be subject to the review and approval of the Development and Service Center.

4. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
5. All vehicles for sale or rental shall be located on a paved surface within the designated display area identified on the plan referenced in Condition 1 above. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
6. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
7. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
8. The use of an outdoor amplified speaker system shall be prohibited.
9. 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.
10. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. No window signage shall be permitted.
11. No motor vehicle shall be displayed for sale or rental within the first five (5) feet of any front yard or side yard abutting the right-of-way line of a street to be measured from the property line to any displayed motor vehicle on the premises.
12. All light fixtures on the site that are within 25 feet of a property line from Sentara Way shall be no taller than 14 feet in height and all light fixtures shall be shielded to contain lighting on site.
13. The loading and unloading of vehicles within the public rights-of-way shall be prohibited. On-site loading and unloading of vehicles shall be limited to between the hours of 7:00 am to 10:00 pm.
14. On-street employee parking shall be prohibited.
15. Plant and lawn clippings and other waste from this property shall be disposed of in a lawful manner and shall be prohibited from being left in the public right-of-way.

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
May 11, 2022, Public Meeting
Agenda Items # 8 & 9**

Reed Enterprises, Inc. & Liberty Transmission & Auto Care, Inc. [Applicant]
Reed Enterprises, Inc. [Property Owner]

#8 Modification of Proffers
#9 Conditional Use Permit (Automobile Repair Garage)

Address: 3041 Holland Road

RECOMMENDED FOR APPROVAL – CONSENT

Commissioner Alcaraz:

All right. The next item on consent is items number eight and nine together. Is there a representative here today to speak on this item?

Eddie Bourdon:

Thank you, Mr. Vice chair. Again, Eddie Bourdon Virginia Beach attorney representing Reed Enterprises and Liberty Transmission. First of all, I want to thank Elizabeth Nowak for her work on these applications. And I want to indicate that all 11 conditions recommended with the use permit are acceptable to the applicants and we appreciate being on the consent agenda. Thank you.

Commissioner Alcaraz:

All right. Thank you. Is there any opposition to items eight and nine being placed on the consent agenda? Hearing none, I've asked Commissioner Horsley to speak on this item.

Commissioner Horsley:

Thank you. The request is for Modification of Proffers, this property, is to amend the proffered site plan, the building elevations and uses on the site. The site was originally, in 2013, approved for automobile repair garage and bulk storage yard. So, we're trying to amend the conditions so that we can eliminate the bulk storage yard and have a conditional use permit from Liberty Transmission and Auto Care, in place of the auto repair garage. It's been very attractive renderings put there, it's half the footprint that was originally approved. So, so storm water should be a whole lot easier on the property. We didn't have any objections and staff had put their stamp of approval on it. So, we placed it on a consent agenda. Thank you.

Commissioner Alcaraz:

Thank you.

Madam Clerk:

Mr. Alcaraz. I'm sorry, we now have a speaker in relation to application number four, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, Mr. Chair, that leaves the following on consent agenda, consent agenda number eight, number nine, number 10, number 13, number 14, number 15, and number 17 are all on consent agenda.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent agenda items eight, nine, 10, 13, 14, 15, and 17.

Commissioner Alcaraz:

I'll make a motion to,

Chairman Wall:

Okay. Oh, we have a motion by Mr. Alcaraz. Do we have a second by Mr.-

Commissioner Weiner:

Second

Chairman Wall:

By Mr. Weiner.

Commissioner Redmond:

Mr. Chairman?

Chairman Wall:

Yes.

Commissioner Redmond:

Mr. Chairman. I want to be clear that while I am supporting the items on the consent agenda, I am specifically abstaining with regard to items number 15 and 17 as they are short term rental applications. I have a letter on file with city attorney's office. I have a client in the travel industry and I do not vote on short term rental applications or any of the ordinances that apply there, too. Thank you.

Chairman Wall:

Okay, thank you.

Madam Clerk:

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

Madam Clerk:

By recorded vote of 10 in favor, zero against agenda items, 8, 9, 10, 13, and 14 have been recommended for approval by consent. Agenda items, 15 and 17 by a vote of nine in favor, zero against, with one abstention by Commissioner Redmond, have been recommended for approval by consent.

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

PROFFERS

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

Proffer 1:

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "SITE LAYOUT TRANSMISSION AND AUTO CARE CENTER FOR NEAL REED 3041 HOLLAND ROAD VIRGINIA BEACH, VIRGINIA", prepared by SIA, dated 04-03-2022, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Site Plan").

Proffer 2:

The exterior of the building depicted on the Site Plan shall be substantially similar in appearance and shall utilize the building materials and colors depicted and described on the elevations entitled, "LIBERTY TRANSMISSION & AUTO CARE, INC. 3041 HOLLAND ROAD, VIRGINIA BEACH, VA 23453, dated April 5, 2022, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development (hereinafter "Elevation").

Proffer 3:

The freestanding sign depicted on the Site Plan shall be brick based monument style sign no greater than eight feet (8') in height.

Proffer 4:

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

Proffer 5:

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

Proffer 6:

These conditions supersede and replace those previously proffered conditions numbered 1 through 5 as set forth in the 2013 Proffers as modified by the 2015 Amended Proffers.

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.

CONDITIONS

1. The development of the site shall substantially conform with the site plan entitled "SITE LAYOUT TRANSMISSION AND AUTO CARE CENTER FOR NEAL REED 3041 HOLLAND ROAD VIRGINIA BEACH, VIRGINIA," prepared by SIA and dated 4/3/2022 and with the elevation plans entitled, "LIBERTY TRANSMISSION & AUTO CARE, INC. 3041 HOLLAND ROAD, VIRGINIA BEACH, VA 23453, dated April 5, 2022 and which both have been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development.
2. All motor vehicle repairs shall take place inside the building.
3. No outside storage of equipment, parts or materials shall be permitted.
4. No outside storage of vehicles in a state of obvious disrepair shall be permitted.
5. No tires for sale, merchandise or parts shall be displayed or stored outside.
6. All outdoor lighting shall be shielded to direct light and glare onto the premises; said lighting and glare shall be deflected, shaded, and focused away from adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet.
7. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
8. A photometric plan shall be submitted at the time of final site plan review.
9. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the release of the final site plan.
10. A final stormwater plan shall be submitted to the Development Services Center (DSC) for review and approval.
11. Parking above the maximum number of parking spaces shall only be permitted with approval by the Planning Director pursuant to Section 203(b)(9) of the Zoning Ordinance.

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

Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

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

**Virginia Beach Planning Commission
May 11, 2022, Public Meeting
Agenda Item # 10**

Autobell Car Wash, LLC [Applicant]
Brenneman Farm Retail Associates, LLC [Property Owner]

Conditional Use Permit (Car Wash Facility)

Address: 4577 South Plaza Trail

RECOMMENDED FOR APPROVAL - CONSENT

Commissioner Alcaraz:

Thank you. The next item is agenda item number 10. Autobell Car Wash, LLC for car wash facility at 4577 South Plaza Trail, is your representative here today. Hi.

Danielle Danzing:

Hi, good afternoon Commissioners. My name is Danielle Danzing with Kimley Horn. I'm here representing Autobell Car Wash today. Business address 4525 Main Street, Virginia Beach, Virginia. We have reviewed the conditions with the applicant and are acceptable with all conditions.

Commissioner Alcaraz:

Thanks, let's see. Is there any opposition to this item being placed on the consent agenda?

Commissioner Alcaraz:

Hearing none. I've asked Commissioner Wiener to read this into the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is an application for a Conditional Use Permit for car wash. The applicants are requesting a Conditional Use Permit to develop an Autobell Car Wash facility on an out parcel shopping center. The site frontage of South Plaza Trail, and like the rest of the shopping center is zoned B2 Community Business. There is an existing commercial retail building located on the subject out parcel and AutoZone store. The applicant plans are to redevelop a new car wash facility on the same lot as existing building. They have no plans to subdivide the out parcel that's part of this project. That is on the consent agenda. We recommend approval and put on consent agenda.

Madam Clerk:

Mr. Alcaraz. I'm sorry, we now have a speaker in relation to application number four, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, Mr. Chair, that leaves the following on consent agenda, consent agenda number eight, number nine, number 10, number 13, number 14, number 15, and number 17 are all on consent agenda.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent agenda items eight, nine, 10, 13, 14, 15, and 17.

Commissioner Alcaraz:

I'll make a motion to,

Chairman Wall:

Okay. Oh, we have a motion by Mr. Alcaraz. Do we have a second by Mr.-

Commissioner Weiner:

Second

Chairman Wall:

By Mr. Weiner.

Commissioner Redmond:

Mr. Chairman?

Chairman Wall:

Yes.

Commissioner Redmond:

Mr. Chairman. I want to be clear that while I am supporting the items on the consent agenda, I am specifically abstaining with regard to items number 15 and 17 as they are short term rental applications. I have a letter on file with city attorney's office. I have a client in the travel industry and I do not vote on short term rental applications or any of the ordinances that apply there, too. Thank you.

Chairman Wall:

Okay, thank you.

Madam Clerk:

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

Madam Clerk:

By recorded vote of 10 in favor, zero against agenda items, 8, 9, 10, 13, and 14 have been recommended for approval by consent. Agenda items, 15 and 17 by a vote of nine in favor, zero against, with one abstention by Commissioner Redmond, have been recommended for approval by consent.

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

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the exhibits entitled, "Preliminary Layout," prepared by Kimley Horn, dated 01/28/2022 and "Conceptual Landscape Plan," prepared by Kimley Horn, dated 01/28/2022 which have been exhibited to the Virginia Beach City Council and are on file in the Planning Department, with the exception of modifications required by the Department of Public Works and any other City departments in order to comply with City regulations and policies.
2. When the building is constructed, it shall be in substantial conformance with the exhibit entitled "Color Elevations – Scheme B," prepared by MRA City Studio and dated 04/21/2022 and which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
3. The outparcel shall be allowed one freestanding sign which shall meet the provisions of the City of Virginia Beach Zoning Ordinance. Any deviations to the design or appearance of the sign shall be submitted to the Planning Department for approval prior to the issuance of a sign permit. There shall be no electronic display components (LED and similar) or neon installed on the sign or on the building.
4. The signage showed in the exhibit "Elevations – Color" and dated 02/14/2022 are subject to review by the Zoning Division during the sign permit process and shall not be permitted as shown unless it meets the provisions of the City of Virginia Beach Zoning Ordinance. No additional signage shall be permitted on the building.
5. No window or outdoor advertising banners, pennants, streamers or other such visual devices beyond those permitted by the City Zoning Ordinance shall be permitted on the property.

6. No water produced by activities at the facility lot shall be permitted to fall upon or drain across public streets or sidewalks or adjacent 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
 May 11, 2022, Public Meeting
 Agenda Items # 11 & 12**

AMERCO Real Estate Company [Applicant]
Thomas Brill Irrevocable Trust, Howard E. Gordon, Trustee [Property Owner]

#11 Conditional Use Permit (Mini-Warehouse)
#12 Conditional Use Permit (Truck & Trailer Rental)

Address: Parcel on the southern corner of Stoneshore Road & Holland Road, directly west of 3427 Holland Road

DEFERRED INDEFINITELY

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

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the exhibits entitled, "Preliminary Layout," prepared by Kimley Horn, dated 01/28/2022 and "Conceptual Landscape Plan," prepared by Kimley Horn, dated 01/28/2022 which have been exhibited to the Virginia Beach City Council and are on file in the Planning Department, with the exception of modifications required by the Department of Public Works and any other City departments in order to comply with City regulations and policies.
2. When the building is constructed, it shall be in substantial conformance with the exhibit entitled "Color Elevations – Scheme B," prepared by MRA City Studio and dated 04/21/2022 and which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
3. The outparcel shall be allowed one freestanding sign which shall meet the provisions of the City of Virginia Beach Zoning Ordinance. Any deviations to the design or appearance of the sign shall be submitted to the Planning Department for approval prior to the issuance of a sign permit. There shall be no electronic display components (LED and similar) or neon installed on the sign or on the building.

4. The signage showed in the exhibit "Elevations – Color" and dated 02/14/2022 are subject to review by the Zoning Division during the sign permit process and shall not be permitted as shown unless it meets the provisions of the City of Virginia Beach Zoning Ordinance. No additional signage shall be permitted on the building.
5. No window or outdoor advertising banners, pennants, streamers or other such visual devices beyond those permitted by the City Zoning Ordinance shall be permitted on the property.
6. No water produced by activities at the facility lot shall be permitted to fall upon or drain across public streets or sidewalks or adjacent 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
May 11, 2022, Public Meeting
Agenda Item # 10**

Autobell Car Wash, LLC [Applicant]
Brenneman Farm Retail Associates, LLC [Property Owner]

#10 Conditional Use Permit (Car Wash Facility)

Address: 4577 S. Plaza Trail

RECOMMENDED FOR APPROVAL – CONSENT

Commissioner Alcaraz:

Thank you. The next item is agenda item number 10. Autobell Car Wash, LLC for car wash facility at 4577 South Plaza Trail, is your representative here today. Hi.

Danielle Danzing:

Hi, good afternoon Commissioners. My name is Danielle Danzing with Kimley Horn. I'm here representing Autobell Car Wash today. Business address 4525 Main Street, Virginia Beach, Virginia. We have reviewed the conditions with the applicant and are acceptable with all conditions.

Commissioner Alcaraz:

Thanks, let's see. Is there any opposition to this item being placed on the consent agenda?

Commissioner Alcaraz:

Hearing none. I've asked Commissioner Wiener to read this into the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is an application for a Conditional Use Permit for car wash. The applicants are requesting a Conditional Use Permit to develop an Autobell Car Wash facility on an out parcel shopping center. The site frontage of South Plaza Trail, and like the rest of the shopping center is zoned B2 Community Business. There is an existing commercial retail building located on the subject out parcel and AutoZone store. The applicant plans are to redevelop a new car wash facility on the same lot as existing building. They have no plans to subdivide the out parcel that's part of this project. That is on the consent agenda. We recommend approval and put on consent agenda.

Madam Clerk:

Mr. Alcaraz. I'm sorry, we now have a speaker in relation to application number four, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, Mr. Chair, that leaves the following on consent agenda, consent agenda number eight, number nine, number 10, number 13, number 14, number 15, and number 17 are all on consent agenda.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent agenda items eight, nine, 10, 13, 14, 15, and 17.

Commissioner Alcaraz:

I'll make a motion to,

Chairman Wall:

Okay. Oh, we have a motion by Mr. Alcaraz. Do we have a second by Mr.-

Commissioner Weiner:

Second

Chairman Wall:

By Mr. Weiner.

Commissioner Redmond:

Mr. Chairman?

Chairman Wall:

Yes.

Commissioner Redmond:

Mr. Chairman. I want to be clear that while I am supporting the items on the consent agenda, I am specifically abstaining with regard to items number 15 and 17 as they are short term rental applications. I have a letter on file with city attorney's office. I have a client in the travel industry and I do not vote on short term rental applications or any of the ordinances that apply there, too. Thank you.

Chairman Wall:

Okay, thank you.

Madam Clerk:

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

Madam Clerk:

By recorded vote of 10 in favor, zero against agenda items, 8, 9, 10, 13, and 14 have been recommended for approval by consent. Agenda items, 15 and 17 by a vote of nine in favor, zero against, with one abstention by Commissioner Redmond, have been recommended for approval by consent.

**Virginia Beach Planning Commission
May 11, 2022, Public Meeting
Agenda Item # 13**

T-Mobile [Applicant]
Campus East Community Association, Inc. [Property Owner]

Modification of Conditions (Communication Tower)

Address: 5642 Campus Drive

RECOMMENDED FOR APPROVAL - CONSENT

Commissioner Alcaraz:

Thank you. The next item is agenda item number 13, and that is T-Mobile for Modification of Conditions for communications tower at 5642 Campus Drive. Is there a representative today to speak for this? Please come forward.

Mr. Forehand:

Afternoon, commissioner. C.E. Forehand for T-Mobile. We are basically just upgrading an existing site and putting new equipment, converting it over from sprint equipment to T-Mobile equipment and no issues with current conditions. And, I'll be here for any questions from anybody.

Commissioner Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none. I asked Commissioner Cuellar to speak on this.

Commissioner Cuellar:

Thank you. The applicant T-Mobile is requesting a Modification of Conditions. It's the communication tower height expansion. According to the applicant, the tower height was increased from 105 feet to 150 feet after the merger of Sprint Communications and T-Mobile. During this time, it was believed that only the lease holder's approval, Dominion Energy, was needed to build new lines or construct on an existing Dominion tower. The applicant came to us and now seeks to rectify the oversight by modifying condition two of the 2006 Conditional Use Permit to increase the permitted height from 105 feet to 150 feet. Being that there is no objection, the Commission recommends approval for the consent agenda.

Commissioner Alcaraz:

Thank you. The next item on consent is item number 14 for Suite Management facilities, I mean Suite Management Franchising LLC for a tattoo parlor at 551 First Colonial Road, Suite 23 C. Is there a representative here today? State your name. Please.

Angela Silvas:

Hi, my name is Angela Silvas and I'm here requesting a permit to have individuals come in to have businesses, and they are going to be able to apply permanent makeup known as microblading within the building. And this is going to umbrella over individuals that have their own businesses.

Commissioner Alcaraz:

Are the conditions acceptable to you?

Angela Silvas:

I'm sorry.

Commissioner Alcaraz:

Are the conditions acceptable to you on this.

Angela Silvas:

Yes.

Commissioner Alcaraz:

Thank you. You may be seated.

Jeff Spatz:

Jeff Spatz here on behalf of the landlord to assist and approve and support in their motion.

Commissioner Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none I've asked Commissioner Klein to speak on this.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit in order to operate a tattoo parlor specifically for microblading, which is the application of permanent makeup, within an existing 6,120 square foot salon. The unit is located within the Hilltop Square Shopping Center along First Colonial Road and Donna Drive on property zone B2 Community Business District. Microblading will take place in 36 separate suites within the salon, each rented out by a

cosmetic professional. Staff supports the application and the Commission recommends approval.

Commissioner Alcaraz:

Thank you. The next item for consent is item number 15, and that is for Megan Calhoun, a short term rental at 4005 Atlantic Avenue, Unit 108, please come forward, State your name please.

Megan Calhoun:

Megan Calhoun.

Commissioner Alcaraz:

Do you accept the conditions?

Megan Calhoun:

Yes.

Commissioner Alcaraz:

Thank you may be seated. Is there any opposition to items 15 being on the consent agenda? Hearing none, Mr. Weiner, if you could speak on this.

Weiner:

Yes. Thank you. Mr. Alcaraz, this is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 108 that's in the OR district, and we have put it on a consent agenda.

Commissioner Alcaraz:

Thank you. And the last item that we have on the consent agenda is item number 17. Item number 17 for Georgi Stoyanov at a short term rental at 4005 Atlantic Avenue, Unit 115, please come forward.

Madam Clerk:

Mr. Alcaraz. Mr. Stoyanov is virtual, he's on WebEx. So calling Georgie Stoyanov, if you would please pause for two to three seconds while we unmute your audio feed, and then state your name and whether the conditions applied to your application are acceptable.

Georgie:

Georgie Stoyanov. Acceptable.

Commissioner Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none, I asked Mr. Weiner again to speak on this item.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 115. It is in the OR district and we have put it on a consent agenda.

Commissioner Alcaraz:

Thank you.

Madam Clerk:

Mr. Alcaraz. I'm sorry, we now have a speaker in relation to application number four, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, Mr. Chair, that leaves the following on consent agenda, consent agenda number eight, number nine, number 10, number 13, number 14, number 15, and number 17 are all on consent agenda.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent agenda items eight, nine, 10, 13, 14, 15, and 17.

Commissioner Alcaraz:

I'll make a motion to,

Chairman Wall:

Okay. Oh, we have a motion by Mr. Alcaraz. Do we have a second by Mr.-

Commissioner Weiner:

Second

Chairman Wall:
By Mr. Weiner.

Commissioner Redmond:
Mr. Chairman?

Chairman Wall:
Yes.

Commissioner Redmond:
Mr. Chairman. I want to be clear that while I am supporting the items on the consent agenda, I am specifically abstaining with regard to items number 15 and 17 as they are short term rental applications. I have a letter on file with city attorney's office. I have a client in the travel industry and I do not vote on short term rental applications or any of the ordinances that apply there, too. Thank you.

Chairman Wall:
Okay, thank you.

Madam Clerk:
Thank you, Mr. Chairman, the vote is open.

Madam Clerk:
By recorded vote of 10 in favor, zero against agenda items, 8, 9, 10, 13, and 14 have been recommended for approval by consent. Agenda items, 15 and 17 by a vote of nine in favor, zero against, with one abstention by Commissioner Redmond, have been recommended for approval by consent.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Bradley	AYE			
Coston	AYE			
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver				ABSENT

Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. All conditions attached to the Conditional Use Permit granted on February 28, 2006, are hereby deleted and superseded by the following conditions.
2. The tower shall be constructed substantially in adherence to the site plans entitled “VB/VEPCO USVA3245 CAMPUS DR”, prepared by Allpro Consulting Group, Inc., and dated March 16, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval and shall be in substantial conformance with the plan entitled “VB/VEPCO USVA3245 CAMPUS DR.”, prepared by Allpro Consulting Group, dated March 16, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development. All plantings required by this Conditional Use Permit shall be properly maintained for the duration of the tower’s existence.
4. The communication tower shall not exceed 150 feet in height.
5. In the event interference with any City emergency communications facilities results from the use of this tower and antennas, the user(s) shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated within a reasonable time, the user shall immediately cease operation to the extent necessary to stop the interference.
6. As required by Section 232(r)(4) of the City Zoning Ordinance, should the antennas cease to be used for a period of more than one (1) year, the applicant shall remove the tower, antennas, and related equipment from the property within ninety (90) days.
7. No signage shall be permitted on the communication tower.

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
May 11, 2022, Public Meeting
Agenda Item # 14**

**Suite Management Franchising, LLC [Applicant]
Hilltop Square Investors, LLC [Property Owner]**

Conditional Use Permit (Tattoo Parlor)

Address: 550 First Colonial Road, Suite 23C

RECOMMENDED FOR APPROVAL - CONSENT

Commissioner Alcaraz:

Thank you. The next item on consent is item number 14 for Suite Management facilities, I mean Suite Management Franchising LLC for a tattoo parlor at 551 First Colonial Road, Suite 23 C. Is there a representative here today? State your name. Please.

Angela Silvas:

Hi, my name is Angela Silvas and I'm here requesting a permit to have individuals come in to have businesses, and they are going to be able to apply permanent makeup known as microblading within the building. And this is going to umbrella over individuals that have their own businesses.

Commissioner Alcaraz:

Are the conditions acceptable to you?

Angela Silvas:

I'm sorry.

Commissioner Alcaraz:

Are the conditions acceptable to you on this.

Angela Silvas:

Yes.

Commissioner Alcaraz:

Thank you. You may be seated.

Jeff Spatz:

Jeff Spatz here on behalf of the landlord to assist and approve and support in their motion.

Commissioner Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none I've asked Commissioner Klein to speak on this.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit in order to operate a tattoo parlor specifically for microblading, which is the application of permanent makeup, within an existing 6,120 square foot salon. The unit is located within the Hilltop Square Shopping Center along First Colonial Road and Donna Drive on property zone B2 Community Business District. Microblading will take place in 36 separate suites within the salon, each rented out by a cosmetic professional. Staff supports the application and the Commission recommends approval.

Commissioner Alcaraz:

Thank you. The next item for consent is item number 15, and that is for Megan Calhoun, a short term rental at 4005 Atlantic Avenue, Unit 108, please come forward, State your name please.

Megan Calhoun:

Megan Calhoun.

Commissioner Alcaraz:

Do you accept the conditions?

Megan Calhoun:

Yes.

Commissioner Alcaraz:

Thank you may be seated. Is there any opposition to items 15 being on the consent agenda? Hearing none, Mr. Weiner, if you could speak on this.

Weiner:

Yes. Thank you. Mr. Alcaraz, this is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 108 that's in the OR district, and we have put it on a consent agenda.

Commissioner Alcaraz:

Thank you. And the last item that we have on the consent agenda is item number 17. Item number 17 for Georgi Stoyanov at a short term rental at 4005 Atlantic Avenue, Unit 115, please come forward.

Madam Clerk:

Mr. Alcaraz. Mr. Stoyanov is virtual, he's on WebEx. So calling Georgie Stoyanov, if you would please pause for two to three seconds while we unmute your audio feed, and then state your name and whether the conditions applied to your application are acceptable.

Georgie:

Georgie Stoyanov. Acceptable.

Commissioner Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none, I asked Mr. Weiner again to speak on this item.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 115. It is in the OR district and we have put it on a consent agenda.

Commissioner Alcaraz:

Thank you.

Madam Clerk:

Mr. Alcaraz. I'm sorry, we now have a speaker in relation to application number four, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, Mr. Chair, that leaves the following on consent agenda, consent agenda number eight, number nine, number 10, number 13, number 14, number 15, and number 17 are all on consent agenda.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent agenda items eight, nine, 10, 13, 14, 15, and 17.

Commissioner Alcaraz:

I'll make a motion to,

Chairman Wall:

Okay. Oh, we have a motion by Mr. Alcaraz. Do we have a second by Mr.-

Commissioner Weiner:

Second

Chairman Wall:

By Mr. Weiner.

Commissioner Redmond:

Mr. Chairman?

Chairman Wall:

Yes.

Commissioner Redmond:

Mr. Chairman. I want to be clear that while I am supporting the items on the consent agenda, I am specifically abstaining with regard to items number 15 and 17 as they are short term rental applications. I have a letter on file with city attorney's office. I have a client in the travel industry and I do not vote on short term rental applications or any of the ordinances that apply there, too. Thank you.

Chairman Wall:

Okay, thank you.

Madam Clerk:

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

Madam Clerk:

By recorded vote of 10 in favor, zero against agenda items, 8, 9, 10, 13, and 14 have been recommended for approval by consent. Agenda items, 15 and 17 by a vote of nine in favor, zero against, with one abstention by Commissioner Redmond, have been recommended for approval by consent.

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

CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

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
May 11, 2022, Public Meeting
Agenda Item # 15**

Maegan Cahoon [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

Address: 4005 Atlantic Avenue, Unit 108

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 the vice chair to run that portion of the meeting.

Commissioner Alcaraz:

All right. Thank you.

Madam Clerk:

Excuse me, Mr. Alcaraz, agenda item number two, we now have a speaker for, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, I'll continue. So Mr. Chair, thank you. We have now eight items on the consent agenda. These are applications that are recommended for approval by staff and the Planning Commission has concurred and there are no speakers signed up in opposition. The first item is item number four, and that's BT Holdings, LLC for Modifications of Proffers parcel of the southeast corner of Dam Neck Road and Harpers Road, is a representative here today?

Eddie Bourdon:

Thank you, Mr. Vice Chair. For the record, Eddie Bourdon, Virginia Beach attorney representing BT holdings, LLC, BT Holdings III LLC. And, we appreciate this item being placed on the consent agenda.

Commissioner Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Commissioner Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none for item four. I have Commissioner. I'm sorry. I got sidetracked on who's doing that one.

Chairman Wall:

Redmond.

Commissioner Alcaraz:

Mr. Redmond.

Commissioner Redmond:

Thank you, Mr. Vice Chairman. This is an application by BT Holdings III LLC, for a Modification of Proffers to remove the previous Conditional Rezoning action on a 28.74 acre portion of a much larger 160, well almost 161 acre parcel. This is related to a larger application, which will, which follows it on the agenda. However, and is much more consequential, very obviously. However, the vacating this, this current Conditional Rezoning on this property is not particularly difficult or controversial in any way. And, so there really was no need for us to hear it. We have therefore for housekeeping purposes placed it on consent. Thank you, Mr. Chairman.

Commissioner Alcaraz:

All right. The next item on consent is items number eight and nine together. Is there a representative here today to speak on this item?

Eddie Bourdon:

Thank you, Mr. Vice chair. Again, Eddie Bourdon Virginia Beach attorney representing Reed Enterprises and Liberty Transmission. First of all, I want to thank Elizabeth Nowak for her work on these applications. And, I want to indicate that all 11 conditions recommended with the use permit are acceptable to the applicants and we appreciate being on the consent agenda. Thank you.

Commissioner Alcaraz:

All right. Thank you. Is there any opposition to items eight and nine being placed on the consent agenda? Hearing none, I've asked Commissioner Horsley to speak on this item.

Commissioner Horsley:

Thank you. The request is for Modification of Proffers, this property, is to amend the proffered site plan, the building elevations and uses on the site. The site was originally, in 2013, approved for automobile repair garage and bulk storage yard. So we're trying to amend the conditions so that we can eliminate the bulk storage yard and have a conditional use permit from Liberty Transmission and Auto Care, in place of the auto repair garage. It's been very attractive renderings put there, it's half the footprint that was originally approved. So, so storm water should be a whole lot easier on the property. We didn't have any objections and staff had put their stamp of approval on it. So we placed it on a consent agenda. Thank you.

Commissioner Alcaraz:

Thank you. The next item is agenda item number 10. Autobell Car Wash, LLC for car wash facility at 4577 South Plaza Trail, is your representative here today. Hi.

Danielle Danzing:

Hi, good afternoon Commissioners. My name is Danielle Danzing with Kimley Horn. I'm here representing Autobell Car Wash today. Business address 4525 Main Street, Virginia Beach,

Virginia. We have reviewed the conditions with the applicant and are acceptable with all conditions.

Commissioner Alcaraz:

Thanks, let's see. Is there any opposition to this item being placed on the consent agenda?

Commissioner Alcaraz:

Hearing none. I've asked Commissioner Wiener to read this into the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is an application for a Conditional Use Permit for car wash. The applicants are requesting a Conditional Use Permit to develop an Autobell Car Wash facility on an out parcel shopping center. The site frontage of South Plaza Trail, and like the rest of the shopping center is zoned B2 Community Business. There is an existing commercial retail building located on the subject out parcel and AutoZone store. The applicant plans are to redevelop a new car wash facility on the same lot as existing building. They have no plans to subdivide the out parcel that's part of this project. That is on the consent agenda. We recommend approval and put on consent agenda.

Commissioner Alcaraz:

Thank you. The next item is agenda item number 13, and that is T-Mobile for Modification of Conditions for communications tower at 5642 Campus Drive. Is there a representative today to speak for this? Please come forward.

Mr. Forehand:

Afternoon, commissioner. C.E. Forehand for T-Mobile. We are basically just upgrading an existing site and putting new equipment, converting it over from sprint equipment to T-Mobile equipment and no issues with current conditions. And, I'll be here for any questions from anybody.

Commissioner Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none. I asked Commissioner Cuellar to speak on this.

Commissioner Cuellar:

Thank you. The applicant T-Mobile is requesting a Modification of Conditions. It's the communication tower height expansion. According to the applicant, the tower height was increased from 105 feet to 150 feet after the merger of Sprint Communications and T-Mobile. During this time, it was believed that only the lease holder's approval, Dominion Energy, was needed to build new lines or construct on an existing Dominion tower. The applicant came to us and now seeks to rectify the oversight by modifying condition two of the 2006 Conditional Use Permit to increase the permitted height from 105 feet to 150 feet. Being that there is no objection, the Commission recommends approval for the consent agenda.

Commissioner Alcaraz:

Thank you. The next item on consent is item number 14 for Suite Management facilities, I mean Suite Management Franchising LLC for a tattoo parlor at 551 First Colonial Road, Suite 23 C. Is there a representative here today? State your name. Please.

Angela Silvas:

Hi, my name is Angela Silvas and I'm here requesting a permit to have individuals come in to have businesses, and they are going to be able to apply permanent makeup known as microblading within the building. And this is going to umbrella over individuals that have their own businesses.

Commissioner Alcaraz:

Are the conditions acceptable to you?

Angela Silvas:

I'm sorry.

Commissioner Alcaraz:

Are the conditions acceptable to you on this.

Angela Silvas:

Yes.

Commissioner Alcaraz:

Thank you. You may be seated.

Jeff Spatz:

Jeff Spatz here on behalf of the landlord to assist and approve and support in their motion.

Commissioner Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none I've asked Commissioner Klein to speak on this.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit in order to operate a tattoo parlor specifically for microblading, which is the application of permanent makeup, within an existing 6,120 square foot salon. The unit is located within the Hilltop Square Shopping Center along First Colonial Road and Donna Drive on property zone B2 Community Business District. Microblading will take place in 36 separate suites within the salon, each rented out by a cosmetic professional. Staff supports the application and the Commission recommends approval.

Commissioner Alcaraz:

Thank you. The next item for consent is item number 15, and that is for Maegan Calhoon, a short term rental at 4005 Atlantic Avenue, Unit 108, please come forward, State your name please.

Maegan Calhoon:
Megan Calhoun.

Commissioner Alcaraz:
Do you accept the conditions?

Maegan Calhoon:
Yes.

Commissioner Alcaraz:
Thank you may be seated. Is there any opposition to items 15 being on the consent agenda? Hearing none, Mr. Weiner, if you could speak on this.

Weiner:
Yes. Thank you. Mr. Alcaraz, this is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 108 that's in the OR district, and we have put it on a consent agenda.

Commissioner Alcaraz:
Thank you. And the last item that we have on the consent agenda is item number 17. Item number 17 for Georgi Stoyanov at a short term rental at 4005 Atlantic Avenue, Unit 115, please come forward.

Madam Clerk:
Mr. Alcaraz. Mr. Stoyanov is virtual, he's on WebEx. So calling Georgie Stoyanov, if you would please pause for two to three seconds while we unmute your audio feed, and then state your name and whether the conditions applied to your application are acceptable.

Georgie:
Georgie Stoyanov. Acceptable.

Commissioner Alcaraz:
Is there any opposition to this item being placed on the consent agenda? Hearing none, I asked Mr. Weiner again to speak on this item.

Commissioner Weiner:
Thank you, Mr. Alcaraz. This is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 115. It is in the OR district and we have put it on a consent agenda.

Commissioner Alcaraz:
Thank you.

Madam Clerk:

Mr. Alcaraz. I'm sorry, we now have a speaker in relation to application number four, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, Mr. Chair, that leaves the following on consent agenda, consent agenda number eight, number nine, number 10, number 13, number 14, number 15, and number 17 are all on consent agenda.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent agenda items eight, nine, 10, 13, 14, 15, and 17.

Commissioner Alcaraz:

I'll make a motion to,

Chairman Wall:

Okay. Oh, we have a motion by Mr. Alcaraz. Do we have a second by Mr.-

Commissioner Weiner:

Second

Chairman Wall:

By Mr. Weiner.

Commissioner Redmond:

Mr. Chairman?

Chairman Wall:

Yes.

Commissioner Redmond:

Mr. Chairman. I want to be clear that while I am supporting the items on the consent agenda, I am specifically abstaining with regard to items number 15 and 17 as they are short term rental applications. I have a letter on file with city attorney's office. I have a client in the travel industry and I do not vote on short term rental applications or any of the ordinances that apply there, too. Thank you.

Chairman Wall:

Okay, thank you.

Madam Clerk:

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

Madam Clerk:

By recorded vote of 10 in favor, zero against agenda items, 8, 9, 10, 13, and 14 have been recommended for approval by consent. Agenda items, 15 and 17 by a vote of nine in favor, zero

against, with one abstention by Commissioner Redmond, have been recommended for approval by consent.

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

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 4005 Atlantic Avenue, Unit 108, 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. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be

submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.

- a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 11. Accessory structures shall not be used or occupied as Short Term Rentals.
 12. No signage shall be on-site, except that each Short Term Rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a Short Term Rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
 13. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
 14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
 17. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon

monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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

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

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

**Virginia Beach Planning Commission
 May 11, 2022, Public Meeting
 Agenda Item # 16**

Martin Piazzola [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

Address: 524 20th ½ Street

WITHDRAWN

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

CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

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
May 11, 2022, Public Meeting
Agenda Item # 17**

Georgia Stoyanov [Applicant & Property Owner]

Conditional Use Permit (Short Term Rental)

Address: 4005 Atlantic Avenue, Unit 11

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 the vice chair to run that portion of the meeting.

Commissioner Alcaraz:

All right. Thank you.

Madam Clerk:

Excuse me, Mr. Alcaraz, agenda item number two, we now have a speaker for, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, I'll continue. So Mr. Chair, thank you. We have now eight items on the consent agenda. These are applications that are recommended for approval by staff and the Planning Commission has concurred and there are no speakers signed up in opposition. The first item is item number four, and that's BT Holdings, LLC for Modifications of Proffers parcel of the southeast corner of Dam Neck Road and Harpers Road, is a representative here today?

Eddie Bourdon:

Thank you, Mr. Vice Chair. For the record, Eddie Bourdon, Virginia Beach attorney representing BT holdings, LLC, BT Holdings III LLC. And, we appreciate this item being placed on the consent agenda.

Commissioner Alcaraz:

Thank you.

Eddie Bourdon:

Thank you.

Commissioner Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none for item four. I have Commissioner. I'm sorry. I got sidetracked on who's doing that one.

Chairman Wall:

Redmond.

Commissioner Alcaraz:

Mr. Redmond.

Commissioner Redmond:

Thank you, Mr. Vice Chairman. This is an application by BT Holdings III LLC, for a Modification of Proffers to remove the previous Conditional Rezoning action on a 28.74 acre portion of a much larger 160, well almost 161 acre parcel. This is related to a larger application, which will, which follows it on the agenda. However, and is much more consequential, very obviously. However, the vacating this, this current Conditional Rezoning on this property is not particularly difficult or controversial in any way. And, so there really was no need for us to hear it. We have therefore for housekeeping purposes placed it on consent. Thank you, Mr. Chairman.

Commissioner Alcaraz:

All right. The next item on consent is items number eight and nine together. Is there a representative here today to speak on this item?

Eddie Bourdon:

Thank you, Mr. Vice chair. Again, Eddie Bourdon Virginia Beach attorney representing Reed Enterprises and Liberty Transmission. First of all, I want to thank Elizabeth Nowak for her work on these applications. And, I want to indicate that all 11 conditions recommended with the use permit are acceptable to the applicants and we appreciate being on the consent agenda. Thank you.

Commissioner Alcaraz:

All right. Thank you. Is there any opposition to items eight and nine being placed on the consent agenda? Hearing none, I've asked Commissioner Horsley to speak on this item.

Commissioner Horsley:

Thank you. The request is for Modification of Proffers, this property, is to amend the proffered site plan, the building elevations and uses on the site. The site was originally, in 2013, approved for automobile repair garage and bulk storage yard. So we're trying to amend the conditions so that we can eliminate the bulk storage yard and have a conditional use permit from Liberty Transmission and Auto Care, in place of the auto repair garage. It's been very attractive renderings put there, it's half the footprint that was originally approved. So, so storm water should be a whole lot easier on the property. We didn't have any objections and staff had put their stamp of approval on it. So we placed it on a consent agenda. Thank you.

Commissioner Alcaraz:

Thank you. The next item is agenda item number 10. Autobell Car Wash, LLC for car wash facility at 4577 South Plaza Trail, is your representative here today. Hi.

Danielle Danzing:

Hi, good afternoon Commissioners. My name is Danielle Danzing with Kimley Horn. I'm here representing Autobell Car Wash today. Business address 4525 Main Street, Virginia Beach,

Virginia. We have reviewed the conditions with the applicant and are acceptable with all conditions.

Commissioner Alcaraz:

Thanks, let's see. Is there any opposition to this item being placed on the consent agenda?

Commissioner Alcaraz:

Hearing none. I've asked Commissioner Wiener to read this into the record.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is an application for a Conditional Use Permit for car wash. The applicants are requesting a Conditional Use Permit to develop an Autobell Car Wash facility on an out parcel shopping center. The site frontage of South Plaza Trail, and like the rest of the shopping center is zoned B2 Community Business. There is an existing commercial retail building located on the subject out parcel and AutoZone store. The applicant plans are to redevelop a new car wash facility on the same lot as existing building. They have no plans to subdivide the out parcel that's part of this project. That is on the consent agenda. We recommend approval and put on consent agenda.

Commissioner Alcaraz:

Thank you. The next item is agenda item number 13, and that is T-Mobile for Modification of Conditions for communications tower at 5642 Campus Drive. Is there a representative today to speak for this? Please come forward.

Mr. Forehand:

Afternoon, commissioner. C.E. Forehand for T-Mobile. We are basically just upgrading an existing site and putting new equipment, converting it over from sprint equipment to T-Mobile equipment and no issues with current conditions. And, I'll be here for any questions from anybody.

Commissioner Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none. I asked Commissioner Cuellar to speak on this.

Commissioner Cuellar:

Thank you. The applicant T-Mobile is requesting a Modification of Conditions. It's the communication tower height expansion. According to the applicant, the tower height was increased from 105 feet to 150 feet after the merger of Sprint Communications and T-Mobile. During this time, it was believed that only the lease holder's approval, Dominion Energy, was needed to build new lines or construct on an existing Dominion tower. The applicant came to us and now seeks to rectify the oversight by modifying condition two of the 2006 Conditional Use Permit to increase the permitted height from 105 feet to 150 feet. Being that there is no objection, the Commission recommends approval for the consent agenda.

Commissioner Alcaraz:

Thank you. The next item on consent is item number 14 for Suite Management facilities, I mean Suite Management Franchising LLC for a tattoo parlor at 551 First Colonial Road, Suite 23 C. Is there a representative here today? State your name. Please.

Angela Silvas:

Hi, my name is Angela Silvas and I'm here requesting a permit to have individuals come in to have businesses, and they are going to be able to apply permanent makeup known as microblading within the building. And this is going to umbrella over individuals that have their own businesses.

Commissioner Alcaraz:

Are the conditions acceptable to you?

Angela Silvas:

I'm sorry.

Commissioner Alcaraz:

Are the conditions acceptable to you on this.

Angela Silvas:

Yes.

Commissioner Alcaraz:

Thank you. You may be seated.

Jeff Spatz:

Jeff Spatz here on behalf of the landlord to assist and approve and support in their motion.

Commissioner Alcaraz:

Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none I've asked Commissioner Klein to speak on this.

Commissioner Klein:

The applicant is requesting a Conditional Use Permit in order to operate a tattoo parlor specifically for microblading, which is the application of permanent makeup, within an existing 6,120 square foot salon. The unit is located within the Hilltop Square Shopping Center along First Colonial Road and Donna Drive on property zone B2 Community Business District. Microblading will take place in 36 separate suites within the salon, each rented out by a cosmetic professional. Staff supports the application and the Commission recommends approval.

Commissioner Alcaraz:

Thank you. The next item for consent is item number 15, and that is for Megan Calhoun, a short term rental at 4005 Atlantic Avenue, Unit 108, please come forward, State your name please.

Megan Calhoun:

Megan Calhoun.

Commissioner Alcaraz:

Do you accept the conditions?

Megan Calhoun:

Yes.

Commissioner Alcaraz:

Thank you may be seated. Is there any opposition to items 15 being on the consent agenda? Hearing none, Mr. Weiner, if you could speak on this.

Weiner:

Yes. Thank you. Mr. Alcaraz, this is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 108 that's in the OR district, and we have put it on a consent agenda.

Commissioner Alcaraz:

Thank you. And the last item that we have on the consent agenda is item number 17. Item number 17 for Georgi Stoyanov at a short term rental at 4005 Atlantic Avenue, Unit 115, please come forward.

Madam Clerk:

Mr. Alcaraz. Mr. Stoyanov is virtual, he's on WebEx. So calling Georgie Stoyanov, if you would please pause for two to three seconds while we unmute your audio feed, and then state your name and whether the conditions applied to your application are acceptable.

Georgie:

Georgie Stoyanov. Acceptable.

Commissioner Alcaraz:

Is there any opposition to this item being placed on the consent agenda? Hearing none, I asked Mr. Weiner again to speak on this item.

Commissioner Weiner:

Thank you, Mr. Alcaraz. This is a Conditional Use Permit for a short term rental at 4005 Atlantic Avenue, Unit 115. It is in the OR district and we have put it on a consent agenda.

Commissioner Alcaraz:

Thank you.

Madam Clerk:

Mr. Alcaraz. I'm sorry, we now have a speaker in relation to application number four, so it needs to come off consent.

Commissioner Alcaraz:

Thank you. All right, Mr. Chair, that leaves the following on consent agenda, consent agenda number eight, number nine, number 10, number 13, number 14, number 15, and number 17 are all on consent agenda.

Chairman Wall:

Okay, thank you. Do I have a motion to approve by consent agenda items eight, nine, 10, 13, 14, 15, and 17.

Commissioner Alcaraz:

I'll make a motion to,

Chairman Wall:

Okay. Oh, we have a motion by Mr. Alcaraz. Do we have a second by Mr. -

Commissioner Weiner:

Second

Chairman Wall:

By Mr. Weiner.

Commissioner Redmond:

Mr. Chairman?

Chairman Wall:

Yes.

Commissioner Redmond:

Mr. Chairman. I want to be clear that while I am supporting the items on the consent agenda, I am specifically abstaining with regard to items number 15 and 17 as they are short term rental applications. I have a letter on file with city attorney's office. I have a client in the travel industry and I do not vote on short term rental applications or any of the ordinances that apply there, too. Thank you.

Chairman Wall:

Okay, thank you.

Madam Clerk:

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

Madam Clerk:

By recorded vote of 10 in favor, zero against agenda items, 8, 9, 10, 13, and 14 have been recommended for approval by consent. Agenda items, 15 and 17 by a vote of nine in favor, zero against, with one abstention by Commissioner Redmond, have been recommended for approval by consent.

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

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 4005 Atlantic Avenue Unit 115, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire, or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.

- a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 11. Accessory structures shall not be used or occupied as Short Term Rentals.
 12. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
 13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
 14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
 17. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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

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

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