

Virginia Beach Planning Commission
Public Hearing Verbatim
December 14, 2022

Mr. Wall: I call to order the 14th of December 2022, Planning Commission Public Hearing. My name is Jack Wall, and I'm the chairman of the Virginia Beach Planning Commission. Commissioner 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 Mr. Horsley. Please stand.

Mr. Coston: Eternal God, our father, we thank you for this glorious day. We ask of you God as we come to consider those things that would affect the citizens of Virginia Beach that you will strengthen our hearts and our minds, oh God, that you would guide us that we may better be servants of those we serve. We ask God that you will look on the family of one of our former members who has deceased. God that you would give them strength and comfort, oh God, in these trying times in Jesus name we pray.

[Group Pledge]

"I Pledge Allegiance to the Flag of the United States of America, and to the Republic, for which it stands, one nation, under God, indivisible, with liberty and justice for all."

Mr. Wall: All right, thank you. I've asked Mr. Redmond to introduce the Planning Commissioners.

Mr. Redmond: Thank you, Mr. Chairman. Happy Holidays to all. I'm going to start on this side of the dais. That lovely lady is Kay Wilson. She is a Deputy City Attorney for Virginia Beach, and part of her purview is Planning and Community Development matters, and I've been here 16 years, and I think you've been here all 16 of those years, so thank you. Next to her, that man is Michael Clemons. He is a ODU professor. He represents the Centerville District, and he is a Professor of Political Science at Old Dominion University. Next to Michael, is Holly Cuellar, Holly serves At-Large, and she is a consultant, and a community leader in a whole bunch of other things. I'm sure I'm missing but, that's the gist of it. This gentleman next to me is Mr. John Coston. He serves At-Large; he is a retired Fire Captain in Virginia Beach. He's having some surgery tomorrow. So we certainly wish you well. I'm sure you'll do fine. My name is Dave Redmond. I'm a Commercial Real Estate Broker. I represent the Bayside District. I'm not going with these number district things. I'm going with the names of these things until we absolutely have to. So, from the Bayside District, and I thank you for being here. This is Donald Horsley. Mr. Horsley serves At-Large. He is a farmer and a Hokie, and extraordinarily good at both of those things. Next to him, and in the center, there is Jack Wall. Jack represents the Rose Hall District. He is an engineer by trade, and he is Chairman of the Commission. The next guy next to him, that's George Alcaraz. George represents the Beach District. He does a

bunch of things. He's an events promoter. He's a contractor, and he's a restaurateur, and we're gonna enjoy some of his hospitality tonight. So thank you for that George. Dee Oliver is not with us today. She also serves At-Large. She also is a jack of all trades. She's an author and a speaker and is in the funeral business. She has a personal health issue, she's dealing with today, and we certainly wish her and her family well on this holiday season. Mr. Weiner, David Weiner is a contractor in the building business, and he's a former Vice Chairman, a former Chairman, and he represents the Kempsville District. David Bradley is retired a Budget Director for the City of Virginia Beach. He represents the Princess Anne District. Barry Frankenfield represents the Lynnhaven District, and he is a former Planning Director for the City, and worked for the City for many years, and then that guy to his left is Bobby Tajan. Bobby is the Planning Director, and he in addition to leading this department also leads very capable and fine staff on whom we depend very greatly, so I'd ask Bobby now to introduce some of his staff who are in attendance, Mr. Tajan.

Mr. Tajan: Thank you Mr. Redmond. In clerking today, we have Pam Sandloop and Madison Harris. Starting with the rest of the staff, we have Hannah Sabo, our Zoning Administrator, Hoa Dao and Marchelle Coleman with Planning Administration. Deputy Director of Economic Development, Kathy Warren. We have Hank Morrison, Garek Hannigan, Michaela McKinney, and Elizabeth Nowak, as well as Tori Eisenberg with the City Attorney's Office.

Mr. Redmond: Thank you, Mr. Chairman.

Mr. Wall: Okay, thank you, Commissioner Redmond. All right, we have a couple of orders of business. Before we get into the rest of the agenda, we would we need a motion to amend the agenda first for two items.

Mr. Weiner: Mr. Chairman, I move for motion to make an amendment to two items on the agenda today. The first one will be the resolution to the scheduled monthly meetings, and the second one would be the slate of the new officers coming next year, so I move for approval of that.

Mr. Wall: Okay, so we have a motion by Mr. Wiener, do we have a second?

Mr. [Off-screen]: Second.

Madam Clerk: The vote is open. Mr. Weiner did you vote for the motion?

Mr. Weiner: I did it, I moved. It says I did anyway.

Madam Clerk: By a vote of 10 in favor, 0 against the motion to amend the agenda has been approved.

Mr. Weiner: I move for approval on resolution to schedule the monthly meetings for 2023.

Mr. Wall: So we have a motion by Mr. Weiner, do we have a second?

Mr. [Off-screen]: I have a second.

Ms. Madam Clerk: Mr. Weiner, did you vote?

Mr. Weiner: Yeah, I hit it.

Madam Clerk: By a vote of 10 in favor, 0 against the slate of new officers for calendar year 2023 have been approved.

Mr. Weiner: Okay, one more. So now we move on to the elections for next year for the board of the Chair, and Vice Chair, and as a nominating committee, I'd like to nominate George Alcaraz as the Chair for 2023, and Don Horsley as the Vice-Chair on one condition that Don Horsley sits on the right side of the chair. So we're good to go. So I move for approval of Georgia Alcaraz as Chair, and Don Horsley as Vice Chair.

Mr. Redmond: Second.

Mr. Wall: Okay, so we have a motion by Mr. Weiner, and a second by Mr. Redmond.

Madam Clerk: Vote is open. By a vote of 10 in favor, 0 against the slate of new officers for calendar year 2023 have been approved, and to correct my previous statement, buy a vote of 10 in favor, 0 against the meeting dates for calendar year 2023 have been approved.

Mr. Wall: Okay, thank you. There is one more before we get into the agenda. I think Mr. Redmond would like to make statement.

Mr. Weiner: I would actually, and occurred to me, there are two things I need to Mr. Chairman, I am sure all will agree. Mr. Nutter, would you approach the bench please. I can fake lawyer with the best of him. I wanted to mention this gentleman, Mr. RJ Nutter, who is a partner at Troutman Sanders, and who is Troutman Pepper now, and who we've seen for many, many years is retiring at the end of this year in full, he's still going to do some consulting. He still has a little bit of casework here and there, but he almost certainly will not be a regular fixture of these proceedings or city council proceedings, as he has been in the past. It has been a regular part of our work for a very long time. He's an extremely capable attorney, and we're gonna miss him very much. So I want to say thank you on behalf of all these other folks, and that, gosh, probably 200

commissioners that came before me, who you worked with, and enjoyed and benefited from your work. So thank you from all of us.

Mr. Nutter: Well, thank you, David, that's very kind of you. I appreciate it. It's an honor to be here any day, today is no different, and I appreciate all the support you all have given me, and my client over the year. We've somehow managed to move the city forward, and with good reason. We got a great staff, they've helped us along the way, so thank you very much, David. I appreciate it.

Mr. Weiner: Thank you, Mr. Nutter. The other the other part of our businesses, I think, quite a bit more solemn, unfortunately, one of our former colleagues, Eugene Crabtree represented the Rose Hall District for two terms in the early 2000s, and he was a very, very good and decent individual. There aren't that many people here who will remember him because if I recall correctly, he preceded Mr. Wall's predecessor. So this is going back away. Mr. Horsley was here and served with him. He was a friend of his, as did I, as did Mr. Nutter, and Mr. Bourdon, Mr. Frankenfield, and probably that's it in the room, and that's too bad because I don't know anybody who enjoyed this work as much as Jean did. Jean felt really privileged to serve on Planning Commission. He felt like he was contributing in the best way that he could, and he did a darn fine job of it. One of the things I remember about Jean is, I don't ever remember him being in a bad mood. If one of you guys remembers a time when Gene Crabtree was ever in a bad mood, when you ever saw him in a way where he wasn't jovial, when he wasn't friendly, when he wasn't easy to work with, I would be extremely surprised, because he was all those things, and he brought a dedication, I think, every time to every meeting, to every workshop, to every outside event. I think that was very admirable. There are a lot of folks I know who exchanged texts and emails, and alike in the last couple of days since his passing, who feel exactly the same way, who served with him and who do have him, and it's a very sad thing, we're all going there one day, but I think we're all just very fortunate to have served along with him, to have known him, and to have appreciated him for all he did. Last thing I'll say -- ourselves in certain ways, and the last thing I remember about Jean is, he was certainly a patriot. He believed very much in his career, he served a career in the military, and he lived it wore it on his sleeve, and he wore it as comfortably, and as naturally as anybody have ever seen. So he will certainly be missed to his friends, and those who knew him particularly, but, anybody in the city who didn't realize that you miss up when Jean passed, and that's too bad, but he was our friend, so thank you, Mr. Wall.

Mr. Wall: Okay, thank you, Mr. Redmond. Alright, the next order of business is that I've asked Madam Clerk to read the rules and order of business for today's meeting.

Ms. Madam Clerk: Thank you, Mr. Chairman. The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that

all involved understand how the Commission normally conducts its meetings. It is equally important that everyone treat each other and the members of the Commission with respect and civility. We request that cell phones be put on silent during this meeting. Following is an abbreviated explanation of the rules. The complete set of rules is located in the front of the Planning Commission agenda. The order of business for this public hearing, withdrawals, and deferrals, the Chairman will ask if there are any requests to withdraw or defer an item on the agenda. Consideration of these requests will be made first. The Consent agenda, the second order of business is a consideration of the consent agenda, which are those items that the Planning Commission believe are unopposed and which have favorable staff recommendation. The 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 the representative, in person speakers will be called next, and then the speakers participating via WebEx. Speakers in support or opposition of an agenda item will have three minutes to speak unless they are solely representing a large group such as Civic League or Homeowners Association, in which case they will have 10 minutes. If a speaker does not respond or if a technical issue occurs, which renders the comments unintelligible, we will move on to the next speaker, or the next order of business. Please note that the actions taken by the Commission today are in the form of a recommendation to the Virginia Beach City Council. The final decision to approve or disapprove an application will be made by the City Council. The Commission thanks you for your attendance, and we hope that your experience here today leaves you feeling that you have been heard and treated fairly. Thank you.

Mr. Wall: Thank you, Madam Clerk. The next order of business is withdrawals and deferrals.

Mr. Tajan: I just want to clarify for the public, the voting machine showed Mr. Weiner being on the board twice as well as a Commissioner that is no longer on the Planning Commission on the display board. We want to make sure and understand who is here, that is why it showed them as away in those votes. We are unsure if that will stay that way when we pull the next set of votes, but it shows Mr. Weiner's twice and former Commissioner Kline on the board. I just want to make sure the public is aware of that. We are recording the vote as called by the clerk.

Mr. Wall: Okay, thank you for that clarification. Okay, so the next order of business is withdrawals and deferrals. Is there anybody here who would like to withdraw an application? Okay, seeing none. Is there anyone that needs to have a deferral on an application?

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 1**

City of Virginia Beach – A Resolution to amend the City of Virginia Beach Comprehensive Plan 2016 by incorporating the Resort Area Mobility Plan into the “Documents Adopted by Reference” section of the Reference Handbook.

RECOMMENDED FOR APPROVAL – CONSENT

Mr. 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.

Mr. Alcaraz: Thank you, Mr. Chair. Today we have nine items on the consent agenda. These applications that are recommended for approval by staff and the Planning Commission concurred, and there are no speakers signed up in opposition. The first item, item #1 is the City of Virginia Beach for an Amendment to the City of Virginia Beach Comprehensive Plan 2016 with the adoption of the Resort Area Mobility Plan, please come forward.

Mr. Morrison: Good afternoon. Alright, so item #1 is a request to amend the City's Comprehensive Plan by incorporating the Resort Area Mobility Plan (or RAMP) into the Reference Handbook. The purpose of the amendment is to incorporate RAMP as an official document in the Comprehensive Plan that will be used to guide future development, and serve as a blueprint for how the community intends to transition to a more balanced approach of safely moving people rather than just vehicles within the resort area. The plan includes 21 multimodal strategies, and 26 parking strategies, as well as recommendations for improvements to various transportation networks, corridors, and intersections throughout the resort area. Staff is recommending approval of this ordinance as it would support the implementation of the resort area strategic action plan, and it supports the area's stated goal of being a year round destination for residents and visitors alike. Thank you.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #six on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

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

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 2**

Bonney's Corner Associates, LLP (Applicant & Property Owner)

Conditional Rezoning (B-2 Community Business District to Conditional B-4 Mixed Use District)

Address: 1385 Fordham Drive

RECOMMENDED FOR APPROVAL – HEARD

Mr. Wall: Okay, thank you. If you have an application that was on the consent agenda, your request will now be scheduled for an upcoming city council meeting. Staff will contact you about the dates. For those applicants on the consent agenda, thank you for your participation, and you can remain in the meeting either virtually or in person, but you're free to leave. The next order of business is the regular agenda. Madam Clerk, we're ready for the first item.

Madam Clerk: Thank you, Mr. Chairman. Agenda item #2 Bonney's Corner Associates, LLP. It's an application for a Conditional Rezoning B-2 Community Business District to a Conditional B-4 Mixed Use District at 1385 Fordham Drive in Council District 1, formerly the Kempsville District.

Mr. Nutter: Thank you, Mr. Chairman. It's a pleasure to be here. My name is RJ Nutter. I'm attorney representing the applicant Bonney's Corner Associates. First, let me thank the staff who did an awful lot of work on this application. Dealt with Hoa, asked more questions than there are pages to his report, but that always works out in everyone's benefit because you get the facts out right away. I've represented this client for a number of years, and this is a 1970s version shopping center, and its zoned B-2, the interior portion is just over 20 acres as he indicated to you, and the problem they've been facing is the same problem that's been facing many large retail centers across the country, and in particular in this Hampton Roads area. The larger box locations on this facility had been vacant now for several years to a point where it not only impacted the loss of revenue from those players, but it was also affecting the bottom line of every one of the single remaining mom and pop shops. They'd lost the people that had directed the traffic to their center. So, after they started losing some of those, we started meeting with city leaders about how to deal with this as it was an issue that was coming forth to the country of all about the same time in 2019, 2020. With the advent of Amazon and other retailers of that nature, shops like this, were having considerable trouble. So, at that time, we actually met with the mayor, and we met within the district, Representative Jessica Abbott. We met with the then Planning Commission representative for that area, Mr. Weiner. We met with Mrs. Wooten who represents the adjacent area, and it worked through all of that with them, and they all understood the problem, and all wanted to be supportive how we move forward with this application. With that in mind, we then filed an application with the city almost two years ago, that application went through a wide variety of staff review, and we put it on hold for a while because there was some possibility of city putting some uses in the property, we put it on hold, none of those uses came to fruition, and the situation at the center has gotten worse. We were at that point about 40% vacant, we're now over

57. In fact, the number I have is 57%. I'm not going to quibble with Ross 46%-56%, but it's a considerable problem, and so that presents, how do you then preserve this center from going further down the tubes. We then in addition to that, we're working with staff, we then started a program of outreach to the various departments and other agencies that would have an impact here. Those being the traffic department, those being storm water, all of those agencies we tried to reach out to make sure we understood their issues. Now, I will tell you that we're happy to have staff recommendation of approval, it did not come lightly, they went through every issue you can think of, and we've also, the benefits of that issue, we maintain a traffic level for people inside the center. Now all of a sudden, the people who live in these apartment complexes can go directly to the retail shops directly there, and the nice part about that and this is not reflected in the traffic report all the way. The nice part about that is that that's going to reduce traffic impact even further and drive up the ability of the small shops to stay in business. The traffic report we did do, assume that it was a freestanding multifamily project, independent of this of a shopping center. So, they would assume that everyone lived in that shopping complex would drive off site, to retail shops, to restaurants, to the movie theaters, all the features to which they can walk inside the center. In fact, it's really just taking this old shopping center, and making a mixed use center, like we're used to seeing more and more frequently throughout your application process. So, the benefit of this application is not just to the centers owners and their tenants of that center, but it also stopped the decline of the center, which was a major factor when we met with the Acredale Civic League, which is a large Civic League. David knows very well. This is just to the north of this site, and with well over 600 homes, and they were there to express exact same concern what happens if we don't do something like this? So, we're happy to have Mr. Noles letter in support, and met with our Civic League executive committee. Rocky Holcomb attended that meeting. David unfortunately had a conflict that evening, couldn't attend, but I did want to let you know that. The other benefits in addition to the tenant preservation and holding on to the shopping center, this actually reduces traffic from what that would be if it were developed in a commercial manner. David said during the internal meeting earlier today, he was there when the shopping center was fully operational and knows the impacts of it. This will actually reduce the traffic on that situation. In addition to that we've introduced a large amount of landscaping and open space on the site. Currently, there's this is 100% impervious cover, 100%. Today, we are introducing a reduction of almost two acres of that area, putting it into green space, walkways, park areas, and perimeter landscaping, none of which really exists on the site today. As you can see from the exhibit that is all around me, as a matter of fact, I just noticed that the only way I can see it is by the way is the fact we've introduced a really cool features through the center, which I want to thank Hoa for it was his idea to come up with a walkway through the center to connect the two areas of the of the multifamily. So that's been a really nice addition to this, in addition to all the things I've already mentioned. So there you have an application, staff recommend approval, got to preserve the shopping center, reduce traffic and reduce the amount of impervious area by over two acres, which is a considerable benefit to all the areas around it in terms of how much water comes off the site. In addition to that, we heard from Lake James Civic Association, we had a meeting with them just about just about two weeks ago, and a large group from them attended a meeting in my office and went through these issues and so forth. So their concern and I'm sure they're going to express it is the lake in their backyard, which is regional storm water pond, actually its purpose, but

we understand it's a significant benefit to them. So, we told them about the reduction in the amount of acreage that we'd be taking and converting from impervious to pervious, and we told them, we'd also be participating in the state's programs for water quality. Since that time, they asked us to look at a program that the city was doing, which at that time, I didn't know anything about which there's a program, actually an approved program called the Kemps River Water Quality Improvement Project. I didn't know about it. Mr. Weiner knew, and I'm not about either. I've come to find out it's fully funded by the city, its intent is to take large portions of this area and make a heavy treatment process for it, independent private property owners. Again, it's fully funded by the city to this date. I told the Civic League this morning that upon learning about it, we advise the city we would participate in that process, because we think it would be do a little better, so we do plan on participating in that, which will affect directly the quality of the water going into the lake. So finally, I will add that we're aware of a petition, and that's been passed around, who have no contact with any of the people involved in the petition, but it complaints about this on the basis of impact on schools, and the report already indicates that the schools are well, this is well inside the capacity of all three schools serving this area. They were concerned about flooding, they obviously didn't know, we were reducing the amount of water on the site considerably, and they were concerned about, let's see, and traffic, they didn't know about the traffic study. So that's part of the problem with the petition like this is they get going without any the knowledge of the facts. You have no way of reaching it back to them in a meaningful way, but I did want to know that the concerns raised in that petition have all been addressed not just by the applicant but confirmed by your staff. So, I'm happy to answer any questions you might have, and I appreciate your time this afternoon, Mr. Wall as always.

Mr. Wall: Thank you. Are there any questions for the applicant? No, Madam Clerk, are there any speakers?

Madam Clerk: Yes sir, Mr. Chairman, we have seven registered speakers, five are in person, and two are WebEx. Calling Peggy Sansone to be followed by Don Davis.

Ms. Sansone: Good afternoon. My name is Peggy Sansone, and I'm the Lake James Environmental Committee Chair, and HOA board member. I'm here today representing the views of the Lake James Homeowners Association. I would also like at this moment to recognize how many people from Lake James have attended here today if you could please stand. To give you an idea of the concerns that our community have, a lot of them have taken time off from work many, many more wanted to attend, but given the day and the hour, it was difficult for them to do this. Thank you. I also want to thank the Commission for giving me the opportunity to speak to you about this proposed Kemps River Apartment Project, and its impact on Lake James. The Lake James community is 37 years old, and our community has spent the past 30 years caring for and being passionate and fierce stewards of our lake. Lake James is a unique community. It is 100-acre freshwater lake, originally created from underground aquifers in a sand borrow pit. Even though Lake James does have a BMP designation, Lake James is a privately owned lake by the residents and the HOA. Residents move to Lake James because of its amenities. Our residents enjoy swimming, boating, and all water recreational activities. Good fishing there too. We pay higher property taxes for waterfront property. We all pay our city storm water management fees. I invite you to go to

the Lake James website for more information on our particular community. It's www.lakejamesvb.com. Our community spends \$1000s every single year on professional water quality testing and treatment. We are very, very good stewards of our lake. We educate our community. We encourage people to use zero or less lawn products, maintain riparian buffers, scoop the poop, shoo away domestic waterfowl, and do anything we can to try to maintain the health of our lake. Several years ago, we purchased installed a floating island which uptakes nutrients in the water, and this summer we installed a floating boom to help collect trash. We've worked with the City of Virginia Beach to correct problems over the years. I can also direct you to the Virginia Beach Public Works website under storm water management to view Lake James water discussion. We also have enlisted the help of Old Dominion Environmental Sciences Department, the Virginia Department of Health, and the Virginia DEQ, Army Corps of Engineers, Elizabeth River Project, Lynnhaven Now, the Virginia Aquarium Testing Program, and many more experts. Lake James Environmental Committee has also trained and attended webinars on lake quality management. This is the culmination since 1999 up until 2022. This is the culmination of just the work of the Lake James Environmental Committee. I'm the archivist that gets stuck rolling the books around. There is still more left at home. I just couldn't bring any more. We recently did meet as Mr. Nutter indicated with the developer's representatives to discuss our concerns about storm water. We were pleased to hear from him this morning that indeed that they are going to be working with the city for this planned storm water improvement that's going to be located at Kemps but we really do need more than just that one tapping into that system. The shopping center is a large contributor of storm water runoff in the lake. Large volumes of untreated water have contributed to the pollution, and the nutrient overloads in our lake over the years. New businesses that have come to the Indian River and Kempsville Road corridor have implemented a variety of storm water management practices, specifically, Chick-fil-A, Care-A-Lot Pet Center, Walgreens and Aldi on Kempsville Road. If you go and visit any of those sites, you will find that they have implemented one or more various kinds of storm water strategies to include inline collection of their storm water on their site, dry swales and filter systems, they're all very good examples of how all types of businesses can do more. In order for the Lake James HOA and community to support this proposed rezoning and development plan much more needs to be done by the developer to implement a variety of systems to specifically hold as well as filter the storm water before it enters into Lake James, and downstream the Elizabeth River, and eventually getting to the Chesapeake Bay. The use of nutrient credits is not acceptable to the Lake James community. In the scientific literature on storm water management, you will see cited one of the primary goals of storm water management is to treat the source and four bays are identified as an excellent type of way to do that. Storm water management is necessary to not only mitigate nutrient overload, pollution and harmful algae blooms, but also to manage and prevent flooding. Uncontrolled large volumes of storm water that have entered into Lake James over the years have caused damage to our docks and our bulkheads. Docks are submerged. They stay submerged, the wood rots out, high water levels get back behind bulkheads, the soil softens, the pressure causes the bulkheads to fall over. This is something that we have wrestled with for years. The holding and filtering of storm water at Kemps River redevelopment will be a very important step in preventing flooding and preventing property damage. Recommended storm water management by our Lake James HOA include the use of dry swales, rain

gardens, mini wetlands with four bays, inline containment of storm water, filter systems. We would like to see a variety of these different types of systems installed at the Kemps River Project. Examples of these types of storm water management systems can be viewed as I previously mentioned Chick-fil-A, all these and what have you, but I've also compiled a list, and just a drive around of this city, and 23 items on this list. It's just a quick cursory look rolling around the city of where I saw many, many different types of storm water management implemented in all different types of businesses, and what have you. I'd like to draw your attention especially, I'll hand copies of this over to item #9, if anyone could visit, including the Lowes on Virginia Beach Boulevard and Parker Street, down south past where Lynnhaven enters into Virginia Beach Boulevard. That's an excellent example. In the corner of their parking lot, they've created a wet pond with plantings, it's fenced off if they're worried about someone falling in, but it's a very, very good example of how they have with treating curb cuts and inline piping, they draw off the storm water off their parking lot into this contained area. Alright, if this project is to be approved, we are concerned about the demolition and construction debris blowing in our neighborhood, flowing into our lake during storms. Necessary steps for containment would be necessary. In conclusion, we don't want to see a blighted area over there at Kemps River. We would like to see a nice development. Two, we still have concerns about that increased traffic on Indian River Road. We worry a lot about the ingress and egress in and out of our neighborhood which is still problematic at this time. We request that the Centerville Turnpike Improvement Project that was promised in 2013 be reactivated, and I received an email this morning saying apparently they are starting that project back up because specifically just for me to finish my point, it will help considerably as congestion will stack up as you have a stack up lane of people coming down Indian River to turn left to go into their apartment complex. People get irritated, don't want to wait to go down to the next two light cycles to get to Kempsville, so historically, what we've already experienced, everybody cuts through Lake James. It's so bad as indicated by the City of Virginia Beach and their and their traffic calming programs; we were able to get speed bumps, speed tables installed in our neighborhood to try to cut down on the volume of traffic, and the terrible speeding. So, it's good to hear that about the Centerville Turnpike. Lastly on our conclusions, most importantly, we want to have strong and effective multiple storm water management to help us protect the lake. The final site plan should include a variety of filtering devices as I previously cited specifically to not just filter, but to hold the storm water before it is flushed into the lake. The City of Virginia Beach should take this and every opportunity to implement storm water management at all development sites. Every storm water practice, whether large or small, every little bit helps. Please help us keep our lake healthy. We have labored 20 plus years to try to keep our lake clean and safe. There's only so much we can do just as private citizens, we need your help. Lake James is not a community with a little old sediment pond. Our Lake is a vibrant 52-foot deep water body with numerous fish, turtles, and other marine species. We have great blue herons, ospreys, bald eagles, the migratory ducks have arrived. To include we have coots, hooded mergansers, buffleheads, painted ducks, and once in a while we get pelicans. River otters are also visitors to our lake. We need your help to protect this important resource and ecosystem. Lastly, we request the Planning Commission please defer their decision on this rezoning request until the Lake James Community, the City of Virginia Beach, and the developer can come to an acceptable agreement on effective storm Management. Thank you so very much.

Mr. Wall: Alright, thank you.

Mr. Weiner: I have got a question. So you're fine with what the other businesses on Indian River Road, Chick-fil-A, Petco, all of those are done, and those were built before the water regulations that are in place now today. So what they're gonna have to get this development goes through the strict water regulations that they're gonna have to follow is a large percentage of that water has to stay on site. It can't go anywhere. So this is just and what I got to say, I would be more concerned about what's going on now than what would be because what would be would be a filtration system and it has to stay on site. You'll get less water into your lake in the future, if this is developed, and I'm going to say what a City Council person said, he's no longer with us, and I stole his line. The best way to fix storm water or not fix storm water, but to work on storm water is to redevelop. Okay, so that to me, I would be more concerned about what's going on now than what could be in the future.

Ms. Sansone: We are concerned because that Kemps River Shopping Center was built 30 years ago, as you said, before, we had all these environmental regulations, and even an understanding of nutrient overloads flowing into water bodies. Now is the time if that shopping center is to be torn up, this is the time given what we know, and have today by technology, some are very low tech, you create dry swales, that means you bulldoze out a shallow area, you plant grass on it, and you allow curb cuts or you allow means for storm water to run over to it, and boom, you've got holding and you've got filtering of storm water.

Mr. Weiner: I agree with you 100%. That's what I'm just stating, I agree with you.

Ms. Sansone: Thank you.

Mr. Wall: Mr. Redmond.

Mr. Redmond: So, would you not agree that it's an improvement of the site? Not just for the architecture, and the mixes uses and alright, but it is going to create two more acres of impervious where there is none, wouldn't not that be an improvement?

Ms. Sansone: It's an improvement. It's not enough. The flat grassy areas which have that minimal absorption, grassy areas in the literature have minimal absorptions. It's good. It's better than pavement, but it has minimal absorption.

Mr. Redmond: I'm not sure how you can suggest that. If we just keep going on with 100% impervious cover on that site, and all that implies until mythically agreement is reached. That's going to be a better outcome than to make improvements on the site today. Mr. Nutter says you've been talking since Jessica Abbott was on Council, I have no confidence whatsoever that that day of agreement ever comes? I mean, it just it hasn't yet. Is it ever going to be enough? So I mean, I recall the Lowes when it was developed, and that was not 100% impervious cover, they had to put a pond there for a reason, right? So it's not they did because it was fun, or they did it out of the goodness of their heart, seems to me, this is in many, many, many, many ways, an enormous improvement today, including in terms of its environmental by virtue of the pervious that's to be created, and the applicant's

participation in the city program of which I was unaware as well. So we all learn things every day. It seems to me that it's just it's on its face as it is an improvement environmentally for what runs off anywhere, including to Lake James, I just, I'm missing this, tell me what it is, and apparently, you've got no formula other than a list of who filled this system, and that system, and all corner thing, none of which is certain. What is certain to me is it's an improvement.

Ms. Sansone: Okay, your question being, would we prefer a decaying shopping center over?

Mr. Redmond: Would you prefer that which exists today over an improvement, a significant improvement of that which exists today? They're going to create pervious cover, and they're going to participate in the City's program. Again, I don't know much about it, but you seem to don't like that idea as well that seems to be very, very significant, and when you add in the other benefits where's the no brainer is kind of kind of my question is improvement is improvement. It gets better. I don't know that, uh, you know, that kind of a, you know, a mythical sort of better state that exists than one that's being offered today, because it's pretty good objectively.

Ms. Sansone: In response, the Kemps River Project would be a good project, but it needs more in terms of storm water holding and filtration. That is the issue that we have, we do not like a decaying shopping center over there. It would be an improvement, but it's a large 20 acre parcel which 100% drains into our lake.

Mr. Redmond: Well, I got that part, thanks. By the way, that two acres that's to hold Chick-fil-A properties, and that's a significant piece of improvement, so anyway, I thank you for your time.

Ms. Sansone: Thank you.

Mr. Frankenfield: Maybe as a comment, I wonder if Bobby, if you could help us understand. I don't believe this did a preliminary storm water analysis, which was not required, but when they go through the storm water site plan process, won't these methods - swales, rain gardens, will be considered for the project. In other words, it's not going to do nothing. They're going to do some of these things.

Mr. Tajan: That's correct, through the site plan review process it will still have to meet our storm water management standards. I think that's where Mr. Weiner was also alluding to, because the site is completely impervious, there is an option for a 10% reduction in impervious cover, which meets those standards to do the reduction as called out in the state regulations. Also, the staff will be checking to see if it meets that reduction too. So, it could be possible that the 10% reduction, which is about approximately two acres has been called out, will meet that along with some type of inline device that could easily be associated with this project. In other words, there'd be some type of water quality device that could be installed prior to it going downstream into Lake James as noted by the speaker. So, there are multiple ways to do it, and they could do it with, like I said, a structured device underground or some type of other above ground system, but that that will be vetted through the site plan review process in our department, and Development Services Center.

Mr. Weiner: Okay, Mr. Tajan, I don't know if you'd know about this or not. Is there any way you can tell us something about this Kemps River Water quality improvement program is? Is there a short answer to that?

Mr. Tajan: Other than I found those CIP lists here from November 2022. I don't know if someone from Public Works has any background to it, but there is apparently a timeline of doing some construction that's scheduled from November 23 to August 24. To do a pretty good level pollutant removal going into Lake James looks like there's a total phosphorus removal of almost five pounds and the suspended solids of 714 pounds per year. So not an insignificant project, looks like it's totaled at almost \$600,000 to do these improvements. We could share that with the Commission. I just found this right now.

Mr. Wall: Okay, thank you. Next speaker.

Madam Clerk: Don Davis, followed by Don Hawker.

Mr. Davis: Don Davis also from Lake James. Mr. Weiner to answer your question, the tie in from the Kemps River storm drains, all goes into 184 inch pipe that leaves the interior of Kemps River and goes into Lake James, which is where the Kemps River project is going to be built. That is going to be placed where all of the internal drains come in. It's going to filter out the trash and the rubbish and phosphorus, and to remove that prior to going into like, which is the reason that we were hoping that the builder would work with the city to tie the drains in as the construction evolves. Instead of, you know, this ending up being two separate projects. As I said, there's 184 inch pipe that encompasses the entire area there. So that project has been put off I think three different times, it was supposed to have been completed three years ago, and now the new due date is I think 2025, or something like that. Nonetheless, I think so our biggest concern is that the other thing that was mentioned was pursuing of the credits for what am I looking for, yeah, pollution credits. They can either put in work with the city, put in swales, and things like that, but we can't stand for purchasing pollution credits through bypass. Treat our lake fairly, and all the residents, and that's not going to be tolerable. That's all I have. Thank you.

Mr. Wall: Okay, thank you. Are there any questions?

Madam Clerk: Don Hawker, followed by Karen Nuskiewicz.

Mr. Hawker: Good afternoon. My name is Don Hawker. I live in Lake James on a lake at the north end very close to where this project is going to be constructed. Between my house and my neighbor's house is a City right of way for a drainage ditch that carries the storm water to the lake, and when we get these big rainstorms, I stepped out of my back door, and I watch the water gushing into the lake, carrying with it paper, plastic, styrofoam, aluminum cans, glass. Some things are fairly embarrassing, they have been floating in my lake, and when the rain stops, and the birds are done swimming around all the garbage, and they go off, we go down to our lake with our nets and start scooping out all the garbage that the City flushed into our lake. It's not very pleasant when you have friends over in the backyard for a cookout or kayaking or swimming, and I have to get my net real quick to scoop garbage out of the lake so my friends can swim in it. So I understand that tearing

up pavement, and putting down grass will reduce the amount of water, but adding 300 homes, 600 cars, 1000 people, and a bunch of shops that presumably have dumpsters behind them and they're emptied at four or five o'clock in the morning, you should come by some time when they're emptying the dumpsters, the ones near Chick-fil-A not at Chick-fil-A, and we get the five o'clock clang, wake up call. So all of this, I suspect is going to add to the amount of garbage in the streets, which means it's going to add to the amount of garbage that I'm fishing out of my lake. Now if I come by your house sometime this evening, with my happy meal, I finished eating it and I tossed my trash in your backyard. I don't think you would like that very much, but the city does that to me after every rainstorm, the big ones, not the low ones. So, I would like some assurances, I don't know what you could possibly give me that all of this development and construction and the additional cars, people and restaurants, and shops will not increase the garbage I have to fish out of my lake. In addition, when the developer says that all these houses, cars, people, and shops will reduce traffic that does not build my confidence because that doesn't pass the smell test. There's a Chick-fil-A that we just added, and I like it, I eat there myself, and they're closed on Sunday, but to suggest that Chick-fil-A reduced the amount of traffic is insane. Trying to get into Lake James, if you're coming down heading west is difficult because of the five cars in front of you; four of them want to do a U-turn to go get their chicken. So, we do have traffic problems, and we do have storm water problems, and we have been asking for a very long time for the city to do something about all the garbage. Some guy drives by toss the cigarette butt out the window, a couple of days later, I'm fishing it out of the lake. So, I don't oppose this project at a genetic level. I mean it would be nice if they had nice shops, nice housing, a nice peaceful neighborhood, and that thing sitting there undeveloped is not good for us. It's not good for the city. Something sooner or later is going in there, but I want something that's not going to damage what I have worked so hard to own. Thank you.

Mr. Wall: Thank you. Are there any questions?

Mr. Weiner: How long have you been living in the house?

Mr. Hawker: We bought it in 1992. I've been here 30 years, it's paid for.

Mr. Weiner: Okay. I've been in an area for 30 years myself and I know what it's like when Farm Fresh was at full speed and K-mart was full speed and could you imagine the Chick-fil-A there then, when that was in full speed? It would have been crazy, but I mean, I understand what you're talking about trash, and I get it. I got to believe that a lot of that comes from inward road, not from Kemps River Shopping Center right now. So, this developer, he's very well known, if this does go through, it'll be a very well development. It's going to be taking care of people that are doing apartments, want to make sure it's taken care of because they can lease them, if they're rundown, so they're going to be taken care of very well. There's a lot of things we're gonna talk with the applicant about, but I think I think this is a very big improvement on what's what is there now?

Mr. Hawker: Well, it would certainly be an improvement in terms of aesthetics, and the tax base of the city, and if there are nice shops, I can walk right across the street and take advantage of them, which is why not just hardcore opposed to this, but I'm not inclined to have someone say, "oh, we'll take care of that" and then do something

which may or may not be detrimental to me. I'm trusting them; I'm basically at their mercy. If they build it and it doesn't work out. I know we've had some developers do construction projects that turned out to be flood problems, and the city had to go in and pay millions of dollars to fix their mistakes. So if this is another mistake, are you going to come up with all the money to fix my lake?

Mr. Weiner: Now, that was a learning lesson and our water restrictions today are more strict than the State's water restrictions, and City of Virginia Beach is stricter than State.

Mr. Hawker: Water quality?

Mr. Weiner: No, keeping storm water on the site.

Mr. Hawker: Including trash and what ever else?

Mr. Weiner: Yes.

Mr. Hawker: So next time it rains and my lake gets flooded, and it's flushing all this garbage in there, and I take videos of it. Can I send you the videos, will you look at them?

Mr. Weiner: Sure.

Mr. Hawker: Okay.

Mr. Wall: Thank you, anybody else?

Madam Clerk: Karen Nuskiewicz, followed by Lavinia Hankins.

Ms. Nuskiewicz: Hello, my name is Karen Nuskiewicz. I've lived in Homestead, which is right less than a mile from Kemps River since 1977, and the first thing I was going to talk about was the storm water that I think that's been talked about enough. I would like to also add that I don't think nutrient credits are the answer; it seems to me, you're taking the problem, and just putting it somewhere else. My main concern with this project is the cost to the taxpayers. I'm sure all of you as homeowners in Virginia Beach, when you stroke to that check in December, you realize that you never truly own your home. So my problem with this is the cost to the taxpayer scope, the impact is going to be 3 million. I'm really not opposed to the project. Looks like it would be pretty nice with some greenery and stuff, but I think before this is approved experts, which I'm obviously not, experts to look at this and see how to mitigate the impact on the taxpayers. I think I said everything, please let experts look at the impact of the taxes on us.

Mr. Wall: Okay, are there any questions?

Mr. Redmond: Sorry, I was just gonna say if you have not read this staff report, I urge you to do so. You can have my copy if you like because I have the staff for each one of the applications that comes before us and subsequently to then to City Council produces a report and they are experts, and they pull in a whole bunch of information, and that's a good place to start to. Too seldom does anybody read that? And so, you're more than welcome to have mine.

Ms. Nuskiewicz: When you say staff report, are you talking about what came from traffic?

Mr. Redmond: Correct, Mr. Tajan's Department of Planning Community Development does a summary of each one of these applications and lays out the effects for schools and all that stuff.

Ms. Nuskiewicz: I read them. That's how I found out school impact would be about million. As far as population, the schools can absorb it, that is not a problem, because I think we are under populated. We are going to get priced out of our home, if these taxes continue going up.

Mr. Redmond: Okay, thank you.

Madam Clerk: Lavinia Hankins followed by Thomas Etter.

Ms. Hankins: My name is Lavinia Hankins. I am a business owner in the Kemps River Shopping Center, and my concern is the integrity of the information that's been shared with us as business owners, and whether or not the full process has been integral. So this is the second time that I've heard of this project in the past year. So the first time I was tipped off by somebody who works at the Outback, and when I presented it to the property manager, I asked her about it, and she gave me a solid, this is I don't know how you heard that or what you heard or, you know, but that's not true. Nothing's happening with the shopping center, and then God, the Universe, whoever you guys choose to believe in, came to me again, because my customers actually came in and told me that "Hey, have you seen that there's a meeting about the upcoming project of a shopping center?" Okay, no, no one's told me, I haven't heard anything from the manager, from the leasing agent, or anyone affiliated with this application. So that concerns me, because I have presented on multiple occasions to the manager about opportunities to bring in more traffic, which my business actually brings in a very niche group of people who are exposed to the shopping center through my restaurant, and also we pass a lot of traffic back and forth to the planet fitness that's also in the shopping center, along with all the other businesses. So we do a lot to support the local businesses and the other businesses that are in the shopping center. I have presented a Farmer's Market that would bring in a ton of traffic. Based on my model, I do have documentation that I presented this to the manager, and she presented it to the owners in which they declined. I offered to acquire this space next door, and to as an opportunity to expand the business and to create more foot traffic and opportunity for patrons to come into the shopping center, and I just did want to bring up that the attorney for this application representing this application said that two years ago, they applied for this project, and two years ago, I signed the lease, and so again, integrity, honesty. I didn't open my doors until September 2020, and I signed the lease in June or July of 2020. So at that time, it could have been disclosed to me that this was something that was being done to the shopping center. I just want to know how this is gonna affect the businesses. Now, I have seen this successfully happen at some point in Chesapeake and in other places.

Mr. Wall: Are there any questions?

Mr. Weiner: Yes, I have a question. What is your business address?

Ms. Hankins: 1309 Fordham Drive, Suite 106.

Mr. Weiner: Where it is located?

Ms. Hankins: In the core of the shopping center, in the corner on the side of Rainbow, caddy corner to Outback Steakhouse directly across from Planet Fitness.

Mr. Weiner: Mr. Tajan, is there a sign per street?

Mr. Tajan: Yes, there was a requirement to post the signs on the three different streets.

Mr. Weiner: And you didn't see those yellow signs of placards on that?

Ms. Hawkins: Absolutely not.

Mr. Redmond: I am sorry, I didn't hear you, what the name of your business?

Ms. Hawkins: Culture Vegan Joint.

Mr. Redmond: Okay, thank you.

Ms. Hawkins: I do want to note that two years ago at my grand opening, Mayor Bobby Dyer, Councilwoman Sabrina Wooten, Councilman Michel Berlucchi, at that time, Jessica Abbott, and other prominent members were at my grand opening.

Mr. Wall: Do you feel that this would negatively affect your business?

Ms. Hawkins: Well, it's not that I disagree with the plans. It's that I would like notice as to how it's going to affect my business, the construction particularly, rising costs, is this going to raise my rent? Am I going to be grandfathered in? Do I have first right of refusal? What are my rights in this transaction? And is it really is it going to benefit my business? I am a black owned business as well in the city. So I feel like I contribute a lot to the growing ideas for of business ownership in Virginia Beach.

Mr. Redmond: I'm sorry. I just wanted to clarify because I'm kind of, are you in the same strip shop as Outback?

Ms. Hawkins: Yes.

Mr. Redmond: Okay, just wanted to verify that because that whole strip shop is staying, it is not been taken away. All your businesses are going to stay there.

Ms. Hawkins: Again, I just want a disclosure, you know, as to exactly what's going on and how it's gonna affect us, some type of notice these are the things being presented, if you would like to know more, here's where you can go to find out.

Mr. Wall: Okay, thank you. Anybody else?

Madam Clerk: Thomas Etter, followed by Makayla Drew.

Mr. Etter: Afternoon, my name is Tom Etter. I'm President of the Lake James Homeowners Association. We're located right across in New River Drive from this development, and hence our keen interest in this development. We have 247 homes, and a lake that we're very proud of, and we spend a lot of time recreating it. The Board of Directors met specifically on the subject. We did a lot of research. We talked to Mr. Nutter, and got a presentation from him, and our conclusion is this is no doubt, as you mentioned, a big improvement in that shopping center, and we therefore support the rezoning, but we have some conditions on which we support that rezoning, and this goes back to the storm water runoff issue, the environmental issue. We don't want to see the use of nutrient credits. Mr. Redmond you talked about? Well, this is a great, huge improvement. Why wouldn't you want anything more? Well, why stop at that. Mr. Frankenfield over there, and I are members of the Process Improvement Steering Committee for City Council, and I spend a lot of time advising them on process improvement initiatives, and how to do process improvement. One of the things that I always emphasize is, if you're not getting better, you're getting worse. You got to continuously improve, improve, improve or you're going backwards. So why wouldn't we stop at this improvement and then allow nutrients or nutrient credits the use of them to allow debris and contaminants to flow into the lake. So our approval is based on or contingent on not allowing nutrient credits and making sure that the storm water system redesign as part of the redevelopment as methods and means to prevent contamination and debris from flowing into Lake James. We are also concerned about traffic, and we recognize that the traffic will probably be less than what it was originally when the shopping center was put into operation, but it's going to be more than it is now, and so we would encourage the City to follow through with their January 2025 plan to expand.

Mr. Wall: Are there any questions?

Mr. Frankenfield: So just if we could just get to the bottom line of what your group is recommending, say you support the project, if you meet these conditions which are?

Mr. Etter: We would like to see is in writing the requirement to not use nutrient credits to actually put into place, physical means of limiting and minimizing storm water from carrying debris, and contamination into Lake James.

Mr. Frankenfield: Is there anything else?

Mr. Etter: We'd like to see the City continue to go forward with their plan to expand Centerville Turnpike to four lanes which we think would help out with the traffic situation. Those are our two contingencies, the environmental one being more important.

Madam Clerk: Our final two speakers are both WebEx, Makayla Drew followed by Drew Little.

Ms. Drew: Good afternoon, my name is Makayla Drew. Thank you for hearing public comments on this today. I do appreciate the online accommodation which allows us to participate in the middle of the workday. I have been a Virginia Beach resident for over 13 years, and I live within one mile of the proposal area. While I agree that a revitalization of sorts is needed in the shopping center, I do not believe that the current proposal has been fully explored and is not the best decision for

the area at this time. I am in opposition of the proposal for the following three reasons. Reason #1, insufficient parking spaces. On page two of the proposal, the site plan shows that over 1000 parking spaces will be provided. However, page eight of the proposal only shows the minimum 922 parking spots, of these the parking spot surrounding the Panera and Dollar Tree will remain impacted by cars cutting through, and areas drive thru also impacts the parking spaces negatively as cars waiting in line make that area difficult to navigate. Furthermore the remaining Outback strip experiences heavy parking impacts almost every evening of the week. I'm uncertain that apartments will allow sufficient access to an already busy parking lot. Lastly, there are parking spaces counted behind the two commercial buildings that will remain. I feel it's unrealistic to count those spots. For example, people will not want to walk around a 35,000 square foot building to pick up dinner, two of the proposed apartments would be directly in front of the current commercial parking and create this additional impact. Reason #2, traffic impacts, according to the traffic memorandum while it is true that the proposed multifamily rezoning use may result in less traffic to use the existing traffic counts and the analysis can lead to an invalid conclusion as over 50% of the shopping centers are not currently being used in an active commercial capacity. Yet despite this traffic congestion continues in the surrounding roads, and you will find that the current traffic situation is already suffering without the shopping center impact that the memorandum seems to suggest. I implore you to take a drive to this area any time after 1 p.m. during the week to experience what I'm talking about. Additionally, the proposal indicates that traffic counts were not available for Fordham Drive, but this is the local street around a proposed area and many cars use it to make a U-turn to access the Post Office or cut around the previously mentioned traffic issues. Traffic counts for the secondary roads should be considered with a formal traffic study conducted based on the current percentage of commercial use, and reason #3, additional impacts, the proposal does not clarify who will pay for the Public Utility impact on page six. Based on my knowledge of the billing systems with both the City of Virginia Beach and HRSD, I would assume there may be some impacts to those of us most proximate, and I believe the nearby residents should know what those impacts could be because of the grip sewage charge we pay every month. In closing, I suggest further study and research into the proposal for the three areas of concern I mentioned here today before proceeding with the project, including insufficient parking, traffic impacts, and additional nearby resident impacts. Thank you for your time today.

Mr. Wall: Okay, thank you. Are there any questions?

Madam Clerk: Our final speaker is Drew Little.

Mr. Little: My name is Drew Little. Thank you for the afternoon. A lot of what I've been concerned about has been covered. I do want to make a couple of quick notes. First of all, the petition that's been circulating is not about storm water, it is mostly about traffic, and the assertion by Mr. Nutter that people have not read the traffic survey is actually not correct. I've shared it many times myself and I've read it thoroughly myself. For most of the petitioners over 1300 now, the main concern is traffic. If you drive through this area, you know that it's a harrowing drive at peak periods. There's more than a 1000 foot backup northbound in Kempsville at peak periods, it's difficult to get in and out of Lake James. It causes backups onto the interstate, people who would normally take Indian River Road East; now take

Indian River Road west across Reon and go down Providence causing further backups at Kempsville and Providence. All of the neighborhoods along the way are affected, Stratford Chase, Lake James, there they're all being used as cut through at high speed, and we can get no help from the police on this. It's very dangerous. The number one most dangerous intersection in Virginia Beach according to Virginia Beach Police is Indian River and Kempsville Road; it has 63% more crashes than the second most dangerous intersection. Two more of the most dangerous intersections are also in Kempsville, Baxter and Princess Anne and Indian River and Providence. Kempsville can't take more traffic and the traffic report is flawed. The study is flawed to say that 300 plus high density residences replacing vacant shops will reduce traffic by almost 30% is absurd on the face of it. The traffic study needs to be redone and the city needs to get engaged in mitigating traffic before any development is done that will increase traffic to the area, and that's really all I have to say. Thank you.

Mr. Wall: Okay, thank you. Are there any questions for Mr. Little?

Madam Clerk: No more speakers.

Mr. Wall: Mr. Nutter?

Mr. Nutter: Thank you. Well, a couple of things I'd like to say up. First, I'd like to thank the residents of Lake James, because I believe that people who take their Lake seriously should be given a lot of credit. I hope they know that we've tried to give them a lot of credit, and as Mr. Weiner pointed out, we have to go through site plan review to get all of those issues. My point being that the reason we want it to tie on to the city's project is because the city's project is larger. What you may not know is that Lake James is also the recipient of water from Kempsville Road, from Indian River Road, all the shopping centers around that entire area all go into that lake. Our water goes into any river road before it goes into that lake. So the question is what's the best path? And that's what we've honestly tried to find. In fact, what Lake James residents suggested to me in our meeting was that we look into the city's program and see if we can participate in some way with that. In fact, I didn't know about the program until they referenced it, and we asked our experts to look at it. So we think that's the best approach. It will treat our water. It will treat water beyond just our limits before it goes into that lake. So I want you to know that we're on record as wanting to improve the water quality, not just reduce it, which is significant. I'll just tell you, I don't want to wipe that into the sweep that under the rug, that's a big thing, two acres of less impervious area is a big thing, but the other is the quality side, and we understand that, and that's why we think the participation with us in the city's program, which is going to spend about \$600,000, according to the speaker, to help improve the water quality in that lake, we think that's the best bang for our buck in putting in that, that's where we're going, and by the way, we don't have to participate that at all. We don't have to do that at all, we can just go through the cycling process. So my clients are serious about wanting to help the people in Lake James. They're not going to be bearing 100% of the cost for everybody else along that roadway, and they shouldn't be, but we are willing to participate that, we've made that clear to them, we make it part of the record today. A couple of things I'd like to say, and you can call Mr. Loman for this, and that's the traffic issue because I think even Mr. Loman was sitting there agreeing with the traffic study that we've done in terms of the

production and traffic, which is significant. Finally, I'd like to really apologize to I believe it was Ms. Hankins, I hope I got her name, right, who's the tenant? I have no explanation of why the property managers didn't know about this application. So it's hard for me to find. So that shouldn't have happened, I'm sorry, and anything that they or the other tenants want to know, please contact me. I'm happy to tell them or the owners, and I'm sure the owners who are watching this presentation are going to be contacting the property managers probably within next hour about presenting this to the tenants that have not already been presented to apparently, because they're all valuable, and Mr. Weiner is exactly right, if she's in the same strip as the Outback, all those areas are staying, as you've seen in this exhibit. So, again, this is the best move forward. We believe that the applicants have presented a great case to you, and one that the neighborhoods honestly acknowledge. They acknowledge that something has to be done. They acknowledge it's getting better. We're just trying to find the best path because we know we've reducing traffic. We know we're not impacting the schools, and we know we're trying to do better on the storm water. So I think we can get there between the staff storm water review and the city's program. That's a great place to make a significant difference. I'm happy to answer any questions, Mr. Wall you or others might have on commission.

Mr. Redmond: That lady who is a tenant who you just referred to had stepped out of the room while you spoke.

Mr. Nutter: I'll see if I can find her.

Mr. Wall: Anyone else? Mr. Nutter, I have got a couple of questions. So this storm water program, the \$600,000 program, are you familiar with like the city's program, is it specifically for Kemps River?

Mr. Nutter: It's surprisingly that money is specifically for Kemps River and the area right around it.

Mr. Wall: You know what is going to entail?

Mr. Nutter: I don't know the specifics. I know that the city is treating that water because they wanted to make sure that the runoff from those areas goes down, and they want to make sure that the water quality requirements are met. That's all I really know. But other than we've said, we will participate with them and which we don't have to do. We just felt like it, if you're going to spend money on for storm water, one I'd do it with a larger program that'll affect them, like at the end product of the lake, not just off our property in the Indian River Road, that's our thinking.

Mr. Frankenfield: Check your email, sent out a nice CIP sheet for this particular project, and it clearly identifies a significant new treatment facility on Fordham Drive. I mean, it's a drop inlet treat treatment facility. So, it's in that location, it should be easy to work together on through the site plan process. I'm guessing that you are saying you will support this project, and work to a reasonable level on finding out how you can treat storm water better. You just have not gotten to that point yet, and it will be an extensive detailed process.

Mr. Nutter: It is correct, and all the experts they're talking about are fortunately here at the city.

Mr. Wall: Anyone else? The speakers mentioned one thing and they had to ask about the nutrient credits, would you be willing to proffer that nutrient credits wouldn't be used as storm water strategy, and when the site development plan is submitted to the city?

Mr. Nutter: I don't know that I can yet because I don't know enough about the city's program. To be honest with you, I can tell you this, we want to make a difference, and we can do nutrient credits and do nothing, we don't even bother with the city's program. What we're telling you today is we will participate with the city's program, and that's a treatment program that's going to be an area larger than just us, and that's why we think it's more significant than just us putting in a few filters on the owner property, and then the water goes directly in Indian River Road, and that just seems to defeat the purpose.

Mr. Wall: Okay, well, the nutrient credit, that's part of the State program, and it does get reviewed by them. The study is the review authority, but I mean, I think it would go a long way to you support the residents if you know if that was proffered. I guess that's like somebody could buy nutrient credits for property and another watershed.

Mr. Nutter: It's a significant benefit, and part of the reason why DEQ likes nucleon credit programs, by the way, just so you know is because too often people just put in our onsite storm water system, and it's not well maintained, or they put in filter systems, and they're not well maintained. Whereas if you have a credit program, it goes into a DEQ program where DEQ monitors, and it really does affect the storm water. So it's just a more regional basis, we're in the same watershed. But there are reasons why credits are important. We're not saying we're not going to use credits; we're not going to say we are using credits, what we are going to say is we're gonna participate in the City's program was to design to treat the water from there directly coming off us and Fordham Road before it goes into it Kempsville Road, and that is what we are saying. We think it's better than that. We can ride on tails with \$600,000 project, versus putting stuff on our own. I mean, it's just, that's a great, that's a great opportunity, and we didn't know about it until they told us about it, so.

Mr. Wall: Anybody else?

Mr. Horsley: Other than I have utmost respect for what the City is in this storm water program. I mean, we've wrestled with this for many, many years, our program in the City of Virginia Beach far exceeds the State program, and I just don't think you can get much better. I mean, developers are harping on us about how stringent a program it is, and they, you know, but that's the way we are in the city. We are very stringent on the storm water regulations. I will thank you Mr. Nutter, but I want to hear from Mr. Lowman because I want him to address his traffic issue that so many people seem to think and they got too big applause when a man said somebody in traffic, I want Mr. Lowman to explain this traffic situation.

Mr. Wall: We'll get to traffic here in a second afterwards, but I think Ms. Wilson, do you have some concerns?

Ms. Wilson: I just have a common one. So, I think I need to insert here. Proffers are offered voluntarily, and we can't really ask Mr. Nutter for a proffer. Don't use the word. If you mean willing to say that, but we cannot require proffers, proffers have to be voluntarily done, and our storm water system is going to require what our regulations require. You're not really going to require any more than that, but our regulations are the stiffest in Virginia, and so, we believe that we have got them stiff enough to reduce pollutants and reduce quantity.

Mr. Wall: Okay, thank you Ms. Wilson. So before we open it up to discussion among the Planning Commissioners, Mr. Lowman if you would mind coming up for a second.

Mr. Lowman: Alright. Good afternoon, Ric Lowman, Public Works City Traffic Engineer. I guess I'll just address the traffic memo since that's probably you know what's causing some of this. The traffic memo we asked the developer to put this together, we'd already done an analysis like this ourselves, and we'd prove to ourselves that the commercial square foot...

Mr. Redmond: Could you just for the benefit of the folks here, could you tell them your role here, what your job is Ric?

Mr. Lowman: I am the City Traffic Engineer. So, the memorandum, basically, what it says is, when it's fully built out with the commercial space that's already out there. You know, this is how much traffic you could generate, and here's how much traffic you can generate with the uses that are proposed, which is keeping some of the commercial, but demolishing some of the commercial and replacing it with multifamily residential. You guys are very familiar with me discussing that commercial is the highest land use, besides the Chick-fil-A. Commercial is the highest land use that there is out there because you've got people coming and going, and it affects your p.m. peak hours specifically, because you got a lot of people coming to go into those shops during the PNP. Residential, not so much, residential is lower, especially multifamily residential, because you do have smaller family sizes, you do have smaller household sizes, so this 322 apartments is not the same as 322 single family houses, it's much less like to the 70% less than if it was a single family house, but the analysis that we had him do was based on a full shopping center, and if you guys remember, it's only been five years, since that shopping center was active with the farm fresh, which went out of business, the company went out of business, not the store, and the Kmart, which, I guess went out in 2017-2018, and the company went out of business, not the store. So it's still I mean, it's still a shopping center that could be redeveloped, and it could be cut up into smaller pieces, the big boxes in redevelop is a full shopping center again. So that's why we did what we did. I will tell you that when it is redeveloped with the 322 houses, it probably will have more traffic than there is now, but I could point back to the point that we've redesigned that intersection, and whether these people like it or not that intersection is much more efficient, and better than it was when we started with that intersection. Kempsville and Indian River was the worst intersection in the city, it was the most congested intersection in the city, and again, whether you like it or not, that intersection flows very, very well. If you have questions about that, I mean, I could certainly get into, I could talk for 20 minutes about that about why it's better, but I will say it again, by itself the 322 apartments and forget about the retail that is being demolished. By itself, the 322 apartments wouldn't require the developer to even do a traffic study, because it only generates

like 140 trips in the peak hour just because of the nature of multifamily housing. So we wouldn't even require a traffic study, even if they weren't replacing that much retail, even if it's vacant. So I can answer one question that Mr. Etter, he asked, if Centerville, Phase II and Centerville Phase III, I mean, the City's always been moving forward on those projects. They did get slowed down because there's been drainage and some other issues, but Centerville Phase II is fully funded, and it is scheduled to begin construction in 2025 per the current CIP. I can't say that it's going to definitely start, but the City is moving that project forward. It is 100% fully funded, and I think private utility relocations are going to be starting very soon.

Mr. Wall: Where is that section?

Mr. Lowman: That is from Indian River Road, all the way to Kempsville Road.

Mr. Wall: That is Phase II?

Mr. Lowman: That is Phase II, Phase III is going to be taking it from Kempsville to just past Lynnhaven, but the big addition for Indian River Road with Centerville Phase II is, (a) it's going to take some people off of Kempsville to Indian River to get to the interstate because we're going to make that road -- we're gonna make Centerville whole, and so people won't have to bypass Centerville like they do now, and #2, we're adding triple lefts from Centerville on to Indian River which is going to free some time up to give more to Indian River which will free that whole quarter up as well. So it does help Indian River, but the City is totally moving forward towards that. Any other questions?

Mr. Wall: Alright, thanks. Alright, well, then I'm going to close the public discussion and open it up to the Planning Commissioners to discuss among yourselves, Mr. Weiner.

Mr. Weiner: Mr. Chairman, before we start off, I want to recognize somebody that's in our audience here today. Mr. Dan Edwards, Mr. Edwards has been on the school board for well over 20 years, and was a past chair of the school board, and I just want to thank you for your well service that you did. Thank you very much, sir. So I've heard a lot today, and want to go a little deep here. I'm from this area. My wife and I bought a house in 1990 by Stumpy Lake, and then in 2001, we bought a house in Carolanne Farm. So this is my backyard. I've been here for 37 years also. I made a point in the last couple of weeks, because I knew this was going to come out, this was coming. So I knew in the last few weeks on at 5 o'clock, I made a point to go through this intersection. I may be the only who is going to say this, but I love this intersection. I think it's great, and I know y'all live closer to it than I do, but I made a point to go into it, and did say informal, when Kmart was wide open and Farm Fresh was wide open and all the shops were there, it was hectic going through there, and even times it is hectic going through there anytime, but lately, it's nice, and I don't think traffic is a big issue. My opinion for this development, the storm water, I do have to say our storm water regulations are top notch, and a lot of this is going to be taken care of on site plan review, and I think you're gonna find out that what they do with this goes through by Council, we shouldn't be a problem with this whatsoever. This is not going to affect the schools, there's plenty of parking. I just don't see, nothing's really sticking out to me to say no to this, I just don't see it. So I'm gonna support it.

Mr. Wall: Okay, thank you. Anybody else? Mr. Frankenfield.

Mr. Frankenfield: So, what I'm reading is that it's amazing. If you look at this plan for the Kemps River Crossing, water quality improvement, it looks like it was made just for this project. I mean, it's on Fordham Drive, it's a drop in, I don't know how hard it would be to put another one in, but it's certainly really an ability for the developers to work with the City on this. I think the very positive plus, the when we go when they go through site plan, these issues are going to come up and they are going to address them. They're going to deal with a little bit of water quality, a little bit of quantity, and as somebody said, maybe it was David Weiner, redevelopment is a good thing. Redevelopment is a good thing for storm water. I know it's tough, it's a change, but this will definitely address a lot of the storm water issues and be very positive. I also think the traffic is not an issue, and I think the thriving development that is going to be in there with the residential, and the retail is going to be phenomenal. Very positive, great place to live, good combination of shopping and housing, so I also support this project.

Mr. Wall: Okay, thank you. Anybody else?

Mr. Coston: I've got one question. In light of how much water we now allowed to be removed from the property. I know we've been having a developer saying that we're very hard on storm water, how much water do we allow people to move off their property without being treated or retained on the property?

Mr. Tajan: I'm going to try to answer this in a way that the public can understand. They cannot increase the flow and quantity of the water coming off the property than it does right now. So before predevelopment they cannot increase how much water comes off nor can they increase how fast it comes off the property, if that makes sense. With that they are all completely impervious at this point in time, so the state regulations as well as our storm water regulations have a specific cut out for those that do provide a 10% reduction in impervious surface because there is a definite quantifiable benefit of providing additional green space on the site. As we know, although it's chopped up, it is in two acre increment of the site, which is already 20 acres. So they may meet it in that fashion, but that will go through a full review process on our department.

Mr. Wall: Alright, well, I've got a couple of things, and I know, I've been on Indian River in years past, and maybe it's been a while, and maybe there have been improvements, but I know it's been disheartening, you know, it is peak traffic hours trying to get through there. So, I'm certainly not immune to traffic problems that have in the area of Kempsville and Indian River Road, but I think it's been fairly well addressed, and I think that residential will, in general reduce the traffic compared to a built out shopping center. I think there are improvements in those regards. In terms of storm water, I'm not insensitive to storm water, I used to have a swimmer out in a triangle on Lake James, so familiar with the water quality, when it's when it can be bad, it's such a nice amenity for the homeowners in the area. So certainly, it can be seen why, the homeowners are fighting to maintain and improve that water quality in Lake James, but I think that the City's initiative and I think that the developers initiative, so I think just the general reduction in impervious will, no matter what, make improvements over existing conditions.

There's two major new items I think generally being addressed. I think I feel I'm gonna support the application as well. Mr. Redmond.

Mr. Redmond: I move approval for agenda item #2.

Mr. Wall: We have a motion for approval by Mr. Redmond and a second by Mr. Weiner.

Madam Clerk: Vote is open. By a vote of 9 in favor, 1 against agenda item #2 has been recommended for approval.

	AYE 9	NAY 1	ABS 0	ABSENT 1
Alcaraz	AYE			
Bradley	AYE			
Clemons		NAY		
Coston	AYE			
Cuellar	AYE			
Frankenfield	AYE			
Horsley	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:

The redevelopment of this portion of Kemps River Shopping Center will be responsive to the changing needs of the retail and small office markets. Two areas of the shopping center may be redeveloped for multi-family purposes and if developed for multi-family purposes, the location, design, materials, amenities, and unit count shall be substantially as set forth in these proffers. Any substantial change to the exhibits relating to the multi-family use of the Property set forth in this application shall require an amendment to the proffers. Continued use of the Property for retail and other permitted uses in the B-4 district shall not require an amendment to this plan, albeit subject to site plan approval as required by law.

Proffer 2:

When developed for multi-family purposes, the Property shall be developed in substantial conformity with the exhibit prepared by Cox, Kliewer & Company, P.C., entitled “Conceptual Site Plan for New Mixed Use Development The Promenade at Kemps River Crossing”, Scheme 24 dated October 20, 2022, (the “Conceptual Site Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 3:

The Conceptual Site Plan provides for an Area to be Dedicated to the City for Future Pump Station Expansion, provided any relocation of utilities for the benefit of Grantor to an area outside the dedicated area are presented to the Grantor in advance, are fully accommodated, do not interfere with the development, and are relocated by Grantee at Grantee's sole expense.

Proffer 4:

The quality of architectural design and materials of the multifamily residential buildings constructed on the Property, when developed, shall be in substantial conformity with the exhibit prepared by Cox, Kliwer & Company, P.C., entitled "Conceptual Elevation – revised3 The Promenade at Kemps River Crossing" dated October 20, 2022 (the "Elevations"), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning. The accent color chosen based on final branding shall be subject to the review and approval of the Director of Planning & Community Development; approval shall not be unreasonably withheld.

Proffer 5:

The quality of architectural design and materials of the Clubhouse for the multi-family residential buildings, when developed on the Property, shall be in substantial conformity with the exhibit prepared by Cox, Kliwer & Company, P.C., entitled "Conceptual Clubhouse Elevations The Promenade at Kemps River Crossing", dated September 16, 2022 (the "Clubhouse")), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 6:

The number of multi-family residential units located on the Property, when developed, shall not exceed a total of three hundred twenty-two (322).

Proffer 7:

Landscaping installed on the property, when developed shall meet applicable City Code requirements as segments of the property are redeveloped and they shall be located in substantial conformity with the conceptual site plan referenced above which has been reviewed by the City Council and is on file with the Virginia Beach Planning Department.

Proffer 8:

The free-standing signs for the apartments shall be located where shown on the site plan. They shall be monument-style and shall not exceed a height of eight (8) feet. The proposed signs shall conform with the Zoning Ordinance. The materials, design and color pallets of the free-standing signs shall match those of the architecture, and color pallet of the apartments.

Proffer 9:

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

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

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 3**

**Virginia Electric and Power Company d/b/a Dominion Energy Virginia (Applicant)
Pungo Airfield, LLC (Property Owner)**

Conditional Use Permit (Public Utility Transformer Stations & Major Transmission Lines & Towers)

Address: 1848 Princess Anne Road

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Thank you. Is there any opposition to this item being placed on the consent agenda? Alright, the next agenda on the consent is item #3 Virginia Electric Power Company doing business as Dominion Energy in the Pungo Airfield, please come forward, and state your name.

Mr. Selden: Good afternoon, Tim Selden with Geosyntec representing Dominion Energy Virginia.

Mr. Alcaraz: Thank you; are the conditions acceptable to you?

Mr. Selden: They are.

Mr. Alcaraz: Alright, thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none, I've asked Mr. Bradley to please speak on this.

Mr. Bradley: Thank you. The applicant is requesting a Conditional Use Permit for Public Utility Transformer Services and Major Transmission. Lines and towers use this 45 and a half acre site as a temporary lay down yard for the construction of the Coastal Virginia Offshore Wind Project. This property which is split AG-1 and AG-2 Agricultural District is a portion of the 1940's era Pungo Airfield. Presently, the eastern portion of the site is used as a mulching operation and that will continue. The current project timeline estimates that the lay down yard will be needed for three to four years. Staff recommended this; there are no known opposition, so we decided to place it on our consent agenda.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #six on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

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

CONDITIONS

1. Operation of the site shall be in substantial conformance with the submitted Conceptual Site Plan exhibit entitled, "Conceptual Site Layout for Pungo Airfield Laydown Yard," dated October 26, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. This Conditional Use Permit shall remain in active for a period of five years from the date of City Council approval. Upon written request, an administrative approval may be granted by the Director of Planning for an extension of two additional years, prior to the expiration of the five years period.
3. The applicant shall remove and/or trim all vegetation necessary to achieve the sight distance requirement from their access point along Princess Anne Road, subject to the review and approval of the Virginia Beach Department of Public Works.
4. Access to this site shall be solely from the existing access point on Princess Anne Road as depicted on the Conceptual Site Plan referenced in Condition 1 above.

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
December 14, 2022, Public Meeting
Agenda Item # 4**

**Birdneck Ocean Annex, LLC (Applicant)
Pitsilides Land Trust (Property Owner)**

Conditional Use Permit (Mini-Warehouse)

Address: 1069 Laskin Road

RECOMMENDED FOR APPROVAL – HEARD

Mr. Wall: Thank you.

Madam Clerk: Our next agenda item is agenda item #4 Birdneck Ocean Annex, LLC, an application for a Conditional Use Permit (Mini-Warehouse) at 1069 Laskin Road in Council District 6, formally the Beach District. Would the representative or the applicant, please come to the podium.

Mr. Nutter: My name is RJ Nutter. I'm an attorney representing the applicant this case, and this is an applicant, by the way, who has a proven track record in this exact same neighborhood, and I don't want us to overlook that fact. Because it's one thing to be brand new, it's another to have a track record like they have and, and not just here, but at this location just down the street, but elsewhere around the city. They've proven themselves over and over again to be good neighbors. But this property is, you know, zoned Unconditional B-2, it has been the stepchild for every almost failed activity that you can find on this property. Restaurants have come and gone for years. Most recently, it was used as a construction lay down area by the Breeden Company, and so it's been a bit of a tossup what happened at this property, it's in a crash zone, and as you know, it's about a block and a half from where the jet went down, and we call the Miracle on Easter a few years ago. So, it is an area where residential is not permitted, and that the uses could go here, could have a far greater impact than this one. That's not just the reason to support it, however, is something worse could go there, but it is an important factor, and also the fact that quite frankly, everything it's tried to go there has failed. So along comes a use that generates no noise, no traffic, that is amongst the quietest use you can have with the possible exception of a cemetery, and they talked about that with Mr. Jones on Council. I need to say this, he's the only use that maybe quieter than self-storage, and the other nice benefit of this project, it eliminates the possibility of parking in the rear, it eliminates any traffic coming to the rear this property, all the traffic is in the first, I don't know, 75-100 feet of the property. None of it goes behind the building, there's no parking around the building, all of which has significant benefits. So, I think the only issue you have been presented to you is your concerns I saw earlier about the height, and let me just tell you about the height. The height situation is one that, quite frankly has to do with it set up in the code, and the reason why we have a height limitation around residential is because they wanted to set the height on any adjacent property as the same height than residential could be. It was not supposed to be some prohibit prohibition against adjacent property owner, it was set to be the same height limit that they enjoy, and as you may know, these properties next door are two and three story units. The

one we did on Independence recently that you all approved, and we went to Council was approved, was backed up to one story single family homes, it was not in the crash zone, and we worked out a deal with the residents there to put in additional landscaping, in fact the setbacks on this are greater than the setbacks of the residential units that are adjacent to us. Then we also agreed in two meetings with them that we would recess third floor of this building even though it was under the 35-foot height limit. We've had recessed that portion by 15 feet making it further back. They already understand there's no windows here, there's no one to be looking in their backyard, which is often the case that had been developed in office, and you'd have people in there looking down on their backyards, which we hear about on every time we have an office next to residential. None of that is the case here. So, we have some letters in support, but I'd also like to share with you a letter in support that's not in your package, and it was written to us by Ms. Broyles, Tom Broyles wife, who lives in the condos that Jackie visited earlier, just down the street behind the Beach Pub, and they talked about what a great neighbor it has been. They talked about how it cuts off the noise from Laskin Road to their property. In fact, the meetings we had with the residents we held or they held, I didn't go, my clients went was held at that location so they could see it. Look at the setbacks, look at the landscaping. All of those features understand what they'd be looking at, so I don't believe we have any speaker signed up in opposition, but I did want to address these points for you because they've gone out of their way to be a good neighbor. We comply with every Planning thing at this site we comply with. We went to the PDRC, in fact, that was a benefit, I must tell you, because if you show the front of the building, I'm not sure who has control over it, there we go. One of the things that they suggested was we had awnings on the side of the building, and they asked us to extend the awnings into the front of the building adjacent Laskin, which we thought was a great idea. So, I would tell you that was on his benefit in that process. Just one more meeting to attend with a whole lot of architects, engineers, and business owners from that area. One of which, by the way, unfortunately, Dee Oliver was on that Commission, she couldn't be here today, but she was on that Commission as well. So, anybody comes to you with staff recommendation, you've got a proven good neighbor. We've got a bigger setback from the residential next to us, and we've modified our plan to adjust just their specific concern. So, I will give this to I guess, Bobby, these are letters from the condominium next that Mr. Wall talked about. Otherwise, I'm happy to answer any questions that you might have in any regard so.

Mr. Wall: So, I've got some questions. I know you touched on it, but, the main, I certainly generally support the use. That's why it's being heard, but can you describe a little bit more, you mentioned it, but can you reinstate, about your engagement with those that are, directly adjacent, and I know that there are some benefits, maybe some noise, new shielding, but please, elaborate on some engagement.

Mr. Nutter: We actually had two meetings. The first meeting was held, maybe three weeks ago forgive me, I wasn't present Mr. Wall, but what they did is we sent notices to all the people in the back, and we also sent one to the manager of the Association that we're managing. There's a young lady who lives there, has also served in that capacity, and we set up a meeting giving advance notice, and asked them to meet us at the other location just down the street behind the Beach Pub, and about five or six, I think people came to that to that first meeting, and asked a lot of questions

about the height, the setbacks, the landscaping, traffic, the air conditioning units, location of the AC units on the building. All of those questions were asked, and they told them, look, we think you're okay, here, we've done this before, and we are good neighbors. They took them out to the side to show some landscape to see how close it was to the other condominiums, and they exited that meeting. Then we got a second call that some people couldn't come to the first meeting who wanted to come and have a second meeting, so they held a second meeting, and that's when the concern raised about by some people along the back about the work at the first meeting, asked if we could do something about the proximity to their homes, and we agreed to recess the third floor level of building back the 15 feet. It's the same process we'd follow on the property on Independence Boulevard, and so that that seemed to appease those residents, and we thought it would appease the residents there. I'm sorry, we had letters opposition afterwards, but in fact, one of the people wrote a letter in opposition to ask for the recessing, and then in addition, I had asked if she could work on the landscaping with us. So, we set up a call with her and Billy Almond, who you all know very well, on the landscaping, so that she can participate in the selection of landscaping material. So that's the outreach we've had, if you will, Mr. Chairman. Now we also reached out to the people behind us, there's an apartment complex in the rear of the site, and they wrote an email or an email in support as long as we kept over the fence in the back. They want us to keep the fence and we told them we would keep the fence. So, we talked to them as well. So that's the outreach we've held on the property as you can see.

Mr. Wall: Okay, thanks. What about the single family home on the other side?

Mr. Nutter: I did not reach out to them. I did the 7-Eleven just down the street, and we reached out to all those people. Nobody came to anything, so I didn't and also say that in that building, there's two homes on that site and one's is kind of a flag lot if you look at it. What you really see is the one in the front, and there's one more in the back, closer but it's just tons of trees between us and them, so we got the impression they just didn't have any concerns. I'll put it that way, but we did try as you can see through to reach out to everybody and try to pose an answer for every one that we could.

Mr. Wall: Okay. One of the letters stated about the sign and I drove by there on Sunday, and I confirmed the sign was down and you said that sign had been down for a while. The orange notification.

Mr. Nutter: We try to watch them and with the weather being what it is they sometimes get blown down. We always take pictures; we put them up to make sure staff knows, I didn't know it was down until your comments this morning, to be honest with you.

Mr. Minton: Sign was damaged, somebody kicked it down. They broke one of the wooden sticks provided so it was clearly broken down. Put it back, but I did not know it was down until I saw that.

Mr. Wall: Thank you. Any other questions? I don't think we've got any speakers. Thank you.

Mr. Nutter: Well, just in case, some of you I know you got reappointed through February, and to the extent that I may not be back, by the way, but to extend I am back. I've got one case and I have to come back in a few months, but I want to wish you all the best, and thank you for your service. I hope you're all reappointed. You've been terrific members. It's not easy to sit here and listen to this over and over and over again. So, I appreciate your endurance, but anyway, thank you for your service.

Mr. Wall: Thanks. Okay, well, I'm gonna close it to the public, and open it to the Planning Commissioners, yes, Mr. Bradley.

Mr. Bradley: Mr. Chair, I share some of your concerns. I've struggled with these buildings just because of the size on the property, and the height to the adjacent homeowners. In this case I'm going to support it because I think there's some things that are tipping it, it's a close call for me like they all are. One, as Mr. Nutter mentioned, it is in the Accident Potential Zone. So, it limits some of the opportunities that you could from a development. It's gone through the RAC Design Committee, and I think that's important for the corridor of which this enters. They are, you know, this has been a living process, I think for this development company. They reduced the height on that one on North Independence. They're doing that here. They increase landscaping and so forth. So, I think those are enough to tip it for me to support it. So, I just wanted to get that on record because I did talk about it this morning.

Mr. Wall: Okay, thank you. Anybody else? Yeah, go ahead.

Mr. Alcaraz: Because it's my district, in the informal I just had asked because it was brought up about the existing structure, or the concern with the new structure the way it is right now, and the reason I asked that, because I remember that building in the day with the bar scene, and I just wanted to see, so there was a building there. There's a new one going in there, looks like about the same setback. There's some screening going on there. There's storm water because there's some concerns about drainage, I'm sure that storm water is going to be a major constraint for them to make this project work, and then that the use is acceptable for the purpose of that. So having said that there's no other questions, and I'd like to make a motion.

Mr. Wall: Okay, well, I've got a couple things. I'm kind of the one who wanted to hear this, and you know, I think that the letters that we received weren't necessary convincing, but they were certainly moving in terms of they're going to see a wall in perpetuity, that is going to be 25 feet off their back door, so it's 25 feet, not very far, it's shorter than any other storage unit that we put next to where we've had next to residential. So, it's a tight fit, but there are a couple of things that, for the use, I'm currently in support of, I think the use is appropriate. I think the aesthetics of them, and the front is more than adequate, and in this area, there's kind of a mix of commercial, retail and single family residential and multifamily residential. So, the use isn't problem, 25-feet, it feels really tight. The front of the building is 2 feet, the back of the building, you have three story, I mean, the buildings have three stories, but the windows on the back of three story, so the applicant had gone to an extent to try to match that height so that that's not above their homes adjacent to the property line. So, I have been told about this, I don't think that other storage units have some, opposed, but in this case, my preference would be a deferral to work with the homeowners to see what else could be done to improve the offset,

improve the lighting, for their backyards. So, I know, somebody's probably ready to make a motion for approval, but I'd kind of like to make a motion for deferral to make an improvement for this.

Mr. Alcaraz: I made a motion for it.

Mr. Wall: You did make a motion for approval. Okay, then we are going to need a second.

Mr. Weiner: I will second it.

Madam Clerk: Mr. Chairman that was a motion by Mr. Alcaraz, and a second by Mr. Weiner.

Mr. Wall: Correct.

Madam Clerk: Vote is open. By a vote of 9 in favor, 1 against agenda item #4 has been recommended for approval.

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

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the conceptual site plan entitled "OCEAN STORAGE – LASKIN ROAD", dated October 24, 2022, prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed buildings shall substantially adhere in appearance, size, materials to the submitted elevations entitled "OCEAN STORAGE", dated December 9, 2022, prepared by RBA Architects, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled "OCEAN STORAGE – LASKIN ROAD", dated November 9, 2022, prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

4. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
5. The freestanding sign shall be monument style, be no taller than eight (8) feet in height measured from the ground to the top of the sign and substantially adhere in appearance, size, and materials to the submitted freestanding sign exhibits entitled "OCEAN STORAGE – MONUMENT SIGN ELEVATION, dated November 16, 2022, prepared by RBA Architects, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
6. A Lighting Plan shall be submitted for review at site plan submittal. All outdoor lights shall comply with the following:
 - a. Shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.
 - b. Lighting fixtures shall not be erected any higher than fourteen (14) feet.
 - c. Only motion activated lighting fixtures shall be installed at a height of no more than ten (10) feet along the easternly and westerly property lines that abuts the apartment and residential districts.
7. 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
December 14, 2022, Public Meeting
Agenda Item # 5**

Nimmo United Methodist Church (Applicant)

Street Closure

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

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Okay, thank you. Thank you. The next item for consent is item #5 for Nimmo United Methodist Church, please come forward, and state your name.

Mr. Bourdon: Mr. Alcaraz, Mr. Chairman, and members of Commission, for the record Eddie Bourdon Virginia Beach attorney representing Nimmo United Methodist Church. We appreciate being on the consent agenda. All four conditions are acceptable to my clients and want to thank Marchelle for her work on this application.

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

Mr. Weiner: Thank you, Mr. Alcaraz. This is a Street Closure for Nimmo Church portion of Old Princess Anne Road right of way. The applicant Nimmo Methodist Church is seeking to close a portion of the formerly used Princess Anne Road, west of Nimmo Church Lane due to the relocation and construction of the new four lanes Princess Anne Road. This portion of the right of way has been abandoned. Staff recommends approval and we put this on the consent agenda.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #six on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

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

CONDITIONS

1. The City Attorney's Office shall make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council. Copies of the policy are available in the Planning Department.
2. The applicant shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining lots. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval. Said plat shall include the dedication of a public drainage easement over the closed portion of the street to the City of Virginia Beach, subject to the approval of the Department of Public Works, and the City Attorney's Office, which easement shall include a right of reasonable ingress and egress.

3. The applicant shall verify that no private utilities exist within the right-of-way proposed for closure. If private utilities do exist, easements satisfactory to the utility company must be provided.
4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved for recordation within one year of the City Council vote to close the rights-of-way this approval shall be considered null and void.

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

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

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 6**

Hickman Shoppes, LLC (Applicant & Property Owner)

Modification of Proffers

Address: 2216 General Booth Boulevard

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Alright, thank you. The next item on the consent is item #6 for Hickman Shoppes, LLC. Please come forward state your name.

Mr. Bourdon: Again, for the record Eddie Bourdon, Virginia Beach Attorney representing the applicant. This is a Proffered Modification of Proffers, and I really want to thank Marchelle especially for her work on this application, because we've pushed her a little bit with some 11th hour changes if you have seen the markouts on your report, so appreciate being on the consent agenda.

Mr. Alcaraz: Alright, thank you. Is there any opposition to this item being placed on the consent agenda?

Mr. Alcaraz: Hearing none, I have asked Commissioner Horsley to please speak on this.

Mr. Horsley: The applicant is seeking some Proffers to be changed from a Conditional Rezoning that took place in 2014 for this property. It was changed at that time from R-20 Residential to B-2 Community Business then and since then, it has been changed in 2017. It was some modifications made to increase the footprint, and basically the changes they're asking for now is to convert one building which on the plan is Building 2, Buildings A-1 and A-2, and Building A-1 would turn into a retail bank with a drive thru, Building 2 will remain as retail, and building foot increase in size from 2450 square feet to 3500 square feet, and the anchor store which is to be built in future will go from 45,000 some odd feet to over 49,000 feet, and then a 0.9 acre out parcel will be eliminated. So, these modifications we think are very reasonable, and the Staff was in favor, and we put them on our consent agenda. Thank you.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #six on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

	AYE 9	NAY 0	ABS 1	ABSENT 1
Alcaraz	AYE			
Bradley	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Frankenfield			ABSTAIN	
Horsley	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, "Conceptual Layout Plan Hickman Place Virginia Beach, Virginia", dated October 1, 2022, prepared by Finley Design, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development (hereinafter "Concept Plan").

Proffer 2:

When the Property is developed, the exterior of the retail shoppes shown on the Concept Plan shall be substantially similar in appearance to and shall utilize the external building materials as depicted on the ten (10) exhibits entitled "Conceptual Building 'A' at Hickman Place" pages 1 and 2, dated October 4, 2022; "CONCEPTUAL ANCHOR at Hickman Place" pages 1 and 2, dated October 6, 2022; "Hickman Place Conceptual Perspective View 1" dated November 30, 2016; "Hickman Place Conceptual Perspective View 2" dated November 30, 2016; "Hickman Place Conceptual Perspective View 3" dated September 15, 2022; "Hickman Place Conceptual Perspective View 4" dated November 30, 2013; "Hickman Place Conceptual Perspective View 5 House Parcel", dated November 1, 2013; and "Hickman Place Conceptual Perspective View 6, View 7 and View 8" dated October 1, 2022, prepared by Finley Design, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning & Community Development (hereinafter "Elevations"). Any roof mounted mechanical equipment shall be screened from view.

Proffer 3:

Except as modified herein, the remaining unchanged proffered covenant, restriction and condition as set forth in the 2017 Amended Proffers and the remaining never modified proffered covenants, restrictions and conditions as set forth in the 2013 Proffers are hereby ratified and affirmed.

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
December 14, 2022, Public Meeting
Agenda Items # 7 & 8**

**Express Wash Property Holdings, LLC (Applicant)
Les S. Kushner, Trustee of the Irene G. Schwartz Qualified Terminable Interest Property
Marital Trust, Steven B. Sandler, Arthur B. Sandler, Estate of Morton Bresenoff & Virginia
Electric and Power Company (Property Owners)**

**Conditional Rezoning (AG-2 Agricultural District to Conditional B-2 Community Business
District)**

Conditional Use Permit (Car Wash Facility)

Addresses: 3503 Dam Neck Road, a portion of a 66-foot VEPCO right-of-way east of 3503
Dam Neck Road and the western portion of the parcel on the corner of Dam Neck Road &
Monet Drive

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Thank you. The next item items are items #7 and #8 for Express Wash Property Holdings, LLC for Conditional Rezoning for AG-2 to B-2, that's item #7 and item #8 is Conditional Use Permit for a Car Wash. Please come forward, and state your name.

Mr. Beaman: Thank you Mr. Chairman. For the record, Rob Beaman, Virginia Beach Land Use Attorney, here today on behalf of the applicant. We've had a chance to read the conditions that are acceptable and we appreciate being on consent. Thank you very much.

Mr. Alcaraz: Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none, I've asked Commissioner Cuellar to please read these two items.

Ms. Cuellar: Thank you. The applicant is requesting to Rezone 3.48 acres along Dam Neck Road from AG-2 Agricultural District to Conditional B-2 Community Business District. As well as a Conditional Use Permit to construct and operate a Car Wash facility. The properties are located at the intersection of Dam Neck Road, and South Rosemont Road. Being that there is no known opposition, it is both recommended by Staff and the Planning Commission to be on the consent agenda.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #six on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Bradley	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Frankenfield	AYE			
Horsley	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 developed, Parcel 1 shall be developed in substantial conformity with the conceptual site plan entitled "Concept Site Plan, 3503 Dam Neck Road", dated July 22, 2022, and prepared by Kimley-Horn and Associates, Inc. (the "Concept Plan"), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 2:

When developed, the access improvements located on Parcel 2 that will serve the commercial use on Parcel 1 shall be developed in substantial conformity with the conceptual site plan entitled "Concept Site Plan, 3503 Dam Neck Road", dated July 22, 2022, and prepared by Kimley-Horn and Associates, Inc. (the "Concept Plan"), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 3:

The quality of architectural design and materials of the building constructed on Parcel 1, when developed, shall be in substantial conformity with the exhibit prepared by Core States, entitled "Express Car Wash, Virginia Beach, VA", and dated May 5, 2022 (the "Elevations"), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 4:

Landscaping installed on Parcel 1, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Kimley-Horn and Associates, Inc., entitled "Conceptual Landscape Plan, 3503 Dam Neck Road", and dated July 22, 2022 (the "Landscape Plan"), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council. The exact species of the various types of landscaping shall be determined at final site plan review.

Proffer 5:

The permitted hours of operation of the car wash located on Parcel 1, when developed, shall be between 7:00am and 8:00pm, seven (7) days per week.

Proffer 6:

The final stormwater plan submitted to the Development Services Center (DSC) for the development of Parcel 1 and the access improvements on Parcel 2 shall be in substantial conformance with the preliminary analysis utilizing the same basic design.

Proffer 7:

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

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

CONDITIONS

1. When the property is developed, it shall be in substantial conformance with the conceptual site plan entitled "CONCEPT SITE PLAN – 3503 DAM NECK ROAD", dated July 22, 2022, prepared by Kimley-Horn and Associates, Inc., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The 15-foot, Category IV buffer adjacent to the residentially zoned parcels to the south is provided outside of the 120-foot wide VEPCO easement. This is a deviation to the 15-foot Category buffer required along the property line adjacent to residential zoned parcels.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled "CONCEPTUAL LANDSCAPE PLAN – 3503 DAM NECK ROAD", dated July 22, 2022, prepared by Kimley-Horn and Associates, Inc., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The exterior of the proposed buildings shall substantially adhere in appearance, size, materials to the submitted elevations entitled "EXPRESS CAR WASH – VIRGINIA BEACH, VA – 3503 DAM NECK RD. – EXTERIOR ELEVATIONS", dated May 5, 2022, prepared by CORE STATES GROUP, INC., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. The car wash pay canopy shall substantially adhere in appearance, colors, and materials to the canopy elevations entitled "EXPRESS CAR WASH, VIRGINIA BEACH, VA" - CANOPY ELEVATIONS, SHEET A-201" dated 03/11/2021, prepared by CORE STATES GROUP, INC., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
6. The car wash vacuum canopy shall substantially adhere in appearance, colors, and materials to the canopy elevations entitled "VACUUM CANOPY, dated 08/09/2022, prepared by McGee Corporation, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
7. 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.
8. All on-site signage must meet the requirements and regulations of the Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
9. The freestanding sign shall be monument style, be no taller than eight (8) feet in height measured from the ground to the top of the sign and substantially adhere in appearance, size, and materials to the submitted freestanding sign exhibits entitled "THE WAVE CAR WASH, Virginia Beach, VA, dated 9/9/2022, prepared by LAURETANO SIGN GROUP, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
10. The dumpster shall be enclosed on three sides with a solid wall in color and material to match the building as depicted on the dumpster enclosure elevation entitled "EXPRESS

CAR WASH, VIRGINIA BEACH, VA – TRASH ENCLOSURE DETAILS, SHEET A-0.6.0”, dated 5/5/2022, prepared by CORE STATES GROUP, INC., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development. Any required screening shall be installed in accordance with Section 245(e) of the Zoning Ordinance.

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.
12. All improvements identified in the Traffic Impact Analysis (TIA) shall be designed and built to mitigate traffic impacts of the proposed development and shall be approved by Public Works Traffic Engineering through the site plan review process.
13. The existing multi-use path located on the VEPCO property shall be relocated to the east of the proposed development and a 10-foot wide landscape buffer shall be installed between the drive aisle and multi-use path. Final determination of the location of the multi-use path shall be reviewed during Site Plan submittal.
14. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet. A Lighting Plan shall be provided for review and approval at the time of site plan submittal.

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
December 14, 2022, Public Meeting
Agenda Items # 9-10**

1900 Virginia Beach Blvd., LP (Applicant & Property Owner)

Conditional Rezoning (A-12 Apartment District to Conditional B-2 Community Business District)

Conditional Use Permit (Bulk Storage Yard)

Addresses: 1900, 1902, 1906 & 1912 Virginia Beach Boulevard; 303, 305, 307, 309, 311, 313 and 315 Maxey Drive

DEFERRED INDEFINITELY

Mr. Wall: Okay, thank you for that clarification. Okay, so the next order of business is withdrawals and deferrals. Is there anybody here who would like to withdraw an application? Okay, seeing none. Is there anyone that needs to have a deferral on an application?

Mr. Bourdon: Thank you, Mr. Chairman. As is indicated in the agenda, 1900 Virginia Beach Boulevard, agenda items #9 and #10, we needed a deferral, sort of it showed up yesterday, so we might be back next month, but we are doing an indefinite for now.

Mr. Wall: Okay, thank you. Anyone else? Okay, so that was agenda #9 and #10. Do I have a motion to defer agenda item #9 and #10?

Mr. Redmond: Mr. Chairman, so moved.

Mr. Wall: Is there a second?

Mr. Horsley: Second.

Mr. Wall: Is there anybody that needs to abstain?

Madam Clerk: Mr. Chairman that was a motion by Mr. Redmond, and a second Mr. Horsley.

Mr. Wall: Yes, Mr. Redmond.

Madam Clerk: Mr. Horsley could we get your second?

Mr. Wall: Right, are there any abstentions?

Madam Clerk: Vote is open. By a vote of 10 in favor, 0 against agenda items #9 and #10 have been deferred indefinitely.

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

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 11**

Permanent Picture Tattoos, LLC (Applicant)
Dam Neck Square, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 1581 General Booth Boulevard, Suite 104

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Thank you for that, so that's #7 and #8. Now item #11 for Permanent Picture Tattoos, LLC. Please come forward.

Madam Clerk: Mr. Vice Chair, I believe the applicant is via WebEx. Mr. Scott Cochran, we're going to un-mute your audio feed, if you would state your name, and if the conditions of your application are acceptable.

Mr. Cochran: Hello, this is Scott Cochran joining you, and I do accept the conditions.

Mr. Alcaraz: Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none, I asked Mr. Clemons to please speak on this item.

Mr. Clemons: Thank you, Mr. Chair. The applicant is requesting a Conditional Use Permit to operate a traditional tattoo parlor in an existing 750 square foot suite at the Dam Neck Square Shopping Center. The property is zoned B-2 Community Business and is located near the intersection of Dam Neck Road and General Booth Boulevard. The applicant has operated the tattoo parlor in Maryland for the past 15 years, and with the recent move to Virginia Beach, they wish to expand that business. In light of Staff recommendation and no apparent opposition, commission placed this on its consent agenda.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #6 on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Bradley	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Frankenfield	AYE			
Horsley	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 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

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

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 12**

Valvoline, LLC (Applicant)
Holland Century Associates, LLP (Property Owner)

Conditional Use Permit (Automobile Repair Garage)

Address: Portion of 3949 Holland Road

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Thank you. The next item is #12, Valvoline, LLC. Please come forward and state your name.

Mr. Beaman: Thank you Mr. Chairman, for the record Rob Beaman, Virginia Beach Land Use Attorney here today on behalf of the applicant. We've had a chance to read these conditions as well. These are acceptable, and we appreciate being on consent, thank you.

Mr. Alcaraz: Thank you. Is there any opposition to this item being placed on the consent agenda? Hearing none, I've asked Commissioner Coston to please speak on this item.

Mr. Coston: The applicant is requesting a Conditional Use Permit to operate an Automobile Repair Garage on the southern portion of a two acre out parcel within the Holland Windsor Crossing Shopping Center, zoned B-2 Community Business District. A lease line divided the northern and the southern portion of the property, and existing automobile repair garage Discount Tire is located on the northern half portion of the lot. This proposal will occupy the southern half of the lot. The applicant is seeking to construct a 2087 square foot automobile repair garage that will provide drive thru limited maintenance services such as oil changes, power steering, fluid service, and battery replacement. Provided services will be limited to those that can be done while the customer can remain in their vehicles. The applicant anticipates up to 50 cars will be serviced daily. The Commission has agreed with the staff that this is acceptable, and we have placed this item on the consent agenda.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #six on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

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

CONDITIONS

1. The site shall be developed and maintained substantially in conformance with the submitted site layout entitled "VALVOLINE INSTANT OIL CHANGE," dated JULY 14, 2022, and prepared by Interplan LLC. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. The design, size, and materials of the building shall be substantially in adherence, with the submitted elevation exhibits entitled "RENDERED ELEVATIONS" dated July 14, 2022. Said

elevations have been exhibited to the Virginia Beach City Council and are on file with the Department of Planning & Community Development.

3. The landscaping on site shall be in substantial conformance to the conceptual landscape entitled "VALVOLINE INSTANT OIL CHANGE–HOLLAND RD. & WINDSOR OAKS BLVD, Virginia Beach, VA 23452 –LANDSCAPE PLANTING PLAN", dated November 30, 2022, prepared by Interplan, LLC., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The dumpster shall be enclosed by a wall on three sides, constructed of materials that match the building, not less than six feet in height, and any required screening shall be installed in accordance with Section 245(e) of the Zoning Ordinance and the City of Virginia Beach Landscaping Guide.
5. No motor vehicles in a state of obvious disrepair shall be stored outside of the building. All such vehicles shall only be permitted to be stored within the building.
6. No motor vehicle repair work shall take place outside of the building.
7. No motor vehicles associated with Conditional Use Permit shall be parked within any portion of the internal drive aisles/paths of the shopping center.
8. There shall be no outdoor storage of equipment, parts, tires, or materials.
9. All on-site signage shall meet the requirements of the City Zoning Ordinance. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.
10. There shall be no portable or nonstructural signs or electronic display signs on the site.
11. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

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

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

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 13**

Christiana Rojas (Applicant)
Red Mill North, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 2133 Upton Drive, Suite 120

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Alright, thank you. The next item #13 for Christiana Rojas at Red Mill North, LLC for Conditional Use Permit for a Tattoo Parlor, please come forward.

Ms. Rojas: Christiana Rojas.

Mr. Alcaraz: Thank you, and do you accept the conditions?

Ms. Rojas: Yes, I do.

Mr. Alcaraz: Thank you, you may be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none, I have Mr. Clemons to speak on this item.

Mr. Clemons: The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor specifically for the application of permanent makeup known as micro-blading within an existing beauty salon at Red Mill Commons Shopping Center. The shopping center is located along Upton Drive, on properties on B-2 Community Business District. Microblading will take place in a small private room within the beauty salon, and according to the applicant, there will be one employee. In light of the staff recommendation, and no apparent opposition, the commission placed it on the consent agenda.

Mr. Alcaraz: Thank you. Mr. Chair that was the last item for the consent agenda. The Planning Commission places the following applications on the consent agenda items #1, 3, 5, 6, 7, 8, 11, 12 & 13.

Mr. Wall: Okay, thank you, Mr. Alcaraz. Alright, so that was not a motion, but so could you state that again as a motion?

Mr. Alcaraz: Sure, I move that these items 1, 3, 5, 6, 7, 8, 11, 12 and 13 are approved for consent.

Mr. Wall: Okay. Thank you. So we have a motion by Mr. Alcaraz. Do we have a second?

Mr. Clemons: Second.

Mr. Wall: Do we have any abstentions? An abstention by Mr. Frankenfield.

Mr. Frankenfield: I am going to abstain pursuant to the Conflicts of Interests Act. I have a letter on file with the city attorney, and I have a previous business relationship with Sifen Associates, and will abstain from this vote.

Mr. Wall: Okay, thank you.

Mr. Tajan: Just to clarify that's for item #7 on the consent agenda. I'm sorry, item #six on the consent agenda that Mr. Frankenfield is abstaining from. It should be item #6 that he's abstaining from, not the whole consent agenda.

Mr. Wall: Can you speak? I couldn't hear you.

Mr. Tajan: I'm sorry. Mr. Frankenfield is abstaining from item #6 on the consent agenda. He's not abstaining on the whole consent agenda.

Mr. Wall: Okay.

Madam Clerk: Mr. Chairman, I noted a motion by Mr. Alcaraz, a second by Mr. Clemons. The vote is open. Mr. Frankenfield, can we get your vote please? By a vote of 10 in favor, 0 against, noting an abstention by Commissioner Frankenfield from agenda item #6, agenda items 1, 3, 5, 6, 7, 8, 11, 12, and 13 have all been recommended for approval.

	AYE 10	NAY 0	ABS 0	ABSENT 1
Alcaraz	AYE			
Bradley	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Frankenfield	AYE			
Horsley	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 the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the

exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

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

**Virginia Beach Planning Commission
December 14, 2022, Public Meeting
Agenda Item # 14**

Venkata Pradeep Pauchuri (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 619 22nd Street

DEFERRED INDEFINITELY – HEARD

Mr. Wall: Our final agenda item is #14 Venkata Pradeep Pauchuri, an application for a Conditional Use Permit for a Short-Term Rental at 619 22nd street in Council District 6, formerly the Beach District. Would the applicant or the representative, please step to the podium.

Ms. Morris: Hi, my name is Grace Morris, and I'm here on behalf of the applicant. We are requesting that 619 22nd Street can become a three bedroom short term rental.

Mr. Wall: Are you the manager?

Ms. Morris: Yes, so I work for Coastal Accommodations, and we manage vacation rentals mostly on 22nd Street.

Mr. Wall: You're here because there's somebody in opposition. Okay, so let them come up and talk and then we're gonna have you come back up to address that.

Madam Clerk: Mr. Chairman we have two speakers, one in person and one by WebEx, Shawn Dowling followed by Karen McCormick.

Mr. Dowling: Good afternoon. Hello, my name is Shawn Dowling, and I am a 22-year resident of Virginia Beach, mainly at the oceanfront. I'm actually highlighted directly behind the property in question, and I strongly oppose the award of the permit. I think I speak on behalf of my neighbors because when this was put out like a week ago, I was actually out of town, and everyone asked me to either this was concerning to me. So I felt it was my obligation, and my duty to come speak on everybody's behalf. Our little neighborhood is quite tight. You know, we take care of each other. I've deployed many, many times, and they've watched out from my home, anywhere from taking out my garbage, because I'm gone, to watching neighbor's dogs, helping doing little construction projects, we got some elderly neighbors too, and I help them when they need, they feel comfortable enough coming to me, so I feel like it's my duty to be here. I also considered a Short-Term Rental, you know, it's like a good idea, right? But literally, I cease to go down that road because it was absolutely without a doubt the consideration of my neighbors, I could not do that to them, the turn and burn and the oceanfront being the way it is, and people going there to have a good time, which is understandable, but not at the cost of my neighbors because I felt, you know, we felt tight. Just walking through a worst case scenario, I kind of do that, I tend to do that, with being home, and then you know, late at night, Short-Term Rental, there's an issue, to be honest with you, I don't have a lot of confidence in Virginia Beach Police Department sometimes, and

how they handle conflict. I've observed it personally. So I don't ever want to have to step in, but if there was an issue or a problem late at night, I would have to step in and obviously, or I don't want to have to step in, because no one wants that. So I stand up here to ask, leave you with you know, don't destroy me and my neighbor's little sanctuary we have at the oceanfront. I like it, we all like it, we are all within there.

Mr. Alcaraz: I'm going to ask you, but I might have to get some answers from Mr. Tajan. So this is one property with a condo, so you own half the property or half condo is shared with the applicant.

Mr. Dowling: Right.

Mr. Alcaraz: Has she talked to you?

Mr. Dowling: No, which I don't know, maybe it would change but again, blindsided me about a week ago.

Mr. Alcaraz: So is it a single family home that's on a single lot or two single family homes or two freestanding buildings that are owned by condo association?

Mr. Tajan: I believe staff discussed this with Ms. Wilson. Ms. Wilson are you familiar with this ownership scheme, I believe that there's a land in the condo that deals with that the person only owns the land under them.

Ms. Wilson: I think what happened was we could never find the agreement for the condominium, so there were no areas that were designated as owned by the condo. If there were things owned by the condo and the condo association, then we wouldn't have had to get their signature on this application, but it appears your condo just took a line in the middle and gave each side to each other. At least that's what I've been told. So that's where we were. So that's why we didn't require that you agree because your condo was done kind of differently than most of them we see.

Mr. Dowling: It's tight. You know, it's like, you know, maybe 20 feet, and you know, anytime there's a neighbor in the backyard, it's almost intimate. You hear everything and I think, yeah...

Ms. Wilson: I mean, there is an argument that we should have gotten your permission for this to go forward, but that's the reason we didn't require it was because we had this no condo property.

Mr. Alcaraz: Okay, well, that's why I wanted to bring it up, because I wouldn't mind asking if, the Commissioners I'm going to ask you then, of course we listen to the speaker and I'm going to ask the applicant if we could defer, so you guys could talk, and come back later a month or two, and work this out. So do you have a problem if I asked her that?

Mr. Dowling: No.

Mr. Alcaraz: Thank you, that is all I have.

Madam Clerk: Mr. Chairman. Our final speaker is via WebEx, Karen McCormick. We're going to un-mute your audio feed, if you would state your name and then begin your comments, please.

Ms. McCormick: Good Afternoon, my name is Karen McCormick, and my husband, and I own the property at 622 ½ Street located diagonally behind the property up for Short Term Rental. We do not feel that having a Short Term Rental property in that closest proximity to our permanent residence should be approved for the following reasons. First, due to the dwellings being zoned as condos as you just discussed, there are existing condo docs which should be on file with the City which state that the other condo owner has to approve any and all changes of the use, and as you've just heard from Mr. Dowling he does not approve of the use. In addition in the existing condo docs on page 12 #9.2.1 no unit may be rented for less than 30 days. On page 12 #9.3.1, each unit is hereby restricted to residential use as a single family residence by the owner or owners, and on page 13 #9.3.4, no nuisance or any use or practice that is the source of unreasonable annoyance to other unit owners or which interferes with the peaceful possession and proper use of the condominium property by the unit owners is permitted. So being that we are all like Shawn said, less than 20 feet I daresay, less than 10 feet between each other which is why we're zoned as condos, any disruptions of the Noise Ordinance would affect each and every neighbor to the right, left, and behind to a greater degree than a house zoned as a sample single family residence. There have already been instances when a party was taking place at the subject property, which I understand is being rented out. So in the parties in the neighbor's yard, disrupts the neighbor's peace and ability to sleep has happened on multiple occasions. In addition, allowing the subject property to become a Short Term Rental would negatively affect the parking situation on 22nd street in front of all the adjoining properties. Currently the property has a driveway allowing two cars to be parked in it. Frequently there are two cars parked in it, and a third parked parallel to the street blocking the sidewalk, which I believe one of my neighbors has included in her rebuttal a picture of that. Although it is a three bedroom property the probability of more than three cars consistently needing a place to park, if it were to become a Short Term Rental is high. From our personal experience with Short Term Rentals, parking rules are often violated by the Short Term Rental users, and there are often more than one car per bedroom trying to park. This negatively affects the ability of the adjoining neighbors to utilize the off street parking in front of their own private residences for which they pay taxes. We're acutely aware of issues that have plagued the Short Term Rental properties in the Old Beach neighborhood. There are currently three properties approved as Short Term Rentals in our one neighborhood block. We've had to call the Short Term Rental number several times this past summer to report parking violations because they were encroaching into the street, preventing the ability to use the road. We're also aware of other Short Term Rental incidents within Old Beach not the least of which being the use of firearms on or near the properties resulting in bullets landing and adjoining neighbor's property, and this is a completely unacceptable risk to force the existing private residents to take. We bought this house as our primary residence in 2016. We enjoy the fact that the neighborhood is in fact a neighborhood not a commercial zone. The Short Term Rental ...

Mr. Wall: I apologize for that, but your time had had expired. Are there any questions for the speaker? Okay, thank you.

Madam Clerk: There are no more speakers, Mr. Chair.

Mr. Wall: Okay. Alright, thank you. Would the applicant please like to come up and rebut? Do you have any anything to add to that?

Ms. Morris: We are a very reputable Property Management Company in Virginia Beach. We have 15 Short Term Rentals on 22nd Street that we manage. We're happy to give the neighbors who are concerned those neighbors that are, you know, people around we have relationships with those people, and we're happy to give them their names and numbers and they can reach out to get, you know, a reference of us. We always try to squash any kind of problems that ever arise or anything like that, but really is very rare that we have to do that, and we really do try to be on it when it does happen. Any person who's currently there, we're going to start managing April 1st, so if there's concern right now of any current renter, that's not somebody who we're currently managing.

Mr. Wall: Thank you. Are there any questions? Please do?

Mr. Weiner: How many properties do you all manage in Virginia Beach?

Ms. Morris: So I want to say it is 26, and the bulk of them are on 22nd Street, but it goes, we have some on 16th, and then all the way up to 69th Street.

Mr. Weiner: This summer over the summer, have you had any major problems with the police or anything like that?

Ms. Morris: No sir.

Mr. Weiner: Not at all, okay.

Mr. Alcaraz: I'm a supporter in the OR District for Short Term Rentals. I mean, from the get go, I always have been, but when it's gets spread out, I kind of get a little reserved on that, but where you're at right now and what was asked, I don't know if why there wasn't communication with your neighbor, especially with a condo doc, but one of the other speakers spoke of some legal documents that might state, so I'm asking if a deferral would be okay with you. So you can work it out, 30 days, or whatever the Commissioners would feel comfortable with. Indefinite, that way you can work it out, and you can also look at the documents to make sure whatever you're allowed to do, but I feel more comfortable supporting in OR District, but I really need an owner on a condo to be aware. He told me he wasn't. And having said that, I'd like to defer it indefinitely, unless you want to have something to say Mr. Redmond.

Mr. Redmond: First off, how in the world does somebody know where a bullet came from? Did you just hear that a bullet fell nearby and it was a result of a Short Term Rental? Is that what I heard? That's, of course, absurd. I think you would be well served and I appreciate your openness to the deferral to discuss that. We don't control condo docs. Condo docs aren't part of the public process. So let's forget about the condo part, other than they are houses very, very close together, and so that seems to me is a good reason for y'all to talk a little bit if you have not. Like Mr.

Alcaraz ORD is the Oceanfront Resort District. That's where these things go, and it's partly because they go here that they don't go in a whole lot of other places, so I think we need to understand that context as we go into this, but it does make some sense, I think for you all to kind of get together a little bit and talk about things you've already agreed and so I thank you for doing that.

Mr. Coston: I was going to ask looks like there are two in that same building already or right down like four or five lots down there's one on front and back already, is that the same condo.

Mr. Alcaraz: What I was asking is this the certain parcel is one condo with two owners. He's an owner, she's a manager for the owner and he's an owner. There was no communication. I just feel more comfortable that there's some communication.

Mr. Wall: Anybody else? Okay, thank you. Alright, I'm going to close to the public and open it for discussion with the Planning Commissioners. Now, since there's no comments, I like to defer it for indefinite. Okay, so we have a motion to for an indefinite deferral. Is there a second?

Mr. Redmond: Second.

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

Madam Clerk: Vote is open. By a vote of 10 in favor, 0 against agenda item #14 has been deferred indefinitely.

Mr. Wall: Okay, thank you, Madam Clerk, is there any other business?

Madam Clerk: No, Mr. Chairman.

Mr. Wall: Okay, alright. Thank you for participating in today's Planning Commission hearing. Meeting is adjourned.

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