

Virginia Beach Planning Commission

Public Hearing

April 14, 2021

Mr. Weiner: Good afternoon and welcome. I'd like to call to order the April 14th, 2021 meeting of the Virginia Beach Planning Commission. My name is David Weiner; I act as the Chair. Before we get started, I've asked Commissioner Oliver to lead us in prayer and Commissioner Horsley to lead us in the Pledge, please stand.

Ms. Oliver: Dear Heavenly Father, we come to you today, thanking you for your guidance and wisdom. As we begin this hearing today, guide our hearts and our minds in the spirit of fairness, right thought and speech. Help us to remember our responsibility to serve our community with great insight, guided by understanding wisdom and respect for all. As we make our decisions today, help us to promote the common good as we work together for the betterment of our great city. As trusted servants, we seek blessings on our deliberations and on our efforts here today. Amen.

Mr. Horsley: Please join me in the pledge. [Group Pledge]

Mr. Weiner: Thank you. Next may I ask Mrs. Klein, Commissioner Klein to introduce the members please.

Ms. Klein: We have John Coston, retired Virginia Beach Fire Captain and member at large. Whitney Graham, real estate developer from the Lynnhaven District. Michael Inman, attorney and member at large. Vice-Chair Jack Wall, civil engineer from Rose Hall District. Chairman David Weiner, commercial salesman from Kempsville district. Dee Oliver, funeral director and member at large. George Alcaraz, building contractor from Beach District. Myself, Robyn Klein, social worker from Centerville District, and Don Horsley, farmer and member at large.

Mr. Weiner: Thank you. Next is the explanation of the rules and Madam Clerk, could you please read that? Thank you.

Madam Clerk: Today we will have both in-person speakers and speakers participating via WebEx. In order to limit the number of people in Suite 5 at any one time, in-person speakers will remain in Suite 4 where they will be able to view the meeting on monitors until called. For ordinances and resolutions, we will recognize in person speakers first, calling the first speaker and up to three additional speakers to avoid any unnecessary delay between speakers.

Each person whose name is called may enter Suite 5 and must remain socially distanced until it is their turn to speak. Each speaker must exit Suite 5 after providing their comments and may return to Suite 4 to finish viewing the meeting. After all in-person speakers have been called, we will then recognize the speakers participating via WebEx. We will recognize the applicant or their representative first, whether they are in-person or participating via WebEx.

All other speakers will be recognized as previously stated. Speakers participating via WebEx, please mute any additional devices you have in the room to avoid any unnecessary background noise and or the possibility of echoing and reverberation. It is important that once recognized, please wait two to three seconds to begin to ensure the Commission hears your complete remarks. Please begin your comments by identifying yourself. Also do not ask "Can you hear me?" as only one feed is open at a time to minimize the echo and reverberation, and as such you will be unable to hear a response.

Again, speakers will be recognized in the order in which they registered. Please note, if the speaker does not respond or if a technical issue occurs which renders the comments unintelligible, I will move on to the next registered speaker. Commissioners, are there any questions about the process for the speakers? Hearing none, I will go on to read the public hearing rules.

The Virginia Beach Planning Commission takes pride in being fair and courteous to all parties in attendance. It is important that all involved understand how the commission normally conducts its meetings. It's equally important that everyone treat each other and the members of the Commission with respect and civility. The Commission requests that if you have a cell phone, please either silence it or turn it off. This is an abbreviated explanation of the rules.

The complete set of rules is located in the front of the Planning Commission agenda.

Item # 1

**City of Virginia Beach – An Ordinance to Amend Section 2-385 of the City Code
Pertaining to the Establishment of a Short Term Rental Zoning Permit**

April 14, 2021

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk: First item is Agenda Item Number 1, City of Virginia Beach; an Ordinance to Amend Section 2-385 of the City Code pertaining to the Establishment of a Short-Term Rental Zoning Permit.

Mr. Weiner: Hi there.

Ms. Wilson: Hey, Deputy City --

David Weiner: We know who you are.

Ms. Wilson: Deputy City Attorney Kay Wilson here for the City of Virginia Beach. This would establish a \$200 fee for each and every Short-Term Rental in the City to pay yearly. It also establishes that Zoning is the responsible division and department that would do enforcement as well as any kind of control of STRs. And that prior to the issuance of any kind of permit, there would be an inspection to ensure that property is in full compliance with the Short-Term Rental regulations. Now that may be by the renter himself or by a professional depending upon which version of this is passed by City Council. So that would be a \$200 fee, once a year for each one.

Mr. Weiner: Thank you. I think we had -- between most of us or some of us, we want to discuss this a little bit further. So, I think they might have any questions. Mrs. Wilson, I think we can all just take it from here and close it out and do our little discussion. Who wants to start? George, you said you did?

Mr. Alcaraz: Yeah, I always get that. Okay. Well, I appreciate you letting me bring this up during the informal; I did kind of get a little jumpy and antsy on that when I was informed what would happen. And so having said that, I just want to make sure the Planning Department has sufficient funds to do what they have to do. As Ms. Wilson, our legal help has just stated Zoning, it's for -- it's a fee for Zoning, for inspections. But I think there's more to that, and I can see that that more is going to -- I know what the Planning Department is going through right now, and I can just foresee some additional help that's going to be needed. And having stated what I said before, I'd like to make a motion that we not approve this application for -- it's just -- I don't think it's enough, and I don't want to get into discussion on how much. I just want it to go to City Council that I don't think it's enough. I'll leave it at that.

Mr. Weiner: Ms. Oliver?

Ms. Oliver: I would like to second George's motion as we've traveled long through the years with these STRs, and we know that the staff is strained at best in managing the STRs. So, with that, I think that they probably are going to need more funding than is recommended. So, I second the motion by George.

Mr. Weiner: Any other comments? Jack?

Mr. Wall: I don't know, and I think the staff established something that was fair and reasonable, to initiate a fee that can help you develop their staff and build a compliance strategy. I mean, I'm not necessarily opposed to increasing the fee but I think that now this initiates it. And that they can propose a greater fee as time progresses, as they see an expansion and need to develop their -- more fully develop their staff. You know, I don't know if it's us just arbitrarily coming up with a number which we didn't. But to deny it just based on that, I don't know. I support this, I kind of support it. Yeah, I think it was done thoughtfully. And so that's -- Yep. Yep. Okay, and that's where it stands. Thanks.

Mr. Weiner: Any other comments? Yes. Sorry, Mr. Inman?

Mr. Inman: I agree with Commissioner Wall. Basically, we need the fee. We need more than that, I agree. I agree with the concept we need -- it should be higher but to not approve what's been recommended for the budget, or I understand is in the printed budget, I wouldn't want to jeopardize that. Now we don't have the final say, Council does. But I think we can send our message to Council in other ways about our concerns about the amount being insufficient. So, I'm going to support the \$200 fee.

Mr. Weiner: Mrs. Klein?

Ms. Klein: I find it somewhat offensive that we're asked to approve something that we were not allowed to have an input on, especially because they tirelessly ask for our input on other things. I agree with George and Dee, I don't think that this, that \$200 is sufficient for the Planning Staff. I think when you are the staff, and you ask for money, that people don't take you seriously, as someone who's done that as a staff member, but as the overseeing body who deals with the community complaints that there's no enforcement of the STR rules we need to provide -- we need to advocate for the staff and provide them with as much support as possible so that they can remedy that. So, I will be supporting George's revised motion.

Mr. Weiner: Mr. Coston?

Mr. Coston: I have one question. So, if we choose not to approve this, does that mean the staff doesn't get anything until we hear back from City Council and start all over again?

Mr. Weiner: Mrs. Wilson, you want to weigh in?

Ms. Wilson: Okay. No, if you send up a recommendation for denial, it will be a recommendation for denial. If you wish to change the monetary fee from \$200 to \$500, what will happen, and it can happen, I'm not telling you it can't happen because I checked with the Finance Attorney. So, what happens is if Council agrees with you, they will have to pull this item from the budget.

In pulling this item from the budget, they will also have to pull the two FTEs that are supported by this money that Planning would have gotten. So, we'll pull all of that, and then it will go back on the agenda for City Council after it has been advertised again, all fees in the Planning Department have to be specifically advertised. I don't know whether you saw, it's a little chart that says where we get the authority, how much is going up, all of those kinds of things, but they have to be advertised separately. So, then we would have to advertise that again, it would need to go back to Council for them to approve that as part of the budget and then for them to approve the FTEs.

Mr. Coston: Well, do we have time for that before the budget gets approved? Because that's in the next month.

Ms. Wilson: No, it will be later on before we will see this item come back to -- not to you all but to Council.

Mr. Coston: Okay. So based on that I'd have to support it because I'd rather see them get what they're going to get than get nothing for next year.

Mr. Weiner: Mr. Horsley?

Mr. Horsley: Mr. Tajan, does your department determine how much money this should be? Where did this \$200 come from?

Mr. Tajan: Mr. Horsley, we provided an analysis for the City Manager for consideration of a fee between \$200 to \$250. Based on a modest increase in the number of Short-Term Rentals that would get approved, we anticipate between \$400,000-\$450,000 to be generated based on the current fee. That current fee does not only include covering our two additional full-time employees, but it also covers the software program that we have from a third party. So that is our funding source to pay for that in the future.

Mr. Horsley: So, you think that \$200 is adequate?

Mr. Tajan: For now, yes. We don't -- we'll be honest, we're trying our best to build a program while it's in the midst of operating, so we believe that there's enough room in there to have also temporary employees to try to supplement our current employees.

Mr. Horsley: Thank you. Based on Mr. Tajan, I would have to support the motion, because it appears that the Planning Staff has -- we don't have the expertise to know about the finances, but we have to go with what they recommend and if they think they can make this work, I think we have to support that.

Mr. Alcaraz: So, you're supporting my motion or not?

Mr. Horsley: No.

Mr. Wall: Okay, so --

Mr. Weiner: Can I get something really quick? If Mr. Tajan -- I know, my boring life, I watch y'all present stuff to the Council a lot, but if this does pass can you put in bold letters that we disagree with the amount of money and it should be more? You know what I mean? Because I don't think it's going to get to them that if we pass it or not pass it, it's still not going to get to them why. We really want to make sure it gets to them and why we did what we did.

Mr. Tajan: It is clear and based on the discussion that's going on right now that information will be included in the Agenda Request Form, which is provided in front of the staff report for this item.

Mr. Weiner: Okay.

Mr. Alcaraz: So, I want to ask Ms. Wilson something, if you don't mind. If I substitute a motion or revise it and say that there's an increase on the next fiscal year, does that go into this budget -- if I say 20%?

Ms. Wilson: It wouldn't be binding. You can't bind a future Council in any way. But I would like to tell you too, it will not go in with a sheet in front of it, it will go in the budget and that's where it'll be. There won't be a page that says this should be whatever. It'll go in the budget book.

Mr. Weiner: Yes, Mrs. Klein.

Ms. Klein: Mr. Tajan, if we were to recommend a denial of this Ordinance, would that cause your department more difficulty?

Mr. Tajan: Yes. I'll just --

Mr. Coston: You don't get what you're getting.

Mr. Weiner: Revision? Yes, Mr. Horsley.

Mr. Horsley: I would say that the verbatim of our discussion, the Council is going to get that and they're going to see that that we all think that this is probably not enough money. But since it's what we've been given, we, you know, I guess -- and staff says that they can make that work now. But we can reiterate from our verbatim to Council that they understand that we think that in the upcoming year, we think it will need more money. I agree that staff has really -- I mean, it's been a big strain on them over the past 12 months to make this stuff work and I agree.

Mr. Weiner: Thank you. We can go towards motion. We need a substitute motion, or can we revise the motion.

Mr. Alcaraz: I'll remove my motion?

Mr. Weiner: Okay. Turn your mic.

Ms. Oliver: I'm absolutely okay with withdrawing my second on George's motion.

Ms. Wilson: Thank you. Now you're clear. Okay. You need a motion.

Mr. Weiner: Okay. Now we need a motion, please, somebody? Yes, Mr. Inman?

Mr. Inman: I'll make a motion that we approve the increase in or the passage of the ordinance that provides for a fee to operate the other staff needed by the Planning Department.

Mr. Horsley: I'll second.

Mr. Weiner: Second? We have a motion by Mr. Inman and seconded by Mr. Horsley, sorry. Alright, we are ready to vote? Alright.

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Since I abstained from voting on the Short-Term Rentals' agenda items, I am abstaining from this. I abstain.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Miss. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of eight in favor, zero against and one abstention, Agenda Item Number 1 has been recommended for approval.

	AYE 8	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham			ABSTAIN	
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

Item # 2

City of Virginia Beach – An Ordinance to Amend Section 232 of the City Zoning Ordinance Pertaining to Communication Towers and Fee

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you, Mr. Chair. These applications, these are applications that are recommended for approval by staff and the Planning Commission concurred, and there are no speakers signed up in opposition. We have 12 items on the consent agenda today. The first item is Agenda Item Number 2, City of Virginia Beach; an Ordinance to amend Section 232 of the City's Zoning Ordinance pertaining to Communication Towers and Fee. Is there a representative for this item? Please state your name for the record.

Ms. Wilson: Kay Wilson, Deputy City Attorney for the City of Virginia Beach. This is an ordinance that establishes fees for communications towers. The fees are broken into two parts. One is for administrative review, and that's a fee of \$350. And the other is a fee of \$1,050 for those that are going to go by the standard process, which is the same as for a Conditional Use Permit.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			

Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

Item # 3

City of Virginia Beach – An Ordinance to Amend Sections 207 and 232 of the City Zoning Ordinance Pertaining to Communication Towers, Small Cell Facilities and Building Mounted Antenna

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Is there any opposition for this item to be placed on the Consent Agenda? Good, thank you. The next agenda item is Agenda Item Number 3, City of Virginia Beach; an Ordinance to amend sections 207 and 232 of the City's Zoning Ordinance pertaining to communication towers, small cell facilities and building mounted antenna. Is there a representative for this item? Please state your name for the record.

Ms. Wilson: Deputy City Attorney Kay Wilson. This is an Ordinance to do a little housekeeping on the portion of the City's Zoning Ordinance that pertains to communications towers. What we've done is just cleaned it up, make sure it coincided with the next ordinance and so that is -- it's mainly housekeeping and things of that nature.

Mr. Wall: Thank you. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we're going to move to Agenda Item Number 4. Is there a representative for this item? Please state your name for the record.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have

financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

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Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

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	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

Item # 4

City of Virginia Beach – An Ordinance to Amend the City Zoning Ordinance Sections 301, 401, 501, 601, 701, 801, 901, 1001, 1501, 1521, 1531, 2203 and Sections 5.2, 5.2.16, and 5.3.17 of the Form Based Code, Oceanfront Resort District Pertaining to Communication Towers, Small Cell Facilities, Building Mounted Antenna and Temporary Towers

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we're going to move to Agenda Item Number 4. Is there a representative for this item? Please state your name for the record.

Ms. Wilson: Deputy City Attorney Kay Wilson.

Mr. Wall: Okay, this is City of Virginia Beach an Ordinance to amend the City's Zoning Ordinance Sections 301, 401, 501, 601, 701, 801, 901, 1001, 1501, 1521, 1531, 2203 and sections 5.2, 5.2.16 and 5.3.17 in the Form-Based Code, Oceanfront Resort District pertaining to communication towers, small cell facilities, building mounted antenna and temporary towers.

Ms. Wilson: What we had to do here is go through the use tables for all of the Zoning Districts and make a determination as to whether towers and their iterations should be conditional or permitted. Most of them are permitted unless they are a standard review tower, which is any tower over 50 feet, and so they would be done like a CUP. We had already taken out a lot of the things that we were normally seeing with these communication towers; balloon tests, landscaping, but to the credit of the people who own the cell towers, they have been doing this anyway even though they're not required to do so.

Mr. Wall: Okay, thank you. Is there any opposition for this item to be placed on the Consent Agenda? Hearing none, we're going to move to the next item on the agenda.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

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I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

Item 5

Anatoly & Joy Ann Dritschilo [Applicant & Property Owners]

Street Closure

7.5-foot by 50-foot portion of an unimproved alley adjacent to 737 Vanderbilt Avenue

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Okay, thank you. Is there any opposition for this item to be placed on the Consent Agenda? Hearing none, we're going to move to the next item on the agenda. Next item is Agenda Number 5. Application number 5 for a street closure, Anatoly and Joy Ann Dritschilo. Is there a representative for this item?

Mr. Bourdon: Thank you Vice-Chair Wall, Chairman Weiner, members the Commission. For the record Eddie Bourdon, Virginia Beach attorney representing the Dritschilos. The four conditions are acceptable to my client. We appreciate very much being on the Consent Agenda. Thank you.

Mr. Wall: Okay, thank you. Is there any opposition for this item to be on the Consent Agenda? Hearing none, the Planning Commission has asked Ms. Oliver to read this item into the record.

Ms. Oliver: Thank you, Mr. Wall. This is pretty simple. This applicant is requesting to close a portion of the platted, unnamed and unimproved alley that is adjacent to the rear lot line. This site is developed and consistent with the other residential lots in the Croatan neighborhood with a single-family home and a fenced in backyard. Currently, the area proposed to be closed is fenced off and will be used and maintained by the applicant. As required by the City Code, a viewers meeting was held on February 16th, 2021 that included the Staff from the Departments of Public Works, Public Utilities, Planning and Community Development and the Office of the City Attorney. The viewers determined that the proposed closure will not result in any public inconvenience and therefore closure of this portion of the right of way is deemed acceptable. Condition two is recommended below whereby the City of Virginia Beach will retain a public drainage easement over the closed portion of the alley, and based on the considerations above the staff was recommending approval for the proposed street closure subject to the conditions listed and therefore we've placed it on the Consent Agenda.

Mr. Wall: Okay, thank you. Alright, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning

Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
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 lot. 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 alley 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 the 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 right-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.

Item 6

**Priority Lexus [Applicant] Elmer Properties Bonney Road, LLC [Property Owner]
Conditional Use Permit (Bulk Storage Yard)
3962 Bonney Road**

April 14, 2021

WITHDRAWN

Mr. Weiner: Thank you, Madam Clerk. The next order of business the items be deferred or withdrawn and there are no items to be deferred. Are there any items being deferred by anybody? I hear none. The Chair recognizes we have one item to be withdrawn, Item Number 6. There's any opposition for Item Number 6 being withdrawn? I hear none. Can I have a motion?

Mr. Wall: Mr. Chairman, I'll make a motion that we withdraw agenda Item Number 6.

Mr. Weiner: Motion, and second. Second? Motion by Mr. Wall and second by Mr. Horsley. We're ready to vote.

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine to zero. Agenda Item Number Six has been withdrawn.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

Item 7

**Robin Gauthier, CEO on behalf of Samaritan House, Inc. [Applicant] Catholic Diocese of Richmond Virginia, Episcopal Diocese of Southeastern Virginia [Property Owners]
Conditional Use Permit (Group Home)
1593 Lynnhaven Parkway**

April 14, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Thank you. Next item is Item number 7.

Madam Clerk: Agenda Item Number 7, Robin Gauthier, an application for a Conditional Use Permit for a Group Home on property located at 1593 Lynnhaven Parkway located in the Centerville District. I believe that we have the applicants' representative as a virtual speaker. I'm calling Joe Buschi. If you would wait two to three seconds and then begin your comments.

Mr. Buschi: I was just available to address any questions that the Planning Commission may have. I wasn't signed up to speak on behalf of this application.

Mr. Weiner: Hold on one second, sir. One second, please. That was the applicants' representative?

Madam Clerk: Yeah. Let's call Tom Snyder, Thomas Snyder, who is also virtual, and Mr. Snyder, if you would wait two to three seconds.

Mr. Weiner: Welcome, sir. We thought you were virtual.

Mr. Snyder: I am.

Mr. Weiner: Part of a hologram, right?

Mr. Snyder: How are you? My name is Tom Snyder. I'm a local attorney in Virginia Beach. I'm also a member of the Board of Directors of Samaritan House, who is the applicant for a Conditional Use Permit for a Group Home on approximately two-acre parcel of land off of Lynnhaven Parkway. My client is going to develop a group home for people who are subject to human trafficking, to be servicing those people here in Virginia Beach. Samaritan House, as some of you may know, also provides other kinds of services for people who are subject to domestic violence and as a part of its mission, this mission creep, so to speak, occurred and the opportunity was provided to us to provide this additional service.

Just so you know, this is a home for children who are subject to human trafficking and have unique problems. It's a much more intensive issue to deal with and that requires a specialized facility. This, there is, to our knowledge, there is only one group home which has been in the process of being developed in the Commonwealth of Virginia, and this will probably be the second and the

first to maybe become the first which will actually become operational. We have located the property, the building on the property in a manner that we think will allow for potential expansion of this facility as the need potentially grows. The property we are buying from the adjoining church, which is a unique church because it's owned by both the Catholic Church and the Episcopal Church, and both of them have enthusiastically supported the mission of what we are trying to accomplish and recognize the need for it in the Commonwealth.

I do want you to see, if you look at the site plan which is on your e screen in front of me. You'll see that we have recently discovered the adjoining property owner, which is a Montessori School has raised some concerns. There are a couple of things you should notice about that. Number one, the property line for the property that we are purchasing actually is on the Montessori School property and has actually encroached on the property owned by the church, and that's about 3,500 square feet. But what we have done is, you'll see that there's actually a fence and landscaping line that we have proposed that would provide both security and a screening from the Montessori school. And so, we tried to address that issue proactively and put that into our application, I think just yesterday.

So, I have Ms. Robin Gauthier here with me as well. She's the Executive Director of Samaritan House. She is extremely knowledgeable about this entire project. If there would be any questions that you would have concerning what we are going to be doing, she would be probably a better person than myself. I will tell you this, most of the people who are going to be occupying this facility; I think there's seven or eight bedrooms, it's about 5000 square feet, they are probably almost all going to be young girls between the ages of something like 14 and 17 years of age. There are on staff people 24/7 that will be there. Robin can give you really the nuts and bolts of what the program would entail, and what the efforts are or what would be under what we would be trying to do to help these people to be able to become functioning members of society, so to speak, and to overcome whatever, most of them will have had a very serious history in terms of to try to deal with. So, I know there's 3 minutes and I don't want to overspend my time.

Mr. Snyder: Pardon me?

Mr. Weiner: You get 10.

Mr. Snyder: Oh, I get 10. Yeah. Oh, okay. Well, I'm sitting here thinking I only have 3 minutes. I'm waiting for some, for something to tell me.

Mr. Weiner: But I will tell you. Well, there is somebody, I believe there's one speaker in opposition.

Mr. Snyder: Yes.

Mr. Weiner: So, let them talk. And then let's see what they have to say and then if you want to come back up to address anything that you have to say, we will let you come back up. Alright, thank you.

Mr. Snyder: Thank you.

Mr. Inman: How about Robin first?

Mr. Weiner: Do you want to, hold on one second. Do we want to?

Mr. Inman: Could we hear from the Executive Director first, about the details of the program? Okay.

Mr. Weiner: Sure, okay. Okay, sure. Welcome.

Ms. Gauthier: Good afternoon. Thanks for having me.

Mr. Weiner: Can you state your name for the record.

Ms. Gauthier: Robin Gauthier, Executive Director of Samaritan House. The program will actually serve five to eight youth ages 9 to 17. And so, we don't know if we'll have eight beds filled all the time, but there's the potential to have eight youth to be served. And so, you know, the services are going to be educational services, trauma informed counseling, case management, mental health, substance abuse; anything that's needed for these girls. We've been rescuing victims of human trafficking since 2016. In the Hampton Roads Human Trafficking Task Force, we were a major part in bringing those funds to the Hampton Roads area. And so, what we did not realize in 2016, is we'd be finding so many youth, many of them in Virginia Beach, Norfolk, Chesapeake, Hampton, Newport News in our region.

So unfortunately, because there's no facility for youth, oftentimes the law enforcement or Homeland Security or FBI will have to bring them to juvenile detention, so at least they will have a safe place to stay away from the trafficking and away from the streets. But we know what they really need is a residential home like this with medical facilities, where they can get all the services they need. There is a runaway youth shelter that's available, but it's a 90-day program, and there's really not the services that they need. And so, at Samaritan House, we've seen about 18 kids this year that we've been working with, as case managing them, but they are either at home in juvenile detention in another type of group home or they were in foster care. So, we really need a facility like this for our region and for our task force, because we're continuing to find children that need to be rescued in a lot of hotel, motels in this area where we're finding them. And being that we're a resort area we're finding a lot of youth that are trafficked.

Mr. Weiner: Thank you, any questions? No? Okay, thank you, ma'am.

Madam Clerk: Chairman Weiner, we have a speaker signed up. They're supposed to be virtual, however they have not signed on so I'm going to call them to see if they showed up in person. Rolando and Judith Timm.

Mr. Weiner: Welcome ma'am. Please state your name for the record.

Ms. Timm: Judith Timm. The proposed facility, Samaritan House to be built next door to Courthouse Montessori School is a house that is going to house a group of young students 9 through 17 was what I was given on the telephone. These girls have been traumatically sexually abused by sex traffickers. Although I appreciate the work that Samaritan House is planning to do for these girls, I'm confident that that particular type of group home, being next door to a school is extremely detrimental to our business and the school situation. We have been in operation for 27 years at this location. We cater to the military, to medical personnel and to the general public.

Our school is open daily from 6am to 6pm to accommodate these people. Our children range in age from 16 months old through 12 years old. They're at a very impressionable, vulnerable and inquisitive age; the dangers associated with this type of group home right next to Courthouse Montessori School would cause concern to our parents for their children and for us for our students. As a result, we would begin to lose families. Our school would end up not being available. I'm responsible for keeping these children safe, and I don't feel comfortable with this group home being built close to our school, and I'm certain the parents would share this concern. I have not mentioned it to them. We are strongly opposed to this group home being built beside our school, and thank you for giving me the opportunity to express my concerns.

Mr. Weiner: Thank you. Ma'am, hold on second, do you have a question? Okay.

Mr. Timm: My name is Rolando Timm. I came originally from Chile 58 years ago. One of my goals with my wife was to participate in the education of children. My wife has several degrees in Montessori, and it's a very unusual and very excellent system. We have generated literally thousands of children that have come through our school, that when they go into the real world do a positive job, in their personal morality and their personal standards. Now, I realize that there's a need for a place like the Samaritan House, but to place it right in the middle of a family-oriented place with a school right next to it poses all kinds of problems. I know there can be all kinds of assurance that there will be people involved; I'm sure that the people associated with this traumatized young people are not going to just say bye and let them go by. And the exposure that we are being put into is the same exposure, like somebody will tell you you're safe in your house but if you call 911, you may be put on hold for 15 minutes.

So, this is the sort of thing that is unpredictable, and we feel very upset about having this because our children in a playground right next to this place, they hear all kinds of things that you and I and other people cannot prevent from happening. So, my personal position, as much as I like to support all kinds of charities and other many other good works for young people, I would not want to see that next to us. What is going to probably happen if it does, I'm going to be forced to sell the building and move to another location somewhere, which at this point. I don't know where that would be. And we will be probably severely penalized in the selling of the property because of the existence of this house right next door. Thank you very much. I appreciate your concern.

Mr. Weiner: And hold on one second, Sir. Ms. Oliver has a question for you.

Ms. Oliver: Sir, as I appreciate your perspective on this, I'm just curious as to what impact that you are anticipating from these young girls on to the school. What do you perceive happening?

Mr. Timm: Well, unfortunately it's not the young girls I'm concerned about; it's the girls that these girls were associated with. We have in this country a horrific problem in that regard; it will not have a handle of it. The trafficking and young woman's or whatnot is well known and yet, we haven't controlled it. We don't have control over it. And so, the people associated with these girls in the past probably never want to just sit back and let it go by, they're going to search for it, and we have very little ways to defend ourselves for it.

Ms. Oliver: So, if I understand you correctly, then what you are concerned about is that the sex traffickers coming to find the girls to get them back, and then possibly, there's your school.

Mr. Timm: We're dealing in an unknown. Nobody can give me any assurance, oh, that will never happen. No, if you watch TV frequently enough, you'll see that horrific things like that can happen and the police and the law enforcement agencies have very little power because you have to wait for something to happen before they can do anything about it. And then the rest of the story, you know what will take place.

Ms. Oliver: Thank you.

Mr. Weiner: Thank you, sir. Any other questions? Thank you. Thank you.

Mr. Timm: Thank you very much. I want you to know that my wife and I in 27 years have put a tremendous amount of effort into having the very best type of school for our young children. Thank you.

Mr. Weiner: Thank you very much, sir. We do appreciate it. Thank you.

Madam Clerk: There are no more speakers.

Mr. Weiner: Okay. Do you want to come back up and address anything, please?

Ms. Gauthier: So, I do understand the fear of the unknown, and I talked to Mrs. Timm for quite some time. I didn't know they were in opposition until yesterday; it was the first time I heard from them. I thought they were calling because they wanted to support it actually. I do understand the fear of the unknown, but to put it in perspective, these girls are so replaceable so quickly that traffickers don't go after them. It's not personal; they are a commodity to them. They sell them and they go get ten more. It's not like in domestic violence where they want that specific person or that specific child because it's theirs, and they want ownership. In human trafficking, women and children are a commodity; they're sold. When you go into a massage parlor and you arrest a bunch of women in a massage parlor, there's ten more coming in on an airplane.

So, traffickers don't want these specific children. It's not personal to them; they're a piece of property. So, I think it's little irrational to think these traffickers are going to be coming to the house after these girls and disturbing the children at the school, or that these children that we have, they are children, they're minors, are going to be disturbing the children. I was hoping Marchelle would put up the picture. We added a privacy fence from the school looking over to the property. You can't even see the facility. You can't even see the children, and our fence is going to be much higher than theirs and it would divide the whole property line because who knows what else could be built in that property in the future, but there would be a privacy fence the whole way down. So, you couldn't even see one facility to the next. Those children couldn't even see our children. Our children couldn't see their children.

The facility will have security. There will be beeps on the doors. People can't come in without being beeped in. There will be a foyer where people have to be beeped in. So, I understand the concern, though I want to make sure it's more realistic. There's not going to be men out there or traffickers out there going after these girls. With all 18 children that we have served this year, no one has ever been taken back or pulled back and they weren't even in a secured facility. They were either in foster care or in their home or places like that. I do understand the fear of what someone thinks because it's a very scary thing. But law enforcement, I just have to say law enforcement, Homeland Security, FBI, they do a great job. And they are at our beck and call, in minutes. They bring someone to Samaritan House who's an adult and if we need them, we do safety planning, and they're in the community and in homes. And they are at our beck and call because we're helping them with a victim that they rescued, and they want that victim to help prosecute in a case against a trafficker. So, they're very close by.

So, I just don't see the fear as deeply as they do. And I understand it's their school and their property and their children, they're trying to protect them. I told them; we would do everything we could to work with them. So, we added that privacy fence. Could we move the property over to the left a little further towards the church, because the church doesn't mind at all? They wanted to do this project; they want to give back to the community. So, could we move it over to the other side? Absolutely, we want to be good neighbors, we know we're going to be neighbors for a long time. So, whatever we can do to help accommodate with trees and shrubbery and fences and moving of the building, it's going to be costly, but it's not so costly that we can't afford to do that in the project. So, could we put the building closer to the other side? Absolutely, if that would help assuage their fear, we're willing to do that.

Mr. Weiner: Okay, thank you, ma'am. Any questions? Yep. George?

Mr. Alcaraz: Okay. Ms. Gauthier, how many other safe havens or group homes do you have currently now?

Ms. Gauthier: We have no group homes for children. That's why it's a gap. We have 14 homes for adults. So, if it's a child, I think an 18-year-old is still a child. 18 and over, they can come into any of our 14 safe shelters that we have in communities. But if they find a minor under the age of 18, you have to be in a licensed facility, and this will have oversight by Department of Behavioral

Health. It'll have a licensing involved and staff will be 24/7, there will never be anyone there without a staff member. So, they have to be there 24/7.

Mr. Alcaraz: And you've never had any problems before with any of those safe havens?

Ms. Gauthier: No.

Mr. Alcaraz: Okay, thank you.

Mr. Weiner: Mr. Coston?

Mr. Coston: Will the children that you'll be aiding go to school, or will they be there all day?

Ms. Gauthier: Some will go to public school, and some will be homeschooled. It really depends on the situation and how deeply they're affected and what their needs are. So, some children who have not been in this situation for a long time and don't have the deeper level of trauma might just go to school and be fine. Others may need to be homeschooled, and so we'll have a classroom there and we have teachers and people to help with homework and things like that. So, we are going either direction, and that has to be approved by your license.

Mr. Weiner: Mr. Whitney? Mr. Graham? Turn your mic on, thank you.

Mr. Graham: Sorry about that. So, I was a little confused, because at one point I thought staff said that the building couldn't be shifted to the south because maybe it was sewer/

Ms. Gauthier: It is going to be more costly to shift it, because they're going to have to tie into sewer and water further away from the building. But like I told Mrs. Timm yesterday, if that would make her feel more secure to have the building further over. I mean, I have our engineer on call right now, he can answer those questions. It can be shifted; it's just going to be costly.

Mr. Graham: Was that because there's not enough fall with the sewer? Or is it because there's more ..

Ms. Gauthier: It's further away.

Mr. Graham: Because it's further away, so it's just the distancing. So, it's just additional pipe. Okay, so that's not as costly as if there wasn't enough depth or fall.

Ms. Gauthier: Correct. Yeah, and the way the building is positioned too I think, well, I'm not sure. I would have to let the engineer speak. He did it in a way -- they positioned the site plan in a way to make it easy for building.

Mr. Graham: Okay, but you could move it to the south a little bit.

Ms. Gauthier: Absolutely, and I told Mrs. Timm that we would work with her. If that would make them feel better and feel safer, we would do that.

Mr. Graham: Is there any security? I understand from what you're saying that it's not personal. These people that do the sex trafficking or trafficking of humans, they just go get new ones. I guess there's an endless supply.

Ms. Gauthier: Unfortunately. Yeah, unfortunately that's true.

Mr. Graham: So, but do you have any security, will you have to have any kind of security there?

Ms. Gauthier: We don't feel like a security guard is necessary because the security guards aren't armed. They really can't do much anyway. I mean, calling 911 is probably the best way to deal with it. I guess it's a possibility someone could come to the house, but we don't anticipate that being an issue. And we have so many staff going in and out and case managers and counselors and people that are there and like Homeland Security, they come several days a week to our office because they're interviewing clients, and they're there all the time. And they're very involved with the case generally; either the perpetrator is in jail, or the perpetrator is on their radar, and they're doing an investigation. So, when it comes to a minor being victimized, usually the perpetrators in jail by the time they get rescued and they come to us. So that's another reason why see less of a fear, you know.

Mr. Graham: If somebody is coming back, yeah.

Ms. Gauthier: Yeah, typically they're in jail. And if you've seen all the prosecutions we've gotten in the last couple of years, since the task force has started, we've gotten many prosecutions where people have gotten 15, 20, even 40 years prison time for the trafficking.

Mr. Graham: Gotcha. So where will the kids, the girls, where will they hang out outside? Is there going to be an area where they can hang out?

Robin Gauthier: Yeah, with our licensing guidelines, we have to have a recreation room inside, so we have a recreation room inside. And then in the back we have a porch, that's going to be like a screened in sunroom type area. I suppose they'll go outside in the backyard sometimes, but that's not typically going to be part of their day-to-day routine. We will take them on field trips; they're not going to be locked up. They're not the criminals here, they're the victims. So, they're not going to be locked up. We're not going to chase kids down and wrangle them. It's a voluntary program, if they want to be there, they're welcome to stay there. We want to provide services. If they don't want to be there, they can leave.

Mr. Graham: So, if they want to leave, they can leave?

Ms. Gauthier: They can leave. We're not chasing kids down. And if they're in a situation where there's juvenile justice, then they're going to be in juvenile detention. So, if there's any criminal

activity or things regarding them being a runaway or things like that, that's usually how they end up in juvenile detention. So, these are the kids that really need to be rescued. They need a place to go temporarily until Child Protective Services figures out what they're going to do with them or if they're going to return to family or how the situation is going to resolve itself. Really depends on each case. Each case is so very different.

Mr. Graham: Yeah. Okay, alright. Thank you very much.

Ms. Gauthier: Thank you for your question.

Mr. Wall: I've got just a couple. So, you mentioned plane, Is English a second language for some of them?

Ms. Gauthier: Most of the sex trafficking that's happening in this area is domestic, only 5% of our cases have been foreign nationals.

Mr. Wall: Okay. I'm looking at the site. It's kind of an interesting site because there's a trail, the planned fence is only going to be on one side. Is that correct?

Ms. Gauthier: Well, we added that to totally block us from the school, we added that high privacy fence. That's what I was hoping Marchelle would show the picture of what it looks like for a person. They'll only see the very tip of the school; they won't see anything on the property and the children can't see the children. It's a six-foot-high privacy fence along the whole property from the very end.

Mr. Wall: Because it looks like there's a paved trail behind the property that parallels the creek in the back. I'm not sure what the traffic is.

Ms. Gauthier: Yeah, I don't know.

Mr. Wall: Traffic is not the right word, but the pedestrian access back there that goes to the community pool. It connects to the community pool. So, there's certainly public access on the backside. I'm not sure what?

Ms. Gauthier: I thought that it was a creek back there.

Mr. Wall: There's a creek but you're just looking at the aerial and even on the survey, it shows a paved trail on the backside.

Ms. Gauthier: Well, we have no problems putting up a fence there either. If that will make people feel better, we're happy to put up a fence.

Mr. Wall: Right, and that's not my point. My point is that the no matter what, there's going to be public access. There's public access right now and there's going to be pedestrians. I'm just

pointing that out and I'm sure that the school already is aware of the access back there. There is probably heavier than any kind of activity that's going to be around the school. What about the entrance? Have you talked to the engineer about the location of your driveway? You know, maybe the building might be centered in the property but possibly the entrance on the other side towards the church as opposed to towards the school. Is that a possibility that you've considered?

Ms. Gauthier: Yeah, Can they open his mic so that he can answer that? He's on? Joe Buschi?

Madam Clerk: Mr. Buschi, if you would wait two to three seconds and then begin your comments.

Mr. Buschi: Okay, yes, that is a possibility. We can put the parking lot on the other side of the building. We don't see any problem with that. Typically, when you're locating a parking lot, you want to put it on the side of the building where you're not approaching the building. But there's no problem with doing it on the other side as well.

Mr. Wall: Okay, thank you.

Mr. Weiner: Any other questions? Mr. Graham?

Mr. Graham: Mr. Buschi, can the building shift 25 feet to the south? Let's say you kept the parking on the same side of the building, could you shift the building to the south 25 feet and shift the driveway to the south 25 feet creating a larger buffer between the Montessori School and this project, this building?

Mr. Buschi: Yes, we can do that. There's no issue with doing that, like Robin had pointed out, it's just going to be some additional sanitary sewer because where we have to tie in the existing sanitary sewer manhole is near where the property line is being proposed on the north end of the property. But it shouldn't be a problem being able to run the sanitary the additional length to get to that point.

Mr. Graham: There's enough room. The depth is okay? The depth? Is he gone?

Mr. Buschi: We still have to confirm the depth and we'll do that when we get into the actual design. So, we'll have to confirm that it is deep enough. That hasn't been done yet.

Mr. Graham: Alright, thank you.

Mr. Snyder: Mr. Graham? Only point that I would like to make?

Mr. Weiner: Come up to the microphone, please sir.

Mr. Snyder: Excuse me. Yeah, the only point that I would like to say is that when you do shift the building, and if you just move it over 25 feet. I mean, there is one point almost, well, it's actually a little bit less than two acres now, because the Montessori School has actually encroached on

the property that we're buying by 3,500 square feet. And so, as a result of that, We are looking for this to potentially be other uses there. And so, this was not I mean, we are starting off with a 5000 square foot facility and it could be a larger facility at some point in time in the future. So, we do want to preserve as much flexibility as possible for potential further utilization of the property. That's all.

Mr. Graham: No problem. Thank you, sir. I was just thinking of trying to get the Montessori School comfortable as well.

Ms. Gauthier: Yeah, I mean, we could put administrative offices back there, you know, in the future there may not be more client services, the future maybe administrative offices back there. So, we even have more oversight. So, we could potentially have three buildings there. But if we center that and put it in a location that we can't build other buildings, that would restrict us from being able to use the full 1.9 acres. So

Mr. Weiner: Thank you ma'am. Thank you. Alright, any more speakers?

Madam Clerk: No more speakers.

Mr. Weiner: Ma'am, I'm sorry. We have a procedure, and we all had our time to talk. Okay. Mrs. Klein? Well, hold on a second, Mr. Inman over here wants to start off here if you don't mind. Okay. We're going to close this out and open up to us for discussion. Mr. Inman?

Mr. Inman: Thank you, Mr. Weiner. I just want to say I come to this with an interesting perspective, having served 30 years on the Board of Seton Youth Shelters, which is the facility I think Robin was referring to probably, that has some experience with sex trafficking situations. Seton Youth Shelters for those of you don't know, is a home for runaway and throw away children. So, I'm familiar with the fact that we have in that facility have housed girls that have been subject to sex trafficking. Not only that, we have two shelters: one's a boy's shelter, one's a girl shelter.

So, the history of this is really, I think, very telling in terms of how this goes. When Seton Youth Shelters was started, we had just girls and we were on a site of a church, the St. Nicholas Catholic Church in Kings Grant. And frankly, that went very well. We didn't have any trouble with the neighbors or neighborhood or children going to Sunday school being interfered with by our residents. Again, we are a licensed facility. We all have staff there 24/7. And then came a time when we wanted to allowed the first shelter established for girls. The second shelter was established in the late 90s for boys, and we were blessed by having a site at the St. Aidans Episcopal Church that had offered us a site similar to this situation. It was a parcel on their church site, which they really weren't using, didn't have any plans for and they allowed us to build a shelter there, on the corner of Kings Grant road and Edinburgh Drive. It's there now.

Due to objections from neighbors, I was persuaded at that time by a city council person to please move the girls to that new shelter, because that might alleviate the concerns of the neighbors about having such a shelter close to them. We did that. And the interesting thing was a lot of the

people that were objecting, when they were told that there was a boy's shelter a half a mile up the road, they had no idea; never heard anything bad about that. So, we now have been there since 1998. And truly of course, in recent years, the sex trafficking problem has grown and we didn't have that much sex trafficking victims in our facility until maybe four or five years ago. But we have and we've not experienced anything where we had people, certainly in the building, trying to make contact with these young people that were being housed for us. Now we're only 90-day facility, so we need this. We need this.

It's a great opportunity that Samaritan House is offering to do this. I don't think it poses any risk that the fears that people have, we actually had people come to a hearing on the girl's shelter asking if we were going to put bars on the windows to keep them in. We said no, they want to be there. They came here, they want help. If they want to leave, they can leave but they really need help. They want help and they're not going to need having any bars on the windows. So, that's what we have going here, you know, we have victims that want help and are thankful for it, I'm sure. And moving this building over 25-50 feet, I don't think that's going to do a thing to alleviate the concern that these folks have, they've expressed an extraordinary concern about their property.

I'm hoping that I'm telling the story is helping them to understand that the risk that they fear is not, in my experience, real. The impact on their property values and so forth. But I would hate to see you having to sacrifice any money to moving the house for purposes of a buffer even, a greater buffer, bearing in mind that the offer that has been made and will be committed to I'm sure by Samaritan House to put up a fence, the shrubbery and so forth to create as much of a barrier and visual barrier and physical barrier, as could be desired. So, I don't see anything wrong with the application.

Mr. Weiner: Thank you. Mrs. Klein?

Ms. Klein: I have to read something first. Pursuant to the State and Local Government Conflicts of Interest Act I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion on Vote Number 7; Robin Gauthier and the Catholic Diocese of Virginia, 1593 Lynnhaven Parkway, Virginia Beach, Virginia. This property is located in the Green Run Homes community. I also reside in the Green Run Homes community and am on the Homeowner's Association Board for the community located at 1248 Green Garden Circle, Virginia Beach, Virginia. I've been informed by the City Attorney's Office that I have no personal or financial conflict and can vote on this application. Therefore, I will participate in the vote or discussion of this matter at today's meeting.

So that being said, the bulk of my career has been spent in family violence and child abuse. I can tell you that those are the hardest facilities to get into from a security standpoint with their locked doors when they don't have a security officer. I can't even pick up my son from childcare without a photo ID and they know me. So, I believe the Samaritan House team when they say that this is going to be a secure facility and that only known people will be able to be led in. Through my work

with the Child Advocacy Center at CHKD and in family violence, I can't stress the importance of having this in the community.

I have worked at community-based facilities such as this, and so I absolutely appreciate the concerns of Courthouse Montessori. In my experience, they are typically unfounded. And like Mike said, most people don't even know that they exist if they're in a row -- in like a set of row homes. I'm grateful to the Samaritan House for taking the responsibility. Robin came to a board meeting and answered any questions that came up among the Green Run Board because we will be working in tandem with them. And they have the board's full support moving forward, and so I will absolutely be voting in favor of this application.

Mr. Weiner: Alright. Mr. Coston?

Mr. Coston: During my service in the fire department, I had the pleasure of inspecting the two places that Mr. Inman spoke of as well as the Judeo-Christian Outreach over on 13th or 14th Street, another place on Lynnhaven Parkway, all over the City and I've never seen any of those types of problems that we are fearing here today. They're all well run by professional staff. Even when the kids were wayward, the staff was adequate for the situations that they had to deal with. So, I'll be supporting that as well.

Mr. Weiner: Good. Jack?

Mr. Wall: I feel this is very low intensity use. There's low risk due to impacts, the neighbors fully are further mitigated by landscaping and fence, so I'm going to be in support of this application also.

Mr. Weiner: Alright. Anyone else? No motion? Ms. Klein?

Ms. Klein: I move to approve the application for Robin Gauthier and the Catholic Diocese of Richmond.

Mr. Weiner: We have a motion by Mrs. Klein, do we have a second? Seconded by Mr. Inman, we are ready to vote.

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: By a recorded vote of nine in favor, zero against, Agenda Item Number 7 has been approved.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. When the site is developed, it shall be in substantial conformance within the submitted site layout exhibit entitled, "CONCEPTUAL SITE LAYOUT PLAN – THE HALLOW SAMARITAN HOUSE", prepared by Draper Aden Associates, dated 12/22/2020, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed building shall substantially adhere in appearance, size and materials to the submitted elevations entitled "THE HALLOWS DEVELOPED FOR THE SAMARITAN HOUSE", prepared by Cox Kliewer & Company, P.C., dated January 2021, 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 and approved by the Development Services Center Landscape Architect prior to the final site plan approval.
4. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official prior to the occupancy of the Group Home.
5. The applicant shall not exceed the occupancy load set by the Building Official's Office for this Group Home.
6. The applicant/owner shall submit a subdivision plat with the City of Virginia Beach Department of Planning & Community Development. Said plat shall be subject to the review and approval of the Department of Planning & Community Development, and plat shall be recorded with the City of Virginia Beach Circuit Court Clerk's Office within 365 days from the date of the City Council action.

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.

Item 8

**Martha H. White [Applicant] Steven K. Finger et al. [Property Owner]
Subdivision Variance (Section 4.4(b) of the Subdivision Regulations
6332 Pocahontas Club Road**

April 14, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Thank you. Thank you very much. We're going to go to Item Number 8.

Madam Clerk: Agenda Item Number 8. Martha H. White is an application for a Subdivision Variance of Section 4.4(b) of the Subdivision Regulations on property located at 6332 Pocahontas Club Road in the Princess Anne District. Will the applicant or the applicants' representative please step to the podium?

Mr. Weiner: Welcome sir. Please state your name for the record?

Mr. Warren: My name is Harold Warren. I'm with the land surveying company of Warren and Associates and we are here to support Ms. White, who's here. Basically, we're tidying up the estate. One of Mrs. White's sister, Betty Styron, she's willing to settle her part of the estate by letting her daughter continue to live in this home. We've agreed with Marchelle that a little change in the note would be perfect on the subdivision plat, and I don't think we have anybody who has a problem with the plan. Are there any questions on it?

Mr. Weiner: Mr. Horsley?

Mr. Horsley: Harold, what is the change you want to put into in there?

Mr. Warren: It's just a simple change to that if we were to put the property back in its original configuration, we could actually tear down the existing house there and move it over to a part of the property that's out of the flood zone.

Mr. Horsley: In other words, what you're saying is if the two pieces of property ended up in one ownership, and they wanted to remove their home that's there and build one more, build another home on the spot that that meets the ordinance, elevation and whatever.

Mr. Warren: Yeah, to get the property out of the flood zone. I mean, it's muddy and why they put this home over there, I'm not quite sure. But we've agreed that if we were allowed to do the 4 and a half acre tract of land, we'll never put anything another residential unit on the other parcel. But, I wanted to put a note in there that if somebody was able to come buy the land and possibly remove the line, the new subdivision line between the properties, that we could actually put a new house on that 25-acre tract.

Mr. Horsley: Can I ask Mr. Tajan a question?

Mr. Weiner: Go ahead; I think that's the same one.

Mr. Horsley: If that would have happened, if in the future somebody went there, or if the lady that owns a four and a half acre piece that she would be getting, the daughter, if she ended up with the whole property, just for example, and they wanted to remove that house they would have to remove the lot line, they still have to go to Council or come to Planning and have a lot line removed, and they could petition to build a home on another location as long as it met the elevation and whatever.

Mr. Warren: Not sure if I understand your question correctly, but –

Mr. Horsley: No, I'm asking Mr. Tajan.

Mr. Tajan: So, the Subdivision Variance right now would be to create the two substandard lots based on the amount of wetlands that are located on the property, and they don't meet the criteria. If they were to put the properties back together, and I'm trying to look at it now. The existing property itself now does not meet the minimum standard, minimum acreage of property over outside of the water marsh wetlands or the floodplains with special restrictions. So, I understand their point that they want to be able to maintain the ability to build one residence on the lot if they ever put it all back together. There is one residence on the lot now. Staff doesn't disagree with that approach. We believe we can come up with a revised condition. But again, the key is that on this parcel, this whole parcel, though regardless of what it is, it's going to only be allowed to have one residence.

Mr. Horsley: Yeah, I think that's understood it can only be one residence. But I think what most Mr. Harold wanted to do is if somebody ended up with the whole parcel, could they move, build, or do away with that house and build it on another location?

Mr. Tajan: Currently, the way it's worded now, they could not.

Mr. Horsley: Could not.

Mr. Tajan: Yes, that's correct.

Mr. Horsley: Can that wording be changed to satisfy that?

Mr. Tajan: I believe we can. Our concern, of course is that we're creating the larger lot which does not meet the requirements. So, we don't want to in the future, let's say it never comes back together, that no residence is built on that lot, I'm having trouble knowing how to say both right, because we need on the plat when we created that that one lot is not buildable. We do have something written up and I just need to make sure I run it by the City Attorney to see if we're on

the same page, and that we can do both. It may be that we add a third condition to the proposal that could cover the ability if they put it back together if that makes sense.

Mr. Weiner: Can I say something really quick? So, no matter what if this house gets torn down and they go to build a new house, no matter what, it still has to come back to Planning.

Mr. Tajan: I think the applicant is requesting that it doesn't have to come back as far as the Subdivision Variance.

Mr. Weiner: Is that what you're saying?

Mr. Warren: Yeah, you know, this is kind of expensive, and the whole parcel will only ever have one residential unit just like it is now. If we were to vacate the lot line we create, we're just asking that we can only have one house there and put it in a different spot on the lot that's more favorable flood zone wise, and soils.

Mr. Weiner: Mr. Horsley, how do you feel about that?

Mr. Horsley: I mean, I see what he's saying. The likelihood of that happening is kind of farfetched, but I guess it could happen, and I just think Harold's thinking that if he puts an opportunity there, it would make the property maybe a little bit more valuable as I see. I'm not sure.

Mr. Tajan: It does not preclude them to come back to amend the Subdivision Variance, as well. If they put the property back together, and they come back to the process, of course, Staff would be supportive of putting it back the way it was. But the hard part for us is we want to make sure we hold firm on the ability that we're not creating a lot. Yeah, right now we're creating a lot that doesn't meet the minimum criteria in either direction, right. So, we just want to make sure that we're capturing that and I'm sorry, now I'll stop with my comments.

Mr. Weiner: Yes sir, Mr. Inman?

Mr. Inman: Couldn't the subdivision plat simply have a provision on it that says that there'll be only one house on it. I mean, so many words, pick your lot but it's only one house and there can only be one house on the two lots. No, that's not what I'm trying to say. Yeah. I know there's a way to say it. But the idea being that on the total property, there can only be one house, it can be on either lot but not at the same time. There's a way to say that, if on a plat if you had it. If you could wouldn't that solve the problem?

Mr. Horsley: I think best thing to do is go with it like it is and if that situation happens, that applicant would come back and request Planning to do away with the lot line and they build. There would be only one dwelling on the 30 acres to start with, and then that that would have to come back through here. It would be a cleaner way to do it, I think if we did that, and then they could have that lot line dissolved and then they could build the house on another side. Is that the cleaner way to do it most of time?

Mr. Tajan: Yeah, it is Mr. Horsley. That is the cleaner way.

Mr. Horsley: I'd think so. Harold, I think that's really the cleaner way. It's going to probably cost somebody a little bit of money and 15 and 20 years but you and I won't be here to bother that. But, I think the goal now is to get it so the people, the family can get the estate settled and I think this what we've got here does that, and I don't think we'll create any confusion but by leaving it like that. I think it's the best way.

Mr. Wall: I'm just curious. How long has the property been in the family's ownership?

Mr. Warren: Had it since the 60s, early 60s.

Mr. Weiner: The Halstead family.

Mr. Warren: 1949.

Mr. Weiner: Alright, any other questions?

Mr. Horsley: Yeah, that's kind of been a difficult one. We've talked to Harold about it several times, I have talked to Ms. White about it several times, I've even talked to Bobby about it. Ms. Henley, she's been scratching her head what to do. She just said Don, take care of it. So, we've come up with this and I think this is the cleanest, clearest way to handle it and let the family go ahead and get their estate settled, and then if that situation comes about again, I think...

Mr. Warren: I'll put the line back.

Mr. Horsley: Yeah.

Mr. Weiner: Thank you, sir. Appreciate it. Alright, thank you. Mr. Horsley?

Mr. Horsley: I'll make a motion that we approve the application as stated.

Mr. Weiner: Second?

Ms. Oliver: Second.

Mr. Weiner: Motion by Mr. Horsley and seconded by Mrs. Oliver, ready to vote.

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of nine in favor, zero against, Agenda Item Number 8 has been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT

Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The applicant/owner shall submit a subdivision plat with the City of Virginia Beach Department of Planning & Community Development. Said plat shall be subject to the review and approval of the Department of Planning & Community Development, and plat shall be recorded with the City of Virginia Beach Circuit Court Clerk's Office within 365 days from the date of the City Council action.
2. There shall be no future residential development or further subdividing of the 25.6 acre residual parcel. A plat note stating that "There shall be no future residential development or further subdividing of the 25.6 acre residual parcel" shall be added to the Subdivision plat and recorded with the City of Virginia Beach Circuit Court Clerk's Office.

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.

Item 9

**City of Virginia Beach [Applicant & Property Owner]
Rezoning (R-5D Residential Duplex to R-7.5 Residential)
206 Bob Lane**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you, Ms. Oliver. The next item on the agenda is Agenda Item Number 9, City of Virginia Beach for a Rezoning from R-5D Residential Duplex to R-7.5 Residential. Is there a representative for this item?

Mr. Weiner: The representative?

Madam Clerk: I apologize, Mr. Chairman, we do have a speaker Jennifer Dew. Ms. Dew, if you will wait two to three seconds and then start your comments.

Ms. Dew: Good afternoon everyone. My name is Jennifer Dew, Right of Way Agent with the Public Works Real Estate Office and I am the representative for the City's application for the rezoning of 206 Bob Lane, Agenda Item Number 9. The City is requesting to rezone the property from R-5D Residential Duplex to R-7.5 Residential. This City owned property is currently vacant and is located in the Oceana Gardens West neighborhood. The property was acquired on February 3, 2014 as part of the City's acquisition program to prevent further development of incompatible uses in the APZ-1 accident potential zone surrounding NAS Oceana.

At the time of the acquisition, the property was developed with a residential duplex that has since been demolished. City Council has approved sale of the lot to the adjacent property owners. Each half of this lot will be sold to each adjacent property owner located at 200 and 208 Bob Lane to be incorporated into their existing lots. The property will be re-subdivided to eliminate the interior lot lines and is being rezoned to prevent dual zoning on the newly created lots. Under current City Policy the City pays to perform the re-subdivision to vacate the interior lot lines. The property will be sold with the deed restriction that prevents any new dwelling from being constructed. The owners could build a fence, a pool, a shed or a garage on the property. They could also rebuild their home as long as they comply with the site plan requirements. Staff is recommending approval of this request. I will stand by for any questions.

Mr. Wall: Is there any opposition for the item to be placed on the Consent Agenda? Hearing none, we'll move to the next agenda item.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

Item 10

**A&G Auto Sales [Applicant] G&A Properties, LLC [Property Owner]
Conditional Use Permit (Motor Vehicle Sales & Rentals)
604 Newtown Road**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Is there any opposition for the item to be placed on the Consent Agenda? Hearing none, we'll move to the next agenda item. The next agenda item is Agenda Item Number 10. A&G Auto Sales requesting a Conditional Use Permit for Motor Vehicle Sales and Rentals. Is there a representative for this item?

Mr. Bourdon: Thank you, Mr. Vice Chair. Again, Chairman Weiner, members of the Commission, Eddie Bourdon, Virginia Beach attorney representing A&G. We appreciate being placed on the Consent Agenda. All 16 conditions as recommended by Staff are acceptable to the applicant. I want to thank Marchelle for her work on this application. There were a number of moving parts going through this. I appreciate being on consent. Thank you.

Mr. Wall: Is there any opposition for this application to be on the Consent Agenda? Hearing none, the Commissioner has asked Mr. Coston to read this into the record.

Mr. Coston: The applicant is requesting a Conditional Use Permit for Motor Vehicle Sales and Rentals on property located in the B2 Community Business District. The site is developed with a 2,900 square foot one story building constructed in 1969 that was previously occupied by a title loan business. The applicant proposes to display up to 74 vehicles on the site. No auto repairs proposed on-site and a condition is recommended prohibiting that activity. To ensure that this more intense use is not permitted adjacent to the single-family dwelling to the north of the site. The applicant is seeking a deviation to the foundation landscaping requirement along Paca Lane and the 12% display area interior landscaping requirements.

In lieu of the foundation plantings along Paca Lane, the applicant will install additional plantings in the street frontage along Paca Lane. In regard to the minimum 12% interior landscaping, the applicant intends to install landscaping along the north-eastern border of the site totalling approximately 750 square feet, roughly half of the required 12% interior landscaping. Based on this, a deviation to the required landscape screening is requested. The concept plan depicts a proposed freestanding sign located near the intersection of Newtown Road and Baker Road as shown in the submitted elevation. This 8-foot-tall sign will be monument style with the brick base to match the brick material on the existing structure. Typical hours of operation are proposed as 9am to 8pm, Monday through Saturday and 10am to 6pm on Sunday. There will be two to four employees on the property during regular business hours. Staff has recommended approval and we have therefore placed this item on the Consent Agenda.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival,

LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. Foundation planting along Paca Lane is not required and a minimum of 750 square feet of interior landscaping shall be installed within the perimeter of the designated display area. This is a deviation as required by the City Zoning Ordinance and Site Plan Ordinance.
2. When the property is redeveloped, it shall be in substantial conformance with the concept plan entitled "CONDITIONAL LAND USE EXHIBIT, CAR DEALERSHIP, 604 Newtown Road, Virginia Beach, VA ", dated 03/03/2021 and prepared by Christos A. Damalas, Professional Engineer and Kathleen Zeren, Landscape Design, 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 Planning and Community Development Department for review and ultimate approval prior to the issuance of a Certificate of Occupancy. The Plan shall include existing and proposed street frontage, foundation landscape plantings, and interior landscape plantings to include planting details, plant installation notes, and a plant materials list. All landscaping shall be maintained on-site in accordance with the approved Landscape Plan.
4. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
5. One freestanding sign shall be a monument-style freestanding sign with a brick base, as depicted on the exhibit entitled "CONDITIONAL LAND USE PERMIT, CAR DEALERSHIP, 604 Newtown Road", dated 03/02/2021, and prepared by Christos A. Damalas, Professional Engineer, and the sign shall be no taller than eight feet in height measured from the ground to the top of the sign.
6. All vehicles for sale or rental shall be located on a paved surface within the designated display area identified on the plan referenced in Condition 2 above. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
7. There shall be no vehicles displayed within the northernmost access point along Newtown Road. Vehicles shall not block or prohibit the entry or exiting of utility vehicles along this entrance.
8. The parking lot shall be striped to reflect all parking spaces required by the Zoning Ordinance, including handicap spaces in accordance with the Americans with Disabilities Act (ADA).
9. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
10. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
11. There shall be no auto repair or service on the site.
12. There shall be no outside audio speakers for any purpose.
13. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.
14. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. No window signage shall be permitted.

15. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties.
16. No motor vehicle shall be displayed for sale or rental within the first five (5) feet of any front yard or side yard abutting the right-of-way line of a street to be measured from the property line to any displayed motor vehicle on the premises.

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.

Item # 11

**The Virginia Beach Winery, LLC [Applicant] Sifen Development Company, Inc. [Property Owner]
Conditional Use Permit (Craft Winery)
1064 Lynnhaven Parkway, Suite 113**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you Mr. Coston. The next item on the agenda is Number 11; the Virginia Beach Winery LLC is the Applicant, Sifen Development Company, property owner for a Conditional Use Permit Craft, Winery. Is there a representative for this item?

Mr. Bourdon: Thank you again. For the record Eddie Bourdon, Virginia Beach attorney representing the applicant, Joshua and Maria Robison, the principles of Virginia Beach Winery who aren't here, I advised them that they could go back to work. We appreciate this application being placed on the Consent Agenda. All five conditions as recommended by staff are approved are acceptable to my client, and I appreciate Hoa's efforts on this application. Thank you.

Mr. Wall: Thank you. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we've asked Mr. Graham to read this into the record.

Mr. Graham: Thank you. This application is for an 820 square foot craft winery and 8825 square foot wine tasting room. The applicant is seeking a Conditional Use Permit to allow its intended use as a craft winery. The property is located -- it's at 1064 Lynnhaven Parkway and Suites 110 through 113 in the Rose Hall District. The applicant has agreed to all conditions. Planning Commission agrees with Planning staff's recommendation to approve the application and therefore has placed Agenda Item 11 on the Consent Agenda.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by

Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The occupancy load for the Craft Winery shall be established by the City of Virginia Beach Building Official's Office.
2. A Certificate of Occupancy shall be obtained prior to the operation of the Craft Winery.
3. There shall be no sale or consumption of alcoholic beverages on the premises between midnight and 10:00 a.m.
4. Music or live performances will only be allowed inside the establishment when all doors and windows are closed.
5. All signage on site shall meet the requirements of the City Zoning Ordinance. There shall be no neon or electronic display signs or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. A sign plan shall be submitted to the Zoning Office for review and permitting prior to the installation of any signage. Any existing signs that did not receive required permits shall be submitted to the Zoning Office for review.

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.

Item # 12

**Kroll Investment Group, LLC [Applicant & Property Owner]
Modification of Proffers
1529 Taylor Farm Road**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you, Mr. Graham. The next application is application number 12. Kroll Investment Group LLC, Modification of Proffers. Is there a representative for this item?

Mr. Bourdon: Again, thank you Vice-Chair, Mr. Chairman, members of the Commission. For the record, Eddie Bourdon, Virginia Beach attorney representing Kroll investments. This is a proffer modification, so there are no conditions other than the proffers that we've modified and simple application. Again, appreciate being on the Consent Agenda.

Mr. Wall: Thank you. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we've asked Mr. Inman to read this into the record.

Mr. Inman: Thank you Mr. Wall. This is an application for Modification of Proffers. The subject site is in the Taylor Farm Commerce Park and was zoned Conditional I1 back in 2002. The issue here is that the exterior facade of the building constructed in Taylor Farm Park must be brick split face block -- painted block concrete panels, stone, wood, E.I.F.S or metal and be of an earth tone.

The request is to modify the proffers to allow for the use of fiberboard hardie plank. The staff's opinion is that the cement fiberboard as a permitted construction material within a park is acceptable. The surrounding buildings are industrial and some office -- this is going to be more of an office appearance but also have a storage area. It's felt that this is consistent with the comprehensive plan recommendation that calls for development along key roadways to have an attractive high quality architectural building materials and design. So, on that basis, we agree and put it on the Consent Agenda.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a

representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number

18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

PROFFERS:

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

Proffer 1:

Subsection “h” of amended proffer numbered 2 as contained in the 2004 Amended Proffer recorded in the above referenced Clerk’s Office as Instrument Number 200409220151888 is hereby modified and replaced with the following:

h) No building shall exceed forty-five feet (45') in height and the primary exterior surface of all buildings shall be either brick, cement fiber board (Hardie Plank), split face block, painted block, concrete panel, stone, wood, E.I.F.S. or metal and shall be an earth-tone color or colors. The exterior surface of any building on parcels numbered 8 through 14 on the site plan, which are visible from Dam Neck Road shall be either brick, cement fiber board (Hardie Plank), split face block or stone.

Proffer 2:

Except as expressly modified herein, with respect to the Property, all of the proffers, covenants, restrictions and conditions set forth in the Original Proffers as modified by the 2004 Amended proffer are ratified, affirmed and remain binding upon the Property and upon any party holding title under, by or through the Grantor.

Staff Comments: The request to include cement fiber board as a building construction material within the industrial park area is acceptable in Staff's opinion. 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.

2004 PROFFERS – AMENDED PROFFER #2

The applicant desires to modify Proffer 2 as follows:

“The parcels shall be subject to the following mandatory site development guidelines:

- a) A fifty-foot (50') landscape setback from Dam Neck Road shall be maintained by the Property Owners Association and no improvements shall be located within the landscape setback.
- b) A twenty-foot (20) landscape setback from London Bridge road shall be maintained by the Property Owners Association and no improvements shall be located within the landscape setback.
- c) A minimum fifty-foot (50') building setback shall be required from London Bridge Road.
- d) A minimum thirty-foot (30') side yard building setback shall be required on those lots with a rear property line which abuts Dam Neck Road.
- e) A minimum fifteen foot (15') side yard building setback shall be required on those lots which do not have a property line abutting Dam Neck Road, provided a ten foot (10') wide Category II Landscape Buffer is maintained along the entire length of the side property line from which the fifteen foot (15') setback is measured.
- f) No freestanding signage shall be permitted adjacent to either Dam Neck Road or London Bridge Road and all signage shall comply with the “SIGN CRITERIA FOR TAYLOR FARM CORPORATE PARK”, dated March 15, 2002 which are included in the Deed Restrictions described in Proffer number 3.
- g) No onsite vehicular parking, outdoor storage, loading docks or loading areas shall be permitted between Dam Neck Road and any building on a parcel adjacent to Dam Neck Road.
- h) No building shall exceed forty-five feet (45') in height and the primary exterior surface of all buildings shall be either brick, split face block, painted block, concrete panel, stone, wood, EIFS, or metal and shall be an earth-tone color or colors. The exterior surface of

any building on parcels numbered 8 through 14 on the site plan, which are visible from Dam Neck Road shall be either brick, split face block or stone.” The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA).

2002 PROFFERS

1. When the Property is developed, it shall be developed into no more than fourteen (14) parcels substantially as shown on the exhibit entitled “TAYLOR FARM CORPORATE PARK SITE PLAN Virginia Beach, Virginia”, dated 03/11/02 and prepared by Spectra Group, which has been exhibited to the Virginia Beach City WOMACK – CHAPPEL Agenda Item # 19 Page 3 Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).
2. The parcels shall be subject to the following mandatory site development guidelines:
 - a) A fifty-foot (50') Landscape setback from Dam Neck Road shall be maintained by the Property Owners Association and no improvements shall be located within the Landscape setback.
 - b) A twenty-foot (20') Landscape setback from London Bridge Road shall be maintained by the Property Owners Association and no improvements shall be located within the Landscape setback.
 - c) A minimum fifty-foot (50') building setback shall be required from London Bridge Road
 - d) A minimum thirty-foot (30') side yard building setback and rear yard building setback (on non-through lots) shall be required.
 - e) No freestanding signage shall be permitted adjacent to either Dam Neck Road or London Bridge Road and all signage shall comply with the “SIGN CRITERIA FOR TAYLOR FARM CORPORATE PARK” dated March 15, 2002 which are included in the Deed Restrictions described in Proffer #3.
 - f) No onsite vehicular parking, outdoor storage, loading docks or loading areas shall be permitted between Dam Neck Road and any building on any parcel adjacent to Dam Neck Road.
 - g) No building shall exceed forty-five feet (45') in height and the primary exterior surface of all buildings shall be either brick, split face block, painted block, concrete panel, stone, wood, EIFS or metal and shall be an earth-tone color or colors. The exterior surface of any building on parcels numbered 8 through 14 on the site plan, which is visible from Dam Neck Road shall be either brick, split face block or stone.
3. When the property is subdivided it shall be subject to a recorded Declaration of Protective Covenants, Conditions and Restrictions (“Deed Restrictions”) administered by a mandatory membership Property Owners Association. In addition to the requirements set forth herein, the Deed Restrictions shall include Articles requiring mandatory assessments for maintenance of the landscape buffers and entrance features as well as Architectural Controls. The Deed Restrictions have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.
4. Further conditions 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.

Item # 13

**Cerza Enterprises, LLC [Applicant & Property Owner]
Conditional Use Permit (Motor Vehicle Sales)
6056 Indian River Road**

April 14, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Great. Right, now Item 13.

Madam Clerk: Agenda Item 13 is Cerza Enterprises, LLC; an application for a Conditional Use Permit Motor Vehicle Sales on property located at 6056 Indian River Road located in the Centerville district.

Mr. Weiner: Thank you, Ms. Sandloop.

Mr. Bourdon: For the record Eddie Bourdon, Virginia Beach attorney representing Cerza Enterprises, LLC. This is an application for Conditional Use Permit on a parcel, the 33,000-34,000 square feet on the corner of Indian River Road, and what was the name of that lane? Depositor Lane, I guess the bank got to name the lane. Bank was there for many, many years.

And frankly, the property with this application is going to be utilized to a much lesser degree; there only be 12 cars displayed on site. And it will be -- they'll also have some internet sales from the site, but the traffic generation is far less than the bank. And we're using -- the property is well landscape to begin with; bank is a beautiful building; we're not changing any of that. It'd be one of the nicest looking buildings for a car dealership that I've seen in Virginia Beach or elsewhere.

The applicant is putting additional landscaping on the property that staff has described in what you heard about this morning in the informal session. The conditions and they're very typical and strong conditions. There's no repair work that's taking place on this property, no outside storage of any tires, materials, debris, etc. It'll be maintained as the bank has maintained it, and so really there is not a lot of change here other than fewer traffic trips per day. The hours are longer hours, however, then the banks. Bankers, they don't spend a whole lot of time at the office. So, the one condition that's problem that was came up at the 11th hour is condition number three. And that is -- and we agree with the traffic engineering folks that this front access or front curb cut on Depositor is not a very safe access point. It was used for access by the bank, although primarily it was an exit from the drive thru. But we totally agree it will not be an access to this use.

In fact, we will be using the area in front of the building as the primary display area where there'll be eight vehicles displayed, and so we will absolutely ensure that it's not used as access. And by doing so we'll put No Entry signs on either side of the existing curb cut onto Depositor, and we will always have a motor vehicle parked parallel to Depositor that blocks that from ever being used for access. And we're perfectly amenable to that. Obviously, there's not an issue with

vehicles leaving through there, but we're not going to have people's leaving through there either. Now it is conceivable that we may have to move a car that's on display out through there, by pulling the car that's blocking it out and bring take that car out, but we can also go the other way.

But access we agree totally, but the idea of tearing it out and putting in curb and gutter when we're lessening the use to begin with is not acceptable to us and I don't think it makes any sense whatsoever. But we totally agree, not access but the idea of closing it, we will close it but we'll use a vehicle to do that. Plus, we'll put signs on either side. Do not enter, no access, but you have to run through the car to do that. With that I'd be happy to answer any questions.

We agree with all the conditions that the staff has recommended, and we agree with the word -- the first part of number three, but closing it and of course that hasn't been defined, but we certainly don't think it makes any sense to come in at something that's again used for a lot more years for traffic going in and out but mostly out. And we're going to make sure it's not used for anybody coming in. We got two other entrances on Depositor that will be the entrances that will be used. I'd be happy to answer any questions.

Mr. Weiner: Any questions? Are there any more speakers? Any speakers? Okay.

Mr. Bourdon: I'll just come back and respond.

Mr. Weiner: Okay.

Madam Clerk: We do have one speaker virtual; Teresa Bracy. Ms. Bracy, if you could wait two to three seconds and then begin your comments.

Ms. Bracy: Thank you, Chairman, Vice Chairman and Commission members. I'm Dr. Teresa Bracy. I own Indian River Veterinary Hospital located at 6070 Indian River Road. Today I'm speaking in opposition of Agenda Item Number 13 for Conditional Use Permit to operate Motor Vehicle Sales at 6056 Indian River Road. In support of my concerns, I would like to address two points. In the background in summary of the proposal section of this application planning staff now includes a summary of zoning history which highlights specific properties consistent with this applications proposed use. However, I feel it expressly excludes business use which does not support the application.

I would like to point out to the Planning Board the following businesses and addresses that were not included; Reitano Dentistry at 6062 Indian River Road, Eastern Virginia Oral and Maxillofacial Surgery at 6033 Providence road, Agape Chiropractic Center 6070 Indian River Road, Tidewater Dental Group 6095 Indian River Road, Sleep Specialists of Tidewater at 6025 Providence Road and Indian River Veterinary Hospital at 6070 Indian River Road. These properties represent professional medical related businesses located within two tenths mile north, south, east and west of the application address. Based on current zoning alone these areas are not specifically designated as a medical business district, however the use is consistent with that.

I do not feel this application use permit is consistent with the surrounding business operations in close proximity and I feel the proposed use would have a negative impact on those businesses. As staff planner Dao points out while there are gas service stations and convenience stores in close proximity, to my knowledge there's no motor vehicle sales lots currently along Indian River Road, and as a business owner and long-term resident I would suggest we keep it that way. The best example we have some of a similar business which staff also doesn't mention is West View Auto Inc located at 6216 Indian River Road which is three tenths of a mile from this location on the highly visible corner of Indian River Road and Sunnyside Drive. Westview Auto is an Auto Service Center; at all times as many as 70 cars in various degrees of dilapidation are occupying a 21,000 square foot lot creating an eyesore for the community and affects property values.

While the application includes 13 conditions and an attempt to mitigate public concerns, none of the proposed conditions specify that I saw, there was a comment that was made by the attorney but I didn't see where it limited the number of cars to be parked on the premises. He spoke different of that, so maybe we can address that. Citing also, for example, the numerous used car sale lots located along Military Highway and Virginia Beach Boulevard sections of the city I would --

Mr. Weiner: Any more speakers?

Madam Clerk: No more speakers.

Mr. Weiner: One quick question for one second. Mr. Tajan, do we have anybody from traffic engineering here, or can you answer a question?

Mr. Tajan: Ric Lowman is on.

Mr. Weiner: Is he? I mean, I'm just curious; this bank has been here for a long time. And I'm sure there was many times where people exited the drive thru and came out this area of access to be closed on the Indian River Road. I think actually, I had done it before and I didn't see any. I'm just curious what the difference is now. And Ric, if you're there, what's the differences now compared to what it was when it was a bank, when there's going to be less vehicular traffic going through there.

Mr. Lowman: Hi, Mr. Weiner. This is Ric Lowman, Traffic Engineering. I know that the bank was approved well before we had the access standards that we do now. Even in using it as an exit, there it is, you know close to Indian River Road, we wouldn't approve an access point.

In fact, our Public Works standards don't allow access points within a certain distance of a radius to a major road. So, we just felt like closing this access point would be in the best interest of access management for not only Depositor Lane but traffic turning into and out of Indian River Road.

Mr. Weiner: Okay, hold on a second. I have another question for you, Ric.

Ms. Oliver: So, Ric, when you -- define "close the entrance" please, is that a permanent close?

Mr. Lowman: If we're looking at like a temporary reuse of a site, then yes, we could consider like a temporary closure, like for instance using big flower planters, perhaps to close the entrance off. If we're looking at a permanent reuse of a site, then we would want that entrance ripped out and the sidewalk kind of extended through there, because it does -- it would help pedestrian access to just get rid of that curb cut totally. So, you don't have to go down and then back up across the entrance. So, in this case, I think we said close, meaning that we'll never want that access point used again even if the site is reused for another use. So, I'll let you guys define how you want to close it. But we have put planters or something permanent in there so that vehicles can't exit -- enter or exit from there.

Mr. Weiner: Any other questions for Ric? Thank you, Mr. Lowman. Yes.

Mr. Bourdon: Thank you. Mr. Chair, first of all, the doctor who -- the veterinarian who spoke there, there is a -- she even mentioned there's a car dealership just two blocks to the west on Indian River Road. This is not going to be like those. That's for sure. And I'm not saying anything bad about those. But, yeah, this is very clearly on the plan that there will be 12 vehicles displayed on-site. That's I can't -- I don't know what else I can say other than that, and that's exactly what we've agreed to. The -- and the conditions -- one of the conditions, one of the things she referenced was cars that were dilapidated or whatever, that won't be the case here and there's a condition that clearly addresses it.

These are standard conditions now. They weren't necessarily standard conditions 15-20 years ago, or 30 years ago, and I don't know how long these other dealerships have been there. But so, this site, it is probably going to be temporary use, I don't know that it will last for 30 or 40 years. I doubt it. But it'll clearly not change the character of this property a bit, and I don't think it'll have any negative impact on anybody's property value, not at all. That this -- back to Mr. Lowman's point, we are agreeing that that front, current ingress-egress for vehicles will be closed off, and we will close it off and we will have signs up so it's not used for access or exit. It is true that on the original exhibit, we showed an exit lane, but that was really for our own vehicles. That won't happen, we'll take that off of the plan, and it will not be used.

But to go in and put in curb and gutter is not something that really -- given that nothing we're doing will make the traffic generation anything other than less than what it was. And if a bank had bought the property and the bank was still operating, there's nothing anybody could do about it. So, we're not in disagreement over that, it not being used to access. Frankly, if one of our vehicles goes out and on to Depositor and turns in behind there on the second access, it's certainly not a dangerous situation and that road doesn't have a great deal of traffic. Indian River does, and I totally agree with Mr. Lowman with regard to somebody trying to turn in onto Depositor and stopping traffic and it backs up onto Indian River.

We will make sure that doesn't happen by taking the actions that I've described if that's what City Council ultimately believes or, I guess. Putting up -- frankly, putting those planters out there, I think, looks, frankly tacky myself, I think having a car blocking the access and signs is not -- especially when all these other new cars are out there would be a better way to do it.

Mr. Weiner: I want to say something really quick, don't throw things at me. I just want to say something. If we approve it like it is like you want us to approve it, so it could be blocked by just a sign and what you just said about, hold on a second, what you just said about is only a temporary situation for maybe a year, maybe two years, five years, whatever. But if it goes back to being a bank building, they're not going to have to come in front of us because it seems like to me traffic engineering just wants this one just closed off for future reference. If it goes back, if we approved the condition now the way you want it, and it goes back to being a bank in the future, then they're not going to have -- they can't come in front -- they can use this as an ingress-egress in the future.

Mr. Bourdon: What? I heard Mr. Lowman say if it was a temporary; if it was temporary use, then he was fine with putting planters out there. That's what I heard him say, and that's what I was addressing.

Mr. Weiner: Right. And then the next person that comes along, it'll be in the condition in their temporary use, right? Temporary for ingress and that you can't be -- it won't be opened all the time for ingress-egress. So, the next person that comes out here to do this, you see what I'm getting at? So, we kind of want to make it to where you can't -- not permanent, but there's something -- even if you build a wooden box and put some flowers in there or something to close it off.

Mr. Bourdon: That's what I just said, I think that looks tacky. But if that's what the city wants to do, then that's -- we will make sure it's not used for access.

Mr. Weiner: But without anything being there, it's kind of hard to do that. And I'm not saying you won't --

Mr. Bourdon: I disagree. We have car dealerships throughout the City of Virginia Beach, that when they're closed on weekends that's exactly what they do to every one of their entrances and people don't get through there, okay? And if we do that permanently with No Entry signs on either side of that drive aisle, there won't ever be cars going in and out of there. But putting a planter and like we don't -- I guess we don't do the signs, we put a planter there. But I mean, I just -- I don't think that the planter is -- I think it's less attractive than having a new vehicle sitting there.

Mr. Weiner: Yeah.

Mr. Bourdon: That's my own personal opinion. But again, that's up to how -- however, you all --

Mr. Weiner: Mr. Graham has a question for you.

Mr. Graham: It's more of -- I guess I just want a clarification. So, if you did close off that entrance, there would no longer be circulation around the building, and when you went down that little road, it would be a dead end. Am I wrong or am I right?

Mr. Bourdon: That's what would happen if you put a curb and gutter out there.

Mr. Graham: Yeah, and I agree. The planters, I think it's tacky when that's done. As a former fireman, would you rather have circulation around the building?

Mr. Coston: We've got to have circulation.

Mr. Graham: Okay. I was just trying to understand I said, I was just trying to --

Mr. Bourdon: Yeah. It's a very good question because if you -- basically if you put curb and gutter out there, you have to tear everything back of it out and it doesn't -- just to me, it makes much more sense to make sure it's not used in a way that's consistent with the use of the property. True, we may be kicking the can down the road to .. I don't know how long this use will be there. I'm not suggesting it's only going to be there a year or two. It could be there for 10 or 15 years. But that's a beautiful building. The building's got a lot of useful life left. I don't -- I just can't sit here and tell you. I mean, banks aren't -- we're not building a lot more banks anymore. I mean, it's all digital and what have you, so I don't think there's going to be a bank going out here. I'd be very surprised. But just trying to do an adaptive reuse of the property as it exists with as little change other than positive change as we can make and putting --

Ms. Oliver: Eddie, I just -- and I'm just not -- I'm not going to -- I'm not arguing the point, but Ric was fairly clear about having the street closed with curbing. I mean, he stated it and he said that's what he preferred as a traffic engineer. That's the way he wanted the property. Now it was up to us how we wanted to handle it, but that's what I clearly heard Ric say. Either way, I mean, I'm just --

Mr. Bourdon: I think he said if it's of permanent --

Ms. Oliver: He would prefer that access closed.

Mr. Bourdon: If it's a permanent use he would close that, but as a temporary use which is I think anyone would probably agree it is probably more of a temporary use. It's up to whatever -- however --

Ms. Oliver: So, is the applicant only going to do this for short -- when you say it's a temporary use, so his intent is only temporary?

Mr. Bourdon: Ms. Oliver, the automobile industry in this country --

Ms. Oliver: Well, I understand.

Mr. Bourdon: -- where that all is going with electric cars and our current administration and everything else, I have no -- and I've got -- I represent some car dealerships, who knows? Okay? You know, great. I don't know, and I don't think anybody really does. So, to suggest that it's "permanent", I mean permanent in my view of what I consider permanent; somebody is going to come in, buy a piece of property, tear down a building, put a lot of money into redoing the property, and that's not what this is.

This is the adaptive reuse of the existing property as it is for this use. It certainly doesn't -- it's not going to work for a vet, it's not going to work for a medical office building. So, it's a use of the property, it's an attractive property; it's less impactful use of the property. I have no idea how long it will be there.

And what's temporary versus what's permanent, I don't have really an answer to that either other than my view is somebody who's going to come in and invest millions of dollars and putting improvements on a piece of property that's they're looking at that longer term. Somebody who's buying a property that's already developed is looking for something that provides cash flow for their investment. So, it's less permanent, but that's the only way I can put it.

Mr. Weiner: Jack?

Mr. Wall: So, if we leave this -- if we leave condition three just the way it is, I mean, it will be up to staff to make that determination. What closed, is that --

Mr. Bourdon: I think it'll be up to the City Council to make the decision.

Mr. Wall: Up to -- or City Council. Sure. Okay.

Mr. Bourdon: That's my view anyway.

Mr. Wall: Okay. Yeah.

Mr. Weiner: So, we're going to -- if we leave it in there just the way it is, it doesn't say permanently closed with curb and gutter, right?

Mr. Bourdon: It does not, it does not, and this came up -- frankly, it came up towards the tail-end of the review process, and I've had very productive conversations with Hoa, I have not had a chance to have a conversation with Ric and probably will moving forward. But I'm willing to come up here and say approve it as is without putting it out there, my clients' feelings and I share my clients' feelings with regard to the idea that something that's reducing the traffic volume a lot, is all of a sudden you have to expend money to put a curb and gutter and which means then you got to dead end like it's just -- it's not -- in our view, it's not a practical thing to do.

Mr. Weiner: Mr. Tajan wants to say something.

Mr. Tajan: For clarity's sake, staff would interpret the condition as was written now is that it would have to be removed. It would have to be pulled out. So, if there is a recommendation for a change in the condition, then we would like some clarity from the Planning Commission for us to make that -- for recommending a change to the condition.

Mr. Weiner: So, what you're saying is the way it is written now, it's permanently closed, that it'd have to be permanently closed with curb and gutter.

Mr. Tajan: That's how staff had written it.

Mr. Weiner: Okay.

Mr. Tajan: However, but we would like to -- if the Commission has any -- wants to change the condition, of course, that's up to the Commission.

Mr. Bourdon: And if I could comment.

Mr. Weiner: Sure, you can.

Mr. Bourdon: I certainly can see that that is one way to read what it said. But if it said the current ingress and egress from Depositor Lane shall be permanently closed with curb and gutter that would have been a lot clearer. But then what do you do with the rest of -- what's in front of them? Thank you.

Mr. Weiner: Thank you Mr. Bourdon

Mr. Wall: Actually, I have a couple of questions.

Mr. Weiner: Hey Mr. Bourdon, we have a couple more questions. Don't go anywhere. Come on back.

Mr. Wall: So, my questions are, so how long they owned it? I'm sorry.

Mr. Bourdon: The current -- I believe about a year and a half, maybe a year. I guess it's been vacant for a year and a half. And this is only -- and it's been short-term.

Mr. Wall: Right, they've owned it. It's been vacant since they've -- they pretty much own it. So, the 12 vehicles, is that -- may be that was mentioned and maybe I missed it. It's not a condition.

Mr. Bourdon: The display area shows 12 -- we display eight in front. Actually, I may have -- I may be incorrect. It may be 11.

Mr. Wall: 11, okay.

Mr. Bourdon: I apologize. My math skills -- lawyers are not good at math.

Mr. Wall: That's it, 11 vehicles.

Mr. Bourdon: That's correct.

Mr. Wall: Or 12 vehicles, whatever and no -- but it's not written anywhere that says just display area. Is that enforceable? I mean is that a -- so if they have -- if they started putting vehicles in other areas, more than 11, more than 12, then they can be cited for not being in compliance with their new Conditional Use Permit.

Mr. Bourdon: Just 12 vehicles.

Mr. Wall: And I'm sure that 12 vehicles is pretty minor. I mean, that's not -- it's pretty, pretty small and not very intense, I would think.

Mr. Bourdon: And with Internet sales which you also have or you can make deliveries of vehicles to people coming to -- bought on the Internet, that's the other aspect. But that doesn't involve display of vehicles for sale on site. It also lessens the -- and they've got a good condition. The city has a good condition, but it's hard to force everything, the banners and the streamers and all that stuff, you don't see those on a facility like this display area.

Mr. Wall: Okay. Alright, thank you.

Mr. Weiner: Thank you. All right, we're going to close it and open it up to either motion or discussion. Who want to start, Mr. Inman?

Mr. Inman: I move we approve the application as written, with the conditions as written.

Mr. Weiner: As it is.

Ms. Oliver: I second.

Mr. Weiner: Hold on a second. Mr. Wall has a question?

Mr. Wall: Right. I do have a few things to say before we vote. I'm ready to vote, but I just want to say because there was a letter and it's not just by the veterinarian, that was a couple doors down into the -- one of the adjacent property, I don't know if they're an owner or a tenant, wrote a pretty good letter, and I felt that it should probably be addressed. Also, that, it seems like this is a very low intense use and it appears it could be temporary. But I think it was one of the dental offices that was adjacent that had some concern, but I think that we've been able to mitigate it just by the limit of number of vehicles in the conditions. So, I'm in favor of it.

Mr. Weiner: All right. A motion for approval by Mr. Inman and seconded by Ms. Oliver.

Madam Clerk: Mr. Alcaraz.

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston.

Mr. Coston: Aye.

Madam Clerk: Mr. Graham.

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley.

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman.

Mr. Inman: Aye.

Madam Clerk: Ms. Klein.

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver.

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner.

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of nine in favor, zero against, Agenda Item Number 13 has been recommended for approval.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. When the property is redeveloped, it shall be in substantial conformance with the submitted Site Layout Plan entitled, "6056 Indian River Road", dated March 31, 2021, and prepared by John Sandow Engineering, LLC, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. When the property is redeveloped, landscape plantings shall be installed to be in substantial conformance with the submitted Site Layout Plan entitled, "6056 Indian River Road", dated March 31, 2021, and prepared by John Sandow Engineering, LLC, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Landscape plantings shall be maintained for the duration of the use and shall be subject to the review and approval of the Development and Service Center.
3. The access point closest to Indian River Road on Depositor Lane shall be closed.
4. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
5. All vehicles for sale or rental shall be located on a paved surface within the designated display area identified on the plan referenced in Condition 1 above. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
6. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
7. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
8. There shall be no auto repair or service on the site.
9. There shall be no outside audio speakers for any purpose.
10. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or

fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.

11. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. No window signage shall be permitted.
12. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties.
13. No motor vehicle shall be displayed for sale or rental within the first five (5) feet of any front yard or side yard abutting the right-of-way line of a street to be measured from the property line to any displayed motor vehicle on the premises.

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.

Item # 14

**CRP-GREP Overture Chesapeake Owner, LLC [Applicant] CFC, LLC [Property Owner]
Modification of Conditions
3399 Ocean Shore Avenue**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you. The next item on the agenda is Agenda Item Number 14; CRP-GREP Overture Chesapeake Owner, LLC is the applicant and CFC LLC is the property owner, for Modifications of Conditions. Is there a representative for this item?

Mr. Palmer: Good afternoon Chairman, Vice-Chairman, members of the Planning Commission. My name is Grady Palmer; I'm an attorney representing the property owner. We appreciate being put on consent and we are in agreement with the recommended conditions. Thank you. I'll stand by.

Mr. Wall: Okay. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we've asked Mr. Graham to read this into the record.

Mr. Graham: Thank you, Mr. Wall. This application is for the Overture Apartments in the Shore Drive area of Virginia Beach at 3399 Ocean Shore Avenue. The applicant has applied for a Modification of Conditions to allow a freestanding monument sign to be located on Cherry Tree Place. The applicant has worked with the Bayfront Advisory Board to come up with an appropriate size for the sign. The Planning Commission agrees with Planning staff's recommendation to approve the application and therefore has placed Agenda Item 14 on the Consent Agenda.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have a motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. All conditions attached to the Modification of Conditions granted by the City Council on July 8, 2014, shall remain in effect with the exception of Condition 11, which is hereby replaced as follow:

“No freestanding identification sign shall be permitted along Shore Drive.”

2. When developed, the freestanding sign shall be in substantial conformance with the submitted Elevation Plan entitled, “Job #346965”, dated March 24, 2021, and prepared by Benson Signs, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. When developed, the location of the freestanding sign and landscaping shall be in substantial conformance with the submitted plan entitled, “Overturn Entry Landscape”, dated March 25, 2021, and prepared by Kimley Horn, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

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.

Item # 15

**Derrick & Nicole Howell [Applicants & Property Owners]
Conditional Use Permit (Outdoor Recreation Facility)
5409 Blackwater Road**

April 14, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Right, thank you. Item 15.

Madam Clerk: Agenda Item 15 is Derrick and Nicole Howell, an application for Conditional Use Permit, Outdoor Recreation Facility on property located at 5409 Blackwater Road in the Princess Anne District.

Mr. Weiner: Mr. Bourdon, welcome back. One second, your mic is not catching. Try it again.

Mr. Bourdon: Hello. Okay. I'm sorry. Eddie Bourdon, for the record, representing Derrick and Nicole Howell on this application for a Conditional Use Permit in an Agricultural Zoning District for Outdoor Recreational Use.

First of all, Nicole and Derrick are here along with a number of their parents whose young men play baseball on their Field of Dreams in Blackwater. And so, they're all here, the ones that have taken off from work and I guess may have skipped school or yes, do we have school now? I guess -- oh, it's virtual school maybe. So, I previously provided this morning some reading material for all of you, including an article on the Blackwater Field of Dreams that was published in the Princess Anne Independent News. It will be exactly five years ago tomorrow. And it was a front-page story, I just printed out the story itself. The -- also nine exceptionally well written letters of support from neighbors of Derrick and Nicole and parents of young men who have played or are playing on one of the two teams that use this field for practice.

And I've also provided you a petition, most with comments, from 2,285 supporters of this application. And this is a substantial, if not -- well, it's clearly the majority of those people are residents of the southern part of the City of Virginia Beach, and the southern part of the City of Chesapeake. This application has overwhelming support from neighbors in Blackwater and also Pungo and Creeds on the other side of the river. The field built in 2014 has been a learning ground for young boys 9, 10, 11 and 12 years old; U-10, U-12 travel baseball players. Once they're 13, once they play on U-14 level, they're 13- and 14-year-old young men, they have to have a bigger field, this is not a regulation field. You could adjust the base pads for the difference between U-10 and U-12.

There are only two teams that use this field and they're coached by Derrick Howell and one of the other parents. And that field -- the field is used on Monday, Tuesday, Wednesday and Thursdays for practice. It's not generally used on Friday. Hoa was nice enough to put Friday in there because

there are rain outs of practice, they will occasionally practice on Friday, but generally speaking they don't have practice on Friday.

Games are held on the weekend. They travel, they're not all here. In fact, I think after -- is its last weekend or this coming weekend, there won't be any more games probably until the fall that -- unless they're rained out at this, if they get a lot of rain up in Williamsburg or Yorktown or somewhere, and they don't get it down here, they may play here, they may switch it and play here. But basically 16 weekends out of the year, there'll be a game and game means these are six inning games. So, the condition really, I think, should be clarified that there's -- they have a doubleheader, the same two teams play two six inning games on the same day back-to-back. So, 2 innings max, if you don't have the 5-run rule, the 10-run rule or the 15-run rule, which shortens a game to three, four or six innings -- five innings, excuse me. So, it's not you're talking about -- the games don't start until 10 o'clock in the morning, no earlier than that. They're usually going to be over at 2 o'clock, 3 o'clock in that range. So that one condition, it's technically two 6-inning games but it's not different teams. It's the same two teams. So, there's no people coming and going.

There are 36 weekends in the spring, the summer and the fall; that's 16 out of 36, there are 48 plus or minus in a year. So, it's not all year round by any stretch of imagination and the practices, there's some -- the opponent has -- which we're agreeing to condition to say that, we're agreeing to condition no lights, but the only time there are ever lights are temporary lights that Derrick brings out that he's got for his business. And in the last week in October, Daylight Savings Time changes; they stop playing baseball 10th -- somewhere 10-15 days into November. So, you've got about three weeks when they would use temporary lights that are facing into the field and not somebody else's property. For those three weeks just for practice for an hour and a half once it gets dark. We're agreeing to the condition there won't be more lights, but that's the only time there were ever lights. Nobody's playing out there at night.

So, I can't say more eloquently, and I've been doing this a long time, I cannot speak more eloquently than the people who wrote these letters. And I hope that some of you had a chance -- I'm not going to stand here and read them to you -- to read these letters. They are very moving. They're very well, well, well-written. And on the other issues on the conditions, the rest -- the Friday is not really a practice day but if there's a rain-out we don't want anybody saying, hey, we're out there practicing on Fridays because it gets rained out, a couple practices during the week. Number two, the same day, doubleheader of the same teams, 12 innings is basically one game, it can -- if it goes extra innings but that's -- it's actually two six-inning games, same teams. Number 7, that condition, there are -- the Howells and their wonderful, wonderful parents will tell you that, they have sponsors to help defray the cost of the team because they do travel to play and they take them on a trip, this year they're taking all the kids to Canton to the Hall of Fame. Did I say that, right? It's not Canton, I'm sorry. It's not Canton, that's football. It's Cooperstown.

Mr. Tajan: Cooperstown.

Mr. Tajan: Cooperstown. Sorry, thank you, Bobby. It's Cooperstown. Gee, I'm losing my sports. So -- and these are sponsors, local businesses that's helped sponsor the team. And these boys grow up, they wind up playing for Kellam High School and/or they may be Hickory or somewhere in Southern Chesapeake. But they can't be -- these banners are not visible from anywhere. You can't see them from any street unless you're up in a drone, you can't see them from the neighbor's house either. They're on the outfield bench and they face to the north, they don't face to the south. And they're not signage; they're not out on any street. So, I'm pretty confident that our ordinance doesn't prohibit those. All access comes off of Blackwater Loop, does not come off of the shared driveway on Blackwater Road. The parents all know and have for years, they do not access from Blackwater Road over the shared driveway.

The vehicles always park and always have parked on the Howell's property, not in the public right-of-way, not on anybody else's property, not blocking anybody other than the Howell's. So, condition number eight, the 30 vehicles, generally speaking, that's a fair number. But after -- as far as what's been experienced over the six years that this has been used as a baseball field, but with COVID there has been a lot more people, parents, I'm assuming might just be parents, but grandparents, uncles, aunts that are coming to the games to see their niece, nephew, grandchild, whatever. But it's almost entirely family and the team are like family.

So, there have been more cars, and there's plenty of room for the cars, we just don't want to get any -- somebody saying oh, we counted 35 cars out there, you're violating your use permit. As long as we're not bothering anybody else with the parking of the vehicles, we're not in the public right-of-way, Blackwater Road is not -- other than if you have a broken-down tractor or somebody ran into a ditch, generally not a major, major backup for vehicles getting in and out of Blackwater. So, we don't think the banner thing makes any sense. We're not going to put up any signs, there are no signs. We think that 30 vehicles is potentially problematic. But all of the other conditions are -- and we appreciate staffs' work on this. They are all absolutely acceptable to Mr. and Mrs. Howell. There is also the likelihood that as their children growing older, it may only be one team there. This has never been used as a field for a league as the opponent has indicated, that's just complete balderdash.

This last thing I'll say; there are two very, very nice lighted baseball diamonds on Head of River Road, probably less than a mile from here. And Mr. Howell and his other coach attempted a number of years ago to offer to take care of those fields, pay rent for those fields, or for a field, they're not trying to basically hoard the fields, but take care of a field, pay rent to the city for a field. The fields are not well used to say the least and were told you can't because you're not a little league team, you're a travel team. So, we've got two well-lit, very nice fields, very close to here that they can't use, cannot use, that are not like in the middle of Little Neck or Great Neck where people are clamouring to get on the fields. So, he took to -- look, we want to be a family; we will go spend the time, the money, the energy, the effort to put together what he's done here, which has been fantastic. And you look at all those letters of support for people all on Blackwater Loop all around there. They're good folks and they're doing a good thing, something our society needs at this point, and it always needs, but right now definitely needs. I'll be happy to answer any questions.

Mr. Weiner: Any questions for Mr. Bourdon?

Mr. Alcaraz: Mr. Bourdon, just want to go back to the conditions. The banners, are those like the standard baseball banners they put on the outfield? Just for -- I mean these guys are going to be doing for some fundraising to help pay for whatever and they need those sponsors. Is that what you're talk -- is that what --

Mr. Bourdon: That's exactly I'm talking about. There are sponsors' banners that are hanging on the centerfield.

Mr. Alcaraz: Inside of the field --

Mr. Bourdon: Inside the fence.

Mr. Alcaraz: Three foot tall.

Mr. Bourdon: Yes, sir. Exactly, they're not visible. The only place you see them is if you're standing there watching a game because unlike the letter, there are no bleachers. There have never been any bleachers as the gentleman alleges in his letter.

Mr. Alcaraz: But nothing on like the dugouts or in the back --

Mr. Bourdon: There are no dugouts.

Mr. Alcaraz: Okay, good for that. But nothing on the street or anything like that. I didn't know where there's been --

Mr. Bourdon: There's nothing hanging on the backstop. There's nothing. It's just on the centerfield fence. There are banners that are hanging there.

Mr. Alcaraz: Yeah. All for the --

Mr. Bourdon: Yeah, you can see it on the picture that staffs got there.

Mr. Alcaraz: For the partners that help.

Mr. Bourdon: Exactly, the sponsors of the boy's team. That's exactly right.

Mr. Alcaraz: Thank you.

Mr. Weiner: Any other questions? Thank you, Mr. Bourdon, I'm sure we'll talk to you soon.

Mr. Tajan: Thank you Mr. Chairman. Appreciate it.

Mr. Weiner: Madam Clerk?

Madam Clerk: Mr. Chair, we have two speakers.

Mr. Weiner: Okay.

Madam Clerk: Mike Waterman and then Buddy Altman.

Mr. Weiner: Welcome, sir.

Mr. Waterman: Good afternoon. Thank you, ladies and gentlemen of the Planning Commission for the opportunity to speak today in favor of approval of the Conditional Use Permit.

Mr. Weiner: State your name for the record, please.

Mr. Waterman: Yes, sir. My name is Mike Waterman.

Mr. Weiner: Thank you.

Mr. Waterman: Sir, I'm also representing my wife, Dr. Jennifer Waterman, who wrote one of the letters of support, as well as the about approximately 20 families who use the field on a regular basis. I have two sons, ages 10 to 12, who both have played at this location for about two years. We consider ourselves to be an extremely fortunate to have found a family, a team and a location that provides such a positive and constructive environment for our kids to play the game they love.

The Howells have provided a tremendous location where kids are taught lessons of teamwork, success, failure, discipline and the benefits of physical activity. All these things, all these opportunities are less and less now with a COVID restricted environment. So additionally, as a dentist, my wife is a dentist who submitted one of those letters. She has several dozen patients who have either played there now or have families that go there to watch games. And without exception, they just rave about the experience they have there and it's one to never be forgotten. It's really become an institution in local youth baseball circles. It truly is a field of dreams.

This seems to really just be an argument of one person's personal complaints, frankly it seems petty and other is factually incorrect. And I just have trouble seeing how the issues of the crack of a bat, the occasional cheering and laughing of kids, some additional traffic every once in a while; how that outweighs the benefits of this resource that provides something so innocent and pure as kids playing baseball. While I understand some of these are inconveniences maybe for the neighbor, the overall benefits to the community and their children far outweigh these inconveniences. I would think that common sense dictates that there are logical compromises here that would maintain this invaluable facility for the community.

The Howell's themselves have sacrificed a tremendous amount of time, effort and their own money to establish this field for all of our families and for the community. They're clearly not in it for any financial profit whatsoever. Their interest is only to provide a safe and convenient place for our kids to play baseball. I strongly urge you to approve this request for a use permit, and to allow for this positive outlet to continue for the community. So, I thank you again for the opportunity to speak today.

Mr. Weiner: Thank you, any questions? Thank you, sir.

Madam Clerk: Buddy Altman.

Mr. Weiner: Welcome, sir.

Mr. Altman: Welcome and thank you for letting me put my take on this. First off, my name is Stuart Altman, Buddy is a nickname. My real name is Stuart. I live at 5433 Blackwater Road, which is the only adjoining neighbor to 5409. Every other neighbor is separated by a road; either Blackwater Loop or Blackwater Road.

I have some -- not objections but I have some differences of opinion for what some of the statements that were made earlier by the former gentlemen. When I moved into the house in 2008, there was an empty lot on either side of our house. The property backs up to trees. I loved it. I had plenty of privacy. It was peace, tranquillity. There was minimal traffic on Blackwater Road. I loved the house, I loved the fact that I could go out in the backyard, and there was peace and quiet. You can hear the birds sing. And then that lasted for several years.

Later on, as things would have it, a house was built on 5409. And we were not the previous owners, neither us nor the house or the previous owners, the original owners of this property. Apparently, the previous owners had some kind of joint effort where they wanted a horseshoe driveway on 5409. I called the city about this and the city said apparently there is some kind of city provision that says driveways on Blackwater Road cannot be more than X feet together because it disrupts the traffic flow on Blackwater Road. But the positioning of his septic and my septic has to be where the driveway was adjoined. That's how the thing started. On several occasions, I asked him not to build the adjoining driveway, I asked him to please cut down on the traffic because of the cars coming up and down the driveway, and that was met with rejection. They said that the driveway is no longer -- is not used for two-way traffic for the baseball field; that is physically incorrect.

From 2014 until maybe two months ago, the driveway was used; the shared driveway was used for multiple cars. There were multiple times where myself, my wife could not even get up and down our own driveway from all the cars going up and down the driveway. Now apparently, the city said that the shared driveway was provisioned to keep away from disruption of traffic. If you have two families, each family might have, say four cars apiece, that's eight cars that could possibly leave at one time. And that's at two different places. Now, imagine 40 or 50 cars all leaving at the same time. That would be a lot more traffic disruption than just two houses with two

driveways. Now as you all well know, generally progression of a Conditional Use Permit is you approach the city, you give them plans and -- of what you plan on doing. This ball field has been in operation since 2014 with no permit.

Mr. Weiner: Sir, thank you for your comments. Appreciate that. Any questions. Questions? Thank you.

Mr. Altman: I have one more comment to make. If this permit goes through, I cannot take it anymore. My family will be forced to move. What about the resale of my house, who's going to buy a \$700,000 house that backs up to a community baseball field with an adjoining driveway?

Mr. Weiner: Thank you, sir. Mr. Bourdon?

Mr. Bourdon: I'll offer an answer. A buyer who recognizes the value of a piece of property as being worth \$700,000 and one who, like the majority of people in this room, in this country, love kids and love baseball. That's who, but that depends on whether the house is actually worth \$700,000. I think it's gone up \$50,000 in the last few weeks based on the letter I read. The shared driveway is an easement that was created when the properties were subdivided and it is equally on both properties.

The only folks who ever have used that driveway other than my clients, the Howells, are possibly some people who have come from out of town to games with their children that don't know, that could have happened occasionally. My client has a -- he's invested, he's blocked it off, it doesn't happen, it won't happen under these conditions. The concerns of Mr. Altman, I don't believe were expressed until just the most recent past. I don't know the exact time but again, it's been there since 2014, the fall of 2014. It's been well publicized. And -- but I guess, not for the whole general public, it's just a very finite use. But the condition says it won't be used, and it won't be used, plain and simple.

And I'm not going to get into an argument over how trapped he believes he was in his driveway and unable to get out. I find that a little difficult to believe but -- and then reading the letter, constant traffic coming up and down the driveway which causes family to be blocked is in my view and in the view of all the folks here a fabrication. It's not -- and he also talked about the ball field and the bleachers. There are no bleachers, have never been bleachers. Complaints about the chain link fencing. He's got chain link fence in his backyard, his backyard's chain link fence, kind of hard to put those two together. This is a great thing that they're doing, it's a great application and it's conditioned to make certain that Mr. Altman, enjoyment of his property isn't diminished; at least not to the point that someone who had a house worth \$650,000 last month wouldn't be willing to pay it if it was worth it.

I'll be happy to answer your questions. I hope you all will consider revising the conditions as I've indicated with regard to these banners, with regard to the number of cars. Again, they all will go out in the two accesses this property house from Blackwater Loop, not through Mr. Altman's

driveway and there's a barricade that's been up and will continue to be up. That will not permit that to happen when people are coming or going. Be happy to answer your questions.

Mr. Weiner: Any questions for Mr. Bourdon? Mr. Graham has a question.

Mr. Graham: The barricade, is that something that -- is that a condition?

Mr. Bourdon: There's a condition that it not be used and the Howells have purchased a barricade. Any of you've been out there to see the field will have probably noticed that they put a -- It's temporary, they put it up on the weekend --

Mr. Graham: When they have a game that day.

Mr. Bourdon: Right, exactly.

Mr. Graham: Okay, got it.

Mr. Bourdon: And that's where the driveway forks. Obviously, we're not cutting off access to Mr. Altman using the driveway to get to his property.

Mr. Graham: Okay.

Mr. Weiner: Any other questions? Jack?

Mr. Wall: It's just quick one about number one. And obviously, you're fine with the hours, but it's -- and maybe this is more for staff. It's not that they can't use it, it can't be used for official practices, because I'd hate to limit and somebody couldn't use it before 5:00 pm and in the middle of the summer. I mean, some of these are kind of vague but --

Mr. Bourdon: You raise a very good point, Mr. Wall.

Mr. Wall: Like, what's the use, official practice use?

Mr. Tajan: It's the actual use of the field itself.

Mr. Wall: Actual use? You can't even go out there to throw a baseball then?

Mr. Tajan: Right. That's -- we're trying to limit the hours. I understand the concern about it being in the summertime, but we can --

Mr. Bourdon: My understanding was the organized game and organized practices were that -- were being limited, not my --

Mr. Wall: Not the use of --

Mr. Bourdon: They've got a daughter who plays softball, they've got three sons. I mean, they go out there and they can -- it's on their property, they can go out and use it and they have a couple friends over. They can certainly use it. It's not organized, it's their -- but it's not the public. Yeah, that's good catch, Jack. Mr. Wall, I had no idea that would be what staff believed that that's going to sit there vacant, that the house can't even use their own property.

Mr. Wall: But we can discuss, we can discuss. Okay. Okay, thank you.

Mr. Weiner: Good, right. Mrs. Klein?

Ms. Klein: Bobby, this question is for you. What do we know about the limitations placed on the neighborhood fields that this league cannot use?

Mr. Tajan: I am not aware of those limitations that are from Parks and Recreation, Mr.--

Mr. Weiner: I can answer that.

Ms. Klein: Okay, great.

Mr. Weiner: I was the Director of girls' softball for Kempsville Rec Association for 10 years. And they had people to try to come in and use our field and Parks and Recs will not let you do that because it's owned by the city. So, Parks and Recs will not let you do that. It's an insurance thing. You're not signed up to play for the city. So, if you're not signed to play for the city, then you can't use their field. Another team can't use their field, nor will they rent it to somebody to a little league team or something. But I can't get into the leagues and all that, but I know the Parks and Recs won't let you do it unless it's a city organized team.

Ms. Klein: Okay. I'll keep going then. So, I want to make it clear that I'm not trying to say that I don't like baseball or support children. I have one. But as someone who eventually wants to leave the dense residential area and move out to a more rural area, I can empathize with Mr. Altman having this nice serene area that Don so fiercely protects. And now all of a sudden, every weekend and a couple times a week during the year he has kids and families just descending upon the property.

So, I hear those concerns what -- who -- anyway, so I have concerns supporting the application without being able to come to some sort of compromise between the homeowners because the neighboring property is directly impacted by what happens on that property, home value aside, like he's -- you don't move out into the middle of the country to have the noise that you would get in the neighborhoods, and at the same time I understand how the Howells want to be able to use their property that they purchased it. Like that's -- it's their property to use. And so, I'm very conflicted about moving forward on this. Because I appreciate where both sides are coming from and I feel deeply for Mr. Altman.

Mr. Weiner: Who's going to -- who's next? Mr. Horsley, you want to go?

Mr. Horsley: Yeah. As a father who has had two sons that grew up playing baseball there's nothing that I would rather do than watch my boys play baseball when they were growing up. I mean, I'd rather do that than doing the thing myself. I mean, that's a pleasurable thing. And it's, I mean -- it doesn't fit everybody, but you know that people really like that. And they -- my two boys had grandparents who loved to do the same thing, and if they were playing ball, they were there, I'm telling you; it didn't matter where it was, and whatever. So, I can understand the way these parents feel.

And oddly enough, and this is a little piece of history for folks, there used to be a baseball field right across the road on Blackwater Loop from this field. It was back in the -- I remember it when I came here in the 1970s and it was pre -- it was here a whole lot before I came here, and it was for the neighborhood kids to play ball, they didn't have another place to play and they would play. And some of them up there around the loops, they'll remember that because I think they've asked the Howells, is this going to replace the field it used to be here back when my daddy used to play here. So that's what it was. So, I mean, what they've done is a good thing. I'm sorry about the deal with the Parks and Rec, but I mean that's just the way it is. And I feel grateful that you've had some parent -- two parents that were willing to stick their neck out and proceed with this. They could have said, well, we just won't be able to do it, but they found a way to get it done. And I appreciate that.

And I'm very familiar with this property, I farmed all of this property before either one of the homes were built there and dealt with the landowners and assisted them in getting their property subdivided and all when that happened, because they needed to get that done. And I hated to see any houses build there. But I mean, I understand and they were large lots and whatever. So, it was fine and the way it's developed, it has been fine. Even after these houses were built, right by the gentleman, Mr. Altman I think his name is, I farmed that little piece of land there six acres, because it was the only piece the people had left and I'd go in and farm it until -- till last year, I think it was first year, that that piece was sold. And somebody else has farmed it now but--

So, I'm very familiar with it and familiar with the neighbors. And then the people in the areas are saying what's going on with the ball field, who would object to kids playing ball? I said, well, if I ever done that somebody got rubbed raw a little bit at one time, but I thoroughly support the application. I mean, I would like to eliminate the condition about the banners. Number seven, I'd like to eliminate that entirely. And I either want to up that number of vehicles or eliminate the number eight where it says 30 vehicles because you put a number in there, like Mr. Bourdon said, somebody is going to be -- the first thing you're going to do is that somebody's going to be counting and the Howells have five vehicles of their own they parked there, so that doesn't leave much room for error.

And so, I would either want to extend that number considerably higher or either eliminate it because all the parking is on their property. That's their driveway, they were used -- that they were talking about using. I was told that that will not be used. I saw the barrier that he's gotten

and he stands it up in the driveway so that can't be used and -- but that was the way the property was subdivided in the beginning, that those two driveways would be together. And so, they're the two issues that I have. So far as the 15-foot net, I asked Mr. Howell -- I went to the property Saturday and walked the property and I asked Mr. Howell, I said, how far is it from home plate out to where the tree line is or to your property line? I think he says 280 or 300 feet. I said a 12-year-old if he can hit it out there, man, I would love to pat him on the back and shake his hand because that's pretty good. But I think that that issue is taken care of where some balls did get over on the other property that some of the older kids at that time but he says they've taken care of the older kids, don't -- he didn't let them do that that type of batting practice anymore.

But I will attest to that I have farmed a lot of property and golfers hit golf balls in my fields all the time and you know, but I don't get upset about it. They want to walk right in there and get them, they do. Most of them don't, they leave them out there. I'll pick them up and give them to the kids to play with. But baseball's more valuable than a golf ball. So -- well, I am not a golfer. Maybe I got some golf ball you can use. But anyway, I just -- I'd like -- offer those comments, I really appreciate what's taking place here. And Mr. Howells, I think his youngster -- youngest son is, I think, he told me was 10; he's got two or three more years left. And I said what are you going to do then? He said, we really don't know. I don't know if I'll continue coaching or not, or whatever. But I do think that this is a good, good project and it's got the support of most of all the people down there. It's not with one or two that don't support it.

So, there my question about the netting and I got a question mark about that, because -- but he has consented that he would put it up. But there's -- telephone poles with a net strong crossed over aren't very pretty as far as I'm concerned if you're going to look at, be looking at it the middle of a field, but if that's what -- if that be the case, he has to do it. I think he will. He said he would do it. But the other two things, I would like to change those conditions.

Mr. Weiner: Okay, sounds good. Jack?

Mr. Wall: Can we --

Mr. Weiner: Put your mic -- microphone.

Mr. Wall: So, if this does move forward, can we discuss a little bit about these conditions and possibly, what's the foundation for -- so let's -- looking at the number maybe bouncing around but number eight and it seems kind of arbitrary and hard to enforce. It's only 16 -- maximum 16 times, which it could be a lot but what is -- what was the foundation, the background for that condition?

Mr. Tajan: Do you mean condition number eight, Mr. Wall? Hoa will come up.

Mr. Wall: Number eight, right, 30 vehicles on-site, any one time?

Mr. Dao: That condition came up from my conversation with the applicant representative. I asked him how many -- approximately how many vehicles is going to be on-site at a given game or

practice and he told me it's going to be around 25 to 30 and I conditioned it to be the max number which is 30. And I believe he's indicating that number may be higher now. So, he's requesting that to be higher.

Mr. Weiner: So, there's no rhyme or reason why it was 30 basically, what you're getting at? It's just--

Mr. Weiner: The applicant wanted 30.

Mr. Tajan: It's an effort to try to reduce the traffic flow out there so as to keep down the noise.

Mr. Weiner: Okay, I'm just curious. Okay.

Mr. Wall: So, I'll keep going on that one then. So that actually came from the applicant initially and just looking at they feel maybe that might be too low. Don, what are your thoughts?

Mr. Horsley: That's way too low. I mean if you're going to put a number, you need to put 50, if you want to put a number, if you -- I would rather just eliminate it because all the parking is done on his property and all the access is off of Blackwater Loop Road. None of it off Black -- none of the that people come onto property off of Blackwater Road. So, I don't want to -- I would think that if you're going to put a number, I would suggest 50.

Mr. Wall: So, you feel it's covered by number nine, which parking for this use shall be limited to the subject property driveway, not within the public roadway.

Mr. Horsley: Right. So, all the parkings got -- that means all parking has got to be on his property, can't be on the street or anything. And he's got room for all that parking.

Mr. Weiner: Good. Whitney.

Mr. Graham: I agree with Mr. Horsley. I mean, my son played travel baseball also, and it's great that there's this field down there. Talking about the net, Cooperstown which is 12-U, the fence is 200 feet and Pony Baseball, they recommend 175 to as far out as 275 for a fence. So, I think right now it is 300 feet.

Mr. Horsley: He just estimated 280 to 300.

Mr. Graham: Yeah. I mean I think that's probably fine rather than --

Mr. Horsley: That was to his property line?

Mr. Graham: Yeah, I'd probably -- I don't know that the net is necessarily important. I agree. We either limit it to 50 or just strike it. I think the banners are fine. The hours, not being able to practice or play before 5 o'clock doesn't really make sense to me, especially during -- it gets dark at 5

o'clock in after -- yeah, later in October. So, I mean, to me that needs to be modified. And then, as a condition, I think the barrier that Mr. Howell bought that maybe that should be in there that there'd be a -- that he would put the barrier up before games or even practices.

I mean, that just seems fair; that protects the homeowner next door, but I'm going to support this. I think it's great that these people are doing this. I think it's important for these kids to have a place to play baseball. I understand, I've actually gone and tried to get baseball fields and practice fields, and it is so hard. And it's easy for somebody to say, oh, well, there's a field down there. It's not like that. I think it's great that they've done this, and I'm going to support this.

Mr. Horsley: So far as that barrier goes, the number ten really takes care of that, I think.

Mr. Weiner: Any other comments? Jack?

Mr. Wall: Yeah. I'm just going to keep going. So, number one, so then that limits all use of that field. Can we modify that condition?

Mr. Horsley: Yes.

Mr. Wall: To -- I mean 9 to dusk would be -- you wouldn't expect that they'd be out there during the weekdays except during the summer. So, it's --

Mr. Horsley: Jack, I think the reason that was put in there, nine to dusk, I think when they organize practices now, Mr. Bourdon -- and correct me if I'm wrong, I think they're organized practices. That's probably when they occur. What I would assume parents are home from work, and they can bring the kids out there. But that's probably for organized practices is what --

Mr. Wall: Can we put -- do we need to clarify that? If that's -- can we make it 3:30 or 4?

Mr. Horsley: I'd like to ask Mr. Bourdon.

Mr. Tajan: Or just eliminate it?

Mr. Horsley: Yeah, eliminate it.

Mr. Bourdon: The times were times that the Howells gave me and I gave to Hoa when the team practices, that's the only time that we're talking about an influx of vehicles, parents, because some will drop off and come back but most will stay. So that's the only time when there's anything other than your normal activity that you'd have around a house with four kids would be -- but when their kids are there, their friends are there, but it's not an organized practice with parents and what have you, I never envisioned that the idea of this condition was to restrict the Howells and their guests, not organize baseball using their own property. I'd never envisioned that that was the case. And that's why I didn't have any problem with the condition, because it was just for when there was something organized going on, whether it's games or practices.

Mr. Wall: Okay.

Mr. Bourdon: So, I think it's a good condition as long as it's understood the way it was intended, that it deals with anything that's organized where they're not invitees, people that the Howells invite over, their kids invite over their friends, but I do -- I mean, I do think that for Mr. Altman's benefit that the Howells have no problem with, they won't have older kids playing Home Run Derby and hitting balls out of the property that -- and that I think had been -- at one point may have been a point of contention whether -- again, whether if he wants the barrier up there, my client said they'll put it up. I don't know if I lived there that that I would want that.

I mean, they've planted all these trees that are growing as it is, but that's something that maybe we can have conversation about with Mr. Altman. But the other there -- that's the only time that they have organized and that's why that condition was there.

Mr. Wall: Okay, understood, thank you. The number two, two games, so that one is meant to be understood as two 6-inning games is what that's understood to be.

Mr. Bourdon: Okay.

Mr. Wall: The banners, we had a -- I think suggestion just to eliminate the condition for the banners, would that be --

Mr. Weiner: Yep, eliminate number seven.

Mr. Wall: Eliminate number seven. Okay.

Mr. Coston: Excuse me.

Mr. Weiner: Mr. Coston.

Mr. Coston: I'd like to backup a minute, if the one game is interpreted as two games that are 6 innings apiece, we need to say that. I mean, we're not going to be the ones -- we may not be the ones enforcing this condition down the road someplace.

Mr. Bourdon: Okay. You might want to add and then that the games involve the same two teams, because that's really the -- that's the impact if you had different teams coming and going. So, it's two 6-inning games, which is what these younger boys play with the same two teams playing in those games. So, it's a doubleheader, but the same two teams. So, I think that's an important aspect of that condition that it not be two teams playing one game and then another team comes into play or another two teams come and play. It's the same team, so you only have one set of parents for the whole day.

Mr. Weiner: Okay, anyone else? George?

Mr. Alcaraz: Mr. Bourdon, just at the number one condition, I'm just going to ask if this is suitable for everyone. Any organized use of the baseball field?

Mr. Bourdon: Sure. And that would include -- I mean, any use that's just not --

Mr. Alcaraz: Any organized, so that way families that are throwing a ball, they're not going to be kicked off.

Mr. Bourdon: Yeah.

Mr. Alcaraz: Okay. Thank you.

Mr. Bourdon: And while I'm up here, you can certainly add that barrier to the condition that says the driveway won't be used, a shared driveway, that the Howells will make sure that barrier is up at the end of their driveway where it turns into a shared driveway as a part of that condition. It's not a problem, just makes it clear that they'll go to that extent to make sure it's not used.

Mr. Weiner: Any other comments? Jack?

Mr. Wall: Yeah, I just want to state that I hope this in anyway doesn't really affect Mr. Altman's property. And I really do feel for him, because I -- you'd hope that you have good relationships with your neighbor, and it's great to have that good relationship, the bonding, chatting with them on a positive note every day is a good thing. And so, it's unfortunate that it is -- it's not in that place, but we -- I hope that it does come to that and I hope that it is -- you know that these conditions and maybe the Conditional Use Permit itself is, you know, helps to restore that in some way. But I think that it's a good application and I'm going to support it, of course.

Mr. Weiner: Any other comments? I want to make one comment before we make a motion. I do feel sorry for the neighbor a little bit, but I mean, I'd feel sorrier if this was 2015. The field has been there since 2014 and this is 2021. I mean, I just -- I don't know, it should have happened a long time ago, my personal opinion.

Ms. Klein: I have a response to that, because I've been considering that that very issue and intended to ask it. We don't know what steps the neighbors took to communicate. We have so many people come up here saying that they were operating Conditional Use Permit and they didn't know, or without a Conditional Use Permit and they didn't know that they were supposed to have one. So, my hope is that they've been trying to work it out themselves, and then it came to a point when Mr. Altman had to pursue any other action. Because I agree, it's been six or seven years, you would think this would have been addressed sooner. And so that is not to speak on behalf --

Mr. Weiner: I understand. So, I'm going to be supporting it but do we need a motion?

Mr. Horsley: I'm ready whenever you are.

Mr. Weiner: Okay?

Mr. Horsley: Okay, I'll make a motion the application be approved with the following changes. Number two would be limited to two 6-inning games with same teams per day. Number four with a net optional with the agreement of the neighbors, if that's possible; an optional net. Number seven, eliminate it completely. I guess for the sake of having some type of vehicle count, I guess we should put a number. I would -- my preference is to eliminate eight completely and let number ten take care of it with the parking and all on the premises, if you all prefer. If you all prefer a number, let me know, but that's my preference. My preference is to eliminate the 30 vehicle number completely. And because parking is -- number nine, it says parking is limited to the subject property driveway, and not within public right-of-way. So, it's all got to be on his property. So --

Mr. Weiner: Okay.

Mr. Horsley: And number 10. I would just put a shared -- prohibited from the shared driveway from Blackwater Road by barrier and that would cover him, make sure his -- and the other -- and I'd leave it alone.

Mr. Weiner: All right. Mr. Inman, do you want to -- turn your mic on, please. Mr. Inman, there you go.

Mr. Inman: I was just going to suggest to Don on number four, couldn't we just add "if requested"?

Mr. Horsley: Yeah. However, you want to word that, I don't want it to be mandatory that he's got to do it.

Mr. Inman: Yeah. If requested by neighboring property.

Mr. Horsley: Right, if the neighbor wants that.

Mr. Tajan: We can't do that. We -- it either needs to be a may be installed or you could put may be installed.

Mr. Horsley: Okay.

Mr. Tajan: We can't leave the decision or the condition in a way that leaves it between the negotiation between the neighbors.

Mr. Inman: So, it's not a negotiation if the neighbor requests it. If the neighbor requested, you got to put it up.

Mr. Horsley: Let's just put, instead of shall we put may, may be?

Mr. Inman: Well, then that leaves it up to the property owner to say no.

Mr. Horsley: Right.

Mr. Inman: Okay.

Mr. Alcaraz: Mr. Horsley, can you or can I amend it with the number one that it's organized use?

Mr. Horsley: Yeah.

Mr. Alcaraz: Okay. Just want to make sure that.

Mr. Horsley: Yeah, we should do that. I guess, I mean --

Mr. Alcaraz: So that there's some casual throwing. That's what I'm worried about.

Mr. Horsley: Yeah. The use of baseball fields shall be limited to the hours of five to dusk; for organized practices, Monday through Friday.

Mr. Wall: Organized uses?

Mr. Horsley: Okay, organized. Okay.

Mr. Wall: Did everybody catch that? Did you address seven also, was that?

Mr. Horsley: Yeah, I eliminated seven.

Mr. Alcaraz: I second.

Mr. Weiner: So, the motion by Mr. Horsley with all the changes and seconded by Mr. Alcaraz.

Madam Clerk: Mr. Alcaraz.

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham.

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley.

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman.

Mr. Inman: Aye.

Madam Clerk: Ms. Klein.

Ms. Klein: Nay.

Madam Clerk: Ms. Oliver.

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall.

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner.

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of eight in favor, one against, Agenda Item Number 15 has been recommended for approval with conditions 1, 2, 4, 7, 8 and 10 as modified.

	AYE 8	NAY 1	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein		NAY		
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The organized use of the baseball field shall be limited to the hours between 5:00 p.m. to dusk, Monday through Friday, and between 9:00 a.m. to dusk on Saturday and Sunday.

2. The number of baseball games on the weekend shall be limited to ~~one (1) game~~ two, six inning games per day with the same two teams and no more than sixteen (16) weekends per calendar year.
3. The baseball field shall not be leased or rented for profit.
4. A net, minimum of 15 feet in height, ~~shall~~ may be installed along the southern portion of the property line for the entire length of the baseball field.
5. Outdoor lighting shall not be permitted.
6. Amplified music or audio speaker shall not be permitted.
7. ~~Banners and signs shall not be permitted. All existing banners and signs shall be removed from the property.~~
8. ~~No more than thirty (30) vehicles shall be permitted on site at any one time.~~
9. Parking for this use shall be limited to the subject property driveway and not within the public right-of-way.
10. ~~A barrier shall be placed in a manner that impedes use of the shared driveway along Blackwater Road by those attending practices and games. During games and practices, vehicular access to site shall be limited to Blackwater Loop. Vehicular access shall not be permitted from the shared driveway from Blackwater Road.~~
11. Subject to Section 221(k) of the Zoning Ordinance, an annual review of the Outdoor Recreation Facility Conditional Use Permit, based on the date of City Council approval, shall be performed by the Planning Director or his designee to assure that the use does not conflict with any adjacent land uses.
12. Prior to operation of the field, the applicant shall obtain all necessary permits from the City for improvements on site that were completed without obtaining the proper building or site development permit.

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.

Item # 16

North Landing Beach RV Resort & Cottages – Virginia Beach, LLC [Applicant & Property Owner]

**Modification of Conditions
161 Princess Anne Road**

April 14, 2021

RECOMMENDED FOR APPROVAL - CONSENT

Mr. Wall: Thank you. The next application is application number 16; North Landing Beach RV Resort and Cottages, Virginia Beach, LLC for Modification of Conditions for Recreational Campgrounds. Is there a representative for this item?

Madam Clerk: Mr. Vice-Chair, there is, it's a virtual -- Robert Simon. Mr. Simon, if you would wait two to three seconds and then begin your comments.

Mr. Simon: Good afternoon, members of the Commission. Robert Simon, here to represent the North Landing Beach Campground, Resort and Campground. I'd like to say thank you to the staff for working with us on this and we are in agreement with the 14 conditions that they have recommended, and we appreciate being put on the Consent Agenda. Thank you.

Mr. Wall: Thanks. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we've asked Mr. Horsley to read this into the record.

Mr. Horsley: Thank you, Jack. The North Landing Beach RV and Resort and Cottages have done an outstanding job of renovating that campground since purchasing it in 2014. I think their original camp brand was established back in the early 70s, but it was nothing like what's there now. It's become one of the top-rated campgrounds in the country now also. But due to the popularity of this campground, they've decided to make some improvements. Such being, they want to modify the conditions; they want to put in a non-commercial marina to be used by their guests only, a marina store, comfort stations, screen, gazebo, event space and an addition to the existing arts and crafts room is what their goal is, to do that. The staff has looked over all these requests and they deem them worthy, and the conditions from the 2019 use permit will all be deleted, and the 14 new conditions will be established in the new modifications. So, there were no oppositions to this request, so we decided to go ahead and put it on the Consent Agenda. Thank you.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. All conditions attached to the Conditional Use Permit granted by the City Council on April 16, 2019 are deleted and are replaced with the conditions listed below.
2. The site shall be developed substantially in conformance with the exhibit entitled, "North Landing Beach RV Resort and Cottages – Virginia Beach, LLC, 161 Princess Anne Road, Virginia Beach, VA" prepared by Chesapeake Bay Site Solutions, Inc., dated August 7, 2020, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
3. Plant material, at a minimum, shall be installed as depicted on the exhibit entitled, "North Landing Beach RV Resort, sheets L-01 & L-02," prepared by RV Management Services, dated June 28, 2015, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department. All other planting and screening requirements shall be met, as per City requirements.
4. When the building and improvements are constructed and installed, they shall be in substantial conformance with the exhibits entitled, "Arts and Crafts Addition for North

Landing Campground,” prepared by D+D Studio LLC and “Events Conference Center for Madison Vines RV Resort and Cottages” and “Bath House Facilities for Madison Vines RV Resort and Cottages” both by Gillum Architects P.C. all of which have been exhibited to the Virginia Beach City Council and are on file in the Planning Department.

5. The berms along Princess Anne, entrance or signage landscaping and any foundation landscaping for new structures fronting Princess Anne required by the Virginia Beach Code shall be depicted on the final site plan. All plant species shall be approved by the DSC Landscape Architect.
6. All park model trailers shall be licensed and road ready to be relocated out of the Special Flood Hazard Area in the event of the issuance of a hurricane warning for the City of Virginia Beach and also prior to any approaching significant storm or wind tide flooding. Evidence of such licensing shall be maintained by the campground and submitted to the Planning Department upon request.
7. The beach monitor shack, as depicted on the 2015 plans, shall be a non-permanent structure and shall be relocated out of the Special Flood Hazard Area in the event of the issuance of a hurricane warning for the City of Virginia Beach and also prior to any approaching significant storm.
8. For safety reasons, lights shall be installed either on or adjacent to the maintenance buildings’ access doors so as to provide lighted entries.
9. As it pertains to the new buildings, the campground shall comply with all required fire and safety codes, per City ordinances and site plan review.
10. Any recreational vehicles stored on the site year-round and available for lease shall obtain any necessary permits, inspections and certificates of occupancy as required by State law, as determined by the Building Code Official of the City of Virginia Beach.
11. Encroachment into any environmentally sensitive portion of the property, including but not limited to the 50-foot Southern Rivers buffer, the Special Flood Hazard Area, tidal or non-tidal wetlands, and the floodplain mitigation area as required by the 2005 Floodplain Variance and Conditional Use Permit approval, for any permanent or temporary structures shall be prohibited without obtaining all applicable permits from federal, state, and local agencies.
12. All proposed work between Mean High Water and Mean Low Water shall be approved by the Wetlands Board prior to the issuance of a building permit. Any proposal to construct, alter, or repair landings, docks, and similar structures including piers shall require approval by the City of Virginia Beach Waterfront Operations Staff prior to the issuance of a building permit.

13. The campground shall not be open to the public or host public ticketed events. Events and activities held at the campground shall be limited to registered campers and their guests as allowed by North Landing Beach Campground policies.
14. Use of the pontoon boats shall be limited to registered campers and their guests and shall not be available for rental by members of the general public.

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.

2019 CONDITIONS

1. All conditions attached to the Conditional Use Permit granted by the City Council on October 6, 2015 are deleted and are replaced with the conditions listed below.
2. The site shall be developed substantially in conformance with the exhibit entitled, "North Landing RV Park, 160 Princess Anne Road, Virginia Beach, VA for RV Management Services – VB, LLC, Proposed Improvements," prepared by KLO & Associates, dated July 1, 2015, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
3. The plant material, at a minimum, shall be installed as depicted on the exhibit entitled, "North Landing Beach RV Resort, sheets L-01 & L-02," prepared by RV Management Services, dated June 28, 2015, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department. All other planting and screening requirements shall be met, as per City requirements.
4. When the building and improvements are constructed and installed, they shall be in substantial conformance with the exhibits entitled, "Rendering – Craft & Game Ctr.," "Renderings – Recreations Ctr.," both prepared by Ionic DeZign Studio, the photographs entitled, "Maintenance Storage Buildings," "Refuse Enclosure," "Beach Monitor Shack," all of which have been exhibited to the Virginia Beach City Council and are on file in the Planning Department.
5. The berms along Princess Anne, entrance or signage landscaping and any foundation landscaping for new structures fronting Princess Anne required by the Virginia Beach Code shall be depicted on the final site plan. All plant species shall be approved by the DSC Landscape Architect.

6. All park model trailers shall be licensed and road ready to be relocated out of the Special Flood Hazard Area in the event of the issuance of a hurricane warning for the City of Virginia Beach and also prior to any approaching significant storm or wind tide flooding. Evidence of such licensing shall be maintained by the campground and submitted to the Planning Department upon request.
7. The beach monitor shack, as depicted on the exhibit identified in Condition 2 above, shall be a non-permanent structure and shall be relocated out of the Special Flood Hazard Area in the event of the issuance of a hurricane warning for the City of Virginia Beach and also prior to any approaching significant storm.
8. For safety reasons, lights shall be installed either on or adjacent to the maintenance buildings' access doors so as to provide lighted entries.
9. As it pertains to the new buildings, the campground shall comply with all required fire and safety codes, per City ordinances and site plan review.
10. The pool spa plans shall be submitted to and approved by the Virginia Beach Health Department prior to the issuance of a building permit.
11. Any recreational vehicles stored on the site year-round and available for lease shall obtain any necessary permits, inspections and certificates of occupancy as required by State law, as determined by the Building Code Official of the City of Virginia Beach.
12. Encroachment into any environmentally sensitive portion of the property, including but not limited to the 50-foot Southern Rivers buffer, the Special Flood Hazard Area, tidal or non-tidal wetlands, and the floodplain mitigation area as required by the 2005 Floodplain Variance and Conditional Use Permit approval, for any permanent or temporary structures shall be prohibited without obtaining all applicable permits from federal, state, and local agencies.
13. Adjacent and parallel to the area depicted as "Scout Area" on the exhibit referenced in Condition #2 above, additional plant material shall be installed in order to create a solid vegetated buffer in the existing treed area adjacent to the southern property line. Said plants shall be approved by the Development Services Center Landscape Architect and depicted on the Landscape Plan to be submitted with the final site plan review. Any dead, dying or diseased plants in this area shall be removed and replanted with a species that will enhance the vegetated buffer.
14. The proposed pier at the Southern end of the beach shall be approved by the Wetlands Board prior to the issuance of a building permit.

Item # 17

**Oceanfront Investments, LLC [Applicant & Property Owner]
Street Closure
Portion of Atlantic Avenue adjacent to 4201 Atlantic Avenue**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you. The next agenda item is Agenda Number 17, Oceanfront Investments, LLC for street closure. Is there a representative for this item? Okay.

Mr. Weiner: We'll get there before we vote.

Mr. Wall: Okay. Okay.

Mr. Nutter: Good afternoon, Members of the Commission. My name is RJ Nutter, I'm an attorney representing Oceanfront Investments, LLC. Thank you for placing us on the Consent Agenda. All five conditions are acceptable. We appreciate this; this is a pretty simple one, thank goodness. And again, thank you and thanks to the staff for all their hard work on this application.

Mr. Wall: Thank you. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we've asked Mr. Alcaraz to read this into the record.

Mr. Alcaraz: Thank you, Mr. Wall. The applicant for agenda number 17 has requested to close a small strip of right of way in order to install a freestanding monument style sign at the entrance to a hotel at the oceanfront. Specifically, the proposed street closure is necessary to allow for a legal placement of a freestanding sign at the primary entrance of the new Marriott Oceanside Hotel, the Cavalier Beach Club and other associated establishments. The State Code requires that private signs be placed on the same parcel as the establishment the sign represents; otherwise, the sign is considered off site and therefore prohibited by City Code. If approved, the subject 420 square foot strip of land will be re-subdivided to become part of the adjacent privately owned parcel.

The request is consistent with the long-range goals and the vision of the resort strategic growth area SGA. The sign meets all applicable Zoning requirements of the Oceanfront Resort District Form Based Code and the City's Zoning Ordinance and is consistent with the quality of the establishment it is advertising. Based on those conditions, staff recommends approval of the street closure and is recommended by the Planning Commission for approval for Consent Agenda.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and

Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda items number 23, 26 and 28.

So yep, that was the last item on the consent agenda. Okay. So, with that being said, I move for approval of Agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18. And on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest, and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven District.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the Conflicts of Interest Act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, seconded by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Miss Klein?

Ms. Klein: Aye.

Madam Clerk: Miss Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Items Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

	AYE 9	NAY 0	ABS 2	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE		ABSTAIN from items 23, 26 and 28	
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE		ABSTAIN from item 18	
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The City Attorney's Office will 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, or the applicant's successors or assigns, shall resubdivide the properties and vacate internal lot lines to incorporate the closed areas into the adjoining parcels. The resubdivision plats must be submitted and approved for recordation prior to the final street closure approval.
3. The Applicant shall dedicate a public drainage and utility easement over the entire area proposed for closure to the City of Virginia Beach by a separate recorded Deed of Dedication of Easement, subject to the approval of the Departments of Public Utilities and Public Works, and the City Attorney's Office, which easement shall include a right of reasonable ingress and egress. Said Deed of Dedication of Easement shall include the provision that if any maintenance, repair or failure of any public utility facilities causes

damage or destruction to the improvements proposed by the Applicant within the easement area, the Applicant will be responsible for the cost to repair or replace said improvements.

4. The applicant or the applicant's successors or assigns shall verify that no private utilities exist within the right-of-way proposed for the closure. If private utilities do exist, easements satisfactory to the utility company, must be provided.
5. Closure of the rights-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 plats are 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.

Item # 18

**Festival, LLC [Applicant & Property Owner]
Alternative Compliance
712 Atlantic Avenue**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Thank you. The next item on the on the Consent Agenda is Festival LLC for Alternative Compliance. Is there a representative for this item?

Mr. Bourdon: Thank you Vice-Chair Wall, Chairman Weiner and members of the Commission. First of all, I appreciate y'all letting me take a couple of seconds of time to address one of the conditions as Ms. Moss indicated, but first I want to great express my great appreciation to Ms. Moss and to Planning Director Tajan who have put in a great deal of time and effort in helping and listening and working with my clients on this application. I also thank the RAC PDRC for their endorsement of this request as well. And with the caveat of the comments, I'm going to make on condition number two, the first two sentences of condition number two, the 12 conditions as revised, are acceptable to my clients.

On condition number two, the first sentence concerning the wire connected bollards, which are located entirely within the Pacific Avenue public right of way; these bollards were present when my client purchased the property. This parking area on the Pacific Avenue side of the property was also present and in use when he purchased the property, and there was no landscaping whatsoever. And this parking area existed prior to our adoption of the Form Based Code as well. My client has done a significant amount of landscaping and within the next 10 days is going to be doing a tremendous amount of additional landscaping and hopefully, it will further obscure these bollards. My client was willing to paint them if it was possible, but they are so corroded and rusted and what have you, they're dangerous and you can't even get the wire out from between them.

So, they're on City property, and he has concerns about undertaking to remove them and has been advised by separate counsel, that that's not something that he should engage in. I'm not asking you to change the condition but just want to put that on the record. The sidewalk widening or with pavers on the second sentence is something that he's willing to potentially undertake, but there are issues with having to treat storm water in public right of way on his site and taking away development potential on his site; that will have to be addressed as we move forward through the site plan process. And I appreciate you all placing this matter on the Consent Agenda.

Mr. Wall: All right. Thank you. Thank you. Is there any opposition for this item to be on the Consent Agenda? Hearing none, we've asked Mr. Alcaraz to read this into the record.

Mr. Alcaraz: Thank you, Mr. Wall. The subject property is home to The Shack; a primarily outdoor resort establishment with dining, entertainment, and outdoor recreational facilities that have

become popular with both visitors and residents. The establishment has grown and adapted over the years to host a variety of unique temporary but often reoccurring events venues including food trucks, open air markets, outdoor entertainment, festivals and fundraisers. The Oceanfront District -- excuse me, the Oceanfront Resort District Form Based Code provides flexibility through the Alternative Compliance process to accommodate unique uses and development forms that contribute to the character and ambience of the -- envisioned in the Resort Area Strategic Action Plan, RASAP 2030, but do not but do not follow the prescribed form as written in Section 7.33 of the Ordinance I just stated, provides the review standards for these applications, noting that the City Council shall consider the extent to which the proposed development taken as a whole satisfies these standards. Each of these standards is listed on the report. And having said that, based on the conclusion with the uses and associated structures that satisfy the standards above the greatest extent possible, staff recommends approval of the special exemption of the Alternative Compliance to the Form-Based Code. And I'm making sure I say this right, with the recommendations or revisions that Mr. Eddie Bourdon just stated, are on the agenda -- are put on the Consent Agenda for approval.

Mr. Tajan: I believe that the applicant or Mr. Bourdon has represented that he's not requesting any change to the conditions that were provided to you in the supplement, which was provided to you last night that had revisions to conditions 1, 3, 5 and 6.

Mr. Alcaraz: Pertaining to Mr. Bourdon. Are we good? Then I retract what I said and I recommend approval on the Consent Agenda as stated on the report. Thank you.

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am

on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 8	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver			ABSTAIN	
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. Within 60 days of City Council approval of this application for Alternative Compliance, the applicant shall submit a site plan showing all existing and any anticipated new structures and surfaces for the existing "Shack" development, including stormwater calculations for the depicted structures and surfaces, and all other required information to the Development Services Center. The applicant shall diligently pursue, and the City shall timely review and provide comments on the site plan, which the applicant will obtain approval of within one year of site plan submittal. If the applicant fails to meet either deadline, all existing temporary structures shall be retrofitted to meet building code and site requirements for permanent structures or shall be removed within 90 days of the applicable deadline. No proposals for new, temporary structures shall be considered until the site is brought into full compliance with building code and site plan development requirements.
2. Within two years of City Council approval of this application for Alternative Compliance, the wire barriers between the bollards shall be removed and the bollards themselves shall either be removed or maintained and painted in a manner agreed upon by the Planning Director and Department of Public Works. The grass verge in the streetscape on the southern portion of Pacific Avenue shall be replaced with pavers matching those in the northern section, adjacent to the former 8th Street right-of-way and 9th Street Municipal Parking Garage. Existing plantings along the entire Pacific Avenue street frontage shall be supplemented or replaced with canopy trees, evergreen shrubs, and flowering perennials and grasses in a tiered format to provide shade, screening and buffering for the surface parking lot and enhance the pedestrian environment. Wheel stops shall be installed in the parking lot to protect plantings. The specifics of this design shall be determined during the detailed site plan review process.
3. The parking attendant stand shall be removed, refurbished or replaced. If a new or refurbished structure is proposed, the design and placement shall be subject to approval by the Planning Director.
4. All new, permanent structures shall either comply with the prescribed or optional forms of development in the Oceanfront Resort District Form-Based Code or shall substantially conform to the renderings depicted in "The Shack Addition, Virginia Beach, Virginia," dated November 19, 2018 by Hanbury, which has been exhibited to the City Council and is shown on pages 7 through 11 of this staff report. While the general configuration of the proposed

site layout shall conform to the renderings, the exact location of the building footprint shall be determined during detailed site plan review.

5. When the proposed addition or other primary permanent structure is constructed, transformers, mechanical structures, and other minor structures accessory to utility facilities greater than four feet tall shall be placed where not visible from the public right-of-way. Such structures that are already in place and cannot be relocated shall be screened in accordance with Sec. 3.2.4 of the Oceanfront Form-Based Code.
6. Bicycle racks designed in conformance with the City's bicycle parking design guidelines to accommodate at least 35 bicycles shall be provided in a designated location to be determined during detailed site plan review. Additional bicycle parking shall be added on the property as needed during peak season or other special events.
7. Any changes to existing, legally nonconforming signs on the property shall be subject to approval by the Planning Director. Temporary signs advertising special events shall be permitted but limited to a set location, size, and material subject to approval by the Planning Director. Such signs shall be exempt from the standard limits on duration and frequency of posting throughout the year.
8. No outdoor amplified music is permitted between 11:00 p.m. and 10:00 a.m.
9. No merchandise, produce, or food shall be displayed or sold along either the Atlantic or Pacific Avenue street frontages.
10. Outdoor storage is not permitted on the site, even if enclosed by a fence or wall. All merchandise, stalls, equipment and materials shall be stored inside of a building while the business is closed.
11. The operation of the commercial parking lot shall comply with the requirements of Section 23-58 of the City Code.
12. The operation shall not disturb the tranquility of residential areas or other areas in close proximity or otherwise interfere with the reasonable use and enjoyment of neighboring property by reason of excessive noise, traffic, lighting, or overflow parking.

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.

Items # 19 & 20

**Kim Davenport [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
8809 Atlantic Avenue, Units A&B**

April 14, 2021

RECOMMENDED FOR DENIAL – HEARD

Mr. Weiner: Thank you. Right, we're on to short-term rentals, 19 and 20.

Madam Clerk: Okay, our next agenda items are 19 and 20. Kim Davenport, an application for a Conditional Use Permit, Short-Term Rental on property located at 8809 Atlantic Avenue, Units A and B in the Lynnhaven District.

Mr. Weiner: Welcome, sir. Please state your name for the record.

Mr. Davenport: Kim Davenport.

Mr. Weiner: Okay.

Mr. Davenport: I'd like -- good afternoon to the members of the Planning Commission. I appreciate the time you give us to have our input on these subjects.

I'm here today to hopefully convince the Virginia Beach Planning Commission to recommend my Atlantic Avenue residence for a Conditional Use Permit to allow Short-Term Rentals. My wife Jeanie and I bought the 8809 Atlantic Avenue in late 2018 to use as a rental, and hopefully one day be able to afford to make the north end property our permanent residence.

The property is a duplex with the size, location and layout suited as a vacation type cottage. It was on the market for four months with no buyers. Prospective owners did not find it financially viable or didn't want to put the time and money in for repairs and upgrades it needed and the lot was not big enough to make a financial profit by raising the cottage and making it a three-story monolithic monstrosity duplex. This was fortunate for myself and my wife, as we love the property as it is with its old-fashioned charm. We would never invest in a property that we would not love to live in as our own residence.

When we purchased the residence, it was unoccupied, rundown and in disrepair. We spent the next six months renovating, landscaping and furnishing the property to restore it to its original intended use as a beach cottage. We intended initially to keep it as a monthly rental but found it was more suitable for a weekly rental. Each unit is a very small two-bedroom one-and-a-half bath with fireplace and a very small lot with no real yard to speak of. It was built to be used as a summer cottage with both units sharing a common laundry room. Each duplex is 900 square foot, can

accommodate a family of four, maybe six with pre-teenage children. The back unit has a small deck that is completely enclosed with the six-foot privacy fence.

The front unit has a little more outdoor area, but still has a small deck enclosed by a continuation of the six-foot privacy fence, followed by a 20-foot length of a small picket fence to 89th Street. Once zoning approves the parking spots to put in, the outdoor area will be reduced further and the patio will be more of a walkway. On the other side of the property from the six-foot privacy fence is Atlantic Avenue with no adjacent neighbors.

The point I'm trying to stress is that there is no space available both for outdoor activities of any size, and since we have owned the property there have been no social gatherings or outdoor events except the family meal or enjoying an adult beverage on the picnic table. To my knowledge to date, there have been no complaints from any neighbor for any reason. But in fact, we have been repeatedly told by the neighbor that the vacation renters we were renting to are always pleasant and considerate. As to parking issues, there have never been any complaints or violations.

As a short-term family rental, most occupants have one car, on occasion maybe two. When we put in the recently zoned approval for brick paver parking spots on the 89th Street side, we will actually increase the neighborhood parking by freeing up the four spots on the Atlantic Avenue easement we currently use for parking. This can be seen on the site plan submitted with my CUP application. The research and investigation into understanding the parking issues is one of the reasons I was late in filing for my CUP. I've learned a valuable lesson that if I ever attempt to buy a residence in an older neighborhood again, that I make sure the perceived parking spots that are shown on the site plan -- that I make sure that perceived parking spots are shown on the site plan and within the boundaries of the purchased property.

The renters move the trash receptacles to the street on the trash pickup day and then back to the side of the property afterwards. If they don't do it, our cleaners do. If our cleaners don't do it, then Jeanie or myself will drive down to the property and move them. We have security cameras and monitor them carefully for the safety of our renters and security of the property when not occupied. Again, we have never heard or seen of any issues except an occasional lockout or a renter unable to open a key box. We do not allow pets as there -- so there are no barking dogs to annoy the neighbors.

Before I was aware of the Short-Term Rental CUP requirements, we did do some summer rentals in 2020. I had submitted a list of those for you to review so you have an understanding of the type of people and renters who use the property. The overwhelming number of them were small families, as you can see; they are grateful and impressed with the natural beauty, quaintness and charm of the North End and it is for this reason they prefer the location as opposed to the crowds and the noise of the resort area.

There is no difference between the residence being owner-occupied or visitor-vacation rental occupied. Both have cars, both used in the neighborhood for transportation and for using local

parking spots. So, the traffic is the same. Both have occupants. So, the number of residents in the neighborhood are the same. Both use the beaches, trails, bike paths, outdoor activity, so the outdoor activities are the same. One difference is that an owner-occupied property will not give Virginia Beach the benefit of the lodging tax revenue. Another difference is with the Short-Term Rental you have a new family each week enjoying the North End Virginia Beach experience for the beauty of the beach, creating new once-in-a-lifetime family memories by enjoying the North End Maritime Forest and the Atlantic Ocean Beach, First Landing State Park, biking trails, local sites and enjoying local restaurants.

If the Civic League did not want a Short-Term Rental, I'm sure it wouldn't prefer a long-term group house rental by a dozen group friends staying there over the summer. This would not be overseen and managed as well as a Short-Term Rental. I myself and a group of friends did a short rental when I was younger, and I would never do this to my property or to my neighbors. If the property is not available for the Short-Term Rental, then will most likely alternative as a monthly to annual rental. There is no -- for which there would be no Virginia lodging tax revenue. And it would probably be rented to a younger non-married individual and be susceptible to non-tenant overnight stays and parties with their friends.

If the tenant turned out to be bad and created the type of neighborhood disturbances the civic league is concerned with, then it would take three months to evict them, if at all. The advantage of the Short-Term Rental is the risk is with the owner of losing the Conditional Use Permit, and the owner must be extra vigilant and proactive to make sure the laws are complied with and the guests are managed.

About a month ago, there was a justifiable outcry from the neighbors and from the speakers at the different Commission sessions for a three-day all-night party and a discharge of a firearm that took place about a month ago. However, I believe the blame and perpetrator of this incident directed at illegal Short-Term Rental was not justifiable. As I understand, the residence was not a legally permitted Short-Term Rental and was in fact was a rogue resident owner allowing this rude and unacceptable behavior. If it was a legally permitted Short-Term Rental, the owner would never have allowed it knowing their permit would be revoked. And if I'm wrong, and it was a legal CUP Short-Term Rental, I would be the first to insist that the CUP is revoked.

Mr. Weiner: Any questions? Yeah, you have a question.

Ms. Klein: I saw that your application was submitted early November of 2020. When did you discontinue your short-term rentals?

Mr. Davenport: It was at that time.

Ms. Klein: Okay, so no rentals after November 2020.

Mr. Davenport: Correct. When I started, I was -- I registered with the business revenue thinking that was all I needed to do because it was an application for a Short-Term Rental. Over time and

trying to keep up with the laws I found out I was mistaken. So, we filed the application. We cancelled all future rentals and returned their deposits and since then I have rented to long-term renters. And I've had family and friends and myself use the residence.

Ms. Klein: Thank you. Mr. Tajan, we are engaged in an ongoing conversation with the Commissioner of Revenue to make sure that they share that information with registrants, right?

Mr. Tajan: Yes. We do the best we can to share the information as much as possible.

Mr. Davenport: It's well-documented. You say it on all of your applications. So once the application is submitted--

Mr. Weiner: Sure. Hold on one second. Let Mr. --

Mr. Tajan: We do our best to make sure we relay the information. Again, a lot of people have been submitting things online. But, yes, we have been in constant discussion and review with the Commissioner of Revenue to make sure that we're sharing that information.

Ms. Klein: Is it possible to get something added to the Commissioner of Revenue application? Would that be an option if they're doing it online?

Mr. Tajan: We can ask. We will ask.

Ms. Klein: Thank you.

Mr. Tajan: So, any business license, well --

Mr. Weiner: Any comment?

Mr. Tajan: There is a --

Ms. Eisenberg: No, I was just going to say we can't force them to do that. Bobby is right, we can just ask nicely.

Mr. Weiner: I like that.

Mr. Tajan: There is a -- again, typically if they're getting their business license, they are required to get Zoning approval, which is how we catch a number of these as well. It is different if they are just registering to pay the amount. That means they're probably represented by a Real Estate Company and so they typically just register them and take the money so --

Ms. Oliver: Sir, did you go down in person to the Commissioner of Revenue's office to register?

Mr. Davenport: No, I did not.

Ms. Oliver: You did not. Okay. Couple of questions I have for you, sir, is when you were renting short-term you rented it, according to all your letters, at least 64 times, which is -- that's a quite a bit, including your cleaning lady, who said, you know -- and they're all great reviews, obviously but there's 64 reviews, which means that you've rented at 64 separate times.

And being that the -- and I've noticed that you mentioned the North End Civic League, the North End Civic League is pretty loud Civic League, and they do put out a newsletter and an email and they collect dues. And so, I've just -- it's interesting to me that you didn't -- during this time that you've owned this property and have been renting it all, all along that you were unaware that you needed a CUP because that Civic League is quite...

Mr. Davenport: I was never notified by anyone. I talked to my neighbors, they -- I have one adjacent neighbor who I talk to on a regular basis. They did not mention it. I did not hear it from the Civic League.

Ms. Oliver: Well, the Civic League is not going to reach out to you, but the Civic League -- that Civic League, specifically, is very large, very loud, and it communicates very well with pretty much everybody there. They put fliers in the mailboxes. I mean, that's a significant...

Mr. Davenport: I can't speak for that. I know I was not contacted. And this was over a period of late 2019-2020.

Mr. Weiner: Any more questions? All right, thank you sir. I don't think there are any more speakers, correct?

Mr. Davenport: Thank you for your time.

Mr. Weiner: Thank you. We're going to close this and open up for discussion. We don't have a Lynnhaven representative, who is closest to Lynnhaven Beach?

Ms. Oliver: I'll start it. I'm familiar with this street just because my grandparents lived on this street, pretty much all my life. There's no parking on the street whatsoever or around the corner or on the ocean side of this street at all. And I just have a problem with somebody that's -- he's been operating for -- well he bought it in 2018. Started renting at -- and he's rented it a lot. And he's short on his parking to boot. And so, I just have -- I can't. I'm not going to support this application. But that's where I am.

Mr. Weiner: Anyone else? Jack? Turn your mic on.

Mr. Tajan: It's just for staff and it's the map update on 03-11-2021. It's just a formality. But before -- if it goes to Council, I think that blue dots supposed to be a yellow -- you know, that because it's showing as registered. Or maybe that is right. That is the problem, is that it is registered as -- that is correct. Okay. Yep, got it. Okay, thanks.

Mr. Weiner: Any other comments? I'm going to make one because I'm the one that actually brought this up, that I couldn't support this. And the sign has been up for a long time and I've ridden by it quite a few times, and I actually walked around at one time and waiting for the staff report to come out. I couldn't -- I didn't know where anybody was going to park because there's no parking. And when I read the staff report, they're going to cut trees down to make a driveway. You know how I feel about pouring concrete for driveways; I definitely cannot support cutting trees down for a driveway. So, I'm not going to support this one either.

Mr. Weiner: So, anybody want to make a motion? I'm sorry. I need a motion.

Ms. Oliver: I'll make a motion to deny.

Mr. Weiner: I'm sorry. No, no, sir don't --

Ms. Oliver: Make a motion to deny Application Agenda Item Number 19 and 20.

Mr. Weiner: Anybody going to second it?

Mr. Alcaraz: Second.

Mr. Weiner: We have a second. We have motion by Mrs. Oliver and seconded by Mr. Alcaraz

Mr. Alcaraz: Yes.

Madam Clerk: The motion is to deny the application. Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham is absent. Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman, Weiner?

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of eight in favor, zero against, Agenda Items 19 and 20 have been denied.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 8809 Atlantic Avenue, Units A & B, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. As illustrated in the "Site Layout and Parking Plan" section of the Staff report, an entryway driveway apron meeting the minimum Public Works Specifications and Standards shall be added within 90-days of City Council's approval of this request. All applicable building permits shall be obtained by the Permits and Inspections Division of the Department of Planning and Community Development prior to placement.

4. An on-site parking area shall be added as illustrated in the parking plan found in the Staff report. The proposed surface material type shall be concrete pavers, or a substitute material approved by the Zoning Administrator. The driveway addition shall be placed within 90-days of City Council approval. In addition, a building permit issued by the Permits and Inspections Division of the Planning Department shall be obtained prior to the installation of the driveway addition.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 21

**Kerry Burnham [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
400 Norfolk Avenue, Unit B**

April 14, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: On to 21.

Madam Clerk: Agenda Item 21; Carrie Burnham, an application for Conditional Use Permit Short-Term Rental on property located at 400 Norfolk Avenue Unit B in the Beach District.

Mr. Weiner: Welcome, sir. Please state your name for the record.

Mr. Burnham: Carey Burnham. Good afternoon, Chairman and committee members. I'm here seeking your approval recommendation to the City Council for Conditional Use Permit for Short-Term Rental. My wife and I purchased the three-bedroom condo on Norfolk Avenue in December. And we love the idea of being able to walk to the beach and spending time there with family and friends, and just being able to walk back to our condo and rinsing off and enjoy the rest of the evening. We also had thought about the chance to do short-term rental when we purchased and that's obviously some direction, we want to go into the future along with spending time there ourselves.

Our children and grandchildren are local. We've been members of -- residents of Chesapeake and Virginia Beach for 30 plus years, 21 of those being in the Virginia Beach, just never got close enough to the Oceanfront like we always wanted and we're there now. But I don't know that we're going to spend all our time there because we also own a home in Chesapeake and I do some traveling as a defense contractor as well.

To put the application in and there was -- the parking wasn't wide enough in one section of the driveway. So, you know, this is our home, this is me and my wife's home, we may end up retiring there at some time. We didn't see the feasibility of just adding a foot of concrete that was going to be different color than the rest of the concrete. So right now, as we speak, Winesett Nursery's out there, and I'm having them do a foot all around the driveway of decorative concrete pavers, so it looks cosmetically appealing to the eye. We want to be good neighbors.

Speaking of being good neighbors; I've spoken to three neighbors, two that are immediately beside me and the one immediately behind me, where both of our driveways empty out at the same spot on to 9th Street. The one that I really want to express the fact that being a good neighbor is important to us, is the one that we share this condo unit with; the two people that own 400A, as we own 400B. And I looked all these neighbors in the eye and I said these exact words, "It is extremely important to us to be a good neighbor above all". All those neighbors have my wife and my personal cell number. I have security cameras on the outside of the property. And I --

whoever ends up renting this if that happens, I plan on meeting those families in person, saying, "Hey, this is what we're all about and being a good neighbor is the utmost important to us." And all of those neighbors, I have their contact number, they have mine, are in support of us doing this.

We just want to be good neighbors. I don't know how else to put that, it's important to us and our home at Chesapeake right now and it's just as important to us at our condo that we just purchased in December. This is new to us. We've never done any type of short-term rentals. So, we did extreme research and we asked the realtor when we bought the place and she sent us to the vbgov/str website and we've just done the application and you know everything, like we've been told and we're supposed to, and I'm standing by for any questions.

Mr. Weiner: Any questions? I have a question.

Mr. Burnham: Yes, sir.

Mr. Weiner: Are you -- what Realty Company? Are you using a Realty Company right now for renting or you're doing it yourself?

Mr. Burnham: Myself.

Mr. Weiner: So, who's -- so if there's a problem where you have to be on site within a certain amount of time, is that you?

Mr. Burnham: Yes, sir. Me and my wife will drive from my home in Chesapeake to our condo.

Mr. Weiner: Okay. All right, no questions? Thank you, sir.

Mr. Burnham: Yes, sir.

Mr. Weiner: Oh, hold on a second.

Mr. Horsley: I got one question.

Mr. Burnham: Yes, sir.

Mr. Horsley: You said that you all plan to use it -- approximately how much do you plan to use it? Otherwise, you just don't get locked into renting it and just stay there one week a year or something else?

Mr. Burnham: Sir, I wish I could give you a number. If it was up to my wife, we would move in there right now and sell our Chesapeake home. If it was up to me, we would do it 50% of the time and help support the income with two mortgages. You know, I wish I could give you a number on that but that's our two differing opinions. And if you've been married for a long time, you'll know that it's probably going to lean more towards what she wants and not what I want, that's --

Mr. Horsley: I've been married a long time. Thank you.

Mr. Burnham: Yes, sir. Thank you, sir. Yes, sir.

Madam Clerk: We have no speakers.

Mr. Weiner: No speakers? All right, we will open it up for discussion. Oh, this is definitely George.

Mr. Alcaraz: Well, I did ask to hear it, because my concern was the close proximity of the neighbor next door. I understand it's -- I take it, it is a condo, or it's a duplex condo, individually owned. I know he's increasing the parking area so he can meet those requirements two on site and one in the garage. I just -- I'm here to listen to you, if you guys have any concerns. I don't think I'm supporting it unless I can be swayed differently. But because of the closeness of the adjoining property, looks like there are side doors there and I see a fireplace on the side. I see -- so there's probably a living room window there. And I just -- I'm all about enjoyment, quiet enjoyment at your home. So those are my [Audio Overlap].

Mr. Weiner: Mrs. Klein?

Ms. Klein: I'm inclined to approve it. It sounds like they really did their due diligence when purchasing the property and so I applaud them. I applaud their realtor for providing them with accurate information, and I think that that is a testament to the type of homeowners and property managers that they would be moving forward.

Mr. Weiner: Okay. Mrs. Oliver?

Ms. Oliver: So as much as I appreciate his sincerity my problem is that, you know, these run with the land. And as good as a landlord he would be, I would imagine the fact that it is connected to another building that somebody else lives in, and these run with the land, that's what gives me heartburn. Because if they decide they're going to sell in a few years, then somebody else buys it, we've got a duplex with a family or whomever is on the other side that's invested their life savings for a home. And now we've got this short-term rental operating differently, and that's where I stand with these, that are connected to each other.

Mr. Horsley: Can you put a time limit?

Mr. Weiner: No, because the Conditional Use Permits for Short-Term Rentals are five years, right? Am I correct? For five years, so there has to be -- that time limit is already in the ordinance for five years.

Mr. Tajan: I mean, technically, there is a time limit already. So, you could recommend a shorter one.

Mr. Weiner: Really?

Mr. Tajan: You can. I mean it is a -- and as far as having to come up -- all we'll do, we will say it will come up for administrative review and renewal at a sooner timeframe. It makes it a little bit more difficult for staff; it doesn't mean it will go away. You can't. I don't think we've been comfortable doing. Have we been comfortable doing the timeframe for Conditional Use Permit since it runs with the land? I don't think so.

Mr. Weiner: We were told we couldn't do.

Mr. Tajan: Yeah.

Ms. Klein: Could we do something like make a condition that they have to notify the Planning Office if they sell the property? No?

Mr. Tajan: Technically, if someone wanted to operate a new short term, I'm trying to understand what the -- I guess what we're trying to find.

Ms. Eisenberg: You can't limit it to an individual if that's what you're trying to get at, that cannot be done.

Ms. Klein: Well, okay. So, my thought is I have the property and I'm selling it. So, I'm letting the office know, "Hey, the short-term rental I had, I'm now moving from this property". So, then the Planning Department can be on notice to either look for a new permit or complaints or whatever for that property.

Mr. Weiner: We were always told when we've talked about it before in the past and many years, we can't do that because the Conditional Use Permit runs with the property. If it's been sold, it doesn't matter. It's still running with the property. So, you can't stop the Conditional Use Permit just because the man sold it. But this is the first time I'm hearing it, because I know we've talked about time limits on these things, and I was always under the impression it was five years. We had -- we couldn't make -- come back administratively review in one year, two year, three years. I didn't know that. I would have done some of this long time ago.

Mr. Tajan: Well, I think maybe you've been told and I'm sorry, Mr. Inman, I think you have a comment. And so, I'll step back.

Mr. Inman: No, go ahead.

Mr. Tajan: I think the discussion that's been told is that you can't limit, you can't. There's no comfort to say this goes away in two years, the Conditional Use Permit goes away in two years. What the -- in 241.2, the Zoning Ordinance, it says that the Conditional Use Permit shall come up for review, shall expire after five years and come up for administrative review. That's what the ordinance says.

Mr. Weiner: That's after five years.

Mr. Tajan: Correct.

Mr. Weiner: Okay. Right, but what if we put -- what if we make the condition one year? We can't do that? That's unfair.

Mr. Tajan: Yeah, I mean.

Mr. Weiner: That's unfair.

Ms. Oliver: Yeah. This is not fair.

Mr. Weiner: Okay. Okay. I mean, that's what I was always told. So that's why I've always said we can do time limit -- or we can't do because it is five years on a Conditional Use Permit.

Mr. Tajan: I mean, again, it doesn't -- if it needs to come up for -- again, this is discussing the coming up for review portion, right. So, understanding that, if we get constant complaints for Short Term Rental, we're going to bring it back to City Council to revoke it. We're not -- we're not -- so regardless of it is five years, two years, one year, if I get three safety complaints or one, two safety complaints that are egregious, I'm bringing it back to the City Council to get it revoked. So, I mean, that's -- I don't know if there's any comfort in the number, if that makes sense, so.

Mr. Horsley: You know, and I see where Robyn's coming from because you get a very sincere gentlemen come in here, you know, and he acts like he's done all his homework and then for if some reason in four, five years, he gets ready to sell it, and then he'll sell it to anybody. You sell it to anybody and they may not be, you know -- you don't know what kind of tally they're keeping on the property. You know what -- so anyway.

Mr. Tajan: I would offer to address that concern. If you look at the staff report on page five, where condition eight is. Condition eight is one that's a standard condition where it requires the owner of the property, if it changes, they're responsible to notify the new property owner to come get a - - to come register with the city. So, this is a standard condition that's already in there.

Mr. Horsley: It's already in there, right.

Mr. Weiner: They just don't do that. I don't think that's happening. Mr. Inman? Mr. Inman wants to make a comment?

Mr. Inman: Well, I find that this is a tough one, for a couple of reasons. One, I do want to support what other people were saying. As we experienced in City Council last week, you know, we've got to be conscious that a property can be resold anytime. But if that's becoming like a major focus, then we can't approve anything. I mean, if you're concerned, so concerned about that, so we've got to look at the review process as being the fallback, as a safety valve, so to speak.

And the ability to bring it up for review, if there are problems, anytime that the Planning Department becomes adequately, or Zoning Officer becomes adequately alerted to those things. So, you know, I think we -- like you said, we have a good applicant. Okay, now? What about where this property is located? It's in a resort area. We've got a street behind them, we've got a street in front of them, and we've got on an intersection. I know that that of the interior unit of that thing, but you know, it's not like it's in a really dense area. You know, to me it's one of those that if you meet all the criteria, and you look at where it's located, hard to say. I don't see much reason to say no, because you're worried about somebody selling it next year. They're all -- anybody -- anyone we've approved can sell it next year, next week.

Ms. Oliver: So, Mike, where I was going, it wasn't just that. And I agree with you in a lot of points, but it's the fact that it's a duplex.

Mr. Inman: All right.

Mr. Oliver: So, there's always -- it's married to another building, to another family that's invested. So that's what gives me heartburn with it. So, when you look at these duplexes and that's -- you know, how does that work out? And the fact that it is such a close proximity to the Oceanfront. Yeah, it's a great place for short-term rental, but it is also a great place for short-term rental, so which means that it has all the components to be what we've had a problem with.

And I'm not -- it has nothing personally about it, it's just to this gentleman, I think he is -- he would be great. It's just the fact that it is connected to another family that owns a building and it runs with the land, and this is where we are. So, I'm --

Mr. Weiner: Mr. Coston?

Mr. Coston: Unfortunately, this is the life that we live. And I think we do a lot of condos in that area, a lot of other multifamily type setups. I want to think we've approved a couple very close to this maybe on the other side of the street. And when you get a good tenant, if you're a landlord, you're happy. You deal with the bad one when you get them and you put them out. That's the life of a rental business and is probably the life of this tenant business for us as representatives of the City. I think it's wonderful that he's done a great job, and I don't think we should penalize him for that. I think we should applaud it.

Mr. Weiner: Mr. Inman?

Mr. Inman: I'll make a motion to approve the application.

Ms. Klein: I second.

Mr. Weiner: We have a motion and a second. Jack, you want to say anything?

Mr. Weiner: I got -- well I'm torn. I don't know which way to go. I don't know how to vote right now. I agree. I've ridden by the site in the last 30 days, probably 20 times. And I thought to myself

wow, it's good. But as Dee says, it's a duplex. What's going to happen in the future, but I don't know.

Ms. Klein: Well, I think John makes an excellent point is we have not only approved single-family homes, you know, we've approved individual residences within condo buildings, where there are people who share walls. So, while I am concerned about those people as well, this isn't an out of the ordinary approval, wouldn't be out of the ordinary for us.

Mr. Weiner: The one thing Mike said also, it's a house that's not in a dense area. We've got a street in front of, we've got a street behind, we've got a big, nice driveway. Anyway, Jack?

Mr. Wall: One thing is you know...

Mr. Inman: Did I get a second on that?

Mr. Weiner: Yes. You did get a second on that.

Mr. Inman: Okay.

Mr. Weiner: But hold on a second.

Mr. Wall: We'll vote in here.

Mr. Weiner: We're still commenting.

Mr. Wall: Yep. Is that, you know, we're consistent on what we -- in how we apply it from one application to the next. I've heard some horror stories of duplex, you know, the North End, where it's shared parking. The driveway is shared, and it is a challenge for the adjacent owner to keep them out.

But in this case, the parking is separate. So, this is, you know -- I don't know if it's a qualifier, but it may help me make a decision. Just because there's separate parking, they're facing opposite ways. But we have other applications in this today, they're duplexes. So that's something to consider.

Mr. Weiner: One other thing I want to add too, if there was any opposition standing here in front of us today, I would be thinking differently. So, I think I'm going to have to support this one. So, we have a motion for approval by Mr. Inman and second by Mrs. Klein.

Madam Clerk: Okay. Mr. Alcaraz?

Mr. Alcaraz: Nay.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham is absent. Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Mrs. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Nay.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of six in favor and two against, Agenda Item Number 21 has been recommended for approval.

	AYE 6	NAY 2	ABS 0	ABSENT 3
Alcaraz		NAY		
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver		NAY		
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 400 Norfolk Avenue, Unit B, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. Additional driveway surface shall be added as illustrated in the Site Layout & Parking Plan section of the Staff report. The proposed surface material type shall be abutting concrete pavers, or a substitute material approved by the Zoning Administrator. The driveway addition shall be placed within 90-days of City Council approval. A building permit issued by the Permits and Inspections Division of the Planning Department shall be obtained prior to the installation of the driveway addition (if applicable).
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 22

**David & Nancy Drogus [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
117 73rd Street, Unit A**

April 14, 2021

DEFERRED FOR 30 DAYS – HEARD

Mr. Weiner: On item 22.

Madam Clerk: Okay. Agenda Item 22; David and Nancy Drogus, an application for a Conditional Use Permit Short-Term Rental on property located at 117 73rd Street Unit A in the Lynnhaven district.

Mr. Weiner: Good afternoon, sir.

Mr. Drogus: Hi, good afternoon. And thank you to all of you for allowing me the opportunity to come in here on behalf of my wife and I, to get our --

Mr. Weiner: Please state your name for the record.

Mr. Drogus: David Drogus, I'm sorry. My wife Nancy and I are thrilled to have the opportunity to come down here. Want you to approve our Conditional Use Permit for the condo that we just recently acquired. We bought the condo in November 2020, so we've only had it for a few months. So, we haven't had any real opportunity to upset anybody or upset any of the neighbors. I know there's a couple of letters in opposition, but I don't even know them.

I just wanted to assure all of you that to start off, I'm not interested in doing any Airbnb-type of scenarios. Our short-term is going to be a minimum of seven nights in a row. Moving on like throughout the summertime; short-term rental seven nights, not weekends, not a couple nights here, people coming in and out. I wanted to share with you, my background; I have been in real estate. I'm a Managing Broker for Rose & Womble Realty. I've been in real estate now for 35 years. I've been managing the Greenbrier office in Chesapeake of Rose & Womble for the last 26 years, I guess, a long time.

So, this is -- we own rental property, my wife and I. I manage all my own rental property. I've been doing it personally and professionally now for over 24 years. But all the rental property that we own is all single-family homes and one of them is a duplex. So, they are all long-term rentals in there; all but one of them are in Virginia Beach. One of them is in Chesapeake. So, everything is a year or a minimum on a lease. But I'm used to dealing with tenants, used to been dealing with real estate. So, this is not an experiment for us getting into this type of scenario.

To backtrack for a moment, we -- my wife and I came to Virginia Beach in 1978 on our honeymoon, a year later -- from Youngstown, Ohio. A year later, we were living and owned property in Virginia Beach in 1979. We moved here; we've been here permanently. Our kids grew up. We live in Kempsville borough in Virginia Beach. My daughters went to Kempsville High School, graduated. My oldest daughter was actually a lifeguard during her college years at the Oceanfront. We love this city. We love being here. We love going down and enjoying the amenities all throughout the city, but certainly the Oceanfront area.

So, we were excited when the opportunity came up to invest in something like this. After all these years, we're not getting any younger and we were thinking that well, do we want to buy something where we can maybe go and sneak off and vacation a little bit in North Carolina, Florida, whatever. But the answer was, you know, it's hard to get there. We can jump in our car in 20 minutes, we can be at the condo if that's what we intend to do. But we also intend to have it on a short-term rental basis, primarily during the summer. During the winter months, it would be no less than probably a three-month rental for a winter rental. And then we would sneak in there whenever it's vacant or it's empty and not being occupied.

The thing I think is important to understand too is that we are going to -- even though, I'm a real estate broker and been doing this for a long time and managing my own properties, I'm not intending to manage this property. We are going to have the property professionally managed by Atkinson Realty, Ms. Amber Parker, who's going to come up here and speak in a few moments. You know, I learned a long time ago, when you want something to be done right, you turn it over to the professionals that that's all they do or that's what they do best. My company doesn't handle short-term rentals. So, I'm not going to turn it over to my company; I'm going to go with the guys, the pros that know how to do it, and that's what they do down at the beach. So, they'll be looking over this property and she will speak a little bit more to that. But it will be the scenario that we have -- we feel we have met, the criteria in terms of the -- my property has four bedrooms, three-and-a-half bathrooms, it is 1,700-square feet. So, it doesn't really allow itself to be like for a large family home on a year-term rental.

This is people who are going to come in for a week, and then they're going to leave. They're going to go -- you know, they come in for a vacation. It's a resort town, it's tourists. So, we're going to have a -- have it set up that -- or we're not have it set up. It's set up, we have four bedrooms, and we have four parking spaces. I understand that that is the criteria. There are designated parking spaces. And then we are also attached to the Unit B, which is another condo behind us who also has four parking spaces, they're all side by side, they're all off street and our unit is right on Atlantic Avenue.

We have no neighbors to that side, just Atlantic Avenue. You come right in on 73rd Street and boom, your home. You're right there at the -- in the condo, so it's easy to get to. My understanding the people that we bought this from, as it turns out, they didn't live there. They were out from Richmond, and they rented it out, they had it going on weekly rentals, and they would come down and stay and that sort of thing. And they have apparently retired and moved to New Jersey, we don't know them. It's not like that.

Their daughter owns the backside, B. She doesn't live there either and it's generally empty, it's generally vacant. But they do rent that out from what I understand. I've never met any of them. So, I can't speak to it. I just know that right now that Unit B is empty. There's nobody staying there. And so, it's not -- not like it's a family living back there. Now all of a sudden, we have tourists coming in to our property in the summertime. So, we don't really have that going on.

I don't -- really, I've not had privy to look at the letters, I understand there was a couple of letters in opposition from some of the neighbors. Again, we've only been there since November, haven't owned it long enough to make anybody upset yet, and we don't intend to do that either. So, I think that whatever the opposition would be, I'm not really sure because we're -- I think, you know, 73rd Street, and we're 50 yards to the beach. So, there's only like seven houses on each side of 53rd Street and then you're at the beach. We're all the way at the Atlantic Avenue section, or location, so really not deep into the neighborhoods. So, I don't know how it's disturbing anybody. And frankly, it's been a short-term rental to my understanding, for quite a number of years with the people that used to own it.

I bought it. I mean, I'm in real estate, I've got a license, we're going to do things right. That's why we went with number one, Atkinson Realty and number one, A, has submitted the application for the Short-Term Rental Conditional Use Permit, because that's the proper thing to do in the City of Virginia Beach. And we're going to do the right thing. We're going to do it.

So, I think that I'm not exactly sure what any opposition would be? I know that any noise level that anybody's concerned about is we've got the most noise level if you're on Atlantic Avenue, particularly I can imagine on in the summertime. It is very, very busy. So, you really can't open your windows in that property. As far as tenants, you know, you've got there for a week, if they're not good people, out they go. I manage it; all of our rental properties that my wife and I own, you could drive by any one of them in any neighborhood that they're located and not be able to pick out that it's a rental. We meticulously maintain our properties. We expect our tenants to do the same. And if they don't, out they go.

So that's really how we operate. That's how we intend to operate with 73rd Street. We're very excited to own that property and to enjoy our life here in Virginia Beach and continue to do so as we go on down the road. I really open up for any questions that you all might have. We really hope that you will consider the approval of this for the short-term rental period. Understanding -- and I've put in writing or however you want to do it, that it will not be for any less than a seven-night period because the bed and breakfast -- or not the bed and breakfast -- the other type of rental.

Mr. Weiner: Thank you, sir. Thank you for your comments. Any questions?

Mr. Drogus: Yes, sir.

Mr. Alcaraz: With the map for the parking.

Mr. Drogus: Yes.

Mr. Alcaraz: It says that you've gotten a letter for an encroachment into the Unit B's which is the adjacent property owners.

Mr. Drogus: Right

Mr. Alcaraz: 20-foot parking easement?

Mr. Drogus: Right.

Mr. Alcaraz: How much of that 20-foot easement are you talking about?

Mr. Drogus: It's very, very deceiving. And I have a fresh survey from Alphatech that kind of helps clear it up a little bit more. And I have one for each of you, if you would like.

Mr. Alcaraz: I'd like to see.

Mr. Drogus: But how it works is, there is no -- and if you go and look at the unit --

Mr. Weiner: Excuse me. Hold on one second. Can you give that, this young lady here so that we can look that.

Mr. Drogus: Sure. Absolutely, here you go.

Mr. Weiner: You can look at that, please?

Mr. Drogus: There's a couple of them, here I'll give you a couple more. Here you go. Thank you, appreciate it. As you look and if you go -- if you were to drive down there, you would see four clearly marked parking spots; Unit A, which is mine to the far left, and there's two, and they're nine feet wide. It's very wide. And then there's Unit B has their two spots, and then right behind, so you stack the cars, you've got four more spaces right across there. So why this is showing three, obviously you're going to park your car behind number two on the sheet. So, you can put four parking. I mean, literally no problem. I have a large SUV and we've parked several vehicles down there at the same time. There's plenty of room all the way across for four across by the fence, and then four behind us.

Mr. Alcaraz: Okay. Well, my point and Mr. Weiner, hear me out on this. Looks like you got 36-feet. Is that correct? 36 feet wide?

Mr. Drogus: Yes, 36-feet.

Mr. Alcaraz: Right.

Mr. Drogus: But then if you go all the way over, it's 50 feet. If you look on that survey, I just gave you.

Mr. Alcaraz: Yeah. My concern is if you're acquiring part of their two 9-foot-wide parking spaces in that 20-foot, what does that leave them with, because they have to have their adequate parking also.

Mr. Drogus: Right. And that's where it's very --

Mr. Alcaraz: That's why I'm getting confused with this. I see --

Mr. Drogus: Yeah, the old survey that was done, and that's what Will had.

Mr. Alcaraz: But where did he get this from?

Mr. Drogus: He got the --

Mr. Alcaraz: The old one.

Mr. Drogus: The old survey he got from the city -- yeah, from that.

Mr. Alcaraz: Okay.

Mr. Drogus: The new one I just had done. He's not even seen what is in your hand right now that I just passed out.

Mr. Alcaraz: So, let me -- I think this. So, 36 feet is concrete wide, two spaces are 18. So, then you should be good on the A Unit and then looks like you should be good on the B Unit.

Mr. Drogus: That is correct.

Mr. Alcaraz: Okay, it's just this drawing that we have in front of us and this is the way that Mr. Miller has drawn it, it looks like you've taken their parking.

Mr. Drogus: Yeah, I know it. And that we haven't. There's ample space, everybody has equal space.

Mr. Alcaraz: So why did you need the encroachment letter then?

Mr. Drogus: That's what Will asked. But that was before I got the survey that you have in your hand that I just passed out. He was looking at the first thing you were looking at.

Mr. Weiner: Hold on one second, sir. Mr. Tajan, do you want to comment?

Mr. Tajan: Mr. Alcaraz, to help kind of point it out as you're looking at the survey, if you look right above where it says four marked spaces, it notes that there's a 20-by-20 ingress/egress parking easement for Unit B per the plat. He's encroaching into that ingress/egress easement, which is noted here also on the screen. Based on that dimension, he's encroaching into their easement by four feet from right-to-left.

Mr. Alcaraz: Let me finish, Mr. Tajan. And so, it looks like, we're okay with parking.

Mr. Drogus: Yeah.

Mr. Alcaraz: Because originally what was sent to us, it just took away from the parking. So, it looks like we're good, right?

Mr. Tajan: Correct. Yes, there's enough room to meet the minimum parking space size.

Mr. Alcaraz: Right.

Mr. Weiner: Any other questions? Thank you, sir.

Mr. Drogus: Thank you very much. I appreciate it.

Madam Clerk: Mr. Chair, we have one speaker.

Mr. Weiner: Okay.

Madam Clerk: Amber Parker.

Mr. Weiner: Welcome.

Ms. Parker: Hi. Good afternoon Planning Commission members. My name is Amber Parker. I'm the Vacation Manager for Atkinson Realty, a firm I've worked with for 16 years, and I'm here today to ask for your approval for a Conditional Use Permit for the application for Mr. and Mrs. Drogus for their property at 73rd Street. And thank you for the great introduction.

As you heard from Mr. Drogus, he is a broker for Rose & Womble, has experience in rental properties. But he chose Atkinson Realty, because we've built an excellent short-term rental program. We maintain a harmonious relationship with our owners, guests, and the STR neighbors.

The Planning Commission may not be aware, but before we'll take on any property, we go to the home, meet the owners, make sure it is Atkinson Realty standards, and to go over the City Ordinance requirements. Sorry, I'm a little nervous. So, the ordinance requirements for the STRs and Mr. and Mrs. Drogus understood that. They knew they had to file for the CUP. I went over the

Atkinson Realty expectations, I answered their questions. And one important aspect to note is that we will not list any new home for rental until it has been approved for their CUP.

As a result of the recent COVID-19, sanitized-quality STRs are in high demand. STRs like the Drogus' home provide a viable vacation alternative to families seeking private accommodations for their families while vacationing in our wonderful city. To the neighbors of our STR rental applicants or the concerned citizens, I'd like to address some of the concerns that have been repeatedly mentioned in previous meetings. Hopefully, this will put your mind at ease. It's one of the reasons that the Drogus' selected Atkinson Realty.

One of the most vital things that we offer is constant contact with the families that book an Atkinson Realty vacation. We speak with the families vacationing with us before they make the reservation. When they make the reservation, we process their payments. We reach out to them to give them information for when they check in, which all of them are required to do at our office, so we can meet them before they go to the property.

We do not want unruly guests; the neighbors don't want unruly guests and what we do to keep that from happening is we have somebody on call 24x7 from the office, our staff. We live here, we work here, we play here and we care. We also maintain the STRs' Curb Appeal year-round, through our landscaping, maintenance, and property care programs. We also offer Saturday trash pickup during the summer season. Over the past 16 years, typically the calls that we receive would be Wi-Fi not working, cable, after hour guests who've inadvertently locked themselves out, so we bring the key. We occasionally have an appliance or an HVAC call.

It also may help to point out that our staff goes to the rental before and after every guest arrives; the property is then cleaned, sanitized, and inspected. And I would welcome any of the neighbors of Mr. Drogus, if they have questions or concerns to reach out to me, I'd be happy to address the concerns anybody may have here today. And in conclusion, the Drogus' property --

Mr. Weiner: Thank you very much for your comments. Appreciate it. Any questions?

Ms. Parker: Thank you for your time and consideration.

Mr. Weiner: Thank you. Any more speakers?

Madam Clerk: No more speakers.

Mr. Weiner: Okay. Alright, Mr. Tajan did you get your hand up?

Mr. Tajan: Yes, sir. Mr. Chair, based on the information that was said by the applicant that it had operated previously as a short-term rental, we had now contacted the Commissioner of Revenue and the property is actually grandfathered. So, the applicant --

Mr. Weiner: This one is.

Mr. Tajan: This property is grandfathered.

Mr. Weiner: Okay, well, we don't really have to vote on this.

Mr. Tajan: So, my suggestion at this point would be to continue the Item so that we can make sure we get all the paperwork from the applicant, and then he can -- we can withdraw it at the next meeting.

Mr. Weiner: Okay. So, we want to -- is that deferral? We defer it or a continuance?

Mr. Tajan: We can just do withdrawal. Sorry, we're debating.

Mr. Weiner: That's fine. Take your time. You are the--

Mr. Tajan: It is possible that you could still make a recommendation. My concern about making a recommendation is that the --

Mr. Weiner: If it's grandfathered, we shouldn't have to do anything but defer it or withdraw it. Really withdraw it.

Mr. Tajan: Correct. Let's talk to the applicant if you don't mind, I'm sorry, Mr. Chair.

Mr. Weiner: You want to talk to him?

Mr. Tajan: Yes.

Mr. Weiner: You're going to come up here. Mr. Drogus, can you come up here please? We've recently found out that your properties have been rented, has been -- it is grandfathered.

Mr. Drogus: I heard that.

Mr. Weiner: Which means you don't -- well, we're making a decision now, but you won't need a Conditional Use Permit.

Mr. Drogus: I'm good with that with.

Mr. Weiner: Hang on, standby one second. We're not there yet. You don't get a refund.

Mr. Drogus: I'll tell you what, it's my contribution. I'm happy to do it.

Mr. Weiner: I'm just kidding.

Mr. Tajan: The information wasn't provided to staff until recently about the operation previously. So, Mr. Drogus, you have some options, I believe. Right. Well, so the option is yours Mr. Drogus to continue forward or not, if you like. The information we have received at this point from the Commissioner of Revenue, doing additional research after you stated that this operated previous to 2019, notes that it is considered a grandfathered property.

Okay. Now that being said, you have the option to either defer it, request that the Planning Commission vote on it or withdraw the application in front of the Commission right now. And you don't have to make that standing here. If you need a moment to --

Mr. Drogus: I mean, it's kind of a no brainer, isn't it, to withdraw the application? If it were grandfathered then we're done. You guys keep the application fee on me. It's not a problem, and that's fine.

Mr. Weiner: Have you gone to the register -- have you registered yet at all?

Mr. Drogus: No, sir.

Mr. Weiner: No.

Mr. Drogus: Registered for what?

Mr. Weiner: Yeah. He has to register, even if it's grandfathered, he has to register to pay tax.

Mr. Drogus: Register for what?

Mr. Weiner: Pay taxes.

Mr. Drogus: Oh, yeah, yeah. Okay. Sure.

Mr. Inman: You're registered with the Commissioner of Revenue, correct?

Mr. Tajan: Are you registered with the Commissioner of Revenue?

Mr. Drogus: I'm not sure. I'm not sure. I don't think.

Mr. Weiner: You would know if you would be paying taxes. You would know.

Mr. Drogus: Yeah. I mean we just bought this so.

Mr. Weiner: So, you're not? You haven't personally registered your house with the Commissioner of Revenue.

Mr. Drogus: I don't think so. I think so. But we'll do that; we will do that, of course. Mr. Chairman?

Mr. Horsley: My suggestion to make sure we don't mess up something here is to vote on it today. And then before it goes to Council, get everything, make sure everything is right. And it's grandfathered right, and then you can pull it before it goes to Council. I think that would be the safest bet.

Mr. Weiner: Or the safest bet for you, it'd be to actually defer it. Because we don't know which way it's going. You know what I mean, because it may not make either way.

Mr. Inman: I'll move to defer it.

Mr. Weiner: Defer it. Okay.

Mr. Inman: 30 days.

Mr. Weiner: What does our staff recommend?

Mr. Tajan: We would recommend date certain so that we don't have to advertise it again. And then, if he chooses to withdraw it after our research, then that can be done.

Mr. Drogus: So, what do I do now?

Mr. Inman: Just wait, wait for the vote. Hold on a second, and you'll know. Yeah, need to defer until we find out.

Mr. Drogus: So, you're deferring to make sure of what?

Mr. Weiner: That it's grandfathered.

Mr. Drogus: Oh, okay.

Mr. Weiner: Make sure that it's grandfathered. Probably won't happen today.

Mr. Drogus: Whatever he looked up though, it was showing that it was. Is that it?

Mr. Weiner: Okay. Timeout, timeout, I'm being told timeout. I am being put in timeout.

Mr. Tajan: I think -- again, I understand everyone's caution with this. I think Mr. Horsley, it's not - It makes it a little bit more difficult for us, but it would be the safest bet is to probably defer the item. I know that there is some concern and continued debate with the Commission at this point with this Item, which is why it's being heard. So, it would probably be the safer bet for you to defer it, and we can talk to you about your options as we move forward. And that will give you another 30 days so that we can get everything squared away.

Mr. Drogus: Okay, I'm still not quite certain with that.

Mr. Tajan: So right now, our research says that the property is grandfathered to operate as a short-term rental, we want to make sure we give that to you in writing before you choose what you're going to do next.

Mr. Drogus: I see. Okay.

Mr. Tajan: Okay. And then...

Mr. Drogus: So, when you give that to me in writing I know that it was grandfathered, then I could withdraw; is that the deal?

Mr. Tajan: That's probably the safer bet for you.

Mr. Drogus: Yeah, sir.

Mr. Tajan: Which is why they'd like to defer it, because it appears that there might be some additional discussion from the Planning Commission and may not go favorably in the recommendation that they provide. So, it may be best for you to defer the item and then we'll get everything wrapped up for you.

Mr. Drogus: Okay.

Mr. Weiner: So, with your permission, it's okay to go ahead and defer this item.

Mr. Drogus: I guess we'll defer the item.

Mr. Weiner: Okay. Thank you. We're good. Thank you, sir.

Mr. Drogus: Good deal. Alright, thank you.

Mr. Weiner: And we have a motion.

Mr. Drogus: It's going to be in touch with them.

Mr. Weiner: A motion for deferral. We got a second? We have a second. We have a motion by Mr. Inman, the second by Mr. Alcaraz for deferral.

Madam Clerk: I'm sorry, who made the motion and a second?

Mr. Weiner: Mr. Inman, and second by Mr. Alcaraz.

Madam Clerk: Okay. Motion is for 30-day deferral. Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham is absent. Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of eight in favor, zero against, the Agenda Item Number 22 has been deferred for 30 days.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			

Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 117 73rd Street, Unit B, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 23

**Mark A. Moore [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
2229 Maple Street**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict

requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 8	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham			ABSTAIN	ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 2229 Maple Street and the Short Term Rental use shall only occur in the principal structure.

2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. Additional driveway surface shall be added as illustrated in the Site Layout & Parking Plan section of the Staff report. The proposed surface material type shall be brushed concrete, or a substitute material approved by the Zoning Administrator. The driveway addition shall be placed within 90-days of City Council approval. A building permit issued by the Permits and Inspections Division of the Planning Department shall be obtained prior to the installation of the driveway addition.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.

12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 24

**Half Moon Ext, LLC [Applicant] James Goldstein [Property Owner]
Conditional Use Permit (Short Term Rental)
305 16th Street, Unit A**

April 14, 2021

RECOMMENDED FOR APPROVAL – HEARD

Mr. Weiner: Item 24.

Madam Clerk: Next Item is agenda item Number 24, Halfmoon Extended LLC, an application for Conditional Use Permit, Short-Term Rental on property located at 305 16th Street Unit A in the Beach district. Is the applicant or the applicants' representative --

Mr. Weiner: Come forward sir. Please state your name for the record.

Mr. Goldstein: All right. Richard Goldstein. Good afternoon.

Mr. Weiner: Good afternoon.

Mr. Goldstein: I'm here for short-term rental approval for 305 16th Street Apartment A.

Mr. Weiner: Okay.

Mr. Goldstein: So, let's see. Property at 305 16th Street is owned by my family, specifically my parents. I've leased the retail storefront and the apartment above it 305 A since 2010. I lived in that apartment until November of last year. At that point, I purchased a home with my wife. We had our first child and just outgrew the apartment.

Like I said, the apartment is directly above my business. And I'm on that site every day also, almost pretty much every day there. The home I purchased is on Great Neck Road, it's about 10-minutes away with traffic. So, it's no problem for me to get there quickly. Over the 10 years I lived there, I became very close friends with the other tenants on the property and the neighbors along 16th Street. I promise they will not hesitate to call me if there's a problem, and I won't hesitate to solve it.

Again, due to the location above my business, it's going to affect me much more than it would affect any of my other neighbors. So, you can be sure my vigilance in maintaining the conditions of use, number of guests and making sure there are no parties or anything like that. I do not wish to lease the property yearly for a few different reasons. Members of my family and my wife's family want to use it for our out-of-town guests here and there throughout the year. And much easier to control the in and out traffic when you know -- when you don't have a full-time tenant that has a lease on the property, things like that.

At some point, my business may grow and I may need to use the space upstairs for storage or office space, and then I don't want to go through an eviction to deal with that. I don't really plan to profit on this very much, just kind of recoup some of the rental, whatever I get on that. I believe we've already been recommended for approval.

Mr. Weiner: All right.

Mr. Goldstein: We have our parking spaces in. Yeah, go ahead. Any questions?

Mr. Weiner: I don't have -- anybody have any questions?

Mr. Alcaraz: Yeah.

Mr. Weiner: George has a question.

Mr. Alcaraz: Well, I just had, I think -- I actually think you have the support up here. I just had a couple questions. I know there was a fire some like eight years ago.

Mr. Goldstein: Was in 2009 I believe.

Mr. Alcaraz: Okay.

Mr. Goldstein: Everything upstairs has been totally redone in that apartment.

Mr. Alcaraz: Permits, all that.

Mr. Goldstein: Oh yeah, because it was all done by the insurance company.

Mr. Alcaraz: Sure.

Mr. Goldstein: I know there's fire alarms up there. Smoke alarms, I think there's four of them throughout the whole unit. Fire Extinguisher is up there.

Mr. Alcaraz: Okay. And Unit B, what's your?

Mr. Goldstein: So, Unit B generally is used as my office, mostly.

Mr. Alcaraz: Okay.

Mr. Goldstein: Yeah.

Mr. Alcaraz: All right. That's all I have. Thank you for letting me know that.

Mr. Goldstein: Okay.

Mr. Alcaraz: Having said that, I make a motion to approve.

Mr. Weiner: Got the motion for approval and the second? Second by Mr. Horsley. Motion for approval by Mr. Alcaraz, second by Mr. Horsley.

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham is absent. Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner.

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of eight in favor, zero against, Agenda Item Number 24 has been approved.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 305 16th Street, Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.

- a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 11. Accessory structures shall not be used or occupied as Short Term Rentals.
 12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
 13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
 14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
 17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 25

**Gerard Jandoc [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
4503 Guam Street**

April 14, 2021

RECOMMENDED FOR DENIAL (MOTION TO APPROVE FAILED) – HEARD

Mr. Weiner: Great. Item 25.

Madam Clerk: Agenda Item 25 is Gerard Jandock, an application for Conditional Use Permit, Short-Term Rental on property located at 4503 Guam Street in the Bayside District. The applicant or the applicants' representative, please step forward. This is a virtual.

Mr. Weiner: Virtual, okay. Alright.

Madam Clerk: Mr. Jandock, if you would wait two to three seconds and then begin your comments.

Mr. Jandock: Good afternoon members of Planning Commission. My name is Gerard Jandock and we're originally from New Jersey, and we purchased this property at 4503 Guam Street in Virginia Beach last September.

So, this is our second home. We've been going back and forth to Virginia for the last five years. We just love Virginia compared to Jersey Shore, because the water is warmer. And it's just like, it's different from Jersey. So, I applied for the conditional -- short-term conditional permit last December, I believe. And because my plan is during the summer months, I want to use it as like Airbnb, but like the month of July I block it for my family because I also want to enjoy the property as well.

And currently, there's a tenant staying there from December till May, and I have a property manager taking care of everything because I'm like five hours away. So, he does everything. And you know, if there's a problem the tenant just calls him for everything that I need to. And he's also going to take care of the condo -- if it becomes -- if I get the approval for the short-term rental, he's also going to take care of it. That's all I have to say. Any question?

Mr. Weiner: No questions? Are there any speakers?

Madam Clerk: There are no speakers.

Mr. Weiner: No speakers. Okay, no questions for the applicant? All right, we're going to close this and open it up for discussion, and we don't have a Bayside representative. So, how about an At-Large person?

Ms. Oliver: No, I'm not large. So, again, this is another duplex, which I have a problem. I just don't think that this is a good use unless they own, but I am -- so I'm uncomfortable. He doesn't - and it says well here, he doesn't own the abutting unit, and it is in a neighborhood. And so, I'm just not going to support this.

Mr. Weiner: Anyone else? The same issue I had before, I'm very torn on it. I went by this house. I'm working right around the corner from this house, because this was deferred from last month. Wasn't it deferred from last month, this one? 90% sure it was deferred from last month. Yes.

And so, this sign is still there. The sign has been there for over 60 days, which is stating that someone has got to come out and oppose it. And right next door, I mean, the signs literally right in the middle between the duplexes. And if nobody's going to say anything about it, not even a letter to staff about opposing it, I just -- I can't see why we shouldn't approve it. I just don't see why we shouldn't -- that's my opinion. That's my opinion. Anybody else? Mr. Coston?

Mr. Coston: I'm with you.

Mr. Weiner: If there are other people standing here in front of us opposing this right now, I would have to really think about this. But with the sign being up for 60 days, and nobody is opposing it then I guess this is my opinion. All right? Jack?

Mr. Wall: I don't know, I'm kind of with Dee -- I mean, I go back to just the letters and discussions I've had with somebody who's a part of a duplex and it's a challenge, and this is shared parking.

I mean, I'm kind of torn on it also just because there is no opposition, but just some of the discussions that I've had with somebody at the North End is concerning and he's asked me, he's like help. You know it is a challenge living next to a short-term rental or not next to but adjacent to, literally you're connected to a short-term rental. Just the activity, level of activity, the use of the driveway, the trash, you name it. And it's -- but there's nothing that we have in here that says just because it's a duplex you can't have a short-term rental, and the neighbor signed off on it. There's no opposition. I don't know.

Mr. Weiner: It's hard for me to justify. Mr. Alcaraz?

Mr. Alcaraz: So, I think there is opposition. I just think that they faded away or faded back because what happened with City Council when this came up on the East, or the West side of Lesner bridge when Chick's Beach came into play, and I just think they're just sitting back because they're thinking, okay, we're done. We're taken care of. So that's what I'm thinking, because I saw what happened when they showed up, west of Lesner Bridge, they came in droves and so having said that, I'm going to be right behind with --

Mr. Weiner: Okay, but I will have to say now; this house is visible from Lookout Road. So, you're driving down Lookout Road Chick's Beach, you can see the sign.

Mr. Alcaraz: I understand that.

Mr. Weiner: But it's been there for 60 days.

Mr. Alcaraz: I understand that. I'm just feeling that, the Civic League is thinking.

Mr. Weiner: Okay. I understand.

Mr. Alcaraz: I know it was proposed, and the Overlay District was taken away. But I just have a really strong feeling that, that's what the Civic League or homeowners are thinking that nothing's going to happen over there, because what they were promised with Mr. Jones and Chris -- I mean Jim Wood.

Mr. Weiner: Okay. Any other comments? Yes.

Mr. Coston: Did we not approve one in Chick's Beach recently?

Mr. Weiner: We did. I think Chick's Beach is kind of -- touristy, different kind of animal. And I think we've already done one there or a couple. We have a motion?

Mr. Coston: I move that we approve the application.

Mr. Weiner: We have a move for approval by Mr. Coston, do we have a second?

Mr. Inman: I'll second.

Ms. Klein: I'll second. Jinx!

Mr. Weiner: Second by Mr. Inman.

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Nay.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham is absent. Mr. Horsley?

Mr. Horsley: Nay.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Nay.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall?

Mr. Wall: Nay.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye. We've to vote again.

Madam Clerk: By a recorded vote of four in favor and four against, therefore the motion is denied.

Mr. Weiner: Is it denied or we have to vote again?

Mr. Tajan: Technically, a four-to-four vote is a denial recommendation, unless someone wants to reconsider their vote.

	AYE 4	NAY 4	ABS 0	ABSENT 3
Alcaraz		NAY		
Barnes				ABSENT
Coston	AYE			
Graham				ABSENT
Horsley		NAY		
Inman	AYE			
Klein	AYE			
Oliver		NAY		
Redmond				ABSENT
Wall		NAY		
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 4503 Guam Street and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 26

**Victoria Mason [Applicant] Dominic Mason [Property Owner]
Conditional Use Permit (Short Term Rental)
304 28th Street, Unit 207**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict

requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 8	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham			ABSTAIN	
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th Street Unit 207, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 27

**Tenika Crew [Applicant & Property Owner]
Conditional Use Permit (Short Term Rental)
3236 Winterberry Lane**

April 14, 2021

RECOMMENDED FOR DENIAL – HEARD

Mr. Weiner: All right, onto the next one.

Madam Clerk: Our last Agenda Item for today is Agenda Item 27. Tenika Crew, an application for Conditional Use Permit Short-Term Rental on property located at 3236 Winterberry Lane in the Princess Anne district. We have the applicant as a virtual speaker, Ms. Crew, if you would wait two to three seconds and then begin your comments.

Ms. Crew: Good afternoon. My name is Tenika Crew, thank you so much for the opportunity to speak today on my own behalf. I have owned the property at 3236 Winterberry Lane for about eight years or so. It is my first home and when I bought the home it was the expectation that it would be my forever home, but my family grew. So, the home was no longer the right size for my family.

So, I decided to rent the home out for short-term -- as a long-term rental it is currently occupied by tenants on an annual basis on a year-to-year lease, excuse me. And we recently had a few setbacks with the home and I had to take a look at it from a financial perspective to say that, you know, maybe leasing the home on a yearly basis wasn't the best use for my family. Because with the hardships that we recently endured with the home, you know we have to take a look at the amount of income that was being brought into the home from leasing it on a yearly basis.

So, after evaluating what our options would be, just to kind of try to offset expenses in managing the property as well as things that we would like to do with our family, paying for our kids to go to college, you know, alleviating some debt. Just trying to set ourselves up for a better financial future overall, you know, we looked at potentially selling the home but it is my first home, it is my baby, I can't part with that home because at some point that home will be paid off and that home will be left to my children and their children's children. And that is the expectation for that home so I can't see selling it as an option.

But other than that, you know, I feel like that having it as a short-term rental, even if it's in an area that is not popular or has a lot of short-term rentals. I don't think it's necessarily a bad idea. My point being a lot of people like to vacation in this area and they like to vacation and stay in areas that are not necessarily near the bars, the boardwalks and all of the loudness and the areas of the strip. And I feel like that having the opportunity to have a home where they can come to, in a quiet neighborhood and still enjoy the city and drive to the beaches that they desire to and drive

to the attractions that they desire to, but be able to come home every evening, to a home that is away from the hustle and bustle of the boardwalk.

I feel like that family should be entitled to have that. When I travel with my family, we don't always stay right at the beach because we are a larger family. So, number one, we desire a larger space; hotels don't really work for us. We like to have the amenities of a home that has a kitchen and laundry and just a quiet space for us to decompress. But when we're ready to go to the beach, or go out to restaurants, we have those things around us.

In the area where my home is located, it's a very nice neighborhood. It has a lot of family entertainment nearby, a lot of you know places that you can go and travel to, but you don't have to necessarily be near a lot of bars, and a lot of tourists and you can come home each day when you vacation, decompress and enjoy the peacefulness. So, I want to say that I have read the letters and listened to the opposition of short-term rentals being notated as party homes, and it'll decrease my property value, and it'll increase crime. And I just don't see how, you know, the assumptions of it being that can be valid.

I don't -- I haven't seen any data to truly support that this is the commonality, if someone could show me some data to say 80% of short-term rentals in areas that are not along the boardwalk have had high crime or all are party houses, I'll be open to seeing that data. But even still, my whole thing is if there is a specific host that is not abiding by the rules or allowing guests to come in and not follow the rules or be noise or be disruptive to the neighborhood, to the neighbors, then that should be addressed with that specific owner.

As me being a current landlord for the last two years or so, I have not had any issues at my property where my tenants have been noisy, disruptive. They've actually, you know, had a great rapport with the neighbors. I've spoken to some of my neighbors that were available; some were for it, some were not based on oh, well, I'm concerned about people, college students coming and partying and being loud. That's an assumption. So, you know, if I felt like I chose really great tenants for long-term, my own expectation personally, is to continue to choose great people to dwell in my home, I take pride in my home, and I would never want anyone in it to be disruptive to my home or to the surrounding neighbors.

So, I feel like I would love the opportunity to be able to operate my home as a short-term rental for my personal reasons and for my family, while also allowing the opportunity for families that want to stay in quiet areas, such as myself and my family; they should be allowed to be able to do that. And in regards to the parking plan, it was submitted, it was approved. I don't think it would be a big problem to expand the driveway. It was something that I had considered doing years ago anyway because of the fact that when I lived in the home, I had multiple vehicles, and I want it to be able to park them all in my yard.

So, this was and also in speaking with my current tenants, they also thought it would be a great idea to expand the driveway, even before we talked about this process. So, it's something that I

was considering doing anyway. So, I just appreciate the time for hearing me out, and I'm open to any questions.

Mr. Weiner: Thank you for your comments, Ms. Crew. Any questions for Ms. Crew? No questions, okay.

Madam Clerk: We do have one speaker, Daniel Williams.

Mr. Weiner: Welcome, sir. Sorry, you had to sit here all day.

Mr. Williams: Oh, that's fine. My name is Daniel Williams, I've been resident in that same neighborhood for 37 years. And so, I really appreciate you taking the time to listen to my concerns. First of all, I'm opposed to Short-Term Rentals in my neighborhood.

On the website, Nextdoor, I'm sure you're all familiar with it; we've had a majority of people that are opposed to it. I don't know the exact number. They did a poll; it was like 68% against it. And then there was a few of course that don't care, and then there was a few that the owner should be able to do whatever they want.

I know it's very controversial and I know you've been addressing this for the last four years. The neighborhood is Landstown Meadows, it is R-5D and it is very condensed. The street that we're talking about is very narrow, that's Winterberry. And the parking is a real issue. And especially with COVID, you know, everybody's at home. Children playing in the streets, there's a lot of concern with the Short-Term Rental of all the things that you've heard that were addressed, the safety, the drinking, the partying, trash, noise.

And of course, there will be opportunities; there will be families that would rent the place. And they would do what they were supposed to, but there's a known fact that those houses will be rented and partied. They have a swimming pool, which attracts a large number of people. You rent a house, you got a swimming pool, you're going to invite people, it is going to be noisy.

I have a neighbor that has a pool, and they own the house; it is very noisy. Once a month, he has a huge family, and it's accepted because they own the house. And we're friendly neighbors and we -- they let us know, they invite us go to a barbecue, whatever. But Short-Term Rental to me just does not fit the neighborhood for all of the same reasons that you've made with people make their investments. I've lived there 37 years. The house is paid for.

You know, the house is worth close to \$400,000. That house is worth probably more, it is 1,900 square foot, 11,000 square foot property; it would sell probably within weeks. The market is crazy right now; high dollar, fast turnaround. I'm just not -- absolutely not for Short-Term Rentals.

And there's asking for, you know, conditions. There're the parking spaces; it's a four bedroom, there's not enough room for parking. It's a one car garage, one car parking. You got to have the conditions just to meet the requirements. And we're not in the resort area. There are plenty of

areas for the rental. We're not close to the beach. I just don't see a reason for it for Short-Term Rentals. And thank you very much for your consideration. I hope you disapprove this. Thank you.

Mr. Weiner: Thank you, sir. Any questions for the speaker? Thank you. Ms. Crew, would you like to comment?

Ms. Crew: Hi. Thank you. Yes, I would like to comment. So, he made a comment to state that he has a neighbor that has a pool and they're always loud and they own the house, so he tolerates it. That is kind of contradictory statement. You know, we can't always control who comes and goes. The same could be said for my long-term tenants. So, if I had my long-term tenants and they became disruptive, the process to try to get them out of the home would be a lot longer than a Short-Term Rental.

So, if a Short-Term Rental was -- a short-term renter was to come to the home for the week, and I get a call that they are loud or being disruptive, I can address that immediately. I can go to the home and I can ask them to leave. So, if you have an owner that owns a home, it is completely disruptive, you're stuck to really have to live with that, regardless of whether you like it or not. And that's where, you know, people are saying well, it brings all of these bad things to the neighborhood. But if those things are to occur, they can be easily remedied versus a long-term renter or a perhaps an owner.

And you are right. My property is of great value, it is worth a lot. I am a real estate agent. I'm aware that I can sell this property in a minute. But like I said previously, it is my first home it will always be my home, I will never sell this home. So, while I do have the home, I would like to utilize it to its greatest advantage to support my family and what our goals are. And it's on top of being a responsible host/landlord and making sure that I am following the rules and that I'm letting -- I'm making sure that the people that I allow to come to my home, are following the rules and remedy and address any issue immediately, because that's just the type of person and landlord that I am.

Thank you.

Mr. Weiner: Ms. Crew, thank you. That's all the speakers?

Madam Clerk: No more speakers.

Mr. Weiner: Okay, we're going to close this and open up to us for comments. And Ms. Klein?

Ms. Klein: Not to bash Summer because she's amazing. But this house actually is in the Princess Anne district. I looked it up on GIS...

Mr. Weiner: Okay.

Mr. Horsley: I kind of agree with the gentleman back there. In the neighborhood, it is -- I just don't -- I don't think it's a good fit and I will not support it.

Mr. Weiner: I understand. Next, anybody else? Ms. Oliver?

Ms. Oliver: This application actually had a petition of -- I don't know if any of you all saw in the supplements. So, there's 2, 4, 6, 8, 10, 12, 14, 16; there's over 20 signatures in opposition. I did read that correctly. I just wanted to make sure.

Mr. Weiner: Wasn't there more than one letter?

Ms. Oliver: Yes. There's more than one letter plus the petition against it.

Mr. Weiner: Well, Mr. Inman?

Mr. Inman: My comment about it, I agree with Don and -- it's a cut-thru street. I think actually, the gentleman's comment about the pool is a great plus for selling, is a great plus for living there. It's not a plus for us, in terms of it being an attractive. There's going to be probably not on many occasions, the decorum at the pool is probably not going to be neighborhood-type decorum. So, and it's only -- there's only one other in this neighborhood. So, I don't see proliferating a Short-Term Rental in this neighborhood.

Mr. Weiner: Mr. Coston?

Mr. Coston: Well, I think everybody knows I'm in favor of Short-Term Rentals in specific locations, not only the ones that we've decided to do according to ordinance, but things that are close to venues that people would come to Virginia Beach for and there's a soccer place there within right across the Street as you come out of and cross over to Princess Anne.

There are soccer fields, there's like two to three buildings that are designed for sports activities that people come here to participate in. And would love -- probably love to be close to those venues. So, I would support it.

Mr. Weiner: Anybody else? Motion.

Mr. Horsley: I make a motion application be denied. I've just -- I feel the neighborhood and with the swimming pool and the man says you know, and I agree that pool parties can get loud. But if your neighborhood -- your neighbors don't have a pool parties out every day, every week. But a Short-Term Rental like this you could have pool party every week, or two, three nights a week. So, I agree that. I don't think it fits in this neighborhood.

Mr. Weiner: Okay. A motion for denial by Mr. Horsley. Do we have a second?

Mr. Alcaraz: Second.

Mr. Weiner: Second by Mr. Alcaraz.

Madam Clerk: This motion is for denial, Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Nay.

Madam Clerk: Mr. Graham is absent. Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Nay.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent. Vice Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By a recorded vote of six in favor and two against, Agenda Item Number 27 has been denied.

	AYE 6	NAY 2	ABS 0	ABSENT 3
Alcaraz	AYE			
Barnes				ABSENT
Coston		NAY		
Graham				ABSENT
Horsley	AYE			

Inman	AYE			
Klein		NAY		
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 3236 Winterberry Lane, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. As shown on the parking plan illustration within the "Site Layout and Parking Plan" section of this Staff report and unless a modification of material type and/or location is approved by the Zoning Administrator, the existing concrete driveway shall be widened to no wider than 20-feet and must always be available to the Short Term Rental occupants leasing the unit. A building permit for this additional concrete parking space must be obtained from the Permits and Inspections division of the Department of Planning and Community Development within 60-days of any City Council approval for the proposed Short Term Rental use with the proposed parking installed prior to the operation of the short term rental.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and

- b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 11. Accessory structures shall not be used or occupied as Short Term Rentals.
 12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
 13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
 14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
 17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Item # 28

**Colin Tomlinson [Applicant] Jason Walker [Property Owner]
Conditional Use Permit (Short Term Rental)
304 28th Street, Unit 111**

April 14, 2021

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Wall: Okay, thank you. All right, the Planning Commission also places the following applications for Conditional Use Permit for Short Term Rental on the consent agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. The Staff and Planning Commission support the applications and there are no speakers signed up in opposition. These include Consent Agenda Items Number 23, 26 and 28.

So yep, that was the last item on the Consent Agenda. Okay. So, with that being said, I move for approval of agenda items 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18 and on the Short-Term Rental, Consent Agenda 23, 26 and 28.

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

Ms. Klein: I second.

Mr. Weiner: Seconded by Mrs. Klein. And I think we have a couple of abstentions here.

Mr. Graham: Thank you Chairman. Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration. I am executing this written disclosure regarding the Planning Commission's discussion and vote on Agenda Item 15, Derek and Nicole Howard, on Agenda Item 17, Oceanfront Investors and Agenda Item 18 Festival, LLC. The applicants have financing through Towne Bank at 297 Constitution Drive Virginia Beach, Virginia 23462 and I am on a committee at Towne Bank. However, I am not involved in any decisions made at the bank nor do I have a direct financial interest in the bank.

As such, I have made this disclosure and believe that I can participate in these transactions fairly, objectively and in the public interest and will participate and vote on these items. Please record this declaration in the official records of the Planning Commission. And then I have another item here. I am making this disclosure regarding the discussion and vote on the application of Short-Term Rentals. These are Agenda Items 19 through 28.

I am abstaining because I believe until City Council has heard Planning Commission's recommendation regarding Short Term Rentals in the Old Beach area, as well as Planning Commission's recommendation regarding Short Term Rentals from the March 2021 public hearing, we should not hear another Short-Term Rental. I believe this is necessary to provide guidance to the Planning Commission so that we are able to be consistent. I do not have a conflict

requiring me to abstain. A written disclosure of this will be provided tomorrow for inclusion in the Planning Commission's formal record. I am a Planning Commission member for the Lynnhaven district.

Mr. Weiner: Thank you, anybody else? Mr. Inman?

Mr. Inman: Yes, likewise, with regard to the conflicts of interest act, I also am a member of the Virginia Beach Advisory Board of Towne Bank and I make the following declaration with regard to Item 15, Derek and Nicole Howard, Item 17, Oceanfront Investments, Number 18, Festival, LLC and I've made this disclosure and believe I can participate in this application and decision making fairly and objectively and in the public interest, and I will participate and vote on those items.

Mr. Weiner: Thank you. Ms. Oliver?

Ms. Oliver: Pursuant to the State and Local Government Conflict of Interest Act, I make the following declaration; I've chosen to abstain from discussing and voting on Item Number 18, The Festival, LLC, 712 Atlantic Avenue, Virginia Beach, Virginia on the 14th of April 2021 Planning Commission Agenda. I'm party to a court case that is unrelated to this application but a representative of the applicant is involved in the case and I've chosen to abstain to avoid any appearance of conflict. Thank you.

Mr. Weiner: Thank you, anybody else? All right, so we have motion by Mr. Wall, a second by Mrs. Klein. You're ready to vote?

Madam Clerk: Mr. Alcaraz?

Mr. Alcaraz: Aye.

Madam Clerk: Mr. Barnes is absent. Mr. Coston?

Mr. Coston: Aye.

Madam Clerk: Mr. Graham?

Mr. Graham: Aye.

Madam Clerk: Mr. Horsley?

Mr. Horsley: Aye.

Madam Clerk: Mr. Inman?

Mr. Inman: Aye.

Madam Clerk: Ms. Klein?

Ms. Klein: Aye.

Madam Clerk: Ms. Oliver?

Ms. Oliver: Aye.

Madam Clerk: Mr. Redmond is absent, Vice-Chair Wall?

Mr. Wall: Aye.

Madam Clerk: Chairman Weiner?

Mr. Weiner: Aye.

Madam Clerk: By recorded vote of nine in favor and zero against, Agenda Items 2, 3, 4, 5 9, 10, 11, 12, 14, 16 and 17 have been recommended for approval by consent. Agenda Item Number 18, 23, 26 and 28 have with a recorded vote of eight in favor, zero against and one abstention for each agenda item have been recommended for approval by consent.

Mr. Weiner: Thank you, Madam Clerk. Thank you for those who've had items on the consent agenda. They will be scheduled in the future to be on City Council agenda. Now we will move to the items that we will hear. Madam Clerk will take care of that, please.

	AYE 8	NAY 0	ABS 1	ABSENT 2
Alcaraz	AYE			
Barnes				ABSENT
Coston	AYE			
Graham			ABSTAIN	
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS:

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th Street Unit 111, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
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